



Leaders at the Core of Better Communities

Governmental Affairs and Policy Committee

Monday, February 1, 2010, 3:00-4:00 p.m. EDT via Web Conference

Agenda:

Committee Expectations – Facilitated by Pat Urich and Scott Hancock

- How will the committee operate?
- What are the goals of the GAPC?

Role of Issue Leaders – Facilitated by Pat Urich and Scott Hancock

- Who are the GAPC Issue Leaders? How should the GAPC work with them?
- How should GAPC members self-select into issues of interest?
- Introduction of monthly policy “coffee talks,” to be facilitated by Issue Leaders

Committee Meetings – Facilitated by Pat Urich, Scott Hancock, and ICMA Staff

- When are the on-site meetings?
- What is the plan for conference calls/virtual meetings?

ICMA White Papers – Facilitated by Josh Franzel

- What are the upcoming White Papers?
- What is the role of the committee in White Paper development/review?

Questions

Next Meeting:

March 13, 2010, 8:30 a.m., ICMA Offices

Appendices:

- Roster of 2009-2010 Committee Members
- Roles and Responsibilities of Committee Members
- ICMA Policy and White Paper Process
- 2009 White Paper: *Measuring the Results of Economic Stimulus Investments: Local Government Leading the Way*
- 2009 White Paper: *Restoring the Intergovernmental Partnership: What Needs to Change*
- Notes from September 2009 committee meeting in Montréal, Québec, Canada

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A term of January 2099 indicates an indefinite committee appointment.

Committee Members: 71

Governmental Affairs and Policy Committee

Roles, Expectations and Responsibilities for ICMA Committee Members

Participate actively in the committee by attending at least one committee meeting per year, and letting the chair know if you are not able to attend any meetings. Members must participate in order to remain on the committee.

Respect the opinions of other committee members and the role of the committee chair to build consensus on the specified task.

Follow through on assigned tasks by meeting deadlines, returning phone calls, responding to requests for input, etc.

Represent the committee to assistants' and managers' associations by attending state or national association meetings, making brief presentations, or writing articles about the committee's work for state or national association newsletters.

Roles, Expectations and Responsibilities for ICMA Member Committee Chairs

Understand and articulate the role of the committee in relation to the ICMA leadership structure and the Board's goals.

Develop consensus on an approach to the specified task that represents the goals of committee members appropriately and that relates to Board goals and other committees' efforts.

Set meeting agendas and facilitate meetings so that time is used effectively and all committee members have an opportunity to participate.

Keep the committee on track at meetings and throughout the year by serving as task master, ensuring committee members complete tasks, meet deadlines, participate, etc.

Represent the committee with ICMA, state, and affiliate leadership when necessary.

Represent the committee at state association, assistant association, and/or affiliate association meetings, making brief presentations or writing articles about the committee's work.

The ICMA Policy Process

Committee Makeup

The Governmental Affairs and Policy Committee (GAPC) is integral to the fulfillment of one of the leadership strategies in ICMA's soon to be adopted Strategic Plan: "Become more engaged in contributing to the public policy arena as it relates to local government."

ICMA's GAPC meets twice yearly, once at the annual conference and once in March, in conjunction with NLC's Congressional City Conference. Staff also supports the committee through email updates, quarterly conference calls, etc. The term for ICMA members is three-years by presidential appointment. The GAPC leadership (chair and vice chair) will comprise a state director, and an ICMA board member.

The GAPC regularly communicates information and issues back to the ICMA membership (via forums.icma.org) to alert members of timely issues. Committee volunteers agree to participate in at least 80 percent of committee meetings and conference calls, or withdraw from the committee.

- Five subcommittees (clusters) monitor policy agendas and discuss relevant issues and how those issues impact ICMA membership. The clusters are: (1) Public Works, (2) Public Safety and Emergency Management, (3) Finance and Administration, (4) Human Services, and (5) Community and Economic Development
- Cluster Chairs agree to convene at least two quarterly communications sessions with their cluster members, via email or conference calls.

Positions taken by the GAPC do not require board approval as long as they adhere to the following operational parameters or limitations approved by the board in September 1999 and revised in September 2000:

1. GAPC positions will not violate the ICMA Code of Ethics;
2. GAPC positions will be consistent with positions of NLC and NACo, unless positions are approved by the ICMA Board of Directors;
3. GAPC positions are to be consistent with ICMA's strategic plan;
4. GAPC will not take positions on specific state or regional issues.

State Leagues

ICMA invites state municipal league and county association directors that are also ICMA members to participate in GAPC as the steering arm of the committee. These directors hold permanent seats on GAPC until they leave membership, leave their league positions, or voluntarily resign. This has the following benefits for the GAPC:

1. Adds consistency of mission and task to the committee;
2. Strengthens ties with NLC and NACo. State directors are involved in those organizations and as such will be in tune with their legislative agendas. In addition, league and association directors are well respected within NACo and NLC and can astutely communicate the perspective that ICMA brings to discussions;
3. Strengthens GAPC as an early-alert mechanism in communicating critical legislative and policy issues back to ICMA membership through the GAPC.

NLC has approved ICMA members sitting on their policy steering committees. ICMA has recommended 7 members to sit on NLC's 7 policy steering committees.

White Papers

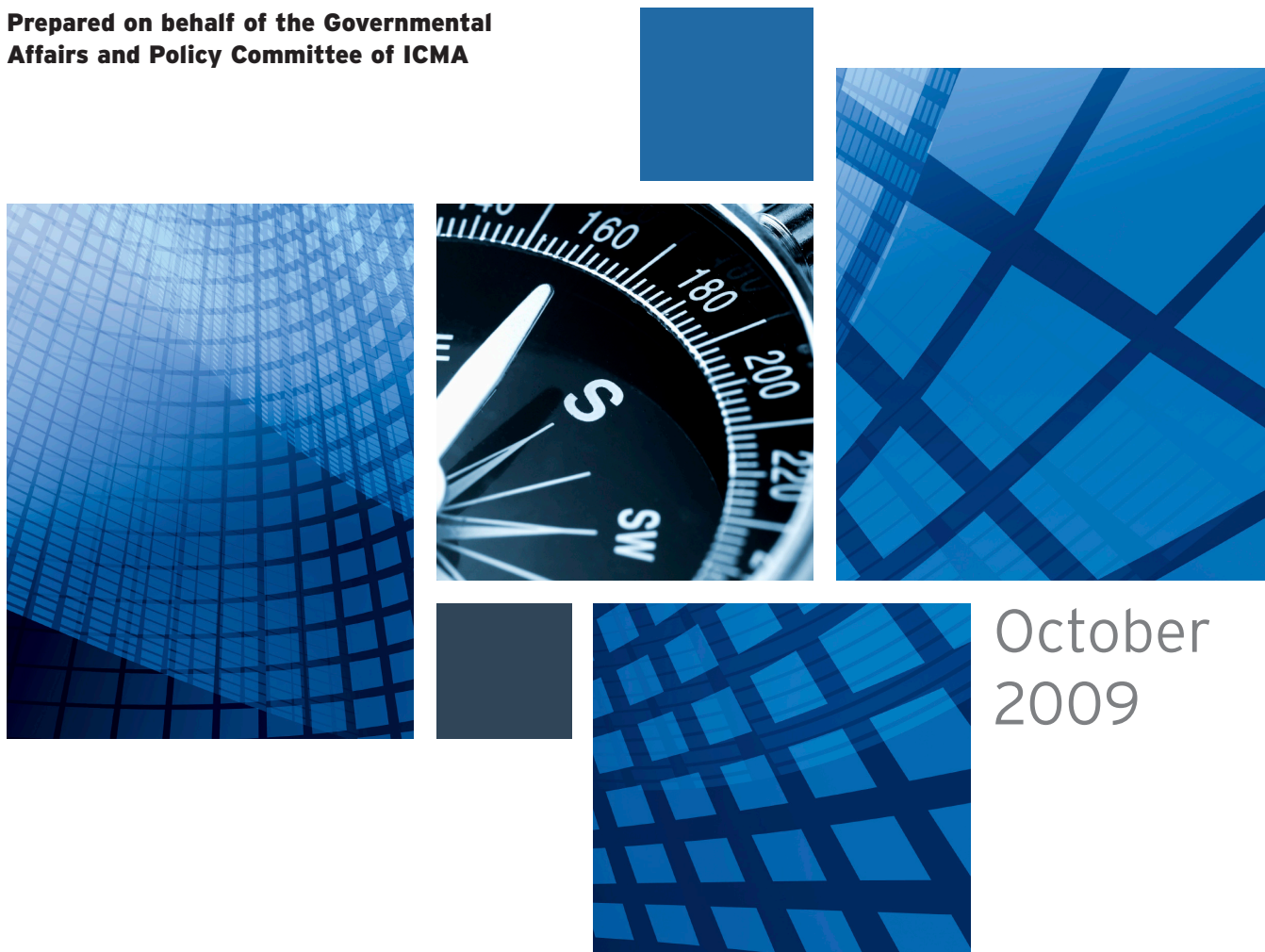
The committee, under the direction of the chair, vice-chair and state directors, annually selects up to two key policy issues that members believe we have an important perspective to bring to the issue. ICMA and the GAPC will produce a white paper on the issue(s) for general release to ICMA membership and other Big 7 organizations.

The most useful papers for the Big 7 are ones in which they do not currently have research papers or other materials to assist them in their lobbying efforts. A paper not produced for Big 7 lobbying efforts should significantly position ICMA as a leader and innovator in local government leadership and management.

Measuring the Results of Economic Stimulus Investments: Local Government Leading the Way

A POLICY ISSUE WHITE PAPER

Prepared on behalf of the Governmental Affairs and Policy Committee of ICMA



October
2009

ICMA

Leaders at the Core of Better Communities

*Measuring the Results of Economic Stimulus Investments:
Local Government Leading the Way*
A Policy Issue White Paper

Prepared on behalf of the Governmental Affairs and Policy
Committee of ICMA

October 2009

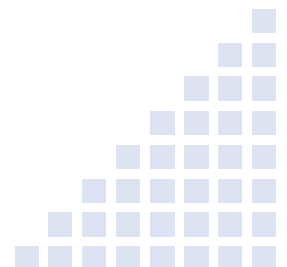
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About ICMA

ICMA advances professional local government worldwide. Its mission is to create excellence in local governance by developing and advancing professional management of local government. ICMA, the International City/County Management Association, provides member support; publications, data, and information; peer and results-oriented assistance; and training and professional development to more than 9,000 city, town, and county experts and other individuals and organizations throughout the world. The management decisions made by ICMA's members affect 185 million individuals living in thousands of communities, from small villages and towns to large metropolitan areas.

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Measuring the Results of Economic Stimulus Investments: Local Government Leading the Way

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Executive Summary

The American Recovery and Reinvestment Act of 2009 (ARRA or Recovery Act) presents city and county officials the opportunity to improve their communities, benefit their citizens, and demonstrate the value of local government as a partner in an endeavor of major importance to the nation. Although the nation's attention focused first on congressional debates over the need for a stimulus package and its size, it turned subsequently to questions of how quickly funds could be delivered and how many jobs could be created or saved. Inevitably, attention will shift again—this time to the question of whether lasting benefits, beyond jobs and stimulus, were gained from the massive Recovery Act expenditures.

Current reporting requirements for recipients of Recovery Act funds, although extensive, are focused on jobs created or retained, project oversight, and the avoidance of waste, fraud, and abuse, with relatively little attention directed to outcomes. The resulting data will offer little rebuttal to critics who predictably will challenge the existence of lasting benefits. With few outcomes reported, the data collected from Recovery

Act fund recipients will offer only a meager response to such challenges and also will deny municipal and county officials the opportunity to demonstrate the value of public investments being made through local government partners.

An alternate strategy is proposed in this paper—a strategy that recognizes the value of uniform outcome measures that can be aggregated across local governments but one that also is sensitive to the importance of avoiding burdensome additions to an already-extensive set of reporting requirements. This proposal does not suggest the establishment of a uniform set of outcome measures for all projects. Instead, it recommends the targeting of common project types (for example, road resurfacing, water and sewer line replacement or rehabilitation, and energy efficiency projects) and the establishment of uniform outcome measures that draw upon commonly collected data. Specific metrics are proposed. The quarterly reporting of these uniform outcome measures could be required of local government recipients of ARRA funds that engage in the selected common project types. The aggregation of these measures would not form a comprehensive report of all ARRA-funded projects managed by local governments (for it would exclude less common project types), but it would present a representative picture of the kinds of lasting gains achieved. The proposed measures will allow federal officials and local government spokespersons eventually to declare, for instance, the average percentage decline in line loss among local governments using Recovery Act funds for water line replacement and the average reduction in fuel consumption among local governments using Recovery Act funds to bring greater energy efficiency to public facilities and equipment.

This proposal also calls for the appointment of a committee of local government executives that would review the set of recommended measures; perhaps clarifying, expanding, reducing, or otherwise modifying the set, if deemed necessary; endorsing the set; and monitoring the results.

Introduction

Measuring the effects of stimulus spending by local governments under the American Recovery and Reinvestment Act of 2009 (ARRA or Recovery Act)¹ differs from measuring their more routine municipal and county services in several important respects. Audiences, objectives, and timeframes are only a few of the key differences.

Many local governments are accustomed to reporting their performance to management officials, governing bodies, citizens of their communities, and occasionally to officials in state or federal agencies. Reporting on the effects of stimulus spending offers a new and much-expanded audience that includes the nation's citizens, the media, and national policy leaders. The opportunity to demonstrate the value of investing in the government "closest to the people" is unprecedented.

The task of measuring and reporting the impacts of local government expenditures will be complicated by the varying objectives of the stimulus program. The goals of job retention and job creation overlap the goals of preserving public education and safety, maintaining the public infrastructure, protecting the environment, and reducing energy dependence, for example. Aggregating the effects of stimulus spending will require the identification of a suitable set of outcome measures. Such a set is proposed in this paper.

American Recovery and Reinvestment Act of 2009

The initiatives currently underway under the Recovery Act represent a mammoth, \$787 billion effort to rescue the nation's economy from near-collapse, protect its most vulnerable citizens, preserve public services, and establish a foundation for recovery. Programs and projects totaling \$280 billion will be administered through states and localities (GAO, April 2009), making this an intergovernmental partnership of historic scale.

The important local government role in this partnership was emphasized in President Obama's admonitions to the nation's mayors three days after signing the economic stimulus package: "What I need from all of you is unprecedented responsibility and accountability—on all our parts. The American people

are watching" (Shear, 2009; Stolberg, 2009). Placing them "on notice" to spend the money appropriately, he pledged to "call them out" if they did not.

Much of the initial funding directed through states and local governments—approximately \$49 billion in FY2009—was allocated for increased Medicaid grants (i.e., an increase in the federal match), highway infrastructure investment (e.g., road and bridge repairs, safety improvements, and road widening), and the State Fiscal Stabilization Fund, mostly earmarked for education but also providing for public safety and other government services (GAO, April 2009). Even greater funding streams through state and local governments were planned for FY2010 and FY2011 (Figure 1). By FY2012, allocations through state and local governments will swing more toward spending on transportation, community development, energy, and the environment (GAO, April 2009).

Measuring the Recovery Act's Progress and Impact

As recovery efforts advance, the attention of the media, national leaders, and the nation as a whole will shift from an initial focus on congressional enactment to a series of subsequent points of focus. The first shift came when attention moved from congressional debate and voting to a new focus on speed in project initiation and expenditure—getting the stimulus underway. Now the focus is shifting to actual job creation and retention, and the influence of the Recovery Act on the nation's economic rebound. Almost inevitably, the focus will shift yet again, at least partially, as attention turns ultimately to assessing the societal benefits of this massive expenditure—benefits beyond jobs and economic stimulation.

