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ECONOMY ACT

An Overview

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Chairman Joyce, Ranking Member Hoyer, and Members of the Subcommittee:

Thank you for the opportunity to discuss the Economy Act, its requirements, and its use throughout the government. The Economy Act was enacted in 1932 as the first governmentwide statutory authorization for federal agencies to provide work, services, or materials to other federal agencies on a reimbursable basis.[1] Intended to improve government economy and efficiency, it is today codified at 31 U.S.C. § 1535(a). GAO has carried out audit engagements and issued legal decisions that address utilization and appropriate uses of the Economy Act, a number of which we cite here.

Congress's stated purpose in enacting the Economy Act was "to permit the utilization of facilities and personnel belonging to one department by another department or establishment and to enact a simple and uniform procedure for effecting the appropriation adjustments involved."[2] By allowing intra- and interagency transactions, Congress hoped to realize "substantial economies" and avoid duplication and overlap.[3] Importantly, the Economy Act does not provide independent authority for an agency to undertake programs, projects, or activities which are outside the scope of the agency's pre-existing statutory authority. Instead, the Economy Act provides only the authority to enter into intra- and interagency transactions that advance the current statutory mission of the agency involved.

The enactment of the Economy Act was necessary because interagency transactions require statutory authority.[4] This rule flows from several appropriations law principles. First, the purpose statute, 31 U.S.C. §1301(a), provides that appropriations be used only for the purposes for

[1] Legislative Branch Appropriation Act for 1933, ch. 314, § 601, 47 Stat. 382, 417–18 (1932).

[2] *Interdepartmental Work: Hearings on H.R. 10199 Before the Committee on Expenditures in the Executive Departments,* 71st Cong. 3 (1930), *quoted in* 57 Comp. Gen. 674, 678 (1978).

[3] H.R. Rep. No. 71-2201, at 2 (1931), *quoted in* 57 Comp. Gen. at 680.

[4] *See* 10 Comp. Gen. 131 (1930); 26 Comp. Dec. 1022 (1920).

which the appropriations were made. In addition, funds may not be transferred from one appropriation to another, unless otherwise authorized by law.[5] And finally, as a general rule, the government, being a single entity, may not contract with itself unless specifically authorized by law.[6] As a result, interagency transactions may only be employed where an agency has statutory authority to accomplish the transaction.

Many agencies have specific statutes for this purpose.[7] The Economy Act is unique in that it provides a governmentwide authority, available to all three branches of government,[8] for both intra- and interagency transactions. Specifically, the Economy Act allows the head of an agency or major organizational unit within an agency to contract with other agencies or major organizational units for goods or services.[9]

Interagency transactions, when used appropriately, can streamline the procurement process and achieve savings by leveraging agency expertise and the government's buying power. However, interagency transactions require sufficient internal controls to ensure that all statutory requirements are met. For that reason, GAO's High Risk List[10] featured management of interagency contracting from 2005 through 2013.[11] During that time, we identified expertise of agency personnel, lack of data, and unclear lines of accountability between customer and assisting

[5] 31 U.S.C. § 1532.

[6] *See* 26 Comp. Dec. 1022 (1920); 22 Comp. Dec. 684 (1916).

[7] *See, e.g.,* 42 U.S.C. § 1873(f) (National Science Foundation for transfer of research and education funds); 20 U.S.C § 3475 (Department of Education); 42 U.S.C. § 241(b) (National Institutes of Health as a component of Public Health Service for certain studies and testing); 16 U.S.C. §670c-1 (DOD for certain land management agreements).

[8] For an example Economy Act transaction with the legislative branch, see 12 Comp. Gen. 442 (1932). The U.S. District Court for the District of Columbia has regarded the law as applicable to the judicial branch. *United States v. Mitchell,* 425 F. Supp. 917, 918 (D.D.C. 1976).

[9] 31 U.S.C. § 1535(a).

[10] GAO's High Risk List, updated at the start of each new Congress, identifies programs and operations with serious vulnerabilities to waste, fraud, abuse, or mismanagement, or in need of transformation. The list was last updated in February 2025. GAO, High Risk List, *available at High Risk List | U.S. GAO*.

[11] *See* GAO, *High Risk Series: An Update*, GAO-13-283, at 4 (Washington, D.C.: Jan. 2013); GAO, *High Risk Series: An Update*, GAO-05-207, at 24 (Washington, D.C.: Jan. 2005).

agencies as key concerns with interagency transactions.[12] Specifically, we were concerned with the potential for improper use of interagency transactions, including the provision of out-of-scope work and noncompliance with competition requirements, as well as with a lack of clarity with respect to oversight responsibilities.[13] In our 2013 report, we removed the management of interagency contracting from the High Risk List based on (1) continued progress made by agencies in addressing previously identified deficiencies, (2) establishment of additional management controls, (3) creation of a policy framework for establishing new interagency contracts, and (4) steps taken to address the need for better data on these contracts.[14] Congressional oversight and the leadership of the Office of Management and Budget's (OMB) Office of Federal Procurement Policy (OFPP)—which provides direction on government-wide procurement policies—were noted as being vital in addressing the issues that led this area to be designated high risk.[15] We further noted that the General Services Administration (GSA) and OMB had established corrective action plans to implement our prior recommendations.[16]

Oversight is particularly important for Economy Act transactions, as the Act contains administrative and fiscal requirements that other interagency contracting statutes may lack. The statute contains four basic conditions on the exercise of Economy Act authority: amounts must be available; the head of the ordering agency must determine that the order is in the best interests of the government; the performing agency must be able to provide the ordered goods or services; and the head of the ordering agency must determine that the ordered goods or services cannot be provided as conveniently or cheaply by a commercial enterprise.[17]

The first condition on the use of the Economy Act for the procurement of goods or services is that funds must be available for the transaction. In

[12] GAO, *High Risk Series: An Update*, GAO-11-278, at 136 (Washington, D.C.: Feb. 2011); GAO, *High Risk Series: An Update*, GAO-05-207, at 24–25 (Washington, D.C.: Jan. 2005).

