

harvester.census.gov/sac/. It is used by Federal agencies, pass-through entities, non-Federal entities, auditors, the General Accounting Office, OMB, and the general public for management of and information about Federal awards and the results of audits. Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who respond, including through the use of automated collection techniques or other forms of information technology.

Joseph L. Kull,

Deputy Controller.

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OFFICE OF MANAGEMENT AND BUDGET

Performance of Commercial Activities

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Technical correction to Office of Management and Budget Circular No. A-76, "Performance of Commercial Activities."

SUMMARY: The Office of Management and Budget (OMB) is making a technical correction to the coverage in Attachment A of Circular No. A-76 addressing the submission of a challenge to an agency's inventory of its commercial and inherently governmental activities. The technical correction is intended to clarify that an interested party may challenge the inclusion or exclusion of an activity in an inventory, including the classification or reclassification of an activity. This action makes no other changes to the revised Circular.

DATES: Effective Date: This technical correction to Circular A-76 is effective August 15, 2003.

FOR FURTHER INFORMATION CONTACT:

Mathew Blum, Office of Federal Procurement Policy, NEOB Room 9013, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503 (tel: (202) 395-4953).

Availability: Copies of OMB Circular A-76, as revised by this notice, may be obtained at the OMB home page at

<http://www.whitehouse.gov/OMB/circulars/index.html#numerical>. Paper copies of the Circular may be obtained by calling OFPP (tel: (202) 395-7579).

SUPPLEMENTARY INFORMATION: The Federal Activities Inventory Reform (FAIR) Act of 1998, Public Law 105-270 (31 U.S.C. 501 note) requires executive agencies to prepare annual inventories of activities performed by their employees that, in the judgment of the head of the agency, are not inherently governmental. Under section 3 of the FAIR Act, an interested party may submit to an executive agency a challenge of an omission of a particular activity from, or an inclusion of a particular activity on, an agency's inventory. Consistent with section 3, the version of Circular A-76 that was in effect prior to May 29, 2003 authorized an interested party to submit a challenge to the inclusion or exclusion of an activity from the agency's inventory.

On May 29, 2003, OMB issued revisions to Circular No. A-76. See 68 FR 32134 (preamble); <http://www.whitehouse.gov/omb/circulars/a076/a76rev2003.pdf> (text of Circular). Attachment A to the Circular provides guidance regarding agencies' responsibility to prepare annual inventories that categorize all activities performed by their government personnel as either commercial or inherently governmental. Paragraph D describes the processes that agencies must make available to interested parties for challenging agency inventories of commercial or inherently governmental activities. Paragraph D.2. of the May 29th revision states, among other things, that an inventory challenge shall be limited to "(a) the reclassification of an activity as inherently governmental or commercial, or (b) the application of reason codes."

As OMB explained in the **Federal Register** notice announcing the revisions to the Circular, the purpose of this change was to authorize challenges (that had not previously been permitted) to an agency's application of reason codes to commercial activities performed by the government. 68 FR 32134, 32137-38 (May 29, 2003). OMB did not intend to restrict the availability of challenges to an agency's classification of an activity as inherently governmental or commercial.

The use of the term "reclassification" in clause (a) of paragraph D.2. has created confusion in that it suggests that an interested party may not challenge an agency's determination that an activity is commercial or inherently governmental unless the determination has changed from prior years.

Notwithstanding the wording of clause (a), OMB did not intend to impose such a limitation. Instead, OMB intended to continue to provide that interested parties may submit challenges to an activity's classification as commercial or as inherently governmental, and such challenges would include the reasons for the interested party's belief that an activity which the agency classified as "commercial" should be reclassified as inherently governmental or that an activity which the agency classified as "inherently governmental" should be reclassified as commercial (see 64 FR 33927, 33930 (Appendix 2, Paragraph G.3) (June 24, 1999)).

By this notice, OMB is issuing a technical correction to clause (a) of Paragraph D.2. to avoid confusion and ensure the Circular's intent is clear regarding the ability of interested parties to file challenges to any classification of an activity as inherently governmental or commercial. This technical correction is intended to make clear that interested parties may challenge the inclusion or exclusion of an activity on the inventory, regardless of whether the activity's classification as commercial or inherently governmental has changed from the prior year or has remained the same.

OMB believes that any confusion that may have been caused by clause (a) of paragraph D.2, as published on May 29th, should have no impact on interested parties in light of this correction. The time period for interested parties to file challenges to the 2002 inventories expired prior to the issuance of the May 29th revision and the time period for filing challenges to the 2003 inventories has not yet commenced (as the draft 2003 inventories have only been recently submitted to OMB for review).

This technical correction notice makes no other changes to Paragraph D.2 (or any other part of the Circular). Accordingly, interested parties may challenge the application of reason codes, as provided by the May 29th revision to the Circular, but they may not challenge the application of function codes.

Joshua B. Bolten,

Director.

Memorandum for the Heads of Executive Departments and Agencies

From: Joshua B. Bolten, Director.

Subject: Technical Correction to OMB

Circular No. A-76, "Performance of Commercial Activities."

This memorandum is intended to advise you of a technical correction to paragraph D.2. of Attachment A of