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[Comments on Recovery of Costs Under Economy Act]

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APPROPRIATIONS/FINANCIAL MANAGEMENT Appropriation Availability Cost controls Statutory restrictions Inventories Agency charges based on standard cost for items provided from inventory may be made consistent with the minimum legal requirements of the Economy Act. 31 U.S.C. Secs. 1535, 1536. The standard cost may be based on the last acquisition cost of the specific kind of item provided to the requesting agency, not the last acquisition cost of a similar item. Charging standard cost for transportation and labor under Economy Act may be reasonable depending upon factors considered in establishing standard costs.

David P. Holmes Acting General Counsel Central Intelligence Agency

Dear Mr. Holmes:

This responds to your letter dated August 27, 1992, to James F. Hinchman, General Counsel, General Accounting Office, seeking guidance on whether certain costs are appropriate for recovery as "actual costs" under the Economy Act. In the interest of national security, you have not identified specific transactions and the related details, e.g., the performing agency, the goods and services provided, the reason standard costs are used, and the method used to establish standard costs.

Accordingly, we have not directly answered your specific questions because the lack of details would require us to substantially qualify our response. Instead, we offer a general discussion of the issues raised by your letter, which we trust will assist the CIA in determining the propriety of charges for items or services under the Economy Act and in resolving any disagreements between the CIA and other agencies.

Economy Act Requirement to Reimburse Actual Costs

The Economy Act authorizes one agency to place an order for goods or services with another agency under the circumstances specified in the Act. The ordering agency must reimburse the performing agency based on the "actual cost" of the goods or services provided. Specifically, Payment [for interagency transfers of goods or services] may be in advance or on providing the goods or services ordered and shall be for any part of the estimated or actual cost as determined by the agency or unit filling the order. . . . Proper adjustment of amounts paid in advance shall be made as agreed to by the heads of the agencies or units on the basis of the actual cost of goods or services provided.

"Actual cost" as that term is used in the Economy Act includes all direct costs

attributable to providing the goods or services ordered, as well as indirect costs funded out of the performing agency's currently available appropriations that bear a significant relationship to providing the goods or services. 57 Comp.Gen. 674, 682-683 (1978); B-211953, Dec. 7, 1984, n. 6. The types of costs included would generally be the same as those categories of costs listed in GAO, Policy and Procedures Manual for Guidance of Federal Agencies, title 2, App. I, Sec. A20 "Acquisition Cost of Assets" (TS 2-24, October 31, 1984); see also 2 GAO-PPM App. I, Sec. T10 "Transfers of Assets and Liabilities Between Federal Agencies."

Use of Standard Costs

Agencies possess some flexibility in applying the Economy Act's "actual cost" standard to specific situations. Agencies must apply the standard to reasonably ensure that the performing agency is reimbursed for its costs without either the ordering or the performing agency augmenting its appropriations. We do not believe that reimbursements based on reasonable standard cost determinations constitute unauthorized augmentations of appropriations or run afoul of the Economy Act.

In Iran Arms Sales, DoD's Transfer of Arms to the Central Intelligence Agency, at 8 (GAO/NSIAD 87-114, B-226832, March 1987), we determined that the Army was reasonable in making Economy Act transfers on the basis of "standard costs", which it defined as the contract price at the time of the last acquisition. The use of the last acquisition cost is a generally accepted method for valuing inventory sold. Our determination was based upon the fact that the use of standard costing mechanism to estimate "actual costs" is explicitly recognized in our accounting standards, at least with respect to accounting for inventory items. See 2 GAO-PPM App. I, Sec. 130 "Inventory". However, we also recognized that the standard cost of the specific kind of item taken from inventory was only the starting point for determining the amount of reimbursement.

In addition to the standard cost, the Army was authorized to be reimbursed for work performed upon the item taken from inventory in order to meet the requesting agency's requirements. GAO/NSIAD 87-114 at 10.

Consistent with the foregoing, agency charges based on a standard cost for items provided from inventory may be made consistent with the minimum legal requirements of the Economy Act. Further, the standard cost may be based upon the last acquisition cost of the specific kind of item provided to the requesting agency, not the last acquisition cost of a similar item. Costing the item in this manner is not unreasonable and therefore, does not result in an unauthorized augmentation of the performing agency's appropriation. However, when the performing agency seeks reimbursement for the replacement cost of a more technologically advanced item than that provided to the requesting agency, it is seeking reimbursement beyond the benefit conferred and, to that extent, augmenting its appropriations. The same is true of the recovery of the cost of spare parts or support equipment associated with bringing the technologically advanced item into the performing agency's inventory.

Transportation and Detailed Employees

The standard cost of an inventory item may include the transportation costs incurred in bringing the item to its location as part of the performing agency's inventory. 2 GAO-PPM App. I Sec. 130.04. While the Economy Act clearly permits

charging the actual cost of transporting an item from inventory to the destination point specified by the requesting agency, it is not necessarily unreasonable to charge instead a standard cost for the transportation. Some of the factors to be considered in determining the reasonableness of such charges include: whether the "actual cost" is known or reasonably determinable from the performing agency's accounting system; whether transportation and handling are provided by contractors or by performing agency personnel; whether the performing agency regularly or infrequently performs such function; and, the reasonableness of the method used to allocate transportation costs to requesters (e.g., adjustments for differences in delivery distances).

We assume that a detailed employee is an employee that is either (1) working temporarily under the direction and control of the requesting agency or (2) working in the performing agency either on a full time or part time basis in providing requested goods or services to the ordering agency. Normally, the cost of detailed personnel should be readily determinable by the performing agency since its pay, personnel, and other records should clearly disclose such information. While charging the actual determinable costs is reasonable under the Economy Act, charging a standard cost for detailed personnel is not in and of itself unreasonable. Some of the factors to be considered in determining the reasonableness of such charges under the circumstances include: the cost of operating the accounting system; whether it is based on actual cost data; whether all the items included in the computation of the standard cost yield a reasonable approximation of actual costs.

Other Considerations

Finally, for purposes of determining the reasonableness of Economy Act charges, it is important to recognize that Economy Act transactions do not normally involve the performing agency providing goods or services to requesters through operations that are analogous to commercial activities. Such activities are normally funded by stock, supply, working capital, revolving, or industrial, funds that are established by law. Generally, the law establishing the fund (1) specifies the agencies that are authorized or required (covered users) to request goods or services financed through the fund and (2) identifies the cost elements that may be recovered from covered users. Many such funds are intended to operate on a self-sustaining basis from fees charged to covered users.

However, when goods or services are requested by an agency that is not a covered user, the performing agency normally will provide the goods or services under the authority of the Economy Act. In such cases, a question may arise concerning whether the Economy Act or the law establishing the fund controls for purposes of determining the authorized charge. To harmonize the Economy Act's general authority and requirements with an individual fund's specific authority and requirements, we have held that competing congressional goals, policies or interests embodied in other provisions of law may serve to authorize recoveries beyond that necessary to effectuate the purposes of the Economy Act.

I trust the foregoing is of assistance to you.

Full Report

Full Report

(6 pages)

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