[13] GAO, *High Risk Series: An Update*, GAO-05-207, at 26 (Washington, D.C.: Jan. 2005); GAO, *High Risk Series: An Update*, GAO-07-310, at 77 (Washington, D.C.: Jan. 2007).

[14] GAO, *High Risk Series: An Update*, GAO-13-283, at 4 (Washington, D.C.: Jan. 2013).

[15] *Id.*

[16] *Id.* at 5.

[17] 31 U.S.C. § 1535(a).

addition to the agency not exceeding its available appropriation in amount, importantly, the Economy Act does not abrogate the requirement at 31 U.S.C. § 1301(a)—namely, that appropriations are available only for the purposes for which they were appropriated. As a result, the purpose of the Economy Act transaction must be something the ordering agency is authorized to do and must fall within the purpose of the appropriation charged.[18] The Economy Act does not authorize an agency to use another agency to do anything it could not lawfully do itself.[19]

The second condition is that the head of the ordering agency must determine that the order is in the best interests of the United States government.[20] We are aware of no case law applying this provision. Where the Federal Acquisition Regulation (FAR) applies, it requires the requesting agency to prepare a Determination and Findings (D&F) documenting that this and other conditions have been met.[21]

The third condition on the use of the Economy Act is that the performing agency must be able to provide the goods or services ordered—either itself, or by contract.[22] This requirement evinces the intent of the Economy Act—namely, that one agency of the government may make an

[18] 26 Comp. Gen. 545 (1947)*; see also,* B-259499, Aug. 22, 1995 (services rendered under an Economy Act agreement must be "necessary to fulfill an authorized purpose of the requesting agency").

[19] *See, e.g., Federal Deposit Insurance Corp. v. Hurwitz*, 384 F. Supp. 2d 1039, 1094–95 (S.D. Tex. 2005) (reimbursable agreement violated the Economy Act because the ordering agency transferred resources to the performing agency to bring claims that the ordering agency could not).

[20] The Economy Act itself does not require that agencies document the determinations that the transaction is in the best interests of the government and that the ordered goods and services cannot be obtained more conveniently or cheaply from private contractors. However, GAO regards documenting the determinations as "sound practice" and a desirable internal control. GAO, *Interagency Agreements: Fiscal Year 1988 Agreements at Selected Agencies Were Proper,* GAO/AFMD-88-72 (Washington, D.C.: Sept. 28, 1988), at 8.

[21] Federal Acquisition Regulation (FAR), 48 C.F.R. § 17.502-2(c). OFPP and the FAR Council are currently undertaking a comprehensive overhaul of the FAR. Acquisition.gov, *Revolutionary FAR Overhaul* (July 28, 2026), *available at* https://www.acquisition.gov/far-overhaul (last visited September 9, 2026); *see also* Exec. Order No. 14275, *Restoring Common Sense to Federal Procurement*, 90 Fed. Reg. 16447 (Apr. 15, 2025). As of this writing, this provision has not been amended as part of this initiative.

[22] 31 U.S.C. § 1535(a). A 1984 amendment added language allowing the performing agency to acquire the ordered goods or services by contract with a third party. Pub. L. No. 98-216, § 1, 98 Stat. 3, 3 (Feb. 14, 1984).

agreement with another to take advantage of that agency's experience or expertise.

Whether an agency is in a position to do Economy Act work is primarily the agency's own determination, and that determination merits substantial weight.[23] The performing agency need not have all required equipment and personnel already on hand before it accepts an Economy Act order. The performing agency may procure additional supplies or equipment or add additional temporary personnel, as long as the work or service is within the scope of activities it normally performs.[24]

However, the agency's availability for Economy Act work includes legal considerations, such as whether any statutory prohibitions or restrictions obstruct the agency's performance.[25] Just as the ordering agency may not use the Economy Act to circumvent limits on its use of its appropriations, the performing agency may not use the Economy Act to circumvent statutory prohibitions on its activities. Put another way, the Economy Act does not give a performing agency any authority which it would not otherwise have.[26]

The fourth condition on the use of the Economy Act requires the head of the ordering agency to determine that it cannot obtain the goods or services "as conveniently or cheaply" from a private contractor.[27] In making the lower cost determination, the ordering agency may solicit bids

[23] 23 Comp. Gen. 935 (1944).

[24] B-197686, Dec. 18, 1980. Property purchased incident to an Economy Act transaction is, upon completion of the work, "an asset of the agency bearing the cost of its acquisition." 33 Comp. Gen. 565, 567 (1954). If a single ordering agency has paid for the entire asset through an advance of funds to the performing agency, then whatever remains when performance is done must be returned to the ordering agency for use or disposal. *Id.* If several agencies have advanced funds to cover the cost of the asset, the property is "owned" by all contributing agencies on a *pro rata* basis. 38 Comp. Gen. 36 (1958). However, if the ordering agency does not pay in advance but pays upon completion of its order, and the performing agency acquires property with its own funds, the property remains under the control of the performing agency. The performing agency may charge the amount of depreciation of the property to the ordering agency. *Id.*

[25] 23 Comp. Gen. 935.

[26] 18 Comp. Gen. 262 (1938).