The stated purposes of the Recovery Act are to:

- preserve and create jobs and promote economic recovery;
- assist those most affected by the recession;
- provide investments to increase economic efficiency by spurring technological advances in science and health;
- invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; and
- stabilize state and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.

¹ Pub. L. No. 111-5, 123 Stat. 115 (February 17, 2009).

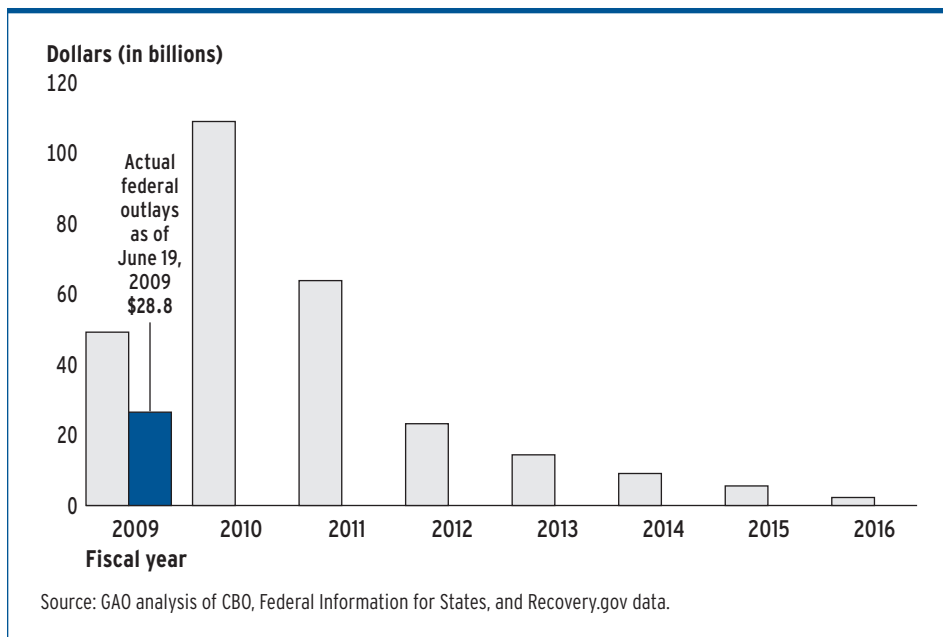


Figure 1 Projected versus Actual Federal Outlays to States and Localities under the Recovery Act

... as reported in United States Government Accountability Office, *Recovery Act: States' and Localities' Current and Planned Uses of Funds While Facing Fiscal Stresses*. Washington, D.C.: GAO, July 2009, p. 5. GAO-09-829.

To track progress, directives on performance reporting were issued by the U.S. Office of Management and Budget (OMB) and by various federal agencies through which Recovery Act funds are being channeled. Guidance offered by mid-summer 2009 from these sources made it appear that performance reporting requirements would be extensive and that these requirements would be weighted heavily toward the tallying of jobs created and jobs retained, the tracking of dollars and project status, and compliance by funds recipients. Much less attention was directed toward societal benefits or results of the ARRA projects beyond jobs created or retained.²

Despite relatively little early attention to the benefits—long- or short-term—of Recovery Act expenditures beyond jobs and economic stimulation, such attention is likely to come eventually from the media and also from critics of the Recovery Act. Critics will challenge the effectiveness of the stimulus, question whether the program was worth the deficits it has created, and wonder what enduring—or even temporary—benefits accrued from the jobs created.

An imbalance of attention on spending speed, jobs created or retained, and avoidance of embarrassing gaffes may serve the program's interests in the earliest stages of public scrutiny, but it will leave Recovery Act

participants and proponents ill-equipped for the eventual shift to a focus on lasting benefits beyond jobs. Unless uniform outcome measures are established and required from the outset, proponents will be forced to rely on anecdotal stories of positive results. It will be impossible to report aggregated and cumulative benefits.

The ability of cities and counties individually and collectively to answer the question of lasting benefits not only will allow them to demonstrate progress on persistent local concerns but it also will enhance the value of local governments as program partners with the federal government. But to do so, the framework of performance measurement must be established now.

Why Should Local Governments Be Concerned?

Fulfilling currently announced reporting requirements pertaining to compliance, project management, and the creation or retention of jobs will be difficult enough. Why should local governments be concerned if the tracking mechanisms of the Recovery Act give short shrift to measuring outcomes? Two reasons are prominent. Although avoiding waste is an important threshold for public programs, it is a threshold far too low to gain public approbation. The ability of Recovery Act participants to demonstrate enduring benefits individually and collectively—along with jobs created and saved—is a more worthy aim. Local governments

² The authors of a recent Brookings Institution report express the imbalance this way: "ARRA's welcome emphasis on transparency tilts too much toward curbing waste, fraud, and abuse and too little on establishing a clear, sensible focus on measuring outcomes" (Muro et al. 2009, 3).

have important objectives themselves—infrastructure maintenance and expansion, service enhancement, sustainability, and so forth—and it is in their self-interest to document progress toward achieving these objectives. Second, the scale of the Recovery Act and the prominent role of local government in its implementation make this brief initiative a rare opportunity for local governments to demonstrate their value as an intergovernmental partner for this and future initiatives.

Recovery Act Reporting Requirements

Current reporting requirements are extensive, encompassing a host of details pertaining to the following basic elements:

- Total amount of funds received; and of that, the amount spent on projects and activities;
- A list of those projects and activities funded by name to include³:
 - Description
 - Completion status
 - Estimates on jobs created or retained;
- Details on sub-awards⁴ and other payments (OMB, June 22, 2009a, p. 6).⁵

Furthermore, states often impose additional reporting requirements on local governments for projects supported by federal funds passing through them.

Considerable attention has appropriately been directed toward the measurement and reporting of jobs created and jobs retained. The June 2009 guidance from OMB has clarified this task by declaring that Recovery Act fund recipients are to report only direct jobs created or retained (not “indirect” or “induced” jobs) and by providing detailed instructions for calculating and reporting jobs as full-time equivalents (FTEs). Still, as the GAO reports, many state and local officials desire further instruction and program-

specific examples, especially where unusual circumstances exist (GAO 2009, p. 131).

The focus on effectiveness or impact of Recovery Act projects, beyond job creation/retention has been minimal. In fact, more attention appears to have been directed toward the effectiveness of internal control systems for ensuring compliance and avoiding fraud, waste, and abuse than toward the effectiveness or impact of Recovery-Act-funded projects (GAO, April 2009, 42; GAO, May 2009b; GAO, July 2009).

The GAO has recommended that in addition to providing further guidance on the reporting of jobs created and jobs retained, the OMB Director should “work with federal agencies—perhaps through Senior Management Councils—to clarify what new or existing program performance measures...that recipients should collect and report in order to demonstrate the impact of Recovery Act funding” (GAO, July 2009, 131).

In OMB’s June 2009 directive, the only reporting guidance that addresses project outcomes or results beyond job creation or retention is this:

Description of Project or Activity (brief narrative). A description of the overall purpose and expected outputs and outcomes or results of the award and first-tier subaward(s), including significant deliverables and, if appropriate, units of measure. For an award that funds multiple projects or activities, such as a formula block grant, the purpose and outcomes or results may be stated in broad terms (OMB, June 22, 2009b, p. 11).

In a single entry out of many in the reporting guidelines, local governments are encouraged to report activity or outcome measures pertaining to their specific projects. This encouragement is likely to yield a spotty and uneven response. Predictably, not all measures submitted in response to this directive will even address outcomes and those that do will not lend themselves to easy combination for a cumulative depiction of outcomes among local governments as a whole. Lack of uniformity will thwart efforts to simply add the measures of different communities.

OMB’s guidance to federal agencies directs them to provide instructions on the collection and reporting of performance measures beyond jobs created or retained—what OMB has described as the Recovery Act’s “marginal” performance impact (GAO, July 2009, 118). More specific directives have been slow in coming. GAO reports that “many state and local officials expressed concern about the lack of clear guidance on what other program or impact measures are required for evaluating the impact of Recovery Act funding” (GAO, July 2009, 123).

3 Section 1512(c)(3)(E) requires that state and local governments making infrastructure investments must provide information on the purpose, total costs, rationale for the infrastructure project and contact information of an individual.

4 Section 1512(c)(4) requires details on the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282).

5 Some of the “details” probe deeply, for example requiring “the names and total compensation of the five most highly compensated officers of the subrecipient entity” in some instances (OMB, June 22, 2009b, p. 20).

Drawing on Performance Measurement Lessons

A great deal about public sector performance measurement has been learned in recent decades. A few of the lessons most applicable to ARRA performance reporting are noted here.

Lesson 1: While some local governments are sophisticated in their ability to devise excellent measures and track performance, others are not. The practice of performance measurement has expanded dramatically at all levels of government in recent decades, but Ted Poister and Greg Streib (1999), assessing prior studies, note that the reach, sophistication, and use of performance measures are sometimes overstated in self-reported accounts. Not all local governments measure performance routinely and many do so only in a rudimentary fashion. Despite rosy self-reporting, follow-up examination of budget documents and performance reports suggest that the extent and quality of performance reporting among local governments is uneven. It is safe to predict that many local governments will be ill-prepared and a bit uncomfortable with the current federal guideline calling for them to suggest their own measures of the outcomes of their Recovery Act expenditures. The GAO reports that many are awaiting further instruction from federal agencies.

Lesson 2: Focusing on outcomes produces a more informative picture of performance than relying on inputs and outputs. Beyond the creation or retention of jobs, the lasting story of the Recovery Act will be the value of the work performed. That story will be told more compellingly if measurement extends past the shopping basket of items purchased and describes in hard facts and figures the gains that are made.

Lesson 3: Relying on only a few indicators of performance is risky; caution is warranted. Performance may be more fully and accurately depicted by a carefully developed set of measures addressing multiple dimensions of relevance rather than by a single measure. Scholars even warn of “pathologies” that can result when reliance on a single indicator of service quality leads to the restructuring of internal incentives (Ostrom, 1973; Kelly and Swindell, 2002). In the case of the Recovery Act where practicality is likely to force the use of a single or only a few outcome indicators for some projects, special care in selecting the most reasonable indicator or small set of indicators is warranted.

Objective of Measurement: Project Management or Accountability?

By OMB’s own acknowledgment, the purpose of its performance reporting schema is *reporting* rather than management (OMB, June 22, 2009a, p. 26). In other words, the aim is accountability—demonstrating the responsible use of Recovery Act funds and achievement of the Act’s objectives. Nothing in the Recovery Act precludes the establishment of performance management or project management systems to guide the management efforts of fund recipient, but the reporting requirements are focused on developing information for federal oversight and public information rather than project management.

Given the short duration of Recovery Act projects and the limited time span for mid-course corrections, the assumption that measures connected with these projects will be more useful for oversight and reporting than for management is understandable. However, the introduction of even a few key outcome measures could influence the management of these projects in beneficial ways—ways that will promote project benefits.

Achieving Needed Precision while Avoiding Burdensome Data Collection

Substantial administrative responsibilities, including reporting requirements, are required of Recovery Act fund recipients. These responsibilities cannot be absorbed easily into the existing workloads of current employees, especially at a time when many local governments have reduced their administrative staffs in response to their own budget crises. Without adequate administrative resources, performance could be impaired. Even before the Recovery Act projects were well underway, state officials already were expressing to GAO investigators “concerns about the reliability and accuracy of data [that would be] coming from localities” (GAO, April 2009, p. 37).

From the outset, state and local government officials expressed concern over what they feared was insufficient set aside funding to cover their accountability and administrative duties. Although recent guidelines have relieved some of these fears, it is important to remember that the provision of adequate management oversight and administrative support is essential for the success of these projects.

Uniform Measures of Impact for All Projects?

Given the broad array of programs and projects being funded under the Recovery Act, the task of designing and prescribing suitable outcome measures for every type of project would be daunting, even if granted adequate time to do so. Without such time the prospect of developing a comprehensive “template” of outcome measures for all projects, if not impossible, is at least impractical. Only with the measures of job creation and retention can officials hope to achieve that level of uniformity across all projects.

For outcomes beyond job creation and job retention, a practical strategy is needed that can combine the goal of accountability with the desire to avoid an especially burdensome data collection process. Such a strategy, as proposed here, will include the design of uniform outcome measures for a representative set of Recovery Act project types undertaken by local governments, including project types that are among those most commonly undertaken.

What types of projects are likely to be most common or of highest profile among those funded by the Recovery Act and managed by local governments? Early project applications—along with growing awareness of the well-documented deficiencies in the nation’s infrastructure—point to some of the leading candidates, but brick-mortar-and-asphalt capital projects will not dominate the array of recovery projects to the extent that some observers had anticipated at the outset of stimulus discussions.

The nature and mix of Recovery Act projects will differ from those of the Great Depression era, and so too will their legacy. As one writer pointed out soon after the stimulus package was approved, the portion of Recovery Act funding devoted to public works projects “is unlikely to transform the physical fabric of the nation as the New Deal did when it built hundreds of airports, tens of thousands of bridges, and hundreds of thousands of buildings and miles of roads” (Cooper, 2009, 6). Even with more than \$100 billion directed to public works projects, these represent a relatively small portion of the Recovery Act total of \$787 billion and only a fraction of the \$2.2 trillion needed, according to the American Society of Civil Engineers, to fully restore the nation’s public infrastructure.

Recent inventories of the condition of the nation’s roads and bridges have reported major deficiencies. More than 18,000 bridges on state and interstate systems have been rated as “structurally deficient” by the U.S. Department of Transportation and “unsafe” by the American Society of Civil Engineers (Smart Growth America, 2009, 2). As shown in Table 1, pavement improvement projects made up almost half of the Recovery-Act-funded road and bridge improvement projects obligated by June 2009.

Many roadways in communities are also in poor repair. Much of the Recovery Act funding for roads and bridges, however, is likely to be claimed at the state level by transportation departments for roads and bridges under their maintenance. Nevertheless, significant amounts of funding for road maintenance will probably reach local governments in some states.

Table 1 Nationwide Highway Obligations by Project Improvement Type as of June 25, 2009

Dollars in millions								
	Pavement projects			Bridge projects			Other ^a	Total ^b
	New construction	Pavement improvement	Pavement widening	New construction	Replacement	Improvement		
	\$994	\$7,765	\$2,701	\$418	\$708	\$851	\$2,429	\$15,867
Percent of total obligations	6.3	48.9	17.0	2.6	4.5	5.4	15.3	100.0

Source: GAO analysis of Federal Highway Administration data.

a Includes safety projects such as improving safety at railroad grade crossings, transportation enhancement projects such as pedestrian and bicycle facilities, engineering, and right-of-way purchases.

b Totals may not add because of rounding.

... as reported in United States Government Accountability Office, *Recovery Act: States' and Localities' Current and Planned Uses of Funds While Facing Fiscal Stresses*. Washington, D.C.: GAO, July 2009, p. 16. GAO-09-829.

Other common project types will include water and sewer service expansion, water and sewer line replacement or rehabilitation, water reuse and desalination projects, broadband initiatives, housing improvements, homelessness avoidance, public housing construction and rehabilitation, energy efficiency, weatherization, police force expansion, and public transit improvements.

All projects, of course, will report jobs created or retained, as prescribed by OMB. Under this proposal, local governments undertaking several common types of Recovery Act projects will also report uniform outcome measures designed for those projects. These measures may then be aggregated nationally across all local governments undertaking a given project type.

Outcome reporting for project types for which uniform outcome measures have not been designed—including less common project types—will depend on the output or outcome measures designed by individual local governments in response to OMB’s guidance of June 22, 2009 (OMBb, 11) or directives by federal agencies. Aggregation of these measures is unlikely to be possible.

