

ECONOMY ACT

STATUTORY AUTHORITY:

Title 31, USC 1535, the “Economy Act,” permits one agency (requiring agency) to use its appropriations to fund another agency (servicing agency) to supply, render or obtain by contract supplies or services for the requiring agency. The Federal Acquisition regulations, Federal Acquisition Regulations (FAR) Part 17, mandate that a written “Determination and Findings” (D&F) be prepared.

WHAT SHOULD GO INTO THE D&F

FAR 17.5 requires a finding that the issuance of an economy-act order is in the requiring agency’s best interest. FAR 17.5(a) states that the requiring agency must document the fact that the requiring agency cannot obtain the goods or services as “conveniently or economically by contracting with a private source.” FAR 17.5(b) adds an additional requirements if the servicing agency will in turn contract for the supplies or services. These requirements are listed in FAR 17.5(b) (1)-(3); FAR only requires that one of the three criteria be met.

The standard set forth in FAR has been superceded by the Secretary of Defense (SECDEF). In a memorandum issued on 8 February 1994, SECDEF limited the ability to transfer Department of Defense (DoD) appropriations via the Economy Act. The SECDEF stated that the requesting agency cannot transfer DoD appropriations to a servicing agency when that servicing agency intends to contract for the services or supplies unless and until all three of the following elements are met:

- (1) the ordered supplies or services cannot be provided as conveniently and cheaply;
- (2) the servicing agency has unique expertise or ability not available within DoD; and
- (3) the supplies or services clearly are within the scope of activities of the servicing agency and that agency normally contracts for those supplies or services for itself.

Both the FAR, FAR 17.505(d) and the SECDEF require an additional finding that the fees or charges assessed the requiring activity reflect the actual or estimated costs of contracting.

APPROVAL LEVELS

The Deputy for Acquisition and Business Management (OASN(RD&A)) has delegated to Commander, Space and Naval Warfare Systems Command (COMSPAWAR) authority to approve D&F’s subject to the following conditions:

- (1) Approval authority for orders placed by Special Access Programs, or for orders placed with the Department of Transportation's Volpe Laboratories, is not delegated and remains with ASN (RD&A);
- (2) Approval authority for orders to agencies not subject to the FAR, like the Central Intelligence Agency, Tennessee Valley Authority, Library of Congress, Federal Aviation Agency (FAA), remains with ASN(RD&A);
- (3) Copies of all orders with the Department of Energy and Federally Funded Research and Development Centers (FFRDC) must be provided to ASN(RD&A) ABM for consolidation and reporting to ASN(RD&A).

PROCEDURES

The process begins with the requiring office (e.g., within headquarters: Program Directors and Directorate Heads). The D&F is prepared and signed by the Program Director. It is hand-carried to 0-2 Policy, where it receives a number. At that juncture, it should be reviewed and forwarded to the program legal advisor. The servicing counsel (within the Office of Systems Acquisition, Code 00C-1) will sign the D&F as legal reviewer. It will then be logged in as an official 00C document, to be reviewed by the Command Counsel, 00C. Following his review and comment, the D&F with an 00C-signed cover sheet will be forwarded to COMSPAWAR for action, as appropriate. See SPAWAR INST. 4200.26A.

The procedures are outlined in SPAWAR Instruction 4200.26A.Ch 3. The sample D&F Form is likewise found in 4200.26A. Ch. 3.