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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL
PROCUREMENT POLICY

May 23, 2005

M-05-12

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: David H. Safavian
Administrator

SUBJECT: 2005 Inventories of Commercial and Inherently Governmental Activities

This memorandum provides guidance to assist agencies in preparing inventories of their commercial and inherently governmental activities. 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 30th of each year, inventories of commercial activities performed by federal employees. OMB Circular A-76, Performance of Commercial Activities, further requires agencies to submit inventories of their inherently governmental activities to OMB.

By annually reviewing and revising complete workforce inventories, agencies are better able to understand the functions their workforce is performing and how those functions relate to the agency's mission. Agency managers should use this analysis to improve ways of managing their human capital resource distribution. Functions found to be inherently governmental or commercial, but not suitable for competition, may undergo reengineering efforts or management reviews. Functions deemed suitable for competition may be examined as potential candidates for competitive sourcing studies.

General Instructions

For the 2005 submission of commercial and inherently governmental inventories, agencies should use the standard spreadsheet template posted on OMB's website: www.whitehouse.gov/omb/procurement/fair-index.html. All other templates are incompatible with OMB's governmentwide database. Inventories prepared using other templates will be returned to the agency. Agencies must also conform to the US Postal city and state codes and limit themselves to only those function codes provided on the OMB approved list.

Function Codes. OMB maintains the only list of approved function codes. Agencies must use these codes, but have flexibility in defining the codes. Agencies may use the DOD function code definitions or create definitions that are tailored to fit their agency. For informational purposes, OMB intends to compile a comprehensive list of function code definitions which will be made available for the FY2006 inventory via the internet. Therefore,

please submit agency-specific function code definitions as a word document at the time of your inventory submission. Agencies may select the format.

Reason Codes. The reason codes are the same as those used for the 2004 inventories. Accordingly, an agency may exempt, with sufficient written justification, commercial activities performed by government personnel using reason code A. Agencies shall include the commercial reason code A justifications with each agency's inventory submission. Justifications should be provided as a separate word document to both OFPP and the appropriate RMO.

Agencies must provide complete justifications for any function that has been newly designated as reason code A on the 2005 inventory. This requirement must be met to receive credit for satisfying the PMA "green" standard on "written justifications for all categories of commercial activities determined to be unsuitable for competition." Summary justifications may be provided for commercial functions which have been historically listed as reason code A. However, RMO examiners and OFPP analysts may request that the agency prepare and submit a complete justification for a function, if questions remain after reviewing the summary justifications.

OMB has developed guidance to help agencies in structuring their reason code A justifications. This document is available on OMB's webpage and includes a number of sample justifications (www.whitehouse.gov/omb/procurement/fair-index.html). One sample justification describes how agencies may, at their option, use reason code A in connection with positions held by individuals with disabilities. In addition to the use of reason code A, agencies have options to address the handling of functions performed by disabled individuals that can be exercised during the competition planning process. A separate memorandum will be issued to address competition considerations associated with functions performed by individuals with disabilities.

FTEs Reported. The number of FTE reported in each agency's inventory should be consistent with the estimated FTE funding levels for FY2005. Therefore, all budgeted FTE should be included in agency inventories regardless of personnel status (i.e. Civil Service, Political Appointees, and Foreign Service). Moreover FTE ought to be reported whether the FTE is filled, vacant, on a non-reimbursable detail, or on extended leave. If the number of FTE reported deviates more than 5 percent from the number of budgeted FTE assigned, a written justification must be provided to OMB along with the inventory submission.

OMB allows for the reporting of fractional FTE in the inventory submission in instances such as part-time or seasonal employees. Splitting FTE into multiple function codes should only be done in cases where a single FTE performs two or three completely separate functions. For instance, nearly all positions have an administrative component to them; however, it is unnecessary to artificially separate this out from the rest of the position duties. Except in rare instances, an FTE should be assigned a single function code selected on the basis of the predominant type of work performed. In reporting any fractional FTE, agencies shall not report

fractions smaller than one-quarter unless a request for a waiver is granted by OMB. Agencies may aggregate like fractional FTE (those that share the same function code, status code, location, etc.) into a single reporting line.

Point of Contact Information. At the time of inventory submission, each agency shall provide OMB the website address on which they plan to post their inventory and the name and telephone number of the point of contact the agency would like have published in the *Federal Register*.

