DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NORTHWESTERN DIVISION
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CECT-NWD (715)

COMMANDER'S POLICY MEMORANDUM #NWD 33

SUBJECT: Processing Interagency Economy Act Orders within the U.S. Army Corps of Engineers Northwestern Division

1. References.

a. Federal Acquisition Regulation (FAR) 17.5 and 17.7

b. Defense FAR Supplement (DFARS) 217.5 and 217.7

c. Department of Defense (DoD) Financial Management Regulation (FMR), 7000.14-R, Vol. 11A, Chapter 3: Economy Act Orders

d. Department of Defense Instruction (DoDI) 4000.19, Subject: Support Agreements

e. Memorandum, Office of the Under Secretary of Defense, Comptroller, 12 December 2019, Subject: Implementation Memorandum #1 for G-Invoicing Transition

f. Army FAR Supplement (AFARS) 5117.5 and 5153

g. Memorandum, U.S. Army Corps of Engineers (USACE) CEMP/CERM-F (2020- 12), Subject: Implementation and Documentation of Interagency and Intra-Agency Reimbursable

h. Memorandum, CENWD-PDM, Subject: Delegation of Authority to Approve and Execute Inter-Agency and Intra-Agency Support Agreements for Reimbursable Services

i. Engineer Regulation 1140-1-211, Support for Others: Non-Department of Defense Reimbursable Services

j. Enterprise-level Agreements

k. Interagency Acquisition

2. Purpose. This memorandum provides updated guidance and standardization for USACE Northwestern Division (NWD) commands placing interagency (between a DoD Component and a non-DoD federal agency) orders under the authority of the Economy Act (i.e., when USACE is the requesting agency). This memorandum supersedes any

previous USACE NWD guidance related to processing Economy Act Orders (EAO). Although interagency transactions may be completed under other statutory authorities (i.e., Non-Economy Act interagency acquisitions), this memorandum only applies to Economy Act transactions with non-DoD agencies. See Reference 1.i for procedures to be utilized when USACE is providing support to other agencies (i.e., when USACE is the serving agency).

3. Applicability. This policy is applicable Division-wide.

4. Authority. The Economy Act (31 U.S.C. § 1535) authorizes agencies to enter into agreements to obtain supplies or services, including construction, from another agency and applies only when more specific statutory authority does not exist. Not all Economy Act transactions include a contract action. For example, an Economy Act transaction may result in an agency providing services through in-house agency labor. In that situation, there is an Economy Act transaction requiring approval for the other agency to perform this work, but there is no resulting contract action. On the other hand, Economy Act transactions are often accompanied by a contract action via an assisted or direct acquisition where the other agency is using a contractor to provide the supplies or services. This memorandum addresses each type of Economy Act transaction separately, as the documentation required will differ depending upon whether there is or is not an accompanying contract action at issue.

a. Authorities for Economy Act Transactions with Non-DoD Federal Agencies That Result in a Contract Action. Federal Acquisition Regulation (FAR) Subpart 17.5 clarifies that the FAR applies only to interagency transactions that result in a contract action, i.e., interagency acquisitions. Interagency acquisition is defined by the FAR as a procedure by which an agency needing supplies or services (the requesting agency) obtains them from another agency (the servicing agency), by an assisted acquisition or a direct acquisition. Interagency acquisitions exceeding the micro-purchase threshold using the Economy Act as statutory authority are subject to the requirements of FAR 17.5, DFARS 217.5 and AFARS 5117.5.

b. Authorities for Economy Act Transactions That Do Not Result in a Contract Action. The FAR does not apply when the Economy Act transaction does not involve a contract action. Therefore, Economy Act transactions that do not include a contract action are subject only to the requirements of DoDI 4000.19 and DoD FMR Vol.11A, Ch. 3.

5. Requirements for Economy Act Transactions with Non-DoD Federal Agencies That Result in a Contract Action.

a. Written Interagency Agreement. In accordance with (IAW) FAR 17.502-1(a), a signed written interagency agreement between the servicing agency and requesting agency is required when the order is through an assisted acquisition (i.e., where a servicing agency performs acquisition activities on a requesting agency's behalf, such as soliciting, awarding, or administering a contract, task order, or deliver order). No written agreement is required when the order is a direct acquisition, as the requesting agency places the order directly against the servicing agency's indefinite-delivery contract. The requirement for a written agreement applies whether the assisted acquisition is a one-time request for assistance or whether the request is for recurring support. The interagency agreement must consist of (1) a General Terms and Conditions (GT&C) Agreement (Treasury Fiscal Service (FS) Form 7600A) which sets forth the general terms and conditions governing the relationship between the two agencies, and (2) the Order (FS Form 7600B), which describes the support in specific, definite, and certain terms, and provides funding information.

