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Interdepartmental Service Agreements Policy

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Executive Summary

This policy is issued pursuant to 815 CMR 6.00, which governs interdepartmental fiscal business, including Interdepartmental Service Agreements (ISAs).

An ISA is a contract that documents a non-chargeback business relationship between two Commonwealth departments within any branch of the Commonwealth. The ISA must be funded by and in compliance with language in an appropriation act (General Appropriation Act (GAA), interim, or supplemental budget), as well as all applicable general or special state or federal laws, regulations, policies, and procedures. The departments entering into an ISA must be recognized as such in the Statewide Enterprise Accounting and Financial Reporting System ("the system"; "Mosaic") to ensure that the departments can transfer or receive funding pursuant to the ISA.

Policy

Considerations

ISAs are used when a Commonwealth department contracts with another to obtain a greater value contract, as compared to contracting with an outside vendor. ISAs enable Commonwealth departments to jointly fulfill the same or similar legislative mandates. Department Heads and Chief Financial Officers whose respective departments are entering into an ISA must ensure that ISA-related operations and appropriations are managed properly, and that the ISA vehicle is not used inappropriately.

Department Heads, or employees delegated authority by a Department Head certify by signing an ISA that the ISA is for the purposes for which the funds have been appropriated. By processing an ISA-related transaction in the system, a department is certifying that the transaction is in compliance with state finance law. Specifically, when signing an ISA and processing transactions related to an ISA, a department must be cognizant of the following obligations and limitations:

- Pursuant to M.G.L. c. 29 §§ 26, 27, 29, departments may expend funds only for the purposes set forth by the Legislature and within the funding limits established through appropriation, allotment, and subsidiary accounts.
- Pursuant to M.G.L. c. 29 § 12, appropriated funds may be used for goods, services, and other obligations incurred, received, and accepted in the current fiscal year and may not be used to pay for future fiscal year obligations or prior fiscal year obligations;
- Departments may not incur an obligation, authorize performance to begin under an ISA or authorize, request, or accept goods or services in excess of an existing appropriation, allotment, or sufficient non-appropriated available funds.
- Absent specific legislative authorization, ISAs may not be used to:
    - enable one department to transfer staff or payroll costs to another department;

- act as a permanent or extended payroll funding mechanism for permanent state employees

Role of the Office of the Comptroller (CTR)

CTR's oversight role, specific to ISAs, is limited to the review and processing of the interdepartmental fiscal transactions necessary to support the ISA. All interdepartmental fiscal transactions must be made through the system. CTR's oversight role does not include a review of the underlying business decisions that led to the execution of an ISA.

Definitions

A Buyer Department, as defined in 815 CMR 6.02, is a Commonwealth department with statutory authorization to procure goods and services to implement programs, services or objectives authorized under a general or special law. The Buyer Department transfers funds (or expenditure authority, as prescribed by CTR) to a Seller Department as compensation for goods or services provided by the Seller Department through the ISA. Buyer Departments may also be referred to as the "Parent Department." A Buyer Department ISA account may also be referred to as a "Parent Account."

A Seller Department, as defined in 815 CMR 6.02, is a Commonwealth department that is mandated or authorized in statute to provide the type of services, commodities or programs which are requested or required by a Buyer Department. A Seller Department provides commodities or services and receives a transfer of funds (or expenditure authority, as prescribed by CTR) from a Buyer Department through an ISA. Seller Departments may also be referred to as "Child Departments," and a Seller Department ISA account may also be referred to as a "Child Account."

ISA Form

CTR publishes an Interdepartmental Service Agreement Form for use by all Commonwealth departments. The ISA Form contains instructions to assist both Buyer and Seller Departments with the interpretation and completion of the ISA Form. The ISA Form instructions are incorporated by reference into the ISA Form, and do not have to be submitted with the completed ISA package. The ISA Form can be found at macomptroller.org/forms.

Departments may not modify the ISA Form, though Departments may insert required data and add necessary attachments. When submitting the ISA Form to CTR, the ISA must be executed by authorized signatories of both Buyer and Seller Departments.

Role of Departments Using ISAs

Unless mandated by a general or special law, ISAs are voluntary and only require approval by the Buyer and Seller Departments.

Departments must conduct interdepartmental fiscal business using best value and other common sense business practices, similar to any other contract or department expenditure. In accordance with 815 CMR 6.03(1), Departments must document the reasons why use of an ISA represents "best value" based upon the circumstances and available funding.[1]

When Can a Department Enter into an ISA?

