

Popular Government

FALL 2001 • VOL. 67, NO. 1 • \$7.00



Gauging the Success of Homeless Shelters

Also

How Local Governments Measure Performance

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Popular Government

James Madison and other leaders in the American Revolution employed the term "popular government" to signify the ideal of a democratic, or "popular," government—a government, as Abraham Lincoln later put it, of the people, by the people, and for the people. In that spirit *Popular Government* offers research and analysis on state and local government in North Carolina and other issues of public concern. For, as Madison said, "A people who mean to be their own governors must arm themselves with the power which knowledge gives."

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Established in 1931, the Institute of Government provides training, advisory, and research services to public officials and others interested in the operation of state and local government in North Carolina. A part of The University of North Carolina at Chapel Hill, the Institute also administers the university's Master of Public Administration Program.

Each year approximately 14,000 city, county, and state officials attend one or more of the 230 classes, seminars, and conferences offered by the Institute. Faculty members annually publish up to fifty books, bulletins, and other reference works related to state and local government. Each day that the General Assembly is in session, the Institute's *Daily Bulletin*, available in print and electronically, reports on the day's activities for members of the legislature and others who need to follow the course of legislation. An extensive Web site (<http://ncinfo.iog.unc.edu/>) provides access to publications and faculty research, course listings, program and service information, and links to other useful sites related to government.

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The UNIVERSITY of NORTH CAROLINA at CHAPEL HILL
SCHOOL OF GOVERNMENT

Institute of Government

Master of Public Administration Program

October 2001

Dear Friends and Supporters of the Institute,

I am writing to share with you some good news about the Institute of Government and our Master of Public Administration program.

On October 12, 2001, The University of North Carolina at Chapel Hill, our home since 1942, announced the establishment of a new School of Government that adopts the mission of the Institute and elevates our status at Carolina. The work of the Institute of Government and the Master of Public Administration Program, which became part of the Institute four years ago, are the primary elements of the new school. The creation of this school reaffirms and strengthens the University's long tradition of public service and commitment to the people of North Carolina at a time when its service mission is critically important.

As significant as this change is, I want to make clear several things that it will not do. The Institute has been successful because of its clear focus on working directly and practically with North Carolina public officials. The School of Government will continue that focus. It will not change the way either the Institute or the MPA program operates or the clients and students that we serve. All faculty and staff members will continue to teach, research, advise, and publish exactly as they have in the past. Course registration fees, tuition, contracts, and contributions will also continue to be received and used in the same way.

The mission of the School will be the same mission followed successfully by the Institute of Government for seventy years—***to improve the lives of North Carolinians by engaging in practical scholarship that helps public officials and citizens understand and improve state and local government.***

A school carries higher academic status and recognition within the university system than does an institute. By coming together under the School of Government's administrative umbrella, both the Institute and the MPA program will have better access to a diverse array of University resources and gain a voice in University-wide decision-making processes. Over time, this change will enhance our ability to serve you and your colleagues. It does not increase operating costs or require additional state appropriation.

The Institute sought this change because we believe it will make us stronger in carrying out our longstanding mission—which will not change.

(over, please)

The bulleted items below present practical details about the creation of the School. More information is available on our Web site at www.iog.unc.edu. If, after reading this, you have questions about this change, please feel free to call me or our Associate Deans Tom Thornburg or Ann Simpson, or any faculty member you deal with on a regular basis. We can all be reached through the Institute's (and School's) main phone at 919 966-5381.

Information about the School of Government

- The School of Government is the administrative home for the Institute of Government and the Master of Public Administration Program.
- The Institute of Government is the core unit of the School of Government and it will benefit from the increased academic standing associated with the School. This increased standing within the University will advance the Institute's mission by giving it greater access to important support from campus administrators.
- The Institute of Government continues its strong commitment to serving North Carolina state and local government. It will continue and expand its comprehensive program of teaching, writing, advising, and publishing.
- The School of Government also includes the UNC-Chapel Hill Master of Public Administration Program, which has been a part of the Institute of Government since 1997. This highly regarded program will continue preparing graduate students for professional public service by offering them excellent academic instruction combined with practical skills development.
- Creating the School requires no additional state funds.
- The Director of the Institute of Government, Michael R. Smith, who was recently reappointed to his third five-year term, will become Dean of the School of Government. The Dean also will be the chief academic and administrative officer for the Institute of Government and will appoint the Director of the MPA Program.

I am pleased to be able to share this information with you and look forward to the Institute and the School providing many more decades of reliable, effective service.

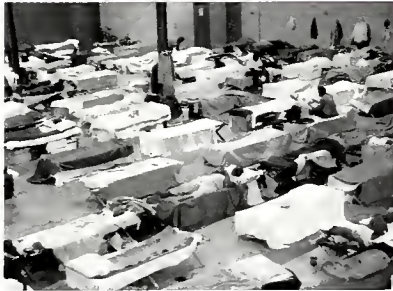
Sincerely,



Michael R. Smith
Dean
UNC-Chapel Hill School of Government

Popular Government

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\$ 10,516,820	\$ 24,114,719	\$ 303,935
64,575	27,429,796	7,428,952
3,609,615	16,442,747	4,042,290
(313,768)		
126,674	52,448,823	83,697
6,408,150	34,843,175	75
144,980,601	234,568,336	36,990
454,200,754	224,444,544	47,744

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Photograph by Steve J. Benbow

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Cots at Wake County's largest emergency homeless shelter await their occupants for the night. Today's shelters measure success in part by number of cots or beds filled, also by number of meals served, number of residents placed in permanent housing, and residents' progress toward independent living.



Measuring the Performance of Emergency Homeless Shelters

Ingrid K. Flory



NEWS & OBSERVER / CHRIS SEWARD

As emergency homeless shelters across the country adopt a model of service delivery that encompasses more than offering just food and shelter, their objectives become complex and difficult to measure. The result is that few of them have established the level of performance measurement necessary to gauge their success. Current literature emphasizes the need for performance measurement at shelters but offers few recommendations on how to develop and implement measures that are practical and meaningful to shelter management. This article proposes such measures for use at the largest emergency shelter in Wake County, North Carolina, the South Wilmington Street Center. It also recommends a practical, accurate system for data collection in a setting where time and resources are limited. Although the selected measures are tailored to the objectives of this shelter, the recommended system of measurement can be adapted for use elsewhere.

Background

In the past, many emergency homeless shelters served as nothing more than places where people could find a meal and a bed—"a hot and a cot," in shelter parlance. Thus they measured their success by the number of beds filled and meals served. In recent years, however, many emergency shelters have adopted a "one-stop shop" model. Under this model a shelter's residents can obtain a variety of services at the shelter. The model defines success not only by the number of beds filled and meals served but also by the number of residents placed in permanent housing and the progress each resident makes toward independent living.

Since adoption of the one-stop shop model, shelters have been struggling to

find practical ways to measure their success. Much of the challenge is due to the nature of the target population: homeless people are transient and therefore difficult to locate for the purpose of determining long-term outcomes.

In addition, homeless service providers and their residents often define "success" as completion of individual service plans. These plans are agreements between residents and their case managers on specific goals to be met in order to attain independent living—for example, that residents will seek substance abuse or vocational counseling and save a certain percentage of their earnings. Such qualitative and individually based goals make uniform measurement of progress especially difficult.

A third hurdle is the lack of resources. Collecting data for performance measurement requires allocation of staff time, and frontline service providers often view such data collection as a low priority.

Despite these challenges there are good reasons to measure performance at emergency homeless shelters. First, funders and constituents are increasingly demanding evidence that their funds are accomplishing the targeted goals. Data provided by performance measurement can be a powerful tool for retaining current resource levels, acquiring additional funding, or securing community support. Equally practical is the need to base management strategies on concrete data. Through performance measurement, shelter managers can continually

The author, a 2001 graduate of the Institute of Government's Master of Public Administration (MPA) Program, currently resides in Easthampton, Massachusetts. Contact her at ingrid_flory@hotmail.com. This article won the Deil S. Wright Capstone Paper Award, a competition among graduating MPA students.

monitor program quality, demonstrate program effectiveness, and modify programs to improve their effectiveness.¹

The South Wilmington Street Center

The South Wilmington Street Center is an emergency homeless shelter owned by Wake County and operated by Urban Ministries, a nonprofit organization. The shelter serves single men and is one of the few in the county that have no criteria for entry.² It is outfitted with approximately 200 beds but regularly accommodates 350 residents with the addition of cots and sleeping mats.

The shelter has two programs: transitional and emergency. Residents in the transitional program receive case management in exchange for pledging to obtain work, stay sober, and save at least 70 percent of their earnings. At this shelter and most others, “case management” refers to the services provided to a resident by a social worker or other shelter staff, based on an individual service plan (described earlier). Residents in the emergency program may receive referrals from the shelter’s staff for specific services, but they do not formally receive case management. Unlike transitional residents, who regularly stay at the shelter until they secure other housing arrangements, emergency residents often use the shelter erratically.

Selection of Performance Measures

Selection of performance measures for the South Wilmington Street Center involved linking organizational objectives defined by the shelter’s staff and management to performance indicators drawn from the literature and from interviews with four staff members (see Table 1). These indicators gauge the extent to which the shelter is reaching its objectives.

When an objective is as individually based as “reduce residents’ use of alcohol and other drugs,” performance measurement is notoriously difficult. As one researcher comments, “Existing scales are generally disappointing since they lack the scope and sensitivity needed to demonstrate small and fluid changes, or to account for modest gains.”³ Thus,

Table 1. Organizational Objectives Linked to Performance Indicators

Objective of Shelter	Indicator of Performance
Assist residents in locating, obtaining, and keeping acceptable housing	Percentage placed in long-term housing or rehabilitative settings Percentage living in housing of their choosing for up to one year after leaving case management
Enhance economic and employment status of residents	Percentage unemployed but seeking work Percentage employed, or receiving or seeking disability Percentage employed receiving pay increase(s) Percentage reporting successful budgeting of finances
Reduce residents’ use of alcohol and other drugs	Percentage of identified substance abusers receiving treatment for alcohol and other drug abuse Percentage reporting heavy or regular use of alcohol or drugs
Increase residents’ access to services and other agencies	Percentage fully or somewhat engaged in their case management Percentage rating shelter services as “very . . .” or “somewhat helpful” Percentage reporting being “very . . .” or “somewhat satisfied” with shelter services Percentage of emergency residents applying for acceptance into transitional program
Assist residents in obtaining entitlements for which they are eligible	Percentage acquiring additional benefits and service referrals while in case management
Prepare residents to reenter society	Percentage of emergency residents moving into transitional program Percentage reporting arrests or probation or parole violations during or after case management Among those for whom psychotropic medications have been prescribed, percentage taking them as directed Percentage participating in community activities such as church, sports events, and meetings

although the selected indicators measure each of the shelter’s objectives to the highest degree practical, variations will be inherent in the resident population. Such variations do not negate the value of performance measurement for the purpose of informing management decisions, but they would affect a scientific study’s margin of error.

Design of a Data Collection System

The potential pitfalls in implementing performance measurement at emergency homeless shelters are many, and researchers debate how best to minimize possible inaccuracies. The following discussion addresses what the common



obstacles to data collection in social services programs are and how the system recommended for the South Wilmington Street Center surmounts them.

Attrition Rates

Although many researchers recommend conducting exit interviews when residents leave a homeless shelter,⁴ others express concern that exit data skew outcomes because they do not account for “attrition” (residents leaving the shelter without notice, reducing the shelter’s population).⁵ Some researchers have attempted to account for this by tracking attrition rates,⁶ but others contend that it is impossible to interpret attrition rates as indicative of solely negative or positive outcomes.⁷ To avoid that pitfall, this article recommends a method of data collection that will measure performance repeatedly during a resident’s case management and first year out of the shelter. The method will help ensure that even if a resident leaves without warning, the shelter will have some data on the resident. Although having such data will not

eliminate bias due to attrition, it will provide shelter managers with information that can be analyzed to identify common characteristics or experiences of clients who leave case management.

Self-Reporting Bias

A second potential pitfall is reliance on self-reported outcome data. The concern surrounding this issue is twofold. First, reliance on self-testimony carries an inherent risk of dishonesty. In the context of homeless shelters, however, replacing self-reporting is nearly impossible because so many of the outcomes are measurements of lifestyle and independence. Although the recommendations in this article do rely on self-reporting, they include several indicators that can be periodically cross-referenced to ascertain the level of self-reporting bias. For example, one questionnaire asks residents to report if they have had any convictions or parole violations while receiving case management. These self-reports can be periodically cross-referenced with local authorities to gauge their level of accu-

A heavily used service at homeless shelters is hot meals, often prepared and served by volunteers.

racy.⁸ This level of accuracy can be extrapolated to other indicators for which there are no objective means of measurement, to assess loosely the overall accuracy of the self-reporting.

Another concern about self-reporting is that the relationship between the interviewer and the interviewee can compound the risk of inaccurate responses. Typically, researchers and practitioners have relied on case managers to conduct follow-up surveys because case managers are most likely to have the knowledge and the drive to locate former residents. Many researchers, however, have expressed concern that clients may exaggerate their successes to their case managers. On the other hand, one study found that when case managers administered follow-up surveys, the self-report bias was actually *negative*. That is, former residents routinely overreported problems and underreported successes. Regardless of

the direction in which the bias leans, it can be minimized through frequent contact between client and case manager.⁹ In other words, the more often a case manager and a client speak, in either regular meetings or follow-up conversations, the greater the client's tendency to be honest. Given these considerations, the recommended method of data collection for transitional residents is for case managers to conduct follow-up surveys with the residents in addition to having regular contact with them after they leave the shelter. The use of case managers will increase the response rate, and the requirement of regular contact will minimize the bias resulting from the case manager/client relationship.

Recommendations for the South Wilmington Street Center and Other Shelters

As noted previously, the South Wilmington Street Center has two programs: emergency and transitional. Although the populations in these programs are housed in the same space, they receive very different levels of service. Therefore

the shelter should use different criteria to measure its success with them. Following are recommendations on how the center and shelters in general can begin collecting data for performance measurement with three populations: emergency residents, transitional residents, and former transitional residents. The recommendations are based on a literature review and on interviews with three directors of comparable emergency shelters in Wake County and one nationally recognized emergency shelter in Boston. The questionnaires created for data collection were pretested for validity and practicality at the South Wilmington Street Center.¹⁰

Emergency Residents

Like many other shelters, the South Wilmington Street Center expects the majority of its residents to need case management or other support services in order to gain economic self-sufficiency. The shelter's staff therefore assume that before a resident finds permanent or supportive housing, he will receive case management through the transitional program.¹¹ Given that all residents enter

as emergency residents and must apply to be accepted into the transitional program, application to and acceptance into the transitional program should be the principal outcome measures for emergency residents. The percentage who apply will indicate the shelter staff's success in encouraging emergency residents to seek services. The percentage who are accepted will reveal the shelter staff's success in preparing residents to meet the transitional program's requirements of sobriety and willingness to obtain employment.

These data can be easily obtained by keeping a record of all emergency residents, emergency residents who apply to the transitional program, and emergency residents who are accepted. Thus the center and other shelters need only calculate the percentage of emergency residents who apply to the transitional program and, of those, the percentage who are accepted.

The South Wilmington Street Center's bus delivers homeless people to the shelter on a night that is expected to be cold.



NEWS & OBSERVER / MEL NATHANSON



A second way in which the center and other homeless shelters can measure their success in encouraging emergency residents to apply to the transitional program is to document their attempts to engage emergency residents in services or the transitional program. "Engagement" is defined as "establishing a relationship with a prospective client for the purpose of developing interest and involvement in treatment." The level of engagement is an indicator of how active a client is in his or her own treatment. The higher the level of engagement, the greater the success of the organization in empowering its clients to meet their own goals. Management can promote documentation of engagement by periodically selecting a sample of emergency residents, inquiring whether staff have attempted to engage them in services, and noting whether they have accepted or refused assistance. Not only will this provide information on the rate of engagement for emergency residents, but also it will promote outreach among the shelter's staff as a performance indicator for the shelter. In addition, management can

cross-reference such information with demographic and personal data to determine differing levels of engagement among various subgroups of the population.¹² This will help identify subgroups that are not being reached because of language barriers, length of homelessness, or other reasons. Such periodic surveys also could be designed to help assess clients' satisfaction with services.

Transitional Residents

The structure and the goals of the transitional program allow for a range of performance measures to be gathered throughout a resident's participation in the program. Thus, performance measures for both current and former transitional residents should emphasize individual-level progress toward independent living, in addition to more traditional outcomes, such as economic gains and placement in permanent housing.

Taking into consideration both the size of the population served and the perceived time constraints of the shelter's staff, a survey was developed to be administered orally to a sample of tran-

People sleep on the streets for many reasons—for example, lack of space in shelters, fear of authority, and mental illness.

sitional residents (see the sidebar on page 8 for sample questions). Approximately 120 transitional residents should be randomly selected each year to receive the survey. This sample size will ensure that the survey results will be accurate within a 10 percent margin of error.¹³ The case managers of these residents should conduct the survey orally with them during three regularly scheduled appointments. Conducting the survey at these times will ensure a fairly high rate of response. In addition, since the survey will require only about seven minutes to conduct,¹⁴ it will infringe little on the client's appointment. Case managers who pretested the survey reported that this time requirement was not unduly burdensome and that the survey provided them with an opportunity to reflect on their client's progress to date. Thus such an instrument also might contribute to the quality of case management.

SAMPLE QUESTIONS FROM THE TRANSITIONAL RESIDENT QUESTIONNAIRE

1. When was the last time you maintained independent housing? Please enter month and year:

2. Please indicate how many months you have been in the transitional program:

_____ months

3. Please indicate your current employment status:

(Please check only one).

- | | | |
|--|--------------------------|----------------------------|
| Employed, day labor (contracted daily) | <input type="checkbox"/> | (If checked, go to item 4) |
| Employed, temporary (contracted weekly or monthly) | <input type="checkbox"/> | (If checked, go to item 4) |
| Employed, permanent | <input type="checkbox"/> | (If checked, go to item 4) |
| Unemployed, seeking work | <input type="checkbox"/> | (If checked, go to item 6) |
| Unemployed, not seeking work | <input type="checkbox"/> | (If checked, go to item 6) |
| Receiving/seeking disability | <input type="checkbox"/> | (If checked, go to item 6) |

4. If employed, have you received a pay increase since you were hired?

- Yes No

If yes, how many pay increases have you received? _____

5. Over the past four weeks, have you successfully saved 70% of your earnings?

- Yes No Not sure

6. In the past four weeks, have you participated in any community activities, such as church, sports events, or house meetings?

- Yes No Not sure

7. In the past four weeks, have you attended an alcohol or other drug treatment program (including AA or NA meetings)?

- Yes No Not applicable

8. How helpful has each of the following services been to you? Please check all that apply.

	<i>Very Helpful</i>	<i>Somewhat Helpful</i>	<i>Not Helpful</i>	<i>Don't Know</i>	<i>N/A</i>
HIV education and testing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Veterans services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Case management	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mental health services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Substance abuse counseling	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Health services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Job counseling	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Recovery dynamics classes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Provision of birth certificate or NC ID	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tuberculosis testing and/or treatment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Referral to housing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Specify: _____

SAMPLE QUESTIONS FROM THE TRANSITIONAL RESIDENT QUESTIONNAIRE (CONT.)

9. Overall, how would you rate your satisfaction with the services you have received at the South Wilmington Street Center?

Very Satisfied

Somewhat Satisfied

Not Very Satisfied

Not at All Satisfied

Not Sure

10. Since entering the transitional program, have you obtained additional benefits, such as Social Security, disability, food stamps, or Section 8 assistance?

Yes

No

Not sure

11. Have you ever been convicted of a crime other than a traffic violation?

Yes

No

Not sure

12. Have you had any arrests or probation or parole violations since entering the transitional program?

Yes

No

Not sure

13. Are you taking any mental health medications?

Yes

No

Not sure

If yes, are you taking the medicine as directed?

Yes

No

Not sure

14. In your opinion, how have you grown since entering the transitional program?



The first round of the survey should be conducted within the first month of a resident's joining the transitional program; the second before the time at which the average resident leaves the shelter for other housing; and the third at an interval after which most residents have left the shelter for other living arrangements.¹⁵ Conducting the survey at these intervals will provide information about services or situations that may speed or slow the process of reaching desired outcomes. It also will help offset any bias created through attrition, because there will be some data on residents who leave unexpectedly, which can be analyzed for trends. Such information can help identify common characteristics or experiences of clients who leave case management.

While conducting the survey, the case manager should enter the answers directly into a database,¹⁶ thereby avoiding spending time on data entry at a later date. Then, at a regularly scheduled interval (six months is recommended), management can aggregate responses and analyze them for trends. This will

provide valuable data for management decisions and for new goals for staff and residents.

Former Transitional Residents

After the selected transitional residents leave the shelter, their case managers should conduct a follow-up survey at increasing time intervals for one year (a sample survey is available from the MPA Program). The purpose of repeatedly conducting this survey is for management to assess the long-term outcomes of former residents while case managers help their clients make the transition to independent living.

Case managers should conduct the first and second rounds of the survey over the telephone or in person at four and eight weeks after the client leaves the transitional program. (Management should encourage case managers to contact their clients within the first weeks of departure, though, to offer support and to maintain contact.)¹⁷ This emphasis on the client's first two months out will offer additional support in a difficult period of transition and increase the

case manager's ability to maintain current contact information for the client. After two months, clients should be surveyed three more times before their one-year anniversary of leaving the shelter.¹⁸ If clients do not have a telephone or cannot otherwise be reached by telephone, a postcard should be sent requesting that they call or drop by the shelter for follow-up with their case manager. The shelter might consider providing an incentive such as grocery coupons or bus passes to encourage former residents to participate in the follow-up surveys.

Again, the case manager should enter survey responses directly into a database at the time he or she conducts the survey, and management should aggregate the responses and analyze them for trends at least every six months.

Conclusion

Although the challenges to conducting performance measurement at emergency homeless shelters are many, the feedback that a good set of performance measures can provide is crucial to making sound management decisions and improving services. Given the complexity of a shelter's objectives and the transience of its clientele, no performance measurement system is likely to be flawless. The system for performance measurement recommended in this article seeks to take into account the transience of the population, the need for individual-level data, and the limited resources of shelters. The information generated by such a system should give shelters valuable insight into their strengths and weaknesses without placing an undue burden on their staff.

