

Partnerships with other Federal Agencies: The Economy Act

Partnerships in NRM
PROSPECT Course



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US Army Corps of Engineers
BUILDING STRONG®

Legislation

- The Economy Act of 1932, as amended, 31 U.S.C. §1535
 - ▶ Authorizes agencies to enter into agreements to obtain supplies or services (including construction) from another FEDERAL AGENCY



Non-Economy Act Transactions

- The Economy Act only applies when more specific statutory authority does not exist
- Examples of Non-Economy Act Orders:
 - ▶ Federal Supplies Schedules – authority is 40 U.S.C. 501
 - ▶ Government-wide Acquisition Contracts (GWACSs) – authority is 40 U.S.C. 11302(e)
- Bottom line: If you have more specific authority for acquiring supplies/services from another federal agency, do not use the Economy Act.



When can you use the Economy Act?

- An Economy Act order can be used when:
 - 1) funds are available
 - 2) the head of the ordering agency determines that it is in the best interest of the government
 - 3) the head of the ordering agency decides that ordered goods or services cannot be provided as conveniently or cheaply by contract with commercial enterprise.



Contract vs. In-House Economy Act Orders

- Not all Economy Act orders include a contract action.
 - ▶ i.e. The servicing agency provides the support in-house.

- Economy Act orders including a contract action (aka: *interagency acquisitions*).
 - ▶ Support will either be completed by:
 - Assisted Acquisition – The servicing agency performs acquisition activities on the requesting agency’s behalf, such as awarding and administering a contract, task order, or delivery order (this is more common)
 - or
 - Direct Acquisition – The requesting agency places an order *directly* against the servicing agency’s indefinite-delivery contract.



Contract vs. In-House Economy Act Orders

Why does it matter?

- ▶ The authorities that apply are different depending on whether there is a contract action involved
- ▶ The documentation required is different depending on whether there is a contract action involved.



Contract Economy Act Order Requirements

- (1) Written Interagency Agreement (typically an MOA)
 - ▶ General, fiscal, procurement, other terms by which the parties agree to be bound
 - ▶ Must include the roles and responsibilities for acquisition planning, contract execution, and the administration and management of the contracts

- (2) Support Agreement/Order (Ex. ENG Form 4914-R, DD Form 1144)
 - ▶ Funding document used to describe the supplies or services needed.
 - ▶ Must include clear, detailed description of the supplies or services (often SOW); delivery requirements or period of performance; funds citation; payment provision; authority (Economy Act); additional ordering procedures

- (3) Certification of Availability for Purpose
 - ▶ A statement by the funds certifying official indicating that the funds cited on the order are properly chargeable for the purposes cited in the order.
 - ▶ May be on or attached to the order or on the MIPR.



Contract Requirements (cont.)

(4) Determination & Findings (D&F)

- ▶ Purpose is to show the Order is in best interest of government
- ▶ Template available from NWD

(5) Best Procurement Approach Determination

- ▶ Show that the use of an interagency acquisition represents the “best procurement approach”

Additional requirements if more than \$150,000

(6) Non-DoD Certification – AFARS 5117.7802

- ▶ Demonstrate that utilizing a non-DoD contract is in the best interests of DoD. Separate and distinct from the Economy Act D&F.

(7) FAR17.703 Certification from Non-DoD Agency

- ▶ Ensure non-DoD agency compliance with Federal & DoD procurement requirements



In-House Economy Act Order Requirements

(1) Written Interagency Agreement (MOA)

- ▶ Sets forth the general terms and conditions governing the relationships between the parties.

(2) Support Agreement/Order

- ▶ Typically use other agency's form. But may suggest ENG Form 4914-R or DD Form 1144 or other similar form if they do not have one.

(3) Certification of Availability for Purpose

(4) Determination & Findings (D&F)



Determination and Findings

Economy Act Order
With
Contract Action

[Use this template if any portion of the work will be provided via contract, unless considered merely incidental. Use the "In-House" D&F Template if contracting is only incidental to the purpose of the transaction.]

