



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY MEDICAL COMMAND
HEALTH CARE ACQUISITION ACTIVITY
2050 WORTH ROAD, SUITE 37
FORT SAM HOUSTON, TEXAS 78234-6037

MCAA (1e)

18 January 2001

MEMORANDUM FOR CHIEFS, MEDCOM HCAA CONTRACTING CENTERS/OFFICES

SUBJECT: Guidance for the Processing of Intragovernmental and Interagency Orders, Office Instruction 01-02

1. Purpose. To provide guidance regarding the offloading of Army MEDCOM requirements to other governmental agencies and acceptance of other agencies' requirements by Army MEDCOM.
2. References.
 - a. Information Technology Management Reform Act of 1998 (Clinger-Cohen), Division E of Public Law 104-106, 110 Stat. 679.
 - b. Economy Act, 31 USC 1535.
 - c. DODI 400.19, Interservice and Intragovernmental Support.
 - d. FAR Subpart 17.5, DFARS Subpart 217.7 and AFARS Subpart 17.5, Interagency Acquisitions Under the Economy Act.
 - e. AFARS 53.9008, Format for an Economy Act Determination and Finding.
 - f. Memorandum, SARDA, SARD-PP, 18 March 1996, subject: Contract Offloading Clarification.
 - g. Memorandum, OMB, 12 September 1997, subject: Multiagency/GWAC Program Manager's Compact.
 - h. Memorandum, OMB, 26 February 1997, subject: Multiagency Contracts Under the Information Technology Management Reform Act of 1996.
 - i. MEDCOM Regulation 715-3, 14 June 1999, Contractor/ Contractor Employees and MEDCOM Personnel Relationships.

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3. Definitions.

a. INTERAGENCY ACQUISITION - The procedure by which an agency needing supplies or services obtains them from another agency.

b. REQUESTING AGENCY - The agency (also referred to as organization or activity) needing supplies or services.

c. SERVICING AGENCY - The agency (also referred to as organization or activity) providing, or potentially providing, supplies or services.

4. Offloading Considerations.

a. The decision to offload Army MEDCOM requirements to another agency, or to accept another agency's requirements, must never be made in isolation. A number of factors must be considered, which include, but are not limited to:

(1) The specific nature of the item or service. Do not accomplish blanket D&Fs to encompass a family of items for command-wide use. This kind of D&F is only appropriate when OTSG/MEDCOM leadership has signed partnership agreements with other agency heads. If your customer contemplates a blanket D&F, he/she should seek approval through his/her HQ MEDCOM counterpart and the D&F will be signed by the PARC and the HCA.

(2) The servicing organization's past experience and expertise in procuring the item(s).

(3) Any statutory and/or regulatory constraints associated with procurement of the item.

(4) Any funding constraint or limitation, particularly those involving appropriation of funds and term of obligation.

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(5) Overall and instant capability of the servicing organization to include status of other workload requirements currently in-house. If MEDCOM HCAA is the servicing agency, the contracting office chief must ensure the capacity is in place to effectively and efficiently procure all organic workload requirements in advance of consideration of any requesting agency requirements.

(6) A technical representative of the requesting activity (preferably the ultimate decision-maker regarding the offloading of the items/service) shall consult with the cognizant MEDCOM HCAA contracting office prior to any decision to offload in cases where the requesting agency is supported by a MEDCOM HCAA contracting office (re: MEDCOM Reg. 715-3).

b. Unless more specific statutory authority exists, the Economy Act applies to all governmental interagency purchases, including task or delivery orders placed against appropriate contracts, in excess of the micropurchase threshold.

c. For the purposes of Economy Act applicability, the DOD and all of its components are considered part of a single agency. (Although the Economy Act also provides authority for placement of orders between organizations within the same agency, those transactions are addressed in agency regulation. Economy Act procedures as such are therefore not required for intra-DOD transfers.) Economy Act procedures are detailed in FAR 17.5, DFARS 217.5 and AFARS 17.5 and include an Economy Act D&F at AFARS 53.9008 that must be signed/approved no lower than a senior executive service (SES), flag or general officer in the requesting agency's chain of command. When the servicing agency is not covered by the Federal Acquisition Regulation, the D&F must be jointly approved by the Army's Senior Procurement Executive.

