# LGR

## LOCAL GOVERNMENT REVIEW
### *Putting Research Into Practice*

ICMA

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BY AUSTIN ALDAG, YUNJI KIM, AND MILDRED WARNER

# MEETING SERVICE NEEDS WITH TIGHT RESOURCES

## *Local Governments Employ a Range of Tools to Address Challenges*

Local governments are challenged by fiscal stress to become both more efficient and effective while responding to growing community needs. Economic restructuring since the Great Recession, changing demographics (e.g., child poverty and aging society), environmental pressures (e.g., climate change), and state policy (e.g., mandates, preemptions, and declining aid) put local governments in a bind.

### The 2017 ASD

ICMA's **2017 Alternative Service Delivery (ASD) survey** explores local government responses to flat or declining resources. Here are some key findings.

- Over half of local governments are under either medium or significant fiscal stress.
- Deferring expenditure and seeking new revenues are common responses to fiscal stress.
- Municipalities in 2017 are less likely to study the feasibility of privatization or to conduct systematic evaluation of private contracts than in 2012.
- Alternative service delivery has limited ability to address fiscal stress; community development is key.

How do they meet growing service needs with flat or declining resources? In too many states, the state is downloading its own fiscal stress onto local governments.[1] What is a local government manager to do?

Local governments employ a range of tools to address these challenges. By linking new revenue sources, new forms of service delivery, and community development, they can address fiscal stress and still meet community needs.[2]

ICMA's 2017 Alternative Service Delivery (ASD) survey[3] explores local responses in terms of service delivery methods, revenue sources, and community development. It finds local government managers use these three tools to craft a pragmatic response to changing needs and fiscal stress (see Figure 1).

### SURVEY RESPONDENTS AND METHODOLOGY

Since 1982, ICMA has measured the use of alternative service delivery mechanisms by local governments. The survey measures the delivery method of commonly provided public services, obstacles and drivers of for-profit contracting (privatization), and intergovernmental cooperation as well as evaluation practices.

The 2017 ASD survey was administered by mail to the chief administrative officers in all communities with a population of more than 2,500 and to all functioning

**FIGURE 1** ǀ Professional Managerial Responses to Fiscal Stress
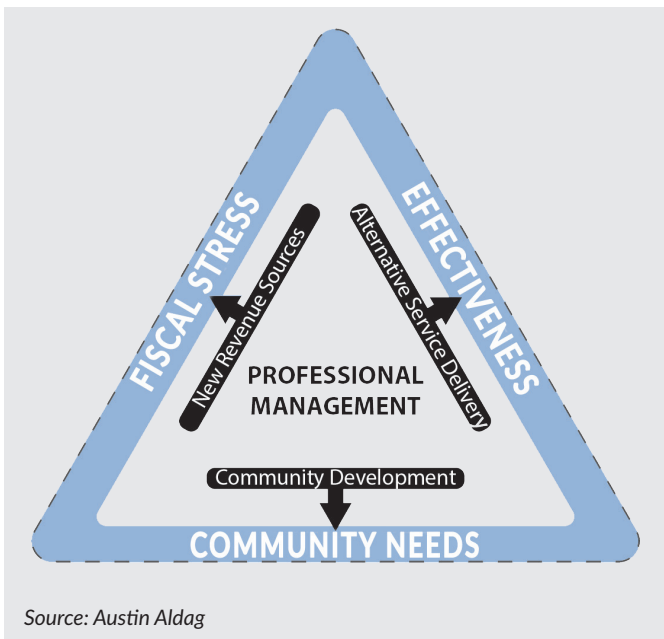
Source: Austin Aldag

counties. An online portal was also provided, and 16 percent of respondents responded online. The overall response rate for the survey was 17 percent, with 1,969 municipalities and 374 counties responding.

Geographically, there is representation from all 50 states, with Illinois having the most local governments responding (199) and Hawaii having the least (1).[4] The council-manager form of government yielded the highest response rate among all government types (22 percent).

The survey also checked the fiscal blood pressure of local governments and found more than half report moderate (42 percent) or high (14 percent) fiscal stress, while 34 percent of survey respondents report low fiscal stress, and only 10 percent indicate they have no stress.

What are the options to maintain services in times of tightening resources? Historically, localities have turned to private and intermunicipal contracting to reduce costs.

Results from the 2017 survey raise several cautions about the cost savings from these approaches. Savvy public managers are looking at new revenue sources as well, to the extent their state rules allow. Let's take a look inside the data.

## TRACKING SERVICE DELIVERY METHODS

The 2017 ASD survey tracked the delivery methods of commonly provided services across the six areas of public works/transportation, public utilities, public safety, health and social services, parks and recreation, and community development.

For each service, respondents indicated whether it is currently provided in their jurisdiction, and if so how: through public employees entirely; public employees in part; another government or authority; private sector/for-profit and nonprofit; franchises/concessions; subsidies; and volunteers.

Most services are provided by public employees entirely (41 percent), while the most common alternative is intermunicipal contracting (28 percent), followed closely by for-profit contacting (20 percent). Nonprofit contracting is less common at 10 percent. See the survey summary online for a full breakdown by service across all delivery methods.

If we look back over time, we find that private, for-profit contracting last peaked in 1997 and has dropped or flatlined since then. Intermunicipal contracting has grown since the late 1990s and is now the most common alternative service delivery. On average, 28 percent of the services measured on the ASD survey are provided by intermunicipal contracting. This is up from 24 percent in 2012.[5]

Local governments contract with their neighbors to save money (78 percent) and achieve economies of scale (68 percent). But cost savings is not the only goal,[6] and research finds cost savings are achieved only about half the time.[7]
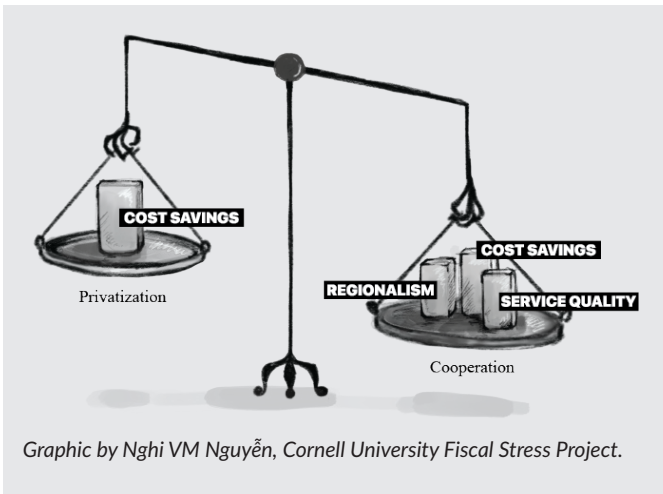
Local governments also report using intergovernmental contracting to promote collaborative intergovernmental relations (55 percent), high-quality service delivery (53 percent), and regional integration (44 percent) of service delivery. For some localities, intermunicipal contracting is the only option due to the lack of private providers (8 percent).

