

Key Economy Act Provisions

The provisions of the Economy Act, implementing regulations established by the Federal Acquisition Regulations, the Office of Management and Budget, and Appropriations Law include:

- The Federal agency requesting the goods or services (the ordering agency) must have funds which are available for the purpose of the agreement. This means that the ordering agency must obligate funds for the amount of the agreement and that the requested goods or services are for a purpose that supports something the ordering agency is authorized to do. It is the ordering agency's responsibility to make this determination.

- The ordering Federal agency must decide that the order or agreement for goods or services is in the best interests of the government. It is the ordering agency's responsibility to make this determination which is documented in a "Determination and Findings Statement."

- The performing Federal agency must be able to provide the requested goods or services. If necessary, the performing agency may, as long as the work or service is within the scope of activities it normally performs, procure additional supplies or equipment or add additional temporary personnel. It is the performing agency's responsibility to make this determination.

- The ordering agency must determine that it cannot obtain the goods or services "as conveniently or cheaply" from a private contractor. It is the ordering agency's responsibility to make this determination which is documented in a "Determination and Findings Statement."

- An Economy Act transaction should be evidenced by a written order or agreement in advance, signed by the responsible officers of the ordering and performing agency. It is the responsibility of the ordering and performing agency to ensure that a written order or agreement is executed. The Government Accountability Office (GAO) recommends that the agreement include: the legal authority for the agreement; terms and condition of performance; the cost of performance, including appropriate ceilings when cost is based on estimates; the mode of payment; any applicable special requirements or procedures for ensuring compliance; the requirement and procedures for the performing agency to notify the ordering agency if it appears that performance will exceed estimated costs and to cease or curtail performance as may be necessary; and approvals by authorized officials. It is the responsibility of the ordering and the performing agency to ensure that a written order or agreement is executed which fulfills the GAO requirements. **Reference USGS Instructional Memorandum No. APS 2004-13 (dated August 6, 2004).**

-Payment under an Economy Act agreement must be based on the actual costs of goods or services provided. The costs of goods or services include both direct and indirect costs incurred by the performing agency in providing the goods or services. Actual costs can be determined by billing based on “standard costs” derived from documented costs of the last acquisition or production of requested services. It is the responsibility of the performing agency to ensure the accuracy of costs of goods or services.

-The performing agency must incur obligations or expenses to fill an Economy Act order or agreement within the period of availability of the appropriation being used. Otherwise, the ordering agency’s funds must be deobligated.

The GAO includes the following example in their Appropriations Law Book (the “redbook”):

*Suppose that, towards the end of fiscal year 2005, an agency develops the need for some sort of statistical study. It enters into a contract with a private party a few days before the end of the fiscal year, obligating fiscal year 2005 appropriations, knowing full well that most of the work will be done in the following year. Assuming that the need is legitimate, the obligated funds remain available to pay for the work. Now take the same situation except the contract is with another government agency under the Economy Act and the work is to be done by personnel of the performing agency. The 2005 funds may be used only for work actually done in the remaining days of that fiscal year. The remainder must be **deobligated and reobligated against 2006 appropriations**. [emphasis added]*