# Finance Committee Handbook

Association of Town Finance Committees

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## ATFC Mission Statement

Town Meeting is a centuries-old practice but yet a modern forum for local government legislation in New England. A local Finance Committee, by tradition and statute, is a select group of citizens that advise each Town Meeting on the probity, practicality and value of any of the matters before the Meeting. The Association of Town Finance Committees is a statewide Massachusetts organization dedicated to enhancing the role of finance committees in local government through professional standards, education programs and inter-Town networking.

The ATFC maintains and publishes The Finance Committee Handbook, organizes at least two annual educational and professional meetings for finance committee members, and provides through its affiliation with the Massachusetts Municipal Association an avenue for member towns and their committee members to influence state government policy that affect local cities and towns. The ATFC Board is the elected body chartered with implementing the mission of the ATFC for the membership, in association with MMA staff. An Advisory Committee is appointed by the Board from among the membership, and advises the Board on the interests and needs of the broader ATFC membership.

# Forward

The Association of Town Finance Committees (ATFC) is pleased to present the updated Finance Committee Handbook. This handbook is written for both new and veteran finance and capital planning committee members.

This handbook is a compilation of efforts of a fine group of volunteers like yourself. Experts in municipal law and finance including, accountants, auditors, treasurers, finance directors, administrators, attorneys, educators, bankers, state officials and finance committee members have freely given of their time, knowledge and experience to write this updated reference book. It is our hope that this handbook will help you as you assist your towns. We very much want to hear your comments and suggestions for the future.

Respectfully,

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# THE ROLE OF THE FINANCE COMMITTEE

The ATFC. has received many calls involving the duties and power of the finance committee. These have usually been instigated by clashes with the board of selectmen or town administrator, who are often getting more assertive in claiming a role, or even asserting sole responsibility, in presenting the budget to town meeting. This preface will duplicate parts of the following chapters, but I feel it important to bring together key elements of this issue.

This preface will summarize this "discussion" into the broader framework of the division of powers within local government. I see this division of powers as comparable to that at the state and federal government. The board of selectmen and town manager/administrator/executive secretary are part of the executive branch of government. It is their job to collect budget information, develop budget priorities and formulate a balanced budget, the same as a president or governor.

Once developed, that budget is presented to the finance committee, representing the legislative branch, the town meeting. In effect, the local finance committee has the same role as the House Ways and Means Committee in the State Legislature. It is the finance committee's responsibility to receive the budgets from the executive branch (either as a collective whole or individually by department), analyze them, have hearings where the department heads and the public can testify, and present a balanced budget to town meeting. That budget should reflect the finance committee's decisions based upon their best judgement of the issues and finances of the town. The budget before town meeting is the finance committee's and it is their job to explain and defend it. This does not preclude department heads or the town administrator, if any, from being called upon to answer questions or explain items in more detail, but it is the finance committee's budget.

If the board of selectmen or town administrator disagrees with any item, they can submit a substitute motion, as is the right of any participant at town meeting. At this stage, the board of selectmen have an advantage over a governor in that they can participate in the town meeting process. However, they have the disadvantage of not being able to veto what town meeting passes.

The statutory backing for this analysis is Chapter 39, Section 16, of the Massachusetts General Laws. It states:

> "Every town.....shall....by by-law provide for the election or the appointment and duties of appropriation, advisory or finance committees, who shall consider any or all municipal questions for the purpose of making reports or recommendations to the town...".

"Town" means town meeting. Section 16, quoted above, is contained within the "Town meeting" section of Chapter 39 between two sections on the town moderator. Most finance committees are appointed by the town moderator, an official of the legislative body, town meeting.

Section 16 goes on to read:

> "In every town having a committee appointed under authority of this section, such committee, or the selectmen if authorized by a by-law of the town, and, in any town not having such a committee, the selectmen, shall submit a budget at the annual town meeting"

In other words, unless no finance committee exists, or a by-law of the town specifically authorizes the selectmen to submit the budget, the budget shall be submitted by the finance committee.

The Department of Revenue, Division of Local Services, reinforces this with an "In Our Opinion" 93-310 issued on April 27, 1993 titled

> "Role of Finance Committees and Boards of Selectmen in Budget Preparation and Submission to Town Meetings
>
> A board of selectmen in a town with an elected or appointed finance committee has no statutory role in the preparation and submission of the annual budget, unless it is expressly given a role by by-law. If not, the finance committee is responsible for preparing , submitting and distributing the budget under G.L. Ch. 39 S16 and Ch. 41 S59 and S60."

This does not mean the finance committee should have an adversarial relationship with the board of selectmen or town administrator. In fact, the finance committee should develop a good working relationship with both. By being open to suggestions and other opinions and working out compromises on key issues, the finance committee can be more effective in presenting its recommendations to town meeting. When compromises cannot be made, the issues should be narrowed to provide town meeting with a clear choice.

Obviously, the content of the town by-laws is a critical element in the role of the finance committee. They often spell out the details of the budget process and the role and powers of the finance committee. Committee members should read their by-laws very carefully and be vigilant of attempts to bypass their critical function of providing independent and carefully considered advice to the town meeting. Without finance committee independent review, the town meeting would be at a severe handicap in voting on financial matters when all of the recommendations are coming from one source. Separation of powers was designed by our founding fathers for a reason—Defend It.

Respectfully,
Allan Tosti,
Chair, Arlington Finance Committee
Past President, ATFC
Editor, Finance Committee Handbook

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# 1 TOWNS AND TOWN GOVERNMENT

## Introduction

Towns in Massachusetts originated from the earliest settlements in our country. The Pilgrims came to Massachusetts Bay in the early seventeenth century, and the meetings and decisions of the men in these settlements developed over time into the formal legislative body known later as town meeting. As issues became somewhat more complex and the settlers became preoccupied with other life sustaining pursuits, a few Freemen were "selected" to make necessary decisions between town meetings (these individuals later became known as selectmen). Other town positions and responsibilities also evolved from the very character of colonial settlement life. In addition to selectmen, the positions of constable, pound keeper and fence viewer were prominent in the early Massachusetts town governments.

Over 200 towns were officially settled prior to the adoption of the Massachusetts Constitution of 1780. Curiously, no mention was specifically made of towns in the constitution. However, in 1785, the Massachusetts General Court formally confirmed the boundary lines of every town in the Commonwealth. The legislature also determined that these towns should continue to be corporate bodies, retaining all powers they had exercised until that time, and subject to all duties for which they had previously been liable. It was not until 1821 that towns became populated enough to merit the consideration of a separate form of government. In that year, Boston became a city. Today, over 300 of the 351 municipalities remain incorporated as towns, retaining the basic institutions of selectmen and town meeting that were created over three centuries ago.

## Organization and Authority of Towns

Massachusetts' local governments exist at the discretion of Massachusetts state government. The legislature has the authority to incorporate or dissolve cities and towns as corporate entities and to merge or consolidate them. In the United States, political subdivisions of states have never been considered sovereign entities, but rather as subordinate instrumentalities created by the states. These municipalities (and counties) assist the states in carrying out their governmental functions. The Home Rule Amendment passed by the Massachusetts General Court in 1966 recognized the long standing tradition of independent towns, formally granting municipalities the right of self-government in local affairs. Article 9 of the Articles of Amendment of the State Constitution and the Home Rule Procedures Act (Chapter 43B M.G.L) granted cities and towns the authority to adopt, amend or repeal local ordinances or bylaws and to exercise any power or function which the General Court has power to confer upon them so long as that authority is not inconsistent with the constitution or laws enacted by the Massachusetts Legislature.

While most towns possess a board of selectmen and a town meeting, the differences in the organizational structure of towns varies widely. A patchwork of state laws exist that enable towns to create various official positions and bodies to carry out governmental functions. In recent years, the need for towns to function in a highly complex setting under intense fiscal constraints has resulted in a reduction in the role of part-time elected or appointed bodies. Full-time professional administrators and department managers are now widely used in Massachusetts local government.

Despite the variations in organizational structure throughout town government, there are three essential organizational forms:

- *decentralized*, with limited authority delegated by the board of selectmen to professional staff or in some cases an executive secretary;
- *moderately centralized*, with legal authority delegated by the board of selectmen to a town

administrator or executive secretary; and

- *highly centralized*, with legal authority vested in a town manager or town administrator.

## Operation of Present Day Towns

Today, the operation of municipal government is not unlike a large enterprise providing services to its clients. A town must deal with labor issues, technological advances in computers and communications, investments and financial controls, as well as maintenance and replacement of its capital assets. Towns must also accomplish all of this under the scrutiny of the public.

Residents may be compared to a business' stockholders. In many towns, resident participation is actively sought. The open meeting and freedom of information laws, combined with an aggressive local print media and cable television public access, make the workings of local government widely accessible. In addition, most operation of local government is regulated in some way by the federal and/or state government. As a result, municipal government tends to be "public" in every sense of the word.

In all towns, a town meeting convenes each spring to appropriate funds and consider all local bylaws. As local government has become more complex, larger towns have adopted a representative form of town meeting, with members elected by precinct or districts. No matter what form of local government a municipality utilizes, its citizens are an essential part of the organization, serving as the town's legislative body or on various advisory or regulatory boards (some "towns" are essentially cities operating with a mayor or manager and council).

Public education has always dominated the priorities and resources of Massachusetts' towns. All towns also regulate uses of land, construction of buildings, preparation and sale of food, and parking and traffic on their roadways. Other basic programs and services include roads, trash collection, water and sewer, police and fire protection, emergency medical services, libraries and cemeteries. Many towns also provide comprehensive recreational and social services.

## The Structure of Town Government

It is unlikely that any two Massachusetts town governments have identical organizational structures. This is because towns evolve unique values, needs and expectations regarding local government and its services. Further, state law allows towns to tailor the components of their organization to their own particular needs. It is also worth noting that the variety of structural options available to municipalities was greatly expanded in 1966, when Massachusetts adopted the Home Rule Amendment to the state constitution, granting new powers of self-determination to cities and towns.

In all three organizational models sketched above, complete legislative authority rests with town meeting. Regardless of the degree to which a town centralizes or decentralizes its structure, there will continue to be a number of independently elected officials, boards, and commissions. Chapter 41, Section 1B and Chapter 39 Section 14 M.G.L. requires that selectmen, the school committee and the moderator be elected directly. The selectmen typically retain the authority for certain appointments, such as board of appeals, historic district commissions, commissioners of trust funds as well as various ad hoc committees. Even in the most highly centralized municipal governments, there is a tendency to directly elect other boards and commissions, e.g. planning boards, housing authorities.

Ultimately each town has the discretion to create an organization that reflects its history, traditions, values and needs. Regardless of the regulative model chosen, it is important to realize that governmental management — both today and in the future — requires the presence of some form of professional management.

## Town Charters

Since the adoption of the Home Rule Amendment to the Massachusetts Constitution, towns have exercised their right to self-government in formulating their administrative structure. This has

allowed towns to adopt their own formal charter, which is a local government's constitution, or an informal charter, otherwise known as a legal base. Each structural package governs how a given town operates.

A charter may set forth a municipality's type of legislative body, determine which officials are elected and appointed and establish procedures for the operation of town government. A legal base provides the same outline of a town's government, but does so through a compilation of administrative bylaws, special acts and accepted state statutes.

## Legislative Authority

The legislative authority of a town rests with town meeting. Several towns have adopted charters creating town councils as their legislative bodies. Most towns in Massachusetts have open town meetings, which allow all registered voters in the community to take part in the law-making process. Other communities have representative town meetings, in which voters elect town meeting members by district or precinct to represent them. Although the right to vote at representative town meeting is reserved for elected members, citizens retain the right to address an elected town meeting member upon recognition of the moderator. It should be noted that only towns having a population of greater than 6,000 can adopt a representative town meeting (Chapter 43A M.G.L and Article II Contsitution).

Regardless of the type of legislative body, all towns possess some authority to institute bylaws and to raise and appropriate funds. State statute requires a town to hold at least one annual town meeting each year. The annual town meeting must be held in February, March, April or May unless otherwise stated by a special act or the town's charter. All municipalities must hold an annual town meeting prior to June 30 (Chapter 39 M.G.L.).

In addition to their annual town meeting, towns may hold special town meetings as needed. Special town meetings may be called at any time either by the board of selectmen on their own, or upon receipt of a petition signed by 200 voters or one tenth of the registered voters, whichever is less. The meeting must be called within 45 days of the selectmen's receipt of a valid petition.

Both annual and special town meetings are called by a warrant. The warrant is usually issued by the board of selectmen and states the time, place and business (articles) for the meeting. Annual town meetings warrants must be issued seven days prior to the meeting. Warrants for special town meetings must be issued 14 days prior to the meeting. Articles for annual town meeting can be placed on a warrant by the board of selectmen or by a petition signed by at least 10 registered voters of the community. Special town meeting articles can be placed on the warrant by the board of selectmen or by a petition signed by at least 10 percent of the town's registered voters or 100 registered voters, whichever is less. It is left to each town to determine how the public is notified. Some towns post the warrant in several public places, others publish it in the local newspaper. Discussion is beginning as to posting on a town's Web site. Each warrant article is voted upon separately by members of the legislative body. Town meeting can take action only upon subject matter contained within an article.

The moderator presides over town meetings. The moderator is either elected for a term of one or three years, or is elected by town meeting as its first order of business.

The legislative body of a town has the following major functions:

- raise and appropriate funds;
- enact bylaws; and
- accept state statutes.

Although action is not limited to these three items, most votes by a town's legislative body affects these areas.

Bylaws are a town's version of laws. They can be adopted only by a vote of the municipal legislative body. Once a bylaw is adopted, it can be repealed

or revised in the same manner. The town clerk must submit all adopted bylaws to the Attorney General's office for review within 30 days of a bylaw's passage. If the attorney general does not "act" on a bylaw within 90 days, it automatically becomes law.

Typically, there are three types of bylaws:

- *administrative bylaws*, which regulate the government, organization and procedure of town business, and the conduct of citizens;
- *zoning bylaws*, which regulate the use of land; and
- *personnel bylaws*, which regulate administration and conduct of town employees, including pay and job classification.

In addition to bylaws, the operation and administration of a town can be affected by federal and state statutes, regulations and court cases. State statutes either impact all towns or are local option laws. Local option laws impact a town only when the municipal legislative body votes to accept them. Such acceptance may be rescinded by the legislative body after a set time period. Certain decisions or opinions by the courts at both state and federal levels of the government can also impact how towns govern .

## Elected and Appointed Officials:

A town's charter or legal base identifies which officials are elected or appointed. The different types of town officials and the boards, committees, and commissions functioning in town government are numerous. At a minimum, every town must have a board of selectmen, school committee, town clerk and treasurer. The board of selectmen and school committee must be elected. The town clerk and the treasurer may be either elected or appointed.

## Board of Selectmen

The board of selectmen is made up of at least three members, or in some towns, five members. They are elected for three-year terms. The board of selectmen are the principal officers of a town , having general supervision over all matters not delegated by law or vote to some other official or board. With the exception of a few municipalities, no funds can be expended or paid out by the treasurer unless approved by a warrant signed by a majority of the board of selectmen. Nor may any money be borrowed by the treasurer unless the selectmen approve the action. The selectmen are also required to sign all bonds and notes for borrowing funds, and are given authority as the town licensing board by the state.

If approved by the voters at a town election, the position of selectman can be combined with one or more of the following positions: board of assessors, board of health, municipal light commission, park commissioner, water and light commissioner, water and sewer boards. The same law that allows this consolidation also authorizes the selectmen to appoint cemetery commissioners, assessors, a superintendent of streets, chiefs of police and fire departments, a tree warden or any combination of such officers (Chapter 41 M.G.L.).

## School Committee

The elected school committee is responsible for the administration and budget of the town' s education system. This includes the appointment of a superintendent of schools who in turn appoints other employees of the school system. With the passage of the Education Reform Act in 1993, the role of the school committee has largely become one of policy-making, with greater authority given over to the superintendent (Chapter 71 M.G.L.).

## Town Clerk

The town clerk is recorder of official town business. S/he is responsible for the conduct of elections and is the executive member of the town's registrar of voters, being responsible for the preparation publication and circulation of the town's voter list. Town clerks also issue and collect fees for licenses such as marriage licenses, sporting licenses, hunting, fishing and trapping licenses, and dog licenses (Chapter 41 M.G.L.).

## Treasurer

The town treasurer is responsible for the management of town funds. Treasurers receive and disburse cash, invest available cash, issue and manage debt obligations and manage bank relations. They may also administer group insurance, payroll, and pension and retirement systems.

## Other Functions

In addition to the above-mentioned governmental services, every town must provide for the administration of the following: (Chapter 41 M.G.L.)

- *Assessment of taxes:* This is generally the responsibility of the board of assessors.
- *Collection of taxes:* The tax collector position is sometimes combined with that of treasurer. In either case, the position may be appointed or elected.
- *Accounting of financial records:* The town accountant serves as comptroller of the budget. All municipal expenditures are paid through the town accountant's office and placed on a warrant for the board of selectmen to sign. An independent outside auditor is responsible for auditing the "books" of the municipality .
- *Health activities:* These are conducted under the jurisdiction of the board of health.
- *Road maintenance:* Upkeep of town roads generally falls under the supervision of the department of public works. In towns where there is no department of public works, the highway department would usually be responsible for road maintenance.
- *Care of public shade trees:* This is the responsibility of the tree warden.
- *Preservation of peace and public safety:* Public safety is the responsibility of the police and fire departments, as well as departments such as building inspections and civil defense.

Other important town departments or officers include:

- *Planning board:* All towns with a population of greater than 10,000 must establish a planning board. The planning board administers the subdivision control law and zoning bylaw. The size of the board is generally between five and nine elected members.
- *Board of appeals:* The board of appeals considers variances and special permits within a town's administrative and zoning bylaws. Zoning bylaws must provide for a zoning board of appeals unless otherwise specified in a charter.
- *Zoning administrator or zoning enforcement officer:* This is an appointed position and the designee is responsible for ensuring that building and land use within a town complies with the zoning bylaws.
- *Conservation commission:* The conservation commission promotes and develops a town's natural resources, protects the town' s watershed and administers the Wetlands Protection Act. A town may establish a conservation commission with three to seven members.
- *Finance committee:* Towns with a property valuation of $1 million or more must create (either by charter or bylaw) a finance committee. In some towns it is known as the advisory, warrant or appropriation committee. Most committees are appointed by the moderator, although in some towns the selectmen are the appointing authority. In some cases, however, finance committee members may be elected.

The finance committee's prime responsibility is to make recommendations on all financial matters, including the budget, to town meeting. The committee has oversight responsibility for all municipal financial matters, as well as other statutory authority granted to them by town bylaws (See Chapter 3).

*This chapter was prepared by: Timothy Higgins, Melvin A. Kleckner, and Richard A. Montuori and updated by Allan Tosti.*

# 2 MUNICIPAL BUDGETING

## Introduction

A budget is a plan expressed in monetary terms covering a specific period of time. Regardless of the level of government, a governmental budget consists of three elements:

- *an estimate of revenue*, indicating amounts by source;
- *a statement of expenses*, by organizational unit, program, and/or expense item; and
- *a specified time period*, usually a fiscal year.

In local government, municipalities have various revenue-raising powers, some granted by state statute, others established by local bylaw or by vote of town meeting, the selectmen or the school committee. Towns raise revenues to support programs and services.

Town expenses reflect the cost of programs and services that are provided directly by a municipality's departments or in concert with other governmental units (e.g. regional schools). Municipal budgets may present these expenses in a variety of ways, offering greater or lesser detail about expenses related to departments, programs and expected activities or outcomes.

In Massachusetts, the governmental fiscal year begins on July 1 and ends twelve months later on June 30. The fiscal year for the federal government, however, begins on October 1 and ends on the following September 30. (References to a particular fiscal year reflect the year of the month in which the fiscal year ends. FY 2007 indicates the fiscal year that will end on June 30, 2007, for Massachusetts governmental units, or the federal fiscal year that will end on September 30, 2007.)

Citizens are now demanding larger roles in the resource allocation process and greater financial accountability from public officials. Developing budgets that achieve those goals will improve the budgeting process in our communities.

## Purposes of the Budget

The language of budgets is dollars and cents, but a town's budget should communicate more than the relationship of revenues and expenses for a given fiscal year. The Government Finance Officers Association (GFOA) conducts the only national awards program in governmental budgeting. In presenting its Distinguished Budget Presentation Award, the GFOA recognizes government entities whose budgets serve four essential purposes. The guidelines require that the budget document be a:

- *policy document,* identifying the organization's challenges, programs, and financial goals and policies;
- *financial plan,* presenting the town's current financial condition, comparing all revenues and expenditures for the prior year, current year, and coming year, stating economic assumptions and projecting the town's financial condition at the end of the budget period;
- *operations guide*, describing municipal services and operations, such as police and fire protection, education, maintainance of streets, parks, water and sewer systems and identifying measures of activity, effectiveness and efficiency for individual programs or departments; and a
- *communications device,* articulating a community's challenges and priorities for the coming year and summarizing for taxpayers and other interested individuals and organizations how the town's programs, services, and finances will meet those challenges and accomplish those goals.

## Revenues

While demands for services generally outstrip available resources, forecasting anticipated revenues for the coming year establishes the framework for preparing a town budget. The array of

services provided by Massachusetts communities varies ; however, towns primarily raise revenues from the following sources:

- property taxes;
- state aid;
- local receipts; and
- other available funds.

## Property Taxes

Taxing the value of real estate (land and structures) and personal property (equipment owned by commercial entities) accounts for approximately 50 percent of all local revenue. The amount of property tax revenue a town can raise is governed by a law known as Proposition 2 1/2 (Chapter 59 s 21C M.G.L. ). In general, Proposition 2 1/2 limits the amount of property taxes raised in any year to 2 1/2 percent of a community's assessed valuation and limits the total increase in property taxes levied from one year to the next to 2 1/2 percent (See Chapter 6).

This legislation suggests a simple formula for estimating property tax receipts for the coming year, however, the law also allows for raising additional taxes based on growth in the tax base resulting from new construction and improvements to existing properties.

## State Aid

State aid accounts for 10-25 percent of local revenue, and projecting state aid is often an imprecise process. Each year the Department of Revenue issues a document to every city, town and regional school district known as the Cherry Sheet - called that from the paper it was originally printed on (See Chapter 4 and Exhibit L). This two-page document lists the various categories and amounts of state aid provided, as well as offsets and charges from the state, county, and special district assessments that the town owes to other levels of government. Thus, the Cherry Sheet reflects state aid for the coming year minus the deductions for these intergovernmental charges. (While these assessments are charges to the town, they are not voted on as an appropriation by town meeting.)

The state budget is generally not enacted until the late spring or early summer for the fiscal year that begins July 1. Yet in order for the budget process to proceed in an orderly fashion, reasonable revenue estimates must be made six-to-eight months earlier. Lacking firm estimates of state aid for the coming year, the current year's Cherry Sheet is a useful beginning point for estimating these revenues.

Information from the governor's proposed budget, projected growth in lottery receipts or any changes proposed anticipated in other grant programs may be evaluated to refine preliminary estimates. In some years the legislature also provides early information about the likely distribution of education aid and other major state aid accounts.

There are a number of state aid accounts that can change significantly from year to year. Some of these (such as the ending of a school building assistance payment schedule) should be evident to local officials; others will be substantially more difficult to anticipate.

## Local Receipts

Each town determines the extent to which programs and services will be supported by fees and charges. Also, towns may levy and collect taxes and fees within the provisions of state statutes. Such local receipts collected by the community include, but are not limited to, the following:

- motor vehicle excise;
- water and sewer charges;
- penalties and interest;
- charges for services;
- departmental revenue;
- licenses and permits;
- fines and forfeits;
- investment income; and
- hotel/motel tax.

Outside of hotel/motel and motor vehicle excise taxes, it is user fees, licenses and permits that constitute most local receipts. While a user fee cannot be a way of instituting a "hidden tax", state law allows towns to establish user fees to recover all of

the direct and indirect costs of providing a service. (See Chapter 9.) Local receipts often account for as much as 20 percent of a town's estimated revenues.

## Other Available Funds

This category includes a variety of funds that are available for appropriation to balance the budget. The following is not an exhaustive list, but briefly describes the major categories of other funds available to most towns.

*Free Cash*

Free cash is also referred to as an unappropriated fund balance, and is a factor in every budget cycle. The Department of Revenue certifies amounts of "free cash" resulting from closing the financial books as of June 30, the end of the fiscal year. Generally, the calculation incorporates:

- *surplus revenue:* revenue collections in excess of estimated revenues;
- *budget turn backs:* unexpended appropriations;
- *prior year's free cash:* the fund balance from last June 30 that had not been appropriated for the current year's budget; and
- *outanding property taxes:* taxes collected from prior years.

A town's free cash, or "budgetary fund balance," is the amount of funds that are unrestricted and available for appropriation. While towns may appropriate free cash to balance the budget for the coming fiscal year, an ample free cash balance provides towns with financial flexibility. Town meeting may appropriate from free cash during a given fiscal year to meet unexpected expenses or to fund a needed capital project. Depleting free cash, particularly to balance annual budgets, may suggest that a community will face tighter financial times without such funds to supplement annual revenues. This drawdown on reserves might also have a negative impact on the town's credit rating.

*Stabilization Fund*

Some communities maintain a more formal "rainy day" fund called the stabilization fund. Analogous to a bank account, town meeting can appropriate or "make deposits" into this fund for use at some future time. A stabilization fund can be used for any legitimate municipal purpose. While a simple majority of town meeting is needed to appropriate to the stabilization fund, a two-thirds majority is necessary to appropriate from this fund. Legislation passed on July 31, 2003 (Chapter 40 s5B M.G.L.) allows the creation of multiple stabilization funds for specified purposes (See Department of Revenue IGR No.04-201).

*Miscellaneous Revenue and Other Funds*

These include federal and state grants, gifts, funds from the sale of assets, insurance proceeds in excess of $20,000, transfers from other town accounts (such as a parking meter fund) and other reserve accounts permitted by state law.

## Expenditures

Most municipal budgets focus on how a town's limited resources will be allocated to meet service demands — how the community proposes to spend its money. Preparing (or at least reviewing) spending plans, analyzing their consequences, and presenting recommendations to town meeting is the essence of the finance committee's charge.

Budgets present operating and capital expenditures at various levels of detail for the different town activities. The budget will contain departmental budget requests, non departmental budget requests from commissions, boards and committees, and off-budget items. The latter may not require town meeting approval but nonetheless represent charges, assessments or other financial commitments of the town.

## Departmental Expenses

A typical budget for an operating department might reflect these expenditure categories:

- personal services;
- purchased services;
- supplies;
- other expenses; and
- capital outlay.

Each category may be further described as expense objects, or line-items, and the budget document may

provide additional supporting information, such as:

*Wage and Salary Requests*

Each department may present a schedule of position titles, numbers of full-time equivalent positions budgeted, and salary and wage schedules to support personal services budget requests for the coming fiscal year. If union contracts are not yet settled, an amount for a collective bargaining increase is generally not included. However, funds for this purpose should be set aside. State law requires a specific vote by town meeting to fund a non-school collective bargaining settlement (Chapter 150E M.G.L.).

Because employee compensation often accounts for over 80 percent of a town's operating expenses, the budget should provide ample financial information supporting wage and salary requests.

*Other Operating Expenses*

These expense requests should also describe in greater detail the broad categories of purchased services (utilities, maintenance, professional services ), supplies (office supplies, vehicle supplies), other expenses (travel, training ) and capital outlay (desks, chairs, office equipment).

Budget guidelines should define which capital outlays are appropriate for operating budgets and which should be in capital budgets.

## Non Departmental Budgets

Most towns separate budgetary items that are not the responsibility of any one department. These expenses include items such as employee benefits, including social security, retirement contributions and health insurance premiums. Other non-departmental items are: debt service; liability insurance; and requests such as reserve fund appropriations.

In general, the level of detail supporting these requests should reflect the magnitude of the request and its relationship to elements of the operating budget. As the cost of employee benefits has grown relative to wages, some towns allocate such costs to the appropriate operating departments or programs. If the budget request fails to relate benefit costs to department or program costs, an analysis is necessary to demonstrate the full cost of the department or program.

## Off-Budget Items

The finance committee must consider some items as part of the budget, even though town meeting does not appropriate funds for such obligations. For example, a balanced budget must include Cherry Sheet assessments, court judgements, overlay reserves (reserves for future property tax abatements), and deficits required to be reaised in the next year's tax rate. (Chapter 59 s 23 M.G.L.)

## Revolving Funds

A revolving fund receives its income from selling goods and services to users or participants in a program, and expends monies to cover the costs of such goods or the expenses of providing the particular program or service. The intent is for such activities to break even financially, and the revolving fund is a mechanism that allows for fluctuations in levels of activity. Revolving funds exist under specific statutory authority and operate without appropriation by town meeting. M.G.L. Ch. 53 E 1/2 allows a wide variety of revolving funds. (See Chapter 3)

Revolving funds are commonly used for park and recreation programs; school athletic programs; community, adult education, and continuing education programs; and school lunch programs. A revolving fund must be authorized annually by town meeting.

## Capital Expenditures

Each community should develop a separate five-year capital plan that indicates specific capital requests for the coming fiscal years. This section of the budget presents the purchases proposed to replace or augment the town's fleet of vehicles and equipment; expenditures to replace, upgrade, or expand the town's infrastructure — roads, streets, sewers, and buildings; and major investments in any of the town's fixed assets. This section of the budget should identify the funding sources for the capital plan and for the coming year's requests. Chapter 11 of this handbook presents a comprehensive discussion of capital planning and budgeting.

## The Budget Process

An effective budget process begins with a clear understanding of who will be responsible for the essential budget activities:

- issuing budget guidelines;
- preparing budget requests;
- assembling requests into a comprehensive budget for review; and
- reviewing, analyzing, and recommending a budget to town meeting.

Statutory responsibilities, town bylaws, and the town's organizational structure dictate, or at least influence, who is responsible for each of these activities. In general, the executive branch of town government should be responsible for the first three budget development activities. The finance committee should focus on the last of these four activities.

Municipalities with town managers or similar professional positions generally give responsibility for budget development to the individual(s) holding said position. In towns without a coordinating professional manager, the budget-making responsibility should still belong exclusively to the executive branch of the government — the selectmen. The school superintendent and school committee, the executive branch of government for local school systems, retain responsibility for developing the local public school system budget. In some communities, the bylaws state that the selectmen are responsible for presenting a comprehensive, balanced budget to town meeting.

The divisions of labor and responsibility are further complicated when certain municipal officials are elected, or when operating departments report to separately elected boards and commissions. In such situations, the finance committee may receive several budgets and must consolidate and balance the budget itself. Unless required by town bylaws, however, it is not advisable for the finance committee to take on the budget-making role directly. Such a role usurps some of the powers and responsibilities of elected officials and their appointees, and compromises the committee's primary statutory role as objective advisor to town meeting. In addition, this process can be a daunting task for a volunteer committee, particularly without the help of a professional in the town's administration, such as the town accountant.

## Practical Steps in The Budget Process

The practical steps in this budget-making process mirror the development and publication of the following specific materials:

• *budget calendar,* setting forth responsibilities and due dates, providing for adequate review periods, and allowing for advance notice to the public regarding hearings prior to the town meeting;

• *preliminary projections* of revenue estimates and non-operating expenses that the town must provide for (Cherry Sheet and overlay assessments). Early presentation of these projections allows all interested parties (selectmen, school committee, general public) an opportunity to review and question;

• *budget guidelines* establishing overall parameters for consolidated town and school budgets and a framework for budget development for department heads and other officials;

• *budget instructions* describing how to use the standardized forms and procedures for the preparation of the budget requests;

• *budget presentation format* indicating the form and content of the budget document. Will it compare prior years' actual expenditures and the current year's budget? What supplemental data will be included? What special challenges or issues will the document address?

• *comprehensive budget document* incorporating operating and capital budgets from all town bodies, as well as non-departmental and other budget requests;

• *schedule for review and public hearings* allowing for public comment, questions, and justification of budget requests;

• *recommendations* by the finance committee to

town meeting.

## Calendar of Budget and Financial Events

The work of the finance committee can be year-round, although most committee activities take place from December to May. In a typical municipality, budget guidelines, worksheets and instructions are distributed to departments in the fall. Over the winter months, these requests are reviewed by the town administrator and selectmen, by the superintendent and the school committee, and by finance committee members. At some point in late winter, early or even late spring, these reviews culminate in the finance committee recommendations to town meeting.

In some communities, at certain stages during the review, a town administrator or manager may present a consolidated budget recommendation for consideration by the board of selectmen and finance committee.

