

CHAPTER 3

ECONOMY ACT ORDERS★0301 GENERAL

★ 030101. Purpose. This chapter prescribes policies and procedures applicable to transactions where goods or services are procured from other federal agencies under the Economy Act, Title 31, United States Code (U.S.C.), sections 1535 and 1536. Transactions include interservice and intergovernmental support, where an activity needing supplies or services (requesting agency/customer) obtains them from another activity (servicing agency/performer). Within the Department of Defense (DoD), Economy Act orders typically are executed by issuance of a DD Form 448, “Military Interdepartmental Purchase Request (MIPR).”

★ 030102. Overview. The Economy Act provides authority for federal agencies to order goods and services from other federal agencies (including other Military Departments and Defense Agencies) and to pay the actual costs of those goods and services. The Congress passed the Act in 1932 to obtain economies of scale and eliminate overlapping activities of the federal government. Within the Department, an activity within a DoD Component may place an order with another activity within the same DoD Component, another DoD Component or with another federal agency for goods or services. References on the use of Economy Act orders include: DoD Instruction 4000.19, “Interservice and Intragovernmental Support” and the Federal Acquisition Regulation (FAR), subpart 17.5, “Interagency Acquisitions Under the Economy Act.”

★ 030103. Legal Authority

A. In accordance with 31 U.S.C., section 1535, 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:

1. Funds are available;
2. The head of the requesting agency or unit decides the order is in the best interest of the United States (U.S.) Government;
3. The agency or unit to be asked to fill the order is able to provide the ordered goods or services; and
4. The head of the agency decides that ordered goods or services cannot be provided as conveniently or economically by a commercial enterprise.

B. 31 U.S.C, section 1536 provides for the crediting of payments from purchases between executive agencies so as to be available to replace stocks on hand, unless:

1. Another law authorizes the amount to be credited to some other appropriation, or

2. The head of the performing agency decides that replacement is not necessary, in which case, the amount received is deposited in the Treasury as miscellaneous receipts.

C. In accordance with Title 10, U.S.C., section 2205, reimbursements made to DoD appropriations under 31 U.S.C., sections 1535 and 1536 for services rendered or supplies furnished, may be credited to the appropriation or fund of the activity performing the reimbursable work.

★ 030104. Limitations. Because of previous instances of abuse of Economy Act orders, limitations on the use of Economy Act orders have been imposed. Economy Act orders may not be used by an agency to circumvent conditions and limitations imposed on the use of funds, including extending the period of availability of the cited funds. Acquisitions under the Economy Act are subject to the requirements of FAR Subpart 7.3, “Contractor Versus Government Performance.” The Economy Act may not be used to make acquisitions conflicting with any other agency’s authority or responsibility (see FAR Subpart 17.502). An Economy Act order cannot be used by one organizational unit to order work or services from another organizational unit under the same activity commander where the activity commander is in a position to fund the required goods or services through the use of direct funds.

★0302 INITIATING AN ECONOMY ACT ORDER

★ 030201. An agency or unit head may initiate an Economy Act order provided that all the conditions specified in subparagraph 030103.A., above, are met.

★ 030202. Determinations and Findings Requirements

A. In general, all Economy Act orders must be supported by a Determinations and Findings (D&F) that the use of interagency support capabilities is in the best interest of the government and that the required goods, supplies or services cannot be obtained as conveniently or economically by contracting directly with a private source.

B. Economy Act orders that require a contract action by a non-DoD servicing agency also will include a statement on the Determinations and Findings (D&F) that supplies and services provided comply with one or more of the following provisions:

1. The acquisition appropriately will 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 goods, supplies or services;

2. The servicing agency has the capabilities or expertise to enter into a contract for such goods, supplies or services which are not available within the requesting agency; or

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

030203. Interservice Support. DoD activities shall render requested support to other DoD activities when the head of the requesting activity determines that it would be in the best interest of the U.S. Government, and the head of the servicing activity determines that capabilities exist to render the support without jeopardizing assigned missions. These determinations are accomplished by signing a Support Agreement (blocks 8 and 9 on DD Form 1144, "Support Agreement"). No further written determinations generally are required for agreements between DoD activities.

