Shifting Boundaries between the Public and Private Sectors: Implications from the Economic Crisis

What are the differences between the public and private sectors as well as their interrelationships in light of the recent financial crisis? Has the global economic crisis fundamentally shifted the boundaries between the two sectors? This essay examines the nature and extent of the shift. The authors present an analysis of the Troubled Asset Relief Program (TARP) to highlight the massive transformations that are taking place and to introduce lessons for future policy initiatives.

Between financial rescue missions and the economic stimulus program, government spending accounts for a bigger share of the nation’s economy—26 percent—than at any time since World War II. The government is financing 9 out of 10 new mortgages in the United States. If you buy a car from General Motors, you are buying from a company that is 60 percent owned by the government. If you take out a car loan or run up your credit card, the chances are good that the government is financing both your debt and that of your bank.


While understanding the interrelatedness of the public and private sectors has been perhaps one of the most essential and enduring challenges for public administration over the past few centuries (Bozeman 1987, 2007; Dahl and Lindblom [1953] 1976; Dewey [1927] 1954; Lindblom 1977; Wamsley and Zald 1973), recent events in the nation’s economy have elevated a fundamental questioning and reordering of the relationships between public and private. In the current economic crisis, lines between the public and private sectors are rapidly being redrawn through new organizations, policies, programs, and regulations. Questions arise about the systemic effects, intended and unintended, that ultimately will result from these initiatives.

At the height of the “privatization era,” Wise pointed out that the fundamental question was not which was better, public or private, but rather “what configuration of organizations, public and private, is needed and what arrangements between them provide the most effective relationships to perform the needed functions” (1990, 142). Too often, policy makers have restructured public organizations and public service programs without an adequate conceptualization and understanding of the “configuration of organizations impacting public services, and also without considering the modes of interaction that the public organizations will have with significant officials and organizations” (Wise 1990, 142). Now, the “object” has been turned around—it is not public services but private goods and services that are the central focus. However, the question is quite analogous: what is the most effective configuration of public–private organizations to bring about particular outcomes in the private economy while still observing the requisites of democratic government?

As public administration scholars, it is critical that we evaluate the public–private configurations that are employed, not only for the problem at hand, but also for the longer-term reconfiguration of the public management system. Essentially, what are the key considerations that should guide the emerging reconfiguration of public and private institutions? In this analysis, we consider one particular case: the Troubled Asset Relief Program (TARP). Though initiated as a series of targeted, short-term public investments of up to $700 billion in private institutions, TARP interventions have resulted in a reconfiguration of public and private institutions with long-term implications. This paper proceeds as follows. First, we briefly review recent reforms targeting public–private configurations. Then, we present the public interest, economic, and management dimensions as analytical frames by which to evaluate public–private configurations. Next, we employ the dimensions to evaluate two initiatives.

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in the Troubled Assets Relief Program. Finally, we conclude with implications for research and practice moving forward.

Background

Over the past two decades, the privatization movement has (re)defined the relationship between public and private institutions in many countries. Privatization refers to a variety of phenomena in the arrangement of government–business relationships, from contracting to load shedding (Wise 1990). The emphasis in this movement has been on the superiority of business operations, bringing business principles into the operations of government, and/or turning over areas of government responsibility to private businesses altogether. The Grace Commission report presented to Congress during the Ronald Reagan administration and the National Performance Review conducted by the Bill Clinton administration both promised greater efficiencies through the integration of modern business methods. The George W. Bush administration adopted rules for putting federal jobs up for competition with private firms (OMB 2003).

Recent policies adopted since the onset of the economic crisis have been based on a quite different premise—that business organizations have failed and that government organizations must be involved in business operations to curb their excesses, to improve them, to prevent further failures and harm to the public, and to foster greater economic development for the nation as a whole. Other countries, such as Great Britain, have adopted similar stances. Like the privatization of public organizations, the increasing influence of the public sector on the private sector is not an easily identified strategy. Rather, it comprises diverse instruments or tools of government (Salamon 2002), ranging from the regulation of private sector economic activity or management practices (such as executive compensation), to an infusion of public funds (as with the Capital Purchase Program), to direct ownership or “takeover” of privately held firms (such as in the auto industry).

In the short term, certain government interventions may have been effective in preventing a more severe economic crisis. For example, if large U.S. financial institutions and automakers had been allowed to fail, there is no doubt that the short-term impact on the economy would have been substantial. This is not to deny that there is significant debate about the proper role of government in private enterprise. That debate is ongoing, and perhaps has been intensified by recent government actions. Nonetheless, rather than engage that issue or the short-term effects of government intervention, our point of departure is to consider the resulting reconfigurations of public–private institutions and the long-term implications for public administration.

Public–Private Configurations: Dimensions for Analysis

Public–private configurations exist wherever government authority is extended to private firms for the production of outcomes that achieve public (as well as private) objectives. There are a variety of tools of government action (ranging from regulation to contracts to direct ownership) that extend government authority to private firms (Salamon 2002). Indeed, one might make the case that “all organizations are public” to some extent (Bozeman 1987). The long-term success of public–private configurations in ensuring democratic governance and achieving desired objectives is contingent on the appropriate balance between overlapping public interest, economic, and management dimensions (Wise 1990). When there is a shift in the configuration—such as through the addition, reduction, or alteration of government authority—it is essential to reevaluate each dimension. Here we provide key considerations under each dimension (with key questions summarized in table 1), followed by a discussion of the complementary role of the dimensions.

