

## Section 3.1: Intergovernmental Agreement (IGA)

### PURPOSE AND POLICY

When a grant program requires services between or among a state entity and a local entity (agency or procurement unit) exercising joint powers, an intergovernmental agreement (IGA) will be the most efficient funding instrument. IGAs are controlled by Arizona Revised Statutes (A.R.S.) 11-951 to -954, the title of state law that defines and authorizes joint exercise of powers among state and local units of government or procurement units. An IGA is defined as a contract between two or more public agencies or public procurement units for services or for the joint exercise of any powers common to the agencies. It is important to note that except for the right of joint exercise of powers granted in these statutes, no additional authority or power is conferred upon any public agency by way of the statutes controlling intergovernmental agreements.

The statute requires that the IGA is reviewed by an attorney for each public agency or public procurement unit prior to execution of the IGA or contract (each party should allow adequate time for legal review). An exception to this requirement is made for government entities outside of Arizona (such as a federal agency or an agency in another state) as Arizona does not have authority over jurisdictions outside the state. Further, the statute prohibits payment for services under the IGA until the contract is approved. The attorneys that review the proposed IGAs on behalf of state agencies are usually the Attorney General's Office attorney assigned as legal counsel to the state agency.

The Arizona Attorney General's Office has determined that the following elements must be included in the IGA in order to meet the statutory requirements necessary to execute the contract:

- A. Identify each public agency that is a contracting party by correct statutory title and indicate whether it is a state, town, or other public or municipal agency or instrumentality.
- B. State in the recitals, or elsewhere in the agreement, the exact statutory references under which each contracting party is authorized to exercise the powers described in or required by the contract.
- C. State the duration of the contract, preferably by specifying the beginning date and the ending date of the obligations.
- D. State the purpose or purposes to be accomplished.
- E. State the manner of financing the undertaking and, where applicable, the manner of establishing and maintaining a budget.
- F. State the method or means of partial or complete termination.
- G. Where property is to be acquired solely to accomplish the purpose or purposes of the agreement, provide a means for disposing of such property upon termination or completion of the agreement.
- H. If a separate legal entity is formed, the agreement must include the precise organization, composition, title, and nature of the entity.

Because intergovernmental agreements typically involve the joint exercise of powers common to the contracting public agencies, when two public agencies enter into an agreement for joint action, each agency must actually have the power to perform the action contemplated in the contract. Therefore, where there is no joint exercise of powers common to the public agencies involved, there is no intergovernmental agreement and the statutory requirements of such do not apply. This will generally include the furnishing of services by one agency to another. (Ariz. Att’y Gen. Ops. 186-084, 183-057).

The legally reviewed and approved IGA is signed by the highest responsible parties for each entity entering into the agreement and the attorneys representing each agency. The signed IGA should be uploaded to the corresponding program folder in eCivis.

### **Requirements for Federal Funding**

In addition to the information outlined above, if federal monies are included in the funding source, then grant program managers should include any and all applicable elements from the Uniform Guidance list of information contained in a federal award ([200.210](#)).

A non-federal entity that receives federal funds as part or all of a grant or a subaward is responsible for complying with all requirements of the federal award. For all federal awards, this includes the provisions of Federal Funding Accountability and Transparency Act (FFATA), which includes requirements on executive compensation, and also requirements implementing the Act for the non-federal entity at 2 CFR part 25 Financial Assistance Use of Universal Identifier and System for Award Management and 2 CFR part 170 Reporting Subaward and Executive Compensation Information. See also statutory requirements for whistleblower protections at 10 U.S.C. 2409, 41 U.S.C. 4712, and 10 U.S.C. 2324, 41 U.S.C. 4304 and 4310. Grant program managers should review [Uniform Guidance Subpart D Post Federal Award Requirements](#) to ensure compliance with applicable federal laws and regulations.