

FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. 20554 FCC DIRECTIVE	TITLE	
	Interagency Agreements	
	Directive Number: FCCINST 1074.2	Effective Date: July 2021

1. PURPOSE:

This document provides an overview and guidance to the Federal Communications Commission’s (FCC or Commission) Bureaus/Offices (B/O) on the procedures for documenting and entering into an Interagency Agreement (IAA) with another federal agency (or agencies) for the provision of goods or services.

2. BACKGROUND:

IAs are written agreements between federal agencies where one agency transfers appropriated funds to another agency to obtain goods or services. A signed IAA is to be in place before commencement of performance, transfer of goods, or transfer of any funds.

Interagency contracting involves principles of appropriations law, as well as procurement law, because appropriated funds are transferred between federal agencies. Appropriations law specifies the ways in which appropriated funds may be spent, and agencies must comply with the various requirements that are attached to any appropriation. Additionally, appropriations law details how agencies must account for these funds and ensures payment is made to the appropriate accounts.

The Commission has a responsibility to ensure agreements are handled in the most efficient manner possible in order to be recorded correctly, avoid the loss of documents or delays in processing, and guarantee the proper use of federal funds when entering into transactions obligating federal funds.

3. CANCELLATION:

This instruction supersedes FCCINST 1074.1, Interagency Agreements, dated August 2016.

4. SCOPE:

This directive applies to headquarters and field units. The directive does not apply to:

- A. Agreements between or among agencies on matters of common interest that do not involve the transfer of funds, the provision of goods and/or the provision of services. (Note: In rare cases, a statute or other federal guidance may explicitly

permit one federal agency to provide goods or services to another without reimbursement. In such an event, the Bureau or Office should consult with OMD and OGC for appropriate procedures for review and approval.)

- B. The detail of personnel between agencies (although such details may sometimes require compliance with the Economy Act).
- C. “Direct acquisitions,” as that term is defined and construed in section 2.101 and Subpart 17.5 of the Federal Acquisition Regulation.
- D. Agreements with entities that are not federal agencies, but administer federal programs, such as the Universal Service Administrative Company (USAC).

5. AUTHORITY:

Section 1532 of Title 31 of the United States Code contains a general prohibition on transfers of funds between agencies. 31 U.S.C. § 1532 (allowing such transfers only when “specifically provided by law”). As a result, each IAA must identify the specific statutory authority for the transfer of funds from the requesting agency to the servicing agency for the goods and/or services to be provided. Listed below are frequently used authorities for the transfer of funds under an IAA. The list is instructive but not exhaustive.

- A. The Economy Act, 5 U.S.C. § 1535 & 1536. This is the most commonly used authority for the transfer of funds. If, however, either agency has a more specific statutory authority that covers the particular transfer of funds for the IAA, that more specific authority *must* be used instead of the Economy Act;
- B. The General Services Administration Modernization Act, 40 U.S.C. § 321, which provides authority for the Acquisition Services Fund (previously known as the General Services Information Technology Fund);
- C. The Government Management Reform Act of 1994, 31 U.S.C. § 501 note, which establishes the franchise funds, such as GovWorks (Department of Interior) and FedSource (Department of the Treasury);
- D. The Government Employees Training Act, 5 U.S.C. § 4104; and
- E. The Office of Personnel Management Revolving Fund, 5 U.S.C. § 1304(e)(1).

Careful analysis of each proposed IAA is required to assure use of the correct legal instrument and authority. If it is unclear what statutory authority should be relied on for a particular IAA, B/Os should consult with the Office of Managing Director, the Senior Procurement Executive (SPE), and the Office of General Counsel (OGC).

6. REFERENCES:

Federal Acquisition Regulation (FAR) Subparts 17.5 and 7.3; Department of the Treasury (DTAP) Acquisition Procedures subpart 1017.5; Principles of Federal Appropriation Law (the “Red Book”), Third Edition, published by the U.S. General Accountability Office; Treasury Financial Manual (TFM) Chapter 4700, Appendices 5-11.