Public Interest, Economic, and Management Dimensions

First, because of the extension of government authority, public–private configurations should be aligned with the public interest. The key question from the public interest dimension is, how will the public interest, including substantive public values and democratic accountability, be preserved and enhanced through this public–private configuration? Determination of the precise meaning of the public interest has long been considered problematic (Dewey [1927] 1954; Pesch 2008; Shubert 1961), but as Bozeman points out, it continues to carry significant meaning “because legislators continue to make laws citing the ‘public interest,’ regulators continue to regulate in the ‘public interest,’ and courts continue to rule in the ‘public interest’ (2002, 148). Rather than a clearly defined objective, the public interest is a normative ideal that includes both substantive values and procedural aspects (Bozeman 2007; Dewey [1927] 1954; Wise 2002). Substantive values may be derived from a nation’s founding documents, or “fundamental laws” (Bozeman 2002, 2007; Jorgensen and Bozeman 2002). In the United States, substantive values include, but are not limited to, such things as civil rights, liberty, limited government, and equal treatment (Jorgensen and Bozeman 2002; Wise 2002). Procedural aspects of the public interest in a democracy seek to enhance democratic accountability by consent of the governed, the responsiveness of public officials to the governed, and the appropriate use of sovereign power (Bovens 2005; Wise 1990; Wise and Freitag 2002). Second, the economic dimension of public–private configurations is of critical importance. Broadly speaking, the economic dimension refers to the coordination system for producing outputs, or the task environment (Scott 2003; Wamsley and Zald 1973). The question is not whether government should intervene in the private sector, but “whether coordinated inputs between government and the private sector are necessary to achieve the desired public (and private) outcomes?” Two important considerations help guide the

<table>
<thead>
<tr>
<th>Dimension</th>
<th>Question</th>
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<tr>
<td>Public Interest</td>
<td>How will the public interest, including substantive public values and democratic accountability, be preserved and enhanced through this public–private configuration?</td>
</tr>
<tr>
<td>Economic</td>
<td>What coordinated inputs between government and the private sector are necessary to achieve the desired public (and private) outcomes?</td>
</tr>
<tr>
<td>Management</td>
<td>Is the government capacity and authority in place to initiate, manage, and evaluate the configuration?</td>
</tr>
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Table 1 Core Dimensions and Key Questions
development of this coordinated system: (1) economic assumptions, or hypothesized relationships between means and ends; and (2) the “institutions” included directly in and implicated by the configuration and the effects on the broader economic system. While in some task environments, there is a very clear relationship between inputs and outputs, in other, more complex task environments, there may be several, sometimes conflicting hypothesized relationships between the appropriate means to accomplish desired ends (Scott 2003; Wamsley and Zald 1973). Identifying the operational assumptions between means and ends thus becomes an important component of the economic dimension of public–private configurations. Further, while specific initiatives may be targeted at a specific “set” of firms, all firms are part of a larger institutional environment (Scott 2003). The success of public–private configurations depends in part on the set of institutions that exist in an environment at any given point in time and on the ability to coordinate, design, and reform the institutions (Olsen 2006; Przeworski 1997).

Third, whereas the economic dimension focuses on the coordination system for public–private configurations, the (public) management dimension refers to the coordination ability of public administration. The key question becomes, is the government capacity and authority in place to initiate, manage, and evaluate the configuration? Public–private configurations require uniquely equipped public management capacity that includes knowledge of and skill with the appropriate management tools (Mosher 1980; Salamon 2002), an “energetic executive” equipped to carry out ongoing management responsibilities (Light 2008), and the authority (and credibility) to provide direction and shape outcomes (Koppell 2001; Moe 2001; Moe and Stanton 1989).

Public–private configurations are more complex than ideal-type government institutions that are responsive only to hierarchical political control or ideal-type market-driven firms that are responsive to customers and, ultimately, to shareholders (Moe 2001; Mosher 1980; Salamon 2002). The combined authority relations in public–private configurations make strategic behavior on the part of the participating institutions inevitable (Agarwal et al. 2009; Leone 1981; 1986; Oliver 2008; Shaffer 1995). Government institutions charged with coordinating such configurations must have the prerequisite capacity and authority to anticipate strategic behavior and make adjustments as needed in line with the public interest.

**Complementary Role of the Dimensions**

The public interest, economic, and management dimensions are not mutually exclusive; rather, there is substantial overlap between the dimensions that is critical to the success of the configurations (Wise 1990). Under the political economy perspective, market mechanisms are viewed as a means to achieve publicly desired ends—not as ends in and of themselves (Dahl and Lindblom [1953] 1976; Lindblom 1977; Wamsley and Zald 1973). In their discussion of the political economy of public administration, Wamsley and Zald (1973) point out that there are multiple “economies” that can be selected to transform inputs into outputs; one can think of several different mechanisms that could be employed, for example, to produce military equipment or to provide food to hungry children. The selection of the economy (or the means to produce desired ends) is as much a political decision as an economic decision. In this regard, the public interest dimension complements the economic dimension to ensure that the “means–ends system” selected is working toward publicly desired ends through publicly acceptable (and accountable) means. Further, without the capacity and authority in place to initiate, manage, and evaluate the configuration, even an appropriately selected economy in line with the public interest will not be sustained and will fail to meet its objectives.

