



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

LEGISLATIVE AFFAIRS

June 21, 2023

The Honorable Nancy Mace  
Chairwoman  
Subcommittee on Cybersecurity, Information Technology  
and Government Innovation  
Committee on Oversight and Accountability  
U.S. House of Representatives  
Washington, DC 20515

Dear Madam Chairwoman:

This responds to your letter dated April 4, 2023, to the Office of Management and Budget (OMB) regarding the Federal Activities Inventory Reform (FAIR) Act of 1998 (Public Law 105-270). Your letter states that the FAIR Act inventory process facilitates the outsourcing of non-inherently governmental activities that can be performed better and more cost-effectively by the private sector. You raise concerns that the inventory process is not being comprehensively conducted by covered agencies. I appreciate the opportunity to provide information regarding the FAIR Act and its current role in management activities. Identical responses will be sent to the cosigners of your letter.

The FAIR Act and OMB Circular A-76 require agencies to prepare inventories of the commercial and inherently governmental activities performed by their federal employees. OMB Circular A-76 provides policies and processes for using public-private competition to determine if government personnel should perform a commercial activity that has been coded as “suitable for competition” on the agency’s commercial inventory.<sup>1</sup> However, since 2009, Congress has included a provision in the government-wide general provisions of the annual appropriations acts that prohibits any agency from using appropriated funds to begin or announce a study or public-private competition regarding the conversion to contractor performance of any function performed by Federal employees pursuant to OMB Circular A-76 or any other administrative regulation, directive, or policy. The current prohibition appears at [section 741](#) of title VII of division E of the Consolidated Appropriations Act, 2023.

Notwithstanding the prohibition, OMB believes the 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.

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<sup>1</sup> Certain requirements related to public-private competition in OMB Circular A-76 are codified at 41 U.S.C. § 1710.

With this goal in mind, OMB convenes agencies annually to review their responsibilities in carrying out the FAIR Act, which requires submission to OMB of inventories by June 30. To promote consistency in the presentation of analysis, OMB Circular A-76 and OMB [Memorandum M-12-09](#) provide a standard format for organizing information.

Due to the statutory moratorium on public-private competition, agency review of activities for suitability for competition occurs on a limited basis. OMB plans to work with agencies during the current inventory development cycle so that inventory submissions are posted for public review in a timely manner.

Thank you for the opportunity to provide this information. If you have any further questions, please contact OMB's Office of Legislative Affairs at [OMBLegislativeAffairs@omb.eop.gov](mailto:OMBLegislativeAffairs@omb.eop.gov).

Sincerely,



Wintta M. Woldemariam  
Associate Director  
Office of Legislative Affairs

CC:

The Honorable Gerry Connolly  
Ranking Member  
Subcommittee on Cybersecurity, Information Technology  
and Government Innovation

The Honorable Katie Porter  
Ranking Member  
Subcommittee on Health Care  
and Financial Services

The Honorable Kweisi Mfume  
Ranking Member  
Subcommittee on Government Operations  
and the Federal Workforce