

Interlocal Agreements

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Overview of Interlocal Agreements

Interlocal agreements have long been a highly effective way for local political entities to work together toward a common goal and save money at the same time. These agreements often increase the effectiveness and efficiency of providing local government services. The agreement is established as a contract among governmental entities who want to work together to provide services to taxpayers for a minimal cost.

American local governments have been collaborating for the last several decades. One of the oldest collaborative instruments is the interlocal agreement (ILA). An ILA can take many forms, ranging from an informal “handshake” agreement to elaborate contracts structured according to statutory requirements and filed with a state agency and local county or city recorder. ILAs exist between cities, counties, school districts, universities, and in many combinations of these and other public entities.

Interlocal agreements allow local government agencies to (1) stretch budget dollars, (2) work with other entities to accomplish common goals and (3) combine resources to acquire items they are unable to afford on their own.

Examples of Interlocal Agreements

Local governments enter into interlocal agreements for provision of all types of services, including purchasing, library services, water quality management, solid waste management, law enforcement, fire and emergency services, education, land management and more.

¹See Ark. Code Ann. § 25-20-104.

²See Ark. Code Ann. § 25-20-103.

In Arkansas...

According to the Arkansas Code: “Any governmental powers, privileges, or authority exercised or capable of exercise by a public agency of this state alone may be exercised and enjoyed jointly with any other public agency of this state...”¹ “Public agency” includes but is not limited to school districts, political subdivisions of the state, agencies of the state or of the United States, and political subdivisions of other states.²

Currently, many examples of interlocal agreements may be found within the state of Arkansas. The chart inside outlines some available examples.

Across the Nation...

Innovative examples of interlocal agreements are found throughout the United States. Utah State University Local Technical Assistance Program (LTAP) provides several examples of effective collaborations.

- **Equipment Shares** – An equipment pool interlocal agreement allows each city to list its equipment with an hourly cost (with or without providing an operator). A system has been developed for cooperating cities to be able to rent the equipment needed from other cities that already have the equipment (and trained personnel).
- **GPS/GIS Technology** – Working through an interlocal agreement, Springville, Spanish Fork, Payson, Salem and Santaquin are utilizing GPS/GIS technology and services. This agreement was initiated in 1997 to reduce the cost of implementing

| Collaborating Entities | | Services Provided |
|--|--|--|
| Washington County | All cities in the county | hazmat response team |
| DHS – Division of Behavioral Health Services | UAMS – Department of Psychiatry and Behavioral Sciences | treat psychiatric disorders; train mental health professionals |
| Sebastian County | Arch Ford Education Service Cooperative | volume purchasing (Attorney general's approval is not required.) |
| Maumelle | Conway | fire prevention and fire fighting |
| Johnson | Springdale | design/environmental work for widening and extension of road |
| Arkansas public entities | Oklahoma public entities | metropolitan planning organization |
| Lavaca, Charleston, River South Rural Water District | Franklin and Sebastian Public Water Authority | construct and manage water lines |
| Fort Smith | Sebastian County | construct and operate justice complex |
| Highfill | Centerton | animal control |
| Walnut Ridge, Hoxie | Lawrence County | 911 central communications facility |
| Texarkana, AR | Texarkana, TX | law enforcement |
| Nevada County | Prescott | health and fitness track |
| Sheridan, Grant County | Little Rock | ambulance service |
| DHS – Division of Medical Services | Shelby County Health Department, TN | prenatal care outreach program |
| Mountain Home | Sewer Improvement District 4, Soil and Water Conservation Commission | sewer collection and transportation system |
| Prescott | Nevada County | jail and radio operators |
| Donaldson | Ouachita Public Schools | sewer system to public schools |
| Carroll County | Madison County | regional library |
| Ash Flat, Hardy | Sharp County | regional airport authority |

<http://www.nlc.org/documents/Build%20Skills%20Networks/Networks/guide-to-successful-local-government-collaboration-americas-regions-rpt-2006.pdf>

this vital technology. In 2001, they were able to provide this service for only \$36/hour, where an independent consultant would have charged \$120/hour.

