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## Intergovernmental Cooperation and Service Delivery Strategies

Intergovernmental cooperation is an arrangement between two or more governments for accomplishing common goals, providing a service, or solving a mutual problem. A number of methods are available to Georgia communities for coordinating intergovernmental service delivery:

- Informal cooperation
- Mutual aid agreements
- Formal agreements

Each community must review thoroughly its own situation and determine which method or methods offer the most logical and acceptable conditions for providing the type of government desired by citizens.

### **ALTERNATIVE METHODS OF COOPERATION**

#### **Informal Cooperation**

Informal cooperation refers to simple cooperative actions or agreements that are voluntary and require no structural change in the participating local governments. An example of informal, interlocal cooperation is the casual exchange of information over the telephone between county and city clerks. Another example would be the occasional or one-time loan of equipment by one government to another.

#### **Mutual Aid Agreements**

Mutual aid agreements are usually based on a “you help us, we’ll help you” relationship in which two or more governmental units provide supplemental emergency services. These agreements, which must be in

writing, are usually for police, fire, emergency management (civil defense), and riot control situations.<sup>1</sup> Legislation in this service area, the Georgia Mutual Aid Act, authorizes local law enforcement agencies, fire departments, and emergency medical services to cooperate with and render assistance to other such local agencies when they request help in a local emergency.<sup>2</sup> Counties are authorized to develop emergency management mutual aid agreements with other counties and municipalities for reciprocal aid and assistance.<sup>3</sup> Counties are also authorized to enter into mutual aid resource pacts with other counties, municipalities, and specified jurisdictions for the purpose of providing fire services and other emergency response.<sup>4</sup> In order to facilitate interstate cooperation, particularly for Georgia counties that border neighboring states, Georgia counties and cities are authorized to enter into agreements with public agencies outside Georgia to perform any governmental service, activity, or undertaking that each agency is otherwise authorized by law to perform.<sup>5</sup>

### **Formal Agreements**

Formal agreements include joint service agreements and service contracts. As a general rule, governmental functions and services that readily lend themselves to some kind of formal agreement have one or more of the following characteristics:

- Cost-benefits that are easily defined
- Mutual benefits to the participating governments
- A noncontroversial nature

Through joint service agreements, two or more local governments mutually perform a particular function or service. Often such agreements involve joint acquisition, construction, ownership, and maintenance of property; joint employment of personnel; or other similar cooperative activity. Under joint service agreements, local governments share ownership and control. Services that are amenable to being provided under joint service agreements include code enforcement and planning.

Service contracts, while similar to joint service agreements, have some distinguishing features. Under a service contract one unit of government is selling a service to another unit. Although the terms of the contract must be agreeable to the parties, the government supplying the service usually controls the administration of the service. Typical contract services include office space, water supply and treatment, sewage disposal, and fire protection. Other functions and services may also be adaptable to contractual arrangements. For example, several

public service activities—jail, communications, and records—readily fall into such service contract agreements.<sup>6</sup>

## **SERVICE DELIVERY STRATEGIES**

The intent of the Service Delivery Strategy law<sup>7</sup> is “to provide a flexible framework within which local governments in each county can develop a service delivery system that is both efficient and responsive to citizens in their county.” In recognition of the unique characteristics of each county throughout the state, the legislation does not mandate a specific outcome for the delivery of services in every county but rather grants discretion to counties and cities. Local governments are required to develop service delivery systems that reduce unnecessary duplication, promote cooperation, eliminate funding inequities, and minimize interjurisdictional land-use disputes.<sup>8</sup> The service delivery strategy in each county must be adopted by resolutions by the county, all cities with populations of more than 9,000, the city that serves as the county seat, and 50 percent or more of all other cities with populations of more than 500 within the county. All 159 counties have strategies on file with the Department of Community Affairs (DCA).<sup>9</sup>

### **What Is a Service Delivery Strategy?**

Pursuant to the Service Delivery Strategy law, local governments must carefully scrutinize the services they currently provide in order to identify overlap or gaps in service provision, examine the existing method of funding those services, and develop a reasoned approach to allocating the delivery and funding of the services among the various local governments and authorities in each county. A service delivery strategy is intended to be a concise action plan, backed up by the appropriate ordinances and intergovernmental agreements, for providing local government services and minimizing land-use conflicts. While the law does not dictate specific service delivery and land-use planning arrangements within any given county, it does require every strategy to include four basic components and meet six criteria.

