

IMPACT OF UNFUNDED FEDERAL MANDATES AND COST SHIFTS ON U.S. CITIES

A Preliminary Report on Costs in 59 Cities

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The United States Conference of Mayors

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INTRODUCTION

MAYORS' INITIAL STUDY

In 1993, The U.S. Conference of Mayors published the first national study of the impact of unfunded federal mandates on U.S. cities. The survey of cities conducted at that time found that a sample of 10 unfunded mandates cost all cities an estimated \$6.5 billion in 1993 and would cost an estimated \$54 billion over five years – a significant portion of cities' annual budgets over that period. It is widely acknowledged that the results of that survey – a joint effort of the Conference of Mayors and Price Waterhouse – were instrumental in helping secure the enactment of the Unfunded Mandates Reform Act of 1995, which focused attention for the first time on significant state and local costs created by new federal legislation. Then-Senator Dirk Kempthorne of Idaho, a former Mayor of Boise and now the State's Governor, played the leading role in the passage of this legislation.

UMRA REQUIREMENTS

In the language of the 1995 Act, the intent of Congress was “To curb the practice of imposing unfunded federal mandates on states and local governments; to strengthen the partnership between the federal government and state, local and tribal governments; to end the imposition, in the absence of full consideration by Congress, of federal mandates on state, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the federal government pays the costs incurred by those governments in complying with certain requirements under federal statutes and regulations, and for other purposes.”

The Act requires the Congressional Budget Office to notify Congressional authorizing committees about costs that would be imposed on state, local, or tribal governments by intergovernmental mandates contained in reported bills. A January 2005 Issue Brief published by CBO summarizes the process:

- If the estimated direct costs of all mandates in a bill are above a specified threshold in any of the first five fiscal years after the mandates would take effect, CBO must provide an estimate of those costs (if feasible) and an assessment of whether the bill would authorize or otherwise provide funding to cover the costs of any new federal mandate. The statutory threshold is \$50 million (in 1996 dollars), adjusted for inflation. For 2004, the threshold was \$60 million.
- UMRA requires that authorizing committees publish CBO's mandate requirements in their reports or in the *Congressional Record* before bills are considered on the floor of the House or Senate. Conference committees are required to ensure “to the greatest extent practicable” that CBO prepares statements for conference agreements or amended bills if they contain mandates not previously considered by either House or if they impose greater direct costs than versions considered earlier.
- For all reported legislation, consideration is not “in order” unless the committee has published a CBO mandate statement. The rules also preclude consideration of reported legislation that contains intergovernmental mandates with direct costs above the threshold unless the legislation provides direct spending authority or authorizes sufficient appropriations to cover the costs.
- UMRA's rules are not self-enforcing; a Member must raise a point of order to enforce them. If a point of order is raised in the House, the full House must vote on whether to consider the bill. If a point of order is raised in the Senate, the bill may not be considered unless either the Senate waives the point of order or the presiding officer overrules it.

In the decade since UMRA was enacted, CBO notes, a point of order on mandate costs has been raised in the House a dozen times; in the Senate, such a point of order has never been raised.

UMRA LIMITATIONS

While mayors welcomed UMRA when it was enacted, the decade since has shown that its effectiveness is limited by features such as its strict definition of mandates and high cost threshold. CBO says that of the more than 4,700 bills and other legislative proposals it reviewed between 1996 and 2004, 12 percent contained mandates as defined by the Act, but fewer than one in 10 of these would have imposed costs above the legislated threshold. Further, UMRA does not apply to new conditions imposed on federal grant programs, which can be very costly to cities, and does not affect many preemptions of local authority, also very costly. The five mandates enacted within the past nine years that impose costs that exceed the UMRA threshold are:

- Public Law 104-188 (1996), which increased the minimum wage, and which CBO estimated would cost state and local governments (as employers) more than \$1 billion during the first five years it was in effect.
- P.L. 105-185 (1998), which reduced federal funding for administration of the Food Stamp program, and which CBO estimated would cost states between \$200 million and \$300 million annually.
- P.L. 108-173 (2003), which preempted state taxes on premiums for certain prescription drug plans, and which CBO estimated would cost states \$70 million in 2006 (the first year of preemption) and would grow to a cost of about \$95 million in 2010.
- P.L. 108-435 (2004), which preempted state authority to tax certain Internet services and transactions, and which CBO estimates will cost state and local governments at least \$325 million through 2007.
- P.L. 108-458 (2004), which requires state and local governments to meet certain standards for issuing driver's licenses and other identification and vital statistics documents (and authorizes some funds to help with this), and which CBO estimates will cost state and local governments more than \$60 million in at least one of the next five years.

