

U.S. DEPARTMENT OF AGRICULTURE
WASHINGTON, D.C. 20250

DEPARTMENTAL REGULATION		Number: 2235-001
SUBJECT Economy Act Agreements	DATE: September 27, 2013	
	OPI: Office of the Chief Financial Officer	

1. PURPOSE

This regulation establishes Departmental policy for interagency transactions entered into pursuant to the Economy Act, 31 U.S.C. 1 535. This Departmental Regulation does not cover interagency transactions agreements pursuant to other authorities.

2. SPECIAL INSTRUCTIONS/CANCELLATIONS

This regulation applies to interagency transactions entered into under the authority of the Economy Act signed after the effective date of this Departmental Regulation.

3. POLICY

The Department of Agriculture (USDA) may enter into interagency transactions as either the requestor or provider of goods or services only when it is legally permissible and, in the best interest of the Federal government. This policy applies to interagency agreements for the purchase of goods or services, including interagency acquisitions and interagency details, entered into under the authority of the Economy Act. The Economy Act applies only when more specific legal authority does not exist.

4. RESPONSIBILITIES

a. Office of the Chief Financial Officer.

- (1) Provide leadership and oversight on all aspects of Economy Act agreements; and
- (2) Determine policy, procedures, and standards for Economy Act agreements that ensure compliance with all applicable Federal laws and regulations.

- b. Office of the Chief Acquisition Officer.
 - (1) Provide input to the Office of the Chief Financial Officer and oversight on all aspects of interagency acquisitions, including policy, procedures, and standards for interagency acquisitions.
- c. Agency or Staff Office Head.
 - (1) Ensure that Economy Act agreements receive appropriate levels of review and approval prior to execution; and
 - (2) Review and sign Determination and Findings (D&F) for Economy Act agreements.
- d. Agency Chief Financial Officer.
 - (1) Maintain financial control and fiduciary responsibility over Economy Act agreements;
 - (2) Implement internal controls necessary to prevent over-obligation of funds;
 - (3) Develop, issue, and interpret financial management policies for Economy Act agreements (subject to the guidelines issued by the Office of the Chief Financial Officer); and
 - (4) Develop and maintain accurate and timely financial information on the status of interagency projects, obligations, and expenditures incurred.
- e. Agency Contracting Officer.
 - (1) Review interagency acquisitions where the USDA or a USDA agency is requesting the use of the acquisition services of another Federal agency or using another agency's contract to obtain supplies or services.
 - (2) Provide advice and guidance, as requested, to the office requesting supplies or services; and
 - (3) Review, confirm, and sign the D&F when the USDA or a USDA agency is requesting to use the acquisition services of another Federal agency, or using another agency's contract to obtain supplies or services.
- f. Program Officers.

- (1) Ensure that all Economy Act agreements within their area of jurisdiction are properly authorized and executed prior to performing work;
- (2) Serve as primary point of contact for issues regarding Economy Act agreements;
- (3) Prepare the D&F for Economy Act agreements;
- (4) Ensure that appropriations are used in accordance with applicable laws, for the designated purpose, and within the period of availability;
- (5) Implement internal controls to prevent over-obligation of reimbursable funds;
- (6) Ensure the official Economy Act agreement file contains all relevant documents;
- (7) Monitor activity and age and provide justification for agreements with no activity over 180 days; and
- (8) Ensure that the Economy Act agreements are properly closed out and that files are retained in accordance with record retention policies.

5. DEFINITIONS

- a. Interagency Agreement. The signed agreement between the Servicing Agency and Requesting Agency that sets out the terms and conditions under which reimbursable work will be performed.
- b. Requesting Agency. The Federal Department or Agency requesting goods or services from another agency.
- c. Servicing Agency. The Federal Department or Agency performing the work or providing the services in accordance with the terms and conditions of the agreement.

6. REFERENCES

- a. 31 USC 1301(a), Application
- b. 31 U.S.C. 1341(a), Limitations on expending and obligating amounts
- c. 31 USC 1342, Limitation on voluntary services
- d. 31 USC 1517(a), Prohibited obligations and expenditures
- e. 31 U.S.C. 1535, Agency agreements (The Economy Act of 1933)

