THE DILEMMA OF GOVERNMENT-SPONSORED ENTERPRISES: THE CASE FOR REASSESSING GOVERNMENT ACCOUNTABILITY

A Thesis
Presented to
the Faculty of the College of The Institute for Regional Analysis and Public Policy
Morehead State University

In Partial Fulfillment
of the Requirements for the Degree
Master of Public Administration

by
Jack P. Branum
April 19, 2009
Accepted by the faculty of the College of The Institute for Regional Analysis and Public Policy, Morehead State University, in partial fulfillment of the requirement for the Master of Public Administration degree.

Director of Thesis

Master’s Committee: [Signature], Chair
[Signature]
[Signature], PhD

Date
5/06/09
The proliferation of government-sponsored enterprises, or GSEs, has forever shaped the way in which the federal government of the United States ensures the provision of public goods and services. GSEs represent a hybrid or quasi-governmental organization that is specific to the United States. In addition, GSEs are created by congressional or executive action but are privately-owned organizations that are charged with achieving a public goal while also seeking to earn a profit for its shareholders. GSEs function primarily as financial intermediaries that extend credit to underserved Americans in various types of markets.

GSEs occupy a contentious position in the field of public administration; many critics attack the government’s preference for GSEs as a threat to federalism, democracy, and government accountability. These critics of GSEs attack the intrusion of private sector behavior and management styles into the public sector. The private sector style of management is represented by the Entrepreneurial Management Paradigm while the public sector style of management is represented by the Constitutionalist Management Paradigm. In this thesis, two GSEs—Fannie Mae
and Freddie Mac—are utilized as framing this debate over GSEs. Moreover, the author identifies the legislation that led to the creation of GSEs and how current public law and Constitutional law affect the perception of GSEs.

In addition, the debate over GSEs has been with more cries of accountability at the governmental level. Looking critically at these issues, the author argues that there is no clear consensus of the meaning of the word accountability when it is applied to GSEs. Furthermore, politicians and public managers too often conflate controllability as meaning accountability.

Ultimately, it is concluded that GSEs are not likely to vanish from the federal government. On the contrary, in order to protect the division of powers, democracy, and ensure accountability, academics and administrators must reassess the term accountability and ensure ways to hold these hybrid organizations accountable. In the end, it is concluded that GSEs are neither a purely positive or negative aspect of modern federal government; rather they are integral parts of modern public administration that demand public administrators to reassess the meanings of accountability.

Accepted by:
TABLE OF CONTENTS

Introduction ................................................................................................................... 6
Fannie Mae and Freddie Mac: A Case Study ............................................................... 7
How do Fannie Mae and Freddie Mac Function as GSEs? ........................................ 12
Two Basic Regulations of Fannie Mae and Freddie Mac ........................................... 14
The 1992 FHEFSSA Law ........................................................................................... 15
A Conflict Among GSE Purposes? ............................................................................. 17
Privatizing Profit and Socializing Risk? ..................................................................... 18
The Housing and Economic Recovery Act of 2008 ................................................... 22
Hybrid Organizations and GSEs – History, Form, Function, & Criticism ................. 27
The Entrepreneurial Management Paradigm vs. the Constitutionalist Management Paradigm ..................................................................................................................... 37
What is Accountability? .............................................................................................. 45
Accountability is not Solely Controllability ............................................................... 46
A “Clash of Cultures” ................................................................................................. 55
Conclusion .................................................................................................................. 59
Works Cited ................................................................................................................ 66
Introduction

Government-sponsored enterprises, or GSEs, have forever shaped the way in which the federal government ensures the provision of public goods and services. Created over seventy years ago, these types of organizations have blossomed into major institutional actors at the federal level. Ranging from the provision of student loans for college to assisting new homeowners in acquiring a mortgage, the range of GSE activity can be felt in numerous aspects of society. While these organizations serve as a popular avenue for public good provision, the lasting influence of the federal government's reliance on these types of organizations has not received much attention outside the realm of academia. Nevertheless, the increasing reliance on GSEs has raised the attention of many critics who argue that the prevalence of such organizations represents a credible threat to federalism, popular sovereignty, and governmental accountability.

By using arguably the most recognizable GSEs as a case study, Fannie Mae and Freddie Mac, this thesis analyzes the impact that GSEs have had on the federal government, its operations, and the accountability of its programs. In addition, this thesis investigates the effects of the private sector management practices being applied to the public sector. Moreover, this thesis argues that the term "accountability" possesses multiple facets more than simply controllability. In the end, it is concluded that GSEs are neither a purely positive or negative aspect of modern federal government; rather they are integral parts of modern public
administration that demand public administrators to reassess the meanings of accountability.

**Fannie Mae and Freddie Mac: A Case Study**

For many Americans, becoming a homeowner is part of the so-called “American Dream.” Once an individual becomes a homeowner, this action takes on significant symbolic meaning for the individual and his or her family. The act of becoming a homeowner exists as a symbolic, ritualistic rite of passage into becoming an established member of a given community. For the children and grandchildren of recent immigrants, whose parents may have been forced to find shelter in crowded, decrepit ghettos with absentee landlords, the opportunity to purchase a home is a monumental occasion. Such an act is a chance for an individual to confront the discrimination that their parents and grandparents suffered under and to silence the power that these modes of discrimination once possessed.

Besides representing a symbolic passage, homeownership is vital to communities everywhere for numerous reasons. First of all, the property taxes that homeowners pay to the city, county, state, and federal governments contribute to funding essential programs, especially public schools. As a corollary, it is no coincidence that many of the top-performing, fiscally healthy public schools are those schools that are located in or near areas where there is a high density of homeowners with significant property values. Secondly, studies have indicated that crime rates are substantially lower in areas designated with a high density of homeowners versus a
community with a low density of homeowners. Homeownership also is an essential factor in building community capacity and encouraging an active citizenry.

Recognizing the magnitude of the impact that homeownership has on the micro level of the individual and the macro level of the health of a community and region, various levels of government have made homeownership a primary target to achieve. The Community Reinvestment Act of 1978 (CRA) forbade the practice of "redlining," in which banks would refuse to provide loans to individuals and families who resided in certain areas that were designated on a map as supposedly high-default risk areas.\(^1\) Moreover, the federal government provides numerous tax credits and incentives to first-time homebuyers to assist in the cost of purchasing a home. For example, this year alone, first-time homebuyers are eligible for an $8,000 tax credit that does not have to be repaid over the life of the mortgage. In addition to the prohibition of discriminatory lending practices and establishment of tax credits and incentives for first-time homebuyers, the federal government has created numerous organizations to provide citizens direct assistance in their quest to become a homeowner. Of these organizations, two provide the most direct mortgage assistance to potential homeowners: the Federal National Mortgage Association (better known as Fannie Mae) and the Federal Home Loan Corporation (better known as Freddie Mac).\(^2\)

These mortgage loan giants known as Fannie Mae and Freddie Mac represent two of the nation's most prominent hybrid organizations. These organizations “are private, profit-seeking corporations created by Congress to serve a public purpose: increasing availability of credit to American homebuyers while bringing stability and liquidity to the financial sector.” The storied past of these two hybrid organizations reveals insight into the current-day dispute over the function and regulation of these organizations. This section will cast the current-day dispute over the proper reach of these two organizations onto a historical backdrop and identify key developments in the evolution of these organizations that have led the controversy over what their proper roles should be.

The history of Fannie Mae and Freddie Mac can be traced back to the Depression era, when the federal government decided to create a secondary market for mortgages in 1938. The federal government created this secondary market so that banks could sell mortgages to “maintain their cash flow and allow the housing industry to stay afloat.” Prior to this creation, the federal government had passed the National Housing Act of 1934 and created the Federal Housing Administration as a means to “insure lenders against borrower default.” In order to lift the United States out of the Depression, Congress enacted the legislation in an effort to stimulate the

---

3 Koppell, 187.
5 Koppell, 189.
housing market by spurring home sales and the construction of new homes, thereby causing a chain reaction in the economy.\textsuperscript{6}

Although Congress had planned for the National Housing Act of 1934 to bring the economy out of Depression, the short term recovery growth failed to take hold. As Jonathan Koppell notes, “Private mortgage associations were expected to purchase the mortgages from the lenders and hold them as investments. Such associations never materialized.”\textsuperscript{7} (Koppell 189-90). As a result, in 1938, Congress created an office within the Reconstruction Finance Corporation with the sole purpose of purchasing these insured mortgages. Koppell notes the immediate impact of the creation of this office on the market for available mortgages:

This office, eventually named the Federal National Mortgage Association (FNMA), purchased FHA-insured loans from private lenders. The federal government thus created a secondary mortgage market—a place for lenders to sell loans—thereby increasing the supply of money for yet more loans...\textsuperscript{8}

The FNMA, or Fannie Mae as it is more commonly known, provided the psychological reassurance that lenders needed to offer more loans to potential borrowers. Since the federal government had created this secondary market, lenders could offer loans to Fannie Mae and then allow Fannie Mae to offer these same loans to borrowers, creating a buffer of insurance against potentially cataclysmic defaults industry-wide.

\textsuperscript{6} Koppell, 189.
\textsuperscript{7} Koppell, 189 – 90.
\textsuperscript{8} Koppell. 189 – 90.
Fannie Mae remained owned and operated by the federal government until 1968 when it became a government-sponsored enterprise, or GSE. Many factors contributed to Fannie Mae emerging as a quasi-public entity. One of the main reasons was the pressure of restraining a ballooning federal budget. Musolf and Seidman note:

Wanting to avoid the “vagaries of the total budget situation,” President Johnson’s Secretary of Housing and Urban Development urged that the Federal National Mortgage Association be converted from a mixed-ownership government corporation to a government-sponsored private enterprise. He argued that “By putting the secondary market operations outside of the Government, and thereby, outside of the budget, it would be possible for Fannie Mae to be more responsive to the needs, we believe, of the building and mortgage financing industry that it can be now.”

