



Jason Anselment
Legal/Legislative Counsel

Opportunities abound for Intergovernmental Cooperation

IAPD members will recall that local government consolidation was one of last year's pressing legislative issues. With your help, we were able to defeat Senate Bill 273, which would have forced the consolidation of at least some units of local government. However, House Bill 268 was signed into law establishing a Local Government Consolidation Commission and ensuring that this issue will continue to be studied and debated for at least the near future.

Local government consolidation has been a recurring theme for decades. This is due, in part, to a misperception that consolidating smaller, single purpose agencies into larger, multi-purpose organizations will yield the same level of service at a lower cost. Bigger organizations are not necessarily more efficient. In fact, the opposite is often true. Certainly, when it comes to providing park and recreation services to Illinois communities, no organization, public or private, is better able to deliver these valuable services than park districts, conservation districts and forest preserves.

One of the many reasons IAPD member agencies are so successful is that they already utilize the mechanisms available under Illinois law to save taxpayers money by partnering with other units of government to efficiently deliver services. The partnerships allow special purpose districts to preserve their focus while also taking advantage of intergovernmental efficiencies.

Constitutional Authority for Intergovernmental Cooperation

One needs to look no further than the Illinois Constitution to find legal authority for intergovernmental cooperation. Article VII, Section 10, specifically provides all units of local government with the authority to contract or otherwise associate among themselves to obtain or share services. In fact, they may jointly exercise, combine or transfer any of their powers or functions in any manner that is not prohibited by law. This authority extends to cooperation with the State of Illinois, the United States and with other states and their local governments and allows agencies to utilize their credit, revenues and other resources to pay costs and to service debt related to intergovernmental activities. There is even a constitutional requirement for the State to encourage intergovernmental cooperation and to use its technical and financial resources to assist intergovernmental activities.¹

Intergovernmental Cooperation Act

One way in which the state encourages intergovernmental cooperation is through the Intergovernmental Cooperation Act (ICA).² Like the Illinois Constitution, this statute grants Illinois public agencies³ flexibility to combine their powers to provide governmental services and perform activities as long as one of the partnering agencies is legally authorized

to perform the specific service or activity and neither is otherwise prohibited by law.⁴ Agencies exercise this authority by entering into contracts, e.g., intergovernmental agreements, which set forth the purposes, powers, rights, objectives and responsibilities of each of the parties. To carry out the agreement, agencies may form a joint board or other entity and may appropriate funds and supply personnel or services.⁵ In other cases, one or both of the agencies may simply utilize their existing personnel and resources. In either instance, the individual governing bodies of each partnering agency must formally approve the agreement.

Park districts have formed one of the most successful partnerships under the ICA. Special recreation associations (SRA's) are a perfect example of intergovernmental cooperation between park districts (or with a municipality) to create recreational opportunities for persons with disabilities. All of the joint authority to approve budgets, share expenses, authorize expenditures, acquire real estate, hire employees or other workers and provide transportation to participants is derived from the ICA in conjunction with Section 8-10b of the Park District Code.

Another example of intergovernmental cooperation most IAPD members utilize is authorized by the ICA. The ability for units of local governments to form joint self insurance pools like IPARKS and PDRMA is specifically contained within this statute. Because of the success of these programs and the high level of expertise of the professionals retained to administer them, it is sometimes easy to forget that they are merely a partnership between the units of local government that created them. Member agencies are simply pooling their resources to meet their risk management needs. As a result, these agencies reduce their risk for a lower cost than if each individually purchased private insurance.

Governmental Joint Purchasing Act

As readers likely know, government agencies are mandated by law to satisfy competitive bidding requirements when purchasing most supplies and services. For example, when making purchases exceeding \$20,000, park districts are required to follow the bidding procedures set forth in the Park District Code.⁶ Because competitive bidding typically requires the development of specifications, evaluation of bidders and selection procedures, there are administrative costs associated with it.

The Governmental Joint Purchasing Act (Act)⁷ allows governmental agencies to partner with other governmental agencies to make bulk purchases of supplies and services. When utilized correctly, the Act can sometimes save agencies money through bulk purchasing and also in the administrative costs associated with the competitive bidding process. **Note, however, that the Act does not circumvent competitive bidding.** The statute simply permits governmental units⁸ to purchase personal property, supplies and services jointly with other governmental

units by following the competitive bidding procedures set forth in the Act rather than specific statutes like the Park District Code.