The following schedule summarizes the major financial events occurring during the fiscal year and notes the roles of various local and state offi-

| When | Event | Who |
|---|---|---|
| Aug-Oct. | Certify Free Cash (used in coming fiscal year revenue projections.) | town accountant, Department of Revenue |
| October | Begin budget process for coming year. Establish next fiscal year budget guidelines. | selectmen, departmentheads, finance committee, school committee. |
| | Develop and distribute budget guidelines and forms. | |
| October | Set tax rate for communities with semi-annual billing. | assessors, selectmen |
| Oct. - Nov. | Review departmental budgets. | town administrator, |
| November | Submit budget requests. | department heads, school department, selectmen, town administrator |
| November | Set tax rate set for communities with quarterly billing. (New growth in tax levy calculated.) | assessors, selectmen |
| November | Begin capital planning process. | selectmen, department heads, finance comm., CIP committee, selectmen, accountant, finance committee |
| December | Prepare initial revenue/expenditures projections for coming year. | |
| January | Release "House 1"; first indication of state aid for coming fiscal year. | Governor |
| February | Begin preparation of budget recommendations. Meet with department heads. | finance committee |
| March | If Legislature passes a Local Aid Resolution, Cherry Sheets will be issued. | state legislature Department of Revenue |
| March | Prepare final revenue/expenditure projection for coming fiscal year in preparation for town meeting. | selectmen, finance committee |
| March | Prepare town meeting warrant recommendations. | finance committee |
| April-May | Town meetings take place. | |
| June | Make any reserve fund transfers necessary, to complete fiscal year | finance committee |
| | Transfer funds within and between dept. budgets | selectmen, finance committee |

cials. Town meeting dates influence the timing of some of the scheduled activities.

Any general schedule such as the one above will not reflect the unique and special circumstances of the Commonwealth's diverse local communities. The schedule for budget preparation depends upon a number of factors — the town's organizational structure, budget preparation bylaws, staff support and town meeting dates.

## Budget Participants

The calendar of events reveals a surprisingly long list of participants who affect and influence the process of developing, reviewing and approving budgets. With the caveat that individual towns may depart from the norm, a brief description follows of the roles and responsibilities of these players in the budget process.

*Board of Selectmen*

The selectmen are the town's executive board with overall responsibility for the general operations of town government. Because of their broad role, they should participate in the budget process, provide leadership in the development of the capital improvement plan, and provide oversight and monitoring of the financial performance. In most towns, the board prepares the annual municipal budget. Professional staff appointed by the board generally oversee the town's day-to-day operations and town finances. In particular, these appointees may include a town administrator or town manager and/or a finance director.

*Finance Committee*

The finance committee is a town's official fiscal watchdog. Its primary responsibility is to advise and make recommendations to town meeting on the budget and other areas of finance, although in many towns they prepare and submit the budget as well as comment on it. The state statutory authority of the finance committee does not vary from community to community, but the role and process does.

*Town Accountant*

The town accountant is responsible for maintaining the town's financial records, including the statement of revenues and expenditures, balance sheet, and any other records required by law or regulation. No bill can be paid without the approval of the town accountant. The authority of the town accountant is strictly governed by state law. The town accountant will generally play a key role in working with the town's independent auditor.

*Treasurer/Tax Collector*

The authority of town treasurers and tax collectors is strictly governed by state law. Most communities have combined the position of treasurer and tax collector, although there is no requirement to do so. As the town's cash manager, the treasurer is responsible for the deposit, investment, and disbursement of town funds. While only the treasurer can sign checks to pay the town's bills, treasurers cannot release any funds without the approval of the town accountant. The treasurer is also responsible for debt management as well as banking relations.

The tax collector is responsible for collecting property taxes and motor vehicle excise taxes, water/sewer charges and a variety of other municipal receipts.

*Assessors*

The board of assessors is responsible for the valuation of real and personal property for the purpose of levying the property tax. The assessors are also responsible for submitting the tax rate recapitulation (recap) Sheet to the Department of Revenue, although the preparation of this document is generally a team effort by the town's finance officials. The tax recap Sheet is the legal document used to set a community's tax rate. The assessors also have the authority to grant abatements and exemptions to taxpayers, subject to the authority provided by state law.

*Finance Director*

In recent years a trend has emerged to consolidate town financial functions in the role finance director (M.G.L. Ch. 43c s 11). The enabling statute allows for wide local discretion in defining this role. Therefore, functions and responsibilities vary greatly between and among communities. Many

positions include responsibility for assessors, town accountants, treasurers and collectors.

*Department Heads*

As budgets have evolved from financial documents to statements of programs, services and expected outcomes, the role of the department head has become more central to the budget process. In contrast to the practice of simply crunching numbers, department heads in most communities now develop budget requests that describe the service impacts of proposed spending levels. Town meeting expects department heads to justify their requests by linking departmental spending to program benefits.

*Town Meeting*

Town meeting is the legislative body and appropriating authority of a town. As such, it enacts bylaws (i.e., local laws), approves the operating and capital budgets, authorizes the town to borrow funds and may ratify major policies concerning the financial management of the municipality.

## Budget Formats

There is a common misconception that the Commonwealth prescribes a mandatory budget format for towns. There is no such requirement; therefore, no two town budget documents are alike. The Division of Local Services of the Department of Revenue, however, has determined that towns may rely for guidance upon M.G.L. Ch. 44 s 32, which sets forth the budget format for cities.

Even professional governmental management and finance associations, such as the GFOA, direct their guidelines to what should be presented rather than how to present it. The most practical approach to determining the format of various budget documents is to focus on the product of the budget development process - the comprehensive balanced budget and the finance committee's report to town meeting. Recognize that these documents must serve multiple purposes:

- *They must communicate the proposed financial plan* to town meeting and to the broader community. Ideally, the budget document would meet the criteria for budget presentation set forth by the GFOA.
- *They must be the basis for town meeting's appropriation of funds* for the various departments, programs, capital expenditures and other nondepartmental expenses.
- *They must establish the framework for the financial controls* necessary to administer the budget during the fiscal year, assuring that expenses will not exceed appropriations and permitting appointed and elected officials to monitor results versus the financial plan.

In addition, the format for budget presentation and town meeting appropriations establish the parameters for expense control and management flexibility.

*Line-Item Budgets*

A line-item budget presentation for each department will likely focus all attention on expenditures and none on the results of expenditures. Monitoring expenses and appropriations at the line-item level will require extensive and time-consuming vigilance to limit spending to each specific appropriation. Since every budget is a set of initial estimates and because circumstances change during the year, reserve fund transfers and supplemental appropriations may be necessary to respond to mid-course corrections.

*Categorical Budgets*

A budget that groups line-items in departments into categories, such as personal services and other expenses, offers greater flexibility but imposes somewhat rigid controls. Such specific town meeting appropriations within each department prevent the department head, town administrator, or selectmen from managing for results. The manager has no discretion to determine the most effective and efficient ways to achieve desired results and deliver services within the total amount of departmental resources.

*Single Appropriation Budgets*

A budget format that presents a single appropriation amount for each department or program simplifies the process of monitoring and making

adjustments during the year. Management can focus on delivering services rather than on accounting details. However, in some instances this format may grant more flexibility and authority than town meeting wishes to convey.

*Group or Departmental Appropriation Budgets*

A budget presented and voted as appropriations for groups of departments, for broad programs or even for the entire town government gives broad spending discretion to the selectmen and/or management team. Town meeting must have confidence in the ability and commitment of these administrators to provide the level and quality of services promised by the budget. Group budgets should only be contemplated where the accounting system is capable of providing reports to monitor expenditure detail.

Maximum control is achieved by appropriating funds for "objects of expenditure," or line-items. Spending cannot exceed the amount appropriated for the specific item. Managers gain flexibility when appropriations encompass multiple line-items or even multiple departments and programs. Such a system permits over spending line items and even departmental budgets as long as total expenditures do not exceed the amount appropriated.

This discussion of the tension between appropriation control and managerial flexibility applies only to municipal budget elements. In accordance with state law, the appropriation for the local education budget is presented to town meeting as a single amount. Town meeting has no authority to divide elements of the school department's budget, make line-item amendments or direct expenditures to specific purposes within the budget.

Town meeting must appropriate one amount for the local public schools and appropriate the assessment proposed for regional school districts. An appropriation for any amount less than what the regional school proposes constitutes a rejection of the regional school budget.

## The Budget Building Block

Regardless of the level of detail chosen for town meeting appropriation votes or for the finance committee's report, all budgeting begins with the line-item, the building block for budget analysis and understanding. Before decisions can be made about allocating resources or aggregating data for presentation, budget preparers and reviewers must achieve a detailed understanding of where revenues come from and what the town spends money for. Revenue and expense line-items provide these details.

Mastering the details is essential for some players in the budget process, but presenting line-items may in some cases impede the understanding of others. A glossary of terms might explain in detail, for example, the line-items captured as "personal services" in departmental operating budgets. An accompanying organization chart might enumerate the numbers and types of positions. Local receipts may account for $4 million in estimated revenues, but the finance committee may wish to present the specific forecasts of each revenue line-item.

As mentioned earlier, there is no state law that guides the level of detail for budget preparation or town meeting appropriation, except for the requirement to appropriate a single amount for the local education budget. Each town must determine what level of detail is practical for its own circumstances.

## Legal Requirements

To meet the minimum legal requirements for approving a budget, town meeting must vote appropriations for salaries and wages and for expenses of each town department. In addition, town meeting must vote each year to approve the salaries for elected officials.

In some instances town bylaws may prescribe specific aggregations of line-items for appropriation purposes. More typically, there is no such stipulation, and a town may adopt any degree of itemization within its budget to balance expenditure control and management flexibility. Regardless of the details of each appropriation, town meeting must approve any transfers of funds between separate

appropriations (Chapter 44 s 33B M.G.L. ) for all departments, except the town's school appropriation. The Legislature allowed for transfer by the Board of Selectmen, with the approval of the Finance Committee, during the last two months of the fiscal year to allow management flexibility during the fiscal crisis. It applied for fiscal years 2003 to 2005.

In the spring of 2006 this authority was made permanent (Ch.44:33B). It does not allow for transfers from local or regional school appropriations. The amount transferred is limited to 3 percent of the deparment budget or $5,000, whichever is greater.

If town meeting appropriates a sum for a reserve fund, then the finance committee may transfer funds from this reserve to specific departments within statutory limitations.

## Budget Preparation and Presentation Documents

Given the importance of budgets as communication devices, the finance committee must collaborate with other participants in the budget process to gather, organize, and present budget information. This section offers specific suggestions for three sets of documents essential to budget activities:

- *The budget preparation package,* the documents that request and gather budget information;
- *The budget document,* the comprehensive budget presented to the finance committee; and
- *The finance committee report,* the committee's analysis and recommendations to town meeting.

## The Budget Preparation Package

As the calendar of budget events suggests, one of the first steps in the budget preparation process is developing and issuing budget guidelines and the forms for documenting budget requests. Preparing and issuing this package involves the key budget players -- the selectmen, town administrator and finance director, as well as any other appointed and elected officials; the school committee and superintendent; and the finance committee.

Again, it is desirable to have agreed on the formats for the budget document and for the finance committee report before this package is issued. Ideally, one set of guidelines would establish the framework for budget development. Practically, the selectmen and the school committee issue separate budget preparation packages and present budgets in different formats.

The following list suggests elements of a typical budget preparation package:

- letter of transmittal;
- budget calendar;
- economic and other assumptions;
- budget guidelines;
- budget request forms and instructions;
- operating budget;
- capital budget;
- interfund transfers and other special items;
- glossaries and appendices;
- wage and salary schedules;
- chart of accounts;
- revenue and expenditure codes or line items; and
- five-year capital plan.

While requests for capital budget items may be included in this package, many towns have developed specific processes to develop capital plans and annual capital budget requests. Some towns have separate capital expenditure committees to guide this planning and/or to review capital plans and requests. These parallel activities allow for appropriate development and consideration of the service and financial impacts of investments in the town's fixed assets. A separate preparation package and timetable may be effective, and capital budget proposals may then be incorporated into the comprehensive budget document.

## The Budget Document

The budget document format should promote an understanding of the proposed budget and of how the budget was prepared. The following outline might serve as a table of contents for the comprehensive presentation of the town's budget:

- letter of transmittal;
- table of contents;
- overview letter;
- community issues and challenges;
- financial goals and policies;
- goals and objectives of the budget;
- town organization chart;
- budgetary guidelines:
- budget process;
- budget calendar;
- budget format;
- budget summary;
- operating capital;
- financial summaries;
- revenues and expenditures;
- property taxes, levy limits, and Proposition 2 1/2;
- state and federal grants;
- outstanding and proposed debt;
- free cash, reserve fund, stabilization fund, and other reserves;
- statistical and graphical presentations;
- departmental/boards/committee detail;
- organizational narratives and charts;
- goals and objectives;
- program description(s) and performance objectives;
- capital items;
- personnel chart and historical comparisons;
- glossaries;
- five-year capital plan;
- chart of accounts/expenditure codes;
- wage and salary schedules;
- relevant town bylaws;
- town meeting warrant.

The budget document is the vehicle that clearly shows the finance committee, town meeting, and the community at large the municipality's financial plan for the upcoming year, and how revenues and expenditures will allow for departments to complete this plan.

## The Finance Committee Report

The finance committee should promote the implementation of a budget process that results in a clear and meaningful budget document. The annual budget is the opportunity to present to the voters with a clear picture of town government: what it is, where it is, and where it is heading.

The finance committee report is the extremely critical end-product of the budget development process. This document should inform town meeting of the proposed budget and its recommendations on all financial articles. Further, the report often establishes the appropriation framework for the upcoming year.

Whether or not the finance committee prepares the town's budget, the committee is responsible for submitting recommendations on the budget and other financial warrant articles to town meeting. The finance committee report provides analyses, explanations, and justifications for its recommendations. Although the level of detail varies from town to town, more informative reports include financial and statistical data, often trace historical trends and specific appropriations. However, there is no need to duplicate information already presented in a comprehensive budget document.

The town's financial condition, the issues posed by the budget, local bylaws, customs and traditions, and the interests and skills of committee members

will all shape the finance committee report. Often, town staff assists the finance committee in preparing the report, and in larger towns the finance committee may have its own staff.

## Setting the Property Tax Rate

Towns derive the majority of their revenue from real estate and personal property. Although town meeting adopts a budget before July 1, the start of the fiscal year, the tax rate is not set until the following October or November. Because of the importance of property tax to town budgets, finance committees should understand and monitor the process of setting the tax rate, which may either validate or change revenue estimates (assumptions used to balance the adopted budget). These revenue estimates, whether confirmed or revised, then become the basis for preliminary revenue forecasts for the following budget year.

## Free Cash

A town's free cash, or budgetary fund balance, is the amount of funds that are unrestricted and available for appropriation. Free cash provides towns with a certain flexibility, as it is the major source of funding for supplemental appropriations after the establishment of an annual budget through the tax rate approval process. Towns often appropriate all or a portion of their free cash to support operations during the year. Free cash is generated by actual revenue collections in excess of estimates and actual expenditures and encumbarances less than budgeted amounts. Depletion of free cash can indicate tighter financial times. It is recommended that each town develop a policy on the amount and use of free cash to avoid wide swings in the levels available from year to year.

## Cash Management

At the outset it must be noted that the town treasurer is primarily responsible for the cash management program for the town. Cash management involves cash flow analysis, investment planning and investments and tax collections. (See Chapter 8)

## The Tax Recapitulation Sheet

The vehicle for setting the tax rate is a tax recapitulation sheet (recap sheet) that the board of assessors submits annually to the Department of Revenue (DOR) as proof that the town has a balanced budget within the limits of Proposition 2 1/2. DOR must then approve the annual tax levy growth, the recap sheet, and set the tax rate before a town can issue final tax bills. The recap sheet reflects the total revenues a town must raise through taxation and other sources used to fund local appropriations such as the assessors' overlay and state and Cherry Sheet assessments. (See Appendix L and M for sample copies.)

## Calculating the Taxes to be Raised

The tax recap sheet guides the calculation of the total tax to be raised by listing the anticipated expenditures and charges and subtracting estimated revenues. The difference is the amount that the town must raise in real estate and personal property taxes. The tax levy is the total amount to be raised less total estimated receipts and other revenue sources. (See Appendix M for sample copy)

## Total Amount To Be Raised

The tax recap sheet first requires entering the amounts for appropriations, anticipated charges and other expenditures and items, including the following:

- *all voted appropriations;*
- *offsets and charges* from the state and other intities as identified on the Cherry Sheet;
- *certain deficits* (if any) including "snow and ice" expenses;
- *the overlay,* an allowance for property tax abatements and exemptions determined by the board of assessors and documented by a worksheet showing a five-year history of such abatements;
- *other required items* not included in the appropriation process, such as court judgments, tax title/foreclosure costs, etc.

## Estimated Revenues and Other Receipts

Other than the tax levy, all anticipated revenues are enumerated on the tax recap sheet and supporting schedules, including the following items:

- *Cherry Sheet receipts* (state aid, including "offsets")
- *local receipts* itemized on Schedule A (and A-1, A-2, A-3 if applicable)
- *free cash* and other available funds appropriated by town meeting; and
- *other sources voted* specifically to reduce the tax rate.

There are many reasons why the revenue estimates made prior to the spring town meeting change before setting the final property tax levy. For example, budget estimates for major local revenue sources are generally made in the fall based on the prior year's actual data and the partial results of the current fiscal year. By the fall, data from the year ended June 30 is available and might justify modification of the budget year estimate.

Similarly, the estimate of new tax levy growth might have been based on historical data and partial current year data. By the fall, the board of assessors should have complete information. In advance of the tax classification hearing, the assessors prepare the state LA-13 form which calculates the allowable new tax levy growth to the penny.

Finance committees should understand and monitor this final step in the process for the preceding budget cycle and use the information it generates to develop preliminary revenues estimates for the coming budget year.

## Summary

A local government's budgeting process should provide a forum for the community to understand, evaluate, discuss, and determine the financial plan for the coming year. The budget document and the finance committee's report are the media that should guide and influence these resource allocation deliberations and decisions. Properly prepared and presented, these comprehensive documents will meet the tests of excellence in budgeting as espoused by the GFOA, the national state and local government standard setters.

Financial pressures on local governments will continue. Opposition to tax increases limits revenue growth. Demographic changes create demands for more and improved services. Escalating service delivery costs require trade-offs in the level and quality of town services. Recognition that these challenges will not diminish creates a need for improvements and innovations in financial planning and control of available resources. Towns need to continue to improve the budget process.

Some communities have turned to performance budgeting as one element of a performance-based management system that closely ties budgets to results and to the strategic plan. Such a system shifts the focus from a traditional line-item budget to measurable departmental service and efficiency measures.

Strategic planning, program goals and objectives, benchmarking, and "customer opinion/satisfaction" surveys are all mechanisms to focus on community needs and wants and to measure the effectiveness and efficiency of service delivery. Long-range financial planning, including revenue and expenditure projections, multi-year capital planning and community-wide demographic forecasts enable a town to make better annual budget decisions.

Municipal budgeting links these many management and analytical techniques. The budget process must do more than simply allocate financial resources to competing programs and services, it should articulate goals, objectives and measurable indicators of service delivery. When the budget process does so, the budget document will describe not only how much money the town spends on every department and program, but what results citizens should expect from these departments.

*This chapter was prepared by Harvey Beth, Anthony Logalbo, John J. Ryan, Anthony Torissi and Carl Valente and was updated by Allan Tosti.*

# 3 THE FINANCE COMMITTEE: STRUCTURE AND FUNCTIONS

## Introduction

In 1870, a group of Quincy citizens banded together to restore financial order in their municipality, creating the Commonwealth's first finance committee. In 1910, the Massachusetts courts ruled that a municipal finance committee was legal (Sinclair v. Fall River, 198 Mass 248). In that same year, the Massachusetts General Court also acknowledged the need for municipal finance committees statewide, requiring all but the smallest municipalities to establish such committees to assist in dealing with emerging municipal challenges (St 1910, Ch. 130, s 2). Several additional legislative assists (i.e., St 1923, Ch. 388 and St 1929, Ch. 270), reinforced the mandated or permitted existence of municipal finance committees.

## Basic Legislation

The present basic legislation, Chapter 39 s16 M.G.L. reads as follows:

> "Every town whose valuation for the purpose of apportioning the state tax exceeds one million dollars shall, and any other town may, by bylaw provide for the election or the appointment and duties of appropriation, advisory or finance committees, who shall consider any or all municipal questions for the purpose of making reports or recommendations to the town; and such bylaws may provide that committees so appointed or elected may continue in office for terms not exceeding three years from the date of appointment or election.
>
> In every town having a committee appointed under authority of this section, such committee, or the selectmen if authorized by bylaw of the town, and, in any town not having such a committee, the selectmen, shall submit a budget at the annual town meeting."

Almost every town across the state interprets this statute differently and has established its local finance committee to meet the community's spcific needs. In some towns, for example, the finance committee may prepare as well as comment on the budget. It is generally agreed that finance committees may consider any matter they feel will have a fiscal impact on the town, as well as any other matters the committee feels are relevant. It may reasonably be argued that little comes before town meeting that does not have a potential fiscal impact on the town.

## Survey Results

A survey was conducted in 1995 by the Association of Town Finance Committees (ATFC) which revealed several interesting pieces of information. First, there is wide variation in the number of members on finance committees. The most common number is nine (31 of the 89 respondents), followed by seven and five-member boards respectively. Of the towns responding to the survey, 76 finance committees are appointed and only 13 are elected. Fifty-seven of the appointed committees are appointed by the town moderator, nine by the board of selectmen and 10 by a combination of the selectmen, town moderator and the finance committee chair or members.

Eighty-three of the responding finance committees serve three-year terms. One town's committee has two-year terms and one has one-year terms. Three towns reported graduated terms, from five to one-year, or from three to one-year. One town has finance committee members who serve indefinite terms.

There is also a great deal of variation in the frequency of meetings among the survey's respondents. Most municipalities answering the questionnaire hold meetings one, two, or even three times a week during budget season, and slow to

once every two weeks, once a month, or only as needed during the rest of the year.

Only five towns compensate some or all of their finance committee members. The amount of compensation ranges from $25 a year for a member, to $650 a year for a chairman. Forty of the reporting finance committees reimburse their members for expenses, usually limiting reimbursements to meals, the ATFC Annual Meeting or mileage.

Thirty-six of the responding finance committees have subcommittees. Some towns have as many as 30 subcommittees, and many municipalities note that they have subcommittees for every department in the town.

Staff support is received by 41 finance committees. Often, this support is supplied on an as-needed basis by the secretary to the board of selectmen or other full-time staff paid by departments other than the finance committee.

Forty-two of the towns participating in the survey have capital planning committees. The number of members on these committees ranges from three to 12. In several towns, the capital planning committee is not currently operational, or the municipality is in the process of reorganizing or starting such a committee.

## Role of the finance committee

There are several general statutory constraints that all finance committees share. Members of finance committees are considered municipal employees (M.G.L. Ch. 8 s 186) for purposes of the Conflict of Interest Law (See Appendix D), and must adhere to all state statutory requirements placed on municipal employees. The standards of conduct for municipal employees, both on and off the job, are detailed in the Conflict of Interest Law (M.G.L. Ch. 268A).

## Open Meeting Law

Democracy at all levels is to be open to its people. In this regard, the finance committee must be cognizant of and follow the requirements of the Open Meeting Law, M.G.L. Ch. 39 s 23a-23c. (See Appendix C) All materials collected or presented during deliberations and/or meeting(s) of the finance committee are a matter of public record (M.G.L. Ch. 66). Such public records are to be maintained and made available to the public unless specifically exempted. (see Appendix B)

## Americans With Disabilities Act

With the passage of the Americans With Disabilities Act in 1990, all constituent units of state and local government, including finance committees, must ensure that any forums or meetings they participate in or sponsor are accessible to people with disabilities. (see Appendix A)

## Taking/Leaving Office

Once elected or appointed, a finance committee member must be officially sworn in by the town clerk or the town moderator. When a member wishes to resign, his or her letter of resignation must be sent to the clerk or the moderator as well. If a member resigns prior to completing his or her term of office, a replacement is made by the appointing authority, or in some towns may be chosen by the finance committee itself.

## Use of Public Resources in Elections

In addition to following the conditions found in the various laws mentioned above, finance committee members (like all municipal employees) may not use any public resources to influence the outcome of an election. Finance committee members may express their opinions at public forums or meetings (Chapter 55 M.G.L. ; the Mass. Supreme Judicial Court reaffirmed this in Anderson v. City of Boston, 376 Mass. 178).

## Bias and Conflicts of Interest

Committee members should not allow personal friendships, enmities, biases, preconceptions or partisan affiliations to interfere with the fair and impartial performance of their official duties. State conflict of interest laws forbid a finance committee member from,among other things, using the posi-

tion for personal profit. Committee members also have an obligation to avoid not only actual conflicts of interest, but even the appearance of bias or favoritism when acting in their official capacity.

As active participants in town affairs, finance committee members come to the table with their own opinions, experiences and ideas. But members must nonetheless listen carefully and thoughtfully to all matters that come before them. It is difficult to keep personal biases and preconceptions out of official deliberations, but it is a goal to be actively pursued. Doing so can help the committee make better decisions overall, and can also maintain or boost public confidence in the committee's integrity (see Appendix D).

## Budget Preparation and Submission

The prime function of the finance committee is reviewing departmental budgets and submitting a balanced budget to town meeting. All municipal officers authorized to spend money must annually provide the finance committee with estimates of how much funding will be needed "for the proper maintenance of the departments under their jurisdiction." These estimates are submitted to the town accountant, or if there is none, to the finance committee or possibly the selectman (Chapter 42 s.59 M.G.L.). These estimates are used in the preparation of a town's annual operating and capital budgets.

The Massachusetts Department of Revenue (DOR) has ruled that finance committees are responsible for preparing and submitting their municipality's annual budget. (Chapter 39 s 16, Ch. 41, s 59 and s 60M.G.L), unless there is a charter bylaw giving this authority to the board of selectman (DOR's In Our Opinion, 93-310). The exact format of an annual town budget is community specific. DOR has determined that while the law regarding annual municipal budget format is directed to cities, it should also be followed by towns.

The format found in the law addresses itself to budgetary basics. Almost all towns and cities in the Commonwealth go well beyond this in their annual budget presentation package (see Chapter 2). DOR has also ruled that only a town meeting — not the finance committee or selectmen — may determine the exact budget format to be used (see In Our Opinion, 92-145).

The state also specifies that only town meeting may transfer appropriated monies. Town meeting cannot delegate this authority to the finance committee (Chapter 44 s33B M.G.L.) , see also In Our Opinion, 92-836). However, in 2006 the state allowed the Board of Selectmen, with the approval of the finance committee to transfer sums between May 1 and July 15. This does not apply to appropriations for the local or regional school systems or light boards. Transfers are limited to 3% of the department budget or $5,000, whichever is greater. Transfers are by majority vote. Further, the courts have ruled generally that even though a town bylaw calls for the finance committee to hold public hearings, these hearings are "incidental" to the proper function of the committee and are therefore not mandatory (Young v. Westport , 302 Mass.597, reaffirmed by Illig v. Plymouth, 337 Mass. 239).

On the other hand, while finance committees may request information from a town department, they may not seek information from a quasi-governmental entity because such entities are not subject to town bylaws (Clinton Housing Authority v. Fincom of Clinton, 329 Mass. 495). Under the home rule amendment to the state constitution, however, towns and cities do have the power to subpoena witnesses and compensate them at the going rate (Article 89, s 6; also Ch. 233, s 8 and s 10). This was tested and affirmed in the courts (Bloom v. Worcester, 363 Mass. 136).

## Reserve Funds

The law (Chapter 40 s 6 M.G.L. ) allows towns to appropriate money — either at the annual or special town meeting — into a reserve fund "to provide for extraordinary or unforeseen expenditures." DOR has expressed its opinion that reserve fund transfers are appropriate:

- *to provide for urgent or unforeseen expenditures* that could not have been anticipated before town meeting; and/or;

- *to allow immediate expenditures of funds in the event of an emergency* (threat to public safety or health) when the delay of having to call a special town meeting could be potentially harmful.

In either case, the finance committee must approve all proposed transfers from a reserve fund. It is also understood that a reserve fund should not be to reverse a vote of town meeting or as a "back-door" means of increasing the budget. Finance committees should adopt their own reserve fund guidelines to supplement the state statute, and should help other town officials gain a better understanding of appropriate uses of a reserve fund.

It is also important that finance committees have a balanced approach in evaluating reserve fund transfers. For example, if budget reductions were made in a community despite legitimate warnings that there might be trouble meeting all fiscal obligations, the finance committee may expect to see an increase in reserve fund requests. It is the committee's responsibility to keep the town's best interests in mind when deciding which reserve fund transfer requests, if any, to approve.

## Emergency Winter Related Expenditures

When appropriations for snow and ice removal are exhausted, finance committees — in concert with their selectmen or town managers — must vote to incur "liability and make expenditure in excess of appropriations" (Chapter 44 s 31D M.G.L. ). Expenses in excess of the appropriation must be raised in the tax levy for the next fiscal year. However, in order for this option to be available, towns must have appropriated at least the same amount for snow and ice removal as in the prior fiscal year.

## Revolving Funds

Towns are permitted to raise revenue from selected services or programs and use those funds to support said services or programs. This type of appropriation is referred to as a "revolving fund." Once monies are raised and designated for a revolving fund, the selectmen and the finance committee must approve any increase in the amount that may be spent during the fiscal year (M.G.L. Ch. 44 s 53E1/2; also see Chapter 2). Revolving funds must be reauthorized by town meeting each fiscal year; if not, remaining balances may be transferred to another departmental revolving fund or to the general fund.

## Stabilization Funds

A stabilization fund is a special reserve account. This fund may be appropriated in any fiscal year, and, with the exception of limits regarding the amount of money to be appropriated into the said fund may be appropriated for any municipal purpose (Chapter 40 s 5B M.G.L. ). The monies appropriated to a stabilization fund cannot be earmarked, and a two-thirds vote at town meeting is required to appropriate monies to and from such a fund. Statutes allow a town to create different stabilization funds for special purposes. (See DOR IGR No.04-201)

## Enterprise Funds

An enterprise fund may be established to segregate monies generated from user fees to pay for the delivery of a specific town program (M.G.L. Ch. 44 s 53F 1/2; also see Chapter 9). The state law establishing enterprise funds is a local option statute, and as such must be accepted by town meeting. Enterprise funds have specific reporting requirements and change the role of the finance committee in overseeing the financial operation of this service.

## Gifts and Grants

Gifts and grants given to a town may be expended directly, i.e. without appropriation (Chapter 44 s 53 and 53A M.G.L. ). In most cases, gifts or grants may be earmarked for a specific governmental unit or project. Many grants require a local share; some gifts have a challenge component that requires the raising of a certain amount of money from other sources before a gift will be presented. In either situation, the finance committee should know about all gifts and grants in their municipal-

ity.

It is recommended that all municipal departments be required to provide the selectmen and finance committee with an inventory of existing gifts and grants, as well as a list of state and federal grants being sought. Such departmental lists should detail explicitly whether there is a local share requirement, and if so whether it comes from existing funds or whether new money must be appropriated. It is preferable that any local share requirements come from existing funds. Finance committees must also be aware of potential budgetary changes resulting from gifts or grants. For example, after receiving external funding, a department budget request could possibly be reduced. On the other hand, some grants state that their funds must be used in addition to budgeted funds. In addition, the finance committee should inquire whether other costs such as employee pensions or health insurance will be impacted.

## Federal Grants

Despite recent decreases in federal programs there is still money available. At present, there are three general categories of federal grants: categorical, formula and block.

Categorical grants are awarded on a regional basis for a single purpose within a specified time frame. Massachusetts is in Region I, with federal regional offices located in Boston. The competetion in Region I is with other New England states. Categorical grants are the oldest and largest type of federal grants.

Formula grants, sometimes called "pass-through" grants, are awarded to states on a prescribed basis. The state may either distribute the funds to local governments or choose to provide a specific program (or programs) itself.

Block grants are the emerging future of the federal granting system. Under block grants, old programs, existing categorical and formula grants and any new programs are blended together into single multi-functional grants, which are then distributed to states following the formulas grant concept.

The single best resource for municipalities seeking federal domestic grants is "The Catalog of Federal Domestic Assistance (CFDA)." The CFDA lists all federal domestic assistance grants along with their application and award processes. A copyof CFDA is sent annually to each unit of state and local government. Town clerks or the municipal libraries generally have CFDA. In addition, there are also several relational data bases available; one is available through a library system called DIALOG. The Department of Housing and Community Development is a valuable resource for information and grant application assistance.

## State Grants

The state plays several important roles in the search for additional funds. The state coordinates the federal pass-through and block grant processes and establishes and funds state grant programs. Massachusetts has a rich history of directly appropriating funds for state programs. However, there is no single catalog available for state grants. To seek out these funds, officials must refer to the state budget. Again, DHCD can provide assistance in identifying potential grants and with the applicaiton process.

## Philanthropies

Seeking funds from a philanthropy is both easier and more complex than seeking grants from the federal or state government. One reason for this is that no single application exists. However, most philanthropic applications are simpler to complete and more flexible than governmental grant applications. There is a catalog of available philanthropies, Massachusetts Grantmakers Directory, available from the Associated Grantmaker of Massachusetts (ADM). There are also several relational data bases available, as well as several foundation centers throughout the state. Local libraries should have access to both. The main foundation center is AGM; it's Web site is www.AGMConnect.org.

## Corporations

Corporations are an excellent and underutilized source of funds and products. They will give to promote their good name in the community and for income tax benefits. Municipal assessors can be asked for a list of the community's 20 largest taxpayers and fundraisers can concentrate on businesses from this list.