Recommended Metrics

The stimulus program is designed to be quick-hitting. The opportunity to demonstrate the ability of local government, as a national partner, to deliver an extraordinary return on a major public investment will arrive and pass quickly. Although scholars and analysts will reflect on the effects of stimulus spending for years to come, judgments by pundits, policy leaders, and citizens will be rendered in real time. Complexity of measurement—both for data compilers and the recipients of measurement reports—would restrict its usefulness. Simplicity, while retaining data and message integrity, would be better.

Based on early evidence regarding likely programs and projects to be managed by local government recipients of Recovery Act funds, the following performance measures (printed in bold type) are proposed. Each should be required to be collected and reported by local governments undertaking that type of project. By aggregating these measures, federal officials and local government spokespersons will be able to make the broader statements of impact offered in italics.

Street Resurfacing

A desirable outcome measure for street resurfacing would show the improved condition of the street or road inventory of a city or county. Participants

in ICMA’s comparative performance measurement program, for instance, report the following measure annually:

- **Paved lane-miles assessed as being in satisfactory or better condition as a percentage of total paved lane miles assessed (ICMA, 2008, pp. 276–277)**

To report this measure, a local government must have a condition inventory already or the ability to compile one quickly. To avoid imposing this burden on cities and counties without such an inventory, the above measure should be requested only of those local governments possessing such an inventory. The following measure could be required of *all* local governments using Recovery Act dollars for resurfacing work:

- **Lane-miles resurfaced, by decade of most recent paving/resurfacing (e.g., prior to 1950, 1950–1959, 1960–1969, etc.)**

The aggregation of these measures across all cities and counties would permit federal officials and local government spokespersons to report *the average percentage upgrading of local street and road conditions among local governments using Recovery Act funds for resurfacing* (among those able to report this measure) and *the percentage of resurfacing work that restored streets that had been last resurfaced prior to the 1990s (or other specified decade)*. Although not actually gauging an outcome, a measure that reveals the age of road surfaces prior to Recovery Act resurfacing will answer critics’ charges that these were merely make-work projects.

Water and Sewer: Service Expansion

Some local governments will use Recovery Act funds to reduce the number of citizens who depend on small and often unreliable private water systems and inadequate sewage disposal by connecting them to the government’s systems. For the purpose of reporting relevant metrics, “marginal systems” could be defined as:

- a) water systems that
 - consistently fail to comply with environmental regulations regarding maximum contaminant levels (i.e., those exceeding specified maximums at least once annually for the past three years), or
 - serve fewer than 500 people or have fewer than 200 connections (including reliance on individual wells)⁶

⁶ Even when they comply with environmental regulations, some small water systems are especially vulnerable in periods of drought.

b) wastewater systems that are not connected to a centralized treatment plant (including reliance on septic systems).

Local governments using Recovery Act funds to reduce the number of marginal systems could be required to report the following:

- **Number of households on marginal water systems within or in close proximity to the jurisdiction**⁷
- **Number of households removed from marginal water systems by connecting them to the water distribution network using ARRA funds**
- **Number of households on marginal sewerage systems within or in close proximity to the jurisdiction**⁸
- **Number of households removed from marginal sewerage systems by connecting them to the wastewater collection system using ARRA funds**

The reporting of these statistics should begin with the quarter prior to beginning a project.

When aggregated, these measures will permit spokespersons to report *the average percentage reduction of households on marginal systems among local governments using Recovery Act funds for moving households from marginal to reliable centralized water systems* and similarly *the average percentage reduction from marginal sewer conditions*.

Water Line Replacement

Many local governments are expected to replace old and leaky water lines using ARRA funds. Those local governments could be required to report the following:

- **Number of feet of line replaced**
- **Percentage of line loss**⁹

Line loss is the amount of water that seeps from water lines during transmission. It may be gauged roughly by comparing the volume of water that is treated to the volume of water sold to customers to see how much is lost in transmission. Replacement of a portion of a system's water lines will not nec-

essarily cure a line loss problem; but if targeted at areas with the most badly deteriorated lines, it should reduce the problem overall. The reporting of line loss should begin with the quarter preceding water line replacement.

The aggregation of these measures across all cities and counties will permit spokespersons to report not only the *number of miles of water lines replaced* by all of the systems using funds for this purpose, but also *the average percentage decline in line loss among local governments using Recovery Act funds for water line replacement*.

Sewer Line Replacement or Rehabilitation

Local governments are also using Recovery Act funds to replace or rehabilitate old and leaky sewer lines that pose a threat to public health and the environment. The governments doing so could be required to report the following:

- **Feet replaced/rehabbed, by age of sewer line replaced/rehabilitated (e.g., 1900–1909, 1910–1919, 1920–1929, 1930–1939, etc.)**
- **Sewer stoppages per 100 miles of sewer line**
- **Percentage of inflow during rain events**

The reporting of statistics on sewer stoppages and inflow should begin with the quarter preceding sewer line replacement.

When aggregated, these measures will permit spokespersons to report not only the *number of miles of sewer lines replaced or rehabilitated* and the *percentage of new or rehabilitated lines replacing lines installed prior to a given decade* by all of the systems using funds for this purpose, but also the *average decline in the rate of sewer stoppages* and the *average decline of inflow among local governments using Recovery Act funds for sewer line replacement*.

Water Reuse and Desalination Projects

The Department of the Interior has directed more than \$134 million in Recovery Act funds to a variety of innovative water reuse and desalination projects. Where local governments are managing such projects, they could be required to report the following:

- **Recycled water as a percentage of all treated water**
- **Desalinated water as a percentage of all treated water**

The reporting of these statistics should begin with the quarter prior to initiating a project.

⁷ Estimated figures should be acknowledged as such.

⁸ Estimated figures should be acknowledged as such.

⁹ Alternatively, local governments could report simply the gallons of water treated and the gallons of water sold for the quarter, leaving line loss calculations up to the federal recipients of the report. This approach would have the advantage of permitting the calculation of an aggregate estimate of water saved annually by local governments using ARRA funds for water line replacement.

These measures will permit spokespersons to report the impact of recycling and desalinating water as a means of expanding water availability.

Broadband Initiatives

Section 6001(k) of the Recovery Act calls for the Federal Communications Commission (FCC) to develop a plan to expand broadband coverage, ensuring that everyone across the nation has access. A variety of broadband projects will receive \$7.2 billion in ARRA funds, including some proposed by local governments.

As the FCC develops the national plan and receives comments, it will establish performance measures to track progress and assess results. Pending the establishment of the FCC's measures, these four are proposed for assessing the benefits of broadband initiatives funded by the Recovery Act and implemented through local government partners:

- **Percentage of broadband penetration (i.e., the percentage of the local government's jurisdiction having access to broadband)**
- **Percentage of households subscribing to broadband service**
- **Price per Mbps (megabit per second)**
- **Average household internet connectivity speed¹⁰**

Additionally, each recipient local government should respond to the following question:

- **Is real-time data entry by public safety personnel possible?¹¹**

The reporting of these statistics and the answer to the above question should begin with the quarter preceding the broadband initiative.

The aggregation of these measures across all cities and counties undertaking ARRA-funded broadband initiatives will permit federal officials and local government spokespersons to report the *average percentage increase in broadband penetration* (i.e., access), the *average percentage increase in broadband users*, the *broadband project's influence on price*, the *change in average speed experienced by internet customers*, and the *extent to which broadband projects reached public safety operations* among local governments using Recovery Act funds for broadband projects.

Housing

Any local governments that use Recovery Act funds for projects designed to bring housing into compliance with minimum standards could be required to report the following:

- **Substandard housing units as a percentage of all housing units**

The reporting of this measure should begin with the quarter preceding the ARRA-funded project.

By aggregating this measure across all cities and counties, spokespersons will be able to report *the average percentage upgrading of housing stock among local governments using Recovery Act funds to bring housing up to standard condition*.

Avoiding Homelessness

The Recovery Act's \$1.5 billion Homelessness Prevention and Rapid Re-Housing Program is designed to help at-risk individuals and families avoid homelessness and help others who are experiencing homelessness regain stability and housing. The purpose of this program differs sharply from programs directed entirely toward rescuing persons from the street by providing shelter and food. Accordingly, the terminology appropriate for these measures will differ from the measurement language normally associated with homeless shelters. Program elements focus on vulnerable families and individuals who are on the brink of homelessness or have only recently become homeless. Assistance can include, for instance, credit counseling, security or utility deposits, utility payments, short- or medium-term rental assistance, moving cost assistance, and case management. Local governments using Recovery Act funds for this purpose could be required to report the following:

- **Persons saved from homelessness**
- **Recovery Act expenditures per person saved from homelessness**

When aggregated, these measures will permit spokespersons to report the *number of persons saved from homelessness across all ARRA-funded projects* and the *average expenditure per person*.

Public Housing

Some local governments will use Recovery Act funds to rehabilitate public housing units. A rough, but

¹⁰ As an alternative to reporting average speed, local governments could be asked to report the percentage of households in each of the seven FCC broadband tiers (e.g., Tier 1, 768 kbps to 1.5 Mbps; Tier 2, 1.5 Mbps to 3 Mbps) (GAO, May 2009a, 6).

¹¹ Section 6001 of the Recovery Act specifies the following as one of the five objectives of the national broadband service development and expansion program: "to improve access to, and use of, broadband service by public safety agencies." See § 6001(b), 123 Stat. at 512-13. Also listed in *Federal Register*, 74, No. 130 (July 9, 2009), p. 33106.

easily compiled, measure of the condition of public housing stock would report the percentage of all units constructed or rehabilitated within a reasonable period of time, perhaps the last 10 years:

- **Percentage of public housing units constructed or rehabilitated within the past 10 years**

The reporting of this measure should begin with the quarter preceding the ARRA-funded project.

When aggregated, this measure will permit spokespersons to report the *average improvement of public housing stock among Recovery Act projects*.

Energy Efficiency

A variety of Recovery Act projects will be directed toward achieving greater energy efficiency in public facilities, vehicles, and equipment.¹² Local governments undertaking such projects could be required to report:

- **Reduction (or increase) in energy consumption, when compared to same quarter of the year prior to initiating the Recovery Act project**
- **Percentage of vehicles and heavy equipment using alternative fuel¹³ (ICMA, 2008, pp. 236–237)**
- **Average fuel efficiency of all sedans in fleet (miles per gallon)**
- **Average fuel efficiency of all pickups in fleet (mpg)**

The reporting format should accommodate various energy units (e.g., gallons of gasoline, kilowatt-hours of electricity, etc.) and should require the local government to indicate whether the reported reduction

is confirmed; anticipated but not yet confirmed; or estimated because actual figures are and will remain unavailable. The reporting of the second, third, and fourth measures should begin with the quarter preceding the ARRA-funded project.

By aggregating these measures across all cities and counties, spokespersons will be able to report the *average reduction in fuel consumption*, the *average percentage of vehicles and heavy equipment using alternative fuel*, and the *average gains in fuel efficiency of the sedans and pickups in the fleets of local governments using Recovery Act funds to bring greater energy efficiency to public facilities and equipment*.¹⁴

Weatherization

Requirements established by the Department of Energy (DOE) call for states participating in the Recovery Act's weatherization program to report not only the number of housing units weatherized and jobs created but also the resulting energy savings (GAO, July 2009, 94). Compliance with these requirements at the local government level will permit aggregated statistics on results.

Police Force Expansion

Recovery Act funds are being used in some communities to avoid the loss of current police officers or to hire additional officers. Guidance in calculating jobs created or retained has been provided by OMB.

Although normally considered merely an input measure, the number of police officers hired or retained with Recovery Act funding deserves different treatment in the context of the ARRA. Because of the Recovery Act's job creation/retention objective, this input measure may justifiably be regarded as at least an output in this instance.

- **Police officer positions created or retained using Recovery Act funds**

Public officials and the public in general often regard greater police presence or visibility as a public value in and of itself. Nevertheless, the hiring of additional police officers is about more than just creating jobs. It is also about preserving or increasing public safety. Therefore, local governments using ARRA funds to hire additional officers (not simply to retain current jobs) could be required to report:

- **Part I crimes per 100,000 persons, as a percentage of the average quarterly rate of the year prior to using ARRA funds to employ police officers**

12 For instance, the GAO reports that some public housing agencies are using Recovery Act funds to increase the energy efficiency of housing units, for example, installing energy efficient lighting and appliances. They intend to track energy usage to report impact (GAO, July 2009).

13 Reported annually by participants in ICMA's comparative performance measurement program.

14 A reviewer of this paper correctly observed that projects aimed at the energy efficiency of municipal and county facilities and equipment will produce outcomes that are "just a drop in the bucket" compared to the potential outcomes of broader efforts directed toward community efficiency enhancement. These broader outcomes (e.g., increased reliance on renewable energy communitywide, reduction of the load on the national grid, reduced greenhouse gases) should be added to the required metrics, if it becomes apparent that a substantial number of local governments intend to use ARRA funds for projects with these or similar objectives.

Analysts hoping for a quick and easy assessment of the impact of new officers are likely to be disappointed. Lag time in hiring and training new officers is only one of the many complicating factors in assessing impact. The fact that even several new officers in a community may constitute only a small fraction of the overall force is another. Their effect may be neither immediate nor readily apparent. Still, critics and proponents will ask about the effects on crime and it is wise to gather these statistics.

Although local governments using Recovery Act funds for police officers should report the above measures quarterly, those hiring additional officers should also be directed to submit a follow-up report upon the release by the Federal Bureau of Investigation of a given year's annual Uniform Crime Report. The follow-up report by the responding local government should compare the change in the local crime rate with the average of all cities/counties in the same population cluster and region.¹⁵

Public Transit

Substantial ARRA expenditures will be made for light-rail, streetcar, and high-speed bus projects designed to increase ridership, reduce traffic congestion, and boost downtown revitalization efforts (Cortese, 2009). Although these projects will have a variety of specific objectives deserving of individualized focus, the common denominator is a desire to make public transit a more viable and desirable transportation option.¹⁶ Accordingly, a results-oriented measure that would span the variety of projects and minimize the data collection burden would focus on ridership. Local governments receiving Recovery Act funds for public transit could be required to report:

- **Passengers per service mile**
- **Passengers per service mile, as a percentage of the same quarter of the prior year**

By aggregating these measures across all cities and counties, spokespersons will be able to report *the average increase in passengers per service mile among local governments using Recovery Act funds for public transit*.

15 Although it would be desirable to exclude from the comparison other local governments using ARRA funds to hire additional officers, it may be impractical to do so.

16 Vehicle replacements for energy efficiency may be expected to influence results here and also in the "Energy Efficiency" category.

A host of other project types, less suitable for aggregate measures, will be undertaken by local governments. Outcome measures should be designed and reported in each instance, even if their usefulness in documenting the Recovery Act performance of local governments as a whole is not as great as for the more readily combined measures listed above.

Recovery Act Projects as Contributors to Desired Outcomes

The task of isolating ARRA-funded impacts will be relatively simple in some cases but exceedingly difficult in others. For example, if a city expands its police force in hopes of reducing crime, how much of any subsequent drop in the crime rate should be attributed to the additional officers and how much to an improving economy and other factors? Sorting out the answer with precision would be a vexing problem for the most skilled of analysts and a challenge seemingly well beyond the realm of a reporting system designed to minimize undue burdens.

In many cases Recovery Act funds will supplement other federal, state, or local funds being used for a similar purpose. It will be important to keep these funds separate for all project-specific reporting as prescribed by OMB and other federal agencies; however, for the reporting of outcomes, the isolation of a Recovery Act project's contribution to an improving overall condition might be a complicating factor not altogether necessary if demonstrating an impact *approximately* is almost as valuable as demonstrating an impact *precisely*. Some cities will only hire new police officers for whom they receive ARRA funds, for instance, while others will hire some officers using ARRA funds and other officers with local funds. Will it be enough to report that in cities and counties receiving ARRA funds for additional law enforcement officers the crime rate declined by a given average percentage or must the attribution be more precise? Similarly, Recovery Act funds will be a major contributor—but not the only contributor—to the improved condition of the roadways, water and sewer system, housing inventory, and public transit system in various communities. Will it be enough to report the average percentage improvement among local governments using ARRA funds for that purpose, while carefully acknowledging that other programs and other factors may have contributed as well? The objective of minimizing burdensome reporting requirements would lean in favor of arguing that it is.