Notes

1. William Hargreaves & Clifford Attkisson, *Evaluating Program Outcomes*, in *EVALUATION OF HUMAN SERVICE PROGRAMS* 303 (Clifford Attkisson et al. eds., New York: Academic Press, 1978).

2. Even active drug abusers, who are routinely banned from a majority of shelters, are allowed to stay at the South Wilmington Street Center.

3. Celine Mercier et al., *Program Evaluation of Services for the Homeless: Challenges and Strategies*, 15 *EVALUATION AND PROGRAM PLANNING* 417, 422 (1992).

4. Debra Rog, *The Evaluation of the Homeless Families Program: Challenges in Implementing a Nine-City Evaluation*, in *EVALUATING PROGRAMS FOR THE HOMELESS* 47 (Debra Rog ed., San Francisco: Jossey-Bass, 1991).

5. Alexander Young et al., *Routine Outcome Monitoring in a Public Mental Health System: The Impact of Patients Who Leave Care*, 51 *PSYCHIATRIC SERVICES* 85 (Jan. 2000).

6. Mercier et al., *Program Evaluation of Services*.

7. One study of mental health patients found that the group that had unexpectedly left treatment actually had better outcomes than the group that had remained in treatment. Thus, attrition rates often may indicate a positive outcome. Young et al., *Routine Outcome Monitoring*.

8. Residents of the South Wilmington Street Center sign a waiver to permit the shelter's staff to have access to their court and service records. Such information is kept strictly confidential and is primarily used to increase the effectiveness of case management.

9. Robert Orwin et al., *Pitfalls in Evaluating the Effectiveness of Case Management Programs for Homeless Persons*, 18 *EVALUATION REVIEW* 153 (Apr. 1994).

10. Two questionnaires were developed for data collection. Shortage of space precludes their publication with this article. In the pretest, case managers administered five copies of each questionnaire to current and former transitional residents. Most feedback regarding questionnaire content and design was positive. Various suggestions have been incorporated into the final recommendations.

11. Although this assertion lacks empirical evidence to back it up, it is the predominant philosophy among homeless service providers.

12. Carol Mowbray et al., *The Challenge of Outcome Evaluation in Homeless Services: Engagement as an Intermediate Outcome Measure*, 16 *EVALUATION AND PROGRAM PLANNING* 337 (1993).

13. To achieve a smaller margin of error, the shelter would have to survey the entire population of transitional residents. This may or may not be administratively feasible, given current resources and staffing levels. It is therefore recommended that the shelter begin with a sample of transitional residents and, if possible, expand the survey to the entire population at a later date.

14. The estimated time required to administer the survey is based on the pretest.

15. These intervals will minimize the effect of attrition and allow for trend analysis based on length of treatment. Hargreaves & Attkisson, *Evaluating Program Outcomes*, at 308. The South Wilmington Street Center has yet to determine the average length of participation in the transitional program.

16. A critical component in adopting these measures is the development of a case management database that will facilitate aggregating and coordinating data. Specifically the database should allow for comparison between services received and services planned for residents receiving case management. This will aid case managers in assessing their clients' level of engagement and fidelity to treatment. In addition, the database should have trigger capacities to remind case managers when surveys are to be administered to specific clients. Last, the shelter will be relying on the database to select a random sample of clients to survey. To spread the survey work among case managers, the database could be set to select for survey a determined number of new clients per case manager.

17. According to one case manager, it is common for case managers to contact former clients soon after their departure, although the case managers often do so in their free time.

18. These surveys should be evenly distributed throughout the remainder of a client's first year out of the shelter. Suggested times are 5, 8, and 11 months out.

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Performance Measurement in North Carolina Cities and Towns

David N. Ammons



North Carolina cities and towns often are included on national lists of local governments that are noteworthy for the extent to which they measure their performance. Charlotte, for example, has long been counted among the leaders of the performance measurement movement in city government. Recently it has emerged as the nation's premiere municipal example of the "balanced scorecard" approach to performance measurement.¹

A handful of North Carolina's large cities have long histories in the measurement of municipal services. Several others have made dramatic strides in recent years. Additionally, twenty-four cities

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Table 1. Performance Measurement and Reporting among a Sample of North Carolina Cities and Towns

Population	Number	Do You Measure and Report Performance?	
		Yes (%)	No (%)
200,000 or greater	3	100	0
100,000–199,999	3	67	33
50,000–99,999	8	75	25
25,000–49,999	7	71	29
Subtotal (25,000 or greater)	21	76	24
15,000–24,999	13	15	85
10,000–14,999	4	25	75
5,000–9,999	17	6	94
Subtotal (5,000–24,999)	34	12	88
Total	55	36	64

Note: This table is based on responses to a survey of 60 cities, including all 22 with 25,000 or more in population and a random sample of 38 with populations from 5,000 to 24,999. The response rate was 91.7%.

and towns have drawn national attention through their participation in the North Carolina Local Government Performance Measurement Project. This project, designed to provide participating governments with reliable, comparative data on cost and performance, now is emulated in at least two other states.

From this information a person could easily conclude that performance measurement is deeply and firmly entrenched in North Carolina local governments, permeating the state's communities, large and small. However, a 2001 Institute of Government survey shows the practice to be widespread only among the state's larger communities, with a sharp drop-off among smaller units. This article reports the results of that survey.

Review of Performance Measurement Reports

In January and February 2001, the Institute of Government asked officials from 60 North Carolina cities and towns (hereinafter referred to as "cities") to report on the status of performance measurement in their local government, either by submitting copies of the reports that they use to document municipal performance or by indicating that they neither measure nor report performance. The 60 that were surveyed included all 22 of the state's cities with populations of 25,000 or more and a random sample of 38 cities with populations from 5,000 to 24,999. A total of 55 cities responded to the request, for a response rate of 91.7 percent. Among the cities that reported their performance, most did so by including measures in their budget, but some prepared a separate annual or quarterly performance report (for examples, see Exhibits 1 and 2).

Performance Measurement Activity

Twenty-one of the 22 cities of 25,000 or more in population responded to the request. Three-fourths of the respondents in this set of medium and large communities provided performance-reporting documents, thereby corroborating the reputation of North Carolina's cities for considerable activity in performance measurement (see Table 1).

Table 2. A Sample of Higher-Order Performance Measures Reported by North Carolina Cities and Towns

Effectiveness Measures

- Case clearance rates
- Investment yield
- Percentage of fires confined to room of origin
- Survival rate for patients found in cardiac arrest
- Percentage of fire code violations corrected
- Percentage of calls correctly dispatched
- Accuracy of revenue forecast
- Percentage of population registered in recreation center programs
- Utility bill collection rate
- Percentage of students in after-school program improving at least one letter grade

Responsiveness (a subcategory of effectiveness)

- Response time to high-priority police calls
- Response time to fire emergency calls
- Percentage of accounting payments made within terms
- Percentage of potholes repaired within twenty-four hours of their being reported
- Percentage of monthly financial reports distributed within five days of month's end
- Percentage of 911 calls answered (telephone picked up) within nineteen seconds
- Average waiting time for customers

Customer Assessment (a subcategory of effectiveness)

- Percentage of citizens "satisfied" or "very satisfied" with service provided by police department
- Percentage of citizens seldom or never fearful of crime in their neighborhood
- Percentage of recreation programs rated "satisfactory"
- Percentage of respondents rating athletic facilities as "good" or "excellent"
- Rating of landscape attractiveness
- Percentage of participants who rate fishing clinics as "helpful" or "very helpful"

Efficiency Measures

- Cost per dispatched police call
- Incoming calls per patrol officer
- Fire safety inspections completed per inspector (full-time equivalent)
- Cost per centerline mile of streets maintained
- Average cost to repair asphalt failure
- Average cost to repair sidewalk, per linear foot
- Person-hours per nonresidential building inspection
- Repairs per mechanic
- Cost per soccer field marked
- Maintenance cost per park acre



Performance measurement in firefighting focuses on such indicators as average time responding to alarms and percentage of fires contained within the room of origin.

Exhibit 1. Winston-Salem's Performance Report for Fire Suppression

Fire Suppression

Program Goals

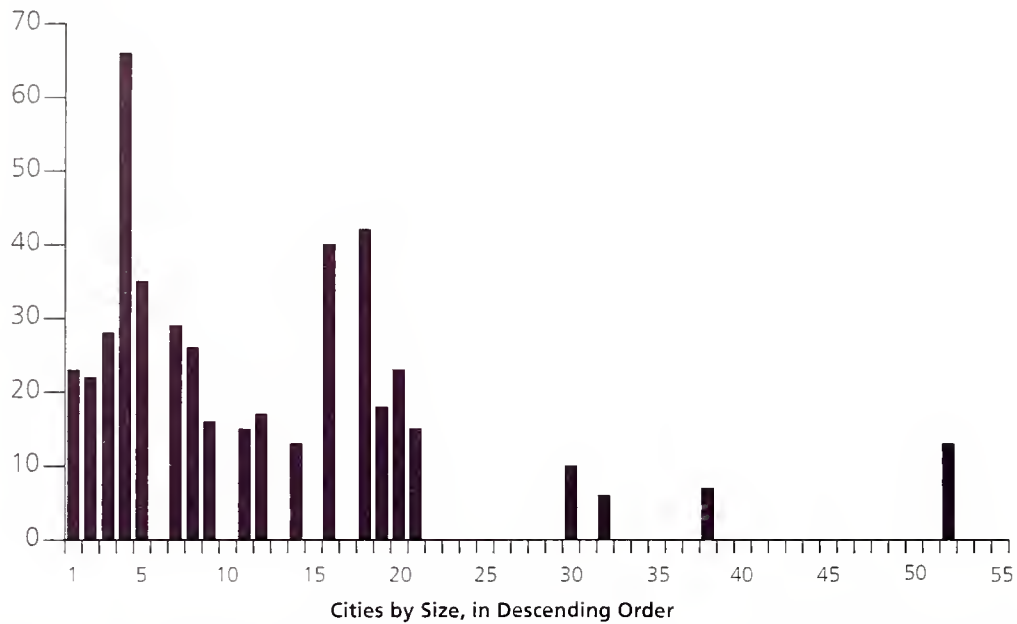
1. To maintain an equitable level of fire protection to all the citizens within Winston-Salem
2. To respond to all emergency alarms within 4 minutes or less
3. To contain all fires to their place of origin
4. To improve suppression performance through professional development and training
5. To provide first responder medical service to the citizens of Winston-Salem

Performance Measurements

	Actual 1998-99	Objective 1999-00	Actual 1999-00	Objective 2000-01
Effectiveness				
• Average emergency response time	2.48 min.	< 4 min.	2.55 min.	< 4 min.
• Percentage of emergency alarms responded to in 4 minutes or less	84%	86%	81%	86%
• Percentage of fires contained within room of origin	81%	82%	80%	82%
Efficiency				
• Expenditures per dollar value of property protected	\$.0011	\$.0011	\$.0011	\$.0011
Workload Indicators				
• Residential building fire loss	\$3,583,122	\$3,630,000	\$3,938,568	\$3,630,000
• Nonresidential building fire loss	\$5,806,684	\$2,117,500	\$1,517,041	\$2,117,500
• No. of training hours	78,907	80,000	85,208	85,000
• No. of building fires	471	470	444	470
• No. of medical calls	981	4,400	5,253	9,500
• No. of prefire surveys	1,282	1,000	1,420	1,000
• No. of hydrants inspected	8,736	8,660	9,024	8,660

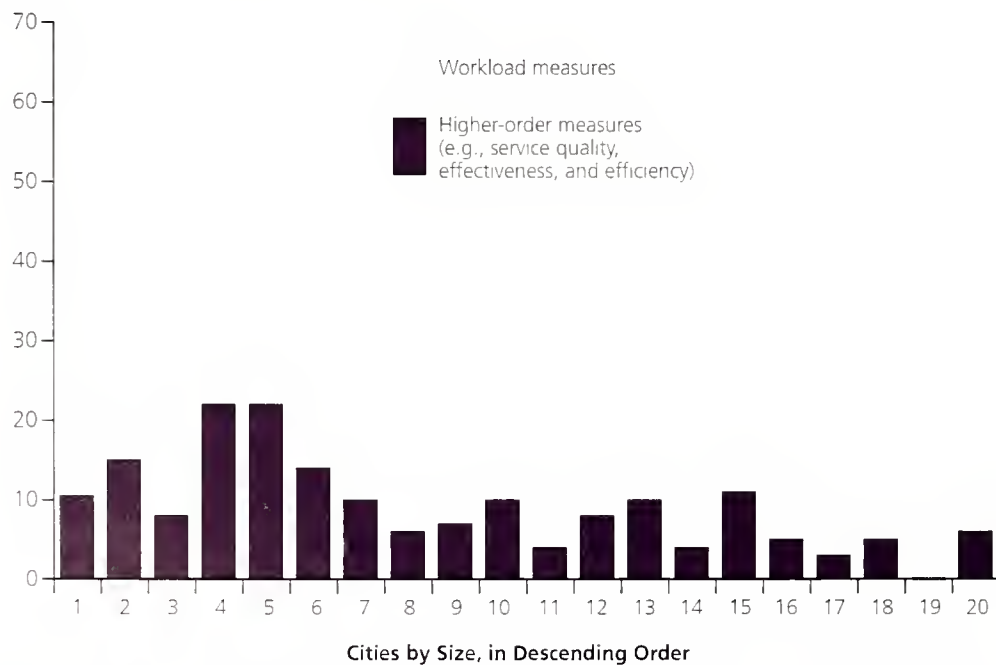
Source: CITY OF WINSTON-SALEM, FIRE: 1999-2000 PERFORMANCE REPORT AND 2000-2001 BUSINESS PLAN, at 3 (Oct. 2000).

Figure 1. Median Number of Performance Measures per Department in 55 North Carolina Cities and Towns



Note: The data are from the fifty-five cities that responded to the survey. They are based on a review of performance measures for five services: finance, fire, parks and recreation, police, and streets.

Figure 2. Median Number of Performance Measures per Department in 20 North Carolina Cities and Towns



Note: The data are from the twenty cities that reported measuring performance. They are based on a review of performance measures for five services: finance, fire, parks and recreation, police, and streets.

Among cities with smaller populations, however, performance measurement was much less common. Only 4 of the 34 responding cities with populations from 5,000 to 24,999 measure and re-

port their performance. However, Knightdale, the third-smallest city in the set at a population of 5,242, not only reports its performance but does so in a reasonably advanced fashion.

Nature and Extent of Performance Measurement

To assess the nature and the sophistication of performance measurement among North Carolina's cities, the measures

Exhibit 2. Knightdale's Performance Report for Finance

Finance Department Performance Measures & Workload Indicator Results

Measure/Indicator	Target	FY 2000 Actual	FY 1999 Actual
ACCOUNTING			
√ Bank statement reconciled within seven days of receipt	83%	83%	91%
√ Month closed out within fifteen days of month end	83%	67%	75%
√ CAFR [comprehensive annual financial report] awards received since initial entry in 1991	N/A	9	8
√ Month-end financial reports complete within 20 days of month end	83%	67%	75%
√ Accuracy of bank deposits submitted to the bank	100%	99%	98%
BUDGET			
√ Annual operating budget submitted to GFOA [Government Finance Officers Association] by three months after budget is adopted	Yes	Yes	Yes
√ Number of budget amendments requiring council approval	N/A	28	16
√ Average accuracy rate in forecasting all major revenues	90%	99%	88%
√ Accuracy rate in forecasting ad valorem taxes	90%	96%	95%
√ Number of GFOA budget awards since first awarded in 1995	N/A	6	5
INVESTMENTS			
√ Average rate of return on investments			
First Citizens	N/A	5.93%	4.27%
North Carolina Capital Management Trust—Cash Portfolio	N/A	6.37%	5.05%
LICENSING			
√ Privilege licenses issued within 10 days of application, except during the billing month	90%	50%	95%

Some data for FY 2000 Actual did not meet target this year. The Finance Department installed new software for privilege licenses, all financial operations, and the utility billing process. Although the new software installation has been completed, the new system did cause some delays in our normal operations, and therefore staff did not meet all targets.

Source: TOWN OF KNIGHTDALE, ANNUAL BUDGET: FISCAL YEAR ENDING JUNE 30, 2001, at 88–90 (May 17, 2000).

reported for five common local government services—finance, fire, parks and recreation, police, and streets—were examined for each responding government. To the extent practical, across units, various functions within these departments were uniformly included in or excluded from analysis (for example, information technology and purchasing were excluded from finance).

In some cities, many measures were reported for a given function. Charlotte and Winston-Salem, for instance, published more than 100 measures of po-

lice performance in the documents provided for this analysis. High Point and Winston-Salem reported 221 and 145 measures, respectively, in their parks and recreation functions, although many of these were measures repeated from one recreational facility to another.

In contrast, only a few measures appeared for selected functions in some cities. Among cities that measured and reported performance at all, the median number of measures per department ranged from a low of 6 in one city to a high of 66 in another (see Figure 1). The

median city in this group reported about 20 measures per department.

Some performance measures are simple to collect. Others may be a bit more complicated. Often, however, the more advanced measures are more informative and of greater value for management of operations and for accountability. Although simple to collect, raw counts of activity or workload, often called “outputs,” reveal nothing about the quality of a service, its effectiveness, or its efficiency. Beyond their ability to gauge service demand and their usefulness in the

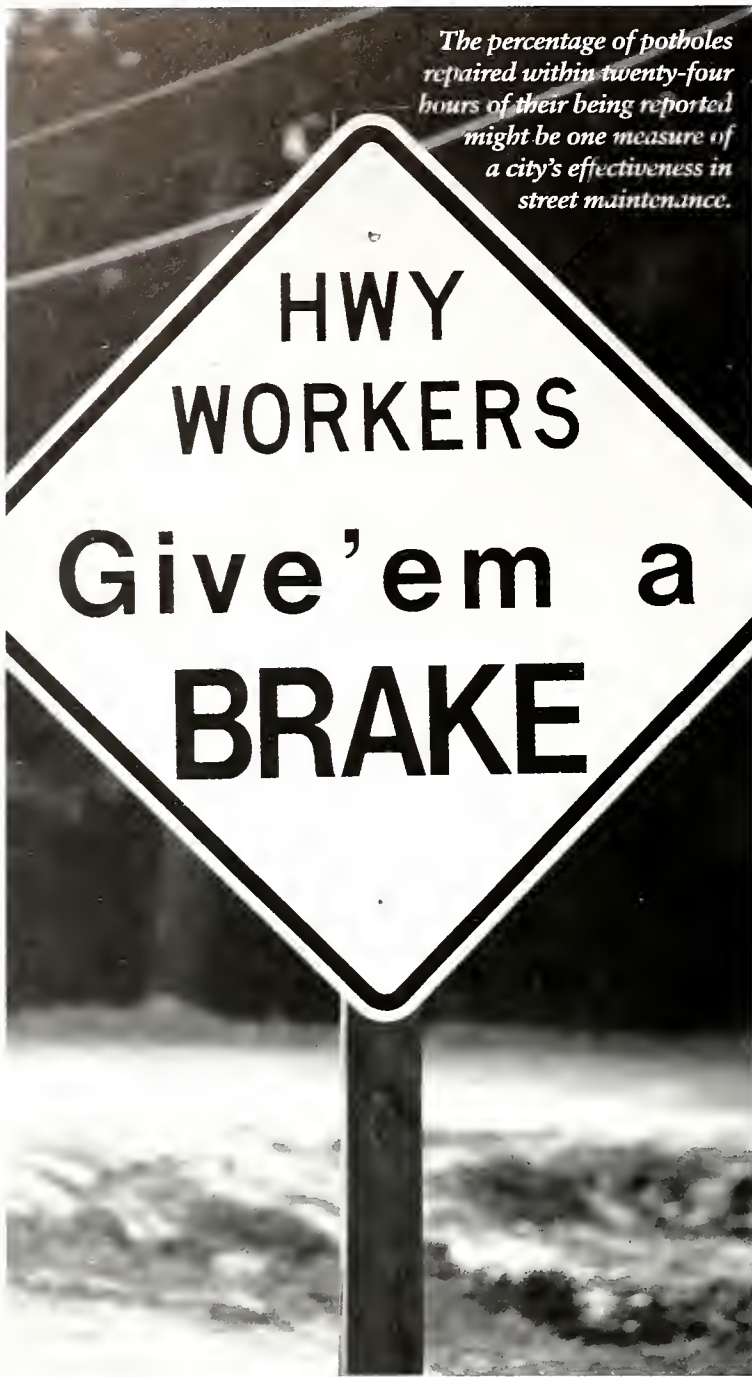


Figure 3. Effectiveness Measurement among 20 Cities and Towns Measuring Performance

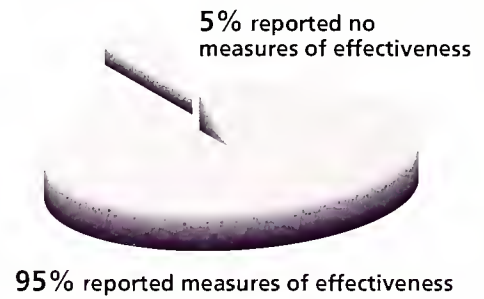


Figure 4. Citizen Assessment among 20 Cities and Towns Measuring Performance

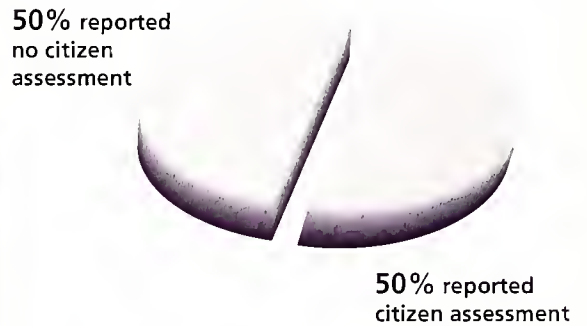
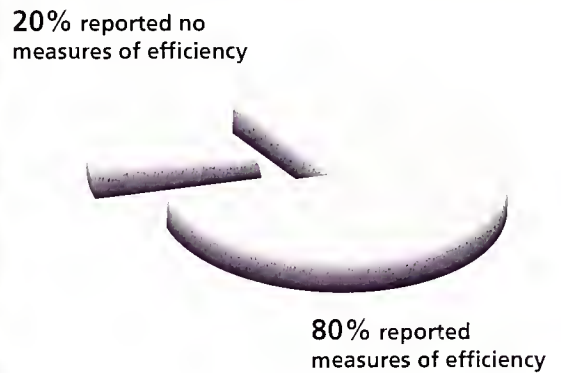


Figure 5. Efficiency Measurement among 20 Cities and Towns Measuring Performance



calculation of higher-order measures, they have relatively little managerial or policy value in their raw form. Measures of efficiency and effectiveness, the latter often called “outcomes,” are of much greater value to managers. An accounting manager, for example, is unlikely to be moved to action by a raw count of accounts payable checks produced the previous quarter—a simple workload measure. On the other hand, he or she is likely to investigate if measures show a decline in the number of checks pro-

duced per account clerk or an increase in the error rate for issued checks—measures of efficiency and effectiveness.

