

# Shared Services Agreements

## How good is that hold harmless anyway?

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By:

Joanne Rennie, PARSAC  
David Clovis, CJPRMA



# Session Purpose

This session will highlight the risks involved when entering into “joint ventures” between public agencies, non-profits or the private sector.

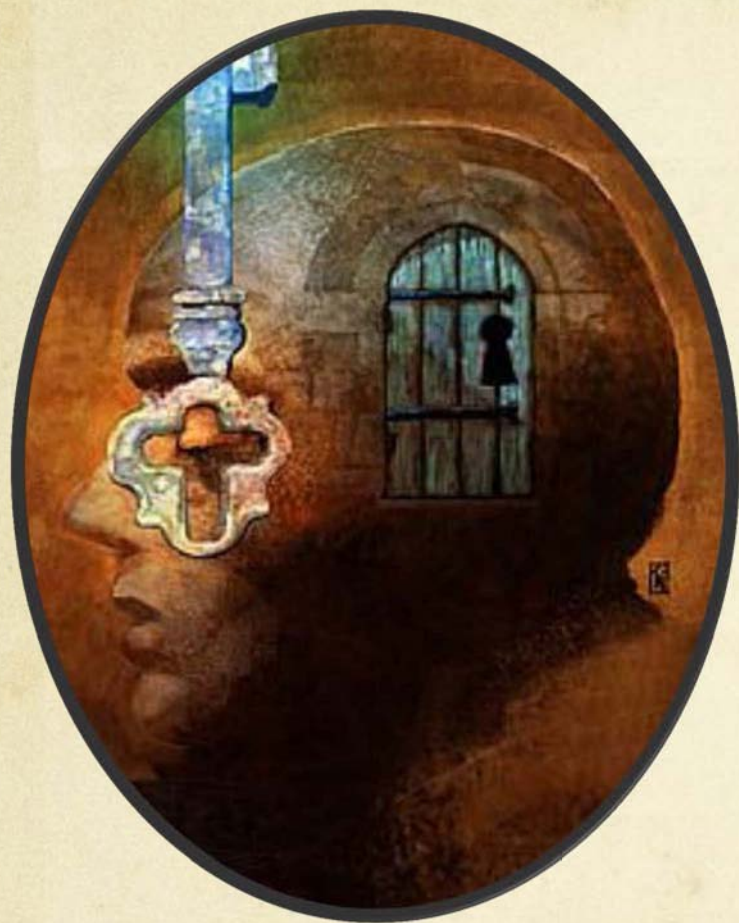
Understanding these types of agreements and coordinating with participating agencies is critical to mitigate your exposure.

# Shared Services Agreements

- Perspective
- Define the agreements
- How do we identify them?
  - What is in your inventory
- Steps to prepare for the future!
- Opportunities
- Questions!

# Why are we here?

- Our ultimate duty is to serve the public.
- Civilized society cannot function without an effective government
- Resource limitations encouraged new ways of doing business
- Agencies formed JPA's
- Sharing of facilities, employees, performed joint operations



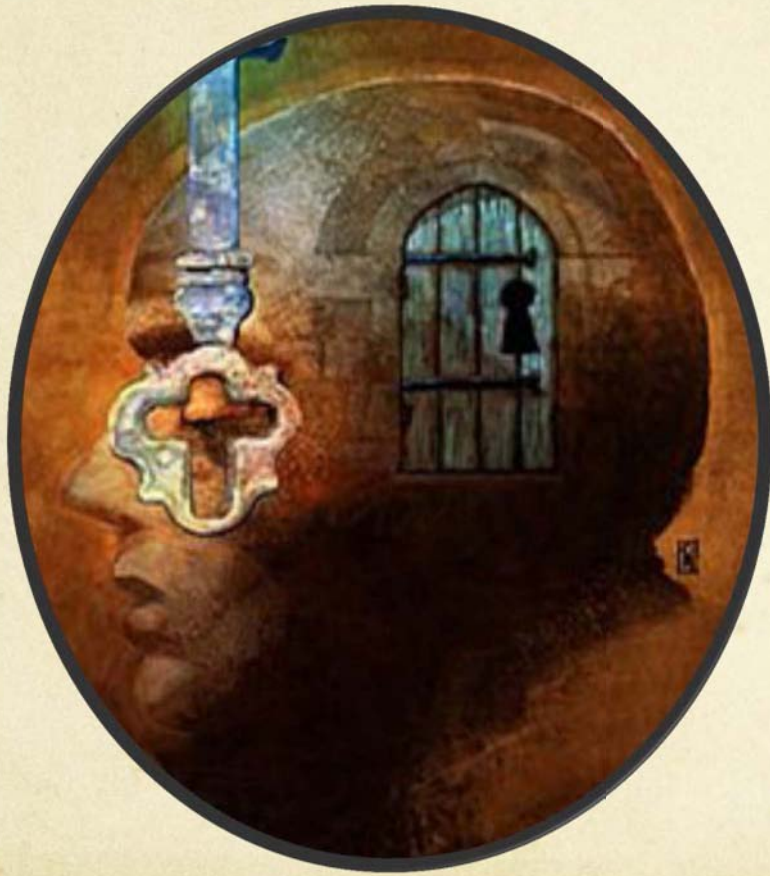
*The real voyage of  
discovery consists not  
in seeking new lands,  
but in seeing with new  
eyes. -Marcel Proust*