Reporting Frequency

Recipients of Recovery Act funds are required to report on the use of those funds, including the creation or retention of jobs, on a quarterly basis. The measures proposed in this paper could be reported simultaneously.

Administrative Costs

From the outset state and local government officials have been concerned about resources to pay for the administration of ARRA-funded projects, including compliance with measurement and reporting requirements (Brodsky, 2009; Towns, 2009). Many of these governments were forced to trim their administrative staffs in response to revenue shortfalls and now find themselves ill-equipped to properly administer new projects and meet federal reporting requirements.

Early OMB guidelines were vague about allowances for administrative expenses, but recent signals about allowable uses of ARRA funds are more encouraging. To secure proper management of this massive investment, administrative funding must be provided.

Local Leadership Roles

Local government leaders can advance the important work of gauging the benefits of Recovery Act projects in two significant ways. First, a committee of local government executives should be appointed for the purpose of reviewing the set of measures proposed in this paper; perhaps clarifying,¹⁷ expanding, reducing, or otherwise modifying the set, if deemed necessary; endorsing the set; and monitoring the results.

¹⁷ The committee, for instance, may choose to define terms found in some of the measures for greater clarity or it may provide instructions that will balance the desire for precision with the need to avoid burdensome data collection. Consider, for example, the case of “line loss” following the replacement of water lines. The committee might choose, for the sake of uniformity and ease of measurement, to define line loss simply as the difference between water treated and water sold, even at the loss of some precision as a measure of water seeping through the pipes. This directive would ignore for the sake of data collection ease water use in firefighting and firefighting drills, metered in some communities but not metered in others. The committee might also address the issue raised in a previous section regarding the isolation of impacts of ARRA-funded projects versus the reporting of overall conditions and the acknowledgment that other programs and factors could have contributed as well.

Second, all local government managers receiving ARRA funds can exert important leadership in their own communities to ensure that these funds are used properly and to maximum effect. Furthermore, they can examine the procedures in place to measure results, making certain that their government’s reports will be accurate. Finally, they can express to subordinate administrators and employees their own convictions about the importance of tracking and reporting the results of their work.

Conclusions

Through the Recovery Act local governments have an opportunity to demonstrate to federal and state officials their value as an intergovernmental partner. They have a high-profile opportunity to demonstrate to citizens across the nation their ability to deliver results.

Predictably, the nation’s attention eventually will turn to the reinvestment aspects of the American Recovery and *Reinvestment* Act and the public will ask what it gained from this massive expenditure beyond jobs created or retained. Compliance with the reporting guidelines announced to date will provide at the end an inventory. Federal, state, and local officials will be able to declare the number of projects of various types that were completed and they will be able to recite selected inventory statistics—for instance, the number of miles of water line replaced and miles of roadway paved—but they will be able to report relatively little in the way of aggregate outcomes.

The measures proposed in this paper will demonstrate the value of local government efforts individually and collectively through the aggregation of individual measures. They will allow government officials to respond to the public’s questions with more than an inventory of projects. For an important portion of those projects they will be able to say much more, describing, for instance, the reduction of water losses attributable to water line replacement, the portion of resurfaced roadway last resurfaced in the 1980s or earlier, and the growth in public transit ridership.

These measures are practical choices, sometimes compromising the ideal metric in order to secure the “do-able.” The conscientious reporting of these measures will provide a response to pundits and critics. More importantly, measurement will allow dispassionate reporting to the public in what increasingly has become a highly charged atmosphere. As Marc Holzer and Kaifeng Yang write about public sector perfor-

mance measurement more generally and in more normal times:

Measurement provides an opportunity to present evidence that the public sector is a public bargain, to highlight the routine but important services that public servants quietly provide and to answer the public's sometimes-angry questions and implicit suggestions on a dispassionate basis. Measurement helps to move the basis of decision-making from personal experience to proof of measurable accomplishment or lack thereof (2004, 16).

The same opportunity exists with regard to the Recovery Act.

The proposal expressed in this paper is offered in the spirit of intergovernmental partnership and cooperation. Local government officials have been favorably impressed by the willingness of their federal and state counterparts to listen to their concerns. The executive director of the National League of Cities has praised the intergovernmental cooperation associated with the Recovery Act, calling the Administration's "genuine desire" to take state and local officials' perspectives into account "laudable" (Borut, 2009). Similar attention and regard should be given to the need to establish measures that will demonstrate enduring Recovery Act benefits but will do so in a manner that is sensitive to already formidable administrative and reporting burdens.

As the focus on Recovery Act results intensifies, local governments can demonstrate their value as an intergovernmental partner, perhaps to their benefit for future initiatives. However, demonstrating benefits beyond the initial objective of job creation and retention will require local government initiative beyond that called for by the Recovery Act itself and initial reporting guidelines. Responding to the nation's ultimate focus on societal benefits beyond jobs and economic stimulation will require performance measurement not currently required by the Act, with steps taken early in the process to ensure adequacy and the ability to demonstrate aggregated and cumulative benefits.

Acknowledgments

The author gratefully acknowledges the assistance of the following persons who generously shared their insights: Charles Archer, Dempsey Benton, Thomas Bonfield, Michael Brown, Shadi Eskaf, Harry Hatry, Jeff Hughes, Carol Jennings, Kara Millonzi, Rebecca Rogers-Carter, Shannon Tufts, and Karmisha Wallace.

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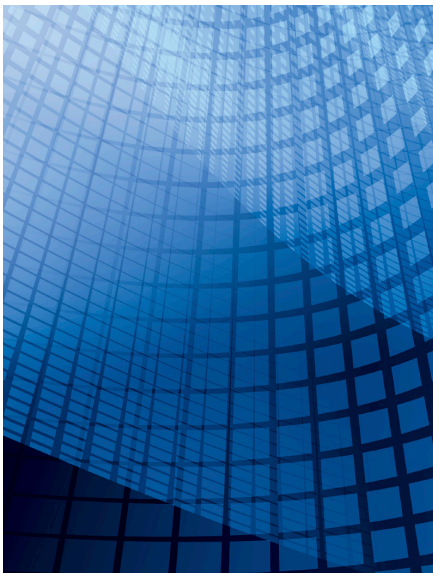
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Restoring the Intergovernmental Partnership: What Needs to Change

AN ICMA WHITE PAPER

Prepared on behalf of the Governmental
Affairs and Policy Committee of ICMA



November
2009

ICMA

Leaders at the Core of Better Communities

*Restoring the Intergovernmental Partnership:
What Needs to Change*
An ICMA White Paper

Prepared by Michael Howell-Moroney, Ph.D. and
Donna Milam Handley, Ph.D.

July 31, 2009

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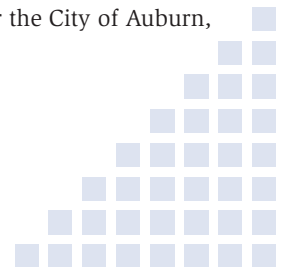
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Restoring the Intergovernmental Partnership: What Needs to Change

Executive Summary

The challenges of government are more complex than ever before. These challenges present new opportunities to address intergovernmental cooperation at all levels of government. Whether the discussion centers on economic recovery, healthcare, education, or natural disasters, there are multiple strains on the intergovernmental apparatus that are becoming increasingly acute at the state and local levels. As state and local governments are being asked to do more with less and to become more efficient and responsive, they also face a growing uncertainty in their relationship to the federal government, which often sets policy directives that create additional fiscal and administrative burdens at the state and local levels. Paradoxically, in many areas, the need only seems to be growing for enhanced sub-national capacity.

Challenges in the intergovernmental system are not new. From 1959 to 1996, an institution existed whose sole purpose was to study, advise, and make policy recommendations on issues of intergovernmental relations. The Advisory Commission on Intergovernmental Relations (ACIR) had a long and successful history of maintaining bipartisan neutrality and serving as a credible governmental information source, providing timely insight on various intergovernmental issues. By the early 1990s, critics argued the ACIR had become increasingly irrelevant, and, amidst controversy surrounding its study of federal mandates, it was terminated in 1996.

Though ACIR is no more, a pressing need still exists for an organization devoted to the analysis and study of intergovernmental policy questions. This report recommends the creation of a new agency that employs a flexible organizational structure for the study of pressing policy areas within the federalist system. Specifically, we recommend:

1. **Launching a systematic campaign to increase federal officials' awareness of the crisis in intergovernmental relations.** For action to take place, it

is necessary to first build awareness and consensus that a problem exists. The Big Seven state and local organizations have substantial expertise and an established network of valuable relationships. We recommend that, as part of a campaign to establish a new organization devoted to intergovernmental relations, the Big Seven engage in a campaign to build awareness of the significant problems that exist in the intergovernmental environment.

2. **Creating a core council of 20 to 25 federal, state, and local officials.** This core council would set specific policy priorities for the organization to study over the coming year and would create separate policy study groups with representation from a wide variety of relevant stakeholder groups. The first responsibilities of the council at startup would be (1) hiring a director and (2) working with the director to create a strategic plan and a budget for the next five years.
3. **Immediately studying the American Recovery and Reinvestment Act.** The GAO has noted a number of looming challenges with respect to the American Recovery and Reinvestment Act (ARRA). Specifically, there is limited state and local capacity to cope with reporting requirements, certain reporting features are still unclear, and there is concern that state and local governments may be held accountable for other entities that receive ARRA funds within their jurisdictions. Though many other pressing issues remain, given the high stakes and visibility of the ARRA, the concerns raised by ARRA should be addressed quickly. This urgent need presents a policy window that requires swift and decisive action. It is recommended that an ARRA policy study group be created immediately after the council and executive director have been identified.
4. **Subsequently identifying other salient intergovernmental policy issues.** Once the core council and formal organization are in place, it is recommended that the new agency work to identify other policy priorities and create study groups to work on those areas.

5. ***Beginning with substantial federal funding with a plan for a growing share of state/local support.*** Because time is of the essence, it is recommended that the federal government take the lead in funding this new organization in the start-up phase, for about the first three years of its operation. This would be done with the understanding that the federal funding would be supplemented by state and local support after the first three years or so. The planning for the organization should include a mechanism for phasing in state and local financial support in an effort to promote cost sharing.

In the face of growing challenges in the federalist system, the time is ripe for a new, reinvigorated organization devoted to the study and resolution of important intergovernmental policy dilemmas. The recent economic downturn and resulting American Recovery and Reinvestment Act have ushered in an unprecedented flow of federal dollars to state and local governments. The significant accountability requirements of the ARRA present a window of opportunity for creation of a new organization focused on intergovernmental relations. Moreover, this report identifies a number of policy domains where there are major unresolved questions, including Medicare, education, emergency management, and metropolitan governance. Drawing on the historical lessons learned from the Advisory Commission on Intergovernmental Relations, this report proposes a new organization devoted to the study of intergovernmental issues that would use a flexible and inclusive model for study of specific policy questions.

The Intergovernmental Policy Environment

As we approach the close of the first decade of the twenty-first century, the challenges of governing are more complex and the stakes continue to grow. Whether the discussion centers on economic recovery, healthcare, education, or natural disasters, there are multiple strains on the intergovernmental apparatus that are becoming increasingly acute at the state and local levels. As state and local governments are being asked to do more with less and to become more efficient and responsive, they also face a growing uncertainty in their relationship to the federal government, which often sets policy directives that create additional fiscal and administrative burdens at the

state and local levels. Paradoxically, in many areas, the need only seems to be growing for enhanced sub-national capacity. This paper makes the case for creating a wider awareness of the struggles faced by state and local governments under the current intergovernmental regime, as well as the need for a formal body devoted to the study and resolution of intergovernmental challenges. The first section of the paper analyzes some of the larger policy challenges in the context of the federalist system.

The Economic Crisis and the American Recovery and Reinvestment Act

The economic recession that began in earnest in 2008 poses challenges for all levels of government. State and local governments have been particularly challenged as many are subject to strict balanced budgets that limit their ability to maintain expenditure and service levels. At the same time, recessionary pressures have led to increased demand for social safety net programs, such as Medicaid, food stamps, and Temporary Assistance for Needy Families (TANF), creating additional budgetary strains on state finances.

The state economic situation is particularly dire. The 2009 edition of *The Fiscal Survey of the States* paints a sobering picture of the effects of the recession on state finances. Budgeted state expenditures for 2009 are already 2.5 percent less than 2008 levels and are expected to decline another 2.5 percent in 2010. Figure 1 provides a picture of trends in state general fund expenditures since 1979. The current recession has brought state expenditure growth to new lows; cuts this large have not been seen since 1983.¹ Although similar data are not available for local expenditures, the news is replete with numerous accounts of draconian budget cuts at the county and city level nationwide.

On February 17, 2009, the American Recovery and Reinvestment Act of 2009 was signed into law by President Obama. This historic \$787 billion stimulus package contained significant allocations for state and local budget relief. Of the total stimulus, about \$250 billion will be administered by state and local governments. Though there are many categories of funding, the lion's share of funding to states and local governments comes in the form of "countercyclical" funds designed to stabilize state budgets for education and health

¹ National Governor's Association and National Association of State Budgeting Officers, *The Fiscal Survey of the States* (June 2009): Washington, D.C.

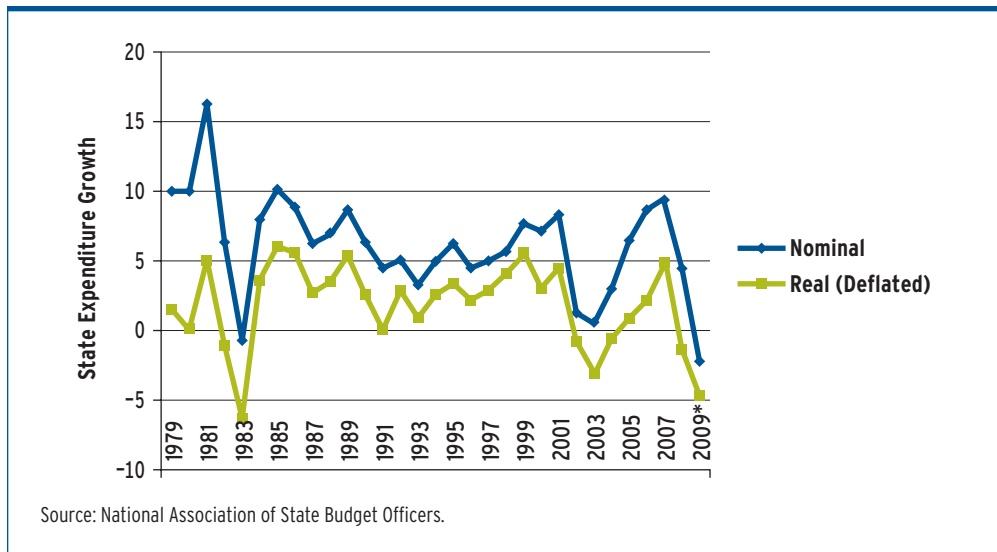


Figure 1 Nominal and Real Growth in State Budget Increases

care. State Medicaid programs are receiving relief through an \$87 billion The Federal Medical Assistance Percentage (FMAP) increase. Another \$48 billion comes from the State Fiscal Stabilization Fund (SFSF), of which nearly \$40 billion must be spent for K-12 and higher education. The remaining \$115 billion will come in the form of increases for other state and locally administered entitlement programs such as Temporary Assistance to Needy Families (TANF) and food stamps, as well as specific programmatic appropriations and other grant programs.²

The economic crisis accentuates a number of inter-governmental dilemmas. First, states and local governments are on the front lines of the nation’s safety net system. As demands for services continue to grow, at a time when funding is not keeping pace and many federal mandates remain unchanged, the devolved nature of the service delivery system will inevitably create lags in federal response to increased needs.

