

## Decision

**Matter of:** U.S. Chemical Safety and Hazard Investigation Board—Independent Statutory Authority to Enter into Interagency Agreements

**File:** B-331739

**Date:** March 18, 2021

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### DIGEST

This decision recognizes an exception to the general prohibition on transfers of funds between agencies, 31 U.S.C. § 1532. While the Economy Act, 31 U.S.C. § 1535, is one such exception, a provision in the U.S. Chemical Safety and Hazard Investigation Board's (CSB) enabling statute, 42 U.S.C. § 7412(r)(6)(N), is another. It provides CSB with authority to enter into contracts, leases, cooperative agreements or other transactions that are necessary to conduct its duties and functions, with any other agency, institution, or person. Based on the plain language of this provision, we conclude that it provides CSB with specific statutory authority to enter into agreements with other federal agencies, independent of the general Economy Act provisions in 31 U.S.C. § 1535.

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### DECISION

Pursuant to 31 U.S.C. § 3529, the General Counsel of the U.S. Chemical Safety and Hazard Investigation Board (CSB) requested a decision regarding whether a provision in CSB's enabling statute, 42 U.S.C. § 7412(r)(6)(N), authorizes CSB to enter into agreements with other federal agencies, independent of the authority provided by the Economy Act, 31 U.S.C. § 1535. Letter from General Counsel, CSB, to General Counsel, GAO (Jan. 8, 2020) (Request Letter). As explained below, we conclude that § 7412(r)(6)(N), based on its plain meaning, grants CSB independent statutory authority to enter into agreements with other federal agencies. This provision is an exception to the general prohibition on transfers of funds between agencies, 31 U.S.C. § 1532.

Our practice when rendering decisions is to obtain facts and legal views from the relevant agency. GAO, *Procedures and Practices for Legal Decisions and Opinions*, GAO-06-1064SP (Washington, D.C.: Sept. 2006), available at [www.gao.gov/legal/resources.html](http://www.gao.gov/legal/resources.html). CSB provided factual information, supporting documentation, and the agency's legal views in its request letter. Request Letter.

## BACKGROUND

CSB is an independent federal agency created by the Clean Air Act Amendments of 1990. Request Letter, at 1; see 42 U.S.C. § 7412(r)(6). The agency is charged with, among other things, investigating chemical accidents and issuing reports regarding the safety of chemical production, processing, handling, and storage. See 42 U.S.C. § 7412(r)(6)(C). In addition, CSB's enabling statute authorizes it "to enter into contracts, leases, cooperative agreements or other transactions as may be necessary in the conduct of the duties and functions of the Board with any other agency, institution, or person." *Id.* § 7412(r)(6)(N). In its request letter, CSB provided its view that its enabling statute provides it with authority to enter into agreements with other federal agencies, independent of the Economy Act, 31 U.S.C. § 1535. Request Letter, at 3.

## DISCUSSION

At issue here is whether 42 U.S.C. § 7412(r)(6)(N) grants CSB authority to enter into agreements with other federal agencies, independent of the Economy Act.

Unless otherwise authorized by law, transfers of funds between government agencies and instrumentalities are prohibited. 31 U.S.C. § 1532. Congress may, however, enact a law that provides transfer authority that is either specific to an agency or more generally available to the government as a whole. B-308762, Sept. 17, 2007, at 9.

The Economy Act is a statute applicable governmentwide that authorizes an agency to provide goods or services to another agency on a reimbursable basis. 31 U.S.C. § 1535; B-289380, July 31, 2002, at 1 (citing to 70 Comp. Gen. 592, 595 (1991)). Congress enacted the Economy Act to "permit the utilization of the materials, supplies, facilities, and personnel belonging to one department by another department or independent establishment which is not equipped to furnish the materials, work, or services for itself, and to provide a uniform procedure so far as practicable for all departments." 57 Comp. Gen. 674, 680 (1978); H.R. Rep. No. 72-1126, at 15 (1932).

Congress has at times also provided specific statutory authority for an agency to enter into agreements with other agencies, independent of the Economy Act. See, e.g. B-289380, July 31, 2002; B-282601, Sept. 27, 1999; 55 Comp. Gen. 1497 (1976). For example, the Consumer Product Safety Commission (Commission) is "authorized to enter into contracts with governmental entities, private organizations, or individuals" for the conduct of certain activities. 15 U.S.C. § 2076(g). We previously concluded that, based on the plain meaning of the terms of and the legislative history for the provision, such provision clearly gave the Commission independent statutory authority to make contracts with federal agencies. B-289380, July 31, 2002, at 2–3.

Similarly, CSB's enabling statute authorizes it "to enter into contracts, leases, cooperative agreements or other transactions as may be necessary in the conduct of the duties and functions of the Board with any other agency, institution, or person." 42 U.S.C. § 7412(r)(6)(N). This provision clearly gives CSB independent contractual authority to enter into contracts with other agencies, institutions or people. The only remaining issue to consider is whether "agency" includes federal agencies.