**Case Study: Troubled Asset Relief Program**

The recent economic crisis in the United States has resulted in a myriad of public initiatives and programs to prevent systemic failure of the entire economy. Many of the public initiatives have been targeted at the private sector, resulting in new or revised public–private configurations that have transformed our understanding of public–private relations. While there are a plethora of case studies to consider, perhaps one of the best known public initiatives that encompasses many of the complexities of the new configurations is the Troubled Asset Relief Program. TARP was initiated in October 2008 under the Emergency Economic Stabilization Act (EESA) to purchase, sell, and manage “toxic” assets; however, TARP quickly was refocused to include a much broader purview. A quarterly report from the Special Inspector General for TARP in April 2009 comments on the magnitude of its coverage: “From programs involving large capital infusions into hundreds of banks and other financial institutions, to a mortgage modification program designed to modify millions of mortgages, to public/private partnerships purchasing ‘toxic’ assets from banks using tremendous leverage provided by Government loans or guarantees, TARP has evolved into a program of unprecedented scope, scale, and complexity” (SIGTARP 2009b).

Table 2 provides a summary of the $474.70 billion in TARP funds spent on various programs as of November 30, 2009, reported by the Congressional Oversight Panel (COP 2009a). Here, we will focus on two of the largest programs under TARP, which together represent 59 percent of the total funds allocated to date (see figure 1). The largest portion of funds (43 percent) was spent on the Capital Purchase Program (CPP), which invests in qualified financial institutions, such as banks and bank holding companies, that are viewed as important to stabilizing and growing the U.S.

**Table 2. TARP Disbursements and Commitments as of November 30, 2009**

<table>
<thead>
<tr>
<th>Program</th>
<th>Disbursed</th>
<th>Committed</th>
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<tbody>
<tr>
<td>Capital Purchase Program</td>
<td>$204.7</td>
<td>218.0</td>
</tr>
<tr>
<td>Targeted Investment Program</td>
<td>40.0</td>
<td>40.0</td>
</tr>
<tr>
<td>Capital Assistance Program</td>
<td>TBD</td>
<td>TBD</td>
</tr>
<tr>
<td>Systematically Significant Failing Institutions</td>
<td>69.8</td>
<td>69.8</td>
</tr>
<tr>
<td>Term Asset-Backed Securities Lending Facility</td>
<td>20.0</td>
<td>20.0</td>
</tr>
<tr>
<td>Asset Guarantee Program</td>
<td>5.0</td>
<td>5.0</td>
</tr>
<tr>
<td>Automotive Industry Financing Program</td>
<td>77.6</td>
<td>77.6</td>
</tr>
<tr>
<td>Supplier Support Program</td>
<td>3.5</td>
<td>3.5</td>
</tr>
<tr>
<td>Making Home Affordable Program</td>
<td>27.4</td>
<td>50.0</td>
</tr>
<tr>
<td>Consumer and Business Lending Initiative</td>
<td>0.0</td>
<td>15.0</td>
</tr>
<tr>
<td>Public Private Investment Program</td>
<td>26.7</td>
<td>30.0</td>
</tr>
<tr>
<td>Total committed</td>
<td>$474.70</td>
<td>$528.90</td>
</tr>
<tr>
<td>Total uncommitted</td>
<td>N/A</td>
<td>169.80</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$474.70</strong></td>
<td><strong>$698.70</strong></td>
</tr>
</tbody>
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Source: Congressional Oversight Panel (2009a).
The primary vehicle under TARP for the stabilization of financial public–private configurations. 

The public interest dimension is concerned with preserving and enhancing both procedural accountability and substantive public values. Procedurally, from the inception of the CPP, there have been questions about the selection of “healthy” firms to receive capital infusions (and the disclosure of selection criteria and processes). A committee within the Treasury Department reviewed literally thousands of applications from banks, savings and loans, insurers, and others (deemed eligible by their federal regulator) to select financial institutions for funding. Treasury officials did not disclose the criteria used in deciding which institutions were sufficiently healthy to warrant assistance and which were not, stressing that the process had to be confidential so that rejected banks did not suffer damage in the markets, further harming the financial system (Landler 2008).

With regard to implementation, Congress imbued multiple organizations with accountability mandates under TARP: the Special Inspector General of the Troubled Assets Relief Program (SIGTARP), the Government Accountability Office (GAO), the Congressional Oversight Panel (COP), and the Financial Stability Oversight Board (FINSOB). The challenge in getting the accountability balance right in the Capital Purchase Program lies in the trade-offs between investing the accountability agents (SIGTARP, GAO, COP, FINSOB) with sufficient powers to obtain (adequate) information but not overly intrusive powers that give financial institutions a disincentive to participate, thereby decreasing the chances of restoring financial stability. This trade-off is exemplified by the information that must be disclosed by the recipients of TARP funds. While the Treasury Department has issued several reports and includes some data on its Web site, SIGTARP and COP have continually recommended that the Treasury Department collect additional data from TARP recipients on the actual use of funds, a step that is necessary to meet the Treasury’s stated goal of bringing transparency to the TARP program and informing the American people and their representatives in Congress about what is being done with their money (SIGTARP 2009c, 8). The Treasury Department rejected the recommendation, and claimed that the exact use of federal aid cannot be tracked because “money in a bank is like water poured into an ocean” (Appelbaum 2009). The GAO also has continually found that the Treasury has not developed “a means of regularly
and routinely communicating its activities to relevant congressional committees, members of the public, and other critical stakeholders” (GAO 2009d), speaking directly to the procedural public interest function of democratic control.

