

## **INTERAGENCY AGREEMENTS**

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### **I. Purpose**

This Directive establishes the Department of Homeland Security (DHS) policy for Interagency Agreements. This includes agreements between DHS Components and other Federal agencies, as well as agreements between two or more DHS Components (known as Intra-agency Agreements).

### **II. Scope**

- A. All Interagency Agreements involving payments between DHS Components or between DHS Components and other Federal agencies that result in direct effort by the Servicing Agency and/or the award of a contract, grant, cooperative agreement or other transaction for financial assistance or procurement are subject to this Directive.
- B. All Interagency Agreements with other Federal agencies that result when a DHS Servicing Component procures shared services, such as transit subsidy and sedan or shuttle bus services, on behalf of one or more DHS Requesting Components are subject to this Directive.
- C. This Directive does not cover the following transactions:
  - 1. Interagency Agreements by the Transportation Security Administration (TSA) issued prior to June 23, 2008;
  - 2. Interagency Agreements entered into by the DHS Office of Inspector General;
  - 3. Agreements authorized by Title 5, United States Code, Section 3341, Details: within Executive or military departments;
  - 4. Agreements authorized by Title 5, United States Code, Subchapter VI, Assignments to and from states (Intergovernmental Personnel Act (IPA)); and

5. Direct acquisitions, such as orders placed directly by DHS or DHS Components against: the General Services Administration's (GSA's) Federal Supply Schedule program (also known as the Multiple Award Schedule program), Government-wide Acquisition Contracts (GWACs), Enterprise Acquisition Gateway for Leading Edge (EAGLE)/First Source, etc.

D. For shared services within DHS, such as transit subsidy and sedan or shuttle bus services, requesting DHS Components may make contributory payments via a financial document (i.e., without the use of a formal Intra-agency Agreement document) under the authority of the Economy Act; however, a Determination & Findings (D&F) is required.

E. DHS Management Directive 0710.1, Reimbursable Agreements, is hereby cancelled.

### III. Authorities

A. Title 31, United States Code, Section 1535, Agency Agreements ("The Economy Act"), as implemented by Federal Acquisition Regulation (FAR) Subpart 17.5, "Interagency Acquisitions under the Economy Act" and Homeland Security Acquisition Manual (HSAM) Subchapter 3017.5, "Interagency Acquisitions under the Economy Act."

B. Other Authorities (DHS Offices and Components are responsible for citing the applicable legal authority for any interagency or intra-agency agreements).

### IV. Definitions

A. **Assisted Acquisition(s)**: Interagency acquisitions for which a Requesting Agency, at its discretion, has determined that it is in the best interest of the government to seek the acquisition services of a Servicing Agency in the procurement of supplies or services from the private sector and where the Servicing Agency awards a contract or order on behalf of the Requesting Agency.

B. **Intra-governmental Payment and Collection (IPAC)**: The Treasury Department system used by most Federal agencies for interagency payments.

C. **Interagency Agreement**: A written agreement between Federal agencies or Components of Federal agencies to acquire supplies or services as authorized by statute. The term Intra-agency Agreement may be used when referring to such agreements between DHS Components.

D. **Requesting Agency**: A Federal agency that has a requirement and desires to obtain goods or services from a Servicing Agency.

E. **Servicing Agency**: A Federal agency that is willing and able to provide goods or services to a Requesting Agency.

## V. Responsibilities

A. The **Chief Procurement Officer** is responsible for setting policy and conducting DHS-wide oversight on the procurement, assistance and business aspects of Interagency Agreements. This includes arranging for timely Office of Chief Procurement Officer (OCPO) review of Acquisition Plans when required.

B. The **Chief Financial Officer** provides guidance and oversight of financial management personnel, activities and operations relevant to Interagency Agreements.

C. The **Program Manager** is a Federal employee assigned responsibility for accomplishing a specific, defined task in support of the DHS mission, including an acquisition program or an operational function.

