Social Networks:
An Insurable Risk for Local Governments

NLC-RISC Trustees Conference

May 12, 2011

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What do we mean by “social networking?”

Most commonly:

- Facebook
- Twitter
- LinkedIn
- MySpace

Similar issues presented with:

- Wikis
- Blogs
- Various new gov-to-citizen comm. services (Nixle, etc.)

In general, issues are familiar, only magnified...

How are local governments using social media?

- Exploding use of social media tools by local governments, starting in 2009
- Various levels of activity . . .
  - Aggressive, innovative, enthusiastic adopters
  - Cautious adopters
  - No officially sanctioned activity, or even officially prohibited due to liability fears
- . . . Various methods of control
  - Centralized
  - Decentralized

How are local governments using social media?

- 1,000+ estimated official local government Twitter accounts
- >75% local governments with Facebook pages
- Interesting Examples:
  - Baltimore:
    - Comprehensive “open government” initiative based on social media
  - St. Paul, MN:
    - Facebook to show crime information, neighborhood alerts, etc.
  - San Carlos, CA:
    - Extensive use of Twitter during San Bruno natural gas explosion/fire
  - San Francisco:
    - Facebook for citizen interaction, discussion boards, etc
  - Memphis Light, Water & Gas:
    - Twitter for outages, service promotion

Social media risks for local governments

- Public disclosure of damaging / privileged information
  - Easy and quick to divulge, instantaneous large audience = possible significant damage
  - Intentional or unintentional
  - Bids and procurement, development plans, official deliberations, personal information
  - Can govt. employer restrict employees' speech on non-govt. social media?

Social media risks for local governments

- Defamation
  - Communication by citizen or government on govt. social media may be defamatory
  - Typically want some control over citizen discussion forum, but moderation may open up liability
- Privacy
  - Govt. possesses sensitive citizen information
  - Integration of online service with social media presents significant risk of damaging disclosure
  - Advanced services (location-based, etc.) may create unanticipated privacy issues

Social media risks for local governments

- First Amendment Issues
  - Need to be extremely careful about restricting citizen speech
  - What if the KKK asks the City to be its Facebook friend?
  - Significant risk of litigation, if not damages

Social media risks for local governments

- Data retention / open records compliance
  - Wide variety among states
  - Likely to have an obligation to retain all “records” – including ephemeral electronic communications – which may include all Facebook, Twitter, etc. communication
  - Some risk of civil liability, cost of technical compliance may be significant

Social media risks for local governments

- Technical security risks
  - Hacking of city social media tools:
    - Unauthorized access to information
    - Spoofing of city communication
- City marks and identification
  - Control over city trademarks, etc.

Social media risks for local governments

- Risk of the unknown:

  This is a brand new, rapidly changing medium. We will likely encounter a variety of unanticipated risks over the next several years as the technology develops, and as governments make more extensive use of it.

Social media insurance for local governments?

- Social media liability coverage emerging as a way to address risks to local governments:
  - Chubb Insurance company offers "new products tailored to social media risks" http://socialtimes.com/new-insurance-concerns-for-companies-social-media-brand-profile_b11515
  - "Monitor Liability Managers, LLC has introduced a new social media endorsement for its employment practices liability (EPL) insurance policies." http://www.insurancejournal.com/news/national/2011/02/17/186507.htm
  - "The Hartford CyberChoice 2.09sm expands protection for Web 2.0 and social media liability; offers enhanced coverage for data privacy..." http://ir.thehartford.com/releasedetail.cfm?releaseid=423320

Social media insurance for local governments?

- "Do you Need Social Media Liability Insurance?" http://www.retailonlineintegration.com/article/do-you-need-social-media-liability-insurance/1
- "Insurance Coverage for Social Media Liability" http://www.naplia.com/social_media/insurance.shtml
- Social Media Liability Risks: http://gbwinsurance.wordpress.com/2010/10/01/social-media-liability-risks/
- "State and Local Governments Concerned About Social Media Liability" http://www.thetransitwire.com/2010/05/02/state-and-local-governments-concerned-about-social-media-liability/

Social media policies as a means to address risk

Having a formal social media policy in place – with clear identification of controls, procedures and responsibilities – not only reduces the likelihood of a problem , but also protects the local governments from liability in the event a problem does arise.

Social media policies as a means to address risk

Some elements of a successful social media policy:

- Specific descriptions of services, applications, equipment, technology
- Description of administrative control over communication (e.g., identified personnel, level of approval for Twitter communication, etc.)
- When personnel must identify themselves as speaking on behalf of the government
- Emergency situations: what to do when rapid response outweighs the need for close administrative control
- Acceptable personal use, employee liability for content

Model social media policy?

A model social media policy could be useful for local governments, and entities that seek to insure them.