

2024

PEAK
PROCUREMENT EXCELLENCE AND KNOWLEDGE

Breakout Session

Memorandum of Agreement and Understanding



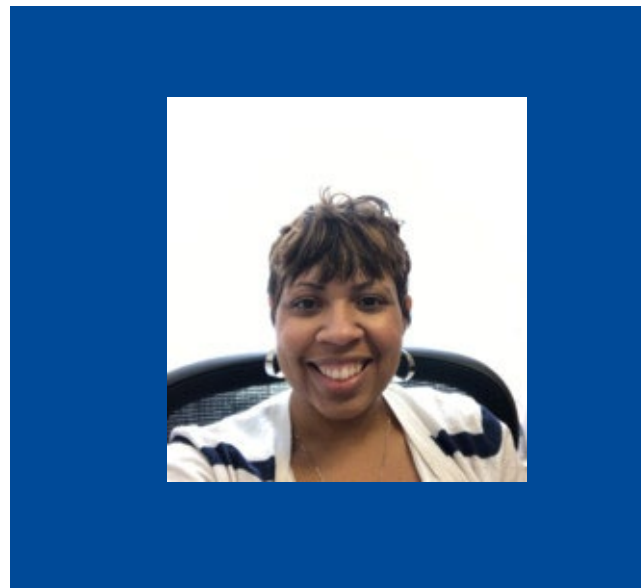
Breakout Session



Memorandum of Agreement and
Understanding

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INTRODUCTION

PUBLIC SECTOR

Memorandum of Agreement is used frequently

Memorandum of Agreement is a term of art for the public sector professional



PRIVATE SECTOR

The Memorandum of Understanding is often referred to as a “letter of intent” and only outlines the plans of the parties to enter a contract in the future.



The Problem

Is a Memorandum of Agreement different from a Memorandum of Understanding? A contract?

What is the difference?

Who should and should not be a party?

Who needs them?

What reason would one use a Memorandum?

Why use them?

What are you wanting to accomplish by creating a Memorandum?

What is it for?

What must be included? What can I exclude?

How are they drafted?

What is the difference?

Memorandum Of Understanding

It is generally referred to as a "MOU" and describes the terms of an agreement between two or more parties without being legally binding.

Memorandum Of Agreement

It is generally referred to as a "MOA" and it too is an agreement between two or more parties. It describes the party's relationship on a project or during an agreed-upon objective. A MOA is more formal than a MOU, but less formal than a contract.

Contract

An agreement between two or more parties creating obligations that are enforceable or recognizable at law.

Who needs a MOA/MOU?

- Agency to Agency
- Agency to Community College or University
- State Agency to Federal Agency
- State Agency to International Entity
- **NEVER** created with a Vendor

Why use a MOA/MOU?

- Outlines the intentions of everyone involved in an activity
- Prevents misunderstandings and potential disputes
- Documents promises and level of involvement
- To establish a partnership or working “relationship” and not a “contract”
- To clarify a workplan or a scope of work

When do you use a MOA/MOU?

- Parties have a detailed objective and a specific timeframe in which to achieve it
- Parties want to document their understanding of common goal(s)
- A contract is not necessary

How Is a MOA/MOU drafted?

- Parties to the Agreement
- Time Period
- Roles and Responsibilities
- Scope of Work
- Disclaimers
- Financial Arrangements
- Survival
- Applicable Ts and Cs
- Signatures

Scenario No. 1

NC DOA has recently implemented a new eProcurement system. Now that the new system is in place the Community College System will need to integrate its new system with DOA's new system. There is a cost associated with this as well hundreds of man-hours.

Scenario No. 2

The Administrative Code's chapter Environmental Management has a provision that open air burning requires a permit. Agency A and Agency B are both responsible for ensuring this regulation is followed. These two Agencies would like to coordinate their efforts to 1) create more detailed guidelines on how to follow this regulation and 2) educate the public on these guidelines that will impact the work that each Agency provides oversight for.

Scenario No. 3

Agency is interested in collecting data on the health implications and medical needs of children in the State of NC who have been identified as potential victims of abuse and neglect. The Agency would like to work with a NC University for that University to create a study which will include the collection of statistical data, perform analysis of the data and provide its findings.

Scenario No. 4

The Federal Clean Air Act and the Federal Transit Act placed mandates on the State of NC. To achieve compliance, NC Agency A, NC Agency B, Federal Agency C and Federal Agency D each have a role to play in ensuring NC complies with these Federal laws. A planning committee is formed, and each Agency is given a specific set of duties. [Federal and State MOA](#)

Scenario No. 5

North Carolina Governor and United Kingdom of Great Britain and Northern Ireland Minister for International Trade have signed a Memorandum of Understanding on Cooperation and Trade Relations to strengthen economic ties and transition to a clean energy economy.

“This agreement recognizes our longstanding relationship with the United Kingdom. It further underscores and aligns our shared commitment to advancing economic opportunities within the clean energy industry, including offshore wind.”

To reach these goals, North Carolina and the United Kingdom intend to share information and best practices, conduct missions with government officials, facilitate partnerships among private-sector companies, connect institutions of higher education, collaborate on events, and explore opportunities to increase investment in key sectors.



Thank you



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