In addition to procedural accountability to the public interest, substantive public interest concerns have been raised regarding the executive compensation policies of CPP (and other TARP) recipients. Ignited by outrage over the $165 million in AIG retention bonuses (Cooper 2009), focus on executive compensation has been a central component of TARP. According to Section 111 of the EESA, “TARP Recipients [may] not have package that promote excessive risk” (PL. 110-343 Division A, codified as 12 U.S.C. 5221). Since 2008, most all iterations of TARP have included provisions related to executive compensation. The Interim Final Rule on TARP Standards for Compensation and Corporate Governance, issued by the Treasury Department on June 10, 2009, stipulated an annual compensation limit of $500,000, in addition to limits on bonus and incentive compensation, until TARP funds are repaid. Further, a special master (Kenneth Feinberg) was appointed by Treasury Secretary Timothy Geithner to formally review compensation packages at TARP-assisted firms (U.S. Department of the Treasury 2009b), thereby increasing perceived public accountability.

For CPP recipients, issues of executive compensation limits are particularly troubling. Many of the rationales for reform are tied to the assumption that executive compensation practices are linked to the performance of a firm (Bebchuck and Fried 2003; Bebchuk and Spampann 2010), and to allegations that previous compensation policies within financial institutions led to the type of excessive risk taking that lies at the very heart of the financial crisis (CNBC 2009). However, because executive compensation restrictions are limited to those firms receiving TARP subsidies, and because the restrictions are lifted when TARP funds are repaid under the CPP, the long-term public interest in reforming executive compensation may not be substantively addressed (Bhagat and Romano 2009).

In summary, both procedural and substantive public interests underly the CPP have been a motivating force, but have yet to be fully realized. In the first days, the Treasury Department shifted from its stated intent to purchase “toxic assets” to direct investment. It did not disclose its decision criteria for selecting institutions to receive assistance, and it has been criticized by the oversight agencies for failing to track the uses of TARP funds. Further, while there are substantive public interests driving executive compensation reforms for assisted firms, the adopted reforms, which apply only to assisted firms participating in the CPP, are more likely to result in strategic behavior on the part of firms (to pay off the TARP funds before they are truly healthy) than in the substantive achievement of the public interest. Treasury officials have asserted that the nature and demands of the financial markets and the need to adapt to such markets have determined their actions. Such conflicts illustrate the difficulty of striking the right balance between the requisites of democratic control, public values, and executive evaluation of market conditions and dynamics.

**Economic Dimension**

The economic dimension is concerned with the coordinated inputs between government and the private sector necessary to achieve desired public outcomes. Since passage of the Full Employment Act of 1946 (15 U.S.C. sec. 1021), the federal government has assumed the responsibility for economic stability of the country. A primary rationale for the Capital Purchase Program was to head off the systemic failure of the credit markets and the collapse of the financial system, which was projected to lead to a serious price deflation and resultant depression in the economy. The president, the Secretary of the Treasury, and the head of the Federal Reserve all claimed that capital support to private financial institutions was needed to prevent these results and to restore growth in the capital markets.

Under the CPP, the government’s intent is to restore financial activity in the market by directly investing money (in the form of capital) in financial institutions. “The program is designed to generate a positive return to the taxpayer while strengthening the backbone of and providing confidence in our nation’s financial system” (U.S. Department of the Treasury 2009f). Before exiting the program and repaying government, financial institutions have to demonstrate that they are well capitalized through nongovernmental sources. The success of the CPP is dependent on at least three economic assumptions: that selecting financial institutions for capital infusion will indeed increase lending activity and signal legitimacy/stability to private market participants, that the taxpayer funds will be paid back with a return on the investment, and that financial institutions will remain in the program until they are healthy enough to generate and sustain private capital and lending activity. If any of these three assumptions is miscalculated, the CPP may be ineffective.

The success of the CPP is also influenced by dynamic factors outside of direct government control. For example, the market may respond in unexpected ways to the capital infusions by government into financial institutions. “While government intervention has the potential to stabilize the system by shoring up bank capital, it can also risk further scaring away private capital by creating new forms of risk and uncertainty” (COP 2009c, 7). This risk is largely attributable to the propensity of government to pay below-market prices for assets. Indeed, although the government is being repaid and earning a decent return on its investment (estimates at the end of August total $4 billion repaid at an equivalent of 15 percent annually), some financial experts say that the Treasury paid too much for the assets, and could have earned three times the amount of return (COP 2009b, 2).

Numerous other institutions—indeed, independent of the CPP—also drive the success (or failure) of the market. As the GAO has noted, isolating and estimating the effect of the CPP (and other TARP programs) includes discerning the influence of other large capital infusion programs initiated separately by the Federal Reserve, and the dynamics of world markets and money flows. In June 2009, the GAO noted that indicators of risk in credit markets had improved since March, although the cost of credit had risen in some markets (GAO 2009b, 68; 2009c). However, determining the role that the CPP played in this, as one of several interdependent institutional influences, is extremely difficult.

The COP concluded that while TARP’s effects are impossible to isolate, the consensus is that TARP was an important part of a broader government strategy that stabilized the U.S. financial system by renewing the flow of credit and averting a more acute crisis. However, the COP also stated, “It is apparent that after fourteen months the TARP’s programs have not been able to solve many of the ongoing
problems Congress identified. Credit availability, the lifeblood of the economy, remains low. In light of the weak economy, banks remain reluctant to lend, while small businesses and consumers are reluctant to borrow. In addition, questions remain about the capitalization of many banks, and whether they are focusing on repairing their balance sheets at the expense of lending (COP 2009a, 112). The panel also found that bank failures continue at a nearly unprecedented rate, toxic assets remain on the balance sheets of many large banks, and the foreclosure crisis continues to grow (COP 2009a, 5).