If there are alternate agency points of contact OMB may need to reach (i.e. bureaus representatives or agency database operators), please provide those as well. After review and consultation, OMB will publish this information in the *Federal Register* Notice of Availability. The primary agency point of contact will be notified by their examiner when their agency's inventory has been sent to the *Federal Register*.

By June 30, 2005 the FY 2005 inventories and commercial reason code A justifications shall be submitted via e-mail (hard copies and faxes are not required) to the appropriate OMB Resource Management Office (RMO) and to the Office of Federal Procurement Policy (OFPP) at FAIRAct2005@omb.eop.gov consistent with the guidance provided in OMB Circular A-76 (www.whitehouse.gov/omb/circulars/index-procure.html) and the instructions provided in this memorandum.

Review and Consultation

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, 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 Justice, Department of Labor, Department of State, Department of Transportation, Department of the Treasury, Veterans Affairs, 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.

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 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 place both inventories on the agency's website. In accordance with the FAIR Act, the challenge and appeals process begins when OMB publishes the Notice of Availability in the *Federal Register*. Therefore, it is important that inventories are posted in Excel format on agency websites within twenty-four hours of publishing in the *Federal Register*. There will be approximately three OMB submissions to the *Federal Register*.

All agencies are also responsible for reporting their inventories to Congress. Once agencies have been notified that OMB has cleared their inventory, agencies should mail a copy of their inventory summary, along with a cover letter, to the President of the Senate and the Speaker of the House.

Future Submissions

OMB is currently in the process of developing a new FAIR Act database called Workforce Inventories Tracking System (WITS). WITS, a web-based system that will be managed by OMB, is scheduled to be operational in time for the 2006 submissions. Our goal is for individual agency inventory data to be received by either bulk uploading (most likely via XML) or by direct web interface. Additional information will be provided before the database becomes operational.

OMB developed the changes in this FAIR Act inventory submission process with the assistance of an inter-agency working group. OMB will continue to seek agency input for additional improvements in the 2006 inventory submission process. OMB also invites agencies to include any suggestions with their inventory submissions in June 2005.

Additional Resources

Additional resources are provided on OMB's website www.whitehouse.gov/omb/procurement/fair-index.html. These include (1) a copy of this memorandum (2) commercial reason code A guidance (3) the list of 2005 OMB approved function codes (4) Department of Defense (DOD) function code definitions (5) and spreadsheet guidance. An inventory best practices guide and a summary of an inventory exercise conducted by a Chief Acquisition Officer Council working group will also be posted on OMB's website in the coming weeks.

Please address any questions regarding the development of the 2005 inventories to Renee Courtland, Office of Federal Procurement Policy, at (202) 395-7318.

Attachment

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OMB Guidance for use of Commercial Reason Code A Justifications

OMB Circular A-76 authorizes an agency's Competitive Sourcing Official to exempt a commercial function performed by government personnel from competition on the basis that the activity is not appropriate for private sector performance.

The Circular requires agencies to prepare justifications to support the designation of commercial reason code A functions. The OMB FY 2005 FAIR Act guidance requires agencies to submit these justifications along with their annual inventory. OMB intends to review these justifications beginning with those provided for functions listed as commercial reason code A for the first time in the 2005 inventory.

The Circular does not specify what constitutes an acceptable reason for categorizing a function as reason code A. This document serves as guidance to help agencies structure their reason code A justifications so that agencies may achieve incremental improvements with each inventory submission.

Justification Expectations

Justifications should reflect an appropriate and consistent application of criteria. They should contain enough information to enable a reasonable lay person to validate the function and reason code designations. The key elements of a complete justification are the following: a thorough definition of the function performed, including required skills and responsibilities, and a clear explanation of why it is necessary for the commercial function to be categorized as unsuitable for competition.