The National Conference of State Legislatures reported in March that the federal government had shifted costs totaling \$51 billion to states for Fiscal Years 2004 and 2005 collectively, and that a potential \$30 billion cost shift was looming in FY 2006. (NCSL noted that additional research suggests that these cost shifts could be double these amounts.) Based on their analysis of the President's FY 2006 budget proposal, state lawmakers said they expected the federal government to shift more than \$300 billion in costs to state budgets over the next decade.

A DECADE AFTER UMRA: THE MAYORS' RESPONSE

Chicago

In remarks delivered at the Conference's Winter Meeting in January 2005, Chicago Mayor Richard M. Daley explained that while UMRA has made it harder for Congress to force new programs on local governments without providing the money to pay for them, it was time to cast the net wider. "Congress has found more subtle ways to force unfunded mandates onto the cities and states, but the results are the same," he said. "We still end up with too many responsibilities and too little money."

Because of this, the Mayor said, he had launched an effort in Chicago to identify and catalogue unfunded federal mandates and all other forms of federal cost shifts to his City and others in the

metropolitan area. Chicago's effort, he explained, involved the collection of information on local costs imposed by:

- Unfunded federal mandates – legal or regulatory requirements imposed by the federal government that often require costly actions by a local government, but contain no funding commitment;
- Underfunded federal mandates – requirements for which some financial assistance is provided, but not enough to offset their total cost, and often not even the amount promised;
- Unreasonable federal grant requirements – costly requirements accompanying grants which greatly reduce the actual benefit of the funding and jeopardize the services the grants are meant to support; and
- Federal preemptions – federal laws that restrict a local government's ability to raise revenue.

Mayor Daley envisions an ongoing program that will monitor all federal cost shifts to Chicago; such a program will enable him to accurately identify for Congress the federal funds needed to support the laws and regulations that are imposed on the City. The first product of this effort, a preliminary report on the cost shifts documented, is to be released during the 2005 Annual Conference of Mayors, June 10-14 in Chicago.

Other Cities

At the Winter Meeting, Mayor Daley also called on the Conference of Mayors to extend the Chicago process to other Conference members. The organization responded by requesting much of the same information being assembled in Chicago from other cities it represents – those with populations generally over 30,000. In doing this, the goal was to supplement the report that Mayor Daley was developing with information on the cost of unfunded mandates and other cost shifts to cities, in addition to Chicago, that could be assembled prior to the Chicago meeting.

In requesting the information on mandates from other cities, the President of the Conference, Akron Mayor Donald L. Plusquellic, and the Executive Director, Tom Cochran, made it clear that their request was not part of an effort to eliminate services that have been mandated by the federal government, “as many of these are vital services that our cities would provide under any circumstances.” The focus, they explained, was on “obtaining the federal funding needed to comply with the federal laws and regulations that have been mandated and, failing this, on being given the flexibility to provide the mandated services in ways that we know are most efficient and effective. We believe that, if the federal government won't pay for the services it mandates, it should let us determine the best way to deliver those services.”

The President and Executive Director also made it clear that the information collected would be “valuable to our many friends in Congress who want to help our cities resolve their mandates problems.” It is anticipated that all information will be shared with members of Congress who have been leading the current efforts to improve UMRA's effectiveness, including the chairs of the subcommittees in the Senate and House who are holding hearings on UMRA, Ohio Senator George Voinovich, a former Mayor of Cleveland, and Ohio Representative Michael Turner, a former Mayor of Dayton. Senator Voinovich was serving as Ohio's Governor at the time that UMRA was enacted.

In the Conference survey, mayors were asked for their most recent cost information on any of 12 specific unfunded and underfunded mandates, unreasonable grant requirements, and preemptions (as defined in the Chicago study) and were given an opportunity to identify any other federal mandates and cost shifts that have been particularly costly, burdensome, or troublesome.

The Conference's information request went to the cities on April 12. It was understood that the information collected from cities prior to the June 9-14 Annual Conference of Mayors in Chicago would be compiled in a preliminary report to be released in that meeting, and that the Conference would continue to monitor and report on federal mandates and cost shifts in the months following the meeting.

