

Request for Proposals—January 14, 2025

Agreements Between Agencies with Related Regulatory Responsibilities

The Administrative Conference of the United States (ACUS) is accepting proposals from individuals interested in serving as a consultant(s) to conduct a study of agency best practices for using, developing, managing, and disclosing agreements between agencies with related regulatory responsibilities. The study will support the development of a recommendation for action by federal agencies and, as appropriate, the President and/or Congress.

About ACUS

ACUS is an independent federal agency in the executive branch charged with identifying and promoting improvements in the efficiency, adequacy, and fairness of the procedures by which federal agencies conduct administrative processes.

Many of the hundreds of recommendations ACUS has issued since 1968 have resulted in reforms by federal agencies, the President, Congress, and the Judicial Conference of the United States. All are available at acus.gov/recommendations.

Recommendations are issued by the Conference, which consists of a Chair appointed by the President and confirmed by the Senate; ten presidential appointees; 50 senior federal officials designated by the heads of participating agencies; and 40 leading academics, practitioners, and other private-sector experts. Except for the Chair, all members are unpaid.

Recommendations are typically informed by a report prepared by one or more consultants. Consultants also work closely with committees of Conference members and the full Conference membership to develop the recommendations. Previous consultant reports are available at acus.gov/reports.

Project Description

In contexts ranging from border security to food safety to financial regulation, many federal agencies operate in “shared regulatory space” with other agencies.¹ Agencies rely on several mechanisms to promote coordination with other agencies operating in shared regulatory space. Memoranda of understanding (MOUs) are an especially common means by which agencies with related regulatory responsibilities coordinate their activities in shared regulatory spaces. Today, hundreds of MOUs structure the relationships between agencies that operate in shared regulatory spaces.

¹ Admin. Conf. of the U.S., Recommendation 2012-5, *Improving Coordination of Related Agency Responsibilities*, 77 Fed. Reg. 47,810, 47,810 (Aug. 10, 2012).

Agreements can serve a number of purposes, such as drawing jurisdictional boundaries; allocating responsibilities; and establishing effective channels for communication, policymaking and enforcement coordination, and information sharing.² MOUs often vary in their structure and public availability as well as their level of detail and specificity. Such variances may result in duplication of efforts, redundancies, and other inefficiencies which may impact the effective administration of regulatory programs.

ACUS is undertaking a project to examine in greater detail how agencies use, develop, manage, and disclose MOUs that involve the exercise of regulatory authority (for example through licensing and permitting, ratemaking, the granting of waivers and exemptions from regulatory requirements, and the investigation and prosecution of regulatory entities).³ Among other relevant topics, the project will address:

- The goals that agencies seek to achieve through MOUs;
- Processes for initiating, negotiating, drafting, and structuring MOUs;
- How agencies implement and resolve conflicts that may arise under MOUs;
- Practices for monitoring the performance of MOUs; and
- Standards for making MOUs publicly available.

The project will complement and expand on a 2012 recommendation previously adopted by ACUS that proposed reforms aimed at improving coordination of agency policymaking, including joint rulemaking, interagency agreements, and agency consultation provisions.⁴

Consultant Responsibilities

The consultant(s) will complete a draft report by January 2026. The consultant(s) will work with Conference staff to finalize the draft report, which will be provided to a committee of Conference members and made publicly available on the ACUS website.

During spring 2026, the consultant(s) will work with Conference staff and the committee to develop a proposed recommendation. Committees typically meet two to three times per project; meetings are conducted virtually and typically last about three hours.

The consultant(s) will work with Conference staff to complete a final report by May 2026, which will be provided to the full Conference and made publicly available on the ACUS website. The consultant(s) will also work with Conference staff and the full Conference membership to

² See Jody Freeman & Jim Rossi, *Improving Coordination of Related Agency Responsibilities* (May 30, 2012) (report to the Administrative Conference of the U.S.). See also Jody Freeman & Jim Rossi, *Agency Coordination in Shared Regulatory Space*, 125 HARV. L. REV. 1131 (2012).

³ The project will not address MOUs governing other executive-branch functions, such as the administration of grants-in-aid to state and local governments, the administration of public benefits programs, and the management of public lands and facilities. Nor will the project address interagency agreements by which agencies procure goods or services from other agencies.

⁴ Recommendation 2012-5, *supra* note 1.

consider the committee-proposed recommendation at a plenary session of the Conference, likely in June 2026.

The Conference may select a single consultant or assemble a team of consultants depending on the proposals it receives. Consultants will receive between \$8,000 and \$25,000, plus a budget for related expenses, depending on the number of consultants and allocation of responsibilities. The total value of consulting fees for this project will not exceed \$25,000, to be apportioned in accordance with the number of consultants and division of responsibilities.

Submitting a Proposal and Evaluation Criteria

If you are interested in serving as a consultant for the report, send an email to Becaja Caldwell (bcaldwell@acus.gov) with the phrase “ACUS Project Proposal” in the subject line. Attach your curriculum vitae to the email, along with a short statement (ideally no more than two pages) that:

- Addresses your interest in this study;
- Describes specific topics you would be interested in researching;
- Describes the methodologies you might employ to researching these topics; and
- Identifies any relevant scholarship you have published.

All responsible sources must submit a proposal by 5:00 p.m. Eastern Time on February 16, 2025, in order to be guaranteed consideration by the agency.

Proposals will be evaluated based on quality, clarity, and the proposer’s qualifications. The Conference has a strong preference for consultants who have previously authored scholarly work on agreements between agencies with related regulatory responsibilities.