With regard to the goal of recouping taxpayer money, by the end of 2009, financial institutions that had received CPP funds had paid back $164 billion. Financial institutions still owing the government money included Citigroup, to which the government had provided $43 billion, of which $25 billion was provided in exchange for common stock, making the federal government the largest single shareholder with 36 percent of shares. Toward the end of 2009, TARP realized its first direct losses of $2.63 billion as a result of failures of three financial institutions. In addition, 38 banks have missed dividend payments, and six others have deferred dividends (COP 2009a, 31). The COP observed, “In addition to costing taxpayers, the recent bank failures call into question Treasury’s assertion that CPP funds were only available to ‘healthy’ or ‘viable’ banks” (COP 2009a, 31). The Special Inspector General provided additional corroborations through his audit, which found that “Treasury and other regulators’ descriptions of the financial conditions of the first nine institutions as ‘healthy’ were inconsistent with the private beliefs of decision makers at Treasury and the Federal Reserve, and later proved to be inaccurate” (SIGTARP 2009d, 8).

In summary, the Capital Purchase Program may have contributed to averting an acute financial crisis, but the jury is still out on whether it can sufficiently increase lending activity, how much return on investment taxpayers will receive, and whether financial institutions were kept in the program for a sufficient amount of time to generate and sustain healthy lending activity. While several banks have paid back their CPP funds, the largest bank, Citibank, has not. At this time, it remains uncertain whether those banks exiting the program are really “healthy” enough to withstand further economic turmoil or to increase their lending to businesses and home owners (or whether their exit is simply strategic to reduce public interference, as with executive compensation practices). The federal government’s leverage, while substantial, is not controlling and must be assessed within a system in which trillions of dollars are circulating according to the actions of a myriad of institutions—hedge funds, sovereign wealth funds, and government lenders.

**Management Dimension**

A noteworthy issue in any new government initiative, including the CPP, is whether the focal government agency has the management capacity to achieve the desired impact. The primary management issues with the CPP relate to the speed with which the implementation and oversight bodies were instituted, and the acquisition of sufficient expertise to manage a complex and shifting investment program. The first decision for policy makers is whether to assign the new responsibility to an existing organization or to create a new organization; generally, policy makers favor the creation of a new, “less rigid” organization (Johnson 1990; Wise 2002). In the case of the CPP, the Emergency Economic Stabilization Act of 2008 mandated that an Office of Financial Stability (OFS) be established within the Treasury Department to administer the funds appropriated under the act, a hybrid between the old and new.

In effect, the Treasury Department was required to create a new organization that immediately had to distribute hundreds of billions of dollars, somewhat like building an airplane while flying it. The financial stability effort was put into place by appointing an interim assistant secretary for financial stability and other interim officials. Coming in the last days of an outgoing presidential administration, the appointment of permanent officials who would bear continuing responsibility for the program was not realistic. The slowness of the political appointments and confirmation processes further constrained the capacity of the Treasury Department to provide political and policy leadership for the program at the departmental level. As a result, the major policy decisions involved in the CPP, as well as the numerous other programs, were made by the Treasury Secretary and a group of unofficial senior advisors who had not been appointed by the president or confirmed by the Senate (Andrews and Labaton 2009). Sheila Baird, chair of the FDIC, observed, “There are a couple of go to people trying to do five different jobs. I do think that’s a real issue . . . I think being unable to get their own people has hampered their ability” (Cho 2009).

The Treasury Department also faced a number of challenges in hiring professionals with sufficient expertise to staff the OFS and oversee the CPP (GAO 2009b, 2009c). Because of the skills needed to manage a complex investment program such as the CPP, candidates who had the right skills often worked for a financial regulator that could offer a more competitive salary than the OFS (GAO 2009b, 2009c). Conflict of interest considerations increased the time needed to recruit and hire personnel for the OFS and, in some cases, caused qualified individuals to withdraw from consideration. To supplement the efforts of the professional staff, the Treasury Department turned to contractors, and by June 1, 2009, it had completed 40 TARP financial agency agreements, contracts, and blanket purchase agreements (GAO 2009b, 2009c). Of course, employing private sector contractors to be involved with activities that fund and regulate other private sector organizations poses potential conflicts of interest, a matter of significant concern to the oversight agencies (GAO 2009b, 2009c).

In summary, an assessment of the apparatus within the federal government to manage a program as large and unprecedented as the CPP reveals significant management capacity issues, including the extremely short time to
establish a new organization and to secure sufficient personnel with the requisite expertise to manage the program. The program has been largely managed on an ad hoc basis, with insufficient staff and many staff assigned on a temporary basis. The establishment of management systems and authority relationships is an ongoing process.

**Automotive Industry Financing Program**

Beginning in late 2008, the U.S. Treasury launched the Automotive Industry Financing Program (AIFP) to prevent a catastrophic failure of two of the largest U.S. automakers. Such a failure was expected to cause “systemic risk” to market stability and the economy at large (U.S. Department of the Treasury 2009a). Specifically, the Treasury Department provided $79 billion in loans and equity investments to General Motors (and its lending arm, GMAC) and Chrysler (and its lending arm, Chrysler Financial) by November 30, 2009, resulting in government ownership of 61 percent of General Motors and 10 percent of Chrysler (COP 2009a, 71). As a result of their participation in the AIFP, both companies have taken on a government-advised restructuring program and adhere to “rigorous standards” to protect taxpayer interests (U.S. Department of the Treasury 2009a). GMAC, to which the Treasury Department originally committed $12.5 billion in AIFP funds, received an additional $3.8 billion at the end of December 2009, making the federal government the majority stockholder with 56 percent of shares. As a result of the increase in ownership, the Treasury Department will appoint four of the nine members of GMAC’s board (U.S. Department of the Treasury 2009c).

