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May 26, 2020

TO: Chief Financial Officers for State Agencies
Interagency Agreement Coordinators for State Agencies
Interagency Agreement Coordinators for Higher Education

FROM: Marc Nicole *MN*

RE: Approval Requirements for Interagency Agreements between State Agencies and Institutions of Higher Education

The FY 2021 Budget Bill continues the requirement for Maryland State agencies (Agencies) and Maryland institutions of higher education (Institutions) to report to DBM all interagency agreements (Agreements) between Agencies and Institutions valued in excess of \$100,000 over their full term, and for DBM review and approval of Agreements valued in excess of \$500,000 over their full term. This memo spells out the approval requirements and process for Agreements exceeding \$500,000. Instructions for the annual reporting of Agreements exceeding \$100,000 will be issued in the near future.

Specifically, no new Agreement with a potential value exceeding \$500,000 over the full term of the Agreement (including any option periods available to be exercised) may be entered into without *prior* approval of DBM. Additionally, Agreements valued at \$500,000 or less, may not be modified or extended without advance DBM approval if the modification or extension causes the value to exceed \$500,000.

Responsibility for obtaining DBM approval of Agreements has been vested with the Agencies. The process and requirements for DBM review of these Agreements are detailed in the sections that follow. Institutions are cautioned to ensure that DBM approval has been given to their partner Agency before beginning work on Agreements that will exceed \$500,000. Agencies should provide copies of DBM approvals to their Institution partner.

New this year: Agency Agreements with the University of Maryland Extension Services and Agricultural Experiment Station are subject to DBM advance approval (if greater than \$500,000) and reporting (if over \$100,000) requirements. In prior years, these Agreements were not subject to these requirements. If your Agency currently has Agreements of this type, please contact DBM as indicated below.

New last year and continuing: Agency Agreements with local community colleges must be reported to DBM annually if over \$100,000, and require DBM approval in advance if over \$500,000 (see Attachment 3 for list of Institutions and Community Colleges). Additionally, Agencies continue to be required to document their efforts to secure Historically Black Colleges and Universities participation on Agreements submitted for DBM review and approval. This will assist DBM in their review of Agency efforts to meet the 5% HBCU goal on the total award value of Agency Agreements with higher education institution. DBM will be reporting each Agency's HBCU participation levels annually to the General Assembly.

If you have any questions about these requirements or the information below, or you have existing Agreements with the University of Maryland Extension Services and Agricultural Experiment Station, please contact Mary Naramore at mary.naramore@maryland.gov or by phone at 410-260-7471.

New Agreements Exceeding \$500,000

For new Agreements that are anticipated to exceed \$500,000 in value over the full term of the Agreement (including the value of any options that may be available), DBM approval must be obtained *prior* to execution by the Agency.

To initiate DBM review, Agencies are to send the complete Agreement to DBM, including the Statement of Work, line item budget detail with justification, and personnel detail along with a completed **Attachment 1 - Interagency Agreement Detail** form. (Note: Please use the current Attachment 1 form (dated April 2020). These Agreements are to be sent to the following mailbox: dbm.iaar@maryland.gov. Please include the IAAR number for the Agreement in the subject line of your transmitting email. If you are unsure what the IAAR number is, contact Mary (mary.naramore@maryland.gov or 410-260-7471).

Agencies should anticipate up to a one-month review time at DBM. Please be sure to consider this time period, the proposed start date of the Agreement, and any post-approval processing time needed by your Agency when determining a deadline for when the Agreement must be submitted to DBM for review and approval.

If your Agency has a history of being required to supply additional information to DBM or make revisions, or if the Agreement is a new first-time Agreement or is very large and complex, it would be wise to submit Agreements for review and approval well in advance of the one-month minimum, to minimize delay of Agreement start dates. DBM will make every effort to finalize review of submitted Agreements as quickly as possible.

Modification of Agreements \$500,000 or Less

New Agreements valued at \$500,000 or less over the full term of the Agreement (including the value of any options that may be available) do not require DBM approval. However, if such an Agreement needs to be modified and the modification will cause the value to exceed \$500,000, DBM approval is required *prior* to Agency execution of the modification.

Agencies are to send the modification as well as the complete Agreement to DBM, including the Statement of Work, line item budget detail with justification, and personnel detail along with a completed **Attachment 2 - Interagency Agreement Option/Modification** form (dated May 2020). These documents are to be sent to dbm.iaar@maryland.gov. Please include the IAAR number for the Agreement in the subject line of your transmitting email. If the Agreement has been reported on an Annual Interagency Agreement Report previously, please use the same IAAR number used for that Agreement. If you are unsure what the IAAR number is, contact Mary (mary.naramore@maryland.gov or 410-260-7471).

Agencies should anticipate up to a one-month review time at DBM. Please be sure to consider this time period, the proposed effective date of the modification to the Agreement, and any post-approval processing time needed by your Agency when determining a deadline for when the Agreement must be submitted to DBM for approval.

Modification of Agreements Already Approved by DBM

Substantive modifications to Agreements that have already received DBM approval require DBM approval *prior* to Agency execution of the modification. Substantive modifications would include, but are not limited to, modifications that:

- significantly alter or expand the cost or scope of work,
- reduce the scope of work without a comparable reduction in payment obligations, or
- change the amount or rate of the approved overhead (Facilities and Administrative) rate.

Agencies are to send the modification as well as the complete Agreement to DBM, including the Statement of Work, line item budget detail with justification, and personnel detail along with a completed **Attachment 2 - Interagency Agreement Option/Modification** form (dated April 2020). These documents are to be sent to dbm.iaar@maryland.gov. Please include the IAAR number for the Agreement in the subject line of your transmitting email.

Agencies should anticipate up to a one-month review time at DBM. Please be sure to consider this time period, the proposed effective date of the modification to the Agreement, and any post-approval processing time needed by your Agency when determining a deadline for when the Agreement must be submitted to DBM for approval.

General Agreement Requirements

Interagency Agreements are contracts and should be treated as such. They involve the commitment and expenditure of government funds. Consequently, Agencies are to be prudent in their commitment and management of these funds, and should take steps to ensure that rates and prices charged are reasonable, administrative costs are not excessive, deliverables are clearly identified and obtained, and work performed under the Agreement is well documented. Interagency Agreements should be entered into with an Institution when it is considered the best value or most cost effective arrangement to obtain the services being requested.

Before finalizing Agreements, Agencies are to ensure that charges (e.g., labor or unit rates, fixed amounts, overhead) are reasonable, that the Agency has procedures in place to ensure that it is only paying for services/products delivered and/or results achieved, and that the following elements are clearly specified in sufficient detail to assure desired outcomes are achieved:

- **Deliverables** –Agreements should include detail relating to volume, quality/functionality, and timeframes for delivery of specific services/products. The Agreement should also define acceptable documentation to be provided as evidence of the services provided.
- **Reporting requirements** – Agreements should clearly define any reporting requirements, including content and frequency of status reports.
- **Payment provisions** –Agreements should specify what the basis of payment will be. Where possible, payments should be tied to a deliverable. Rates and fixed price amounts, as well as any administrative fees, should be reviewed for reasonableness. Explanation or clarification may be requested where expected charges appear excessive.
- **Invoicing requirements** – Agreements are to specify invoice period/frequency and supporting documentation to accompany invoicing.

Additionally, Agencies are required to maintain documentation of all Agreements, modifications, task orders, invoices, invoice supporting documentation, and work performed by the Institution. This documentation is to be maintained until the Office of Legislative Audits has audited the period which includes the date which the Agreement ended.