As a result, the federal government sold off all ownership of Fannie Mae to private owners and chartered it as a “fully private government-sponsored enterprise (Moe 1983).” Since 1968, Fannie Mae has existed and operated in the mortgage market as a government-sponsored enterprise.

In addition to this government-sponsored enterprise, Fannie Mae’s “much younger sibling,” Freddie Mac, was created by Congress in 1970 to help serve the mortgage industry as well. Specifically, Congress chartered the Federal Home Loan Mortgage Corporation as means “to purchase loans made by institutions that were part of the Federal Home Loan Bank System. Similar to the fate of its sister

---

9 Kwiatoski and Skriloff, 23.
11 Koppell, 189 – 90.
12 Koppell, 47.
organization, Fannie Mae, Freddie Mac was transformed into a private ownership GSE in 1989 following the savings and loan (S&L) crisis.¹³

**How do Fannie Mae and Freddie Mac Function as GSEs?**

As stated previously, Fannie Mae and Freddie Mac operate as GSEs that create a secondary mortgage market in an effort to assist potential homeowners in acquiring loans. Since 1968, the mission of these GSEs has changed and they are “now charged by Congress and the President with extending credit opportunities to underserved communities while continuing to facilitate home purchases by middle-class Americans.”¹⁴ In an effort to achieve these two goals, Fannie Mae and Freddie Mac operate in the following manner:

GSEs, like Fannie and Freddie, operate by borrowing money (in the form of these securities they sell) at rates that are somewhere in-between what the US Treasury offers and what the private markets offer – typically anywhere from 25 – 50 basis points (or ¼ to ½ percent) lower than a private market would be able to offer. These lowered rates are partially passed on to homeowners in the form of a break on their mortgage rate.¹⁵

Fannie Mae and Freddie Mac serve as intermediaries between the borrower and lender by establishing a secondary market for mortgages. Without the presence of GSEs like Fannie Mae and Freddie Mac, a first-time home buyer with a low or non-existent credit score may not be able to secure a loan directly from a private lender due to the fear of the lender that this individual, who possesses little or no credit

---

¹³ Koppell, 189 – 90.
¹⁴ Koppell, 47.
¹⁵ Kwiatoski and Skriloff, 23.
rating, may not be able to make his or her monthly mortgage payments and may eventually default on the loan payments. In addition, if this individual were actually to receive a mortgage loan from a lender, the interest rate at which the individual receives the loan would be higher to reflect the lender’s concern over the default risk. With the entrance of Fannie Mae and Freddie Mac into the mortgage market, these GSEs buy loans from private lenders and pool these investments into a portfolio. Moreover, the two GSEs also combine these mortgages and create mortgage-backed securities which they sell in turn to private investors. \(^{16}\) As a result of pooling their investments together, these hybrid organizations spread out the default risk and are able to provide mortgages to individuals at a lower rate than otherwise possible.

Since Fannie Mae and Freddie Mac purchase these mortgage investments from private lenders then turn around and offer homebuyers these loans at lower rates, the federal government in effect is expressing an implicit guarantee that it will cover any bad debts incurred by the sale of mortgages to individuals who default on their loans. In other words, this implicit guarantee is the “idea that the U.S. Treasury would backstop these agencies in the event of a real financial collapse.” This implicit guarantee explains some of the major reasons why foreign investors and foreign countries such as China, Japan, and Russia have purchased these mortgage-backed securities. Due in large part to the implicit backing of their debts by the federal government, Fannie Mae and Freddie Mac currently “underwrite nearly half of all

\(^{16}\) Koppell, 29.
mortgages” and possess approximately $5.2 trillion worth of mortgages. Their prominence in the mortgage industry led to a combined net income for the two GSEs in 2001 of greater than $10 billion. Out of the “Fortune 500” companies in 2002, Fannie Mae ranked second in total assets and Freddie Mac placed at sixth in total assets.18

Two Basic Regulations of Fannie Mae and Freddie Mac

Due to their unique status as GSEs, Fannie Mae and Freddie Mac enjoy several benefits of being a congressionally-chartered, privately-owned corporation. As with other GSEs, one of the major benefits of Fannie Mae and Freddie Mac is that these hybrid organizations are not subject to the same laws and regulations of other governmental agencies. Because GSEs are instrumentalities of the federal government and not federal agencies by definition, they are not subject to the same restraints as agencies as defined by U.S. Code.19 Furthermore, Fannie Mae and Freddie Mac are “exempt from state and local taxes, exempt from the registration requirements of the Securities and Exchange Commission, and have a $2.25 billion line of credit with the United States Treasury.”20 Another benefit is that due to the implicit backing by the federal government, Fannie Mae and Freddie Mac pay rates on borrowed money that are close to the level that the federal government itself pays.

17 Kwiatoski and Skriloff, 23.
18 Koppell, 188.
20 Koppell, 187.
to borrow money. Existing as a privately-owned company that enjoys implicit backing by the federal government,

...Fannie and Freddie have all the advantages possessed by our fictitious entities and none of the disadvantages. It is not surprising that Fannie and Freddie generally resisted calls for their complete "privatization," severing the remaining ties to the federal government.22

As GSEs, Fannie Mae and Freddie Mac are privately-owned and profit seeking organizations that are subject to only two main governmental regulations. One of the regulations ensures that the two GSEs are operating "in a fiscally prudent manner" to prevent the scenario of an actual "bail out" by the federal government. Second, these GSEs, while they are privately-owned entities that seek to provide its shareholders a return on their investments; they still must adhere to the original purpose charged to them by Congress and the President.23

The 1992 FHEFSSA Law

In 1992, Congress passed the Federal Housing Enterprises Financial Safety and Soundness Act (FHEFSSA) in response to the criticism for more regulation of GSEs following the wake up of the S&L crisis in 1989.24 In light of the fallout from the S&L bailout, attention was brought to Congress about the substantial fiscal liability that off-budget GSEs pose to the U.S. Treasury. As a result, legislation was included in the 1989 S&L bailout law that called for "a study of the government's

---

21 Koppell, 29.
22 Koppell, 103.
23 Koppell, 29 – 30.
24 Koppell, 47.
GSE liability.” These subsequent reports eventually led to the passing of the FHEFSSA in 1992. This legislation separated regulatory authority over Fannie Mae and Freddie Mac into two different organizations: the Department of Housing and Urban Development (HUD) and the Office of Federal Housing Enterprise Oversight (OFHEO). For HUD, this organization would have oversight over “programmatic regulations” of the two GSEs; i.e., HUD ensures that Fannie Mae and Freddie Mac adhere to their public purposes of extending credit to underserved communities and selling mortgages. The OFHEO is “responsible for safety and soundness regulation;” the OFHEO provides monitoring of capital reserves and ensures that Fannie Mae and Freddie Mac are not exposed to extreme financial risk.

Specifically, the 1992 FHEFSSA mandated two separate capital regulations that OFHEO enforced. The first of the regulations is the minimum capital requirement, which is percentage of capital as a certain proportion of their liabilities that Fannie Mae and Freddie Mac must have on reserve. Secondly, the 1992 legislation created a “risk-based capital requirement,” which is a fluid amount of reserves that the GSEs must have on hand. The amount is flexible and based upon a “computerization” model which is used to “simulate the effects of massive downturns in the economy on Fannie Mae and Freddie Mac.” This risk-based amount changes depending on the debt obligations of each organization in every quarter. As of 2008, the OFHEO was dismantled and its regulatory duties reassigned per the

---

25 Koppell, 107.
26 Koppell, 47.
27 Koppell, 49.
legislation within the 2008 Housing Recovery Act.\textsuperscript{28} This legislation will be addressed later in the thesis.

**A Conflict Among GSE Purposes?**

As previously alluded to, GSEs have three objectives. The first objective is "to fulfill programmatic policy purposes." The second purpose of GSEs is "to maintain a financially safe and sound operation that minimizes risk to the federal government." Thirdly, GSEs are "to operate as a profitable private company that maintains consistent return to shareholders." In his text *The Politics of Quasi-Government*, Koppell notes that "each objective is potentially in conflict with the other two."\textsuperscript{29} Figure 1 below represents the "triangular model of interests" as it appears in Koppell's text.

Figure 1: Triangular Model of Interests / Conflict.\textsuperscript{30}

\begin{center}
\begin{tikzpicture}[node distance=3cm]
  \node (profit) [text width=2cm, align=center] {Profitability};
  \node (program) [text width=2cm, align=center, below left of=profit] {Programmatic objectives (housing)};
  \node (financial) [text width=2cm, align=center, below right of=profit] {Financial safety and soundness};
  \draw[->] (profit) -- (program);
  \draw[->] (profit) -- (financial);
  \draw[->] (program) -- (financial);
\end{tikzpicture}
\end{center}

As illustrated in the figure above, the obtainment of one of the objectives may preclude the two other objectives from being met. For example, as GSEs, Fannie


\textsuperscript{29} Koppell, 104.

\textsuperscript{30} Koppell, 104.
Mae and Freddie Mac are privately-owned corporations, in which the management of both hybrid organizations is charged with making wise investments that yield a return for the shareholders of both GSEs. Although profit seeking is a viable and appropriate goal for GSEs, the management of these organizations cannot seek profitability at all costs. Depending on the conditions of the economy, an investment that yields high returns in the short run may reverse its course and hand down heavy losses that endanger the financial safety and soundness of the organization. Moreover, while offering mortgages in primarily popular, high-demand locations may generate a higher return for a particular GSE, concentrating mortgages in such areas prohibits the organizations from extending much needed loans to underserved communities.