PRELIMINARY FINDINGS

During the month of May the Conference received information on federal mandates and other cost shifts from 59 cities ranging in size from Chicago, population 2,896,016, to East Cleveland, population 27,217. (These cities are listed at the end of this report.) The mandates on which information was requested and obtained were the following:

- **Americans with Disabilities Act:** Title II of ADA prohibits discrimination on the basis of disability in state and local government employment and services, and includes accessibility requirements for bus and rail transportation systems.
- **Clean Air Act:** The 1990 Clean Air Act amendments require EPA to set National Ambient Air Quality Standards for pollutants considered harmful to public health and the environment. As a result, EPA has required that cities and counties achieve attainment status for an 8-hour ozone and a 2.5 micron Particulate Matter (PM 2.5) standard by 2008 - 2015. As a result, State Implementation Plans (SIPs) have been created to specify what actions a region will undertake to improve air quality and achieve attainment.
- **Combined Sewer Overflow** (Component of Clean Water Act): CSOs typically occur during wet weather incidents when the volume of wastewater and storm water exceed the conveyance capacity, resulting in the discharge of untreated water to rivers, streams, estuaries, and coastal waters. In 1994, EPA released its final CSO Control Policy, a national strategy to ensure that health and environmental objectives are met.
- **Sanitary Sewer Overflow** (Component of Clean Water Act): SSOs occur as a result of blockages, line breaks, and sewer defects that allow excess storm water and groundwater to overload the system; lapses in sewer system operation and maintenance; inadequate sewer design and construction; power failures; and vandalism. SSOs that reach water are considered point source discharges and are prohibited unless authorized.
- **Clean Water Act** (Other than CSO and SSO): This Act regulates discharges of pollutants into the waters of the United States. It gives EPA the authority to implement pollution control programs for industry, and it requires sewerage authorities to assume a wide range of responsibilities. Mandates include the development of individual control strategies for toxic pollutants in streams that are not meeting water quality standards.
- **Safe Drinking Water Act:** The primary statute regulating drinking water standards, this Act establishes maximum levels for contaminants which are known to occur in public water systems, certifies appropriate analytical techniques, specifies appropriate treatment techniques, and establishes public notification procedures, among other activities. It requires drinking water suppliers to assume a wide range of responsibilities.
- **Fair Labor Standards Act:** FLSA establishes and sets the minimum wage and specifies a range of labor practices, including overtime compensation, for both public and private sectors.
- **Historic Preservation Guidelines:** Local governments involved in the rehabilitation of buildings on the National Register of Historic Places must comply with strict historic preservation guidelines which may add significantly to rehabilitation costs.

- **Lead Paint Abatement** (Grant Requirement): HUD's lead paint regulations are intended to protect young children from lead-based paint hazards in housing that is either receiving assistance from the federal government or is being sold by the government. The regulation establishes procedures for evaluating whether a hazard may be present, controlling or eliminating the hazard, and notifying occupants of what was found and what was done in such housing.
- **Cable Modem Service** (Federal Preemption): The FCC's March 2002 Declaratory Ruling became the basis for cable companies to stop paying franchise fees on the portion of revenue generated by cable modem service. The ruling states that cable modem service is neither a telecommunications service subject to state or federal telecommunications regulations nor a cable service subject to local cable franchise requirements.
- **Satellite Communications** (Federal Preemption): Section 602 of the Telecommunications Act allows states to tax satellite communications, and 22 states now do so. Under Section 602, however, local governments are prohibited from levying this tax.

The Conference also requested information on an underfunded mandate, the Individuals with Disabilities Education Act, and two federal grants carrying unreasonable requirements, the No Child Left Behind Act and the Uniform Relocation Act. Only a few cities were able to provide any information on these, however, and so no analyses of costs associated with them were possible for this report.

MANDATE COSTS

For each unfunded federal mandate, cities were asked for information on the recurring annual costs of that mandate for the most recent fiscal year for which information was available, and for any one-time, non-recurring costs associated with that mandate during the same fiscal year.

Following are costs reported in these categories, the numbers of cities reporting them, city and per capita average costs, and examples of some of the highest and lowest costs reported. For many of the mandates, the costs reported by a single city account for a substantial proportion of the total costs reported by all cities.

Americans with Disabilities Act

Recurring Annual Costs – 38 Cities

- Total – \$24,445,506
- Average/City – \$643,303
- Average Per Capita – \$2.66

One-time, Non-recurring Costs – 20 Cities

- Total – \$10,116,734
- Average/City – \$505,837
- Average Per Capita – \$4.06

Annual ADA costs reported were as high as Detroit's \$6.5 million, based on previous years' costs, which included the City's para-transit costs, and as low as Suffolk's \$10,000 for maintenance of existing infrastructure such as ramps, handrails, door openers, hand bars, and other building appliances.

