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*Cherokee  
Nation*

Preparing for Intergovernmental Negotiations

## **TECHNICAL ASSISTANCE FOR LOCAL DEVELOPMENT**

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## ABSTRACT

This proposal describes a unique process currently under way which involves three rural counties in Northeast Oklahoma and an Indian tribe, the Cherokee Nation of Oklahoma. For the past several months, the counties and the Cherokee Nation have been working together to identify priority needs for their region. These efforts have included four public meetings to identify mutual concerns and the information of teams representing each of the counties and the tribe to refine those needs into more specific local development goals. Currently, a steering group made up of representatives from each county and the tribe has developed a common agenda of local development goals drawn from the four separate agendas.

In order to more fully explore and develop options which address the mutual local concerns, such as economic development, rural transportation, and public finance, support for technical assistance is needed. This document requests \$72,000 to provide the needed technical assistance and discusses the nature, timing, and levels of technical assistance required.

The ultimate aim of the entire process is to bring the local development goals to the attention of the federal and state governments through an application of the Negotiated Investment Strategy (NIS)—an experimental technique which is aimed at improving problem solving and decision-making between various levels of government. The State of Oklahoma has indicated an interest in participating in such an experiment and discussions are underway with the federal government.

The NIS process involves the creating of a local negotiating team which then develops a local agenda for negotiation with state and federal teams. To

date, the NIS has been applied to urban situations. This particular application of the strategy would be unique in that it would involve a rural area and an Indian tribe, both for the first time.

The proposal makes the point that the local units of government in this area, as in most rural areas, do not have access to extensive technical resources such as planning departments, engineers and the like, as has been the case in earlier, urban applications of NIS. While the NIS process will provide an important forum for intergovernmental discussion of the local concerns, benefits above and beyond this will result from the proposed technical assistance. In addition, the process provides a mechanism for plugging technical advice and options into some real decision-making exchange between key local, state and federal policy makers.

The proposed technical assistance will further a locally generated initiative to develop a common agenda of concerns which cuts across many political jurisdictions through non-institutional means. The lessons learned through this effort could have broad application to other rural areas. It will also assist a concerted effort to deal with the problems of a special needs population, the Indians, through collaboration at the local level. Again, the experience gained from these efforts could benefit communities and areas confronted with similiar circumstances where alienation of minorities from the larger community is the norm.

## Introduction

With Presidential and Congressional initiatives to reform and balance the Federal Budget, economic tremors ripple through state, county and city governments. Making do with less is clearly a future reality for the local public sector. Yet, at the same time, greater local control over the use of resources seems equally assured.

Both realities are well served by a unique experiment in intergovernmental decision-making which may hold great promise in changing these ways. Developed by the Charles F. Kettering Foundation, the Negotiated Investment Strategy (NIS) views the allocation of public and private resources at the local level as the end result of an intergovernmental negotiation process. NIS is a process aimed at allowing a locality to consolidate the many fragmented federal programs which cause duplication and waste. It also can increase self-reliance through a replacement of the concept of public subsidy with that of public investment.

To date, three urban experiments have applied this approach: St. Paul, Minnesota; Columbus, Ohio; and Gary, Indiana. In each case, teams composed of local, state, and federal actors were convened to identify priorities and to exchange potential solutions on the concerns of the three cities. The negotiations in these cities resulted in intergovernmental agreements to proceed with a wide range of items, such as an Energy Park and a Mississippi River Corridor Plan in St. Paul, new directions in transportation, human services, health and minority business development in Columbus, and similar accomplishments in Gary. The NIS process stimulated well over \$120 million of public investment in these three urban areas and leveraged considerably more than that amount in private sector investment.

Beyond the impressive dollar figures, several critical but unanticipated consequences have resulted from these NIS activities. First, and perhaps most

importantly, the team form of representation allows for face-to-face exchanges across levels of government and within local jurisdictions--in all cases going beyond the normal, single issue discussions that characterize traditional interaction between federal, state and local agencies. In the NIS process, teams are organized around broad issues, and all team members participate in the problem solving. This approach creates opportunities for innovation, as well as a more systematic discussion of the issues. NIS also presents a much needed forum for local issue articulation and often moves long-debated matters toward some new conclusion.

In addition to developing agreements which cut across many political jurisdictions, NIS has as a goal the development of local consensus as well.

Despite the early successes of NIS, it has not been applied in regions of the country beyond the Midwest. Nor, to this point, has there been an effort to test the adaptability of the process to other situations. The application of NIS to a rural setting, the subject of this proposal, poses an entire new set of challenges and opportunities.

#### Eastern Oklahoma--A Rural NIS Experiment

Probably no rural area in the country offers a more difficult first test of the NIS concept than does the area of Northeastern Oklahoma encompassed by Adair, Cherokee and Sequoyah Counties. Appendix A provides a recent profile of this area. Besides being a land of many contrasts, beautiful lakes, streams and rough hill country, this region has a large number of overlapping government county, municipal and tribal.

Before statehood in 1907, these counties were part of the entry way into the old Indian Territory, and many residents still trace their ancestry to the Cherokee Tribal Roll. In fact, the three counties comprise the core population center for today's Cherokee Nation of Oklahoma, the second largest Indian Tribe

in the United States. Beyond the many jurisdictional and cultural issues which exist under such circumstances, the three counties also contain large pockets of poverty, substantial unemployment, dilapidated housing, and other socio-economic problems. Indeed, in 1970 Adair County was one of ten poorest in the country.

Before elaborating on the ways in which this particular setting at once complicates and challenges the NIS concept, it might be useful to provide some sense of what has transpired to date.

### Brief Project History

In early 1980, Ross O. Swimmer, Principal Chief of the Cherokee Nation, visited with representatives of the Charles F. Kettering Foundation at their central office in Dayton, Ohio. During the course of those interactions, a detailed explanation of the NIS concept and its project status in the three urban sites was presented. Chief Swimmer and the foundation's staff recognized the potential of NIS for resolving not only the tribe's problems with state and federal relationships, but also for establishing a common local agenda for development of the area.

In September of 1980, after a series of exploratory visits to Oklahoma by Kettering staff, an invitational conference focusing on building a local NIS agenda was held at Northeastern State University in Tahlequah. Over 100 delegates representing every conceivable unit of government or interest group met to discuss the following question: *What issues, problems and opportunities should be addressed in order to make the three county region a better place in the 1980's?*

Delegates spent the entire day identifying local problems or concerns which they felt needed to be tackled through the NIS process. Over twenty-

five topics were generated, and then categorized into nine broad, thematic areas:

- (1) Environmental Resource Development and Protection
- (2) Economic Development
- (3) Education
- (4) Transportation
- (5) Human Services
- (6) Planning
- (7) Governmental Assistance/Efficiency
- (8) Criminal Justice
- (9) Municipal Services and Financing

A lack of specificity on these areas quickly became obvious and a subsequent meeting was held to re-examine each area in more detail. Many topics were discarded or defined as a strictly local concern which did not require state or federal negotiations. The local agenda which surfaced demonstrated that there was considerable consensus although the methods for solving particular problems did vary from group to group. A steering committee composed of one representative from each county and one from the tribe was also chosen at this meeting to provide stewardship to the project.

At this point, the 1980 Federal elections took place. Reagan's election meant that a new administration would now be entering the process, and also that staffing changes were likely to occur at the Federal Regional Council as well. The FRC's were the principal federal instrument for implementing the NIS process in the urban experiments. This transition period allowed the local team to reassess its direction and to approach Oklahoma's Governor George Nigh about the state's role. It should be noted that in response to these discussions the

governor appointed the Director of the Department of Economic and Community Affairs to be coordinator of the state's NIS team.

The delay also allowed time for county and tribal teams to form and to begin working on their own agendas in a more thorough manner. Regardless of whom the joint county/tribal team ultimately negotiates with, this process has been extremely useful as a collaborative approach to problem solving.

Two primary lessons are clear from the evolution of the process to date. First, unlike the urban pilot sites, rural areas do not often possess a single political figure with the power or charisma required to name a local team and then to push the issues along. Mayors could play that role in St. Paul, Columbus and Gary. In the rural setting, leadership is more diffused. The rights and responsibilities of a broad range of governmental units, as well as public and private interests, must be considered. In many ways, this slows down the NIS process. At the same time it assures that a wider number of people have some appreciation and understanding for what is happening.

Second, and this is the central point to this request, rural areas are also greatly limited in their ability to respond to issues which are often extremely technical in nature or require new solutions. Because, so many rural public officials are, in a sense, voluntary public servants with another source of income to sustain themselves, they do not always have the time or resources to determine the suitability of new ideas or to introduce innovations into their work. More importantly, most small town and rural communities do not have the pool of professional talent upon which to draw for research and technical expertise. They do not, for example, have planning staffs to which they can refer questions for legal comment, engineering drawings, or whatever, as cities do.

This represents a central element in the successful implementation of any rural NIS . . . the local capacity to deal with the technical aspect of problems

#### The Local Agenda and the Technical Assistance Need

The preparation to apply the NIS approach to northeastern Oklahoma and the Cherokee Nation have led to a creative community planning process. Citizens have spent a great deal of time grappling with various issues and problems. They have now reached a stage where outside expertise is needed: (a) to expand their local knowledge base, (b) to suggest some new options and ideas, and (c) to further develop their local problem solving capacity before moving into the negotiation phases.

Figure 1 illustrates the general development goals that comprise the current local (including tribal) agenda. Team members recognize that these items will be constantly redefined and deleted, and others may be elevated to take their place as the process unfolds. Still, the list represents the present realities and has served as the guidepost for identifying technical assistance needs.

