

Subchapter 3017.70 Intra-Agency Acquisitions

3017.7000 Scope.

This subchapter establishes DHS policies and procedures for processing intra-agency acquisitions. This subchapter does not apply to:

(a) Interagency acquisitions. See HSAM 3017.5 for DHS policy and procedures on interagency acquisitions (note: DHS strategic sourcing contracts that designate the use of another agency's contract vehicle are interagency acquisitions and subject to the procedures at HSAM 3017.5); or

(b) Intra-agency reimbursable work agreements (IRWA) (non acquisition transactions). See section 3.7 of the DHS Financial Management Policy Manual for policy on inter/intra-agency reimbursable work agreements. IRWAs include interagency activity where contracting is incidental to the purpose of the transaction (see HSAM 3017.7001).

3017.7001 Definitions.

Requesting Component is the Component that has the requirement for an intra-agency assisted acquisition. For a direct acquisition, the requesting Component places an order against a servicing Component's contract.

Servicing Component is the Component that will conduct an assisted acquisition on behalf of the requesting Component. For a direct acquisition, the servicing Component awards a contractual vehicle that allows one or more Components to place orders against the contract.

Contracting Incidental to the Purpose of the Transaction – When a servicing Component enters into a written agreement to provide a service or supply to a requesting Component and the servicing Component uses a contract to fulfill the need, the contract is incidental to the purpose of the transaction. This is because the requesting Component is asking the servicing Component to provide a service and not to award a contract action (e.g., contract, order, or modification) or provide other acquisition assistance (e.g., conduct market research, develop an acquisition strategy, prepare a statement of work, modify a contract to add the work of a requesting agency). For example, when a Component requests the Federal Protective Service to protect its buildings and properties, any contracts that FPS may enter into to support its effort to provide that protection are incidental to the purpose of the transaction. The purpose of the transaction is for FPS to provide protection to buildings and properties and not to award contracts on behalf of the requesting Component.

Direct fund citation applies to assisted acquisitions and is the process by which a servicing Component cites a requesting Component's funding (i.e., the line(s) of accounting) as the financing source on the contract action that a servicing Component ultimately awards for a requesting Component. When a servicing Component directly cites a requesting Component's funding on a contract action, the signed contract, order, or modification is returned to a requesting Component for all required accounting, obligation and contractor payment.

Intra-agency acquisition is a procedure by which a requesting Component needing supplies or services obtains them from a servicing Component by:

- (1) *Intra-agency assisted acquisition* whereby a servicing Component performs acquisition activities on behalf of a requesting Component. Acquisition activities include awarding or administering a contract, task order, or delivery order or performing other acquisition activities such as conducting market research or drafting a statement of work.
- (2) *Intra-agency direct acquisition* whereby a Component needing supplies or services obtains them directly by issuing an order under another Component's contract. An example is a DHS contracting officer issuing an order against a DHS strategic sourcing contract.

Payment by Reimbursement applies to assisted acquisitions and is the process by which a requesting Component will pay or reimburse a servicing Component for the goods and services it procured. When payment is by reimbursement, the servicing Component pays contractor invoices and is reimbursed by the requesting Component.

Strategic Sourcing – See HSAM 3017.7101.

3017.7002 Policy.

(a) *Statutory Authority.* Although the procedures of FAR Subpart 17.5 do not apply, all intra-agency acquisitions including orders placed under DHS Strategic Sourcing contracts must be authorized by statute.

(b) *Proper Use.* DHS shall not use an intra-agency direct or assisted acquisition to circumvent conditions and limitations imposed on the use of funds. This is because when funding moves from one Component to another, the funding retains its statutory restrictions for the use of that funding.

(c) *Appropriations Principles.* The appropriated funds used to pay for goods or services obtained by means of an intra-agency acquisition shall:

- (1) Meet an existing *bona fide* need of the fiscal year in which goods or services are acquired;
- (2) Be properly obligated on the ultimate contract or order within a reasonable time before the expiration of available funds; and
- (3) Comply with all other applicable appropriations law, regulation, and policy. For example, the Economy Act requires Components deobligate any fixed year funds at the end of their period of availability to the extent that the servicing Component did not perform or incur valid obligations under an intra-agency assisted acquisition. Therefore, after all financial obligations of the requesting Component have been paid to the servicing agency, and there remains excess funds associated with an intra-agency assisted acquisition, the contracting officer shall request the requesting Component submit a procurement request to deobligate excess funds.

(d) *Review and Approvals.* Review and approvals shall be in accordance with HSAM subchapter 3004.70, as applicable.

3017.7003 Procedures.

(a) *Intra-agency assisted acquisitions.*

(1) *Approvals.* When a requiring office of one DHS Component wishes to use the acquisition services of another DHS Component, the requiring office must obtain the approval of its assigned HCA (or delegated official(s) per Component procedures). HCAs without re-delegation may also grant approval on a class basis. Approval from the requesting Component's contracting office ensures that the requested acquisition services meet a program's mission need and promote economies and efficiencies. Requiring offices shall request approval following Component procedures. The approval shall be documented using the template provided in Appendix (I), Approval of an Intra-agency Assisted Acquisition, and included in the procurement request package submitted to the servicing Component's contracting office. Factors approving officials should consider when evaluating such requests include:

- (i) The servicing Component's authority, experience, and expertise in acquiring the needed product or service;
- (ii) The servicing Component has an existing contract vehicle that meets the needs of the requesting Component;
- (iii) Collaborating on the purchase of supplies or services is anticipated to strengthen the Government's negotiating positions and thus result in better pricing or terms and conditions than if each Component awarded a contract separately;
- (iv) The servicing Component's ability to comply with unique requirements or prohibitions of the requesting Component such as restrictions on a Component's appropriations; and
- (v) Any additional factors unique to a particular procurement.