While GSEs such as Fannie Mae and Freddie Mac enjoy distinct benefits from their classification as GSEs, this very classification creates the potential for conflicting organizational objectives. Such organizations demand effective managerial leadership that understands the opposing pull of private sector objectives and governmental mandates. Furthermore, effective leadership of GSEs demands that public administrators and managers of quasi-governmental organizations reassess what the term accountability entails when it is applied to the world of GSEs.

**Privatizing Profit and Socializing Risk?**

GSEs, especially Fannie Mae and Freddie Mac, have come under intense scrutiny for their potential financial risk to the U.S. Treasury. Many critics of GSEs
argue that organizations such as Fannie Mae and Freddie Mac enjoy a unique status that allows them to privatize their profit but socialize their risk. In other words, Fannie Mae and Freddie Mac have the opportunity to enjoy profitable returns on their investments, but the implicit backing by the federal government changes the manner in which these GSEs behave in the marketplace. Critics add that this implicit backing entices GSEs to partake in riskier investments than they would otherwise without the backing of the federal government. Although certainly not a desirable position to find themselves, in theory Fannie Mae and Freddie Mac could fall back on the federal government to fulfill their debt obligations if they no longer existed as solvent corporations.

The subprime mortgage crisis of 2008 intensified the debate over the proper role of Fannie Mae and Freddie Mac in the mortgage securities industry. Previous to 2008, more and more private mortgage companies had entered the booming industry since 2001. The entrance of these private mortgage companies, along with the presence of Fannie Mae and Freddie Mac, forever changed the mortgage industry within the U.S. The drive of private mortgage companies to earn a profit coupled with objective of Fannie Mae and Freddie Mac to increase homeownership across the nation created a “perfect storm” that eventually sent the mortgage industry into a violent tailspin. Prior to the explosion of private mortgage companies into the

---

31 Moe, Emerging Federal, 295.
market, banks controlled most of mortgage lending. As a result, banks relied upon four criteria for determining mortgage loans: "(1) how much income you had (documented); (2) what your down payment was; (3) your credit history; and (4) the assessed value of the home."\(^{33}\) Kwiatoski and Skriloff (2008) write that:

Banks – who used to do all the lending before mortgage brokers came on the scene – could ‘dial up or dial down’ any particular category to see if they felt comfortable giving a home loan. ... The rise of the private mortgage industry and all sorts of new products – that were sliced and diced and monetarized into investment offerings – gave rise to the subprime loan, which was largely based upon just one thing; your credit score.\(^{34}\)

With the explosion of available mortgages, private mortgage companies began to offer increasing amounts of mortgages to individuals based mostly upon their credit score—while turning a blind eye to insufficient incomes. Critics claim that this phenomenon combined with the mission of Fannie Mae and Freddie Mac to promote homeownership overextended the housing market; in short, the push by private investors and policy makers to “encourage more housing than markets will support” resulted in “mortgages that [failed].”\(^{35}\) In addition, other critics indicate that reactionary policy to the initial subprime fallout exacerbated the crisis. At a time when Fannie Mae and Freddie Mac ought to have been reassessing their financial solvency, the U.S. government encouraged even more mortgages, further complicating the mortgage crisis.\(^{36}\)

\(^{33}\) Kwiatoski and Skriloff, 25.
\(^{34}\) Kwiatoski and Skriloff, 25.
\(^{35}\) Lowenstein, MM 13.
\(^{36}\) Lowenstein, MM 13.
Critics for GSE reform have been clamoring in Washington for over twenty years, arguing among other points that the exceptional status of GSEs like Fannie Mae and Freddie Mac expose the nation to extreme financial liability in the event of a severe economic downturn. Some of the detractors included members of former President Reagan’s administration, who staunchly believed that federal support of GSEs distorts market conditions. While some activists in the Reagan administration may have sought to abolish Fannie Mae and Freddie Mac entirely, such an action never came into fruition. Since the objective of Fannie Mae and Freddie Mac is to promote homeownership, the prevalence of their objectives in the public mindset of Americans allows these GSEs to “wrap themselves in the flag;” i.e., any attacks on Fannie Mae and Freddie Mac can be “politically costly.” As mentioned previously, the status that Fannie Mae and Freddie Mac enjoy as GSEs allow them to lobby Congress and construct a significant network of relations between influential politicians and other interest groups. Still, the concern over exposing the taxpayers to substantial financial loss at the hands of Fannie Mae and Freddie Mac and the mortgage crisis led to the passage of the Housing and Economic Recovery Act of 2008. This act changed the regulatory structure of both Fannie Mae and Freddie Mac considerably.

---

38 Koppell, 101.
39 Koppell, 89 – 90.
The Housing and Economic Recovery Act of 2008

Signed into law by former President Bush on July 30, 2008, the Housing and Economic Recovery Act brought with it drastic changes to the function of the Federal Housing Administration (FHA), as well the function and regulatory structure of the GSEs Fannie Mae and Freddie Mac. While the legislation is expansive, this thesis will focus on the portion of legislation that deals with the function and regulatory structure of Fannie Mae and Freddie Mac.

In 1992, Congress passed the Federal Housing Enterprises Financial Safety and Soundness Act (FHEFSSA) that created the Office of Federal Housing Enterprise Oversight (OFHEO) as a regulatory agency within the Department of Housing and Urban Development. Prior to the passage of the Housing and Economic Recovery Act (further denoted as the Reform Act), OFHEO was charged with the task of ensuring that Fannie Mae and Freddie Mac adhered to specific capital reserve mandates as well as risk-based capital requirements that varied depending upon the prevailing market conditions. The Federal Housing Finance Regulatory Reform Act of 2008 drastically changed the regulatory structure of Fannie Mae and Freddie Mac by completely dismantling the OFHEO. The reform act replaced the OFHEO with the Federal Housing Finance Agency who is led by a single Director. The legislation granted the Director of the Federal Housing Finance Agency (FHFA) authority over Fannie Mae, Freddie Mac, and the Federal Home Loan Banks (FHLBs). The FHFA
was created as an independent agency of the federal government.\textsuperscript{40} The Director of
the FHFA is appointed by the President with the consent of the Senate and serves a
term of five years. In addition, the legislation separates the duties of the agency to
Deputy Directors in charge of the Division of Enterprise Regulation and Housing
Mission and Goals.\textsuperscript{41} Some critics contend that the new regulatory agency
overseeing Fannie Mae and Freddie Mac will impose higher capital requirements and
increase the risk-based capital assessment level for these GSEs.\textsuperscript{42}

In addition to creating a separate agency to regulate the actions of Fannie Mae
and Freddie Mac, the Reform Act also created within FHFA an Office of Inspector
General and an Office of the Ombudsman. As stated within the legislation, the Office
of the Ombudsman will be “responsible for considering complaints and
appeals...regarding any matter relating to the regulation and supervision of such
regulated entity by the Agency.”\textsuperscript{43}

One of the most controversial features of the Reform Act is Section 1117,
which authorizes the Secretary of the Treasury the temporary authority “to purchase
any obligations and other securities” of Fannie Mae and Freddie Mac.\textsuperscript{44} Numerous
critics of GSEs cite this action as nothing more than a bailout of private parties via the
taxpayers’ money. On the other hand, others have noted that this provision in Section

\textsuperscript{40} Housing Act, 8.
\textsuperscript{41} Housing Act, 9.
\textsuperscript{42} Jim DeMasi, “GSE Reform Legislation: Implications for the Investment Portfolio,” Community
Banker 17, no. 9, (September 2008): 51 [journal online]; available from <http://wwws.morehead-
te=ehost-live>; accessed 5 April 2009.
\textsuperscript{43} Housing Act, 14.
\textsuperscript{44} Housing Act, 30.
1117 of the Reform Act is nothing more than an explicit reassurance of the federal government's implicit guarantee to serve as financial lifeline for Fannie Mae and Freddie Mac in an effort to sustain a failing mortgage industry by providing the necessary capital for lenders and borrowers.\textsuperscript{45} This temporary authorization of the Secretary of the Treasury lasts until the end of 2009, and in order for the Secretary to purchase this debt, the Secretary "must make an emergency determination that the action is necessary to stabilize markets, prevent disruptions in mortgage availability, and protect the taxpayer."\textsuperscript{46}

Section 1125 of the Reform Act mandates that the Director of the FHFA meet with Congress on an annual basis to discuss the housing and the mortgage industry, as well as requiring the Director to conduct monthly surveys of mortgages markets.\textsuperscript{47} The legislation also amends the Federal National Mortgage Association Charter Act and the Federal Home Loan Mortgage Corporation Act to set forth increased loan limitations for Fannie Mae and Freddie Mac.\textsuperscript{48} Moreover, the Reform Act also requires Fannie Mae and Freddie Mac to register their securities with Securities and Exchange Commission (SEC).\textsuperscript{49} Prior to passage of the Housing and Economic Recovery Act, Fannie Mae and Freddie Mac were not legally obligated to register their securities with the SEC since they are GSEs. The Recovery Act amended the Securities Exchange Act of 1934 to include Fannie Mae, Freddie Mac, and the

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{45} Kwiatoski and Skriloff, 23.
\item \textsuperscript{46} DeMasi, 50.
\item \textsuperscript{47} Housing Act, 40.
\item \textsuperscript{48} Housing Act, 38.
\item \textsuperscript{49} Housing Act, 24.
\end{itemize}
\end{footnotesize}
Federal Home Loan Banks under these new registration requirements. This section of the Recovery Act legislation removes a portion of the benefits that Fannie Mae and Freddie Mac once enjoyed due to their status as GSEs.

