

EPA Inventory of Commercial and Inherently Governmental Activities

GUIDE TO INVENTORY SUBMISSION
MARCH 2010

This guidance provides instructions for Environmental Protection Agency (EPA) Program and Regional offices (hereinafter referred to as Offices) to use in compiling their “2010 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 2010 Inventory will identify full-time equivalents performing functions that are either (1) inherently governmental or (2) commercial, as defined by the FAIR Act of 1998.

The 2010 FAIR Act Inventory shall be completed using the instructions for each data field as provided in this guidance. There are **four (4) Exhibits** for additional guidance and clarification on specific fields within the database and the inventory process. For the 2010 Inventory, EPA will use the **Lotus Notes Version 8.5** data collection tool (system) to simplify the data collection process. The procedure inputs 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, and justifications). Also an instruction manual is provided for further assistance. If you need additional assistance, please contact **Melanie Gooden at 202-564-3043**.

When the information is compiled and submitted by Offices into the final Inventory, the total FTE will match the total in the 2010 President’s Budget. For 2010, each office must reconcile their FTEs reported in the Inventory with the 2010 President’s Budget. Offices must provide a separate written explanation if the FTEs listed on their inventory submission (both commercial (all reason codes) and inherently governmental) do not match the FTE levels in the 2010 President’s Budget. As with the 2009 Inventory, The Agency’s FAIR Act Inventory Coordinator will provide the FTE in the 2010 President’s Budget for each office. Also The Agency’s FAIR Act Inventory Coordinator will look at consistency in the application of Function, Status, and Reason codes (explained below) across the Agency.

FUNCTION (ACTIVITY) CODES -

Function codes serve to categorize similar or related services, tasks, and functions into groupings that describe the general nature of work taking place within the Agency. A 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. Function codes also allow OMB and the public to see how EPA is using its people.

Offices are encouraged to code a position by the function predominantly performed. However, recognizing that we often have multiple responsibilities, up to four function codes may be assigned to a single position. *OMB requires a 25% minimum of time for each function performed.* Any function code designated as commercial suitable for competition (CB) with less than 25% of time requires modification by the Competitive Sourcing Staff.

A list of available function codes and definitions is available at <http://intranet.epa.gov/OARM/cs>. Each function codes’ definition is a specific terminology and description germane to EPA. If a

function code is not shown on the drop down menu, it **cannot** be used. If an Office believes that none of the function codes applies, the Office Coordinator should contact the Agency's FAIR Act Inventory Coordinator for approval to use another. Offices are strongly encouraged to use the function codes available on the drop down menu. No function code can be created or used if it is not on the OMB-approved list located at <http://www.whitehouse.gov/omb/procurement/fair/2004functioncodes.html>.

STATUS CODES –

Status codes identify functions, activities, services, and tasks as either Commercial (C) or Inherently Governmental (I). Definitions of both C and I are included in Exhibit 3. Status codes reflect an assessment of whether the work is Inherently Governmental (IG), meeting the criteria set forth in the definition found in OMB Circular A-76 and the Agency's guidance. If not, the position/activity is coded commercial by default. A function code in and of itself is neither inherently governmental (I) nor commercial (C) (see discussion below under Status Codes and the 2010 Supplemental FAIR Act Inventory Guidance - Attachment I of the call memo), but it does contribute toward an accurate assessment of whether performed is "I" or "C." Accurately describing and categorizing the work by assigning the appropriate function code is a critical first step in assessing "I" or "C" status.

The Agency's FAIR Act Inventory Coordinator has provided criteria to determine the appropriate status/reason code within the data system. The criteria is based on the FAIR Act, OMB Circular A-76, supplementary guidance issued by OMB in memorandum number M-06-08, review comments received from OMB on Inventory submissions, and Agency guidance. The database will automatically generate the appropriate status/reason code (I or C) based on the chosen justification criteria. The FAIR Act of 1998 and OMB Circular A-76 require written justifications for any positions that are determined to be commercial, but exempt from competition (C/A) in nature. In addition, the Agency require written justifications for all positions at the GS-13 level performing inherently governmental (IG) support activities and the GS-12 and below level performing IG liaison activities. Please refer to the 2010 Supplemental FAIR Act Inventory Guidance, Attachment I of the call memo for a definition of IG support activities and liaison activities. Other non-IG support activities at the GS-13 level do not require a written justification.

REASON CODES –

Reason codes are only applied to functions with a status code of "C". Reason codes indicate whether a commercial activity has been exempted from consideration for competition by the Agency, has been competed, is being competed, or is suitable for consideration for competition. Reason codes for use in the 2010 Inventory are shown below. Based on the selection of the "Justification Criteria" from the drop down menu (Exhibit 3), the inventory system will apply a reason code to a function.