Each team . . . the three county group and the one from the tribe . . . has reviewed the composite agenda with the following questions in mind:

- \* *What can we deal with locally from our own resources?*
- \* *What do we need outside advice on?*
- \* *What, specifically, do we want to know?*
- \* *Who could provide that information?*
- \* *How long during the NIS process are we likely to need these resource people to be involved?*

On this last point, it was generally felt that some assistance was required prior to meeting with the state and federal teams. Other issues might require a consultant role up to and then through the entire state-federal-local

# **FIGURE 1**

## **LOCAL/TRIBAL PRIORITIES**

### **Economic Development**

- \*Agriculture
- \*Job Development
- \*Alternative Energy Systems
- \*Water Supply
- \*Entrepreneurial Support  
(especially for small business)
- Recreation and Tourism

### **Education**

- Dropout Rate
- Vocational Educational Opportunities
- Quality and Rates of Learning
- Educational Governance Finance
- Facilities
- Reading Skills

### **Environmental Preservation**

- Natural Resource Conservation and Development
- \*Solid Waste Disposal System
- Water Quality Control

### **Governmental Administration**

- \*Public Finance
- \*Public Works (water/sewage systems, community facilities)
- Planning
- Intergovernmental Relations

### **Housing**

- Publicly-aided Housing
- Moderate Income Construction

### **Human Services**

- \*Integration of Services
- \*Administrative Efficiency
- Criminal Justice
- Job Training
- Rural Health Care
- \*Social Service Delivery

### **Transportation**

- Road and Bridges
- \*Rural Transit System

\* Denotes areas where technical assistance support is being requested.

negotiation process. We now discuss each development goal from Figure 1 which is asterisked as needing technical assistance support.

## ECONOMIC DEVELOPMENT

### Agriculture

Agriculture, particularly horticulture, has become an increasingly important economic factor in the three county area over the past decade. Major nurseries in Cherokee County produce a wide variety of ornamental horticulture products . . . bedding crops, bulb crops, florist varieties, cut flowers, hanging baskets, and other nursery items grown in greenhouses and above ground containers.

Cherokee Nation's own commercial horticulture program is expanding. Begun in 1977, with the acquisition of a 122 acre tract of land near Stilwell in Adair County, first efforts revitalized an old apple orchard. Soon after this purchase through the support of several federal programs, a Horticulture Training Center was initiated as a training site for Cherokee people, many of whom are going to work for commercial producers as well as the tribe.

In making horticulture a vehicle for economic development, the tribe has constructed nearly \$750,000 worth of space and facilities. It has also moved aggressively into a landscaping operation which further diversifies its enterprise potential. This activity is projected to result in \$200,000 annual gross sales by 1982.

Since most of the existing local horticulture industry is centralized, tribal policy is to create a decentralized system that would allow more people to become involved on a household scale. This is especially critical to the tribe, which has a significant number of its over thirty thousand members dispersed over the three counties on small, often isolated plots of land. Moreover, it

is also viewed as advantageous to other small scale producers who might be non-Cherokee but have an interest in supplementing their income or working full time in horticulture production. In this manner, horticulture is viewed as a key to economic development for the entire three county region. This approach, which looks very much like a producer coop, requires a support system to provide training, assist with initial startups, handle basic propagation, provide technical assistance, and assist with marketing the final product . . . all tasks the tribe could perform.

However, to develop a project of this magnitude, the following forms of technical assistance are required:

- (a) the creation of a regional marketing and distribution system for small farmers and growers such that small amounts of agriculture yield not needed for home consumption can be sold efficiently.
- (b) determination of models for different scales of production for fruit trees and berries . . . two areas in which potential is high but current production is low.
- (c) development of a self-help support system for households involved in a horticulture program, whether solely for subsistence or also for product sales.

#### Background needed:

Agriculture economics of small scale production; knowledge of soils and climate in region; familiarity with establishing marketing systems for agriculture production.

#### Alternative Energy Systems

Residents of the area are interested in looking at a variety of energy related issues. The high level of poultry production in the area has created a great deal of interest in utilization of chicken and turkey litter as a source of

energy. There is also interest in exploring the possibility of utilizing the energy generated from Cherokee County's solid waste incinerator as a source of electricity. The latter issue is directly related to another priority need of the area, solid waste disposal.

Technical assistance is required to:

- (a) explore the feasibility of a methane digester, as well as alcohol and methanol production.
- (b) explore hydro power of local streams for small scale enterprise and village development.
- (c) explore options for waste disposal that defray cost through generation of power.

Background needed:

Engineers with specialties in areas noted.

#### Water

Water has dominated almost all the local/tribal team discussions to date because it is viewed as basic to the survival, stability and growth of this county region. Although maps of the area give the appearance that water is plentiful, those are misleading. The lakes which do seem to dot this corner of the state exist primarily as sources for power generation, flood control and recreation. Lake Tenkiller, which is frequently mentioned as a primary source for water transfer, has no lines extending from it into the adjoining rural municipalities, communities or unincorporated settlements of Adair, Cherokee or Sequoyah Counties. In fact, during a recent drought period, throughout all along this so-called water rich hill country found themselves rationing

Concern about the issues is not limited to local residents. There is wide discussion about the need for and feasibility of large scale water transfer projects. In addition, there are genuine differences of opinion among local people on how this complex and politically sensitive issue ought to be solved.

Two options are generally discussed. One calls for establishing a major loop to the western portion of the state using as its source either the Illinois River or Lake Tenkiller. The other seeks to develop smaller scale local water systems for residents near these two sources before any transfer occurs. Technical assistance is very much needed to provide some cost benefit comparison between these two options.

Given the diversity of opinions about the water issue, the local/tribal NIS steering committee requested that the Eastern Oklahoma Development District (EODD) assist them with the articulation of what the appropriate technical assistance needs were at this stage of the process. The combined analysis of both these groups suggests that the following technical assistance activities are needed:

- (a) identification of the key elements involved in water resource development for this area and the components required in various options proposed for an Eastern Oklahoma water distribution system.
- (b) determination of potential compoundment and treatment sites.
- (c) clarification of local water needs, including such matters as water quantities, hydrodynamic constraints, system options, preliminary cost estimates, encompassing developmental and operational figures as well as funding sources
- (d) creation of alternative water systems, including treatment, that are smaller in scale, community based and involve community self-help participation.

Background needed:

Civil engineering with specialities in small and large water source distribution systems.

Entrepreneurial Support and Small Business Development

Values and lifestyle questions have never been more than tangential subjects during the course of the NIS process. Yet nowhere has the implication of such matters been so apparent as when discussions turn to the broad topic

of economic development. On this subject people are quite prepared to say: "We want development but not at the expense of our rural lifestyle or these beautiful green hills!"

There has been, among many leaders in the area, an increasing willingness to recognize that the "traditional" rural approach to economic development-- industrial parks, wooing of plants from other areas, and so on--has not always provided the right kind of development. More and more local people are becoming aware that locally initiated, small scale enterprises have much more to offer. This point is supported by research on plant relocation. Multiplier analysis often shows that the local economy is not increased as predicted; rather, money for materials and specialized labor often flows out of the community or town more quickly. In addition, although a mild private sector gain may occur, the significant increases in public sector costs frequently creates a situation where public services are squeezed beyond their capabilities to respond.

"What we need to do," one local citizen has said, "is to grow more of our own businesses." The 1980 White House Conference on Small Business echoed this same sentiment when it stressed that new enterprise development may very well be the cornerstone of a revitalized economy and the integral mechanism for reducing unemployment. Research conducted by David Birch at the Massachusetts Institute of Technology has shown that 90% of new jobs created in the past ten years came from small businesses . . . many with less than ten employees.

This type of development appeals to local people. It is small in scale, usually owned and operated by people from within the community, and depends upon the existing workforce for its primary labor. This last point is especially important in an area which has been so dependent on federal welfare programs. As governmental growth goes into a downward slide, the local economy is going

to have to find new ways to put people to work. Translated into action, this means establishing new businesses or enterprise development that takes people off the welfare rolls.

Lack of leveraging capital and poor management are the two major contributors to the demise of most new enterprises. This means it is important to locate technical assistance expertise that can provide information and ideas on not only financing alternatives but also make suggestions on how to assist small businesses to increase their management capabilities. In specific terms, technical assistance is needed to:

- (a) assess various financing alternatives for seed money, risk capital and equity investment funds which might be utilized to stimulate and/or to sustain local enterprise development, as well as make recommendations for new financial linkages with the state and federal government and the private sector.
- (b) determine the applicability of such development entities as Small Business Investment Companies (SBIC'S), Minority Enterprise Small Business Investment Companies (MESBIC'S), and Community Development Corporations (CDC'S) for this area.
- (c) to develop a strategy for increasing the local opportunities for small business management training.

#### Background needed:

Persons with business startup experience, familiarity with the role of the small scale entrepreneur, and knowledge of financing and venture capital alternatives.

### ENVIRONMENTAL PRESERVATION

#### Solid Waste System

When you turn off any of the state routes which connect these three counties and put yourself on one of the seemingly endless number of rough gravel secondary surfaces that wind thru the hollows and back country, you immediately begin to glimpse a severe problem in this scenic area: roadside dumps. All three counties have limited solid waste disposal systems. Adair and Sequoyah Counties transport

their waste into Arkansas. The facilities which do exist are inadequate and the prospect for conventional solutions such as land fills is not good, due to local soil conditions. The city of Tahlequah operates an open dump which has already been cited by authorities for being in violation of federal environmental protection standards.

The problem is multi-fold, and will require an approach with five elements: collection, disposal, energy recovery, financing and public education. Technical assistance is needed to help determine the following issues relevant to designing a comprehensive solid waste system:

- (a) suggest how other rural or sparsely populated areas have responded to county-wide or multi-county collection.
- (b) assess what new alternatives, other than the oft-mentioned land fill approach, can be utilized under local soil conditions.
- (c) propose how energy recovery can be utilized to offset overall costs.
- (d) assess local, state and federal financing sources and how they can be applied to the construction of a disposal site or series of sites.
- (e) project what role customer fees must play in the financial support of a collection and disposal system, as well as how these fees might be collected.
- (f) develop tactics and strategies for effectively altering public attitudes towards solid waste and local environmental protection.

Background needed:

Solid waste management engineers; experience with designing public education programs related to the above mentioned program.