Risk to the Agency. Many agencies seek to exempt certain functions from competition on the grounds that the function is "core," as in "core to the agency's mission." As a general matter, a function should be considered core to an agency's operation only if -- and only to the extent that -- loss of in-house performance of the function would result in *substantial risk* to the agency's ability to accomplish its unique mission. Consider the following examples:

- Project managers and designated contracting officer representatives (commonly referred to as CORs or COTRs) may be considered core functions. An agency is likely to find that its operations would be at substantial risk if there were no in-house employees to perform these functions. However, these functions should be considered core *only* to the extent required to avoid substantial risk – i.e., not every FTE in these categories is necessarily core since it would not put an agency's mission at risk to have a portion of

these functions performed by contractors, so long as a sufficient number of FTE remained in house to perform the necessary oversight.[1]

- Repairing computers and routing telephone calls are not core functions. Although these functions provide essential support to daily agency operations, they do not accomplish the unique mission of any agency and the potential conversion of the entire function to contract performance would not, in the ordinary course, expose the agency to substantial risk.[2]

Preponderance of Duty. When evaluating functions, the FTE should be categorized based on the work they are actually performing, not on the title assigned or the certification acquired. For example, an FTE who has taken COR training, but does not perform that function as part of their regular duties, can not be considered a COR for purposes of assigning status or reason code on the inventory.

Examples of Acceptable Reasons to Use Commercial Reason Code A

The statements below are examples of summary justifications that offer meaningful rationales to explain why a particular activity is not suitable for competition. The examples are illustrative and agencies need not use the exact verbiage in the examples in order to have a reasonable justification.

Note: Many of the acceptable reasons cited below for categorizing a function under reason code A include the qualifying phrase "sufficient number" to indicate that only a fraction of the total number of FTEs performing the function have been designated as reason code A. As explained above, it is ordinarily neither necessary nor appropriate to exempt an entire function or business line from competition to avoid substantial risk to the agency. There is no prescribed ratio of commercial reason code B to commercial reason code A FTEs within a function; this ratio will vary depending on the nature of the function. The same risk analysis conducted to determine whether a function is "core" should be conducted to determine the "sufficient number" of any given commercial reason code A function.

- A *sufficient number* of FTE are required to provide independent, day-to-day oversight of core agency function.

- Function requires a *sufficient number* of specialized FTE with expertise of agency systems and procedures.

- Agency requires a *sufficient number* of trained and experienced FTE with historical knowledge to ensure continual performance of a *core* function.

- Agency requires a *sufficient number* of FTE within this function to provide an in-house cadre of suitable candidates for career growth in mission critical areas of the agency.

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[1] Unlike CORs or COTRs, Contracting Officers should be listed on workforce inventories as inherently governmental because they bind the federal government to a particular course of action.

[2] There may be other bases for concluding that the activity should not be competed; however, in the example provided the "core" justification would not apply.

- Function routinely requires working with proprietary, sensitive, pre-decisional business information to develop various proposals for consideration by inherently governmental final agency decision makers.

- The FTE performing a commercial function are currently filled by individuals with disabilities.[3]

- FTEs currently performing function require distinctly multiple skill sets, so that the agency has the flexibility to rotate FTE between assignments as needed for maximum productivity potential.[4]

- Function is preformed by a student intern as a part of formalized program for federal recruitment.

Examples of Acceptable Complete Justifications for Commercial A Functions

The examples below illustrate what may constitute an acceptable complete justification. Agencies are allowed flexibility in defining function codes, so mock function codes have been substituted.

DXXX Commercial - This FTE establishes accountability policies and procedures, and provides independent, day-to-day oversight over accountability of Government security documents manufactured. The FTE draws on specialized knowledge of the Bureau's manufacturing and accountability systems and procedures to ensure that assets are safeguarded from waste, loss, misappropriation, etc. The systems accountant is responsible for conducting physical inventories that are reviewed by external auditors. This FTE is responsible for conducting unannounced inventories of various products. The FTE provides software application support, to include system enhancements, for all manufacturing and accountability systems users. The FTE coordinates system requirements for production and support division with various headquarter offices for proper tracking of the product through production process. Specialized knowledge and expertise in the Bureau's Product Accountability System is required to adequately perform these functions.

CXXX Commercial - The Bureau must have a sufficient number of trained and experienced staff to ensure the timely and accurate formulation, completion and review of all required financial reports. This requires employees with prerequisite accounting skills and specialized knowledge of the Bureau's revolving fund financing, as well as a thorough understanding of the Bureau mission. The need for these FTE's to provide essential technical information, advice, review and oversight increases directly with the increase in the degree of involvement of contractors in the Bureau's financial activities. Additionally, this function has historically provided an in-house cadre of talented financial management candidates for the Bureau's core functions.