REASON CODES FOR COMMERCIAL ACTIVITIES INVENTORY	
Reason Code	Definition
A	The Commercial Activity is not appropriate for private sector performance pursuant to a written determination. The Agency has exempted this function from competition resulting in no competition.
B	The Commercial Activity is suitable for a Cost Comparison or Competition.
C	The Commercial Activity is the subject of an in-progress Cost Comparison or Competition.
D	The Commercial Activity is performed by a Most Efficient Organization (MEO) resulting from a Cost Comparison decision made within the past five years.
E	The Commercial Activity is pending an agency approved restructuring decision (e.g., closure, realignment).
F	Performance of the commercial activity by government personnel is required due to a statutory prohibition against private sector performance.

JUSTIFICATIONS –

In accordance with the FAIR Act and OMB Circular A-76, functions determined to be commercial but exempt from consideration from competition will require written justifications for approval by the Assistant Administrator for OARM. For these commercial activities coded “Exempt from Competition”, the Deputy Assistant Administrator/Deputy Regional Administrator has made a determination that a particular commercial activity should be excluded from being considered for competition, because it represents too great a risk to the Agency or because of overriding strategic workforce planning needs. A written justification is required to support that determination.

For these commercial activities to change, the Deputy Assistant Administrator/Deputy Regional Administrator has made a determination that a particular activity should be considered as inherently governmental based on the supplemental guidance provided in Exhibits 1- 3 of this document. A written justification is required to support that determination prior to modifying the database.

Offices are required to provide summary level justifications based on status code criteria, not to exceed 100 words per entry for CA activities, IG support activities, and IG liaison activities in a table using the *Word* program (see the format below). All justifications must be submitted to the Agency’s Fair Act Inventory Coordinator, along with the overall Office inventory submission.

The Agency’s Fair Act Inventory Coordinator will review your submissions and may seek additional information or entries prior to submission to the Agency’s CSO for approval.

The Agency’s Fair Act Inventory Coordinator will compile and submit the Agency’s overall inventory and justifications to the Assistant Administrator of OARM for approval prior to submission to OMB. Exhibits 4 and 5 includes guidance and format to help ensure the justifications can withstand scrutiny by OMB, Agency employees and unions, and the private sector, all of whom may challenge the characterizations of the activities performed by our employees in the inventory and the supporting justifications.

I. Inherently Governmental (IG) Justification Format

<i>Office of ABC (ABC)</i>							
Org	Activity	Activity Title	Job Title	Grade	Justification Code	Total FTEs	Justification
ABC	B000	Personnel Administrative Support	Secretary Staff Assistant Clerk-typist	GS-13 GS-12 GS-05	I-01	1.50	These FTEs make final determinations regarding eligibility, allowability, allocability, and/or reasonableness of activity. Makes final determination regarding eligibility and compliance with all requirements, policy and/or guidance

II. Commercial-Exempt (CA) Justification Format

<i>Office of ABC (ABC)</i>					
Org	Activity	Activity Title	Justification Code	Total FTEs	Justification
ABC	B000	Personnel Administrative Support	CA-01	1.50	This FTE includes various administrative tasks which are commercial but exempt from competition when they are not severable from otherwise exempt functions that they support, and when the functions are of a personal services nature and thus cannot be provided by contract.

AGENCY STRATEGIC PLAN –

The functions service, and task 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 part of the Agency’s inventory submission to OMB, but rather used for internal Agency purposes. As indicated in the cover memo to this guidance, our intent in collecting 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 on potential functional areas for Competitive Sourcing activities.

Exhibit 1

Definitions – Inherently Governmental / Commercial Activity¹

- I. **Inherently Governmental.** An inherently governmental activity is “so intimately related to the public interest as to mandate performance by government personnel,” and that “these positions require the exercise of substantial discretion in applying government authority and/or in making decisions for the government.” These positions have the authority to bind the government to a course of action; to determine budget, priorities and policy; to significantly affect the life, liberty, or property of private citizens; or to exert ultimate control over the acquisition, use, or disposal of government property. The OMB A-76 Circular further clarifies that “not every exercise of discretion is evidence that an activity is inherently governmental”. In order to be considered inherently governmental, the discretion cannot already be “limited or guided by existing policies, procedures...and other guidance that (1) identify specified ranges of acceptable decisions or conduct and (2) subject the discretionary authority to final approval...by agency officials”.

Inherently Governmental function may be supported by a contractor (or federal employee), where the contractor (or federal employee) does not have authority to decide the course of action, but is tasked to develop options or implement a course of action with agency oversight.