### **Components of a Service Delivery Strategy**

Each strategy must identify all services presently provided in the county by cities, counties, and authorities; assign which local government will be responsible for providing a specific service in which area of the county; describe how all services will be funded; and identify all intergovernmental contracts, ordinances, and resolutions to be used in implementing the strategy, including existing contracts.<sup>10</sup>

### *Identification of Services*

Each strategy must list all local government services provided or primarily funded by the county, each city, and each authority within the county and describe the geographic area in which the identified services are provided by each jurisdiction. State law does not specify the services that should be included in a county's strategy; however, all services provided by a county or its cities must be included.

### *Assignment of Service Delivery Arrangements*

The strategy must assign the local government or authority that will provide each service, identify the geographic areas of the county in which each service will be provided, and describe any services that will be provided by a local government to any area outside its geographical boundaries. If a local government is providing the service outside its geographic boundaries, the strategy must include a map delineating the areas served extraterritorially by any service provider. The law does not preclude cities and counties from offering the same services but does encourage local governments to provide services in the most efficient manner possible. If a county's service delivery strategy assigns two or more local governments within the same county the responsibility to provide identical services within the same geographic area, the strategy must explain this duplication of services, including any overriding benefits or insurmountable problems that affect continuing the arrangement. If a city or county decides to either add a new service or drop an existing service after the strategy is adopted, an update to the service delivery strategy must be negotiated with all parties to the original strategy.

### *Funding Sources*

The strategy must describe the source of revenue each local government will use to fund each service it will provide within the county (e.g., countywide revenues, unincorporated area revenues, municipal revenues, enterprise funds, or some combination).

### *Legal Mechanisms for Implementation*

Finally, the strategy must identify the mechanisms, if any, to be used to implement the service delivery strategy, including but not limited to intergovernmental agreements, ordinances, resolutions, and local acts of the General Assembly.

### **Criteria**

In assigning and implementing service delivery responsibilities, the following requirements must be met:

- The strategy should eliminate duplication of services or explain their continued existence.
- Jurisdictions charging water and sewer rate differentials to customers outside their boundaries must be able to justify such differentials.
- Services provided primarily for unincorporated areas must be funded by revenues derived exclusively from the unincorporated areas.
- Conflicts in land-use plans within a county (that is, between the county and its cities) must be eliminated.
- Provision of extraterritorial water and sewer services by any jurisdiction must be consistent with land-use plans.

### *Elimination of Duplication*

When two local governments provide or offer the same service in overlapping areas, the service delivery strategy must (1) identify the steps to eliminate unnecessary competition and duplication of services and the time frame in which such steps will be taken or (2) explain the reasons for continuing the existing overlap or duplication of service. For example, if a city water department and a county water authority both have excess water capacity and have extended water lines in order to serve the same area of the county immediately adjacent to the city's jurisdictional boundaries, the services are considered to be duplications. However, if a city provides a service at a higher level than the base level of service provided by the county throughout the geographic area of the county, the service is not considered to be a duplication. Thus, city maintenance of its own police department to patrol within the city, in addition to sheriff department patrols of the entire county, is not viewed as a duplication of services.

Although the service delivery strategy law permits a county and the cities within it to adopt a strategy that makes no changes to the existing service delivery arrangement within the county, the water and sewer rate equity and the tax equity criteria may require changes in how those services are funded.