In general, the Housing and Economic Recovery Act of 2008 introduced sweeping changes into the administrative structure and regulatory structure of Fannie Mae and Freddie Mac. In response to the collapse of the mortgage crisis, lawmakers sought ways to reign in Fannie Mae and Freddie Mac and stave off further foreclosures. Senate Banking Committee Chairman Christopher Dodd (D-Connecticut) stated, “By...reforming the GSEs so they are better able to fulfill their mission of providing affordable housing options, this bill addresses the root of our current economic problems—the foreclosure crisis—and takes a step in the right direction toward getting our economy back on track.” MBA Chairman P. Quinn adds:

The GSEs need strong regulatory oversight to ensure they operate in a safe and sound manner, consistent with their charters. Further, we believe the GSEs ought to be subject to reasonable affordable-housing goals that do not distort the market....The proposal to allow FHA to assist troubled borrowers has the potential to help stabilize markets and avoid foreclosures. We want to ensure there are appropriate safeguards to help deserving borrowers while keeping the program voluntary for lenders. 51

---

50 Housing Act, 24.
The Recovery Act represents a significant step towards ensuring more accountability from GSEs like Fannie Mae and Freddie Mac. Lawmakers recognized the criticisms of the lack of accountability of GSEs and the fact that the FHEFSSA of 1992 simply did not provide strict enough guidelines for Fannie Mae and Freddie Mac to operate in manner that was both profitable and prudent in the long run. The dismantling of the OFHEO and the subsequent creation of the FHFA created a more direct line of managerial accountability from the President to the actions of Fannie Mae and Freddie Mac in the mortgage industry. The Recovery Act does not shoestring these GSEs from pursuing rational investment opportunities that will yield a profit to their shareholders. Nor does this legislation explicitly guarantee that the federal government will backstop these GSEs in the event of an economic collapse of the mortgage industry. On the contrary, the Recovery Act increases the programmatic accountability of the public functions of Fannie Mae and Freddie Mac. The monthly surveys, annual congressional meetings, and the new SEC requirements should help ensure that these GSEs will pursue investments that are not only profitable but also provide stability in the housing sector. In addition, the increase in the capital reserve requirements as well the risk-based capital requirements will help prevent the mortgage market from becoming overly saturated.

52 DeMasi, 51.
Governments provide goods and services for the taxpayers who fund them. These goods and services range from defense from foreign nations to reduced school lunches to providing safe drinking water to providing funding assistance for higher education. Throughout the history of the United States, each level of federal, state, and local governments have delivered such public goods and services through various means. For many services, the government itself provides the service directly to its constituency through its many agencies. Alternatively, the last eighty years have witnessed an unprecedented proliferation of nonprofit and private companies involved what were once solely government actions. The intertwining of the global economies has accelerated this proliferation as well as attempts by several presidents at “New Federalism:”

Contracting for government services has become increasingly popular in the U.S., both across the levels of government and policy arenas. Recent “devolution” of selected program responsibilities from the federal to state governments has accelerated this trend – especially for social service.\(^{53}\)

What was once the sole domain for the government is now witnessing the inclusion of nonprofits, private business, and hybrid organizations known as governmentsponsored enterprises, or GSEs. Specifically, within in the U.S., the federal government has been relying upon some forms of GSEs to provide goods and

services to the public since the Great Depression. GSEs represent a unique combination of public and private interests that are created to provide stability to a given market. The following section is an analysis of the American GSEs in their role of providing services to the public and how their creation has permanently altered governmental and organizational accountability.

Public administrators trace the origins of GSEs back to several enterprises that were created as a result of the Great Depression in the 1930s. In an effort to correct the market failures and resuscitate the economy, President Roosevelt and Congress created numerous enterprises that later became known as an “alphabet soup of entities.” Some of these enterprises included the Export-Import Bank (ExIm), the Tennessee Valley Authority (TVA), and the Federal Crop Insurance Corporation. Many of these agencies and enterprises still function today but have undergone significant changes in their regulatory structure. While these organizations were originally chartered as government agencies or enterprises, many were eventually “sold to private entities” entirely or “hybridized.” As mentioned within this thesis, one of these entities that was created during the Depression era was the Federal National Mortgage Association (Fannie Mae), which became a full-fledged hybrid GSE in 1968.

---

54 Koppell, 6.  
55 Moe, Emerging Federal, 294.  
56 Koppell, 6.  
57 Kwiatoski and Skriloff, 23.
government’s reliance on the utilization of hybrids for financing mortgages to maintaining public transit networks, “the combined liability of federal hybrids...exceeds $2 trillion.” Simply stated by Moe (2001), “There is nothing modest about the size, scope, and impact of the quasi-government.”

From this definition of a hybrid organization, one can narrow the definition of a GSE. Moe and Stanton (1989) describe a GSE as “a privately owned, federally chartered financial institution with nationwide scope and limited lending power that benefits from an implicit federal guarantee to enhance its ability to borrow money.” Moe (2001) adds to this definition, writing “Congress created GSEs to help make credit more readily available to sectors of the economy believed to be disadvantaged in the credit markets (Stanton, 1991, 2001).” In the case of Fannie Mae and Freddie Mac, these GSEs help Americans gain access to the mortgage market and ultimately purchase a home. Specifically, Fannie Mae and Freddie Mae “issue capital stock and short- and long-term debt instruments, guarantee-mortgage backed securities,” and “purchase loans and hold them in their own portfolios.”

While it is necessary to understand what GSEs are, it is as vital, if not more vital, to understand what GSEs are not. By definition, GSEs are instrumentalities of the government and are not agencies. Moe (2001) notes:

61 Koppell, 2.
62 Moe, Emerging Federal, 291.
63 Moe and Stanton, 321
64 Moe, Emerging Federal, 293.
65 Moe, Emerging Federal, 294.
66 Moe, Emerging Federal, 291.
GSEs are instrumentalities, not agencies, of the United States—a legally and administratively important distinction. An agency (as defined in Title 5) is managed directly through the federal management hierarchy. It is subject to all general management laws and regulations provided in the U.S. Code. An instrumentality of government, on the other hand, is a privately owned institution that is not subject to any of the general management laws and regulations unless so indicated in its enabling legislation (charter).

Title 5 of the U.S. Code defines what constitutes an agency and the subsequent rules and regulations to which they must adhere. On the contrary, the definition of instrumentalities in the context of GSEs lacks any basis in federal statute. Moe and Stanton (1989) clarify that “an instrumentality is a privately-owned institution that may be supervised but is not directly managed by the federal government. The federal government uses an instrumentality to carry out government purposes in addition to usual private purposes such as profit making for its owners.”

Since GSEs are not agencies according to U.S. Code, they provide an alternative for the government to execute certain projects and programs that may not have otherwise been feasible. The devolution of formerly federal programs to state governments has “accelerated this trend” of utilizing GSEs. Due in large part to this devolution, GSEs serve as a viable option for government for three main reasons. First, proponents of GSEs argue that these organizations “promise greater effectiveness than traditional governmental agencies at a lower cost to taxpayers.”

---

67 Moe, Emerging Federal, 295.
68 Moe, Emerging Federal, 291.
69 Moe and Stanton, 324.
70 Johnston and Romzek, 94.
Secondly, GSEs serve as a more “businesslike” alternative to traditional agencies.\textsuperscript{71}

The drive to make government more efficient gained momentum in the 1990’s with the \textit{National Performance Review} and its calls for business sector concepts to be applied to the governmental sector.\textsuperscript{72} Since GSEs are instrumentalities and are flexible organization, one writer notes:

\begin{quote}
[...]
the quasi-markets of the “reinvented” public sector constitute a realm of efficient and responsible service for consumers, while orthodox public service delivery systems (especially local government) are dominated by political bias and manipulation. Public services...“can be made responsive [only] by giving the public choices, or by instituting mechanisms which build in publicly-approved standards and redress when they are not attained.”\textsuperscript{73}
\end{quote}

This type of business-centric management of public programs will be addressed later in the thesis. Thirdly, these organizations are exempt from Security and Exchange Commission (SEC) regulation and state/local income taxes.\textsuperscript{74} Lastly, the implicit backing by the federal government attracts more reliance upon GSEs; “on average, the combined size of Fannie Mae and Freddie Mac has more than doubled every five years since 1968.”\textsuperscript{74} GSEs serve as an alternative to traditional government programs. By emphasizing “structural disaggregation” and the “creation of ‘task specific’ organizations; “performance contracting;” and “deregulation,” various levels

\begin{flushright}
\textsuperscript{71} Koppell, 3. \\
\textsuperscript{74} Moe, \textit{Emerging Federal}, 294.
\end{flushright}
of government are utilizing GSEs to achieve such goals.\footnote{Colin Talbot, “The Agency Idea: Sometimes Old, Sometimes New, Sometimes Borrowed, Sometimes Untrue,” in Unbundled Government: A Critical Analysis of the Global Trend to Agencies, Quangos and Contractualisation, ed. Christopher Pollitt and Colin Talbot (New York: Routledge, 2004), 6.} Moe (2001) identified four major reasons that have led to the proliferation of GSEs:

1. Current controls on the federal budget process that encourage agencies to develop new sources of revenues;
2. Desire by advocates of agencies and programs to be exempt from central management laws, especially statutory ceilings on personnel and compensation;
3. Contemporary appeal of generic, business-focused values as the basis for a New Public Management; and
4. Belief that management flexibility requires entity-specific laws and regulations, even at the cost of less accountability to representative institutions.\footnote{Moe, Emerging Federal, 290 – 91.}

As a corollary of reducing the size of the budget, some GSEs offer types of subsidies, which under a traditional federal program, would be included in a given budget. In the example of Fannie Mae and Freddie Mac, these “subsidies supposedly generate from the implicit federal backing by the federal government and are passed through to consumers “in the form of lower mortgages rates.”\footnote{Moe, Emerging Federal, 294.}

Though the size and scope of GSEs has increased over the last thirty years, a tenuous relationship has manifested itself between proponents of GSEs and their critics. It is common knowledge that the U.S. has been relying upon GSEs for the provision of public goods and services at an ever-increasing rate for the last three decades. Nevertheless, critics cite that this growing reliance on GSEs as a
programmatic crutch has weakened the entirety of public administration. Koppell (2003) summarizes this concern of too much reliance on GSEs:

...Critics of quasi-government claim that hybrids are simply beyond the control of elected officials, and, by extension, the public. In the rush to move government expenditures off-budget and bring ‘market efficiency’ into the public sector, policy responsibilities have been delegated to hybrids with little consideration of the potential political costs. Thus critical questions have gone unanswered – even unasked. 78

Since most hybrids are relatively young entities, there has been little critical analysis of GSEs in the field of public administration. Even within the federal government, a lack of introspection of exactly what constitutes GSEs and hybrid organizations has further complicated matters. As Koppell notes, “Despite their popularity and importance, hybrids have not received much attention. Improbable as it may seem, no one knows just how many federal hybrids exist. This is a function of ambiguity, not secrecy.” 79 As previously mentioned this “ambiguity” arises in large part due to a lack of a federal statute in the U.S. Code that formally defines an instrumentality.