#### GOVERNMENTAL ADMINISTRATION

##### Public Finance

Public finance is the foundation upon which every local governmental service rests: roads, law enforcement, public services and new school construction. Yet, taxes, state and local revenues, and issues in bonding capacity are sometimes

elusive concepts to grasp. As we have seen from the community discussions, each entity that interacts with the funding sources has its own story to tell.

The Board of County Commissioners in each of the counties expresses open dismay over the budgetary restrictions under which they have to operate. From their perspective, the county is nothing more than a creature of the state, something that is created, controlled and bound by legislative authority. Unfortunately, they feel the county is a bit too bound by the fiscal limitations of antiquated state laws and statutes. As one illustration, they point to the fact that funds for road construction and maintenance are derived from a formula that uses 1961 road census data as the basis for disbursing funds. Under this arrangement, counties are consistently given money at a rate which is well below the actual road mileage they are responsible for.

This problem is further compounded by a 1930's legislatively mandated ceiling on ad valorem taxes which limits the county to a ten (10) millage base for its county general fund. A recent report on public finance in Cherokee County explained it in this manner:

Money to operate and maintain county government is deposited in the County General Fund. The major source of County General Fund income is a property tax levy that cannot exceed 10 mills. Other sources of income to the County General Fund include fees collected by county offices and money collected by the State Tax Commission on air-craft, boat, and outboard motor licenses.\*

The current County General Fund budgets for the three targeted counties are as follows: Adair County \$260,000.00; Cherokee County \$753,000.00 and Sequoyah \$734,000.00. None of these counties is "transferring" property tax funds into road improvement; they simply cannot afford to. With the inflation rate increasing for road building and maintenance items, county officials

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\* Taken from a special report entitled Trends in County Finance--Cherokee County, prepared by the Oklahoma State University County Extension Rural Development Office, March 1980, page 9.

believe this dilemma is likely to get worst before it gets better. The ten (10) millage ceiling also makes it virtually impossible to respond to the demands for new construction. Consequently, state or federal mandated capital improvements, such as the proposed orders for new jail facilities in Adair and Sequoyah counties, stretch the bonding capacity of the counties to the full measure of their ceiling.

Schools feel this same pinch. Vernon Peterson, Superintendent of the Hulbert School District in Cherokee County, and also an active spokesperson for rural education in this part of the state, explains the financial repercussions of the system in this way:

"The majority of local school districts do not have a large enough tax base to generate funds for capital outlays. For example, Hulbert has an enrollment of 450 students with a total FY 1981 budget of \$807,000. Local tax sources provide \$70,000 of that amount. Even if we were able to vote our full bonding capacity, it wouldn't give us enough to launch any of the construction we might need."

Maryetta School District in Adair County reports that with a five (5) mill levy going annually to its building fund the school is able to accrue only \$7,000 a year, hardly an amount that will lead to any major construction projects. Moreover, there are no state supports, even on a matching fund basis, for capital outlays.

Technical assistance is required to:

- (a) define all possible options.
- (b) prepare further documentation on the various public finance issues which limit the delivery of local governmental services and develop a strategy for presenting this information, complete with recommendations for action, to the state and federal teams.
- (c) to plan a three county project in citizen education which explains the public finance structure in the state and includes a small handbook on the issues.

Background Needed:

Familiarity with Oklahoma's public finance system; knowledge of local governmental services and school related capital outlay options.

## Public Works

The construction and revitalization of public facilities are matters which are very much tied to the financing issues mentioned above. In particular, Adair and Sequoyah counties are both being pressured by the state to contract new jails. The projected cost of these facilities are as follows: Adair County, \$800,000.00 and the county's current bond indebtedness stands at \$320,000.00. If these building efforts are embarked upon under the present public finance ceilings for county government, it will effectively commit the counties bonding capacity for a decade or more. In addition, the vast majority of local school districts also have their own building needs which are either being stymied by the lack of capital outlay monies or will all but be placed on a rather lengthy hold by county projects.

Given this situation, technical assistance is required to:

- (a) define options for architecture and design that can save money.
- (b) define cost reduction construction strategies, such as counties serving as their own general contractor or increasing the use of county equipment for sub-grade work.
- (c) define more options for local public financing--for example, broaden the markets for general obligations bonds.

Background needed:

Familiarity with the issues noted above.

## HUMAN SERVICES

The term "human services" is used here to refer to the vast array of publicly funded activities which have been designed to address special community issues or needs in such areas as: child care, family planning, employment and training, services to the aged, welfare programs, health care, housing, crime prevention and community development assistance. For the most part, we are

speaking of the formal, institutionally based programs which are managed by professional service providers and supported by state and/or federal funds. This would include such things as Community Action Programs (CAP's), Cherokee Nation and other so-called community based programs, as well as things like CETA, community health centers and Head Start.

Since the terrain we have just described is, indeed, vast it allows us to identify several pitfalls associated with the delivery of services by these agencies--the lack of cost sharing, coordination and integration of services. One example illustrates the problems of coordination of services for the area.

During the advent of energy saving programs, the Community Services Administration offered funds to local organizations to encourage weatherization of low income homes. Three separate community-based programs (Cherokee Nation, Cookson Hills Community Action Program and Oklahomans for Rural Opportunities) applied for and received funds to administer this program locally. All three focused their programs on the same population group. Yet, each developed its own program in isolation from the others, each hired its own staff, and each used substantial portions of the available money to administer its program. Similar stories can be told in almost all the other program areas mentioned above.

Other concerns related to the delivery of human services include:

1. The perennial frustration with duplication and fragmentation of services which leaves some genuinely needy unserved, while others take unfair advantage of programs.
2. Lack of a sense of continuity between services which are seen as distinct; for example, between educational programs and employment training programs.
3. Programs which sometimes perpetuate dependency rather than assist people in becoming more self-sufficient.

4. Programs which are grounded in middle class values of staff and consequently are not effective in serving working class, rural undereducated people.

Beyond these issues, the increasing costs of managing human services and the reality of reduced public funding dictates new efforts to coordinate or, at best, integrate the administration of services. Technical assistance is required to:

- (a) help define all points of duplication and overlap.
- (b) draft changes in guidelines and statutes to encourage program coordination and, where appropriate, merge programs together.
- (c) Examine how the Cherokee Nation might more effectively organize and conduct its services in education, health, employment and training, and social services, with an emphasis on outreach activities, cross departmental programming, and increased cooperation with other community groups.
- (d) suggest financing strategies which lead to more effective cost sharing among tribal, as well as community, programs.
- (e) assist, where appropriate, informal support networks which tap existing self-reliance energies and encourage them to move towards more community based provision of services.

#### Background Needed:

Knowledge and practical experience with the human services field, state and federal regulations and statutes, integration of services, and financing options, as well as the nurturing of informal helping networks.

#### TRANSPORTATION

Transportation has been identified as a major problem for many residents in the isolated parts of all three counties. Lack of a public transportation contributes to the difficulty in obtaining work, and in seeking assistance from human services agencies. A recent survey of Indian elderly found that lack of transportation resulted in isolation and loneliness for many people.

In a recent completed survey of its transportation resources, the tribe found that several hundred thousand dollars are spent each year in local transportation. Most of this is in the form of mileage reimbursement for employees. Much, but not all, of this represents transportation support for program clients. In addition, the tribe owns several multi-seat vehicles, such as school buses. Nevertheless, many clients or potential clients of the tribe's education and social services programs are not able to participate, or their participation is limited, due to unavailability of transportation.

A particular example is the alternative school in Stilwell. The Stilwell Academy operates one bus which makes three different routes in Adair County alone each morning and evening, a total of six separate runs. This causes many students to be late for classes or to spend several hours in route to their destinations. It is, at best, a serious inconvenience for students and faculty, and, at worst, discourages attendance and impacts negatively on the school work of those who do attend.

Transportation difficulties affect primarily the poor and it is possible that if the tribe is able to develop some sort of comprehensive transportation system, it will alleviate much of the problem for Indians and their neighbors, too.

Specifically, there is a need for technical assistance to:

- (a) determine the feasibility of a transportation system which utilizes small vans and greater route coordination.
- (b) secure the commitments from service providers and local units of government that would be needed to sustain such a system. Note: Rural transportation systems have generally not worked out well; once high initial subsidy is gone, they simply cannot sustain themselves on revenues generated and smaller subsidy levels. We want to see if more complete cooperation among all agencies or programs, that now have a transportation component included in their services, can spread costs enough to make it work here.

## Background Needed:

Transportation planner with experience in rural settings.

### PROVIDING THE TECHNICAL ASSISTANCE--PEOPLE, TIME AND FUNDING

The list of technical assistance needs discussed above is extremely varied and complex. The coordination of such an effort requires several key components. These include: People, Time and Funding.

#### People

First, people familiar with the various issues, who also have some special sensitivity to the rural or tribal perspective on these matters, will have to be identified. Second, a group that knows who these individuals might be, and also is familiar with the NIS process and the problems and opportunities in northeastern Oklahoma, needs to be engaged to serve in a brokerage role between potential TA providers and the local/tribal team. And third, a local contact point is required for coordination purposes.

Figure 2 gives some sense of who potential TA providers might be in given topical areas. This is not an exhaustive list but illustrates the type of individuals or agencies that ought to be tapped.

Under the management model proposed here, the broker assumes a critical role in this design. The broker role has two aspects to it: 1) to identify the best possible technical assistance resources; and 2) to insure that the work performed by the technical assistance providers is relevant, cost-effective, and builds local capacity.

It is important to note here that most technical assistance comes from firms and individuals who tend to have a standard approach or product . . . fit indiscriminately on clients. Also, too much technical assistance has a high

price tag with little or no relationship between cost-product-effectiveness. Finally, since working with local people can be expensive and time consuming, technical assistance is done for people, not with them.

We intend to change that process but organizations are needed which are committed to the broker role, as well as the very different assumptions we have about technical assistance as a tool for building greater local capacity.

We have identified two such organizations. First is the Kettering Foundation itself. In addition to providing the vision for and the structure of the NIS itself, Kettering has a long history of effectively linking groups in need with resources. It will play a coordinating role with the Oklahoma NIS project in general and with this technical assistance project in particular. As the agent to supply and to broker technical assistance directly, we have selected The Institute on Man and Science, an educational non-profit organization.