★ 030204. Intragovernmental Support. DoD activities may enter into support agreements with non-DoD federal activities when the head of the major organizational unit ordering the support determines that funding is available to pay for the support, it is in the best interests of the United States Government, the supplying activity is able to provide the support, the support cannot be provided as conveniently or economically by a commercial enterprise, and it does not conflict with any other agency's authority. This authority may be delegated, although designees may not be lower than Senior Executive Service, Flag, or General Officer levels.

★0303 USES OF ECONOMY ACT ORDERS

Subject to the provisions of Sections 0301 and 0302, above, and 0304, below, Economy Act orders may be used for any required goods, supplies or services that are appropriate and legal. Typical uses include, but are not limited to:

A. Interservice Support Agreements. This type of agreement typically is used for, but not limited to, base support (host-tenant) services such as: administrative services, civilian personnel services, community services, environmental compliance, fire protection, food service, health service, mail service, police service, security/guard services, warehousing, etc. Services such as testing and evaluation, and level of effort workyears may be covered by Economy Act orders.

B. Interagency Agreements. This includes support provided to non-DoD federal agencies that is not provided pursuant to other statutory authority.

★0304 POLICY

★ 030401. Specific, Definite and Certain. Economy Act orders (interservice and intragovernmental support agreements) shall be specific, definite and certain both as to the work encompassed by the order and the terms of the order itself.

★ 030402. Certification of Availability for Purpose. Economy Act orders are subject to the same fiscal limitations that are contained within the appropriation from which they are funded. However, the performing entity may not be aware of all such appropriation limitations. Therefore, the requesting official should provide a certification, on or attached to the Economy Act order, that the funds cited on the Economy Act order are properly chargeable for the purposes cited in the order.

★ 030403. Bona Fide Need. Economy Act orders citing an annual or multiyear appropriation must serve a bona fide need arising, or existing, in the fiscal year (or years) for which the appropriation is available for obligation. Otherwise, a valid obligation is not accomplished. Bona fide need generally is a determination of the requesting activity and not that of the servicing activity. A servicing activity should, however, refuse to accept an Economy Act order if it is obvious that the order does not serve a need existing in the fiscal year for which the appropriation is available.

★ 030404. Appropriation Policy

A. Obligation. An Economy Act order obligates the applicable appropriation of the requesting agency or unit upon acceptance of the order by the servicing agency. The entire amount of a reimbursable order should be obligated by the requesting agency when the order is accepted.

B. Deobligation. It is critical that activities reconcile the obligation status of Economy Act orders and deobligate unused funds, as needed, before the end of the funds availability. Funds must be deobligated by both the requesting and servicing agency to the extent that the servicing agency or unit filling the order has not, before the end of the period of availability of the appropriation of the requesting or ordering agency, (1) provided the goods or services, or (2) entered into an authorized contract with another entity to provide the requested goods or services.

★ 030405. Commencement of Work. The work to be performed under Economy Act orders shall be expected to begin within a reasonable time after its acceptance by the servicing DoD Component or organizational unit.

★ 030406. Contingent Event Prohibition. Economy Act orders shall not be issued if commencement of work is contingent upon the occurrence of a future event or authorizing action by the requesting DoD Component.

★ 030407. Prohibitions. Economy Act orders may not be used to contravene provisions of the law or to accomplish what regulations do not permit under commercial contracts. Economy Act orders may not be issued to extend the availability of appropriations.

★0305 ORDERING AND PAYMENT PROCEDURES

★ 030501. Ordering Procedures. An Economy Act order may be placed on any form that is acceptable to both the requesting and servicing agencies involved based upon the documentation standards in Chapter 1, paragraph 010204, of this Volume. Typically, between DoD Components, a DD Form 448, MIPR is used to place the order. A DD Form 448-1, "Acceptance of MIPR," is used to show acceptance. Economy Act orders may be placed on a reimbursable or direct fund citation basis. Whether the order is on a reimbursable or direct cite basis generally is negotiated between the two parties. An Economy Act order should include:

- A. A description of the supplies or services ordered;
- B. Delivery requirements;
- C. A funds citation (either direct or reimbursable);
- D. A payment provision which may include the citation of the account number associated with a DoD purchase card (acquired under the General Services Administration Smart Pay Program) or the United States of America Card (acquired from the Treasury Department); and
- E. Acquisition authority as may be appropriate.