[27] 31 U.S.C. 1535(a)(4). The "services" referenced here are services which are "lawfully procurable" from private sources in the first place and not to regular government functions. 19 Comp. Gen. 941 (1940).

from private contractors and then reject all bids if they exceed the cost of dealing with another agency.[28]

Finally, the Economy Act transactions should be evinced by a written order or agreement and signed by a responsible administration officer from each of the agencies or major organizational units concerned. This requirement is not found in the Economy Act itself but is necessary under the recording statute[29]. Similar to a contract, the written agreement will reflect the scope of the undertaking as well as the rights and obligations of the agencies or units involved. In order to accomplish this, the agreement should specify at least the following: legal authority for the agreement; terms and conditions of performance; the cost of performance, including appropriate ceilings when the cost is based on estimates; whether payment will be made in advance or by reimbursement; any special requirements for assuring compliance with the terms of the agreement; and approvals by authorized officials.[30]

Scope of the Economy Act

The coverage of the Economy Act is broad, encompassing all three branches of the federal government.[31] The statute says that the "head of an agency or major organizational unit within an agency may place an order with a major organizational unit within the same agency or another agency."[32] Therefore, the Economy Act authorizes intra-agency, as well as interagency transactions.[33]

The Act applies to government corporations.[34] The common thread of applicability is that the entity in question must be an agency or

[28] 37 Comp. Gen. 16 (1957).

[29] 31 U.S.C § 1501.

[30] GAO, *Policy and Procedures Manual for Guidance of Federal Agencies,* title 7, § 2.4-C.2(e) (Washington, D.C.: May 1993).

[31] See footnote 8 above.

[32] 31 U.S.C. § 1535(a).

[33] *See, e.g.,* 57 Comp. Gen. 674 (1978).

[34] *See, e.g.,* B-116194, Oct. 5, 1953.

instrumentality of the United States government.[35] Accordingly, the Economy Act does not apply to the District of Columbia government,[36] or to the National Guard, except perhaps when the Guard is called into federal service.[37] Nor does it apply to Indian tribes,[38] agencies of the United Nations,[39] American Samoa,[40] or a presidential inaugural committee.[41]

Fiscal Law Considerations

The Economy Act presents several important fiscal law considerations. Put simply, the Economy Act does not provide authority for an agency to circumvent the limitations placed on its use of appropriated funds. These limitations include, among others, the purpose statute's requirement that appropriated funds be used only for the purposes for which they were appropriated;[42] the bona fide needs statute's provision that funds available for a limited period may only be used for the needs of that period;[43] and the Antideficiency Act's prohibition on obligating or expending in excess or in advance of appropriations.[44] To ensure compliance with these principles, the Economy Act contains important administrative requirements.

Obligation and Deobligation

The Economy Act stipulates that an order placed under the Act obligates an appropriation of the ordering agency or unit.[45] This stipulation must be

[35] There are a few instances in which entities that clearly are agencies or instrumentalities of the United States are not covered. For example, the Postal Service is subject only to those statutes specifically designated in the Postal Reorganization Act, and the Economy Act is not one of the statutes designated. 58 Comp. Gen. 451, 459 (1979); 39 U.S.C. § 410.

[36] 50 Comp. Gen. 553 (1971). A separate statute provides authority for agencies of the United States government to contract with the government of the District of Columbia for reimbursable services. 31 U.S.C. § 1537.

[37] B-152420, Oct. 3, 1963, *aff'd on reconsideration* B-152420, Feb. 25, 1964.

[38] B-44174, Sept. 6, 1944.

[39] 23 Comp. Gen. 564 (1944).

[40] B-194321, Aug. 7, 1979.

[41] 62 Comp. Gen. 323, 330 (1983).

[42] 31 U.S.C. § 1301(a).

[43] 31 U.S.C. § 1502.

[44] 31 U.S.C. § 1341.

[45] 31 U.S.C. §1535(d).

read in conjunction with the recording statute, which prescribes the requirements for a valid obligation, including for interagency agreements.[46] In order for an interagency agreement to constitute a valid obligation, it must be supported by documentary evidence of a binding agreement that is in writing, for a purpose authorized by law, and "executed before the end of the period of availability for obligation of the appropriation or fund used for specific goods to be delivered, real property to be bought or leased, or work or service to be provided."[47] Thus, an Economy Act transaction is recordable as an obligation if it meets these requirements and must be recorded against an appropriation of the ordering agency. As previously stated, a valid Economy Act obligation must first satisfy the basic fiscal requirements applicable to obligations in general, including the bona fide needs rule.[48] And, the ordering agency must have sufficient budget authority to satisfy the Antideficiency Act.

The amount obligated from the ordering agency's appropriation will be deobligated to the extent that the performing agency has not incurred obligations, before the end of the appropriation's period of availability, in providing the ordered goods or services, or making an authorized contract to provide the ordered goods or services.[49] In this way, Economy Act transactions differ from contracts with private parties. Under a contract with a private party, obligated funds remain available to fund work performed in a subsequent fiscal year as long as the obligation complied with the bona fide needs statute when it was incurred. The original Economy Act functioned similarly.[50] However, a concern soon arose that the Economy Act was being used to effectively extend the obligational life of appropriations beyond what Congress had provided.[51] The Economy Act was amended, and today the Act requires that funds obligated for an Economy Act transaction must be deobligated at the end of their period of

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[46] 31 U.S.C. §1501(a)(1).

[47] *Id.*

[48] 58 Comp. Gen. 471 (1979).

[49] *Id.*

[50] Act of June 30, 1932, ch. 314, 47 Stat. 382, 417–18.

