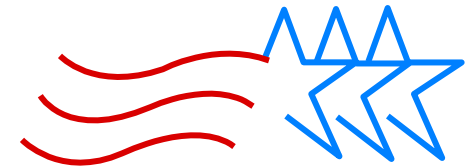




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**T R I C A R E**

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# Obtaining Contracting Support through Non-TMA Contracting Activities



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# *Agenda*



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- Statutory Background
- Regulatory Background
- TMA Implementation
- TMA Acquisition Support Policy
- Key Templates and Worksheets
- Current Agreements



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# *Acquisition Support Statutory Background*



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- All Interservice (Intra-DoD) support must comply with the Economy Act
- Under the Economy Act, the contracting agency:
  - Must award a contract before funds expire
  - Cannot retain funds past their expiration
  - Cannot “make a profit”
- Statutory authority is required to place an order with a Non-DoD agency (interagency) for goods or services (including acquisition support), and to pay the associated cost
- If specific statutory authority does not exist, the default will be the Economy Act (31 U.S.C. 1535)



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# *Interagency Acquisition Support Statutory Background*



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- Some contracting agencies have special legal authority
  - Examples: GovWorks and GSA IT Fund
  - They can award a contract after funds have expired
  - They don't have to return funds upon expiration
  - They must be self-supporting and can make a profit
- Their rules of operation tend to create internal and external conflicts of interest
- DoD's past use (abuse) of these Non-DoD contracting agencies caused great concern and attracted the attention of Congress
- This has resulted in ever-tightening controls and restrictions on how DoD could use Non-DoD contracting agencies and impacted TMA's options for obtaining contracting support



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# *Regulatory Background*



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- FAR Subpart 17.5
  - Implements provisions of the Economy Act
  - Establishes requirement for Determination and Finding (D&F)
- DFARS Subpart 217.5
  - Refers to DoD Instruction 4000.19 for additional guidance
- DoD Instruction 4000.19
  - Implements provisions of the Economy Act within DoD
  - Establishes documentation requirements
    - For each support relationship
    - For each reimbursable order
- DoD Financial Management Regulation (DoDFMR)
  - Volume 11a, Chapter 3 addresses procedures for Economy Act orders
  - Volume 11a, Chapter 18 addresses procedures for Non-Economy Act orders



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# *TMA Implementation*



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- TMA acquisition practices must be consistent and manageable:
- In recent years TMA leadership decided to:
  - Establish a uniform approach to acquisition support agreements
    - Standard format and language
    - Acquisition support performance criteria
  - Centrally approve acquisition support agreements
    - Approval authority is Deputy Director, TMA or
    - Director, Acquisition Management & Support (AM&S) for agreements under \$500K



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# *DoD Policy on The Use of Non-DoD Contracting Offices*



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- **Restrictions on Interagency Transactions**
  - Requires a “Review and Approval” for Non-Economy Act orders similar to Economy Act D&F
  - DoD has entered into a number of high level agreements with other federal agencies (GSA, DoI, etc.)
    - These agreements are posted to the DPAP web site
    - Refer to individual agreements for further restrictions
- **New Restrictions on Non-Economy Act Transactions**
  - Must apply the same fiscal rules as the Economy Act
  - Transactions above \$500K require a DoD Contracting Officer review
  - Codified in DoDFMR Volume 11a, Chapter 18, “Non-Economy Act Orders,” dated Aug 08



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# *Current DoD Restrictions*



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- Support agreements are required for all interagency acquisitions
- All DoD activities must establish procedures for the “Review and Approval” of all Non-Economy Act orders
- DoD Contracting Officer reviews are required for:
  - All actions greater than \$500,000 sent to a Non-Economy Act contracting office *IAW Comptroller memo dated 16 Oct 06*
  - Requirements identified above have also been incorporated into the DoD Financial Management Regulation (DoDFMR) Volume 11A, Chapter 18, Non-Economy Act Orders