(1) The General Terms and Conditions Agreement. GT&C Agreements are the base agreements between a requesting agency and a servicing agency. The agreement covers the authority for the agreement, general terms and conditions governing the relationship between the requesting agency and servicing agency, the range of services that may be provided, roles and responsibilities for both partners, and the period of the agreement. Previous GT&C Agreements have been concluded using several different formats, including Master Agreement, Memoranda of Agreement (MOA), Interagency Agreement Part A, FS Form 7600A and DD Forms 1144.

(a) IAW reference 1.g, GT&C Agreements have replaced Master Agreements and MOAs and USACE has mandated that all activities will use G-invoicing and FS Form 7600A for new GT&C agreements. Activities may no longer use DD Forms 1144 for new GT&C agreements. If preferred by stakeholders, an MOA may be used in addition to the GT&C to document the terms and conditions. However, the GT&C Agreement is still required and must reference the MOA IAW reference 1.e. Where stakeholders are not yet using G-Invoicing, the Fiscal Service (FS) Form 7600A should be used for the GT&C Agreement and uploaded to G-Invoicing when both parties have access.

(b) Unique USACE terms, conditions, and applicable agency-specific statutes, regulations, directives, and other applicable requirements must be provided to the

servicing agency so that the servicing agency can incorporate these requirements into the order or contract. If there are no agency-unique requirements beyond the FAR, USACE must so inform the servicing agency contracting officer in writing. Commands should first determine whether an agreement is currently in place (and up-to-date and effective), prior to initiating a new GT&C Agreement. USACE has been working with stakeholders to create enterprise-wide GT&C Agreements to be used by all USACE field activities. A complete listing of enterprise-level agreements can be found at: https://cops.usace.army.mil/sites/IIS/MOA/Forms/dbgrouporg.aspx. All new GT&C Agreements must have an expiration date not to exceed 9 years from the date they are signed by both parties. No fiscal obligations are created through the execution of GT&C Agreements; therefore, no services may be performed and/or no goods may be delivered until an accompanying support agreement, or order, is executed as outlined below.

(2) The Order (a.k.a. Support Agreement, FS FORM 7600B or Interagency Agreement Part B). The order is an agreement between the parties to provide clearly defined goods and/or services. Orders are fund obligation documents that are placed under GT&C Agreements and incorporate the provisions by reference. USACE preference is to utilize FS Form 7600B or DD Form 448 Military Interdepartmental Purchase Request (MIPR). For orders with non-DoD stakeholders, alternative forms may be used under conditions outlined in reference 1.g. Work spanning multiple years should be covered under a single EAO rather than creating a separate one for each year.

(3) Certification of Availability for Purpose. A certification must be provided on, or attached to, the order (FS Form 7600B) indicating that the funds cited on the order are properly chargeable for the purposes cited in the order.

(4) Approval Authority for GT&C Agreements. Pursuant to subparagraphs 7.b and 7.c of Reference 1.h, and subject to the limitations therein, the authority to approve GT&C Agreements is delegated to the Director of Regional Business and the Commanders of the Kansas City, Omaha, Portland, Seattle, and Walla Walla Districts. This authority may not be further delegated. See Reference 1.g for approval requirements when GT&C agreements extend beyond a District's or Major Subordinate Command's (MSC) area of responsibility or outside of an organization's approved mission assignment.

(5) Approval Authority for Orders. For orders where all work is to be provided within respective District boundaries, the approval authority is the District Commander

(O-6) or DPM (GS-15). Approval Authority for all orders that cross district boundaries within NWD is the Division Commander, Director of Regional Business, or Directors of Programs. This authority may not be further delegated.

b. Determination and Findings. In addition to the written interagency agreement, all Economy Act orders must be supported by a determination and findings (D&F) that is executed by the requesting agency using the procedures and format prescribed in FAR 17.502(c)(1) and DFARS 217.503. The District Contracting Officer, District Office of Counsel, and funds certifying official must concur with the D&F prior to sending to the District Commander (O-6) or DPM (GS-15) for approval IAW Army FAR Supplement 5117.770 and DFARS 217. Note that in those limited situations where the servicing agency is not covered by the FAR, the D&F must be approved by the Senior Procurement Executive for the Army for all assisted acquisitions.