Second, the reporting requirements in the ARRA have the potential to create a number of challenges for federal-state and federal-local relations. The Government Accountability Office (GAO) issued a report in April 2009 outlining some of the key challenges posed by the ARRA’s reporting and accountability requirements to state and local governments.³ Although there

are a variety of state-specific challenges, there are also some general areas that GAO identified:

- *Ability and capacity to track ARRA funds to non-state grantees.* Several state financial officials expressed concerns as to how they would be able to track funds going directly to local governments or other sub-recipients. Other states have taken the position that they will not track those funds but will rely on sub grantees to report results directly. It is likely that as funds are released to other local and sub-grantee entities, the confusion over reporting and the responsibilities for doing so will increase.
- *Lack of sub-recipient or local capacity and expertise to track and manage federal funds.* At the same time that there is confusion over who will be ultimately responsible for reporting on the use of ARRA funds, GAO found that many state officials had concerns over the abilities and capacities of local and other sub-grantee entities to handle reporting requirements under ARRA. GAO noted that many do not have much experience with federal grants and reporting.
- *Hiring freezes mean less state and local financial oversight capacity.* Another theme that GAO reported was a concern over limited capacity for financial oversight due to manpower constraints posed by state budget cuts and hiring freezes. Federal grants provide some allowances for administrative overhead, but it is unclear if those allowances will be sufficient to finance the additional capacities needed to manage and oversee ARRA fund expenditures.

2 National Governor’s Association, *State Implementation of the American Recovery and Reinvestment Act* (March 10, 2009): Washington, D.C.

3 Government Accountability Office, *Recovery Act: As Initial Implementation Unfolds in States and Localities, Continued Attention to Accountability Issues is Essential*, GAO-09-580 (April 2009): Washington, D.C.

- *Concern over proper procedures for estimating jobs created or retained under the act.* One of the principal objectives of the ARRA is to create or prevent the loss of jobs. As such, tracking jobs saved and created is a key component of reporting. Although the Office of Management of Budget has clarified some confusion over job reporting, many state officials remained perplexed as to how to estimate job impacts as a result of ARRA expenditures.

To recapitulate, the national economic crisis and the federal response have ushered in a new era of intergovernmental resource transfer. But accountability issues remain largely unresolved and could pose a threat to smooth intergovernmental relations if they remain unaddressed. For local governments in particular, the shift of funding resources for education and health care leaves the question of other resources unresolved. In 2006, 38 percent of local government general revenue was provided by intergovernmental transfers, and it is currently unclear to what extent these resources will be impacted by the ARRA and the tremendous fiscal crises that states are experiencing in 2009–2010.⁴

Healthcare

The rising costs of health care have had a profound impact on state expenditures. State Medicaid expenditures continue to grow rapidly. This intergovernmental program uses a combination of federal, state, and sometimes local funds to provide insurance and medical care to the poor. State Medicaid caseloads were on the rise even before the recession began, and many experts have cited caseload growth as one of the culprits for rising state Medicaid costs. In addition, actual costs of care continue to increase, driven by a variety of factors. Though rising health-care costs have an effect at every level of government, state and local governments have more often than not borne a larger portion of this burden over time. Figure 2 shows the percentage increase in Medicaid Title XIX expenditures from 1996 to 2007. In the past 11 years, the state and local increase in expenditures has been larger, sometimes much larger, on a proportional basis as compared with federal expenditures. Over the 11 year period from 1996 to 2007, federal Medicaid Title

XIX expenditures increased an average of 6.7 percent, whereas state and local expenditures over the same period increased an average of 8.3 percent.

Though the ARRA is providing some immediate relief to states in the form of increased FMAP monies for Medicaid, the long-term, chronic conditions which are driving increases in health-care costs will not be remedied by stopgap measures.

Finding ways for state and local governments to continue to deliver health-care access to their most vulnerable citizens without increasing strains on their own budgets remains a key issue. At the same time, the federal government cannot afford to absorb all of the cost increases in health care, either. Thus, while there are key intergovernmental issues to be resolved, health care as a policy issue transcends the boundaries of intergovernmental relations to encompass other areas of reform. Last, growth in Medicaid-related state fiscal pressure has happened at the same time that states are cutting expenditures or reducing budget increases for other social service programs, creating a zero-sum dynamic.⁵ To the extent that the social safety net in the United States relies on state and local apparatuses for delivery of services to the poor, tackling the challenges surrounding Medicaid takes on a new level of urgency.

In addition to Medicaid expenditure growth, provision of emergency medical care through local hospital emergency rooms is creating a burden on local governments. Over the past decade, there has been a marked decrease in the number of emergency medical treatment and trauma centers across the United States, due in large part to the large costs associated with providing emergency care. ERs have become the destination for uninsured patients, who often seek care there for chronic conditions that finally manifest in acute, life-threatening symptoms. Moreover, even those with insurance are coming to ERs because they are unable to see specialists in a timely manner. The growing demand for emergency care and decline in capacity have resulted in an emergency care system that is at or, in many cases, is above capacity. This has had a direct impact on state and local budgets for health-care services, which are absorbing huge expenditure growth without a concomitant offsetting growth in revenues.⁶

4 Urban Institute and Brookings Institution, “Tax Policy Center: State and Local Tax Policy: What are the Sources of Revenue for Local Governments?” (n.d.). http://www.taxpolicycenter.org/briefing-book/state-local/revenues/local_revenue.cfm (accessed September 25, 2009).

5 Thomas Gais, “Stretched Net: The Retrenchment of State and Local Welfare Spending before the Recession,” *Publius: The Journal of Federalism* 39, no. 3 (2009): 557–79.

6 American College of Emergency Physicians, *The National Report Card on the State of Emergency Medicine* (2008): Irving, Texas.

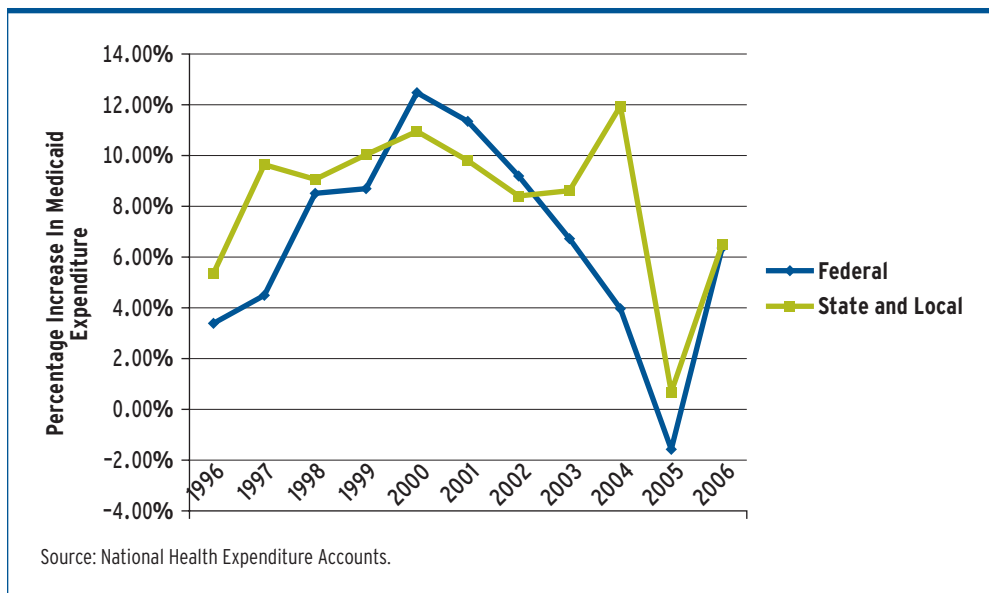


Figure 2 Federal and State/Local Medicaid Expenditure Growth

Education

Perhaps one of the most salient and enduring issues in federalism in recent years remains the controversial No Child Left Behind Act of 2001 (NCLB) legislation that thus far shows no signs of major revision under the Obama administration. Though the goal of NCLB has been to improve educational outcomes for children, particularly those in failing schools, there have been a litany of criticisms from state and local officials about the administrative burdens and other unintended side effects of the legislation. Many states have considered resolutions that memorialize opposition to NCLB, and a handful passed laws which formally oppose NCLB.⁷

The core requirements in the NCLB legislation require schools to meet state-specific Annual Yearly Progress (AYP) goals. If those goals are not met, those schools are labeled as “failing” and parents can then choose to relocate their children to other non-failing schools within the district. This reduces resources available to failing schools and shifts them to other schools. Local officials have complained that the AYP provisions are unrealistic and provide incentives to “teach to the test” rather than improve substantive learning outcomes. Other officials have expressed concern of the lack of flexibility and the administrative burdens created by NCLB. Scholars Gail Sunderman, James Kim, and Gary Orfield lamented in their 2005 book:

Since NCLB is by far the largest K–12 federal education program affecting disadvantaged students, it is imperative that the federal government brings state and local officials and educators into the process to work through administrative and policy issues. When the implementation of federal grant programs works well, there is collaboration across levels of government and federal deference to local priorities, something that has not been evident so far in the process of implementing NCLB.⁸

Despite the challenges, in the last few years there has been a resurgence of state attempts to innovate under the auspices of NCLB. Recently, the Secretary of Education granted waivers to a number of states in calculating how scores had changed year over year by allowing use of a growth model approach that allows for examination of the same student cohort over time. Other states are participating in a demonstration program that grants increased flexibility to states in their response to schools on the basis of their AYP performance.⁹

Nevertheless, significant issues remain with NCLB that require a new level of cooperation and inter-governmental collaboration. As the importance of education and its linkage to global economic competitiveness grows, finding practical and flexible education policy solutions across all levels of government becomes paramount.

7 Brian Shelly, “Rebels and Their Causes: State Resistance to No Child Left Behind,” *Publius: The Journal of Federalism* 39, no. 3 (2009): 444–68.

8 Gail Sunderman, James Kim, and Gary Orfield, *NCLB Meets School Realities: Lessons from the Field* (Thousand Oaks, CA: Corwin Press, 2005), 18.

9 John Dinan and Shama Gamkhar, “The State of American Federalism 2008–2009: The Presidential Election, the Economic Downturn, and the Consequences for Federalism,” *Publius: The Journal of Federalism* 39, no. 3 (2009): 369–407.

Natural Disasters and Emergency Management

The first decade of the twenty-first century has been an eventful one. Two key events that have left indelible impressions on American society are the terrorist attacks of September 11, 2001, and Hurricane Katrina and its aftermath in the late summer of 2005. These events also have significantly impacted the intergovernmental policy framework in a myriad of ways.

Following 9/11, there were immediate calls for improvement in the information sharing and response capacities of the federal national security apparatus to terrorism. These calls were met with sweeping and decisive centralization of federal national security resources under the auspices of the newly created Department of Homeland Security (DHS). Understandably, in the shadow of 9/11, the immediate priority for DHS was to ensure adequate local preparedness to manmade events.

The Federal Emergency Management Administration (FEMA) was one of the many agencies swept up in the new concatenation of entities under the DHS umbrella. Before 9/11 FEMA had traditionally played the lead federal role in responding to natural disasters. In addition, FEMA had begun some innovative hazard mitigation programs in the 1990s aimed at encouraging local governments to plan proactively to reduce exposure to natural hazards and the impact of future natural disasters. This focus for FEMA changed under DHS as FEMA was tasked more with responding to terrorism-related threats than natural hazards or natural disasters.

In August 2005, Hurricane Katrina made landfall on the Mississippi and Louisiana coasts, bringing a deluge of rain to the City of New Orleans that ultimately brought about a failure of the levee system, resulting in catastrophic flooding through much of the city. As the events unfolded, it became clear that many people had failed to evacuate the city. Many were stranded without food, water, or access to basic medical care. The response by the federal authorities was, by most accounts, slow. There was a great deal of confusion among federal, state, and local officials as to their appropriate roles and responsibilities in the wake of the storm. Looking back at the events since 2001, many scholars have concluded that the centralization of federal authority under DHS created a myopic policy framework that was largely driven by focus on the singular area of terrorism. Birkland and Waterman wrote, “These changes appear to have validated fears raised by critics before Hurricane Katrina that the reorganization designed to respond to terrorism

would undermine the nation’s ability to respond to natural disasters.”¹⁰ A key focus for intergovernmental relationships in emergency management has been the revision of the 2005 National Response Plan (NRP). The NRP had received scathing criticism from state and local officials for its lack of attention to local responder expertise and capacity, as well as its excessive centralization of disaster response responsibility into the federal branch. However, the 2008 revision, called the National Response Framework, took many of those earlier considerations into account and appeared to have more support from local officials and emergency managers.

The bewildering pace of change and significant events that have taken place since 2000 have provided the impetus for many sweeping policy changes, particularly at the federal level. As a result, states and localities will continue to have an increased role in the implementation of federal policies in this area. It is clear that many of the policy directives have led to a more centralized framework, which initially was focused almost exclusively on terrorism. Hurricane Katrina offered a painful lesson in the shortcomings of that approach. Going forward, it is clear that creating a cooperative and responsive intergovernmental framework for homeland security and emergency management is vital.

Land Use and Urban Sprawl

Metropolitan areas in the United States face their own sets of unique challenges. In years past, the metropolitan governance debate was dominated by concerns over efficiency and boosting economies of scale through regional governments and consolidated service delivery. Those debates have largely subsided as scholarship in public choice has demonstrated that the efficiency gains to be had through economies of scale in the production and delivery of services can be had without resorting to formal consolidation of governments.¹¹

In recent years, there has been a growing attention to the multifaceted problem of urban sprawl. Scholars have warned that sprawl is consuming vast amounts of open space and farmland; it increases reliance on automobiles with attendant impacts such as air

10 Thomas Birkland and Sarah Waterman, “Is Federalism the Reason for Policy Failure in Hurricane Katrina?” *Publius: The Journal of Federalism* 38, no. 4 (2009): 693.

11 Michael Howell-Moroney, “The Tiebout Hypothesis 50 Years Later: Lessons and Lingering Issues for Metropolitan Governance in the 21st Century,” *Public Administration Review* 68, no. 1 (2008): 97–109.

pollution and traffic congestion; and sprawl is responsible for the maintenance and growth of economic and racial segregation. In addition, new research in public health is demonstrating a link among sprawled development patterns, people's concomitant reliance on automobiles, and detrimental health outcomes such as obesity. Because urban sprawl crosses jurisdictional boundaries, it is difficult for any one municipal government to effectively curb it. Largely localized systems of planning and taxation are not equal to solving problems of regional scale such as sprawl.¹² As regionally scaled problems have become more prominent, there is a new opportunity for investigation of ways to create effective regional governance.

Summary

The forgoing analysis makes it clear that many pressing intergovernmental policy questions in various domains remain unresolved. It is also clear that the challenges to federalism are also somewhat unique given the policy context. In some cases there appears to be a need for enhanced federal support, and in other cases greater state and local autonomy or innovation may be appropriate. In short, the complex policy environment is increasingly dictating a *context-specific, flexible federalism*, not a one-size-fits-all approach that governs all manner of intergovernmental relations.

This challenging and often bewildering policy environment speaks to a compelling need for a new kind of collaboration and enhanced bottom-up communication from the state and local level to the federal level. There also appears to be a lack of general awareness as to the magnitude and extent of the challenges faced by state and local governments under the status quo. Currently, there is no single body that is devoted to studying and suggesting remedies for strains within the intergovernmental system, but this vacuum did not always exist.

