

EPA Inventory of Commercial and Inherently Governmental Activities

GUIDE TO INVENTORY SUBMISSION
APRIL 2012

This guidance provides instructions for Environmental Protection Agency (EPA) Program and Regional offices (hereinafter referred to as Offices) to use in compiling their “2012 Inventory of Commercial and Inherently Governmental Activities” (commonly referred to as the FAIR Act Inventory, or simply the Inventory). When all data are combined, the full FAIR Act Inventory will serve as the database for responding to various reporting requirements, including, the FAIR Act and the Annual Report to Congress. The 2012 Inventory will identify full-time equivalents performing functions that are either (1) inherently governmental, (2) closely associated to inherently governmental, (3) critical or (4) other as defined by the FAIR Act of 1998 and the Office of Management and Budget (OMB), Office of Federal Procurement Policy (OFPP) Letter 11-01.

Agency guidance and instructions for completing the 2012 Inventory are located at <http://intranet.epa.gov/OARM/cs>. The 2012 FAIR Act Inventory guidance provides instructions for completing each data field in the Inventory Data Collection system. There are 7 (seven) supplemental documents for additional guidance and clarification on specific fields within the database and the inventory process.

- 2012 FAIR Act Inventory Database Manual
- The 2012 President’s Budget FTE Allocations
- The 2012 List of Function Codes and Definitions
- A List of OMB Status Codes and Definitions
- The 2011- 2012 Crosswalk of Function Codes and Definitions
- 2011 EPA - 2012 OMB Status Codes/Justifications Crosswalk
- OMB’s OFPP Policy Letter 11-01

EPA will use the 2012 Lotus Notes data collection tool (system) and instruction guide to simplify the data collection process. The data entries are guided by the use of drop down menus containing pre-determined data identifiers (e.g., city and state, position title, job series, function codes, status codes, and justifications).

The final inventory submitted by offices will include the total FTE presented in the 2012 President’s Budget (*Exhibit 1*). Each office must reconcile FTEs reported in the Inventory with the 2012 President’s Budget. If the total FTE included the inventory submission **exceed +/- 5%** of the total FTE levels in the 2012 President’s Budget, a written justification is required. The EPA’s Coordinator will review submittals for consistency in the application of function and status codes (explained below) across the Agency and request additional information and modifications, if needed.

FTE Presented in the FY 2012 President's Budget

<i>FY 2012 President's Budget FTE Ceiling by RPIO</i>	
<i>Agency Total</i>	<i>17,202.1</i>
<i>Headquarters</i>	
Office of Air and Radiation	1,299.7
Office of Water	639.4
Office of Chemical Safety and Pollution Prevention	1,106.5
Office of Solid Waste and Emergency Response	564.6
Office of Enforcement and Compliance Assurance	868.3
Office of Research and Development	1,924.1
Office of Administration and Resources Management	841.6
Office of Environmental Information	405.3
Office of the Chief Financial Officer	373.3
Office of International and Tribal Affairs	86.8
Office of the Administrator and Staff	506.5
Office of General Counsel	201.4
Office of Inspector General	365.8
<i>Headquarters Total</i>	<i>9,183.3</i>
<i>Regions</i>	
Region 1, Boston	651.0
Region 2, New York	868.0
Region 3, Philadelphia	877.9
Region 4, Atlanta	1,030.7
Region 5, Chicago	1,214.2
Region 6, Dallas	845.9
Region 7, Kansas City	542.1
Region 8, Denver	582.5
Region 9, San Francisco	809.9
Region 10, Seattle	596.6
<i>Regional Total</i>	<i>8,018.8</i>

FUNCTION (ACTIVITY) CODES -

Function codes serve to categorize similar or related services, tasks, activities, and functions into groupings that describe the general nature of work taking place within the Agency. The primary purpose of function codes is to allow Agency management to evaluate the use of resources compared to the Strategic Plan, and to evaluate workforce planning and mission needs. Also function codes help also OMB and the public better understand EPA uses its human resources.

In compliance with OFPP Policy Letter 11-01 that instructed agencies to more accurately identify those activities that may be performed only by federal employees and those functions critical to the agency's mission and operations, Office of Human Resources (OHR) and Office of Acquisition Management (OAM) revised the function code definition structure, developed a list of EPA's critical functions, and comprised a product service code crosswalk. The new list of function codes and definitions is more concise and makes selecting a specific activity easier.

