

# Interlocal Agreements: Strategies for Collaboration

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# What is an Interlocal Agreement?

- An interlocal agreement is simply a contract for services or joint activities between two or more governmental entities.
- PHDs have broad authority to enter into interlocal agreements:
  - RCW 70.44.060(3) authorizes PHDs to provide hospital and other health services by contract and to contract with other communities, corporations or individuals for the services provided by the PHD
  - RCW 70.44.060(7) authorizes PHDs to enter into any contract with the U.S. government or any state, municipality or other hospital district for carrying out the powers authorized by the PHD statute
  - RCW 70.44.240 authorizes PHDs to contract or join with any other PHD, publicly-owned hospital, nonprofit hospital, legal entity or individual to acquire, own, operate, manage or provide any hospital services or other health care services and to do so through a separate legal entity
  - PHDs are also authorized to enter into Interlocal Cooperation Agreements under the Interlocal Cooperation Act

# PHD Statute Provides Special Authority for “Rural PHDs” to enter into Interlocal Agreements

- Special authority is limited to “Rural Public Hospital Districts,” which is defined as a PHD that does not include a city with a population greater than 50,000 within its boundaries
- In adopting the statute, the legislature found that maintaining the viability of health care services in rural areas is a primary goal of state health policy and that it is not cost-effective, practical, or desirable to provide quality health and hospital care services in rural areas on a competitive basis because of limited patient volume and geographic isolation
- PHD statute requires that the cooperative agreements be entered into under the Interlocal Cooperation Act


# PHD Statute Authorizes Cooperative Agreements and Contracts in the Following Areas

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- Allocation of health care services among the different facilities owned and operated by the districts;
- Combined purchases and allocations of medical equipment and technologies;
- Joint agreements and contracts for health care service delivery and payment with public and private entities; and
- Other cooperative arrangements consistent with the intent of the law.

# Examples of Interlocal Agreements among PHDs

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- One PHD contracting to operate some or all of the services of another PHD
  - Joint operation of hospital facilities
  - Joint operation of other health care services (e.g., EMS)
  - Joint purchasing of services, equipment or supplies
  - Joint payor negotiations
  - Shared overhead functions


# Types of Governmental Entities Covered by the Interlocal Cooperation Act

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- All “public agencies” are authorized to exercise the authority granted by the Act.
- “Public agency” means any agency, political subdivision or unit of local government of Washington including, but not limited to, municipal corporations, quasi-municipal corporations, special purpose districts, and local service districts; any agency of the state government; any agency of the United States; any Indian tribe recognized as such by the federal government; and any political subdivision of another state.

# Powers that May be Exercised Jointly

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- The Act authorizes public agencies to exercise jointly only those powers that each of the public agencies which is a party to the agreement is authorized to exercise separately.
  - One public agency may not use the Act to “borrow” the authority of another agency.

# Types of Agreements Authorized under the Interlocal Cooperation Act

- Service agreements

RCW 39.34.080 provides as follows:

“Any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized to perform. . . .”

- Joint action agreements

RCW 39.34.030(2) provides as follows:

“Any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the provisions of this chapter. . . .”




# Issues that Must be Addressed by the Agreement

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- The purposes and objectives of the agreement
- Duration of the agreement
- Nature of the organizational structure
  - Administrator
  - Joint board
    - If a joint board is used, each of the public agencies which is a party to the agreement must be represented on the joint board
  - Separate legal entity — *e.g.*, nonprofit corporation, partnership, limited liability company (membership must be limited to participating governmental entities)

# Issues that Must be Addressed by the Agreement (con't)

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- The powers that the public agencies have agreed to delegate through the agreement
  - The responsibilities of the contracting parties
  - The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget


# Issues that Must be Addressed by the Agreement (con't)

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- The manner of acquiring, holding, and disposing of real and personal property used in the joint or cooperative undertaking
- The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination

# Financing

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- Appropriation of funds and provision of personnel and services
  - Loans or grants
  - Other forms of financing

# Procedural Requirements

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- Authorization of agreements by governing bodies
- Duty to file and submit certain agreements for approval
  - File with the County Auditor or
  - List by subject on the PHD's website or other electronically retrievable public source

# Application of Public Laws

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- State auditor (RCW 39.34.030 provides that the funds of any separate entity created under the Interlocal Cooperation Act will be subject to audit by the state auditor)
- Open public meetings act
- Public records act
- Public bid and procurement laws
- Public depository and investment limitations
- Other?



# QUESTIONS?

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