7. DEFINITIONS:

- A. Assisted Acquisition(s). As defined in FAR 2.101, an assisted acquisition is a type of interagency acquisition where a servicing agency performs acquisition activities on a requesting agency’s behalf, such as awarding and administering a contract, task order, or delivery order. Assisted acquisitions are a subset of interagency agreements entered into for the primary purpose of obtaining goods or services from contractors.
- B. Determination and Findings (D&F). As defined in FAR 1.701, Determination and Findings are a special form of written approval by an authorized official that is required by statute or regulation as a prerequisite to taking certain contract actions. The “determination” is a conclusion or decision supported by the “findings.” The findings are statements of fact or rationale essential to support the determination and must cover each requirement of the statute or regulation.
- C. Direct Acquisition(s). A type of interagency acquisition where a requesting agency places an order directly against a servicing agency’s indefinite-delivery contract. The servicing agency manages the indefinite-delivery contract but does not participate in the placement or administration of an order.
- D. Federal Acquisition Regulation (FAR). The Government-wide regulation that provides policies and procedures for federal contracts. Title 48 of the Code of Federal Regulations (CFR) codifies the FAR. The FAR Subpart 17.5 governs interagency acquisitions pursuant to the Economy Act, “Interagency Acquisitions.”
- E. Interagency Agreement (IAA). A written agreement between two federal agencies, or organizational components of federal agencies, which specifies the goods to be furnished or tasks to be accomplished by one agency (the servicing agency) in support of the other (the requesting agency).
- F. Interagency Acquisition. A procedure by which an agency needing goods or services (the requesting agency) obtains them from another agency (the servicing agency), by an assisted acquisition or a direct acquisition.
- G. Intra-governmental Payment and Collection (IPAC). The intra-governmental payment and collection system used by most federal agencies for interagency

disbursements and funds transfers. This phrase or acronym may also be used to describe the process for transferring funding pursuant to IAAs.

- H. Memorandum of Agreement (MOA) / Memorandum of Understanding (MOU). MOA/MOUs are agreements or understandings between or among agencies on matters of common interest. If the agreement involves the transfer of funds or the provisions of goods and/or services, an IAA must be executed.
- I. Requesting Agency. The federal agency that has the requirement for an interagency acquisition (i.e. that requests goods or services from another agency through an interagency agreement).
- J. Servicing Agency. The federal agency that will conduct an assisted acquisition on behalf of the requesting agency (i.e. the agency that provides goods or services with agency resources or contracts for the service on behalf of the requesting agency under the terms and conditions of an interagency agreement).

8. POLICY:

It is the policy of the FCC that an IAA with other federal agencies will only be entered into when it is legally permissible.

- A. IAAs must be prepared and administered in accordance with this directive. The B/O Assistant Bureau Chief (ABC) (or other designated official, if the B/O does not have an ABC) must obtain initial approval for an IAA from the Chief Financial Officer (CFO) or Budget Center Chief. Once that approval is obtained, the B/O must submit the draft IAA to the Financial Operations Budget Center (BC) for review.
- B. All IAAs must be approved by the Senior Procurement Executive (SPE) prior to being presented to the Managing Director or his/her designee for final signature.
- C. An IAA must be fully executed by officials at both agencies with authority to obligate funds before either agency may commence performance under the IAA. This means that the provision of goods and/or services and the transfer of funds prior to obtaining a fully executed IAA is prohibited.
- D. Upon entry by the Budget Center of the External Direct Agreement transaction into the agency's Financial Management System (Genesis), a completed IAA for the purchase of goods or services becomes an obligation for accounting purposes and establishes a ceiling on the financial obligation.
- E. When the IAA involves an assisted acquisition (i.e., where a separate agency will be performing acquisition activities on behalf of the FCC, such as awarding a contract or placing on order, or vice versa), certain additional procurement requirements are triggered. These requirements will be fulfilled by a contracting

officer in the EAC, who will be supported by one or more representatives of the B/O with subject matter knowledge of the requirement.

- F. The B/Os may not use a memorandum of agreement (MOA) or a memorandum of understanding (MOU) in place of an IAA. MOAs or MOUs may be useful in establishing the goals and objectives of a mutual project or program or for exchanging information when the agreement does not involve the provision of goods or services by one agency for another.
- G. IAAs may include option years. Funding for each option year must be available and appropriate for obligation at the time the option is exercised.

9. ROLES AND RESPONSIBILITIES:

A. Managing Director:

- (1) Approves all IAAs between the FCC and other federal agencies involving the transfer of funds between agencies to provide goods or services.
- (2) Maintains a schedule of all IAAs that includes, but is not necessarily limited to, tracking the expiration of IAAs, tracking of any proposed changes or improvements to the terms of the IAA upon renewal, and triggers or reminders for the relevant B/O if renewal is sought.

B. Senior Procurement Executive:

- (1) Reviews all proposed IAAs and recommends action to the Managing Director.
- (2) Completes the D&F for Economy Act IAAs.
- (3) Serves as the FCC's subject matter expert on IAAs, responding to questions posed by B/O staff and management.
- (4) Ensures that all requirements of the FAR are met for interagency acquisitions, especially the assisted acquisitions that require IAAs.
- (5) Obtains required reviews and approvals.
- (6) Awards an IAA.
- (7) Monitors performance of the servicing agency and/or contractor.
- (8) Ensures that all unexpended/unliquidated funding balances are promptly de-obligated.