Unless an employee has authority as defined above, they do NOT meet the definition of inherently governmental.

For an IG function to be captured in the FAIR Inventory, the function must constitute at least 25% of the FTE’s duties.

A. Examples of Inherently Governmental Functions (FAR 7.503(c))

1. Determination of agency policy, such as determining the content and application of regulations.
2. Determination of priorities for budget requests.
3. Direction and control of federal employees.
4. Approval of position descriptions and performance standards.

B. Examples of Functions Not Considered Inherently Governmental (FAR 7.503(d))

1. Budget preparation, including workload modeling, fact finding, efficiency studies, and should cost analyses.
2. Reorganization and planning activities.
3. Analyses, feasibility studies, and strategy options to develop agency policy.
4. Development of regulations.
5. Technical evaluation of contractor proposals.
6. Support in preparing responses to FOIA requests.

¹ Source of definitions – OMB Circular A-76, Attachment A

7. Access to CBI or sensitive information.
8. Providing information on agency policies or regulations, such as attending conference on behalf of the agency, conducting community relations, or conducting training courses.
9. Serving as arbitrators or providing alternative methods of dispute resolution.
10. Inspection services.
11. Legal advice and interpretations of regulations and statutes.

C. Inherently Governmental Support Activities

An Inherently Government (IG) activity, as defined in OMB Circular A-76, generally involves substantial discretion in applying government authority or making decisions to bind the government to take or not to take some action by contract, policy, regulation, authorization, or order. The decision making is not already limited or guided by existing policies, procedures, or direction, and is not subject to final approval or regular oversight by agency officials.

Many positions provide support activities to the senior Agency officials who enter into binding commitments such as administrative orders, consent decrees, or settlement agreements. In most instances, the positions themselves do not have the authority to enter into such binding commitments.

Positions performing these support activities operate with a high level of independence, substantial discretion, and minimal supervision. The support activities are highly complex and multi-disciplinary, involving access to CBI, enforcement sensitive information, and other sensitive information. The positions perform the background work, research, investigation, interviews, and interaction with other governmental entities and the public which result in the binding Government action.

The positions draft the binding Government action document for the review and signature of the senior Agency official. The senior Agency official places major reliance and deference on the support activities which these positions perform. In some instances, there may be an intermediate management review prior to review and signature by the senior Agency official. The intermediate reviewer must place the same level and degree of reliance and deference on the support activities as the senior Agency official.

Generally factors such as the complexity of the work, access to CBI or enforcement sensitive information, and interaction with the public or other governmental entities are not indicators of IG, absent authority to enter into binding commitments. Many of the support activities are listed as examples in FAR 7.503(d) of functions not considered IG, such as analyses, feasibility studies, and strategy options; providing information on agency policies or regulations; inspection services; and legal advice and interpretation of regulations. The FAR does caution that these activities may approach IG because of the nature of the function and the manner in which the function is performed, as with the IG support activities described above.

Positions performing IG support activities as described above may be coded as IG, with the appropriate justification. Generally these activities are not expected to be performed below the grade13 level.

D. Governmental Liaison Activities

Governmental liaison activities may involve interactions with State and local governments, tribal entities, or private associations or stakeholders directly affected by Agency actions. The liaison activities may involve a single entity, such as a state, or multiple entities participating in an interagency workgroup or council.

The purpose of the activities may be to ensure the consistent interpretation and application of regulations and laws, to make policy recommendations, to discuss a strategic or long term approach with respect to the Agency's relationship with outside stakeholders, or to seek input or prioritize Agency actions.

Generally these activities are commercial in nature, given that the following functions are not considered IG under FAR 7.503(d):

- Development of regulations.
- Providing information on agency policies or regulations, such as attending conferences on behalf of the agency, conducting community relations, or conducting training courses.
- Legal advice and interpretation of regulations and statutes.

Significant policy considerations apply for the performance of these activities only by Agency employees in order to ensure public trust and avoid confusion. These considerations would support coding these activities as commercial-not-suitable for competition. In addition, the following are instances where liaison activities could be considered IG:

- (1) The position has the authority to enter into a binding Government commitment as part of the liaison activities, such as a charter or memorandum of understanding.
- (2) The activities could significantly affect or alter the future relationship, operation, or understanding between the Agency and the outside entity or entities, if performed independently with minimal supervision, if there are no established precedents, and without approval from a senior Agency official.

Positions performing IG liaison activities as described above may be coded as IG, with the appropriate justification. Generally these activities are not expected to be performed below the grade13 level.

