

**FAP 111-44-00**  
**MEMORANDUM OF AGREEMENT**

---

1. A Memorandum of Agreement (MOA) shall not cross over the budget biennium, unless wholly funded by federal road fund monies.
2. All MOA's shall be created in the state's eProcurement system. The Contract shall include all terms and conditions agreed upon:
  - a. The sworn statement regarding campaign finance laws required by KRS 45A.110(2) and KRS 45A.115;
  - b. The statement regarding revealing of violations of and compliance with certain KRS Chapters required by KRS 45A.485;
  - c. The Legislative Research Commission's Proof of Necessity (PON) form;
  - d. Language regarding access to documents required by 200 KAR 5:314(1); and
  - e. Language of KRS 45A.695(7) regarding payment and cancellation clause required by KRS 45A.695(1).
  - f. Language provided by OPS requiring compliance with the Personal Information Security and Breach Investigation Procedures and Practices Act (KRS 61.931 – KRS 61.933) when it is anticipated that the resulting MOA will disclose "personal information" as defined by KRS 61.931(6) to a "non-affiliated third party" defined by KRS 61.931(5).
3. After the Contract is created, the agency shall secure the signatures of the first and second parties and electronically route the agreement to OPS. The document shall be reviewed and approved electronically by the FAC's Office of General Counsel and the secretary of the FAC. If any changes are made to the agreement, a new copy shall be forwarded to the second party for agreement to the changes. The FAC shall file the Contract with the Government Contract Review Committee.
4. If an agency creating a MOA does not have legal counsel in-house, the agency shall submit the original document to OPS. OPS shall review the agreement, secure the signature of an attorney from the FAC and return the original to the agency.
5. The agency shall retain the original Contract, signed by all parties, in accordance with the Kentucky Department of Libraries and Archives record retention schedule and shall be made available for review upon request.
6. A Modification to a MOA shall be processed in the same manner as the original document. A Modification shall be used if the parties to an established agreement agree to increase or decrease funds, revise the scope of work, extend the time for performance within the current biennium or any other change.
7. Agencies seeking an exemption from the definition of a MOA for agreements with state universities or colleges, when the agreement does not result in the in the use of an employee of a state university or college, to fill a position or perform a duty that an employee of state government could perform if hired, require approval from the OPS. To request approval, a letter addressed to the executive director of the OPS that contains credible and comprehensive justification explaining why the agreement is exempt from the definition of a MOA pursuant to KRS 45A.690(1)(d)(4) must be emailed to [OPS.reporting@ky.gov](mailto:OPS.reporting@ky.gov). Letters are logged by the date received, reviewed and returned to the agency with approval, denial or request for additional information.

Relates to: KRS 45A.110(2); KRS 45A.115; KRS 45A.300; KRS 45A.660;  
KRS 45A.690 – KRS 45A.725; KRS 45A.485; KRS 61.931 – KRS 61.933;  
200 KAR 5:311 and 200 KAR 5:314