SUBJECT: *[Insert Subject here.]*

1. References:

a. Memorandum, USACE NWD, CENWD-DE, 13 December 2013, subject: NWD Interim Policy Memorandum #07-12, Processing Economy Act Orders within the U.S. Army Corps of Engineers (USACE) Northwestern Division (NWD).

b. Federal Acquisition Regulation (FAR), Subpart 17.5, Interagency Acquisitions.

c. Department of Defense (DoD) Financial Management Regulation (FMR), 7000.14-R, Vol. 11A, Chapter 3, March 2012, subject: Economy Act Orders.

d. *[Only include this reference if your action is over the Simplified Acquisition Threshold (SAT): Memorandum, Assistant Secretary of the Army, Acquisition, Logistics and Technology (ASA(AL&T)), July 12, 2005, subject: Proper Use of Non-Department of Defense (Non-DoD) Contracts.]*

e. *[Only include this reference if your action is over the SAT: FAR Subpart 17.7, Interagency Acquisitions: Acquisitions by Non-Defense Agencies on Behalf of the Department of Defense.]*

2. 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 when more specific statutory authority does not exist.

3. Purpose. This Determination and Findings (D&F) documents that the use of an Economy Act order to obtain *[insert supplies or service obtaining]* from *[insert non-DoD federal agency]* is in the best interests of the Government.

4. Requirement Information:

D&F Templates from NWD for Contract/ In-House Economy Act Orders

Determination and Findings

Economy Act Order
In-House

[Use this template if all of the work will be provided in-house. If any of the work will be contracted out, beyond a mere incidental portion, use the "Contract Action" D&F Template.]

SUBJECT: *[Insert Subject here.]*

1. References:

a. Memorandum, USACE NWD, CENWD-DE, 13 December 2013, subject: NWD Interim Policy Memorandum #07-12, Processing Economy Act Orders within the U.S. Army Corps of Engineers (USACE) Northwestern Division (NWD).

b. Department of Defense Instruction (DoDI) 4000.19, April 25, 2013, subject: Support Agreements.

c. Department of Defense (DoD) Financial Management Regulation (FMR), 7000.14-R, Vol. 11A, Chapter 3, March 2012, subject: Economy Act Orders.

2. 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 when more specific statutory authority does not exist.

3. Purpose. This Determination and Findings (D&F) documents that the use of an Economy Act order to obtain *[insert supplies or service obtaining]* from *[insert non-DoD federal agency]* is in the best interests of the Government.

4. Requirement Information:

a. Description of services/supplies: *[Describe the supplies or services needed, to include the delivery schedule/period of performance and price.]*

b. Servicing Agency: *[Insert the name of the non-DoD agency that will be providing the support.]*

c. Requesting Agency: *[Insert the name of the USACE district needing the support.]*

5. The proposed use of an interagency transaction is in the best interest of the Government considering the following factors:

a. Funding is available to pay for the support. *[Either indicate what type of funds are being*

Economy Act Orders with another DoD Agency (Intra-agency support)

(1) Written Interagency Agreement (MOA)

- ▶ Not required, but recommended

(2) Support Agreement/Order

- ▶ Required

(3) Certification of Availability for Purpose

(4) DD Form 1144

- ▶ If DD Form 1144 is used as the Support Agreement, no formal Economy Act D&F is required (so use DD 1144!)



Economy Act Key Points

- Determination and Findings (D&F) document must be prepared by the ordering agency.
- Performing agency must be able to provide the goods or services in-house or by contract, and parties should verify under Part 8 of the FAR that the responsibility for this good or service is not assigned to another agency of the federal government.
- Authority for the ordering agency to do the work in question must be independently authorized.
- Funds made available to the performing agency, but not yet obligated by the performing agency, shall be de-obligated and returned to the ordering agency at the end of their period of availability.



Economy Act Key Points

- The Economy Act cannot be used for partnerships with non-federal entities, and is only used with federal agencies when another more specific transfer authority is not available.
- Some agencies have their own transfer authorities that do not include de-obligation requirements and D&Fs, such as Section 632 of the Foreign Assistance Act, which the Corps may accept under the Chief's Economy Act.
- When entering into an Economy Act agreement with a non-DoD entity, the Corps must enter into an agreement by which the ordering agency agrees to pay all costs.