C. Chief Financial Officer/Budget Center Chief:

- (1) Initially considers all requests for IAAs proposed by program offices.
- (2) Reviews completed IAA packages to ensure fund availability as well as accuracy of accounting and financial data.
- (3) Commits and certifies funds for obligation and availability for payment.
- (4) Notifies the B/O and EAC of transactions, and potential problems for review.
- (5) Provides full accounting support and financial advice to EAC and B/O staff and management, as necessary.

D. General Counsel:

- (1) Provides advice to OMD and/or SPE on legal questions relating to authority to enter into an IAA.
- (2) Provides advice to OMD and/or SPE on legal questions relating to proposed terms of an IAA.
- (3) Provides advice to OMD and/or SPE in the event of a legal dispute between the agencies regarding the terms of an IAA.
- (4) Provides advice to OMD and/or SPE on legal questions relating to compliance with FAR Subpart 17.5 (Interagency Acquisitions).

E. Bureaus/Offices:

- (1) Propose IAAs that will be beneficial in fulfilling the mission of the FCC.
- (2) Adhere to all the requirements of the appropriate legal authority for the action (Economy Act or other specified Act), FAR, OMB Circular A-76 and other applicable Circulars, Directives and manuals.
- (3) Draft the IAA and proposed Statement of Work (SOW), with the assistance, where necessary, of EAC.
- (4) Draft the D&F for Economy Act Payable IAAs, addressing option periods if included.
- (5) Collaborate and support EAC in its preparation and execution of a determination of best procurement approach, written agreement on responsibility for management and administration of solicitations, contracts, and orders arising from assisted acquisitions, and other determinations and findings required by the FAR. *See* Section 9.J, below.
- (6) Submit all documents to the BC.
- (7) Once approved, monitor the provision of goods and/or services obtained under the IAA to ensure the FCC receives full value and that the terms and conditions of the IAA are fulfilled.

10. GENERAL PROCEDURES:

A. Program officials are to submit requests for IAAs to their Assistant Bureau Chief for Management (or Deputy Bureau Chief as an alternative), who will request initial approval from the CFO/Budget Center Chief. If the CFO or his/her designee approves the request for an IAA, the program office shall initiate the IAA process by completing the following steps and forwarding the draft documents to the BC:

- (1) Draft the IAA. IAAs shall be prepared using the current version of Department of Treasury's Financial Management Service (FMS) Form 7600, which consists of two sections: (i) General Terms and Conditions (FMS Form 7600A) and (ii) Order which obligates funds (FMS Form 7600B);
- (2) Enter the accounting information into Genesis;

- (3) Provide a SOW, if the FCC contemplates an assisted acquisition by a servicing agency or requires a statement of work for direction of work to be performed by the servicing's agency's own employees; and
 - (4) Draft the D&F for Economy Act IAAs, addressing option periods if included.
- B. The BC reviews all forms and the SOW (if applicable) and completes the following actions:
- (1) Reviews for accuracy all accounting information provided in the required forms;
 - (2) Certifies fund availability for the IAA obligation to prevent exceeding allocations;
 - (3) Ensures all financial codes are accurately provided on the FMS Form 7600B;
 - (4) Assigns the IAA number (if the FCC is the requesting agency);
 - (5) For agreements in which the Commission is the servicing agency, enters the External Direct Agreement transaction into the agency's Financial Management System (Genesis); and
 - (6) The BC forwards the completed IAA package to the SPE for review.
- C. If an assisted acquisition is contemplated, EAC has final responsibility for compliance with the requirements of the FAR Subpart 17.5, and the B/O with the requirement is expected to provide its complete cooperation and support to EAC to enable EAC to discharge this responsibility.
- D. The SPE may consult with OGC on any legal questions concerning appropriate statutory authority for the IAA and/or interpretation of provisions of the IAA.
- E. Only the Managing Director or his/her designee is authorized to execute FMS Form 7600A. Only the CFO/Budget Center Chief is authorized to execute FMS Form 7600B as a funding official, which obligates funds. For IAA's involving assisted acquisitions, FMS Form 7600B (Block 40) must be completed with the contact information for the contracting officer responsible for FCC's procurement responsibilities as requesting or servicing agency and signed and dated. If another agency insists on using its own IAA form or an MOA, only the Managing Director or his/her designee is authorized to execute the document.
- F. If the FCC is the requesting agency, once the IAA is executed by both agencies, the SPE shall send the executed IAA to the BC for entry into the Financial Management System (Genesis) so that the funds can be obligated.
- G. EAC shall maintain the official copies of all IAAs once they are executed and monitor the performance of all IAAs once they are in place.
- H. Economy Act Documentation Requirement. If authority to transfer funds under the IAA is pursuant to the Economy Act, specific documentation (a D&F) must be executed prior to signing of the IAA. If the FCC is the servicing agency, the D&F