Many of the local governments across the United States that measure performance rely heavily or exclusively on workload measures. They report raw counts of activities but seldom address departmental efficiency, service quality, or effectiveness. This is rarely the case in North Carolina. Of the 20 responding cities that measure performance, only 1 uses workload measures alone. The oth-

ers supplement workload measures with higher-order measures of efficiency, service quality, or effectiveness, ranging from a median of 3 higher-order measures per department in one community to 22 per department in two other cities. (For the use of workload and higher-order measures among the responding cities that measure performances, see Figure 2.) Although larger units tended to report more measures of various types, the pattern is far from uniform. Many of the smaller units reported more



An efficiency measure for a government's recycling program might be cost per ton of recyclable material collected.

measures, and more higher-order measures, than at least some of their larger counterparts.

Types of Higher-Order Measures in Use

Local governments that move beyond the tabulation of mere workload or output measures begin to address dimensions of performance in a manner that is more significant to management and policy decisions than raw counts of activities and participants. These higher-order measures gauge efficiency, service quality, and outcomes (see Table 2). They focus less on how busy a department is and more on how efficient and how effective its services are. Within the broad category of effectiveness measures, two major subcategories used by North Carolina jurisdictions are service responsiveness and citizen assessments of services or community conditions.

Nineteen of the 20 responding cities that measure performance included indicators of effectiveness among their measures (see Figure 3). The typical unit

reported an average of six effectiveness measures per department.² All 19 cities included measures that gauged service responsiveness, but only 10 included measures that reported citizen assessments of services or conditions (see Figure 4). Among the cities that reported measures of responsiveness and citizen assessment, the typical unit reported an average of 1.4 measures of responsiveness and 0.6 measures of citizen assessment per department.

Sixteen of the 20 responding cities that measure performance included indicators of efficiency among their measures (see Figure 5). Among these, the typical unit reported an average of 3.2 efficiency measures per department.

Conclusion

Almost all North Carolina cities of 25,000 or greater in population measure and report performance, and they do so in more than a rudimentary fashion. The drop-off in the practice of performance measurement among communities at lower population levels is sharp. Even

among small North Carolina cities, however, a few serve as models of good performance measurement. They demonstrate not only that performance measurement is possible in small communities but also that the use of more sophisticated, higher-order measures is not confined to their larger counterparts.

Notes

1. The "balanced scorecard" is an approach to measurement that provides balance between "short- and long-term objectives, between financial and non-financial measures, between lagging and leading indicators, and between external and internal performance perspectives." ROBERT S. KAPLAN & DAVID P. NORTON, *THE BALANCED SCORECARD* at viii (Boston, Mass.: Harvard Business School Press, 1996).

2. In this and subsequent uses, the "typical" city is the one with the median value in the range. In this particular case, the range extended from 0.0 effectiveness measures per department in one community to an average of 27.4 effectiveness measures per department in another. The median value was 6.0.

Public Problems, Values, and Choices

Phillip Boyle

Problems involve finding solutions or making decisions. You face problems every day. What is the best way to save for your children's college education? Should you avoid people who have hurt your feelings or seek them out and talk to them? Problems are important to think about because the better you understand a problem, the better you can solve it. In fact, a solution is a problem that everybody understands.

Suppose you decide to sell your car. You check the blue book value and the classified ads, and you set the price at \$10,000. You place an ad in the local newspaper and wait for buyers to call. After several weeks of showing your car, you receive an offer of \$9,000. What should you do?

You seek advice from friends. One tells you that \$9,000 is close so you should take the offer. Another says that you should hold out for the \$10,000. Still another suggests that you do what you feel is best.

You try to use facts to resolve this problem. The blue book value for your car ranged from \$9,000 to \$11,000, depending on such factors as mileage, driving history, and maintenance. You settled on \$10,000 after assessing all these factors.

For you the \$10,000 price represents a good solution to this problem. Your interests are that you want to sell your car and be compensated for its value. Your values are that you want to be treated equitably and fairly. That is, you want to think that you have received approximately equal value for your car.

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In 2001 the North Carolina General Assembly passed legislation requiring local boards of education to adopt a dress code for students.

For the buyer the \$9,000 offer represents a good solution to this problem. Her interests are to buy a car and not to pay more than the car's value. Her values are that she wants to be treated equitably and fairly. That is, she wants to receive approximately equal value for a certain price.

The facts tell you that both the selling price and the buyer's offer are reasonable, but they cannot help you decide whether or not to accept the \$9,000 offer. For you to accept the offer, you need to feel that it is fair. The key to solving this problem is to understand not only the facts but also your values.

This article describes the nature of public problems and their link to four public values. It also addresses the choices that people must make among the four public values to resolve public problems.

What Are Public Problems?

Public problems have three important features. First, like the problem just discussed, they involve facts and values. People may know many facts about public problems, but they solve public problems on the basis of their values. When they argue about how best to solve a public problem, they are likely to select the facts that support their values. For example, proponents of gun control are likely to argue that guns in the home result in more accidental shootings. Opponents are likely to argue that guns contribute to relatively few accidental shootings. Both sides cite facts to support their arguments.¹

Second, public problems affect people as public citizens rather than as private individuals. Deciding whether to sell your car is a private problem because it affects you as a private individual. Deciding what the speed limit should be on a street or a highway is a public problem because how fast a person drives can affect the safety of other citizens.

Third, public problems occur in public settings, such as communities, rather than in private settings, such as homes. Allowing your dog to roam in your house is a private matter, but allowing your dog to roam in your neighborhood is a public matter.

The following public problem exhibits all these features.

Public Problem 1—Graduated Licensing in North Carolina

The Facts: Motor vehicle crashes are the leading cause of death for American teenagers.² Sixty-five percent of teenage-passenger deaths occur when another teenager is driving. Nearly half of the fatal crashes involving sixteen-year-old drivers are single-vehicle crashes. Forty-one percent of fatal crashes involving teenagers occur between 9:00 P.M. and 6:00 A.M.

In 1997, North Carolina became only the second state (after Michigan) to require graduated licensing for younger drivers. "Graduated licensing" means that younger drivers cannot drive alone or late at night. As teenagers build up a safe driving record, they are gradually allowed to drive without an adult. In 1999, car accidents involving sixteen-year-olds dropped by 26 percent from 1997, and late-night accidents by 47 percent.³ Since 1997 thirty other states have adopted some form of graduated licensing.

The Values: Some people object to graduated licensing as being unfair. They point out that new older drivers do not have to comply with these restrictions. The rules make it harder for teenagers to schedule school and social activities. They also make it more difficult for teenagers to hold jobs and for employers to hire teenagers for jobs that require driving. Further, the rules create scheduling problems for parents because young drivers are generally prohibited from driving alone after 9:00 P.M.

Other people support driving restrictions for younger drivers. They argue that teenage drivers are less experienced and therefore in greater danger of being hurt or killed in an accident. The new rules do restrict the driving freedom of teenagers, but more young people are alive today because of the rules. The rules make driving safer not only for teenagers but for everyone.

If people could resolve public problems using facts alone, they probably would agree that graduated licensing is good public policy. However, public problems also involve values. For example, treating people as a group rather than as individuals raises questions of fairness. Is it fair to treat all new teenage drivers differently from other drivers?

How people respond to these questions depends on the value they place on the freedom of teenagers relative to the value they place on public safety. People value both freedom and safety but value them differently. That is why people are likely to disagree about whether or not graduated licensing is a good solution to the public problem of motor vehicle crashes involving younger drivers. Understanding public values is the key to understanding and solving public problems.

What Are Public Values?

Public problems involve four principal values: liberty, equality, community, and prosperity.⁴ These values are present in many documents, including the Declaration of Independence, the Constitutions of the United States and North Carolina, and Martin Luther King, Jr.'s "I Have a Dream" speech. Americans believe strongly in these values, but they often disagree about which value is more important and how to best achieve that value.

Liberty encompasses freedom, choice, and individuality. It means having personal freedom, expressing yourself as an individual, and making your own choices and decisions free from coercion or constraint.

Equality includes equity, fairness, and justice. It means feeling that you are treated fairly, that you have equal rights and opportunities, that your vote counts as much as everyone else's.

Community encompasses safety, security, and social order. It means feeling connected to and sharing a sense of belonging with people where you live and work. It means feeling safe and secure, and having a decent quality of life.

Prosperity includes efficiency, economy, and productivity. It means being able to support yourself and your family, having resources available to meet your physical needs, and using resources productively and efficiently.

When people argue about public problems, they are really arguing about whether they want more liberty, more equality, more community, or more prosperity. Americans would like to have as much liberty, equality, community, and prosperity as possible. But because having more of one value means having less of another, public problems involve a



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Under graduated licensing, younger drivers must be accompanied by an adult during the day and may not drive at night.

tension between two or more of these values. Consider the following example.

Public Problem 2—A Federal Express Hub in Greensboro

The Facts: Like other cities in North Carolina, Greensboro wants to maintain a healthy local economy. It has lost businesses in recent years, particularly in the textile industry. Average wages have declined, and local employers are having trouble finding enough educated and qualified workers. These conditions have made it difficult for the city to attract new enterprises. North Carolina was recently outbid by other states trying to recruit businesses, including BMW, which chose South Carolina, and Mercedes-Benz, which chose Alabama. In 2000, Greensboro announced that Federal Express had agreed to build an air cargo hub at Piedmont Triad International Airport. Federal Express chose Piedmont Triad because of the opportunities for economic growth and because of a \$142.3 million incentive package offered by Greensboro. Federal Express will invest \$300 million in this project. The annual economic impact is projected to be \$160 million.

The Values: Some people are happy that Federal Express will build a hub at the airport.⁵ They point out that the hub represents a large investment in the local

economy, expected eventually to create 1,500 jobs. Federal Express offers college tuition benefits to its employees, and its part-time and flexible-shift positions will provide jobs for students at UNC-Greensboro and Winston-Salem State University. Further, other companies will build facilities near the airport to be close to the Federal Express shipping service, which is projected to bring \$2.4 billion into the regional economy in the first ten years of operation. The airport is currently handling an average of 72 flights per day, well below its daily capacity of 165 flights. Federal Express is expected to add only 20 flights per day.

Other people take a different view.⁶ They point out that the \$142.3 million incentive package equals a \$100,000 tax break for each employee Federal Express will hire. Further, most of the Federal Express jobs are part-time and pay modest wages—\$7 to \$10 an hour—that are not likely to have a significant effect on the standard of living in the Greensboro area. Also, the increased plane traffic in and out of the airport, most of which will take place between midnight and 4:00 A.M., will generate more noise for the approximately 10,000 residents who live near the airport. Moreover, truck traffic will increase on the roads leading to and from the airport, resulting in more pollution, higher costs to maintain local roads, and more traffic accidents.

If you were a resident of Greensboro, would you support or oppose building the hub? What if you were a local business

owner? What if you were unemployed? What if you lived near the airport?

When Do Public Choices Arise?

Public problems present people with choices, which are based not just on facts but also on values. A value represents something that people think is important and worth having. Public problems arise when people pursue different values. Public choices arise when people must decide which value they want more of, and how to avoid giving up one value in order to get more of another. The following example illustrates this dilemma.

Public Problem 3—Dress Codes in North Carolina Public Schools

The Facts: In the past few years, public schools in several North Carolina counties have adopted student dress codes.⁷ One county, for example, prohibits T-shirts and clothing with nonschool logos and lettering. Further, it limits clothing mostly to neutral, solid colors, such as khaki and navy blue. Students are subject to disciplinary action if they violate the dress code.

The Values: Supporters of dress codes think that students are too concerned with name-brand clothing. They think that dress codes will decrease the violence and the theft that occur over such clothing and will prevent gang members from wearing gang colors and insignia at school. They argue that too much attention to fashion leads some students to judge other students solely by how they look rather than who they are. Supporters point out that students who cannot afford “cool” clothing often feel inferior to students who are able to buy the latest fashions. These feelings can lead students to feel excluded and less equal, and sometimes they can lead to fights. Supporters believe that dress codes will help parents and students resist peer pressure, emphasize commonalities rather than differences, and help students concentrate more on school work.⁸

One parent said this about her county’s dress code: “Kids make fun of other kids if they don’t wear cool, name-brand clothes, and it can be very hurtful and damaging to their self-esteem. If this puts

an end to all that, then I'm all for it." A fourth-grade student remarked, "Wearing uniform clothes doesn't start fights, and no one picks on you, because you're all wearing the same thing. The clothes aren't really cool, but they're OK."⁹

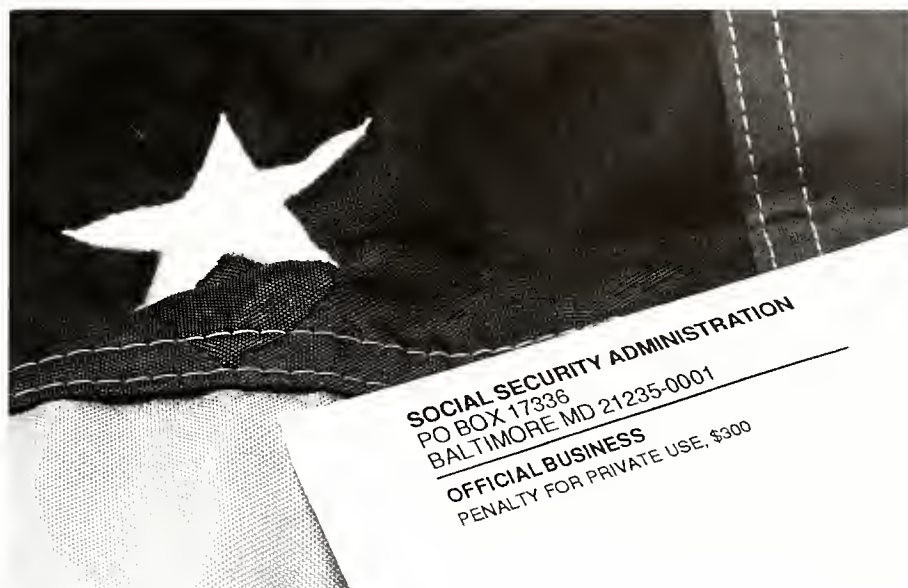
Opponents of dress codes argue that students are people too and deserve to be treated as individuals. They believe that clothing is an important way for students to express themselves and that dress codes stifle growth as an individual. Opponents point out that requiring students to wear the same type of clothing is unfair because it restricts students' freedom to be children; also because there is no similar dress code for teachers and other school employees. They argue that dress codes may conflict with religious and cultural beliefs. They argue further that schools are seeking a quick fix for deeper behavioral problems among some students.¹⁰

A parent sees the issue this way: "This policy is against the rights of the kids and prohibits their ability to be kids. With this code, the school board has taken away their individuality and cloned them."¹¹

Most of the time, deciding what to wear is a private matter. How does deciding what to wear to school become a public problem? Think about the three key features of public problems: they involve values, they affect people as public citizens, and they occur in public settings.

Public problems arise when people disagree about which values are more important in creating the kind of school, community, or nation they want to live in. One purpose of public schools is to teach the values of liberty, equality, community, and prosperity to young Americans. With the problem of dress codes, people must decide whether their children are better off having more freedom to choose or being more equal. The public question is this: Will adopting a school dress code help create a better school environment for all students?

Public problems also arise when an issue or an event affects people as public citizens. When students make decisions about what clothes to buy and wear, they act as private consumers. One purpose of public schools is to help students learn how to become responsible consumers. But another purpose is to provide educational opportunities for all students. Clothes that offend some students or dis-



tract them from learning may make it more difficult to achieve equal opportunity. In that sense, when students make decisions about what clothes to wear to public school, they are acting as public citizens. To resolve the problem of dress codes, people must decide how to balance the rights of students as consumers with their responsibilities as citizens.

Public problems arise too when an issue or an event occurs in a public setting. Public schools are how society invests in its young people so that they will be able both to lead a life and earn a living. With the problem of dress codes, people must decide how to balance the self-interests of students as individuals against the public interest of all students.

What Is the Role of Government?

People agree that government should play a role in solving public problems, but they often disagree about the nature of this role. As the following example illustrates, deciding on the proper role of government is itself a public problem.

Public Problem 4—Paying in to Social Security

The Facts: As late as 1870, more than half of adult American workers were farmers. In the years that followed, the national economy became more urban and industrialized. The result was a nation of fewer farmers and self-employed workers and more employees working

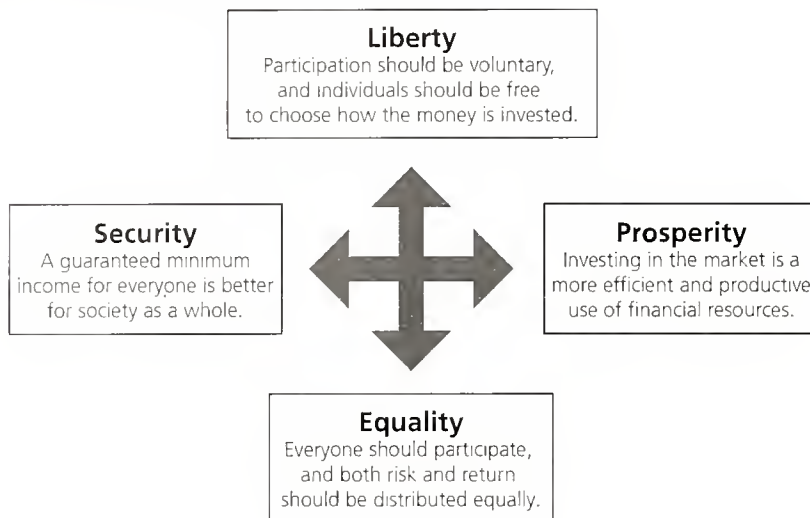
for wages. Many workers found themselves dependent on their jobs to provide for their families. Losing their income could mean poverty. The economic depression of the 1930s demonstrated how many American workers depended on factors beyond their control for their economic security.

In 1935 the U.S. Congress passed the Social Security Act, which created a system of federal old-age benefits. This was the country's first major federal government program to deal directly with the economic security of its citizens. Before then, such matters were handled by the states and private sources. Government action became necessary because neither the states nor private charities had the financial resources to cope with the growing number of retired older Americans.

Social Security has made a substantial contribution to raising people's income above the poverty level. The federal government estimates that if there was no Social Security, there would be almost four times as many aged poor people as there are today.¹²

*Issue 1: Should Americans be required to participate in Social Security, or should it be a voluntary program?*¹³ Requiring people to participate in Social Security restricts their freedom to choose how to use their money. Under a voluntary system, some workers might be able to provide as well or better for themselves and their families through private investments. On the other hand, some workers who chose not to participate

Figure 1. Public Arguments about Social Security



might become disabled, reach old age, or die without enough money to support themselves or their families.

Having the freedom to choose whether or not to participate in Social Security would mean that some workers might have a large retirement fund while other workers might have a small fund or none at all. A voluntary program would mean that government would be able to help some but not all workers achieve economic security. For this reason, Congress decided to require most workers to participate in the Social Security program. *Sometimes people want to be free more than they want to be equal. Other times they want to be equal more than they want to be free.*

*Issue 2: Should the money you and your employer pay in to Social Security be managed by the government or by you?*¹⁴ The economic prosperity of the 1990s led Congress to ask whether government should manage the Social Security Trust Fund or whether workers should be allowed to choose how to invest all or part of their retirement money. In good economic times, workers could earn more on their investment than they would through Social Security.

Private investments are far more risky than government investments, however. The federal government guarantees that workers will receive benefits from Social Security. Private investment firms might be able to help workers achieve greater earnings, but no private firm can guarantee that it will not lose some or all of

workers' investments. For this reason, Congress does not yet allow workers to invest their money in a private fund, although it seems likely that Congress will offer workers some private investment choices in the near future.¹⁵ *Sometimes people want to be secure more than they want to be prosperous. Other times they want to be prosperous more than they want to be secure.*

When people want to be free more than they want to be equal, or to be prosperous more than they want to be secure, they often want government to do less. When people want to be equal more than they want to be free, or to be secure more than they want to be prosperous, they often want government to do more. Because public problems require people to choose among competing values, the very values that people choose often determine the role government plays in solving public problems (see Figure 1).

How can government help solve public problems when the public wants such different things at different times? Government can help by carrying out three basic roles: education, participation, and representation. For government to be "of the people," it must help citizens recognize the values present in a public problem by educating them about problems and choices beyond their immediate self-interests. For government to be "by the people," it must help citizens understand the choices between these values by promoting opportunities for citizens to participate in public problem-

solving and decision making. For government to be "for the people," it must help citizens decide how best to balance these competing values by representing all public values in framing public problems. Businesses and nonprofit organizations often are in conflict with each other because they favor different values. Government is the only institution charged with representing all four public values.

How Do People Solve Public Problems?

Public problems are really questions. People can find better solutions to public problems if they learn how to "listen" to the questions these problems represent. For example, the public problems described in this article raise these questions:

- Should younger new drivers be prohibited from driving alone or late at night if it means that fewer teenagers will be injured or killed in car accidents?
- Should residents of Greensboro who live near the airport be willing to accept more noise, traffic, and pollution in exchange for more jobs and a stronger local economy?
- Should students be required to give up wearing name-brand clothes to school if doing so would help other students feel more equal?
- Should workers be permitted to assume greater risk by investing some portion of their Social Security taxes in private investment funds in exchange for greater potential earnings?