One-time costs reported ranged from Baltimore's \$3,223,811, which included an elevator at one site, renovations to two courthouses and two office buildings (between FY2002 and FY2005), and ADA improvements to recreation centers, swimming pools, restrooms, parks and playgrounds,

to Harrisburg's \$710 for equipment to address employee medical issues that were not handled under the City's ADA accommodation procedures.

Clean Air Act

Recurring Annual Costs – 16 Cities

- Total – \$19,243,314
- Average/City – \$1,202,707
- Average Per Capita – \$4.43

Tampa reported \$6.3 million – the portion of the \$14.7 million annual bond debt payment that is related to most recent pollution control retrofit of the City's McKay Bay Waste-to-Energy facility. San Buenaventura's \$5,000 is for permits and vehicle emission tests for its fleet.

Chicago was the only city to report one-time, non-recurring costs required by the Clean Air Act – \$2,535,900, a per capita cost of \$0.88.

Combined Sewer Overflow

Recurring Annual Costs – 13 Cities

- Total – \$19,377,660
- Average/City – \$1,490,589
- Average Per Capita – \$10.76

One-time, Non-recurring Costs – 7 Cities

- Total – \$148,179,626
- Average/City – \$21,168,518
- Average Per Capita – \$90.33

Annual costs ranged from \$8.3 million in Rochester to \$10,000 for consultants in Palatine. One-time costs ranged from \$110 million for construction directly related to meeting CSO requirements in Portland, to \$525,000 for wastewater projects in Santa Barbara.

Sanitary Sewer Overflow

Recurring Annual Costs – 24 Cities

- Total – \$42,050,338
- Average/City – \$1,752,097
- Average Per Capita – \$32.08

One-time, Non-recurring Costs – 11 Cities

- Total – \$101,651,302
- Average/City – \$9,241,027
- Average Per Capita – \$23.13

Annual costs ranged from Tampa's \$20 million, a portion of the Wastewater Department's 20-year CIP Plan, to Sugar Land's \$1,200 for required treatment of accidental point source discharges that would be handled differently without the mandate.

Baltimore's one-time \$81 million expenditure was for projects under its 2004 Capital Improvement Plan for Consent Decrees. Savannah's \$15,000 covered Thermo Scan costs and I&I (inflow and infiltration) and cross connection investigation costs.

Other Clean Water Act Costs

Recurring Annual Costs – 35 Cities

- Total – \$267,660,924
- Average/City – \$7,647,455
- Average Per Capita – \$39.65

One-time, Non-recurring Costs – 10 Cities

- Total – \$292,365,094
- Average/City – \$29,236,509
- Average Per Capita – \$113.79

Portland explained that its \$80.8 million in annual costs represented approximately 95 percent of its operating budget for water. The \$7,000 reported by St. Louis covered National Pollutant Discharge Elimination System permit fees and laboratory and reporting costs.

One-time costs include Durham's \$126 million in recent capital improvements to upgrade plant processes, and Carmel's \$3,500 for Ecoli test equipment.

Safe Drinking Water Act

Recurring Annual Costs – 30 Cities

- Total – \$73,035,496
- Average/City – \$2,434,516
- Average Per Capita – \$25.89

One-time, Non-recurring Costs – 15 Cities

- Total – \$286,663,726
- Average/City – \$19,110,915
- Average Per Capita – \$77.94

Annual costs reported were as high as Wilmington's \$17,183,000 and Harrisburg's \$15,265,700, and as low as \$5,000 in Sterling Heights for testing water service lines for lead and copper.

One-time costs ranged from \$93.6 million in Baltimore's FY2004 Capital Improvement Program for a water filtration plan, to Sugar Land's \$40,000 for the creation of a Vulnerability Assessment and Emergency Response Plan.

Fair Labor Standards Act

Recurring Annual Costs – 25 Cities

- Total – \$81,474,461
- Average/City – \$3,258,978
- Average Per Capita – \$18.12

One-time, Non-recurring Costs – 8 Cities

- Total – \$353,869
- Average/City – \$44,234
- Average Per Capita – \$0.60

Anchorage reported \$33,240,000 in FY 2004 expenditures by the Department of Finance to meet minimum wage and FLSA overtime costs. Harrisburg reported \$4,564 for FLSA overtime payments to

non-exempt employees in excess of overtime payments already made pursuant to the provisions of basic labor agreements for 2004.

