



**Department of Energy
Acquisition Regulation**

**No. AL 2007-03
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ACQUISITION LETTER

This Acquisition Letter is issued under the authority of the DOE and NNSA Procurement Executives.

Subject: *Interagency Acquisition*

References:

FAR Part 7	Acquisition Planning
FAR Part 8	Required Sources of Supplies and Services
FAR Part 10	Market Research
FAR Subpart 17.2	Options
FAR Subpart 17.5	Interagency Acquisitions under the Economy Act
FAR Part 37	Service Contracting
FAR Part 38	Federal Supply Schedule Contracting
FAR Part 42	Contract Management
DEAR 970.1707	Work For Others
Guide Chapter 7.1	Acquisition Planning
Guide Chapter 17.1	Interagency Agreements
Guide Chapter 38.1	Task Order Contracting
	Strategic Acquisition Transaction Guide
Guide Chapter 71.1	Headquarters Review of Contract and Financial Assistance Actions
DOE O 481.1C	Work for Others (Non-Department of Energy Funded Work)
Chapters 12 and 13	Accounting Handbook
OFPP Ltr 08/26/99	Guidance on Reporting Contract Actions Awarded under Federal Supply Schedules Contracts, Government-Wide Acquisition Contracts, Multi-Agency Contracts and Inter-Service Support Agreements

Effective date of the Acquisition Letter (AL)

This AL is effective upon issuance. AL 2005-05 dated 4/26/05 is canceled.

AL Expiration

This AL remains in effect until superseded or canceled.

Contact for More Information

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Purpose of the AL

The purpose of this AL is to provide guidance to DOE Contracting Officers (COs) on the use of Interagency Agreements (IAs) including the following: Economy Act transactions, Federal Supply Schedules (FSS) awarded by the General Services Administration (GSA), Government-Wide Acquisition Contracts (GWACs), and contracts or orders awarded through Franchise Fund organizations. This revision also re-organizes the guidance and incorporates terminology consistent with Office of Federal Procurement Policy (OFPP) guidance on IAs. This AL applies to all DOE elements, including the National Nuclear Security Administration (NNSA). For the purpose of this AL, “DOE” refers to both DOE and/or NNSA, as applicable.

Background

Many events involving the misuse of one Federal government agency’s contract by another Federal government agency has created a need for DOE to re-emphasize the proper use of IAs. Interagency contracting remains on the Government Accountability Office (GAO) High Risk List. This revision updates DOE guidance based on recent findings and recommendations from GAO and Inspector General (IG) reports of other federal agencies.

Introduction

The IA relationship involves two Federal agencies that enter into a relationship for the purpose of contracting under an “assisted” or “direct” acquisition. In an assisted acquisition the parties are referred to as the “requesting agency” and the “servicing agency”. The requesting agency possesses the requirement and uses another agency’s contracting vehicles and/or services to satisfy their requirements. The servicing agency is the agency that is authorized by law or regulation to purchase supplies or services on behalf of the other agency. This can also be referred to as “fee for service”. An assisted order requests the servicing agency to act as the primary source for conducting and administering the acquisition, however the servicing agency is not precluded from seeking assistance from another agency to fulfill the requirement.

Direct acquisitions allow for requiring agencies to order against existing contract vehicles specifically set up for government-wide use. Direct orders may have an access fee incorporated within its schedule of rates or have no fee at all. These contract vehicles are GSA’s FSS and GWACs and are termed Interagency Contract Vehicles (ICV). The agency that owns the ICV is called the ICV Owner. Correspondingly, the agency that uses an ICV is an ICV User.

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Guidance Included in this Acquisition Letter

- 1. Acquisition Planning**
- 2. Guidance on Interagency Acquisitions under the Economy Act**
 - A. DOE as the Requesting Agency under the Economy Act**
 - B. DOE as the Servicing Agency under the Economy Act**
- 3. Guidance on Using Servicing Agencies with Specific Statutory Authority**
 - A. Federal Supply Schedules (FSS) Direct Ordering**
 - B. Government-Wide Acquisition Contracts (GWAC) Direct Ordering**
 - C. Franchise Fund Organizations Assisted Ordering**
- 4. Required Information for Accurate Processing**
 - A. Socio Economic Credit**
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1. Acquisition Planning

The DOE CO must work with the requiring program officials during the acquisition planning stage in order to determine the best course of action that will satisfy their needs and comply with applicable laws, Federal Acquisition Regulations (FAR) and DOE regulations, policies and procedures. The CO must collaborate in the acquisition planning and should document the results of the market research in a manner appropriate to the size and complexity of the acquisition. The use of the IA is an additional consideration in and not a substitute for acquisition planning. After considering all the alternatives, selecting another agency's contract shall not be used to circumvent DOE requirements.