Challenges in the intergovernmental system are not new. From 1959 to 1996, an institution existed with the sole purpose of studying, advising, and making policy recommendations on issues of intergovernmental relations. The Advisory Commission on Intergovernmental Relations (ACIR) had a long and successful history of maintaining bipartisan neutrality while providing timely insight on various intergovernmental issues. The next section of this paper provides a brief history of the ACIR and the reasons for its dissolution.

¹² Ibid.

Lessons from the Past: The U.S. Advisory Commission on Intergovernmental Relations

The Advisory Commission on Intergovernmental Relations (ACIR) was created by Congress in to manage intergovernmental relationships between the federal, state, and local governments. There were two primary reasons for the creation of the ACIR. First, there was an increasing awareness that the administrative relationships between federal, state, and local governments were growing more complex. Second, in the years prior to the ACIR's implementation, the recommendations provided by the Kestnbaum Commission to address intergovernmental problems had been largely ignored and thus the ACIR would be a bipartisan mechanism, uniquely commissioned by legislative authority, to draw attention to this area.¹³

ACIR reports were generally designed to provide problem-solving approaches and recommendations to either fiscal or structural issues pertaining to the U.S. intergovernmental system. The ACIR was legislatively charged with the task of considering and making recommendations on

- 1) common problems affecting the federal, state, and local governments; 2) the administration and coordination of federal grants and other programs; 3) the conditions and controls associated with federal grants; 4) technical assistance to the executive and legislative branches of the federal government, including review of proposed legislation to determine its possible effect on the federal system; 5) emerging public problems that are likely to require intergovernmental cooperation; 6) the most desirable allocation of functions, responsibilities, and revenues among the federal, state, and local governments; and 7) coordination and simplification of tax laws and administrative practices to achieve a more orderly and less competitive fiscal relationship between the federal, state, and local governments and to reduce the burden of compliance for taxpayers.¹⁴

ACIR was tasked with providing practical solutions for the imbalances within the intergovernmental system, and aimed to do this as an autonomous, nonpartisan, and research-focused entity that served not only

¹³ Deil S. Wright, "The Advisory Commission on Intergovernmental Relations: Unique Features and Policy Orientation," *Public Administration Review* 25, no. 3 (1965): 193–202.

¹⁴ Bruce D. McDowell, "Advisory Commission on Intergovernmental Relations in 1996: The End of an Era," *Publius: The Journal of Federalism* 27, no. 2 (1997): 111–27.

the federal government but also the states and municipalities within the United States.

The commission originally consisted of twenty-six members that were selected to represent each level of government. The staff included nine federal government officials, fourteen state and local government officials as representatives, and three members of the general public. Federal officials included three members of Congress and three senators. The other twenty officials were appointed by the president, and the president also appointed the chair and vice-chair of the commission. The president appointed the fourteen state and local officials. In addition to members, the ACIR had a sizeable research staff; at the peak of the ACIR's existence during the 1970s, the staff consisted of approximately fifty people.¹⁵

ACIR grew from a nondescript agency that avoided making headlines into a respected voice on intergovernmental issues. It was viewed as an entity that endorsed "cooperative federalism," as it recognized that most problems must be solved by multiple levels of government working together.¹⁶ ACIR was committed to fostering the health of state and local governments and to preserving their power and authority. Overall, ACIR was viewed as unique agency with a strong sense of collegiality among the staff, whose formal and informal networks placed them at the forefront of information on cutting-edge topics and developments within the U.S. federal system.

In the effort to navigate the administrative issues plaguing the federal system during the federal grant-in-aid explosion of the 1960s and 1970s, the ACIR made recommendations that were aimed at both state and local governments, in addition to the federal government. The commission's consistent monitoring of the grant system and its development were a valuable contribution to help government officials administering the grant programs. In addition, ACIR helped to develop enduring guidelines and principles for the creation and administration of block grant programs.¹⁷

In addition to its work on the intergovernmental grants system, ACIR delved into local public finance and metropolitan governance. In particular, it placed a focus on reworking systems of local public finance to

reduce fragmentation of tax bases and service provision. Reports also advocated for enhanced mechanisms for regional cooperation, particularly in the area of land use regulation.¹⁸

In most instances, especially early in the ACIR's history, the agency received positive feedback from its reports and was seen as providing productive and logical responses to various intergovernmental policy questions, especially in public finance.¹⁹ From its creation in 1959 to its termination in 1996, the ACIR produced dozens of reports, studies, and other publications on a wide range of intergovernmental fiscal and policy questions.

Difficulties Surrounding the ACIR

Despite efforts to strengthen the intergovernmental system and provide informative recommendations for positive change, the ACIR was often challenged by its critics on a number of issues. Criticisms included a bias towards incrementalism, or "taking an approach that is mildly reforming but not surgical."²⁰ From the commission's perspective, the aim was to address topics in which it could provide practical solutions that could be implemented feasibly in the governmental system. However, this incremental approach was interpreted by others as an avoidance of critical (and more controversial) intergovernmental issues. Moreover, commission reports were often characterized as ad hoc, as the agency often researched and reported on issues initiated by entities other than their own staff.

A second critique of the commission was its underlying political ties to the federal funding that supported the agency. Although ACIR was carefully designed to serve all three levels of government, the agency's primary funding was approved by Congress through the president's Executive Budget. This led some to interpret that the ACIR was "bought and paid for" by the legislature, and thus many believed that the recommendations were politically motivated to that end.²¹ Others countered that the commission staff design ensured a bipartisan membership and nonpartisan approach to problems and solutions, thus giving the agency credibility. However, the critics who

15 Ibid.

16 Deil S. Wright, "The Advisory Commission on Intergovernmental Relations: Unique Features and Policy Orientation," *Public Administration Review* 25, no. 3 (1965): 193–202.

17 Timothy Conlan, *From Federalism to Devolution: Twenty-five Years of Intergovernmental Reform* (Washington, D.C.: Brookings Institution, 1998).

18 Advisory Commission on Intergovernmental Relations, *American Federalism: Into the Third Century* (Washington, D.C., 1974).

19 Samuel K. Gove, J. Fred Giertz, and James W. Fossett, "ACIR: A Mixed Review," *Publius: The Journal of Federalism* 14, no. 3 (1984): 139–45.

20 Mavis Mann Reeves, "The ACIR: Its Mission and Operations," *Publius: The Journal of Federalism* 14, no. 3 (1984): 157–67.

21 Ibid.

believed that ACIR was a federal “watchdog” agency emphasized the budgetary link as an inevitable power over the commission, especially in its final years.²²

A third issue that caused problems for the ACIR was staffing as the agency moved into the 1980s and early 1990s. The original group of members was known as being unusually cordial and reputable, but turnover, absenteeism, and a lack of research concentration eventually plagued the agency. The high number of appointed political officials on the commission led to a high degree of turnover based on political terms. Also, a number of federal officials had inconsistent attendance at ACIR functions, thus leaving federal representation slim for commission meetings. The additional failure of many commission members to review materials prior to meetings was a noted issue that created delays for staff members in collaborating to produce fresh ideas and recommendations for the ACIR reports.²³

Fourth, although the ACIR was designed to represent bipartisan interests and promote consensus building, these goals were not always attainable. In some cases the commission recommendations on policy issues inevitably prompted conflicts from various groups. Although ACIR originally enjoyed a wide base of support from state and local associations, by the time President Clinton entered the White House, the Big Seven state and local associations demanded that the administration and the ACIR address specific topics to receive their continued support.²⁴

In the final years of the ACIR’s existence, another issue became one of the most controversial and ultimately contributed to the Congressional decision to cut the agency’s funding. Despite attempts by the Reagan administration to reduce the size and scope of the federal role, regulatory activity during the 1980s remained strong and resulted in tremendous financial burdens on state and local governments. As a result, many ACIR studies and recommendations focused on the federal regulations, warning of the impending fiscal crises “resulting from the multiplication of federal preemptions, mandates, and grant conditions.”²⁵ Commission reports were notably utilized in developing the Unfunded Mandates Reform Act (UMRA) of 1995. Some scholars believe that the ACIR’s study on

mandate reform crossed a political line that damaged the commission’s credibility and nonpartisan stance.²⁶ The political controversies surrounding this issue meant that reporting on the realities of federal mandates created both allies and opponents for ACIR.

By 1996, the agency staff was down to about twelve members, and the federal fiscal appropriation was earmarked for two specific purposes: to complete a study on the UMRA and to ensure the prompt and orderly termination of the commission. The UMRA studies charged the commission with

- 1) developing...methods to compare the full costs and benefits to state and local governments of compliance with federal law; 2) analyzing the impact of existing federal mandates on state, local, and tribal governments...and
- 3) [completing] annual reports on federal court decisions that impose mandates on state, local, and tribal governments.²⁷

The controversy associated with reviewing existing mandates arose when the ACIR preliminary report had focused on the most “burdensome” fourteen mandates from a list of two hundred federal mandates. The report called for significant changes in how and whether they should apply to sub-national governments. As a result, federal lobbying groups immediately voiced opposition to the report, a public hearing was conducted, and ACIR later revised the report, and removed the recommendation to exempt state and local governments from certain mandates. Instead, the revised report recommended that the federal government “work more closely with state and local governments to accommodate its mandates more easily within those jurisdictions’ varying conditions.”²⁸ The political pressure enacted by the lobbyist groups, in coordination with the Clinton presidential campaign, resulted in all Democratic members of the commission voting against the report, which was never published by the ACIR. During this timeframe, turnover in key ACIR staff, along with the increase in organized policy think tanks as alternative sources of information, contributed additional problems for the commission’s credibility and utility as an information source for the intergovernmental system.²⁹

The final death knell for ACIR came as a result of a flurry of agency terminations prompted by the 104th Congress. The Clinton administration endorsed

22 Ibid.

23 Ibid.

24 Bruce D. McDowell, “Advisory Commission on Intergovernmental Relations in 1996: The End of an Era,” *Publius: The Journal of Federalism* 27, no. 2 (1997): 111–27.

25 Ibid., 114.

26 Ibid.

27 Ibid., 115.

28 Ibid., 117.

29 Ibid.

continued funding of the ACIR, but it did not appoint federal members to the commission due to the threat of Congress cutting the funds. Therefore, Congressman Ernest Istook (R-OK) argued that the lack of presidential attention to the commission meant the agency was nonessential, and thus should be cut. Istook's third try to argue the case against ACIR worked, and the House of Representatives voted to stop appropriations to the commission. A small amount of funding provided by the Senate was for the purpose of terminating the commission's activities. Thus, the federal pipeline of funding was closed, and the agency officially ceased operations in the fall of 1996.³⁰

Lessons Learned

The history of the ACIR provides valuable insight into the complexities of the U.S. intergovernmental system, as well as the potential problems that exist when an entity is created to navigate through the problems and provide viable solutions that will strengthen intergovernmental relationships. When we consider today's intergovernmental landscape and the need for an agency to strengthen partnerships between the federal, state, and local governments, it is critical to understand the problems of the past to minimize their potential recurrences. Lessons learned from the ACIR include:

- *Conflict and partisanship.* The ACIR was originally chosen to be a bipartisan agency that would avoid making headlines and represent all levels of government. This approach along with a strong research agenda made the commission a reputable and credible source of information on intergovernmental issues. Over time, the dissolution of the commission was enacted in part due to disagreements over policy options and partisan positions regarding federal mandates. The commission's report had to take a side and identify "winners" and "losers." Once the "losers" had obtained enough political influence, the commission was deemed nonessential.
- *Turnover in commission staff members.* The early reputation of the staff as a cordial, thorough, and nonpartisan group contributed to its success. Notable members of the commission (including Ronald Reagan, Nelson Rockefeller, and Edmund Muskie) also made ACIR an entity worthy of national attention.³¹ However, a lack of commitment was demonstrated by federal government representatives. This,

along with ill-prepared staff members at meetings, was a negative aspect noticed by others.

- *Growing irrelevance.* Over its life span, it is clear that ACIR had peaks and valleys in its influence and relevance. From the 1960s through the 1980s, the ACIR was a central player in policy circles because it was able to bring its unique expertise on the intergovernmental grant system to bear. By the mid 1990s, ACIR appeared to have lost some of its relevance, particularly as other policy think tanks arose to provide their own perspectives on policy questions.

Why an Intergovernmental Agency is Needed Now

Though ACIR was eliminated, a new set of intergovernmental challenges has cropped up. In the opening section of the report, numerous policy questions that have an intrinsic intergovernmental dimension were discussed. Yet, there is no established organization that is uniquely focused on these issues from the standpoint of improving intergovernmental cooperation. The need for an organization devoted to intergovernmental relations is especially pressing now for several reasons:

- *The policy window created by ARRA.* As noted earlier in this report, the reporting and accountability requirements of the ARRA present potential problems from state and local governments that have been recipients of ARRA funds. The time to deal with these issues is now, before conflicts emerge. Thus, the unique circumstances created by the ARRA have also given rise to a concomitant need for an organization focused on enhancing cooperation and transparency in the intergovernmental system.
- *A unique offering.* The timing of this report may also complement H.R. 3332, also known as the Restore the Partnership Act of 2009. The purpose of this legislation is to "establish the National Commission on Intergovernmental Relations to facilitate the fullest cooperation and coordination between all levels of government."³² Proposed by Representative Gerald Connolly (D-VA), as of September 2009 the legislation had been introduced (on July 24, 2009)

30 Ibid.

31 Ibid.

32 Govtrack.us. "Govtrack.us: A Civic Project to Track Congress. H.R. 3332 Restore the Partnership Act of 2009" (n.d.). <http://www.govtrack.us/congress/bill.xpd?bill=h111-3332> (accessed September 24, 2009).

and referred to committee.³³ If a National Commission on Intergovernmental Relations was created, the agency recommended in this report could be a tremendous resource for the commission, providing policy guidance on key intergovernmental issues. The partnership with the commission may enable this agency to be a part of the legislative process, which would further strengthen the agency's credibility and authority in making policy recommendations, while providing a unique avenue of access that would differentiate this agency from other research entities that currently contribute to the field, such as the Brookings Institution and the National Academy of Public Administration.

- *The rising costs of devolution.* The development of the block grant system in the 1960s and 1970s furthered devolution, as the responsibility for functional activities was shifted to state and local governments at a much higher rate than previous years. This period was known as the “water tap” phase of federalism, as federal funding flowed freely to the other levels of government in the effort to utilize grants for the provision of services. Despite the implementation of UMRA in 1995, many areas such as education reform, homeland security grant conditions, and welfare reform are arguably not covered by the Act.³⁴ As a result, state and local governments have found themselves in fiscal distress as they look for options in providing services.
- *Continually increasing mandates.* Along with the transfer of responsibilities to states and municipalities for the implementation of programs that are partially or fully funded with federal dollars, tensions persist as the federal government maintains a set of requirements that accompany the funds that may not always accord with the unique circumstances of the sub-national government implementing the program.³⁵ Devolution has also prompted an increase in federal mandates that may or may not accompany the funds that are passed down the pipeline. These preemptive measures to maintain federal priorities have placed a tremendous fiscal burden on state and local governments,

thus reinforcing coercive techniques within the federal system. Further, scholars predict that federal mandates will increase in direct proportion to the degree of “cohesion” at the federal level among public officials.³⁶ Special attention to avoid conflicting policy directives that adversely impact local and state governments must be a priority directive to make this intergovernmental communication more effective.