- f. Federal Acquisition Regulation, 48 CFR Subpart 17.5, *Interagency Acquisitions*
- g. Office of Management and Budget Circular No. A-11, *Preparation, Submission, and Execution of the Budget*, Section 130.9
- h. *Principles of Federal Appropriations Law*, Government Accountability Office
- i. Policy and Procedures Manual for Guidance of Federal Agencies, *Transactions Among Appropriations and Fund Accounts*, Section 2.4, Government Accountability Office
- j. Departmental Regulation 2230-001, *Reviews of Unliquidated Obligations*
- k. Treasury Financial Manual, Volume 1, Part 2, Chapter 4700, *Agency Reporting Requirements for the Financial Report of the United States*, Appendix No. 10 Intragovernmental Transaction (IGT) Guide

7. AUTHORITY FOR ECONOMY ACT AGREEMENTS

The Economy Act, as amended, provides authority for agencies to order goods or services from another Federal agency and to pay the actual cost of those goods or services. The head of an agency or major organizational unit within an agency may place an order with a major organizational unit within the same agency or another agency for goods or services if:

- a. amounts are available;
- b. the head of the ordering agency or unit decides the order is in the best interest of the United States Government;
- c. the agency or unit to fill the order is able to provide or get by contract the ordered goods or services; and
- d. the head of the agency decides ordered goods or services cannot be provided by contract as conveniently or cheaply by a commercial enterprise.

Under the Economy Act, the Requesting Agency's appropriation remains obligated for an order placed or agreement made only to the extent that the Servicing Agency provides, or enters into a contract to provide, the requested goods or services before the appropriation expires. As a result, amounts obligated by the Requesting Agency must be deobligated at the end of the period of availability (fiscal year or multiple-year period, as applicable) to the extent that the Servicing Agency has not provided the ordered goods or services or the Servicing Agency has not incurred obligations.

8. GUIDELINES

a. Servicing Agency.

- (1) The Servicing Agency may not perform work it is not otherwise entitled or authorized to perform. (The Economy Act does not grant the Servicing Agency any authority which it would not otherwise have.)
- (2) The Servicing Agency must specify the actual cost to be paid for providing the requested item or service, including all actual administrative costs.
- (3) The Servicing Agency must establish procedures for administering the agreement. The procedures should ensure that the specified cost and applicable time limit on the use of the funds to produce the goods or perform the services are not exceeded and all costs are promptly billed.
- (4) The Servicing Agency will submit bills on a monthly basis unless a business need is identified that dictates otherwise. The Servicing Agency will document a business reason explaining why the alternative billing frequency is more advantageous to the government.
- (5) The Servicing Agency must ensure accrual amounts are approved by the Requesting Agency prior to entry in the financial management system. Requesting Agency and Servicing Agency will agree on the schedule for posting the accrual. On-going communication is key to ensuring timely reconciliation of all Economy Act agreements.
- (6) The Servicing Agency must notify the Requesting Agency when it becomes evident that the goods or services will exceed estimated costs. If necessary, the Servicing Agency should stop work to avoid exceeding the estimated cost.
- (7) The Servicing Agency will submit the final bill within 90 days after completion of the work or at the end of the period of performance, whichever is earlier.

However, under the Economy Act, the Requesting Agency will remain responsible for reimbursing the Servicing Agency for actual costs incurred in performing the ordered services even if the costs are discovered after the final bill.

b. Requesting Agency.

- (1) The Requesting Agency must ensure that budget authority exists prior to placing an order or entering into an agreement for goods or services.

- (2) The Requesting Agency is required to obligate budget authority in the amount specified in the agreement and institute procedures to monitor the cost and performance.
- (3) The Requesting Agency cannot decrease or deobligate the agreement amount to meet other funding needs without notifying the Servicing Agency and bilaterally modifying the agreement. The Requesting Agency must confirm that the reduced obligation will meet the expenses incurred to date by the Servicing Agency and any additional expenses related to modifying the agreement.
- (4) The Requesting Agency must ensure accrual amounts are approved by the Servicing Agency prior to entry in the financial management system. Servicing Agency and Requesting Agency will agree on the schedule for posting the accrual. On-going communication is key to ensuring timely reconciliation of all Economy Act agreements.
- (5) The Requesting Agency will periodically review unliquidated obligations to determine whether delivery of goods or services or performance is expected to occur.
- (6) When the Requesting Agency and Servicing Agency sign an agreement (including complete supporting documentation), the Requesting Agency must record the entire obligation and provide its financial data to the Servicing Agency. If this is not possible, Requesting Agency must, within three working days of signing the agreement, make it available to the Servicing Agency. If information is not provided, Servicing Agency cannot begin the work.
- (7) The Requesting Agency must deobligate annual funds at the end of the fiscal year if not obligated to an outside contract by the Servicing Agency.