**Public Interest Dimension**

The public interest dimension, including both substantive and procedural components, is critical in the AIFP. First, based on authorizing statutes, there is some question as to whether the expenditure of TARP funds through the AIFP is legitimate. The EESA does not explicitly state that TARP is available to provide assistance to the automotive industry or to any specific industry except the financial and banking industry. When asked before the House Financial Services Committee about auto companies and TARP, Treasury Secretary Henry Paulson testified, “I don’t see [preventing the failure of one or more auto companies] as the purpose of TARP Congress passed legislation that dealt with the financial system’s stability” (2008, 18–19). In fact, the House of Representatives passed a specific bill to appropriate $14 billion for the auto companies, but the bill was defeated in the Senate. At that point, the administration reversed its position and claimed that EESA’s definition of “financial institution” was broad enough to include automotive companies, whose failures “would pose a systemic risk to financial market stability and have a negative effect on the economy of the United States” (U.S. Department of the Treasury 2009d).

Both constitutional and statutory issues potentially arise from the use of TARP funds under the AIFP. The COP concluded that “[w]hile Treasury (and President Bush) have made various statements regarding their interpretations of the statute and the authority to use TARP in this way, it is not clear that any of these statements is sufficient to qualify as speaking with the force of law, especially since there has not been one coherent statement but a mix of court filings, oral argument, and statements by Treasury officials” (COP 2009d, 77). The panel recommended that “Treasury provide a legal opinion justifying the use of TARP funds for the automotive bailouts” (COP 2009d, 115).

Another substantive public interest issue lies in the public objectives of the government in investing in these two companies. The COP found that the Treasury Department’s public statements cited different objectives at various times and had not clarified them, making it difficult to evaluate the success of the AIFP (COP 2009d). The panel recommended that the Treasury Department clarify its policy objectives, reasonable expectations, and the implications of these policy decisions in the automotive bailouts, and that if the objectives included more than the rescue of the two companies but also other aims such as environmental improvement, support for pension obligations, or continued employment, the department should make that clear and provide transparency on the costs of such objectives (COP 2009d, 112).

Procedurally, potential for conflicts of interest exists by virtue of the government’s dual ownership and regulator roles in the two companies. Can the government safeguard the public interests as a regulator, and ensure the viability of the firm as an owner? The COP pointed out that most courts have found that the controlling shareholder has a fiduciary duty to the corporation, but that the pursuit of public policy objectives using an investee corporation could violate these duties. Even under the best of intentions, the potential for conflict exists, and the longer the government plays the role of both regulator and regulated, the greater the opportunity for a conflict to occur (COP 2009d). The panel pointed out that a further complicating factor is the risk of political interference in government-owned entities. The risk was realized when Congress passed legislation to give arbitration rights more than 2,000 auto dealers whose franchises had been withdrawn by General Motors and Chrysler in moves to cut costs and reorganize their sales. The legislation allows dealers to have their cases considered by an arbitrator, who can make a binding decision to reinstate the franchise. The interest of the dealers seeking to have their franchises restored likely conflicts with the viability interests of the auto companies and the government, and could also conflict with other private interests (competitors) that in many cases benefit from rejected franchises (Wilson and Roland 2009).

Thus, in summary, the Auto Industry Financing Program reveals significant issues related to the public interest dimension, beginning with the decision to use TARP funds to purchase stakes in and lend to automobile companies in the first place. The legality of this remains in question. The issue of what public objectives are being pursued in the implementation of the program also remains. The issue of what special interests will be able to influence decisions affecting the companies remains. Procedurally, conflicts of accountability arise between the dual role of government as both owner and regulator.

**Economic Dimension**

The public–private configurations in the AIFP have critical economic dimensions that will largely determine the success (or failure) of the entire intervention. In December 2008, the Treasury Department issued “bridge loans” to General Motors and Chrysler totaling $22.9 billion, with the caveat that the auto companies would present restructuring plans to the Treasury in February. After reviewing the plans, the Treasury Department deemed that the companies needed to undergo serious restructuring (eventually initiated through bankruptcy) before they could be on a financially viable path and thereby receive additional federal dollars (GAO...
to manage the federal government’s investment in General Motors and Chrysler, the president created an interagency structure, the Presidential Task Force on the Auto Industry, co-chaired by the secretary of the treasury and the director of the National Economic Council and including four other cabinet secretaries, as well as the directors of the Office of Management and Budget, the Environmental Protection Agency, and the White House Office of Energy and Climate Change and 10 other staff of various White House and departmental entities. In addition, he named two advisors (Ron Bloom, a former investment banker and advisor to the president of the United Steelworkers, and Steven Ratner, the cofounder of a private equity firm) to lead the now-defunct Treasury Department “auto team,” which had responsibility for evaluating the companies’ viability plans and negotiating terms of assistance. Before disbanding, the auto team noted dual roles for the government’s management strategy in the AIFP: (1) to avoid intervening in day-to-day corporate management and refrain from becoming involved in specific business decisions, as its role was not to manage but to serve as a “potential investor of taxpayer resources” with the goal of promoting “strong and viable companies” (Bloom 2009a); and (2) to “behave in a commercial manner” (Bloom 2009b). The auto team made conflicting statements about how the Treasury Department would fulfill the first role—not intervening in day-to-day management. On the one hand, the Treasury Department stated that it would manage its shares in a “hands-off manner,” voting only on core governance issues, including the selection of directors and other major corporate actions and transactions (Bloom 2009a, 9). On the other hand, the team stated that in order to create conditions most likely to lead to sustained viability for General Motors and Chrysler, it was necessary to change the culture within the companies (Maynard 2009). The COP questioned this more involved management strategy: “The lingering issue is whether the government can really change the culture of these companies and help improve their profitability while it remains a (supposedly) disinterested shareholder with a ‘hands-off’ approach to managing its investment” (COP 2009d, 83). The panel opined that if the government intends to be a silent partner, then it remains to be seen how it intends to protect the interests of the taxpayers as shareholders (COP 2009d, 83).