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5. D&F Preparation and Processing.

a. In those instances where the requesting activity is supported by an Army MEDCOM HCAA contracting office, offices should utilize HQ MEDCOM Form 540-R or Regional Command equivalent as a transmittal. In addition to the aforementioned approval(s), the D&F shall be prepared by the contracting officer who would have otherwise procured the item in conjunction with a technical representative of the requesting activity (customer) whose organization generated the requirement for the item or service. D&F coordination will include the following endorsements from:

(1) The chief of the MEDCOM requesting activity (customer) whose organization generated the requirement for the item or service.

(2) The legal counsel who normally provides support to the authoring contracting officer.

(3) The chief of the contracting center, or regional contracting office in the contracting officer's chain of command.

(4) The Principal Assistant Responsible for Contracting when the anticipated value of the action exceeds \$500,000.

(5) The Head of the Contracting Activity, through the PARC, when the servicing agency is not governed by the Federal Acquisition Regulation.

b. Block 5 of Form 540-R should clearly state all pertinent background information and rationale required to substantiate each finding contained in the D&F itself, which should be included as TAB A, or similarly attached. The D&F (or Block 5) should also contain:

(1) The amount to be paid to the servicing contracting office in surcharges.

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(2) A comparison of the price of the item or service charged by the servicing agency versus the estimated or actual price that would have been paid if the requirement had gone to the MEDCOM contracting office.

(3) Specific and tangible anticipated benefits of utilizing the servicing agency in lieu of the dedicated MEDCOM contracting office (i.e., time, technical, price).

(4) The duration of the intended offload, and whether the offloading of the item is anticipated to be recurring.

(5) If applicable, steps that will be taken to reduce or alleviate the need for offloading of the requirement in future acquisitions.

c. The D&F, found at AFARS 53.9008, can be appended or supplemented as required to clarify or substantiate the action. However, except as required to specify the particular agencies involved, none of the findings listed in 1a through 1f of AFARS 53.9008 shall be omitted, or modified to a degree that changes the essence or essential meaning of the finding. A template HQ MEDCOM Form 540-R and D&F are enclosed. (**Bold text** indicate areas where fill-in information is required.)

d. If the requesting activity is supported by an Army MEDCOM HCAA contracting office, the HCAA contracting office will provide a copy of the fully-executed D&F to the servicing agency as part of the procurement package. The Army MEDCOM HCAA contracting office must also provide an electronic copy to the HCAA Business Operation Branch Webmaster so the D&F can be posted to the HCAA Homepage.

e. If an Army MEDCOM HCAA contracting office is the servicing agency, a copy of the fully-executed D&F, preferably in electronic format, must be obtained from the requesting agency in advance of the processing of any orders on behalf of the servicing agency. Once the MEDCOM contracting office is in

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receipt of the D&F, it must provide a copy to the HCAA Business Operation Branch Webmaster.

6. Economy Act Applicability.

a. This Operating Instruction does not encapsulate, nor summarize, all considerations and procedures necessary to comply with the Economy Act. Considerations such as procurement package content, as well as ordering and payment procedures, are integral aspects of the processing of any Economy Act order. Once a determination is made by the contracting officer that the Economy Act applies, regulatory guidance referenced in paragraphs 2d and e herein must be reviewed carefully by the contracting officer in order to ensure complete compliance.

b. As previously stated, the Economy Act requirements and limitations apply to interagency acquisitions, except in those instances where **more specific statutory authority** exists. Being granted authority and subsequently placing orders against another agency's contracts does not, in and of itself, grant the ordering agency Economy Act exemption. This Operating Instruction will highlight some of the most pertinent instances in which more specific authority exists and establish a construct in which the KO may more readily determine the existence of such authority.

c. Examples of interagency acquisitions to which the Economy Act does not apply include acquisitions from required sources of supply prescribed in FAR Part 8 and related FAR supplements.

d. The Clinger-Cohen Act provides statutory authority for the acquisition of information technology (IT) resources such as computers, computer software, programming and analyst services etc. from the General Services Administration's (GSA) IT Programs. GSA's governmentwide IT programs include, but are not limited to, the Federal Systems Integration and Management

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Center (FEDSIM), the Federal Computer Acquisition Center (FEDCAC), the Federal Information Systems Support Program (FISSP) and the Multiple Award Schedule (MAS) Program.