The Institute has a long history of successful involvement in exemplary rural projects. These range from its nationally recognized STUMP CREEK PROJECT to its process and content-oriented COMMUNITY RENEWAL CENTER and on to a recent IMS effort to create a model NEW VILLAGE in rural Pennsylvania.

Another important consideration for selecting IMS is its consistent emphasis on the following:

1. A commitment to remain involved with community projects long enough to see the project to some kind of conclusion;
2. A commitment to working with people who are not usually reached by traditional programs;
3. Extensive experience with small scale community projects which utilize self-help approaches;
4. A desire to work with the Kettering Foundation on successive rural applications of the NIS process.

Local coordination for the technical assistance will be handled by the Cherokee Nation's Tribal Development Officer, along with a part time staff person

from the Eastern Oklahoma Development District. The tribe, through the auspices of Principal Chief Ross Swimmer, has made this staff person available to the project on a half-time basis as a coordinator for the local team.

#### Time

The length of time required to complete the technical assistance portion of this process varies from issue to issue. As was mentioned earlier, some issues require further refinement prior to negotiation; others require a rather constant involvement throughout the process. However, in terms of this request, we estimate that the TA portion of the total NIS process would not take any longer than twelve to eighteen months. Figure 2 illustrates the basic time each TA will require.

#### Funding

Attached to this prospectus is a budget which summarizes the projected expenditures in terms of personnel, travel and miscellaneous expense categories.

#### Learning

The assumption underlying this project prospectus has been that local citizens need help to adequately respond to the NIS process. It is important to note, however, that in preparing for the NIS, benefits will accrue to the area which is not contingent on the "success" of the NIS itself. These benefits

**FIGURE 2**  
**TECHNICAL ASSISTANCE AT-A-GLANCE**

| GENERAL AREA                      | LOCAL RESOURCES                                              | NEED FOR OUTSIDE EXPERTISE                                                                                                                                                                                                                                                                                                                                                                                                                | POTENTIAL TA PROVIDERS                                                                                                                        | TIME FRAME* | ESTIMATE COST |
|-----------------------------------|--------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|-------------|---------------|
| <b>ECONOMIC DEVELOPMENT</b>       | County Extension Office                                      | •Development of local/regional marketing system for tribal horticulture program and small farmers/growers                                                                                                                                                                                                                                                                                                                                 | Ozark Blueberry Cooperative (Arkansas)<br>Oklahoma State University<br>Arkansas University                                                    | 1,2,3       | \$3-5.0       |
| Agriculture                       | Retired Vo-agriculture instructor                            |                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                               |             |               |
| Horticulture                      | Agriculture/horticulture business                            | •Determination of potential for speciality crop production (berries, fruit, etc.)<br><br>•Assessment of the applicability of a production cooperative approach                                                                                                                                                                                                                                                                            | Federation of Southern Cooperatives, Central Coast Counties Development Corporation or a representative from a successful rural producer coop |             | \$1-2.0       |
| <b>ALTERNATIVE ENERGY SYSTEMS</b> |                                                              | •Provide ideas in regards to solar and wind energy utilization in the construction of upcoming tribal housing projects and local and county facilities<br><br>•Assist with the design of a pilot project to use the various sources of chicken litter in energy production<br><br>•Develop engineering estimates on the potential for energy transfer from local incinerator systems<br><br>•Determine feasibility of methanol production | Institute on Man and Science (IMS)                                                                                                            |             |               |
| <b>WATER SUPPLY</b>               | Eastern Oklahoma Development District (EODD)                 | •Identification of key elements in water resource development and distribution system                                                                                                                                                                                                                                                                                                                                                     | Civil Engineer familiar with Oklahoma water situation                                                                                         | 1,2,3       | \$15.0        |
| Major Transfer Systems            | L.V. Watkins, former Executive Director EODD                 | •Determination of compounding and treatment sites                                                                                                                                                                                                                                                                                                                                                                                         | Legal Counsel<br>With same qualifications                                                                                                     |             |               |
|                                   | County Conservation Districts                                | •Clarification of local water needs and sources of supply, including water qualities, hydrological constraints, system alternatives, preliminary costs estimates, as well as development and operational funding sources<br><br>•Development of alternative water systems, including sewage treatment, that are smaller in scale, community based and involve community participation in a self-help manner                               | IMS<br><br>Engineer familiar with appropriate technology approaches to such issues, as "Sweat Equity" water and sewage treatment projects     | 1,2,3       | \$10.00       |
| <b>ENTREPRENEUR SUPPORT</b>       | Cherokee Nation Banking Institutions                         | •Further inform banking institutions on the economic development potential of small business                                                                                                                                                                                                                                                                                                                                              | Tom Miller, Kentucky Highland Investment Company                                                                                              | 1,2         | \$5.00        |
| Small Business Development        | Local Financing Authorities<br>Northeastern State University | •Assess the financing alternatives for risk capital and equity investment and recommend new linkages<br><br>•Determine the applicability of SBIC's, MESBIC's, and CDC's<br><br>•Develop a strategy for expanding small business management training support locally                                                                                                                                                                       | Belden Daniels, Harvard University<br><br>Bob Friedman, The Corporation for Enterprise Development                                            |             |               |

| GENERAL AREA       | LOCAL RESOURCES                                                       | NEED FOR OUTSIDE EXPERTISE                                                                                                                       | PROVIDERS                                                        | TIME FRAME* | CO.     |
|--------------------|-----------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|-------------|---------|
| SOLID WASTE SYSTEM | EODD<br>County Commissioners                                          | • Analysis of county wide and Multi-county collection systems                                                                                    | Engineer familiar with conventional regional solid waste systems | 1,2         | \$10.0  |
|                    |                                                                       | • Alternatives to land fill approach                                                                                                             |                                                                  |             |         |
|                    |                                                                       | • Inclusion of energy recovery options                                                                                                           | Alternative systems engineer                                     | 1,2,3       | \$7.0   |
|                    |                                                                       | • Identify financing sources or options                                                                                                          |                                                                  |             |         |
|                    |                                                                       | • Determine the most effective utilization of customer fees                                                                                      |                                                                  |             |         |
| PUBLIC FINANCE     | County Commissioners<br>School Administrators<br>EODD<br>L.V. Watkins | • Development of public education campaign                                                                                                       | Community education specialist                                   | 1,2         | \$3-5.0 |
|                    |                                                                       | • Secure advise on how cost of local government might be reduced                                                                                 | State Municipal League<br>League of Women Voters                 | 1,2         | \$3-5.0 |
|                    |                                                                       | • Prepare further documentation on local public finance issues and develop a strategy for presenting this information to state and federal teams |                                                                  |             |         |
|                    |                                                                       | • Plan a three county citizen education project on public finance issues                                                                         |                                                                  |             |         |
| PUBLIC FACILITIES  | EODD                                                                  | • Development of creative bonding approaches for capital improvements                                                                            | IMS                                                              | 1,2         | \$3-5.0 |
| HUMAN SERVICES     | Oklahomans for Rural Opportunities (ORO)                              | • Recommend ideas for increased coordination and integration of services                                                                         | Barry Maestrine                                                  |             |         |
|                    | Cookson Hills Community Action Program                                | • Thoroughly examine Cherokee Nation Human Services Program                                                                                      | Metropolitan Human Services Commission                           |             |         |
|                    | Cherokee County Community Service Council                             | • Consultation on alternative financing strategies                                                                                               |                                                                  |             |         |
| TRANSPORTATION     | Human Service Agencies                                                | • Design of a rural transit system                                                                                                               | IMS                                                              |             | \$3.0   |
|                    | Cherokee Nation<br>EODD                                               | • Create a management and financing plan                                                                                                         |                                                                  |             |         |

\* Numbers (1,2,3) denote whether technical assistance is needed prior to state and federal team meetings (1) during the negotiation process (2) or after the NIS negotiation process is completed (3).

will take the form of more community-based expertise and an infusion of new ideas and options which will lead to new insights and new behavior. We have labeled this with the popular jargon--capacity building. It could have easily been called by a simpler name--learning.

Formal evaluations cannot always determine whether or not this learning occurs. Standard techniques for making such judgements almost always insure an evaluation study that will seldom be used by anyone in a systematic or thoughtful way. What we are after is best observed in action, through the natural exchanges between outside experts and local citizens as they struggle for new answers to perplexing local matters. We wish to establish a dialog which leads people to new understandings, new responses and even new questions. Under these circumstances, both sides must view themselves as co-learners dealing with real issues in ways that lead to some permanency once the experts go home--learning that local citizens can apply to other issues in another time and context. This is the standard against which the effectiveness of this project will be judged.

We intend to make these judgements on the basis of performance. For example, the extent to which technical assistance results in specific, usable products will be analyzed, as well as the extent to which those products are used in the three county area to both enhance NIS and to increase local development activity. In terms of the learning issues discussed above, we will be assigning a small group of locals to work with each TA provider and requiring them to develop a minimal learning plan which specifies what local people will acquire in terms of new knowledge or skills. This, in itself, will be a negotiated contract signed by local participants, the TA providers and IMS as broker. The development and signing of this community learning agreement is viewed as a prerequisite to hiring anyone. For example, the technical assistance

providers must be willing and able to enhance the community learning process locally, to building the capacity of local citizens to deal with their needs and problems, or they will not be selected to work!