Pursuant to 815 CMR 6.00, ISAs are permitted when:

- a Seller Department does not have specific legislative authorization to charge a fee for a good or service through an interdepartmental chargeback, but the Seller Department is authorized and capable of providing goods or services that are needed by a Buyer Department;
- a Buyer Department cannot complete performance itself and needs to contract for outside goods or services, and a Seller Department is authorized and capable of providing the needed goods or services;
- two or more departments desire to enter into an agreement which fulfills the legislative mandates of all departments; or
- contracting with another department provides a better value than contracting with an outside vendor.

Buyer Department Responsibilities

Procurement

A Buyer Department is not required to conduct a formal competitive procurement prior to entering into an ISA. However, a Buyer Department should not use the ISA vehicle as a means of circumventing competitive procurement, as an expeditious method of obtaining a service without using an outside contractor, or to avoid complying with other contracting requirements.

Funding

Upon execution of the ISA, the Buyer Department shall promptly ensure that the Seller Department receives either:

- the full amount needed to the support the ISA for the fiscal year, allocated into the authorized ISA account; or
- the expenditure authority necessary to fulfil the ISA's obligations, as prescribed by CTR.

This must be done to ensure that the Seller Department can encumber funds in a timely manner and make payment from the authorized ISA Child Account(s) in accordance with the ISA and Commonwealth payment policies.

Departments do not have to wait until the final annual budget is passed to execute an ISA. Funds can be allocated as of the opening of the fiscal year identified in the annual Open and Close Instructions, as follows:

Maintenance Funds:	Based upon provisional numbers in House 1
Capital Funds:	Based on the anticipated balance forward
Trust Funds:	Based on anticipated receipts for the Trust Fund
Federal Funds:	Based upon provisional numbers in House 1

Just like any other conditionally processed obligations, payments cannot be made until an interim or final budget is passed.

Seller Department Responsibilities

The Seller Department may begin performance or incur obligations when the ISA is executed by all parties. The Seller Department may obligate and expend funds for ISA performance only from an authorized ISA Child Account.

Seller Departments may not expend funds from other accounts and then request that CTR transfer these charges as an Expenditure Correction (EX) to the ISA Child Account. See the CTR Expenditure Corrections (EX) Policy. A Seller Department also may not perform services in anticipation of funding expected to be appropriated through supplemental funding or an annual appropriation act, because such funding is not available for expenditure in an authorized Seller ISA Child Account.

Certain ISAs may be funded through an interim budget prior to passage of the GAA. Here, a Seller Department must incur obligations and make expenditures in accordance with instructions from CTR and the Executive Office for Administration and Finance (A&F).

In Mosaic, a Seller Department will be assigned only one Child Account even if the Seller Department performs multiple ISAs with the Buyer Department which are funded by the same Parent account. The Child Account will appear as a line under the Parent Account, and will have the same account number. The obligation ceiling is transferred from the Parent Account to the Child Account, and the Seller Department is assigned access to obligate and expend funds in the Child Account just like any other account. This must be done to timely encumber funds and pay employees, contractors, grantees, etc., directly from the authorized ISA Child Account(s), in accordance with Commonwealth payment policies, or as otherwise prescribed by CTR.

A Seller Department that negotiates multiple ISAs with the same Buyer Department and receives funding from the same Parent Account must properly account for expenditures for each ISA separately, in accordance with the terms and funding specifications for each ISA. When a Child Account is already in place for one ISA and a second Child Account is pending for a second ISA with the same Buyer Department and Parent Account, the Seller Department may not expend or obligate funds from the existing Child Account in anticipation of the establishment of the second Child Account. A Seller Department may choose to establish departmental budgets for the Child Account to separately identify and account for multiple ISAs, which will assist in proper accounting for funding for multiple ISAs from the same Parent Account.

A Buyer Department must immediately notify the Seller Department if they anticipate a delay in receiving ISA funds or having funds in place that would prevent timely performance under an ISA. Immediate notification will prevent the Seller Department from needing to request an expenditure correction or other corrective action due to funding delays. Seller Departments must ensure that expenditures of ISA funds are made in accordance with all state finance laws, general and special state laws, and any federal laws that apply to the types of contracts that the Seller Department manages.