(1) Under this authority, the money is obligated to the IT fund once the order is issued. For example, if the MEDCOM Contracting Center chooses to acquire computers through GSA's Federal Computer Acquisition Center, the funds would be obligated upon entering into a binding agreement with FEDCAC. The IT fund is a revolving fund established pursuant to 40 USC 757. As a cautionary note, the funds must be expended only for the item or service identified at the time of funds transfer. The requesting agency must have a bona fide need for the specific items or services so identified in the fiscal year in which funds transfer takes place. Also, there is no authority to return any excess funds to the requesting agency once the year(s) for which the funds were originally appropriated has passed.

(2) The GSA programs noted above are part of a larger body of, chiefly but not exclusively, IT contracts known collectively as governmentwide agency contracts (GWAC). The Clinger-Cohen Act, (USC 1412(e)) pursuant to section 5112(e), provides authority to the Office of Management and Budget for the Director of that organization to designate executive agency for GWACs. GWACs are therefore **not** subject to the requirements and limitations of the Economy Act.

(3) Executive agent designation can be broad or limited, and with or without restrictions or contingencies, at the discretion of the Director of OMB. Executive agent designations can be indefinite (i.e., upon notice of revocation), but are typically for a specified period of time and therefore must be renewed as stipulated in the executive agent designation memorandum (EADM) or equivalent. By way of another example, the Department of Transportation currently holds an executive agent appointment for its Information

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Technology Omnibus Procurement Program, second iteration, or ITOP II.

(4) Due to the varied and dynamic nature of these executive agent designations, the contracting officer shall review for applicability a copy of the servicing agency's EADM **in advance** of a determination regarding the applicability of the Economy Act to the instant requirement. Also note that the executive agent designation **is not** necessarily applicable to all programs and/or contracts under the servicing agency's purview, but only those programs/contracts stipulated in the EADM.

e. In contrast, multiagency contracts are described in OMB Memorandum M-97-07, 26 February 1997, and are in accordance with section 5124(a)(2) of the Clinger-Cohen Act. Multiagency contracts are multiple award task order contracts that provide a mechanism whereby the requesting agency can obtain services from a servicing agency that also has a need for the services and has awarded, or will award, the necessary contract to meet that need. Multiagency contracts **are** subject to the requirements and limitations of the Economy Act.

f. All GWACs entered into prior to 7 August 1996 are in accordance with a delegation of procurement authority issued to GSA under authority granted to it by the Brooks Act (40 USC 759). All GWACs issued since that time are under the authority of Clinger-Cohen, Section 5112(e) and must have an applicable EADM to avert the requirements and limitations of the Economy Act.

g. The contracting officer should consult the local contracts legal staff or the HCAA point of contact when questions of Economy Act applicability arise.

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7. Our point of contact is Mr. Albert Jacob, DSN 471-3342 or Commercial (210) 221-3342.

Encl

LINDA H. SMITH
Chief of Staff

CF:
MEDCOM HCA
Mr. Orlando Flores, DCAA
HCAA/BOB-CAT Webmaster

ACTION SUMMARY SHEET

For use of this form, see MEDCOM Correspondence Guide and OTSG Reg 21-51

1. STAFF ACTION FOR:

OTSG

MEDCOM

2. SUBJECT

Economy Act Determination and Finding (D&F) - < Insert Organizational Name of HCAA Customer >

3. SUSPENSE DATE

4. DATE

5. SUMMARY OF ACTION (Briefly describe purpose, discussion/background, and recommendation for the action.)

5a. Purpose. To obtain review and approval of D&F at TAB A.

5b. Discussion. Regarding interagency acquisitions DFARS 217.5(b) clearly states that in the absence of "more specific statutory authority" the provisions of FAR and AFARS 17.5 Interagency Acquisitions Under the Economy Act, apply. Since no specific statutory authority exists pertaining to the purchase of the required items/services, the attached D&F is an integral aspect of compliance with that regulation. Pursuant to this regulation, authority to approve the D&F has been delegated no lower than an SES or General Officer who has command and control of the requesting activity; in this instance < Insert Organizational Name of HCAA Customer > .

5c. The D&F must be reviewed and approved in advance of any transfer of funds or commencement of ordering procedures. Although specific findings are documented herein the D&F states, in effect, that the interagency transaction is a sound business decision and is otherwise in accordance with the provisions of the Economy Act codified as 31 U.S.C. 1535.

5d. The signature of < Insert Name > as technical coordinator signifies the bona fide need of the items/services in the fiscal year that will be specified on each order in addition to the technical appropriateness of the listed items/services to satisfy mission requirements.