### *Elimination of Double Taxation*

The strategy must ensure that the cost of any service provided by a county primarily for the benefit of the county's unincorporated area (e.g., fire service or solid waste collection) is borne by the residents, individuals, and property owners who benefit from the service. Funding for such ser-

vice must come either from special service districts created by the county in which property taxes, insurance premium taxes, assessments, or user fees are levied or imposed or through any other mechanism agreed upon by the affected parties that will eliminate double taxation of municipal property owners. If the county and one or more cities jointly fund a countywide service, the strategy must ensure that the county share of such funding is borne by the residents, individuals, and property owners in the unincorporated area who benefit from the service.

Determining which county services should be paid for out of the general fund and which services should be paid from revenue sources derived from the unincorporated area has been one of the more difficult issues facing counties and their cities in reaching service delivery agreements. Some county services are made available countywide to all residents and in many instances, to nonresidents. Such services include public health, county roads, the county courts and jail, and the operation of the offices of the county constitutional officers. Countywide revenues such as property taxes should be allocated to those services from the county's general fund. The General Assembly addressed this issue by specifically providing that county constitutional officers (i.e., sheriff, superior court clerk, probate judge, and tax commissioner) and the services they provide are not included in the local government services that must be addressed in service delivery agreements.<sup>11</sup> Moreover, the attorney general has said that the costs of the operations of the county constitutional officers "are not to be included in the deliberations of local government officials when formulating agreements between counties and cities regarding the delivery of local government services."<sup>12</sup>

### *Elimination of Arbitrary Water and Sewer Differentials*

The strategy must ensure that water or sewer fees charged to customers located outside the geographic boundaries of a service provider are not arbitrarily higher than the fees charged to customers inside its boundaries. If a local government believes a rate differential is arbitrary and disputes the reasonableness of such water and sewer rate differentials, the law provides a detailed process for that local government to challenge the arbitrary rate differentials on behalf of its residents. If it is determined that the water and sewer rates charged to a local government's outside customers are arbitrary, the strategy may provide for a phased-in adjustment of rates.

### *Compatible Land-Use Plans*

Local governments within the same county must identify any incompatibilities or conflicts in their land-use plans and either amend their

land-use plans so that they are compatible and nonconflicting or adopt a single land-use plan for the entire county. This provision is intended to protect citizens who reside near the boundaries of one local government's jurisdiction from undesirable and incompatible land uses (such as industrial operations, large commercial centers, high-density residential development, and offensive agricultural operations) being allowed to locate nearby in areas under the control of another local government.

### ***Extraterritorial Water and Sewer Service Consistent with Land-Use Plans***

The provision of extraterritorial water and sewer services by any jurisdiction must be consistent with all applicable land-use plans and ordinances. Under the state comprehensive planning act, all counties and cities must prepare a comprehensive plan, including a land-use element which, in many cases, is implemented by way of a zoning ordinance, subdivision regulations, or other land development controls. This requirement for consistency is designed to ensure that a government proposing to extend its water or sewer lines into the jurisdiction of another government does not violate the other government's comprehensive plan.

### **Dispute Resolution**

If a county and the cities within it are unable to reach agreement on a service delivery strategy, the law requires them to attempt to resolve their differences through some method of alternative dispute resolution. If alternative dispute resolution is unsuccessful, the neutral party is required to prepare a report and provide it to each local government within the county. The report is considered a public record. The cost of alternative dispute resolution is shared by the disputing parties on a pro rata basis according to population. The county's share is based upon the unincorporated population of the county.<sup>13</sup> If the county and the affected cities fail to complete a service delivery strategy, the county or any affected municipality may file a petition in superior court in the county seeking mandatory mediation on any unresolved items. The cost of mediation is to be shared by the disputing parties based on population.<sup>14</sup>