- *A need to focus on collaborative intergovernmental partnerships.* State and local governments need to collaborate to share ideas and enhance their influence as a group on the national scene. Enhancing the framework for sub-national capacity is an urgent need. Cross-training and intra-jurisdictional data sharing must take place to strengthen governmental performance and accountability. Moreover, inter-state and inter-jurisdictional competition for federal dollars and economic development projects contribute to the burden on government units to fund programs and may detract from the benefits of working with the federal government to strengthen the intergovernmental relationship. Failure to collaborate at the sub-national level may also serve to increase the number of federal government mandates, to the extent that state and local units are not “effectively mobilized.”³⁷
- *A renewed interest in regional governance issues.* In recent years, there has been a renewed interest in the regional problems that best metropolitan areas. A new groundswell of support appears to be developing for policy aimed at sustainable development and smart growth. Yet, there is no one entity at the federal level working to promote transformative mechanisms for regional cooperation.

Policy Recommendations

Policy recommendations regarding the intergovernmental political landscape primarily focus on the creation of an independent agency focused on studying and producing policy recommendations on various intergovernmental questions. While the ACIR has served as a model for the proposed agency, reinstating the ACIR in its original design would not be appropriate. To mitigate the policy issues and tremendous

33 Ibid.

34 Paul L. Posner, “The Politics of Coercive Federalism,” in *Intergovernmental Management for the 21st Century*, eds. Timothy J. Conlan and Paul L. Posner (Washington D.C.: Brookings Institution, 2008).

35 Beryl A. Radin, “Performance Management and Intergovernmental Relations,” in *Intergovernmental Management for the 21st Century*, eds. Timothy J. Conlan and Paul L. Posner (Washington D.C.: Brookings Institution, 2008), 255.

36 Paul L. Posner, “The Politics of Coercive Federalism,” in *Intergovernmental Management for the 21st Century*, eds. Timothy J. Conlan and Paul L. Posner (Washington D.C.: Brookings Institution, 2008), 299.

37 Ibid.

economic strains that each level of government is currently experiencing, this redesigned agency has the potential to usher in a bold new era of cooperative federalism. In proposing this new organization, the report draws from past successes of the ACIR, while learning from past mistakes and utilizing these experiences to create a new entity with the capacity to overcome the obstacles faced by the ACIR. The following are general policy recommendations that could be useful in designing an agency to facilitate a more collaborative intergovernmental system within the United States.

Recommended Organizational Structure of the Newly Created Intergovernmental Agency

- ***A two-tiered organizational structure.*** Given the wide range of issues that such a body would be dealing with, a two-tiered organizational structure might provide the benefits of continuity and the needed “just in time” expertise for specific policy questions. There also might be policy groups that have a more permanent station in the structure, such as a state and local finance group or health-care issues group. This structure would provide the best of both worlds. The core council membership would provide a needed continuity to the organization, with an understanding of the broad issues of federalism and a commitment to the core values of the organization. The policy groups would bring in specific expertise on complex policy questions, adding a new depth of knowledge on specific topics.
- ***Core council.*** The core council for the organization should have wide representation from a number of federal, state, and local stakeholder groups. Like the former ACIR, representation from members of Congress, the Senate, and the White House would be critical. In addition, representation from GAO and possibly other federal agencies should be considered. There are many state and local organizations that would also be important to consider for membership on the core council, including the Big Seven state and local organizations: Council of State Governments, National Governors Association, National Conference of State Legislatures, National League of Cities, U.S. Conference of Mayors, National Association of Counties, and the International City/County Management Association.
- ***Policy study groups.*** The composition of the policy study groups would largely be dictated by the specific policy question. There should be some representative from the core council in each group to

ensure ongoing communication between groups. It would also be wise to include people from relevant federal and state/local groups with an interest in the policy question. For example, if the council determined that a policy group was needed to study emergency management issues, the group would want representatives from FEMA, Department of Homeland Security, and the National Association of Emergency Managers. Policy study groups might also benefit from academic expertise in their area by including researchers and other experts in particular policy areas.

The main advantage of this structure is that it attempts to involve *all* relevant stakeholders on specific policy questions. Thus, rather than creating reports and recommendations using solely “in house” staff, this ad hoc policy study group structure facilitates inclusion of outside interests on the front end of the process. Given that one of the principal reasons for ACIR’s demise was its perceived partisanship, the proposed structure seeks to be more inclusive to avoid such claims. Though it is unlikely that all stakeholders will agree with all findings and recommendations coming from any one policy group, a wider representation of interests will serve to lesson conflict and even out policy perspectives. As a result, a newly formed agency must heed these dangers; the proposed organizational structure in which a core council will facilitate policy study groups that will research multiple sides of the issues should help to deter the political fodder that could threaten the agency’s credibility and funding.

Agency Staffing Recommendations

- ***Agency funding and resources.*** The provision of funds from the president’s executive budget would serve as a sign of federal government support. However, as in the case of the ACIR, a budget based primarily on federal allocations is subject to claims of being a federal agency with partisan political influence. It is recommended that some sort of cost-sharing approach be investigated, with funding contributions from state and local sources in addition to federal funds.
- ***Staff turnover, meeting times, and attendance.*** While the turnover of staff members and elected officials serving on committees is an inevitable part of any agency staff, careful consideration of staggered terms is recommended to reduce vacancies especially for elected officials serving on the

committees. Less consistent meeting attendance by federal representatives was interpreted as a lack of commitment from the federal level. Thus, in moving forward with a newly created agency, commitment and attendance issues must be noted. Utilization of the policy study groups approach would obviate the need for a high frequency of council-wide meetings. Perhaps a quarterly meeting schedule would provide enough time for staff to complete research and reduce meeting times for elected officials.

Recommended Agency Reporting and Workflow

Policy Study Group Process

1. ***Determination of policy priorities.*** With the two-tiered organizational structure proposed here, one of the central responsibilities of the core council will be determining policy priorities for the coming year. The council should then determine the broad parameters for each study group: What questions should the group address? What outcomes are expected as a result of the group's report?
2. ***Group formation.*** Once the council has reached a reasonable consensus on priorities, the council or an ad hoc subcommittee would work to develop a list of relevant officials and stakeholders to be considered for each policy study group. If paid consultants or staff are required for the group, a budget would be set for these things as well. Formal invitations could then be issued for each policy working group along with communication of the group's objectives and timeline for project completion.
3. ***Formatting of reports and recommendations.*** The policy study groups would be required to submit a draft report to the core council so that each policy area receives an analysis from multiple perspectives. These reports would then be utilized by the core council and staff and would include counter-arguments along with the agency's final recommendations. This format would provide information in an effort to maintain a nonpartisan stance that represents opposing political views when necessary.

Data Collection and Analysis

It is recommended that the council conduct a systematic survey of state and local officials on an annual or biannual basis. A survey of this type would contain a common core set of questions that could be compared year after year. In addition, the survey would contain specific modules on special topics. The special topic

could be determined, in part, by the choice of policy priorities set by the core council in any given year and the data needs reported by each policy working group. Having a regular data collection effort of this type would provide a systematic mechanism for gathering needed information about the landscape of intergovernmental relations and a snapshot of the opinions and concerns of state and local officials nationwide. Several of the Big Seven organization already conduct survey research and have up-to-date databases that could be utilized for drawing appropriate samples.

A New Name?

This report does not offer a definitive answer to the question of what this new entity should be called. Given ACIR's unfortunate demise, using the ACIR name might cause some stigma for this new entity. ICMA recently advanced a proposal for an intergovernmental policy think tank dubbed the "Intergovernmental Policy Council." Another possible name that would emphasize the coming together of different levels of government would be CLASPP, the Council on Local and State Policy and Priorities. As formal proposals for this entity begin to take shape, an appropriate name can be chosen.

Immediate Implementation Steps

1. ***Launching a systematic campaign to increase federal officials' awareness of the crisis in intergovernmental relations.*** For action to take place, it is necessary to first build awareness and consensus that a problem exists. The Big Seven state and local organizations have substantial expertise and an established network of valuable relationships. We recommend that, as part of a campaign to establish a new organization devoted to intergovernmental relations, the Big Seven engage in a campaign to build awareness of the significant problems that exist in the intergovernmental environment.
2. ***Creating of a core council of 20 to 25 federal, state, and local officials.*** This core council would set specific policy priorities for the organization to study over the coming year and would create separate policy study groups with representation from a wide variety of relevant stakeholder groups. The first responsibilities of the council at startup would be (1) hiring a director and (2) working with the director to create a strategic plan and a budget for the next five years.

3. **Immediately studying the American Recovery and Reinvestment Act.** The GAO has noted a number of looming challenges with respect to ARRA. Specifically, there is limited state and local capacity to cope with reporting requirements; certain reporting features are still unclear; and there is concern that state and local governments may be held accountable for other entities that receive ARRA funds within their jurisdictions. Though many other pressing issues remain, given the high stakes and visibility of the ARRA, the concerns raised by ARRA should be addressed quickly. This urgent need presents a policy window that requires swift and decisive action. It is recommended that an ARRA policy study group be created immediately after the council and executive director have been identified.
4. **Subsequently identifying other salient intergovernmental policy issues.** Once the core council and formal organization are in place, it is recommended that the new agency identifies other policy priorities and creates study groups to work on those areas.
5. **Beginning with substantial federal funding with a plan for a growing share of state/local support.** Because time is of the essence, it is recommended that the federal government take the lead in funding this new organization in the start-up phase, for about the first three years of its operation. This would be done with the understanding that the federal funding would be supplemented by state and local support after the first three years or so. The planning for the organization should include a mechanism for phasing in state and local financial support in an effort to promote cost sharing.

Conclusion

In the face of growing challenges in the federalist system, the time is ripe for a new, reinvigorated organization devoted to the study and resolution of important intergovernmental policy dilemmas. The recent economic downturn and resulting American Recovery and Reinvestment Act have ushered in an unprecedented flow of federal dollars to state and local governments. The significant accountability requirements of ARRA present a window of opportunity for creation of a new organization focused on intergovernmental relations. Moreover, this report has identified a number of other policy domains where there are major unresolved questions, including Medicaid, education, emergency planning, and metropolitan governance. Drawing

on the historical lessons learned from the Advisory Commission on Intergovernmental Relations, this new organization would use a flexible and inclusive model for study of specific policy questions.

ICMA Governmental Affairs and Policy Committee 2008-2009

Committee Chair

F. Patrick Ulrich, County Administrator, Peoria County, IL

Committee Vice Chair and ICMA Executive Board Liaison

Scott A. Hancock, Executive Director, Maryland Municipal League

Committee Members

Robert D. Agee, City Administrator, Annapolis, MD

Randall L. Allen, Executive Director, Kansas Association of Counties

Ross Michael Amyx, Executive Director, Virginia Municipal League

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Jeff D Braun, Emergency Management Coordinator, Fort Bend County, TX

John B. Brown, Jr., Greensboro, NC

Richard M. Brown, City Manager, East Providence, RI

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Toby R. Cotter, Village Manager, Richfield, WI

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David B. Dillner, City Administrator, Edgerton, KS

Michael M. Dutton, Town Administrator, Town of Oak Bluffs, MA

Edward L. Faison, Spring Lake, NC

Lee R. Feldman, City Manager, Palm Bay, FL

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Jeffrey V. Lord, City Manager, Walterboro, SC

Juliana A. Maller, Deputy City Manager, Park Ridge, IL

Patricia E. Martel, City Manager, Daly City, CA

Joseph D. Martin, Director, Woodfin Sanitary Water and Sewer District, Asheville, NC

Tammy E. McCorkle, Local Government Management Fellow, Kirkland, WA

Kevin P. McCourt, Legal Services Analyst, West Hollywood, CA

Robert D. McEvoy, Executive Director, New York State City/County Management Association

Christopher McKenzie, Executive Director, League of California Cities
James F. Miller, Executive Director, League of Minnesota Cities
David E Moran, Assistant City Manager, Greenbelt, MD
Carole S. Morris, Lead Intergovernmental Representative, South Florida Water Management District
Gerald E. Newfarmer, President & CEO, Management Partners Inc., Cincinnati, OH
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Douglas T. Paris, Jr., Assistant to City Manager, Salisbury, NC
Kevin F. Parker, Research Director, City Council, Boston, MA

James H. Patrick, Kalispell, MT
Michael C. Peoples, Town Manager, Cramerton, NC
Andrea L. Powers, Town Manager, Washburn, ME
Scott S. Randall, Town Manager, Superior, CO
Michael J. Redlinger, City Manager, Moorhead, MN
Mark L. Ryckman, City Manager, Corning, NY
Pietro Scalera, Village Manager, Riverside, IL
Timothy W. Schuenke, City Administrator, Delafield, WI
Noah A. Simon, Community Development Director, Forney, TX
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Jeffrey A. Smith, Borough Manager, Borough of Media, PA
Ryan I. Spinella, Silver Springs, FL
James M. Stathatos, City Manager, Roanoke, TX
Harry A. Staven, Town Manager, Clayton, NM
Scott C Stiles, Assistant City Manager, Cincinnati, OH
Kenneth L Strobeck, Executive Director, League of Arizona Cities & Towns
Yvonne A. Taylor, Executive Director, South Dakota Municipal League
Michelle Thames, Assistant City Manager, Administrative Services, Richardson, TX
Edward D. Thatcher, City Manager, Heath, TX

James V. Thompson, City Manager, Casa Grande, AZ
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Chris Zapata, Jr., City Manager, National City, CA

Committee Staff

Elizabeth Kellar, ICMA
Alison Miller Richards, ICMA
Joshua Franzel, ICMA
Alex Brown, ICMA



Leaders at the Core of Better Communities



Governmental Affairs and Policy Committee Meeting Notes

Sunday, September 13, 2009, 8:30-11:30 a.m.

ICMA Annual Conference, Palais des congrès de Montréal, Québec, Canada

1. Welcome and Introductions
 - ICMA leadership visit (Dave Limardi, Darnell Earley)
 2. GAPC Pep Talk: Roles and Responsibilities (Patrick Urich & Scott Hancock)
 - The ICMA Policy and White Paper Process
 3. White Paper Updates
 - Intergovernmental relations (Michael Howell-Moroney and Donna Milam Handley, University of Alabama at Birmingham)
 - Performance metrics for ARRA funding (David Ammons, University of North Carolina)
 4. Committee Business
 - National committee updates:
 - Steven Thompson – GASAC Update (Invited)
 - Lee Feldman - FEMA NAC Update
 - Richard Brown - Various Updates
 5. Small Group Discussions
 - Review and discuss white paper short list and roster of white paper topics
 - Small group discussions (hot topics, updates, pending legislation)
 - Report-outs and recommendation on white paper(s)
 6. Conclusion & Next Meeting
-

1. Welcome and Introductions

Committee chair Patrick Urich, County Administrator, Peoria County, Ill., welcomed the members and guests in attendance in person and via conference call.

Committee Members in Attendance

Bob Agee, Annapolis, Md.

Pam Antil, Novi, Mich.

Larry Arft, Beloit, Wis.

Darin Atteberry, Fort Collins, Colo.

Ron Bottoms, La Porte, Tex.

Richard Brown, East Providence, R.I.

Joe Carey, Milwaukee County, Wis.

Leon Churchill, Tracy, Calif.

Toby Cotter, Richfield, Wis.

Tony Dahlerbruch, Rolling Hills, Calif.

Lee Feldman, Palm Bay, Fla.

Tonya Galbraith, McCordsville, Ind.

Scott Hancock, Maryland Municipal League

Matt Hart, Mansfield, Conn.

Sara Imhulse, College Park, Md.

Mary Jacobs, Sierra Vista, Ariz.

Roger Kemp, Kemp Consulting, LLC, Conn.

Victor Lauria, Novi, Mich.

Murray Levison, Sacramento, Calif.

Bob McEvoy, New York State City/County Management Association

Mark Ryckman, Corning, N.Y.

Tim Schuenke, Delafield, Wis.

Lee Worsley, Catawba County, N.C.

