

Interlocal Cooperation Agreements

The purpose of Chapter 39.34 RCW (the Interlocal Cooperation Act) is to provide a mechanism that permits governmental entities to make the most efficient use of their powers by enabling them to cooperate with other governmental bodies 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. RCW 39.34.010. With that, the governmental entities to which the Chapter refers is broadly defined to include, but is 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. RCW 39.34.020.

In addition to the examples of agreements expressly specifies in Chapter 39.34, Revised Code of Washington (RCW), state law (the RCW's) specify a number of areas where cities can use interlocal cooperation agreements, including, but not limited to, the following:

- RCW 3.46.150 - Termination of municipal department and transfer agreements
- RCW 3.50.800 - Agreements covering costs of handling criminal cases upon repeal of municipal criminal codes
- RCW 10.93.130 - Contracting authority of law enforcement agencies
- RCW 19.27.110 - Agreements for administration and enforcement of International Fire Codes by counties, other political subdivisions and municipal corporations
- RCW 35.02.130 - Agreements for municipal services for newly incorporated cities or towns
- RCW 35.13.470 - Agreements for the annexation of territory within urban growth areas
- RCW 35.21.210 - Agreements for sewerage, drainage, and water supply
- RCW 35.21.762 - Urban emergency medical service district agreements.
- RCW 35.21.775 - Agreements for the provision of fire protection services to state-owned facilities
- RCW 35.101.040 - Agreements for Tourism Promotion Areas
- RCW 35A.11.04 - Joint purchasing agreements
- RCW 36.32.480 - Emergency medical service district agreements

Additionally, as much of an opportunity Chapter 39.34 RCW offers cities and towns, public agencies cannot escape their legal obligations or responsibilities simply by entering into an interlocal cooperation agreement. *Harvey v. County of Snohomish*, 124 Wn. App. 806, 103 P.3d 836 (2004). And the legislature intended that agencies contracting for mutual law enforcement assistance must comply with the Interlocal Cooperation Act, and thus must obtain legislative ratification. *State v. Plaggemeier*, 93 Wn. App. 472, 969 P.2d 519, *review denied* 137 Wn.2d 1036, 980 P.2d 1282 (1999).

Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state having the power or powers, privilege or authority, and jointly with any public agency of any other state or of the United States to the extent that laws of such other state or of the United States permit such joint exercise or enjoyment. RCW 39.34.030.

Interlocal Cooperation Agreements shall specify (to the extent applicable) the agreement's duration; its organizational make-up; its purpose; the manner of its financing (general funds?); provisions for an administrator or a joint board responsible for administering the joint or cooperative undertakings and the board's representation; how real or personal property is held, acquired or disposed of; and compliance with bidding and purchasing requirements, as well as the respective responsibilities and obligation of the parties. RCW 39.34.030 - 080.

The statutes also state that 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 by law to perform*. RCW 39.34.080. Where the potential contracting parties do not both have the same authority to do something, this statute could prevent them from entering into an agreement to do so. Also, that statute also states that the agreements shall be authorized by the governing body of each party to the contract. Such contract shall set forth fully the purposes, powers, rights, objectives, and responsibilities of the contracting parties.

Prior to Interlocal Cooperation Agreements becoming effective, they shall be filed with the county auditor or, alternatively, listed by subject on a public agency's web site or other electronically retrievable public source. RCW 39.34.040.

Also, if the Interlocal Cooperation Agreement is with a state agency, it shall be approved by the state officer with jurisdiction. RCW 39.34.050. Because that statute makes this approval a condition precedent to the agreement becoming effective, it is important to understand the identity of the state official who has jurisdiction.

Finally, RCW 39.34.180, also included in the Interlocal Cooperation Act Chapter, addresses prosecutorial responsibilities of cities, seemingly included the authority to charge and prosecute violations of state law, and call for that to be done in the city's own court, regardless of whether the violation has been adopted by the city through ordinance. This statute surfaced because of concerns about cities abandoning their prosecutorial responsibilities (leaving those duties to be handled by the county), and thus mandates such prosecution by the city or imposes an obligation to contract with the county for such services, with binding arbitration, if a city repeals its criminal codes. This statute could probably have been inserted in Title 3 or 10, but because of the mandated contract alternative, the Code Reviser inserted it in Chapter 39.34 RCW.