

**The following information is provided pursuant to Section 2(a)(3) of the Federal Activities Inventory Reform Act (FAIR ACT), Public Law 105-270.**

Pursuant to section 2(a)(3) of the FAIR Act, the definitions of the activities (functions) used to classify the civilian employee full time equivalents included in the Army Federal Activities Inventory Reform Act (FAIR) Inventory for Fiscal Year 1999 are included as a word document on the Army web site [www.asamra.army.pentagon.mil/fair](http://www.asamra.army.pentagon.mil/fair). Questions of a general nature about these activities as they are listed in the inventory may be submitted to Dr. John Anderson by FAX at 703 614-6833. All other questions and requests for information about specific activities or functions as performed at specific locations, whether included in the published inventory or not, should be addressed to the appropriate local Army Public Affairs office.

**How to Interpret the Army's FAIR Act Inventory and Cautions**

Under the FAIR ACT, "activities" and "functions" are used interchangeably. The FAIR ACT inventory only includes the civilian employee full time equivalents for activities currently presumed to be not inherently governmental (and therefore commercial in nature). As described below, these presumptions are subject to change.

The inclusion of full time equivalents for an activity on this inventory does not depict the Army's informed judgment as to what is appropriate to compete or convert to private sector performance. Nor does the application of Reason Codes within this inventory reflect what eventually may or may not be competed or converted to private sector performance.

The application of the Reason Codes depicted in the inventory is currently subject to internal agency deliberation and analysis. Some positions for some commercial functions included on this inventory are not even within the discretion of agencies to consider for competition or conversion to private sector performance because of law, treaty or international obligations. In this connection, OMB Reason Code A is interpreted to include functions excluded from competition or conversion to private sector performance to retain core capabilities, based on risk assessment and national security concerns. As stated by the Office of Management and Budget (OMB):

The inclusion of a function on the agency's inventory of commercial activities does not mean that the agency is required to compete the function for outsourcing. Rather, the FAIR Act in Section 2(d) requires each agency to review its inventory of commercial activities. Presumably, this review would include consideration of outsourcing, consolidation, privatization, other reinvention alternatives or maintaining the status quo. Not all commercial activities performed by Federal employees should be performed by the private sector, though all such activities should be

inventoried under the provisions of the FAIR Act and Circular A-76. The decision as to which commercial functions represent “core capabilities,” and thus should be retained in-house, remains with the agency head. OMB Response to Comment 1c, 64 Fed. Reg. 33927, 934 (June 24, 1999).

It is possible that a portion of the activities on the FAIR ACT list will eventually be selected for A-76 competitions. Once an Army activity is selected for A-76 competition, it is required to first develop a performance work statement and quality assurance plan and then issue a request for proposals or invitation for bids from the private sector. As industry develops proposals, the Army organization puts together a most efficient organization, or MEO, for retaining the work in-house. The MEO prepares its own proposal. The best-value contract offer is then compared with the MEO proposal to determine the final award. The contractor’s offer must come in at least 10 percent below the government’s proposal. Otherwise, the savings are not deemed significant enough to outsource the work. The guidelines for conducting A-76 competitions are provided in OMB Circular A-76. For more information on A-76 within the Army, see [www.hqda.army.mil/acsimweb/ca/ca1.htm](http://www.hqda.army.mil/acsimweb/ca/ca1.htm).

The FAIR ACT Inventory depicts the Army as of the beginning of fiscal year 1999, a snapshot in time. The FAIR ACT inventory is currently under revision and update within the Army for Fiscal Year 2000. The current civilian employee full time equivalents reported in the Fiscal Year 1999 inventory may significantly change for a variety of reasons:

- Reengineering or outsourcing subsequent to the preparation of this inventory in Fiscal Year 1998 will reduce the full time equivalents reported on the FAIR Inventory in fiscal year 2000.
- The consistent and accurate identification of functions in an organization as large as the Department of the Army is an iterative process. Inconsistencies and inaccuracies in functional identification in the fiscal year 1999 inventory are in the process of being identified and corrected for the fiscal year 2000 inventory. OMB and the Department of Defense (DoD) may introduce further refinements in functional coding for the fiscal year 2000 inventory. Changes to the level of detail of functional coding may further complicate efforts to improve accuracy and consistency in functional coding, as there is a tradeoff between achieving greater levels of detail and accuracy in coding.
- Army accounting systems and the Office of Management and Budget functional codes which were used to develop the FAIR Act inventory do not always clearly distinguish between the inherently governmental and non-inherently governmental portions of a function. In other words, some functional codes on the OMB, DoD and Army functional coding list may include both inherently governmental and commercial

activities. This includes Appendix A and Appendix B functions in Office of Federal Procurement Policy Letter 92-1. Therefore, the definitions of functions included on the fiscal year 1999 inventory may encompass inherently governmental functions. Conversely, there may be some inherently governmental activities included on the fiscal year 1999 inventory which, upon re-determination, will not be included in future inventories.

- Revision of functional definitions and performance of a risk assessment on the functions included or excluded from this inventory are currently underway. This risk assessment and re-definition of functions is a long range effort which may eventually change the levels of civilian employee full time equivalents reported in the fiscal year 2000 or subsequent versions of this inventory.
- The Army FAIR Act Inventory includes 24,006 civilian employee full time equivalents for Civil Works.

#### **ADMINISTRATIVE POSTING OF FAIR ADJUDICATIONS:**

**Section 3 of the FAIR ACT provides that “interested parties” may challenge the Army’s judgment as to which activities should be included in or excluded from the Army’s inventory. The Army will post all final adjudications of FAIR ACT challenges and appeals on this web site.**