# Perspective

- Historical events that have defined a need for better agreements.
  - City / County
  - Schools
  - Public Works

# Perspective

- Opportunities to increase service capacity
- Shared resources
- Environment has changed must adapt



- *The significant problems we have cannot be solved at the same level of thinking with which we created them.*

*-Albert Einstein, Physicist*



# Types of Collaborative Efforts

- Mutual Aid/Regional Dispatch (911)
- School District/City Joint Use Agreements
- Lighting and Landscaping Districts
- Regional Utility service delivery
- Public/Private Redevelopment Projects and contract general services (planning & public works)
- Code enforcement, building inspection, Fire Command; shared employees

# Types of Collaborative Efforts

- Joint assessor, billing and collection services (County, city, school)
- Internal teaming (large organizations); project driven and compensated
- Pool partnerships, shared product and services
- State of New York Commission Government Effectiveness and competitiveness grants

# LEGAL CONSIDERATIONS

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# Legal Considerations

- Legal mechanisms, authority and structure
  - **JPAs**
  - Services Agreement
  - Special and joint employment
  - Local government reorganization
- Risk transfer, indemnity and insurance considerations

# Inter-Agency Services Agreement

- One local agency contracts for services from another local agency
  - e.g. a small city contracts with a larger city for plan checking services and haz-mat response services
- Government Code Sections 895-895.8



# Special Employment



- Employee of a general employer is loaned to special employer for project or as temporary help
  - e.g. building official, wastewater treatment plant operator
- Labor Code Section 3602 (d)
- Government Code Section 11663

# Joint Employment



- Employee works for mutual benefit of two or more employers
- e.g., two small agencies using the same staff person, city finance staff working as treasurer for JPA

# How do we identify them!

- Identify all agreements that include any form of mutual hold harmless or include other public agencies.
- Are the agreements enforceable.
- Review the language within the agreements and evaluate the liability undertaken by your agency within the agreement.
- Ask the question: Is the liability of your agency accepted in the agreement clearly identified?
- Is the liability of the other contracting agency clearly identified in the agreement?

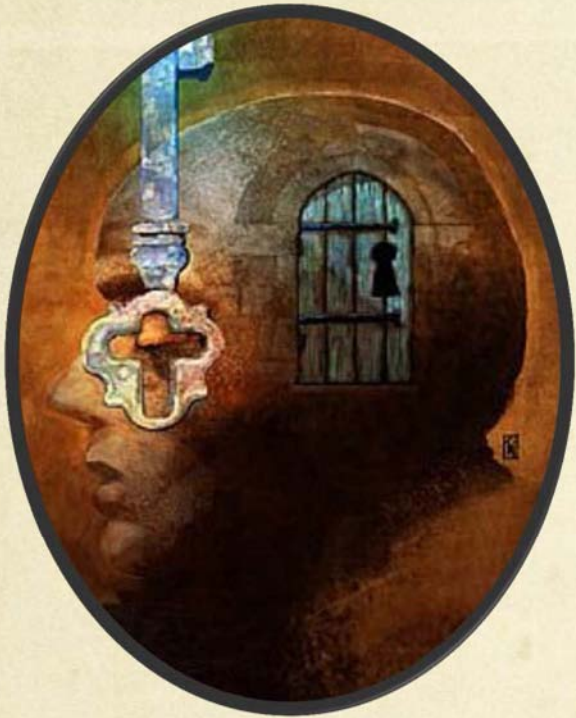


# How do we identify them!

- Is there a process and procedure established for resolving any liability questions that arise out of the course and scope of the agreement?
- If another agency is involved, has your agency identified the insurance maintained by the other agency and has your agency been named as an additional insured or additional covered party.
- Are the insurance limits appropriate for the type of activity being performed?
- Has the agreement been reviewed and approved by your City Attorney and Risk Management?