Like a photographer who uses the lens of a camera to "see" a landscape, people use the lens of their values to see public problems. Because different values give people different views of a problem, people also tend to see different solutions. Before they can decide how to solve a public problem, they first must be able to see it in terms of liberty, equality, community, and prosperity.

To solve public problems, people must decide on solutions that achieve the best balance among the values

involved. To do this, they must keep in mind these five basic rules or principles:

1. There are no “single-value” public problems. They always involve a tension between at least two public values.

2. No one value is always better than the others. Every time people solve a public problem, their decision favors some values over others but not the same values every time.

3. Solutions that satisfy only one value are unjust. Since every public problem involves at least two values, people cannot solve a public problem by using only one value.

4. People are more likely to find a “good” solution to a public problem if they understand that decisions are less about how to do a good thing rather than a bad thing, and more about how to do a good thing without jeopardizing another good thing.

5. Trading more of one value for less of another (say, more prosperity for less community) will result in a different solution than trading less of the one for more of the other, but neither solution is necessarily better.

Conclusion

Liberty, equality, community, and prosperity: these are the values of public problems and public choices. They serve as goals or ideals for the nation. They are the glue that bonds Americans as a people in ways that different languages, cultures, and religions cannot.

Like the nation itself, these goals are works in progress. Each generation faces a new set of public problems, yet the problems involve the same set of values. Each generation must decide how to solve public problems in order to achieve enough liberty, equality, community, and prosperity for everyone.

Notes

1. For example, see GARY KLECK, *TARGETING GUNS: FIREARMS AND THEIR CONTROL* (New York: Walter de Gruyter, 1997); *Is a Gun an Effective Means of Self-Defense?* GUNCITE, May 13, 2001, available at <http://www.guncite.com>; and *Guns in the Home*, Brady Campaign to Prevent Gun Violence,

July 20, 2001, available at <http://www.bradycampaign.org/facts/issuebriefs/gunhome.asp>.

2. *Saving Teenage Lives: The Case for Graduated Driver Licensing* (U.S. Nat'l Highway Traffic Safety Admin., July 23, 2001), available at <http://www.nhtsa.dot.gov/people/injury/newdriver/SaveTeens/Index.html>.

3. Robert D. Foss, *Preliminary Evaluation of the North Carolina Graduated Driver Licensing System: Effects on Young Driver Crashes* (Chapel Hill: Highway Safety Research Center, The Univ. of N.C. at Chapel Hill, 2000), available at <http://www.hsrc.unc.edu/pdf/2000/gdlpdf.pdf>.

4. A number of works address the role that values play in thinking about public problems and public policies. Among the best are ARTHUR M. OKUN, *EQUALITY AND EFFICIENCY: THE BIG TRADEOFF* (Washington, D.C.: Brookings Inst., 1975); JAMES O'TOOLE, *THE EXECUTIVE'S COMPASS: BUSINESS AND THE GOOD SOCIETY* (New York: Oxford Univ. Press, 1993); MARTIN REIN, *SOCIAL SCIENCE AND PUBLIC POLICY* (Middlesex, Eng.: Penguin, 1976); and DEBORAH STONE, *POLICY PARADOX: THE ART OF POLITICAL DECISION MAKING* (New York: W. W. Norton, 1997).

5. For example, see Meredith Barkley, *Triad Leaders Hope FedEx Will Address Job Needs*, GREENSBORO NEWS & RECORD, Mar. 9, 2001, available at <http://www.news-record.com/news/indepth/fedex/ftworth09.htm>; Stephen Martin, *Greensboro Chamber Rallies Behind FedEx*, GREENSBORO NEWS & RECORD, Jan. 24, 2001, available at <http://www.news-record.com/news/indepth/fedex/chamber24.htm>; Jack Scism, *Greensboro Needs the Jobs FedEx Can Bring*, GREENSBORO NEWS & RECORD, Aug. 31, 2000, available at <http://www.news-record.com/news/indepth/fedex/scism31.htm>; Taft Wireback, *Dueling Hub Studies? Three Reports, Three Bottom Lines*, GREENSBORO NEWS & RECORD, May 21, 2000, available at <http://www.news-record.com/news/indepth/fedex/fedx21.htm>.

6. For example, see Mark Binker, *New Hub May Add to Drive to Airport*, GREENSBORO NEWS & RECORD, Apr. 17, 2001, available at <http://www.news-record.com/news/indepth/fedex/hpfdex17.htm>; Daniel M. Nonte, *FedEx Rally Turns Heated*, GREENSBORO NEWS & RECORD, Mar. 9, 2001, available at <http://www.news-record.com/news/indepth/fedex/fedx091.htm>; Alex Wayne, *FedEx Opponents Oust Incumbent Commissioner*, GREENSBORO NEWS & RECORD, Nov. 9, 2000, available at <http://www.news-record.com/news/indepth/fedex/guilcoco09rk.htm>; Taft Wireback, *Airport Neighbors Make Themselves Heard about Noise Concerns*, GREENSBORO NEWS & RECORD, May 6, 2001, available at <http://www.news-record.com/news/indepth/fedex/noise06.htm>.

7. For example, see Bill Cresenzo, *New Dress Codes*, TIMES-NEWS, July 23, 2001, available at <http://www.thetimesnews.com/2000/00-08/00-08-26/news-1.html>; Phil

Dickerson, *Mama, Not Schools, Set Dress Codes*, NEWS & OBSERVER, Sept. 15, 2000, available at <http://www.newsobserver.com/standing/collections/dickerson/500000011705.html>; *Uniform Dress Codes in Cumberland County Schools*, Governed Choice Programs—Cumberland County Schools, July 23, 2001, available at <http://www.communications.ccs.k12.nc.us/choice/Main%20Pages/Dress%20Codes.htm>.

8. Even legislators are jumping on the dress code bandwagon. For example, see General Assembly of North Carolina, *An Act to Require Local Boards of Education to Adopt Dress Code and Appearance Policies for Public School Students and Employees*, H.R. 645, Sess. 2001–2002 (Mar. 15, 2001), available at <http://www.ncga.state.nc.us/html2001/bills/CurrentVersion/house/hbil0645.full.html>.

9. Rebecca E. Eden, *Parents Split on Dress Code in Granville County*, DURHAM HERALD SUN, Oct. 11, 1999, at B1.

10. For example, see Claudia Assis, *Schools' Dress Code Blasted: Person County Crowd Argues Plan Would Cost Freedom of Expression and Would Be Difficult to Follow*, PERSON HERALD-SUN, Feb. 9, 2001, available at <http://www.herald-sun.com/archives/URNDetail.cfm?URN=0345768386>; Seth Batchelor, *Students Criticize New Dress Code*, CLAYTON NEWS-STAR, June 20, 2000, available at <http://www.4042.com/claytonnews-star/20000620133603.html>; Jeremy Leaming, *Public School Dress Code Challenged on Religious-Liberty Grounds*, First Amendment Center, Feb. 1, 1999, available at <http://www.freedomforum.org/templates/document.asp?documentID=8553>.

11. Eden, *Parents*.

12. KATHRYN H. PORTER ET AL., *SOCIAL SECURITY AND POVERTY AMONG THE ELDERLY: A NATIONAL AND STATE PERSPECTIVE* (Washington, D.C.: Center on Budget and Policy Priorities, Apr. 1999).

13. For example, see ALICIA H. MUNNELL ET AL., *THE IMPACT OF MANDATORY SOCIAL SECURITY COVERAGE OF STATE AND LOCAL WORKERS: A MULTI-STATE REVIEW* (Washington, D.C.: Public Policy Inst., Amer. Ass'n of Retired Persons, Aug. 2000); TEXAS ASS'N OF PUBLIC EMPLOYEE RETIREMENT SYS., *THE IMPACT OF MANDATORY SOCIAL SECURITY ON TEXAS* (Houston: TEXPERS, Oct. 1998).

14. For contrasting views, see GARY BURTLESS & BARRY BOSWORTH, *PRIVATIZING SOCIAL SECURITY: THE TROUBLING TRADE-OFFS*, Policy Brief No. 14 (Washington, D.C.: Brookings Inst., Mar. 1997), and MICHAEL TANNER, *PRIVATIZING SOCIAL SECURITY: A BIG BOOST FOR THE POOR*, Social Security Privatization Policy Brief No. 4 (Washington, D.C.: Cato Inst., July 26, 1996).

15. Social Security Admin., *President Bush Establishes New Social Security Commission* (May 2, 2001), available at <http://www.ssa.gov/ssacommission.htm>.

How to Read Governmental Financial Statements, Part 2

Gregory S. Allison

In its Spring 2000 issue, *Popular Government* published "How to Read Governmental Financial Statements, Part 1." That article described the general format and meaning of governmental financial statements for elected officials, managers, and others without an accounting or financial reporting background. It also described generally accepted accounting principles, or GAAP, and their role in establishing consistency in financial reporting among governmental entities across the country.¹ The article noted that GAAP reporting requirements for governments would be changing in future years. This article introduces readers to the new governmental financial reporting requirements.²

Governmental GAAP are promulgated by the Governmental Accounting Standards Board, or GASB. The GASB has been the primary standard-setting body for governmental GAAP since its inception in 1984. Current reporting requirements for governments have been in place for decades, amended in various ways by the GASB. The current reporting model, as described in Part 1 of this article, has served users well, but early on, the GASB indicated its intention to thoroughly research ways to improve the usefulness of governmental reports. The new reporting standards summarized in this article are the culmination of a fifteen-year project.

In June 1999 the GASB issued *Basic*

64,575	27,429,796	7,42
3,609,615	16,442,747	4,04
(313,768)		
126,674	448,823	8
6,408,150	34,843,175	75
144,980,601	285,268,336	36,99
151,388,751	321,411,511	1,37,74
165,392,667	389,847,596	49,60
4,426,286	13,662,286	1,42
786,842	3,325,385	1,80
	1,435,599	3
4,426,286	13,662,286	1,42
74,482,273	157,784,651	27,10
79,695,401	181,207,921	30,37

Financial Statements—and Management's Discussion and Analysis—for State and Local Governments (GASB Statement No. 34). This standard is designed to expand the usefulness of governmental reports by addressing operational as well as fiscal accountability. Operational accountability "requires that a government demonstrate the extent to which it has met its operating objectives efficiently and effectively . . . and whether it can continue to do so."³ Fiscal accountability "requires that governments demonstrate compliance with public decisions concerning the raising and spending of public monies in the short term (usually on budgetary cycle or one year)."⁴ Current financial reporting requirements always have focused on fiscal accountability, with an emphasis on various compliance issues, such as budgetary and statutory requirements. In truth, that is the focus

of most governmental entities, as the adoption of annual budgets and the evaluation and establishment of tax rates on an annual basis confirm. Although most users of governmental financial statements agree that this focus is very important in the government environment, there has long been a consensus that users also need to assess operational accountability.

Operational accountability is obviously the focus in the private sector. Again, although most users agree that the vast differences in objectives between the public and private sectors prohibit a one-size-fits-all model of financial reporting, the GASB does believe that governmental financial reporting also should include elements of operational accountability. The challenge is to include them without compromising or diminishing the usefulness of the current model's strengths, specifically its fund-based information. The GASB has attempted to achieve this balance by adding an additional level of financial reporting to the GAAP-mandated external financial statements that is specifically designed to focus on a government's operational accountability.

Even though the GASB released the pronouncement establishing the new standards in June 1999, it readily recognized that the changes in external financial reporting requirements would be time-consuming to implement and, in some cases, costly. Therefore it established a schedule that takes into account the perceived readiness of governmental entities to implement the new standards. The GASB generally believed that large governments would be in a better position to implement the standards earlier

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than the small entities, and the schedule reflects this belief. Thus, depending on the size of their revenue base,⁵ governments in North Carolina must implement the new standards as follows:

Phase 1—Revenue base of \$100 million or more

Financial reports for fiscal years ended June 30, 2002

Phase 2—Revenue base of between \$10 million and \$100 million

Financial reports for fiscal years ended June 30, 2003

Phase 3—Revenue base under \$10 million

Financial reports for fiscal years ended June 30, 2004

Financial Reporting Requirements

The combined financial statements and note disclosures discussed in Part 1 of this series make up what is currently known as the general purpose financial statements. These financial statements represent the minimum necessary to be in accordance with GAAP. The new financial reporting model replaces the concept of general purpose financial statements with a somewhat different reporting structure, as follows:

- Management's Discussion and Analysis (MD&A)
- Basic Financial Statements
 - Government-wide Financial Statements
 - Statement of Net Assets
 - Statement of Activities
 - Fund Financial Statements
 - Note Disclosures
- Other Required Supplementary Information

In general, the fund financial statements, note disclosures, and other required supplementary information are very similar to what is currently required, and accordingly they are the focus of Part 1 of this series. This article focuses on the MD&A and the government-wide financial statements, which basically are new reporting requirements. Notable changes to the fund financial statements and the note disclosures are highlighted.

Management's Discussion and Analysis

The MD&A has its roots in private-sector reporting. Its primary purpose is to "provide the narrative introduction and overview that users need to interpret the basic financial statements."⁶ Considered required supplementary information, the MD&A should prove to be a useful document to accountants and nonaccountants alike for a summary of key data reported in the financial statements themselves.⁷ This document represents management's opportunity to present both a short- and a long-term analysis of its entity's activities and financial condition. The MD&A is not the proper forum for subjective information, such as goals, objectives, forecasts, and the like. Rather, it is a summary and analysis of currently known facts and financial data.

The general information required to be reported in the MD&A is as follows:

- A brief discussion of the basic financial statements of the government, highlighting their relationship to one another and the information that each is intended to provide
- Condensed financial information based on the government-wide financial statements, as well as the fund financial statements
- An analysis that informs users whether the government's financial situation has improved or deteriorated
- A discussion of relevant budgetary events, such as significant amendments to the original budget and significant differences between budgeted and actual amounts
- Any currently known facts or other information that would or could have a direct bearing on the government's financial condition

The MD&A focuses on the current year and generally provides a comparison with the previous year's operations. Although relevant charts, graphs, or other visual aids are not required, enhancing the narrative with them is useful.

Most managers and elected officials are familiar with a comprehensive annual financial report (CAFR). Entities that prepare CAFRs include a letter of trans-

mittal in its introductory section. A letter of transmittal is not the same as an MD&A, nor is the MD&A designed to replicate or replace the letter of transmittal. A letter of transmittal is generally a formal transmission of the CAFR to the users and describes the format of the document, the broad policies of the government, and any other subjective information (for example, goals, objectives, and forecasts) deemed useful by management. Governmental entities that prepare CAFRs must continue to include a letter of transmittal, in addition to an MD&A. Governmental entities that do not prepare CAFRs still will be required to prepare an MD&A. The two documents should not duplicate information. The limited financial analysis that currently appears in many letters of transmittal will be moved to the MD&A when the new reporting standards are implemented. Otherwise, the general information included in the letter will remain the same.

Basic Financial Statements

Governmental entities report their financial information in three broad categories of funds: governmental, proprietary, and fiduciary. Within each category, several fund types are available to account for all the government's activities and services (see Table 1). The basic financial statements provide two different perspectives on the government's financial situation: government-wide information and fund financial information, both of which are supported by a single set of note disclosures (notes containing critical details about important financial issues—for example, significant accounting policies, components of investment portfolios, capital assets information, and specifics about the types of long-term indebtedness the government has incurred). Government-wide information basically represents the new reporting requirements, whereas the fund financial information represents information similar to what is currently required by GAAP. In broad terms the government-wide financial information presents a picture of the government as a whole, focusing on the governmental funds and enterprise funds only, and including all their respective assets and liabilities. In contrast, the fund financial

Table 1. Fund Types

General fund	Accounts for general operations of government (e.g., legislative, administrative, public safety, sanitation, and recreation)
Special revenue fund	Accounts for legally restricted revenue sources, those that must be used for particular activities (e.g., E-911 taxes and community development block grants)
Debt service fund	Accounts for resources that governments are required to accumulate to pay debt service in future years
Capital projects fund	Accounts for major capital activities or construction that is being financed by governmental resources (e.g., taxes) or by bonds that will be repaid by governmental resources
Permanent fund	Accounts for resources that are legally restricted by a trust agreement according to which the earnings, but not the principal, are to be used for services or activities that benefit the government or its citizenry as a whole (e.g., perpetual care funds for government-owned cemeteries)
Enterprise fund	Accounts for activities that are usually supported by user fees (e.g., water, wastewater, electricity, and natural gas services)
Internal service fund	Accounts for internal activities that provide service to other departments (e.g., government motor pools, in-house print shops, and warehousing for utility activities)
Fiduciary funds	Account for various activities for which government acts as fiduciary (e.g., pension plans, execution of private-purpose trusts, and taxes collected on behalf of other governments)

information focuses on all the major funds of a government, including the fiduciary funds, and it retains the traditional measurement focuses (that is, current financial resources for governmental funds and total economic resources for proprietary funds, described in more detail later in this article) required by current GAAP.

Government-wide Financial Statements

The primary feature of the new reporting requirements is the government-wide financial statements. These statements are similar to private-sector financial information in that they are designed to present a picture of an entity as a whole, as opposed to by fund. These statements focus on two broad types of activities: governmental and business-type.

Under current GAAP, balance sheets

of governmental funds (that is, general, special revenue, capital projects, debt service, and permanent funds) focus on financial assets and financial liabilities.⁸ A “financial asset” is an asset that either is in cash form or will convert to cash in its natural course. A “financial liability” is a very short-term liability, to be paid off soon, presumably with cash that is on hand or will be received in the near future. This focus is consistent with the budgetary approach to management that is characteristic of the governmental environment. Also, for assessing the short-term financial liquidity of a government (for example, the resources available to finance current activities), this limited focus serves a useful purpose.

However, governmental funds also own “nonfinancial assets,” assets that cannot be spent but are used by the gov-

ernment for their intended purpose. These are capital assets such as land, buildings, equipment, and vehicles. Although not spendable, they are of significant worth and cannot be ignored when assessing an entity’s overall net worth. Likewise, governmental funds also have “long-term liabilities,” those that are not due immediately but will be paid back in future periods. Although the government is not currently using resources to repay these long-term liabilities, it needs to accumulate resources to do so in the future. Accordingly, all short- and long-term liabilities must be taken into account when assessing the overall net worth of an entity.

Operating statements of governmental funds report their revenues and expenditures. Per current GAAP, governmental funds focus on current financial resources. Thus, revenues are recognized only when they are considered available, as opposed to when they are earned. Governmental fund operating statements are similar to a checkbook register. Revenues are like deposits; expenditures are like withdrawals. Again, this is useful information when focusing on spendable resources only, but it falls short when assessing the overall earnings (that is, revenue earned but not necessarily available) of the fund and thus its total economic picture.

The government-wide statements provide the total economic picture for governmental activities and business-type activities. Specifically, governmental funds are aggregated. The financial and nonfinancial assets of the funds are reported, as are the financial liabilities and long-term liabilities. Revenues for the aggregated funds are reported when earned, not just when available in cash. The aggregation results in a single columnar presentation known as “governmental activities.”

Proprietary funds, which include enterprise and internal service funds, currently focus on all assets and liabilities in their individual fund presentations, as well as on all revenue that is earned, not just that which is available. However, for purposes of assessing the government as a whole, the activities of an internal service fund should not be considered. Internal service funds are simply an internal accounting and reporting

mechanism for internal services (for example, in-house print shops). They do not enhance or limit the government's financial condition as a whole. The business-type activities column therefore represents only the entity's enterprise funds.

The government-wide financial statements do not include the fiduciary activities of a government. This information is reported in the fund financial statements. Since fiduciary activities are controlled by trust agreements and independent parties, they do not enhance or limit the governmental entity's economic picture as a whole.

Statement of Net Assets

The standard accounting equation of "assets = liabilities + equity" also can be stated as "assets - liabilities = net assets." The statement of net assets (see Exhibit 1) reports the total assets, the total liabilities, and, accordingly, the net assets of both the governmental and the business-type activities of a government. The statement can be used to answer the following questions:

- What does each activity (that is, governmental and business-type) of the governmental entity *own* as of June 30?

- What does each activity of the governmental entity *owe* as of June 30?
- What is each activity's *net worth* as of June 30?

Again, the uniqueness of the governmental activities column on the government-wide statement of net assets is that all assets, not just financial assets, are reported, as are all liabilities, not just short-term liabilities. Thus the net worth (that is, the net assets) reflects the total economic picture of the governmental activities, not just the spendable net worth, as the fund balance reflects in the fund

Exhibit 1

Sample City Statement of Net Assets December 31, 2002				
	Primary Government			Component Units
	Governmental Activities	Business-type Activities	Total	
ASSETS				
Cash and cash equivalents	\$ 13,597,899	\$ 10,516,820	\$ 24,114,719	\$ 303,935
Investments	27,365,221	64,575	27,429,796	7,428,952
Receivables (net)	12,833,132	3,609,615	16,442,747	4,042,290
Internal balances	313,768	(313,768)	—	—
Inventories	322,149	126,674	448,823	83,697
Capital assets				
Land, improvements, and construction in progress	28,435,025	6,408,150	34,843,175	751,239
Other capital assets, net of depreciation	141,587,735	144,980,601	286,568,336	36,993,547
Total capital assets	<u>170,022,760</u>	<u>151,388,751</u>	<u>321,411,511</u>	<u>37,744,786</u>
Total assets	<u>224,454,929</u>	<u>165,392,667</u>	<u>389,847,596</u>	<u>49,603,660</u>
LIABILITIES				
Accounts payable and accrued expenses	7,538,543	786,842	8,325,385	1,803,332
Deferred revenue	1,435,599	—	1,435,599	38,911
Long-term liabilities				
Due within one year	9,236,000	4,426,286	13,662,286	1,426,639
Due in more than one year	83,302,378	74,482,273	157,784,651	27,106,151
Total liabilities	<u>101,512,520</u>	<u>79,695,401</u>	<u>181,207,921</u>	<u>30,375,033</u>
NET ASSETS				
Invested in capital assets, net of related debt	103,711,386	73,088,574	176,799,960	15,906,392
Restricted for:				
Capital projects	11,290,079	—	11,290,079	492,445
Debt service	3,076,829	1,451,996	4,528,825	—
Community development projects	6,886,663	—	6,886,663	—
Other purposes	3,874,736	—	3,874,736	—
Unrestricted (deficit)	(5,897,284)	11,156,696	5,259,412	2,829,790
Total net assets	<u>\$122,942,409</u>	<u>\$ 85,697,266</u>	<u>\$208,639,675</u>	<u>\$19,228,627</u>

Alternatively, the internal balances could be reported on separate lines as assets and liabilities. (See Appendix 3, Exhibit 1.)