is the responsibility of the requesting agency. If the FCC is the requesting agency, the D&F shall be prepared by the program office in accordance with the requirements in FAR 17.502-2(c) and executed by a contracting officer in EAC. The supporting D&F shall state that the following requirements of 31 U.S.C. § 1535(a) have been met:

- (1) Funds are available in the amount required for the IAA;
- (2) The IAA is in the best interest of the Federal Government;
- (3) The servicing agency is able to provide the required goods or services; and
- (4) The required goods or services cannot be provided by contract as conveniently or cheaply by a commercial enterprise.

- I. Duration of IAAs. An IAA must specify a period of effectiveness. An IAA is effective from the date that it is signed by the Managing Director or his/her designee and remains in effect for the period specified in the IAA unless modified or terminated. B/Os shall monitor the end date of existing IAAs and ensure that new IAAs are prepared and submitted for review in a timely manner to ensure there is no lapse of service. An IAA may include provisions for IAA renewal on an annual basis. If the proposed term of an IAA will exceed one year, consult the SPE.
- J. Assisted Acquisitions. If the IAA provides for the servicing agency to perform an assisted acquisition on behalf of the FCC, EAC and the program office will work together to prepare and negotiate with the servicing agency (as part of FMS Form 7600B or an incorporated attachment) a written agreement on responsibility and management of the acquisition in accordance with FAR 17.502-1(a). Alternatively, where a series of orders are contemplated that will involve several assisted acquisitions that can be addressed by a uniform approach on responsibility and management for the acquisitions, the agreement on responsibility and management of the acquisition can be made or reflected in the FMS Form 7600A. If the assisted acquisition is being conducted under the authority of the Economy Act, a D&F is required in accordance with FAR 17.502-2(c). If the FCC is the requesting agency, the D&F is initiated by the program office, with assistance from EAC if necessary, and executed by a contracting officer in EAC. If the FCC is the servicing agency, EAC shall ensure that a copy of an executed D&F has been provided by the requesting agency.
- K. Modifications of IAAs and Orders. If an IAA or order needs to be modified, the program office shall prepare the modifications on the FMS Form 7600B and submit the form to the BC. After review, the BC shall send the form to the SPE for processing and approval. Modifications to IAAs must be executed by the Managing Director or his/her designee; modifications to orders must be executed by the CFO or his/her designee.
- L. Payments.

(1) All Federal agencies use the Intra-governmental Payment and Collection (IPAC) system to process transactions, including transfers, collections, payments and adjustments. The IPAC application's primary purpose is to provide a standardized interagency fund transfer mechanism for Federal Program Agencies (FPAs). OMD-Financial Operations (FO), shall:

(A) Review and validate the financing data on the IAA documents to ensure that the payment or collection can be processed between the agencies;

(B) Follow FO procedures to:

1. Process the IAA documents in preparation for the anticipated payment or collection, including for incoming funds, establishing an unfilled customer order in the financial system; and
2. Process the payments or collections using the FCC financial system (Genesis) and the IPAC system;

(C) Maintain and manage the IPAC system for FCC transactions; and

(D) Establish and maintain accounting and reporting for payments and collections associated with IAAs, and Department-wide financial system instructions and procedures for transferring (i.e., obligating and expending) funds to other agencies and for receiving funds transferred from other agencies pursuant to IAAs.

(2) IPAC collections shall be reviewed and approved by OMD-FO. This action verifies that the goods or services were received and accepted by the requesting agency. Adjustments or rejections of IPAC collections should be completed within 90 days.

(3) Regular invoices may be created and routed in accordance with instructions in the IAA. Payment should be expensed against the obligation on the requesting agency's financial records.

(4) No payments may be made prior to full execution of the IAA by officials at both agencies with authority to obligate funds.

(5) OMD-FO shall maintain a copy of the fully executed IAA.

11. EFFECTIVE DATE AND IMPLEMENTATION:

This directive is effective immediately and shall be implemented promptly upon distribution.

Mark Stephens
Managing Director