TECHNICAL ASSISTANCE FOR LOCAL DEVELOPMENT  
Proposed Budget

|                                                      | Proposed<br>Funding | Local<br>Contribution | Total<br>Project Cost |
|------------------------------------------------------|---------------------|-----------------------|-----------------------|
| <b>Personnel:</b>                                    |                     |                       |                       |
| Salaries                                             |                     |                       |                       |
| Project Director $\frac{1}{4}$ time 12 mo.           | 5,500.00            |                       | 5,500.00              |
| Senior Staff 30 days @ \$150<br>per day              | 4,500.00            |                       | 4,500.00              |
| Local Area Planner $\frac{1}{2}$ time                |                     | 4,500.00              | 4,500.00              |
| Local Area Development Officer<br>$\frac{1}{4}$ time |                     | 4,000.00              | 4,000.00              |
| Clerk Support Personnel                              | 3,000.00            | 3,500.00              | 6,500.00              |
| Total Salaries                                       | 13,000.00           | 12,000.00             | 25,000.00             |
| Fringe Benefits @ 20%                                | 2,600.00            | 2,400.00              | 5,000.00              |
| <b>Total Personnel Cost</b>                          | <b>15,600.00</b>    | <b>14,400.00</b>      | <b>30,000.00</b>      |
| <b>Contractual Services:</b>                         |                     |                       |                       |
| Civil Engineer                                       | 7,000.00            |                       | 7,000.00              |
| Agriculture Economist                                | 3,000.00            |                       | 3,000.00              |
| Business Enterprise                                  | 3,000.00            |                       | 3,000.00              |
| Public Finance                                       | 5,000.00            |                       | 5,000.00              |
| Transportation Engineer                              | 3,000.00            |                       | 3,000.00              |
| Human Services                                       | 3,000.00            |                       | 3,000.00              |
| Legal                                                | 6,000.00            |                       | 6,000.00              |
| Energy Engineer                                      | 3,000.00            |                       | 3,000.00              |
| Solid Waste                                          | 3,000.00            |                       | 3,000.00              |
| Total Contractual                                    | 36,000.00           |                       | 36,000.00             |
| <b>Travel:</b>                                       |                     |                       |                       |
| Commercial Travel 20 trips<br>@ \$500.00             | 10,000.00           | 1,200.00              | 11,200.00             |
| Per diem 20 days @ \$50.00                           | 1,000.00            | 200.00                | 1,200.00              |
| Mileage @ \$.22 $\frac{1}{2}$ per mile               | 550.00              | 1,500.00              | 2,050.00              |
| Rental Car 10 @ \$175                                | 1,750.00            |                       | 1,750.00              |
| Total Travel                                         | 13,300.00           | 2,900.00              | 16,200.00             |
| <b>Operational Cost:</b>                             |                     |                       |                       |
| Consumable Supplies                                  | 1,500.00            | 200.00                | 1,700.00              |
| Telephone                                            | 500.00              | 600.00                | 1,100.00              |
| Office Equipment                                     | -0-                 | -0-                   | -0-                   |
| Books and Maps                                       | 450.00              | 200.00                | 650.00                |
| Aerial Photos                                        | 2,500.00            |                       | 2,500.00              |
| Copier/Reproduction                                  | 2,000.00            | 500.00                | 2,500.00              |
| Total Operational Cost                               | 6,950.00            | 1,500.00              | 8,450.00              |
| Indirect Cost @ 60% of Personnel                     |                     | 7,800.00              | 7,800.00              |
| <b>Total Cost</b>                                    | <b>71,850.00</b>    | <b>26,600.00</b>      | <b>98,450.00</b>      |

EASTERN OKLAHOMA FEELS THE STING OF BITTER POVERTY

By Ron Pruitt  
Muskogee Phoenix Staff Writer

It is a place where the average adult has an eighth grade education, almost one-half of the families make less than \$3,000 annually and one-third of the population is without indoor plumbing.

It's not Afghanistan, or the ghettos of New York.

It's in the hills of eastern Oklahoma, and the most depressed areas are small rural Indian communities.

The age of affluence has not reached thousands of dwellers in such places as Adair, Cherokee, Sequoyah and Delaware counties. Instead, a large section of the population faces a continuing daily struggle for subsistence.

The 1980 annual report of the Oklahoma Department of Institutions, Social and Rehabilitative Services, showed more than 36,000 Oklahomans were receiving some sort of financial assistance in a 14-county area of northeastern Oklahoma.

Only massive government subsidies and jobs keep the picture from being even more bleak.

In Cherokee County, for example, 42 percent of all those employed are in the public sector.

"Tahlequah was the only city in the 2,500 to 10,000 classification to have a larger number employed as government workers than as private wage and salary earners in Oklahoma during 1970," according to the Comprehensive Economic Development Strategy developed by the Eastern Oklahoma Development District for the Tahlequah area.

Among the 24,000 Cherokees in eastern Oklahoma, living conditions are at their worst.

The average Cherokee has five years of schooling, may not be able to read or write and an overwhelming majority live below the federal poverty guideline of \$6,700.

Statistics available for Sequoyah, Adair and Delaware counties show 29 percent of the Indian community lives on less than \$3,000 per family a year.

Unemployment is massive, with Adair County reporting more than 43 percent among adult Indian men.

Though eastern Oklahoma Indians are the most poverty ridden, the remaining sector of the population is not much better off.

The average weekly earnings of workers in a 14-county area of eastern Oklahoma in 1975 was \$142 per week, barely exceeding minimum wage. By contrast, the state-wide average was 20 percent higher.

Most striking are the counties with low average earnings. Cherokee County residents averaged only \$107 per week in earnings. Adair County's average was \$113 and Sequoyah County \$115.

By contrast wage-earners in Washington County made a median income of \$238 weekly.

The information was provided by the Oklahoma Employment Security Commission.

The numbers illustrate a basic trend, as one approaches the Ozark foothills the opportunity to earn a respectable income declines drastically.

And when earnings are low, so is the tax base and support of public education

Maybe that is why in Adair County, situated next to Arkansas and with the lowest tax valuation in the state, the average person does not complete junior high school.

To understand how such a situation could exist, one need only look retrospectively at the social history of the area.

According to unpublished U. S. Census data from 1950, one-fourth of the population of eastern Oklahoma was functionally illiterate. Among Indians the figure was one-half.

While progress has been agonizingly slow, eastern Oklahoma is slowly raising the standard of living for its people.

The reason is two-fold according to the EODD study. First is the resurgence of agriculture, the traditional method of making a living in the area.

Second is the growth of the private industrial sector.

Such firms as Fort Howard in Muskogee County, International Harvester in Wagoner County, and Hudson Foods in Adair County are providing new economic incentives.

Realizing it is the fastest way off the bottom rung of the economic ladder, the Cherokee Nation is actively soliciting and encouraging industry.

The most recent data continues to show a small encouraging upturn. But thousands, particularly in rural areas, are still awaiting relief from the debilitation of poverty.

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\* Article appeared in Muskogee Phoenix  
March 29, 1981



## CHEROKEE NATION

P.O. Box 948 • Tahlequah, Okla. 74464 • (918) 456-0671

Ross O. Swimmer  
Principal Chief

R. Perry Wheeler  
Deputy Chief

(24 FEB.)

February 3, 1982

Mr. Morton Blackwell  
Special Assistant to the President  
The White House  
1900 Pennsylvania Avenue, N.W.  
Washington, D. C. 20500

Dear Morton:

As I discussed with you earlier this year, the Cherokee Nation and the leadership of a three county area in eastern Oklahoma are now creating the first rural application of a fresh approach to local development and planning. In fact, it is a fresh way of looking at relations among the three government levels.

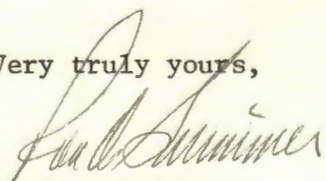
It is called the Negotiated Investment Strategy (NIS) and has been successfully tested by the Charles F. Kettering Foundation and other research and philanthropic organizations in three northern cities -- Columbus, Gary, and St. Paul. The process involves face to face bargaining among a locality, its state government, and the federal government. Here we hope to include the private sector also.

The negotiating and the resultant written compact are designed to bring cost effective coordination to the many programs and monies that are available to a locality for physical, economic and social development. It does not envision additional monies -- just better application of those existing. Materials on the process and its urban prototypes are enclosed.

The State of Oklahoma is now enthusiastically committed to the NIS process here, and we are now ready to explore this with the Federal Government. The Kettering Foundation (developer with others and a financial supporter to the process) and I would like very much to meet with you in Washington to discuss the concept, its previous successes, and the role of the Federal Government in them.

Toward the end, I will call in a week to see when a meeting might be possible. This, of course, will be a preliminary meeting to seek your advice about federal involvement.

Very truly yours,

  
Ross O. Swimmer

ROS:cja

enclosures



## CHEROKEE NATION

P.O. Box 948 • Tahlequah, Okla. 74464 • (918) 456-0671

Ross O. Swimmer  
Principal Chief

R. Perry Wheeler  
Deputy Chief

September 16, 1981

Mr. Morton Blackwell  
Special Assistant to the President  
The White House  
Washington, D. C. 20515

Dear Mr. Blackwell:

Thank you for the delicious lunch and your time during my visit to the White House.

As promised, I am enclosing some information regarding the Cherokees' claim in the Arkansas Riverbed which I hope will lead to a meeting with Secretary Watt. I believe him to be a fair person who would recognize the equity of our position.

The "Riverbed" matter had its origin in 1838 following the forced removal of the Cherokees from their homelands in Georgia. Through some astute negotiations the Cherokees secured new land in what was then "Indian Territory" now Eastern Oklahoma. Title to the new land was granted by a patent from the United States.

Following the creation of the State of Oklahoma, the Secretary of Interior in 1908 issued a statement that the navigable Arkansas River running through Cherokee land was the property of the new state. This statement was contrary to the view of the Cherokees and in 1966 the matter was brought before the Federal Courts. In 1970, the United States Supreme Court held that the fee simple title to the bed and banks of the Arkansas River was vested in the Cherokee Nation.

Prior to the Supreme Court decision, the Corps of Engineers had constructed the McClelland-Kerr Navigation Channel by dredging several million tons of sand and building some dams on the river. The Bureau of Indian Affairs was ordered by Congress to appraise the River and as a result of the appraisals, we learned that we had suffered a taking of our property for the dams and dredging. The loss to the Cherokees was about \$8.5 million.

