**Interagency or Interlocal Cooperation UPPS No. 03.04.07**

**Contracts or Agreements Issue No. 3**

**Effective Date: 01/12/2023**

**Next Review Date: 10/01/2029 (E6Y)**

**Sr. Reviewer: Director, Procurement and Strategic Sourcing**

**POLICY STATEMENT**

*Texas State University is committed to promoting proper preparation, execution, and payment of contracts or agreements.*

1. **BACKGROUND INFORMATION**

01.01 The purpose of this policy is to ensure the timely preparation, execution, and payment of interagency or interlocal cooperation contracts or agreements between Texas State University and another state agency or local governmental entity. Except as noted in this policy, a written contract or agreement is executed between the contracting parties prior to the performance of the services.

01.02 When the university determines the need for services of employees, materials, or equipment it cannot provide internally, it may enter into a negotiated agreement or contract for these services from another state agency or local government entity. In addition, when another state agency or local governmental entity requests that Texas State provide special or technical services in return for compensation of services performed, a contract or agreement is prepared and executed.

01.03 Contracts or agreements meeting the definition of “sponsored programs” are not covered by this policy (refer to [UPPS No. 02.02.01](http://www.txstate.edu/effective/upps/upps-02-02-01.html), Applying for Sponsored Programs). In addition, transactions involving the simple pass-through of federal government funds from one state agency to another, where services are not rendered in return for the receipt of the funds, do not require a contract under this policy.

01.04 Approval of interagency or interlocal cooperation contracts shall comply with [UPPS No. 03.04.02](http://www.txstate.edu/effective/upps/upps-03-04-02.html), Contracting Authority. Certain contracts require additional approval prior to university signature (see [The Texas State University System (TSUS) Rules and Regulations, Chapter III, Section 1. “Items Requiring Board Approval”](https://gato-docs.its.txst.edu/jcr%3A6566ed0c-ffba-4b06-a19d-1afbcb32a558/2022%20Rules%20and%20Regs%20-%20Updated%20thru%20Nov%202022.pdf)).

01.05 [Texas Education Code, Section 95.21](http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.95.htm), or the current General Appropriations for the biennium during which the contract term is in effect, grant Texas State’s specific contracting authority. Applicable contracts must contain this legal citation.

01.06 Texas State must comply with [Texas Administrative Code (TAC), Title 1, Part 10, Chapter 204, Subchapter C](http://texreg.sos.state.tx.us/public/readtac%24ext.ViewTAC?tac_view=5&ti=1&pt=10&ch=204&sch=C&rl=Y), prior to contracting with another state agency or institution of higher education for any commodity or service identified as “information resource technologies” and the total cost is estimated to exceed the dollar amount specified in [TAC, Title 1, Part 10, Chapter 204, Subchapter C, Rule §204.31](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=1&pt=10&ch=204&rl=31).

**02. DEFINITIONS**

02.01 Contracting Officer – individual specifically authorized to enter into a contractual agreement on behalf of their organization.

02.02 Interagency Cooperation (IAC) Contract – a legal written agreement or contract, in accordance with [Texas Government Code, Title 7, Chapter 771, Interagency Cooperation Act](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.771.htm), between state agencies to furnish special or technical services, including the services of employees, materials, or equipment.

02.03 Interlocal Cooperation (ILC) Contract or Agreement – a legal written agreement or contract executed with a local governmental entity in accordance with [Texas Government Code, Title 7, Chapter 791 Interlocal Cooperation Contracts](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.791.htm), to receive or furnish special or technical services, including the services of employees, materials, or equipment.

02.04 Performing Agency – state agency or local governmental entity performing the services defined by the contract in return for consideration or payment.

02.05 Receiving Agency – state agency or local governmental entity receiving the benefits of the services defined by contract in return for consideration or payment.