Even though this ambiguity of legal status may not bother individuals in government who come from a business background, this ambiguity proves most troublesome for academics in the field of public administration. Moe and Stanton (1989) argue that this ambiguity represents a direct threat to accountability in government. They write, “Ambiguity of legal status, however, is not a prerequisite for innovative management. Quite the contrary, ambiguity of legal status is an invitation to mismanagement and

78 Koppell, 3.
79 Koppell, 8.
the commingling of public and private interests, generally to the disadvantage of both parties." 80 These words were echoed by Harold Seidman, who noted that

"'Intermingling of public and private purposes in a profit making corporation almost inevitably means subordination of public responsibilities to corporate goals. We run the danger of creating a system in which we privatize profits and socialize losses' (Seidman 1998, 213)." 81

With the proliferation of hybrid organizations, GSEs have created another fold in the complex operations of the federal government; an arena where "today's administrators must function in a 'hollow state' with a core of public management surrounded by an array of cross-institutional, primarily extra-governmental ties (Milward and Provan 2000; O'Toole and Meier 1999; O'Toole 2000)." 82 These "extra-governmental ties" can include the interests of national nonprofits, religious organizations, and powerful lobbyists and other representatives from the private sector. GSEs, while they can be more efficient in the provision of goods and services than traditional modes of government, do not offer and cannot offer the same types of accountability as traditional governmental agencies. The "traditional tools for holding executive agencies accountable (such as the budge and general management law)" usually do not apply to large, influential GSEs. 83 These issues of accountability have usually not been applied to the discourse of GSEs most likely due

80 Moe and Stanton, 321.
81 Moe, Emerging Federal, 295.
82 Johnston and Romzek, 95.
83 Moe, Emerging Federal, 290.
to the popular sentiment that the government needs to be more efficient; therefore, any changes that reduce red tape are welcome. Such a line of thought turns a blind eye to administrative structure of GSEs and how this structure creates benefits for these organizations that private enterprises do not enjoy. In addition, such a glib approval of GSEs shows that many Americans do not understand the actual origins of GSEs. While the average citizen has most likely heard of Fannie Mae or Freddie Mac, the average citizen either assumes that they are private companies or purely governmental agencies. The convoluted historical development of GSEs and their lack of basis in public and administrative law do not encourage open discourse of how these organizations lack accountability mechanisms that are present in most traditional governmental agencies. The simple matter is that GSEs are a different breed of animal—they are neither a purely private interest nor a governmental agency. Their presence occupies an idiosyncratic place in the discourse of public administration. While there are supporters and detractors of GSEs on either side of the argument, most public administrators and lawmakers would agree that since “GSEs have access to public funds through their ability to pledge the government’s implicit guarantee to back virtually any obligation they decide to incur...they must be regulated or supervised if the federal government is to protect itself from potentially unlimited financial exposure.”

Ultimately, GSEs play an invaluable role in the provision of governmental services. In the past, some staunch critics of GSEs attempted to abolish these

84 Moe and Stanton, 322.
organizations from existence, arguing that "federally supported borrowing by GSEs...distorted the allocation of financial resources and discouraged borrowers without access to federal subsidies."85 Obviously, such attempts of extinguishing GSEs have been met with little support from Congress. GSEs such as Fannie Mae and Freddie Mac have come to the fore in their provision of goods and services, even if the average citizen remains unaware of their administrative history or structure. In the end, to ensure that GSEs do not usurp their public purposes for private sector goals of profitability and/or its own institutional goals, the reality of the impact GSEs can have on the nation requires that lawmakers and public administrators reassess what the term accountability means and how that definition changes when it is confronted with a GSE. Prior to this assessment, administrators and managers must conduct some introspection and determine how their management paradigm colors their view on efficiency, the rule of law, government, and accountability.

The Entrepreneurial Management Paradigm vs. the Constitutionalist Management Paradigm

GSEs, by their form and function, represent a distinctive group of organizations. These organizations, chartered by Congress and/or the President, are operated by private individuals who seek a profit for their shareholders. While these organizations were founded to address certain issues in the public realm, they simultaneously espouse the capitalist mantra of finding new and more efficient ways of obtaining a profit. As mentioned previously, GSEs continue to grow in their

85 Moe and Stanton, 322.
popularity because they are off-budget organizations that are flexible, cost-reducing, efficient organizations—all these adjectives embody the antithesis of traditional government programs. This intense focus on profitability, efficiency, output, results, and cost-cutting have permanently shaped the vocabulary of the public administrator. Paul Appleby made famous the succinct yet insightful phrase “Government is different.” For many years, this statement had held its ground; there existed one set of theories and descriptors for the public/government sector, and there existed a distinct, separate set of theories and vocabulary for the business sector. The proliferation of GSEs has challenged this simple notion that government is, indeed, different after all. Does the presence of GSEs invite government to become better suited at its assorted functions? Do GSEs improve government? Is there really a difference between government behavior and business behavior? How society answers these questions will ultimately indicate how the federal government will evolve in the coming decades.

Prior to the creation and growth of GSEs, many theorists would have agreed with Appleby—government is distinctively different from the private sector of free enterprise. Public administration theorists trace back this dichotomy in these two sectors to the founding of this nation. As Moe (2001) observes, the basis for this distinction between the government and private sectors is founded in law.86 According to this theoretical framework known as the constitutionalist management paradigm, the government sector, which includes the various divisions of government

regardless of horizontal and vertical divisions, is separate from the private sector because it has its basis in the Constitution and public law. Government is different from business because

[The] distinguishing characteristic of governmental management, contrasted with private management, is that government actions must have their basis in public law, not in the financial interests of private entrepreneurs or in the fiduciary concerns of corporate managers. The hierarchical structure found in the executive branch is designed more to ensure accountability for managerial actions; promoting control over employees is secondary.

The constitutionalist management paradigm does not focus on “efficiency” or “output,” but instead it focuses on establishing accountable management through the basis of constitutional and public law. This management paradigm is contrasted with what Moe (1995) labels as the entrepreneurial management paradigm.

In contrast to the constitutional management paradigm, the entrepreneurial management paradigm has the “underlying premise that the government and private sectors are fundamentally alike and subject to most of the same economically derived behavioral norms (Kettl 2000; Schneider, Teske, and Minstrom 1995; Stretton and Orchard 1994).” The entrepreneurial management paradigm has existed in some form since the latter half of the twentieth century but gained prominence during the first term of President Clinton in the early 1990s. According to the National Performance Review (NPR), which was a “reform initiative begun by the Clinton administration, [it] proposed sweeping changes to laws governing personnel,

---

87 Moe, Emerging Federal, 305.
88 Moe, Emerging Federal, 305.
89 Moe, Emerging Federal, 305.
procurement and budgeting within the executive branch of government (Gore 1993).” Many of the changes proposed within the NPR derive their theoretical basis from the entrepreneurial management paradigm. According to the entrepreneurial management paradigm, “the principal, if not exclusive, objective is results, and this principle should be applied to the governmental sector as well.”

One can observe this focus on efficiency and program outputs in the major themes of the NPR. Graham and Roberts (2004) write that this:

New paradigm...contained three major themes. The first was a desire to release public servants from a welter of rules that were thought to make public organizations inflexible and inefficient. The second was a renewed emphasis on the reporting of results achieved by public organizations, and the use of this data to levy rewards or penalties. A final theme was said to be a new pragmatism about the choice of institutional structures used to deliver public services.

For the entrepreneurial management paradigm, government activities ought to be conducted like a business. The objectives of the entrepreneurial management paradigm as outlined by Moe and Gilmour (1995) summarize the main impetus behind this business-management approach to governmental management. These objectives include the casting aside of “red tape,” ensuring customer satisfaction, promoting the decentralization of authority, and providing governmental programs that “work better and cost less” than traditional provision of goods and services.

---

90 Graham and Roberts, 142.
91 Moe, Emerging Federal, 305.
92 Graham and Roberts, 140.
Moreover, within the NPR, former Vice-President Al Gore stated that "many of the service delivery functions within the federal government would be reorganized as 'performance-based organizations,' or PBOs." Gore emphasized that regarding these PBOs that "... we're going to toss out the restrictive rules that keep them from doing business like a business. All the red tape, personnel rules that keep managers from using people effectively, the budget restrictions that make planning or allocating resources almost impossible (NPR 1996c:7)." 94

The NPR report continues this emphasis on productivity and efficiency, stating that "'effective entrepreneurial governments cast aside red tape, shifting from systems in which people are accountable for following rules to systems in which they are accountable for achieving results' (NPR 1996c:6-7)." 95

The entrepreneurial management paradigm represents a dynamic change in the manner in which managers theorize how government functions and what objectives it should be achieving. Even the parlance of the entrepreneurial management paradigm differs significantly from the constitutionalist management paradigm; for example, the entrepreneurial management paradigm focuses on "customer satisfaction." Such a term would be extremely out of place in the constitutionalist management paradigm, where the main focus is on accountability of government programs based upon public law, not economic theory.

