



THE ASSISTANT SECRETARY OF THE NAVY

I. Research, Development and Acquisition)
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MEMORANDUM FOR DISTRIBUTION

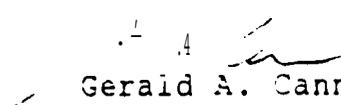
Sub j: ACQUISITION OF SUPPLIES AND SERVICES BY INTERAGENCY
AGREEMENT UNDER THE ECONOMY ACT

Encl: (i) Summary of "Economy Act" Procedural Retirements

The Economy Act (31 U. S.C. 1535) is the legal authority for many acquisitions made from other agencies. A general misunderstanding of Economy Act procedures, together with the speed and apparent simplicity of this method of procurement, have led to instances of abuse.

Program officials, financial administrators, and contracting officers must become familiar with the most important legal and procedural requirements governing Economy Act acquisitions. A summary of relevant current guidance is enclosed.

Compliance with Economy Act procedures? particularly in the acquisition of support services and automatic data processing resources, will be a special interest item for procurement management reviews of all Navy activities.


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SUMMARY OF "ECONOMY ACT" PROCEDURAL REQUIREMENTS

(1) Economy Act Determination

An Economy Act determination must be prepared for each order. It must be in **writing**, must conform to the requirements of **Federal Acquisition Regulation (FAR) 17.502 and 17.503** and Defense **FAR Supplement 217.503**, and **must be signed by a warranted contracting officer** with authority to contract for the **supplies** or services **being** ordered. It must **accompany** the order when submitted to the "servicing agency" (the **agency** providing the supplies and services ordered) .

(2) Competition in Contracting Act (**CICA**) Compliance

In most Economy Act acquisitions the **servicing** agency contracting officer is responsible for compliance with the **CICA**, including **J&A's**. Nevertheless, requiring activity contracting officers and program officials should be aware that the Navy may **take** disciplinary against anyone who improperly circumvents procurement regulations by using Economy Act procedures to ensure subcontracting with a favored source without competition.

(3) Brooks Act Compliance

The General Services Board of Contract **Appeals**, which has broad authority over **automatic data processing (ADP) procurements**, has ruled that the Economy Act generally cannot be used as authority for acquisition of ADP resources subject to the Brooks Act (**Amdahl Corporation**, GSBCA No. 7859-P, 35-2 BCA p. 18,111). The Brooks Act covers all **general purpose hardware**, software and **related services**, with limited exemptions for **mission-essential**, command/control, and intelligence-related **ADP** resources. Because of this ruling and related **issues**, all Navy **Economy Act** acquisitions of **ADP** resources **must** be approved by Navy legal counsel prior to issuance of any order (ASN (S&L) memorandum of **28 Aug 1989**) .

(4) Federally Funded Research and Development Centers
(**FFRDC's**)

FAR Subpart **35.017** requires that work ordered from **FFRDC's** (for example, the Department of Energy's Oak Ridge Laboratory) must fall within the **purpose, mission, and general** scope of effort established for the **FFRDC** by the sponsoring agency. Routine contractor support services would rarely meet this requirement, nor would, in **general**, automatic data processing hardware **or** services. Navy program officials have been and **will** continue to be **held** accountable for ordering obviously inappropriate supplies and services from **FFRDC's**, notwithstanding that the sponsoring agency is primarily responsible for ensuring that work is within the **FFRDC's mission**.