02.06 The following forms are used with this policy:

a. [Interagency Transaction Voucher (Form #73-176)](https://fmx.cpa.state.tx.us/fmx/forms/index.php);

b. [Contracted Services Payment Voucher](http://www.txstate.edu/gao/ap/forms.html) ([Form #FS-03](http://www.txstate.edu/gao/ap/forms.html)); and

c. [Interlocal Cooperation Contract Template](https://www.txstate.edu/procurement/howtopurchase/contracts.html).

**03. PROCEDURES FOR DETERMINATION, PREPARATION, AND PROCESSING OF AN INTERAGENCY OR INTERLOCAL COOPERATION CONTRACT**

03.01 Any university department may request Texas State prepare and execute an IAC or ILC contract with another state agency or local governmental entity. ILC contracts should follow the general form of an IAC contract to capture the essential contract elements.

a. The assistant director of Contracts will address any questions regarding IAC or ILC contract use, preparation, or processing.

b. The director of Procurement and Strategic Sourcing may grant emergency approval to provide or receive services without an executed contract. The assistant director of Contracts will then be responsible for ensuring a written contract or agreement is processed and executed in a timely fashion, when required.

03.02 Upon request, the assistant director of Contracts shall provide blank copies of the [Interlocal Cooperation Contract Template](https://www.txstate.edu/procurement/howtopurchase/contracts.html) for preparation and processing of a contract. The department head or account manager should provide the following information via an interdepartmental memorandum, and submit it along with the proposed contract or agreement to the assistant director of Contracts:

a. state agency or local governmental entity performing or receiving the service, including the branch, division, or department of the agency or entity involved;

b. mailing address of the involved agency or entity;

c. agency or entity contact and telephone number for additional information or clarification regarding the proposed contracted services;

d. brief description of the scope of the service or product to be provided under the terms of the contract;

e. total actual or estimated cost (i.e., not to exceed) of the service or product being provided;

f. beginning and termination dates of the contract; and

g. Texas State department contact for additional information or clarification regarding the proposed contract.

03.03 No contract, whether formal or informal, between Texas State and other state agencies or local governmental entities will be executed or the service initiated until the director of Procurement and Strategic Sourcing has reviewed and approved the contract or agreement. The only exceptions are when emergency verbal approval to proceed is obtained (see Section 03.01 b.).

a. A formal contract is prepared and executed if the total contract amount or agreement is expected to equal or exceed $15,000 for the contract term or a fiscal year, whichever is longer.

b. A formal contract is not required if the total contract amount does not exceed $15,000 for the contract term or fiscal year, whichever is longer; however, an informal contract, agreement, or memorandum of understanding (MOU) is prepared to identify the essential contract elements and obtain the necessary Texas State approvals:

1) the account manager should use the [Interlocal Cooperation Contract Template](https://www.txstate.edu/procurement/howtopurchase/contracts.html) to get the essential elements of the contract in writing, or prepare an MOU between Texas State and the other contracting party outlining the essential contract elements;

2) the director of Procurement and Strategic Sourcing must approve the contract, regardless of whether the contract or agreement is formal; and

3) a formal contract is prepared and executed to cover the amended scope if a change from the original scope of services increases the total amount to $15,000 or greater.

03.04 State agencies are required to obtain Department of Information Resources (DIR) approval prior to contracting for acquisition of computer software, hardware, maintenance, rental, programming, and training, or any commodity or service concerning information resource technology from another state agency when the cost is estimated to exceed the dollar amount specified in [TAC, Title 1, Part 10, Chapter 204, Subchapter C, Rule §204.30](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=1&pt=10&ch=204&rl=30). Prior to initiating an IAC contract for information resource technologies, the account manager is to contact Texas State’s Technology Resources office to determine if [TAC Rule§204.30](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=1&pt=10&ch=204&rl=30) applies; [TAC Rule §204.31](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=1&pt=10&ch=204&rl=31) exceptions apply; or if a waiver from the public solicitation requirement was previously granted to Texas State by the DIR.