---

94 Graham and Roberts, 143.
95 Moe, Emerging Federal, 305.
While the entrepreneurial management paradigm represents a symbolic shift in the way in which governments utilize hybrid organizations in the provision of goods and services, its theoretical framework has come under fire for its lack of accountability. Moe and Gilmour (1995) stated this criticism bluntly, writing, “The entrepreneurial management model is not and cannot be a substitute for political and legal accountability.” Moe (2001) continues this criticism of the entrepreneurial management paradigm:

Under the entrepreneurial management paradigm, the vision is to create a society of government/private partnerships based on pragmatics application of performance-oriented objectives, or what Harlan Cleveland (2000) approvingly refers to as the “nobody-in-charge society”.... Those advocating entrepreneurial management tend to favor organizational disaggregation and managerial autonomy. Congress is viewed as a nuisance to be avoided, and central management agencies are to be stripped of much of their authority and capacity.

Furthermore, “for constitutionalists, the quasi-government tends to represent a retreat from democratic values and accountable management.” For many of the critics of the entrepreneurial management paradigm, the reliance on market measures to ensure efficiency and “outputs” provides no measures of actual managerial accountability. Economic theory does state that competition is good for the market because it increases efficiency, output, and lowers costs. While economic theory is compatible with the marketplace, it omits a key variable in its analysis of the entrepreneurial

96 Graham and Roberts, 143.
97 Moe and Gilmour, 143.
98 Moe, Emerging Federal, 306.
management paradigm: politicization. The entrepreneurial management paradigm’s conception of accountability is very similar to the accountability model in government contracting:

Traditional market models of contracting assume that contractors will be disciplined by market forces such as competition, ease of seller access to the contract market, and ready and inexpensive availability of relevant contract info and alternative providers. Accountability under such conditions relies on the market to ensure desirable behavior. A more common situation occurs under imperfect market conditions, or Sclar’s incomplete contract scenario, characterized by frequent transactions among contractual parties and high levels of uncertainty about future situations covered by the contract and about product and/or process. Accountability in this setting tends to generate contracts that grow exponentially in detail, a “contract fattening” process. 100

In reality, perfect market conditions almost never exist. For this example, under imperfect conditions, government executives would not be able to dismantle one hybrid organization in exchange for another. As a hybrid organization comes into existence, it builds a constituency in addition to establishing its own institutional goals, which may or may not conflict with the program goals of the entrepreneurial management. Moreover, for the provision of many goods and services, the government acts as monopolist in certain markets where the high costs prevent the entry of competitors into that market. Although the entrepreneurial model boasts of the flexibility of making the government more businesslike, the entrepreneurial model seemingly ignores the presence of any interest groups involved with a given hybrid

100 Johnston and Romzek, 95 – 96.
that may prevent the federal government from shuttering that particular hybrid and/or implementing a new hybrid organization.

At the heart of this debate over which management paradigm government ought to pursue, polarization of the issue has muted much insightful dialogue from occurring between the proponents of each management paradigm. Supporters of the constitutionalist management paradigm desire for to sever the government's love affair with capitalist influences and return to its basis of constitutional and public law, all in effort to reestablish a dearth of managerial and programmatic accountability.

On the contrary, proponents of the entrepreneurial management paradigm view a reliance on administrative law as restricting hybrid organizations from fully achieving their potential. In summary, many constitutionalists would wish to severely limit the growth and scope of hybrid organizations such as GSEs, while entrepreneurs desire to achieve accountability through market mechanisms. Gamble (1996) summarizes, “The difference between economic liberals and liberal collectivists is that the former believes that the best guarantee of that accountability is the protection of the institutional order of the market, while the latter place their faith in the institutional order of democratic government.”\(^{101}\) (Gamble 130). At the core of these disputes remains issue of accountability, but the mere identification of this core issue does little to clarify the issue further. What is accountability? In short, the answer to this question depends on exactly who is asked such a question.

---

What is Accountability?

If a person were to survey 100 random people, the chances are the surveyor would receive 100 different responses. The ironic fact of the matter is that in a time when the general public demands more accountability, no one can clearly articulate what it is exactly they mean when they demand more accountability. Concerned citizens and watchdog groups clamor for “More accountable schools!” and “More accountable government!” and “More accountable businesses!” Yet, few people stop and ask what they really mean when they say they want more accountability. The following section is an investigation into what various sectors of society consider to be accountability and how these preconceived notions affect the manner in which the public-at-large holds the government accountable for its actions. This action does not represent a trite, meaningless exercise in semantics—the implications of how a group conceives a word such as accountability has permanent effects on how government is conducted.

A comprehensive analysis of accountability in American government and its associated agencies has its logical beginning in the examination of American federalism. The founders of the U.S. Constitution concurred that the most appropriate form of government to be had in the United States, given its unique resources, cultures, and history, was a federated form of government. In this type of federal government, each branch of government, including the executive, legislative,
and judicial branches, serve as a check and balance for the other branches of government. This system of checks and balances represents a case of what some would identify as internal accountability; i.e., each branch of the federal government depends upon the cooperation of the other branches in order to function. Beryl Radin summarizes this phenomenon in his text *The Accountable Juggler:*

The structure of American government, based on the concept of shared powers between separate institutions, establishes the framework or design for any approach to accountability. In that structure, every actor or institution operates in a diffuse system where individuals and institutions are forced to accommodate one another. This Madisonian structure has been described as a “harmonious system of mutual frustration.”

In the federal system of government, the various branches must communicate, interact, and bargain with one another in order to enact policy change. The Constitution was especially designed to force such checking and bargaining. By no means is the Constitution a document written for reasons of efficiency—a government without these necessary checks leads itself towards tyranny, where accountability becomes a mere artifact of the past.

**Accountability is not Solely Controllability**

In his text *The Politics of Quasi Government*, Jonathan Koppell writes, “Some have argued that elected officials should always retain control over the unelected bureaucracy; at least as many have argued that bureaucratic discretion is a requirement for good governance. In much scholarship, however, this debate gets

---

papered over by the conflation of control and "‘accountability.’"103 For many people, when asked what accountability means to them, they may state that accountability is having a manager or director having control over a given organization. To conflate the term accountability to mean control not only does a disservice to other potentially viable forms of accountability, such an action also ignores the presence of accountability in the American federalist system of government. In the federal government, the legislative branch cannot “control” the executive branch or vice versa. Accountability in this sense is the bargaining and compromising in which the three branches partake.

While accountability is not solely control, control can serve as a shade or dimension of accountability. In this sense, accountability becomes like a diamond with numerous facets. The task that remains is to identify these other facets or layers of accountability and how they manifest themselves in the public sphere. Koppell (2003) identifies several popular conceptions of accountability. These conceptions of accountability are recreated in Table 1 below:

---

103 Koppell, 181.
Table 1: Conceptions of Accountability.104

<table>
<thead>
<tr>
<th>Conception of Accountability</th>
<th>Key Determination</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transparency</td>
<td>Did the organization reveal the facts of its performance?</td>
</tr>
<tr>
<td>Liability</td>
<td>Did the organization face consequences for its performance?</td>
</tr>
<tr>
<td>Controllability</td>
<td>Did the organization do what the principal (e.g., Congress, the President) desired?</td>
</tr>
<tr>
<td>Responsibility</td>
<td>Did the organization follow the rules?</td>
</tr>
<tr>
<td>Responsiveness</td>
<td>Did the organization fulfill the substantive expectation (demand/need)?</td>
</tr>
</tbody>
</table>

While controllability is a conception of accountability according to Table 1, it alone does not tell the full story of accountability. Transparency, liability, controllability, responsibility, and responsiveness all are dimensions of accountability. Broadly speaking, accountability as conceptualized in Table 1 can be thought of as simply answerability. In this sense, "[accountability] means answerability for one's actions or behavior, often "to higher authorities including elected and appointed officials who sit at the apex of institutional chains of command and to directly involved stakeholders, for performance that involves delegation of authority to act" (Kearns, 1996, p. 11).105 Nevertheless, thinking of accountability simply as answerability does little to quell the debate over how the government should hold itself accountable for its actions.

---

104 Koppell, 181.
Conceiving accountability as answerability adds new dimensions to this analysis, but it alone does not suffice as an all-encompassing definition. Dicke and Ott (1999) cite that accountability as answerability includes five “often-competing structural dimensions...that incorporate accountability for resources, performance, and outcomes of services.” Table 2 below shows a summary of these five dimensions of accountability:

Table 2: Dimensions of Accountability.

<table>
<thead>
<tr>
<th>Dimensions of Accountability</th>
<th>Central Themes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hierarchical</td>
<td>Hierarchical relationships, close supervision. Compliance with clearly stated directives.</td>
</tr>
<tr>
<td>Legal</td>
<td>Tasks carried out in accordance with constitutional principles, laws or contractual obligations. Binding sanctions are available.</td>
</tr>
<tr>
<td>Professional</td>
<td>Discretion is exercised by those with expertise. Individual experts are answerable for their decisions and actions.</td>
</tr>
<tr>
<td>Political</td>
<td>Demand for responsiveness. Satisfaction of key stakeholders; clientele-centered management.</td>
</tr>
<tr>
<td>Moral and Ethical</td>
<td>Standards of good behavior arise from conscience, organizational norms, standards, and concern for the general welfare.</td>
</tr>
</tbody>
</table>

Dicke and Ott’s (1999) analysis of accountability in the public sector extends the definition of accountability beyond simple control by a manager. When applied to the provision of public goods and services, accountability becomes more than simply

---

106 Dicke and Ott, 504 – 505.
107 Dicke and Ott, 504 – 505.
control; accountability becomes a "... moral, professional, and ethical construct that results when public officials and contractors serve with a commitment to do the right things." While this analysis by Koppell (2003) and Dicke and Ott (1999) illuminate the numerous layers of meaning of the term "accountability," the question remains: how does government ensure accountability in its actions?