The new **2012 List of Function Codes and Definitions** consist of 185 codes including 96 critical function codes identified in *Red* text. The function codes are comprised of sub-function codes under broad functional areas. For example, all management and supervisory functions are included under Category Y, Force Management and Budget Support; all budget, finance, and accounting activities are included under Category C, Finance and Accounting; all contracting activities are included under Category F, Procurement; and all grant activities are included under Category L, Grants. *The 2012 List of Function Codes and Definitions and the Crosswalk of the 2011- 2012 Function Codes and Definitions are available on our website, <http://intranet.epa.gov/OARM/cs>.*

In accordance with EPA guidance offices are required to use **ONLY** these lists of function codes and definitions for each new position entered into the system. Offices are **REQUIRED** to use the 2012 function code definitions when updating **ALL** records. Offices **CANNOT** create or use any function code not available on the drop-down menu. Offices also are encouraged to code a position by the function predominantly performed. However, recognizing that we often have multiple responsibilities, offices may assign a **maximum of four function codes** to a single position.

OMB and EPA require a 0.25 FTE minimum for each function performed. Any function code designated as *CM* (previously included in a public/private sector competition) with less than 0.25 FTE requires modification by the Agency's Coordinator. If assistance is needed applying function codes, please contact Melanie Gooden at 202.564.3043.

PRODUCT SERVICE CODES (PSCs) –

In addition to completing the 2012 inventory data, the Agency is participating in a voluntary pilot conducted by OMB to integrate the workforce and service contract inventories. This year, the contracts product service codes (PSCs) included in OMB's management support services initiative will be used as an additional form of identification. OMB has identified these PSCs and activities as being at heightened risk of workforce imbalance. The Office of Acquisition Management (OAM) and the Office of Human Resources (HR) have identified relevant functions using both a FAIR Act function codes and the contracts PSCs. The crosswalk between the two inventories will facilitate OMB's and the Agency's efforts to ensure the most effective use of federal employees and contractors to perform a given activity. These PSCs are identified in *Blue* text next to the equivalent.

Based on the relevant function code, the PSC field is populated and the status code designated. This field is locked and **does not** require modification or input.

STATUS CODES –

Status codes identify functions, activities, services, or tasks as either Commercial (C) or Inherently Governmental (I). Definitions of both C and I are included in OFPP Policy Letter 11-01. Status codes reflect an assessment of whether the work is Inherently Governmental (I or IG), meeting the criteria as Section 3 and Section 5-1(a) in OFPP Policy Letter 11-01. If not, the function/activity is coded *Other (OT)* - an activity that **is not** CL, CT, nor I; ***therefore it is commercial.***

A function code in and of itself is neither commercial (C) nor inherently governmental (I),¹ but it does contribute toward an accurate assessment of whether work performed is “C” or “I”. Accurately describing and categorizing the work by assigning the appropriate function code is a critical first step in assessing “C” or “I” status.

We have provided criteria to help determine the appropriate status code within the data system. The status code is based on criterion outlined in the OMB’s Office of Federal Procurement Policy (OFPP) Letter 11-01.

1. *Critical (CT)* - An activity necessary to the Agency's ability to effectively perform and maintain control of its mission and operations (Please refer to the *2012 List of Function Codes and Definitions*. The critical functions are identified in **Red** text.)
2. *Closely Associated to Inherently Governmental (CL)* - An activity that generally isn't considered IG, but approaches the IG category because of the nature of work and the risk may hinder a Federal official's performance of an IG function.
3. *Other (OT)* - An activity that **is not** CL, CT, nor I; therefore it is commercial.
4. *Inherently Governmental (I)* - In accordance with the *FAIR Act, Public Law 105-270*, an activity that's so intimately related to the public interest as to mandate performance by federal employees.
5. *Previously Competed, last yr for tracking (CM)* - a federal FTE previously competed prior to the 2008 moratorium on beginning or announcing a study or public-private competition regarding the conversion of contract performance of any function performed by federal employees.

