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DEPARTMENT OF THE AIR FORCE
WASHINGTON DC

Office of the Assistant Secretary

16 JUN 1998

CONTRACTING POLICY MEMO 98-C-09
AFFARS Case 97-03

MEMORANDUM FOR ALMAJCOM-FOA-DRU (CONTRACTING)

FROM: SAF/AQC
1060 Air Force Pentagon
Washington, DC 20330-1060

SUBJECT: Interim Revision of Air Force Federal Acquisition Regulation Supplement (AFFARS) Relating to Acquisitions Under the Economy Act

This Contracting Policy Memo (CPM) supersedes CPM 96-C-10, "Use of GSA Non-mandatory Schedules for Federal Information Processing (FIP) and FEDSIM Program," dated 2 Oct 96. Part of the guidance in that memo, plus additional guidance related to applicability of the Economy Act, are incorporated in AFFARS 5317.502-90(f), which lists exceptions to the requirements of the Act.

Several questions have arisen about the Economy Act D&F required by FAR 17.503 and described in AFFARS 5317.503-90, and whether the D&F is required before issuing an order against the multi-agency contracts for FIP that were awarded prior to repeal of the Brooks Act. We have obtained guidance from General Counsel that an Economy Act D&F is not required because Section 5702 of the Clinger-Cohen Act provides separate legal authority to issue orders against the old multi-agency contracts.

Economy Act requirements of FAR 17.5 are not applicable for:

a. acquisitions through GSA's Federal Systems Integration and Management Center (FEDSIM) and Federal Computer Acquisition Center (FEDCAC) and similar programs that are funded on a reimbursement basis through the Information Technology (IT) Fund and approved by OMB as part of the annual costs and capital plan for the IT Fund;

b. all items purchased under Federal Supply Schedules; and

c. Pre-Clinger-Cohen Act multi-agency contracts such as Desktop V, Ulana II, and ITOP that were awarded pursuant to a DPA from GSA under the Brooks Act. Note that Post-Clinger-Cohen Act multi-agency acquisitions of information technology are subject to Economy Act requirements.

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The attached interim AFFARS revision was posted on the Internet on the Air Force Contracting Home Page with field comments due by 26 June 1998. This AFFARS revision is effective immediately and will be included in the next Air Force Acquisition Circular along with any revisions from field comments.

If you have any questions or need additional information, contact Lt Col McNally, SAF/AQCP, DSN 425-7061, E-mail mcnallyw@af.pentagon.mil

TERRY L. RANEY, Colonel, USAF
Acting Associate Deputy Assistant
Secretary (Contracting)
Assistant Secretary (Acquisition)

Attachment:
Interim AFFARS Revision

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SUBPART 5317.5—INTERAGENCY ACQUISITIONS UNDER THE ECONOMY ACT

5317.502-90 Air Force requirements for placing orders.

(a) The Economy Act permits a Federal Agency to order supplies and services from another Federal Agency under certain conditions. The Act was designed to promote economy in Government operations by permitting efficient use of Government resources, even though they may be in another agency. This eliminates duplication of effort to build expertise in several agencies and allows a Federal Agency to take advantage of another Federal Agency's substantial experience in a specific area. The Economy Act also promotes the economy that results from consolidating requirements (i.e., quantity discounts and other tangible or intangible benefits).

(b) Orders to purchase supplies or services under contracts entered into or administered by another agency (or for supplies/services produced in-house by the servicing agency), may be placed with other agencies under the Economy Act only if:

(1) The purchase is appropriately made under an existing contract that the servicing agency entered into, before the requesting agency's order was placed, in order to meet the requirements of the servicing agency for the same or similar goods or services;

(2) The servicing agency is better qualified to enter into or administer the contract for such goods or services (or is producing the good or service in-house) because they possess capabilities or expertise not available within the Air Force;

(3) The servicing agency is specifically authorized by law or regulation to purchase the goods and services on behalf of other agencies; or,

(4) The purchase is authorized by an executive order or specifically allowed elsewhere in the FAR.

(c) The Air Force shall not place an order with another agency unless adequate supporting documentation, including a Determination and Findings (D&F), is prepared. This supporting documentation shall be prepared and developed by the requiring activity. Supporting documentation and general information about the servicing agency's contract will be used in the preparation of the Determination and Findings described in 5317.503-90.

(d) Interagency acquisitions are entered into by mutual agreement between the requesting agency and the servicing agency. If a requesting agency's order will interfere with the servicing agency's ability to meet its mission, the servicing agency may reject the order. The servicing agency can also reject the order if the requested supply or service is not within the scope of activities normally performed by the agency, within the scope of work of a particular contract, or if the order lacks adequate funding or required supporting data.

(e) The Economy Act may not be used to circumvent the conditions and limitations imposed on the use of Government funds appropriated for the procurement (i.e., expiration of funds at the end of a fiscal year). This applies to conditions and limitations affecting either the requesting or the servicing agency.

(f) Orders for supplies or services may also be placed with other agencies under authorities other than the Economy Act. Orders placed under these authorities are not subject to the requirements of the Economy Act. These additional authorities include:

(1) Acquisitions from required sources as described in FAR Part 8;

[(2) Acquisitions from Federal Supply Schedules pursuant to FAR 8.4;]

([3]) Coordinated acquisitions prescribed in DFARS Part 208;

[(4) Acquisitions of Information Technology through GSA's Federal Systems Integration and Management Center (FEDSIM) and Federal Computer Acquisition Center (FEDCAC), and

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similar programs funded on a reimbursable basis through the Information Technology Fund, and approved by Office of Management and Budget as part of the annual costs and capital plan for the Information Technology Fund.]

[(5) Acquisitions of Information Technology through a multiagency contract (often called GWACS) if the basic contract was awarded pursuant to Delegation of Procurement Authority from GSA, and the contract specifically allowed multiagency ordering;]

([(6]) Project Orders (41 U.S.C. 23). Project orders are authorized for use when one Government agency wishes to procure a supply or service from another Government agency. DOD Instruction 7220.1 governs the use of project orders within the DOD. There are several conditions for use of the project order including the requirements that the servicing agency must be capable, be authorized, and produce the item or perform the service in-house. Only an incidental portion of a project order may be contracted-out by the servicing agency; and

([7]) Other specific statutory authorities may be used to acquire supplies and services from another agency.

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