5e. The coordination of < insert name of Chief of appropriate MEDCOM Contracting Office > is required by AFARS 17.503 as the director of the Army's contracting office that would have otherwise procured the listed items/services.

5f. < Duration of the offload, and whether or not it will be recurring. Also if applicable, steps that will be taken to reduce or alleviate offloading of future requirements.>

5g. Recommendation. Signature of < appropriate SES, Flag or General Officer > denoting approval at TAB A.

5h. Please call < POC Name, Phone # > for pickup.

6. COORDINATIONS

OFFICE SYMBOL	GRADE & LAST NAME	INI	DATE	OFFICE SYMBOL	GRADE & LAST NAME	INI	DATE
	Technical						
	Legal						
	Chief, Contracting						
	PARC (if required)						
	HCA (if required)						

7. MEDCOM REVIEWS / APPROVALS

8. OTSG REVIEWS / APPROVALS

	GRADE & LAST NAME	INI	DATE		GRADE & LAST NAME	INI	DATE
BR CH				BR CH			
DIV CH				DIV CH			
DIR/OFC CH				DIR/OFC CH			
SGS				ASST EXEC			
XO				EXEC			
CofS				ASG, Ops			
DCHCO				ASG, Per			
DCG				DSG			
CG				TSG			
SGS				SACO			
CSM							
				DISPATCHED			

9. NAME, GRADE, OFFICE SYMBOL, & PHONE NUMBER OF ACTION OFFICER

10. SIGNATURE

Economy Act Determination and Findings

1. I have reviewed the requirement for the following items and services:

<NAME, DESCRIPTION, QUANTITY/DURATION OF ITEM OR SERVICE TO BE PROVIDED>

that the **<INCLUDE ORGANIZATIONAL NAME OF MEDCOM AGENCY REQUIRING THE SERVICE>** proposed to place with the **<INCLUDE NAME OF PROCURING ORGANIZATION>** (also referred to herein as the servicing agency) as an interagency order under the Economy Act. My review resulted in the following findings:

- a. The proposed acquisition is authorized under the authority of the Economy Act.
- b. The Army is legally authorized to acquire the supplies or services.
- c. Adequate funds are available and the adequacy and availability of funds will be reassessed prior to the placement of each order.
- d. The action does not conflict with any other agency's authority or responsibility. Specifically, a review of Part 8 of the FAR, Part 208 of the DFARS, or other part as applicable, reveals that the responsibility for acquiring this supply or service has not been assigned to an agency other than the one proposed.
- e. The supplies or services cannot be provided at the time required and more economically by contractors under an Army contract.
- f. The servicing agency has unique expertise or ability not available within the DOD. **<Include anticipated benefits of utilizing the servicing agency in lieu of the dedicated MEDCOM contracting office.>**

g. The servicing agency regularly performs the type of work required, and will accept the order, and can satisfy the requirement.

h. The supplies or services are clearly within the scope of activities of the **<NAME OF SERVICING AGENCY>** and that agency normally contracts for those supplies or services for itself. The cost to the Army for the requirement, including the administrative fees charged by the servicing agency **<INCLUDE SURCHARGE AMOUNT>**, appears to be reasonable. The fees proposed to be paid to the servicing agency do not exceed the servicing agency's actual (or estimated costs if actual costs are unknown) of entering into and administering the contract or other agreement under which the order is filled. **<Include comparison of the price of the item or service charged by the servicing agency versus the estimated or actual price that would have been paid if the requirement had gone to the MEDCOM contracting office. If an estimate is used, that estimate should be based on a verifiable and accepted pricing technique such as escalation of previous price or parametric based on comparison to a similar item.>**

i. The contract administration procedures related to servicing agency's contract are adequate for Army requirements (or the order contains additional contract administration requirements for contract administration procedures that comply with Army and DOD regulations and policies).

j. All approvals and authorizations required by Army and/or DOD regulations and policies for acquiring the supplies or services have been obtained (e.g., FIRMR, AR 5-14, and ARs in the 25 series).

2. The requirement is a bona fide need of the Army.

3. Given the above findings, I hereby determine that it is in the best interest of the government to place orders for the items stated herein with the Department of Transportation under the authority of the Economy Act.

**<SIGNATURE NO LOWER THAN O-7
OR SES IN THE REQUESTING
ACTIVITY'S (CUSTOMER'S) CHAIN
OF COMMAND.>**