



NLPES News

National Legislative Program Evaluation Society

A Staff Section of the National Conference of State Legislatures
APRIL 2010



Chair's Corner
James Barber (Mississippi)

You would think that the *NLPES News* editor (that's me) would have a little more control over the NLPES Executive Committee chair (that's me also) and be able to wrangle a Chair's Corner for the newsletter. Lately, that has seemed an impossibility. I frequently use the excuse that my day job (the one that pays the bills for the Barber household) interferes with my "volunteer" job as an NLPESer. However, I eventually manage to pull things together, such as this newsletter.

I am sure that most of you are involved in legislative sessions right now. To say that our legislatures have had or are having a difficult time stretching scarce resources is certainly an understatement. The good times have come and gone, but surely will return soon. Hopefully most of your offices will escape the budget-cut ax.

Despite budget cuts, travel bans, and pressing matters within our own offices, NLPES Executive Committee members have been hard at work on your behalf. One of the most noticeable accomplishments this year has been the addition of on-line training modules on the NLPES website. I hope your office has been able to use these resources to augment your training programs.

Professional Development Seminar

The NLPES Executive Committee's professional development subcommittee and the Performance Audit Division staff of the Louisiana Legislative Auditor's Office have been working tirelessly to plan the 2010 fall professional development seminar

(commonly known as the fall training conference). The seminar will be held October 4 – 7 in Baton Rouge, Louisiana. NLPES will co-sponsor the seminar with the National Legislative Services and Security Association (NLSSA), another NCSL staff section. The NLPES portion of the seminar will conclude on October 6, while NLSSA will continue to meet until October 7. Potential concurrent and plenary sessions include topics such as dealing with budget cuts, ARRA funding, effective audit planning and correctional cost savings. One highlight of the seminar will be a plenary session during which Commander Mark McGinnis, U.S. Navy SEAL, will speak. Commander McGinnis truly understands the term "leadership in challenging times" and how to translate his SEAL training and experiences to his civilian career.

NLPES Awards Program

In the next few weeks, we will be seeking nominations for the NLPES Awards Program, which will be presented at the NCSL Legislative Summit in Louisville, Kentucky this July. The four award categories are: Excellence in Evaluation; Excellence in Research Methods; Impact; and Outstanding Achievement. Criteria and deadlines will be posted on the NLPES website and mailed to your offices. Award winners will be notified in early summer. We hope to see all offices participating in this year's awards program.

Good luck to your legislatures as they work to balance their budgets. We hope to see representatives of your offices in Baton Rouge this October.

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Augmented Government

Scott Sager (Wisconsin Legislative Audit Bureau)

A decade ago, “e-government” initiatives offered ways to increase access to government services and information via the Internet and make government operations and finances more transparent. While opinions differ on the success of e-government initiatives, an increasing amount of information is available via government websites, such as PDF versions of reports and access to financial data. As the desktop and laptop slowly give way to mobile devices, e-government is shifting again as methods to access and use information change.

Mobile devices, such as smart phones and tablets such as Apple’s iPad, are increasingly being used to access information for business productivity (e.g., e-mail and task management) and entertainment (e.g., YouTube and my personal favorite, Youicorn, which allows you to put unicorn horns on photos of friends and families). One of the tools available on newer generations of mobile devices is “augmented reality.” Augmented reality merges the world we see with virtually generated imagery. Until recently, augmented reality was largely used for military or commercial purposes. The yellow first-down line that is superimposed on televised football games is an example. Another is the “heads up display” in General Motors, Honda, Lexus and other vehicles that provide speed data and night vision on the windshield.

However, as more information becomes available via government websites, augmented reality is being used to both simplify and deliver information. For example, *Layar* is one of the first augmented reality applications for smart phones. Using the phone’s camera feed, *Layar* superimposes information about recipients of American Recovery and Reinvestment Act (ARRA) funds on what you “see.” In other words, you see the real world with

embedded and interactive data that you can click on and explore. Each recipient is represented by a blue dot that you can click on to obtain more information about, for example, a company, the amount it received in ARRA funds and your distance from the location. You also can use *Layar* to access other information, such as the location of health care centers, restaurants and retail centers. If you want to watch a short video on how the applications works, click <http://tiny.cc/dND14>

As augmented reality applications become standard on mobile devices, it seems likely that government data sources will increasingly be used to provide the public with information about its services. For example, it will be possible to see the results of the most recent election based on the district you are in; who your legislators are and the location of their offices; and view interactive crime maps, the property taxes paid by each household, and the inspection history of restaurants.