For-profit contracting is the next most common alternative at 20 percent and is driven primarily by the desire to reduce costs (83 percent) or address external fiscal pressures (49 percent). We believe cooperation is a more common service delivery alternative because it addresses a broader set of goals that are important to local government: cost savings, service quality, and regional coordination. Hence cooperation, when compared to privatization, helps tip the scale in alternative service delivery (see Figure 2).

## NEW TRENDS IN PRIVATE CONTRACTING

Does private contracting deliver cost savings? It is hard to tell. The preponderance of the academic literature finds no statistical support for cost savings.[8] This is due in part to problems with lack of competition, high internal costs of contracting, and concern over erosion in service quality with private delivery. If communities are to find cost savings, they must be sure to monitor their contracts closely.

*Graphic by Nghi VM Nguyễn, Cornell University Fiscal Stress Project.*

management issues within contracts, and pressures from residents and employees, local governments must strategically manage their service delivery portfolio.
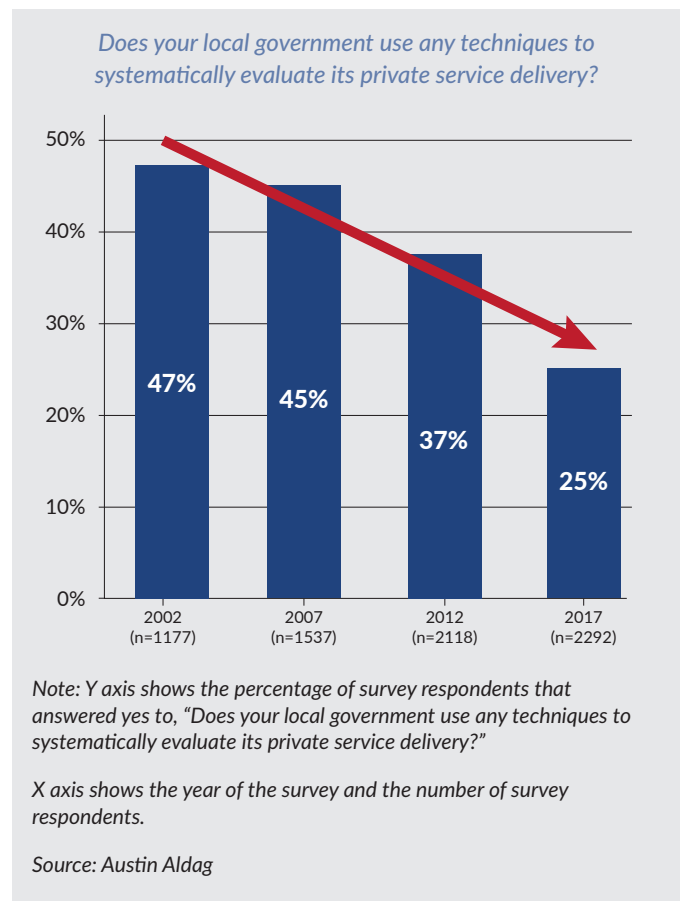
In this uncertain contracting environment, managers appear to proceed with caution, and the 2017 survey shows that managers are more likely to explore the feasibility of privatization (47 percent) and more likely to evaluate for-profit contracts (36 percent). The literature notes that such pragmatic management is key to balancing service needs, contract management in an environment of limited resources.[9]

## PRIVATIZATION REVERSALS

Around the world, increased attention is being given to privatization reversals. This is often called "re-municipalization" in Europe, and "in-sourcing" in the private sector. This has garnered special attention in water services in particular, with the notable re-municipalization of Paris water after 100 years of private delivery.

The ICMA survey asked if municipalities have brought a previously contracted service back in-house in the past

***Evaluation of private contracts drops.*** A key concern raised by the 2017 survey, however, is that only 25 percent of local governments systematically evaluate private service delivery. This represents a 12-percentage point drop in local governments reporting that they conduct evaluations of private contracts since the 2012 survey.

In both 2002 and 2007, almost half of survey respondents reported evaluating private contracts. Declines in evaluations raise several concerns regarding service quality, access, and costs. Contracts require monitoring to ensure cost savings. See Figure 3 for trends of local governments' response to, *"Does your local government use any techniques to systematically evaluate its private service delivery?"* since 2002.

***Exploring privatization also declines.*** The drop-in evaluation of private agreements may explain, in part, why studying the feasibility of new privatization also declined in 2017. The 2017 survey finds a 15-percentage point drop in the number of governments reporting studying the feasibility of adopting private service delivery in the last five years.

Just 33 percent of respondents reported studying privatization in 2017, down from 48 percent in 2012. In an environment of increasing fiscal stress, we might have expected greater exploration of private alternatives.

Why the drop-in exploration of private contracting? It is not clear. Only 20 percent of respondents indicated they encountered obstacles in adopting private service delivery. The obstacles are primarily due to opposition from local government line employees (46 percent), elected officials (43 percent), citizens (35 percent), and restrictive labor agreements (33 percent).