In examining the Treasury’s intent to “behave in a commercial manner,” the COP found that the department’s performance in protecting the interests of taxpayers in the support of auto companies is somewhat mixed. On one hand, the department negotiated aggressively in the transactions, demanded significant concessions from the other stakeholders, and protected taxpayers as if it were a private sector investor. On the other hand, the COP found that the decision to enter into the transactions in the first place suffered from a lack of transparency (COP 2009d, 111). The panel also observed that the longer the Treasury Department lingers on the decisions of management, the greater the opportunity that such decisions could become politicized (COP 2009d).

In addition to concerns about day-to-day management, there are substantial challenges with evaluating the success of the AIFP. As
noted in the public interest dimension, the primary objectives and the strategy for pursuing them are not clearly stated under the AIFP, making it difficult to evaluate “success” (COP 2009d). The most clearly communicated objective was perhaps expressed by the leader of the now-defunct auto team, who stated that the primary metric for success of TARP investments (in General Motors and Chrysler) is whether taxpayers see a return of their money (Bloom 2009a). However, the COP found that “there are significant obstacles to the two companies’ ever achieving the level of profitability that would permit the return of all the taxpayer funds expended, and Treasury’s best estimates are that some significant portion of those funds will never be recovered” (2009d, 110). Thus, while measurable, a return of taxpayer money clearly was not the primary objective for the AIFP initially.

The loan agreements that the Treasury Department executed with the companies stated that the funding should be used to enable the automakers to develop a viable and competitive business and to develop the capacity to produce energy-efficient advanced technology vehicles, among other things. However, the GAO found that the goals stated in the loan agreements included concepts that were not defined, such as rationalized manufacturing capacity and competitive product mix. The GAO also found that in addition to lacking clear definitions, some of the Treasury’s goals may work at cross-purposes and require an assessment of the relevant trade-offs among the goals. Mirroring the findings of the COP, the GAO concluded that it will be important for the Treasury Department to clearly articulate what it intends to achieve with this assistance (GAO 2009a).

In summary, major management challenges, particularly related to the objectives of the strategies and the metrics for assessing progress, still remain before the implementing agency. As discussed, the goals of the program have not been clarified and potentially conflict with one another. The strategy for pursuing the government’s goals—both remaining “hands off” and behaving in a “commercial manner”—are likewise potentially conflicting. Politicization has already occurred as Congress has legislated over dealer closures, and that decision sets the precedent for further potential politicization of management decisions.

Conclusions: Implications for Practice and Research

It has become commonplace to refer to the “blurring” of the public and private sectors. Indeed, private actors frequently are relied on to provide public services, and, as demonstrated by the recent economic crisis, public actors are relied on to ensure functioning private markets. The idea of a strict dichotomy between sectors is more of a “straw man” than a reality. However, rather than “blurring” into a homogenous, autonomous entity, these public–private configurations have critical dimensions that require continuous monitoring and shaping.

First, these configurations, endowed with varying degrees of “political authority” through formal institutions of government, have a responsibility to act in the public interest, both substantively serving public values and procedurally being democratically accountable to the public. In the case of TARP, the challenges in fulfilling this public interest responsibility are significant. Many of the initiatives under TARP have been broadly defined, with even broader executive discretion to implement the initiatives. Typically, the notion of “popular control” implies that programs are executed by agencies based on authority granted by Congress. However, in large part, the Treasury Department has been responsible for not only defining but also redefining its own authority to intervene on behalf of the “public interest.”

This is further complicated by a lack of transparency, reducing the accountability of both the public agencies and the private participants. And, perhaps more perplexing, even if there is some degree of accountability (through reporting on observable indicators), the bigger question is, accountable to whom and for what? Whose interests—shareholders, taxpayers, businesses—is the government responsible to protect, when all are so tightly interrelated? What defines a successful outcome in the public interest, when there are competing “publics” and competing interests?

Second, public–private configurations are based on a set of economic assumptions about how government action will affect market dynamics. These assumptions must be made explicit and open to continuous review and evaluation to ensure that the intended consequences are maximized and the unintended consequences are minimized. With regard to TARP, the two cases demonstrate substantial variation in the explicable and accessibility of the underlying assumptions. For the CPP, there is an underlying logic linking capital infusions with increased lending activity, thereby stabilizing (and stimulating) the economy at large. Regardless of whether one agrees with the logic and its assumptions, they are relatively explicit, and thus open to evaluation. In the case of the auto industry, on the other hand, the underlying logic might be that intervention is necessary to prevent systemic failure; however, this logic does not lend itself to evaluation. What is success and what is failure? Is success based on the lack of “failure” of the two firms targeted for the intervention, or the success of the auto industry as a whole, including the competitors of the two assisted agencies?

Indeed, in public–private configurations, public managers must monitor the impact not only on the targeted firm engaged in the configuration, but also on the larger economy that will be affected by the intervention. Organizations operate as part of a larger organizational field, and they respond to incentives and disincentives created by other participants in the field. To the extent that government extends its authority to shape the direction of a particular firm’s success (or failure), it reshapes the success (or failure) of other market participants and the economy as a whole.

