

INTERGOVERNMENTAL COOPERATION ACT AGREEMENTS

The Intergovernmental Cooperation Act, 31 U.S.C. § 6505, provides that the President may prescribe statistical and other studies and compilations, development projects, technical tests and evaluations, technical information, training activities, surveys, reports, documents, and other similar services that an executive agency is especially competent and authorized by law to provide. The services prescribed must be consistent with and further the policy of the United States Government of relying on the private enterprise system to provide services reasonably and quickly available through ordinary business channels.

Executive branch agencies may provide services prescribed by the President to a State or local government when (1) written request is made by the State or local government; and (2) payment of pay and all other identifiable costs of providing the services is made to the executive agency by the State or local government making the request. Payment received by an executive agency for providing services under this section shall be deposited to the credit of the principal appropriation from which the cost of providing the services has been paid or will be charged.

OMB Circular A-97 sets forth guidance concerning the Intergovernmental Cooperation Act. It provides that agencies may provide the following services to a state or local government pursuant to the Act:

1. Any existing statistical or other studies and compilations, results of technical tests and evaluations, technical information, surveys, reports, and documents, and any such materials which may be developed or prepared in the future to meet the needs of the Federal Government or to carry out the normal program responsibilities of the Federal agencies involved.
2. Preparation of statistical and other studies and compilations, technical tests and evaluations, technical information, surveys, reports, and documents, and assistance in the conduct of such activities and in the preparation of such materials, provided they are of a type similar to those which the Federal agency is authorized by law to conduct or prepare.
3. Training of the type which the Federal agency is authorized by law to conduct for Federal personnel and others or which is similar to such training.
4. Technical aid in the preparation of proposals for development and other projects for which the Federal agency provides grants-in-aid or other assistance, provided such aid primarily strengthens the ability of the recipient in developing its own capacity to prepare proposals.
5. Technical information, data processing, communications and personnel management systems services which the Federal agency normally provides for itself or others under existing authorities.

Such services may not be provided unless the agency providing the services is providing similar services for its own use under the policies set forth in OMB Circular A-76. In addition, in accordance with the policies set forth in Circular No. A-76, the requesting entity must certify that such services cannot be procured reasonably and expeditiously by it through ordinary business channels.

Such services may not be provided if they require any additions of staff or if they involve outlays for additional equipment or other facilities solely for the purpose of providing such services, except where the costs thereof are charged to the user of such services. No staff additions may

be made which impede the implementation of or adherence to the employment ceilings contained in OMB guidance or directives. In the event a request for a service is denied, the Federal agency shall furnish the entity making the request with a statement indicating the reasons for the denial.

OMB Circular A-97 also states that when a Federal agency provides services under the Intergovernmental Cooperation Act, full cost recovery must be achieved; payment of all identifiable direct or indirect costs of performing such services must be made.

NOTE: Agreements are subject to legal review and clearance in accordance with your office's policies and procedures. For advice on whether a certain transaction should be undertaken pursuant to the Intergovernmental Cooperation Act or some other authority, contact the General Law Division, Office of the Assistant General Counsel for Administration, at (202) 482-5391.

Model Intergovernmental Cooperation Act Agreement.

MEMORANDUM OF UNDERSTANDING

THROUGH WHICH
[name of State or local agency]

IS PURCHASING
[state what they are purchasing]

FROM

[name of your operating unit]
U.S. DEPARTMENT OF COMMERCE

Agreement No.____

1. PARTIES AND PURPOSE

This Memorandum of Understanding (MOU) establishes an agreement between the ***[name of other party]*** and ***[name of DOC office]***, U.S. Department of Commerce (DOC), through which ***[name of other party]*** will pay ***[name of DOC office]*** for ***[provide a general description of the good/service for which the other party is paying]***.

2. AUTHORITY

The authorities for ***[name of other party]*** and DOC to enter into this agreement are:

- (1) the Intergovernmental Cooperation Act, 31 U.S.C. § 6505, and
- (2) ***[set forth the other party's legal authority under which it is making the purchase for goods/or services, i.e., the programmatic authority to which the purchase is related]***.

3. TERMS AND CONDITIONS

[State the terms and conditions of the agreement, i.e., what it is specifically that the other party is purchasing, delivery requirements, and the amount that your office will receive as payment.]

[Name of your office] will achieve full cost recovery for the goods and services it is providing under this agreement.

4. TRANSFER OF FUNDS

[Explain the details of how the other party will pay for the goods/services, e.g., whether payments will be monthly, quarterly, in advance, etc.]

5. OMB CIRCULAR A-97 CERTIFICATION

As required by OMB Circular A-97, **[name of other party]** certifies that the services being requested pursuant to this agreement cannot be procured reasonably and expeditiously by it through ordinary business channels.

6. CONTACTS

The contacts of each party to this agreement are:

[Name of DOC contact]
[title of DOC contact]
[Address of DOC contact person]

4

phone: **[phone number of DOC contact person]**
fax : **[fax number of DOC contact person]**
E-mail: **[E-mail address of DOC contact person]**

[Name of other party's contact person]
[title of other party's contact person]
[address of other party's contact person]
phone: **[phone number of other party's contact person]**
fax : **[fax number of other party's contact person]**
E-mail: **[E-mail address of other party's contact person]**

The parties agree that if there is a change regarding the information in this section, the party making the change will notify the other party in writing of such change.

7. DURATION OF AGREEMENT, AMENDMENTS AND MODIFICATIONS

This agreement will become effective when signed by all parties. The agreement will terminate on **[date]**, but may be amended at any time by mutual consent of the parties. **[NOTE: If the agreement will last longer than 3 years, the following sentence should be included in the agreement: "The parties will review this agreement at least once every three years to determine whether it should be revised, renewed, or canceled."]**

Any party may terminate this agreement by providing ___ days written notice to the other party. This agreement is subject to the availability of funds.

8. RESOLUTION OF DISAGREEMENTS

Should disagreement arise on the interpretation of the provisions of this agreement, or amendments and/or revisions thereto, that cannot be resolved at the operating level, the area(s) of disagreement shall be stated in writing by each party and presented to the other

party for consideration. If agreement on interpretation is not reached within thirty days, the parties shall forward the written presentation of the disagreement to respective higher officials for appropriate resolution.

***[signature of person who has authority
to bind other party to the agreement]
[typed name]
[typed title]
[typed name of other party]
[typed address of other party]***

[date]

***[signature--must be an official with
authority to sign "Intergovernmental
Cooperation Act" Agreements]
[typed name]
[typed title]
[typed office at DOC]
U.S. Department of Commerce
[typed address]***

[date]