Could it be that managers are becoming more cautious contractors? Between fiscal pressures from above,

**FIGURE 3** ‖ Fewer Governments Evaluate Private Contracts

*Does your local government use any techniques to systematically evaluate its private service delivery?*



| Year | Percentage |
|------|-----------|
| 2002 (n=1177) | 47% |
| 2007 (n=1537) | 45% |
| 2012 (n=2118) | 37% |
| 2017 (n=2292) | 25% |

*Note: Y axis shows the percentage of survey respondents that answered yes to, "Does your local government use any techniques to systematically evaluate its private service delivery?"*

*X axis shows the year of the survey and the number of survey respondents.*

*Source: Austin Aldag*

five years. In 2017, 14 percent of respondents report they have. This is down from 18 percent in 2012. The primary reasons are dissatisfaction with service quality (54 percent), lack of cost savings (46 percent), and improvements in local government efficiency (34 percent).

While the media often portrays such reversals as politically motivated, the 2017 survey data do not support this claim. Only 21 percent of municipalities report strong political support as a reason for bringing services back in-house. U.S. municipalities are pragmatic stewards. They both contract out and bring previously contracted services back in-house to address quality and efficiency concerns.[10]

Pragmatic local governments managers seek to maintain services and continue to serve residents. To do so, they must balance resident demands with fiscal constraints and internal (union and department head pressure), along with external pressures to explore alternatives. If fiscal stress deepens, their ability to continue to provide quality services is at risk. Alternative service delivery is no panacea.[11]

## REVENUE STRATEGIES

What are other local government responses to fiscal stress? We see that they defer expenditures on capital projects (59 percent) and maintenance (44 percent) or reduce their fund balance (40 percent). They also seek new revenue sources, such as increasing user fees (55 percent), adopting new user fees (36 percent), and increasing taxes (43 percent).

Raising taxes, however, is becoming more difficult in the face of state-imposed tax and expenditure limitations (TELs) and resident pressure to keep taxes low. Indeed, a study of the severity of state TELs finds TELs "starve counties and squeeze cities."[12] The study also found counties are more constrained than cities due to their more limited range of revenue options. Counties cannot charge user fees for most services they provide.

Local governments are least likely to reduce or eliminate services (23 percent and 12 percent, respectively). When they cut, it is at the margin, reducing staff (46 percent) and personnel benefits (31 percent).

Some argue fiscal stress will become commonplace. If so, we need to identify new alternatives for service delivery and finance. Public private partnership (P3) financing for infrastructure, reported by just 11 percent of respondents, appears to have limited scope for local governments.

Development review fees (42 percent), exactions (29 percent), and tax increment financing (27 percent) are more common, but these can only be used if the community has development pressures.[13]

## COMMUNITY DEVELOPMENT RESPONSES

In 2012, ICMA added a new set of services to the ASD survey that measure community development activities. The 2017 survey shows that economic development, comprehensive planning, and land use are core local government services, as common as public safety and street repair.

While these core functions are provided directly by public employees, job training, youth employment, and affordable housing are among the top community development services provided through intermunicipal cooperation. Local governments recognize that community development is a key strategy to meet fiscal stress and address community needs.

As we look to the future, local governments need to balance increased service demands with limited revenues. In a global world of mobile capital, local government is fixed in place and focused on community wellbeing. Community development is our core function.

As professional managers explore responses to fiscal stress, they recognize efficiency is not the only goal. Meeting community needs with innovative revenue and service delivery approaches requires a balance that pragmatic managers understand.

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# ENDNOTES

1 Kim, Yunji and Mildred E. Warner. "Shrinking Local Autonomy: Corporate Coalitions and the Subnational State." *Cambridge Journal of Regions, Economy and Society* 11, no. 3 (2018): 427-221. DOI: 10.1093/cjres/rsy020.

2 Aldag, Austin, Natassia Bravo, Mark Cassidy, Alfie Rayner, and Zach Small. "Linking Fiscal Stress and Social Equity: A Municipal Toolbox." Issue Brief, (2017). Ithaca, New York: Cornell University. http://cms. mildredwarner.org/p/280.

3 The survey was supported in part by funding from the Agricultural and Food Research Initiative of the United States Department of Agriculture (USDA), National Institute of Food and Agriculture (NIFA) (grant number 2017-67023-26226).

4 This survey response pattern mirrors the number of general-purpose local governments (i.e. counties, cities, towns, villages) by state per the 2012 Census of Governments. Illinois has 2,831 units of local government and Hawaii has four.

5 Homsy, George C. and Mildred E. Warner. "Intermunicipal Cooperation: The Growing Reform." In *The Municipal Yearbook* 2014, ed. ICMA, 53–65. Washington, D.C.: International City/County Management Association.

6 Aldag, Austin M. and Mildred E. Warner. "Cooperation, not cost savings: explaining duration of shared service agreements." *Local Government Studies* 44, no. 3 (2018): 350–370.

7 Holzer, M., and John C. Fry, J. *Shared services and municipal consolidation: A critical analysis.* 2011. Public Technology Institute.

8 Bel, Germà, Xavier Fageda, and Mildred E. Warner. "Is Private Production of Public Services Cheaper than Public Production? A meta-regression analysis of solid waste and water services." *Journal of Policy Analysis and Management* 29, no. 3 (2010): 553–577.

9 Kim, Yunji and Mildred E. Warner. "Pragmatic Municipalism: Local Government Service Delivery in the Great Recession." *Public Administration: An International Quarterly* 94 no. 3 (2016): 789–805.

10 Warner, Mildred E. and Amir Hefetz. (2012), "In-Sourcing and Outsourcing: The Dynamics of Privatization among U.S. Municipalities 2002–2007." *Journal of the American Planning Association* 78 no. 3 (2012): 313–327.

11 Kim, Yunji. "Can alternative service delivery save cities after the Great Recession? Barriers to privatisation and cooperation." *Local Government Studies* 44 no. 1 (2018): 44–63.

12 Wen, Christine, Yuanshuo Xu, Yunji Kim, and Mildred E. Warner. "Starving Counties, Squeezing Cities: Tax and Expenditure Limits in the U.S.," *Journal of Economic Policy Reform* (2018) DOI: 10.1080/17487870.2018.1509711.

13 Kim, Yunji. "Limits of Property Taxes and Charges: City Revenue Structures After the Great Recession." *Urban Affairs Review* (2017) DOI: 10.1177/1078087417697199.