New ways to use and share information collected by government can provide citizens with useful information when and where they need it. However, as more information becomes both public and mobile, it also requires increased attention to issues such as identity theft and new threats to data security and confidentiality.

The links below offer some additional information about augmented reality and government technology.

The Blurring of Government - <http://tiny.cc/mAlrx>
 Invisible City - <http://tiny.cc/qB1sz>
 Augmented Reality Maps (video) - <http://tiny.cc/D7kVY>



Legislative Staff Management Institute: Now More Than Ever

Dr. Gary VanLandingham (Executive Director, Florida OPPAGA)

In these tough economic times, it can be difficult to gain authorization for professional development training and travel. However, there has also never been a greater need for staff, particularly those in senior positions, to have the skills to help their organizations navigate through these difficult waters. As one past participant noted, “If you can only get authorization to attend a single training event this year, make sure it is the Legislative Staff Management Institute (LSMI).”

LSMI is widely recognized as the premier professional development program for both senior legislative staff and those staff who are on their way to such positions.

The program consists of eight days of interactive seminars focused on developing management and leadership skills that can be taken from the classroom directly into the legislative environment. The program is led by outstanding faculty with experience and insight into the unique legislative world. It focuses on practical applications of leadership concepts and tools that staff can use to meet the increasingly complex policy and management challenges facing our legislatures. These include the key areas of interpersonal and organizational communication, team building, coaching, negotiation, networking, and managing the legislative organizational culture. LSMI has received outstanding evaluations

from the staff who have attended its sessions; virtually all participants have rated the program as “outstanding” or “a must attend.”

The application period for the 2010 LSMI program is now open. LSMI will be held August 14-21, 2010, in Sacramento, California, and is hosted by the University of Southern California and the Center for California Studies at California State University, Sacramento. Program costs are \$2,250 per participant, which includes seven nights of hotel lodging, all meals, all materials, field trips and eight days of high-level

training. The participant fee is significantly less than the full cost due to generous contributions from the NCSL Foundation, the Morris Smith and Union Pacific Foundation, USC and Sacramento State. The program is substantially less costly than executive development programs offered by other organizations and is the only program focused on state legislatures.

More information about the Legislative Staff Management Institute is available on the NCSL website, or e-mail NCSL’s Karl Kurtz at lsmi@ncsl.org or Tim Hodson, LSMI co-director, at hodson@csus.edu.



The California State Auditor’s Office: What We’ve Done to Monitor Recovery Act Preparedness

Elaine M. Howle (California State Auditor) and Dale Carlson (Senior Auditor Evaluator)

On February 17, 2009, the American Recovery and Reinvestment Act of 2009 (Recovery Act) was enacted to help fight the negative effects of the economic recession. Of the hundreds of billions of dollars available under the act, initial estimates are that California will receive \$85 billion, with nearly \$55 billion going to state departments and local entities and about \$30 billion coming to the state in the form of tax relief. The Recovery Act states that federal funds authorized should be spent to achieve its purposes as quickly as possible, consistent with prudent management. Further, accountability and transparency are cornerstones of the act. To meet these cornerstones, rigorous and continuous oversight is required.

California’s Oversight Effort

California’s oversight effort for Recovery Act funding occurs through several entities, including the California State Auditor’s Office. We have taken several actions since the act’s inception. For example, the California State Auditor has coordinated with the U.S. Office of Management and Budget, the National State Auditors Association and other state auditors regarding guidance for implementing the act. The most publicly transparent actions we have taken, however, are the three distinct types of audits we performed covering the state’s implementation of the Recovery Act: “high-risk” reviews, early reporting of interim testing from Single Audit reviews, and reviews requested by the Legislature. As of February 25, 2010, the office has issued eight reports under these three activities. The reports cover thirty-one federal programs administered by thirteen state departments.

The state auditor initiated the first type of audit, high-risk reviews, in April 2009. State law allows the state auditor to review issues and departments deemed to be high-risk. She designated California’s system for administering Recovery Act funds as a high-risk issue area because of the vast amount of Recovery Act funds

California expects to receive, the extensive requirements the act places on recipients, the limited amount of time the state has to spend some of these funds, and the risk that California may lose funds if it fails to comply with applicable requirements.