[51] *See* 31 Comp. Gen. 83, 85 (1951).

availability to the extent the performing agency has not performed or itself incurred valid obligations as part of its performance.[52]

The deobligation requirement applies both to payments made in advance and payments made by way of reimbursement. Accordingly, "where work is performed or services rendered on a reimbursable basis [under the Economy Act] over a period covering more than one fiscal year, the respective annual appropriations of the serviced agency must be charged pro tanto with the work performed or services rendered in the particular fiscal year."[53] This requirement ensures that Economy Act transactions comply with the bona fide needs rule.

Actual Costs

In order to avoid improper augmentation of the ordering agency's or the performing agency's appropriations, the Economy Act requires that payment, whether in advance or by reimbursement, must be based on the "actual cost of goods or services provided."[54] Charging too much augments the appropriation of the performing agency, while charging too little augments the appropriations of the ordering agency. Congress recognized this concern when it enacted the Economy Act:

> "If full cost is not paid, then such part of the cost as is not reimbursed must fall upon the department doing the work, which is contrary to [31 U.S.C. § 1301(a)] and the appropriation of the department for which the work was done will be illegally augmented because it does not bear all of the cost of the work done for it."[55]

Before the Economy Act was enacted, the costs of services provided by one agency to another were "frequently . . . paid for out of the appropriations for the department furnishing the materials and services."[56]

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[52] 58 Comp. Gen. 471.

[53] 31 Comp. Gen. at 86; *see also* B-301561, June 14, 2004.

[54] 31 U.S.C. § 1535(b). Note that for agreements governed by another statutory authority for interagency transactions, the Economy Act's actual cost basis does not control. B-333396, July 14, 2022 (interpreting the reimbursement requirement for the Technology Modernization Fund); *see also* 44 Comp. Gen. 683 (1965) (finding the Tennessee Valley Authority was to set rates in accordance with the statute without regard to the actual cost principles of the Economy Act).

[55] *Interdepartmental Work: Hearings on H.R. 10199 Before the Committee on Expenditures in the Executive Departments,* 71st Cong. 4 (1930), *quoted in* 57 Comp. Gen. at 678.

[56] H.R. Rep. No. 71-2201, at 2–3 (1931), *quoted in* 57 Comp. Gen. at 680.

Accordingly, the Economy Act's actual cost requirement seeks to ensure that each agency has "strict accountability for its own expenditures."[57]

However, the Economy Act and its legislative history are silent as to the meaning of "actual cost." GAO applies the following approach to determining actual cost under the Economy Act:

> "[T]he legislative history [of the Economy Act] does indicate that . . . Congress intended to effect savings for the Government as a whole by: (1) generally authorizing the performance of work or services or the furnishing of materials pursuant to inter- and intra-agency orders by an agency of Government in a position to perform the work or service; (2) diminishing the reluctance of other Government agencies to accept such orders by removing the limitation upon reimbursements imposed by prior [GAO] decisions [footnote omitted]; and (3) authorizing inter- and intra-departmental orders only when the work could be as cheaply or more conveniently performed within the Government as by a private source. Thus in determining the elements of actual cost under the Economy Act, it would seem that the only elements of cost that the Act requires to be included in computing reimbursements are those which accomplish these identified congressional goals. Whether any additional elements of cost should be included would depend upon the circumstances surrounding the transaction."[58]

Thus, the universe of costs may be divided into required costs and what we term "situational" costs. Required costs include direct costs—expenditures incurred by the performing agency which are specifically identifiable and attributable to performing the transaction in question. One example is the salary—that is, gross compensation—of employees engaged in performing the work required to effectuate the Economy Act transaction.[59]

Another common element is the cost of materials or equipment furnished to the ordering agency or consumed in the course of performance. Actual cost in this context means historical cost and not current replacement or production cost.[60] This does not necessarily have to be the original acquisition cost, however, but may be the most recent acquisition cost of

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[57] *Id.*

[58] 57 Comp. Gen. at 681.

[59] 14 Comp. Gen. 452 (1934).

[60] B-130007, Dec. 7, 1956. *See also* 58 Comp. Gen. 9, 14 (1978).

the specific kind of item provided to the requesting agency.[61] Related transportation costs are another reimbursable direct cost item.

Not every identifiable direct cost is reimbursable under the actual cost formulation. For example, the Maritime Administration was activating several tankers for use by the Navy.[62] While performing this activity, an employee of the Maritime Administration's contractor was injured. The employee sued the United States under the Suits in Admiralty Act[63] and recovered a judgment which the Maritime Administration paid from an available revolving fund. While the judgment was a real cost incurred during the course of performance, the judgment was not "necessary or required in order to condition the tanker for use by the Navy."[64] Therefore, GAO considered the cost to be properly payable as a judgment and not as a reimbursable cost which could be billed to the Navy.

In addition to direct costs, it has long been recognized that actual cost for Economy Act purposes includes certain indirect costs (overhead) proportionately allocable to the transaction.[65] Indirect costs are "items which commonly are recognized as elements of cost notwithstanding such items may not have resulted in direct expenditures."[66] Examples of indirect costs include administrative overhead applicable to supervision;[67] billable time not directly chargeable to any particular customer;[68] and rent paid to the General Services Administration attributable to space used in the course of performing Economy Act work.[69] Indirect costs which (1) are funded out of currently available appropriations, and (2) bear a significant relationship to the service or work performed or the materials furnished, are recoverable in an Economy Act transaction in the same way as direct

[61] B-250377, Jan. 28, 1993.

[62] 39 Comp. Gen. 650 (1960).

[63] 46 U.S.C. § 30901.

[64] *Id*.

[65] *See, e.g.,* 22 Comp. Gen. 74 (1942).

