



Friday, February 26, 2016
House Appropriations Committee
Department of Budget and Management – Secretary
Robert L. Caret, Chancellor

**DLS Recommendation to the Department of Budget and Management
Higher Education Interagency Agreements**

Chair McIntosh, Vice-Chair Gaines, and members of the Committee, I'm writing to express concerns on the Interagency Agreements restrictive language proposed in the DBM analysis.

Page 24: In the *Analysis of the FY 2017 Maryland Executive Budget* the Department of Legislative Services recommends “...that the Secretary of DBM shall review each current higher education interagency agreement in excess of \$500,000 to determine why the services cannot be provided by the State agencies and is, therefore, appropriate for using higher education; ensure that agencies maintain documentation of all agreements, amendments, task orders, and invoices; ensure that the overhead charges and direct service costs are not excessive; and ensure that all work performed by higher education is documented. Further provided that no new higher education interagency agreement may be entered into during fiscal 2017 without prior approval of the Secretary of DBM. “

The USM values the review process and recognizes that issues arise that demand critical examination, corrective action and/or process improvements. However, we are very concerned that continuing to task the Secretary of DBM with approving even those agreements over \$500,000 and also every new and higher education interagency agreement before it's executed is a level of review that other sponsored arrangements are not subjected to.

The DLS analysis further states that in the Interagency Agreement Report that the report include “...justification submitted to DBM for indirect cost recovery rates greater than 20%.” And that DBM “... ensure that the overhead charges and direct service costs are not excessive; and ensure that all work performed by higher education is documented. Further provided that no new higher education interagency agreement may be entered into during fiscal 2017 without prior approval of the Secretary of DBM. “

It is important to note that USM's higher education institutions each have a fair, accurate and appropriately calculated indirect cost rate that is reviewed and agreed-upon with the Federal government for use on all sponsored activities, with few exceptions. The agreed-upon indirect rates reflect the cost of doing sponsored activities (including state inter-agency agreements) beyond directly chargeable spending. Any action to reduce indirect cost rates from the agreed-upon levels results in the university having to absorb a portion of the costs of the activity; effectively a budget reduction that other institutional objectives and activities must absorb.

The USM's personnel and procurement laws and regulations are just as rigorous as the state guidelines and in compliance with the federal cost principles for higher education. These standards include both a bid process and strong internal controls for all expenditures. These cost principles also apply to state governments as well, including the required pass-through of any federally negotiated overhead rate. USM has had representatives that have testified in previous years about overhead rates and earlier this week sent a letter to DBM with proposals for the application of overhead to state agreements.

Over the last few years, DBM has been working with representatives of USM institutions on the definitions and to clarify elements of the JCR annual interagency agreement report.

Reforming the state's procurement process is an area the Administration has indicated they will be focusing on in the coming months. The USM had come to understand that review of the issue of interagency agreements would be included within this broader context. For example, USM continues to work with through the Governor's Grants Office on a project to create a standard state agreement for agencies to use with all USM institutions.

We propose that DBM continue to work with a USM working group on these matters and allow the outcome of that process to provide the guidance rather than prescribed by DLS. This work is currently taking place in the spirit of collaboration and the desired outcome of both effectiveness and efficiency.