# DEVELOPING LOCAL CANNABIS REGULATION

*A Massive Shift in Cannabis Policy at the State Level Is Forcing Local Governments to Confront This Newly Legal Commercial Activity*

BY LAURA GODDEERIS AND WILL FRICKE

**T**he landscape of perspectives and policies on cannabis has grown increasingly green over the past two decades. In 2003, 34 percent of Americans supported legalization of recreational cannabis, while 64 percent opposed it.

Sixteen years later, the numbers have completely reversed, with 62 percent of American supportive of legal cannabis and 34 percent opposed.[1] This shift in public opinion has led to a similar shift in public policy.

While cannabis is still a Schedule I controlled substance with "no currently accepted medicinal use and a high potential for abuse" according to the U.S. Drug Enforcement Administration, 70 percent of Americans live in the now 33 states, the District of Columbia, and territories that have enacted legislation broadly permitting the medical use of cannabis. A third of those allow adult recreational use.

Another 13 states authorize medical cannabis in more limited situations, leaving just four states (Kansas, Nebraska, South Dakota, and Idaho) that do not permit medical or recreational cannabis activity under any circumstances.[2] With a massive shift in cannabis policy at the state level, an increasing number of local governments find themselves forced to take their own positions.

To assist local governments in approaching this issue, ICMA recently released *Local Impacts of Commercial Cannabis*, a report on cannabis' potential economic development, public health, public safety, and environmental implications.

In developing this report, ICMA interviewed chief administrative officers and staff from 14 local governments that have taken steps to facilitate newly legal commercial cannabis activity within their communities. Here, we summarize key lessons learned from their processes, motivations, expected and unexpected challenges, and early impacts as the industry has taken root.

Full case studies and additional findings are available in the *Local Impacts of Commercial Cannabis* report available for free download at icma.org/documents/commercial-cannabis-report.

## LESSON 1: A complicated web of conditions at federal, state, regional, and local levels influences local policy development and implementation.

State-level policy is the linchpin, dictating whether a local government must establish its own cannabis policies to augment, differentiate from, or implement the state rules. Via one or more measures, state laws typically dictate such issues as the types of activities permitted, licensing and regulation authority, user restrictions, tax structures, and timing of implementation.

These issues should trigger local conversations about the role that the state government will play in licensing

> ## "It's one of the most complex public policy issues I've faced as a local government manager given the political and societal demographics."
>
> *—Matthew Bronson, city manager, Grover Beach, California*

and regulating local businesses, the source of revenue for the local government (i.e., state revenue sharing and local taxes and fees), and the extent to which the local government controls the zoning regarding time, place, and manner of commercial cannabis activities.

It is important to note that there may be activities, especially related to cultivation for personal use, over which local governments have little to no control under state law.

Local results on statewide legalization measures may also entitle or prohibit specific actions. In Oregon, for example, cities located in counties voting less than 55 percent in favor of Ballot Measure 91, were (for a window of time) able to enact a local ban on commercial cannabis without referring it to their voters.

This policy applied to cities in 27 of Oregon's 36 counties. Medford, the seat of Jackson County, Oregon, was eligible to enact a ban but declined to do so on all commercial activity. The city of 80,000 residents collected a total of approximately $665,000 between June 1, 2017, and May 30, 2018, from a combination of state revenue sharing and a local 3 percent sales tax on cannabis sales.[3]

Local governments weighing a ban on commercial cannabis activity should be aware of state revenue sharing policies, and whether a ban would make them ineligible to receive cannabis revenue sharing.

Local governments often used community voting records on the statewide legalization measures as barometers of public opinion. In Kirkland, Washington, where 66 percent of local voters supported Initiative 502 (compared to 56 percent statewide), leaders took this as a signal to begin crafting local regulations to implement the will of a clear majority of residents.

Where voters were more evenly split and had a history of reversing decisions on legal cannabis, as in Fort Collins, Colorado, the city knew to anticipate a fair degree of resistance as it proceeded in implementing Amendment 64.

State and local laws attempt to regulate inter- and intra-state cannabis commerce, but industry interest and externalities transcend political borders. Local governments should be aware of how their neighbors are approaching the issue and consider the interrelatedness of these decisions. In Carpinteria, California, while local officials worked to develop regulations while under a temporary moratorium, cannabis cultivation continued

to expand just across the street on unincorporated Santa Barbara County land. For the city of Durango, Colorado, this meant not only coordinating with La Plata County in planning for commercial cannabis activity, but also anticipating impacts on the market given its close proximity to the borders of three additional states with more restrictive laws.

State and local governments enacting legal cannabis policies do so in conflict with its federal status, accepting certain challenges and risks. The industry, for example, is effectively excluded from the federal banking system and forced to operate on an all-cash basis.

This particularly challenged Durango when operators came to pay property taxes at city hall, which initially wasn't a completely closed (i.e., secure) facility. The businesses delivered their taxes in the form of bundles of cash, forcing the city to implement both interim and permanent security practices to protect the safety of its employees.

Some local governments feel the potential risk of intensified federal enforcement in conflict with local regulations is reason enough to avoid introducing the industry to the local economy. What happens if businesses are suddenly forced to close en masse or if local governments are penalized for accepting revenue from cannabis? As the total number of legal medical and recreational states continue to increase, however, others are hedging their bets that the federal government will continue to focus on other priorities.

Even so, City Manager Matthew Bronson, Grover Beach, California, acknowledged that a major change in federal enforcement could have a "chilling effect" now that businesses in his community have come online.

### LESSON 2: Cannabis regulation requires leadership, coordination, and communication across the entire local government administration.

A constantly shifting playing field will necessarily put local governments in a reactive position at times, but clarity around the motivation for establishing local cannabis regulations will help leaders navigate what is likely to be a long and complex process.

Even in more divided communities, managers often talked about implementing the overall will of voters. Their

# Lessons in Action: Cannabis in Coastal Counties, *by Julie Zimmerman*

The coastal counties of California are home to some of the most productive agricultural land in the world: the vineyards of Sonoma, the broccoli and strawberry fields of Santa Barbara and San Luis Obispo, and the Salinas Valley of Monterey, known as the Salad Bowl of the World. So, with the state's 1996 legalization of medical and 2016 legalization of recreational cannabis, it was only natural that the counties along California's coast would also start or expand cannabis as a crop.