Sections 3 and 4 of the Act set forth the bidding procedures required for joint purchases. Readers will recognize the similarities to the procedures required by the Park District Code and similar statutes. Unless the joint purchase is through the State of Illinois' joint purchasing program, one of the governmental units involved in the joint purchase must conduct the bid letting.⁹ Bids must be solicited by publishing a notice at least once in a newspaper of general circulation in one of the counties where the materials are to be used and at least 5 calendar days before the final date of submitting bids. The governmental unit conducting the bid-letting can also solicit sealed bids by sending requests by mail to prospective suppliers and by posting notices on a public bulletin board in its office.¹⁰

As with other statutes, all purchases, orders or contracts must be awarded to the lowest responsible bidder, taking into consideration the qualities of the articles or services supplied, their conformity with the specifications, their suitability to the requirements of the participating governmental units and the delivery terms. However, bids may be rejected and new bids solicited if one or more of the participating governmental units believe the public interest may be served thereby. A record must be kept of each bid with the successful bid indicated. After the award of the contract, the record must be made available for public inspection and a copy of all contracts must also be filed with the purchasing agent, clerk or secretary of each participating governmental unit.¹¹

Many local government agencies utilize the state's joint purchasing program, which is administered by the Department of Central Management Services (CMS). This program is specifically authorized by the Act. Under the state program, CMS conducts the bid letting in accordance with procedures in the Illinois Procurement Code. Public notice soliciting the bids is published in the Illinois Procurement Bulletin and includes a general description of the personal property, supplies or services to be purchased where all blanks and specifications may be obtained and the time and place of the bid opening.

A word of caution with regard to joint purchasing programs other than CMS's is in order. While other joint purchasing programs are well intentioned, it behooves the district to ensure that the program is administered appropriately in accordance with the Act and satisfies the competitive procedures contained therein. While the competitive bidding procedures set forth in the Act may be used in lieu of other statutory bidding requirements such as those contained in Section 8-1(c) of the Park District Code, they must be strictly followed in order to do so.¹² Otherwise, the Park District Code's requirements are not excused. Consequently, where the purchase exceeds \$20,000, IAPD advises member agencies to work closely with their local counsel to ensure that the program satisfies the Act and that the authority for the purchase is well documented, e.g., in the resolution or ordinance authorizing the purchase.

Is Your Agency Missing a Golden Opportunity?

As those who have participated in the IAPD's Annual Awards Gala well know, there are numerous intergovernmental success stories within our field. This past October, IAPD recognized three exemplary agreements that resulted in savings for taxpayers and benefits for communities.

1. Parks and Libraries

The Dundee Township Park District and the Dundee Township Public Library partnered to open a library branch in the park district's new recreation center. The library did not have enough funds on hand for

new construction, and the park district had budget limitations regarding the square footage of its new facility. As a result of intergovernmental cooperation, park district patrons now get convenient access to library services, and library patrons are exposed to recreation programs and offerings. The shared infrastructure means no duplication of parking, restrooms and common areas and allows both agencies to expand their offerings while maximizing community tax dollars.

2. Parks, Forest Preserves and Cities

The Fox Valley Park District, the City of Aurora and the Forest Preserve District of Kane County joined forces to save 19 acres of green space in a densely populated part of town that was slated to become a trucking distribution center. As a result of intergovernmental cooperation, the area is instead a community park. Through an intergovernmental agreement, the forest preserve and the city contributed \$1 million for the acquisition and development of the project area and the park district invested an additional \$2 million to transform the space into an active, vibrant community centerpiece.

3. Park and Cities

When the Glenview Naval Air Station closed in 1995, the community's master plan called for the creation of a park. The Village of Glenview and the Glenview Park District began working together to plan and design it, but the cost of developing the park required millions more than the park district could afford. Although the village had the financial resources to construct the facility, it was not in the position to maintain such a large-scale community asset long term like the park district. As the result of intergovernmental cooperation, the community now enjoys a 60-acre park that includes a lake, wetland and natural restoration areas, six miles of walking and biking trails, an amphitheater, boardwalk, playgrounds, gardens, tennis courts and athletic fields.

None of these projects would have happened were it not for intergovernmental cooperation, and there are countless other examples IAPD members utilize like police protection services, stormwater management agreements, multi-use path systems, bi-lingual and environmental educational programs, shared facility-use agreements, and the list goes on and on.

Park and Recreation Agencies Are Natural Partners

Because of the breadth of the programs that park and recreation agencies offer and the diversity of their facilities, they are natural partners for other government agencies. IAPD encourages all member agencies to continue to explore ways in which they can partner with others and to track your successes. The IAPD will continue to reach out to members to document these successful programs as a part of our efforts to help make the case that our member agencies are best able to deliver park and recreation services to Illinois communities.

¹ Illinois Constitution, Article VII, Section 10

² 5 ILCS 220/1 et seq.

³ Under the ICA, "public agencies" include counties, municipalities, townships, special districts, and units designated as units of local government by law, and any school district, public community college district, public building commission, the State of Illinois, any agency of the State government or of the United States, or of any other State, as well as any political subdivision of another State.

⁴ 5 ILCS 220/3

⁵ 5 ILCS 220/4

⁶ 70 ILCS 1205/8-1(c)

⁷ 30 ILCS 525/0.01 et seq.

⁸ "Governmental unit" under the Act means the State of Illinois, any public authority which has the power to tax, or any other public entity created by statute.

⁹ 30 ILCS 525/3

¹⁰ 30 ILCS 525/4

¹¹ *Id.*

¹² 30 ILCS 525/2