

# Intergovernmental Transfers of Functions and Responsibilities

## Description

Contracting with neighboring units of government for community services or programs offers a possible means of avoiding the high cost of providing services individually. Called *intergovernmental transfers of functions and responsibilities*, a contract of this type is nothing more than an agreement for the provision of services or programs by one unit of government on behalf of another. The contents of the agreement are very flexible, except for the following items which must be included in every contract:

- A description of the functions or responsibilities being transferred.
- Financial contributions made to the contracted unit of government for expenses incurred as a result of providing the contracted services or programs.
- Any transfer of property, facilities or equipment for use in providing the contracted services or programs.
- Any other legal, financial and administrative arrangements necessary to effectuate the undertaking.

Communities may want to use this type of agreement for the following services and programs:

- Municipal services such as water and sewer service and solid waste collection and disposal.
- Police or fire protection.
- Library systems.
- Administration of zoning ordinances.
- Public transportation systems that go beyond jurisdictional boundaries.
- The creation and/or maintenance of parks and trail systems, often spanning several jurisdictions.

The governing body of any "political subdivision" may enter into an agreement to transfer its functions and/or responsibilities. "Political subdivisions" include:

- Cities, villages and other incorporated political subdivisions.
- Counties.
- School districts, community colleges, and intermediate school districts.
- Townships and charter townships.
- Special districts or authorities.

While the actual provision of service is the responsibility of the governmental unit contracted to provide these programs or services, a joint board or commission may be established to supervise the operation. Any other responsibilities for either party, including financial arrangements, must be established in the initial agreement.

## Legal Basis

- Intergovernmental Transfers of Functions and Responsibilities, PA 8 of 2nd Extra Session of 1967, MCLA 124.531 et seq.;
- Legislative bodies of local units of government may not delegate their legislative functions, such as the power to adopt zoning ordinances. However, administrative functions may be delegated to another public agency provided *each* party to the agreement has the separate power or authority to engage in that service, program, or project (Op Atty Gen., June 14, 1978, No. 5312).

## Planning Considerations

Transferring selected functions and responsibilities between neighboring units of government benefits both units by providing a more cost-effective

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method of offering services and/or programs. Cooperative agreements of this type help communities provide services that would be too costly to provide separately. As communities continue to compete for scarce economic and environmental resources, intergovernmental agreements grow in importance. Communities are often able to achieve *together* what may be impossible separately. For this reason, joint planning efforts addressing intergovernmental activities are extremely important to all communities involved.

Agreements for intergovernmental transfers of functions and responsibilities can be adapted to almost any local situation. The enabling legislation is devoid of preconditions or prerequisites that would limit its use. Local units of government cannot, however, transfer their legislative functions to another unit of government through this act. Only administrative functions are eligible for transfer from one unit of government to another.

## Resources

Formulating and negotiating a contract for the transfer of functions and responsibilities is perhaps the most difficult part of establishing an agreement of this type. All parties to the agreement must be sure that local interests are being met and financial contributions are equitable. Legal counsel is essential to this process. The resources necessary to carry out the contracted service or program are the responsibility of the political subdivision contracted to perform the service or program. These resources vary according to the specific services or programs being performed. For the contracting unit of government, the most important resource is the availability of the financial support stipulated in the contract.

## Advantages

- Intergovernmental transfers of rights and responsibilities allow great flexibility for the provision of services and programs by a unit of government on behalf of another.
- Agreements can be individually negotiated to meet the exact needs and financial situations of all agreeing parties.
- Operating services and programs on behalf of two or more units of government is usually more cost-effective and/or feasible.
- Expertise in particular areas can be shared.

## Disadvantages

- Does not allow direct use of state agencies.
- Contracting community may have less control over the service provided than if they provided for it themselves.

## Limitations

- Agreements of this type must be part of a larger intergovernmental strategy. Joint planning by all agreeing parties is necessary to assure that area resources are being used in the most efficient and forward-thinking manner.

## References

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## Case Example

Intergovernmental agreements for transfers of functions and responsibilities are often entered into for fire service protection. No appropriate planning-related example of the use of this technique was found in Michigan in time for the first edition of this publication.