Seller Reporting Obligations

In accordance with 816 CMR 6.03(6) the Seller Department must provide a detailed accounting of all expenditures, encumbrances, planned encumbrances, any information in the state accounting or payroll system related to ISA expenditures, access to any ISA records, or on-site access to monitor ISA performance, upon request at any time during the period of the ISA. The Seller Department must

cooperate with the Buyer Department to provide whatever information, data, or access necessary to verify ISA performance and expenditures. Buyer and Seller Departments shall provide full access to all ISA records and data to CTR, the State Auditor's Office, and the House and Senate Committees on Ways and Means. The Seller Department must also provide any additional progress, programmatic, or expenditure reports specified in the ISA to the Buyer Department.

Joint Buyer and Seller Department Responsibilities

The CFOs for the Buyer and Seller Departments are responsible for oversight and management of ISAs within their department in accordance with 815 CMR 6.00 and this policy.

Management of ISAs shall include, but is not limited to:

- evaluation of the ISA option based upon best value, as determined by the department;
- ensuring timely ISA execution;
- processing Mosaic transactions prior to the start of ISA performance;
- meeting reporting requirements;
- timely payment of invoices in accordance with the Commonwealth's bill paying policy;
- monitoring ISA performance; and
- acting as the liaison for any audits or reviews.

If an ISA involves federal funds, the CFO is responsible for monitoring and reconciling the federal grant in compliance with the grant award, including any funds disbursed through an ISA. The Buyer CFO must provide accurate accounting information in "Attachment C – Federal Grant Child/Seller Account" of the ISA. The Buyer CFO must also immediately notify the Seller Department of any changes in Attachment C (such as program codes) to ensure the ISA and Child Account can be timely updated to avoid lapses in funding or the inability of the Seller to make timely payroll and other expenditures from the Child Account.

The Buyer and Seller Departments shall each designate an ISA manager that will be responsible for the day-to-day administration of the ISA (under the direction of the department CFO) and will serve as each department's point of contact for ISA correspondence. The Buyer and Seller Departments are responsible for ensuring that their current ISA manager is listed on the ISA or ISA amendment. If the ISA manager changes, the department's CFO shall be the ISA manager until a replacement is identified and all parties are properly notified.

Both the Buyer and Seller Department are responsible for negotiating the type of expenditures authorized under an ISA and determining if the expenditures will trigger the assessment of indirect costs. These costs must be included as part of the ISA and funded as part of the ISA budget. Departments requiring information on whether an expenditure will trigger an indirect cost assessment should contact the CTR Solution Desk.

Non-Financial ISAs

A non-financial ISA involves two or more departments that contractually agree to commit to expending funds, allocating resources, fulfilling performance requirements, or otherwise supporting ISA purposes without a transfer of funds. Non-financial ISAs must be filed with CTR and there must be a clear Buyer or Seller Department. All ISA rules, other than the transfer of funds, still apply.

Departments must use the ISA Form when entering into a non-financial ISA and ensure that they indicate on the form that the ISA is non-financial. They may not rely solely on alternatives such as a Memorandum of Understanding (MOU). Non-financial ISAs are as binding and enforceable as a financial ISA. A copy of the non-financial ISA must be sent to CTR by the Buyer Department, and Seller Departments must retain a copy in accordance with records management requirements applicable to ISAs.

Improper Uses of an ISA

In general, an ISA may not be used:

- to enable one department to transfer staff or payroll costs to another department. A department may not assign personnel to perform the services of another department whether or not the individual is under the supervision and control of the other department.
- as a permanent or extended payroll funding mechanism (i.e., for multiple fiscal years) for permanent state employees and for permanent state employees who are not funded under a current appropriation.
- as a fiscal conduit or as a "back door appropriation" to circumvent legislative actions or state finance law requirements such as:
    - continuing to fund a function within a Buyer Department that the Legislature has specifically terminated, under-funded, or unfunded, unless the Seller Department is also mandated to provide the same function and is contracting with the Buyer Department to provide the function because the ISA represents best value.
    - supplementing funding that the Legislature reduced or eliminated.
    - as a means to enable collection of chargeback revenue in excess of a department's chargeback ceiling without prior approval by CTR[2].
    - as a means of generating a profit for the Seller Department[3].

This includes offsetting all or a portion of administrative costs, equipment, or current personnel not designated for ISA performance. In accordance with 815 CMR 6.01(b), In no event may ISA rates exceed the actual cost to the Seller Department for providing the ISA goods and services, unless otherwise permitted by law. Actual costs may include any reasonable costs associated with providing the ISA services approved by the Buyer Department including, but not limited to, administrative costs, equipment, personnel, contracts, or other operating costs.