03.05 If determined that [TAC Rule §204.30](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=1&pt=10&ch=204&rl=30) requirements:

a. do not apply – the contract’s supporting documents should clearly indicate the TAC exception, or that a copy of the DIR approved waiver is included. If exempt from DIR prior approval, the contract documents should clearly state the specific exemption to this requirement.

b. do apply – the account manager is to prepare a public competitive solicitation in accordance with this rule or request a waiver from DIR for this requirement to determine which constitutes the “best value.”

1) The account manager may request that Technology Resources prepare and submit a request to DIR for a waiver from the public solicitation requirement in accordance with [TAC, Title I, Part 10, Chapter 204, Subchapter C, Rule §204.32](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=1&pt=10&ch=204&rl=32).

2) If the waiver is approved, the account manager may prepare and submit the IAC for processing. A copy of the approved DIR waiver is included in the contract’s supporting documentation.

3) If DIR rejects the waiver request, the account manager must initiate a public competitive solicitation in accordance with [UPPS No. 05.02.02](http://www.txstate.edu/effective/upps/upps-05-02-02.html), Texas State Purchasing Policy, to determine if a private vendor’s solicitation response meets the criteria set forth by [TAC Rule §204.30](http://texreg.sos.state.tx.us/public/readtac%24ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=1&pt=10&ch=204&rl=30), which requires an award to a private vendor instead of executing an IAC to meet the identified needs.

03.06 The account manager shall send a contract request through TSUS Marketplace contracts system for review and finalization. The following is required:

a. the assistant director of Contracts shall review the proposed contract. If any proposed terms or conditions are not in the university’s best interests, the assistant director of Contracts shall confer with the appropriate university offices to resolve the issues;

b. upon completion of the review, the assistant director of Contracts shall send the contract via eSignature to the director of Procurement and Strategic Sourcing for approval; and

c. the director of Procurement and Strategic Sourcing shall approve the contract and return it to the assistant director of Contracts for transmittal and distribution.

03.07 If Texas State is the receiving agency and the estimated or actual total contract amount exceeds $15,000, upon execution of the contract, MOU, or another form of agreement, the following is required:

1. the responsible account manager or department head shall forward a purchase requisition to the performing agency to encumber the funds for the services contracted for performance during a fiscal year;
2. the appropriate account managers, or designees, shall approve the purchase requisition and forward it to the Procurement and Strategic Sourcing office;
3. the purchase requisition should reference the IAC or ILC and attach supporting documentation for the Procurement and Strategic Sourcing office’s file; and

1. if the contract transcends two or more fiscal years, the responsible account manager shall prepare a new purchase requisition at the beginning of each fiscal year to encumber funds to pay for services performed in that fiscal year and attach a copy of the contract.

**04. PROCEDURES FOR TRANSMITTAL TO THE APPROPRIATE STATE AGENCY OR LOCAL GOVERNMENTAL ENTITY**

04.01 Upon receipt of the Texas State approved contract, the assistant director of Contracts shall do one of the following:

a. if Texas State’s approval executes the contract, a copy of the executed contract is transmitted to the other state agency or local governmental entity for information purposes; or

b. if the contract requires the other state agencies or local governmental entity’s approval to execute, Texas State will send it via eSignature to the agency or entity for their review and approval. The assistant director of Contracts shall provide the transmittal letter to the responsible account manager or department head for information purposes.

04.02 Upon receipt of an executed contract, the Procurement and Strategic Sourcing office shall distribute copies to the responsible divisional vice president and account manager. The executed contract is maintained in the TSUS Marketplace contract system for records retention purposes.

04.03 The account manager who originated the IAC or ILC contract is responsible for any follow-up actions that are required to expedite the execution of the contract due to delays encountered in the above process.

**05. PROCEDURES FOR AMENDMENT TO AN IAC OR ILC CONTRACT**

05.01 The responsible account manager may amend a valid IAC or ILC contract to:

a. extend or shorten the contract period, if within the biennium (or a fiscal year in the event of a special one-year appropriation) in which the contract term is in effect;

b. increase or decrease the dollar amount of the current valid contract; or

c. increase or decrease the quantity of services called for under the current valid contract.