At the request of the Department of Interior, several years were spent trying to negotiate an out of court settlement for our loss. Each time, however, the Office of Management and Budget advised us that it would not support the claim unless reduced to judgement. For that reason, we have introduced legislation which would permit us our day in court. Under the law we cannot bring the suit unless the Congress waives its immunity so the Bill pending in Congress is essential. When that Bill

Mr. Morton Blackwell

-2-

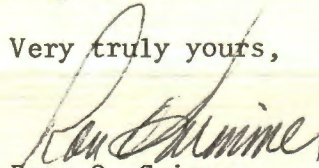
September 16, 1981

comes up for hearing the Interior Department will be asked about it. It is for that reason I would like to visit with the Secretary and explain our position in more detail.

Also, the Bill would allow us to assert claims regarding certain railroad station sites which is totally separate from the Riverbed matter but needs to be heard.

Your help with this legislation would be greatly appreciated. If a meeting can be set with the Secretary, I can make myself available on a day's notice. Again, thanks for your hospitality.

Very truly yours,



Ross O. Swimmer  
Principal Chief

mn

Enclosures

Rec. 9-10

# Wilcoxon & Gate

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September 9, 1981

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Mr. Michael S. Yaroschuk  
Attorney at Law  
P.O. Box 457  
Quechee, Vermont 05059

Honorable Ross O. Swimmer  
Principal Chief  
Cherokee Nation  
P. O. Box 948  
Tahlequah, OK 74464

Dear Earl, Paul, Mike and Ross:

In October of 1980 the U. S. Army Corps of Engineers compiled and circulated "Interim Feasibility Report, W. D. Mayo Lock and Dam 14".

This is a comprehensive document essentially proposing the addition of six 7.34 megawatt bulb generating units to the existing dam. Apparently, the State of Oklahoma will be asked to pay ten percent of the estimated cost of \$92.6 million (at October, 1979 price levels) and share ten percent of the net revenues. The benefit/cost ratio is set at 1.03.

Page 43 of this document indicates net power revenues of \$6,785,000.00 per year.

Page 7-1 tells us that 390,000 cubic yards of material will be dredged for the construction of entrance and exit channels for the turbines, and an additional 166,000 cubic yards of alluvium and 50,000 cubic yards of rock removed.

Of course, an environmental impact study was made and comments secured from every known interested agency, including the whooping crane conservation. All of them reported favorably.

At Page 3-54 is the remarkable comment of the United States Department of the Interior, Bureau of Indian Affairs, which declares, after stating that portions of the Riverbed are owned by the three Tribes, "the possibility of conflict in ownership exists. This office has no further comment to submit."

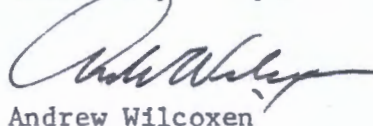
Mr. Earl Boyd Pierce  
Mr. Paul M. Niebell  
Mr. Michael S. Yaroschuk  
Honorable Ross O. Swimmer  
September 9, 1981  
Page Two

That aggressive statement was adopted on our behalf by the  
Acting Director, Office of Trust Responsibilities.

Isn't it wonderful to be protected?

Mr. Carlile tells me that the study has been finally concluded  
and is in the office of the Secretary of Defense where final approval is  
expected to be followed by presentation to Congress.

Yours very truly,

A handwritten signature in dark ink, appearing to read "Andrew Wilcoxon", written over a horizontal line.

Andrew Wilcoxon

AW:jjj

96TH CONGRESS  
2D SESSION

# H. R. 7567

Conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 1980

Mr. SYNAR introduced the following bill; which was referred jointly to the Committees on Interior and Insular Affairs and the Judiciary

---

## A BILL

Conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That, notwithstanding sections 2401 and 2501 of title 28,
- 4 United States Code, and section 12 of the Act of August 13,
- 5 1946, as amended (the Indian Claims Commission Act, 60
- 6 Stat. 1049, 1052; 25 U.S.C. 70k), jurisdiction is hereby con-
- 7 ferred upon the United States Court of Claims, or upon the
- 8 United States District Court for the Eastern District of Okla-

1 homa, to hear, determine, and render judgment, under the  
2 jurisdictional provisions of section 2 of the Indian Claims  
3 Commission Act of August 13, 1946, as amended (60 Stat.  
4 1049, 1050; 25 U.S.C. 70a), on any claim which the Chero-  
5 kee Nation of Oklahoma may have against the United States  
6 for any and all damages to Cherokee tribal assets related to  
7 and arising from construction of the Arkansas River Naviga-  
8 tion System, including, but not limited to, the value of sand,  
9 gravel, coal, and other resources taken, the value of damsites  
10 and powerheads of dams constructed on that part of the Ar-  
11 kansas Riverbed within Cherokee domain in Oklahoma, with-  
12 out the authority or consent of said Cherokee Nation; and  
13 also on any claim which the Cherokee Nation of Oklahoma  
14 may have against the United States resulting from any action  
15 under section 14 of the Act of April 26, 1906 (34 Stat. 137,  
16 142), wherein the United States gave away to third parties  
17 lands for what are known as station grounds of railroads, said  
18 lands being segregated from Cherokee Nation tribal lands  
19 without compensation to said Cherokee Nation of Oklahoma  
20 therefor; all of said lands or interests therein being held by  
21 said Cherokee Nation by virtue of treaties and by patent  
22 issued by the United States granting said lands to said  
23 Cherokee Nation in fee simple; or otherwise: *Provided*, That  
24 any tribe, nation, band, or group may bring a claim arising  
25 out of the circumstances described in section of this Act,

1 if said claim is held in common with the Cherokee Nation of  
2 Oklahoma. Any party to any action thus brought under this  
3 Act shall have a right to review, as provided under existing  
4 law.

○

THE WHITE HOUSE  
WASHINGTON

Ross O. Swimmer  
~~R. Perry Wheeler~~  
~~Deputy~~ Principal Chief



CHEROKEE NATION

P.O. Box 948  
Tahlequah  
Oklahoma 74464 Sallisaw  
(918) 456-0671 (918) 775-4446

- 1) meeting for group  
with Rich Williamson
- 2) meeting with OMB  
for Ross O. Swimmer

# REQUEST FOR APPOINTMENTS

To: Officer-in-charge  
Appointments Center  
Room 060, OEOB

Please admit the following appointments on February 24, 19 82  
for Morton Blackwell of Office of Public Liaison  
(NAME OF PERSON TO BE VISITED) (AGENCY)

Cherokee Indians

ROSS SWIMMER, CHIEF

PERRY WHEELER, DEPUTY CHIEF

JAMES KUNDE, DIRECTOR OF URBAN AFFAIRS, KETTERING FOUNDATION

JAMES CAPLINGER, SENIOR PROGRAM OFFICER, KETTERING FOUNDATION

ROBERT AGUS, Private Sector Initiative Task Force

Negotiated Investment Strategy

Geny Columbus St. Paul

local level should be developed  
inherently competitive  
reorganization almost impossible  
HUD annual announcements - Nixon  
one grant  
Negotiate waivers of regulations

## MEETING LOCATION

Building OEOB

Requested by Morton Blackwell

Room No. 191

Room No. 191 Telephone 2657

Time of Meeting 3:30 PM

Date of request February 23

Additions and/or changes made by telephone should be limited to three (3) names or less.

APPOINTMENTS CENTER: SIG/OEOB - 395-6046 or WHITE HOUSE - 456-6742

file → Cherokee

Paul Niebeck

Arkansas  
river bed

March 3  
March 4  
March 5

get meeting w/OMB off. 4586  
5 years Interior has  
held 1970

2PM  
Rm. 8202  
NEOB

Dick Linn

revised  
50,000  
need \$100,000 more  
went \$75,000  
Wed. Feb  
or  
Friday

2705 separate  
institution  
36 Drug  
Abuse program

24 Feb. 1977

Oklahoma Choctaws

918-456-0671

3:00 P.M.