### **Verification by the Department of Community Affairs**

The department may only verify that the county has adopted a strategy and that the strategy meets the requirements of the act. The law specifically states that DCA shall neither approve nor disapprove the specific elements or outcomes of the strategy. As long as the strategy meets the required criteria, local governments have complete discretion

to develop their own arrangements.<sup>15</sup> Any city or authority that is located or operates in more than one county must be included in a department-verified strategy for each county in which the city or authority is located or operating.<sup>16</sup>

### **Sanctions for Noncompliance**

No state-administered financial assistance, grants, loans, or permits can be issued to any local government or authority that is not included in a DCA-verified service delivery strategy. In addition, projects that are inconsistent with a strategy are ineligible for state funding and permits. Examples of state funding, grants, and permits that counties could lose by failing to reach or update a service delivery strategy include Local Maintenance and Improvement Grants, Georgia Environmental Finance Authority water and sewer loans, recreation grants, Community Development Block Grants, and water withdrawal, wastewater treatment, and solid waste disposal facility permits. Each state agency is required to make certain that any projects under consideration for funding or permit approval are consistent with the service delivery strategies of the applicable counties.<sup>17</sup> If a county and cities are participating in court-directed mandatory mediation, the court is authorized to suspend sanctions pending the outcome of mediation.<sup>18</sup>

### **Strategy Updates**

Local governments are encouraged to keep their service delivery strategies accurate and up to date and should complete periodic updates. DCA has developed a series of forms for counties and affected cities to use in submitting, extending, or revising their service delivery strategies. These forms may be downloaded from DCA's Web site ([www.dca.ga.gov](http://www.dca.ga.gov)). Counties are required to review and completely update their approved service delivery strategies under six conditions:

1. When the county updates its comprehensive plans, at least every 10 years
2. Whenever necessary in order to change service delivery or revenue distribution arrangements
3. When necessary due to changes in revenue distribution arrangements
4. When local governments are created, abolished, or consolidated (including first-time cross-county annexations by cities)
5. When the existing service delivery strategy expires
6. When the county and affected cities agree to revise the strategy<sup>19</sup>

A county and its cities may fail to be in compliance with the requirements of the Services Delivery Strategy law in the following circumstances:

1. The service delivery strategy is not formally adopted by all required governments.
2. The strategy does not address all required components and criteria, leaving DCA unable to verify the strategy.
3. The strategy is not updated as required.

DCA maintains an online database that allows local governments to check the status of their service delivery agreements. Other publications that can help counties and cities understand this law, such as *Charting a Course for Cooperation and Collaboration*, are available through DCA.

## NOTES

1. OFFICIAL CODE OF GEORGIA ANNOTATED (O.C.G.A.) §36-10-1.
2. O.C.G.A. tit. 36, ch. 69. See also O.C.G.A. §§38-3-29, 38-3-30 in regard to local mutual aid arrangements.
3. O.C.G.A. §38-3-29.
4. O.C.G.A. tit. 25, ch. 6.
5. O.C.G.A. tit. 36, ch. 69A.
6. See O.C.G.A. §42-5-53 concerning county correctional institutions and §§15-7-80–15-7-85 concerning the provision of municipal court services by counties.
7. O.C.G.A. tit. 36, ch. 70, art. 2. See Association County Commissioners of Georgia, Georgia Municipal Association, Georgia Department of Community Affairs, and Carl Vinson Institute of Government, *Charting a Course for Cooperation and Collaboration* (Atlanta: Georgia Department of Community Affairs, 1997).
8. O.C.G.A. §36-70-20.
9. O.C.G.A. §36-70-25(a), (b).
10. O.C.G.A. §36-70-23.
11. O.C.G.A. §36-70-2(5.2).
12. 2002 Op. Att’y Gen. No. U2002-2.
13. O.C.G.A. §36-70-25.1(b), (c).
14. O.C.G.A. §36-70-25.1(d).
15. O.C.G.A. §36-70-26.
16. O.C.G.A. §36-70-27(a).
17. O.C.G.A. §36-70-27.
18. O.C.G.A. §36-70-25.1(d)(2).
19. O.C.G.A. §36-70-28.