## Capital Planning Committee

One local acceptance statute (M.G.L. Ch. 41 s 106B) permits towns to establish a capital planning committee. The duties of capital planning committees are specific, although membership requirements are not. These committees must "annually review the (municipality's) capital improvement program." In many towns, the finance committee also does the capital planning. This is often not an ideal state of affairs, especially given the time commitment required of finance committee members even without considering capital planning matters. One possible solution is for towns to create ad hoc capital improvement committees with a seat reserved for a member of the finance committee. (See Chapter 11)

## Budget – Down to Basics

The budget is a finance committee's major concern and is likely where the bulk of the committee's time will be spent. Depending on whether a given finance committee is responsible for developing the town budget from scratch or for reviewing and making recommendations on a budget developed by the selectmen, town manager or executive secretary, the finance committee will meet fairly regularly for three to six months before town meeting. Most of that time will be devoted to budget development and review.

Throughout the budget cycle, the committee's main goals should be:

- to optimize the value of each dollar spent;
- to address the town's long range as well as immediate needs;
- to present a balanced budget to town meeting; and
- to present budget recommendations in a clear and readable format, with sufficient detail and explanation so that town meeting members can understand the basic goals, policies, tradeoffs and constraints that shaped it.

Experienced finance committee members learn to read between the budget's line items and see the policy decisions, and indecisions, built into the numbers. The finance committee should be willing to share that insight with town meeting.

## Revenues

Under Proposition 2 1/2, municipalities cannot raise property taxes in excess of 2.5 percent of the total full and fair cash value of all real and personal property in a given community. Finance committees can make the most of limited municipal resources by encouraging thoughtful planning, improved financial management and increased productivity through computerization and improved work rules. Selective overrides and fee increases can help as well. The rate of revenue increase also depends upon the local development climate and state aid to cities and towns.

## Expenditures

*Education*

Education is typically a town's largest service, ranging from 35 percent in urban districts to 70 percent in more rural areas. The Education Reform Act of 1993 has limited town meeting's latitude in setting the school budget. State and federal education mandates (e.g., special education) as well as the "maintenance of effort" requirements of education reform, place a floor under school budgets, while Proposition 2 1/2 sets the ceiling.

Legally, town meeting can only vote a bottom line budget for the schools, and cannot compel the school committee to spend this budget allocation on specific programs or line items within the schools' budget. As a practical matter, a well respected finance committee can sometimes persuade town meeting to get the school committee's attention on areas of concern. For the most part, the finance committee should strive to ensure that schools maintain adequate financial

and cost controls and to encourage the free sharing of budget information between the town and school department, as well as between the school department and town meeting.

## Personnel Costs

A majority of any municipal budget (perhaps 75 to 80 percent) is spent on salaries, benefits and pension costs. However, finance committees have no direct responsibility or control over collective bargaining and personnel policies. In some towns, the finance committee chair may play a role in planning collective bargaining goals and strategies, but finance committees do not play a direct role in personnel matters.

Nevertheless, finance committees must understand the financial implication of their town's personnel policies and practices. In addition, finance committees should urge the selectmen and personnel board in their town to follow two basic principles when engaging in the collective bargaining process. First, town negotiators should calculate, consider and justify the full, long-term costs of collective bargaining items like vacation time, sick leave, step raises and other employee benefits before agreeing to them. Second, they must be prepared to layout the short-and long-term budget impacts of collective bargaining agreements to town meeting before town meeting is asked to ratify the new contracts.

## Capital Budgets

Regardless who has primary responsibility for developing and updating capital budgets, a finance committee's budget recommendations always need to balance capital spending with operating budgets.

Capital budgets represent more than an edifice complex. They embody a wide range of social, political, financial and environmental concerns. To protect a town's capital assets and to promote their optimum utilization, municipalities must give capital needs their due in allocating scarce town dollars. Good capital planning includes budgeting for maintenance and repairs as well as replacement. Building a new public facility without including sufficient funds in the operating budget for maintenance is fiscal folly. Likewise, it is fiscally unwise to continue pouring ever-increasing maintenance dollars into old, worn out or obsolete equipment when purchasing newer, more efficient equipment would both cut costs and improve service delivery.

Finance committees should encourage their towns to develop capital equipment inventories and regular maintenance and replacement schedules, and discourage town meeting from letting those schedules lapse.

In recommending a capital budget to town meeting, the finance committee should also make sure that town meeting understands the tradeoffs and costs implicit in that budget. For example, a bonding vote should be accompanied by a year-by-year estimate of the repayment schedule. Town meeting needs to understand that voting a bond issue today means less money available for other municipal endeavors until the bond is paid off. Likewise, some estimate of the cost of not making the capital investment should also be included to help town meeting understand why the expenditure is appropriate and economically justified.

## Reserves

Fiscal prudence demands that municipal budgets contain sufficient reserves to meet unexpected contingencies. The reserves can be built into department budgets, set aside in special purpose reserves or placed into the town's general reserve fund. Towns can also let some portion of their certified free cash remain unappropriated. In practice, a balance among all these methods works best.

The tradeoff in maintaining reserves is that setting aside large portions of a municipal budge for reserves leaves less available to fund direct town services in the current year. On the other hand, without adequate reserves, unexpected calamities, cost overruns or revenue shortfalls can result in disruptive and inefficient emergency cutbacks either in the current fiscal year or in the next.

In each budget cycle, earlier years' actual spending should be examined closely to see which budgets

are either consistently under-budgeted or subject to large fluctuations so the finance committee can set a reasonable and responsible level of reserves.

Reserve fund transfers should be used only for truly unexpected contingencies and not to compensate for inadequate budgeting, sloppy management or predictable spending fluctuations. Above all, the reserve fund should never be treated as a slush fund in order to sidestep town meeting votes. If, for example, town meeting voted $1 million for street repairs when the highway director and the finance committee recommended $1.1 million, the finance committee should deny a reserve fund request for additional road repairs unless the repairs are made necessary by some unforeseen accident like a broken water main.

Likewise, if a given department consistently overspends its overtime budget, a deficit in that account can hardly be said to be an unforeseen contingency. The finance committee may feel compelled to grant the current year's request, but should consider denying future requests for the department's overtime costs unless the expenses are budgeted more accurately and brought under better control.

## Fixed Costs

Most town budgets are made on an incremental basis. This means the committee takes the previous year's budget as a starting point, projects estimates of the coming year's changes in revenues and "fixed costs" such a utility bills, collective bargaining salary increases or worker's compensation costs. Any estimated surplus or deficit is then distributed across the town's programs and operating budgets.

Aside from Cherry Sheet assessments such as state and county charges, these "fixed costs" are not always truly fixed. For example, worker's compensation costs can sometimes be cut by improved safety training and better claims supervision, and some utilities costs may be reduced because of better energy conservation practices.

True zero-based budgeting, in which all programs are reviewed annually and budgets are built from the bottom up, often does not work very well in the municipal arena. Many programs are mandated by state or federal law or by the realities of everyday life. However, it does make sense to review each department's mission and resources every few years. Finance committees, town managers, employees and citizens should work together and re-examine priorities, think about whether and how missions can be redefined and how resources can be reallocated to better meet a town's changing needs. This kind of planning, while more difficult in the short term, pays off in the long run if only by keeping the budget process from devolving into a series of ad hoc reactions to year-by-year changes in the town's financial picture.

In some towns, the finance committee is only the budget committee. In others, it is a more general advisory committee that makes recommendations to town meeting on all town meeting warrant articles. As the standing committee of town meeting, the finance committee has a broader and more consistent perspective than the town meeting as a whole, which meets only once or twice a year. Part of the finance committee's role is to point out the fiscal implications of warrant articles. But another of the committee's central roles is to present issues to town meeting in an comprehensive, thoughtful and orderly manner.

Finance committee reports and recommendations should present a clear explanation of all the relevant issues. Whatever the committee's recommendation, the report should highlight key arguments and provide as much relevant information as possible. That way the voters or representative town meeting members can vote at town meeting with at least a basic understanding of what the core issues are for a given warrant article.

Ideally, the finance committee can support its recommendations at town meeting without alienating advocates for opposing viewpoints. Where compromise is possible, the subcommittee should also work with the opposing sides come to a responsible resolution of their differences.

Although the finance committee can and should advocate for its own position, its reports should make it clear that a given position was reached

after fair and thoughtful deliberation. No matter how important or controversial the issue at hand may be, the finance committee must remember that its first responsibility and loyalty is to town meeting and the integrity of the town meeting process.

## Media Relations

Members of committes are public officials and thereby have chosen to put aside some of their privacy. Anything said at an open meeting by a municipal official is subject to being recorded, televised, quoted or published. Therefore, it is important that all officials be careful about what they say in public.

Finance committee members, selectmen and town administrtors, etc. should work together and speak as a unit whenever possible. It is not always easy for finance committee members to work in conjunction with other municipal departments. Frequently there are conflicts whereby individuals or boards find themselves pitted against each other. However, it is important not to allow these conflicts to be aired in public and to make every effort to achieve a consensus.

It can be beneficial for all local officials to cultivate a good relationship with the local media. The media should be kept informed of important developments, both good and bad. If town officials initiate calls to inform reporters of news before they hear it elsewhere, they can cultivate a relationship in which the reporter is more likely to present the official's side of the story. There are many municipal government issues that the finance committee, selectmen and/or chief executive officer should discuss together before dealing with the press.

Committees or boards may find it useful to designate a spokesperson to deal with the press. The spokesperson can reduce mixed messages and can ensure that the agreed upon policies are being relayed to the media. It is important to note when talking to a reporter that you must clearly state whether you are representing a position of the committee or your position as a private citizen.

## Some Final Considerations

One last important part of a finance committee member's job is knowing when to leave the committee. A good finance committee member can make a real and important difference in the town's life; someone just going through the motions by rote and habit is no longer serving his or her own — or the town's — best interests. When committee members find themselves dismissing people or arguments because they have "heard it all before," when enthusiasm gives way to impatience or inattention and/or when absences become increasingly frequent, it is probably time to move on.

Retiring members should ideally give the committee a year's notice and use that year to help groom and break in a successor. Senior committee members, especially the finance committee chair and subcommittee chairs, should make sure that new members receive adequate mentoring and training. Subcommittee chairs in particular should delegate tasks and responsibilities to all subcommittee members, not only in order to lighten their own burden, but to give new members needed hands-on experience.

Being a finance committee member can sometimes be a frustrating task. But it is a job worth doing and worth doing well. Performed with commitment and care, a term on the finance committee is an example of grassroots public service at its democratic best. It can be a rewarding and satisfying way to make one's town a better place to live, as well as a way to sink deeper and sturdier roots in the community.

*This chapter was prepared by Marc Levy, Alice Carlozzi, Jennifer Magee and Donald Levitan and was updated by Allan Tosti.*

# 4 Intergovernmental Fiscal Relations: The Commonwealth

The Commonwealth's constitution effectively requires the legislature to pass a balanced budget. Each fiscal year, the Governor recommends a budget to the legislature and the legislature appropriates funds for expenditures for the fiscal year. In all but exceptional cases, an appropriation by the legislature must provide funds for an expenditure before the expenditure will be recognized as an obligation of the Commonwealth.

The "budgeted operating funds" are funds appropriated in the Commonwealth's annual state budget (these funds do not include the state's capital projects funds, into which the proceeds of the Commonwealth bonds are deposited). The two principal budgeted operating funds are the general fund and the highway fund. Expenditures from these three funds account for approximately 97 percent of total expenditures of Massachusetts' budgeted operating funds.

## The Budget Process and Calendar

The budget process in the Commonwealth commences in July or August when the Executive Office for Administration and Finance distributes to all state agencies the expenditures for the prior fiscal year and the actual appropriations for the current fiscal year. On or before August 15 of each year, the Executive Office for Administration and Finance officially estimates revenues for the current fiscal year and the year immediately following. Agency budget requests, including requests for capital outlays, are then submitted to the appropriate secretaries, the budget bureau in the Executive Office for Administration and Finance and the legislative committees on Ways and Means of the House and Senate. Constitutional officers, the legislature and the judiciary submit their requests directly to the budget bureau.

In September/October, open hearings for the ensuing fiscal year's budget are held by the secretaries in accordance with schedules established by the Executive Office for Administration and Finance. Following the open hearings on agency requests, secretarial recommendations are forwarded to the Governor and the Executive Office for Administration and Finance. The Executive Office for Administration and Finance reviews the recommendations of the secretaries and submits them to the Governor for approval. During December, the executive budget recommendations are assembled (and printed) and the Governor, unless s/he is newly-elected, formally submits the budget recommendations, including recommendations for capital outlays, to the legislature on the fourth Wednesday in January. A new Governor has an additional five weeks to submit budget recommendations.

After the Governor has formally made the budget recommendations, the legislature considers the recommendations and enacts a general appropriation bill. Since the Governor has a line item veto, s/he may disapprove the general appropriation bill in whole or in part. Once the Governor approves the legislature's general appropriation bill, it becomes the Annual Appropriations Act. If during the course of a fiscal year the Governor believes that appropriations are insufficient to provide for projected expenditures, the Governor may seek a supplemental appropriation.

The budget that is eventually signed into law marks the completion (apart from program performance analysis and evaluation) of the budget and lawmaking processes. For the purposes of the Commonwealth's local aid program, finance committee members will see the outcome of the budget process, and program funding therein, reflected in their municipality's Cherry Sheet. The annual state budget includes budgeted items by account number and separate legislative items found in the outside sections.

## Local Aid

The local aid programs are generally referred to as Cherry Sheet programs. The Cherry Sheets are the official notification from the Commissioner of Revenue of the next fiscal year's estimated state aid and assessments to cities, towns, and regional school districts. The purpose of the Cherry Sheets is to ensure that local budgets reflect realistic estimates of the amount of revenue a municipality or regional school district will receive from the state during the upcoming fiscal year as well as the amounts the municipality or regional school district will be assessed for participating in certain programs. Because the Cherry Sheets are an integral part of a municipality's budget, finance committee members should have a clear understanding of their community's Cherry Sheet aid and assessments.

The Department of Revenue (DOR) is responsible for notifying municipalities of their Cherry Sheet aid and assessments on forms CS 1-ER (aid/receipts) and CS 1-EC (assessments/charges). The DOR notifies regional school districts of their receipts and charges on form CS 2-ER. The Tax Rate Recapitulation Sheet, filed by local assessors with the Department of Revenue, Division of Local Services to certify property tax rates, must reflect the aid and assessment amounts contained on the Cherry Sheet forms distributed to municipalities. (See Appendix L)

## Cherry Sheet Receipts

There are three basic types of aid programs on the Cherry Sheet: distributions, reimbursements and offsets. Distributions provide funds on a formula basis. Reimbursements provide full or partial funding for specific program expenditures. Offset items are amounts that constitute categorical aid and must be spent for specific programs. Offset items may be spent without appropriation in the local budget. All other receipt items on the Cherry Sheet are considered revenues of the municipality's or the regional school district's general fund and may be spent for any purpose, subject to appropriation.

## Cherry Sheet Assessments/Charges

M.G.L. Ch. 59, Section 21 also requires the Commissioner of Revenue to provide municipalities and regional school districts with advance estimates of state assessments and charges and county tax assessments. Local assessors are required to use these figures in determining the local property tax rate.

Cherry Sheet form CS 1-EC notifies municipalities of the estimates of charges from the state and county governments. Regional school districts are notified of their assessments on form CS 2-ER. After Cherry Sheets are issued, adjustments to the actual assessments are applied as final data becomes available from the administering agencies of the various programs.

## Cherry Sheet Payment/Assessment Schedule

Cherry Sheet aid payments are generally made on a quarterly, semiannual or annual basis, depending upon the aid category. Cherry Sheet charges generally are deducted from a municipality's or regional school district's aid during the quarterly distribution process. Final assessment adjustments are usually made in the last two quarterly local aid distributions. A payment schedule for Cherry Sheet programs is available from the Department of Revenue.

The DOR enforces Chapter 58, Section 18F M.G.L. This provision of the law allows the withholding of Cherry Sheet aid to municipalities that have not submitted the prior year's Schedule A to the Department of Revenue. Aid withheld is distributed to the appropriate municipality once the report has been submitted and accepted by the Department of Revenue.

## Lottery Aid

The Commonwealth distributes aid to municipalities from the State Lottery Commission proceeds through the "lottery formula." This formula is based on population and equalized valuation (EQV). The Lottery formula is equalizing, with

municipalities with lower property values receiving proportionately more aid than those with greater property values. The formula also includes a pro-ration factor that adjusts the formula according to the net Lottery receipts available. The formula is normally applied only to the new lottery aid, that is the amount above what was distributed the previous year.

The Lottery distribution is funded through a transfer of funds and not by appropriation, although the total amount of the annual distribution is stipulated in Section 3 of the annual budget. DOR's Division of Local Services certifies to the treasurer the amounts to be distributed to the municipalities. No local action is necessary to receive lottery funds. Municipalities receive lottery aid on a quarterly basis.

## County Assessments Procedures & the County Advisory Board

For many years, there were fourteen counties below the level of state government. Until the 1970s, they were responsible for operations of certain courts, jails and houses of correction and registries of probate and deeds. Some operated agricultural schools, hospitals and other specialized entities. County governments assessed constituent cities and towns for part of the cost for services through a county tax handled as a Cherry Sheet assessment.

Over the next few decades, judicial personnel and district attorneys were transferred to the state and some court buildings and related maintenance personnel were likewise transferred. During this period, some new facilities to be occupied by county personnel were constructed by the state. Concurrently, many counties incurred operating deficits that required substantial supplemental budgets from the state.

Beginning in 1997, the Legislature abolished certain counties and transferred registries of deeds, sheriffs and court maintenance functions to the Commonwealth. In those cases in which debts and obligations exceeded cash and real estate transferred to the state, amortization schedules were established for the recovery of amounts expended by the Commonwealth by way of continuation of the county tax assessment.

The governments in Berkshire, Essex, Franklin, Hampden, Hampshire, Middlesex, and Worcester counties have been abolished. Nantucket and Suffolk Counties remain with limited roles and their county commissioners are the Nantucket Selectmen and the Boston City Council respectively. Barnstable, Bristol, Dukes, Norfolk and Plymouth counties operate as they have historically. These four counties continue to assess their constituent municipalities for part of their budgets and have limited powers relating to borrowing and other financial matters.

The county budget approval process is undertaken by the county advisory board on county expenditures. The county advisory board has authority to increase, decrease, or revise the annual and supplementary budgets submitted by the county commissioners. Thus, all county appropriations are made by the appropriate county advisory board. This board is composed of representatives from each of the municipalities of the county. These members include: selectmen; town council members: city managers or their designees; and mayors or their designees. The role of the finance committee is confined to review and comment.

The county budget process starts with the collection of requested appropriations from all county departments by the county commissioners. The commissioners review the requests, hold public hearings and vote their recommendations that are submitted to the advisory board. The advisory board then reviews the commissioners' budget requests, holds a public hearing and finally votes the budget for the next year. Each member can enter a "Yea" or "Nay" vote with respect to approval of the county budget. Each municipality has a weighted vote proportional to its property value. A majority vote is required to approve the county budget. The county budget as approved by the county advisory board is then submitted to the state County Government Finance Review Board whose approval is required in order for it to take effect.

Once the county tax levy is set (usually in September), tax statements are sent by county commissioners to their member municipalities. The county tax is paid directly by member municipalities; no individual property tax owner receives a "county tax bill."

## County Tax Assessment Formula & the Town Treasurer

A municipality's county tax assessment is based upon its equalized valuation (EQV) as a share of the total county EQV. These EQVs are incorporated into the county tax assessment formula in order to determine the member municipalities' share of the total county tax. Once the assessment has been determined, the county commissioners send local treasurers the member communities' county tax assessment. County taxes are paid on a semi-annual basis in November and May.

## Cherry Sheet Assessments Under Proposition 2½

Under the provisions of Proposition 2½, the following agencies' or counties' assessments cannot increase by more than 2½% of a prior year's actual assessments: county tax, mosquito control projects, air pollution districts, Metropolitan Area Planning Council, Old Colony Planning Council, Massachusetts Bay Transit Authority, Boston Metropolitan Transit Authority, and regional transit authorities. However, administering agencies or authorities can increase their total assessments by more than 2½% if they can demonstrate to the DOR that the increase is due to the provision of new services.

## Proposition 2½

Proposition 2½ places constraints on the amount of property tax levy a city or town can raise and how much the property tax levy can be increased from year to year. Throughout the budget process, a municipality should gauge Proposition 2½'s impact on its ability to pay for budgetary expenditures. (See Chapter 6.)

## Proposition 2½ & The State Auditor's Office: Division of Local Mandates

Within the State Auditor's office is the Division of Local Mandates. This division evaluates all proposed and actual legislation to determine the financial impact on the Commonwealth's cities and towns. In accordance with state law, the Commonwealth is required to reimburse cities and towns for any costs incurred through mandated programs established after the passage of Proposition 2½, unless expressly exempted from those provisions. The State Auditor's financial analysis is used to establish the amount of reimbursement due.

## Resources

Each level of government (federal, state, and local) enacts laws. A body of laws referred to as municipal laws regulate municipal governments. The intent of all enacted laws is to impose certain regulations on the manner by which a community is governed. Municipal laws include not only the laws of the state, but also the laws of the town or city, otherwise known as bylaws and ordinances. By definition, a bylaw is a local law or a municipal statute of a town.

Today information is available on the Internet that makes research far less labor intesive. From the convenience of your home or office you have access to government on all levels. One helpful Internet portal is www.mass.gov because it links you to all Massachusetts state agencies, the legislature, court decisions, general laws, etc. If you do not have access to the Internet, publications are available in public libraries, law libraries located in law schools, in federal, state, county and city courthouses and in state offices.

At the local level, bylaws and municipal ordinances are usually printed and available to the public. The town or city clerk has certified copies of bylaws or ordinances that have been passed by the appropriate governing bodies. Increasing numbers of municipalities have Internet sites from which you can get a great deal of data. For information about municipal government and links to cities and towns visit www.mma.org.

## New Material

The Secretary of the Commonwealth is responsible for publishing and making available certain information and databases on the operation of state and local governments in Massachusetts. They publish a catalog on all reports and information available from all units of state government.

Other publications that may be of interest to local officials are: the Code of Massachusetts Regulations, the Massachusetts Register, the Central Register, Advance Publication of Current Acts and Resolves, and the Cumulative Table. The following are brief descriptions of these resources.

Code of Massachusetts Regulations (CMR): Is the complete set of administrative law (regulations) promulgated by state agencies pursuant to the Administrative Procedures Act (Chapter 30A M.G.L).

Massachusetts Register: Is the bi-weekly publication mandated by the Administrative Procedures Act (Chapter 30A M.G.L. ). The register publishes new and amended regulations; notices of hearings and comment periods related to prospective or draft regulations; and a cumulative index of regulatory changes for the current year. The register also publishes notices of public interest, as well as opinions of the Attorney General and Executive Orders.

Central Register: Is the weekly source for information about state, county and municipal contracts being put out to bid for the design, construction and reconstruction of public facilities in the Commonwealth. Invitations to bid, lists of contractors picking up specifications on a weekly basis, and final awards of contracts are all published. Proposals and advertisements for the lease, sale or transfer of real property are published, as are lists of certified minority and women contractors and contractors who have been debarred from state work.

Advance Publication of Current Acts and Resolves: Provides advance publication of laws and resolves enacted during a current legislative session is required by M.G.L. Ch. 5, s 3. The Secretary of the Commonwealth publishes these session laws immediately after enactment and distributes "pamphlet" editions of the advance copies during the legislative session. The "pamphlets" include a cumulative list containing the bill number, title, chapter number and enactment date, and a list of Massachusetts General Laws amended by the current legislative actions.

Single copies of laws are available at the State Bookstore and at the Western Secretary of the Commonwealth. Bound editions of all the laws enacted during each session are published a few months after the session has ended.

The Cumulative Table: Informs subscribers of changes and amendments to all state regulations. Included are the subject matter, issue and date of the Massachusetts Register in which the change was printed. Each monthly issue of the Cumulative Table contains an order form allowing subscribers to order an amendment directly from the State Bookstore.

An important feature of the Cumulative Table is that it notifies subscribers of the promulgation of emergency regulations. Regulations adopted on an emergency basis, though they may be temporary, have the full force and effect of law.

The State Bookstores: The Secretary of the Commonwealth publishes a Bookstore Catalog. The catalog is available through the Internet at www.sec.state.ma.us or at the bookstore in Boston Springfield or Fall River:

State Bookstore
Secretary of the Commonwealth
State House, Room 116
Boston, MA 02133
(617) 727-2834

Western Office*
Secretary of the Commonwealth
436 Dwight St.
Springfield, MA 01103
(413) 784-1376

Southeastern Office*
Secretary of the Commonwealth
218 South Main St., Suite 206
Fall River, MA 02721
(508)646-1374

*Not all items available

## The Attorney General's Municipal Law Unit

The Muncipal Law Unit is part of the Administrative Law Division within the Attorney General's Government Bureau. The Unit carries out the Attorney General's statutory duty to review local bylaws and zoning bylaws as well as proposed municipal charters and their amendments. It decides whether the proposals are consistent with the constitution and the laws of the Commonwealth. If an inconsistency between the proposed amandments and state law exists, the amendments or portions thereof will be disapproved.

The Municipal Law Unit advises the Attorney General on matters relating generally to municipal law and local government. This incudes pending or threatened litigation in which the legality of state or local laws is challenged. The Attorney General is permitted by statute to intervene in such cases.

The Unit works with town attorneys and local public officials to help communities to avoid legal problems, to comply with state law, and to function effectively in the best interests of the citizens of the Commonwealth. Unit staff is not authorized to give leagal advice other than as prescribed. Nevertheless, time permitting, they are willing to discuss municipal law issues with municipal attorneys and local public officials and to suggest other resources that might offer appropriate guidance and help.

*This chapter was prepared by Representative Paul Casey, Senator Marc Pacheco, Daniel E Donahue, Robert Wright, Mariyln Browne and Kay M. Upham and updated by Marilyn Browne (representing her opinions and conclusions and not necessarily those of the Department of Revenue).*

# 5 SCHOOL BUDGETING AND EDUCATION REFORM

## Introduction

Since the passage of the Education Reform Act of 1993, municipalities have had to meet mandatory school spending requirements when preparing their budgets. The policy goals of education reform are twofold:

*to achieve adequate funding* for all local and regional school districts over a seven year period; and

*to bring equity to local taxation* effort based on a community's ability to pay.

In most cases, achieving adequate school spending required local governments to increase their contributions to education in conjunction with increases in state education aid. However, certain communities, with a limited ability to pay, were allowed to decrease their local spending on education, with the state providing enough aid to make up this difference and move the community closer to an "adequate" level of school spending.

Although FY2000 marked the seventh and last year of prescribed state funding increases contained in the Education Reform Act, the school finance formula remains operative in statute. However, annual budget language and education aid appropriations since FY2000 have overridden the statutory funding formula in recent years. For example, in FY 2007 a new method of measuring ability to pay called the "aggregate wealth model" was instituted. The new method uses updated property values and personal income data to address issues of inter-municipal equity so that communities with similar ability to pay eventually receive similar levels of state aid and pay similar local contributions.

At this point, it is not clear how future legislation will affect the calculation of local contributions and state aid for education, but the FY2007 initiatives regarding the aggregate wealth model and enhancements to formula equity appear to reflect a broad consensus among legislators and the administration. As such, these concepts may have traction during future budget debates.

## Foundation Budget

An adequate level of school spending is defined in the law as the "foundation budget." The foundation budget calculations allocate fixed spending target amounts per pupil for teachers' salaries and benefits, support staff salaries and benefits, utilities, maintenance costs and books and equipment, among other things. These calculations are adjusted annually for inflation and also take into account the school district's pupil characteristics and the regional labor market. For example, the foundation budget factors in an added cost for educating low income, bilingual and vocational pupils. It also factors in additional costs for special education pupils, though these costs are capped at a level that is lower than the actual costs of most districts. The salary components of the foundation budget calculations are then adjusted upward based on regional wage levels compared to state average wage levels. Totals of all the foundation budget components make up the overall foundation spending target for each school district.

## Determining Ability to Pay

State budget language in FY2007 has altered the measurement of local ability to pay to rely on both property wealth and the income of residents. This method is referred to as the "aggregate wealth" model and provides for equal weighting of property wealth and personal income in the formula. The formula establishes a statewide portion of the foundation budget to be funded through local contributions (59 percent or $4.728 billion) with state aid covering the remaining 41 percent.

Once the statewide local contribution percentage is determined, percentages are calculated for both property wealth and income such that in the aggregate each contributes exactly half of the

required 59 percent statewide contribution. These percentages are then applied to each community's actual 2004 equalized property valuation and 2003 aggregate personal income from Department of Revenue income tax data to determine the expected contribution or "target local share", with the maximum local share set at 82.5 percent. The "target aid share" represents the remaining share of the foundation budget to be covered by the state. For FY2007, the property value percentage was 0.3383 percent and the income percentage was set at 1.6306 percent.

Local ability to pay then is a function of both current property wealth as measured by equalized valuation and the community's aggregate personal income as reported to DOR for state income tax purposes. Equalized values are prepared by the Department of Revenue (DOR) every two years, and are estimates of property values that control for differences in local assessing practices and revaluation schedules.

## Municipal Revenue Growth Factor

The municipal revenue growth factor (MRGF) is an estimate of the total percentage increase in a municipality's general purpose revenues from one year to the next. Typically, a municipality must increase its minimum local contribution for education by at least this growth factor percentage, thus ensuring that the schools receive their fair share of increasing revenues. Consequently, the MRGF is critical to estimating required increases in school spending for budgetary purposes.

The MRGF calculation is based on the combined percentage increase of three separate revenue components:

*Tax Levy*

Increases are based on an automatic 2.5 percent increase in the previous year's levy limit, plus an estimate of new levy growth based on a three-year average of new growth as a percentage of the prior year's levy limit. Overrides occurring after FY1993 and all debt exclusions are excluded from the tax levy calculations.

*General Revenue Sharing*

Increases **or decreases** are based on the annual change in general revenue sharing as calculated by the combined change in three Cherry Sheet programs: additional assistance, state owned land and lottery. Initial estimates for these revenue increases are based on the state aid figures appearing in the Governor's budget, which is typically released in late January.

*Unrestricted Local Receipts*

The seven local receipt categories used in the MRGF calculation are: motor vehicle excise, other excise, penalties and interest on taxes and excise, payments in lieu of taxes, fines and forfeits, investment income and other recurring miscellaneous receipts. User fees such as water or sewer receipts are excluded since they are intended to offset the cost of providing particular municipal services. The growth in local receipts is measured by comparing the budgeted receipts in the prior year to those budgeted in the current year. For example, in the FY2007 MRGF calculation, the budgeted receipts for FY2005 are compared to those budgeted for FY2006, as this is the most current data available when the calculation is done.

## State Aid

A municipality's growth in foundation budget and its ability to pay determine the amount of additional Chapter 70 aid that the community will receive. The aggregate wealth model calculations described above are used to award new aid to communities receiving less aid than their relative wealth or ability to pay indicates they should. FY2007 budget language also provides for aid to communities and districts with growing foundation budgets and establishes a minimum increase of $50 per pupil above prior year aid levels.

The formula first increases the prior year or FY2006 required local contributions by the FY2007 MRGF to yield a preliminary FY2007 local contribution. This figure is compared to the target local contribution (See Determining Ability to Pay above) and if the preliminary contribution exceeds the target local contribution, the preliminary contribution is

reduced by 20 percent of the difference to yield the required local contribution. If the preliminary contribution is less than the target local contribution, then the community is expected to increase its contribution by the growth factor so that the preliminary contribution is the required contribution.

The difference between the required local contribution and the foundation budget is provided by the state in the form of "foundation aid". If this amount exceeds the FY2006 Chapter 70 aid, the excess is called the foundation aid increase.

In FY2007, "down-payment" aid was applied to those districts that were receiving less state aid than indicated by their target aid share. To determine if a community receives this down-payment aid, the target aid percentage was multiplied by the foundation budget. The result was then multiplied by 20 percent to reflect the phase-in and compared with any foundation aid increase. If the 20 percent share exceeded the foundation aid increase, then the difference is referred to as down-payment aid.

A separate aid component called "growth aid" is intended to provide aid to districts with growing foundation budgets. To determine if a community qualifies for this aid, the FY2006 to FY2007 increase in the foundation budget is multiplied by the target aid share. If the result exceeds the amount of the foundation aid increase and down-payment aid together, the difference is awarded as growth aid.

Finally, if the increases from the three aid components above do not yield an aid increase of at least $50 per pupil over the prior year, then minimum aid is awarded to bring the district to this aid level. Chapter 70 aid reflects the prior year amount of Chapter 70 plus the sum of any foundation aid increase, down-payment aid, growth aid and the $50 per pupil minimum increase.

## Net School Spending

The total education reform school spending requirement is called "net school spending." This figure is the combination of the minimum required contribution from local revenues plus state Chapter 70 education aid. Net school spending does not include school transportation or school construction costs. These costs vary significantly across the state and are not included in the foundation budget, although school construction costs and regional transportation expenses are reimbursable through other state aid programs. Net school spending can be met through a combination of direct appropriation to the school department budget and indirect costs appearing in other municipal budgets. For example, school health and property insurance costs may appear in the municipal treasurer's budget, yet they should be included in the calculations to meet net school spending.

To determine the school department appropriation necessary to meet net school spending, allowable indirect costs must first be calculated. Allowable indirect costs include costs such as school choice and charter school tuition payments, school employee benefits, property insurance, school maintenance costs incurred by other departments and administrative costs such as accounting, payroll and data processing. Allowable costs and the available methods for calculating these costs are covered in the Department of Education's (DOE's) "Guidelines for Student & Financial Reporting" available on-line at http://finance1.doe.mass.edu/account/guide_index.html. Deducting these indirect costs from required net school spending yields the school department operating appropriation needed to meet net school spending.