First Report Issued

Two months later, in June 2009, we issued our first report on California’s preparedness to administer Recovery Act funding. The report focused on several federal grants, including the State Fiscal Stabilization Fund, Medical Assistance (Medicaid), Unemployment Insurance, IDEA Part B Special Education Grants, the Workforce Investment Act cluster (three grants), the Supplemental Nutrition Assistance Program, and Temporary Assistance for Needy Families. These grants collectively were administered by four state departments: Education, Health Care Services, Employment Development, and Social Services. We reported numerous findings and made several recommendations aimed at strengthening the State’s preparedness to administer Recovery Act funds. For instance, the report disclosed that some departments were uncertain whether they would be able to meet the new Recovery Act reporting requirements, while others believed they were exempt from certain reporting requirements. Further, none of the four departments reviewed had received sufficient guidance from the federal government regarding the Recovery Act’s reporting requirements. We also reported that these four departments intended to rely on existing internal controls to administer federal programs. However, in previous Single Audits we had identified thirty internal control deficiencies for these departments, twenty-six of which had not been corrected.

Second Type of Audit

The second type of audit we undertook was interim testing and early reporting on the results of our

traditional Single Audit work. Through interim testing, we looked at internal controls and compliance requirements for federal programs that we determined were major programs that had received or were expected to receive Recovery Act funds. Rather than waiting to report the Single Audit results when we completed the audit work for all major federal programs, we published interim reports periodically as we completed audit work for certain Recovery Act programs. We issued reports in November and December 2009 and January 2010.

The two November interim reports we issued covered the State Fiscal Stabilization Fund Program, which is administered in part by the Department of Corrections and Rehabilitation (Corrections), and a special education grant administered by the Department of Developmental Services (DDS). In the first report, we concluded that Corrections may have overstated the number of jobs it retained on its Recovery Act report. We noted that Corrections spent its entire portion of the stabilization funds to reimburse payroll expenses incurred during May and June 2009. In its October 2009 Recovery Act report on jobs retained, Corrections indicated that it used these and other funds to retain the jobs of 18,229 correctional officers working in adult prisons throughout the state. By simply reporting how many correctional officers' salaries were paid with Recovery Act funding, Corrections' methodology was not consistent with the federal government's definition of jobs retained at that time. In the DDS report, we identified five concerns—one of which related directly to requirements under the Recovery Act. In this instance, DDS provided Recovery Act funds to subrecipients without ensuring they were registered as required in the federal Central Contractor Registration. The other four concerns were repeat findings we reported in previous Single Audits.

December Interim Report

Our December 2009 interim report focused on eight federal programs administered by five departments: Employment Development, Health Care Services, Rehabilitation, Social Services, and Transportation. The federal programs included the Medical Assistance, Vocational Rehabilitation Grants to States, Unemployment Insurance, State Administrative Matching Grants for the Supplemental Nutrition Assistance Program, Temporary Assistance for Needy Families, Foster Care, Adoption Assistance, and the Highway Planning and Construction Program. We identified twenty-four findings regarding the departments' administration of these federal programs. Although not all the findings were specific to Recovery Act funding, the departments all intend to receive and spend Recovery Act funds using their existing internal

controls. In many cases, the findings we reported were recurring issues we had identified in past audits.

Our January 2010 interim report covered eight grants administered by four departments: Aging, Child Support Services, Education, and Employment Development. All four departments received significant Recovery Act funds. The federal programs we examined included the Aging Cluster (three grants), Child Support Enforcement, State Fiscal Stabilization Fund (Education State Grants), and the Workforce Investment Act cluster. We reported twelve findings regarding the departments' administration of these programs—many of which were recurring issues identified in past audits—and made numerous recommendations.

Final Type of Review

The final type of review we performed emanates from an audit request approved by the Joint Legislative Audit Committee (committee). Based on this request, the committee asked the office to conduct preparedness reviews and early assessments of internal controls of Recovery Act programs at certain state departments. As of February 2010, we had issued three such reports. They covered Recovery Act grants administered by the California Energy Resources Conservation and Development Commission (State Energy Program), and the departments of Community Services and Development (weatherization program), and Housing and Community Development (homelessness prevention grant).