Finally, public–private configurations require the requisite capacity of government—both organizational and human resource capacity—to initiate, implement, and monitor the configuration toward the intended impact. As demonstrated through the TARP cases, this requires clear identification of agencies with specific responsibilities, to be executed in line with clearly defined objectives and strategies. In each of the cases, a reoccurring challenge is the multiplexity of implementation “actors” with varying degrees of capacity and authority. From injecting capital into financial institutions to taking on the ownership and risk of large auto companies, a first and essential task is to ensure that the team on the ground is equipped with skilled players and a game plan. Both seem to be lacking to varying degrees across the TARP initiatives.
A further challenge is matching the strategies and capacities of government with the strategies and capacities of the private participants. Private corporations are skilled at harnessing the “tools” of government to create new private strategies and competitive advantage in the market. The capacity of government, therefore, must be “nimble” enough to predict and respond to strategic behavior, while still operating under clear lines of accountability to the public. The implications of the shifting boundaries between the public and private sectors are both retrospective and prospective. Retrospectively, policy makers, public managers, and analysts need to monitor and adjust programs such as those in TARP that are already being implemented to ensure realignment with public interest, economic, and management dimensions. Prospectively, policy managers, public managers, and analysts need to evaluate the new programs and organizations being proposed that further alter public–private configurations that affect major sectors of the economy.

While the degree of increased involvement by the federal government in the management of private firms by means of TARP is substantial and perhaps unprecedented, the readjustment of the boundaries between the public and private sectors is by no means over. A myriad of proposals are before Congress with the avowed purpose of ensuring that the problems experienced in the economic crisis do not happen again. Whether they are suited to the task should be the subject of careful analysis and debate. Careful analysis of the public interest, economic, and management dimensions will need to be conducted to guide those deliberations. Lessons learned from the public–private configurations implicated by initiatives such as TARP can help inform these future decisions.

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Notes
1. Further, the largest firms (18 large bank holding companies) were evaluated under the Capital Assistance Program to determine whether they had sufficient capital to withstand upcoming economic events (referred to as “stress tests.” From this evaluation, 10 firms were identified that need an additional $75 billion in capital to bring them to financial health. This additional capital may come through private or public funding under the Capital Assistance Program. As of July 2009, 6 of the 10 firms had already raised the additional needed capital through private channels. Other firms had until November 2009 to raise additional capital.

2. The act encourages the federal government to promote maximum employment, production, and purchasing power. Its mandates were reinforced by the Full Employment and Balanced Growth Act of 1978. The imperatives of these acts no doubt infused the perceived need for the government to act when the financial crisis began.

3. The Special Inspector General pointed to the consequences of the mischaracterization of the banks as healthy: “In addition to the basic transparency concern, that this inconsistency raises, by expressly stating that the ‘healthy’ institutions would be able to increase overall lending, Treasury created unrealistic expectations about the institution’s conditions and their ability to increase lending” (SIGTARP 2009a, 50).

4. Legislators often have a bias toward creating new organizations under the supposition that the new organization will pursue the stated program objectives with greater vigor than would an existing organization. Often, however, hopes for new agencies are soon eclipsed by the realities of organizational life in government. Start-up times and costs are often greater than proponents foresee, and the lack of experience, expertise, and learning leads to a struggle rather than aggressive pursuit of policy priorities.

5. By the middle of March 2009, every key political appointee position, with the exception of Secretary Geithner, was either vacant or awaiting confirmation. By September 2009, almost a full year after the program’s inception, only 13 of 33 Treasury appointees had been sent to the Senate for confirmation, and only seven had been confirmed (White House Transition Project n.d.).

6. The program had a staff of 48 (only five of whom were permanent staff) as of November 21, 2008, which grew to 90 (38 permanent staff) by January 26, 2009, and 166 (137 permanent staff) by June 2009 (GAO 2009b, 2009c). The Treasury Department estimated that it would need 225 full-time employees to operate the OFS at full capacity (GAO 2009b).

7. In addition to the AIFP, TARP also includes allocations to support auto suppliers (Auto Supplier Support Program) and automobile warranties (Auto Warranty Commitment Program). These additional allocations total less than $6 billion. The primary focus of this case study is the AIFP.

8. The EESA states, “The Secretary is authorized to . . . purchase, and to make and fund commitments to purchase, troubled assets from any financial institution, on such terms and conditions as are determined by the Secretary, and in accordance with this Act, and the policies and procedures developed and published by the Secretary” (sec. 101(a)(1)). A financial institution is defined as “[a]ny institution, including, but not limited to, any bank, savings association, credit union, security broker or dealer, insurance company” (sec. 3(5)).

9. The panel stated, “Treasury must be clearer, more transparent, and more accountable in its TARP dealings, providing the American people with the information needed to determine the effectiveness of Treasury’s efforts” (COP 2009d, 5).

10. The overall market for autos decreased from 16.1 million in 2007 to 10.6 million in 2009. However, the domestic companies’ market share has been declining for several years. For example, General Motors’ market share fell from 27.2 percent in 2004 to 22.1 percent in 2008 (GAO 2009a).

11. The auto team was to report to the Task Force and its co-chairs, who then would report to the president. The Treasury’s auto team, which was actively involved in recruiting many of the new directors who now sit on the new boards of General Motors and Chrysler and articulated the goals, objectives, and management strategy of the government’s involvement with the two companies, was disbanded during the summer of 2009. Given that these were temporary (and unconfirmed) officials, it is unclear what staying power attaches to their articulated positions. Nonetheless, the statements of the leaders of this team constitute the government’s statements about strategy.

References

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