Perhaps a more appropriate question to ask is: How does the government ensure accountability in the provision of goods and services considering their reliance on hybrid organizations such as GSEs? As most scholars and critics agree, the government’s reliance on hybrids in the provision of services has resulted in a loss of control. Koppell (2003) writes, "The core conclusion...is that reliance on hybrid organizations does result in a loss of control.... However, it is not a conclusion that renders that idea of quasi-government inimical to democracy." Controllability lacks force as an accountability measure in reference to hybrids. Congress has a difficult time in regulating hybrids because the "(1) difficulty in measuring both costs and benefits of hybrid programs; (2) hybrids’ off-budget status; (3) Congress’ reliance on regulatory agents; (4) conflict among hybrids’ objectives; and (5) the political influence of hybrid organizations." Some of the reasons of why the government instituted hybrids in the first place are a double-edged sword—these same reasons are the reasons why accountability as controllability does not hold for these GSEs. Controllability does not apply well for instrumentalities where there

---

108 Dicke and Ott, 504.
109 Koppell, 182.
110 Koppell, 140.
exists an unclear line of accountability. For controllability to be a useful dimension of accountability, "Ideally, lines of accountability should be direct and unambiguous."\textsuperscript{111}

These direct and unambiguous lines of accountability can be found primarily in executive level agencies. Regarding these agencies, the government can exert high degrees of controllability by utilizing administrative and regulatory control tools such as legislation, the budget process, appointment and confirmation, executive orders, oversight, federal management laws, monitoring, sanctions and remedies, and litigation and mediation.\textsuperscript{112} The traditional view of accountability as controllability relies on several methods to ensure accountability. One of the most popular methods used by officials to ensure accountability in government is auditing, which is "a systematic control-oriented process assessment to evaluate the match or discrepancy between an established standard and the existing condition."\textsuperscript{113} A shortcoming of audit-based verifications is that audits are retrospective and depend upon an established framework for their proper analysis. Audits provide little guidance in making proactive managerial decisions when confronted with an alien policy environment. Monitoring is a secondary measuring for ensuring accountability. In contrast to audits, "monitoring is ongoing oversight conducted during the performance of a contract."\textsuperscript{114}

\textsuperscript{111} Moe and Stanton, 324.
\textsuperscript{112} Koppell, 38 – 44.
\textsuperscript{113} Dicke and Ott, 506.
\textsuperscript{114} Dicke and Ott, 506.
On the contrary, the proliferation of hybrid organizations within the government has forever changed the ways in which government officials achieve and verify accountability. This change could represent a paradigm shift from accountability as controllability to other dimensions of accountability:

Far too much attention has been paid to traditional or compliance accountability and process accountability, and far too little to...managerial accountability (which focuses on the judicious use of public resources), program accountability (which is concerned with the outcomes or results of government operations), and social accountability (which attempts to determine the social impacts of governmental programs).... But overdependence on controls means that other equally significant dimensions of accountability may be neglected.\(^\text{11}\)

Moreover, relying on accounting measures to ensure accountability has its limits, whether they are used to verify accountability for traditional governmental agencies or for recent GSEs. Miller (1996) extrapolates on these limitations of accounting standards when he writes, “If accountants are to continue to play an ever-increasing role in managing the new public sectors, it is important to identify the limits of their expertise.”\(^\text{116}\) He continues his critique by quoting Johnson and Kaplan in their book "Relevance Lost, who write, “Today’s management accounting information [...] is too late, too aggregated, and too distorted to be relevant for managers’ planning and control decisions.”\(^\text{117}\) Accountants, like any professional, are confined to the theoretical framework of their particular field. Professional and interest groups such

---

\(^{115}\) Dicke and Ott, 512, 514.  
\(^{117}\) Miller, 61.
as the AICPA define industry best-practices and establish uniform standards for certified public accountants. On the other hand, uncertainty exists even in the field of accounting. Judgments are based off the previous year’s data, whose data was based upon the year prior to that. Miller concludes, “For if accountants continue to have difficulty in measuring precisely product costs, or in valuing accurately particular types of investment in the private sector, it is likely that such issues will prove even more difficult to resolve in the world of the public sector where goals are more ambiguous and multiple constituencies have to be served. . .”

Ultimately, the new demands for accountability measures that GSEs bring with their proliferation require a thorough reevaluation of what officials have traditionally considered to be measures of accountability. While some critics believe that “a good part of the quasi-governments appeal, and of its growth” is its lack of accountability, supporters of GSEs and other hybrids contend that such critics are attempting to apply twentieth-century accountability techniques to address twenty-first century problems. Specifically, for GSEs, one must take into account their influence over constituencies when attempting to enact accountability measures. As Koppell (2003) notes, “Structures led by a single individual are more likely to take decisive action and challenge an influential hybrid organization than a regulatory agency led by a multi-member commission.”

Congress adopted this plan to reign in Fannie Mae and Freddie Mac when it abolished the OFHEO and put into place a

118 Miller, 66.
119 Moe, Emerging Federal, 291.
120 Koppell, 162.
Director of the Federal Housing Finance Agency (FHFA). With the growth of GSEs, public administrators and other officials must realize that controllability alone cannot guarantee proper accountability for these new hybrids. Accountability in these circumstances is truly a juggling process, where it “moves far beyond formal processes associated with control.... Thus accountability in the federal government in the twenty-first century requires public sector leaders who are able to juggle multiple pressure, actors, and processes.”¹²¹ To hold GSEs accountable, administrators must recognize the multiple facets and dimensions of accountability. These administrators must be willing to consider that controllability alone does not equate to accountability. While controllability is a valid form of accountability, administrators must recognize the transparency, liability, hierarchical, legal, professional, political, and moral and ethical aspects of accountability. Miller intimates towards this reevaluation of accountability when he states, “Instead of asking how we might calculate the performance bonus to be awarded to a manager, we should ask what type of an organization is desired, what type of goals are to be fostered.”¹²² In summary, effective accountability and management of GSEs is “more than simple control; it is also capacity building.”¹²³

¹²¹ Radin, 22 – 23.
¹²² Miller, 67.
¹²³ Moe and Stanton, 324.
A "Clash of Cultures"

Much of the current debate over GSEs can be boiled down to issues of democracy, accountability, popular sovereignty, and public management. The general opinion of the ardent critics of GSEs is that their presence within the government of the US represents a direct and immediate threat to all of these themes. One of the strongest criticisms of GSEs is that these organizations lack any basis in public law as to their origin. While numerous acts of Congress and the executive have chartered individual GSEs and other hybrids to address specific issues, no law has been written in the U.S. Code that addresses these instrumentalities in general. The glaring omission of GSEs and other instrumentalities in public law represents a potential threat to the safeguards put in place by public law; Moe and Gilmour (1995) address the importance of public law when they write, “Public law is the under-appreciated ‘cement’ that binds the separated powers of the administrative state, ensures political and legal accountability of its officials, and restrains abuses of administrative discretions and conflicts of interest.” On the contrary, many of the supporters of GSEs view these instrumentalities in the lenses of the entrepreneurial management paradigm. For these proponents of GSEs, these instrumentalities are now an integral piece of government. They provide alternatives to the tired, inefficient agency system of the federal government and usher in efficient use of resources and increased “outputs.” GSEs reduce red tape and make government

---

124 Moe and Gilmour, 138.
125 Moe, Emerging Federal, 293.
work "better." These organizations are flexible and can easily adjust to dynamic environments. For these individuals of the entrepreneurial management paradigm, public law is not an essential component in order for these GSEs to accomplish their task.

As scholars have indicated, what has occurred is a "fundamental clash of cultures...between the legal and business cultures for acceptance of their principles by the government management community."\textsuperscript{126} Represented by the constitutional management paradigm and the entrepreneurial management paradigm, these two "cultures" are at odds with one another. Simply put, the private sector and public sector have their origins in "fundamentally different streams of legal doctrine: one traditionally rooted in judge-made common law, protecting rights and asserting duties in the relations of private individuals; the other founded on the body of the Constitution and the Bill of Rights and articulated by a truly enormous body of statutory, regulatory, and case law...."\textsuperscript{127} In effect, what has occurred at the federal government with the proliferation of GSEs has been in effect a zero-sum game; i.e., the rise of the influence of the private sector into governmental management has resulted in a proportional disregard for the constitutional origins of public administration. In the eyes of many, the field of public administration "has largely abandoned or forgotten its roots in public law—in the Constitution, statutes, and case

\textsuperscript{126} Moe and Gilmour, 142.
\textsuperscript{127} Moe and Gilmour, 135.
law—and has accepted, to varying degrees, the generic behavioral principles of
government management as taught in schools of business.”

Moreover, the two competing paradigms treat the presence of each paradigm in
government management as almost mutually exclusive. To the entrepreneurial
management paradigm, inefficiencies are unnecessary and should be done away in an
effort to streamline government functions and increase output. Alternatively, for the
constitutionalist management paradigm, some inefficiencies are a necessary
component of public management. As Madison wrote, such inefficiencies can serve
as a safeguard from the “accumulations of all power, legislative, executive, and
judiciary in the same hands” that could lead to “the very definition of tyranny.”

