



TURAC 2024⁺

Connection • Collaboration • Cohesion

**Hot Topic:
State Agencies Contracting**

April 17, 2024

Land Acknowledgement Statement

“Arizona State University, Northern Arizona University, and the University of Arizona collectively acknowledge that the campuses are situated on the ancestral lands of twenty-two federally recognized tribes located across Arizona. These universities collectively honor the past, present, and future generations of Native Americans, who have lived here for millennia and will forever call this place home. Committed to diversity, the institutions integrate Indigenous knowledge into their practices and strive to cultivate sustainable relationships with Native Nations through education, partnerships, and community service.”



Presenters

Kenneth Frost
Sponsor Project Agent, Tech
ASU



Christopher Stevens
Research Contracts Manager
NAU



Objectives

- **Contracting with State and Local agencies and common issues**
- **The differences between an IGA, ISA, and MoU, and when to use each type**
- **Using Master Agreements**
- **Best practices for terms regarding invoicing, reporting, and managing various entity requests**





AGENCIES

State Agencies & Departments



Department of Health Services

Department of Economic Security

Department of Agriculture

Department of Forestry & Fire Management

Department of Corrections

Department of Transportation

Game & Fish



Local Groups



Counties

- Pima, Maricopa, Coconino, Metropolitan Planning Organizations (MPO's) MAG or PAG

Cities

- Any

School Districts

- Any

Native Tribes

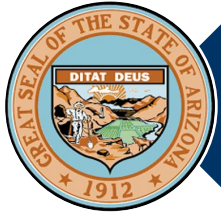
- Tohono O'odham, Pascua Yaqui, Navajo, Hualapai, Hopi



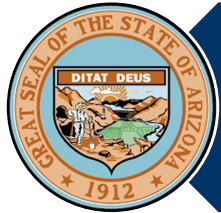


Agreement Types & Issues

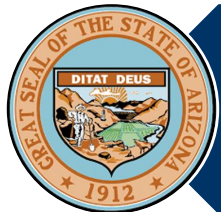
Ways to Contract – For State & Local Entities



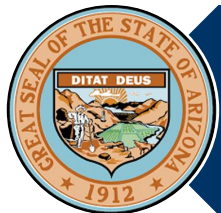
Invitation for Bid
(IFB)



Request for
Proposals (RFP)



Sole Source



Interagency Services
Agreement (ISA)



Invitation for Bid



Request for Proposals



Sole Source/Direct
Select



Intergovernmental
Agreement (IGA)

Not Ideal for Research



“Vendor” Contract Template

University is competing with for-profit industry on commercial terms and conditions

Warranty/Guaranty/Penalties for late delivery or non-conforming work

Indemnification

Loss/Transfer of Copyright or Intellectual Property

Procurement Officers unwilling to modify or change terms & conditions for universities (“unfair to other offerors”)

Arizona Procurement Portal Awards

Part of the proposal package is an Offer and Acceptance form that must be signed agreeing to all terms and conditions.

Make sure that whoever is preparing the proposal informs your contract group to review the terms and conditions.

The terms and conditions are written for the procurement of commercial items or services and many terms that universities would not usually accept are included.



- **Give up ownership of the deliverables.**
- **Work for hire so all Intellectual Property belongs to sponsor**
- **Indemnification for infringement of Patent and copyright**
- **Warranty the deliverables**

Intergovernmental Agreement (IGA – A.R.S. § 11-952) or Interagency Services Agreement (ISA – A.R.S. § 35-148)

IGA's and ISA's are specific public entity to public entity agreements.

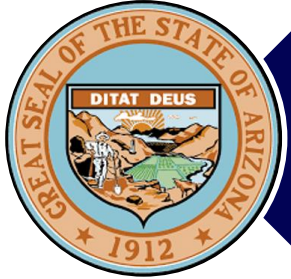
Often not through procurement, but be on the look out for vendor terms (warranty, indemnification, penalties)

If for professional services or testing, remain silent on IP or publication (ask the PI!)