ISA Duration

ISAs can be executed for any period of time that makes sense from a business perspective. Multi-year ISAs are encouraged if they best support the Buyer and Seller Departments' business processes. Similar to other types of contracts, all ISAs are subject to appropriation or other available funding. Therefore, departments can enter into a multi-year ISA even if funding transactions have to be processed annually to support each fiscal year of the ISA.

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[2] Any ISA submitted to enable the collection of excess revenues must clearly indicate the purpose of the ISA and must identify the chargeback accounts currently in use by the department. Any request to CTR for approval must be accompanied by a request to A&F or the Legislature for an increased chargeback ceiling.

[3] ISAs may only be used to compensate a Seller Department for the actual costs of providing requested goods and services, not to supplement a Seller Department's current available funding to pursue its own mission. 815 CMR 6.01(b).

Pursuant to 815 CMR 6.03(2), the effective date of an ISA shall be the latest of the following:

- the date the ISA was executed by an authorized signatory of the Buyer Department;
- the date the ISA was executed by an authorized signatory of the Seller Department; or
- a later date as specified in the ISA.

The Buyer Department must enter the date the ISA will begin and terminate on the ISA form. Amendments to extend the termination date, such as renewals, must be made using the ISA Amendment Form and must be signed by both the Buyer and the Seller Department prior to the termination date, in accordance with 815 CMR 6.00.

ISA Amendments

The ISA Form must be used to document all amendments to an ISA including renewals, extending the period of performance, changing the description of performance, changing costs, etc. An ISA Form must be signed by authorized signatories of the Buyer Department and the Seller Department contemporaneously with the need for the amendment, but not later than the termination date listed in the ISA (or as amended). Buyer and Seller Departments must attach all relevant documentation to support the amendment, including Attachments A and B for all amendments and Attachment C for federal grant funding, if any information in Attachment C has changed.

Terminated ISAs cannot be amended or be retroactively reinstated. An ISA that is not amended prior to its termination date terminates and cannot be amended. A Seller Department may not continue performance after the termination date of an ISA, even if the Buyer Department has notified the Seller Department that it desires to amend the ISA.

Personnel Funding Under an ISA

Under an ISA, an employee may be assigned by their employing department to perform department tasks that support the ISA. A department may also temporarily hire contractors or temporary state employees to perform tasks that support the ISA. These remain duties performed for the employing department. A department may also use an ISA to accept funding that another department uses to pay a portion of its employee salary costs related to services that fulfill its own department mandate, including ISA performance.

Personnel working for the Seller Department should be hired into the ISA Child Account, or Labor Cost Management (LCM) rules should be established in the state payroll system to point a portion of the payroll charges to the Child Account in accordance with ISA procedures.

The Department Head is the employer and is responsible for supervision and control of all department employees. A Department Head exercises authority granted by the Legislature, which presumes that the Department Head manages the department's funds and that all funding is spent for its employees and for its own obligations.

For more information about Department Head responsibilities, please see the CTR Department Head Signature Authorization Policy.

Shared Administrative Processing Does Not Mean Shared Department Head Signature Authorization

Each department is required to perform their duties as outlined in their enabling legislation and the GAA. Although departments have flexibility to fulfill these mandates by contracting with other state agencies through ISAs, the Department Head remains obligated to fulfill these mandates. ISAs enable two departments to fulfill a joint mandate, but may not authorize the transfer a program or responsibility for performance to another state agency.

Department Head Signature Authorization and Electronic Signatures for Mosaic Transactions

ISAs must be executed by authorized signatories of the Department Head. CFOs, Department Security Officers, and Internal Control Officers must ensure that the listing of Department Head authorized signatories is kept up to date as part of the department's internal control procedures and that Mosaic security is authorized and maintained to support Department Head signature authorization and internal controls. Please see the CTR Department Head Signature Authorization Policy for additional information.

Records Management of ISAs

Buyer and Seller Departments entering into an ISA must execute the ISA Form prior to the start of performance, and keep the ISA and required attachments as prescribed by CTR. M.G.L. c. 7A § 5.

Copies of ISAs, amendments, and ISA transactions must be submitted to CTR at ctrdigitalisas@mass.gov for review and processing upon execution.

The Buyer Department is responsible for maintaining and archiving the Record Copy, as defined by 815 CMR 10.02, of all ISAs, amendments and ISA transactions.

The Seller Department must maintain copies of all ISAs, amendments, and ISA transactions as part of its contract files. All Copies must be kept in accordance with the records retention schedule issued by the Secretary of the Commonwealth and the CTR Fiscal Records Management Policy.