Generally, to interpret a statute, we begin with the text, giving ordinary meaning to statutory terms unless otherwise defined. *Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009); B-329603, Apr. 16, 2018, at 4; B-329199, Sept. 25, 2018, at 23; B-331892, Nov. 19, 2020, at 3. This is because the "starting point in discerning congressional intent is the existing statutory text." *Lamie v. U.S. Trustee*, 540 U.S. 526, 534 (2004).

As we have stated before, there is no one definition of the term "agency" that has general, governmentwide applicability. Rather, the term "agency" and related terms like "executive agency" and "federal agency" have been defined in different ways in different laws and regulations. GAO, *A Glossary of Terms Used in the Federal Budget Process*, GAO-05-734SP (Washington, D.C.: Sept. 2005), at 9. Although CSB's enabling statute does not define the term "agency," the statute uses the term "agency," or its plural form, "agencies," more than once in different provisions. 42 U.S.C. § 7412(r)(6)(C)–(F), (N), (R), (S). When a statute uses an identical word more than once in a statute, the settled principle of statutory construction is that the word has the same meaning "in the absence of evidence to the contrary." 43 Comp. Gen. 252, 254 (B-151007, Sept. 12, 1963) (citing *United States v. Cooper Corp.*, 312 U.S. 600 (1941); *Atlantic Cleaners & Dyers vs. United States*, 286 U.S. 427, 433 (1932)); see also *Barber v. Thomas*, 560 U.S. 474, 483–484 (2010). For example, the meaning of a word may vary "to meet the purposes of the law, to be arrived at by a consideration of the language in which those purposes are expressed, and of the circumstances under which the language was employed." *Atlantic Cleaners & Dyers*, 286 U.S. at 433.

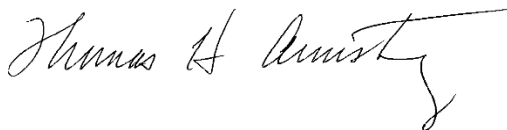
The term "agency" and "agencies" appears multiple times in the CSB enabling statute, but in many instances, qualifying language is used to describe the entities to be included in the scope of the term in that particular instance. For example, another provision in the CSB enabling statute, 42 U.S.C. § 7412(r)(6)(C)(ii), establishes CSB's duty to issue reports to certain parties including "Federal, State and local agencies . . . concerned with the safety of chemical production, processing, handling and storage . . ." The use of the qualifiers "Federal, State, and local" demonstrates that the meaning of the term "agency" in that provision is meant to include agencies at the federal, state, and local levels with the concerns described in the statute. By way of another example, a different section of the CSB enabling statute authorizes CSB to conduct studies in certain instances, and requires that, to the extent practicable, CSB conduct the studies in cooperation with, "other Federal agencies having emergency response authorities, State and local

governmental agencies . . .” and other entities. 42 U.S.C. § 7412(r)(6)(F). In this case, qualifiers were used to refer specifically to a subset of federal agencies, as well as state and local governmental agencies. In a final example, language in the CSB enabling statute directs CSB to “coordinate its activities with investigations and studies conducted by other agencies of the United States having a responsibility to protect public health and safety.” 42 U.S.C. § 7412(r)(6)(E). In that instance, once again, the statute specifically refers to a subset of federal agencies with certain responsibilities. The use of qualifiers throughout CSB’s enabling statute thus demonstrates that the meaning of the term “agency” can vary based on the qualifiers used in each specific context.

The provision that authorizes CSB to contract with other parties includes the authority to contract with “any other agency.” 42 U.S.C. § 7412(r)(6)(N). In contrast with other provisions where qualifying language clarified the scope of the term “agency” or “agencies,” the only qualifier here is the word “other.” In the absence of language limiting the scope, it is therefore reasonable to read the term “agency” broadly in this instance. Additionally, because CSB is itself a federal agency, it is reasonable to conclude that other federal agencies would fall within the scope of “other agencies” as it is used in the provision.<sup>1</sup> Accordingly, we conclude that CSB has authority to enter into agreements with other federal agencies, independent of the Economy Act.

## CONCLUSION

Based on the plain language of 42 U.S.C. § 7412(r)(6)(N), we conclude that this provision grants CSB statutory authority, independent of the Economy Act, to enter into agreements with other federal agencies.



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<sup>1</sup> CSB asserts that the word “agency,” as it is used in 42 U.S.C. § 7412(r)(6)(N) without the qualification that it is an “agency of the United States,” should be interpreted broadly to include state and local agencies, as well as federal agencies. Request Letter, at 2–3. Because we were asked to address CSB’s authority to enter into agreements only with other federal agencies, independent of the Economy Act, we need not opine on CSB’s assertion here.