Suffolk reported one-time costs of \$236,000 to meet audit requirements for FY 2006. St. Louis reported \$3,470 associated with review of new FLSA rules, evaluation of the existing code in light of the new rules, preparation of proposed changes, and related tasks.

Historic Preservation Guidelines

Recurring Annual Costs – 9 Cities

- Total – \$1,545,602
- Average/City – \$171,734
- Average Per Capita – \$1.10

One-time, Non-recurring Costs – 4 Cities

- Total – \$6,032,209
- Average/City – \$1,508,052
- Average Per Capita – \$4.49

Oklahoma City reported that the additional cost of rehabilitation of 20 homes in historic neighborhoods using federal funds subject to the mandates could be as much as \$700,000. Wayne reported spending \$13,493 for utilities needed to run the mechanical systems to maintain historic buildings.

One-time costs of \$3,627,000 reported by Fresno were associated with the purchase and renovation of the Santa Fe Depot, which is on the National Register of Historic Places. Cedar Rapids reported \$50,300 for specialized contractors for historic repair.

Lead Paint Abatement Grant Requirements

Recurring Annual Costs – 16 Cities

- Total – \$3,962,299
- Average/City – \$247,644
- Average Per Capita – \$0.79

One-time, Non-recurring Costs – 3 Cities, not including Chicago

- Total – \$384,000
- Average/City – \$128,000
- Average Per Capita – \$0.44

Chicago reported annual costs of \$1,371,443. Other annual costs ranged from Oklahoma City's \$925,000 to Hamilton's \$900 for risk assessment, lead specifications, mileage, and clearance testing. Oklahoma City notes that the average cost to rehabilitate housing has increased by 40 percent since the inception of Title X.

At \$10 million, Chicago's one-time lead paint abatement costs were dramatically higher than those of the few other cities providing information on this grant and were not included in the calculations of costs. If the \$10,000,000 the City reported in one-time costs were added, the average for survey cities would be more than 20 times higher and the average per capita cost would increase to \$1.19.

The one-time costs reported were Hamilton's \$48,000 for a one-year insurance policy to cover liability to the City for any claims made after rehabilitation by homeowners regarding the City's lead abatement,

Oklahoma City's \$36,000 for X-ray fluorescence machines (KRF), and Baltimore's \$30,000 for database development for lead-based paint tracking.

Cable Modem Service Preemption

Recurring Annual Costs – 23 Cities

- Total – \$12,348,284
- Average/City – \$536,882
- Average Per Capita – \$2.16

Estimates of the level of annual cable modem fees or revenues not being received as a result of the FCC's declaratory ruling that cable modem is an information service and not subject to cable franchise fees, even when run on the same fiber lines, ranged from \$6.6 million in Detroit to \$25,000 in Palatine.

Satellite Communications Preemption

Recurring Annual Costs – 12 Cities

- Total – \$3,348,284
- Average/City – \$279,100
- Average Per Capita – \$1.95

Long Beach calculates its annual revenue loss to this preemption, based on 42,320 households (23 percent of all households in the City) with satellite service, is \$1,119,520. Elk Grove Village puts its revenue loss at \$5,000.

Other Unfunded Mandates

Cities were asked to identify any other unfunded federal mandates which have been particularly costly or burdensome, and several did. Mandates included:

- Health Insurance Portability and Accountability Act, identified by Long Beach, Baltimore, Saint Louis, Bartlett, Chesapeake and Suffolk;
- Family and Medical Leave Act, by Chicago, Harrisburg, and Clifton;
- various homeland security requirements – specifically, Public Health Security and Bioterrorism Preparedness, by Saint Louis and Harrisburg; baggage screening requirements, by Atlanta; vulnerability assessment implementation, by Arlington Heights; National Incident Management System Certification, by Elk Grove Village; and confined space rescue training, by Baltimore;
- additional stormwater management and related provisions not included in information provided under the Clean Water Act, by Durham, Clifton, and Hamilton; and
- National Pollutant Discharge Elimination System requirements, by Gardena and Harrisburg.

Individual cities also identified:

- National Environmental Policy Act;
- Resource Conservation and Recovery Act;
- Comprehensive Environmental Response, Compensation, and Liability Act;
- Endangered Species Act;
- flood map maintenance protocols;
- Blood borne Pathogens immunization;
- Department of Transportation-required hydrostatic testing of cylinders;

- drug and alcohol testing;
- Drug-Free Workplace requirements;
- Federal Motor Carrier Safety Administration regulations;
- nutrient removal;
- Occupational Safety and Health Administration requirements;
- COBRA (Consolidated Omnibus Budget and Reconciliation Act) health insurance requirements;
- military leave for employees who are activated;
- Toxic Substance Control Act – asbestos remediation (underfunded);
- Help America Vote Act (underfunded); and
- Bioterrorism Act (underfunded).