★ 030502. Payment Procedures. Payment shall be made promptly upon the written request (or billing) of the agency or unit filling the order. Payment may be made in advance or upon delivery of the goods or services ordered and shall be for any part of the estimated or actual cost as determined by the agency or unit filling the order. A bill submitted or a request for payment is not subject to audit or certification in advance of payment. Proper adjustment of amounts paid in advance shall be made as agreed to by the heads of the agencies or units on the basis of the actual cost of goods or services provided.

★ 030503. Small Amounts

★ A. Working capital funds, the Corps of Engineers Civil Works Revolving Fund, and other DoD revolving funds may not waive reimbursement of any amount. This does not preclude identification of a central payment office by a DoD Component to pay small bills.

★ B. When an appropriated fund activity is the performer and the amount to be billed within the same DoD Component or to another DoD Component is less than \$1,000, the billing may be suspended by the billing organization until the end of the fiscal year, or until the total billed exceeds \$1,000. However, no later than the end of the fiscal year, all suspended amounts must be billed even though the amount to be billed is less than \$1,000.

★ C. When the amount to be billed to a non-DoD U.S. Government activity is less than \$1,000, the billing may be suspended by the billing organization until the end of the fiscal year, or until the total billed exceeds \$1,000. However, no later than the end of the fiscal

year, all suspended amounts must be billed to non-DoD U.S. Government activities even though the amount to be billed is less than \$1,000.

★0306 REIMBURSEMENTS

★ 030601. Appropriated Funds. The requesting agency must pay the servicing agency the actual costs of the goods or services provided. Actual costs include all direct costs attributable to providing the goods or services, regardless of whether the servicing agency's expenditures are increased. Actual costs also include indirect costs (overhead) to the extent they have a significant relationship to providing the goods or services and benefit the requesting agency. DoD activities not funded by working capital funds normally do not charge indirect costs to other DoD activities. When contracting out for goods or services, the servicing agency may not require payment of a fee or charge which exceeds the actual cost of entering into and administering the contract (reference FAR 17.505). Chapter 1, paragraph 010203, "General Rules for Determining Amounts to be Reimbursed," of this volume, specifies billing policies and procedures for Economy Act orders. Payment shall be made in accordance with paragraph 030502, above.

★ 030602. Working Capital Fund Activities. Reimbursable costs in the case of servicing DoD activities operating under a working capital fund shall be determined in accordance with Volume 11B of this Regulation.

★0307 ACCOUNTING

★ 030701. Economy Act orders may be issued as direct fund cite orders where the requesting unit identifies the appropriate fund citation for the servicing unit to place on the requested contract or reimbursable orders. Economy Act orders shall neither be administered nor accounted for by servicing DoD activities as separate subdivisions of appropriations or funds similar to an allotment. Appropriation-type accounting for Economy Act orders shall be performed by the requesting DoD Component in accordance with Volume 3, Chapter 15, "Receipt and Use of Budget Resources – Execution Level" of this Regulation.

★ 030702. The operations of servicing DoD activities financed under a working capital fund shall be accounted for in accordance with Volume 11B of this Regulation.

★ 030703. Economy Act orders received and accepted are the source of obligational authority in the amount of the order for the performance of the work requested.

★ 030704. A cost account, or other device, shall be used to accumulate the costs of performance for all Economy Act orders. Those cost accounts shall serve as a historical basis for determining the amount reimbursable for cost-reimbursement Economy Act orders and as a basis of determining a fixed price for similar future fixed-price Economy Act orders.

★ 030705. Billings covering reimbursements shall identify costs by each item listed in the Economy Act order. Such billings shall accommodate the use of a DoD (SmartPay) purchase card or the Treasury Department USA Card.