

Part I Chapter 53
Interagency Agreements, Memoranda of Understanding,
and Intergovernmental Agreements

A. Interagency Agreements. If an executive agency (as defined under the *Commonwealth Attorneys Act*) and an independent agency desire a binding, contractual arrangement, such arrangement shall be denominated an "Interagency Agreement." Interagency Agreements should be reviewed and executed by all intended contracting agencies as follows:

1. Executed by the appropriate agency heads or designated deputies.
2. Reviewed and approved by the appropriate agency counsels.
3. Reviewed and approved by the office of General Counsel. (Agency transmitting document shall copy counsel for the Office of the Budget.)
4. Reviewed and approved by the Office of the Attorney General for form and legality under the *Commonwealth Attorneys Act*.
5. Reviewed and approved by the applicable disbursing and receiving agency comptrollers or designees. The comptroller of the disbursing agency should sign last.

B. Memoranda of Understanding (MOU).

1. Cooperative arrangements between executive agencies, as defined in the *Commonwealth Attorneys Act*, shall be denominated as an MOU and shall contain the following clauses:
 - a. *Sections 501 and 502 of The Administrative Code of 1929 (71 P.S. §§ 181 and 182)* require Commonwealth departments and agencies to coordinate their work and activities with other Commonwealth departments and agencies.
 - b. This MOU is not intended to and does not create any contractual rights or obligations with respect to the signatory agencies or any other parties.
 - c. Any dispute arising hereunder shall be submitted to the Office of General counsel for final resolution.
 - d. Now, therefore, the parties to this MOU set forth the following as the terms and conditions of their understanding.
2. The process of review and execution shall be as follows:
 - a. Execution by the appropriate agency heads or deputies.
 - b. Review and approval by the appropriate agency counsels.

- c.** Review and approval by the office of General Counsel. (Agency transmitting document shall copy counsel for the Office of the Budget.)
 - d.** Review and approval by the appropriate agency comptrollers or designees. The comptroller of the disbursing agency should sign last.
 - e.** Review and approval by the Office of Attorney General is unnecessary.
- 3.** Agreements with agencies not defined as executive under the *Commonwealth Attorneys Act* may be denominated as MOU and handled as set forth, if the parties so agree.

C. Intergovernmental Agreements.

- 1.** If an executive agency (as defined under the *Commonwealth Attorneys Act*) and the federal government or its agencies, another state or its agencies, a state-affiliated entity or instrumentality of the Commonwealth, or a local public procurement unit desire a binding, contractual arrangement, such as an arrangement shall be denominated an "Intergovernmental Agreement."
- 2.** These agreements are not subject to the requirements of Chapter 5 of the Commonwealth Procurement Code (competitive bidding, sole source, etc.).
- 3.** The form of the contract will depend upon the terms of the contract. It may be a purchase order or a contract. In either case, it should incorporate the appropriate terms and conditions.
- 4.** Intergovernmental agreements should not be used to circumvent competitive procurements from a commercial contractor.
- 5.** The purpose of an intergovernmental agreement should align with the mission of the governmental entity. The agency should include justification in the file.