[66] 56 Comp. Gen. 275, 276 (1977); 22 Comp. Gen. at 77.

[67] 56 Comp. Gen. 275.

[68] B-257823, Jan. 22, 1998.

[69] B-211953, Dec. 7, 1984.

costs.[70] In calculating indirect costs, entities should "(1) use and consistently follow costing methodologies or cost finding techniques most appropriate to the operating environment to accumulate and assign costs; (2) document managerial cost accounting activities, processes, and procedures, and (3) periodically evaluate indirect costing methods."[71]

The costs discussed thus far are those which the Economy Act can fairly be said to require. In any given Economy Act transaction, there may be other costs, so-called situational costs, which are recoverable by the performing agency. The Economy Act is not so rigid as to require a blanket rule for determining actual costs throughout the government, and in some circumstances, additional congressional policies may allow recoveries beyond the direct and indirect costs discussed above. For example, depreciation is normally not recoverable under the Economy Act, because it is not funded out of currently available appropriations.[72] However, in one situation, in view of the congressionally established goal that the performing agency (the government entity which operated the two Washington-area airports) be self-sustaining and recover its operating costs and a fair return on the government's investment, it was appropriate to include depreciation and interest as indirect costs.[73] The inclusion of such costs in the "actual cost" formulation heavily depends on the facts and circumstances surrounding the transaction, and the inclusion of such costs is generally considered discretionary rather than mandatory.[74]

While at times actual cost can be computed with precision, the Economy Act does not require that the determination be an exact science. Cases on reimbursable work even before the Economy Act recognized the acceptability of a reasonable and appropriate methodology over "absolutely accurate ascertainment" which might entail considerable burden and expense.[75] "As long as the amount agreed upon results from a bona fide attempt to determine the actual cost and, in fact, reasonably

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[70] 56 Comp. Gen. 275 (1977), *as modified by* 57 Comp. Gen. 674 (1978), *as modified in turn by* B-211953, Dec. 7, 1984.

[71] GAO, *Centers for Disease Control and Prevention: An Appropriate Methodology is Needed for Determining Administrative Costs Attributable to the Agency for Toxic Substances and Disease Registry,* GAO-10-610R (Washington, D.C.: May 20, 2010), at 2.

[72] 72 Comp. Gen. 159 (1993).

[73] 57 Comp. Gen. 674 (1978).

[74] B-198531, Sept. 25, 1980.

[75] 3 Comp. Gen. 974 (1924).

approximates the actual cost," the Economy Act is satisfied.[76] One methodology GAO has found to be reasonable and consistent with the Economy Act is billing on the basis of standard costs derived from documented costs of the last acquisition or production.[77]

There are limits, however, and the "methodology" cannot be totally divorced from the determination or reasonable approximation of actual costs. Thus, a cost allocation in which some customers are paying excessive amounts and effectively subsidizing others is improper.[78] An allocation based on a per capita funding arrangement not related to the goods or services actually received is also improper.[79]

Finally, while the statute requires recovery of the "actual cost of goods or services provided," there is one situation in which payment of actual costs will have no relationship to anything "provided." For various reasons, an agency may find it necessary to terminate an Economy Act agreement before it is completed. It can terminate the agreement "for convenience," the same as it could with a commercial contract, in which event the performing agency should not have to bear the loss for any expenses it has already incurred.[80]

Applicability of Limitations and Restrictions

Every agency is subject to a variety of authorities, limitations, restrictions, and exemptions. Some are governmentwide. Others are agency-specific. Still others may be bureau- or even program-specific. In analyzing the relationship of such provisions to an Economy Act transaction, it is important to start with an understanding of what the Economy Act is and is not supposed to do. As we have noted previously, the Act is designed to permit an agency to accomplish an authorized task more simply and economically by using another agency's experience or expertise. It is not intended to permit an agency to avoid legislative restrictions on the use of its funds, nor is it intended to permit an agency running short of money to dip into the pocket of another agency with available budget authority.

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[76] B-133913, Jan. 21, 1958.

[77] B-250377, Jan. 28, 1993 (containing a detailed discussion); GAO, *Iran Arms Sales: DOD's Transfer of Arms to the Central Intelligence Agency,* GAO/NSIAD-87-114 (Washington, D.C.: Mar. 13, 1987), at 7–8.

[78] 70 Comp. Gen. 592 (1991).

[79] 67 Comp. Gen. 254, 258 (1988).

[80] B-61814, Jan. 3, 1947.

Funds transferred pursuant to an Economy Act transaction remain available for the purposes for which the original appropriation was made and are also subject to the same limitations that apply to the appropriation from which the funds were transferred.[81] Put another way, the Economy Act cannot be used to expand the purpose availability of an agency's appropriation, nor can it be used to circumvent restrictions on the use of an agency's appropriations. For example, an appropriation rider which limited the filling of vacancies during the fiscal year continued to apply to funds which were advanced to a working fund under the Economy Act.[82]

The same rule applies to exemptions from general prohibitions. For example, the Department of Commerce needed to procure supplies for use in Economy Act work it was doing for the Army.[83] Both agencies had exemptions from the advertising requirement of what was then 41 U.S.C. section 5 for small dollar amounts—$500 for the Army but only $25 for Commerce.[84] Even though Commerce was doing the purchasing, it could do so under the Army's more liberal exemption because it would be using Army money to make the purchase.[85]

There have been a number of exceptions to the rule that Economy Act transfers are subject to the limitations of the source appropriation. In one situation, funds advanced or reimbursed in Economy Act transactions were not subject to a monetary limit on personal services contained in the ordering agency's appropriation, because it could be clearly demonstrated that the ceiling was based on the cost of employees on the agency's payroll and did not include the estimated cost of Economy Act services either performed by the servicing agency or reimbursed to it.[86] This conclusion was based on the particular facts surrounding the appropriation at issue, and we noted that "any transaction appearing to evade the" relevant limitation, "such as a transfer of funds . . . to relieve

[81] 18 Comp. Gen. 489 (1938).