- Gaining Affordable Bids** – Springville, Mapleton, Spanish Fork, Salem, Elk Ridge, Payson, Santaquin, Genola and Goshen utilized an interlocal agreement to save money in chip seal operations. The cost to bid chip spreading before the agreement was \$1.05/cubic yard. With the agreement, the cost was \$0.64/cubic yard, a savings of 39 percent.

The chart on page 3 provides more examples of ILAs that have been made across the nation.

Things to Consider Before Entering Into Interlocal Agreements

- Interlocal agreements must meet legal requirements.**
 Among other procedural requirements: “Every agreement made under this section prior to and as

a condition precedent to its entry into force shall be submitted to the Attorney General, who shall determine whether the agreement is in proper form and compatible with the laws of this state.”³

- Agencies created as a result of intergovernmental agreements must be legally structured.**
 Local government units may agree, with the approval of their quorum courts, to exercise any of their powers jointly. If a separate legal or administrative entity is created, a board is appointed; the particulars of the board composition are specified in the agreement. The creating agreement also specifies the financing provisions and functions. Separate agencies created by intergovernmental agreements may or may not be counted as governments for census purposes, based on the degree of autonomy.

- Interlocal agreements must meet the requirement of “mutuality of power.”**
 Under the “mutuality of power” approach to intergovernmental cooperation, governments can

³See Ark. Code Ann. § 25-20-104.

| Collaborating Entities | | Services Provided |
|------------------------------|------------------------------|---|
| Tennessee County | Tennessee County | development of industrial park |
| Mississippi School Districts | Mississippi School Districts | alternative school |
| Oklahoma County | Oklahoma County | participate in health and worker's comp insurance program |
| Kansas County | Kansas City | investment of idle funds |
| Detroit | Wayne County, MI | redeveloping brownfields |
| St. Louis | St. Louis County, MO | connecting people to jobs through transportation |
| Louisville | Jefferson County, KY | promoting a competitive workforce |
| New York City | Multi-County | protecting drinking water |
| Santa Clara County, CA | Multi-County | promoting smart growth |
| Charleston, SC | Berkeley County, SC | protecting biodiversity |
| Minneapolis | Hennepin County, MN | helping youth succeed |
| Seattle | King County, WA | using arts to revitalize metro area |
| Chattanooga, TN | Hamilton County, TN | reducing energy use |
| Birmingham, AL | Montgomery County, AL | solutions to homelessness |

only contract with each other for services if each governmental unit has independent authority to engage in the subject of the contract.

When entering into an interlocal agreement, ask the right questions regarding:

1. Legality
2. Costs
3. Public reaction and policy issues
4. Impact of the ILA

Legality

After ensuring that there is specific authority for the proposed joint service, the next area of concern is the participant's level. The following questions may serve as a guide to the type of information needed prior to the negotiation of an interlocal agreement:

- Are there any local ordinances that might affect an agreement for interlocal services? Has consideration been given to procedures or requirements for the hiring, release or change of status of personnel affected by the agreement?
- What about issues including liability, damages, allowable overhead costs, equipment and property disposition at the termination of the agreement?
- Are there procedures for amending and monitoring the agreement?
- Under what conditions or circumstances can the agreement be terminated?
- Does the proposed activity require the review and/or approval by another local or state agency?