It should be noted that if municipalities receive any general fund school revenues, such as tuition payments from other towns or charter school reimbursements (school choice revenues are considered special revenue funds), these funds must be spent in addition to net school spending. School transportation and capital appropriations must be added to the school operating appropriation to arrive at the total school department appropriation.

If final Chapter 70 aid figures exceed the amount originally estimated when determining the school department budget, the increase does not necessar-

ily have to be appropriated to the school department. This depends on where the municipality stands with regard to the revised net school spending requirement (required net school spending will be revised to reflect any additional aid). If, for example, the municipality approved a budget with a higher than required local contribution, the additional aid may be used for other purposes provided the original school department appropriation is enough to meet the revised net school spending requirement.

For those municipalities and regional school districts that fail to meet at least 95 percent of their net school spending requirement, state school aid may be reduced in the following year. If spending is above 95 percent of net school spending, but below 100 percent, the shortfall must be carried forward and spent in addition to the subsequent year's required net school spending. In many cases, however, actual spending is above required net school spending so the above penalty provisions affect relatively few municipalities. Budgeted school spending in the current year and actual spending from the prior year are reported to DOE on the End-of-Year Pupil and Financial Report on Schedules 19 and 1, respectively.

## School Construction Grants

In July of 2004, the Legislature approved legislation (Chapters 208 and 210 of the Acts of 2004) that reforms state school construction finances. The legislation provides for a new School Building Assistance Authority that will be chaired by the state Treasurer and includes the Secretary of Administration and Finance, the Commissioner of Education and four other members. State funding for local school projects will come from a combination of state borrowing and dedication of a portion of state sales tax revenues. Payments for ongoing projects currently receiving reimbursements will continue as scheduled. Projects that have not yet received the first state payment will receive a lump sum amount representing the state's share of the project costs. Consequently, when these communities finish their projects and convert BANs to long-term bonds, the bond issue will be only for the local share. Reimbursement rates for those projects currently on the waitlist are grandfathered, however new projects added once the SBA moratorium is lifted in 2007 will be reimbursed at lower rates ranging from 40 to 80 percent. (See Chapter 12 for additional information)

## Special Education Circuit Breaker

The recently created circuit breaker (MGL Chapter 71B §5A) is intended to provide reimbursement to school districts for the cost of individual special education students in excess of four times the state average per pupil foundation budget. The reimbursement formula provides for a 75 percent reimbursement of the amount in excess of four times the state average per pupil foundation budget. The circuit breaker replaces the old "50/50" special education reimbursement program that provided for a 50 percent state reimbursement only for residential school placements. In contrast, the circuit breaker provides reimbursement for all high cost special education pupils regardless of the type of their placement.

For budgetary planning purposes, school districts should reduce the special education appropriation by the estimated amount of the circuit breaker reimbursement. When state reimbursements are received they are placed in a special fund called the "State Special Education Reimbursement Fund" and may be spend without further appropriation. Initially, expenses incurred are charged to the regular school committee appropriation and then these expenses are transferred to the Fund as the state reimbursements are received. Since fiscal year 2005, the amount of the reimbursement will be based on the prior year costs, rather than current year costs, in excess of four times the state average per pupil foundation budget ($30,340 in FY05). Finance committees review the actual revenues and expenditures to see how well they match estimates.

## School Committee's Role

A factor worth noting when preparing the budget plan is the line-item autonomy of the school com-

mittee. Though town meeting may approve a detailed school budget, to the extent that these line-item appropriations relate to curriculum or school operating costs, the school committee is not bound by them and can transfer funds among them.

If the school budget is voted as a single line-item, the school committee may decide to use more of the appropriation to support ineligible net school spending costs such as transportation and capital projects. Case law suggests that the school committee cannot make these transfers — thus jeopardizing compliance with net school spending — if their municipality's town meeting establishes separate appropriations for operating costs (net school spending), transportation costs and capital projects.

*This chapter was prepared and updated by Rick Kingsley.*

# 6 PROPOSITION 2½

## Introduction

Enacted by Massachusetts voters in 1980, Proposition 2½ fundamentally changed the municipal fiscal landscape, revolutionizing the budget process in the Commonwealth's cities and towns.

Expenditure budgets in most communities prior to the implementation of Proposition 2½ were adopted in the spring with little, if any, analysis of projected revenues for the next year. Such analyses had been considered unnecessary, because the budget could always be balanced by raising property taxes when the assessors set the tax rate in the fall. Proposition 2½ dramatically changed this process by limiting the property tax revenues cities and towns could legally assess each year to support their budgets.

## What is Proposition 2½?

Proposition 2½ (Chapter 59 s 21 CM.G.L. ) establishes two types of restrictions on the annual property tax levy. First, communities are prohibited from levying more than 2½ percent of the total full and fair cash value of all taxable real and personal property in the community. This limit is called the levy ceiling. Second, and more importantly, a community's levy is constrained in the amount it may increase from one year to the next. The maximum amount a community can levy in any given year is called the levy limit. The levy limit is always below, or at most, equal to the levy ceiling. It may not exceed the levy ceiling.

Under Proposition 2½, a community's levy limit increases automatically each year by two factors:

- *an increment of 2.5 percent of the prior year's levy limit,* and
- *a dollar amount derived from the value of new construction and other growth* in the local tax base since the previous year that is not the result of property revaluation. This " new growth" increase, which varies from year to year, recognizes that new development often results in additional municipal costs, such as, for example, where the construction of a new residential subdivision causes an increase in school enrollment or public safety expenses.

Proposition 2½ does provide communities with flexibility to levy more than their levy limits. With two exceptions, all such additional taxes must be approved by the voters at an election by a majority vote. The law establishes two types of tax increases: overrides and exclusions, and also details the referendum procedure a community must follow to pass overrides and most exclusions.

A levy limit override is used to obtain additional funds for annual operating budgets and fixed costs. An override increases the community's levy limit for the fiscal year voted and becomes part of the base for calculating future years' levy limits. The result is a permanent increase in the amount of property taxes a community may levy. If the override is to fund a stabilization fund, however, two-thirds of the selectmen must vote to allocate the additional levy capacity from the override to the same purpose in each future year for it to be included in the levy limit for that year. The override may be for any amount, so long as the new levy limit, including the override, does not exceed the overall levy ceiling of 2..5 percent of the full and fair cash value of the tax base. An override question is placed on the ballot by a majority vote of the selectmen and must follow the language specified in the law.

The second option, an exclusion, may be used to raise additional taxes to fund capital projects only. This includes public building and public works projects, as well as land and equipment purchases. A debt exclusion is used to raise additional taxes

for the annual debt service costs of projects funded by borrowing. A capital outlay expenditure exclusion is used when the project is funded by an appropriation. Unlike overrides, exclusions do not become part of the levy limit and therefore, they do not result in permanent increases in the amount of property taxes a community can levy.

Exclusions are temporary property tax increases. The additional amount is added to the levy limit only during the life of the debt in the case of a debt exclusion, or for the year in which the project is budgeted in the case of a capital outlay expenditure exclusion. Also, unlike overrides, the amount of an exclusion is not limited. Exclusions may increase the tax levy above the levy ceiling. The language to be used for both exclusion questions is also found in Proposition 2½. Both exclusions require a two-thirds vote of the selectmen to be placed on the ballot.

Two types of exclusions do not require voter approval. The first is a special debt exclusion that allows a community to raise its debt service costs for water or sewer projects outside of the levy limit or ceiling if water or sewer rates are reduced by the same amount. The second is a special debt, or capital outlay expenditure, exclusion for communities with programs to assist homeowners to repair or replace faulty septic systems, remove underground fuel storage tanks or remove dangerous levels of lead paint in order to meet public health and safety code requirements. Under the programs, local boards of health contract for the work and homeowners repay all project costs by having a portion added to their property tax bills, with interest, for up to 20 years. The amounts appropriated to fund the programs, or the debt service costs on any borrowings, are automatically raised outside the levy limit or ceiling.

Proposition 2½ also allows a community to reduce its levy limit by passing an underride. When an underride passes, the levy limit for the year decreases by the amount voted. This reduces the base for calculating future years' levy limits, which results in a permanent decrease in the amount of property taxes the community may levy. An underride question requires a majority vote of the selectmen to be placed on the ballot. It may also be placed on the ballot by the people using a local initiative procedure, if one is provided by law. Underrides are approved by majority vote of the electorate.

## How Proposition 2½ Affects Budgets

Proposition 2½ does not limit appropriations, only property taxes, and no other statute requires that the local appropriating body adopt an annual expenditure within a specified revenue figure. Since neither the levy limit, nor local receipts, state aid nor other revenues that support the budget, are definitely fixed at the time the budget is adopted, compliance with Proposition 2½ cannot be determined until the tax rate is set several months into the new fiscal year. At that time the budget must be balanced within the levy limit.

In an effort to be prudent, however, communities attempt to adopt expenditure budgets in the spring within reasonable estimates of property tax and other revenues likely to be available for the year. Nevertheless, budgets with a higher level of appropriations than supported by estimated revenues could be in place at the beginning of the fiscal year. Appropriations are valid spending authority in such cases until they are rescinded by the local appropriating body. Departments may continue to spend at appropriated levels even though spending cuts will probably be needed to bring the budget into balance. Alternatively, additional revenue may be sought by placing an override or exclusion before the voters. Approval of the referendum will bring the budget into balance and allow a tax rate to be set. However, defeat of such a referendum does not, of its own force, rescind the budget as a whole or any particular appropriations made for the purposes described in the question. Difficulties can occur in resolving any differences in the spending decisions made by the appropriating body and taxing decisions made by the voters. This can create uncertainty in the delivery of municipal services and delays in setting the tax rate.

## Contingent Appropriations

Towns can use another budgeting option that elim-

inates the need for town meeting to take further action on the annual budget or special purpose appropriations after a referendum. When voting specific appropriations, town meeting can decide that they will take effect only if additional property tax revenues to support them are approved by the voters, i.e., the appropriations are contingent upon later approval of a Proposition 2½ referendum question. Voter action on the referendum then determines whether those appropriations are effective grants of spending authority for the year. (See timing restrictions in following section)

This option recognizes the special difficulties towns encounter in adopting a balanced budget and revisiting the budget after a referendum decision. Town meeting action on the budget, which is usually submitted by the finance committee, is not confined to the recommended amounts. Because of the broad scope of action afforded under warrant articles and the advisory status of the finance committee's budget recommendations, town meeting almost always has the power to vote appropriations exceeding the recommended amounts and estimated available revenues. School Committee of the Town of Hanson v. Moderator of the Town of Hanson, Plymouth Superior Court C.A. 90-0922A and 90-0923B (1991)(Moderator cannot limit town meeting action on budget recommendations by requiring motions increasing an item to include an offsetting decrease in another item or a provision making increased appropriation contingent on Proposition 2½ override). Moreover, a special town meeting must be called whenever budget cuts or supplemental appropriations are needed or desired. This can result in added expenses, as well as delays in finalizing the budget and setting the tax rate.

## Statutory Requirements

The use of contingent appropriations is governed by Chapter 59 s2 1 C(m) M.G.L. The basic requirements are as follows:

- All or any portion of an appropriation from the tax levy, available funds or borrowing may be voted contingent on the subsequent approval of a Proposition 2½ override or exclusion question.
- The purpose stated in the question must be substantially the same as the purpose stated in the appropriation vote;
- The appropriation is not effective until the question is approved, i.e., the funds cannot be spent before approval;
- The deadline for obtaining voter approval of override or exclusion questions for contingent appropriations made at an annual town meeting is September 15. More than one election may be held, but the appropriation is null and void if the related question is not approved by September 15;
- The deadline for obtaining voter approval of override or exclusion questions for contingent appropriations made at any other town meeting is 90 days after the close of the town meeting at which the appropriation vote was taken. More than one election may be held, but the appropriation is null and void if the related question is not approved by the end of the 90 day period, and;
- If the contingent appropriation was made from the tax levy, the tax rate cannot be submitted to the Commissioner of Revenue for approval until the question has been voted upon, or the deadline for holding an election has passed, whichever comes first.

## Language Needed

Any language indicating that the appropriation is being made subject to the approval of a Proposition 2½ referendum question is sufficient to bring it within the provisions of Chapter 59 s21C(m) M.G.L . For example, "subject to approval of a referendum question under Chapter 59 s21C M.G.L. " or "contingent upon passage of a Proposition 2½ ballot question" would both clearly express town meeting's intent to condition the spending authority on subsequent voter action.

Avoid including the specific type of referendum question or an election date in the appropriation vote if possible. The validity of the appropriation

could be questioned if the wrong type of referendum question is cited or the election is not held on the date specified.

## Action Under Warrant Article

Town meeting may make any appropriation vote contingent upon approval of a referendum question whether or not the warrant article under which that vote is being taken includes "contingency" language. Moreover, inclusion of contingency language in an article does not preclude town meeting from voting an appropriation without the contingency.

This is because of the broad scope of action afforded a town under a town meeting warrant article. The purpose of a warrant article is simply to give townspeople notice of the "subjects to be acted upon" at the meeting. Chapter 39 §10 M.G.L. . An article does not need to contain details or forecast the precise action or actions the town may or will take on the subject. Even if it includes those details, the town may usually act in a different manner so long as that action is incidental to or connected with the subject of the article.

In a budget or appropriation article, this broad scope of permissible action enables a town to fund an appropriation by any lawful method, whether specified in the article or not. Since raising the funds for an appropriation from a Proposition 2½ referendum question is a funding method, town meeting is free to use that particular method under any appropriation article.

## Timing of Election

As explained earlier, there are statutory deadlines for obtaining voter approval of a referendum question to fund a contingent appropriation. For appropriations made at annual town meeting, the deadline is September 15. For appropriations made at other town meetings, the deadline is 90 days after the close of the meeting. This deadline should be taken into consideration when voting contingent appropriations at a fall special town meeting. Contingent appropriations voted at that time could delay tax billing since the tax rate cannot be set if the town can still hold an election.

## Effect of Contingency

A contingent appropriation vote simply conditions the effectiveness of the appropriation on the approval of a referendum question within a certain time period. It does not place a question on the ballot. The power to place Proposition 2½ questions on the ballot rests solely with the selectmen in towns. They may choose not to place a question on the ballot for any or all contingent appropriations voted by town meeting. They can also decide to place a question on the ballot for an amount less than the contingent appropriation. In that case, approval of the question would make the appropriation effective only to the extent of the amount stated in the question.

## Referendum Approach

A separate referendum question is not required for each contingent appropriation. The selectmen may include several appropriations within one question. Alternatively, they can use the so-called "menu" or "pyramid" approaches if the appropriations are for operating or other non-capital purposes.

The only limitation is that the purpose of each contingent appropriation that a referendum question is intended to fund must be described in the question in substantially the same manner as the appropriation vote. The question does not have to track the appropriation vote word for word, but it should describe the purpose in a substantially similar manner. In the case of operating appropriations, this limitation may mean that the selectmen will not have as much flexibility in describing the specific positions, programs or services the question is intended to fund as would otherwise be the case.

## Approval of Referendum

Approval of a referendum question for the same purpose as a contingent appropriation, within the statutory deadline, determines whether that particular appropriation is effective. However, the validity of a referendum question is not dependent on

the effectiveness of any particular appropriation made for the same purpose.

In other words, an override or exclusion approved by the voters always grants additional taxing authority to a community. That authority is exercised by including appropriations in the budget for the purpose stated in the question. It is fully exercised any time all appropriations for the stated purposes, whether made subject to a referendum question or not, equal or exceed the amount in the question. Subsequent changes, including reductions, in those appropriations will not affect the amount of the override or exclusion unless the amended appropriations are below the amount of the question.

## Annual Budget

In most towns, the annual operating budget is presented under an omnibus budget article. Typically, the finance committee's recommendations for each line item and purpose are moved as the main motion under the article. If the finance committee proposes any contingent operating appropriations, the report should show the recommended amount for each line item and in a separate column, the additional amount recommended for that purpose contingent upon approval of a referendum question. The amounts shown in both columns can then be amended by town meeting. This is a practical format that lets town meeting members consider and discuss the effect of the proposals (both "non-override" and "override") on a particular department's operations for the year. More importantly, it clearly identifies the appropriations that are subject to any contingencies, which avoids disputes about a department's spending authority if the referendum question is defeated.

Some towns vote the entire operating budget contingent upon approval of a referendum question for a portion of that budget. Typically, that portion is the total amount by which the adopted budget exceeds the recommendations of the finance committee. The vote does not, however, include any allocation of the contingent amount to specific line items or purposes. This approach is not recommended because the entire budget is probably not effective if the question is defeated. Arguably, town meeting intended only to make the amount any line item exceeded the finance committee's recommendation subject to the contingency. However, there are often discrepancies between the total contingent amount and the amount of increases in the individual line items. Such discrepancies make it impossible for the town clerk to certify the appropriations available for each department's use if the referendum question fails.

## Capital Expenditures

Special purpose appropriations for capital expenditures, such as construction of new schools or acquisition of conservation land, are often made contingent on passage of a Proposition 2½ referendum. Capital projects are typically funded by borrowing, which means the debt authorization could be contingent on passage of a debt exclusion. Projects funded from the levy or available funds could be subject to a capital expenditure exclusion. However, contingent appropriations for projects for which the town cannot legally borrow, such as painting town hall or filling potholes, can only be funded with an override. Chapter 59 §21C(il/2) M.G.L.

## Regional School Assessments

The regional school budget procedure is set forth in Chapter 71 § I 6B M.G.L. After the regional school committee adopts the annual budget, each member community is notified of its assessed share of the budget and must act to approve or disapprove it. A member may approve the budget by a vote expressly doing so, or by the more usual practice of simply appropriating its entire assessment ("a vote or votes by a local appropriating authority to appropriate the municipality's apportioned share of the regional school budget shall constitute approval of the annual regional school district budget.") Since appropriation of the full amount assessed is required to approve the budget, it follows that in the absence of a specific vote to approve the budget, an appropriation of less than the full assessment results in disapproval or

rejection of the budget. Once the required number of members approves the budget (both communities in a two-member district and two-thirds of the communities in a three or more member district), all members become legally obligated to fund their assessments whether or not they approved the budget. If the original budget is not approved, an amended budget must be adopted by the regional school committee and submitted to the members for their consideration in much the same manner as the original budget. In either case, members can only approve or disapprove the budget before them. They cannot approve or disapprove any particular portion of it.

If a town uses contingent appropriations during this process, there are two approaches it may take. The most practical is to appropriate a portion of the assessment for the budget being considered (original or amended) without any contingency and then appropriate the balance with one. In that case, the portion with the contingency will become an effective appropriation if a levy limit override question passes within the statutory time period. The town will then have fully funded its assessment and approved the budget. If the override fails, the town will have disapproved the budget. Because the amount appropriated without the contingency is still a valid appropriation, the town will have set aside some funds to pay for its regional school assessment. Then, if the budget under consideration is disapproved and the requested funding level under an amended budget is within the amount already appropriated, the town will not have to call a special town meeting or take any other action in order to approve that budget.

Alternatively, the town can make the entire appropriation for the assessment contingent on approval of an override for all or a portion of that assessment. Approval of the override makes the entire appropriation effective and results in approval of the budget. The disadvantage of this approach is that the town has no appropriation for regional school purposes if the override is defeated so it will have to hold a special town meeting to appropriate the required funds before it can set its tax rate.

A town may make an appropriation for its assessed share of capital expenditures not funded by borrowing contingent on passage of a referendum question, whether the assessment is for a part of the annual budget or a separate, supplemental capital budget. However, the question presented to the voters can only be an override. A capital expenditure exclusion cannot be used because all payments made by a member to a regional school district are assessments, whether allocated for operating or capital purposes, and assessments cannot be funded by borrowing. Chapter 59 §21C M.G.L.

A regional school committee may treat a contingent approprition for all or part of the town's assessed share of a certified budget as a rejection of the budget. It does not have to wait for the election on the referendum.

## Regional School Debt

Proposition 2$^1/_2$ expressly provides that a member of a regional governmental unit may exclude its assessed share of debt service on district borrowings. Chapter 59 s21C(k) M.G.L. Member towns often wish, therefore, to approve a regional school debt issue contingent upon passage of a debt exclusion. This poses a difficult problem because no appropriation is being made and, under Chapter 59 s21C(m) M.G.L. , a town is permitted only to make an appropriation contingent upon passage of a referendum. More importantly, a regional school district may incur debt unless one of its members disapproves the issue within 60 days of the date the regional school committee authorizes the debt. Chapter 71 s16(d)M.G.L. Thus, town meeting does not actually have to approve the proposed issue. The only town meeting action that has any legal effect is a vote expressing disapproval of the debt. A contingent town meeting vote to approve the debt, coupled with an unsuccessful debt exclusion, may not constitute such a disapproval under the statute. As a practical matter, most regional school committees treat such actions as disapproval. In the absence of assurances that will be the case, however, the town should probably schedule the referendum first, and in sufficient time to give town meeting an opportunity to expressly disapprove the debt issue within the 60-day period should

the referendum fail.

## Budgeting Excluded Debt

An approved debt exclusion covers the annual debt service on debt issued for the project or projects identified in the question. Under Department of Revenue (DOR) guidelines, however, the exclusion is limited to debt service on the amount of borrowing authorized or comtemplated at the time of referendum. Debt service on any additional borrowing that may be authorized because of an increase in project cost is not automatically covered. The guidelines require the additional debt service to be budgeted within the levy limitunless it is a fairly small increase related to inflation or minor project changes or a supplemental debt exclusion is approved by the voters. (See Bureau of Accouants Informational Guideline Release No. 02-101. *Proposition 2 1/2 Debt Exclusions* March 2002.)

The amount excluded each fiscal year over the life of the borrowing is also limited to the total principal and interest due that year net of any reimbursement received from the state or federal government for the project. Local revenues, such as user charges or betterments being used to fund the debt service, may be netted as well at the community's option, but if they are not and the debt service is funded from a special revenue or enterprise fund, the tax subsidy must be budgeted to that fund. Under certain conditions, the DOR will approve adjustments in the annual exclusion schedule in order to moderate the impact on taxpayers.

Any premiums received on debt issued for an excluded project, minus the cost of issuance, must be offset against the stated interest cost when calculating the debt exclusion so that it reflects the true interest cost incurred to finance the project. M.G.L. Ch 44:S 20.

The Division of Local Services (DLS) in the Department of Revenue has produced a concise and readable primer on Proposition 2½: *Levy Limits: A Primer on Proposition 2½* and a booklet about the referendum procedure: *Proposition 2½ Ballot Questions: Requirements and Procedures.*

*This chapter was prepared and updated by Kathleen Colleary, Esq. and represents the opinions of its author and not necessarily those of the Department of Revenue.*

**SAMPLE CONTINGENT APPROPRIATION MOTIONS**
**APPROACHES UNDER OMNIBUS BUDGET ARTICLES**

METHOD 1: SINGLE MOTION FOR CONTINGENT AND NON-CONTINGENT AMOUNTS

ARTICLE _: TO ACT ON THE REPORT OF THE FINANCE COMMITTEE ON THE FISCAL YEAR _ BUDGET AND TO RAISE AND APPROPRIATE OR TRANSFER FROM AVAILABLE FUNDS MONEY FOR THE OPERATION OF THE TOWN'S DEPARTMENTS AND THE PAYMENT OF DEBT SERVICE AND ALL OTHER NECESSARY AND PROPER EXPENSES FOR THE YEAR, OR TAKE ANY OTHER ACTION RELATIVE THERETO.

MOTION: I move that the town vote to raise and appropriate or transfer from available funds the amounts recommended by the Finance Committee for departmental operating purposes, debt service and other town expenses in fiscal year _, with each item to be considered a separate appropriation and the amounts shown in the column captioned "Contingent Appropriations" to be appropriated contingent upon passage of a Proposition **2½** referendum question under General Laws Chapter 5 9 §21 C.

## PROPOSED FISCAL YEAR _ BUDGET

THE FINANCE COMMITTEE RECOMMENDS THAT THE AMOUNTS SHOWN IN THE COLUMN CAPTIONED "NON-CONTINGENT APPROPRIATIONS" BE APPROPRIATED FROM THE TAX LEVY, UNLESS OTHERWISE SPECIFIED, FOR FY _ DEPARTMENTAL OPERATING PURPOSES, DEBT SERVICE AND OTHER TOWN EXPENSES, AND THAT THE AMOUNTS SHOWN IN THE COLUMN CAPTIONED "CONTINGENT APPROPRIATIONS" BE APPROPRIATED FROM THE TAX LEVY CONTINGENT UPON THE PASSAGE OF A PROPOSITION **2½** REFERENDUM QUESTION UNDER GENERAL LAWS CHAPTER 59 §21C.

| Purpose | NON-CONTINGENT APPROPRIATIONS | CONTINGENT APPROPRIATIONS |
|---|---|---|
| Selectmen's Office | | |
| Salaries | $ 45,000 | 6,000 |
| Expenses | 18,000 | 4,000 |
| School Department | 2,800,000 | 300,000 |
| Town Planner | | |
| Salary | 0 | 35,000 |
| Expenses | 0 | 12,000 |
| Cemetary Commission | | |
| Salaries | 8,000 | |
| Expenses | 10,000 | |
| | (Includes $8,000 transfer from Sale of Lots Fund) | |
| TOTAL | $8,000,000 | $890,000 |

METHOD 2: SEPARATE MOTIONS FOR CONTINGENT AND NON-CONTINGENT AMOUNTS

MOTION: I move that the town vote to raise and appropriate or transfer from available funds the amounts recommended by the Finance Committee for departmental operating purposes, debt service and other town expenses in fiscal year _, with each item to be considered a separate appropriation.

PROPOSED FISCAL YEAR _ BUDGET

THE FINANCE COMMITTEE RECOMMENDS THAT THE FOLLOWING AMOUNTS BE APPROPRIATED FROM THE TAX LEVY, UNLESS OTHERWISE SPECIFIED, FOR FISCAL YEAR _ DEPARTMENTAL OPERATING PURPOSES, DEBT SERVICE AND OTHER TOWN EXPENSES:

| Purpose | Recommended |
|---|---|
| Selectmen's Office | |
| Salaries | $45,000 |
| Expenses | $18,000 |
| School Department | $2,800,000 |
| Town Planner | |
| Salary | 0 |
| Expenses | 0 |
| Cemetary Commission | |
| Salaries | $8,000 |
| Expenses | $10,000 |
| (Includes $8,000 transfer from Sale of Lots Fund) | |
| TOTAL | $8,000,000 |

MOTION: I move that the town vote to raise and appropriate any additional amounts recommended by the Finance Committee for the departmental operating purposes and other town expenses in fiscal year _, contingent upon passage of a Proposition 2$^1/_2$ referendum question under General Laws Chapter 59 §2 1 C.

PROPOSED FISCAL YEAR _ CONTINGENT BUDGET

THE FINANCE COMMITTEE RECOMMENDS THAT THE FOLLOWING AMOUNTS BE APPROPRIATED FROM THE TAX LEVY FOR FISCAL YEAR __ DEPARTMENTAL OPERATING PURPOSES AND OTHER TOWN EXPENSES CONTINGENT UPON PASSAGE OF A PROPOSITION 2½ REFERENDUM QUESTION UNDER GENERAL LAWS CHAPTER 59 §21C.

| Purpose | Recommended |
|---|---|
| Selectmen's Office | |
| Salaries | $6,000 |
| Expenses | $4,000 |
| School Department | $300,000 |
| Town Planner | |
| Salary | $35,000 |
| Expenses | $12,000 |
| TOTAL CONTINGENT APPROPRIATIONS | $890,000 |

## BALLOT QUESTIONS

Under either approach, the town has the choice whether to bundle all the contingent appropriations for operating expenditures or the fiscal year into a single override question for the $890,000 in this example, or to put separate questions on the ballot f for different departments or groups of departments: for instance, one question for $300,000 for school department operating expenses and another question for $590,000 for fiscal operating expenses of all other town departments. The choice of how to structure the ballot questions is within the discretion of the selectmen. If the selectmen do decide to include more than one contingent appropriation in a question, the purpose of each appropriation the question is intended to fund would have to be stated in the question.

**SAMPLE CONTINGENT APPROPRIATION MOTIONS UNDER OTHER APPROPRIATION ARTICLES**

REGIONAL SCHOOL BUDGET ARTICLE

ARTICLE_: TO SEE IF THE TOWN WILL APPROVE THE _____REGIONAL SCHOOL DISTRICT BUDGET FOR FISCAL YEAR _ AND RAISE AND APPROPRIATE OR TRANSFER FROM AVAILABLE FUNDS $(FULL ASSESSMENT) TO PAY ITS ASSESSED SHARE OF THAT BUDGET, OR TO TAKE ANY OTHER ACTION RELATIVE THERETO.

MOTION: I move that the town raise and appropriate $(non-contingent portion) to pay its assessed share of the_____ Regional School District Budget for fiscal year _ and that it raise and appropriate the additional $(contingent portion) required to fully fund the assessment and thereby approve the district's budget for the year, provided that this additional appropriation be contingent on the approval of a levy limit override question under General Laws Chapter 59 §21 C(g).

SEPARATE DEPARTMENTAL "CONTINGENT BUDGET" ARTICLE

ARTICLE_: TO SEE IF THE TOWN WILL RAISE AND APPROPRIATE OR TRANSFER FROM AVAILABLE FUNDS A SUM TO SUPPLEMENT THE FIRE DEPARTMENT'S OPERATING BUDGET FOR FISCAL YEAR _ CONTINGENT UPON THE PASSAGE OF A PROPOSITION 2 1/2 LEVY LIMIT OVERRIDE REFERENDUM, OR TAKE ANY OTHER ACTION RELATIVE THERETO.

MOTION: I move that the town raise and appropriate an additional $_____for the

Fire Department's fiscal year _ operating budget to be allocated as follows:

$_____for salaries and $_____for expenses, provided that such

additional appropriations be contingent on the passage of a Proposition 21/2 levy limit override question.

BORROWING ARTICLE

ARTICLE_: TO SEE IF THE TOWN WILL APPROPRIATE A SUM OF MONEY BY BORROWING TO DESIGN AND CONSTRUCT AN ADDITION TO THE WASHINGTON ELEMENTARY SCHOOL AND TO AUTHORIZE THE TREASURER, WITH THE APPROVAL OF THE SELECTMEN, TO ISSUE ANY BONDS OR NOTES THAT MAY BE NECESSARY FOR THAT PURPOSE, OR TAKE ANY OTHER ACTION RELATIVE THERETO.

MOTION: I move that the town appropriate and borrow $5,000,000 for the design and construction of an addition to the Washington Elementary School and authorize the treasurer with the approval of the selectmen, to issue any bonds or notes that may be necessary for that purpose, as authorized by General Laws Chapter 44 §7(3a), or any other general or special law, for a period not to exceed 10 years, provided, however, that this appropriation and debt authorization be contingent upon passage of a Proposition 21/2 debt exclusion referendum under General Laws Chapter 59 §21 C(k)

# 7 REVENUE AND EXPENDITURE FORECASTING

## Introduction

For many years, municipalities have recognized the importance of long range financial planning. This is evidenced by the fact that most communities now have a formal bylaw or charter requirement that a long range capital improvement program be prepared annually (Chapter 41 s 106B M.G.L.). Many communities have called upon their financial officers to construct sophisticated long range revenue and expenditure forecasts. The forecast acts as a bridge between a municipality's capital improvement program and its annual operating budget, bringing all of the fiscal policy and economic variables together to establish concise managerial direction. It also allows decision makers to understand the long-term ramifications of short-term decisions. Capital planning, debt management, and revenue and expenditure forecasting are the key ingredients in developing a strong municipal fiscal position, and are crucial to avoiding the program reductions which would result without the use of such techniques.

The revenue constraints of Proposition 2 1/2 have changed the municipal budgetary process and heightened the importance of long range budget planning. It is the primary function of a five-year revenue and expenditure forecast to summarize a community's projected budgetary position over a period of time, based upon the most accurate and reliable information available at the time of preparation. The five-year forecast must also establish the community's initial goals and direction, working to ensure a balanced fiscal and programmatic service mix.

Long-range forecasting is the essential first step in the annual budget process, determining whether a community should reduce, level fund or expand services. It is critical that the report be used as a starting point in a long term planning process. Ultimately, as the law requires, towns and cities will authorize a budget for the next fiscal year that has its revenues and expenditures in balance. If a long-range forecast identifies any anticipated budget gaps, the forecast sets the parameters of the policy decisions that will be made in order to produce future balanced municipal budgets.

## Elements of a Successful Forecast

The success of a forecast depends on a high level of cooperation between local financial officials including town managers, accountants, treasurers, collectors, assessors, finance committees, school officials, and boards of selectmen. In addition, forecasts should be:

- based on assumptions that are easily understood and adjustable as current information becomes available;
- written so that financial and non-financial personnel can comprehend the information;
- made available to policy makers in the community and its release should dovetail with the early stages of a community's budget process.

The assumptions upon which projections are made change with time. National or local downturns in the economy often encourage changes in law to improve conditions. In recent years, changes to state financed programs, such as general education assistance, special education assistance and School Building Assistance, have had significant effects on the financial condition of communities. The weakening financial markets have dramatically changed actuarial calculations of Contributory Retirement funding. The effects of financial weakness and international events have had a major impact on the insurance industry and premiums paid by communities for insurance coverage. Also, the energy futures market has fluctuated dramatically, impacting all utility budgets. This accelerated pace of change makes it necessary to periodically update the forecast assumptions in order to keep the forecasts useful.

