

## ***American Federation of Government Employees***

AFGE Local #1309  
ATTN: R. Lee Hadden  
PO Box 710382  
Herndon, VA 20171

January 6, 2003

Carol F. Aten  
Chief, Office of Administrative Policy and Services  
U.S. Geological Survey  
MS-201  
12201 Sunrise Valley Drive  
Reston, VA 20192

Dear Carol F. Aten:

I serve as the President of Local #1309 of the American Federation of Government Employees, AFL-CIO, which represents the bargaining unit employees working at the US Geological Survey Library. AFGE Local 1309 is an "interested party" as established under the provisions of section 3(b) of the Federal Activities and Inventory Reform Act (FAIR Act) of 1998, Public Law 105-270. The union submits the following challenge to select items contained in the Department of Interior's USGS' Commercial Activities Inventory of 2002.

The work described below should be defined as inherently governmental and reclassified as such. Specifically, I am challenging the decision to include the items listed below on the inventory list as commercial activities:

### **Item:**

The US Geological Survey Federal Activities Inventory Reform (FAIR) can be found at:

<http://internal.usgs.gov/OUTREACH/InternalComm/CompSource/index.html>

The union challenges all FTE classified under function code G104 in U.S. Geological Survey Library in Reston, VA, Organizational Unit 17110000, page 11 of the Inventory, Line 510 et seq.

### **Basis of Challenge:**

- **Employees who perform duties within Function Code G104 should be classified as inherently governmental. Their work requires the interpretation and execution of the laws of the United States.**

The Office of Federal Procurement Policy (OFPP) Policy Letter 92-1, "Inherently Governmental Functions" of September 23, 1992 defines inherently governmental functions as follows: "As a matter of policy, an "inherently governmental function" is a function that is so intimately related to the public interest as to mandate performance by Government employees. These functions include those activities that require either the exercise of discretion in applying government authority or the making of value judgments in making decisions for the Government."

It is my contention that in accordance with the above definition, all of the work categorized under each of these commercial activity codes should be rightfully defined as inherently governmental and reclassified as inherently governmental. Specifically:

Functional Code G104 is an inherently governmental function, involves among other things, the interpretation and execution of the laws of the United States so as to:

Research done by employees in the USGS Library for the Department of Justice led to make moot a suit between two states before a federal court regarding the water rights of the Republican River. The employees were able to locate the unique information, and they understood the significance of the information when found.

A G104 employee listed in the FAIR inventory is able to catalog in the following languages and language groups: Chinese, Japanese, Korean, Slavic, Germanic, and Romance.

G104 employees listed in the FAIR Inventory used the library to research information on a timely basis for a multi-disciplinary study on the science leading to an application of a number of grants of land in western states for designation and protection as federal parks. The results of this library information were used to justify legal claim to protect vulnerable sites by federal law and presidential fiat.

G104 employees listed in the FAIR inventory are needed for long-term knowledge of the research trends of the library. With reductions in budget, it is important for the staff to acquire those books which will be needed in the future by knowing where the likely areas of research will be. Short-term contractors cannot do the same job in collection development as long-term federal employees can accomplish.

G104 employees listed in the FAIR Inventory were asked to produce information regarding the mining exploration and production on Native American reservations throughout the 20<sup>th</sup> century and during parts of the 19<sup>th</sup> century. Familiarity with the collection produced such valid information by these employees that the Department of the Interior is considering a change in the way these information requests will be handled in the future.

G104 employees listed in the FAIR Inventory were asked to support the US Armed Forces and locate information regarding caves, natural or manmade tunnels and other geological features in Afghanistan. This assistance to other branches of the US Government required an extensive knowledge of the USGS collection and holdings of this and other libraries around the world.

- **The function involves management, procurement or contracting functions:**

The employees who perform this function bind the United States to take actions by contract, policy, regulation, authorization, and/or order.

The work of the US Geological Survey Library is established by federal statute and outlined in the Organic Act of 1879, which established the US Geological Survey, and also from the US Statutes at Large, 45<sup>th</sup> Congress, Session III, Chapter 182, "An act making appropriations for sundry civil expenses for government for the fiscal year ending June thirtieth, eighteen hundred and eighty, and for other purposes..." pages 394-395; and is also codified in 43 USC 31. Public Law 90-620, dated October 22, 1968 also provides for the exchange of publications with the Library of Congress and other public libraries.

Under the Strategic Plan for the USGS Library of October 1997, G104 Library employees listed in the FAIR Inventory are required to view the library as the official depository of USGS publications. As such, the USGS Library documents the production of the reports, maps and other publications of the USGS.

G104 employees listed in the FAIR Inventory bind the US Geological Survey into agreements for the exchange of publications and managed protocols for gifts and other services. Over two-thirds of our book and journal collection have been acquired through agreements with other governmental, personal and commercial organizations through our USGS Library Exchange and Gift program, which is mandated in the Organic Act of 1879.