Source: Portions of GASB's *Guide to Implementation of GASB Statement 34 on Basic Financial Statements—and Management's Discussion and Analysis—for State and Local Governments: Questions and Answers*, copyrighted by the Governmental Accounting Standards Board, 401 Merritt 7, P.O. Box 5116, Norwalk, Connecticut 06856-5116, are reprinted with permission. Complete copies of this publication are available from the GASB.

financial statements. In contrast, the business-type activities column is basically the same as the total enterprise funds reported in the fund financial statements.

Part 1 of this series provides a detailed overview of the types of assets and liabilities that are common to a balance sheet, as well as the terminology used for equity (that is, “fund balance” for governmental funds and “retained earnings” for proprietary funds). With the exception of the equity terminology, these same types of assets and liabilities are generally found on the statement of net assets. Accordingly, this article focuses on the specific differences between the statement of net assets and the aforementioned balance sheet.

Infrastructure. As stated earlier, the government-wide statement of net assets will include all assets of the governmental and business-type activities. Included, however, for the first time will be infrastructure assets of the governmental activities. These are roads, bridges, sidewalks, and the like—assets that are certainly significant in value but of use only to the government. Heretofore these assets have not been included on the balance sheet of governmental entities. However, the GASB believes that it is important to include this information in order to give users a complete economic picture of the government. Governments will be required to include infrastructure as an asset as it is procured, but they also will have to include infrastructure acquired within approximately the last twenty years.⁹

This requirement will be time-consuming to implement and could be costly in some jurisdictions. Although procuring professional services to help with the identification and the capitalization of these assets is certainly not required, many entities may have to do so. Realizing the difficulties that governments might encounter, the GASB is allowing additional time for implementation of the retroactive portion of infrastructure capitalization. Specifically, Phase 1 and Phase 2 governments have an additional four years from the required implementation date of the new standards to get this piece into place.¹⁰ However, new infrastructure will have to be included when the initial implementation of the standard is required.

Net assets. In the new government-wide financial statements, equity terminology for both the governmental and the business-type activities will be “net assets.” This terminology reflects the restatement of the accounting equation:

$$\text{Assets} - \text{Liabilities} = \text{Net Assets}$$

As described earlier, both governmental and business-type activities focus on total economic resources. Each activity reports all assets, not just those that are liquid, and all liabilities, not just those that are current. Thus their net worth (that is, assets minus liabilities) results in a net assets figure that includes both expendable and nonexpendable pieces. This may be best illustrated with an example. Assume that a governmental fund has the following financial assets and financial liabilities:

Financial Assets	
Cash	\$ 65,000
Investments	576,400
Taxes receivable	243,500
Due from other funds	<u>25,000</u>
Total assets	\$909,900

Financial Liabilities	
Accounts payable	\$ 46,899
Salaries payable	15,750
Due to other funds	95,000
Due to other governments	<u>188,000</u>
Total liabilities	\$345,649

Using the accounting equation, the net assets, or net worth, of this entity would be \$564,251. Since all the assets are financial assets (that is, cash or assets that will convert to cash) and all the liabilities are short-term, the net assets of \$564,251 reflect an amount that will eventually be available to spend for other items, assuming that there are no specific restrictions on it. Per current governmental GAAP, this reflects how governmental funds are reported: the measurement focus is on current financial resources. Also, the net assets are simply known as the “fund balance.”

However, using the same assumptions yet introducing nonfinancial assets (for example, capital assets) and long-term liabilities results in a significant difference in the information being revealed by the net assets amount:

Financial Assets

Cash	\$65,000
Investments	576,400
Taxes receivable	243,500
Due from other funds	25,000
Capital assets	<u>2,250,000</u>
Total assets	\$3,159,900

Financial Liabilities

Accounts payable	\$46,899
Salaries payable	15,750
Due to other funds	95,000
Due to other governments	188,000
Bonds payable	<u>2,550,000</u>
Total liabilities	\$2,895,649

Although the entity has the same amount of liquid assets and short-term debt, net assets are only \$264,251. From a total economic perspective, considering all spendable and nonspendable assets, as well as all liabilities that the entity will eventually have to pay, its net worth is significantly less. The first calculation answers a limited question: What are net spendable resources for the current period? The second calculation answers a much broader question: What is the entity’s net worth overall? Each calculation is equally valuable, but the information is used for different purposes. For example, the latter calculation of net worth cannot be used simply to identify what is spendable. Likewise, the former calculation does not assess an entity’s total net worth.

The GASB believes that both types of information are useful and should be available to users of governmental financial statements to assess both spendable net worth and total economic net worth. Current GAAP provide only spendable net worth information for governmental funds. The net assets calculated on the new government-wide financial statements for governmental activities provide the total economic perspective.

Net assets are divided into three classifications, as follows:

- *Invested in capital assets, net of related debt*

This amount is calculated by subtracting any outstanding debt incurred to procure capital assets from the value of the assets themselves. Obviously this category of net assets does not reflect a spendable

**Sample City
Statement of Activities
For the Year Ended December 31, 2002**

Functions/Programs	Program Revenues			Net (Expense) Revenue and Changes in Net Assets			
	Charges for Services	Operating Grants and Contributions	Capital Grants and Contributions	Governmental Activities	Primary Government		Component Units
					Business-type Activities	Total	
Primary government:							
General government:							
General government	\$ 9,709,509	\$ 843,617	\$ —	\$ (5,532,627)	\$ 1,675,944	\$ (5,532,627)	
Public safety	34,782,144	1,307,693	62,300	(32,213,296)	2,746,658	(32,213,296)	
Public works	10,131,928	—	2,252,615	(7,029,313)	(1,375,356)	(7,029,313)	
Engineering services	1,299,645	704,793	—	(594,852)	3,047,246	(594,852)	
Health and sanitation	6,705,675	575,000	—	(518,408)	3,047,246	(518,408)	
Cemetery	735,866	212,496	—	(450,681)	3,047,246	(450,681)	
Culture and recreation	11,534,045	3,995,199	—	(5,088,846)	3,047,246	(5,088,846)	
Community development	2,994,389	—	2,580,000	(414,389)	3,047,246	(414,389)	
Education (payment to school district)	21,893,273	—	—	(21,893,273)	3,047,246	(21,893,273)	
Interest on long-term debt	6,242,893	—	—	(6,242,893)	3,047,246	(6,242,893)	
Total governmental activities	106,029,367	15,906,875	4,894,915	(79,978,578)	3,047,246	(79,978,578)	
Business-type activities:							
Water	3,643,315	4,159,350	1,159,909	—	1,675,944	1,675,944	
Sewer	4,909,885	7,170,533	486,010	—	2,746,658	2,746,658	
Parking facilities	2,824,368	1,449,012	—	—	(1,375,356)	(1,375,356)	
Total business-type activities	11,377,568	12,778,895	1,645,919	—	3,047,246	3,047,246	
Total primary government	\$117,406,935	\$28,685,770	\$6,540,834	(79,978,578)	\$ 3,047,246	(76,931,332)	
Component units:							
Landfill	\$ 3,382,157	\$ 3,857,858	\$ 11,397	—	—	—	\$ 487,098
Public school system	31,186,498	705,765	3,937,083	—	—	—	(26,543,650)
Total component units	\$ 34,568,655	\$ 4,563,623	\$ 3,937,083	—	—	—	(26,056,552)
General revenues:							
Taxes:							
Property taxes, levied for general purposes				51,693,573	—	51,693,573	—
Property taxes, levied for debt service				4,726,244	—	4,726,244	—
Franchise taxes				4,055,505	—	4,055,505	—
Public service taxes				8,969,887	—	8,969,887	—
Payment from Sample City				—	—	—	21,893,273
Grants and contributions not restricted to specific programs				1,457,820	—	1,457,820	6,461,708
Unrestricted investment earnings				1,885,455	619,987	2,505,442	884,277
Miscellaneous				884,907	—	884,907	19,950
Special item—gain on sale of park land				2,653,488	—	2,653,488	—
Transfers				501,409	(501,409)	—	—
Total general revenues, special items, and transfers				76,828,288	118,578	76,946,866	29,259,208
Change in net assets				(3,150,290)	3,165,824	15,534	3,202,656
Net assets—beginning				126,092,699	82,531,442	208,624,141	16,025,971
Net assets—ending				\$122,942,409	\$85,697,266	\$208,639,675	\$ 19,228,627

Source: Portions of GASB's Guide to Implementation of GASB Statement 34 on Basic Financial Statements—and Management's Discussion and Analysis—for State and Local Governments: Questions and Answers, copyrighted by the Governmental Accounting Standards Board, 401 Merritt 7, P.O. Box 5116, Norwalk, Connecticut 06856-5116, are reprinted with permission. Complete copies of this publication are available from the GASB.

portion. For most governmental jurisdictions in North Carolina, this will be a positive amount.

- *Restricted net assets*

This amount reflects net assets whose use is restricted by independent external third parties. Assets that would be part of this calculation are cash, investments, or receivables related to grants or restricted shared revenues. A common North Carolina example is Powell Bill assets held by a municipality but not yet spent. The state restricts use of those assets to specific street construction and maintenance projects. Again, for most governmental jurisdictions, this will be a positive amount unless there are significant outstanding restricted liabilities.

- *Unrestricted net assets*

In short, this amount reflects all net assets that were not classified into one of the other two categories. This would typically be all noncapital or unrestricted assets, such as cash, investments, and receivables, minus all noncapital liabilities, such as accounts payable. There are numerous scenarios in which this amount could actually be negative, though that does not necessarily indicate a problem. It could simply mean that at present, certain long-term liabilities exceed the currently available spendable assets. Assets will need to be accumulated to repay these liabilities as they come due in the future. (For a further discussion of potentially negative unrestricted net assets in North Carolina governments, see the sidebar on this page.)

Statement of Activities

The new government-wide operating statement is referred to as the "statement of activities" (see Exhibit 2). This statement reports the changes in a government's net assets during the year. As with the statement of net assets, the focus is on the entity's governmental and business-type activities. The statement of activities reports the revenues earned and the expenses incurred during the year. The terminology used in the statement remains generally consistent with the current reporting model, which is explained in Part

NEGATIVE UNRESTRICTED NET ASSETS

Any of the three classifications of net assets (that is, invested in capital assets, restricted net assets, and unrestricted net assets) may be negative amounts. However, negative amounts are going to be most common in the "unrestricted net assets" classification. For North Carolina counties, negative amounts in "unrestricted net assets" will not be unusual because the North Carolina General Statutes require counties to issue debt on behalf of the schools. This debt remains a legal liability of the county, while the assets procured by the proceeds (school buildings, school equipment, and so on) become the property of the school district. In short, the county has debt but no assets to offset it; the schools have assets but no debt to offset them. Even though the debt proceeds will be used for capital procurement, the capital is not that of the county. Therefore the outstanding liability is an offset not in the "invested in capital assets" classification but in the "unrestricted net assets" classification. With no asset offset, the liability often will result in a negative "unrestricted net assets" calculation.

Ironically, counties where explosive growth is occurring will actually be more negatively affected. These counties are issuing more and more debt to keep up with the need for additional school facilities. Managers and elected officials should not interpret these negative amounts as an indication of financial difficulties. Similarly, large positive "invested in capital assets" amounts in the school systems' financial statements should not be considered an indication of spendable net worth.

1 of this series. The focus here is on the unique aspects of the new government-wide statement.

The most noticeable difference in the new statement is its format. The focus is actually expenses, followed by various types of revenues. This reflects the fact that, in the public sector, "the goal is to provide needed services, not maximize revenue."¹¹ Information is broken down by functional categories in both the governmental and the business-type activities. For governmental activities these functional categories include, but are not limited to, general governmental services, public safety, public works, recreation, and sanitation. Examples of business-type functional categories are water, wastewater, and electric operations.

Program revenues. The statement of activities is actually read horizontally. An expense column is presented first, followed by three categories of program revenues. Program revenues are defined by GASB Statement No. 34 as revenues derived "directly from the program itself or from parties outside the reporting government's taxpayers or citizenry, as a whole; they reduce the net cost of the function to be financed from the government's general revenues."¹² Program revenues are reported in three categories:

- Charges for services
- Program-specific operating grants and contributions
- Program-specific capital grants and contributions

Charges for services typically include user fees such as garbage collection fees or water charges. Grants and contributions are resources received by the government whose grantors or contributors require use for either operating or capital purposes in specified functional areas. Common examples for North Carolina governments are Powell Bill funds and community development block grants.

These revenues are reported in columns following the expense column. Net columns are then presented for governmental activities or business-type activities. For most of the functional categories, especially for the governmental activities, this net amount will reflect a deficit. This does not indicate financial difficulties or any type of loss. It simply reflects the fact that governmental entities do not fund the majority of their functional services with charges, grants, or contributions intended to cover the

full cost of those services. Instead, general, unrestricted revenues such as taxes subsidize these activities.

Below these amounts, the statement of net assets includes all the governmental entity's general revenues. General revenues include, but are not limited to, taxes (for example, property taxes, sales taxes, and income taxes), interest, unrestricted grants and contributions, and transfers between governmental and business-type activities. Again, this format visually represents how governmental entities are generally structured. Taxation and revenue sources of a similar type subsidize public-purpose functions that rarely could be considered self-sufficient.

The net effect of expenses, program revenues, and general revenues is either an increase or a decrease in net assets of both the governmental and the business-type activities. The ending net assets for each activity should agree with the net assets reported on the statement of net assets. In summary, the statement of net assets is a snapshot of all assets, liabilities, and net assets at the end of the fiscal year (June 30 for North Carolina governments). The statement of activities reports all the transactions for the governmental or business-type activities throughout the year that either increase or decrease the applicable activities' net assets.

Fund Financial Statements and Note Disclosures

As noted earlier, the new financial reporting model presents financial information from two different perspectives. The government-wide financial statements provide information on the governmental and business-type activities as a whole, and the fund financial statements focus on the individual funds. Specifically the governmental fund information focuses on current financial resources, while the proprietary and fiduciary fund information focuses on total economic resources. The reporting requirements for the fund financial statements are adequately summarized in Part I of this series and thus are not repeated in this article. In short, balance sheets, operating statements, and statements of cash flow (for proprietary funds) for each major fund are included in the fund financial statements.¹³

The new reporting requirements include a reconciliation between the government-wide and the fund financial statements. This reconciliation should prove invaluable for users to understand why certain information is included on one statement but not on another, or how a transaction can be viewed from the perspective of either current financial resources or total economic resources.

Another required element of the basic financial statements is the note disclosures. Obviously, some changes were necessary to incorporate explanations of the new government-wide financial statements (for example, describing the measurement focus used and the inclusion of infrastructure assets). Generally, though, the form and the content of the note disclosures have remained unchanged.

North Carolina governments are required to adopt budgets for each of their funds except internal service and fiduciary. Budgetary comparisons must be presented in the fund financial section. GASB Statement No. 34 gives governmental entities the option to include budgetary information as other required supplementary information. Making budgetary information required supplementary information lessens the audit coverage to which it is subject. However, since this information is critical to exhibiting compliance with state budgetary statutes, North Carolina governments will be required to include these budgetary presentations as basic financial statements.

Conclusion

This article is intended to provide managers and elected officials with an overview of the new financial reporting requirements that will be affecting governments all across the nation. It is impossible to teach governmental GAAP in the context of an article like this. However, Parts I and 2 of this series highlight for managers and elected officials the fundamental information included in the new financial reporting model, in the hope that these officials will better understand how to interpret financial information and ultimately better fulfill their fiduciary responsibilities.

Notes

1. For purposes of this article and in terms of the scope of jurisdiction of the Governmental Accounting Standards Board (GASB), "governmental entities" are state and local governmental entities only. They include, but are not limited to, counties, municipalities, public school systems, public authorities, public colleges and universities, and similar entities. The federal government is not subject to the GASB's reporting requirements.

2. This article does not review the current governmental reporting requirements. Refer to the Spring 2000 issue of *POPULAR GOVERNMENT*, page 23, for that information.

3. STEPHEN J. GAUTHIER, *AN ELECTED OFFICIAL'S GUIDE TO THE NEW GOVERNMENTAL FINANCIAL REPORTING MODEL 13* (Chicago: Gov't Finance Officers Ass'n, 2000).

4. GAUTHIER, *AN ELECTED OFFICIAL'S GUIDE*, at 13.

5. The "revenue base" is defined as total governmental fund revenues (that is, general, special revenue, debt service, and capital projects) and enterprise funds (for example, utility funds). For North Carolina governments, the revenue base is as of June 30, 1999.

6. GAUTHIER, *AN ELECTED OFFICIAL'S GUIDE*, at 23.

7. "Required supplementary information" is information required to be included in the financial statements to be in accordance with GAAP but not subject to the same level of audit coverage as the basic financial statements.

8. A balance sheet reports the assets, the liabilities, and the equity (that is, the net worth) of a governmental entity. Refer to Part 1 of this series in the Spring 2000 issue of *POPULAR GOVERNMENT* for a complete description of a balance sheet.

9. The reporting standards actually require governments in Phase 1 or 2 of implementation to include major infrastructure assets acquired in the fiscal years ending after June 30, 1980. For North Carolina governments, this is for infrastructure acquired since July 1, 1980.

10. Phase 1 North Carolina governments will have until the fiscal year ending June 30, 2006, to implement the *retroactive* portion of the infrastructure reporting requirement; Phase 2 North Carolina governments will have until the fiscal year ending June 30, 2007.

11. GAUTHIER, *AN ELECTED OFFICIAL'S GUIDE*, at 28.

12. General Accounting Standards Board, *Basic Financial Statements—and Management's Discussion and Analysis—for State and Local Governments*, Statement No. 34, ¶ 48 (Norwalk, Conn.: GASB, June 1999).

13. GASB Statement No. 34 requires governments to report by major fund. Government officials can determine major funds by a calculation based on materiality, or they have the discretion to declare any or all of their funds "major."

Local Government Contracts with Nonprofit Organizations: Questions and Answers

Frayda S. Bluestein and Anita R. Brown-Graham

Nonprofit organizations have long worked with governments to respond to community needs. The resulting partnerships have been powerful, combining the flexibility and service-delivery capabilities of the nonprofit sector with the financial and direction-setting capabilities of the public sector. They have resulted in improved local services in many areas, including human services, community development, economic development, and environmental protection.

Although they are touted as the wave of the future, these partnerships have not been without their fair share of challenges. This article follows other recent efforts by the Institute of Government, in partnership with the North Carolina Center for Nonprofits and the North Carolina Association of County Commissioners, to improve the relationships between local governments and nonprofits (see the sidebar, page 33). It focuses on the legal aspects of relationships between local governments and nonprofits, with particular attention to contracting. Although local governments and nonprofits work together or interact in many circumstances without contracting, contracts are the most common vehicles for these collaborations. It is important for representatives of both sectors to understand the requirements for and the limitations on these contracts. Discussed in the questions and answers that follow are three general topics: (1) the basic authority for and the limitations on local government contracts with nonprofits; (2) legal and practical consequences for nonprofits of receiving public funds from local governments; and (3) legal issues raised by contracts with faith-based organizations.

The following basic principles underlie most of the answers to the questions addressed in this article:

1. A local government has the authority to contract with and provide financial or in-kind assistance to any private organization to carry out any function for which the local government has authority to appropriate funds.
2. As a general rule, a nonprofit that receives funds from a local government does not become subject to the rules

that govern a public agency, but the public agency may require the nonprofit to comply with certain accountability and other requirements as a condition of receiving the funds.

3. A faith-based organization that receives public funds or property may not use them for a religious purpose.

In addition to answering the main questions about local governments' contracts with nonprofits, this article includes several examples of issues related to providing assistance to specific types of nonprofits, including faith-based organizations. These examples are interspersed in the article in the "Assistance to..." sidebars (see pages 35–39).

1. What authority do local governments have to contract with nonprofit organizations, and what are the limitations on the exercise of that authority?

For North Carolina local governments, the authority to contract is directly related to the basic authority to spend money. A local government may contract for any purpose for which it may spend money. The three key legal limitations on the expenditure of funds by a local government are that (1) the expenditure be for a public purpose; (2) the activity supported be one in which the local government has statutory authority to engage; and (3) the expenditure not be inconsistent with the laws or the constitution of the state or federal government. The next three questions and answers discuss these limitations in turn.

2. What is a public purpose, and what is the source of this requirement?

The North Carolina Constitution says that local governments may levy taxes only for "public purposes."¹ Courts have applied this limitation broadly, not only to the taxing power but also to the appropriation and spending powers.² So any expenditure by a local government must be for a public purpose. The North Carolina Constitution also specifically authorizes appropriations to and contracts with private entities (whether for profit or nonprofit) but repeats the limitation that the appropriation or the contract accomplish a public purpose.³

The definition of "public purpose" is difficult to pin down. The courts have recognized that the concept is not fixed in time but shifts as governments adapt their activities to changes in the population, the economy, and other conditions.⁴ The

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Local governments probably may donate funds or land to Habitat for Humanity, whose programs provide affordable housing to people who are truly needy.



NEWS & OBSERVER / JOHN L. WHITE

HELPING LOCAL GOVERNMENTS WORK MORE EFFECTIVELY WITH NONPROFITS

The Institute of Government, in partnership with the North Carolina Center for Nonprofits and the North Carolina Association of County Commissioners, has undertaken a project to help local governments and nonprofit organizations work together more effectively. The initiatives of the project include community assistance, training, and publications. The project's Web site, www.nonprofit-gov.unc.edu, provides a detailed overview of this work and answers frequently asked questions about government-nonprofit relationships.