05.02 The responsible account manager may not amend an IAC or ILC contract and must create a new contract:

a. to extend the contract period beyond the biennium or a fiscal year (in the event of a special one-year appropriation) in which the contract term is in effect;

b. to add new or different scope of work not already authorized by the existing contract; or

c. if the contract’s term has expired.

05.03 An IAC or ILC contract amendment shall follow the same process for review, approval, execution, and distribution as outlined in Section 04. The assistant director of Contract must receive a copy of executed contract amendments.

**06. PROCEDURES FOR PAYMENT OR BILLING FOR SERVICES RENDERED**

  06.01 The university will not process payment for services without an executed IAC or ILC contract or agreement, except as noted in Section 03.03.

06.02 Payment of services performed when Texas State is the receiving agency through an IAC or ILC contract is processed on a [Contracted Services Payment Voucher (Form #FS-03)](http://www.txstate.edu/gao/ap/forms.html). The Procurement and Strategic Sourcing office will hold copies of the forms required and will answer questions regarding the form’s use or preparation. [Form FS-03](http://www.txstate.edu/gao/ap/forms.html) may be attached to an eNPO payment request to facilitate workflow.

a. The performing agency normally prepares the applicable form and submits it to Texas State for processing. The Procurement and Strategic Sourcing office, with the approval of the account manager, will process the request for payment for services rendered and forward to Accounts Payable for payment.

b. When payment is made with state appropriated funds, the performing agency must provide a recurring transaction index (RTI) number to process the transaction in the State Accounting System in compliance with [Texas Government Code, Title 7, Chapter 771](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.771.htm), and [Comptroller Fiscal Policies and Procedures A.028](https://fmx.cpa.texas.gov/mt/fmx/poliproc/accounting_policies_and_coding_accounting_policy_statements/index.php).

c. The interagency transaction voucher must contain the IAC contract number or the specific exception (as shown in Section 03.03).

06.03 The receiving agency may advance funds to the performing agency for the performance of services under an IAC contract if:

a. federal funds are involved and the receiving agency determines that the advance would facilitate the implementation of a federally-funded program; and

b. state appropriated funds are involved. The advance may be up to the total cost of the approved IAC contract for providing the contracted services, materials, or equipment.

06.04 Billing of services performed when Texas State is the performing agency through an IAC or ILC contract is processed on an [Interagency Transaction Voucher, (Form #73-176)](https://fmx.cpa.state.tx.us/fmx/forms/index.php) or the receiving agency’s authorized form.

06.05 The account manager is responsible for the submittal, reporting, and follow-up activities related to the processing of the payment to Texas State for providing services.

**07. PROCEDURES FOR CONTINUANCE OF A CONTRACT**

07.01 The account manager must allow sufficient lead time for processing, approving, and executing an extension to an IAC or ILC contract, if allowed, per Section 05. At least two months prior to the termination date of a valid IAC or ILC contract, the account manager should determine if a new contract is required and notify the Procurement and Strategic Sourcing office.

a. If sufficient time is not available, the responsible account manager must contact the appropriate university contracting officer for approval to proceed under the emergency approval procedure (see Section 03.01 b.).

b. When granting emergency approval to extend, the contracting officer is to notify the director of Procurement and Strategic Sourcing.

07.02 If the account manager has not notified the assistant director of Contract, the assistant director of Contract should attempt to contact the account manager to determine if the contract will be renewed, terminated, or a new contract processed.

**08. REVIEWERS OF THIS UPPS**

 08.01 Reviewers of this UPPS include the following:

Position Date

Director, Procurement and Strategic October 1 E6Y

Sourcing

Director, General Accounting Office October 1 E6Y

Director, Information Technology October 1 E6Y

Business Operations

**09. CERTIFICATION STATEMENT**

This UPPS has been approved by the following individuals in their official capacities and represents Texas State policy and procedure from the date of this document until superseded.

Director, Procurement and Strategic Sourcing; senior reviewer of this UPPS

Associate Vice President for Financial Services

Executive Vice President for Operations and Chief Financial Officer

President