## Forecast Construction

The typical revenue and expenditure forecast consists of a summary identifying all of the major revenue and expenditure centers of the community. The revenues are grouped together and added to provide a total estimated annual revenue forecast for that year. The cost centers are grouped together, below the revenue total, and are added to provide a total estimated annual expenditure forecast. A simple calculation, subtracting estimated annual expenditures from estimated annual revenues, provides a community with a projected annual surplus or deficit (Gap Analysis). That surplus or deficit then shapes a municipality's policy decisions.

A forecast would typically include at least the most recent past fiscal year, the current year, and several upcoming (forecasted) fiscal years. Many communities extend this analysis over the horizon for three years or less. As forecasting techniques are based upon historic trend analysis and incrementalization, such short-term analyses may not provide communities with an adequate estimate of the future fiscal condition of the community. Conversely, an extremely long-term forecast loses accuracy The geometric growth in a budget gap over ten years can be so large that it places the entire estimate's credibility in question. The optimal term of a forecast should, therefore, be no greater than five years.

The goal of any analysis is to examine the "big picture" and break it down into smaller and more manageable (and understandable) parts. Thus, for every revenue or expenditure center included on the summary spreadsheet, a sub-schedule should be developed, including all the factors that lead to the specific revenue/expenditure center's forecast. As an example, local government has gathered a tremendous amount of data on local revenues. Included with each year's recapitulation sheet, which is submitted to the Department of Revenue, is a list of actual local revenue collections from the previous fiscal year and projections for the next fiscal year. A review of several prior years' data will allow local financial planners to develop an historic trend analysis that can be used to create a projection of future revenue based upon actual data rather than educated guesses. Similar subschedules can be developed for each of the major variables of the summary spreadsheet.

A key first step in the forecasting of locally generated revenues ("local receipts") is a thorough year-end analysis of the recently completed fiscal year. A strong understanding of how each local receipt performed is critical. This involves working with those departments responsible for managing programs with fees, fines or penalties. An unquestionable understanding of a community's revenue allows for the development of a very credible revenue base.

As municipal financial planners begin to divide their town's overall revenue and expenditure components into smaller variables, a better understanding develops concerning what will affect a specific variable. Many variables are tied directly to inflation. Some contractually agreed upon expenditures may have specific annual inflation costs. Others may lock in a cost for a period of years. Personnel costs are often driven by collective bargaining and cost of living indices.

Potential costs for group health insurance can be forecasted by taking into consideration such things as the number of employees in each plan, the rate of each plan and the employer/employee split of costs. Some variables, however, are not tied solely to inflation. Energy costs, for example, are viewed in terms of consumption as well as pure inflation. Other variables that are too small to review, or are not controlled by events within the community, can be forecasted by giving them a generic inflation factor tied to the current cost of living index. The effort of constantly expanding the variables that go into the forecast will ultimately lead to more accurate, and therefore more credible, forcasts. This, in turn, provides the community with an extremely sophisticated planning tool.

Similar to the year-end revenue analysis, communities should undertake a comprehensive review of all prior year expenditure patterns.Key trends to investigate include overtime, changes in energy

consumption, health insurance enrollment, and 'surplus funds' from vacancies in personnel levels.

In this day and age, computer technology also plays a key role in the financial planning process. Revenue and expenditure forecasting requires only the ability to use simple spreadsheet software and word processing software to produce a forecasting report explaining the assumptions. Within the spreadsheet software, sub-totals of the sub-schedules can be linked to a summary page. Thus, all adjustments that take place on the detailed sub-schedules will immediately ripple out to the summary page, allowing the user, and his or her readers, instant understanding of the impact of any proposed adjustment. The Massachusetts Department of Revenue, Division of Local Services has an excellent publication that will help finance committees navigate several recommended software packages: Revenue and Expenditure Forecasting Software: Users Manual.

### "What If?"

The primary purpose of the revenue and expenditure analysis is to determine the annual gap between revenues and expenditures. This use of the forecast is often referred to as gap analysis. Another, more sophisticated, management tool that can be derived from forecasts is something called an impact analysis. Beginning with the basic gap analysis, fiscal planners isolate a specific variable and play "what if" scenarios with it. A community may want to understand the long-term effects of agreeing to a labor contract, for example. By placing optional inflation factors on the personnel variables affected by the proposed contract, fiscal planners can quickly see the estimated fiscal effect the contract would have on the town budget. Similary, a community could see the impact of various revenue enhancement proposals.

## Policy Budgeting

A recent trend in local budgeting is what has been coined "policy budgeting." Based on the approved fiscal policies of a community, policy budgeting guides how revenues are to be allocated. For example, policies can dictate how much revenue will be set aside for reserves, how much will be earmarked for capital and how Free Cash will be utilized. It is strongly recommended that communities work to develop, adopt, and implement prudent fiscal policies.

These policies then guide the forecasting process. For example, if a community's policy states that Free Cash should only be used for one-time uses then the financial forecast should not assume using Free Cash to support ongoing department expenses. Ideally, a community forecast is framed by the fiscal policies, and the impact of those policies are then played at in the forecast. Decision makers are then able to see how any proposed changes to the fiscal policies impact the bottom line.

### Constraints

Local forecasters attempt to develop analyses that will provide an accurate estimate of a community's fiscal condition in the next year and several years thereafter. In order to provide such a useful document, fiscal planners must begin somewhere. Thus, it makes sense that as an underlying policy of the forecast, municipal financial planners assume that every law that currently exists, every service which is currently provided, and any revenue that is currently available will also exist for purposes of the forecast. Assuming that all of the aforementioned items remain the same allows forecasters to examine the effects of economic variables while excluding political variables. As an example, a local forecaster cannot assume that an override will be successful. It is important to estimate what the revenue/expenditure gap will be without an override. Then, an impact analysis can be used to determine what the impact of a specific amount of an override would likely be on the future gap.

Another pitfall common to forecasting is a tendency to break down the expenditure side of the equation by departmental divisions. This strategy, in its simplest form, requires an inflation factor for each department rather than for what each department purchases. If fiscal planners choose a fairly sophis-

ticated analysis, it would require a break out of all line items of each department, which would be a labor intensive and unproductive way to proceed. The preferred format abolishes departmental lines for purposes of the forecast, and focuses on the purchases of the entire municipality. Fiscal planners can break down expenditures by municipal and education. Then, a sub-schedule of each would be developed to illustrate what is purchased and its cost. When determining an inflation factor based upon purchases rather than departmental breakdowns, different and more accurate inflation factors can be applied to specific cost centers. This will provide for a more accurate forecast than that provided by a generic inflation factor. Another item to be factored in is personnel costs, especially in or around contract years.

## Accuracy

Reliable forecasting requires the seemingly contradictory existence of accuracy in an imprecise environment. The highest degree of accuracy is especially vital now, when local governments across the country are experiencing decreasing fund balances, increasing fixed costs, and reduced revenue resources. The Massachusetts electorate, in an effort to curb taxation growth, has put a premium on accurate forecasting so that local governments can better assess their financial status.

It is difficult to measure the utility of a new revenue and expenditure forecast without reviewing the accuracy of the forecasts and actual budgets from prior years. Gaining and maintaining the accuracy, and therefore the credibility, of revenue and expenditure analyses, is vital to their success as legitimate financial planning tools. In fact, when done correctly revenue and expenditure forecasts can be extremely accurate. Recently several municipalities in Massachusetts have developed excellent track records for estimating their future budgets at less than 5 percent above or below their estimates.

Adopting a conservative approach to forecasting both revenues (avoiding too "rosy" of an estimate for growth) and expenditures is the preferred approach, as starting off with too favorable of a bottom line could backfire and hurt the credibility of the forecast.

## Summary

It is important to note that the art of forecasting is dynamic and subject to constant change. Factors that are incorporated within the projection will undoubtedly change, materially affecting the projected annual budget estimate, either positively or negatively. Significant projection factors that can affect forecasting estimates include:

- decisions to utilize a community's reserve taxing capacity, or to use free cash as a source of revenue within the budget plan;
- the imposition of new or increased local revenues;
- Decisions by the state or federal governments either to allow cities and towns additional revenue generating flexibility and/or to provide additional aid to local governments;
- The state's assumption of services and/or financial responsibilities which are presently a cost to local communities, or the return to municipalities of certain responsibilities or services that had previously been under state jurisdiction;
- changes in condition of the local, state and national economies;
- changes in existing law and administrative rules of higher levels of governance, and
- changes in local policies with regard to what constitutes an appropriate mix and level of municipal services as well as what constitutes an appropriate system of service financing.

Forecast should be updated each month to reflect any changes that have taken place. As the annual budget process proceeds, policy decisions based on revenue and expenditure forecasts can positively impact any projected revenue gap. Ultimately, through a series of revenue enhancement and expenditure control policies, any projected gap can be eliminated and the budget will be balanced. These budget balancing decisions will have a ripple effect upon the projected gaps of future years, and the fiscal policies adopted in the first year of a

forecast can reduce or avoid deficits in future years.

*This chapter was prepared and updated by Stephen E. Cirillo and Sean Cronin.*

## Revenue Budget Fiscal Year 2006
## Summary Reference Sheet

Revenue Budget Fiscal Year 2006
Summary Reference Sheet

Property Taxes:

(1) Fiscal Year 2005 Base

This is the levy limit, not your actual tax levy which may be lower.

(2)Plus 2.5%

This is your automatic and allowable 2.5% increase.

(3) plus FY06 Estimated New Growth

This is your Fiscal Year 2006 estimated new growth from your assessor.

(4) Plus FY05 Override

This is your Fiscal Year 2005 Override, if you have successfully voted a new override to begin this year.

(5) Plus Debt Exclusion

This is your new or existing debt exclusion. Check with Treasurer to review the debt schedule to obtain actual debt payments for the appropriate fiscal years. (Remember, only qualifying debt should be included here and you must subtract certain state or federal grants such as School Building Assistance). Ensure that the debt included in this line has been properly voted. This can include interest on short term debt.

(6) Plus Capital Exclusion

This includes only successfully voted capital exclusions (this is essentially a one year override).

Other Recurring Revenue:

(7)State Aid - Cherry Sheet

This is your State Aid Revenue component. Use the green sheet only. You will need to use an estimate until the actual Cherry Sheets are released.

(8) Local Receipts (not allocated in numbers 9, 10 & 11)

These are the fees that are generated at the local level. Motor vehicle excise is usually the largest component. A team approach with your town accountants input is suggested for this estimate.

(9) Offset Receipts

This is regulated by Chapter 44, S53E M.G.L. If your community has adopted this, insert your receipt estimate here.*

(10)Enterprise Receipts

This is regulated by Chapter 44, S53F1 /2 M.G.L. If your community has adopted this, insert your receipt estimate here.*

(11) Revolving Fund

This is regulated by Chapter 44, S53E1 / 2. M.G.L. If your community has adopted this, insert your receipt estimate here.*

* REMINDER: There will typically be a direct expense that off-sets these receipts.

Other Available Funds:

(12) Free Cash

This is the amount of free cash certified by DOR annually. Your available free cash will also depend on whether you have appropriated any amounts from this current certification.

(13) Stabilization Fund

This is a reserve account that is available for any lawful purpose.

(14) Overlay Surplus

This is the amount of overlay no longer required for potential abatements, exemptions, or pending Appellate Tax Board cases. This amount must be designated as surplus by the Board of Assessors.

(15) Other

Examples may be: unexpended funds from complete projects in old special articles Charges Against Revenue:

(16)State & County Charges - Cherry Sheet

These are the State Aid charges (the pink sheets), you may have to estimate this if the cherry sheets have not been released.

(17)Overlay

This is the amounts needed for abatements or exemptions. The estimate is arrived at by the board of assessors.

(18) Offsets- Cherry Sheet

These are specific programs listed on the Cherry sheet that are earmarked.

(19) Amount Certified for Tax Title

This is an amount to be raised for the purpose of starting the Tax Title process for delinquent tax-payers.

(20) Debt & Interest not provided for

This is unanticipated borrowing from the current fiscal year that was not budgeted for.

(21)Final Court Judgments

Costs from rendered court judgements.

(22)Overlay Deficits

This occurs if the Board of Assessors grants more in abatements than what is available (overlay reserve), tresulting in an overlay deficit. This may also occur for prior year abatements, if the Board ofAssessors settles or loses a case before the appellate Tax Board.

(23) Revenue Deficits

This occurs if the actual receipts received are lower than the budgeted amounts, and this is not offset by unexpended appropriations. Then the revenue deficit must be raised in the next year's tax rate.

(24)Snow & Ice Deficit

This occurs if the community incurred a deficit because of severe weather, which deficit t must be raised in the next year's tax rate.

(25) Offset Receipt Deficit

This is if you have adopted Chapter 44, S53 M.G. L.(number 10 from above) and your actual receipts were below your estimates, then you should raise this in the next year's tax rate.

(26) Authorized Deferral of Teachers Pay

If your community deferred teachers pay and is in the process of amortizing the deferral, you would place the amount here.

(27) Other

## REVENUE BUDGET FISCAL YEAR 2006

| | | | |
|---|---|---|---|
| **PROPERTY TAXES:** | | | |
| (1) Fiscal Year 2005 base | _____ | | |
| (2) Plus 2.5% | _____ | | |
| (3) Plus FY 2006 New Growth | _____ | | |
| (4) Plus FY 2006 Override | _____ | | |
| (5) Plus Debt Exclusion | _____ | | |
| (6) Plus Capital Exclusion | _____ | | |
| Total Property Tax Revenue | | _____ | |
| **OTHER RECURRING REVENUE:** | | | |
| (7) State Aid - Cherry Sheet | _____ | | |
| (8) Local Receipts (not allocated below) | _____ | | |
| (9) Offset Receipts | _____ | | |
| (10) Enterprise Receipts | _____ | | |
| (11) Revolving Funds | _____ | | |
| Total Other Recurring Revenue | | _____ | |
| **OTHER AVAILABLE FUNDS** | | | |
| (12) Free Cash | _____ | | |
| (13) Stabilization Fund | _____ | | |
| (14) Overlay Surplus | _____ | | |
| (15) Other | _____ | | |
| Total Other Available Funds | | _____ | |
| TOTAL REVENUE | | | _____ |
| **CHARGES AGAINST REVENUES** | | | |
| (16) State & County Charges - Cherry Sheet | _____ | | |
| (17) Overlay | _____ | | |
| (18) Offsets - Cherry Sheet | _____ | | |
| (19) Amounts Certified for Tax Title | _____ | | |
| (20) Debt & Interest not provided for | _____ | | |
| (21) Final Court Judgements | _____ | | |
| (22) Overlay deficits | _____ | | |
| (23) Revenue Deficits | _____ | | |
| (24) Snow & Ice Deficits | _____ | | |
| (25) Offset Receipt Deficits | _____ | | |
| (26) Authorized Deferral of Teacher Pay | _____ | | |
| (27) Other | _____ | | |
| TOTAL CHARGES AGAINST REVENUES | | | _____ |

| | | |
|---|---|---|
| RECONCILIATION: | TOTAL REVENUES: | _____ |
| | TOTAL CHARGES AGAINST REVENUES: | _____ |
| | TOTAL AVAILABLE FOR LOCAL APPROPRIATIONS: | _____ |

*THIS DOCUMENT IS DESIGNED FOR ESTIMATING PURPOSES ONLY*

# 8 CASH MANAGEMENT AND BANKING RELATIONS

## Introduction

Cash management is a significant component of the overall financial management of a municipality. It is the process used to manage the funds available to a local governmental entity in order to ensure maximum cash availability and yield on the investment of idle cash resources consistent with safe investment policies.

Chapter 44 ss 53F, 54, 55, and 55B M.G.L. govern the requirements that the treasurer must follow in investing public funds and the limitations on those investments. The Massachusetts Collectors and Treasurers Association has formulated a model investment policy that it urges its members to adapt for use in their respective communities. It is appropriate for finance committee members to request a copy of the investment policy of their municipality and to track the reports generated under the policy.

The finance committee can play an integral role in ensuring that monies are managed well, investments bring in as much cash as possible, and that professionalism prevails in the management of municipal finances. While the role of the finance committee is generally a supportive one rather than one of direct oversight or responsibility, the more information a finance committee has about the handling of municipal cash, the better able it is to determine whether the process is going well.

A good cash management program benefits a jurisdiction by increasing non-tax revenues, improving the control and timely handling of cash, increasing contact with the financial community and sometimes lowering borrowing costs by good timing. All of this should be done, of course, while maintaining the safety of the municipality's funds.

## Cash Management

The primary goals of a cash management system are:

- *to maximize the amount of cash available* to meet both the daily cash requirements of the municipality and the amount of money available for investment (or alternatively, to reduce temporary borrowing to meet current disbursements); and
- *to earn the maximum reasonably available* return on funds invested while allowing for safety and liquidity.

Other important goals that can be achieved through a good cash management program are:

- *development or strengthening of internal control* in areas of cash receipts and cash disbursements;
- *establishment of improved collection policies*/practices with respect to outstanding taxes; and
- *establishment of clear lines of communication* and authority between the treasurer and department heads relating to their cash needs.

The basic elements of a cash management program include:

- cash flow analysis;
- investment program; and
- banking relations.

## Cash Flow Analysis

At a minimum, cash flow data should be prepared on a monthly basis for the current year. Larger communities with significant budgets may wish to compile information daily, weekly, or biweekly to get the most usable and meaningful information.

Cash flows are constructed from two main types of inflows and outflows of cash: recurring types, which can be anticipated regularly month after month, such as property taxes or payroll expenses; and extraordinary types, which result from nonrecurring items or programs, such as federal grants or capital expenditures.

A cash manager should use past history of major collections and disbursements (the previous three

to five years provides the best data) to identify recurring patterns and then adjust these flows for predicted changes in the timing of the patterns and for the anticipated rise and fall of income and expense amounts.

The municipality's operating budget can provide those who are preparing the cash flow analysis with useful and necessary information. The percentage increase in payroll and other expenditures, changes in seasonal spending patterns and adjustments caused by the addition or deletion of programs can be detected in an analysis of the budget.

## Forecasting Disbursements

On the disbursement side, payroll accounts for approximately 70 percent of most local government budgets. Thus, personnel expenditures should be identified first.

Personnel expenditures are relatively constant and therefore can be reliably predicted. Payroll records or the upcoming budget are used to determine yearly personnel costs, then that amount is divided by the number of pay periods for the gross payroll. The gross, minus federal and state income taxes and fringe benefits such as health insurance and retirement, is the net cash outflow. The disbursement forecast should also include adjustments for seasonal or temporary workers and seasonal payments such as vacation advances in the summer months. Disbursements for withholding taxes and benefits are also significant. The forecasts for these items are calculated in approximately the same manner.

Once payroll disbursements have been forecast, the cash manager should then forecast other cash payments. This might be accomplished by analyzing each departmental budget for non-payroll items and then examining the more expensive items first. Discussions with department heads should reveal patterns of past cash disbursements for these items, and the predicted pattern and amount of disbursement for the upcoming year. Care should be taken to ensure that these amounts coincide with the treasurer's sense of reasonable payments and past disbursement experience. Department officials may have incorrect impressions of their department's cash disbursements because they do not always monitor the timing and volume of cash outflows.

Once forecast calculations are completed, the next step is to construct a monthly calendar specifying, by date, the amount of money needed, the purpose for specific funding and its recipient(s). A similar process needs to be accomplished on the revenue side to have a complete picture of the town's cash flow.

Computer spreadsheets should be developed in the Town Treasurer's office which can be used each year to forecast disbursements and revenues. The Massachusetts Collectors' and Treasurers' Association has held workshops where treasurers share various forms and spreadsheets which they have developed. This is a good source to explore.

## Investment Program

All funds of the town, except for trust and retirement funds, are invested in accordance with M.G.L. Ch. 44 s 55. This section specifies that towns can invest in bank accounts and certificates of deposit. They can also invest in U.S. government and agency securities with a maturity of one year or less, in repurchase agreements secured by such securities, with a maturity of 90 days or less, in money market funds that have received the highest possible rating from a nationally recognized rating organization and in the Massachusetts Municipal Depository Trust (MMDT). MMDT is an investment pool created by the commonwealth under the supervision of the state treasurer's office.

Trust funds are invested in accordance with Chapter 44 s 54 M.G.L. . This allows for a wider variety of investments as provided for by the State Banking Commission. Pension funds are under the jurisdiction of the local or county contributory retirement system.

Safety of principal is the foremost objective of an investment program. Investments should be undertaken in a manner that seeks to ensure the preservation of capital through the mitigation of credit risk and interest rate risk. These risks should be mitigated by the diversification and prudent

selection of investment instruments and choice of depository. Credit risk is the risk of loss due to the failure of the security issuer or backer. Interest rate risk is the risk that the market value of the security will fall due to changes in general interest rates.

Public investments in Massachusetts are not protected through provisions in State law. Therefore, they are largely uncollateralized. Many banking institutions are willing to put up collateral, albeit at a cost to the town of a lower interest rate. The Treasurer should negotiate for the highest rates possible, consistent with safety of principal.

Federal Deposit Insurance Corporation coverage is limited to $100,000 per customer per bank. Auditors are required under the Government Accounting Standards Board (GASB III) to note in the audit of a municipality whether investments are collateralized or not. The Massachusetts Municipal Depository Trust is not considered an uncollateralized product under the regulation. It is important that a municipality take delivery on securities or at the very least that they be held in the name of the muinicipality if there are investments in securities.

The Massachusetts Municipal Depository Trust (MMDT) offers a product called MMDTNet. It is an online service which is free of charge to any municipality with an account at MMDT. It provides a history of transactions, allows a treasurer to make trades (redemptions, transfers or purchases into the fund) over the Internet without charge. Stock Market and other financial information is available, as is the ability to receive automatic deposits from state and federal agencies. Payments to the Massachusetts Water Resources Authority can be automatically debited from a municipality's account. Statements and account history are also available on the MMDTNet. It is an excellent cash management tool.

## Shopping for Interest Rates

Treasurers should seek quotes for both investments and borrowing. At least three quotes should be received for any term investment. Competition greatly enhances cash management.

## Banking Relations

Traditionally, banks have served local governments primarily as depositories for funds for security purposes, and to provide credit to meet municipal borrowing needs. In the past, it was appropriate that criteria such as convenience of location and community relations governed the municipality's choice of its depository or depositories.

Currently, banks are offering more and more financial services that complement or even duplicate functions traditionally performed by the municipality itself. Depending on a number of factors -- including the cost of purchasing these services from a bank relative to the cost of providing them in-house, and the extent to which the municipality desires to upgrade its financial management capacity — the municipality may wish to procure a portion of the many services now provided by banks.

Not all banks are equipped to offer the full-range of services needed by a municipality. As a result, many municipalities are not aware of these opportunities to update their banking procedures, and are still functioning under longstanding, outmoded banking relationships. As an integral part of improving financial management functions and moving toward a more effective cash management system, municipalities should reevaluate their banking relations in light of current opportunities.

## Account Services

The way in which municipalities configure their bank accounts is a key determinant of the effectiveness of a given community's cash management system. A review of common practices suggests that many local governments can achieve substantial gains in investment income by making some straightforward changes in their account management. These changes can involve both the number and type of accounts.

## How Banks Can Improve Municipal Cash Management

| CATEGORIES OF SERVICES AND RELATED CASH MANAGEMENT GOALS | | |
|---|---|---|
| **Category** | **Services** | **Goal** |
| Collection Services | Lock-Box System<br>Over-The-Counter Payment<br>Armored Car Services<br>Night Depository<br>Wire Transfers<br>Online Tax Payments | Accelerate Cash Receipts |
| Account Services | Regular Checking Accounts<br>Concentration/Zero Balance Accounts<br>Wire Transfers<br>Daily Account Notification<br>Check Sorting<br>Account Reconciliation<br>Computer Services<br>Microfilm Checks<br>Savings Bond Issuance For Employees<br>Direct Payroll Deposit | Minimize "Idle" Account Balances |
| Investment Services | Money Market Instruments<br>Investment Advice<br>Time Deposits<br>Retirement Plan Services<br>Trust Services<br>Sweep Accounts | Promote Effective Use Of "Idle" Cash In Earning Return |
| Credit Services | Short Term Notes<br>Bond Redemption Services<br>Bond Transfer And Registration Services<br>Lending Activities Related To Community And Economic Development Projects | Meet Short and Long Term Borrowing Needs |

A good cash management system is designed to help a municipality maximize the benefit it gets from its cash resources by ensuring that the municipality:

- collects its accounts receivable in a thorough and timely manner;
- keeps "on hand" (in its checking accounts) only enough cash to pay out immediate accounts payable as they come due; and
- invests all other cash as quickly as possible into investments yielding the highest possible return.

The more effectively the municipality can perform these functions, the more investment income it will earn. In turn, the more investment income it earns, the greater the financial resources available to the municipality to pay for the public services it provides.

The table above presents a list of services offered by many banks to help address these cash management needs. Note that the table includes credit services offered by banks as an element of a municipal cash management system. It is expected that at certain points in the course of the cash manage-

ment cycle, the community might have, for a short time, insufficient cash to cover its current obligations or in anticipation of reimbursement. Therefore, borrowing to meet these obligations enters the list of cash management needs to be addressed in the form of credit services obtained from the bank. (See Chapter 12.)

Online banking services are of tremendous help in tracking activity, printing statements, making transfers, and reconciling accounts. They should be utilized for effective cash management.

## Collection Services

Collection services offered by banks are designed to accelerate a municipality's cash receipts and thereby allow the municipality to invest those receipts in the most timely manner possible. This "acceleration" is accomplished by decreasing the collection float. Collection float can be reduced by instituting one or a combination of the following banking services:

- *a lock box system* speeds up the collection process by eliminating handling by municipal collectors' offices of certain routine remittances;
- *over-the-counter payment* can help to accelerate a municipality's bill collection by increasing the taxpayer's bill-paying convenience by providing over-the-counter collection at a bank.

Making payment more convenient for taxpayers will be particularly effective at helping to speed collection if the bank has a number of branches throughout the community. At the same time, the bank can benefit from increased business as a result of increased traffic.

- *armored cars and night depositories* can also improve the speed at which a municipality's receipts are deposited in its accounts, and can be put to use either to meet current obligations or to begin earning interest. Aside from the security advantages afforded by a night depository, this service is especially beneficial if the municipality's accounts are structured to earn interest overnight, that is, beginning immediately upon deposit;
- *wire transfers,* used in lieu of checks, involve the electronic transmission of payments from one bank to another through a wire system. Wire transfers are not cost effective for all transactions. In general, wire transfers will be cost effective for large transactions such as intergovernmental grants, proceeds from investment sales and debt issuances, and tax or utility payments from out-of-town organizations;
- online tax payments are becoming increasingly popular with taxpayers. Banks may offer the service directly or team with companies specializing in the service. Costs are usually borne by the taxpayer and the result is timely payments. Care muse be made that an adequate system for tracking and crediting payments is provided.

## Pricing Banking Services

Banks are in business to make money and will charge municipalities for services rendered. The price of a particular banking service will depend on many factors, including the number of municipalities purchasing the service, the costs of the equipment and labor needed to provide the service and how much of the service the municipality will use.

Commownealth of Massachusetts procurement laws require that cities and towns seek proposals for banking services from a number of different banks. The treasurer should send a "Request for Proposal" to qualified banks, and should also place a legal advertisement in at least one local newspaper. The office of the Inspector General of the Commonwealth has issued an acceptable format for the process.

The municipality can pay for its banking services in one of two ways:

- *direct payment,* in which the bank prices each service offered, and the municipality reimburses the bank periodically for charges incurred during that period from appropri-

ated funds in the treasurer or collector's budget;

- *compensating balances,* where instead of charging the municipality a fee to be paid directly for service(s), the bank specifies a minimum balance that the municipality must maintain with the bank in non-interest bearing accounts. The bank can then lend this money (subject to the reserve requirement) and earn interest, which will at least cover the cost of services provided to the municipality.

## Bidding Our for Banking Services

Banking services should be bid out at least every three years and more frequently if interest rates are fluctuating greatly. A treasurer can also ask a bank to review the interest rate being offered on a money market or checking account on a monthly basis, using the MMDT rate as a comparison. It is harder to change a contract for compensating balances as these contracts state specific time frames for the agreement (usually three years).

## Some Limitations of Compensating Balance Banking Services

While the compensating balance method of municipal banking has been widely used, it is more difficult to evaluate and can present some hidden pitfalls for municipalities. Under a direct payment system, the municipality receives an itemized statement of charges for service; with the compensating balance method it is difficult for a town to know precisely what its banking services cost and how much it paid for them (since payment takes the form of interest earnings by the bank and depends on the current interest rate). Under compensating balances, the municipality has to keep the funds on deposit in non-interest bearing or low interest bearing accounts even if it uses few banking services in a particular period; the compensating balance requirement may be greater than necessary to cover the service charge. With direct payment, the municipality rather than the bank would have access to this "extra" cash and could invest it to its own rather than the bank's advantage.

Chapter 44 s 53F M.G.L. , expressly authorizes a municipal or district treasurer to enter into formal "compensating balance" agreements with banking institutions. It should be noted, however, that the law also:

- *requires that any such agreement be in writing and not exceed three years;*
- *provides for specific limitations on the types of services which may be procured* under a compensating balance agreement;
- *establishes a local approval process* for all such agreements; and
- *sets in place annual reporting requirements* relating to such agreements, and requires the commissioner of revenue to publish a yearly evaluation report on the use of compensating balances.

The important thing for municipal financial officers to realize about compensating balances is that they represent a real dollar cost to the municipality in terms of lost interest income — income that the municipality could have earned by investing the amount of the compensating balances in the highest interest-bearing accounts available to it. When this cost is equal to the municipality's banking service charges and is used to pay those charges, the municipality does not lose anything through the compensating balance method and earns a return on all collected balances.

Communities that utilize compensating balances to pay for services should insist that banks agree to provide, as part of the arrangement, ongoing information on the costs incurred by the community based on the volume of transactions and agreed-upon fees. In addition, town fiscal officers should make sure the earnings on the compensating balance are reported by the bank and monitored by the community, with earnings in excess of the cost of services being remitted to the community. From a municipality's standpoint, this accountability and monitoring ensures the most desirable and advantageous arrangement of payment for banking services, regardless of what banking services system

is being utilized.

*This chapter was prepared by Elizabeth W. Klepeis and Donald Levitan and was updated by Elizabeth Klepeis.*

# 9 USER FEES AND ENTERPRISE FUNDS

## Introduction

The federal court system has defined a tax as "an enforced contribution to provide the support of government." United States v. Tax Commission of Miss., 421 U.S. 599 (1975).

In Massachusetts, property tax revenues derive from a tax rate and property values, with little or no link to specific government services. In contrast, user fees and charges support the provision of a specific municipal service, with the users having the option to decline the service and avoid the fee.

Historically, user fees have been a viable but largely underutilized source of revenue. With the constraints on property tax increases imposed by Proposition 2½, towns have increasingly turned to user fees to support services once financed by property taxes.

## User Fees Defined

The Massachusetts Department of Revenue's Division of Local Services defines User Charges/Fees as: "A municipal funding source where payment is collected from the user of a service to help defray the cost of providing the service." The reader may wish to review the state's IGR no.88-207 for additional guidance on this subject.

A user fee is simply a charge to the user of a specific government service. The underlying philosophy is that those who use or benefit from a program or service should pay for it. The direct and indirect costs of various services are analyzed, fee mechanisms studied, and fees and rates established to recover the full cost of service delivery.

User fees consist of two broad types of charges, and it is essential to distinguish between them. User charges are based on the goods and services used by an individual, group or business, for example sewer and water user charges. Other fees, such as licenses and permits, might reflect the costs of the government's review and regulatory processes.

*User Charges*

Such charges introduce a business-like relationship between the user/customer and the governmental unit imposing the charges. The customer has the option to avoid both the service and the charges, and the governmental entity provides only the level and quality of service for which users are willing to pay.

Individuals, groups, businesses, and organizations pay these charges for goods or services received. The revenues from these charges are intended to help defray the costs of services, not to regulate the activities. Examples of this type of charges may include the use of public buildings or recreational facilities, library access, copying, notary services, etc.

*User Fees*

This second category comprises fees assessed on individuals, groups, businesses and organizations for the opportunity to participate in a government-regulated activity. Examples of these regulation-oriented charges include fees for permits to build or modify structures, court and legal expenses, and permits to conduct garage sales. These user fees might be considered "mandatory," since an individual or business may not proceed with a covered activity without regulatory review and the payment of the associated license or permit fee.

## Legal Test of User Charges

Just as the federal courts have defined taxes, the Massachusetts court system has established a

three-point test to determine whether a user fee ,ay be classified as such. Emerson College v. Boston, 391 Mass. 415 (1984).

In the Emerson case the court reached the conclusion that the charges imposed by the city produced revenue to defray the cost of public benefit rather than a fee paid for a benefit limited to the owners of the property.

This landmark case resulted in the identification of three common traits that are used to distinguish fees from taxes in Massachusetts. They are:

- *the service must provide* a direct benefit to a party in exchange for payment in a way not shared by other members of society;
- *the service must be optional,* with the party having the choice to refuse the service; and
- *the charge must compensate the specific governmental unit for the cost of delivering that service only.* (The governmental unit may not collect user fees to simply raise general revenue.)