2. Guidance on Interagency Acquisitions under the Economy Act

A. DOE as the Requesting Agency under the Economy Act

The Economy Act (31 U.S.C. 1535), as implemented by FAR Subpart 17.5, authorizes agencies under certain circumstances and in accordance with certain requirements to obtain supplies or services through an IA. The Economy Act applies when more specific statutory authority does not exist for this purpose. For example, it does not apply to acquisitions from required or optional sources of supplies and services prescribed in FAR Part 8. It also does not apply to acquisitions using GWACs. An Economy Act transaction shall not be used to circumvent: (1) Federal or DOE regulations, (2) limitations on the use of appropriated funds, (3) requirements of FAR Subpart 7.3, Contractor versus Government Performance, (4) required term limits or maximum timeframes, or (5) any other agency's authority or responsibility.

To ensure that IAs under the authority of the Economy Act are proper, all IAs shall be signed by a DOE CO. In addition, COs are instructed to undertake the following actions when DOE is the requesting agency:

- 1) If the IA uses an existing servicing agency's contract(s), the requesting DOE program official shall include a copy of the contract's Statement Of Work (SOW) and other applicable contractual documents with the Procurement Request (PR). If the documents are not included, the DOE CO should ensure they are obtained. The DOE CO shall review the SOW and other documents to determine that the supplies or services requested under the IA are within the scope of the servicing agency's contract and confirm this determination with the servicing agency's CO. The DOE CO shall document this review in the written Determination and Findings (D&F) discussed below. To the maximum extent practicable, the DOE CO shall also ensure that use of the servicing agency's contract does not circumvent DOE policies with respect to small business, competition and performance-based acquisition.

2) If the servicing agency will be awarding a new contract or awarding a task or delivery order under an existing contract to meet the IA requirements, the DOE CO shall include any special terms and conditions in the IA to ensure that applicable DOE policies and procedures are not circumvented.

3) Prepare and sign a written D & F that:

- a) sets forth, with supporting documentation, the prerequisites found at FAR 17.503;
- b) states conformance to all DOE regulations, policies and procedures;
- c) states that the supplies or services obtained are within the authority of the servicing agency;
- d) states that any services to be contractually provided by the servicing agency are within the scope of the IA SOW and that any follow-on tasks will be reviewed by the DOE CO to ensure that they are also within the scope of the IA SOW;
- e) states that any services to be contractually provided by the servicing agency have been determined to be within the scope of the servicing agency's contract statement of work by both the DOE and the servicing agency's cognizant CO;
- f) includes detailed information on the supplies or services that are to be provided, performance/delivery schedules and the responsibilities of the servicing agency to ensure compliance with all contractual requirements;
- g) describes any DOE special or unique terms, conditions or requirements to be incorporated into the IA and/or servicing agency contract/order;
- h) identifies that the servicing agency will perform contract administration that may include: a quality assurance plan, contract surveillance, voucher examination, past performance data collection and recording and reporting data into Federal Data System-Next Generation (FPDS-NG);
- i) states any pre-award and/or post award administrative functions that will be retained by DOE;
- j) states it is in the best interest of DOE for satisfying customer requirements, schedule, cost and administrative requirements; and
- k) complies with the requirements of FAR Subpart 7.3.

4) If the DOE CO determines it appropriate to appoint a COR to monitor performance of the work performed under the IA then the DOE CO shall appoint an individual certified and registered in the Acquisition Career Management Information System (ACMIS). The COR in coordination with the DOE CO, shall provide any information required by the servicing agency in order to support the award and administration of their contract or order.

5) Submit IAs with supporting file documentation to the Office of Contract Management (MA-62) for DOE, or Office of Acquisition and Supply Management (NA-63) for NNSA, when the dollar value of the IA is over the approval threshold of the Head of Contracting Activity (HCA).