Counties, however, like Sonoma, Santa Barbara, San Luis Obispo, Monterey, and Santa Cruz now face a new set of challenges and opportunities that the cultivation of raspberries and nursery plants doesn't present. The five counties have some significant differences.

Monterey County, for instance, is 10 times the size of neighboring Santa Cruz County. Some counties allow outdoor growing while others restrict it to indoor greenhouses. Some have been wrestling with cannabis cultivation for decades, while others are new to the game.

They share an agricultural history and tradition, and they are all grappling with similar issues and challenges that can include:

- What's the best way to convince previously illegal growers to come into compliance despite all the paperwork needed to obtain a license?
- What tax rate maximizes revenues while encouraging consumers to select legal cannabis instead of buying cheaper cannabis that's been illegally grown?
- How do counties protect traditional agricultural uses and avoid a speculative bubble while the industry determines the level of demand?
- What is the best way to get a perishable agricultural product to market quickly while protecting public health, safety, and the environment?

## Monterey County's Program

For its part, Monterey County set up a cannabis program that coordinates the work of 10 departments: treasurer/tax collector, district attorney, health department, agricultural commissioner, assessor, auditor, sheriff's office, county counsel, resource management agency, and county administrator's office. The board of supervisors decided it wanted the county to be a leader in cannabis, and the county hired Management Partners to facilitate the creation of a cannabis strategic plan.

After much discussion and reflection, Monterey County established a mission for its cannabis program: "To provide a local framework for successful leadership and management of commercial cannabis through coordination and collaboration with multiple county departments, state agencies, and local governments to address taxation, regulation, policy, enforcement, education, and protection of the health, environment, and safety of our communities." It identified four goals, with accompanying strategies:

- Support economic development while being mindful of other local industries.
- Protect public health, safety, and the environment.
- Ensure effective, equitable compliance and enforcement that is self-funded.
- Generate revenue that supports the program and public services.

The county also created an implementation plan to provide accountability and increase the likelihood that the strategies will be executed. It includes a schedule that covers the three years of the plan, with most of the strategies spanning multiple departments.

That holistic approach governs its response to questions that arise about land use, enforcement, public safety, keeping up with the regular regulatory and legislative updates, and trying to figure out what revenue is realistic while understanding the county's role in the supply chain.

## Collaborative Outreach

Just as counties have needed to pull together people across their organizations to respond to the challenges and opportunities created by cannabis, officials understand that collaboration with colleagues in peer counties along the coast helps everyone.

This inspired the Coastal Cannabis Program Forum, which had an inaugural introductory gathering in September 2018 and plans to convene biannually to work through a specific agenda of issues. There's also hope that the in-person forums will encourage relationships and informal exchanges of information, as well as the occasional urgent plea for help.

"We all share the same sense of opportunity as well as the same misery sometimes," says Joann Iwamoto, Monterey County cannabis program manager. "No matter where you go, we all have the same issues with the permit process, taxes, enforcement. This is a new industry so it's very much a start-up, but it's also highly regulated, so we all have similarities in what we are trying to deal with."

processes emphasized figuring out *how* to do that, rather than on whether they should.

Another common theme among local motivations was reducing the black market. Sean McGlynn, city manager of Santa Rosa, California, stressed the importance of its council providing clear intention of their focus on the issue: "bring certainty to a very uncertain landscape."

This philosophy challenged and empowered staff to work internally and with the industry to build trust and a path to compliance. Only through this approach could the city maximize opportunities to tax the industry, impose standards to protect public health and safety, and ensure maximum compatibility with community character.

Other local governments had even more specific and tangible goals. Grover Beach zeroed in on an economic development objective for opening its doors to the industry, estimating that the industry could eventually generate tax revenue equal to nearly 20 percent of the general fund budget.

The city tailored regulations to capitalize on demand for its industrial land by requiring cannabis businesses to make public improvements to their properties. It also continues to adapt its taxing scheme, recently lowering the local tax rate to avoid driving the industry back underground.

Because legal cannabis activities touch a wide range of local government departments and functions, leaders described pulling teams together early and often to provide differing perspectives. While elected officials and chief administrators were often the primary public faces during decision-making processes, staff from planning and public safety also played important roles in policy development, implementation, and evaluation.

Clerks, code enforcement, assessment, public health, economic development, and other departments also played vital roles in preparing local governments and their communities for legal cannabis and ensuring a smooth transition. Regular meetings of interdepartmental task forces—Fort Collins' meets about every six weeks—or working groups can ensure staff remain aware of and responsive to emergent issues.

### LESSON 3. Deliberate, transparent community engagement is worth the effort.

"Start early and walk a slow path," offered Modesto, California, City Manager Joe Lopez to colleagues on this topic. While changes at the state level may necessitate swift decision making on key questions about commercial cannabis (e.g., the decision to opt in or opt out), in general, local governments should anticipate an extensive and involved process to work through community concerns.

Leaders described using a wide range of such engagement strategies and tools as workshops, surveys, maps, and both formal and informal meetings over the course of months or even years to develop their regulations, with some chronicling the entire process on the government's website for public reference.[4]

Though intensive, these steps were viewed retrospectively as essential, providing opportunities for education, dialogue, and relationship-building between the community, the industry, and the local government.

In Kirkland, Washington, where the local vote on statewide legalization passed at a rate of 66 percent in favor, city leaders were surprised at the level of organized opposition to cannabis as they began the process of developing their regulations. What was easy to support in theory was more complicated, it turned out, in practice.

As a result, the city council, city manager's office, and the planning director spent significant time listening to the community and trying to understand the fears expressed about issues like crime, youth access, and traffic. These concerns informed specifics of the local regulations eventually imposed, including the extension of buffering requirements along school walk routes to further reduce youth exposure to cannabis retailers.

Administrative and planning staff of Santa Rosa spent two years engaging with the community in neighborhood, subcommittee, and council meetings as the city developed a series of interim regulations. Though time-consuming, when the city's comprehensive commercial cannabis ordinance finally came up for its formal public hearing, it passed with little resistance.

Santa Rosa also intentionally designed a permitting process promoting transparency, requiring public notices and hearings rather than administrative approvals for cannabis businesses seeking to locate within the city.

## LESSON 4. As the industry emerges from underground, expect to regularly monitor key indicators and adjust regulations.