(1) The D&F must include sufficient facts and/or analysis to support the D&F conclusions and must not merely consist of conclusory statements that repeat back the below criteria. Specifically, the D&F must demonstrate that:

(a) Funding is available to pay for the support;

(b) The servicing agency is able to provide the support;

(c) The transaction does not conflict with any other agency's authority;

(d) Use of an interagency transaction is in the best interest of the Government;

(e) The supplies or services cannot be obtained as conveniently or economically by contracting directly with a private source;

(f) At least one of the following circumstances applies:

(1) The acquisition will appropriately be made under an existing contract of the servicing agency, entered in before placement of the order, to meet the requirement of the servicing agency for the same or similar supplies or services.

(2) The servicing agency has the capability or expertise to enter into a contract for such supplies or services that is not available within the requesting agency.

(3) The servicing agency is specifically authorized by law or regulation to purchase such supplies or services on behalf of other agencies.

c. Additional Documentation Required for Acquisitions Over the Simplified Acquisition Threshold (SAT). USACE may only request that a non-DoD agency conduct an assisted acquisition on its behalf or a DoD acquisition official may place an order, make a purchase, or otherwise acquire supplies and services for DoD in excess of the SAT if the head of the non-DoD agency has certified that the agency will comply with applicable procurement requirements for that fiscal year, or that the non-DoD agency has obtained a waiver in accordance with FAR 17.703(e). Waivers and additional instructions are maintained on the DPAP website on Interagency Acquisition at: https://www.acq.osd.mil/asda/dpc/cp/index.html. A copy of the non-DoD agency's certification or waiver must be included as an attachment. If you are processing an Economy Act transaction that requires the certification, be conscious of the time of your action, as, in many cases, the new certifications are not signed and available until several months into the new fiscal year.

6. Requirements for Economy Act Transactions with Non-DoD Agencies (Interagency Support). The requirements for an interagency agreement that do not result in a contract action are similar to the criteria articulated in FAR 17.5; although the authorities to be followed are different and the documentation required for the D&F is less. As noted above in paragraph 4.b., the proper authorities that must be followed for Economy Act transactions that are not accompanied by a contract action are DoDI 4000.19 and DoD FMR Vol. 11A. The following is required for the interagency agreements when the non-DoD agency is completing the requirement through the agency's own in-house resources:

a. Written Interagency Agreement. Similar to the written interagency agreement requirement outlined in paragraph 5.a., the entirety of the agreement must consist of (1) a GT&C agreement (Form 7600A) that sets forth the general terms and conditions governing the relationship between the parties, and (2) the Order (Form 7600B) which specifies the need and provides funding information. Both the GT&C agreement and Order are prepared IAW the requirements specified in paragraph 5.a to include the certification of availability for purpose and the approval authority. If preferred by stakeholders, a MOA may be used in addition to the GT&C agreement to document the terms and conditions. However, the GT&C agreement is still required and must reference the MOA IAW reference 1.e.

b. Determination and Findings. The D&F must include the items outlined in paragraph 5.b.(1)(a) – (f) of this policy and must be approved in accordance with paragraph 5.b.

7. Economy Act Records Retention. Districts shall maintain a log of all EAOs and retain approved packages (to include supporting documentation, GT&C agreements, orders and D&Fs) on SharePoint for review and inspection.

8. Filing and Payment Procedures. G-Invoicing is a Treasury-owned system which all Federal agencies must use to process intergovernmental transactions (IGT). DoD has mandated that all DoD activities will use G-invoicing for new GT&C agreements and, as of 1 October 2020, a GT&C agreement must be established in G-invoicing before reimbursable orders can be accepted.

9. Enclosure and Referenced Documents. Enclosure 1 outlines the general procedures and approval authorities that are articulated by this policy memorandum. D&F templates for the districts' use are provided at Enclosure 2 and 3. Reference documents and forms are located at NWD Contracting SharePoint Site: https://team.usace.army.mil/sites/NWD/NSF/CECT/default.aspx

10. Point of Contact. The point of contact for subject policy is the NWD Regional Contracting Chief at 503-808-4034.

11. Supersession. This policy supersedes Commander's Policy 22-15, 4 February 2016.

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Commanding

Encls
1. Economy Act Interagency Support Chart
2. D&F Template, Contract
3. D&F Template, In-House

