

Final Report of the Consortium Review Task Force

March 10, 2009

Submitted by Steve Anderson, Task Force Chair

CHARGE

The charge of this Task Force is as follows:

CHARGE: That the Executive Board create a five-member "Consortium Review Task Force" to investigate the feasibility of developing an AALL consortium, which would operate as a "buying cooperative" for members. The Task Force is charged with evaluating ways in which the Association could implement a consortium by considering the following steps:

- *The development of a business plan*
- *The delineation of the planned consortium's market position vis-à-vis NELLCO and MALLCO*
- *The evaluation of the "best practices" of other consortia*
- *The creation of a policy for the consortium*
- *The ways in which the consortium could work in conjunction with a Vendor Relations Representative*
- *The hiring of staff (if necessary)*
- *The procurement of legal guidance on the creation of such an entity*
- *The planned expenditures for such a project*

The Task Force may review additional subjects and opportunities not mentioned above. The Task Force shall prepare a final report, including all recommendations by the Spring 2009 Executive Board Meeting, with interim reports at the July 2008 and November 2008 Board Meetings.

Members

Task Force members included:

Jennifer Berman, McDermott Will & Emory, LLP
Shannon Hein, William S. Hein & Co., Inc.
JoAnn Hounshell, Chicago-Kent College of Law Library
David Mao, Congressional Research Service
Steve Anderson, Task Force Chair, Maryland State Law Library

Interim Report: Executive Board Meeting, November 2008

The Chair held an initial series of telephone conversations in August with members in order to get a sense of the interests and concerns of members. Many of these ideas were incorporated into an initial set of questions that was sent to members in early September. Questions generally paralleled the eight points incorporated into the Task Force's charge:

1. The development of a business plan

2. The delineation of the planned consortium's market position vis-à-vis NELLCO and MALLCO
3. The evaluation of the "best practices" of other consortia
4. The creation of a policy for the consortium
5. The ways in which the consortium could work in conjunction with a Vendor Relations Representative
6. The hiring of staff (if necessary)
7. The procurement of legal guidance on the creation of such an entity
8. The planned expenditures for such a project

Responses were compiled anonymously into a document recently distributed back to the Task Force. A conference call will be scheduled in the near future to review the collective answers. Additionally, Task Force members will research the operations of other consortia and hold discussions with consortia directors.

As of the writing of this report, however, it is evident that members have some differences of opinion and procedural concerns as to how an AALL consortium might be developed and sustained. For example, members have observed several possible barriers to the creation of a consortium: 1) It likely would have to operate independently of AALL's current individual membership scheme; 2) There is some uncertainty regarding the form of governance for a full-scale consortium; 3) There is also concern that not all types of libraries would benefit from the creation of a consortium; 4) Some vendors may not work in a consortium framework as readily as others; and 5) A well-planned consortium would require some staffing and significant planning to remain cost-effective. There was, however, significant interest in exploring possible relationships with pre-existing consortia as a way to assist both libraries and interested vendors. While no contacts have been made yet with these entities, there will be some initial conversations in the near future, as well as ongoing discussions among Task Force members.

Continuing Discussions

November Conference Call

Following the submission of the interim report, the Chair held a teleconference with Task Force members on November 6, 2008. Additionally, AALL Director of Finance Paula Davidson attended in lieu of Kate Hagan. President James Duggan also joined the call.

The discussion of this call focused on the feasibility of AALL providing its own consortium. Task Force members had concerns about costs to the Association, its organizational structure (operating separately from the Association itself), and its market share in relation to other law library consortia. Members also took serious issue with devoting AALL resources to a project that would not necessarily benefit all library types (law firm libraries and Federal libraries may not be able to use consortia). One member queried if an AALL consortium would be able to handle print subscriptions, but other members thought that would be unlikely. Therefore, there was concern about the utility of the endeavor as a whole. Most importantly, given the economic situation at the present time, the substantial start-up costs for such a project likely would make it prohibitive.

The Chair then raised the possibility of having a sort of "consortium lite," in which AALL members would be entitled to discounts given by cooperating publishers. In practice, this would operate much like an AAA or ABA discount. There were concerns raised that a small percentage discount was likely only symbolic in effect and that, while there would be minimal overhead costs, some AALL staff time would be necessary to administer this program. Additionally, there were questions as to what would entice a vendor publisher to participate in a "consortium lite" scenario. Nevertheless, the Chair was asked to follow-up with Kate Hagan to determine staffing possibilities.

The Chair next asked if it would be possible to work together in some capacity with existing law library consortia. There were questions about their structures and practices. One suggestion was that AALL publicize to members the benefits of consortia for law libraries. Examples of this might be Spectrum stories and highlights of consortia. Another suggestion was the possibility of some more formal relationship, such as an endorsement or partnering. The Chair agreed to contact Tracy Thompson, NELLCO Executive Director, to discuss various issues.

Conversations with Other Stakeholders

To follow up on the first of the two possibilities, the Chair discussed with Kate Hagan the idea of a discount or "consortium lite" idea. The feeling was that this approach would still have the negative impact of significant direct and indirect costs. She stated in part:

I think that the work for implementing and keeping it going would far exceed the member benefit. I also think that members [may] see little value in this in that it does not address their real concerns regarding pricing, content bundling and contract negotiations that are causing very real problems for them....

To determine the existence of possibilities relating to "partnering" with an existing consortium, the Chair held a conference call on January 21, 2009, with Tracy Thompson, several NELLCO board members, James Duggan and Kate Hagan. NELLCO would like to continue working with AALL in some capacity, such as through the recent offering of discounts to AALL members for the Computers In Libraries conference. NELLCO also is enthusiastic about the "AALL promoting awareness of the usefulness of consortia" approach. A more formal partnering role is not feasible at the present time.

March Conference Call

In order to discuss the results of the conversations noted above, the Task Force held its final conference call on March 5, 2009. In addition to the participation of all the Task Force members, President James Duggan also was in attendance on the call.

Given the state of the economy and other organizational considerations, the Task Force agreed that none of the following steps were possible at the present time: the creation by AALL of a large-scale library consortium; the creation by AALL of a "consortium lite," discount plan; or the partnering with a pre-existing law library consortium. Instead, the Task Force unanimously adopted the recommendations below.

Recommendations

The Consortium Review Task Force recommends:

1. That AALL actively promote to its members the awareness and usefulness of available library consortia. Such promotion may include articles in the Members' Briefing section of *Spectrum* and continuing education programs.
2. That the Vendor Relations Representative work with legal publishers to foster discount plans for AALL members who often comprise the "core" clientele of legal publishers. Publishers well may recognize that their success is based largely on the purchasing power of law libraries. Such pricing incentives may foster a greater appreciation of the unique roles that each party plays in the scholarly communications environment.