9. INTERAGENCY AGREEMENTS

An interagency agreement is an arrangement in which one agency (Servicing Agency) provides goods or services to another agency (Requesting Agency) and receives a reimbursement for costs. Agencies can use interagency agreements to conduct a wide variety of operations, from renting space to purchasing equipment. Interagency agreements can be routine in nature, involving the acquisition of goods or services necessary to maintain agency operations or support a specific program.

An interagency agreement requires the completion of a D&F (*approved by an Agency or Staff Office head or designee*). However, occasionally, for efficiency, the interagency agreement may be initiated by the Servicing Agency. An example of the D&F (which can

be modified to meet agency specific needs) for an interagency detail can be found in Appendix A.

10. INTERAGENCY ACQUISITIONS

Interagency acquisition is the procedure used when an agency (Requesting Agency) needing supplies or services obtains them using another Federal agency's (Servicing Agency) contract; i.e., such as awarding and administering a contract, a task order or deliver order; or both. When this process is used, the Requesting Agency and Servicing Agency are required to comply with Federal Acquisition Regulation (FAR) 48 CFR Subpart 17.5, *Interagency Acquisitions*.

Interagency acquisitions are commonly conducted through indefinite-delivery, indefinite-quantity (IDIQs) vehicles, such as task and delivery order contracts. There are two types of interagency acquisitions - direct acquisitions and assisted acquisitions.

In a direct acquisition, the Requesting Agency places an order directly against the Servicing Agency's contract. The Servicing Agency manages the contract but does not participate in the placement of the order.

In an assisted acquisition, the Servicing Agency and Requesting Agency enter into an interagency agreement pursuant to which the Servicing Agency performs acquisition activities on the Requesting Agency's behalf, such as awarding a contract, task order, or delivery order. In many assisted acquisitions, the Servicing Agency also manages the IDIQ contract against which orders are placed. Sometimes, a Servicing Agency may find that another agency's contract can better serve the Requesting Agency's needs, in which case two Servicing Agencies would be involved in the interagency acquisition.

In many of the Economy Act agreements involving USDA agencies, contracting is incidental to the performance of the reimbursable work performed by the Servicing Agency's employees. These Economy Act agreements are not interagency acquisitions and should not be treated as such.

An interagency acquisition requires the completion of a D&F (***approved by an Agency or Staff Office head or designee and by a contracting officer with authority to contract for the supplies or services***). However, occasionally, for efficiency, the interagency agreement may be initiated by the Servicing Agency. An example of the D&F (which can be modified to meet agency specific needs) for an interagency detail can be found in Appendix A-2.

11. INTERAGENCY DETAILS

Another type of interagency service is the detail of personnel. A detail is the temporary assignment of an employee to a different position for a specified period, with the employee returning to regular duties at the end of the detail. Absent specific statutory authority to the contrary, details of personnel between agencies or between separately funded components of the same agency may *not* be done on a non-reimbursable basis, but must be done in accordance with the Economy Act, which requires full reimbursement of actual costs. Actual costs include employee's salary; accrued annual and sick leave; and travel expenses incurred in connection with detail work, if applicable.

An unauthorized non-reimbursable detail results in the loaning agency using its appropriated funds to pay for the salary and expenses of an employee who is performing work unrelated to its functions, a violation of the purpose statute, 31 USC 1301(a), and improperly augments the receiving agency's appropriation by the amount paid by the loaning agency. Non-reimbursable details are subject to the limits set in the annual appropriations language.

An interagency detail requires the completion of a D&F (*approved by an Agency or Staff Office head or designee*). Either the Servicing Agency or the Requesting Agency may initiate the completion of these forms. An example of the D&F (which can be modified to meet agency specific needs) for an interagency detail can be found in Appendix A-3.

12. DETERMINATION AND FINDINGS

The purpose of the Determination and Findings (D&F) is to support transactions between the Requesting Agency and Servicing Agency. The "determination" is a conclusion or decision supported by the "findings." The findings are statements of fact or rationale essential to support the determination and must cover each requirement of the statute or regulation.

D&Fs are required for all Economy Act agreements.

The D&F, prepared by the Requesting Agency, shall state that:

- a. Sufficient funding amounts are available;
- b. The agreement is in the best interest of the United States Government;
- c. The agency to fill the order is able to provide or get by contract the ordered goods or services; and
- d. The supplies or services cannot be obtained as conveniently or economically by contracting directly with a private source.