It is important for local governments to be aware of the constantly shifting environment in a young commercial cannabis industry. The costs of regulation versus revenues brought in, public safety and public health statistics, planning or code violations, complaints, new applications, and other indicators can help give administrators, elected officials, and the public a sense of what changes, if any, need to be made to regulations.

And beyond engagement in the initial development process, local governments can foster community trust by building into their regulations sunset provisions, temporary caps, or other features providing assurance that the policy will be reviewed and updated as warranted.

While Kirkland acknowledged the ample lead-in time afforded by Washington's state legislation, many local governments instituted temporary moratoriums on activities later permitted while they took time to work through community input and regulation development processes. They cautioned against opening doors that would be difficult or impossible to later close, like letting in a type of business activity later determined to be out of character with the community.

The city and borough of Juneau, Alaska, used a moratorium period to develop its initial regulations, then continued with additional policies specific to such issues as cannabis extractions, odor control, and commercial cultivation locations as they watched the market unfold. Now, more than a year into implementation, Juneau may consider restricting future cultivation locations (as the market appears to have reached equilibrium) and possibly allowing on-site consumption like its breweries and distilleries.

The commercial cannabis regulations in Grover Beach began with strict measures that were gradually relaxed to what was deemed appropriate as the city was able to get a sense of the local market. The strength and professionalism of retail cannabis dispensary license applicants prompted the city to increase the number of available licenses and relax the required setbacks from sensitive uses.

The long-term local impacts—both positive and negative—of a regulated cannabis industry remain to be seen as so many variables continue to change. "It's too soon to tell," was a common refrain among local government leaders in communities choosing to opt in early, but these examples still provide useful indications and model processes for those just beginning to think about regulating cannabis. ICMA gratefully acknowledges the city of Half Moon Bay, California, for its support of this initial research.

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## ENDNOTES

1  Hartig, Hannah and Geiger, Abigail, "About six-in-ten Americans support marijuana legalization," Pew Research Center, October 8, 2018. https://pewrsr.ch/2EgWSw6.

2  National Council of State Legislatures, "State Medical Marijuana Laws," November 8, 2018. http://bit.ly/2G2gk1D.

3  Morgan, Nick, "Medford Weighs Ways to Spend Pot Taxes," *The Mail Tribune*, July 28, 2018. http://bit.ly/2QzQjdV.

4  See, for example, the cities of Battle Creek, Michigan (http://bit.ly/2KWaVry) and Half Moon Bay, California (http://bit.ly/2RCuUya).

BY MARTHA PEREGO, ICMA-CM

# BUILDING PUBLIC TRUST:

## *What Local Government Organizations Are Doing to Achieve It*

### *Findings from ICMA's 2018 Ethics in Local Government Survey*

**T**rust in local government remains at a high level. According to the results from Gallup's 2018 annual Governance poll, 72 percent of American adults say they have a "great deal" or a "fair amount" of trust in their local government (see Figure 1). Gallup characterizes this as a trend that has varied little over the past two decades.

This should be welcome news for the thousands of leaders, managers, and staff who work with elected officials to deliver essential services and improve the quality of life for their residents. Trust is an essential component for success in any relationship. For those in the public sector, it is *the* essential ingredient for delivering on the promise of a successful, equitable, and effective democracy.

To what do we owe this rating? As with any complex issue, a variety of factors come into play. Legal standards, along with enforcement, play a critical role. Financial disclosure laws at the state level bring transparency, which may even deter personal business relationships between public officials and entities doing business with local governments. Those relationships present either a conflict of interest in fact or appearance, both of which can erode the public's confidence in decisions made by local governments and their officials.

Some laws like California's Political Reform Act go as far as to prohibit decisionmakers, whether elected or appointed, from having any financial interest in an official transaction. Recusal is not an option; the transaction itself is illegal.
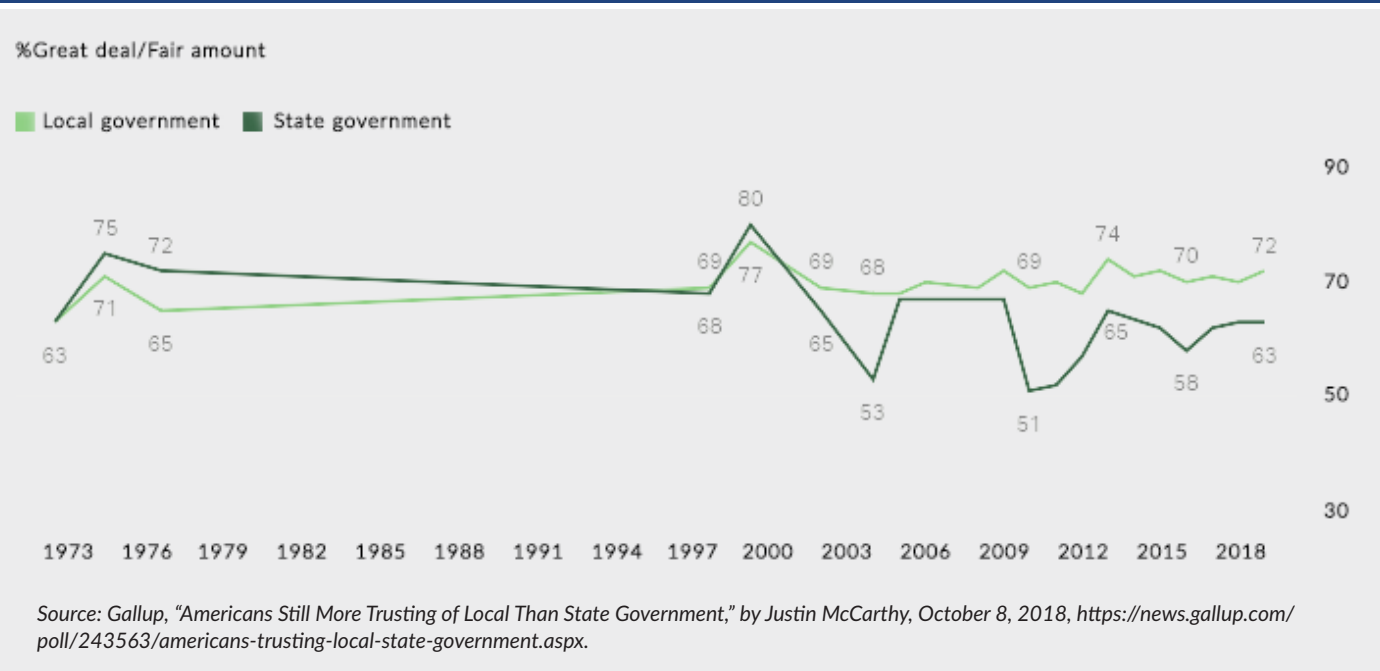
In an effort to dispel a "pay-to-play" perception, all states have legislation regulating the gifts that elected and appointed officials can receive. They vary widely, however, on such critical components as defining what constitutes a gift, source of the gift, single dollar value, annual dollar limits from a single source, and disclosure.