Costs

The cost and allocation of costs among collaborating political entities are of primary concern to all participants and their residents when developing and implementing the interlocal agreement. It is critical that the current and future costs be shared equitably to garner support for the agreement, recognizing that initial costs may increase until the service or activity is well established. All of the possibilities should be thoroughly considered by all of the parties to the agreement. Questions to be considered are:

- How are current and future costs to be allocated among collaborating political entities?
- What are the personnel, operating and capital costs of the service to be provided?
- What provisions should be made to accommodate inflationary costs?
- If costs paid by the recipient(s) do not cover actual costs, what method can be used for adjustment?
- What administrative costs should be part of the "cost of services"?
- Should overhead costs include depreciation of assets, rent, utilities and liability insurance?
- What is an acceptable method of determining costs and payments?
- Will costs be affected by additional participants?
- Is it really cost-effective to join with other governmental units to provide the service?
- If costs are higher than present, is the service level improved sufficiently to justify the joint effort?

Public Reaction and Policy Considerations

Politics is a part of any intergovernmental agreement. Citizen reaction and confidence have to be assessed in all of the participating jurisdictions.

- What will be the public reaction to the agreement in both the provider and recipient jurisdictions?
- How will you deal with residents who object to services being provided by a different agency?
- To which jurisdiction would citizens complain about the service – the provider or the recipient?
- How will complaints be addressed?
- Do the participating jurisdictions understand that the provider may have to assume some policy control over the service?
- What problems may arise during the transition of independent to interlocal provision of services?
- Is there a mechanism to resolve the issues?
- How will the interlocal provision of services affect local businesses?
- Is it necessary to make provisions to accommodate additional members?

Impact

The impact of the interlocal agreement on local resources should be considered.

- What changes might be needed to provide the service, including personnel, facilities, equipment, organizational or structural arrangements and fiscal procedures?
- Does the potential provider of the service have the capacity to provide the service at the anticipated level of service?
- Will the present recipients of the service be shortchanged?
- What impact will the interlocal agreement have on current staff?
- Can present personnel and facilities be reallocated or relocated?

⁴Act 510 of 1987.

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- Will the salaries of personnel be affected by the arrangement?
- How will the interlocal agreement affect and be affected by local labor agreements?

Summary

Arkansas has for many years provided the legal framework for local governments to enter into interlocal agreements through the Interlocal Cooperation Act. The state also encourages intergovernmental cooperation by establishing County Intergovernmental Cooperation Councils.⁴ During this time of economic restructuring, there would seem to be many opportunities to provide services more cost effectively by sharing resources, making joint purchases and avoiding the duplication of services. However, before entering into interlocal agreements, care should be taken to address the legality, cost, public concerns and impact issues, thereby increasing the likelihood of success. Local political entities wanting to learn more about interlocal agreements can access a guide to successful local government collaboration published by the National League of Cities (<http://www.nlc.org/documents/Build%20Skills%20Networks/Networks/guide-to-successful-local-government-collaboration-americas-regions-rpt-2006.pdf>). They can also increase their likelihood of success by learning from the many local political entities in Arkansas that use and have experience with interlocal agreements.

Sources

New Jersey Department of Community Affairs Web site. (<http://www.state.nj.us/dca>)

United States Census Bureau. (<http://www2.census.gov/govs/cog/2012isd.pdf>); pages 16-22

Utah State University, UTAH LOCAL TECHNICAL ASSISTANCE PROGRAM (LTAP) – *On the Move* Quarterly Newsletter, Summer (July) Quarter, 2002, Volume 15, Number 3. (http://utahltap.org/Newsletter/archive/UtahLTAP_2002_summer.pdf)

City of San Antonio Web site. (<http://www.sanantonio.gov/external/interlocal.asp?res=1024&ver=true>)

Political Science Working Group on Interlocal Services Cooperation, Wayne State University. "Elements of Successful Interlocal Agreements: An Iowa Case Study," Kurt Thurmaier, Iowa State University, 2005. (http://digitalcommons.wayne.edu/cgi/viewcontent.cgi?article=1001&context=interlocal_coop)

"Manual of Practice for Drafting Interlocal Agreements for Utility and Other Services," Indiana Rural Community Assistance Program. (http://in.gov/idem/files/rwds_guide_interlocal_agreement_manual.pdf)