Community assistance. The Association of County Commissioners' project Counties as Catalysts for Stronger Families has been the focus of the community assistance. Institute faculty and colleagues from the Jordan Institute for Families at UNC-CH's School of Social Work conducted fifteen "collaboration workshops" across North Carolina in April and May of this year to strengthen families and close the academic achievement gap. Eighteen counties are participating in these collaborative efforts, and a wide variety of government and nonprofit organizations serve as lead agencies.

Training. In June 2001, with the support of the Association of County Commissioners, the Institute offered its initial "school" for local government liaisons to nonprofit organizations, Navigating Nonprofit-Government Relationships. The school was designed to help city and county staff assess and improve their governments' relations with nonprofits.

The workshop has generated considerable interest. A second offering is planned for October 1-2 in Hickory. Institute faculty also have built consideration of government-nonprofit relationships into other schools and conferences throughout the state.

Publications. In the past year, the Institute published *20 Questions Nonprofits Often Ask about Working with Local Government*¹ and several articles on nonprofits in *Popular Government*, including "A Primer on Nonprofit Organizations," "How Local Governments Work with Nonprofit Organizations in North Carolina," and "Strengthening Relationships between Local Governments and Nonprofits."² Research for these and related publications was supported by a grant from the Jessie Ball duPont Fund, which provided seed money for the Institute's Project To Strengthen Nonprofit-Local Government Relationships.

—Gordon P. Whitaker

Notes

1. LYDIAN ALTMAN-SAUER, MARGARET HENDERSON, & GORDON P. WHITAKER (Chapel Hill: Inst. of Gov't, The Univ. of N.C. at Chapel Hill, 2000).

2. Gita Gulati-Partee, *A Primer on Nonprofit Organizations*, POPULAR GOVERNMENT, Summer 2001, p. 31; Gordon P. Whitaker & Rosalind Day, *How Local Governments Work with Nonprofit Organizations in North Carolina*, POPULAR GOVERNMENT, Winter 2001, p. 25; Lydian Altman-Sauer, Margaret Henderson, & Gordon P. Whitaker, *Strengthening Relationships between Local Governments and Nonprofits*, POPULAR GOVERNMENT, Winter 2001, p. 33.

courts have used two guiding principles in determining whether a particular activity is for a public purpose: (1) whether it involves “a reasonable connection with the convenience and necessity of the [local government]” and (2) whether it “benefits the public generally, as opposed to special interests or persons.”⁵ The first principle deals with the issue of whether the activity is “within the appropriate scope of governmental involvement and is reasonably related to communal needs.”⁶ The courts have analyzed this issue by comparing the activity in question with others that have been approved by the courts, recognizing, again, that the appropriate scope of governmental activity shifts in response to the changing needs and issues in the community.

The North Carolina courts have offered at least two refinements of the second principle. First, it is not necessary to show that every citizen will benefit from an activity for it to be considered a public purpose.⁷ Furthermore, the fact that one or more private individuals benefit does not eliminate the public purpose. In a case upholding a North Carolina local government’s payments and other assistance to a private business for economic development, the North Carolina Supreme Court held that “an expenditure does not lose its public purpose merely because it involves a private actor. Generally, if an act will promote the welfare of a state or a local government and its citizens, it is for a public purpose.”⁸ In that case the court found that, even though the private business would receive funds and other direct benefits, they were incidental to the primary public goal (economic development) of the appropriation. In other words, a private individual or business may directly benefit from a contract or an appropriation. This does not extinguish the public purpose as long as the public will benefit and the private benefit does not outweigh the public benefit.

(For examples of the application of these principles, see the “Assistance to . . .” sidebars.)

3. Explain the requirement for “statutory authority.” Must there be a statute specifically authorizing the contract?

North Carolina local governments do not have inherent authority. They operate under authority delegated to them by the state legislature through enabling laws. So, in addition to its serving a public purpose, a particular action of a local government (including an expenditure or a contract) must be authorized by a state statute.

This does not necessarily mean there must be a statute that specifically authorizes the local government to enter into a contract for every activity it might wish to support. The state constitution, as noted earlier, contains a general authorization for contracts with private entities. In addition, parallel statutes for cities and counties authorize them to contract with any private entity to carry out any public purpose in which they have statutory authority to engage.⁹ This means that as long as a statute authorizes a particular activity, the local government has the choice of carrying out the activity itself or contracting with a third party to carry out all or part of the activity.

4. What about the limitation having to do with violations of state and federal laws or constitutions?

Even if an activity serves a public purpose and is statutorily authorized, a local government may not engage in it if it violates

state or federal law, or is unconstitutional. This is true because of the supremacy of the state and federal governments over local governments. Simply put, local governments may not act in a way that is inconsistent with state or federal law. An example may help readers understand how this limitation works.

A contract with a nonprofit community development organization to provide low-income housing may meet the requirements of public purpose and statutory authority. If, however, the paid executive director of the nonprofit is a member of the governing board of the local government, the contract will violate a state statute that prohibits conflicts of interest unless the procedures in that statute are complied with (see the discussion at question 16 about what constitutes a conflict of interest). A contract that violates the state conflict-of-interest law is unenforceable.¹⁰

Contracts that violate state or federal constitutional provisions also are invalid and may expose the local government to liability (including monetary damages) for violations of individual civil rights, such as equal protection, due process, or freedom of speech. A full discussion of constitutional violations that might occur in the contracting context is beyond the scope of this article.¹¹ Because of the significant involvement of faith-based organizations in local government issues, a more detailed discussion of the limitation imposed by the federal constitution’s prohibition on government establishment of religion (commonly referred to as the requirement to separate church and state) follows.

5. Are local governments prohibited from contracting with religious (faith-based) organizations?

No. Local governments may contract with faith-based nonprofits for services as long as those contracts do not violate the federal or state constitutions or other laws. Generally speaking, a contract with faith-based groups will be deemed lawful if the contract has a neutral purpose and effect both toward religion and among religions, and avoids excessive government entanglement with religion. In other words, the terms of the contract must have the effect of safeguarding (1) the religious freedom of beneficiaries, both those who are willing to receive services from religious organizations and those who object to receiving services from such organizations, and (2) the religious integrity and character of faith-based organizations that are willing to accept government funds to provide services to the needy. (The sidebar on page 40 explains in greater detail these and other restrictions on contracts with faith-based organizations.)

6. What, if any, limitations must a contract involving public funds impose on the activities of the religious organization? What limitations may the contract impose?

Notwithstanding widespread thought to the contrary, there are few legal limitations on religious organizations that receive public funding for programs. Although the public funder is free to impose religion-neutral restrictions, the only generally applicable restriction is that public funds not be used to pay for worship services, sectarian instruction, or proselytization. An example may help illustrate these basic principles.

A faith-based Welfare-to-Work training program uses county funding to buy Bibles and give Bible instruction. Several clients complain that they are being pressured to join the sponsoring church or change their religious beliefs. Under constitutional limitations, public funds may not be used to coerce any person to support or participate in any religion. Therefore the faith-based organization could lose the contract for making the purchases and appearing to condition services on religious activity.

Fearful of a lawsuit, the county amends the contract to provide that the same faith-based organization may run the program but must agree not to use county funds to buy Bibles and give Bible instruction and may not make conversion a requisite of the program. Those provisions are appropriate.

The amended contract also requires the organization to remove all religious art, scripture, and other symbols from the walls of the fellowship hall during program hours. These restrictions are illegal because they result in government control over the internal operation of the church. As such, they may not be imposed as conditions of the contract.

A common misperception is that the use of public funds in program delivery automatically subjects the faith-based institution to the same standards as the public funder. That is not so. Religious institutions retain their autonomy even when under contract with local governments. So, for example, religious organizations retain their right to use religious criteria in hiring, firing, and disciplining employees. Although it would be illegal for local government employers to discriminate in employment on the basis of religion, it is permissible for them to fund a religious group that engages in such discrimination.

Another common misperception is that religious organizations are required to establish a separate organization as a prerequisite to receiving government funding. Again, that is not the case. However, many religious groups do establish a separate organization, or at least segregate government funds in a separate account, to limit the scope of fiscal audits and to protect the autonomy of their organization.

7. The last several questions and answers have addressed limitations on contracting. What about grants and appropriations? Are there different rules for these transactions?

No. Both the basic authority for local governments and the limitations discussed so far are the same regardless of the form of assistance being provided. Contracts, grants, appropriations, and in-kind contributions (such as donations of

property or land, procedures for which are discussed at question 17) are all subject to the same limitations. In effect, each of these involves an expenditure of public funds. A few differences among these forms of expenditure are worth noting, however.

Grants. Although grants and contracts often are thought of separately, a grant is really a kind of contract. It involves the public agency's providing funds in exchange for a promise by the grantee to carry out certain prescribed activities or to produce particular results.

There are, however, some practical differences between grants and other types of contracts. The process for awarding grants is usually different from the process for awarding other kinds of contracts. Competition is typically structured differently, and in many cases a grant may describe the required performance in less detail than other contracts.

Another important difference is that local government grants often involve "pass-through" funds from the state or federal government. Funds and eligibility standards for these grants originate with the state or federal government but are awarded at the local level. These types of grants may require that the local government include reporting, accounting, and other requirements and that it use specified procedures for awarding the grants. With other kinds of contracts, the local government has more discretion to include terms and requirements as it deems appropriate.

Appropriations. Like a grant or other contract, a direct appropriation may be made to a nonprofit organization to carry out any activity for which the local government is authorized to spend money. An appropriation is a budgetary action

ASSISTANCE TO A YMCA

The local YMCA is seeking contributions to fund the construction of a new facility. May the city contribute funds for that purpose?

The city has authority to provide and appropriate funds for recreation programs under G.S. 160A-353. YMCAs typically provide at least some types of recreation programs that would fall within this authority.

The YMCA also may conduct programs for young people to deter delinquency or crime. Support for these programs could be justified under the city's general ordinance-making authority to protect the health, safety, and welfare of its citizens (G.S. 160A-274).

On the other hand, the YMCA may conduct programs that are religious in nature or that are otherwise outside the statutory authority or other limits of the city's power to appropriate

funds. If the city provided funds through a contract, it could limit the use of the funds to activities that fall within its authority. Establishing limits is harder to do with a contribution to support the construction of new facilities. Although no case provides guidance on this question, it seems reasonable that as long as the city obtains a contractual promise from the YMCA that it will use at least some part of the facility to conduct programs that are within the scope of the city's authority, the contribution to the building is a lawful expenditure. The fact that other parts of the building will be used for purposes outside the city's authority is probably not a bar to making the contribution.

ASSISTANCE TO UNITED WAY

May a local government make a donation to United Way?

One of the difficulties with contributions to United Way is that it works with many different organizations, some but not all of which carry out purposes that local governments may legally fund. For this reason a local government should earmark a contribution to United Way to guarantee that the funds will be used only for organizations that are within the scope of the unit's authority. An alternative would be for the local government to make the contribution directly to those organizations rather than through United Way.

that involves the governing board's approving the expenditure of funds for a particular purpose.¹² Although an appropriation may not be accompanied by the same paperwork as grants and other contracts, it really should be treated in the same way. In jurisdictions that require private entities to submit proposals when they are requesting appropriations, the proposals should form the basis for the obligations that bind successful applicants, along with any other conditions that the local government may impose (examples of these conditions are discussed at question 15). In practice, an appropriation is likely to be less specific than a grant or other contract. It may simply take the form of a lump-sum payment by the local government to the nonprofit organization. However, the legal limitations discussed at questions 1–4 still apply. Therefore the local government and the nonprofit organization must take care to ensure that the funds are used only for purposes that the local government has authority to support.

Contracts for services. As noted, a grant or an appropriation may take the form of a contract. In addition, local governments may contract for services with nonprofit organizations in the same way that they contract with other private entities to provide specific services, such as transportation or day care. These contracts may be made through the unit's regular contracting process, rather than through a competitive budgeting or grants process, and will have the same terms and conditions as those regularly imposed on the unit's service providers.

8. How does a local government decide which nonprofits it will support?

The decision-making process varies widely among local governments in North Carolina. In some jurisdictions the governing board appoints a committee to evaluate requests for support from nonprofit organizations as part of the budget development process. Other jurisdictions handle these requests informally, on a case-by-case basis.

If the form of support is an appropriation or a donation of property (see the discussion at questions 7 and 17), the local governing board must ultimately make the decision. However, many contracts, especially service contracts, may be awarded by the manager or department staff under a delegation of authority from the governing board (see the discussion at question 11). There is no legal requirement that support for nonprofit organizations be centralized or coordinated. The decision-making process is more likely to be determined by the type of support that the nonprofit seeks (appropriation, grant, or contract for services) than by the fact that a nonprofit is involved.

DIG (Durham Inmercity Gardeners) teaches youths to tend a garden and market produce. It is a project of SEEDS (South-eastern Efforts Developing Sustainable Spaces), a nonprofit that receives some funds from the Durham County government.



NEWS & OBSERVER / CHUCK LIDDY

9. Must all agreements between local governments and nonprofits be reduced to written contracts with original signatures?

No, but it is a good idea to reduce the common understanding between the parties to writing in order to avoid conflicts in performance and administration of the project or the activity. Several statutory provisions require certain kinds of contracts to be in writing. A state statute requires all contracts by cities to be in writing but provides that the governing board may "ratify" (approve after the fact) contracts that fail to meet this requirement.¹³ Another law requires contracts of \$500 or more for the sale of goods to be in writing, but again, there are exceptions recognized in the law.¹⁴

The courts have long recognized that the most important issue in determining whether an enforceable agreement exists is whether there is proof that the party against whom enforcement is sought intended to be bound by the agreement. The easiest way to prove that is to present something in writing, signed or otherwise authenticated by that person.¹⁵ Oral agreements, even when allowed, may be difficult to enforce.

Recently enacted federal and state laws provide legal recognition of electronic contracts and signatures.¹⁶ So even when a contract is required, it does not necessarily have to be a piece of paper with an original signature.

10. Is it true that local governments may not enter into a contract that extends beyond the current fiscal year? Is there any limit to the length of time for which a local government may contract?

The answer to both questions is no. Although local governments operate on a year-to-year budget, state law specifically authorizes them to enter into contracts for a term that extends into subsequent fiscal years.¹⁷ State law also makes clear that when a local government does enter into a contract that obligates it to make payments in a subsequent fiscal year, the governing board is legally obligated to budget the funds necessary to pay those obligations in each subsequent fiscal year.¹⁸ Although state law does not specifically require all continuing contracts to be approved by the governing board, in light of the obligation that these contracts place on the budgeting decisions of the board, it may be advisable to seek governing board approval.

There does not appear to be any limitation on the term for which a local government may contract, except that a contract that does not state a term will probably not be interpreted to be perpetual. Instead, a court would most likely interpret the contract to be for a "reasonable term" as indicated by the purpose of the contract and the apparent intent of the parties.¹⁹

11. What procedures apply to contracts between local governments and nonprofit organizations?

It is hard to account for every procedural requirement that might apply to a particular contract. Following is a discussion of the most common requirements to consider.

Governing board approval. The governing board of a local government has the basic authority to act for the unit.²⁰ This means that the authority to make contracts (and grants and appropriations) rests with the governing board. Unless a statute specifically requires the board to act, however, the board may delegate the authority for these actions to an appointed officer within the unit.²¹ The governing body must make budgetary decisions, including appropriations to nonprofit organizations. Decisions on grants or other contracts generally may be made by the governing board or may be delegated to the manager, a department head, or another appointed official or board.

It is important for a nonprofit contracting with a local government to make sure that the person or the board that approves the contract has the legal authority to do so. A contract made on behalf of a local government by someone who does not have authority to act on its behalf is not enforceable, even if the nongovernmental party (the nonprofit) reasonably believed that the person or the board did have authority.²²

*Competitive bidding.*²³ For North Carolina local governments, only two categories of public contracts require bidding: (1) contracts for construction or repair work and (2) contracts for the purchase or lease-purchase of apparatus, supplies, materials,

ASSISTANCE TO A NONRESIDENT NONPROFIT

May a city contribute money to a nonprofit that provides services outside the city's jurisdiction? For example, may a city support a nonprofit that operates a homeless shelter located outside the city?

A key consideration in analyzing whether a local government may provide support in this circumstance is whether the nonprofit provides a benefit to the citizens of the local government (see questions 2 and 3 of the main article). It does not matter where the nonprofit is located, as long as there is a benefit enjoyed by the citizens of the supporting local government. In addition, it is not necessary that all citizens within the jurisdiction benefit. As long as the facility or the program is open to all citizens and there is some actual or expected participation or benefit by citizens of the supporting jurisdiction, the expenditure is lawful. The local board, of course, has the discretion to decide whether the likely participation justifies the financial support and, if so, in what amount.

The program also must be one for which the local government has authority to appropriate funds. For example, cities do not have authority to support county volunteer fire departments that provide fire services only in the unincorporated areas of the county. On the other hand, if there is an agreement between the city and the volunteer fire department for mutual aid or some other service that benefits residents of the city, a contribution will be legally justifiable. Applying these principles to the original question, since a local government has authority to provide shelter for the homeless (see G.S. 157-9), it may support a shelter located in another jurisdiction as long as citizens of the local government will derive some benefit from it.

ASSISTANCE TO HABIT FOR HUMANITY

May a local government donate land to Habitat for Humanity, which will use it to build a house for a private individual to own?

Both cities and counties have authority to support affordable housing, including through the conveyance of real property.¹ Of course, if the conveyance is without monetary consideration, there must be a promise in exchange for the property that it will be used for a public purpose. Even though a private individual will benefit from the new house, it is generally understood that the community as a whole benefits from having affordable housing available and from improving the living conditions of its citizens. Under this reasoning a court would likely uphold the contribution of funds or property to Habitat for Humanity, an organization that is dedicated to the goals just described and whose programs are designed to ensure that the benefit will go to people who are truly needy.

Notes

1. G.S. 153A-378 (counties); G.S. 160A-456(b) (cities). See the discussion in DAVID M. LAWRENCE, *LOCAL GOVERNMENT PROPERTY TRANSACTIONS* 138–39 (2d ed., Chapel Hill: Inst. of Gov't, The Univ. of N.C. at Chapel Hill, 2000).

or equipment.²⁴ The specific procedures required for these contracts depend on the estimated amount of the expenditure.²⁵ Contracts that do not fall within these two categories or that fall below the minimum dollar thresholds do not require bidding. *Most contracts with nonprofit organizations involve services and are not subject to the competitive-bidding requirements.*

Many local governments seek competition even when they are not required to do so. This is certainly a good strategy if there is competition for the desired service. It promotes fairness and encourages competitive pricing. When local governments seek competition at their own option (rather than under state law requirements), the terms of the competition, including the basis for award of the contract, may be established in the discretion of the local unit. The unit may award the contract to the bidder who best meets the needs of the unit, rather than the one who submits the bid with the lowest price.

Contracts or grants that involve state or federal funds may have additional bidding requirements with which the local government must comply as a condition of receiving the funds.

Fiscal approvals. State law requires contracts by local governments to be “preaudited” to ensure that (1) the obligation created by the contract is supported by an appropriation (in other words, that the board has authorized the money to be used for the contracted purpose) and (2) uncommitted funds remain in the budget sufficient to pay the obligation.²⁶ This requirement is carried out through a “preaudit certificate,” a written statement signed by the finance officer that the two-part test (the preaudit) has been conducted. The statement must appear on every contract. According to the statute and to

cases applying it, if a contract does not contain the preaudit statement, it is void and may not be enforced by either party.

If a contract involves a financing agreement (a kind of transaction that involves a borrowing of money by the local government or payment over time for an asset), additional approvals—for example, by the state Local Government Commission—may apply.²⁷

12. Is a local government required to determine whether it can provide the service in house before contracting with a private entity to provide the service?

No, although some may do so as a matter of local discretion. There is no legal requirement or preference for performing functions or delivering services using public employees rather than through contracts with private entities. When the bidding requirements apply (see the discussion on competitive bidding at question II), the local government is required to give the private sector the opportunity to contract. In addition, some units of government have privatization or managed-competition programs in place, under which the units systematically compare the cost and the desirability of using the private sector with the cost and the desirability of public delivery. These programs are implemented as a matter of local policy, however, and are not mandated by law.

13. Do all the principles discussed so far also apply to contracts with for-profit organizations?

Yes. As a general rule, the subject of a contract, not the entity with whom the contract is made, is the most important consideration in determining whether the local government has the authority to make the contract. The procedural requirements and other limitations are the same, regardless of the profit status of the contracting entity. The fact that an entity receiving support from a local government is a for-profit organization may feature prominently in the analysis of whether the expenditure meets the public-purpose requirement, but the legal standard that a court would apply is the one discussed at question 2. Furthermore, a private for-profit entity is less likely than a nonprofit organization to be limited in its use of public funds. For example, a nonprofit organization will be prohibited from using public funds for religious or other purposes for which funds may not legally be appropriated.

14. What are some other ways in which a nonprofit's contract with a local government differs from a nonprofit's contract with a private entity?

A nonprofit should be prepared for the open and public nature of the public contracting process, which may not be present when the nonprofit contracts with private entities. When a local government board makes a decision on a contract, a grant, or an appropriation, that decision must be made in an open meeting. The board generally does not have the legal authority to conduct its discussion of this type of transaction in a closed session. There are a few exceptions to this rule, such as when the acquisition of property by the local government is involved or when the matter relates to litigation or something that is covered by the attorney-client privilege.²⁸

In addition, all the documents associated with the transac-

ASSISTANCE TO FAITH-BASED ORGANIZATIONS

May a local government enter into an exclusive contract with a faith-based organization to provide job placement if the organization is the only one in the area that can provide the services?

Yes, under limited conditions. Neither federal nor state law absolutely prohibits a local government from contracting with a faith-based organization to be the sole provider of services in a particular area. However, beneficiaries of the services are entitled to an alternative provider if they object to the religious character of the sole provider. If someone objects, the local government must itself provide the services to those who choose not to participate with the religious organization, or engage an acceptable provider outside the area to provide an equivalent and accessible service in a timely manner.