Ethics laws lay a critical foundation, and until they are far more stringent and uniform, are insufficient to improve the ethical climate. The gap between conduct that meets the legal test, yet is cringeworthy, is huge. Success depends on a more holistic, authentic approach to building an ethical culture within an organization.

ICMA members, with their commitment to the profession's Code of Ethics, can influence public trust by their very actions and conduct day in and day out. Yet how do they ensure that the organizations they lead and work in function at those highest levels of ethics? Leadership sets the tone, although creating an ethical culture requires more than just an ethical leader.

ICMA promotes a comprehensive strategy that encompasses setting organizational standards by a code of conduct supported by good policies; incorporating those standards into who is hired, retained, and promoted; providing rigorous real-world training on organizational

FIGURE 1 ‖ U.S. Confidence in Local and State Government, 1972–2018



%Great deal/Fair amount

Local government ■ State government

*Source: Gallup, "Americans Still More Trusting of Local Than State Government," by Justin McCarthy, October 8, 2018, https://news.gallup.com/poll/243563/americans-trusting-local-state-government.aspx.*

standards and ethics; and providing safe, secure opportunities for people to seek advice and report potential wrongdoing.

In 2018, ICMA partnered with Sacramento State University in the "Ethics in Local Government Survey" to learn more about the current status of ethics standards, policies, and training in local government. The survey was

distributed to ICMA member chief administrative officers to answer on behalf of their local governments, which may operate under a council-manager, mayor-council, or another form of government.

The survey was made available to 3,093 ICMA members affiliated with municipalities, counties, councils of governments, and special districts in the United States. A total of 838 members completed the survey, yielding a response rate of 27.1 percent. This article discusses the 2018 survey's findings.

## ORGANIZATIONAL CODE OF ETHICS

Some 63 percent of respondents developed their own code of ethics. Setting the values that drive the conduct of everyone in an organization is a critical first step to building an ethical culture. Absent a uniform standard, people are relying on the standards set by their professional association, regulations that may be adopted by the state, or their own assessment of what is okay.

This presents an enormous risk to the organization. It is not that people are lacking in values or are nefarious by nature. The reality is that many ethical mistakes happen because people don't understand the organizational norms or expectations.

In developing their code, 70 percent of the organizations relied on staff for the effort. If the purpose of a code is to influence behavior then having input, engagement, and ownership by everyone is important. Here is

**FIGURE 2 ‖** Frequency Where Code of Conduct Issues Are Not Addressed

| Issue | Not Addressed |
|---|---|
| Values statement | 31.70% |
| Social media policy | 30.20% |
| Internet usage policy | 9.00% |
| Acceptance of gifts or favors | 4.70% |
| Political activity | 10.60% |
| Use of public resources | 5.60% |
| Conflicts of interest | 4.80% |
| Nepotism | 9.30% |
| Appropriate conduct in the workplace | 5.90% |
| Outside employment | 8.10% |
| Decision making in the public interest | 24.80% |

*Source: 2018 Ethics in Local Government Survey, ICMA.*

It's complex work. As one survey respondent noted: "I have a high threshold for ethics and this survey made me realize that I need to do a better job of communicating ethical standards to our employees."

a process used by one local government that responded to the survey:

> "The township formed an ethics committee composed of staff at all levels. Over the course of a year, committee members conducted research and consulted with each department to get a better understanding of the ethical climate and concern. They also engaged the law director and consulted with representatives from the state ethics commission.
>
> "Committee members surveyed all employees prior to presenting their draft policy to the township's management team and ultimately to the governing body. After the policy was adopted by the governing body, committee members met with each staff member to introduce the policy and provide training.
>
> "Ethics committee members continue to serve as a resource for employees and maintain and publish a frequently-asked-questions list that is updated as needed. Assessing the outcome, they concluded: 'We believe that the employees were far more receptive to the policy due to the involvement of their peers.'"

Organizations that did not take this approach used an attorney, relied upon a state model ordinance, or used a combination of resources to get the job done.

Respondents were asked whether the ICMA Code of Ethics or the American Society for Public Administration (ASPA) code was used as a reference in their efforts to set an organization standard or required employees to comply with it. Results showed that 56 percent refer to the ICMA code in their work.

One respondent from a Colorado community noted: "We have the ICMA Code of Ethics on the wall in each department head's office citywide. We adopt the full ICMA Code of Ethics for all city employees in addition to Colorado statutory ethical rules."

Asked whether employees are required to adhere to the ICMA Code of Ethics, only 2 percent responded in the affirmative. This is to be expected considering that there are such requirements and obligations under the Code as political neutrality that would not be reasonably required of all staff. About 6 percent of respondents used the ASPA code as a reference point in their efforts.

## ETHICAL STANDARDS ADDRESSED IN AN ORGANIZATION'S CODE

The survey identified 11 areas that pose ethics quandaries or landmines for local government staff and elected officials. The areas are setting values or norms, social media policy, internet usage policy, acceptance of gifts or favors, political activity, use of public resources, conflicts of interest, nepotism, appropriate conduct in the workplace, outside employment, and decision making in the public interest.

It asked whether and how organizations addressed setting appropriate standards to tackle these issues. The good news is that local government organizations deal with these issues at significantly high rates.