# How do we identify them!

- Does the agreement contain current Indemnity/Hold Harmless provisions that would be enforceable under current law?
- For mutual response agreements, have you identified the liability for the requesting agency vs. the responding agency?
- Who is liable for what? What standard will you use? Use a liability standard that is clearly defined by Statute and Case Law.



*Keys to Collaboration:*

*Focus on long term  
outcomes.*

# The Challenge!

- There is no rule book.
- Often times Risk Managers are brought in too late into the process to effectively evaluate, analyze and quantify the best risk management approach that favors their public entity. Don't allow this to occur.
- Are you in a position to be able to evaluate performance. Access to information is key!
- How do you explain it to the public? Are you /should you be involved in the process?

# Is Doing Nothing Truly an Option?

- Sometimes it is safer to do nothing. When in doubt do nothing. Some feel that this does no harm. But they are Wrong. It does harm the public!
- When needed projects, especially infrastructure projects do not get done? This puts everyone at risk. This is why it is important to understand how to exert enough control in these projects to help ensure their success.

# Risky Business

- Generally, if conflict arises once these contracts are completed, there is an assumption that the risk manager played an active role in the contract's creation and / or was allotted sufficient time to review it.



# Keys to Success

- Appoint a Public Sector Champion
- Execute a Detailed Business Plan
- Pick Your Partner Carefully
- Understand reputation risk and public perception



# Governance Goals and Initiatives

- Transparency in communication
- Good governance in public
- Anti-corruption initiatives and ethics
- Alignment of fiduciary responsibilities



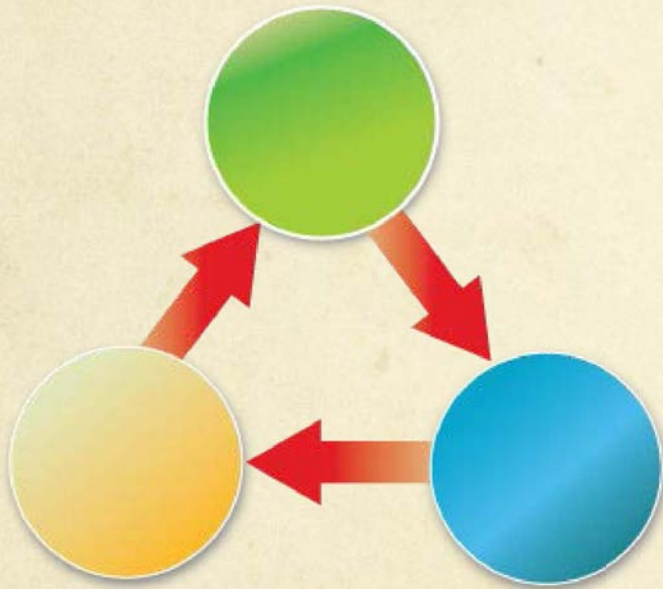


# Risk Management Involvement



- Public risk managers need to be multidimensional
- Public risk managers must be analytical – need to look around corners

# Important Role for the Risk Manager



- There has never been a more important role for the public sector risk manager than now
- The public sector risk manager is equipped with a holistic view and the ability to build bridges

# Shared Services Discussions Can be Driven by Risk Managers

- It is not a matter of if, but when these contract opportunities will be presented to your entity.
- Early discussion within the entity increases the probability that the entity can drive a better partnership deal by having the ability to initiate the deal themselves.
- Initiate relationships.
- Know your organization appetite for risk and understand the value in increased service delivery.

# Key to Risk Managers Success in Shared Services Agreements

- Form strategic partnerships with internal and external players on both sides of the agreement.
- Demonstrate their facilitating qualities and strengths as well as their problem solving and technical abilities.
- Establish and maintain the confidence of all elected officials and not be seen as a partisan participant.
- Be proactive within your entity and with your partners. Begin with the end in mind, foresee what can go wrong and craft remedy into the agreement.



*Keys to Collaboration:*

*You only have an  
opportunity to do a  
couple of really  
significant things in ten  
years. Invest wisely.*

*“Its not government’s  
obligation to provide  
services but to see that  
they are provided.”*

*-Mario Cuomo, former NY Governor*

Questions?