May a local government make funds to build houses available to some nonprofits but refuse to make such funds available to a qualified church group because of its religious character?

No. If the local government elects to involve nonprofit providers in the delivery of services, then it may not automatically exclude providers because of their religious character. In a recent case, the Fourth Circuit Court of Appeals wrote,

We recognize the sensitivity of this issue, and respect the constitutional imperative for government not to impermissibly advance religious interests. Nevertheless, by refusing to fund a religious institution solely because of religion, the government risks discriminating against a class of citizens solely because of faith. The First Amendment requires government neutrality, not hostility, to religious belief.¹

May a local government require as a part of its contract with a faith-based institution running an abstinence program for teenagers that the advisory council reflect the diverse demographics of the community?

No. A series of specific constitutional protections would prohibit such a requirement. Faith-based providers may not be required to alter their form of internal governance to be eligible for participation in a government program. The structural form of a religious organization often is dictated by religious doctrine, and "ecclesiastical polity" (the political organization of a church) is protected by the state and federal constitutions.

Notes

1. *Columbia Union College v. Oliver*, ___ F.3d ___ (No. 00-2193, June 26, 2001) [state funding case finding adequate safeguards against diversion of money to sectarian use under *Mitchell v. Helms*, 530 U.S. 793 (2000)].

tion, including proposals, correspondence, and contract documents, are public records.²⁹ Again, there are a few exceptions. Documents constituting trade secrets as defined by state law that are a part of a bid proposal may be confidential and excluded from public access.³⁰ In addition, tax returns and some financial information of a private organization may be covered by one or more exceptions to the public records law.³¹ It seems unlikely, however, that any of these exceptions would apply to contracts typically entered into by nonprofit organizations, because their tax information already is subject to public scrutiny. Thus a nonprofit organization should assume that all or most of the documents held by a local government in connection with the nonprofit's work with that government are subject to public inspection.

15. What requirements are imposed on a nonprofit when it contracts with a local government?

Although relatively few legal requirements *automatically* apply to a nonprofit by virtue of its contract with a local government, the local government may impose requirements on a nonprofit through the contract itself or otherwise, as a condition of receiving the funds. As a general rule, a nonprofit's receipt of public funds does not make it subject to the rules that govern public agencies, such as those pertaining to bidding, public personnel, public records, and open meetings. Only when the nonprofit is significantly controlled by the public agency have the courts extended these types of requirements to a private nonprofit entity.³²

Some examples of requirements that do apply or might be imposed follow.

Fiscal accounting. State law specifically authorizes local governments to require that a nonprofit that receives \$1,000 or more in any fiscal year have an audit performed for the fiscal year in which the funds are received.³³ Local governments also may be responsible for administering state or federal programs that contain fiscal accounting requirements. Finally, a local government may require nonprofits to account for funds they receive, in whatever manner the local government deems appropriate as a condition of providing funds. A nonprofit that receives funds under a grant, a contract, or an appropriation that contains this requirement is legally bound to comply with it. When fiscal accounting is not required by state or federal law, a local government has flexibility in designing the reporting requirement, and should consider ways of requiring account-

ability that strike a balance between the government's needs and the nonprofit's capacity (see the sidebar, page 43).

Conflicts of interest. As noted at question 16, state law prohibits a public official who has responsibility for contracting, from benefiting from a contract with the unit of government that he or she represents. A person who contracts on behalf of a nonprofit (and who is not a public official) is not subject to this law, even when funds that came from a public entity are being spent. A local government may, however, require a nonprofit organization to adopt a conflict-of-interest policy as a condition of receiving a contract, a grant, or an

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CONTRACTS WITH FAITH-BASED ORGANIZATIONS

ANITA R. BROWN-GRAHAM

The Establishment Clause of the First Amendment to the U.S. Constitution ultimately controls the legality of contracts with faith-based organizations. It dictates that "Congress shall make no law respecting an establishment of religion." Although some have viewed the First Amendment as a wall of separation between the government and religion, the courts never have interpreted it so literally.¹ This sidebar addresses the tests employed by the courts to assess the legality of government contracts with faith-based organizations.

The *Lemon* Test

The only recent U.S. Supreme Court case considering the legality of public contracts with religious organizations is *Bowen v. Kendrick*.² In *Bowen* the Court upheld the constitutionality of the Adolescent Family Life Act (AFLA), which offered federal grants to public and private (including religious) agencies to curtail teenage sexuality and pregnancy and to assist unwed mothers. The *Bowen* Court applied a three-part test that it had set forth in *Lemon v. Kurtzman* for determining when a governmental practice violates the Establishment Clause. Under *Lemon* a local government may contract with a faith-based institution if the contract (1) has a secular purpose, (2) has a primary effect of neither advancing nor inhibiting religion, and (3) does not create an excessive entanglement between the government and religion.³ Although the Supreme Court has modified the *Lemon* test, it still appears to set the parameters for analyzing government contracts with religious institutions.

Secular Purpose

In considering whether a contract has a secular purpose, the courts may ask whether the government "has abandoned neutrality and acted with the intent of promoting a particular point of view in religious matters."⁴ The *Bowen* Court deferred to Congress's declaration that the legitimate secular purpose behind the AFLA was the elimination or the reduction of social and economic problems caused by teenage sexuality, pregnancy, and parenthood.

Similarly, courts will usually defer to a local government's sincere articulation of a secular purpose. However, when there is no question that the purpose behind the contract is either to endorse or to disapprove religion, courts will find the contract to violate the First Amendment.⁵

Primary Effect

The "primary effect" prong of the *Lemon* test focuses on the effect of the local government's action, irrespective of purpose. If the primary effect is to advance or inhibit religion, the action is unconstitutional. The *Bowen* Court concluded that the primary effect of the AFLA was not to advance religion. Although many of the "necessary services" mentioned by the

AFLA involved education or counseling, areas in which religious organizations might arguably infuse "proselytization" (efforts to convert clients to their beliefs), the Court found "nothing inherently religious about these activities."⁶

The second prong mandates that local governments not show favoritism for religion or among religions, or discriminate against religion. In determining the effect of the local government's action, a court may look to factors such as whether the aid is available to religious and nonreligious organizations alike, whether the aid to religious organizations is direct or indirect, and whether the religious organizations would likely divert the aid to advance religion.⁷

Excessive Entanglement

The "excessive entanglement" prong of the *Lemon* test prohibits governments from excessive entanglement in religious affairs. Local governments risk excessive entanglement when they become partners with organizations in programs that are pervasively religious. If the programs require obedience to religious dogma, mandatory attendance at religious services, and study of a particular religious doctrine, local governments should beware. To ensure that their funding is not used to advance religion, they must engage in ongoing surveillance of the programs, which may well constitute excessive entanglement. In *Bowen* the Court acknowledged that grant monitoring might require a review of the educational materials or a visit to the site, but it summarily dismissed the idea that such inspections would intrude on religion. Because no grantees were presumed to be "pervasively sectarian," the Court found intensive monitoring unnecessary.

The form of aid and the funding process also may result in excessive entanglement. Although there is no prohibition against annual funding to religious organizations, the risk of entanglement is lessened when a payment is one-time.⁸

A final concern in determining excessive entanglement is the possibility of political divisiveness. To date, this concern has been confined to cases in which a government pays direct financial subsidies to parochial schools or to teachers in parochial schools.⁹ However, with the increased incidence and criticism of government partnerships with religious organizations, the concern soon may be raised in other types of cases.

Other Tests

In addition to using the *Lemon* test, courts may analyze challenges to government contracts with religious organizations under an endorsement test, a neutrality test, a coercion test, and a free-speech test.¹⁰ Because the Supreme Court has not mandated that courts use a particular test when analyzing Establishment Clause cases, courts are free to select the test that best fits the case.

Although some have viewed the First Amendment as a wall of separation between the government and religion, the courts never have interpreted it so literally.

The endorsement test requires courts to consider the following: (1) "whether the government [subjectively] intends to convey a message of endorsement or disapproval of religion" and (2) whether the government practice actually has had "the effect of communicating a message of government endorsement or disapproval of religion."¹¹

The neutrality doctrine demands that the government remain neutral toward religion. In 1995 the Supreme Court relied on this doctrine to declare that, by failing to provide school funds to a religious student group in a limited public forum, the University of Virginia engaged in discrimination against viewpoints and violated the students' free speech rights.¹²

The coercion test makes clear that "government may not coerce anyone to support or participate in religion or its exercise, or otherwise act in a way 'which establishes a [state] religion or religious faith, or tends to do so.'"¹³ Clearly, a Welfare-to-Work program that is mandated by the county would run afoul of this test if participation was mandatory and the only service provider was a religious organization that made its religious tenets a core of its program.

The free-speech test requires governments that provide public funds to groups to refrain from showing a preference between religious and nonreligious groups.¹⁴

Other Authorities

In considering the limitations on a local government's ability to contract with a faith-based organization, officials also must take the North Carolina Constitution into consideration. Article I, Section 13, states that "all persons have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences, and no human authority shall, in any case whatever, control or interfere with the rights of conscience." Although the state and federal constitutional provisions are not identical, state courts have said that the two provisions secure similar rights. Thus, cases involving the state constitution are usually analyzed using the federal tests discussed earlier.

Despite similar analyses a challenge to a local government's contract with a religious organization may come under the

federal or state constitution, or both. For example, the North Carolina Supreme Court recently struck down a state law that provided a tax exemption for religious or Masonic organizations operating homes for senior citizens but denied the benefit to secular institutions offering the same services.¹⁵ The court found that the provision violated both the state and the federal constitution.

Finally, federal or state law may impose nondiscriminatory restrictions on a faith-based institution that receives funds. For example, the Personal Responsibility and Work Opportunities Reconciliation Act of 1996, which coined the now-popular term "charitable choice," provides that, although states and local governments may use federal Welfare-to-Work funds to contract with religious organizations to provide services, (1) those funds may not be expended for sectarian worship, instruction, or proselytization; (2) participants must be provided with notice that they have a right to an accessible, nonsectarian alternative; and (3) voluntary programs must be truly optional.¹⁶

Notes

1. See *Bowen v. Kendrick*, 487 U.S. 589 (1988) (upholding, on their face, federal grants for teenage sexuality counseling, including counseling offered by faith-related centers).

2. *Id.*

3. *Lemon v. Kurtzman*, 403 U.S. 602, 612-13 (1971). The *Lemon* test was modified for cases involving aid to religious schools in *Agostini v. Felton*, 521 U.S. 203, 232-33 (1997).

4. *Ehlers-Renzi v. Connelly School of the Holy Child*, 224 F.3d 283, 288 (4th Cir. 2000). See also *Edwards v. Aguillard*, 482 U.S. 578, 585 (1987) (striking down Louisiana law that forbade teaching of evolution in public schools unless accompanied by teaching of creationism).

5. See, e.g., *Hall v. Bradshaw*, 630 F.2d 1018 (4th Cir. 1980).

6. *Bowen*, 487 U.S. at 602.

7. See *Mitchell v. Helms*, 530 U.S. 793, 809 (2000).

8. See Christopher Bass, *Appropriations to Church-Affiliated Organizations*, LOCAL GOVERNMENT LAW BULLETIN No. 75 (Nov. 1996).

9. *Id.*

10. Deborah L. Ross, *The Religious Clauses: Protecting the Rights of Religious Minorities in a Diverse Society*. TRIAL BRIEFS 10 (Jan. 2001).

11. *Lynch v. Donnelly*, 465 U.S. 688, 690-92 (1984).

12. *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819, 829-32 (1995).

13. See *Jones v. Clear Creek Indep. Sch. Dist.*, 977 F.2d 96, 97 (5th Cir. 1992).

14. See, e.g., *Lamb's Chapel v. Center Moriches Union Free Sch. Dist.*, 508 U.S. 384 (1993) (holding that if school opened its classroom to certain secular community and civic groups after school hours, it could not deny use to religious group).

15. *In re Springmoor, Inc.*, 348 N.C. 1, 498 S.E. 177 (1998).

16. 42 U.S.C. § 604a. The act extends coverage of the charitable choice provision to Temporary Assistance for Needy Families, Welfare-to-Work, Community Services Block Grants, and drug treatment funds for 2000 (part of Block Grants in Children's Health, Substance Abuse and Mental Health Services Administration).

appropriation from the local government. This has become a common requirement for state grants to local governments and also may be a requirement for state or federal pass-through grants or contracts awarded by local governments.

Purposes for which funds or property may be used. As noted at questions 1 and 2, a major limitation imposed on a nonprofit that accepts public funds is that the funds be used only for the purpose for which they were awarded. This is a particularly important limitation for faith-based organizations but applies equally to others. This limitation does not necessarily mean that each dollar must be traced, but it does mean that the nonprofit organization must be prepared to account for the use of the money and to show that the terms of the contract, the grant, or the appropriation have been met, and that the funds have not been used for a different, unauthorized purpose. As noted at question 17, if a local government donates property to a nonprofit, it must ensure that the property is used only for purposes for which the local government may appropriate funds.

16. What about conflicts of interest? For example, if a county commissioner also serves on the board of a nonprofit, is the county legally barred from contracting with that nonprofit?

State law makes it unlawful for a public official to benefit from a contract with the unit he or she represents.³⁴ For example, a local government generally may not contract with a business owned by one of its board members. A number of exceptions apply, however, including one that allows a limited amount of contracting in small jurisdictions.³⁵

The conflict-of-interest laws do not apply if the public official does not receive any financial benefit from the contract. Also, a public official is not considered to have an interest in a contract if he or she is an employee, rather than an owner, of the entity that contracts with the local government. So it is legal for a local government to contract with or provide other support to a nonprofit when a member of the local government's board is a volunteer (unpaid) member or salaried employee of the nonprofit board. In addition, it is legal under the "employee" exception for a local government to contract with a nonprofit whose paid executive director also is a member of the local government board, provided that the local government complies with the statutory requirements for approving contracts under that exception.³⁶

The board members and the employees of both the local government and the nonprofit always must consider the non-legal issues that might arise when a person is involved on both sides of a contract. There may be negative publicity from this type of transaction, and citizens as well as members of the nonprofit may question whether the board member or other person can adequately execute his or her responsibilities to both organizations, especially if a conflict was to arise over the contract. Thus even when the law does not prohibit a contract, avoiding it may be advisable if an ethical issue or perception of conflict of interest might arise.

Other kinds of connections might exist between a local government official and people who are involved with a nonprofit that wishes to contract with the local government.

Relatives or spouses of public officials from a particular local government are not legally barred from doing business with that nonprofit, but government officials and nonprofit staff should weigh the possibilities of negative publicity, public perception, and difficulty in administration before they enter into these types of undertakings.

17. May a local government donate property to a nonprofit or provide other in-kind support of nonprofit activities?

Yes. Subject to the requirements of public purpose and statutory authority, discussed at questions 1–3, local governments may provide in-kind support of whatever nature they choose. This includes not only the sale or the donation of property but also technical support or other assistance that may be provided using the unit's employees, building space, land, or equipment. Although the state constitution generally prohibits a local government from giving public money or property to a private person or entity,³⁷ North Carolina court cases have recognized that a promise to use property for a public purpose is legally sufficient consideration to support its conveyance.³⁸ This means that as long as the proposed use is one for which the local government has authority to spend money, the local government may provide in-kind support as an outright donation in lieu of or in addition to a cash appropriation. The local government also may convey property at less than fair market value in exchange for cash or a promise of public services. Finally, the local government may choose to sell property to nonprofit organizations using the procedures designed to get fair market value, in the same manner as it would for (and in competition with) other private entities.

There is a special statutory procedure under which local governments may convey property to nonprofit entities without having to receive competition from other private entities. Under G.S. 160A-279 a city or a county may convey property to any entity that carries out a public purpose for which a local government has authority to appropriate funds.³⁹ Conveyances under this statute must be approved by the governing board. Notice of the proposed action must be advertised, and the unit must wait ten days after the notice is published before completing the transaction.⁴⁰ The statute also requires that the local government place conditions on the conveyance to ensure that the property will be put to a public use. In the case of real property, the condition could be embodied in a deed limitation providing that the property reverts to the government if it ceases to be used for a public purpose. For personal property the condition would likely take the form of a contractual agreement with the recipient, who promises to return or pay fair value for the goods if the use changes. Property acquired through the exercise of eminent domain may not be conveyed under this statute.

There are other statutory authorizations for donations of property for specific purposes. For example, state law specifically authorizes local governments to sell or donate real property to volunteer fire departments or volunteer rescue squads that provide services to the local government.⁴¹ State law also sets out procedures for conveying surplus automobiles to entities that will convey them to Work First participants, subject to certain limitations described in the statute.⁴² Further, state

ACCOUNTABILITY: IT'S MORE THAN AN AUDIT

Requiring nonprofits to account for their use of public funds is standard practice. The most common form that this requirement takes is an audit. An audit, however, is a very limited tool for obtaining accountability. Technically an audit is an independent verification that financial statements follow generally accepted accounting principles. It does not provide information about how funds have been used, nor does it measure what results have been achieved.

To be useful, accountability measures should be incorporated into the contracting process before and during the contract. Also, they should be designed to ensure that the desired outcomes of the contract are achieved.

Two key aspects of a local government contract with a nonprofit affect the type of accountability measures that are appropriate: nature and size.

Nature of the contract: a purchase of services or general program support. Accountability measures for a contract to purchase services from a nonprofit should be tied to the services to be delivered. Such measures may be similar to those that would be required in contracts with for-profit entities. Contracts to provide more general programmatic support, however, are likely to demand a different type of accountability. Thus a grant to a local arts organization to promote cultural activities in the community should be treated differently than a contract to provide meals or transportation to needy people. (For an illustration of different outcome measures for these two types of contracts, see the bulleted item titled "Develop performance-based contracts.")

Size of the contract: one size doesn't fit all. Accountability measures should be consistent with the level and the type of support involved. A contract that involves a small amount of money may not justify detailed accountability measures. For example, a small, inexperienced nonprofit may seek funds for a service that is important to the community, and it may be the sole provider of that service—such as a mission that provides shelter or food for the homeless. In such a case, taking some risk with a small contribution of funds may be justifiable, weighing the lack of a competitive market, the strong need for the service, and the limited investment involved against the potential instability associated with the nonprofit.

With these factors in mind, local governments should consider taking the following steps to increase the effectiveness of local government contracts with nonprofits.

- **Evaluate capacity:** Determine whether the nonprofit has the capacity to carry out the contract before entering into it. Obtain information about staff resources, experience, prior contracts or projects completed, references, and current funding. As noted earlier, the extent of this evaluation should be based on the size and the type of contract. In addition, in determining whether the contracting option itself is the most desirable arrangement, the local government should consider its own capacity to monitor the contract. Neither party benefits if the contract requires nonprofits to provide information that the local government does not have the capacity to review and evaluate in a timely manner.
- **Develop performance-based contracts:** Contracts should identify the outcomes that the nonprofit will be responsible for delivering. These may be defined quite specifically (for example, "Provide two meals a day to an average of 200 people per day") or stated in more general terms (for example, "Promote downtown development through support of cultural events downtown"), but both parties should have a common understanding of what they expect the nonprofit to produce. Ideally these results would be priorities for the local government and be agreed on by both parties. They are best if jointly developed, and expressed in writing in terms that minimize the need for clarification or interpretation during the contract period.
- **Monitor during performance:** Develop milestones and interim dates for monitoring performance. Such benchmarks allow both parties to evaluate the contract and identify trouble spots early in the process. Consider developing periodic reporting requirements, which may be used as a basis for making partial or progress payments for work completed. This benefits nonprofits, which often have cash flow problems and cannot afford to wait until the end of the contract period to be reimbursed for their expenses. It improves their ability to meet their obligations under the contract.

law authorizes a local government to donate to a 501(c)(3) nonprofit any bicycles that are held by law enforcement agencies and that remain unclaimed after notice has been provided according to the statute.⁴³

Local governments also may include nonprofit organizations and their staff in other activities. For example, a local unit might include nonprofit staff in its training programs or use its purchasing power to purchase goods or services on behalf of the nonprofit for use in programs that the local govern-

ment has authority to fund. Further, a local government may make the expertise of its staff available to the nonprofit as a form of in-kind assistance that might save money for both the local government and the nonprofit. In each case the basic legal limitations on these types of in-kind assistance are the same as those discussed at the beginning of this article. If the activity of the nonprofit is one that the local government has legal authority to support, it can provide in-kind support in a wide variety of ways.

Conclusion

Nonprofit organizations have cooperated with the public sector since colonial times to provide food, medical care, and social services to those in need. The recent movement toward enhancing that partnership presents both opportunities and challenges. To many local governments, reducing agreements to written contracts only serves to codify an existing relationship. For others it requires a new level of detail and accountability. In either event the contract provides important parameters for both the local government and the nonprofit

organization. Contracts should focus on the services to be provided but also must be consistent with state and federal law. The legal parameters take on constitutional dimensions when questions regarding the freedom of religion or speech arise. Without the guidance and protection of a good contract, a local government funder and its nonprofit partner may run into legal or practical problems despite their shared good intentions. Working within the limitations discussed in this article, local governments and nonprofits can continue and expand their collaborative efforts to improve the lives of the people in their communities.