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[3] **This justification must be applied on an individual FTE basis. In other words, it may not be applied to all FTE within a function simply because the majority of those FTE are currently filled by individuals with disabilities.**

[4] **It is expected that this justification will be used by a small number of agencies. An example of appropriate application would be for an FTE who primarily performs a physically or mentally straining activity, but it is periodically assigned desk work in part to provide relief from the strain and maintain sharpness in their primary duty.**

CXXX Commercial - The FTE's associated with Cost Accounting are primarily responsible for developing prices of Bureau products for the purpose of funding present and future operations and maintaining the integrity of the Bureau's revolving fund. They are also responsible for monitoring monthly manufacturing performance with respect to established standards, and reporting such findings to management. The development, and subsequent review, of product prices is a challenging task, due to the complexity and dynamics of the security-printing environment. The historical knowledge of Bureau operations, the specialized knowledge and analytical skills required by these positions, and their impact on the integrity of the Bureau's revolving fund, require that these skills remain in-house. Additionally, this function has historically provided an in-house cadre of talented candidates for the Bureau's core functions.

CXXX Commercial - Cost analysis is directly linked to the Bureau's mission "to securely and efficiently produce currency." The FTE's involved in cost analysis are responsible for monitoring the effectiveness of product prices, performing cost analyses used for go/no go decision making, and analyzing favorable and unfavorable cost variances related to monthly manufacturing performance. Their analyses help ensure the integrity of the Bureau's revolving fund. Further, this function routinely works with proprietary, pre-decisional business information to develop cost analyses on various proposals and what-if scenarios for the exclusive, confidential consideration of Bureau executive management. Because of the specialized knowledge of Bureau operations and analytical skills required to provide management with the information needed to effectively and efficiently operate the Bureau, these positions should remain in-house. Additionally, this function has historically provided an in-house cadre of talented financial management candidates for the Bureau's inherently governmental management and oversight functions.

TXXX Commercial - These FTE's are currently occupied by individuals with severe physical disabilities, psychiatric disabilities, or who are mentally challenged, who were hired non-competitively on the basis of their disabilities using Schedule A authority, and who require ongoing and continuing employment accommodation. These positions have been set aside for the larger governmental purpose of providing gainful employment for those individuals who otherwise have limited employment options in the private sector. This action is consistent with the federal government's role as a model employer for persons with disabilities. Accordingly, the Bureau has no intent of competing these positions at this time.

DXXX Commercial - These FTE's provide oversight to the Bureau's Quality Management System and Management Controls programs by conducting Internal Quality audits and Internal Control reviews (including unannounced physical inventories reviewed by external auditors) of BEP production, support, and administrative activities.

An Internal Quality audit program is required to maintain International Organization of Standards (ISO) certification. Due to the specialized knowledge of Bureau quality procedures, access to confidential business information, and the nature of the production, support, and administrative operations to be audited, contracting out this function would not be appropriate. The Internal Control reviews also performed by these FTE's are often focused on security and accountability over Bureau products and require access to sensitive security information, and consequently, contracting out this function would pose risk and vulnerability to the Bureau.

YXXX Commercial - These core functions are critical to the agency's mission as they entail the operation of offset and intaglio printing equipment and electronic inspection equipment by highly skilled plate printers, pressmen, and bookbinders. The Bureau of Engraving and Printing is the largest single employer of plate printers in the United States with only a limited number of private sector companies with a limited number of individuals employing this particular skill. Bookbinders and Pressmen, either trained in the private sector or trained in-house, have specialized knowledge of major pieces of inspection and processing equipment and they too, are in short supply in the private sector. Plate Printing operations, inspection operations, and finishing operations coupled with the highly skilled, difficult-to-replace individuals in both the Washington, DC and Fort Worth, TX facilities must remain an integral part of the Bureau and cannot be contracted to the private sector. This level of sophistication and experience of the workforce enables the flexibility to assign individuals to either the currency program or the special security products program and enhancing the productivity of both programs.

BXXX Commercial - This is a Schedule B FTE under the Student Educational Employment Program (SEEP). SEEP is a program specifically designed to further the government objectives of encouraging individuals to attend institutions of higher learning by providing an additional source of income to offset some of the expenses incurred in attending school. The program also increases student and society awareness of the Federal government as an employer and expands employment opportunities for students in school. Therefore, it is reasonable that this position while clearly a commercial activity not be considered under the A-76 process for commercialization.