THE WHITE HOUSE  
WASHINGTON

James Kaplinger -

Senior Program Officer -  
Kettering Foundation

David Matthews -

President

Kettering

James Kunkle -

Director Urban Affairs -

Perry Wheeler -

Deputy Principal Chief

Mike Morris Chief <sup>Ross</sup> <sup>Wimmer</sup>

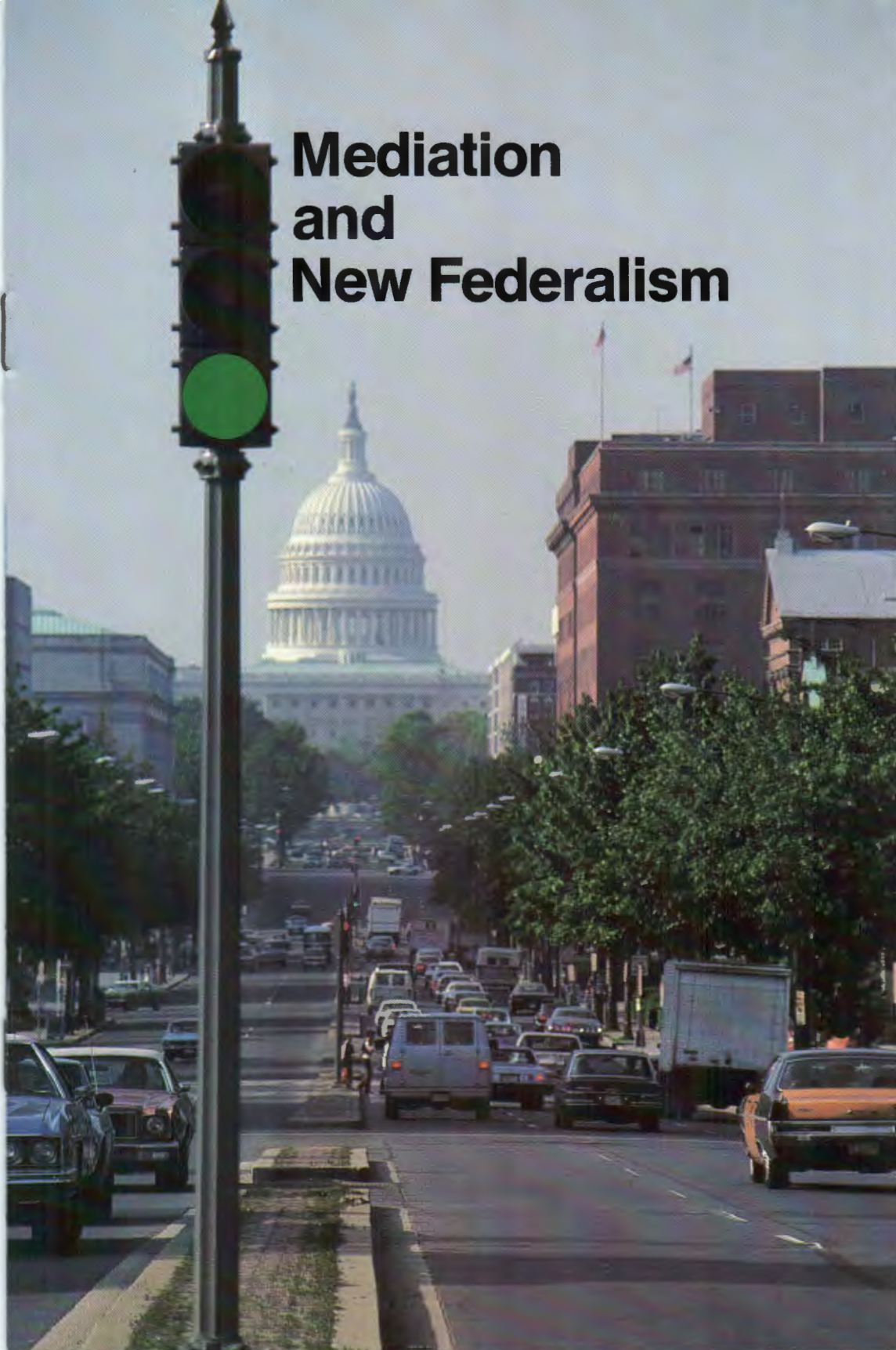
Education Dept. Chairman

~~Retiring~~  
private foundation

they are funding  
a project for the  
Oklahoma Cherokee

to discuss  
negotiated investment  
strategy

# Mediation and New Federalism





**Mediation and New Federalism**  
**Proceedings of a Roundtable**  
**on the**  
**Negotiated Investment Strategy**

July 8, 1981  
Washington, D.C.

**The Roundtable was sponsored by:**  
The National Academy of Public Administration  
The Academy for Contemporary Problems  
The Ford Foundation  
Charles F. Kettering Foundation

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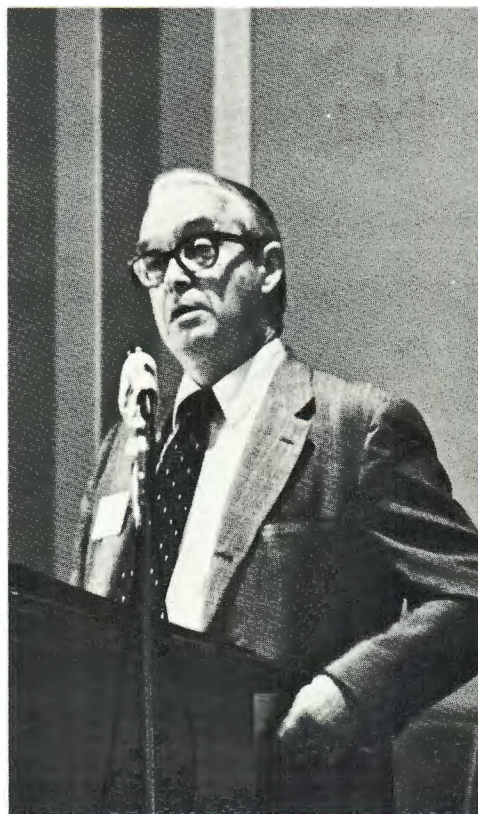
## Introduction

The conference reported here focuses on a new approach to intergovernmental decisionmaking. It reviews successful recent experiments in mediator-assisted decisionmaking involving federal, state, and local governments and the private sector in the cities of St. Paul, Columbus, and Gary. Within the context of current policies to devolve major federal programs to state and local governments, it looks forward to further experiments with mediation to resolve complex local issues, but with initiative from states rather than the federal government.

For four years the Charles F. Kettering Foundation, with assistance from the Ford Foundation, has sponsored these experiments in a Negotiated Investment Strategy—negotiated in the sense that a mediator has facilitated decisionmaking on complex local issues in which federal, state, and local governments, and the private sector have all had interests, responsibilities, and resources to apply.

When the National Academy of Public Administration was asked to prepare a paper on future uses of the NIS, it undertook to do so without hesitation. Over the last decade, the Academy has explored the full range of traditional proposals for solving difficult problems in metropolitan areas—simplifying local governmental structure; local, regional, and intergovernmental planning agencies; and a wide variety of coordinating and planning mechanisms. Successes have been limited at best.

The NIS is not a cure-all for day-to-day relations (often frustrating) between governments on issues of common concern, but it is a fresh idea for securing joint decisions on proposed actions where sig-



nificant resources and policies from a range of governmental agencies must be marshalled and coordinated. Current changes in the federal system proposed by the Reagan administration do not affect the validity of the basic idea; they merely change the ground rules under which the approach must be tested, to the end that a further record of successful demonstration projects can encourage wider utilization of the strategy.

George H. Esser  
President, National Academy  
of Public Administration



**William Usery, St. Paul Mediator**

and meeting the needs of special populations.

In Gary, the three teams agreed to center their negotiations around seven major goals. Under each goal, they estimated how their objectives would affect the vitality of the city's downtown and neighborhoods, and the health and safety of local residents. Significant progress has been made toward improving relations between the city of Gary and the state of Indiana, and steps have been taken to improve public-private collaboration within the city.

"As I look at the Gary agreement, the other two agreements, and the range of activities that have taken place, I see three types of outcomes," observed Gary mediator James Laue. "The promotion, achievement, and packaging of specific *projects*, as evidenced by the specific objectives for which we have commitments and the dollar figures attached to them, constitute one very important set of outcomes. The teams can also come out with agreements regarding policy changes—that is, changes in the rules for making policy between various levels of govern-

ment. These changes are very important. In Gary, and to some extent in the other two cities, we also saw a change in the processes or in the relationships between the parties."

## No Glamour, Hard Work

Roundtable members who had taken part in the experiment made it clear that their achievements were not easily come by.

"The fact of the matter is that the NIS negotiation in Columbus was not a glamorous or boisterous event," said Susskind. "It was a hard-working set of seventy or eighty hours in which a team of fifteen local people, a team of ten to fifteen state people, and a team of fifteen or twenty federal people (some of them with staff) tried to take on very nitty-gritty issues, one at a time, going into detail.

"That's a laborious, fact-filled, detailed kind of process, and it requires a lot of hard work and a lot of commitment on the part of a great many people. To make even one part of a session like that work requires a great deal of preparation. It requires an immense commitment on the part not only of the people that you see but of all the people who run the agencies and organizations that sent them."

Others recalled that state government teams initially were not as prepared to participate as were the federal and local teams. "Because the concept was so foreign to us, we did not readily understand what we were being asked to do and we were almost totally unprepared to do it," admitted David Gehr, of Ohio's Office of Budget and Management.

Laue noted, however, that matters quickly improved. "They were not ready in Indiana," he said, "as I think was true in the other states, for the negotiation process. [But] the state of Indiana moved much, much further and did much more, given its starting point in terms of state-local relations, than the federal government did. That may be disputed by some of the members of the federal team. But, a \$5.3 million airport bond issue that had been languishing with the state tax commission was freed up, thanks to the leadership of state officials in the negotiating process."

William Usery, former head of the Federal Mediation and Conciliation Service, and a former Secretary of Labor, recounted the problem of building a team of federal negotiators: "When I first met in Chicago with the federal team, we all had to introduce ourselves to one another—including members of the federal team—because few of us had ever met. We talked for two days about the NIS, what we could do, and how we could go about it. Many members of the committee had never thought about how all the phases of the programs must come together. And, finally, we were able to pull together an outstanding team."

Mayor Moody remembered that "putting the local act together is even more difficult than putting the federal act together. And the reason for that is if the act is to come together locally, it must reflect the position of a number of diverse groups, each of which is competing for limited resources.

"We had representatives from the city council, county commissioners, private charitable organizations, and private pressure groups. The business community was also very adequately repre-

sented—while its representatives did not sit at the table, they sat right over our shoulders.

"In our private conferences, we developed a city position that embraced everything from the interests of business to the poor. And we had among the representatives of those groups an agreed-upon strategy for each issue, including emphasis, the amount of time, who would be the spokesperson, and who the resource person."

### Mediator a Must

Moody also stressed the importance of the neutral mediators. "It is my absolute conviction that such meetings cannot occur without an impartial third-party mediator or facilitator skilled in the art of knowing when conversations are going awry and recognizing what the participants do not recognize: first, that they are going awry, and second, why they are going awry," he said.

Usery agreed. "Having spent many hours in mediation—probably over four hundred sets of negotiations, including labor, civil rights, and other types of negotiations—I would not necessarily say that the role of the NIS mediator is that of a 'mediator' in the normal sense," he said. "Maybe 'catalyst' is a better word, or 'facilitator.' But whatever it is called, it is vitally important that someone help move this process along."