Additionally, the Agency has provided supplemental guidance for the coding of *Contracting Officer’s Technical Representative (COTR) and Assistance Agreement Functions* included in *Exhibit 2*. COTR functions are commercial activities that EPA has determined as too greater a risk to consider for competition. On May 25, 2005, the Office of Management and Budget (OMB) guidance identified COTR functions as commercial. In applying that guidance to EPA, the Agency notes that it is highly reliant on contractor support to meet mission requirements. Historically, EPA has struggled with contract administration as a material and agency level deficiency. These deficiencies led the Agency to bring contracted work back in-house to avoid actual or perceived personal services. Although, EPA cleared the deficiencies in fiscal year 2000, the Agency continues to monitor contract administration, particularly as it relates to the relationship between EPA and its contractors, to avoid future problems. After careful consideration, the Agency has determined to exempt the COTR

¹ See discussion on the definition of an inherently governmental function in Section 3 and the guidelines for identifying an inherently governmental function in Section 5-1(a) in OFPP Policy Letter 11-01, an attachment to the call memo.

functions from competition. Therefore, Offices are to code FTE performing these functions as commercial, but exempt from competition in the inventory.

Exhibit 2

Contracting Officer’s Technical Representative (COTR) and Assistance Agreement Functions

The Table entitled Assistance Agreements provided below is an Office guide in coding activities associated with Assistance Agreements.

ASSISTANCE AGREEMENTS	
ASSISTANCE AGREEMENTS ACTIVITIES - PROJECT OFFICERS	
Major Activity 1: Pre-Award	
<i>Commercial Sub-Activities</i>	<i>Inherently Governmental Sub-Activities</i>
Perform assessment of recipient’s technical capabilities required by the Policy on Assessing Capabilities for Non-Profit Applicants for Managing Assistance Awards.	Determine adequacy of capabilities.
Perform preliminary review of grant application packages for program related items such as statutory/regulatory compliance, program guidance or solicitation criteria; checking whether activities are in agreement with statutory authority, delegation of authority and program results code.	Determine compliance.
Perform and document cost review in the pre-award phase.	Determine eligibility, allowability, allocability, and reasonableness.
Receive, review and prepare initial analysis of proposals/applications for program related items such as statutory/regulatory compliance, program guidance or solicitation criteria; checking whether activities are in agreement with statutory authority, delegation of authority and program results code.	Determine eligibility and compliance. Determine applicant=s adherence to EPA Order 5700.7, AEnvironmental Results Under EPA Assistance Agreements.@
Major Activity 2: Award/Amendment/Post-Award	
<i>Commercial Sub-Activities</i>	<i>Inherently Governmental Sub-Activities</i>
Prepare the funding recommendation form in the Integrated Grants Management System. <u>Closely Associated to Inherently Governmental (CL) - represents substantial risk to the Agency based on past Inspector General findings).</u>	Approve and sign the funding recommendation package.
Major Activity 2: Award/Amendment/Post-Award	
<i>Commercial Sub-Activities</i>	<i>Inherently Governmental Sub-Activities</i>
Perform both pre- and post-award advanced monitoring reviews, including on-site reviews, grants outputs and milestone tracking.	Determine if findings from reviews indicate acceptable performance and make final determination on recommendation to correct deficiencies.
Prepare the commitment notice, assigning accounting information for the award.	Determine funding source.

ASSISTANCE AGREEMENTS

ASSISTANCE AGREEMENTS ACTIVITIES - PROJECT OFFICERS

Major Activity 3: Monitoring and Compliance

<i>Commercial Sub-Activities</i>	<i>Inherently Governmental Sub-Activities</i>
Monitor compliance in accordance with post-award monitoring procedures, including on-site reviews, grant output and milestone tracking. Document findings and recommend whether the recipient complies with agreement conditions. Recommend whether grantee submittals of interim and final performance reports are in accordance with 40CFR S30.51 and 30.71.	Determine if findings from reviews indicate acceptable performance and make final determination on recommendation to correct deficiencies.
Compile programmatic findings and comments from Project Officer and convey those, along with any administrative comments, to applicants. Identified and address administrative and programmatic deficiencies by checking revised applications.	Determine if findings from reviews indicate acceptable performance and make final determination on recommendations to correct deficiencies.
Receive and input into IGMS MBE/WBE reports and follow-up on delinquent reports.	
Review high-risk recipient's payment requests and supporting documentation.	Approve payment.
Review reports to evaluate whether they adequately address progress in achieving agreed-upon outputs and outcomes.	Accept grantee performance. Make determinations regarding recommendations to correct grantee deficiencies.

Major Activity 4: Closeout

<i>Commercial Sub-Activities</i>	<i>Inherently Governmental Sub-Activities</i>
Assess whether project is technically ready for closeout including whether receipt of all deliverables has occurred.	Determine readiness for closeout.