B. DOE as the Servicing Agency under the Economy Act

(This section does not apply to reimbursable work subject to DEAR 970.1707 Work for Others or DOE Order 481.1C, Work for Others (Non-DOE Funded Work)).

Under the Economy Act, DOE may act as a servicing agency if the transaction has been determined to be in the best interest of the Government and the supplies or services required by the requesting agency cannot be obtained as conveniently or economically by contracting directly with a private source. **DOE COs shall neither award contracts nor place an order under on-going contracts for other agencies that do not conform to DOE regulations, policies, and procedures.**

In addition, if the transaction or order will require the use of a contract, one of the following three circumstances (see FAR 17.503) must apply:

- 1) The acquisition will appropriately be made under an existing DOE contract, entered into before placement of the order, to meet the requirements of the servicing agency for the same or similar supplies or services;
- 2) DOE has capabilities or expertise to enter into a contract for such supplies or services which are not available within the requesting agency; or
- 3) DOE is specifically authorized by law or regulation to purchase such supplies or services on behalf of other agencies.

When DOE will be the servicing agency and the use of a DOE contract is required, the DOE CO should inform the requesting agency's technical and/or contracting personnel that the IA requesting services must include the following:

- 1) The signature of an individual within the requesting agency (preferably a CO) authorized to approve IAs,
- 2) Billing data with the names and mailing addresses of the servicing and requesting parties' accounting offices,
- 3) A termination provision for the IA,
- 4) A citation of the requesting agency's funding and appropriation data and validation of statutory or regulatory use of the funds including disclosure of any special restriction,
- 5) Identification of the contractor and contract number,
- 6) A statement of work and the estimated cost,
- 7) Provisions for inspection and acceptance of the contractor's work,
- 8) Intellectual property provisions, if applicable,

- 9) Unique terms and conditions required by the requesting agency, if applicable,
- 10) Unique or specific security requirements,
- 11) A copy of the requesting agency's D& F for the IA,
- 13) A positive affirmation that the requesting agency is not circumventing their own policy, procedures, and/or regulations in contracting with DOE,
- 14) A copy of the requesting agency's market research and/or Acquisition Plan, and
- 15) A copy of the requesting agency's COR delegation, if applicable. Verify that the COR is registered in ACMIS.

The DOE CO as the servicing agent is responsible for compliance with all legal or regulatory requirements applicable to the procurement action, including:

- 1) Performing acquisition planning in accordance with the DOE Acquisition Guide, Chapter 7.1,
- 2) Having adequate statutory authority for the contractual action,
- 3) Complying fully with the competition requirements of FAR Part 6,
- 4) Complying with the requirements for small business set-asides in FAR Subpart 19.5,
- 5) Performing contract administration duties which include preparing a quality assurance plan, voucher examination and past performance data collection and reporting as required by FAR 42.1502,
- 6) Appointing a COR (must be registered within ACMIS) when appropriate, and
- 7) Ensuring timely and accurate data in connection with the contract or order is reported in FPDS-NG.

Work requested under an on-going contract must be within the scope of the contract. Reimbursable work must be authorized under on-going contracts by the issuance of a new task assignment, task order, or other work authorization by a DOE CO. The authority to authorize reimbursable work under on-going contracts may not be delegated to CORs. The contractor must develop a budget before the authorization to start work and track the costs associated with the reimbursable work separately.

3. Guidance on Using Servicing Agencies with Specific Statutory Authority

A. Federal Supply Schedules (FSS) Direct Ordering

The GSA has statutory authority to enter into contracts for government-wide use. The primary statutory authority for the FSS program is derived from both Title III of the Administrative Services Act of 1949 (41 U.S.C. 251, et seq.) and Title 40 U.S.C., Public Buildings, Property and Works. The GSA is the ICV Owner of the FSS contracts, also known as Multiple Award Schedules (MAS). Each schedule in FSS has specific supplies or specialized services that ICV Users can acquire through direct orders.

When placing direct orders under the FSS, DOE COs must comply with the procedures in FAR Part 8 and the policies in this AL. **All task or delivery orders issued under FSS shall be signed by the DOE CO.** COs may only place orders against the FSS for supplies or services listed on the vendor's schedule contract. The CO shall not include services or supplies (referred to as "open market") outside the scope of the Schedule contract in the order, until they have complied with the applicable regulations for competition under the FAR. The GSA has additional instructions and information for use of the schedules at www.gsa.gov. Also, see Chapter 38 of the DOE Acquisition Guide.

