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OFFICE OF MANAGEMENT AND BUDGET  
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OFFICE OF FEDERAL  
PROCUREMENT POLICY

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MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Lesley A. Field   
Acting Administrator

SUBJECT: Federal Activities Inventory Reform (FAIR) Act Submission for Fiscal Year 2012

The Federal Activities Inventory Reform (FAIR) Act of 1998<sup>1</sup> and Office of Management and Budget (OMB) Circular A-76<sup>2</sup> require agencies to prepare inventories of the commercial and inherently governmental activities performed by their Federal employees. This memorandum provides guidance for agency submissions of their Fiscal Year (FY) 2012 Federal workforce inventories.<sup>3</sup>

Development of workforce inventories can help agencies gain a better understanding of how Federal employee labor is being used to carry out the agency's mission and improve human capital resource distribution. Two developments, in particular, should help to improve the value of workforce inventories as a management tool. First, the recent issuance of Office of Federal Procurement Policy Letter 11-01, *Performance of Inherently Governmental and Critical Functions*,<sup>4</sup> which clarifies how to determine whether a function is inherently governmental, should help agencies identify more accurately those activities that may be performed only by Federal employees. Second, preparation of service contract inventories pursuant to section 743 of the Consolidated Appropriations Act of FY 2010 (P.L. 111-117)<sup>5</sup> provides an opportunity for agencies to begin integrating Federal employee and service contractor inventories to support balanced workforce analyses.

To take advantage of these recent developments, agencies should take the following steps in connection with the preparation of their Federal workforce inventories.

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<sup>1</sup> The FAIR Act, as amended, is found as a "note" to 31 U.S.C. § 501. The Act was enacted in P.L. 105-270 and was amended by section 840 of Division A of P.L. 109-115.

<sup>2</sup> Circular A-76 is available on OMB's website at [http://www.whitehouse.gov/omb/circulars\\_default/](http://www.whitehouse.gov/omb/circulars_default/).

<sup>3</sup> Under Section 4(b)(5) of the FAIR Act, as added by P.L. 109-115, any agency "with fewer than 100 full-time employees as of the first day of the fiscal year" is exempt from submitting an inventory for that year of non-inherently governmental (i.e., commercial) activities performed by federal government sources. OMB is also exempting these agencies from submitting an inventory of inherently governmental activities.

<sup>4</sup> The Policy Letter is published at 76 Fed. Reg. 56227 (September 12, 2011), with a technical correction at 77 Fed. Reg. 7609 (February 13, 2012). These Federal Register notices and related materials are on OMB's website at [http://www.whitehouse.gov/omb/procurement\\_index\\_work\\_performance/](http://www.whitehouse.gov/omb/procurement_index_work_performance/).

<sup>5</sup> Section 743 is found as a "note" to 31 U.S.C. § 501.

### Classification of activities

Agencies shall carefully review the guidance in Policy Letter 11-01, especially the definition of an inherently governmental function as provided in section 3 and the guidelines for identifying inherently governmental functions in section 5-1(a). They then should review their inventories, paying particular attention to the activities classified as commercial to ensure they do not include inherently governmental functions, and reclassify functions, if necessary, based on the results of such reviews.

Agencies should continue to report “reason codes” with respect to their commercial activities. A complete list of reason codes and definitions is available in Attachment 1. Agencies are not required to submit separate justifications for reason code classifications, as has been required in the past. However, in Attachment 1 OMB has annotated reason codes affected by the continued statutory moratorium set forth in section 733 of the Consolidated Appropriations Act, 2012 (P.L. 112-74) on beginning or announcing a study or public-private competition regarding the conversion of contract performance of any function performed by Federal employees.

### Pilot use of product and service codes

All agencies should continue using the FAIR Act function codes in the FY 2012 inventories to maintain their ability to analyze the work performed by employees as required by the FAIR Act and Circular A-76.<sup>6</sup> Additionally, as a first step towards integrating the workforce and service contract inventories, agencies are also encouraged to pilot the use of product service codes (PSCs) as a second form of identification for a small segment of their inventory.