There have also been Massachusetts court cases where imposed charges have been upheld as valid fees. In Southview Co-Operative Housing Corp. v. Rent Control Board of Cambridge, 396 Mass. 395 (1985) the court concluded that charges levied against landlords in filing petitions for individual rent adjustments were valid fees. In another case known as Commonwealth v. Caldwell, 25 Mass. App. Ct. (1987) the court also found that a mooring and slip fee assessed to vessel owners by a Harbormaster acting under a municipal ordinance was a valid fee and not a tax.

In both of the above cases the court determined that the revenues raised directly compensated the government unit for the cost of providing the service. On the flip side, municipalities may be imposing fees that exceed the cost of the services being provided. Communities should take care to verify that local fees are based upon reasonable costs. User fees should not be used to generate revenue in excess of the cost of providing the particular service. The burden for proving the legality of a user fee rests with the party challenging it.

## User Charges: Promoting Equity and Efficiency

Apart from the role user charges play in a town's fiscal plan, proponents of user fees and charges argue that they offer substantial additional benefits to communities. These benefits include:

- *promotes of equity* by passing the cost of providing a service directly to the end user, rather than burdening those who neither need nor want these services. Moreover, user fees release general revenue to sustain services that benefit the broader community;
- *improves allocation of public resources,* predicated on a free market. When the consumer determines both the value of the service and the level of demand, government is encouraged to provide only the amount of service needed. Public administrators can adjust fee schedules or eliminate services based on citizen demand;
- *establishes of a revenue source that may vary with the demand* for specific services. As demand for a service increases, so does the revenue stream; as demand declines, revenues do the same; and
- *enables pricing flexibility* created by economies of scale. As demand rises for certain services, delivery costs may be reduced, reflecting the lower costs of more efficient operations.
- *allows linkages to other governmental efforts.* User charges can be established to benefit the local quality of life. The use of increasing block rates in water and sewer utilities is an example of fee structures that are deemed to protect the environment because they promote water conservation.

## Challenges to User Fees

While user fees offer advantages for funding public services, detractors of the practice also abound. The most common argument against user fees is their potential regressivity, implying that user fees place a greater burden on low income residents than on middle or upper-income residents. The

argument is that those who may most need a service may be least able to pay for it.

The issue that user fees may be regressive is not the major argument here in Massachusetts, it is that user fees represent a way of circumventing the limits of Proposition 2 1/2.

Thus, some interpret user fees as back door taxes, used to fund municipal services formerly funded by general revenues. Subscribers to this point of view consider such user fees an unfair burden on the specific users, who once paid for these services through property taxes or other general revenues.

Unlike local income, property and other taxes, user fees are not deductible for federal income tax purposes. In some communities, town meeting members each year move to shift some fees for services to the tax levy, reasoning that the tax deductions for higher property taxes would reduce out-of-pocket costs after taxes. This argument is generally not valid with respect to itemized charges for services to a specific property which are added to the property tax bill. The federal personal income tax code allows deductions for property taxes only when the taxes are based solely on the value of the property.

## Enterprise Funds

An enterprise fund accounts for the income, expense, assets and liabilities of financing specific services to the public, where the governing body intends to recover the costs of providing the services through user charges. Governmental units operate and finance these service activities in a manner similar to a private business or enterprise. Rates and user charges are established, either as part of the budget process or as a separate, formal rate-setting procedure, to cover direct and indirect costs, including depreciation of assets, expenses, replacement or improvement of assets, and efforts to retain earnings for future capital investments.

While sound business practice and long-term financial planning might dictate creation of an enterprise fund, municipalities may also do so to achieve some broader public policy objectives. Some elected and appointed officials believe that those who benefit from a particular government program should pay for the program through user fees. These officials may conclude that an enterprise fund is the best mechanism for systematically accounting for all direct and indirect operational costs and revenues. Thus, an enterprise fund not only yields the financial data needed to periodically determine the required level of revenues, but also responds to public policy, management control, accountability and other objectives.

By accepting the provisions of Chapter 44 s 53 F 1/2 M.G.L., a town may establish an enterprise fund to segregate the accounting for a group or class of similar municipal services. Without accepting the special legislative provisions, all user fee receipts and related disbursements are comingled in the general fund.

If no special legislation is adopted, service expenses in excess of revenues must be raised through the property tax levy or from other general revenues. Revenue surpluses are rolled into the general fund balance and may not be applied to reduce future user fees or be appropriated to maintain assets used to deliver services.

The most significant difference between general governmental accounting practices and enterprise funds is the recognition of revenues when earned and expenses when incurred (the full accrual basis of accounting). Municipal accounting in Massachusetts is generally on a full cash or modified accrual basis.

## Is An Enterprise Fund Appropriate?

The first decision a community must reach before determining which accounting system will be most appropriate is whether or not a town should fully recover the costs associated with certain municipal services. In reaching this decision, a town should pose the following questions:

- Who are the customers receiving the services?
- Are comparable services being provided by the private sector? By neighboring towns?

- Is there a statutory obligation to provide this service?
- What are the long-range plans for this service?
- Do the user fees being charged cover direct and indirect service costs?

While there are no "right" answers to these questions, towns generally create enterprise funds for services that meet the following profile:

- *the service is widely accepted by a broad base of customers;*
- *competition is limited,* and the service enjoys competitive advantages: price, location, etc.;
- *the governmental unit intends to continue providing the service,* that is, to stay "in the business";
- *user fees either cover all costs or may be increased* or restructured to do so;
- *accountability* for the service;
- *response* operation is clear.

Finance committees may wish to assess fee for service programs in their budgets to determine whether or not an enterprise fund is appropriate. The enterprise fund approach can ensure that the infrastructure for critical services, such as water and sewer, can be properly maintained and upgraded. Many communities are finding that the demands for services funded by the tax levy leave few resources for timely capital investment.

## User Fee "Best Practice"

Whether accounted for in the general fund or by an enterprise fund, user fees may be considered, adopted, and periodically evaluated through a five-step process:

1. define the services to be provided on a user fee basis;
2. estimate demand for the services;
3. calculate the full cost of the services using cost-accounting techniques;
4. determine the total cost of delivering a "unit" of service; and
5. establish a fee structure to recover service costs and preserve the asset base.

This process requires good business instincts and some competency in cost accounting. A thoughtfully appointed finance committee can be rich in these interests and skills. While many members may initially be unfamiliar with the idiosyncrasies of municipal accounting, most can easily relate to activities similar to those of a business in the private sector. If a business analysis suggests that there is a market for a particular municipal service and that customers will pay fees adequate to recover costs, then the committee's efforts should focus on accounting for service costs.

The town's accounting system may track all revenues and expenditures in the general fund, but which costs are related to a specific service? The direct costs of a service are generally obvious: wages and salaries, electricity and other utility costs, supplies, materials and some capital outlays. However, municipalities must also consider a service's indirect costs, such as insurance, employee pension costs, operational overhead, municipal space, debt service, etc. These expenses usually appear in other areas of the town's budget. The annual cost of capital investments in inventories, facilities, equipment and infrastructure must also be accounted for. The local government's financial systems should properly track the addition, deletion and depreciation of their communities' capital investments and inventories.

Considerable analysis may be required to identify and quantify indirect costs associated with a specific service. Typically, the town's budget presents lump sum appropriations and the accounting system records gross expenses for costs such as worker's compensation premiums, group health and medical insurance and principal and interest payments. Identifying and separating these indirect costs is essential to implementing an enterprise fund.

Enterprise funds account for their fixed assets and long term liabilities on their balance sheets and

income statements. This method of accounting enables rate setters to properly provide for the annual depreciation expenses and capital outlay requirements of the enterprise.

*This chapter was prepared by Donald Levitan, Sheryl McMahon, Mark Morse and Kevin Gookin and updated by Michael Daley.*

# 10 MUNICIPAL ACCOUNTING AND AUDITING

## Accounting: The Basics

Funk and Wagnalls defines accounting as "the art or system of recording, classifying and summarizing commercial transactions in monetary terms." The objectives of municipal accounting include the demonstration, by public officials, of the following:

• *their exercise of appropriate stewardship over resources provided;*

• *their expenditure of funds in accordance with the dictates of the governing body (town meeting) and outside federal and state agencies;*

• *their presentation of year-end financial statements in accordance with accounting principles generally accepted in the United States. The Governmental Accounting Standards Board (GASB) is the standard setting body for all governments.*

The GASB is the authoritative standard setting body that provides guidance on how to prepare financial statements in conformity with generally accepted accounting principles (GAAP). Users of these financial statements (such as investors and rating agencies) rely on the GASB to establish consistent reporting standards for all governments in the United States. This consistent application is the only way users can assess the financial condition of one government compared to others.

Governments must adhere to GASB pronouncements in order to issue their financial statements in conformity with GAAP. The users of the financial statements also rely on the independent auditors' opinion. If your financial statements have significant departures from GAAP, the independent auditors' may issue a qualified opinion or a disclaimer (where no opinion is given). These types of opinions may have an adverse effect on your bond rating and your ability to borrow money. In many cases, the failure to issue audited financial statements will result in a violation of an existing bond covenant and can have serious implications.

It is important to remember that the GASB is an independent body not associated with the United States Government or the Commonwealth of Massachusetts. The GASB pronouncements are not a federal or state mandate for financial statement reporting.

The accounting process in Massachusetts municipal government is unique; it is a shared responsibility among a number of financial and operating departments. The primary accounting responsibility lies with the town accountant. However, other municipal officials, such as the assessor, collector, treasurer, school business manager and water and sewer manager, also track and record financial activity. While this process can be criticized as duplicative, it can be a strong internal control provided the individual departments reconcile their accounting records with each other on a disciplined basis.

The process of *"Accounting"* is simply the system of recording the financial transactions of an entity. The actual individual accounting entries are repetitive by nature and are not complicated. However, how these individual transactions are classified, summarized and reported is the key for an effective accounting system.

The process of municipal accounting is threefold:

1. The town conducts its business and records its financial activity simultaneously on books of original entry.

2. At the end of the fiscal period (a month, quarter or at year-end), the accounting organization "closes its books." This is a corroborative process that confirms that financial transactions were accurately recorded. Bank reconciliations are a classic example of the closing process. A key element of the accounting close is the reconciliation of independent departmental records with other applicable departments. Differences should be investigat-

ed and corrections made on a timely basis.

3. The preparation of management reports for the administration, department heads and, ultimately, the taxpayer. Monthly financial reports typically include budget and expense reports for individual departments indicating the status of their allotted budgets.

The accounting system should have a series of key controls in place that are performed consistently and that verify the balances recorded on the accounting ledgers are properly approved and classified. These procedures should clearly identify and correct errors in a timely manner. Reconciliation of account receivables, cash and departmental balances should be completed at least on a monthly basis.

Finance committee members can assess the sophistication of their town's financial organization by observing the frequency and timeliness of the accounting closings and the quality and relevance of management reports. A classic symptom of a sub-standard operation is the inability to close the books as of June 30 (the last day of the fiscal year) and complete an audit on a timely basis. In the private sector, this process is typically completed within three months.

## Municipal Accounting Contrasted to the Private Sector

At least some members of most finance committees have outside business and/or financial expertise. The differences between private and public sector accounting historically have been extensive. In June 1999, the GASB issued Statement 34 – "Basic Financial Statements – and Management's Discussion and Analysis – for State and Local Governments" which closes the differences dramatically. It established new criteria on the form and content of governmental financial statements. GASB Chairman Tom L. Allen called Statement 34 "the most significant change in the history of governmental accounting. It represents a dramatic shift in the way state and local governments present financial information to the public."

Under the new model, anyone with an interest in public finance—citizens, the media, bond raters, creditors, legislators, and others—will have more and easier-to-understand information about their governments. Among the major innovations of Statement 34, governments will:

- Report on the overall state of the government's financial health, not just its individual "funds";
- Provide the most complete information ever available about the cost of delivering services to their citizens;
- Include, for the first time, information about the government's public infrastructure assets—such as bridges, roads, and storm sewers;
- Prepare an introductory narrative section analyzing the government's financial performance;

The government now presents an Entity-wide Statement of Net Assets and a Statement of Activities under the full accrual basis of accounting that is the same basis of accounting used by the private sector. In these statements, all short-term assets and liabilities, such as cash, receivables and warrants payable, are included as well as long-term assets and liabilities, such as capital assets, bonds payable and compensated absences. In most cases, revenues are recognized when earned and expenses when incurred regardless of when the cash is received or disbursed. The remaining major difference between government and private sector accounting is when the pension and post-employment benefit liabilities are recognized.

Town accountants are now required to account for all capital assets and estimate all long-term accrued liabilities. The GASB has continued to issue new pronouncements and is currently up to GASB Statement #47. The Town Accountant is responsible for implementing these new standards.

## Accounting Systems

Accountants and auditors in the Commonwealth

currently use either one of two accounting systems, or both systems at the same time. These systems are statutory and uniform municipal accounting.

*Statutory System*

The statutory system is the older of the two accounting systems. It uses a single fund (i.e., one general ledger) to record all transactions that occur during the course of the year. If, for example, the municipality is building a waste water treatment facility that is being funded by grants and long-term debt, these activities are accounted for along with normal annual operating expenses in the general ledger. While the accountant and the treasurer may be able to differentiate between these types of activities, managers and interested outside parties may have difficulty understanding financial statements prepared from this system because all activities are mingled together.

Although the Statutory System is allowed, it is no longer recommended. It is difficult to separate the budgeted activity from the non-budgeted activities and does not facilitate timely financial reporting and preparation of the year-end audited financial statements.

*Uniform Municipal Accounting System (UMAS)*

UMAS is a multi-fund accounting system based on the national Generally Accepted Accounting Practices (GAAP) for governmental units. Because GAAP principles are accepted and used nationally, someone in a town in the state of Utah can read a set of financial statements from a town in Massachusetts and be able to understand the figures and compare them to those from any other municipality. This updated accounting system recognizes the variety of activities performed by a municipality in several funds. Using the previous example of constructing a new waste water treatment facility, under a UMAS system: normal municipal operations would be accounted for in a general fund; the construction of a waste water treatment facility would be accounted for in a capital project fund; and other town projects that expended or brought in money would be accounted for in still other funds.

Today, town accountants are increasingly sensitive to national governmental accounting models. While UMAS continues as a "guide", the state also looks to outside agencies, such as the Governmental Accounting Standards Board (GASB) to establish the principles of accounting and reporting to be followed in Massachusetts.

*Generally Accepted Accounting Principles (GAAP)*

Generally accepted accounting principles are uniform minimum standards and guidelines for financial accounting and reporting. The uniqueness of governmental operations requires a separate GAAP for governments. Since 1984, the establishment of governmental GAAP has been the responsibility of the Governmental Accounting Standards Board (GASB). GAAP is intended to achieve some level of standardization among entities' financial reporting and accounting methods. GAAP covers matters such as fund accounting, methods of recognizing revenue and expenditures, accounting consistency between periods, long-term liabilities and disclosure requirements for external financial statements.

Auditors, in issuing their year-end reports, state that the town's financial statements are fairly presented "in accordance with generally accepted accounting principles".

As stated previously, while the state remains concerned with statutory compliance, GAAP, as promulgated by GASB, is now the requirement for year-end reporting by Massachusetts towns. Finance committee members (ideally through an audit committee) should familiarize themselves with the accounting principles followed by their town and ensure that such principles are in compliance with GAAP.

## The Role of an Independent Audit

An audit is an independent examination of a municipality's financial transactions and account balances that determine whether a town's financial statements are "fairly presented." The audit process involves a review of fiscal procedures and controls, the establishment of audit scopes, the conduct of tests and independent confirmation

and calculation of assets and liabilities.

Since the mid-1970's, independent audits in Massachusetts have become commonplace. Audits are mandated by the federal government for those communities receiving in excess of a stated amount of federal aid. In addition, the bond market expects audited financial statements to support debt sales.

The major argument for an audit is the annual outside discipline imposed on the audited financial organization(s). The presence of an outside professional "looking over the shoulder" is, among other things, an incentive for accounting officials to maintain sound procedures and accurate books of account.

## Audit Products

A clean audit does not guarantee the absence of fraud. While auditors plan and construct their audits to identify fraud that would result in misleading financial statements (this constitutes a "major" fraud), most towns cannot afford a forensic audit whereby each and every financial transaction is subject to outside scrutiny.

There are three products of audits: financial statements, a schedule of federal awards and a management letter. The management letter outlines the auditors' recommendations for improvements in accounting procedures, internal control and other matters. Management letters can also be noteworthy for what they do not say. A truly "clean" management letter represents a validation that the accounting organization and processes are in good shape.

A sometimes disproportionate level of interest is placed on audit management letters versus the financial statements. This is because the letter is written "in English" and municipal officials who do not understand the financials may be embarrassed to ask questions concerning them. Finance committee members should ask for and review both the management letter and audited financials, and should take the initiative in understanding, and communicating to other local officials, what the financials disclose concerning the town's finances.

Municipal officials should also conduct an exit interview with the independent auditors to learn first-hand of the auditors' assessment of the financial condition of the town. The discussion can give municipal officials the chance to learn of noteworthy trends, financially-troubled operations and the viability of systems and controls in their community.

## Audit Committees

Audit committees are commonplace in the private sector, but exist in only a few municipalities in Massachusetts. In some instances, boards of selectmen, school committees and/or finance committees function as an *ad hoc* audit committee. A well-constructed audit committee can bring together qualified and interested citizens who have the time and inclination to review independent audits and their results in-depth.

Increasingly, cities and towns will implement audit committees. Finance committees and their members can serve their communities well by actively participating in the formation and operation of viable and independent audit committees.

## What Municipal Accounting and Auditing Can Do For Finance Committee Members

Municipal accounting results in the generation of information that is useful to finance committees for decision-making purposes. It is essential that the information provided by the accounting process be accurate, timely and relevant.

There are three elements that should be present to assure that the accounting process assists a finance committee in the discharge of its responsibilities. These are:

- a qualified, dedicated financial "staff" in the town hall. Appointed and/or elected officials should be prepared to work with each other for the common good. The finance committee should be wary of an overly political environment within

the town's financial organization whereby officials refuse to work with or otherwise communicate with each other;

•a data processing system that is current and supports, rather than inhibits, the process. The system need not be complex, but it should be comprehensive. All too frequently, the computer can be the "whipping boy" (justifiably or otherwise) for the failure to provide appropriate information;

•a finance committee that includes individuals with outside financial, business and/or accounting expertise. Acknowledging that the finance committee members are volunteers, those with private sector financial or business experience can ask the right questions, request the appropriate information and act as mentors for committee members without specific fiscal expertise.

At a minimum, the town accountant must provide budgetary information to the finance committee as it prepares for an upcoming budget cycle. Finance committees should also be provided monthly appropriation status reports. This information can include prior year actual expenditures, current year expenditures compared to the budget, forecasted current year expenditures and budgeted expenditures for the next fiscal year. Revenue data and/or free cash forecast may also be provided.

However, the track record for submitting interim accounting reports to the finance committee is very mixed. In some cases, finance committees receive no interim reports, especially in communities where the finance committee may be passive or inexperienced and does not know what to request from the town's accounting functions. This lack of reporting can be contrasted to reporting standards in the private sector, where comprehensive monthly — and even weekly or daily — financial statements are routine.

Although many municipalities' fiscal reports deal with budgetary performance only, finance committees should strive toward a reporting standard that includes a comprehensive financial statement package containing balance sheets, statements of revenues and expenditures, changes in fund balances and cash flows. If such information cannot be submitted on a monthly basis, then the finance committee should request it quarterly. It is possible that requests for such information will meet with resistance; however, the reaction of towns' fiscal reporting officers to such requests will tell a great deal about the underlying sophistication of the municipalities' management systems.

## Key Areas to Review in the Financial Statements

GASBS 34 defines what the minimum financial reporting requirements are for a governmental entity's basic financial statements and required supplementary information (RSI). Listed below are the components of these requirements.

Management's Discussion and Analysis (MD&A) includes an introduction of the basic financial statements and provides an analytical overview of the financial activities. This is a key document to read, as it should highlight the financial position and results of operation of Town in plain English. The focus is on the entity-wide full accrual activities and the major governmental and proprietary funds.

The Basic Financial Statements include the following sections:

A. The Government-Wide financial statements use the full accrual basis of accounting and include two financial statements. The Statement of Net Assets is a statement of financial position at a certain point in time (June 30th) where Assets – Liabilities = Net Assets. The Statement of Activities reports the changes in net assets for that fiscal year. It is presented on the "net cost" approach where program revenues are subtracted from functional expenses to identify the net (expense)/revenue by functional activity.

These are the statements that most closely resemble the private sector.

B. Fund Financial Statements (for each of the three fund categories).

•**Governmental Category** – includes the General,

Special Revenue, Debt Service, Capital Projects and Permanent Fund Types (focusing on "Major" funds) using the modified accrual basis of accounting. The financial statements include:

- *Balance Sheet*
- *Statement of Revenues, Expenditures and Changes in Fund Balances*
- *Statement of Revenues, Expenditures and Changes in Fund Balances – Budget and Actual. Presented for the General Fund and each major Special Revenue Fund with a legally adopted budget. This may also be presented as RSI in a Schedule after the Notes to the Financial Statements.*

• **Proprietary Category** – includes the Enterprise (fee for service activities such as water and sewer) and Internal Service (usually self-insured health insurance) Fund Types using the accrual basis of accounting. The financial statement include:

- *Statement of Net Assets or Balance Sheet*
- *Statement of Revenues, Expenses and Changes in Fund Net Assets or Fund Equity*
- *Statement of Cash Flows*

• **Fiduciary Category** – includes the Pension (and other employee benefit) Trust, Investment Trust, Private-Purpose Trust and Agency Fund Types using the accrual basis of accounting. The financial statements include:

- *Statement of Fiduciary Net Assets*
- *Statement of Changes in Fiduciary Net Assets*

The annual financial statements can be difficult to interpret if you are not fully aware of the unique accounting methods used to prepare them. Listed below are some of the items that may help a reader understand what the financial statements are really saying.

*Independent Auditors' Report*

Understand the nature of any"Qualifications", as some are more serious than others.

*General Fund's Financial Position*

- Understand the components of fund balance.
- General Fund unreserved fund balance should be positive and a policy should be established that sets a specific year-end balance.
- Long-term stability of the fund balance position should be maintained. The outstanding receivable balance should not be too high as it would indicate a problem in collection or the validity of the balance.
- Refer to the Budget-to-Actual Statement to see how much "Free Cash" was used. If used, it means that a current period loss was budgeted.
- There must be a consistent "Structural Balance" maintained where recurring revenues are sufficient to cover recurring expenditures.
- Understand the components of "Operating Transfers".
- Check to see if the General Fund is subsidizing enterprise operations (water & sewer). This would indicate that the "users" are not paying for the full cost of the services.

*Governmental Major Funds*

The General Fund is always presented in a separate column of the fund based financial statements as a major fund. GASB also requires any other major special revenue, capital projects, debt service, or permanent fund also be presented as a major fund. These funds are typically significant capital projects (new high school) or a stabilization fund. There are dollar thresholds established by the GASB where a major fund is required but a community has the option to show any fund as major. Your community may want to suggest that a fund with a lot of local interest such as a community preservation fund be shown in its own column.

*Special Revenue Fund*

- This is a self-supporting fund that should not

have any deficits within a sub-fund.

• Footnotes should disclose any permanent deficits that must be funded by the General Fund.

• Review the balance sheet for any significant receivables which may indicate an unusual delay in collecting revenues.

*Capital Projects Fund*

• This fund, for one-time projects, is funded through a combination of grants, local contributions and long-term bonds. If the financial statements show a deficit fund balance it may be only temporary until the long-term bonds are issued. If the deficit is permanent, it should be disclosed in the footnotes to the financial statements.

*Long-Term Debt*

• This liability is not part of the general fund's balance but has a significant impact on financial position.

• Review the notes to the audited financial statements that include the schedule of future payments.

• Review Bond Anticipation Notes outstanding in conjunction with the amount of authorized and unissued debt.

• Low outstanding debt may be an indication that capital needs have not been addressed on an ongoing basis. The need for significant future capital outlays may have an adverse effect on financial position.

*Internal Service Funds*

These funds account for the self-insured risk financing activities, such as health insurance. Revenues are mainly from employer and employee contributions.

• Special attention must be paid to any signficant accumulated surplus or deficit.

• A significant deficit will have an adverse effect on the overall financial position.

• A significant surplus will have a positive effect on the overall financial position.

• Gain an understanding on the accrued liability know as "Incurred But Not Reported" (IBNR).

*Unfunded Liabilities*

• The Unfunded Pension liability is disclosed in the footnotes or reference is made to a regional retirement system that will have the information. These past service costs must be funded in the future and will have an impact on financial position and future operations.

• Post employment retirement benefits (retiree's health insurance) is currently not required to be recorded or disclosed. A footnote should disclose the number of retirees covered and the current year expenditure. The actuarial accrued liability, which can be significant, usually has not been calculated. Currently these expenditures are funded on the pay-as-you-go method.

•The GASB issued Statements #43 and #45 that changes the requirements of financial reporting of postemployment benefits other than pensions. It will require the Town to complete an actuarial valuation and develop a funding plan by FY2008, FY2009, or FY2010 depending on the size of the community. The community does not have to implement the funding plan but if it does not meet an actuarial determined contribution, a new liability is recorded on the statement of net assets. It is recommended that you discuss the implication of these new GASB statements with the Town accountant or your independent audit firm.

• Compensated Absences are the earned, but not yet paid, vacation and sick leave termination benefits. The liability is recorded in the Statement of Net Assets and not in the Fund Based Financial Statements. Large accumulated balances can have an adverse effect on financial position or in the case where after the termination payments are made to a long-time employee the remaining budget may not be sufficient to hire a

replacement.

- Landfill Liability is the estimated cost of closing and postclosure care that will require future resources to be allocated to comply with Federal and State regulations. A footnote should disclose the details of theaccrued liability.

## Summary

A community's financial information is available to officials in the form of year-end financial statements, management letters, and internally produced interim reports. It is management's responsibility to assure that there are systems in place to compile and report the financial position in a timely and accurate fashion. It is the official's responsibility to obtain the knowledge to adequately identify and analyze the components of financial reports that have a direct impact on the community's current and future financial position. Failure to generate such data should constitute a "red flag" that the town's financial systems and policies need retooling to move into the modern-day environment. These updates may require the support of the finance committee to invest in upgraded computer systems and/or additional staffing levels.

*This chapter was compiled from information provided by James F. Russell, Donald Levitan and James E. Powers and was updated by Powers.*

# 11 CAPITAL IMPROVEMENT PLANNING (CIP) AND BUDGETING

## Introduction

Planning for and financing the replacement of a town's infrastructure is an enormous task. Evaluating assets and their expected useful lives, projecting replacement costs, examining financing options, determining bonding levels, estimating user fees and tax levies and evaluating the impact on property owners are all important steps in the process. This section of the handbook presents information for finance committee members on what capital planning and budgeting is, how it should be done, who should do it, and the role of the finance committee in these activities.

Chapter 41 s 106B M.G.L. states that a town may create a capital planning committee by bylaw, but does not require such a committee. As indicated in previous sections of this handbook, a finance committee's role is community specific. In some towns, the finance committee also serves as the capital planning committee. In some towns, a separate capital planning committee is responsible for the annual budget and capital plan. In other towns, town administratrion staff prepare and present the capital budget to the Finance Committee.

## Capital Projects, Capital Budgets and Capital Improvement Programs

A capital project differs from an operating expense. This handbook defines capital projects as major, non-recurring expenditures, for one of the following purposes:

- acquisition of land for a public purpose;
- construction of a new facility or external expansion or major rehabilitation of an existing one. Examples of such town facilities include public buildings, water and sewer lines, roads and playing fields; purchase of vehicles or major equipment items;
- any planning, feasibility, engineering or design study related to a capital project or to a capital improvement program consisting of individual projects.
- equipment for public improvements when they are first constructed such as furniture, office equipment or playground equipment;
- major equipment which is expansive and has a relatively long life such as a fire apparatus, garbage trucks and construction equipment.

Typically capital projects do not include:

- equipment such as furniture or police or public works vehicles which are replaced annually in approximately the same quantity;
- equipment with a useful life of five years or less.

Most towns establish a policy for the dollar value and useful life of a capital project to further distinguish between capital expenditures and operating expenses. There is no formula for setting these criteria. Some larger towns and cities treat as capital budget requests purchases that cost $25,000 or more and have a useful life of five or more years. Departments include all other expenses in their operating budget requests. Smaller towns may use a lower number, e.g. $10,000, for the threshold cost for a capital item. Some communities also focus on the useful life of an asset, using as little as three years or as much as seven years as a criterion.

Other considerations might influence a town's policies regarding capital versus operating expenses. Such considerations may include the town's total budget or the budget of the department requesting a capital project, or the frequency with which a department requests the capital item. For example, a police cruiser may be a capital item in some towns, but in other towns cruisers are replaced so frequently that they are considered

operating costs. Whatever criteria a town chooses, it is important to be consistent from one year to the next and to apply the criteria uniformly to all requests.

*The capital budget* is the amount of funds appropriated by town meeting in a single fiscal year for all capital projects. Each year, the first year of the capital program should become the capital budget. For appropriation purposes, the capital budget may be incorporated into the operating budget article or adopted as a separate budget in an omnibus capital article or incorporated into several articles. However it is presented for appropriation, for information purposes, the capital budget should be shown in one summary sheet to illustrate the total spending planned for capital purposes in a single fiscal year.

*The capital improvement program or plan,* often referred to as the CIP, is a plan for future capital expenditures. It identifies each capital project, its anticipated start and completion dates, the amount to be spent each year and the method of financing the plan. Generally, the CIP covers five years into the future, but some communities choose to extend the plan to seven or even 10 years forward. Regardless of how many years forward a CIP extends, any capital budget should reflect the first year of the CIP. The capital budget is also year two of last year's CIP, brought current to reflect decisions made last year and current fiscal realities.

## Why a Capital Planning Program?

An orderly capital improvement program has many benefits for a town. These benefits include:

- *focusing attention on town objectives and financial capacity;*
- *coordinating the proper scheduling of individual projects in relationship to each other*;
- *facilitating understanding of the relationships between capital needs and operating budgets;*
- *enhancing the community's credit rating, controlling its tax rate, and aavoiding sudden changes in its debt service requirements;*
- *helping to maintain a consistent minimum level of spending for capital projects.* In a tight fiscal year, many towns find it tempting to defer or eliminate capital spending as a way of resolving a projected operating budget deficit. Identifying the impact this would have on current and future capital projects can help in setting these priorities;
- *identifying and coordinating the most appropriate means of financing projects.* For example, purchase of land for open space could be funded from a combination of the tax levy, debt financing, a state grant, or Community Preservation Act (CPA) funds if the town has accepted this program. The CIP can help increase the opportunities for identifying such alternative sources of funding the CIP; and
- *Keeping the public informed about capital needs and projects*, which can help in building and maintaining public support for specific projects.

The existence of a systematic capital planning process is an important consideration for the agencies that rate municipal debt. Both Moody's and Standard & Poor's rating agencies evaluate the extent to which a town is anticipating and planning for its capital needs.

## Who prepares the CIP and capital budget?

Towns vary vastly in their structures, traditions and resources, so responsibilities for preparation of a CIP vary as well. There is no right or wrong approach, but experience has shown that some approaches work better than others.

First, if at all possible, responsibility for preparation of the CIP should not rest solely with the finance committee. Preparation of the CIP is a formidable task. The finance committee should receive the report of the committee or staff who prepare the CIP, and should collaborate with the CIP committee as necessary. Below are some common approaches for developing the CIP and capital budget.

*Bylaw Authorized Committee*

As mentioned earlier in this chapter, a capital planning committee can be created by bylaw. Chapter 41 s 106B M.G.L. states that such a bylaw shall prescribe the composition, mode of appointment or election and terms of the members of said capital planning committee.

*Board of Selectmen-Appointed Committee (permanent or ad hoc)*

This approach suggests that the overall responsibility for presentation of a capital improvement budget should be with the board of selectmen. The board appoints the CIP committee and gives them overall direction, and the CIP committee reports back to them. The board may adopt or modify the CIP committee's recommendations to them, and then they submit the capital budget to the finance committee and town meeting.

*Staff Responsibility*

In some communities, the town manager, town administrator or finance director is assigned responsibility for the preparation of the capital budget and the CIP. He or she is often assisted by other town staff, such as the treasurer, town accountant, planning director, town engineer, etc.

*Planning Board*

This approach seems to be a historic model. The planning board prepared the CIP because no one else did. This model is on the decline.

*Hybrid Approaches*

In some towns, a combination of these approaches is used. In the Town of Sudbury, a committee of residents is established by a CIP bylaw, but a second committee comprised of department heads from the town and school department, led by the Town's finance director, prepares and submits a draft CIP report to the town manager. This report already weighs overall town priorities as ranked by the department heads and the town manager. The town manager then submits the draft report and project descriptions to the CIP committee. The CIP committee holds public hearings, makes its own analysis, then presents the recommended annual capital budget to the finance committee and to town meeting.

## The Capital Improvement Planning Process

Regardless of who is responsible for preparing the CIP in a community, the steps are similar.