To ensure that FSS are used properly, DOE COs shall:

- 1) Ensure and document that use of FSS is in conformance with DOE policy or regulation (i.e., socio-economic goals, price reasonableness, etc.).
- 2) Review the schedule contract's SOW and other applicable contractual documents and validate that the supplies or services requested are within the scope of that schedule. Document the review of the SOW in a memorandum for the file. Supplies or services that are outside of the vendor's negotiated schedule are "open market" items and cannot be purchased using the FSS procedures; instead, they can only be included on the order after complying with the applicable procurement laws and regulations, including those requiring the use of competitive procedures.
- 3) Review the ordering procedures posted on the schedule website, especially first time users. Seek and document advice from the cognizant GSA CO on proper use of the FSS whenever an issue is in doubt.
- 4) Review follow-on task orders to ensure that they remain within the scope of the contract.
- 5) Comply with the specific requirements of the FSS, including those for competitive tasking, consistency with the scope of work, and use of the instruments for a specific, not overly broad or undefined, purpose.
- 6) Ensure that the FSS contract labor categories are the proper equivalent (mapped) for the labor categories required by the Request For Quote (RFQ).

“Mapped” is a term that describes the offeror’s proposed rates and labor categories derived from an applicable GSA Schedule. Always seek a discount.

7) Document a price reasonableness determination.

8) Perform all the functions inherent to contract administration, including quality assurance planning, contract surveillance, voucher examination and past performance data collection and reporting.

9) Report timely and accurate data in connection with the order in FPDS-NG.

B. Government-Wide Acquisition Contracts (GWAC) Direct Ordering

A GWAC is a multiple award contract issued by one agency, that may be used by other agencies, to place direct or assisted orders to procure information technology products and services. Each GWAC is operated by an executive agent designated by the Office of Management and Budget (OMB) pursuant to section 5112 (e) of the Clinger-Cohen Act. OMB has designated four agencies as executive agents for GWACs: GSA, National Institutes of Health, National Aeronautics and Space Administration, and Department of Commerce. A list of GWACs is included in the Strategic Acquisition Transactions Guide. All GWACs allow for direct ordering.

GWACs are valuable tools for the acquisition of information technology supplies and services, but the DOE CO must ensure that: (1) the GWAC is not used to circumvent applicable DOE policies or regulations; (2) the servicing agency properly administers all contract terms and conditions and adheres to the FAR, (3) DOE requirements are within the scope of the master GWAC contract; and (4) subsequent task orders are under the scope of the contract.

COs are reminded to undertake the actions outlined below when placing a direct order:

- 1) Obtain a copy of the statement of work and other applicable contractual documents and validate that the services requested are within the scope of that GWAC. Document in a memo your review of the SOW.
- 2) Review the ordering procedures posted on the website and complete any mandatory training. Follow the instructions for attaining a delegation when it is required.
- 3) Place only orders that comply with all DOE regulations, policies and procedures. The CO must pay particular attention to complying with performance-based and socio economic policies, and the procedures prescribed in the GWAC for providing a fair opportunity to all GWAC contractors.
- 4) Document that the order is in the best interest of DOE for satisfying customer requirements, schedule, cost and administrative requirements.

- 5) Designate a DOE COR and verify that the COR is registered in ACMIS.
- 6) Document a price reasonableness determination.
- 7) Perform contract administration duties which include: quality assurance planning, surveillance, voucher examination, past performance data collection, and accurate data reporting into FPDS-NG.

C. Franchise Fund Organizations Assisted Ordering

The Government Management Reform Act of 1994 authorized the Office of Management and Budget to designate franchise fund pilots. A franchise pilot is a self-supporting business-like entity that provides common administrative services on a fully reimbursable basis to other Federal agencies. These services may include procurement support services. **Franchise fund organizations shall not be used to obtain acquisition management services unless approved by the HCA, with notice to the Senior Procurement Executive.** As in the case of other non-DOE IA transactions previously discussed, franchise fund organizations may not be used to circumvent DOE policies or regulations. If circumstances permit and the proper approval has been granted, an assisted order may be placed using a Franchise Fund organization. All services to be provided by a franchise fund organization must be obtained through an IA.