- II. Commercial Activities.** A commercial activity is a recurring service that could be performed by the private sector and is resourced, performed, and controlled by the agency through performance by government personnel, a contract, or a fee-for-service

agreement. A commercial activity is not so intimately related to the public interest as to mandate performance by government personnel. Commercial activities may be found within, or throughout, organizations that perform inherently governmental activities or classified work.

A. Considerations for Not Contracting-Out Functions that are Commercial

1. Sensitive or vulnerable area, e.g. legal services or contract management.
2. Retention of core capabilities in order to manage contractors effectively.
3. An Agency's preference for what works most efficiently, e.g. interacting with the public or other governmental entities.
4. Need for retention of institutional knowledge and succession planning.
5. Appearance issues regarding contractor performance, e.g. significant involvement in developing a controversial regulation or need for Agency independence with respect to any course of action.
6. Critical nature and importance of the function for performing the Agency's mission.

EXHIBIT 2

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

The coding of Contracting Officer's Technical Representative (COTR) functions and Assistance Agreement functions have been handled in an inconsistent manner, therefore the following guidance is provided to assist offices in preparing their 2005 Inventory submissions:

Contracting Officer’s Technical Representative (COTR) functions are a commercial activity that EPA has determined is too great 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. Additionally, EPA has struggled historically 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, the deficiencies were cleared in fiscal year 2000, EPA continues to monitor contract administration, particularly as it relates to the relationship between EPA and its contractors, to avoid future problems. Therefore, after careful consideration the Agency has determined to exempt these functions from competition. FTE performing COTR functions should be coded as commercial, but exempt from competition in the inventory. The Agency’s FAIR Act Inventory Coordinator will provide the written justification required by OMB Circular A-76 for these exemptions.

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.
Prepare competitive announcement for review and approval by the Project Officer.	Determine eligibility and compliance with all requirements. Approve competitive announcement.

ASSISTANCE AGREEMENTS

ASSISTANCE AGREEMENTS ACTIVITIES - PROJECT OFFICERS

<p>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.</p>	<p>Determine eligibility and compliance. Determine applicant's adherence to EPA Order 5700.7, "Environmental Results Under EPA Assistance Agreements."</p>
<p>Major Activity 2: Award/Amendment/Post-Award</p>	
<p align="center"><i>Commercial Sub-Activities</i></p>	<p align="center"><i>Inherently Governmental Sub-Activities</i></p>
<p>Prepare the funding recommendation form in the Integrated Grants Management System. - <u>Commercial, Exempt for competition (represents substantial risk to the Agency based on past Inspector General findings).</u></p>	<p>Approve and sign the funding recommendation package.</p>
<p>Perform both pre- and post-award advanced monitoring reviews, including on-site reviews, grants outputs and milestone tracking.</p>	<p>Determine if findings from reviews indicate acceptable performance and make final determination on recommendation to correct deficiencies.</p>
<p>Prepare the commitment notice, assigning accounting information for the award.</p>	<p>Determine funding source.</p>
<p>Major Activity 3: Monitoring and Compliance</p>	
<p align="center"><i>Commercial Sub-Activities</i></p>	<p align="center"><i>Inherently Governmental Sub-Activities</i></p>
<p>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 is in compliance with agreement conditions. Recommend whether grantee submittals of interim and final performance reports are in accordance with 40CFR S30.51 and 30.71.</p>	<p>Determine if findings from reviews indicate acceptable performance and make final determination on recommendation to correct deficiencies.</p>
<p>Compile programmatic findings and comments from Project Officer and convey those, along with any administrative comments, to applicants, and check revised applications to insure that identified administrative and programmatic deficiencies have been addressed.</p>	<p>Determine if findings from reviews indicate acceptable performance and make final determination on recommendations to correct deficiencies.</p>
<p>Receive and input into IGMS MBE/WBE reports and follow-up on delinquent reports.</p>	

ASSISTANCE AGREEMENTS	
ASSISTANCE AGREEMENTS ACTIVITIES - PROJECT OFFICERS	
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.	Acceptance of 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 all deliverables have been received.	Determine readiness for closeout.
Prepare documentation in IGMS for no-cost time extension and grant closeout.	Approve extensions or closeout.
ASSISTANCE AGREEMENTS	
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.
Perform and document cost review in the pre-award phase.	Determine eligibility, allowability, allocability, and reasonableness.
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.
Prepare documentation in IGMS for no-cost time extension and closeout.	Approve extension and/or closeout.

ASSISTANCE AGREEMENTS

ASSISTANCE AGREEMENT ACTIVITIES - GRANTS SPECIALIST

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 is in compliance 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.