Enclosure 1

	ECONOMY ACT - Interagency Support (Orders with Non-DoD Agencies)	
	Includes Contract Action	**No Contract Action involved**
Statutory Authority - Economy Act - 31 U.S.C. 1535	Only to be used when more specific statutory authority does not exist.	Only to be used when more specific statutory authority does not exist.
Written Agreement Required?	Yes, when the order is through an *assisted* acquisition. Not required for *direct* acquisitions, as the requesting agency administers the order (See FAR 17.502-1(b)(1) & (2)).	Yes, see below.
Form of Agreement	*GT&C* – FMS Form 7600A (refer to FAR 17.502- 1(b)(1)(i) and reference 1.g for content specifics). Order – FMS 7600B and MIPR are preferred.	*GT&C – FMS Form 7600A (*refer to reference 1.g for content specifics). An MOA may be used in addition to the FMS 7600A if the servicing agency prefers. (refer to DoDI 4000.19, Encl 3, Fig 1 - Sample MOA template) . *Order~~SA~~* – FMS 7600B and MIPR are preferred.
Approval Authority for Agreement	GT&C – District CDR subject to delegation from NWD CDR. Order – District CDR (O6) or DPM (GS-15).	GT&C – District CDR subject to delegation from NWD CDR. Order – District CDR (O6) or DPM (GS-15).
D&F required?	Yes, completed by USACE.	Yes, completed by USACE.
Contents of D&F	See para 5.b. (1) - (6) of the NWD Memo for what the D&F must at a minimum contain.	See para 5.b. (1) - (5) of the NWD Memo for what the D&F must at a minimum contain.
Approval Authority of D&F	District CDR (O-6) or DPM (GS-15) in the requiring activity IAW AFARS 5117.770.*	District CDR (O-6) or DPM (GS-15) in the requiring activity IAW AFARS 5117.770.*
FAR 17.703 Certification Required?	Yes, if the action is above the SAT and the action is via an *assisted* acquisition. Note: the certification is provided by the Servicing Agency.	No.
EAO Package Requirements	GT&C, Order, Funds Certification, D&F, Request for Service Contract Approval (RSCA) if applicable, and FAR 17.703 Certification if above the SAT.	GT&C, Order, Funds Certification, D&F.

*When the servicing agency is not covered by the FAR, D&F must be approved by the Senior Procurement Executive for assisted acquisitions.

Enclosure 2

Determination and Findings (D&F) for an Interagency Acquisition Under the Economy Act FAR 17.502-2

[insert either Assisted or Direct] Acquisition

Title of Effort: *[Insert title of the statement of work or requirement.]*

Requesting Agency: *[Insert name of the requirements office.]*

Requirements POC: *[Insert name, position title, email, and telephone number.]*

Servicing Agency: *[Insert name of the contracting activity/agency and a statement that it is a Federal activity that complies with or does not comply with the FAR.]*

Description of Effort: *[Insert a brief description of the type of supplies/services to be acquired.]*

Total Estimated Cost: *[Insert the estimated dollar amount of the total order, the estimated dollar amount of the contracted portion (if not the entire order) and the type of funds to include the year.]*

FINDINGS

I have reviewed the requirements for *[insert description of supply or service to be procured]*. In accordance with the Economy Act, the Department of the Army intends to conduct an interagency acquisition with *[insert name of servicing agency]*, which will contract for these *[insert either supplies or services]* on Army's behalf:

1. The use of an interagency acquisition is in the best interest of the Government. In accordance with FAR 17.502-1,

2. The *[insert either supplies or services]* cannot be obtained as conveniently or economically by contracting directly with a private source. *[Explain how you made this finding. Why is it more convenient or economical to have the non-DoD agency provide the supplies/services? Provide analysis that you used to reach your conclusion.]*

3. *[Insert one of the following statements][for an Assisted Acquisition]* An *Interagency Agreement* has been prepared in accordance with FAR 17.502-1(b)(1)(i) and is attached. *[for an Direct Acquisition]* An *Interagency Agreement* is not required in accordance with FAR 17.502-1(b)(2).

4. *[Indicate that one of the following circumstances applies and include an explanation as to how the circumstance applies]* The acquisition will

appropriately be made under an existing contract of the servicing agency, entered into before placement of the order, to meet the requirement of the servicing agency for the same or similar supplies or services. (or) The servicing agency has the capability or expertise to enter into a contract for such supplies or services that is not available within the requesting agency. (or) The servicing agency is specifically authorized by law or regulation to purchase such supplies or services on behalf of other agencies.

5. Funding is available to pay for the support. *[type and year of funds is already indicated above under "Total Estimated Cost"]* The Funds Certifying Official's written concurrence is provided below, signifying that the funds cited on the Economy Act order are properly chargeable for the purposes cited in the order.