(2) *Procedures.*

- (i) The requiring office of the requesting Component (hereafter referred to as the requiring office) determines the requirement and initiates market research per HSAM 3010.
- (ii) If market research determines that the best way to satisfy the requirement is through an intra-agency assisted acquisition, the requiring office contacts the servicing Component's personnel responsible for the program or contract vehicle to confirm the program or contract vehicle appropriately satisfies the requesting Component's needs. The requiring office also determines the proper statutory authority to undertake the intra-agency assisted acquisition (e.g., Economy Act

(31 U.S.C. 1535)). If the servicing Component disagrees, the parties should consult legal counsel. At this step the requiring office and the servicing Component (program office and contracting office) may also determine the roles and responsibilities of each Component; identify the parties responsible for completing the procurement request documentation required by 3004.71; and establish how a contract action will be funded per subparagraph (iii);

(iii) The servicing Component's contracting office determines whether a contract will be funded by direct fund citation or by reimbursement.

(iv) If an intra-agency assisted acquisition is appropriate, the requiring office requests approval from its Component contracting office by completing the template provided in Appendix I of the HSAM.

(A) When an intra-agency assisted acquisition is conducted under the authority of the Economy Act, the requiring office shall also affirm, using the template in Appendix I of the HSAM, that all of the conditions of the Economy Act have been met.

(B) If a specific statute applies, the requiring office shall use the specific statute and shall not use the Economy Act.

(v) Upon receiving the approval of the requesting Component's contracting office, the requiring office works with its budget or finance office and the servicing Component to prepare an intra-agency agreement and to ensure the commitment of funds is recorded in the financial system. The agreement may be documented using Treasury's forms 7600 A and B (at <https://www.fiscal.treasury.gov/g-invoice/resources.html>) or any other form that is mutually agreeable to the parties and include the following information:

(A) Key roles and responsibilities of the parties, the terms and conditions of the agreement (including how the contract action will be funded, who will serve as the contracting officer representative, and who is responsible for payment of contractor invoices), funding information (see Treasury Form 7600B for required funding information), and the FPDS-NG funding agency/office codes;

(B) The procurement request documentation required by the servicing Component's contracting office;

(C) Unique terms and conditions required by the requesting Component such as security requirements unique to the requesting Component, if applicable;

(D) A written statement that the requesting Component is not circumventing DHS or Component policies, directives, or procedures by requesting acquisition assistance from the servicing Component;

(E) The requesting agency's funding and appropriation data and validation of statutory or regulatory use of the funds, including disclosure of any special restrictions on the use of funds.

(vi) Upon finalizing the intra-agency agreement and all required procurement documentation, including the requesting Component's contracting office's approval, the requiring office transmits the information to the servicing Component for final signatures. The servicing Component's Head of Contracting Activity, or designee, is the accepting official for the servicing Component. When the requesting Component will reimburse the servicing Component for the goods or services procured, the requiring office works with its budget/finance office to arrange for the obligation of funds in the requesting Component's financial system following Component procedures. When the parties agree the contract action will be funded using direct fund citation, the requesting Component records the obligation of funds in its financial system when the servicing Component awards the contract action.

(vii) Upon all parties signing the intra-agency agreement, the contracting officer of the servicing Component shall process the procurement request for the resulting procurement action in accordance with the FAR, HSAR, HSAM, Component policy and procedures, and, if applicable, unique statutory requirements.

(viii) Upon award of the action, the servicing Component's contracting officer shall:

(A) Report the resulting contract action in FPDS including identifying the funding agency/office codes from the applicable codes maintained by each Component in FPDS. These codes represent the Component and office that provided the predominant amount of funding for the contract action. The requesting Component will receive socioeconomic credit for meeting its Component small business goals where applicable;

(B) Provide a copy of the award document to the requiring office of the requesting Component;

(C) Administer the contract or order as per agreement of the parties; and

(D) Ensure the obligation is recorded following Component procedures. If payment by reimbursement occurs, the contract obligation is recorded in the servicing Component's accounting system. If a direct fund citation is used, the servicing Component's contracting officer provides a copy of the award document to the requesting Component and receives evidence that the obligation was recorded in the requesting Component's accounting system.

(b) *Intra-agency direct acquisitions.* FAR Subpart 17.5 does not apply to intra-agency direct acquisitions. However, statutory authority is required. The requiring office is responsible for identifying the appropriate statutory authority. If the action is authorized by the Economy Act, the requiring office shall include in its procurement request the following statements supported by market research and analysis:

- (1) The funding for the purchase is actually available;
- (2) The purchase is in the best interest of the Government;
- (3) The ordered goods or services cannot be provided as conveniently or as inexpensively as by a Component's contract; and
- (4) The contract allows the requesting Component to directly order the goods or services.

Components shall follow the ordering procedures of the Strategic Sourcing or other DHS-wide contract (also see FAR 16.505 and HSAM 3016.505).