If the Economy Act order requires contracting action by the Servicing Agency, the D&F

shall also include a statement that at least one of the following circumstances exists:

- e. The acquisition will appropriately be made under an existing contract of the Servicing Agency, entered into before placement of the order, to meet the requirements of the Servicing Agency for the same or similar supplies or services;
- f. The Servicing Agency has capabilities or expertise to enter into a contract for such supplies or services which is not available within the requesting agency; or
- g. The Servicing Agency is specifically authorized by law or regulation, i.e., *[state the citation for the law or regulation]*, to purchase such supplies or services on behalf of other agencies.

13. INTERAGENCY AGREEMENT FORM

- a. The Requesting Agency and Servicing Agency will use the standard Government-wide interagency agreement (IAA) form – FMS Form 7600A, Interagency Agreement (IAA) – Agreement Between Federal Agencies General Terms and Conditions (GT&C) Section and FMS Form 7600B, Interagency Agreement (IAA) – Agreement Between Federal Agencies Order Requirements and Funding Information (Order) Section – to execute the agreement.
<http://www.fms.treas.gov/finstandard/forms.html>). *No other forms are authorized.*
- b. The IAA form is comprised of two sections: the General Terms & Conditions (GT&C) Section and Order Section:
 - (1) Each completed IAA consists of a GT&C Section and at least one Order Section. An Order Section cannot be completed without first completing a GT&C Section.
 - (2) The GT&C Section is the partnership section of the IAA form. It establishes the relationship between the trading partners.
 - (3) The GT&C Section identifies general information about the agreement such as the agencies entering into the agreement, the authority permitting the agreement, the start and end date of agreement activities, the scope of the agreement, the terms and conditions, and other required provisions.
 - (4) No fiscal obligations are created through the execution of the GT&C Section.
 - (5) The Order Section identifies the specific Requesting Agency requirements for the delivery of goods and/or services by the Servicing Agency.
 - (6) The Order Section obligates funds, and it may be signed only if funds are available for obligation.
- c. The signed D&F must be attached to the executed FMS 7600A/B.

14. DISPUTE RESOLUTION

- a. In the event of dispute, the parties should communicate with each other promptly and attempt to jointly reach a resolution. The areas of disagreement should be stated, in writing, by each party and presented to the other party for consideration. If agreement is not reached within 60 days of identifying the dispute, the parties shall forward the written presentation of the disagreement to respective higher officials for appropriate resolution.
- b. If the parties cannot resolve accounting disputes, they must be resolved consistent with the Business Rules delineated in the Treasury Financial Manual, Volume 1, Part 2, Chapter 4700, *Agency Reporting Requirements for the Financial Report of the United States*, Appendix No. 10 Intragovernmental Transaction (IGT) Guide.

15. MODIFICATIONS

Modifications can be issued only for changes that fall within the original scope of work (i.e., delivery dates, change in quantity, annual funding, etc.). Changes to agreements that are outside of the original scope of work must be treated as new actions.

16. AUTHORIZING OFFICIALS

The authority to sign interagency agreements, and D&Fs should be at the highest level possible within an organization. Economy Act agreements are not enforceable unless signed by duly authorized representatives from the Requesting and Servicing Agency. Agencies and Staff Offices should ensure updated records of delegations and designations are maintained. The following are the required signatory authorities for D&Fs:

- a. D&Fs:
 - (1) Interagency agreement – Agency or Staff Office Heads or designees.
 - (2) Interagency acquisition – Agency or Staff Office Heads or designees and contracting officer.
 - (3) Interagency detail – Agency or Staff Office Heads or designees.

17. CLOSEOUT

Closeout of an Economy Act agreement should occur when all administrative actions and all required work have been completed by both parties and all financial obligations have been satisfied. The Requesting Agency and Servicing Agency both have the responsibility to monitor Economy Act agreements as they approach their end date and at the end of each fiscal year. This will aid the Requesting Agency in managing available funds and identifying potential funding that may be available for other projects. This will aid the Servicing Agency in reviewing the status of a project, identifying resources available for other projects, and ensuring that all actual costs have been paid by the Requesting Agency.

The Requesting Agency should work expeditiously with the Servicing Agency to resolve any outstanding issues, ensure that the goods and/or services were delivered, ensure that final payments are made, and properly reconcile and close Economy Act agreements. If necessary, outstanding issues should be elevated within the Requesting Agency and Servicing Agency organization for prompt resolution. Closeout should occur no later than 90 days after the final payment is received by the Servicing Agency. Closeout should not occur if the Servicing Agency has incurred actual costs that have not yet been paid by the Requesting Agency.

18. COMPLIANCE

Compliance with this directive will be included as a part of the annual testing requirements under OMB Circular No. A-123, Appendix A, *Internal Control over Financial Reporting*.