The report on the State Energy Program concluded that the energy commission had made little progress in implementing Recovery Act subprograms under the \$226 million energy grant and that none of the \$40 million in approved contracts had been spent. We also noted that the energy commission had not established the internal controls needed to properly administer the State Energy Program. The report on the \$186 million weatherization program noted that, as of December 1, 2009, no houses had been weatherized and concluded that delays in weatherizing homes could jeopardize Community Services and Development's ability to reach a key performance milestone set by the federal government to access \$93 million in Recovery Act funds. The report on the \$44.5 million homelessness prevention grant concluded that, although Housing and Community Development had taken many steps to successfully administer its portion of this Recovery Act grant, it had not established policies to ensure that subrecipients did not maintain excessive federal fund balances. In each report, we made several recommendations to strengthen California's ability to properly administer Recovery Act funds.

Although our office has completed a lot of work to date reviewing California's administration of the Recovery Act, we are not finished yet. We will continue our oversight of this critical area of accountability as long as necessary. In fact, we are issuing two more reports very shortly. By the end of March 2010 we intend to issue the final report on our Single Audit work for fiscal year 2008–09. The federal government is relying on the Single Audit as its primary means of achieving the Recovery Act's accountability objective. We also plan to

issue by mid-Spring 2010 a fourth audit report based on the Joint Legislative Audit Committee's request. This report will cover the California Emergency Management Agency's administration of a \$135.6 million criminal justice Recovery Act grant.

For more information about reports the state auditor has issued, or other actions she has taken relating to the Recovery Act, please see the "Recovery Act Accountability" tab on our website at www.bsa.ca.gov.



STATE PROFILE: Guess the Office

EDITOR'S NOTE: Rather than profiling one particular office, this issue includes a compilation of selected responses that have appeared in prior state profiles. Have fun guessing which NLPES member-office provided each response.

Our Motto

Write, Revise, Write, Revise, Write, Revise

Most Impressive Statistic About Our Office

We always surpass our quota for the blood program. (What makes that statistic so impressive is that we don't necessarily surpass it voluntarily or with our own staff.)

Most Exciting Experience at Work

During installation of telephone wires in the ceiling of our office, a bat swooped down and terrorized us. We had to call in experts from two different agencies to rescue us.

Biggest Temptation We Give in to

Encouraging other drivers to believe that our huge white state cars are police vehicles by placing a blue baseball cap in the middle of the dashboard

Most Interesting Backhanded Compliment Ever Received

"Those folks don't mind amessin' (*not a literal translation*) with people!"

Worst Thing Ever Said About Us

You people should write for the *National Enquirer*!

Strange Audit Experience

Discussing pertinent Athletic Commission regulations with stars of the World Wrestling Federation (should we really send a verification letter to Hulk Hogan?)

Most Compromising Experience

When the office car broke down at a site 350 miles from the capitol, we had to borrow a car from the audited agency.

Most Interesting Audit Location

A trailer in the middle of a cornfield with an outhouse for a restroom

Shortest Audit (Days)

Our report on T-bone steaks served in a state prison. (We wrote the audit guidelines on the way to the prison and the report on the way home.)

Who Said Auditing Couldn't Be an Art Form

Our most interesting interview write-up was done by a new employee who evidently had dreams of being a novelist. The write-up of a fifteen-minute interview was over twenty-five pages long. "Mr. Green, staring at the cracked wall instead of his inquisitors, leaned back in his chair, pursed his lips, and sighed. Well, I suppose we could have done a better job."

Most Common Agency Comments

"The new statewide accounting system doesn't give us answers to questions like that." Also, "We thought you'd be done by now."

Worst Waste of Time in Public Testimony

Discussions about changing the name of the Department of Public Instruction (DPI) to the Department of Public Education (DOPE).

Most Entertaining Public Testifier

A former mental health director, who liked to quote Eleanor Roosevelt, do rope tricks and wave his prosthetic foot around the room.

Agencies We Evaluate Think We Are

Fair, thorough and sometimes ask embarrassing questions

The Legislature Thinks We Are

Fair, thorough and good at getting answers to embarrassing questions



FALL PROFESSIONAL DEVELOPMENT SEMINAR

Effectively Meeting the Demands of Our Customers: the Legislature, Local Government and Public

Co-Sponsored by the National Legislative Program Evaluation Society (NLPES) and National Legislative Services and Security Association (NLSSA)

OCTOBER 4 – 7, 2010
HILTON HOTEL
BATON ROUGE, LOUISIANA

THE NLPES PORTION OF THE SEMINAR
WILL CONCLUDE ON OCTOBER 6, WHILE
NLSSA WILL MEET UNTIL OCTOBER 7.