Paperwork Needed

- 4914R – Interagency Support Agreement
- Staffing sheet for D&F
- Memo of Determinations and Findings (D&F)
- CEFMS snapshot page
- Copy of agreement used (MOA/interagency agreement)



SUPPORT AGREEMENT

| | | | |
|--|---|---|---|
| 1. AGREEMENT NUMBER <i>(Provided by Supplier)</i> | 2. SUPERSEDED AGREEMENT NO. <i>(If this replaces another agreement)</i> | 3. EFFECTIVE DATE (YYYYMMDD) | 4. EXPIRATION DATE <i>(May be "Indefinite")</i> |
| 5. SUPPLYING ACTIVITY | | 6. RECEIVING ACTIVITY | |
| a. NAME AND ADDRESS | | a. NAME AND ADDRESS | |
| b. MAJOR COMMAND | | b. MAJOR COMMAND | |
| 7. SUPPORT PROVIDED BY SUPPLIER | | | |
| a. SUPPORT <i>(Specify what, when, where, and how much)</i> | | b. BASIS FOR REIMBURSEMENT | c. ESTIMATED REIMBURSEMENT |
| | | | |
| ADDITIONAL SUPPORT REQUIREMENTS ATTACHED: <input type="checkbox"/> YES <input type="checkbox"/> NO | | | |
| 8. SUPPLYING COMPONENT | | 9. RECEIVING COMPONENT | |
| a. COMPTROLLER SIGNATURE | b. DATE SIGNED | a. COMPTROLLER SIGNATURE | b. DATE SIGNED |
| c. APPROVING AUTHORITY | | c. APPROVING AUTHORITY | |
| (1) TYPED NAME | | (1) TYPED NAME | |
| (2) ORGANIZATION | (3) TELEPHONE NUMBER | (2) ORGANIZATION | (3) TELEPHONE NUMBER |
| (4) SIGNATURE | (5) DATE SIGNED | (4) SIGNATURE | (5) DATE SIGNED |
| 10. TERMINATION <i>(Complete only when agreement is terminated prior to scheduled expiration date.)</i> | | | |
| a. APPROVING AUTHORITY SIGNATURE | b. DATE SIGNED | c. APPROVING AUTHORITY SIGNATURE | d. DATE SIGNED |

ENG Form 4914-R-

Used with non- DOD agencies

| | | | |
|---|------------------|---|------------------|
| U.S. ARMY CORPS OF ENGINEERS INTERAGENCY/SUPPORT AGREEMENT <i>(ER 1140-1-211)</i> | | 1. AGREEMENT NO. | |
| 3. PROJECT TITLE | | 2. <input type="checkbox"/> INITIAL AGREEMENT <input type="checkbox"/> AMENDMENT NO. _____ | |
| | | 4. EFFECTIVE DATE | |
| 6. NAME AND ADDRESS OF USACE ORGANIZATION | | 7. NAME AND ADDRESS OF OTHER AGENCY | |
| | | 5. COMPLETION DATE | |
| 8. SCOPE OF WORK <i>(Additional pages may be used as needed)</i> | | | |
| | | | |
| 9. SPECIAL PROVISIONS <i>(Additional pages may be used as needed)</i> | | | |
| <p>a. All rates expressing the unit cost of services provided in this agreement are based on current rates which may be subject to change for uncontrollable reasons, such as legislation, DoD directives, and commercial utility rate increases. The receiver will be notified immediately of such rate changes that must be passed through to the support receivers.</p> <p>b. This agreement may be cancelled at any time by mutual consent of the parties concerned. This agreement may also be cancelled by either party upon giving at least 180 days written notice to the other party.</p> <p>c. In case of mobilization or other emergency, this agreement will remain in force only within supplier's capabilities.</p> | | | |
| 10. USACE PROJECT OFFICER | TELEPHONE | 11. OTHER AGENCY PROJECT OFFICER | TELEPHONE |
| | | | |
| ADDRESS | | ADDRESS | |
| | | | |

DD Form 1144 – Used with other DOD agencies

Examples of Successful Economy Act Agreements

- Lucky Peak (NWW) /BOR to improve recreation facilities by bringing power to them
- Portland District/BLM – prescribed burning
- MVP Lock 5 and USFS – improved habitat through use of dredging
- Libby Dam (NWS) and USFS – habitat assessments and improvements on COE lands
- Raystown (NAB) and NPS Harpers Ferry – interpretive master plan
- USACE and Tennessee Valley Authority – technical assistance for water resource management, infrastructure, environmental compliance



Recap Questions

Which of the following statements is true about the Economy Act?

- a. It can only be used for partnerships with non-federal entities.
- b. It can only be used with federal agencies when another more specific transfer authority is not available.
- c. It allows for the transfer of funds to Cooperating Associations
- d. It makes partnerships easy with the private sector.