1. Organize and prepare for capital planning;
2. prepare an inventory of existing facilities;
3. determine the status of previously approved projects;
4. prepare project requests;
5. develop project evaluation criteria;
6. evaluate project requests;
7. establish project priorities;
8. assess financial capacity and
9. develop a CIP report with financing plan

## Organize and Prepare

If a town is putting together a formal capital planning process for the first time, there are certain organizational tasks that need to be addressed. Alternatives for organizational structure should be examined. If a committee is assigned responsibility for CIP efforts, the town should try to insure that the committee will have the time to devote to the process and adequate staff support. Members of the committee should have a long-range perspective on the town's needs and good collaboration and communication skills in order to foster participation and support. Next, those responsible for preparing the CIP should establish policies to guide all participants in the process. These policies should cover such things as the definition of a capital project, criteria for prioritizing projects, methods and timing of hearings and other citizen participation. Finally, forms, instructions and a calendar of important dates and steps should be developed. Forms are important because they help ensure that consistent and complete information is obtained from all those who are making capital requests. Instructions should be clear on how the

forms are to be completed.

## Prepare an Inventory of Existing Facilities

The next step is to inventory all existing town and school facilities and fixed assets, and assess their condition. Basic inventory information consists of a description of the asset: its location, age, condition, original cost, current value, maintenance and operating costs, type and extent of use, depreciation, estimated replacement costs and any proposed date for rehabilitation of replacement. Most towns should be able to obtain valuable information on town owned assets from the Town Accountant. Accounting rule (GASB 34) requires Town Accountants to add fixed asset information to the Town's general ledger. These fixed assets records are valuable for insurance purposes and internal control of property as well as for planning the CIP. Often the town's insurance carrier has a list of insured assets that can serve as a basis for inventory. At a minimum, the inventory should include all buildings and equipment; it is desirable for the inventory to include utilities, community facilities, road and sewers as well. Towns that are required to comply with GASB 34 should already have begun the process for establishing a data base of information on fixed assets. The town accountant should be able to provide a fixed asset report to thoe preparing the CIP.

## Determine the Status of Previously Approved Projects

The status of projects already approved by town meeting is the next important piece of information required in developing the CIP. Identifying projects that are underway, or approved but not yet begun, will clarify whether additional funds are required or if unspent funds will be available from completed or discounted projects.

## Develop Project Requests

The CIP committee should send department heads and other appropriate officials and boards a timetable, standardized capital project request forms and instructions for completing requests. This package should include project evaluation criteria. The request forms should ask for a description of any proposed capital project, its purpose and justification, who benefits, how needs are currently met, a detailed costs breakdown, proposed capital expenditures by year, relationship to other projects, effect on the operating budget (including maintenance costs) and recommended method of financing.

Department heads are not the only ones who should be asked to prepare and submit project requests. Citizen advisory committees and elected officials can also see the need for projects and can complete requests as well.

## Develop Project Evaluation Criteria

It is important to develop and agree on criteria for evaluating projects before beginning the actual ranking of the projects. Criteria may vary for different towns. Below are typical criteria used by towns for evaluating capital requests:

*Risks to public safety or health*

Projects that would protect against a clear and dire risk to public safety or public health.

*Deteriorated facility*

Projects that reconstruct or rehabilitate a facility to avoid or postpone replacing it with a new, more costly facility or piece of equipment.

*Systematic replacement*

Projects that would replace or upgrade a facility or piece of equipment as part of a systematic replacement program This criterion assumes a replacement or upgrading at the current level of service; a replacement that significantly expands or increases the level of service would be evaluated under other criteria.

*Improvement of operating efficiency*

Projects that substantially and significantly improve the operating efficiency of a department, or an expenditure that has a very favorable return on investment with a promise of reducing existing or projected future increases in operating expenses.

*Coordination*

Projects that are necessary to ensure coordination with another CIP project (such as scheduling a sewer project to coincide with a street reconstruction project so that the street is not dug up a year or two after it is completed). A project may be necessary to comply with requirements imposed by others.

*Equitable provision of services and facilities*

Projects that would serve a special needs group or that makes equivalent facilities or services available to neighborhoods or population groups that are now "underserved" in comparison with townspeople generally.

*Protection and conservation of resources*

Projects that protect those natural resources that are at risk, of being reduced in amount or quality or that protect the investment in existing infrastructure against excessive demand or overload that threatens the capacity or useful life of a facility or piece of equipment.

## Evaluate Project Requests

All project requests should then be evaluated by the CIP committee or staff. A standardized evaluation sheet should be prepared on each project, which should address questions such as:

- Does the requested project contribute to the achievement of existing town goals, policies, plans and work programs?
- What are the general benefits of the project?
- Is the project acceptable to the public?
- What is its total cost (both capital and annual operating expenses)? Is it funded by the tax levy or by borrowing and how would it affect the tax rate?
- Does the project have its own funding source, such as user fees or an enterprise fund or the Community Preservation Act?
- Are there legal requirements that must be met?
- Are there any special circumstances worthy of note? The CIP committee records such notes in evaluating each request.

## Establish Project Priorities

Once all the project requests have been evaluated, they need to be ranked in order of priority. Few towns, if any, have the resources to fund all requests. Some recommend computing a numerical "score" for each project in an effort to be more objective about the relative importance of each project. The town of Lexington uses five categories for assigning a "score" for each project, as follows: Justification (25 percent), Efficiency (15 percent), Service (15 percent), Financing (20 percent) and Departmental Priority (25 percent) to arrive at weighted scores. Others feel that because the projects are usually so varied in terms of the service area(s) they cover and the public service goals they pursue, that requests are not comparable. Whether or not a numerical ranking system is used, all projects should be assigned an overall priority rating, such as the following:

*Priority A*

Urgent, high priority projects which should be done if at all possible. A special effort should be made to find sufficient funding for all of the projects in this group.

*Priority B*

High priority projects which should be done as funding becomes available.

*Priority C*

Worthwhile projects to be considered if funding is available; may be deferred to a subsequent year.

*Priority D*

Low priority projects; desirable but not essential.

## Assess Financial Capacity

Since municipalities work with limited resources, each capital request must compete for funding with other capital needs and with operating expenses. Unless the selectmen are prepared to seek an override of Proposition 2 1/2, the amount of money that can be raised from the tax levy must be considered "fixed." Towns must, therefore, give careful consideration to their capacity to finance the CIP. Some of the questions that should be

asked to help assess this fiscal capacity include:

- What percentage of each year's fiscal resources should be allocated to capital versus operating purposes?
- Of the amounts allocated to capital spending how much should be for debt service and how much should be direct cash spending for capital?
- What are the current and future debt service obligations for debt already issued? For debt already approved but not yet issued?
- What are other non-tax levy revenue sources available to support capital spending? These include user fees, private contributions, federal and state aid, etc.
- What are the long-term financial projections for revenues and expenditures?
- What is the current policy of the town for using free cash and/or a stabilization fund for capital projects? State law enabling the creation of multiple stabilization funds became effective in 2003, and towns are beginning to use them for funding a CIP. (See the DOR IGR No.04-201).
- Can any of the CIP be financed through use of the Community Preservation Act? If the town has accepted the CPA, proposed projects to acquire open space, develop affordable housing opportunities, create or expand recreational projects, or restore historical assets can be funded from CPA money. For example, the town of Ashland used CPA funds as part of its overall financing plan when renovating their Historic Town Hall. The CIP committee should work closely with the Community Preservation Committee (CPC) to plan capital projects that are properly the purview of both committees.

These questions should be considered early in the budget planning cycle, and are properly within the agenda of the finance committee as well as the board of selectmen. The finance committee should also establish its role in developing guidelines and recommendations for the CIP committee to use in conducting its analysis.

Sources of revenues that might be devoted to capital projects (e.g., any revenue from nonrecurring sources) could also be identified by the finance committee and/or board of selectmen. Larger towns with sizable capital needs should consider developing a separate debt policy to guide the CIP committee and town meeting in the prudent use of debt. Issuing debt for capital projects is addressed in greater detail in Chapter 12.

## Develop a CIP Report with a Financing Plan

The CIP report brings together a municipality's data gathering, evaluation process and financing opportunities. Proposed projects have been evaluated and assigned into priority groups, and the CIP committee can then recommend including in the CIP projects which are of highest priority. The committee can also recommend funding in the capital budget for those projects the town appears to have the capacity to finance.

These recommendations should be incorporated into a CIP report. Depending on the structure and mission of the CIP committee, the report should be presented to the board of selectmen, finance committee, the town meeting, or the town manager Key sections of the reports should include:

- a capital budget message and overview;
- summary recommendations;
- detailed recommendations and comments;
- a statement of the CIP committee mission, membership, and enabling bylaw;
- CIP policies and goals, including debt policies, fiscal capacity assessments, and capital definitions; and
- graphs and charts.

In some towns, all project requests submitted for consideration are included in the CIP report. The evaluation criteria and priority rankings would indicate why specific project requests were notin-

cluded in the CIP itself.

If the report is presented to the board of selectmen, they may hold hearings on the CIP, amend the CIP or the capital budget, then forward the capital budget and the CIP to the finance committee or separate capital expenditures committee. This committee reviews and recommends action not only on the capital budget, but does so in consideration of the overall capital program.

Town officials should be aware that many of the steps outlined here can be accomplished more efficiently with the use of computers and software. While most towns use some combination of word processing and spreadsheet software in this effort, the town of Natick has turned to database software and use of their Town Web site to collect and evaluate project requests, leading to the identification of priority projects for the capital budget as well as producing a multi-year Capital Improvement Plan. Department heads log on to the Town's website and use pull-down menus to enter each project, with descriptions, costs and coding of relevant evaluation criteria. The full set of projects can then be sorted numerous ways (by department, year of funding needed, type of project, etc) and can be updated easily as decisions are made or new cost information is obtained.

## Institutionalize the CIP

The CIP process and committee will have more credibility and greater impact on the town's capital and financial planning if its presence and mission is institutionalized. A town bylaw should set forth the capital planning process, including the appointing authority, responsibilities for any committee and a timetable for capital planning activities. The capital planning process should be incorporated in the town's budget calendar. Department heads, especially, will be better able to meet their CIP responsibilities if they are given advance information about dates set for project requests, project hearings, etc. Standardized forms, distributed on time, i.e. consistent with the established calendar, will also help the process.

An important factor in the success of any capital improvement program is the support it receives from all participants including department heads, town management, selectmen and the finance committee.

The finance committee will make its job easier in the long run by collaborating with the CIP committee (or staff) to accomplish the following:

- make sure department heads are aware that capital requests go to the CIP committee, not the finance committee. The finance committee should not consider a capital item unless it has been submitted to the CIP committee first;
- reject any operating budget request that meets the definition of a capital project item, as defined in the town's criteria for capital expenses. These requests should be sent back to the department, with instructions to send it to the CIP committee; and
- focus on the long-range planning efforts of the town and emphasize the importance of the CIP process and committee in that effort.

*This chapter was prepared and updated by Maureen G. Valente.*

# 12 BORROWING

## Introduction

Municipalities seek to borrow funds for two general purposes identified by the need and term of the borrowing, i.e. short and long term:

- *short-term basis* — notes are issued for one year or less to meet interim cash requirements prior to the receipt of funds from property taxes, state grants, federal grants or the proceeds of a bond sale; and
- *long-term basis* — bonds are issued on a permanent basis to fund capital improvements or for other purposes allowed by statute.

The purpose, length to maturity, debt limits and procedures for the issuance of municipal debt, for both short and long term, are tightly regulated by Chapter 44 M.G.L. , and other statutes such as those regulating school buildings and landfills. In general, a town borrows by issuing securities (notes or bonds) in exchange for the funds received. The securities must be signed by the treasurer as well as the board of selectmen, and are a legal commitment on the part of the town to pay the purchaser of the securities a specified sum of money plus interest on a certain date. The process of issuing debt can be quick and easy or long and time consuming, depending upon the amount being borrowed, the time period over which the debt will be repaid and the type of issuance, i.e. short or long term.

## Short Term Borrowing

Notes are issued for four purposes:

1. *Revenue Anticipation Notes (RANs)* are issued in anticipation of the collection of local revenue, primarily property taxes. This debt is authorized by Chapter 44 s 4 M.G.L. and is initiated by the town treasurer with the approval of the board of selectmen. The town must have a cash flow that demonstrates a need for the borrowing. No action is required by the finance committee or town meeting.
2. S*tate Aid Anticipation Notes (SAANs)* are issued in anticipation of the receipt of a state grant. This debt is authorized by Chapter 44 s 6A M.G.L. and is initiated by the town treasurer with the approval of the board of selectmen. The town must have a state grant indicating the state's financial commitment. No action is required by either the finance committee or town meeting.
3. *Federal Aid Anticipation Notes (FAANs)* are issued in anticipation of the receipt of a federal grant. This debt is authorized by Chapter 74 of the Acts of 1945. The borrowing is initiated by the treasurer with the approval of the board of selectmen and the StateMunicipal Finance Oversight Board. The municipality must have a federal grant agreement indicating the federal government's financial commitment. No action by the finance committee or town meeting is required.
4. *Bond Anticipation Notes (BANs)* are issued in anticipation of the receipt of proceeds from the sale of bonds by the town. This debt is authorized by Chapter 44 s 17 M.G.L. and a loan authorization of the town meeting. The borrowing is initiated by the treasurer with the approval of the board of selectmen after all legal requirements have been met. Action by the finance committee and town meeting is required in the authorization process.

## Long Term Borrowing

A town authorizes the issuance of debt for a variety of capital and some non-capital purposes as provided by statute. Municipalities borrow and repay the debt over a number of years in order to finance projects they could not afford to pay from their operating budget. In addition, the argument can be made that people who enjoy the use of a major facility in the future should bear some of the cost burden. Debt, in the form of loan authorizations, must be authorized by a two-thirds vote of the town meeting. Details of the authorization and issuance

process will be discussed more fully below.

## Participants in the Process

The key players in this process include:

- town treasurer;
- other municipal officials;
- bond counsel;
- financial advisor;
- underwriter;
- Massachusetts Department of Revenue;
- Division of Local Services;
- credit rating agencies.

## Town Treasurer

This municipal official has the statutory responsibility, with the approval of the board of selectmen, for the issuance of the town's debt. S/he also has responsibility for the management of borrowed funds and the payment of debt service. It is critical, therefore, that the treasurer be included in discussions of debt policy from the very beginning of the process.

## Other Municipal Officials

Other officials including the finance committee, board of selectmen, town accountant and town administrator need to be involved in the planning and authorization process. This is especially important in presenting the loan authorization to town meeting and planning the repayment of the projected debt service. In addition, their input is needed when presentations are made to the credit rating agencies.

## Bond Counsel

A specialized law firm with expertise in municipal law and bonding is referred to as bond counsel. These attorneys will guide the town through the legal process of issuing debt and issue a legal opinion to the purchasers of the securities on their legality and tax exempt status.

## Financial Advisor

A financial institution with expertise in municipal finance, municipal borrowing and the municipal securities market is called a financial advisor. These advisors will guide the town through the planning, authorization and debt issuance.

## Underwriter

An underwriter is a bank or securities firm that purchases the town's securities with the intent of reselling them to investors. Some banks also purchase municipal securities with the intent of holding them in their own portfolio.

## Massachusetts Department of Revenue Division of Local Services (DLS)

This department of the Commonwealth is responsible for regulating and providing technical assistance to local government. Additionally, the DLS' Bureau of Accounts, through its State House Loan Program, provides a certification service for the issuance of notes and small amounts of bonds. This program has been in existence since 1910 and provides a very cost-effective process for the issuance of debt. It does have limitations and its use must be examined with each sale. DLS has a municipal data bank that can be accessed in a variety of ways and is very useful in analyzing the town's economic and financial condition.

## Credit Rating Agencies

These firms rate the credit worthiness of a municipality and significantly impact the interest rate on a town's securities. With the exception of small bond and note sales issued through the state's Bureau of Accounts, it is necessary for a town to apply for a credit rating on bond issues and on note issues over a certain size.

There are several rating agencies and they, like other advisors, charge a fee for their services to the town. A good credit rating depends on a variety of factors, some of which can be achieved by good management on the local level. Most rating agencies use four factors to determine credit ranking:

- *debt factors*: How much debt does the town have? What is the unfunded pension liability? What are the future borrowing plans? What is the debt retirement rate?
- *economic factors*: What are the income and wealth characteristics of the community? Is there much commercial/industrial diversity? How susceptible is the town to regional and national economic changes? What is its capacity for growth?
- *administrative factors:* What is the town's management capacity? What is its political environment? How much capital and longterm planning is being done?
- *financial factors*: What is the rate of tax collection? How successfully has the town avoided short-term revenue borrowing? Are there adequate reserves? How diversified is the town's revenue base? What are its operating results? (For more detail see Appendix E)

## Debt Planning

In terms of debt planning, there are three areas a town needs to consider. The first, and most critical, is determining how the town will pay for the resulting debt service; the second, is gaining town meeting approval and thus acquiring the authority to borrow; and the third, is planning for issuance. The project approval process requires the community to pass and approve the project on its merits and need, and the ability of the community to afford the resulting debt service. While the treasurer is responsible for executing the debt issuance of the approved project and should be part of the approval process from conception, the planning of major projects should be a joint project of all appropriate officials from beginning to end.

## Ability to Pay

Communities must review their ability to add or absorb debt obligations. The demographics, economy and Proposition 2½ can have a significant impact on the response to new debt. As stated in Chapter 11, the prioritizing of capital projects will assist in overall debt planning.

In most towns there will be three options to absorb the debt service of a significant project. These include:

- *absorbing the debt service within the current operationg budget,;*
- *supporting the debt service from designated revenues such as water and sewer; and*
- *excluding the debt service from the limits of Proposition 2½.*

## Absorbing the Debt Service Within the Budget

Absorbing the debt service in the operating budget involves multi-year planning and the integration of the new debt service in the budget prepared for its absorption. This usually centers around the current debt service budget, which under most circumstances declines each year. With careful planning the new debt service can be initiated as old debt service is being retired. Planners need to be sure that that they are not counting on revenue streams that will end with the debt service such as state school building assistance, debt exclusion revenue or special revenue from water and sewer.

## Designated Revenues

This option is available in very limited situations where the debt service of a capital project can be supported by departmental revenues. This occurs most commonly for water and sewer projects, transfer stations and improvements that can be paid from betterment assessments. Towns must first make the determination that fee rather than tax revenue is the most appropriate vehicle for payment, and that the rate setting authority will set the rates to cover the debt service fully. Bonds will still be general obligation debt of the town, for this is the least expensive financing vehicle; however, the revenue to cover the debt service will come from the rate payer rather than the tax payer.

An additional option involves state or federal assis-

tance in the form of grants for specified projects. The most common form is school building assistance for the construction or renovation of school buildings. (See State School Building Assistance discussed below.) The state also has reimbursement programs for library projects, Water Pollution Abatement Trust for sewer, water and some landfill projects (discussed below) and the Federal Rural Development Agency, formerly known as the Farmers Home Loan, program

## Proposition 2½ Debt Exclusions

If the town cannot afford to absorb the debt service within its operating budget and fee revenue is either not available or not appropriate, the only available option is to seek voter approval for a debt exclusion for a given project. This option is discussed more fully in Chapter 6. If the voters approve an exclusion, the debt service, both long and short term, is excluded from the property tax limits of the town in the years the debt service is due. When the debt for the project is retired, the exclusion is eliminated.

## Controlling Debt Position

Every municipality must be diligent in controlling its debt position. The impact of unplanned debt service on town budgets can be severe. Even with a Proposition 2½ debt exclusion, the impact of putting substantial debt onto the tax rate can make or break the willingness of a community to pay for future projects. Therefore, as part of the capital planning process it is critical to develop a policy or guidelines, determining the issuance, timing and tax impact of current and future debt. This guideline should be developed in concert with the treasurer, financial advisor, board of selectmen, finance committee, town administrator and capital planning committee.

Controlling the debt position does not exclude a viable project from approval, but it controls the financial impact of that project on the taxpayer. It forces the community to address and monitor the impact of rulings by state and federal agencies, town meeting and the issuance practices of overlapping districts (i.e., regional high school, counties, water/sewer districts, etc.) and bring them into the overall planning process.

## Where Does A Project Fit?

The capital planning document may include elements that require some debt be excluded from Proposition 2½, or funded within the levy limit. Some communities place all capital projects over $1 million on the ballot for a Proposition 2½ exclusion because it removes that cost from the general operating budget. Some fund a base level of capital within the general operating budget. Others set an annual limit within the general operating budget of how much will be borrowed annually.

Careful financial and strategic planning processes must be maintained to ensure that communities can continue to sustain the approved debt level into the future.

## Authorization Process

Borrowing for long term capital projects is authorized by a two-thirds vote of town meeting. The project must be described in a warrant article, and the article should state that borrowing is at least an option for the financing of the project. The motion voted upon by town meeting authorizing the borrowing must state a sum of money, authorize said sum to be raised by borrowing, and pass the authorization, either by a declared unanimous vote or by a counted two-thirds vote. Legislation allows a declared 2/3 vote if certain actions are taken previously to allow such votes. These actions include a town bylaw or a vote of each town meeting at its beginning. It is very important that bond counsel draft, or at least review, the warrant article and motion before action is taken.

## Procedures for Borrowing

Once town meeting has authorized the borrowing and dissolved, the treasurer can proceed to satisfy legal requirements. These will be listed in a requirement letter from bond counsel. Most of the requirements involve certifications from the town clerk that all state and local statutes have been complied with and proper notice has been given to

all appropriate parties. Debt limits need to be met, and often approvals by various state agencies are needed. Once all of these requirements are met, the town may proceed to borrow.

The actual borrowing depends on the need for a given project and the ability of the town to absorb the debt service. The issuance of short-term debt is quick and only requires the payment of interest for two years. Long-term debt requires the payment of principal in the next fiscal year, but locks in interest rates for the life of the loan. The exact timing and combination of financing vehicles requires the cooperation of the many officials and advisors mentioned earlier in this chapter.

## Other Issues for Borrowing

Municipal borrowing has become a more complex topic as federal regulations have increased and new financing vehicles have become available. The next sections will touch upon a few of these.

## Competitive Versus Negotiated Bond Sales

Towns can sell their bonds by either competitive or negotiated sale. With a competitive sale, the issuer's financial advisor assists the issuer in structuring the issue, preparing and distributing a disclosure statement, obtaining a bond rating and advertising the sale. On the day of the sale each competing underwriter submits a bid on the issue and the bonds are awarded to the underwriter (usually an underwriting syndicate comprised of several firms) that bids the lowest "true interest cost" on the issue. The advantages of a competitive sale are that the process is open to all underwriters, avoids any potential charges of favoritism in the choice of underwriters and ensures that the town will get a number of bids. Most towns will get the lowest possible interest rate on their bonds by selling competitively.

There are certain special circumstances, however, where a negotiated sale can produce the lowest cost for the issuer. With a negotiated sale, there is no bidding by underwriters for the issue. Instead, the issuer selects an underwriter(s) either by an RFP process or based on a pre-existing relationship. The underwriter works with the Town's financial advisor leading up to the sale, communicates with potential buyers of the bonds during an intensive "pre-sale" activity period and, based on the pre-sale activity, determines the appropriate pricing for the issue. The Town's financial advisor reviews the underwriter's pricing of the issue to ensure the town receives a good offer .

Negotiated issues are most appropriate in the following situations:

- *for refunding issues* where the underwriter monitors the market and sell the bonds on the day the market conditions produce the greatest possible savings for the issue. With a competitive issue the sale date must be chosen several days in advance;
- *for issuers with credit problems* and a low bond rating, where the underwriter must explain the credit in detail to potential investors; and
- *for new or very small issuers* that are unknown in the debt markets.

These conditions generally require a greater degree of pre-sale activity and communication with investors than can be achieved with a competitive sale. In general, most Massachusetts towns issue bonds by competitive sale.

## State School Building Assistance

In July of 2004, the state legislature passed and the Governor signed a major redrafting of the School Building Assistance Program, creating a new Massachusetts School Building Authority. This is an independent public entity under the control of a seven member Board. The State Treasurer serves as chairman of the Board. While most of the State's priority setting standards are similar to that under the prior legislation, there are significant differences in reimbursement rates, application procedures and financing, which should be understood by every city, town and school district. The new statute divides projects into three general categories during the transition process.

First, all cities, towns and school districts that are

currently receiving reimbursements will continue to receive them as previously scheduled. There will be no reduction in amounts, except those caused by the final state audit of the project. This is the same as the prior law and regulations.

Second, school projects that are currently on the 2004 Priority lists are grandfathered. They will be funded at the same percentage reimbursement rate as previously listed. It is anticipated that all projects will be cleared from the list in three to four years. For those projects that have started construction and have issued BANs, the State will pay its share directly to the municipality when the project is reached on the list. A percentage is held back pending the completion of the audit. The municipality will then bond only its share of the project. Municipalities that have already bonded a project will receive a yearly reimbursement similar to the prior system, again subject to adjustments on completion of the final audit.

The third group consists of municipalities that have not submitted their projects to the State. For this group, there is a moratorium in place until July 1, 2007. On July 1, 2006, the Board overseeing the program published new regulations and standards for new school projects. After July 1, 2007, municipalities can apply for State grants for their school projects. The Board will consider all the new applications, rank them using previously agreed upon standards, and approve the number of projects within their financial capability. The budget for the new School Building Authority will be "off budget" and eventually based on the revenues from one cent of the State sales tax. All other projects will be rejected and must reapply the next year. There will be no priority list. There is no guarantee when or if a particular school project will be approved. Thus any municipality will be taking a significant risk if it starts a project before a grant is received. The grant will be paid as construction proceeds, and the municipality will borrow only its own share of the project.

The school building construction program is spelled out in Chapter 70B of the Massachusetts General Laws. This provides the legislative support for the School Building Authority to receive applications, determine eligibility, rank, and approve the grants to cities, towns and districts to reimburse them for their school building costs. The purpose of the program is "To promote thoughtful planning and construction of school facility space in order to insure safe and adequate plant facilities for the public schools, and to assist towns in meeting the cost thereof."

The Authority has been working to review statutes and regulations including school building size and cost standards, reimbursement rates and a wide range of other issues. The legislation requires that reimbursement rates for all new (post July 1, 2007) projects be reduced by 10 percent. Thus the reimbursements will go from the 50-90 percent range to 40-80 percent.

Towns should proceed carefully with the plans for new school projects and should review the regulations on the Authority's section of the State Treasurer's Web site (www.mass.gov/MSBA.).

## Water Pollution Abatement Trust

Towns needing to finance sewer, water, and some landfill projects may find it advantageous to issue bonds through the Massachusetts Water Pollution Abatement Trust. The trust was created under Ch. 275 of the Acts of 1989 to administer the Commonwealth's Water Pollution Abatement Revolving Fund Program. The trust is governed by a three-member board of trustees including the state treasurer, the secretary of the Executive Office of Administration and Finance and the commissioner of the Commonwealth's Department of Environmental Protection.

As implemented by the trust, the revolving fund program incorporates a federal program that capitalizes the trust and a state program that provides subsidies to local communities. The trust issues bonds whose proceeds are used to make loans to communities with approved projects. Towns that are approved for borrowing from the trust must enter into a loan agreement with the trust which obligates towns to pay amounts to the trust sufficient to pay the principal and interest on the trust's bonds issued to fund the loan. Towns are also

required to deliver their own bonds to the trust, as evidence of the borrower's obligation contained in the loan agreement.

Pursuant to the act creating the Water Pollution Abatement Trust, projects funded under the revolving fund program are eligible for varying levels of financial assistance in the form of loan subsidies. The exact amount of the subsidy depends on certain characteristics of the community. The percentage level of the subsidy is set by the state legislature. As a result of the subsidy, most communities will find it advantageous to issue bonds through the trust rather than sell bonds on their own. A town's financial advisor can provide additional information on the program.

## Betterments and Special Assessments

A betterment or special assessment is a compulsory charge levied against specific properties in an effort to defray all or part of the cost of a public improvement that primarily benefits certain properties. Betterments generally refer to the construction of streets, public parks and other public improvements where the taking of land and the payment of damages are required. Special assessments usually apply to the construction and maintenance of sewers, drains, sidewalks and water extensions. The purpose of betterments and special assessments is to charge those property owners who receive special benefits from a public improvement beyond the general benefits received by the community as a whole. Betterments and special assessments are not considered taxes, so are not included within the limitations of Proposition 2$^1/_2$.

A typical form of betterment or special assessment financing of capital improvements would have a town issue bonds to pay for the improvement and the town would levy a betterment or assessment against the properties benefiting from the payment to offset all or part of the annual debt service cost. Massachusetts General Laws prescribe the procedures and limits on betterments and special assessment. For example, for sidewalks, special assessments are limited to 50 percent of the cost upon abutting properties (Chapter 83 s.26M.G.L.) . In general, town policies and state statute will determine the percentage of the cost of an improvement that can be levied against a property owner and the percentage of the cost borne by the town. Legal authority for special assessments and betterments for Massachusetts towns can be found in Ch. 80, 83, 80A and 40.

## Refunding of Existing Debt

During periods when interest rates decline, a town may have an opportunity to save money by refunding some or all of its outstanding debt. The refunding process involves the issuance of refunding bonds and is analogous to refinancing a home mortgage to get lower rates. New debt (refunding bonds) is issued and the proceeds are used to retire the outstanding higher interest (refunded bonds) debt. Savings result from the annual debt service on the new bonds being less than the previous debt service.

Refunding is generally classified as either current or advanced. With a current refunding, proceeds of the refunding bonds are used to retire outstanding bonds on the call date. The overlap between the settlement of refunding bonds and the call of existing bonds must be 90 days or less, and by law there must be a present value savings from the financing.

Advanced refunding is used when towns want to issue refunding bonds because of low interest rates, but the first date on which the existing bonds are repaid (called) is more than 90 days away. Proceeds of an advanced refunding bond issue are typically held by an escrow agent, who invests the proceeds in an escrow account whose interest earnings and principal are used to pay interest on the

## Federal Tax Reform

The Tax Reform Act of 1986, as amended, has had significant impact on municipal debt issuance. First, it strengthened the distinction between governmental use bonds — bonds used for schools, roads, public buildings, etc. — and private activity bonds — bonds issued for projects that benefit only certain parties. For most towns issuing bonds, these changes are not significant. However, in cases where the facility being financed is leased to or is operated by a private company under a management contract (for example, a civic center or golf course), there may be private activity bond questions. Bond counsel should be consulted in these situations.

The second and most significant impact of tax reform is the limitations it places on the ability of an issuer to earn arbitrage on borrowed funds. Prior to tax reform, treasurers took the proceeds of funds borrowed at tax exempt rates and invested them at higher taxable rates. The new law limits arbitrage by requiring that investment income from bond or note proceeds that is greater than the issuer's borrowing rate be rebated to the federal government. If a community does not comply with this requirement, it risks losing the tax exempt status on its bonds and notes.

There are exemptions from these arbitrage limitations, and issuers should work closely with their financial advisors and bond counsel to plan their debt in a way that takes advantages of these exemptions. There are still opportunities to earn significant arbitrage if debt issuance is planned and structured appropriately.

The following arbitrage regulations need to be followed:

Unless debt is issued by a "small issuer", that is, an entity issuing $5 million or less of new money tax exempt debt in a calendar year, the proceeds shall be used within certain prescribed time frames, or be subject to fines and penalties as described above. This amount is increased to $15 million if at least $10 million is school related.

*Following, find the general rules and time frames for spending borrowed funds in order to avoid rebate. All funds must be used according to the following sched - ules, or sooner:*

1. CONSTRUCTION DEBT
   First six months: 10%
   First year: 45%
   Eighteen months: 75%
   Two years: 100%
2. CAPITAL EXPENDITURES DEBT OTHER THAN CONSTRUCTION PROJECTS
   First six months: 15%
   First year: 60%
   Eighteen months: 100%
3. ALL OTHER MUNICIPAL PURPOSE DEBT
   First six months: 100%

The third tax reform change is that it restricts certain buyers of tax exempt securities. The major provision disallows a federal tax deduction for financial institutions of municipalities who issue more than $10 million of original issues in a calendar year. Since financial institutions are major buyers of tax exempt bonds it is helpful for issuers to plan their debt issuance to stay within the $10 million limit. Current data suggest that so-called "bank-qualified" issues — i.e., bond or notes of issuers within the $10 million limit — sell in the market at 10 to 15 basis points (.10 percent - .15 percent) lower than non-qualified issues. A town's financial advisor can assist in formulating a debt issuance plan that takes maximum advantage of bank qualification.

## Continuing Disclosure Regulations

Rule 15c 2-12 of the Securities and Exchange Act of 1934, as amended, provides that underwriters may not purchase or sell municipal securities of an issuer unless the issuer undertakes to provide continuing disclosure over the life of the bonds, subject to certain exemptions. In order to make their bonds acceptable to the market, issuers covenant at the time of delivery of the bonds to provide continuing disclosure. The obligation of the issuer under the covenant is to provide certain financial information and operating data no later than a specified period following the dose of each fiscal year, and to provide notices of the occurrence of certain enu-

merated events, if material.

The continuing disclosure information is required to be sent to all Nationally Recognized Municipal Securities Information Repositories and the appropriate State Information Depository (SID). Massachusetts does not yet have a SID. Most municipalities in Massachusetts contract with their financial advisor to submit the required continuing disclosure information on their behalf.

## Borrowing Purposes and Limits

Purposes for which a municipality may borrow and its debt limits are listed in Chapter 44 s 7,8 and 10 M.G.L. Questions should be posed to the town's financial advisor or bond counsel.

