

# We Should Probably Write This Down

A Guiding Document for Interlocal Agreements and Memorandums of Understanding



## Contents

What is an Interlocal Agreement? .....	1
What goes into an interlocal agreement? .....	2
What is a Memorandum of Understanding? .....	3
Interlocal Agreements vs. Memorandums of Understanding.....	4

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Libraries are multifaceted organizations, and with that comes collaborations and partnerships between different local governments, friends and foundation groups, outside stakeholders and organizations, and the library itself. Libraries exist within these nuanced structures, and there are often many complexities.

It's essential to get details in writing, and something more reliable than an email exchange. It's time for a written agreement, but what kind? Think about the purpose of this document.

- Does it need to be legally binding?
- Does it need to be flexible?

## What is an Interlocal Agreement?

Interlocal agreements, as defined in [Montana Code Annotated \(MCA\) 7-11-102](#), serve the purpose:

*to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other local governmental units on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities.*

For libraries, these agreements are between cities/towns and counties or between cities/towns, counties, and school districts and clearly define each entity's role in supporting the local library. This allows Montana communities to receive equal library services based on their community resources. This can include appointment of board members, management of facilities, accounting responsibility, health insurance,

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retirement and other benefits. The Montana Code Annotated lists out what must be included legally in the agreement, but there are many components to consider and address.

## What goes into an interlocal agreement?

It is recommended that an interlocal agreement to provide library services include the components outlined in [7-11-105, MCA](#). Not all components are necessary for library services. However, the components that describe the organization, the makeup of the board, the powers of the board, and financing are important.

### **7-11-105. Detailed contents of interlocal agreements.**

(1) The contract authorized by **7-11-104** must specify the following:

- (a) its duration;
- (b) the precise organization, composition, and nature of any separate legal entity created by the contract;
- (c) the purpose or purposes of the interlocal contract;
- (d) the manner of financing the joint or cooperative undertaking and establishing and maintaining a budget for the undertaking;
- (e) the permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and, if applicable, for disposing of property upon a partial or complete termination;
- (f) provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking, including representation of the contracting parties on the joint board;
- (g) if applicable, the manner of acquiring, holding, and disposing of real and personal property used in the joint or cooperative undertaking;
- (h) the contracting party responsible for reports and payment of retirement system contributions pursuant to **19-2-506**;
- (i) if applicable, the manner of sharing the employment of a teacher or specialist under **20-4-201**, a superintendent under **20-4-401**, or a professional person licensed under Title 37; and
- (j) any other necessary and proper matters.

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(2) An agreement authorized by **7-11-104** between a city or town and a county that governs the adoption and enforcement of municipal zoning or subdivision regulations beyond the boundaries of a municipality pursuant to **76-2-310** and **76-2-311** may not exceed a term of 5 years, at which time both parties may mutually agree to renew the agreement.

It is a best practice to review your library's interlocal agreement internally at the library annually, and with all parties as frequently as specified in the agreement. The agreement is signed by the County Commission chair and Mayor or Commission chair and attested to by witnesses from each party, typically county clerk and recorders, city clerks, finance directors, or treasurers. Copies should be held by all parties.

If you are planning to create or review your current agreement, we can help. Contact your Montana State Library consultant for examples of Interlocal Agreements.

## What is a Memorandum of Understanding?

While not a legally binding document, a memorandum of understanding (often referred to as an MOU) is a statement of commitment between parties.

MOUs are designed to formalize long- or short-term projects and partnerships. This eliminates confusion, sets clear expectations, and better prepares the partners for success in the immediate as well as in the future.

The details of the MOU will depend on the parties involved and their roles, desired outcomes and timelines, any financial responsibilities, and more. If you are planning to create or review any MOUs, consultants have sample language from different types of MOUs they can share with you.

An MOU may be the right fit for your library. It is available to libraries that are created by a resolution of the city or county. These agreements can help identify the role and expectations of the library board and officials within local government. Facilities management, finances, contracts, and personnel are areas frequently covered by an MOU.

Like interlocal agreements, it is wise to review MOUs on a regular basis to make sure everyone understand what the agreement means and/or to identify needed changes.

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## Interlocal Agreements vs. Memorandums of Understanding

<b>Topic</b>	<b>Interlocal Agreement</b>	<b>Memorandum of Understanding (MOU)</b>
<b>Legal Status</b>	Legally binding contract defined by MCA 7-11-102 and 7-11-105.	Not legally binding; statement of commitment.
<b>Primary Purpose</b>	Defines roles of government entities in supporting library services.	Formalizes partnerships, expectations, and project details.
<b>Structure and Required Content</b>	Must include statutory components such as duration, organization, financing, administration, and termination.	Flexible; content varies with no statutory requirements.
<b>Common Uses in Libraries</b>	Clarifies responsibilities such as board appointments, facilities, accounting, and benefits.	Clarifies roles of library boards and officials; often addresses facilities, finances, contracts, and personnel.
<b>Flexibility</b>	Less flexible due to legal requirements.	More flexible and adaptable.
<b>Signatures and Execution</b>	Signed by County Commission chair and Mayor/Commission chair; formally attested.	Signed by involved parties; less formal.
<b>Review Recommendations</b>	Review annually and as specified in the agreement.	Review regularly to maintain shared understanding.