[82] 31 Comp. Gen. 109 (1951).

[83] 21 Comp. Gen. 254 (1941).

[84] *Id.* This section has since been recodified to 41 U.S.C. § 6101.

[85] *Id.*

[86] B-106002, Oct. 30, 1951.

the transferring agency of" expenses subject to the limitation, would be subject to question.[87]

Monetary ceilings on an appropriation are another area where the general rule does not apply, absent contrary statutory language or legislative intent. As discussed above, one of the Economy Act's objectives is to avoid improper augmentations. As a result, valid Economy Act agreements "do not increase or decrease the appropriation of the requisitioned agency."[88] Because the performing agency's appropriation is unchanged by its performance under an Economy Act agreement, monetary ceilings applicable to the performing agency's appropriation are generally inapplicable to the funds transferred pursuant to the agreement. For example, Economy Act transactions would not violate an appropriation proviso which limited the amounts available to the performing agency to the funds appropriated in that act.[89] Similarly, absent some indication of a contrary intent, a monetary limit on general transfer authority does not apply to credits to that appropriation incident to otherwise proper Economy Act transactions.[90]

Ordering Agency Accountability

A payment to another federal agency differs from a payment to a private party in that an overpayment or erroneous payment to another agency does not result in an actual loss of funds to the United States. In the event of an overpayment by one department to another, the relevant accounts can be adjusted to correct the error.

Consistent with this fact, the Economy Act provides that "a bill submitted or a request for payment is not subject to audit or certification in advance of payment."[91] Thus, an ordering agency is not required to certify vouchers prior to payment when paying another federal entity in an Economy Act transaction. However, the ordering agency remains accountable to Congress for its use of appropriations. As such, an agency might choose to use a limited certification process as an internal control. And of course, the agency's payments are subject to the conditions set

[87] *Id.*

[88] A-99125, Nov. 21, 1938.

[89] *Id.*

[90] B-120414, June 17, 1954.

[91] 31 U.S.C. § 1535(b).

forth in 31 U.S.C. §1535, as well as other fiscal statutes, as discussed above.

As discussed in more detail below, agencies are increasingly relying on the contracts and contracting services of other agencies. As a result, authority for contract oversight and administration is often delegated among multiple agencies. The ordering agency, however, is ultimately responsible for the use of its funds.[92] For example, the Department of Energy had entered into an interagency agreement with the Space and Naval Warfare Systems Center, New Orleans (SSC NOLA) to obtain a contractor, but had not established adequate controls over payments to the contractors, which led to millions of dollars in improper and questionable payments. We reviewed the agreement and noted that while responsibility for review and approval of invoices rested with the performing agency, as the ordering agency, Energy had to ensure that the performing agency carried out proper oversight.[93]

Common Uses of the Economy Act

As discussed above, the subject of an Economy Act transaction must be something the ordering agency is authorized to do, and the performing agency must be in a position to provide the requested goods or services. Also, there must be direct benefit to the ordering agency.[94] Apart from these general prescriptions, the Economy Act makes no attempt to define the kinds of work, services, or materials that can be ordered. This is in apparent recognition of the great diversity of tasks and functions one encounters in the federal universe, and the fact that these tasks and functions are subject to change over time. The legislative history of the Economy Act gives some illumination:

"For illustration, the Navy maintains a highly specialized and trained inspection service. Why should not this personnel, when available, be used by other departments to inspect materials and supplies ordered to make certain that such materials comply strictly with specifications? Or if a department needs statistical work that can be more expeditiously done by another department it should have the right to call upon the agency especially equipped to perform the work. The Bureau of Standards is a highly specialized agency and its equipment and technical personnel should be made available to other services.

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[92] *See, e.g.,* GAO, *Department of Energy, Office of Worker Advocacy: Deficient Controls Led to Millions of Dollars in Improper and Questionable Payments to Contractors*, GAO-06-547 (Washington, D.C.: May 31, 2006).

[93] *Id.* at 43.

[94] *See, e.g.,* B-328477, Sept. 26, 2017 (The Economy Act does not "authorize one agency or component to simply cover the costs of another.").

Frequently the engineering staff of one department might be utilized by another department to great advantage."[95]

The Economy Act is particularly useful when an agency occasionally needs something that another agency performs or produces on a regular basis. For example, when Congress directed the Treasury Department to sell a portion of the nation's gold reserves, Treasury entered into an Economy Act agreement with the General Services Administration to conduct the sale.[96] Similarly, when the Department of Defense conducted examinations of credit unions at U.S. military installations, it turned to what is now the National Credit Union Administration, which routinely conducts similar examinations of credit unions.[97]

Details of personnel and the provision of common services are two areas in which agencies commonly rely on the Economy Act.

Details of Personnel

A very common type of interagency service is the loan or detail of personnel. A detail is "the temporary reassignment of an employee to a different position for a specified period, with the employee returning to regular duties at the end of the detail."[98] Absent specific statutory authority to the contrary, details of personnel between agencies or major organizational units must be done in accordance with the Economy Act, which requires full reimbursement of actual costs, including the employee's salary.[99]

95 H.R. Rep. No. 72-1126, at 15–16 (1932).

96 B-183192, July 17, 1975.

97 B-158818, May 19, 1966. Other examples in this family include B-192875, Jan. 15, 1980 (hearing examiners provided to other agencies by the Equal Employment Opportunity Commission in discrimination complaints); 54 Comp. Gen. 624 (1975) (Secret Service protection for government officials other than those statutorily entitled to receive it); B-95094, June 2, 1950 (technical services by National Bureau of Standards for the Bureau of the Mint).