19. RECORDS RETENTION

All files, records and supporting documentation related to Economy Act agreements, modifications and cancellations must be retained for a period of six years and three months after final closeout of the interagency transaction or unless otherwise specified by law and noted in the terms of the agreement.

-END-

APPENDIX A

DETERMINATION AND FINDINGS (D&F)
AUTHORITY TO ENTER INTO AN INTERAGENCY AGREEMENT
UNDER THE ECONOMY ACT

Based on the following determination and findings, in accordance with the authority of the Economy Act (31 USC 1535), as implemented in the Federal Acquisition Regulation, Subpart 17.5, [Name of USDA office], intends to enter into an interagency agreement with the [name of other agency].

[Name of USDA office] certifies:

[Place a check in each space for each finding to indicate it has been substantiated.]

- that sufficient funding amounts are available;
- that this agreement is in the best interest of the United States Government;
- the agency to fill the order is able to provide or get by contract the ordered goods or services; and
- that the services requested cannot be provided by contract as conveniently or cheaply by a commercial enterprise.

Signature of USDA official who has authority to sign this D&F

Name

Title and office

Date: _____

It has been determined that this Economy Act order:

[Place a check in each space that applies.]

Does not require contracting action by the Servicing Agency; or

_____ Does require contracting action by the Servicing Agency and that one of the following circumstances exists:

- _____ the acquisition will appropriately be made under an existing contract of the Servicing Agency, entered into before placement of the order, to meet the requirements of the Servicing Agency for the same or similar supplies or services;
- _____ the Servicing Agency has capabilities or expertise to enter into a contract for such supplies or services which is not available within the requesting agency; or
- _____ the Servicing Agency is specifically authorized by law or regulation, i.e., [set forth the citation for the law or regulation], to purchase such supplies or services on behalf of other agencies.

Signature of USDA official who has authority to sign this D&F

Name

Title and office

Date: _____

**DETERMINATION AND FINDINGS (D&F)
AUTHORITY TO ENTER INTO AN INTERAGENCY AGREEMENT FOR ACQUISITION
SERVICES PURSUANT TO THE ECONOMY ACT**

Based on the following determination and findings, in accordance with the authority of the Economy Act (31 USC 1535), as implemented in the Federal Acquisition Regulation, Subpart 17.5, *[Name of USDA office]*, intends to enter into an interagency agreement with the *[name of other Department or Independent Agency]*.

[Name of USDA office] certifies:

- that sufficient funding amounts are available;
- that this agreement is in the best interest of the United States Government;
- the agency to fill the order is able to provide or get by contract the ordered goods or services; and
- that the services requested cannot be provided by contract as conveniently or cheaply by a commercial enterprise.

Signature of USDA official who has authority to sign this D&F
Name
Title and office
Date: _____

It has been determined that this Economy Act order:

- Does not require contracting action by the Servicing Agency; or
- Does require contracting action by the Servicing Agency and that one of the following circumstances exists *[Place a check in each space that 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 requirements of the Servicing Agency for the same or similar supplies or services;
 - the Servicing Agency has capabilities or expertise to enter into a contract for such supplies or services which is not available within the requesting agency; or
 - the Servicing Agency is specifically authorized by law or regulation, *i.e.*, *[set forth the citation for the law or regulation]*, to purchase such supplies or services on behalf of other agencies.

Signature of USDA contracting officer designated to sign the D&F
Name
Title and office
Date: _____

**DETERMINATION AND FINDINGS (D&F)
AUTHORITY TO ENTER INTO A REIMBURSABLE DETAIL
UNDER THE ECONOMY ACT**

Based on the following determination and findings, in accordance with the authority of the Economy Act (31 USC 1535), *[Name of USDA office]*, intends to enter into an interagency agreement with the *[Name of other agency]*.

[Name of USDA office] certifies:

- that sufficient funding amounts are available;
- that this agreement is in the best interest of the United States Government;
- the agency to fill the order is able to provide or get by contract the ordered goods or services; and
- that the services requested cannot be provided by contract as conveniently or cheaply by a commercial enterprise.

It has been determined that this Economy Act order:

- Does not require contracting action by the Servicing Agency; or
- Does require contracting action by the Servicing Agency and that one of the following circumstances exists:
 - the acquisition will appropriately be made under an existing contract of the Servicing Agency, entered into before placement of the order, to meet the requirements of the Servicing Agency for the same or similar supplies or services;
 - the Servicing Agency has capabilities or expertise to enter into a contract for such supplies or services which 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.

Signature USDA official who has authority to sign this D&F
Name
Title and office
Date: _____