The total cost of the other unfunded and underfunded mandates reported was \$192,444,503.

Other Cost Shifts

The cities identified several additional grant requirements which they considered unreasonable. They were able to provide costs for several of the requirements; these totaled \$413,000. The additional grant requirements included:

- Centers for Disease Control HIV Prevention Grant requirements, by Chicago, which estimates the grant's recurring annual costs to be \$300,000;
- The costs incurred in adjusting salaries to the fiscal year required by the Elementary and Secondary Education Act, by Harrisburg, which estimates recurring annual costs, including auditing time, to be \$85,000.
- the 45 percent match requirement for an EPA grant program, by Gardena;
- the lengthy and complex process governing eligibility for federal transit project funding, by Miami;
- prevailing wage requirements for federal grant programs, by Dearborn, which estimates that this adds at least 10 percent to program costs, and East Cleveland; and
- environmental assessment requirements for Economic Development Initiative grants, by Las Cruces.

Additional federal preemptions of local authority identified by the cities were the Internet Tax Freedom Act, which prohibits taxes on the Internet, by Tampa and Chesapeake; and the Telecommunications Act of 1996, by Gardena and Savannah.

Basis for Costs Reported

The survey instrument sent to cities asked for brief explanations of how mandate costs and other costs were calculated, the source documents used, or other information that could be used to verify the accuracy of the costs reported. While this request added significantly to the level of effort involved in responding to the survey, most cities included this documentation in their response.

Cost Comparisons – 1993-2005

The 12 unfunded mandates and cost shifts included in the Conference's 2005 survey were a combination of those covered in the Chicago survey, those covered in the Conference's 1993 survey, and two costly areas of federal preemption of local law which have emerged in recent years.

For the 1993 survey, the data received from 314 cities were extrapolated to estimate costs of each mandate for all U.S. cities with populations over 30,000. The data assembled for this year's preliminary report does not allow for this kind of extrapolation and so direct comparisons of the 1993 and 2005

findings are not possible. What is possible, however, is a comparison of the rank order of the costs of the mandates in the two surveys. When this is done, it becomes clear that, 12 years later, water-related environmental costs continue to be far in excess of those associated with the other mandates examined in this preliminary report.

In the Conference's 1993 survey, the Clean Water Act accounted for 56 percent of the total mandate costs reported. This year, the Clean Water Act, including Combined Sewer Overflow, Sanitary Sewer Overflow, and other mandates under the Act, account for about two-thirds (66 percent) of the total reported. The next largest comparable mandate is the Safe Drinking Water Act: In 1993 it accounted for 8.7 percent of the total costs reported – the third largest cost in the survey; this year it represents 27 percent of the total – again, the third largest cost.

COMMENTS ON UNFUNDED MANDATES AND COST SHIFTS

For some of the cities providing information on unfunded mandates and cost shifts, cost data were accompanied by comments on the kinds of problems being experienced. Following are examples of comments submitted on individual mandates and cost shifts for which information was requested, and on a few others identified by the cities as being costly or burdensome.

Americans with Disabilities Act

Asheville, NC: ADA standards originally called for ramps to have raised truncated domes installed for increased detectability. This standard had been suspended until this year, when it was reinstated. This means that every ADA ramp that has been installed in the last 10 years is now non-compliant, and all will have to be retrofitted with the detectable devices. There was no solid proof that the detection device increased or decreased the effectiveness of an accessibility ramp. This mandate creates unnecessary costs through additional materials and additional construction steps for no noted benefit.

Miami, FL: Federal mandates affecting public facilities have placed an extraordinary burden on municipalities. Although the goal of accessibility is not in question, the timelines, costs and aggressive requirements imposed have been extreme. Cities are being sued by the Department of Justice, the cost for compliance is in the millions, with no federal assistance, and the mandates have opened the door to law suits filed by accessibility organizations and costly litigation for municipalities of all sizes. The Florida Building Code allows for certain discretion in dealing with existing buildings. Forty-year recertification addresses ADA issues and makes concessions for building age and limited size. Federal requirements, though similar, do not match the State building code and its limits.