Justification Criteria and Format for Inherently Governmental and Commercial/Exempt

Number	Criteria Code	Justification Criteria
1	CA-01	Subjecting this FTE to competition creates a substantial risk to the Agency's ability to meet its mission.
2	CA-02	This FTE must be retained within the Agency to maintain a sufficient number of FTE to perform independent, day-to-day oversight of core Agency functions.
3	CA-03	This FTE must be retained in-house in order to maintain a sufficient number of trained and experienced FTE with historical knowledge to ensure continued performance of a core function.
4	CA-04	This FTE must be retained in-house in order to maintain a sufficient number of specialized FTE with expertise of Agency systems and procedures.
5	CA-05	This FTE must be retained in-house in order to maintain a sufficient number of FTE to provide policy recommendations to the Agency's inherently governmental decision makers.
6	CA-06	This FTE must be retained in-house to meet strategic workforce planning needs of providing suitable candidates for career growth in mission critical areas of the agency.
7	CA-07	This FTE is currently filled by an individual with disabilities hired using Schedule A authority.
8	CA-08	This FTE is filled by a student intern as part of a formalized program for federal recruitment.
9	CA-09	Agency regulations and/or policy require this activity to be performed by a government employee.
10	CB-01	This FTE is commercial and suitable for competition. <i>(None of the criteria above is applicable; therefore it is suitable for consideration for competition).</i>
11	CC-01	This FTE is CURRENTLY being competed under a public-private competition.
12	CD-01	This FTE has PREVIOUSLY been competed under a public-private competition.
13	I-01	Statutory restrictions require this activity to be performed by a government employee.
14	I-02	This FTE is the final approval authority for establishing policy, strategy, program measures, and/or setting office priorities.
15	I-03	This FTE is the final approval authority for materials/products that will be used to represent the Agency to the public.
16	I-04	This FTE certifies invoices for payment (Funds Certifying Official).
17	I-05	This FTE is a warranted Contracting Officer or Grants Approval Officer.
18	I-06	This FTE represents the Agency in hearings, negotiations, or grievances and commits the Agency to a course of action for or against individuals or businesses in carrying out the mission or management of the Agency.
19	I-07	This FTE makes final determinations regarding the disposition of Agency assets or the use of Agency budgetary authority.
20	I-08	This FTE is accountable for Agency compliance with Government regulations or policy and/or represents the Agency in court hearings, negotiations, and litigations.
21	I-09	This FTE applies financial and enforcement discretion that may significantly affect the life, liberty, or property of private persons.
22	I-10	This FTE exerts ultimate control over the acquisition, use, or disposition of Agency property.
23	I-11	This FTE makes final determinations regarding eligibility, allowability, allocability, and/or reasonableness of activity.
24	I-12	Makes final determination regarding eligibility and compliance with all requirements, policy and/or guidance.
25	I-13	Approves and signs funding recommendations.
26	I-14	Obligates the Agency to a course of action.
27	I-15	This FTE performs IG support activities with a high level of independence substantial discretion which results in a binding Government Action, such as a settlement agreement or a consent order, entered into by a more senior Agency official who places major reliance and deference on the IG support activities.
28	I-16	This FTE performs liaison activities and has the authority to enter into a binding Government commitment while performing the activities, or the activities could significantly affect or alter the relationship between the Agency and an outside entity, if performed independently, and without established precedents or higher level approval.

Exhibit 4

<i>FY 2010 President's Budget FTE Ceiling by RPIO</i>	
<i>Agency Total</i>	<i>17,384.3</i>
<i>Headquarters</i>	
Office of Air and Radiation	1,246.4
Office of Water	647.8
Office of Prevention, Pesticides and Toxic Substances	1,155.8
Office of Solid Waste and Emergency Response	610.9
Office of Enforcement and Compliance Assurance	926.5
Office of Research and Development	1,911.3
Office of Administration and Resources Management	853.8
Office of Environmental Information	414.5
Office of the Chief Financial Officer	376.2
Office of International Affairs	69.6
Office of the Administrator and Staff	530.6
Office of the General Counsel	198.3
Office of the Inspector General	361.8
<i>Headquarters Total</i>	<i>9,303.5</i>
<i>Regions</i>	
Region 1, Boston	663.4
Region 2, New York	876.3
Region 3, Philadelphia	867.5
Region 4, Atlanta	1,039.2
Region 5, Chicago	1,231.9
Region 6, Dallas	852.2
Region 7, Kansas City	545.6
Region 8, Denver	598.6
Region 9, San Francisco	812.3
Region 10, Seattle	593.8
<i>Regional Total</i>	<i>8,080.8</i>