At the fall professional development seminar, you will build your skills, expand your understanding of current legislative issues, and network with colleagues from across the country.

SESSION TOPICS (SAMPLE LIST)

- INFORMATION TECHNOLOGY
- DEALING WITH BUDGET CUTS
- VEHICLE FLEETS
- TOOLS FOR COMMUNICATION
- ARRA FUNDS
- CHARTER SCHOOLS
- LOTTERIES
- CORRECTIONAL COST SAVINGS
- EFFECTIVE AUDIT PLANNING



Plenary Speaker: Mark McGinnis, Commander, U.S. Navy SEAL

Navy SEALs are the elite of the Special Operations Forces. Mark successfully completed this training and went on to lead more than 400 SEAL operators through real world operations and training evolutions with zero mishaps. He truly understands the term "leadership in challenging times" and how to translate his training and experiences to his civilian career.

National Conference of State
Legislatures

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Using Twitter and Wikipedia to Inform People About Your Office and its Work

Florida OPPAGA staff

Several government agencies, including the Government Accountability Office (GAO), use social media to share information about their office and its work. While social tools can pose challenges, they can be simple and quick ways to communicate with legislators and the public. Here are some steps to follow if your office is interested in setting up Twitter or Wikipedia.

Twitter

Twitter allows users to send out short updates, called "tweets" of 140 characters or less. These messages are posted to your Twitter profile or sent to your 'followers' and are searchable. Twitter can provide immediate notification when products are posted to your website. Setting up a Twitter page is relatively easy, but here are some tips to help you on your way.

Setting up an account--Go to twitter.com and click on "Sign Up Now." It will ask you to submit information such as the name of your office, an e-mail address and password and ask you to create a user name. Pick a user name that is the name or acronym of your office, because it will be used to create your Twitter address. For example, OPPAGA's Twitter address is <http://twitter.com/OPPAGA>.

Twitter will then guide you to other users with Twitter pages to 'follow' and to find people to 'follow' you. To 'follow' on Twitter means to receive another user's Twitter updates. When you follow someone, every time they post a new message, it will appear on your Twitter home page. OPPAGA has chosen not to follow any other Twitter users in order to control the content of our page. After you go through these steps, Twitter will send you an e-mail to confirm your new account. Once you confirm, you are ready to design your Twitter page.

Designing your Twitter page--Click on the 'Settings' tab on the top right of the page. This tab gives you the opportunity to change your information, select if you want to receive e-mail notices when someone starts following your page, provide graphics and content for your page, and select design elements.

The profile section under this tab allows you to provide information that will appear on your Twitter page, including a picture (OPPAGA used a piece of a graphic that appears on our reports), the name of your office, your location, an Internet address, and content for a bio. The bio section is limited to 160 characters, so choose

your words carefully when describing your office to get maximum impact. Filling in your profile information will help people find you on Twitter. For example, you'll be more likely to turn up in a Twitter search if you've added your location or the full name or acronym of your office.

Another step in customizing your page is selecting a background theme and colors. We chose to make our Twitter page consistent in appearance and color palette with our website. Twitter makes this step very easy, and it can be fun to play with all the options. You can see what your design looks like instantly and can easily change it.

Start Tweeting and get the word out--Now that you have set up your Twitter page it is time to 'tweet' or send out a message. Figure out what information you want to send out, how frequently you are going to send out updates, and what staff will be responsible for 'tweeting'. Then, so you don't send out that first message to no one, devise a strategy to get Twitter 'followers.' Some options might be to post the Twitter logo on your website and send an e-mail to people who already get reports or other information from your office. You might also want to consider reaching out to media who report on state government. Happy Tweeting!

Wikipedia

Wikipedia is a familiar place where people go to learn about something they have heard of but do not understand. Since our organizations often fit this description, posting an article on Wikipedia helps the seeker find that information. When you post the article first you have the opportunity to define the message. If your organization waits, someone else may write an article about your office. Then your organization may find itself in a reactionary stance that could lead to disagreements over content in this very public venue.

Getting started--To begin this process you must first create an account. When doing so, be sure to pick a name that is different from your organization. Wikipedia frowns on companies writing their own articles, so it is best to not make it obvious.