Clean Air Act

West Palm Beach, FL: The National Emission Standard for Hazardous Pollutants for asbestos specifies notification and work practice requirements for demolition activities, even if asbestos materials are not present. A thorough inspection or survey of the facility by a properly licensed asbestos inspector is required. If asbestos is found, then permitting is required prior to proper regulated asbestos abatement. The costs associated with this mandate include the survey cost, permit fee, and abatement cost. This varies according to whether asbestos is found and the amount of asbestos to be abated and can range from as little as \$1,000 to many thousands of dollars.

Las Vegas, NV: The street sweeping requirement imposed is twice a month, but monthly sweeping would be sufficient. The savings would be \$2.3 million.

Combined Sewer Overflow

Lima, OH: The City faces an enormous burden due to new unfunded federal EPA mandates for Combined Sewer Overflow and Sanitary Sewer Overflow requirements. Depending on final EPA requirements, this liability for the City ranges from \$100 million to as much as \$200 million. This burden for a City with a general fund total 2005 budget of \$27 million and a total budget for all accounts of \$118 million is unsustainable. It is imperative that federal resources be identified and provided to local communities for these and other requirements for which there are no local resources.

Other Clean Water Costs

Portland, OR: The City's assumption is that almost all of both its annual operations and its capital spending on water are driven by the need to meet the requirements of the Clean Water Act and permits issued under the Act.

Las Vegas, NV: Total Maximum Daily Loads, Waste Load Allocations, and National Pollutant Discharge Elimination System permits are federal concepts embodied in the Clean Water Act. They have been applied by the State as the delegated authority. Because these requirements go beyond basic secondary treatment, the City considers the cost of nitrification and phosphorus removal to be an unfunded federal mandate.

Historic Preservation Guidelines

Oklahoma City, OK: The main problem in the rehabilitation of affordable single-family housing in historic district neighborhoods is the cost of materials and lead-based paint remediation. Lead-based paint remediation is required when federal funds are involved; in Oklahoma City's experience, abatement costs average \$15,000 per single-family unit. We roughly estimate that materials required for the typical unit being rehabilitated in a Historic Preservation district could average an additional \$20,000; this means the rehab costs for a home in a historic district subject to the federal lead-based paint abatement mandate could be as much as \$35,000. This expense may not be recovered when the home is appraised for loan or sale purposes and the City, therefore, is faced with the loss of funds which normally would be recovered in a sale of the completed project or a long-term loan to an owner-occupant. There is, however, long-term value in the City's preservation of housing stock at all economic levels: Older Historic Preservation-designated neighborhoods are sharing in the trend of increasing property values.

Harrisburg, PA: A full time employee is dedicated to compliance with the regulations of the Secretary of the Interior's Standards and National Historic Districts and Places. This costs of City rehabilitation projects that must comply average 25 percent higher than rehabilitations that do not require compliance. These costs are approximately \$100,000 per rehabilitation plus another \$25,000 to comply with the regulations.

Lead Paint Abatement

Miami, FL: Anytime removal of lead or asbestos from an existing structure is required, it is costly....The burden of remediation is generally transferred to a specific property owner or developer. City facility renovation and reconstruction projects require that a lead assessment be performed. Once lead is found, removal or sealing can be costly and is absorbed into the total cost of construction. This occurs on a case-by-case basis and can not be readily quantified. In the case of the Orange Bowl renovation project, however, remediation in an area that the public will not be exposed to will be costly.

Detroit, MI: As it relates to the City's home repair programs, all repair activities paid for with federal funds (either CDBG or HOME funded projects) that exceed \$5,000 require a professional lead inspection and risk assessment to identify lead hazards. Over the last five years this requirement has increased home repair costs from a previous average of approximately \$15,000 per house to an average now of approximately \$25,000 per house. Approximately 500 properties undergo lead remediation each fiscal year.

Harrisburg, PA: There are approximately 17,000 units Citywide that may be contaminated with lead paint. Using State and federal grant resources, the City is only able to address approximately 50 units per year. The risk assessment test is approximately \$500 per unit, and the cost for abatement averages \$15,000 per home. In addition to the healthcare costs of professionals to treat and monitor blood lead levels and conduct outreach, education and risk assessments, the City dedicates the staff time of three employees – a health officer, a rehabilitation specialist, and a code enforcement officer – to this particular problem. The amount of grant funding available is totally inadequate to effectively eliminate this hazard.