G104 employees listed in the FAIR Inventory have been asked to evaluate and compare private collections of materials (such as the Halliday Collection) for acquisition and inclusion into the USGS Library collection. This required a thorough knowledge of our existing collection, and an understanding of the future needs and requirements for the library in the years to come, and of FAR regulations.

G104 Library employees listed in the FAIR Inventory manage an intensely complex and academic collection that includes eight miles of bookshelves and over 26 tons of maps. For example, we have established more subject headings in the earth sciences than the Library of Congress has done, and the subject specialists of the Library of Congress and other geo-science libraries often look to us for leadership in the cataloging, storage and retrieval of scientific documents in our disciplines. Many other libraries follow our lead and procedures in the cataloging of maps and the cataloging tools that we have developed and maintain.

A G104 library employee listed in the FAIR inventory was recognized as the leading cataloger of online geologic maps by Richard Fox, Cartographic Materials Cataloger at the Library of Congress, in a recent class.

G104 Library employees listed in the FAIR Inventory monitor the use of contracted services, such as access to commercial electronic journals, which are limited to only some library users and are forbidden access to others. Library employees are also required to monitor the use of commercially licensed materials and equipment.

G104 Library employees listed in the FAIR Inventory routinely handle contracted services, such as serials control, that require the monitoring of contracts for compliance, and procedures for claiming serial issues which are not delivered on time or in order. Often this requires communication with either an intermediary service or direct communication with the publishers.

G104 employees listed in the FAIR inventory routinely work to develop contracts for the purchase of materials and services that require the monitoring of contracts for compliance, and procedures for claiming serial issues which are not delivered on time or in order. Often this requires communication with either an intermediary service or direct communication with publishers from all over the world. They are responsible for identifying sources for materials for purchase using a wide range of searching tools and purchasing materials with credit cards, maintaining all appropriate paperwork for periodic audits.

G104 Library employees listed in the FAIR Inventory manage a world class and internationally recognized map collection. Long-term knowledge of the extent and comprehensive nature of the collection is needed to be able to supply the mapping needs of the government and the public. This ability to store and retrieve vital information to the public was implied in the USGS Library map collection and this importance was recognized when the US Congress established in Public Law 105-36, August 5, 1997, that geological maps: "...are the primary data base for virtually all applied and basic earth science investigations; that Federal agencies, state and local governments, and the general public depend upon the information provided by geologic maps to determine the extent of potential environmental damage before embarking upon projects that could lead to preventable, costly environmental problems or litigation... geologic maps have been found indispensable in the search for needed fuel and mineral resources..."

G104 Library employees listed on the FAIR inventory routinely work with national libraries across the US and overseas. We have routine exchange agreements with the British Library and other overseas library for inter-library loan of books, maps and journals. Many of these transactions require the contracting of money by the staff, and often require the use of multiple currencies to pay for faster deliveries and other special services.

All these activities require the exercise of discretion involving monetary transactions and entitlements. Therefore, they are inherently governmental. By defining this function as inherently governmental, the agency will guarantee that any final agency action complies with the laws and policies of the United States. Additionally, this will ensure that the decisions performed by these employees reflect the independent conclusions of agency officials.

- **The employees have access to procurement or competition sensitive documentation:**

The employees who perform this function have access to competition and procurement sensitive information.

G104 Library employees listed in the FAIR Inventory have daily access to sensitive and competitive information. For example, the nature of their work

indicates areas of exploration and interest by highly competitive mining companies or petroleum exploration. By knowledge of the circulation of maps, reports and other data, library employees can identify which locations of interest are being shown by identified individuals and specific companies. Knowledge of who (what companies or individuals) are looking for what (gold, diamonds or oil) in what areas (specific locations inside the US or overseas) is very valuable and requires discretion by government employees. Such information is sensitive and very competitive.

These activities necessitate the use of discretion with regard to monetary transactions and entitlements. Access by a non-federal employee would compromise the integrity of future competitions, contracts, and procurement actions. It would impede governmental authority and disrupt the procurement process.

G104 Library employees listed in the FAIR Inventory have the contract function to establish who is permitted to access commercially licensed materials by verifying and publishing as required the necessary IP addresses for work computers in all parts of the USGS, worldwide. This includes handling information from the USGS employees and sharing it directly with the contractors and commercial licensing activities, to establish just who is and who is not allowed access to all these services. No similar work in documenting and verifying IP address of USGS computers is done elsewhere in the USGS.

G104 Library employees listed in the FAIR Inventory are responsible for collecting funds in the USGS Library. Photocopier fees, for example, are not charged against USGS employees or other federal workers. However, fees are charged for the public. Some contract employees are charged for services, and others are not. The government employee staff must know which library users to charge for cash services and how to collect, handle and transfer the funds appropriately.

▪ **The work involves access to personal information:**

The employees who perform this function have access to private, personnel sensitive, and confidential information. Preserving the sanctity of this data demands the discretionary exercise of Government authority and therefore involves the act of governing. These activities require the use of Government authority to protect the interests of its citizens as this data significantly affects the life, liberty, or property of private persons.