# Recent OMB Guidance



- OMB Guidance on Interagency Acquisitions June 2008
  - Best Interest determinations required (aligns with “R&A” requirement)
  - Required elements for interagency acquisition support agreements
    - Part A (General Terms & Conditions)
      - Establishes general terms and conditions
    - Part B (Requirements & Funding Information)
      - Obligating document (also establishes Bona Fide need)
      - Certifies compliance with DoD and Agency/Activity unique acquisition policies
      - Replaces use of a Military Interdepartmental Purchase Request (MIPR) DD Form 448 to fund interagency acquisitions
  - Also provided model agreement template
  - COD has established corresponding Part B templates for current Part A IAs (DOI, GSA Region 3, DHHS/PSC, SPAWAR\*) and posted to the COD “Index of Templates and Worksheets” webpage.



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# *TMA Guide for the Acquisition of Non-Purchased Care Support*



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- TMA Guide for the Acquisition of Non-Purchased Care Support (Rev Apr 10) provides a consolidated source of TMA guidance
- Highlights appropriations law issues such as Bona Fide Need
  - Requirement for Acquisition Support Agreements
    - Documents ground rules for all external acquisition support relationships
  - Importance of procurement documentation
    - Documenting reimbursable orders
    - Well written SOWs and other supporting documentation
    - Appropriate justifications and approvals
  - Regular review and return of un-obligated balances



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# *TMA Acquisition Support Agreement Templates*



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- Used internally within COD. Consists of two templates
- DD Form 1144 for interservice acquisition support
  - Consolidates requirements established within DoD Instruction 4000.19 into a single, easily applied format
  - Combines DD Form 1144 and necessary supporting documentation into a single “template”
- OMB OFPP Part A for interagency acquisition support
  - Consolidates requirements established in the OMB OFPP Interagency Acquisition Guide into a single format
- Both templates provide
  - Background and basis for agreement
  - TMA and contracting agency responsibilities
  - Contracting agency performance standards
  - Administration terms and financial provisions



# Agreement Worksheet



- Mechanism for obtaining minimum required information on:
  - Who?
    - Proposed supplying activity
    - POC at requiring activity
  - What?
    - Program supported
    - Current support provided (if any)
    - Any unique aspects of contracting support required
    - Estimated annual cost
    - Fee structure
  - Why?
    - Background summary
    - Brief justification
  - Reimbursement terms?



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# *Economy Act*

## *Determination and Finding*



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### Requirement for a Determination and Finding (D&F)

Required by  
DODI 4000.19,  
the FAR, and the  
Economy Act

- A D&F is required for all Economy Act orders with Non-DoD agencies
- FAR requires specific statements on the D&F
- D&F requires signature of:
  - Flag, SES, or General Officer
  - May not be delegated below this level



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# *Non-Economy Act Review and Approval*



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## Requirement for a Review and Approval (R & A)

Required by  
DoDFMR Vol  
11A, Chapter 18,  
USD(C) and  
USD(AT&L)  
Policy Letters

- An R&A is required for all Non-Economy Act orders
- Requirement is codified in DoDFMR
- R & A requires signature of:
  - Program Manager or Division Director or above
  - May not be delegated below this level
- Requires supporting DoD Contract Officer Review if over \$500K



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# *TMA-Wide Agreements*



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- TMA-wide interservice acquisition support agreements with DoD agencies include:
  - US Army Medical Research Acquisition Activity (USAMRAA)
  - Contracting Center of Excellence (CCE)
  - Naval Sea Logistics Center (NAVSEA)
- TMA-Wide interagency agreements with Non-DoD agencies include:
  - GSA Region 3
  - Department of the Interior (DOI)
  - Department of Health and Human Services Program Support Center (DHHS PSC)



# Summary



- COD has negotiated a number of acquisition support agreements, including:
  - TMA – wide agreements
  - Limited scope agreements
- Recent additional requirements and restrictions on obtaining interagency acquisition support
- Use of separate templates for:
  - DoD Acquisition Support Agreements (DD Form 1144)
  - Interagency Acquisition Agreements (OMB OFPP Part A)
- Agreements for acquisition support are initiated by AM&S based on the submission and approval of an “Agreement Worksheet by TMA Requiring Activities





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# *Questions*



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