Health Insurance Portability and Accountability Act of 1996

Akron, OH: Although the Health Insurance Portability and Accountability Act of 1996 was passed almost a decade ago, HIPAA requirements were implemented only about three years ago and some titles are just being implemented this year. In most cases, HIPAA-associated costs are being absorbed in existing budgets, not generating a distinct line item expenditure but reducing our ability to respond to the health needs of the community. HIPAA also impacts the City by increasing costs for the providers of health care for our employees and, therefore, increasing the City's health insurance costs.

Bartlett, TN: The Health Insurance Portability and Accountability Act's patient information privacy requirements have cost the City in additional paperwork and employee time required to comply with the law.

Limited English Proficiency

Akron, OH: Limited English Proficiency requirements, which require any recipient of federal funds to develop policies and have available translation and interpretation services in all service programs, whether federally funded or not, were promulgated in 2000 pursuant to Executive Order 13166. Various guidances have been issued by the Department of Health and Human Services in the years since promulgation of the Executive Order. Two active guidances on the requirements are in 45 CFR 80.3(b)(2) and 67 CFR 4968. While the Akron Health Department could itemize costs for translators, this is a service we would probably provide with or without the federal rules. The true unfunded costs of LEP requirements are the hidden costs of developing policies and documenting compliance with the federal guidelines.

USA Patriot Act

Palatine, IL: All Public Works employees have CDL licenses with HAZMAT endorsement to handle large trucks; these employees are assigned multiple duties, including snow removal. They are also cross-trained to handle other duties during high demand and emergency periods. The USA Patriot Act is requiring that CDL licenses with HAZMAT endorsement pay for a \$24 FBI fingerprint charge and a \$34 federal criminal history background check to maintain their HAZMAT endorsement. While only a limited number of employees handle HAZMAT material on a regular basis, the other employees are also trained to do so. With the new requirement, the City would have to limit the number of employees handling the material, thus reducing the available workforce. Ironically, these individuals are the City's first responders in an emergency.

Superfund

Asheville, NC: Federal regulations set forth a Superfund site assessment program which typically is administrated through state agencies. In North Carolina, the Department of Environment and Natural Resources is authorized by EPA to administer this program. Asheville is going through an evaluation process at this time, is paying all the costs, “and the bills keep coming.” In some cases, remediation can run into millions of dollars.

Bartlett, TN: The federal Superfund program requires underground petroleum storage tanks to have leakage monitoring systems. While participation in the Superfund provides protection in the case of tank leaks or spills, there are no funds available to aid in the installation of new tank monitoring systems. The City will be building a new fire station in the near future which will require the installation of such a system at an estimated cost of \$50,000.

SURVEY CITIES AND THEIR POPULATIONS

Anchorage	AK	260,283	Detroit	MI	951,270
Scottsdale	AZ	202,705	Sterling Heights	MI	124,471
Danville	CA	41,715	Rochester	MN	85,806
Fresno	CA	427,652	St. Louis	MO	348,189
Gardena	CA	57,746	Asheville	NC	68,889
Long Beach	CA	471,000	Durham	NC	187,035
Newark	CA	42,471	Winston-Salem	NC	185,776
Palo Alto	CA	58,598	Bayonne	NJ	61,842
San Buenaventura	CA	100,916	Clifton	NJ	78,672
Santa Barbara	CA	92,325	Trenton	NJ	85,403
Santa Clarita	CA	151,088	Wayne	NJ	54,069
Stockton	CA	243,771	Las Cruces	NM	74,267
Wilmington	DE	72,664	Las Vegas	NV	478,434
Deerfield Beach	FL	64,583	Buffalo	NY	292,648
Miami	F	362,470	Rochester	NY	219,773
Tampa	FL	303,447	Akron	OH	217,074
West Palm Beach	FL	82,103	Dublin	OH	37,590
Atlanta	GA	416,474	East Cleveland	OH	27,217
Macon	GA	97,255	Hamilton	OH	60,690
Savannah	GA	131,510	Lima	OH	40,081
Cedar Rapids	IA	120,758	Oklahoma City	OK	506,132
Arlington Heights	IL	76,031	Portland	OR	529,121
Chicago	IL	2,896,016	Harrisburg	PA	48,950
Elk Grove Village	IL	34,727	Bartlett	TN	40,543
Palatine	IL	65,479	Sugar Land	TX	63,328
Skokie	IL	63,348	Chesapeake	VA	214,759
Carmel	IN	37,733	Portsmouth	VA	100,565
Waltham	MA	59,226	Suffolk	VA	63,677
Baltimore	MD	651,154	Vancouver	WA	143,560
Dearborn	MI	99,573			