Guests and ICMA Staff

David Ammons, University of North Carolina
Don Borut, NLC
Dave Childs, Washoe County, Nev.
Jason Cozza, SUNY Stony Brook, N.Y.
Joshua Franzel, ICMA
Donna Milam Handley, University of Alabama
at Birmingham

Michael Howell-Moroney, University of
Alabama at Birmingham
Elizabeth Kellar, ICMA
Alison Richards, ICMA
Cathy Spain, NLC

2. GAPC Pep Talk: Roles and Responsibilities

Patrick Urich and Committee Vice-chair Scott Hancock, Executive Director, Maryland Municipal League, discussed the role and importance of the Committee. Committee members serve as an early warning system to identify policy issues, funneling information from the ground level up. Traditionally, local government management professionals and ICMA have struggled to find their niche in the policy process; we are good at implementing. We have found some success with the [policy white papers](#). The committee is comprised of ICMA members who serve on the committee for one-, two-, or three-year terms, and state league directors who serve on the committee indefinitely. This is a working committee, so members are encouraged to participate.

NOTE: Committee members are encouraged to review the committee member roles and responsibilities and ICMA policy process included as part of the [September pre-meeting packet](#).

Don Borut, Executive Director, National League of Cities, provided brief remarks on the role of the [Big Z](#) (seven associations, including NLC and ICMA, that represent state and local government) in federal policy and commented on how helpful the ICMA [white papers](#) have been. He noted the dynamic between elected officials and professional managers has improved over time—NLC is no longer “spooked” by managers being involved.

Among NLC’s [current policy issues of importance](#) are:

- Intergovernmental relations/restoring the partnership
- Mandatory collective bargaining for police and fire
- Process for looking at and measuring federal monies
- Recovery Act reports due soon and the media scrutiny surrounding spending; we need to frame and provide good examples of what is working
- Health care – municipalities are the 4th largest employer nationwide
- Transportation reauthorization – where will the money come from? Gas tax revenue is down with increased use of hybrid and other more efficient vehicles; we need alternative revenue sources for transportation
- Energy and sustainability
- Immigration.

Cathy Spain, Director, Center for Enterprise Programs, NLC, discussed a mutual bond assurance company in development, to better enable cities to borrow money for capital improvements.

NOTE: A summary mutual bond assurance company business plan was e-mailed to the Policy Committee and is included as an appendix to these meeting notes.

ICMA president Dave Limardi and president-elect Darnell Earley stopped by the meeting to welcome and thank members and staff for their contributions to ICMA, the Committee, and the Profession. President Limardi noted that the ICMA Code of Ethics, which provides a professional compass, was signed 85 years ago in Montréal and defines ICMA members as leaders with character.

3. White Paper Updates

NOTE: White paper drafts were included with the Committee's [pre-meeting packet](#), sent via e-mail and posted online. Committee members should e-mail Josh Franzel at jfranzel@icma.org with any questions or comments.

a) Intergovernmental relations

Michael Howell-Moroney and Donna Milam Handley, University of Alabama at Birmingham, joined the Committee via conference to discuss their draft white paper commissioned by ICMA, *Measuring the Results of Economic Stimulus Investments: Local Government Leading the Way*.

- Review of the paper's recommendations
 - i. Creation of a core council of 20-25 federal, state and local officials – this council, plus related policy groups, would identify policy priorities and stakeholders for a consensus building approach to intergovernmental relations
 - ii. Immediate study of the American Recovery and Reinvestment Act
 - iii. Subsequent identification of other salient intergovernmental policy issues
 - iv. Begin with substantial federal funding with a plan for a growing share of state/local support.
- Review of and lessons learned from the 1959-1996 Advisory Commission on Intergovernmental Relations (ACIR)
 - Collegial, but seen as "bought and paid for" by the feds
 - Avoided controversial issues, tending to make incremental/practical recommendations
 - Staffing problems, including absenteeism.
- Questions and comments from the Committee
 - The big intergovernmental issue is political. There is a lack of understanding from the federal government of how federal legislation impacts and burdens state and local governments. ARRA is a teachable moment to underscore the broken partnership.
 - How will this new core council be funded versus ACIR (which received federal funding with ad hoc state and local funding)? The authors propose the core council would receive a federal appropriation for startup costs but other funding sources would be identified.
 - How much funding? Perhaps not a study group but a working committee could establish who, what, and how much money.
 - How would we deflect criticism of yet another organization with all the other organized think tanks and the demise of the ACIR? We need an organization *devoted* to intergovernmental relations, not just an element.
 - Don Borut, the 2009 chair of the [Big 7](#), met with Cecilia Munoz, [intergovernmental liaison at the White House](#); she was unaware of the ACIR. The forthcoming white paper may be an opportunity for ICMA, as a nonpolitical organization, to reinforce the importance of restoring the partnership.

b) Performance metrics for ARRA funding

David Ammons, University of North Carolina, joined the Committee via conference call to discuss his draft white paper commissioned by ICMA: *Measuring the Results of Economic Stimulus Investments: Local Government Leading the Way*.

ARRA provides an opportunity for local governments to deliver/communicate return on the nation's investment—the lasting benefits to their communities. The white paper recommends reporting in a uniform fashion for aggregation—measuring overall conditions before and after a project, without specifying the stimulus. Dr. Ammons provided example measures for street resurfacing: 1) paved lane miles in satisfactory or better condition as a percentage of total lane miles, before and after; 2) baseline assessment of street inventory condition, before and after; 3) lane miles last resurfaced by decade. A committee of local government executives could be established to review the measures.

Questions and comments from the Committee

- ICMA's [Center for Performance Measurement](#) should be involved
- Why was the expansion of police technology *not* included in the paper?
- The recommendations in the white paper may lead to unintended consequences for those communities who have not adequately planned for lifecycle replacement costs; these communities may rely on federal funding
- This is an opportunity to be seen as a federal partner, if local governments "do this right" (measurably demonstrate outcomes from the Recovery funding)
- Federal terminology is off-putting, with use of words like enforcement and compliance from the Inspector General's office
- Is there an FTE formula alternative?
- Measuring unemployment rates?

4. Committee Business

a) National committee updates

Lee Feldman, City Manager, Palm Bay, Fla., updated the group on the [Federal Emergency Management Agency's National Advisory Council](#) (FEMA NAC), which comprises the main council and several subcommittees. Issues include:

- National Response Framework, which replaced the National Response Plan Partner Guides. It has been recommended to do away with these guides.
- Target Capabilities List Draft Voluntary Guidelines; 4 of 31 target capabilities (multiagency, incident command, hazmat, and mass transit) have been reviewed. Targets have classes—ranging from 1, for the largest levels of government, to 5, applicable to all governments. The subcommittee will be expanded on a capability-by-capability basis to seek outside expertise.
- Post-disaster assistance
 - Stafford Act, which is up for review. The Act provides a formula-driven, public assistance program block grant for local government assistance post-disaster and helps speed up the flow of money to local governments.
 - FEMA increase to federal contributions depending on the disaster type.
 - Bifurcation of federal authority for post-disaster assistance; current legislation doesn't allow for consolidation.
 - Post-disaster housing

Questions and comments from the Committee

- What about the cumbersome task of preparing and submitting reimbursement documentation for post-disaster assistance? The proposed block grant might eliminate the need for so much documentation.
- RSD housing inspection is currently not a reimbursable expense, but should be.
- Is anything being done to address the reimbursement gap between damage to homes and their actual value? Addressing the gap issue would be a legislative change to the Stafford Act; the FEMA administrator is only able to submit to the White House five legislative changes annually, so it is difficult to address all issues.

Lee also mentioned that he is encouraged that [Craig Fugate](#), the new FEMA administrator, is not bypassing local governments—he is reaching out to local communities.

Richard Brown, City Manager, East Providence, R.I., updated the Committee on the work of the [NFPA 1710](#) Technical Committee; College of Occupational Guidelines for Law Enforcement; National Infrastructure Protection Plan SLT coordinating committee; Emergency Management Accreditation Guidelines; DHS quadrennial review; and the FEMA Target Capabilities List Work Groups (on which he; Mark Ryckman, City Manager, Corning, N.Y.; Jim Thompson, City Manager, Casa Grande, Ariz.; Victor Lauria, Commander, Novi Police Department, Mich.; and Jeff Braun, Emergency Management Coordinator, Fort Bend County, Tex. serve). Victor Lauria reiterated the importance for local government management involvement/review.

Richard said that feedback on the FEMA Fusion Center document offered an opportunity to educate FEMA on the role of local government managers.

Mark Ryckman provided a brief update on public safety spectrum sales; the recent auction was not successful.

Committee members are reminded that Ron Carlee, County Manager, Arlington County, Va. (who soon will transition to the ICMA staff), is the elected chair of the National Homeland Security Consortium.

Richard encouraged Committee members to get involved with FEMA at a regional level.

He is part of the highly competitive Executive Leaders in Homeland Security program, which entails four weeks of on-site training. So far, there is very little general management involvement in this program. He encouraged other interested Committee members to apply (and if they do not succeed the first time, to reapply).

b) Other

The Committee discussed communication among Committee members and with the staff; staff reported development of a Google Group which may facilitate conversation.

5. Small Group Discussions

- Review and discuss white paper short list and roster of white paper topics
- Small group discussions (hot topics, updates, pending legislation)
- Report-outs and recommendation on white paper(s)

The Committee broke into three discussion groups to discuss hot topics, and then reported back to the group. Ideas included:

- Recovery Act
 - Follow up to Recovery Act measures white paper – What are the critical programs implemented with Recovery Act funding that should continue?
 - ARRA, energy efficiency block grants – A good model, but the application process needs to be streamlined. We need to collect examples.
- CNG vehicles and the lack of fueling stations at a state/regional level
- Health care—Without any action, increases in health care costs 10% annually. There are many unanswered questions and concerns about the draft bills circulating in Congress:
 - How will cities and counties be affected as employers?
 - What about the community at large?
 - What happens if paramedics can't get fully reimbursed or the ER is full?
 - What are the financial impacts?
 - Do local governments like the idea of a cooperative or a public option?
 - Texas and other states already have a cooperative "public pool" for cities. Susan Smith mentioned as a contact for state league pool.
 - Federal legislation that supersedes union HC rules.

There was general agreement that an ICMA White paper should not try to do too much. Some consensus that a focus around local governments as employers could be helpful.

- Future of infrastructure. What financing approach makes sense? Miles driven? Gas tax? Relationship to Transportation reauthorization?
- Revenue diversity
 - What can local government do to increase the diversity of their revenue sources?
 - Given the changing national economy, how have practices evolved?
 - How would a VAT affect local revenues?
 - Would local governments be excluded from a VAT?
 - Would they be limited to only property taxes & user fees?

- What about a services sales tax?
- Maryland wants local government to have more authority to raise taxes at the local level.
- Questions about Internet tax policy.
- Regionalism. Local options being exercised to consolidate certain operations, e.g. dispatching. Connecticut has no county government.
 - Are consolidations a trend? Home rule preferences work against that.
 - Shared services?
 - What about first tier suburbs?
 - More metropolitan focus from Obama Administration.
- Value of the Profession
 - Performance metrics
 - See work of John Nalbandian
 - Look at communities that are “properly” managed
 - Make case to state governments
- Transportation Act reauthorization
 - Impact on locals/regions/networks
 - Investment strategy for arterial roads
- Changing structure of local governments
- Transformation of 9-1-1 systems
- Technology and local governments
- Other discussion points
 - Concerns about unfunded mandates from state governments related to the Water Quality Act.
 - Broadband – extend to rural areas?

There was some discussion of the challenges that ICMA had in the last effort to do a white paper on sustainability. Are our topics sometimes too broad? Should we “chunk” some of these mega issues into bite size topics?

6. Conclusion & Next Meeting

The Committee will next meet in person on March 13, 2010, at 8:30 a.m. in the ICMA Offices.



NLC's Issuers Mutual Bond Assurance Company Business Plan Summary

The National League of Cities (NLC) proposes to create Issuers Mutual Bond Assurance Company (Issuers Mutual), a mutual bond insurance company owned by state and local government bond issuers that will provide readily available and affordable municipal bond insurance. This company will endeavor to replace the commercial municipal bond insurers whose credit ratings were downgraded in 2008 and 2009.

Because of the absence of triple-A insurance, many bond issuers no longer have access to the market or, if so, only at rates that are significantly higher than they are accustomed to paying. According to a February 2009 NLC *Research Brief*, 46 percent of large-city finance officers surveyed (those with populations greater than 50,000) reported difficulties in accessing credit and/or bond financing and 28 percent said bond issues had been delayed or canceled.

Mutual companies are successful and policyholder-focused company structures that have been used since insurance began centuries ago. Many cities already obtain their liability and workers' compensation insurance through intergovernmental risk pools that are structured similarly. It is a business model that is familiar, cost-effective, and long-lasting.

NLC is requesting a \$5.0 billion interest-free loan from the federal government (\$3.0 billion of cash upfront, and \$2.0 billion of call capital) to capitalize Issuers Mutual and provide start-up working capital. The purpose of the enterprise is to provide reasonably priced bond insurance to its members, who are the issuers. Issuers Mutual will demonstrate to bond purchasers the value not only of its strong capital base, but more importantly, its unique corporate culture. It will operate on the following principles that are significantly unlike those of commercial bond insurers:

1. Mission Driven. Its focus will be to provide great service to issuers and bondholders, rather than profits to shareholders.
2. Reduce Borrowing Costs. The company will serve the public by reducing borrowing costs to lower taxes and fees and at the same time make market access possible so that states and local communities can contribute to the recovery goals of job creation and economic stimulus.
3. Reasonable Return to Members. It will provide a modest return to bond issuers who purchase their insurance from the company.
4. Limited Membership. Membership in the mutual will be limited to state and local governments and their agencies.
5. Limited Classes of Business. The company will limit the types of bonds it will insure to short- and long-term general obligation bonds and revenue bonds for essential governmental services.
6. Simple and Fair Structure. Issuers Mutual will charge moderate and affordable premiums. It will not insure the types of securities that led to the downgrades of the bond insurers in the past two years.

The core business of the company will be fixed rate debt and leases. It will be possible to insure some Variable Rate Demand Notes (VRDNs), but only where there are ceilings on the interest rates that are a fixed number: they cannot be linked to indexes.

The business plan envisages the new company insuring up to \$20 billion in municipal debt in the first year of operation or the equivalent of five percent of the market and growing to 25 percent in the fifth year. As soon as NLC gains a commitment for federal funding, it will organize the company quickly to provide state and local governments with access to capital.

NLC proposes to repay the federal loan as its surplus capital accumulates. The plan makes very conservative assumptions about losses based on historical experience. The premium charged for the insurance will be determined on an issue-by-issue basis based on the creditworthiness of the issuers.

The company and its affairs will be overseen by a board of directors. It is expected that the company will be organized under the laws of New York State. The state will assist in obtaining licenses in other states.

NLC has actively reached out to market participants to obtain input on the proposed new company. It has received constructive comments about how to ensure that there is no political interference with the underwriting process, how it can work with bond pools to provide insurance to unrated borrowers, and how it can encourage improved disclosure practices.

Breaking the logjam in the municipal market will help to stimulate the national economy and put American citizens back to work. NLC surveyed six state municipal league bond pools recently to determine how they have been affected by the lack of insurance and what they would do if insurance was made available. They have not been able to access the market and although this group represents a very small fraction of the market, collectively they expect to issue between \$1.5 and \$2.0 billion for infrastructure projects as soon as affordable insurance is available.

The national economic crisis has put state and local governments across the country under great financial stress. This stress imperils essential governmental services that taxpayers and rate payers rely on and governments' abilities to pay for them. Everything possible must be done to alleviate this stress by reducing the cost burdens of state and local governments. This initiative of the National League of Cities speaks directly to this issue.

For more information, contact Cathy Spain at (202) 626-3123 or spain@nlc.org. Go to www.nlc.org to obtain a copy of the Issuers Mutual preliminary business plan.

August 2009