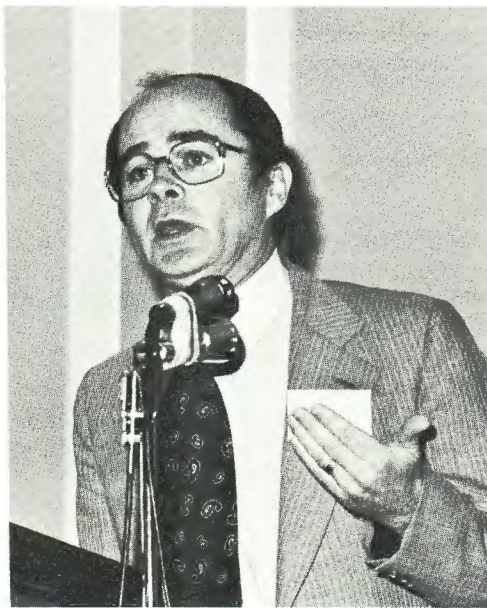
Laue offered some examples of what the mediator does and how he does it: "When I began my first meetings in Gary, I saw very quickly that, while our problems in trying to do NIS might be very much related to specific resources and projects,



**Lawrence Susskind, Columbus Mediator**

one of the major things we had to do was work on the relationship between the city of Gary and the state of Indiana on the one hand, and the city of Gary and U.S. Steel on the other. I also discovered that when we began the negotiations, U.S. Steel was not represented as part of the private sector on the local team. So I spent a fair amount of time encouraging U.S. Steel and its corporate offices—both in Gary and in Chicago—to become involved in this process.

"It strikes me that the key to this process in Gary or elsewhere has to do with getting the right actors to the table. When I went to the first meeting with the state team in Indianapolis, I found that there was nobody from the state tax commission on the team. It was clear to me that Gary's concern was what they called 'systematic private-sector disinvestment' in the



**James Laue, Gary Mediator**

city in recent years as well as 'public-sector disinvestment.' They had been able to get only one bond issue past the state tax commission in the twelve years Mayor Hatcher had been mayor, even though they were not anywhere near their capacity for bonded indebtedness.

"When I first met with the Indiana team, I said, 'Do you suppose we could have somebody from the tax commission on the state team?' And the response was, 'Well, that would cause an awful lot of conflict. The city of Gary and the tax commissioners really don't get along and have been fighting for years and years and I don't think we should do that.' And I said, 'Be my guest! This is what this is about.' We worked that out and we expanded the state team to include the tax commission, the Department of Natural Resources, the Office of Budget, and others."

## Setting the Agenda

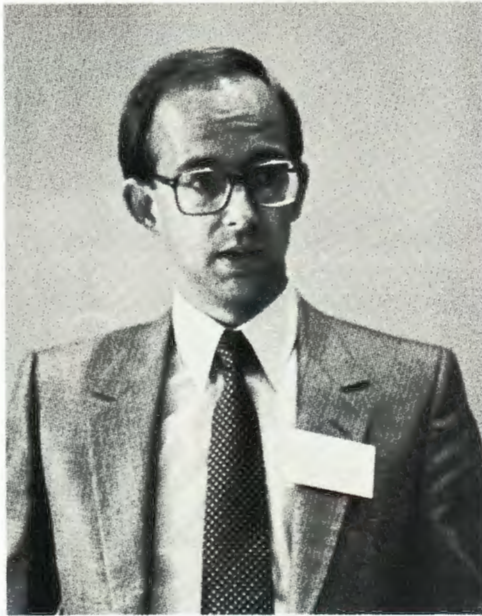
Susskind decried the mediator's role in getting the teams to agree on what they are going to negotiate. "Developing the agenda of items to negotiate turned out to be much harder than one might think," he recounted.

"Though it might seem that the team could begin with what the city wanted and then the state and federal government could say 'yes' or 'no' and the job would be done, the fact of the matter is that the federal and state teams were as interested in saying what they thought local government ought to be doing, and in what the federal government thought the state ought to be doing differently to help implement federal or state policy as they were interested in what the locals had on their minds.

"So the question was how to negotiate an agenda. We spent a substantial amount of our time, indeed a full meeting, negotiating an agenda and negotiating a procedure for taking up the agenda."

Representing the federal perspective, Douglas Kelm, former chairman of the Chicago Federal Regional Council, said that, "in St. Paul and Gary, the FRC decided to let the city present its agenda first, so that the state and federal teams could try to find solutions to fit that agenda, rather than asking the city to fit its priorities into a spurious set of solutions represented by existing federal and state programs."

Laue called the agenda-building process "in many ways a function of the team-building process." He also said really serious bargaining won't take place unless the team captains and the mediator are "willing to get the high-conflict issues on the table."



**David Gehr, Ohio Office of Budget and Management**

"The importance is that the parties can negotiate what they want to negotiate. That doesn't happen if a mediator has low tolerance for conflict and says, 'Gee, that one looks too messy; we don't want to get that on the table!'" he told the Roundtable members.

### **NIS and the Future**

From such descriptions, recollections, and explanations, there emerged a fairly clear picture of how the NIS process works and what it can accomplish. But as Ralph Widner, president of the Academy for Contemporary Problems, told the Roundtable group in outlining its task, the purpose of examining the NIS experiment as it has been conducted was to determine if the process continues to be a use-

ful tool for resolving intergovernmental problems.

Can it work when federal budget cuts mean the end of support for some programs? When block grants give states and/or local governments more discretion over the allocation of funds? When regulatory reform is beginning to curtail federal oversight of state and local actions?

All such changes place much greater burdens on state and local government — and can provoke new strains in intergovernmental relations. And it was in the context of that greater strain that the Roundtable deliberated and concluded that, in Usery's words: "If the process was good three or four years ago, it is even more so now, when the finances and resources to aid cities are decreasing while expectations are increasing."

The reasoning behind that conclusion related to the fact that, under the New Federalism, state governments are likely to play the key role in deciding how resources will be allocated.

To George Esser, of the National Academy of Public Administration, that meant that "the key change is that the critical relationship in the negotiations will not be between federal and local government, but will instead be state-local. There also will be a need for more direct involvement of the private sector."

There also was a feeling, best expressed by Columbus's Mayor Moody that the local competition for limited resources "will intensify in the days ahead." And in that respect, "it is," he said, "my absolute conviction that whether we are in a Lyndon Johnson world or a Ronald Reagan world, the attempt of people representing different interests to sit down and exchange information and deal up front with the problems is a very worthwhile attempt.

"Even if they do not get anything at all from the other two parties at the bargaining table, it is my conclusion that it is worthwhile to go through the exercise to examine what you want in your own house and how you want to go about getting it.

"I would tell you about an unexpected benefit of the NIS in Columbus. I knew the process was going right when the federal, local, and state officials, having no jurisdictional authority over any part of the local issues at hand, started to chime in with rational suggestions and comments.

"I knew then that the triumph of reasonable people was going to occur. That triumph is not total, but it is a step forward."

In a background paper prepared for the Roundtable by Charles Warren of the National Academy of Public Administration, Warren suggested that the NIS or its adaptations may be most applicable where:

1. Numerous actors are involved from diverse sectors;
2. Strong differences of opinion and competition between the participants exist;
3. Complex processes and extensive coordination are required to achieve results;
4. The project or activity to be negotiated is of high priority for all or most participants;
5. The demand for conflict resolution is strong among everyone involved;
6. The need for resolution is urgent.

Both Warren and an NIS evaluation report prepared by SRI International suggested that situations which might satisfy those criteria could include the establishment of urban enterprise zones, mitigation of impacts from defense or energy developments, and coordinated refugee assistance.

The Roundtable participants concluded that NIS ought to be used wher-



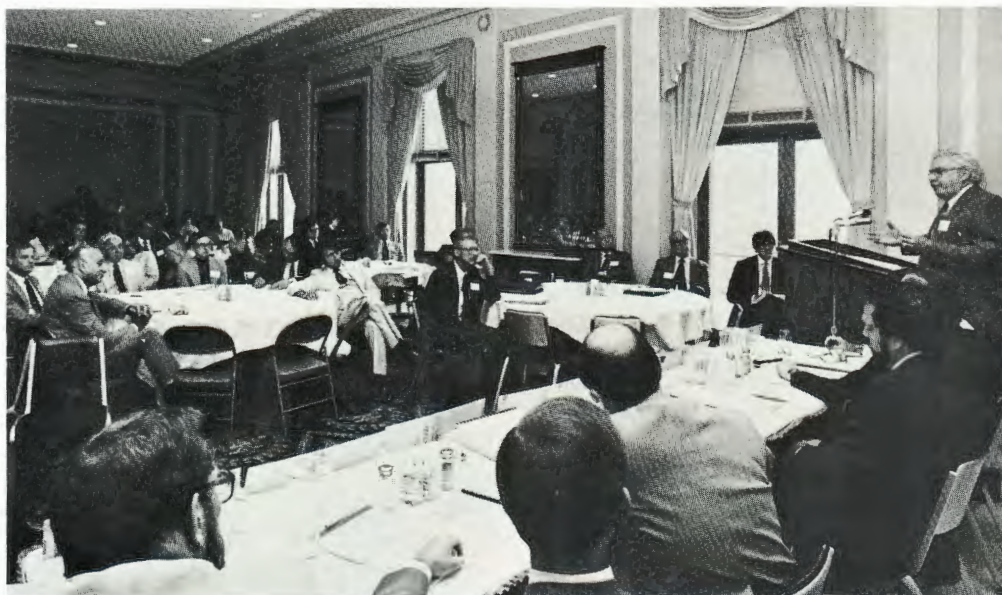
**Charles Warren, National Academy of Public Administration**

ever major issues arise requiring a new form of intergovernmental action.

"The process can work," said Usery. "It will work if we *want* it to work; and it needs full cooperation and support to make it work.

"It won't work the same way in every place. We have different personalities and different problems. But the process is sound and can be adjusted and adapted. The mediator, I think, is the catalyst who can help bring it about.

"I commend the Kettering Foundation, the team members, and others who have brought the process this far. I am not sure that the process is entirely new or different. What we're trying to do is what the other industrialized nations of the world are doing—bringing people together and arriving at the best consensus as to how we accomplish the most goals with the resources we have."



The background paper prepared by Charles R. Warren is available from the Charles F. Kettering Foundation. Related reports, *The Negotiated Investment Strategy: A Review of the Concept and Its Implications for Revitalizing Cities*, by the Committee on Economic Development, and *Rethinking Urban Governance: An Assessment of the Negotiated Investment Strategy*, by Stanford Research Institute, are also available from the foundation. A report prepared by PMC Associates entitled *The Role of the Chicago Federal Regional Council in the Experimental Application of the Negotiated Investment Strategy* is available from NTIS.



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