

M-03-09, Year 2003 Inventories of Commercial and Inherently Governmental Activities

March 14, 2003

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MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Angela B. Styles 
Administrator

SUBJECT: Year 2003 Inventories of Commercial and Inherently Governmental Activities

Agencies shall include in their submission to OMB aggregate data reflecting:

- (1) the total Full Time Equivalents (FTEs) listed as commercial,*
- (2) the total commercial FTEs listed as exempt from competition (Reason Code A),*
- (3) the total FTEs listed as inherently governmental,*
- (4) the total commercial and inherently governmental activities performed by military FTEs, and*
- (5) the total commercial and inherently governmental activities performed by foreign national FTEs.*

General Instructions

1. The spreadsheet for submission of the 2003 commercial and inherently governmental inventories is provided on the OMB website. Other formats are incompatible with OMB's inventory management information system and will not be accepted.

2. Each agency should provide the name and phone number of the agency point of contact responsible for the FAIR Act, and the website address that the agency will use for releasing the inventories to the public. After review and consultation, OMB will publish this information in the *Federal Register* Notice of Availability.

Review and Consultation

1. The following agencies will be notified when OMB has completed reviewing the content of the agency inventories:

Department of Agriculture,
Department of Commerce,
Department of Defense,
Department of Education,
Department of Energy,
Environmental Protection Agency,
Department of Health and Human Services,
Department of Homeland Security,
Department of Housing and Urban Development,
Department of the Interior,
Department of Labor,
Department of State,
Department of Transportation,
Department of the Treasury,
Veterans Administration,
Agency for International Development,
Corps of Engineers,
General Services Administration,
National Aeronautics and Space Administration,
National Science Foundation,
Office of Personnel Management,
Small Business Administration,
Smithsonian Institution, and
Social Security Administration.

2. Agencies not listed above may assume that OMB has completed reviewing the inventories 30 days after the electronic submission of their inventories to OMB unless otherwise directed by OMB. Not later than 45 days after the electronic submission of their inventories to OMB, unless otherwise directed, these agencies should release their inventories to the Congress and the public, and place both inventories on the agency's website.

3. The following are the resources available on the OMB website: The 2003 Users Guide (Reason Codes, Function Codes, DOD Function Code Definitions, Commercial and Inherently Governmental Inventory Spreadsheet, Spreadsheet Guidance), Background Information (OFPP Policy Letter 92-1, "Inherently Governmental Functions" (9/23/92), and the FAIR Act Legislation (text of P.L. 105-270)).

Application of 2003 Reason Codes

**REASON CODES FOR
COMMERCIAL ACTIVITIES INVENTORY**

Reason Code	Definiton
A	The Commercial Activity is not appropriate for private sector performance pursuant to a written determination.
B	The Commercial Activity is suitable for a Cost Comparison or a Direct Conversion.
C	The Commercial Activity is the subject of an in-progress Cost Comparison or Direct Conversion.
D	The Commercial Activity is performed by a Most Efficient Organization (MEO) resulting from a Cost Comparison decision made within the past five years.
E	The Commercial Activity is pending an agency approved restructuring decision (e.g., closure, realignment).
F	Performance of the commercial activity by government personnel is required due to a statutory prohibition against private sector performance.

2002 to 2003 Inventory Cross-Walk

2002 Inventory Reason Codes	2003 Inventory Reason Codes	Discussion
A - "Indicates that the function is performed by Federal employees and is specifically exempt by the agency (Agency Head) from the cost comparison requirements of the Circular and this Supplemental Handbook."	A - "The Commercial Activity is not appropriate for private sector performance pursuant to a written determination."	For 2003, the Agency Head may delegate this determination.
B - "Indicates that the activity is performed by Federal employees and is subject to the cost comparison or direct conversion requirements of the Circular and this Supplement."	B - "The Commercial Activity is suitable for a Cost Comparison or a Direct Conversion."	The 2003 Code B consolidates functions that were listed in the 2002 B and C codes.

C - "Indicates that the activity is performed by Federal employees, but it has been specifically made exempt from the provisions of the Circular and this Supplement by Congress, Executive Order or OMB.

The 2002 Code C indicated that a function could be available for direct conversion, but that the direct conversion is not "in-progress" For 2003, these functions are expected to be listed in Code B.

D - "Indicates that the function is currently performed by in-house Federal employees and is in the process of being compared or converted directly to contract or inter-service support agreement performance."

C - "The Commercial Activity is the subject of an in-progress Cost Comparison or Direct Conversion."

The 2003 Code C replaces the 2002 Code D.

E - "Indicates that the function is retained in-house as a result of a cost comparison."

D - "The Commercial Activity is performed by a Most Efficient Organization (MEO) resulting from a Cost Comparison decision made within the past five years."

The 2003 Code D replaces the 2002 Code E.

F - "Indicates the function is currently being performed by Federal employees, but a review is pending force restructuring decisions (i.e., base closure, realignment, consolidation, etc.)"

E - "The Commercial Activity is pending an agency approved restructuring decision (e.g., closure, realignment)."

The 2003 Code E replaces the 2002 Code F.

G - "Indicates that the function is prohibited from conversion to contract because of legislation."

F - "Performance of the commercial activity by government personnel is required due to a statutory prohibition against private sector performance."

The 2003 Code F replaces the 2002 Code G

H - "Waiver Issued."

This code is eliminated. Functions listed under the 2002 Code H are expected to be listed under Code B in the 2003 inventory.

I - "Indicates the function is being performed in-house as a result of a

This code is eliminated. Functions listed under the 2002 Code I are

cost comparison resulting from a decision to convert from contract to in-house performance."

expected to be listed under Code D in the 2003 inventory.

The Federal Activities Inventory Reform (FAIR) Act of 1998 (P.L. 105-270), requires federal agencies to prepare and submit to the Office of Management and Budget (OMB), by June 30 of each year, inventories of commercial activities performed by federal employees. The purpose of this memorandum is to provide guidance for the submission of the June 2003 FAIR Act inventories of commercial activities and for the submission of inventories of inherently governmental activities.

The June 2003 inventories shall be submitted in two parts: (1) the FAIR Act inventory of commercial activities performed by civilian personnel, and (2) the agency inventory of inherently governmental activities performed by civilian personnel (excluding foreign nationals). The inventories should be submitted via e-mail (hard copies and faxes are not required) to their respective OMB Resource Management Office (RMO) and to the Office of Federal Procurement Policy (OFPP) consistent with the guidance provided on the revised OMB inventory website

(<http://obamawhitehouse.archives.gov/omb/procurement/fair-index.html>) and the instructions below.

The Reason Codes for the 2003 inventories of commercial activities have been updated to clarify the rationale for government performance of a commercial activity. An agency may exempt, in writing with sufficient justification, commercial activities performed by government personnel from private sector performance using Reason Code A. These written justifications should be available to OMB and the public upon request.

Please address any questions regarding the development of the 2003 inventories to Mr. David Childs at (202) 395-6104.

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