Notes

1. N.C. Const. art. V, § 2(1).
2. *Hughey v. Cloninger*, 37 N.C. App. 107, 245 S.E.2d 543 (1978), *aff'd*, 297 N.C. 86, 253 S.E.2d 898 (1979).
3. N.C. Const. art. V, § 2(7).
4. *Mitchell v. North Carolina Indus. Dev. Fin. Auth.*, 273 N.C. 137, 144, 159 S.E.2d 745, 750 (1968).
5. *Madison Cablevision v. City of Morganton*, 325 N.C. 634, 646, 386 S.E.2d 200, 207 (1989).
6. *Maready v. City of Winston-Salem*, 342 N.C. 708, 722, 457 S.E. 2d 615, 624 (1996).
7. *Briggs v. City of Raleigh*, 195 N.C. 223, 226, 141 S.E. 597, 599-600 (1928).
8. *Maready*, 342 N.C. at 724, 467 S.E. 2d at 625.
9. N.C. GEN. STAT. §§ 160A-20.1, 153-449. Hereinafter the General Statutes will be referred to as G.S.
10. *Lexington Insulation Co. v. Davidson County*, 243 N.C. 252, 90 S.E.2d 496 (1955).
11. For more information on liability for local government officials, see ANITA R. BROWN-GRAHAM, *A PRACTICAL GUIDE TO THE LIABILITY OF NORTH CAROLINA CITIES AND COUNTIES* (Chapel Hill: Inst. of Gov't, The Univ. of N.C. at Chapel Hill, 1999).
12. See LYDIAN ALTMAN-SAUER, MARGARET HENDERSON, & GORDON P. WHITAKER, 20 QUESTIONS NONPROFITS OFTEN ASK ABOUT WORKING WITH LOCAL GOVERNMENT 13, 15-16 (Chapel Hill: Inst. of Gov't, The Univ. of N.C. at Chapel Hill, 2000).
13. G.S. 160A-16.
14. G.S. 25-2-201(1).
15. "Otherwise authenticated" means indicated by some mark or symbol as being adopted by the party to be charged. See G.S. 25-1-201(39) (definition of "signed" as explained in the amended official comment).
16. 15 U.S.C.A. § 7001(a); G.S. 66-317.
17. G.S. 160A-17, 153A-13.
18. G.S. 159-13(15). Similar language exists

in the budgeting requirements for local school units. This fact suggests that there is implicit authority for local school units to enter into continuing contracts. See G.S. 115C-432(b)(4).

19. JOHN N. HUTSON, JR., & SCHOTT A. MISKIMON, *NORTH CAROLINA CONTRACT LAW* § 2-30-2 (New York: LEXIS Publishing, 2001).

20. See G.S. 160A-12, 153A-12.

21. An example of a statute that requires board action is G.S. 143-129, which requires contracts for construction or repair work estimated to cost \$100,000 or more to be awarded by the governing body.

22. *L&S Leasing, Inc. v. City of Winston-Salem*, 122 N.C. App. 619, 471 S.E.2d 118 (1996). The rule on this issue is different for public agencies than for private ones. With private entities the doctrine of "apparent authority" allows the enforcement of a contract made by an agent who seemed to but did not actually have authority to bind the entity. Courts have declined to apply this rule to public agencies. See FRAYDA S. BLUESTEIN, *A LEGAL GUIDE TO PURCHASING AND CONTRACTING* 6-7 (Chapel Hill: Inst. of Gov't, The Univ. of N.C. at Chapel Hill, 1998).

23. For a complete discussion, see BLUESTEIN, *A LEGAL GUIDE*.

24. G.S. 143-129, -131.

25. Currently, advertisement and sealed bids are required for construction and repair contracts estimated to cost \$100,000 or more, and for purchase contracts estimated to cost \$50,000 or more. G.S. 143-129. Informal bids (no advertisement or sealed bids required) are required for contracts costing between \$5,000 and the formal limit. G.S. 143-131.

26. G.S. 159-28(a).

27. See G.S. 158-143, 160A-20.

28. See G.S. 143-318.9 through -318.11.

29. G.S. 132-1.

30. G.S. 132-1.2. For a discussion of what constitutes a trade secret, see DAVID M. LAWRENCE, *PUBLIC RECORDS LAW FOR NORTH CAROLINA LOCAL GOVERNMENTS* ch. 9

(Chapel Hill: Inst. of Gov't, The Univ. of N.C. at Chapel Hill, 1997).

31. LAWRENCE, *PUBLIC RECORDS LAW*, at 133-36, ch. 11.

32. See *News and Observer Publishing Co. v. Wake County Hosp. Sys.*, 55 N.C. App. 1, 284 S.E.2d 542 (1981).

33. G.S. 159-40.

34. G.S. 14-234.

35. G.S. 14-234(d1) (allowing contracts for most services up to \$25,000 per year in cities with a population of 15,000 or less, and in counties with no incorporated municipality with a population of 15,000 or more). For a detailed analysis of the conflict-of-interest laws and of ethics for public officials, see A. FLEMING BELL, II, *ETHICS, CONFLICTS, AND OFFICES: A GUIDE FOR LOCAL OFFICIALS* (Chapel Hill: Inst. of Gov't, The Univ. of N.C. at Chapel Hill, 1997).

36. See G.S. 14-234(c1).

37. N.C. Const. art. I, § 32 ("No person or set of persons is entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services").

38. See *Brumley v. Baxter*, 225 N.C. 691, 36 S.E.2d 281 (1945) (upholding conveyance of city property to private veterans' organization for recreational use of veterans).

39. This provision does not apply to local school units, which must receive monetary consideration when disposing of property because of the constitutional requirement that all school funds be used exclusively for public school systems. N.C. Const. art. IX, § 7; DAVID M. LAWRENCE, *LOCAL GOVERNMENT PROPERTY TRANSACTIONS* 93 (2d ed., Chapel Hill: Inst. of Gov't, The Univ. of N.C. at Chapel Hill, 2000).

40. G.S. 160A-279 requires compliance with the procedures of G.S. 160A-267 (private sale).

41. G.S. 160A-277.

42. G.S. 160A-279(a).

43. G.S. 15-12(b).

North Carolina Leaders at the National Level

A. John Vogt

North Carolina local government enjoys a reputation for professional management. All the state's 100 counties and most of its cities and towns of more than 5,000 people have the council-manager or council-administrator form of government. Further, many municipalities with less than 5,000 people also have town managers or administrators.¹

North Carolina also is known for excellent financial management of local government.² It is characterized by effective budgeting, accounting that meets generally accepted accounting principles, innovative yet sound capital financing, and forward-looking financial planning. These characteristics, coupled with oversight of local finance by the state's Local Government Commission, explain why North Carolina's cities and counties generally have more favorable bond ratings than cities and counties in almost any other state.

North Carolina's city and county managers, finance officers, and budget officials play central roles in ensuring quality local government in the state. Some also are making notable contribu-

tions nationally, serving on the national executive boards of their respective professional organizations. Their achievements reflect the contributions that North Carolina's city and county managers, finance officers, and budget officials have made to local government and to their respective professions.

Managers on the ICMA Executive Board

Three North Carolina officials currently (as of this writing) serve on the executive board of the International City/County Management Association (ICMA): Bryce A. (Bill) Stuart, manager of Winston-Salem; J. Thomas Lundy, manager of Catawba County; and Carolyn H. Carter, assistant manager of Raleigh. The ICMA seeks to further professional management in cities, counties, and other local governments. Most of its members serve in local units with the council-manager form of government. North Carolina has more representation on the twenty-member ICMA executive board than any other state.

Stuart serves on the executive board as a past president of the organization (1998–99). He was president of the North Carolina City/County Management Association in 1988 and chaired the Host Committee for the national ICMA conference in Charlotte that year. In addition, he served on the ICMA executive board from 1993 to 1995 and chaired the Program Planning Committee for the 1985 national conference.

Stuart has been manager of Winston-Salem since 1980. Earlier, he was assistant manager and budget director in Charlotte. During his tenure as Winston-Salem's manager, the city has won numerous national honors—for example, the Public Technology, Inc. Leadership Award in 1996.

Stuart also has worked internationally, consulting under U.S. Agency for International Development contracts with local officials in Mbabane and Manzini, Swaziland, and Arequipa, Peru.

The author is an Institute of Government faculty member who specializes in local government budgeting and finance. Contact him at vogt@iogmail.iog.unc.edu.



Bryce A. (Bill) Stuart



J. Thomas Lundy



Carolyn H. Carter

He received a B.S. in public administration from the University of Southern California in 1964.

Lundy is one of two southeast regional vice-presidents for the ICMA. Previously he served on numerous ICMA committees—for example, the Strategic Planning Committee. He is a past president of the National Association of County Administrators and of the North Carolina City/County Management Association. In the latter position, he led the successful effort to publish a ninth-grade text, *Local Government in North Carolina*.

Lundy has been manager of Catawba County since 1979. Before that he was the county's assistant manager. Under his leadership, Catawba County has gained recognition for program and managerial accomplishments. For example, he and other county staff earned the Ralph W. Ketner Productivity Award and national recognition for the county's outcome-oriented budget system.

Lundy has participated in ICMA international exchange programs in Australia, Ireland, and Japan. He holds a B.A. from Emory and Henry College (in Emory, Virginia) and an M.P.A. from The University of North Carolina at Chapel Hill. Further, he is a graduate of the Senior Executives Program at the John F. Kennedy School of Harvard University.

Carter also is a southeast regional vice-president of ICMA. She was president of the North Carolina City/County Management Association in 1992–93. Also, she chaired that association's Civic Education Committee in the early and mid 1990s, playing a key role in the development of the ninth-grade text *Local Government in North Carolina* and companion lesson plans for elementary school students.

Carter has been Raleigh's assistant manager for operations since 1984. During her tenure, the city has gained a reputation for efficient and effective public services. She led the city's award-winning program for comprehensive solid waste management, and she chaired the Raleigh–Wake County Emergency Communications Board, which oversees a consolidated 911 center serving 11 local governments and 51 public safety agencies. Carter recently served as interim



Elizabeth (Betsy) D. Wilson

city manager after the retirement of the city manager. Before going to Raleigh, she was assistant manager and budget director in Durham.

Carter earned her B.A. from Meredith College, her M.A. from Wake Forest University, and her M.P.A. from The University of North Carolina at Chapel Hill.

Finance Officers on the GFOA Executive Board

Three North Carolina officials now serve or have recently served on the executive board of the Government Finance Officers Association of the U.S. and Canada (GFOA): Elizabeth (Betsy) D. Wilson, finance director of Lenoir; William P. (Pat) Pate, assistant city manager of High Point; and J. Harry Weatherly, finance director of Mecklenburg County. The GFOA seeks to improve budgeting, accounting, and financial management in state and local government. Its members are mostly officials with important financial roles at these levels of government.

Currently a member of the executive board, *Wilson* earlier served the national GFOA in other capacities: state representative to the national organization; member of the Governmental Budgeting and Management Committee and the Governmental Accounting, Auditing, and Financial Reporting Committee; and chair of the Women's Public Finance Network.

Wilson's contributions to the local



William P. (Pat) Pate

government finance community in North Carolina have been great. She served as president of the state GFOA in 1981–82. In 1988 she chaired the committee that recommended the North Carolina Local Government Finance Officers Certification Program, and she has chaired the committee that administers that program since its inception. The program has extensive training and rigorous examination requirements and has achieved national recognition. Wilson also served on the executive board of the North Carolina League of Municipalities for two terms in the late 1990s.

Wilson has been finance director of Lenoir since 1970. Throughout her tenure the city has maintained a reputation for strong financial management. She has an associate degree in business from the Women's College of North Carolina (now The University of North Carolina at Greensboro).

Pate was recently voted president-elect of the GFOA, to serve as president in 2002–03. Before earning that honor, he was on the organization's Governmental Budget Committee, its Management and Debt Committee, and its executive board. On the Governmental Budget Committee, he played an important role in reviewing GFOA-recommended budget practices and a framework for improved state and local budgeting. These practices and the framework were put forward by the National Advisory Council on State and Local Budgeting, in which the GFOA played a central role.



J. Harry Weatherly

Pate became assistant manager of High Point in 1999. Before taking that position, he was Greensboro's budget and evaluation director for nearly ten years. In High Point, Pate manages eight departments and is responsible for city capital planning. In Greensboro he established the city's Budget and Evaluation Department, won GFOA "outstanding" designations for Greensboro's budget in 1994 and 1996, and managed the city's strategic planning process in the late 1990s. Pate was president of the North Carolina Local Government Budget Association in 1993-94. He holds both a B.A. and an M.P.A. from The University of North Carolina at Chapel Hill.

A member of the GFOA executive board from 1995 to 1998, Weatherly also served on the GFOA Cash Management Committee from 1988 to 1998. His state-level contributions include service as president of the North Carolina County Finance Officers Association in 1989-90, chair of the Large City/County Finance Officers Committee since 1990, and chair of the County Finance Officers Legislative Committee for various years since 1985.

Weatherly has served as finance director of Mecklenburg County since 1984, and before taking that position, he was the county's accounting manager. He has managed Mecklenburg County's finances in a fiscally sound and innovative way, focusing special attention on raising capital funds to



B. Gary McGee

support the county's rapid growth and on preserving and strengthening the county's AAA bond rating.

Besides managing financial operations, Weatherly oversees the county's risk management and city-county tax collection functions. Also, he is county liaison to the joint Charlotte/Mecklenburg County Purchasing Department, and he has oversight responsibility for the county's industrial development financing program.

A CPA, Weatherly has a B.S. in business administration from The University of North Carolina at Chapel Hill. He served in Vietnam and was awarded an Army Commendation Medal for Valor.

Manager on Board of Innovation Groups

Hickory's manager, B. Gary McGee, has taken a somewhat different but no less notable route in making professional contributions at the national level. McGee sits on the board of directors of the Innovation Groups, a national association of local government managers and other officials that sponsors research and development to identify and implement new and improved ways to provide local public services. He served as chair of the Carolinas Innovation Group in 1996-97.

McGee also has been active in the state ICMA and has served on the board of directors of the North Carolina League of Municipalities. Further, he cochairs

the North Carolina Local Government Performance Measurement Project, which has received national recognition for fostering improved local services.

As Hickory's manager (since 1984), McGee has facilitated a successful strategic planning program that involves numerous citizen task forces in identifying long-term community needs. Earlier he was manager of Watauga County for seven years and of Pittsboro for three years.

McGee holds a B.A. from The University of North Carolina at Chapel Hill and an M.P.A. from North Carolina State University. He credits Donald Hayman, Institute of Government professor emeritus, with motivating him to undertake a career in local government management.

Conclusion

All these officials have long tenures in local government. They have earned the confidence of the elected officials and staff with whom they have worked, and they have records of solid and innovative accomplishment.

Numerous other North Carolina managers, finance officers, and budget officials have served their local jurisdictions with great competence and have made important professional contributions statewide and nationally to the ICMA, the GFOA, the Innovation Groups, and other professional associations. The state's history of local government professionalism and service suggests that many more will do so in the future.

Notes

1. NORTH CAROLINA ASS'N OF COUNTY COM'RS, 1999 DIRECTORY OF NORTH CAROLINA COUNTY OFFICIALS 221-23 (Raleigh: NCACC, 1999); and INSTITUTE OF GOV'T, FORMS OF GOVERNMENT, NORTH CAROLINA CITIES, 1998 (Chapel Hill: Inst. of Gov't, The Univ. of N.C. at Chapel Hill, 1998).

2. Bond ratings provide one indication of North Carolina local governments' good reputation for financial management. For example, of the fifty-one cities and counties across the nation that had AAA ratings from Standard & Poor's Corporation in September 1998, nine were in North Carolina. (This information was included in a handout that Standard & Poor's staff used in making a presentation on North Carolina bond ratings at a conference of North Carolina local government finance officers in August 1998.)



Knapp Foundation Announces \$1 Million Challenge

Continuing a relationship that began nearly sixty years ago in Currituck County, the Knapp Foundation of St. Michaels, Maryland, has announced a landmark challenge grant of \$1 million toward the Institute's \$4 million campaign for building renovation and expansion.

The largest private gift in the Institute's history, the grant must be matched by additional private and public contributions within the next two years.

During the early 1940s, Joseph Palmer Knapp, publisher of *Collier's* magazine and then-owner of Mackeys Island in northern Currituck, observed the struggle of local public officials, particularly recently elected or appointed ones, to grasp fully the scope of their responsibilities, to comprehend the legal powers and limitations of their offices, and to implement new laws passed by the General Assembly. Made aware of the Institute of Government by a friend, Knapp developed a strong admiration and respect for the work and the ideas of the Institute's founder, Albert Coates. The

two men met only through correspondence, but they found that they shared a belief that the lack of a university-level educational resource focused solely on the needs of local and state officials seriously hampered the effective operation of government in North Carolina. Coates's Institute, Knapp felt, was a bold, visionary, and vital step toward filling this void.

The correspondence between Knapp and Coates continued until Knapp's death in 1951. In late 1952 the Board of the Knapp Foundation honored his strongly held interest in local government with a \$500,000 memorial gift that, when matched by the State of North Carolina, enabled the Institute to construct its present home on the campus of The University of North Carolina at Chapel Hill. The Knapp Foundation's new challenge grant recognizes its continuing commitment to the interests and the values of its founder.

Your help is needed to meet the Knapp Challenge!

Since it began its \$4 million campaign in 1999, the Institute has received generous support from hundreds of individuals, municipalities, and counties, as well as businesses and professional associations—the North Carolina Association of Assessing Officers, the North Carolina Association of County Clerks to the Boards of County Commissioners, the

North Carolina Association of County Commissioners, the North Carolina Association of Registers of Deeds, the North Carolina League of Municipalities, the North Carolina Local Government Employees Federal Credit Union, and the North Carolina Tax Collectors Association, among others. Many of these gifts will name designated rooms within the new building.

The generous help of the Institute's many clients, friends, and supporters throughout North Carolina is vital if we are to meet the Knapp Challenge successfully. **Be a part of this success by making a gift today!** Over the next twenty-four months, all gifts and pledges to the Institute's building fund will go toward completing the match. Contributions may be made any time by check or credit card directly to the Institute of Government Foundation. Mail gifts to the Knapp Challenge, Institute of Government Foundation, CB# 3330 Knapp Building, Chapel Hill, NC 27599, or make a gift or a pledge online at the Institute's Web site, www.iog.unc.edu.

More information about pledges, gifts of stock or appreciated property, and naming opportunities in the new building may be obtained from Ann C. Simpson, director of development, at (919) 966-9780 or simpson@iogmail.iog.unc.edu. Current construction information and photographs of the building are featured on the Web site.

The new front entrance to the Knapp Building, pictured below, leads into the Nanette Mengel Garden.

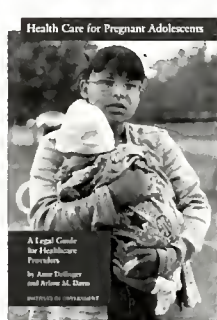


Off the Press

A CD-ROM version of the fifth edition. Multi-user licenses are available. Information can be found through a full-text search engine, a keyword index, and graphical interfaces of chapter headings. The software allows hyperlink functions and has a bookmark feature, magnification ability, copy and print commands, and more.



System requirements:
Windows 95™ or higher, or Windows NT™ Operating System; a VGA monitor, a 256K Graphics Card, 4MB of RAM, a mouse



Explains legal issues involved in providing health care to pregnant adolescents and identifies certain resources for health providers who care for these patients. Intended for nurses, physicians, social workers, students in those professions, health administrators, and educators. Describes the reasonably clear legal requirements involved in the care of pregnant adolescents, interprets less-clear issues within the law, and offers predictions about unresolved legal questions. Part one in a series of five, all to be available online.

Seeks to anticipate the main issues in cases involving entrapment claims in North Carolina. Focuses on North Carolina law but examines federal decisions and decisions of other states for additional guidance. Discusses substantive rules of entrapment and related offenses, procedural and evidentiary issues that may arise at trial, and burdens of proof borne by the prosecution and the defendant. Includes a list of related books and articles from other sources.



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Knapp Foundation Announces \$1 Million Challenge

Continuing a relationship that began nearly sixty years ago in Currituck County, the Knapp Foundation of St. Michaels, Maryland, has announced a landmark challenge grant of \$1 million toward the Institute's \$4 million campaign for building renovation and expansion.

The largest private gift in the Institute's history, the grant must be matched by additional private and public contributions within the next two years.

During the early 1940s, Joseph Palmer Knapp, publisher of *Collier's* magazine and then-owner of Mackey's Island in northern Currituck, observed the struggle of local public officials, particularly recently elected or appointed ones, to grasp fully the scope of their responsibilities, to comprehend the legal powers and limitations of their offices, and to implement new laws passed by the General Assembly. Made aware of the Institute of Government by a friend, Knapp developed a strong admiration and respect for the work and the ideas of the Institute's founder, Albert Coates. The

two men met only through correspondence, but they found that they shared a belief that the lack of a university-level educational resource focused solely on the needs of local and state officials seriously hampered the effective operation of government in North Carolina. Coates's Institute, Knapp felt, was a bold, visionary, and vital step toward filling this void.

The correspondence between Knapp and Coates continued until Knapp's death in 1951. In late 1952 the Board of the Knapp Foundation honored his strongly held interest in local government with a \$500,000 memorial gift that, when matched by the State of North Carolina, enabled the Institute to construct its present home on the campus of The University of North Carolina at Chapel Hill. The Knapp Foundation's new challenge grant recognizes its continuing commitment to the interests and the values of its founder.

Your help is needed to meet the Knapp Challenge!

Since it began its \$4 million campaign in 1999, the Institute has received generous support from hundreds of individuals, municipalities, and counties, as well as businesses and professional associations—the North Carolina Association of Assessing Officers, the North Carolina Association of County Clerks to the Boards of County Commissioners, the

The new front entrance to the Knapp Building, pictured below, leads into the Nanette Mengel Garden.



Off the Press

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System requirements:
Windows 95™ or higher, or Windows NT™ Operating System; a VGA monitor, a 256K Graphics Card, 4MB of RAM, a mouse

Health Care for Pregnant Adolescents: A Legal Guide for North Carolina Providers

Anne M. Dellinger and Arlene M. Davis

Fall 2001 • Online publication, available at
www.adolescentpregnancy.unc.edu



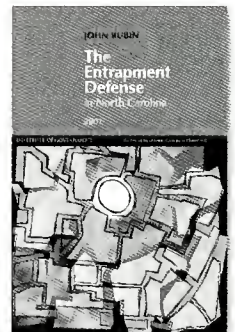
Explains legal issues involved in providing health care to pregnant adolescents and identifies certain resources for health providers who care for these patients. Intended for nurses, physicians, social workers, students in those professions, health administrators, and educators. Describes the reasonably clear legal requirements involved in the care of pregnant adolescents, interprets less-clear issues within the law, and offers predictions about unresolved legal questions. Part one in a series of five, all to be available online.

The Entrapment Defense in North Carolina

John Rubin

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To make a gift or receive information, contact the Institute of Government Foundation, c/o Ann C. Simpson, CB# 3330 Knapp Bldg., Chapel Hill, NC 27599-3330. Telephone (919) 966-9780, fax (919) 962-8800.

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