ASSISTANCE AGREEMENT ACTIVITIES - GRANTS SPECIALIST

Major Activity 1: Pre-Award

<i>Commercial Sub-Activities</i>	<i>Inherently Governmental Sub-Activities</i>
Perform assessment of recipient's administrative capabilities required by the Policy on Assessing Capabilities for Non-Profit Applicants for Managing Assistance Awards.	Determine adequacy of capabilities.

ASSISTANCE AGREEMENT ACTIVITIES - GRANTS SPECIALIST

Perform and document cost review in the pre-award phase.	Determine eligibility, allowability, allocability, and reasonableness.
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Major Activity 2: Award/Amendment/Post-Award

<i>Commercial Sub-Activities</i>	<i>Inherently Governmental Sub-Activities</i>
	Approve and sign the funding recommendation package.
Perform both pre- and post-award Advanced Monitoring Reviews to include on-site reviews, grant outputs and milestone tracking.	Determine if findings from reviews indicate acceptable performance and make final determination on recommendation to correct deficiencies.

ASSISTANCE AGREEMENTS	
Prepare documentation in IGMS for no-cost time extension and closeout.	Approve extension and/or closeout.
Major Activity 3: Monitoring and Compliance	
<i>Commercial Sub-Activities</i>	<i>Inherently Governmental Sub-Activities</i>
Monitor compliance in accordance with post-award monitoring procedures, including on-site reviews, grant output and milestone tracking. Document findings and recommend whether the recipient complies with agreement conditions. Recommend whether grantee submittals of interim and final performance reports are in accordance with 40CFR S30.51 and 30.71.	Determine if findings from reviews indicate acceptable performance and make final determination on recommendation to correct deficiencies.
Receive and input into IGMS MBE/WBE reports and follow-up on delinquent reports.	
Major Activity 4: Closeout	
<i>Commercial Sub-Activities</i>	<i>Inherently Governmental Sub-Activities</i>
Perform closeout for final approval by Grants Specialist, including preparing warning letters, collecting Final Statistics Reports (FSRs), following up on missing items and preparing closeout letters.	Approve closeout.
Major Activity 5: Training	
<i>Commercial Sub-Activities</i>	<i>Inherently Governmental Sub-Activities</i>
Provide routine non-specialized training, excluding areas regarding policy issues and training for Project Officers.	Provide routine non-specialized training, excluding areas regarding policy issues and training for Project Officers.

JUSTIFICATIONS –

The inventory system automatically generates a justification based on the selected status code outlined in Exhibit 3. When changing an existing activity to *Inherently Governmental* or *Closely Associated to Inherently Governmental*, EPA guidance requires offices to enter a written justification into the inventory database. The written justifications should be based on the definition of an inherently governmental function in Section 3 and the guidelines for identifying an inherently governmental function in Section 5-1(a) of OFPP Policy Letter 11-01. Justifications should not exceed 100 words per activity. Any activity change to an Inherently Governmental status code requires approval by the Deputy AA or the Deputy RA.

Exhibit 3

EPA Justification Criteria for Inherently Governmental and Commercial Activities

(In accordance with OMB Memorandum M-12-09, Federal Activities Inventory Reform (FAIR) Act Submission for Fiscal Year 2012)

Status Code	Justification Criteria
CL-01	Closely Associated to IG - This FTE performs an activity that generally isn't considered IG, but approaches the IG category because of the nature of work and the risk may hinder a Federal official's performance of an IG function.
CM-01	Commercial Moratorium - This FTE was included in a public-private competition prior to the 2008 moratorium on beginning or announcing a study or public-private competition regarding the conversion of contract performance of any function performed by federal employees.
CT-01	Critical Function - This FTE performs an activity that 's necessary to the Agency's ability to effectively perform and maintain control of its mission and operations
I-01	Inherently Governmental - In accordance with the FAIR Act Public Law 105-270, this FTE performs an activity that's so intimately related to the public interest as to mandate performance by federal employees.
OT-01	Other -This FTE performs an activity that is not CL, CT, nor I; therefore it is commercial .
X-99	RESET to BLANK

AGENCY STRATEGIC PLAN –

The function code and activity entries are linked to the Agency’s Annual Strategic Plan (ASP). All entries must relate to a primary goal and objective as described in the ASP. This information will not be a part of the Agency’s inventory submission to OMB, but rather used for internal Agency purposes. This information is to help provide the Agency with a clearer picture of the activities performed by our workforce; to capture the alignment of Agency resources with its mission; and to enable management to make more strategic decisions.