

JOHN H. hr

PKP/KA BZB



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS AIR FORCE MATERIEL COMMAND  
WRIGHT-PATTERSON AIR FORCE BASE, OHIO

B639.96

01 AUG 1996

MEMORANDUM FOR SEE DISTRIBUTION

FROM: HQ AFMC/PK  
4375 Chidlaw Road, Suite 6  
Wright-Patterson AFB OH 45433-5006

SUBJECT: Project Order Statute

1. The attached HQ AFMC/JAQ letter addresses the application of the Economy Act versus the Project Order Statute, citing the GAO decision (B-246773, 5 May 93) that found it is inappropriate for agencies to cite the Project Order Statute as the authority for the transfer of funds outside of the DoD. In situations where funds must be transferred outside of the DoD, the proper authority to cite is the Economy Act. The next revision to DoDI 7000.14-R, "Financial Management Regulation," Volume 11a, Chapter 2, to be issued in approximately six months, will incorporate changes to reflect the GAO decision. DoDI 7220.1, "Regulations Governing the Use of Project Orders," will be canceled when the revision is issued.
2. Please provide this information to contracting, financial, and program personnel of your facility. This memorandum has been coordinated with HQ AFMC/FM/JA. If there are any questions, the point of contact is S. Wiginton, DSN 787-6055.

*Linda G. Williams*  
LINDA G. WILLIAMS, SES  
Deputy Director of Contracting

Attachments:

1. HQ AFMC/JAQ Memo, 13 May 96
2. 377 ABW/JAN Memo, 15 Apr 96

cc: SAF/AQCO  
SAF/FMBMD  
HQ AFMC/FMB  
HQ AFMC/JAQ

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DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS AIR FORCE MATERIEL COMMAND  
WRIGHT-PATTERSON AIR FORCE BASE, OHIO

13 May 96

MEMORANDUM FOR HQ AFMC/PKP

FROM: HQ AFMC/JAQ

SUBJECT: Restrictions on Use of the Project Order Statute for Fund Transfers  
(Your Ltr 6 May 96)

1. You asked us to review and comment on 377 ABW/JAN's analysis of GAO Decision B-246773, May 5, 1993, which interprets the Project Order statute (41 U.S.C., Sec. 23) as authorizing use of such orders for transactions between military departments and DoD Government-owned establishments for work related military projects. We concur completely with the guidance in 377 ABW/JAN's memo of 15 Apr 96. To the extent that DoDI 7220.1, dated 5 Apr 71 (which implements the Project Order statute) can be read to authorize the DoD to execute Project Orders outside of DoD, it is incorrect.
2. We note that this current GAO decision invalidates GAO's coverage on Project Orders appearing in Vol. II of GAO's Principles of Federal Appropriation Law. That coverage states on page 7-27:
 

" This [Project Order] statute, derived from earlier appropriation act provisions appearing shortly after World War I, applies only to the military departments, although the orders may be place with any 'Government-owned establishment.'"
3. This GAO guidance was published in December 1992; thus the 1993 GAO decision (referred to above) now controls.
4. We suggest that you notify SAF/AQC that DoDI 7220.1 must be revised to conform with GAO's decision on the use of Project Orders and that, in the interim, you notify all the Centers that they must not cite the Project Order Statute for funds transfer outside the DoD. The authority of the Economy Act may be appropriate subject to all terms and conditions in implementing FAR regulations.
5. If you have any questions, you may reach me at 75727.

Atch 96-13F (FAR 17) Post to AFFARS 5317.5 and 5317.502-90(f)(3) by circling the references and noting in the margins: "70-41, atch 96-13F." Then file this atch behind the sups to FAR 17.

*Marilyn Corbin*  
MARILYN CORBIN  
Attorney-Advisor  
Acquisition Law Directorate  
Office of the Staff Judge Advocate

**DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS 377TH AIR BASE WING (AFMC)**

15 Apr 96

MEMORANDUM FOR PL/PKM

FROM: 377 ABW/JAN

SUBJECT: Use of Project Order Statute

1. The Project Orders Statute applies to transactions between military departments and DOD government-owned establishments for work related to military projects, while the Economy Act applies to transactions between and within federal agencies. The GAO has issued an opinion (B-246773) that the Economy Act, not the Project Order Statute, governs DOD transactions with other government agencies and their divisions.
2. Transactions between DOD and other government agencies are governed by the Economy Act. An agency may place an order for goods or services under authority of the Economy Act (31 U.S.C. 1535) with another agency or with a major organizational unit within the same agency if certain requirements are met as laid out in the statute.
3. The Project Order Statute addresses transactions between DOD and those establishments which are owned and operated by or on behalf of the military departments. Activities may issue project orders only to government-owned and operated (GOGO) facilities and only for certain types of goods and services as outlined by statute and regulation (41 U.S.C. 23; DODI 7220.1; AFI 65-601). GAO decisions interpreting the Project Orders Statute have found arsenals, factories, and shipyards owned by the military to be GOGOs.
4. DODI 7220.1 prescribes regulations governing the use of project orders and states that a GOGO is any shipyard, arsenal, ordinance plant, or other manufacturing or processing plant or shop, equipment overhaul or maintenance shop, research-and-development laboratory or testing facility or proving ground which is owned and operated by the government, without respect to the manner in which the establishment is financed. The GAO disagrees with any reading of DODI 7220.1 interpreting the Project Orders Statute to authorize the treatment of establishments outside of DOD as GOGOs. The GAO has stated that such an interpretation would fail to give adequate meaning and effect to the fact that Congress has consistently maintained the Economy Act as a separate and distinct source of statutory authority and limitations. It would also be inconsistent with the purposes which the Project Orders Statute was intended to serve.

5. Where PL practice conflicts with the above, you are correct in determining the need for a change to PL practices. If you have questions on this matter, please contact me at 6-1542.

  
JERRI G. BREWER, Capt, USAF  
Assistant Staff Judge Advocate

5317.502.90

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