The DOE CO and Servicing Agency CO shall agree on the roles and responsibilities of each party. The DOE CO, in conjunction with the requiring program official and the servicing agency, should determine the nature and level of contract administration support to be provided by the servicing agency. The servicing agency is primarily responsible for contract administration, however in certain situations DOE may elect to negotiate and retain greater responsibility. The IA should state which agency will be responsible for: acquisition planning, source selection, and contract administration.

Prepare a memorandum which documents the primary roles and responsibilities of each agency and any shared responsibilities that DOE has agreed to retain. Areas of consideration include:

- Designation of DOE CO Representative (COR) for the IA,
- Servicing agency CO responsibilities,
 - including quality assurance plan and surveillance method,
- Incremental funding,
- Inspection and acceptance responsibilities,
- Voucher examination, and
- Past Performance data collection and reporting.

The DOE CO should monitor tasks provided to the servicing agency to ensure that they are consistent with the scope of the agreement with the servicing agency and the terms of the servicing agency's contract. CO's should also monitor incremental funding documents to ensure that they fund the SOW under the original agreement. Due diligence is required by the DOE CO and their designated COR during the period of

performance to ensure that the contractor, as well as the servicing agency, complies with all applicable regulations and policies. Review of contract deliverables and invoices should include items such as ensuring that services provided remain within the scope of work and that labor is provided by appropriate, and if applicable, approved labor categories.

In addition, when GSA's Federal Acquisition Service (FAS) is the assisting agency, the GSA Administrator requires that the following statement be included in all requests to award a contract or place an order on DOE's behalf. DOE COs shall include this statement including the final italicized sentence.

By signing the funding document you have verified that the funds are legally available for the purpose of the acquisition activities to be performed by GSA; all unique funding and procurement requirements, including statutory or regulatory requirements applicable to the funding being provided, have been disclosed to GSA; and all internal reviews and approvals required prior to placing the order with GSA have been completed.

*GSA must obligate all associate funds on or about
_____ (insert date).*

4. Required Information for Accurate Processing

Socio Economic Credit

It is extremely important for DOE to receive its Socio Economic Credits. OFPP guidance instructs that the placement of the contract/order, whether direct or assisted, shall credit socioeconomic data to the requesting agency or funding source. The CO **making the award** must enter the requesting agency's or the ICV User's Funding Agency ID in the FPDS-NG. The Small Business Administration (SBA) relies on FPDS-NG data to derive goal accomplishments and complete its reports. In no instance shall contract actions be reported in FPDS-NG more than once.

Billing Instructions

DOE COs must ensure that IAs include standard billing instructions to ensure timely and accurate accounting for exchanges between agencies. These instructions must be sufficient to facilitate exchange transactions and reporting between agencies and should comply with the billing requirements of the Office of the Chief Financial Officer and Treasury's Intragovernmental Business Rules FMS Bulletin no. 2007-03. In summary these requirements include:

- The primary system to settle intragovernmental exchange transactions is the Intra-Governmental Payment and Collection (IPAC) System. All IAs should include instructions to use the IPAC system for exchange transactions.

- The IA should identify the DOE funding codes and obligating document number (also referred as purchase order; contract number; contract identification; PO; CID; Miscellaneous CID) and should instruct the other agency to include the DOE obligating document number on all documentation related to the agreement.
- When using IPAC, DOE obligating document number should be included as the Purchase Order Number or Obligating Document Number of the IPAC.
- The DOE Obligating number shall serve as the common agreement number required by FMS Bulletin no. 2007-03.
- The IA should specify information for all agencies' party to the IA, including:
 - Agency Location Code (ALC)
 - Treasury Account Symbol (TAS)
 - Business Event Type Code (BETC)
 - Business Partner Network (BPN) number, and
 - Contracting and Accounting Points of Contact.

For detailed requirement for billing instructions please visit the following websites:

- DOE Billing Instructions for Dealing with Other Federal Agencies: (<http://www.cfo.doe.gov/cf11/efasc/ia/>), and
- FMS Bulletin no. 2007-03: (<http://fms.treas.gov/tfm/vol1/07-03.html>).