98 64 Comp. Gen. 370, 376 (1985), citing the Federal Personnel manual, ch. 300, § 8-1 (May 7, 1981).

99 There are two non-statutory exceptions to this general rule. First, nonreimbursable details are permissible where they involve matters generally handled by the loaning agency and will assist the loaning agency in accomplishing a purpose for which its appropriations were provided. 64 Comp. Gen. at 380. Second, details for brief periods when the number of persons and costs involved are minimal, and the fiscal impact on the appropriation is negligible, do not require reimbursement. *Id.* at 381.

The Economy Act permits agreements for details of personnel between agencies or separately funded components of the same agency on a reimbursable basis, but it does not authorize one agency or component to simply cover the costs of another. For example, we considered whether the Economy Act authorized the Forest Service, a component office of USDA, to transfer amounts to USDA's Office of General Counsel (OGC) to reimburse USDA OGC for legal services provided to the Forest Service.[100] The Forest Service and USDA OGC received separate lump sum appropriations for necessary expenses. USDA OGC's appropriation was specifically available for the purpose of providing legal services to all of USDA's offices and agencies, so we determined that the Forest Service appropriation was not available for those expenses. Accordingly, USDA OGC could not properly be reimbursed for its legal services under the Economy Act. The Economy Act does not authorize the transfer of funds to cover an agency or component's cost of doing what it is otherwise required to do out of its own appropriation.[101]

Provision of Common Services

The Economy Act can be a useful vehicle for agencies wishing to provide common services to several bureaus or offices. The Economy Act is only available where each benefitting bureau or office receives its own appropriation for the service at issue; if the agency receives a department-wide appropriation, no reimbursement from the benefitting components is permitted.[102] If each bureau or office receives its own appropriation for support services and there is no further statutory guidance or restriction, the agency may centralize the provision of common services on a reimbursable basis under the Economy Act, provided that the reimbursements correspond to the value actually received.[103]

Agencies may also use common services provided by another agency. For example, OMB has designated specific agencies to create Quality

[100] B-256172, Apr. 8, 1997.

[101] *Id. See also* B-328477, Sept. 26, 2017 (salaries and benefits of employees performing work for one office may not be paid from appropriations for another office, notwithstanding an Economy Act agreement); 61 Comp. Gen. 419 (1982) (emphasizing that conducting an appeals hearing that the agency was required to provide and for which it received appropriations was not a "service" under the Economy Act).

[102] B-202979-O.M., Sept. 28, 1981.

[103] *See, e.g.,* B-308762, Sept. 17, 2007. In addition, a statute known as the account adjustment statute, 31 U.S.C. § 1534, helps facilitate common service activities. B-328065, Oct. 27, 2016 (Architect of the Capitol could use account adjustment statute to allocate indirect costs across a number of pertinent appropriations).

Service Management Offices (QSMOs) for certain support functions that align with the agencies' missions.[104] Agencies may use the Economy Act to procure services from QSMOs, as wells as from franchise funds and other intragovernmental revolving funds that provide services governmentwide on a fee-for-service basis.

Other Examples

Finally, we note a few miscellaneous cases, to give a sense of the variety of transactions which fit under the Economy Act's umbrella:

- Civic/humanitarian assistance activities by the Defense Department under agreements with the Agency for International Development overseas.[105]
- Agreement between Veterans Administration and Navy whereby Navy would execute and superintend a contract for the construction of the Corregidor-Bataan Memorial.[106]
- Purchase by Walter Reed Army Medical Center of motion picture supplies and services from Department of Agriculture.[107]
- Agreement between Bureau of Land Management and Fish and Wildlife Service for "control of predatory animals and rodents" on public domain lands.[108]

Work or Services that May Not Be Performed under the Economy Act

Apart from the restrictions specified in the Economy Act itself, limitations on what can be done under the Economy Act derive largely from common business practices and axiomatic requirements of the appropriations process. The Economy Act may not be used for services which the performing agency is required by law to provide and for which it receives appropriations, unless statutorily authorized. As the Department of Justice has noted, this rule "is required in order to prevent agencies from

[104] General Services Administration, *Acquisition Gateway*: *What is Shared Services, available at* https://acquisitiongateway.gov/shared-services/resources/4169?nid=576 (last visited September 3, 2026).

[105] 63 Comp. Gen. 422, 443–46 (1984).

[106] 46 Comp. Gen. 73 (1966).

[107] B-140652, Nov. 9, 1959.

[108] A-82570, B-120739 Aug. 21, 1957.

agreeing to reallocate funds between themselves in circumvention of the appropriations process."[109]

For example the Justice Department, which is required by law to conduct the government's litigation and which receives appropriations for its litigation functions, may not pass the costs on to the "client agency."[110] However, the client agency typically provides a variety of support to the Justice Department, and to that extent Economy Act agreements are possible, even extending to the hiring of additional attorneys, provided that the work for which the client agency is paying is work it is authorized to do itself.[111]

If a service is required to be provided on a nonreimbursable basis, the inadequacy of the providing agency's appropriations is legally irrelevant and does not permit reimbursement by the receiving agency.[112] If the service is authorized but not required, there may be circumstances under which reimbursement is permissible. An internal memorandum discussed one such situation involving the National Archives and Records Administration (NARA).[113] Each agency is required by 44 U.S.C. § 3102 to have a records management program. In addition, NARA has oversight and assistance responsibilities, which include conducting surveys and inspections. When NARA is performing its oversight function, or conducts a study on its own initiative, the general rule applies and NARA's appropriations must bear the cost. However, if an agency wants to conduct a study of its own program and asks NARA to do it, and NARA's appropriations are insufficient, nothing precludes a reimbursable arrangement under the Economy Act.[114]

An agency providing services over and above what it is required by law to provide may invoke the Economy Act to recover the actual costs of the nonrequired services. For example, 44 U.S.C. § 1701 requires the

[109] 9 Op. Off. Legal Counsel 81, 83 (1985). *See also* 61 Comp. Gen. 419, 421 (1982) (charging the receiving agency "would compromise the basic integrity of the appropriations process" and would amount to a "usurpation of the congressional prerogative").