Since the enactment of the FAIR Act, agencies have characterized functions agency employees perform using a coding system that is unique and distinct from the coding systems used either by the human capital community for evaluating strategic mission alignment and personnel needs or by the acquisition community for analyzing how contracted services support mission and operations. This unique coding limits agencies from gaining insight into how resources for a given activity or function are distributed between Federal employees and contractors. It also discourages the collaboration among human capital, budget, procurement, and program offices that is needed to manage and maintain the appropriate balance between work performed by Federal employees and contractors.

In order to explore options for addressing these limitations, agencies are encouraged to pilot the use of PSCs. Agencies choosing to participate in this pilot would identify a small set of functions selected at their choosing using both a FAIR Act function code and the relevant PSCs. Using PSCs to create a crosswalk between the two inventories can facilitate agencies’ ongoing efforts to ensure the most effective use of Federal employees and contractors to perform a given function. For this reason, agencies are strongly encouraged to choose their pilot functions from among the management support services functions (which include functions that have been identified as being at heightened risk of workforce imbalance) or other special interest functions

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<sup>6</sup> A complete list of OMB approved FAIR Act function codes is available at [http://www.whitehouse.gov/omb/procurement\\_fair-default/](http://www.whitehouse.gov/omb/procurement_fair-default/).

being studied by the agency in connection with their service contract inventory. See Attachment 2 for a list of functions included in the Management Support Services initiative.

To facilitate information sharing and leverage existing crosswalks, agencies are encouraged to post crosswalks between FAIR Act function codes and PSCs for their pilot functions on OFPP's FAIR Act Inventory website within the MAX Federal Community at <https://max.omb.gov/community/x/-ha4lw> by April 30, 2012. In addition, for functions in the pilot that are not inherently governmental, agencies should further seek to identify if the functions are closely associated with inherently governmental functions, critical functions, or neither.

#### Submission information

To improve the data collection process and avoid maintenance of redundant data systems, OMB will end use of the customized Workforce Inventories Tracking System (WITS)<sup>7</sup> and migrate its data and reporting capabilities into the Budget Formulation and Execution Line of Business's (BFELoB)'s MAX Community, Collect, and Analytics tools. Agencies will begin submitting the 2012 inventories, due on June 30, 2012, through the new MAX data collection tool. Agencies will be able to enter the data by bureau following the instructions at OFFP's Fair Act Inventory Data Collection website within the MAX Federal Community at <https://max.omb.gov/community/x/-ha4lw>. MAX Collect has a built-in consolidation and multi-stage review capabilities, so agencies are encouraged to delegate the responsibility for entering data to their bureaus. Furthermore, since WITS included an outdated list of agency bureaus, agencies should notify OFPP of any updates that need to be made to bureau lists. As part of the inventory submission, each agency shall also provide the primary point of contact (POC) for the FAIR inventory and website URL where the agency will post the inventory. A sample form of the template used for organizing and collecting information is available in Attachment 3. Please be advised that, since data validation has been built into this data collection method, OMB will not accept spreadsheets submitted in other formats.

Pursuant to section 2 of the FAIR Act, OMB will review and consult with agencies on their inventories. The following agencies will be notified in writing 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, Department of Health and Human Services, Department of Homeland Security, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of the Treasury, Department of Veterans Affairs, Agency for International Development, Corps of Engineers, Environmental Protection Agency, General Services Administration, National Aeronautics and Space Administration, National Science Foundation, Office of Personnel Management, Small Business Administration, Smithsonian Institution, and Social Security Administration.

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

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<sup>7</sup> OMB will also be eliminating the Commercial Services Tracking System (CSTS) and migrating this data to the MAX Federal Community.

directed by OMB. Not sooner than 45 days after the electronic submission of their inventories to OMB, unless otherwise directed, these agencies should release their inventories to the public, and post them on agency websites.

Following review and consultation, OMB will publish a Notice of Availability, including the agency POC, in the *Federal Register*. The agency POC will be notified when the agency's inventory has been sent to the *Federal Register*. Agencies shall post their full inventory in Excel format and inventory summary on the URL address within twenty-four hours of OMB publishing the Notice of Public Availability in the *Federal Register*. In accordance with the FAIR Act, the challenge and appeals process begins when OMB publishes the Notice of Availability in the *Federal Register*.

As provided in section 2(c)(1)(A) of the FAIR Act, all agencies are also responsible for reporting their inventories to Congress. Once agencies have been notified that OMB has cleared their inventory, agencies shall transmit a letter addressed to the President of the Senate and the Speaker of the House of Representatives, specifically identifying the website where the inventory is posted.