With the continuous proliferation of GSEs at the federal level, many critics
fear that the President has slowly relinquished his duties as chief executive or “chief
manager.” The rise of the entrepreneurial management paradigm has created a
“system of management by exceptions, a system where agencies, interest groups, and
Congressional committees can join together at the expense of the President and the
collective interests of the executive branch.” Up until the 1950s, the President had
acted “chief manager” for the administrative system. Through the late 1960s into the
1970s, the President gradually lost this role as the federal government began to rely

128 Moe and Gilmour, 135.
129 Moe and Gilmour, 136.
more on the private sector and instrumentalities like GSEs.\textsuperscript{121} In addition, the Office of Management and Budget (OMB) has displaced management priorities for budget priorities, and it has done this for quite some time.\textsuperscript{132} The gradual eroding of the emphasis on constitutional law and the managerial capacity of the President and OMB has created a federal government that has forgotten its origins.

Why does this all matter? Why should concerned citizens be hesitant to embrace a management paradigm that has no basis in constitutional law? For many scholars and supporters of the entrepreneurial management paradigm, what has been occurring over the last thirty years at the federal level simply appears to be a natural evolution of government. With the increasing demands placed on the federal government by the public, the government had to find alternative methods to addressing these social issues. Many of these issues were the "political consequences" of a "free unfettered market economy." While traditional governmental agencies provided some relief to these issues, the federal government began to turn to market economy itself as a solution to amend the negative externalities created by the market itself.\textsuperscript{133} Citizens should be concerned about the increasing presence of the private sector and GSEs in the federal government because history has shown that privatization is not democracy. Benjamin Barber (1996) writes:

\begin{flushright}
\begin{itemize}
\item Moe, \textit{Emerging Federal}, 292.
\item Gamble, 119.
\end{itemize}
\end{flushright}
The disastrous consequences that follow from patterning political reforms on macro-economic theory are patently visible in countries from Russia to Latin America and Africa, where according to Guillermo O’Donnell, a leading Latin American political scientist, “as the private sphere flourishes...the public sphere crumbles.” To him, the matter is simple: privatization is not democratization. Period. 134

The infusing of private sector thinking into the level of the federal government that goes unchecked creates the glaring absence of accountability. Without a basis in law, instrumentalities such as GSEs only answer to rule of economists. This danger of an unchecked deference to pragmatism and dealing with issues on an “ad hoc basis” makes it extremely difficult for government administrators, including Congress and the President, “to impose accountability, especially if opposed by parties interested in lax oversight.” 135

Conclusion

The U.S. government has undoubtedly reached a defining moment in its administrative history. The increasing reliance on GSEs such as Fannie Mae and Freddie Mac has forever changed the ways in which the federal government ensures the provision of certain public goods and services. These instrumentalities and others like them have become an integral part of the federal government and its daily operations. While instrumentalities have been lauded by some members of Congress for their flexibility and responsiveness in addressing critical social issues, these very organizations can pose a threat to the legal foundations of this nation. Critics are

135 Moe and Stanton, 324.
correct in stating that ambiguous accountability resulting from the proliferation of GSEs is a threat to the U.S. system of federalism, governmental accountability, popular sovereignty, and democracy. Supporters of the constitutionalist management and entrepreneurial management paradigms are equally vocal in their raucous condemnation of the opposing paradigm. Strong supporters of the constitutionalist management paradigm desire to sever ties completely with GSEs, hybrids, or any instrumentalities that lack basis in public law. In contrast, supporters of the entrepreneurial management paradigm feel that not enough is being done at the government level to promote instrumentalities as effective means of achieving program outputs. For these individuals, the capitalist market is the solution to the problems of a bloated federal budget and ineffective government agencies.

The simple fact of the matter is that GSEs and other instrumentalities have become too entrenched in the everyday operations of the federal government for them to be completely removed and carved out of the government’s psyche. GSEs like Fannie Mae and Freddie Mac have created powerful interest groups that (legally) lobby Congress in an effort to influence certain legislation. This fact does not mean that reform is impossible and governmental reform is a lost cause:

Not long ago, Peter Drucker wrote that “Any organization, whether biological or social... needs to rethink itself once it is more than forty or fifty years old. It has outgrown its policies and its rules of behavior. If it continues in its old ways, it becomes ungovernable, unmanageable, uncontrollable.”

136 William V. Roth, Jr., foreword to Terminating Public Programs: An American Political Paradox, by Mark R. Daniels (New York: M.E. Sharpe, 1997), xvi.
If left unchecked, GSEs and other instrumentalities could reach a point where these organizations do become ungovernable, unmanageable, and uncontrollable. Even though many critics have called for the reform of GSEs, little has been suggested in the way of actual reform. The overly-technical functions of GSEs and their lack of media attention do not warrant the same type of fervent calls for reform that other governmental programs receive from the public. Nevertheless, the accountability of government depends on several necessary steps that must be taken to reform and regulate GSEs and other instrumentalities.

First and foremost, laws must be incorporated in the body of the U.S. Code that specifically addresses instrumentalities, their forms, and their functions in the federal government. "[A] generic law providing for comprehensive regulations of GSEs and clarifying their status as instrumentalities rather than agencies of the United States" would resemble legislation similar to Title 5 of the U.S. Code that concerns agencies.\textsuperscript{137} By codifying instrumentalities into public law, government managers, Congress, the President, the judiciary, and the citizens would have a written document explaining what instrumentalities are and explaining their intended functions. A legal document would formally define the limitations, expectations, appropriate administrative structures, and other specificities of GSEs that are currently lacking in the U.S. Code.

The Housing and Economic Recovery Act of 2008 signals a shift in the appropriate direction for regulation of GSEs and other hybrids by Congress. For the

\textsuperscript{137} Moe and Stanton, 327.
first time, a legal document drafted by Congress sets forth specific restrictions and rules on the operations of Fannie Mae and Freddie Mac. On the contrary, such specific legislation cannot regulate all GSEs. Even though the Housing and Economic Recovery Act of 2008 brought considerable attention to the impact that Fannie Mae and Freddie Mac have on the nation, the legislation was not designed to become an expansive regulatory law for all GSEs and government instrumentalities. As indicated by others critics, generic laws dictating the boundaries of GSEs will not only protect the federal government, but these laws will also safeguard the private sector and the citizens.

Regarding GSE reforms, government managers must look beyond controllability as accountability as the only measure to ensure program compliance for GSEs and other instrumentalities. Although direct control management represents a valid form of accountability in the government setting, the face of the federal government has changed substantially since the beginning of the twentieth century. Gone are the days of Taylorism and scientific management, where line managers possessed direct control over outputs in a given bureaucracy. Today, the policy environment for governmental organizations constitutes more than just the governmental entity and the citizenry. Now, government administrators must face numerous policy actors, such as interest groups, nonprofit organizations, the private sector, and international governments, and confront numerous policy issues. Moreover, to become an effective manager, an administrator must acknowledge the multiple policy streams in the environment and devise a plan to find certain
"windows of opportunity," to use the words of Kingdon. By recognizing the policy interests of the public sector and the private sector, effective managers can hopefully construct a policy that addresses the needs of each sector to some degree.

While reconciling multiple policy streams is an arduous yet rewarding task, government administrators must be cognizant of the demands of the other types of accountability—the hierarchical, legal, professional, political, moral and ethical attributes of program accountability. This last attribute, moral and ethical accountability, has the greatest impact on how various organizations contribute to their own capacity building. When organizations are mindful of the demands of moral and ethical accountability, these organizations construct an organization that recognizes the multiple commitments it has to itself and the people it serves.

Capacity building occurs when administrators define the characteristics that their organization will represent. Capacity building is simply creating the organization one desires to create. Effective management seeks to go beyond controllability as accountability and create an ethos of moral and ethical accountability within their organization. Government administrators ought to recognize the multiple facets of accountability and realize their ethical responsibility to society in general. In regards to capacity building, Moe and Stanton (1989) write:

Management is more than simple control; it is also capacity building. Management law, interpreted and administered with care, should permit the agency or instrumentality to perform its public responsibilities more effectively, not just more economically. Generic
laws, properly written, provide a means to implement a comprehensive managerial strategy. 138

Ultimately, the federal government of the U.S. must actively pursue measures to regulate the function and reach of GSEs and instrumentalities. Without a doubt, these organizations play a crucial role in providing for numerous public goods and services that may otherwise not have been provided. In contrast, Congress and the President must not be too quick to embrace the creeping of the private sector into the public sector. The private and public sectors have their legal origins in two divergent bodies of law, and each sector has its own theory of behavior. Accountability suffers when government administrators fail to recognize this distinction. Unrestrained privatization of governmental functions represents a threat to federalism and popular sovereignty. On the contrary, administrators cannot dismiss the potential benefits of incorporating private sector thinking into solving public sector problems. In the end, one of the keys to this dilemma is to recognize the limitations of each sector and its theory:

Renewing democracy in this perspective is about recognizing the limits to democracy but also the limits to markets, and no longer supposing that political virtue consists in a triumph of the one over the other.... Decentralized markets joined with associative democracy offer mechanisms of exit and voice which are both egalitarian and libertarian. The renewal of democracy requires a release of social energy and social imagination, a synergy which new forms of governance and new kinds of markets might provide. 139

138 Moe and Stanton, 324.
139 Gamble, 130.
This "synergy" of the private and public sectors can potentially yield great outcomes for the federal government. Nevertheless, the tenets of federalism that have provided checks and balances for over two hundred years, along with active public administrators, must provide the appropriate oversight of this synthesis. The U.S. simply cannot afford to sacrifice accountability for efficiency.
Works Cited


67