As to whether organizations address these issues in a code of conduct or by policy, the results were split. Perhaps it is clearer to report on the frequency where these issues are not addressed at all (see Figure 2). The key point from Figure 2 is the fact that a third of survey respondents haven't addressed the use of social media as it relates to work.

## TRAINING ON THE CODE

Regular training on an organization's code sends the message from leadership that ethical conduct and an ethical approach to work matters. Done well, it provides practical guidance to assist elected officials, staff, and volunteers who represent the organization on boards and commission to make wise decisions.

Again, the good news is that 80 percent of the organizations responding do provide training, and it is largely mandatory. Who is required to take the training varies: elected officials (65 percent), managers (78 percent), all staff (88 percent) and board and commissions (66 percent). The median length of the training is two hours.

As part of the strategy to keep staff informed and committed to the internal code, 62 percent require new employees to sign the code on hire. Seven percent take the extra step to require all employees to sign the code annually.

## RECRUITING ETHICAL TALENT

Given the significant investment local governments have in their workforce, assessing the ethical competency of applicants should be as critical as evaluating

skills and abilities. Perhaps American philanthropist Warren Buffett said it best: "In looking for people to hire, look for three qualities: integrity, intelligence, and energy. If they don't have the first, the other two will kill you."

Based on the survey results, this is an area requiring additional focus and effort. More than half (52 percent) of the responding local governments do not incorporate ethics in the employee recruitment and selection process.

For those that do, presenting ethical scenarios in the oral interview was by far the most common method to assess the ethical competency or awareness of an applicant (74 percent). Providing situational questions to be included in a written exam was the least selected method (25 percent).

Other approaches related to an effort to recruit ethical staff included providing the applicants with a copy of the organization's code and including it in the job announcement.

## ADVICE AND ENFORCEMENT

Depending on how the position is resourced, an ethics officer in an organization can offer advice to officials and staff on ethical dilemmas, manage compliance-related issues, and provide training or oversee the training program. In the private sector, compliance officers are a given.

The vast majority of responding local governments (86 percent) do not have an ethics or compliance officer. Where the position exists, in over half the organizations responding the position reports to the chief administrative officer.

The results dispel to some extent what might be a common assumption that it is the large, complex organizations who need and can afford this luxury. The position is most frequently found in organizations serving communities with populations between 10,000 and 100,000.

Using an entity-wide ethics office, commission, or board is similarly not a common approach. Only 13 percent of organizations responding indicated that they resource these approaches.

An ethics board can serve in a similar capacity. Although given the deliberative nature of a body of individuals, a board might not be as nimble in providing real-time ethics advice.

## WHISTLEBLOWING, REPORTING MECHANISMS, AND INVESTIGATIONS

How do local government organizations learn about ethics issues? More than half, 55 percent, have an established process for reporting ethical issues. For those that have a formal process, the overwhelming majority (85 percent) allow complaints to be made anonymously or off the record.

This is a critical process because for the individual taking the step to report an ethics issue there is a risk, be it real or perceived. They may be concerned about employment security and relationships with coworkers. For the organization, it is imperative to create a secure, safe reporting pathway so that managers learn about issues and can address them.

Responding to the array of ways that an issue could be reported, 52 percent use a form submitted to human resources; 20 percent have an internally managed hotline; and 13 percent use an externally managed hotline.

Addressing the issue when reported is the reactive approach. On the proactive side, the survey asked whether identifying and resolving ethical issues is a routine part of the local government's organizational management. Some 53 percent of respondents said that it is. Their tactics and strategies for doing so is a question for a future survey.

## REINFORCING THE VALUES

Good organizations recognize and reward talented employees for their work ethic and achievements. Certainly, one aspect of exemplary performance is adherence to the principle of doing "the right thing the right way." This is conduct that achieves the desired outcome consistent within the organization's ethical standards.

Organizations were asked if they recognized staff for "ethical behavior" with an award, personal message, or formal announcement. More than two-thirds of respondents don't do this on a formal basis. This is yet another area to explore in future research, as perhaps this is a factor already embedded in employee recognition programs or perhaps not.

## TAKEAWAY

Developing and supporting ethical professionals on their journey to create and lead ethical organizations has been an integral part of ICMA's mission since the Code of Ethics was written 95 years ago. This survey is one step on the path to assisting the community of professionals who share this mission.

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# GIS: HELPING GOVERNMENTS
## BUILD SMART COMMUNITIES

Citizen engagement

Opioid epidemic

Local economic development

## Prioritizing Community Engagement

**Community Engagement**
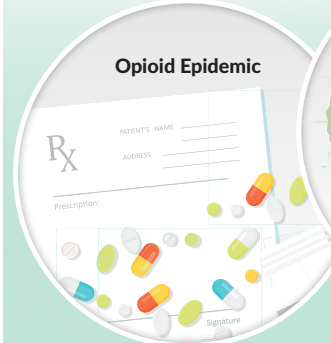
**GIS Solution**

Long Beach

**Community engagement** requires meeting constituents where they are. GIS technology offers innovative solutions that make it easier for community members to participate. There are apps that make it possible to direct citizens to voter polls with the shortest lines or for residents to provide feedback on strategic plans online.
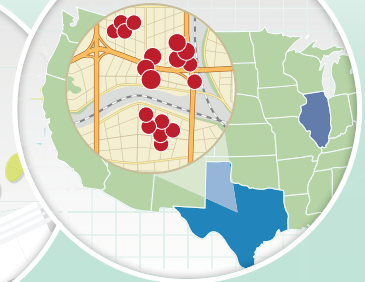
## Tackling Social Inequities

**Opioid Epidemic**

Rx

PATIENT'S NAME

ADDRESS

Prescription:

Signature

**GIS Solution**

In the **public health field**, the opioid epidemic has resulted in the overdoses of thousands of people across the country. Using GIS technology, local government can track the location of Rx disposal stations, collect overdose data for locating treatment centers, and monitor Narcan distribution programs.

## Promoting Prosperous Communities

In our rapidly changing global economy, local government leaders must adopt new strategies for pursuing their **economic development** goals. GIS technology helps leaders understand this new marketplace and what it takes to grow the economy.

**Local Economic Development**

**GIS Solution**

Central Street

Central Street

ICMA | esri | THE SCIENCE OF WHERE