After you have your account, make some edits to become an auto-confirmed user. Accounts that are more than four days old and have made at least 10 edits are considered auto-confirmed. (This status is required to move pages, edit semi-protected pages, upload files, or

upload a new version of an existing file.) While editing, you may want to make a list of some other Wikipedia articles where you could add a link to your article when you finish it. This way your article can get more recognition once you post it publically.

Before you begin designing your article, you need to make sure that your organization does not already have an article in Wikipedia. If it does, add a redirect, if necessary, so people can find it under a different name or spelling. You may also need to add some edits, but be careful not to offend the original author in the process and thereby create a potential editing war.

Designing your article--Once you have determined that you do not already have a presence on Wikipedia, you need to get internal agreement on your article's content. Start the article in Word and send it through the editing process in this format so everyone does not have to learn the Wikipedia formatting jargon. You may also want to reference the Wikipedia: Manual of Style to learn the proper layout.

When crafting your text, make sure to maintain a neutral point of view. One reason Wikipedia frowns on organizations posting their own articles is that it does not want to be used as a blatant advertising tool. If you are not careful about respecting this, you could subject your article to deletion.

Gather some references from other sources that either describe your organization or refer to work conducted by your organization. This proves the notability of your organization and its worthiness of inclusion in Wikipedia. Also, articles without references to other publications raise a red flag with the Wikipedia editors that someone may be attempting to publish original

work. Wikipedia bills itself as an encyclopedic gathering of verifiable knowledge, so articles without references are also subject to deletion.

You may consider adding some images to your article. Images are not as simple as adding text to Wikipedia because of potential copyright infringement issues. Wikipedia prefers that its users create an account on Wikimedia Commons and upload files there to transfer into a Wikipedia article.

Once you have internal agreement on the content, transfer the article into your user space and add the formatting code. (Once you become a registered user, you have your own user space.) Wikipedia has some useful tutorials to reference in learning their code. Once you perfect the code, you can make the article available for public viewing.

Maintaining your article--Once you postd your article publically on Wikipedia, you need to monitor how the public edits it and designate someone within your organization to be responsible for its maintenance.

Anyone can edit a page on Wikipedia, so you need a way to monitor the article's content. To accomplish this, you can add it to your watch list. While there are several ways to do this, the easiest may be to select "Add pages I create to my watch list" under the my preferences/Watch list section of your account.

Finally, be sure to designate a responsible party to receive the watch list e-mails and periodically physically check the article on Wikipedia. This person also will need to update the article to keep the content current and relevant.



Protective Orders: An Impairment to Legislative Oversight?

Ted Booth (General Counsel, Mississippi PEER Committee)

In recent years, the PEER Committee has become increasingly involved in reviewing aspects of contractor performance as more agencies are using private firms to carry out government functions. While this is not necessarily damaging to the achievement of agency missions, the use of contractors can affect our ability to oversee the performance of programs or parts of programs so contracted.

Problems arise in instances wherein contractors have chosen to take advantage of a heretofore rarely used provision of the Mississippi Code of 1972 related to the protection of certain contractor records maintained by the agencies that employ or otherwise use private contractors.

MISS CODE ANN. Section 25-61-9 (1972) provides in part:

(1) Records furnished to public bodies by third parties which contain trade secrets or confidential commercial or financial information shall not be subject to inspection, examination, copying or reproduction under this chapter until notice to said third parties has been given, but such records shall be released within a reasonable period of time unless the said third parties shall have obtained a court order protecting such records as confidential:

PEER staff have observed that in recent years an increasing number of contractors have sought and obtained from Chancery Courts blanket orders that prohibit the contracting agency from releasing to any

person or firm records related to the contract. Often, the order will prohibit release of the following:

- the actual contract;
- reports made mandatory under the terms of the contract;
- agency information regarding the scoring of the contractor's proposal; and
- documents filed in response to the agency RFP.

The trend toward protection appears to have been born of increased competitiveness in certain fields, especially the health care industry. Successful winners of bids are reluctant to allow their competitors to learn anything about the winning proposal or anything regarding the contractor's performance, lest this information be used to assist an unsuccessful bidder in Mississippi to prepare a successful bid package in another state.

While PEER has the power under its legislation to review the work of contractors, protective orders have made our work more difficult. Agency directors who are parties to a protective order are loath to risk being taken before a Chancery Court in a contempt proceeding and are likely to reject our request for information. A rejection usually requires that we issue a subpoena to compel production of documents. While a subpoena is often an effective means of obtaining information, it can delay the receipt of information; it takes time to prepare a subpoena, particularly when you do not know precisely what you need to meet your information requirements without reviewing the very documents you are being prohibited from seeing. Ultimately, we have succeeded

in working our way through these problems; however, dealing with the effects of protective orders has slowed the progress of projects.