[110] 16 Comp. Gen. 333 (1936).

[111] 9 Op. Off. Legal Counsel 81 (1985); 2 Op. Off. Legal Counsel 302 (1978).

[112] 18 Comp. Gen. 389, 391 (1938).

[113] B-194711-O.M., Jan. 15, 1980.

[114] *Id.*

Government Printing Office to provide addressing, wrapping, and mailing services for certain public documents. It cannot charge for these required services.[115] However, section 1701 specifically excludes certain documents from this mandate. Because GPO was also in a position to provide those services in an efficient and economical manner with respect to the excluded documents, it could do so on a reimbursable basis under the Economy Act.[116] Similarly, the Secret Service is statutorily required to provide protective services to specified officials. Other officials may obtain protective services from Secret Service by "purchasing" them under the Economy Act.[117]

Closely related in both concept and rationale is the principle that an agency may not transfer administrative functions to another agency under the aegis of the Economy Act. When Congress grants an agency authority to perform a certain function, and provides funds for that performance, that authority may not be transferred except by congressional action.[118] There is no agreed-upon definition of "administrative function," but examples illustrate the rule's application. Certainly, the Economy Act may not be used to transfer an entire appropriation from one agency to another.[119] Functions with respect to which an agency has authority to make "final and conclusive" determinations similarly may not be transferred under the Economy Act.[120] For example, the Veterans Administration could not transfer to the Federal Housing Administration management and disposal functions with respect to property acquired incident to its credit programs.[121]

GAO decisions recognize that the crucial factor in determining whether functions may be performed under the Economy Act is who exercises ultimate control. An agency can acquire services under the Economy Act, but it cannot turn over the ultimate responsibility for administering its programs or activities. For example, the Civil Service Commission proposed, at least for the duration of wartime conditions, to advance to

[115] 29 Comp. Gen. 327 (1950).

[116] *Id.*

[117] 54 Comp. Gen. 624 (1975), *modified on other grounds,* 55 Comp. Gen. 578 (1975).

[118] B-45488, Nov. 11, 1944.

[119] 8 Comp. Gen. 116, 118 (1928).

[120] B-156010-O.M., Mar. 16, 1965.

[121] *Id.*

the Army funds from the Civil Service Retirement and Disability Fund.[122] The Army would hold the money in a trust account and treat it as a working fund from which to make refunds of retirement deductions to certain separating civilian employees. All concerned seemed to accept, as a starting premise, that the proposal amounted to performance by the Army of an administrative function of the Civil Service Commission. However, the proposal also contemplated that the Commission would audit all cases of refunds, and this, we said, "must be considered as a retention of a certain degree of supervision and control."[123] Thus, while the Army would be actually making the refunds, "responsibility for the performance of the function generally would remain" in the Commission.[124] Therefore, the proposal was authorized under the Economy Act.

Conclusion

The Economy Act provides authority for intra- and interagency transactions between agencies and major organizational units of agencies. The Act broadly applies to federal entities for the procurement of a wide variety of goods and services. However, the Economy Act does not authorize an agency to circumvent statutory limitations on its use of appropriated funds. An agency may only procure goods and services under the Economy Act that it is already authorized to procure, and Economy Act transactions must comply with the Act's requirements, as well as general appropriations law principles, such as the purpose statute, the bona fide needs rule, the Antideficiency Act, and the rule against augmentation.

GAO's engagement work on agency financial operations has touched on Economy Act transactions in a variety of contexts and we have issued numerous legal decisions applying the Economy Act, many of which are

[122] B-45488, Nov. 11, 1944.

[123] *Id.*

[124] *Id.*

cited herein.[125] GAO staff are available to discuss this work with you in further detail.

Chairman Joyce, Ranking Member Hoyer, and members of the Subcommittee, this concludes my prepared statement. I would be pleased to respond to any questions that you may have.

[125] GAO, *COVID-19: Information on HHS's Public Education Campaign,* GAO-22-104724 (Washington, D.C.: Mar. 29, 2022); GAO, *Veterans Affairs Contracting: Improved Oversight Needed for Certain Contractual Arrangements,* GAO-15-581 (Washington, D.C.: July 2, 2015); GAO, *Iraq and Afghanistan: State and DOD Should Ensure Interagency Acquisitions Are Effectively Managed and Comply with Fiscal Law,* GAO-12-750 (Washington, D.C.: Aug. 2, 2012); GAO, *Contracting Strategies: Data and Oversight Problems Hamper Opportunities to Leverage Value of Interagency and Enterprisewide Contracts,* GAO-10-367 (Washington, D.C.: Apr. 29, 2010); GAO, *Kennedy Center: Stronger Oversight of Fire Safety Issues, Construction Projects, and Financial Management Needed,* GAO-05-516T (Washington, D.C.: Apr. 6, 2005).

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