

<b>Financial Management Circular</b>	<b>#2009-2</b>
<b>Effective Date</b>	<b>September 21, 2009</b>
<b>General Subject</b>	<b>Memorandums of Understanding (MOU's) and Memorandums of Agreements (MOA's)</b>
<b>Specific Subject</b>	<b>State Budget Agency (SBA) Review and Approval Authority</b>
<b>Authority</b>	<b>IC 4-12-1</b>
<b>Application</b>	<b>This Circular applies to all instrumentalities (hereinafter referred to as "State agencies") of the Executive Branch, including all bodies corporate and politic, excluding only state educational institutions (as defined in IC 20-12-0.5-1), the Secretary of State, the Auditor of State, the Treasurer of State, the Lieutenant Governor, the Attorney General, and agencies for which these elected officials serve as the agency head.</b>

**Section 1: Definitions** – Memorandums of Understanding and Memorandums of Agreements (collectively referred to as "MOU's") are generally considered formalized written documents between State agencies which involve programmatic and/or fiscal issues and enunciate mutual understandings, agreements, duties, responsibilities, policies, procedures, time frames, and other matters as necessary and appropriate.

**Section 2: General Policy** – Due to the possibility of direct or indirect state fiscal impact, the SBA's general policy is that all MOU's between State agencies require SBA review and approval. The SBA should be involved in the formulation of the document prior to being presented for review and approval. The use of an MOU does not alter state and/or federal requirements related to personnel, budgeting, fiscal, accounting, reporting, procurement, auditing, or other matters.

**Section 3: Duration** – No MOU is to extend beyond the 2-year budget period (for example July 1, 2009 thru June 30, 2011) and must be renewed to remain valid. The SBA may revoke (in writing) its approval of a MOU at any time, in which case, the document will cease to bind the State agencies. If a revocation would occur, the SBA will consult with all the State agencies party to the MOU regarding funding issues.

**Section 4: MOU Format** – An acceptable format for an MOU could include the following provisions:

- Title of document – **Memorandum of Understanding (or Agreement)**.
- **Whereas** – List the necessary “whereas” paragraphs which state the need for the document.
- **It is Therefore Agreed** – List the necessary paragraphs which articulate the understandings or agreements and include fund account details (see Section 6).
- **In Witness Thereof** – Include the signature block for each State agency party to the documents to include the person’s signature that has authority to sign the MOU, their State agency, their printed name and title, and date (see Section 7).
- **SBA signature** – A **SBA signature block** should appear on the document as follows:

Approved:

\_\_\_\_\_  
Christopher A. Ruhl  
Director, State Budget Agency

Date: \_\_\_\_\_

*Instruction note:* Other formats may be used as necessary and appropriate, but should contain the above basic elements.

**Section 5: Required Language for Termination** – The following language for termination of MOUs must be in all MOUs. MOUs will not be approved by the State Budget Agency without this termination language:

“When the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this memoranda, the memoranda shall be canceled. A determination by the Director of the State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.”

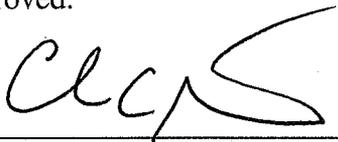
**Section 6: Funding/Accounting Treatment** – The following items should be considered regarding the funding and accounting treatment of an MOU:

- State agencies should not enter into an MOU if funding is not available to support the agreement.
- Generally, a General Ledger Journal Entry (JE) is used to transfer funding between State agencies party to the MOU. Discuss possible alternate methods with your SBA assigned budget analyst as necessary.
- It is the responsibility of the “supplying” State agency (the State agency which is supplying the goods or services) to prepare the JE and to timely submit it to the “receiving” State agency. This is especially so during late June of each fiscal year when funds may no longer be available for transfer.
- Conversely, the “receiving” State agency should also be diligent in monitoring the timely receipt of JE’s such that funding reserved for payment of the MOU is made within the appropriate fiscal year.
- Funds should be transferred to the “supplying” State agency by shifting the expense from the Fund and Account which supplied the goods or services to the “receiving” State agency’s Fund and Account.

**Section 7: Document Signatures and Routing** – MOU's are required to be signed by all State agency appointed authorities or designees party to the document. The document should be attached to State Form 41221 (Executive Document Summary) then routed to the SBA for review and approval. The State agencies party to the MOU should designate a "lead agency" to route the document. Upon approval, the SBA will return the document to the lead State agency. It will be the lead State agency's responsibility to forward a copy of the approved document to all State agencies party to the MOU.

This Circular rescinds FMC #2007-6

Approved:



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Christopher A. Ruhl  
Director, State Budget Agency

Date: 9/21/09