For Sponsored Activity, include IP and publication clauses (CYA).



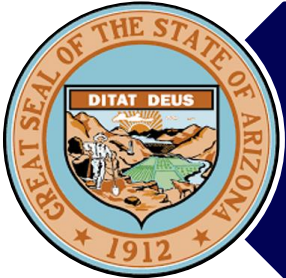
What is the difference between an IGA and ISA?



ISA's can be used between State entities (only!)



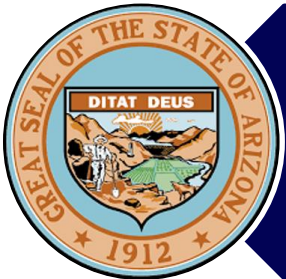
IGA's can be used with any "public agency"



Authorized per A.R.S. § 35-148



Authorized by A.R.S. § 11-952



No "template" –statute authorizes transfer of funds between "budget units" of the State.



Statute prescribes minimum t's & c's, must be for a "joint exercise of common powers"




The main difference between an IGA and ISA?

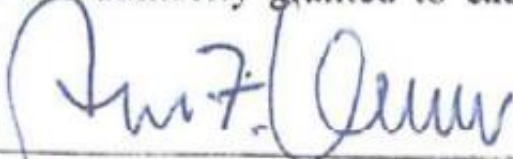
A.R.S. § 11-952 (D):

“Except as provided in subsection E, every agreement or contract involving any public agency or public procurement unit of this state made pursuant to this article, before its execution, shall be submitted to the attorney for each such public agency or public procurement unit, who shall determine whether the agreement is in proper form and is within the powers and authority granted under the laws of this state to such public agency or public procurement unit.”

Attorney Approval:

Pursuant to A.R.S. § 11-952(D) the attorneys for the Parties hereto have determined that the foregoing Agreement is in proper form and is within the powers and authority granted to each respective body under the laws of the State of Arizona.

By:  2/17/21
University Associate General Counsel Date

By:  2-5-2021
The District Legal Counsel Date

Did you notice the original ink signatures?



What about MOU's? LOU/LOI's? MOA's?

MOU = Memorandum of Understanding (non-binding*)

LOU = Letter of Understanding/Intent (useful between ABOR universities!)

Memorandum of Agreement (preferred by Native Tribes)



When do I use an IGA, ISA, MOU, etc.?

IGA's and ISA's are formal contracts. If there is \$\$\$ involved, use an IGA or ISA

MOU's are not formal contracts. If no \$\$\$, use an MOU

LOU/LOI's are great for arrangements between ABOR universities

MOA's are a formal contract with Native Tribes, similar to an IGA



Using Master Agreements



Master Agreements can be entered into when a high volume of awards are expected to be issued.

We agree on the terms and conditions that all awards will be issued under. Task Orders are then issued under the Master Agreement incorporating the agreed upon terms and conditions.

Avoid Master Agreements where they want you to provide set labor categories with rates.

Master Agreements can be for the whole university to use, only a specific department, or for a specific PI. Make sure Task Orders are being used appropriately

Using Master Agreements

Universities adopted a “Master IGA” with some local sponsors. Municipal department heads and Sponsored Projects directors are authorized in the IGA to sign the task orders

Likewise, just because you have a master agreement with a City or County, doesn't mean you have an arrangement with all departments or divisions – they may view the agreement as specific to one department or division.





Post-Award Terms to Negotiate

Award Management

Requests for excessive transactional backup

Partnership with your contracting group to negotiate out these requirements

Reasoning that UArizona, ASU, and NAU are low risk entities that have numerous internal controls to satisfy State and Federal rules

Administrative burden coupled with low F&A return

Another avenue of reaching out to the agency audit group or whoever is prompting the request for backup



Just remember: *It Will Take Time*

QUESTIONS?



Thank You!

**Be sure to complete all 3
TURAC surveys for a chance
to win a **\$25 gift card!****





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