Additional instructions for submitting the inventory is available at OFPP's Fair Act Inventory MAX Community website at <https://max.omb.gov/community/x/-ha4Iw>. Agencies piloting special interest functions outside the Management Support Services initiative must notify OFFP by April 30, 2012 to ensure their specific codes are included in the MAX Collect system. Questions regarding this memorandum should be referred to Jennifer Swartz (202-395-6811; [jswartz@omb.eop.gov](mailto:jswartz@omb.eop.gov)) or Mathew Blum (202-395-4953; [mblum@omb.eop.gov](mailto:mblum@omb.eop.gov)).

Attachments

## Attachment 1 – Reason Codes

Codes	Description	Status Code*
A	The commercial activity is not appropriate for private sector performance pursuant to a written determination by the CSO.	Commercial
B	The commercial activity is suitable for a streamlined or standard competition. <i>Note: Section 733 of the Consolidated Appropriations Act, 2012 (P.L. 112-74) establishes a statutory moratorium on beginning or announcing a study or public-private competition regarding the conversion of contract performance of any function performed by federal employees.</i>	
C	The commercial activity is the subject of an in-progress streamlined or standard competition. <i>Note: Section 733 of the Consolidated Appropriations Act, 2012 (P.L. 112-74) establishes a statutory moratorium on beginning or announcing a study or public-private competition regarding the conversion of contract performance of any function performed by federal employees.</i>	
D	The commercial activity is performed by government personnel as the result of a standard or streamlined competition (or a cost comparison, streamlined cost comparison, or direct conversion) within the past five years.	
E	The commercial activity is pending an agency approved restructuring decision (e.g., closure, realignment).	
F	The commercial activity is performed by government personnel due to a statutory prohibition against private sector performance.	
I	Inherently Governmental	Inherently Governmental

\* Status code will not be included in the FY 2012 FAIR Act inventory but is included in this table for reference to historical coding of FAIR Act inventories.

**Attachment 2: Management Support Services by FPDS Product Service Code (PSC)**

<b>PSC</b>	<b>Product or Service Description</b>
D302	IT and Telecom- Systems Development
D307	IT and Telecom- IT Strategy and Architecture
D310	IT and Telecom- Cyber Security and Data Backup <i>Includes:</i> Information assurance, virus detection, network management, situational awareness and incident response, secure web hosting, backup and security services
D314	IT and Telecom- System Acquisition Support <i>Includes:</i> Preparation of statement of work, benchmarks, specifications, etc.
R408	Support- Professional: Program Management/Support <i>Includes:</i> Situations where the contractor is solely responsible for program management as well as situations where the contractor provides program management support to a government program manager <i>Excludes:</i> Program evaluation/review/development (PSC R410), Contract/procurement/acquisition support (PSC R707)
R413	Support- Professional: Specifications Development
R423	Support- Professional: Intelligence
R425	Support- Professional: Engineering/Technical <i>Includes:</i> Systems engineering, technical assistance, and other services used to support the program office during the acquisition cycle
R707	Support- Management: Contract/Procurement/Acquisition Support

## Notes:

1. This list captures the same PSCs discussed in the OMB Memorandum issued on November 7, 2011 for Reduced contract spending for management support services, except personal services contracts. FAIR Act inventories would not have an equivalent of personal service contracts, so it has been excluded from the list of PSCs that FAIR Act inventories should pilot.
2. The PSC manual, which is available at [www.acquisition.gov](http://www.acquisition.gov), was updated at the beginning of FY 2011, so the PSC descriptions above reflect the new codes and descriptions.

### Attachment 3 – Sample Format\*

		FAIR Act Inventory Data										
		Function Code	Product or Service Code**	Policy Letter 11-01**	Total FTE	Reason Codes	Country	State	City	First Year on Inventory	Unit Name	Activity Suffix (DoD only)
Department of A	Bureau X											
Department of A	Bureau Y											
Department of A	Bureau Z											

\* The information will be collected in MAX Collect and not by a manual data call of this table. This table is simply presented as a point of reference for what variables will be included in the FY 2012 FAIR Act inventory.

\*\* These variables are related to the voluntary pilot and will contain N/A responses for work outside the scope of the pilot or for agencies that are not conducting a pilot.