A recent example of a protective order slowing our efforts arose in a 2007 project dealing with our state's Medicaid non-emergency transportation program. The winning contractor chose to seek a protective order, ostensibly to protect its records from public disclosure in the event that potential competitors sought information on bids, fees, services, etc., from the Mississippi Division of Medicaid. Because of the protective order, we were unable to review the contract between the Division of Medicaid and the contractor to help us determine what types of information we should seek from the division and/or the contractor. We finally chose to subpoena a large quantity of records from the contractor. Perhaps fearing that it might ultimately lose Mississippi's business, the contractor acceded to our requests and produced a vast amount of records. That enabled us to complete our work, albeit some two and one-half months later than we would have hoped to complete the project.

PEER's suggestion to similarly situated evaluators is that, if your state allows private contractors to protect a broad range of material from review under the auspices of your public records laws, you should work with your legislature to seek amendments to these laws so program evaluators have unfettered access to the files and records required to complete a review. Otherwise, be prepared for a protected battle through the subpoena process that could culminate in litigation to enforce your subpoena.



Office Happenings

Colorado

The Colorado Office of the State Auditor announces the following promotions and new hires: Andy Knauer, promoted to Legislative Audit Supervisor; Maggie Crowdes, Derek Johnson, Ben Stevenson, Renee Strebelski and James Taurman promoted to Senior Legislative Auditor; Greg DiCerbo hired as a Legislative Auditor; Ted Tidwell hired as an Audit Intern; and Kathy Joyce hired as our new Human Resources Manager. We have also had quite a baby boom in our office recently. The OSA would like to congratulate the ten (and counting!) staff members who are new or expecting parents.

Kansas

Leo Hafner, long-time Deputy Legislative Post Auditor, retired from the Legislative Division of Post

Audit in March. He started with the division in 1975. Taking his place as Deputy is Scott Frank, who has been with Post Audit for ten years. In addition, Randy Tongier, Financial-Compliance Audit Manager, retired from Post Audit in November 2009. He also had worked for the division since 1975. Filling his position is Julie Pennington, CPA, CIA and CFE, formerly with Catholic Relief Services. A Kansas native, Julie was on assignment in Congo and Madagascar before coming to Legislative Post Audit.

Minnesota

Deborah Junod left the Office of the Legislative Auditor in February to take a job with the U. S. Department of Agriculture.

National Conference of State Legislatures

NCSL has two new co-directors of the Washington, D.C., office. Molly Ramsdell and Neal Osten will lead the

Washington office and direct the state-federal affairs division. Ramsdell, a senior committee director, and Osten, federal affairs counsel for the organization, began their roles immediately. They are replacing D.C. office director Carl Tubbesing, who retired at the end of January after thirty-five years with NCSL.

New Jersey

The New Jersey Legislature approved the appointment of Stephen M. Eells to the position of State Auditor. Eells, a certified public accountant, has been employed by the Office of the State Auditor since 1982. He has been an Assistant State Auditor since 2006, providing program development and managerial oversight.

The Legislative Services Commission, a sixteen-member bipartisan panel with equal representation from the State Senate and General Assembly,

recommended Eells for the position after an extensive screening process. The commission oversees the nonpartisan Office of Legislative Services; the State Auditor functions under its auspices. The State Auditor is a constitutional officer responsible for conducting financial and performance audits of State agencies, certain school districts, vicinages of the judiciary, and conducts studies on the operation, economy and efficiency of State-run or State-supported programs.

Pennsylvania

The Pennsylvania Legislative Budget and Finance Committee has an all-time high of fifty projects pending before the legislature (twenty-eight House resolutions, five Senate resolutions, ten House bills, and seven Senate bills.)



From the Editor

Lowell Thomas, famous writer and broadcaster, once said, “Do a little more each day than you think you possibly can.” Over the past several months, I am sure that all of us have had ample opportunity to “do a little more each day” as we have helped our legislators make public policy decisions. Just remember that summer is not too far off and will afford a much-needed break.

James Barber

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- To promote the art and science of legislative program evaluation.
- To enhance professionalism and training in legislative program evaluation.
- To promote the exchange of ideas and information about legislative program evaluation.

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