G104 Library employees listed in the FAIR Inventory deal with governmental, personal and corporate information in the circulation and use of library materials. Knowledge of who works where and in what capacity is part of our database for circulation records, especially for persons not employed by the USGS. Often this includes personal information such as name, address, telephone number, etc., especially in dealing with individuals (teachers, parents) who use the Education Collection.

Many of the publications handled by the USGS Library include personal information such as the WRD retirement newsletter of former USGS employees. These items are marked with an asterisk (\*) by the cataloging staff, so they would

only be circulated only to current USGS employees to preserve personal privacy of records.

G104 Library employees listed in the FAIR Inventory track customer usage, as defined in the Goals and Strategic Actions of the USGS Library System Strategic Plan, October 1997, "...Develop mechanisms for tracking customer usage..."

G104 Library employees listed in the FAIR Inventory handle and resolve daily matters dealing with sensitive, restricted or classified materials. Some materials are For Official Use Only, and must not be shown to individuals or commercial organizations unless there is a special need. Other materials in the library collection, such as the USGS Trace Element Investigations (TEI) series of reports, or the USGS Trace Element Memorandum (TEM) report series, deal with cold war subjects and are still restricted to USGS employees only. The circulation, inter-library loan and reference staff must know who is able to see what information, from what sources, and under what conditions.

Maintaining this function as inherently governmental guarantees that any final agency action complies with the laws and policies of the United States. It ensures that decisions reflect the independent conclusions of agency officials and not those of contractors and private companies that may profit from the misuse of this personal information.

**The agency was not consistent in its assignment of reason codes for the "Function Code G-104 Technical/Professional/Legal Library Information Services."**

The G104 class, "Technical/Professional/Legal Library Information Services" is classified "C1", "C2" and "N/A" in various and different areas of the FY 2002 FAIR Act Inventory. Seven of these positions are classed as "N/A" in Reston, VA; 1 is "N/A" in Denver, CO; 2 are "N/A" in Menlo Park, CA; 1 is "N/A" in Boise, ID; on half time employee is "C1" in Reston, as are 2 in Leetown, WV; 1 in Wellsboro, WV; a half time employee in Madison, WI; two employees in Laurel, MD; 1 and a part time employee in Ann Arbor, MI; a part time employee in Columbus, OH; a part time employee at New Cumberland, PA; 2 in Fort Collins, CO; 1 employee in Jamestown, ND; one employee in Columbia, MO; one employee in Lafayette, LA;

**Recommendation:**

The USGS should uphold this challenge, change its decision, and exclude these FTE from its list of commercial activities.

Thank you for your consideration of this matter. Please send the challenge decision by fax and U.S. Mail. The fax is: (703) 648-7873. The address is: AFGE Local #1309, PO Box 710382, Herndon, VA 20171.

Sincerely,

Libby Chandler,  
President  
AFGE Local #1309

Attachments: U.S. Historian Position Challenge

Cc: Debra E. Sonderman  
Director, Office of Acquisition and Property Management  
1849 C Street NW / Mail Stop 5512  
Washington, DC 20240

## U.S. Geological Survey's Geologist-Historian: Position is Inherently Governmental

The USGS established this GS-1350 Geologist FTE position (similar to those in the national geological surveys of China and Russia) in 1976 and employed a Ph.D. scientist-historian to provide the following unique content-context perspective and services (not readily available from a GS-0700 Historian) to USGS managers, scientists, engineers, and supporting personnel, and to the public:

1. Historical information, analyses, and reports prepared to ensure better internal understanding of the origin, nature, and effect of USGS historic plans, policies, activities, and products, and those of its direct predecessors since 1867 (includes reviews of historical aspects of reports by USGS and other colleagues).

2. Data gathered from published and unpublished source materials relating to the history of the USGS and the earth sciences and processed to meet the requirements of internal and external users and to support incumbent's prioritized investigations—especially those relating to the USGS' scientific, engineering, and managerial heritage.

3. Results of research completed under items 1 and 2 presented at meetings of science agencies and professional societies and revised versions published through GPO or outside presses (in peer-reviewed books or major journals). Incumbent (whose publications date from 1966) also served as research associate, reviewer, and editor for USGS Circular 1050 (1989) and Volumes 1-3 (to 1939; published 1979-1986) of the ongoing history of the USGS and Federal policies and activities in the earth sciences. As co-author for Volume 4 (1939-1979), work continues toward completion following the death in 2002 of the senior author (who had retired from the USGS in 1978).

4. Information exchanged with historians of geology in state, provincial, national, and international science agencies and societies, and those in the archival and historical communities. Represented the USGS at professional meetings and interagency conferences. Worked closely with the records-management programs of the USGS and the National Archives and Records Administration in the retirement, accession, arranging, and inventorying of USGS documents. In cooperation with NARA, arranged for and edited USGS Circular 1179 (CD-ROM, 2000) "Records and History of the United States Geological Survey."

5. Authoritative and prompt responses made to direct or forwarded queries, from within the USGS or by the public, relating to the history of the USGS and the earth sciences.