6. The servicing agency is able to provide the support.

7. The transaction does not conflict with any other agency's authority or responsibility. *[confirm this is true prior to making this statement.]*

8. A copy of the approved D&F will be provided to the non-DoD agency along with the Economy Act order.

(CONT.)

Concurrence:

_____

[Insert Name]
Contracting Officer
U.S. Army Corps of Engineers
[Insert District]

_____

[Insert Name]
District Office of Counsel
U.S. Army Corps of Engineers
[Insert District]

_____

[Insert Name]
Funds Certifying Official
U.S. Army Corps of Engineers
[Insert District]

(CONT.)

DETERMINATION

Given the findings outlined above, in accordance with 31 U.S.C. 1535 and FAR Subpart 17.502-2, I hereby determine that it is in the best interest of the Government to place an order for [insert requirement] with [insert name of agency] under the authority of the Economy Act.

[Insert Approving Official Name[1]]

[Insert Position]
U.S. Army Corps of Engineers
[Insert District]

[1] [IAW AFARS 5117.770 The requiring activity is responsible for making the approval required by DFARS 217.770. A Government official who is of a grade not lower than O-6 (District CDR, if applicable) or GS-15 (DPM) and is assigned to the requiring activity makes the approval. Note that in those limited situations where the servicing agency is not covered by the FAR, approval of the D&F must be approved by the Senior Procurement Executive for the Army.]

Enclosure 3

Determination and Findings (D&F) for an Interagency Transaction Under the Economy Act FAR 17.502-2

In-House

Title of Effort: *[Insert title of the statement of work or requirement.]*

Requesting Agency: *[Insert name of the requirements office.]*

Requirements POC: *[Insert name, position title, email, and telephone number.]*

Servicing Agency: *[Insert name of the contracting activity/agency and a statement that it is a Federal activity that complies with or does not comply with the FAR.]*

Description of Effort: *[Insert a brief description of the type of supplies/services to be acquired.]*

Total Estimated Cost: *[Insert the estimated dollar amount of the total order and the type of funds to include the year.]*

FINDINGS

I have reviewed the requirements for *[insert description of supply or service to be procured]*. In accordance with the Economy Act, the Department of the Army intends to conduct an interagency transaction with *[insert name of servicing agency]*:

1. The use of an interagency transaction is in the best interest of the Government.

2. The *[insert either supplies or services]* cannot be obtained as conveniently or economically by contracting directly with a private source. *[Explain how you made this finding. Why is it more convenient or economical to have the non-DoD agency provide the supplies/services? Provide analysis that you used to reach your conclusion.]*

3. An *Interagency Agreement* has been prepared in accordance with DoDI 4000.19 and is attached.

4. Funding is available to pay for the support. *[type and year of funds is already indicated above under "Total Estimated Cost"]* The Funds Certifying Official's written concurrence is provided below, signifying that the funds cited on the Economy Act order are properly chargeable for the purposes cited in the order.

5. The servicing agency is able to provide the support. *[Explain how the non-DoD agency is able to provide the support and how it will meet your requirement needs. Include the*

ability of the non-DoD agency to meet your specific delivery schedule/performance needs. Also be sure to indicate that the non-DoD agency will be completing the work in-house (i.e. will not be contracting out any portion of the work).]

6. The transaction does not conflict with any other agency's authority or responsibility. *[confirm this is true prior to making this statement.]*

7. A copy of the approved D&F will be provided to the non-DoD agency along with the Economy Act order.

(CONT)
Concurrence:

[Insert Name]
Contracting Officer
U.S. Army Corps of Engineers
[Insert District]

[Insert Name]
District Office of Counsel
U.S. Army Corps of Engineers
[Insert District]

[Insert Name]
Funds Certifying Official
U.S. Army Corps of Engineers
[Insert District]

(CONT)

DETERMINATION

Given the findings outlined above, in accordance with 31 U.S.C. 1535 and FAR Subpart 17.502-2, I hereby determine that it is in the best interest of the Government to place an order for [insert requirement] with [insert name of agency] under the authority of the Economy Act.

_____

[Insert Approving Official Name[1]]
[Insert Position]
U.S. Army Corps of Engineers
[Insert District]

[1] [IAW AFARS 5117.770 The requiring activity is responsible for making the approval required by DFARS 217.770. A Government official who is of a grade not lower than O-6 (District CDR, if applicable) or GS-15 (DPM) and is assigned to the requiring activity makes the approval.]