D. The **Contracting Officer** is a Federal employee with the authority to enter into, administer, and/or terminate contracts and orders and is responsible for the execution of all Interagency Agreements and Economy Act-required Determinations and Findings which include Assisted Acquisitions.

E. The **Authorized Official**: When statutory authority exists and in accordance with Component procedures, other Authorized Officials (i.e. other than a warranted DHS Contracting Officer) are Federal employees that may carry out certain individual functions.

## VI. Policy and Requirements

A. All Interagency Agreements must cite the statute upon which the agreement is based. Each Interagency Agreement may rely upon only one statute. The Economy Act should be used as the statutory authority for an Interagency Agreement only when a more specific authority is not available.

B. The Program Manager is ultimately responsible for ensuring that program funds are spent in a manner that results in planned outcomes (i.e., that all Interagency Agreements contain clearly defined requirements, and performance measures and monitoring plans to the maximum extent practicable). Further, DHS Program Offices must ensure that adequate documentation is maintained with respect to the results achieved under each Interagency Agreement.

C. The period of availability of the Requesting Agency's funds that are obligated under an Interagency Agreement does not change except as specifically authorized by law. Under the Economy Act, 31 U.S.C. Section 1535, a Requesting Agency de-obligates any fixed year funds at the end of their period of availability to the extent that the Servicing Agency did not perform or incur valid obligations under an Interagency Agreement. When a Requesting Agency validly obligates its funds through an Interagency Agreement not governed by the Economy Act, the Requesting Agency does not have to de-obligate its funds at the end of their period of availability.

D. An Interagency Agreement is prepared and signed in advance by an Authorized Official of each of the Requesting and the Servicing Agencies concerned. Within DHS, a warranted Contracting Officer signs Interagency Agreements for all Assisted Acquisitions. For other types of Interagency Agreements, a Head of Contracting Activity (HCA) may delegate to the senior financial officer within that Component the responsibility for signing the agreement.

E. Each Interagency Agreement identifies the supplies and services to be provided and indicates the fee charged by the Servicing Agency. The description of supplies or services must be specific, definite, and clear in order to support a binding agreement that will be recorded as an obligation. Further, the Interagency Agreement must establish a ceiling amount limiting the Requesting Agency's financial obligation.

F. Supplies or services are not provided or accepted until the completed Interagency Agreement is executed by both the Requesting Agency and Servicing Agency. The funded amount of each executed Interagency Agreement must be recorded as an obligation in the Requesting Agency's financial system.

G. For reviews and approvals, signature levels are at the lowest levels possible in the organization, commensurate with complexity, importance, Congressional interest, dollar value, or statutory requirements.

H. Regarding payments, Intra-Governmental Payment and Collection (IPAC) is the preferred payment system (see Treasury Financial Manual Volume I, Part 6, Chapter 4000).

I. For Assisted Acquisitions, the Program Manager and Contracting Officer must include in the Interagency Agreement's terms and conditions: (1) a requirement for the Servicing Agency to enter the DHS Funding Agency and Funding Office Identification Codes in the Federal Procurement Data System (FPDS) when reporting any contract or order which results from the agreement; and, (2) a requirement to delay any contract award(s) in excess of \$1,000,000 and/or any public announcement(s) of such pending award(s), as needed to ensure that DHS complies with its requirement to notify the Committees on Appropriations in the House and Senate at least 3 full business days in advance of any such contract award(s) or public announcement(s) (also, see HSAM 3005.303).

J. For all Assisted Acquisitions conducted pursuant to the Economy Act, a warranted DHS Contracting Officer must sign the Economy Act D&F.

K. For other than Assisted Acquisitions, the Interagency Agreement document must include a statement as follows: "No funds provided through this agreement may be used by the Servicing Agency to award a contract or order for the exclusive use and benefit of the Department of Homeland Security."

## VII. Questions

Any questions or concerns regarding this Directive should be addressed to the Office of the Chief Procurement Officer: Strategic Initiatives: Acquisition Policy and Legislation.



Elaine C. Duke

Under Secretary for Management

15 Aug 2008  
Date