*This chapter was prepared by Allan Tosti, Edward Dlott, Mary Ellen Normen Dunn, Donna A. Madden and Elizabeth Klepeis and updated by Tosti .*

**Following are the main statutes, purpose and maximum term for Municipal borrowing:**

**Inside Debt Limit**

| Statutory Authority | Purpose | Maximum Term |
|---|---|---|
| 44:7(1) | For the construction and reconstruction of surface drains, sewers, sewerage and sewage treatment and disposal facilities. | 30 yrs. |
| 44:7(1A) | Lining sewers by cement or metal. | 10 yrs. |
| 44:7(2) | Acquisition of land for public parks, playgrounds, or public domain. (Indebtedness incurred for public domain may not exceed _ of 1 percent of the equalized valuation of the city or town.) | 30 yrs. |
| 44:7(2A) | Construction of an artificial ice skating rink. | 15 yrs. |
| 44:7(2B) | Construction of an outdoor swimming pool. | 15 yrs. |
| 44:7(3) | Acquisition of land for any purpose for which a municipality is authorized to acquire land not otherwise specifically provided for; for the construction of buildings or for additions to existing buildings where such additions increase floor space, including original equipment and furnishings. | 20 yrs. |
| 44:7(3A) | Remodeling, reconstructing, or making extraordinary repairs to public buildings. | 20 yrs. |
| 44:7(3B) | Energy conservation and alternative energy improvements to public buildings. | 10 yrs. |
| 44:7(4) | Construction or reconstruction of bridges of stone, concrete, or iron superstructure. | 20 yrs. |
| 44:7(5) | Original construction, extension or widening of public ways, including land damages, cost of pavement, and sidewalks laid at the same time; construction of specified types of permanent pavement; construction, surfacing, or resurfacing off-street parking areas. | 10 yrs. |
| 44:7(6) | Macadam pavement or other road material, resurfacing off-street parking areas with such pavement, or construction of sidewalks. | 5 yrs. |
| 44:7(7) | Construction of walls or dikes to protect highways or property. | 10 yrs. |

| | | |
|---|---|---|
| 44:7(8) | Purchase of land for cemetery purposes. | 10 yrs. |
| 44:7(9) | Departmental equipment.<br>With the approval of the Board of Selectmen. | 5 yrs.<br>15 yrs. |
| 44:7(9A) | Remodeling, rehabilitation of fire-fighting apparatus and heavy equipment. | 5 yrs. |
| 44:7(10) | Connecting dwellings and buildings to sewers where whole or part of cost is assessed on abutters. | 5 yrs. |
| 44:7(11) | Paying final judgments. | 1 yr. |
| 44:7(14) | Traffic signal or public lighting installations, fire alarm, and police communication installations, and extending and improving such installations. | 10 yrs. |
| 44:7(16) | Fire insurance premiums covering five-year period. | 4 yrs. |
| 44:7(17) | For improvements (of tidal and nontidal rivers and streams, harbors, tide waters, foreshores, and shore along a public beach within its jurisdiction under 91:29), and for construction or reconstruction of public wharves. | 10 yrs. |
| 44:7(18) | For expert appraisal of taxable property or for updating existing tax maps. | 2 yrs. |
| 44:7(18) | To obtain brand new tax maps based on aerial photography | 10 yrs. |
| 44:7(19) | For payments under contracts with the Commonwealth under 40:40D, but only for such purposes as a city or town may borrow under 44:7 | subject to applicable limits under s.7 |
| 44:7(20) | Developing land for burial purposes and constructing paths and avenues and embellishing grounds in a cemetery owned by the city or town. | 5 yrs. |
| 44:7(21) | Architectural services for plans and specifications for any proposed building for which a town, district, or city may borrow or for additions to buildings which increase the floor space thereof, if authorized separately from other debt relating to said buildings or additions provided the city, town, or district owns site for proposed building or addition at the time the loan is authorized. | 5 yrs. |

| | | |
|---|---|---|
| 44:7(22) | Engineering or architectural services for plans for any project not defined in clause (21) for which city or town is authorized to borrow, if authorized separately from other debt relating to the project. | 5 yrs. |
| 44:7(23) | For the construction of municipal tennis courts, including platform tennis courts and the acquisition of land and construction of buildings thereon, including the original equipment and furnishing of said buildings. | 15 yrs. |
| 44:7(25) | For construction and reconstruction of municipal outdoor recreational and athletic facilities including land acquisition. | 15 yrs. |
| 44:7(26) | For energy audits as defined in 25A:3 if authorized separately from debt for energy conservation or alternative energy projects. | 5 yrs. |
| 44:7(27) | For the undertaking of projects for the preservation and restoration of publicly-owned freshwater lakes and great ponds in accordance with the provisions of 21:37A. | not stated |
| 44:7(28) | For the development, design, purchase, and installation of computer hardware, other data processing equipment, and c omputer-assisted integrated financial management and accounting systems. | 10 yrs. |
| 44:7(29) | For the development, design, purchase of computer software incident to the purchase, installation, and operation of computer hardware and other data processing equipment and computer-assisted integrated financial management and accounting systems. | 5 yrs. |
| 44:7(30) | For the installation, repair, or replacement of exposed structural or miscellaneous steel which has been treated with the hot-dip galvanizing process. | 3 yrs. |
| 44:7(31) | For the purpose of removing asbestos from municipally owned buildings. | 10 yrs. |
| Ch.487 of of 1980 | Construction of off-street parking facilities predominantly the Acts commercial areas. | 20 yrs. |

**Outside Debt Limit**

| Statutory Authority | Purpose | Maximum Term |
|---|---|---|
| 44:8(1) | For temporary loans under sections 4, 6, 6A, and 17A.as provided in relevant sections | |
| 44:8(2) | Providing and distributing food and shelter during emergencies. | 2 yrs. |
| 44:8(3) | Establishing or purchasing a water system, taking or purchasing water sources, water rights, or land for the protection of water system.* | 30 yrs. |
| 44:8(3A) | Conducting groundwater inventory and analysis in connection with development of new or additional water supply sources. | 10 yrs. |
| 44:8(4) | Construction or enlarging reservoirs, constructing filter beds, stand pipes, buildings for pumping stations, including original pumping station equipment, buildings for water treatment, including original equipment therefore, and the acquisition of land of any interest in land necessary in connection with any of the foregoing.* | 30 yrs . |
| 44:8(4A) | Remodeling, reconstructing, or making extraordinary repairs to reservoirs and filter beds.* | 30 yrs. |
| 44:8(5) | Laying and relaying water mains of not less than 6 inches but less than 16 inches in diameter; for lining such mains with linings of not less than 1/16 of an inch, and for the development of additional well fields, for wells, and for pumping station equipment.* | 40 yrs. |
| 44:8(6) | Constructing, reconstructing, laying, and relaying aqueducts and water mains larger than 16 inches in diameter; lining such mains with linings of not less than 1/16 of an inch.* | 40 yrs. |
| 44:8(7) | Extension of water mains.* | 40 yrs. |
| 44:8(7A) | Purchase and installation of water meters.* | 10 yrs. |
| 44:8(7B) | For payment of the town's share of cost to increase storage capacity of any reservoir, including land acquisition, constructed by water resources commission for flood prevention or water resources | 20 yrs. |

| | | |
|---|---|---|
| | utilization.* | |
| | *Debts under clauses (3), (4), (4A), (5), (6), (7), (7A), and (7B) ("Water debt") may not exceed in the aggregate 10 percent of the equalized valuation. | |
| 44:8(7C) | Purchase, replacement, or rehabilitation of water department equipment. | 10 yrs. |
| 44:8(8) | Establishing, purchasing, extending, or enlarging gas or electric plant or a community antenna television station. (May not exceed 5 percent in a town or 2-1/2 percent in a city or the equalized valuation; but with approval of the Emergency Finance Board loans in excess of 2.5 percent, but not in excess of 5 percent in cities of such equalized valuation may be authorized. | 20 yrs. |
| 44:8(8A) | For remodeling, reconstructing, or making extraordinary repairs to a gas or electric lighting plant, or a community antenna television system. (Approval of Emergency Finance Board required. Debt to be included in the limit of gas and electric plants and community antenna television systems established in clause 8.) | 10 yrs. |
| 44:8(9) | Emergency appropriations approved by state treasurer, attorney general, and director. | 2 yrs. |
| 44:8(10) | Acquiring land or constructing buildings or other structures including original equipment as memorial to armed forces. (Not to exceed _ of 1% of the equalized valuation.) | 20 yrs. |
| 44:8(12) | For acquisition of street railway property under Ch.161, operating the same or contributing toward capital expenses of a transportation area. (Not to exceed 2 percent of equalized valuation.) | 10 yrs. |
| 44:8(13) | For the acquisition, construction, enlargement, improvement, or protection of public airports, including land. (Not to exceed 1 percent of the equalized valuation.) | 10 yrs. |
| 44:8(14) | Eradication of Dutch Elm Disease. | 5 yrs. |
| 44:8(15) | Construction of sewers, sewerage systems, and sewage treatment and disposal facilities or for lump-sum payment of cost of tie-in to such services in a contiguous city or town. (Allowed if enterprise fund or with the approval of Municipal Finance Oversight Board.) | 30 yrs . |

| | | |
|---|---|---|
| 44:8(16) | Construction of golf courses including acquisition of land, construction of buildings, and cost of original equipment and furnishings. | 20 yrs. |
| 44:8(17) | Payment under contracts with the Commonwealth under 40:(4D) but only for such purposes as a city or town may borrow under 40:8. | none stated |
| 44:8(18) | Construction of a regional incinerator for disposal of solid waste, refuse, and garbage. (Not to exceed 3 percent of equalized valuation.) | 20 yrs. |
| 4:8(19) | Lending or granting money to industrial development financing authorities and economic development industrial corporations. (Requires approval of Departments of Commerce and Development, and Secretary of Communities and Development. Not to exceed lesser of $100,000 or 2.5 percent of equalized valuation.) | none stated |
| 44:8(20) | Implementing project financed in whole or part by the Farmers Home Administration of the United States Department of Agriculture | 40 yrs. |
| . | | |
| 44:8(21) | Cleaning up or preventing pollution caused by existing or closed landfills or other solid waste facilities. Prior approval of the Department of Environment Quality Engineering (DEQE) is required. | 30 yrs. |
| 44:8(22) | Construction of incinerators, refuse transfer facilities, recycling or resource recovery facilities other than landfills or for the disposal of waste, refuse or garbage. Prior approval of DEQE is required. | 25 yrs. |
| 44:8(23) | Remodeling or reconstructing incinerators, refuse transfer facilities, recycling or resource recovery facilities or other solid waste facilities, other than landfills, owned by municipalities or districts. Approval by DEQE required. | 10 yrs. |
| 44:8(24) | Closing a landfill, opening a new landfill or making improvements to an existing landfill. DEQE approval is required. | 25 yrs. |
| ch. 70B | School projects, approved by the Massachusetts School Building Authority for grant. | 20-25 yrs. |
| 121B:20 (1) and (2) | Development, acquisition, and operating costs of clearance, land assembly, and redevelopment, urban renewal, community renewal, relocation, rehabilitation, or low-rent housing projects. (Total outstanding may not exceed 7% of the equalized valuation of a city | 25 yrs. |

| | | |
|---|---|---|
| | with population over 150,000; 6% otherwise. First annual payment to be made not later than five years after date of bonds. Need Emergency Board approval if total 121B indebtedness exceeds 2-1/2% of equal valuation.) | |
| 121B:20(3) | Repayment of loss which city or town agreed to bear incurred as a result of early acquisition or clearance of land not used for urban renewal purposes. | 20 yrs. |
| 121B:20(4) | Relocation payments. (Total outstanding may not exceed _ of 1 percent.) | 20 yrs. |
| 44:8B | Notes to replace funds lost or unavailable because of insolvency, failure, or liquidation of a bank or other depository. | 8 yrs. |

# 13 MUNICIPAL CONTRACTING AND PROCUREMENT

## Power to Contract

A town is authorized to make contracts for the exercise of its corporate powers in accordance with Chapter 40 s 4 M.G.L. , which states:

> "A city or town may make contracts for the exercise of its corporate powers, on such terms and conditions as are authorized by the town meeting in a town, the town council in a town without a town meeting, the city council in a city with the approval of the mayor or the city council in a Plan D or Plan E city with the approval of the manager, or as otherwise authorized in accordance with a duly adopted charter. A city or town may not contract for any purpose, on any terms, or under any conditions inconsistent with any applicable provision of any general or special law."

The section above does not expressly authorize any particular town board or official to sign contracts. In general, the authorization to sign contracts must be set forth in either the town charter or bylaws, or established by town meeting vote.

There are certain exceptions, however. For example, a municipal airport commission is authorized by Chapter 90 s 51I M.G.L. to make contracts for airport improvements and to purchase supplies and materials. Another example is a historic district commission, which is authorized under Chapter 40 s 8D M.G.L. to "enter into contracts with individuals, organizations and institutions for services furthering the objectives of the commission's program."

Unless otherwise specified in the charter, bylaws or town meeting vote, the actual terms and conditions of municipal contracts may be negotiated and agreed to by the board or official authorized to enter into a particular contract, provided the length of a contract does not exceed three years. (unless authorized by a majority vote of town meeting) (See Chapter 30B s 12(b) M.G.L. ) Town meeting may authorize contracts that exceed three years. A charter or bylaw provision may also authorize contracts that are more than three years long.

If the town charter or bylaws do not authorize a particular board or committee to execute contracts, the following sample bylaw should be considered for adoption:

> "Unless otherwise provided by a vote of town meeting, the [town manager] [board of selectmen] [chief procurement officer designated pursuant to Chapter 30B M.G.L. ] is authorized to enter into any contract for the exercise of the town's corporate powers, on such terms and conditions as are deemed appropriate. Notwithstanding the foregoing, the [town manager] [board of selectmen] [chief procurement officer] shall not contract for any purpose, on any terms, or under any conditions inconsistent with any applicable provision of any general or special law."

Even if a contract has been properly authorized and executed, it must be supported by an adequate appropriation. (See Chapter 30B s 12(d) M.G.L. ) If a contract is a multi-year contract and sufficient funds are not appropriated in a subsequent fiscal year, the town is required to cancel the contract.

## Public Bidding of Municipal Contracts

There are four different statutory schemes governing public bidding procedures for municipal contracts. There are also several provisions of the General Laws that require competitive bidding for certain other types of contracts. For example, Chapter 40 s 22D M.G.L. requires competitive bidding in the award of police-directed towing contracts. In addition, Chapter 45 s 5A M.G.L. requires sealed proposals and award to the highest responsible bidder for the lease of concession stands in town parks. Some towns continue to have charter or bylaw provisions establishing additional local public bidding requirements. The four principal statutory schemes are:

*Uniform Procurement Act*

Chapter 30B M.G.L. This chapter governs the general bidding procedures for the procurement of all town supplies and services costing $5,000 or more, unless the particular contract is contained in the list of exemptions set forth in Chapter 30B s 1 M.G.L. This list of exemptions is extensive and includes, among other exemptions, solid waste contracts, engineering agreements, insurance contracts and certain professional services agreements.

Generally, if the cost of the supply or service is estimated to cost $5,000 or more but less than $25,000, the town may procure such supply or service by obtaining three telephone or written quotes and awarding the contract to the person or business offering the lowest quotation.

If the cost of the contract is estimated to be $25,000 or more, the town must issue a written invitation to bid, advertise the procurement in accordance with established procedures and award the contract to the lowest responsible and eligible bidder. (See Chapter 30B s 5 M.G.L. )

If the chief procurement officer determines, however, that selection of the most advantageous offer requires a comparative judgment of other factors in addition to price, the town may issue a request for proposals in accordance with M.G.L. Ch. 30B s 6. This procedure requires the submission by each offerer of a separately sealed price and non-price proposal. The non-price proposals are opened first and evaluated and ranked in accordance with published evaluation criteria. Thereafter, the price proposals are opened and the contract may be awarded to the person offering the most advantageous proposal taking into consideration price and the evaluation criteria. If the contract is awarded to a person other than the one offering the lowest price, the chief procurement officer must explain in writing the reasons for the award.

The Uniform Procurement Act also requires a public proposal process for the disposition or acquisition of interests in real property (i.e., fee simple interests, easements, or leasehold interests) if the value of the real property interest exceeds $25,000. In the case of acquisition of real estate, the town may forego a public proposal process if the town determines in writing that the real estate to be acquired has unique qualities or location.

Whenever disposing or acquring real property, a town must advertise in accordance with the separate advertising procudures contained in Chapter 30B s16 M.G.L.

*Public Works Contracts*

If a contract involves the construction, reconstruction, alteration, remodeling or repair of any public works project costing more than $10,000, the contract must be awarded in accordance with the public bidding procedures of Chapter 30 s 39M M.G.L. Generally, this provision requires the preparation of written specifications and an invitation for bids, advertising of the contract in accordance with established procedures, and award of the contract to the lowest responsible and eligible bidder. Public works projects include municipal infrastructure projects involving "horizontal construction" such as sewer and water projects, highway and bridge projects, landfill closures and site work and to grading projects.

This statute also applies to the purchase of construction materials costing more than $10,000, and public building projects as described in the designer selection section below, which are estimated to

cost in excess of $25,000 but not more than $100,000. Construction materials may also be purchased under Chapter 30B s5 M.G.L. as a "supply."

*Filed Sub-Bid Law*

If a contract involves the construction, reconstruction, installation, demolition, maintenance or repair of any building by the town estimated to cost in excess of $100,000, the contract must be awarded in compliance with the Filed Sub-Bid Law, Chapter 149 ss 44A through 44M M.G.L. This provision also requires the preparation of written specifications and an invitation for bids, the separate solicitation of filed sub-bids and general bids, advertisement of the contract in accordance with established procedures and award of the contract to the lowest responsible and eligible bidder. A building is defined as any structure containing four walls and a roof, but for the purposes of this statute, does not include sewer or water pumping stations that are newly constructed as part of a water or sewer project. Such projects must be bid under the public works statute described in the section above.

*Designer Selection Law*

If a contract involves the procurement of design services for a public building project where the estimated cost of construction exceeds $100,000 or the design fee is $10,000 or more, the contract must be awarded in compliance with designer selection procedures established by the town and in accordance with Chapter 7 ss 38A through 380 M.G.L. Contracts for the design of buildings constructed in connection with water, sewer and highway projects are exempt from this law.

## Effect of Contracts Awarded in Violation of Law

If a contract has not been properly authorized in accordance with Chapter 40 s 4 M.G.L. ; has been awarded in violation of required public bidding procedures; or has been entered into without an adequate appropriation, the contract is void and unenforceable and the town is not permitted to make any payment on such an illegal contract, regardless of whether the vendor has actually provided supplies or services under the contract. (See Chapter 30B s 17(b)M.G.L. )

## Uniform Procurement

Table 13 A summarizes the procurement procedures for purchase of supplies and services, for the disposal of surplus supplies and for the acquisition and disposal of interests in real property. This table is designed as a guide to the applicable procedures. It is not a comprehensive treatment of all statutory requirements. For detailed, step-by-step procedures and requirements, see Chapter 30B s 1-19M.G.L . Refer also to the Inspector General's manual, Municipal, County, District, and Local Authority Procurement of Supplies, Services and Real Property.

## Massachusetts Statutes For Construction Contracts

In July 2004, the Legislature enacted Chapter 193 of the Acts of 2004, amending the Massachusetts statutes dealing with the procurement of design and construction services, including Chapter 30 s39M M.G.L. (public works construction), Chapter 149 s44A through 44M M.G.L. (public building consturction) and Chapter 7 s38A through s38O (the designer selection law) M.G.L. The amendments made significant changes to those statutes.

The table that follows summarized the advertising and bidding requirements prescitbed by Chapter 30 s 39M M.G.L., and Chapter 149 s 44A through 44M M.G.L. as amended by the Legislature, which apply to contracts for the construction, reconstruction, alteration, remodeling, demolition or repair of public works projects and public building projects, respectively. The table is offered as a guide only, and is not a comprehensive treatment of all statutory requirements, nor of all changes implemented by Chapter 193 of the Acts of 2004. For detailed procedures regarding the bidding and advertising requirements for

public design and construction contracts, see the statutes identified above or consult with counsel. You may also refer to the Inspector General's manual entitled "Designing and Constructing Public Facilities," which can be found at the Inspector General's Web site: www.mass.gov/ig.

*This chapter was prepared and updated by the law firm of Kopelman & Paige.*

**Table 13. A UNIFORM PROCUREMENT ACT PROCEDURES (G.L. c. 30B)**

| DOLLAR AMOUNT OF CONTRACT | STATUTORY REFERENCE | PUBLISHED ADVERTISEMENT | PROCEDURE | AWARD TO | ADDITIONAL REQUIREMENTS OR EXCEPTIONS |
|---|---|---|---|---|---|
| SUPPLIES & SERVICES $5,000-$25,000 | §4 | None Required (telephone or written) | Solicit 3 Quotes (telephone or written) | Lowest quote | |
| SUPPLIES & SERVICES $25,000+ INVITATION FOR BIDS | §5 | Posting, Newspaper ($100,000 + also Goods and Services Bulletin) | Sealed Bids (IFB) | Lowest responsive and responsible bidder | |
| SUPPLIES & SERVICES $25,000+ REQUEST FOR PROPOSALS | §6 | Posting, Newspaper ($100,000 + also Goods and Services Bulletin) | Separately sealed price and non-price proposals (RFP) | Most advantageous based on non-price and price factors | Chief procurement officer— determination of need for non-price factors |
| SUPPLIES & procurementSERVICES SOLE SOURCE $25,000 MAXIMUM (NO LIMIT— LIBRARY & SCHOOL BOOKS, UTILITIES) | §7 | None Required | Direct Negotiation | Sole Source | Sole Source determination by officer. Additional record keeping |
| SUPPLIES & SERVICES EMERGENCY | §8 | Goods and Services Bulletin (as soon as practicable) | Comply with c.30B procedures to extent possible (3 quotes recommended) | Lowest Price | Emergency declaration by procurement officer. Procure only to meet emergency needs |
| SUPPLIES & SERVICES (DISPOSAL) MORE THAN $5,000 | §15 | Same as §5 above for bid or auction | Sealed bids, auction, established markets | Highest Price | May be listed as trade-in in IFB/RFP. Special procedure for disposal to charity |
| REAL PROPERTY MORE THAN $25,000 ACQUISITION OR DISPOSAL | §16 | Newspaper (greater than 2500 sq. ft.— also Central Register | Sealed Proposal | Most Advantageous Offer | For dispositions: declaration of availability, determination of value; For acquisition: uniqueness determination |

| DOLLAR AMOUNT OF CONTRACT | BIDDING STATUTE | PUBLISHED ADVERTISEMENT | BID PROCEDURE | BID BOND | PERFORMANCE BOND |
|---|---|---|---|---|---|
| SUPPLIES & SERVICES $5,000- $9,999 | §4 | None Required (telephone or written) | Solicit 3 Quotes (telephone or written) | Lowest quote | |
| SUPPLIES & SERVICES $10,000+ INVITATION FOR BIDS | §5 | Posting, Newspaper ($100,000 + also goods and services bulletin) | Sealed Bids (IFB) | Lowest responsive and responsible bidder | |
| SUPPLIES & SERVICES $10,000+ REQUEST FOR PROPOSALS | §6 | Posting, Newspaper ($100,000 + also Goods and Services Bulletin) | Separately sealed price and non-price proposals (RFP) | Most advantageous based on non-price factors and price | |
| SUPPLIES & curement SERVICES SOLE SOURCE $10,000 MAXIMUM (NO LIMIT— LIBRARY & SCHOOL BOOKS, SOLE SOURCE UTILITIES) | §7 | None Required | Direct Negotiation | Sole Source | Sole Source determination by pro- officer. Additional record keeping |
| SUPPLIES & ment | §8 | Goods and Services | Comply with c.30B | Lowest Price | Emergency declaration by procure- |

# 14 MANAGEMENT INFORMATION SYSTEMS

## Introduction

It's 10:15 p.m. You've been meeting with the police chief for the last two hours. Quite understandably, everybody is getting impatient and a little contentious. Nobody remembered to bring their information about the police department's overtime budget. The finance committee thinks, but cannot prove conclusively, that overtime is now a larger percentage of all personal services for police than it has ever been. However, no one has any way to compare the last few months with the same period last year or the year before. And, even for this year, no one can tell if there has been a "spike" in overtime because of several recent severe snowstorms, or if this pattern of perceived overexpenditure has been persistent throughout the whole year.

Access to a computer and printer in the meeting room would mean that you could look up all of this information in a matter of seconds from the town's actual payroll files, print it out, give each member of the finance committee and the police chief a clean copy and focus the discussion on the overtime budget rather than speculate about the facts.

The lesson is clear: the days of carrying spreadsheets and thick binders or reams of paper to every meeting should be over. The town's computer system and other information technology (IT) resources have become finance committee members' stock in trade, helping them do their jobs better and faster.

## What Does the Finance Committee Need?

Finance Committees need to gather and use financial information to meet the full range of their responsibilities by law and custom. These needs fall into five main areas:

- access;
- analysis;
- management;
- planning; and
- public dissemination.

## Access

Finance Committees need to be able to find certain fiscal information in order to meet their responsibilities; they need access to municipal data. The prerequisite to such access is training. Before a finance committee member can access town government information, one needs to receive training, provided by the town, in how to use the particular applications software the town uses in its financial functions.

Advances in computer technology now mean that finance committees should not have to ask permission to get municipal financial information from their communities. They should have secure, independent access established in advance by the town. This means that the finance committee may view or print, even from home, municipal financial information.

Towns should have a workstation and printer available in the conference room in town hall to allow the finance committee, as well as other municipal officials, to access information. These are small investments for towns to make to facilitate important town government work.

## Analysis

Computer technology gives the finance committee several tools for analysis. Again, as with access, training is the key to the finance committee's use of computer technology for analysis. Tools for analysis available to finance committee members via computers include:

*Standard Reports*

Every vendor of municipal applications software includes numerous standard or "canned" reports with its system. These reports can provide a wealth of information, ranging from year-to-date expenditures to delinquencies in receipts from taxes or utilities.

*Report Generators*

These are also known as "query" tools. They enable a non-technical end-user to ask ad hoc questions — for example, identifying which

departmental accounts have a balance greater than or less than a certain percentage of their budgeted amount. The user can often get the answer to such questions, in detail, in a matter of seconds.

*Spreadsheets*

The key to using spreadsheets in the finance committee's work is keeping them up-to-date without having to re-enter information that has already been entered into the town computer for other municipal use. Several software tools can extract pertinent data from existing computer files. Many vendors have already programmed spreadsheet extractions for municipal data files; similarly, many report generators have a spreadsheet extraction process built into them. The report generator itself may serve as the "bridge" between municipal financial applications and the finance committee's spreadsheet.

Also, if spreadsheets are kept on a town's network under appropriate security, the finance committee should have fairly easy access to needed information.

## Planning

The finance committee needs to plan more than just the upcoming fiscal year. While developing next year's budget is the primary responsibility of most finance committees, projecting revenues and expenditures for future years (a practice known as multi-year fiscal planning) creates the framework for prudent annual budgetary decision-making.

## Public Dissemination

The finance committee needs to communicate its findings and recommendations to the town. This information can be made available to the public in numerous ways. These include:

*Public access workstations and printers*

Municipalities in Massachusetts and elsewhere in the United States provide workstations and printers for their "stockholders" to use. These are usually located either in the town hall or the library — the two locations where most people seek information about their town government.

Security always needs to be implemented to ensure that files and equipment are not tampered with or removed. Municipalities should provide access to public workstations and printers free of charge. The town will save substantial funds by enabling people to get the information they need without having to take the staff's valuable time to respond to every inquiry. Users should not be charged to cover the cost of certain supplies (e.g. printer paper): this is a time-consuming nuisance for the customer and the town's staff.

*Internet access*

Municipalities can use the Internet to provide information to the public—their own residents as well as anyone else who may be "surfing." Internet access can also be helpful to finance committee members when traveling. This is now a widespread practice throughout the United States.

## Capabilities of Budgeting Packages

Leading budget preparation packages from established municipal vendors can save hundreds of hours every year for elected officials, departments, staff, finance committees and capital committees. Many budget preparation packages automatically "read" the most current information from a municipality's general ledger system. As mentioned earlier in this chapter, such automatic updating not only saves time, it eliminates concerns about using old information in the budgeting process. Some of the features and functions that leading off-the-shelf budgeting packages offer at a reasonable cost include:

*Individual department access for budget requests*

Security can allow each department or division to input or view information only for its own range of accounts. For example, within the department of public works, the water and sewer division could input only figures for its part of the budget while the highway division could input or access only its own range of accounts.

*Individual department access for inputting narrative information*

Each department should be able to present its own justification for the funds it is requesting. Departments should be able to do this for every

object or sub-object of expenditure, as well as each source of revenue.

*Individual department ability to recommend priorities for the next year*

The police department, for example, might state that a third new cruiser is a lower priority than a new boat for harbor patrol and rescue.

*Maintenance of multiple, concurrent budget scenarios for the next several years*

Local officials are always faced with uncertainty about such budgeting factors as levels of local aid or trends in the state and national economy. Multiple, concurrent budget scenarios enable the municipality to keep several different projections for budgets for the next year or the next several years, based (for example) on optimistic, pessimistic or middle-of-the road assumptions.

*Projection of next year's budget from the current year's budget*

This can be done by applying across-the-board percentage or dollar increases for all accounts, for individual accounts or for a range of accounts.

*Provision for budgeting allotments by percentage or dollar amount*

Municipal revenues and expenditures vary from season to season. Having a budget that assumes snow falls 12 months a year or that collections of property taxes occur in equal one-twelfths is misleading. Budget-to-actual reports should reflect this month-by-month allotment in order to provide managers and policy makers with sound guidance on the status of municipal finances. The system should provide its own internal checks to be sure that the community has allotted all funds budgeted in each scenario. This is quite important in cash flow management as well as revenue/expenditure forecasting.

*Provision for automatic roll-forward of budget information without rekeying*

This should occur at every step of the process, from the department's original request to final vote by town meeting.

*Maintenance of the history of all adjustments to the budget after its adoption*

This applies to amendments and transfers affecting both revenues and expenditures. For each such action, the system should keep the record of the amounts involved, the accounts to and from which they have moved, the date requested, the reason for the request and the date approved. This is especially important since the enactment of Chapter 44, Section 33B of the General Laws, which gives towns greater flexibility in making budgetary transfers in the last two months of the fiscal year without having to go to town meeting.

*Linkage of the budget preparation system to other applications in the system*

This should include, for instance, spreadsheet software, word processing, graphics and the report generator software. These linkages help greatly in presenting the budget both internally and to the public.

## Management of Information Technology

The finance committee needs to look long and hard at how the town plans to manage its investment in information technology (IT). Management is a key issue which has become more and more challenging as towns have expanded their use of IT.

This attention to the management of IT ought to occur in the same way that the finance committee should be analyzing how the town plans to staff and support an additional ambulance or provide for the operating and maintenance costs of a new (or renovated) school or any other asset.

The finance committee should be reviewing in detail several elements of successful management of IT before reaching any decisions on its recommendations to town meeting. These include, among other things:

1. The town's formal, written strategic plan for IT to guide its investment in and management of these critical resources. This plan should address town-wide needs for IT on a comprehensive basis and be updated annually as part of the town's budgetary process. This annual update is important because of the rapid pace of change in IT and its increasing impact on almost every aspect of town government.
2. The need for appropriate staffing and support of

this function on a town-wide basis. Towns can only implement IT and support successfully to the extent that they provide appropriate staffing.

3. Having a user-based organization which takes a regular, active role in decisions about the direction and management of IT throughout the town.
4. The need for the town to fund both end-user and technical staff training on an annual basis, including out-of-state travel to meetings of users' groups.
5. The need to integrate requirements for the updating of IT with other elements of the town's capital improvement program (CIP) such as improvements to its water or sewer systems, or the procurement of fire apparatus or police cruisers. For example, the CIP should include funds to replace at least one-fifth of the townís PCs or printers each year.
6 The use of performance-based "fly-before-you-buy" Requests for Proposals (RFP's) and contracts for major procurements of systems and software for any town departments. Performance-based contracts tie payment to the actual performance of the system in production in the town and also require the vendor to complete critical tasks such as training and conversion before acceptance testing can begin.

## ASP's and MIS

ASP stands for Application Service Provider. The ASP is a fairly new way of providing computer services to towns. In the ASP model, a company hosts the software that the town's staff uses, providing access to the town's applications to any person who has secure, Internet-based access.

The ASP model differs fundamentally from the traditional "turnkey" model where the town would buy a server, set up a computer room, license the software, establish a data network and hire staff to manage the system.

The ASP model has several potential advantages.

It minimizes the front-end cost to the town by eliminating or reducing the need to:

- Build and maintain a separate computer network;
- Buy a server to run the applications;
- Pay for the full cost of licenses for application and system software;
- Hire staff to support the system and applications;
- Construct and maintain a computer room; and
- Manage enterprise-level security.

It can provide higher quality software than the town might otherwise be able to afford, especially for smaller communities.

The town only pays for what it actually uses. Thus, the town has greater flexibility over time in how it provides access to the applications.

Payment for ASP services can be credited to the town's licensing of the application software, if and when the town should decide to bring the application in house.

Some costs remain the same. Key among these is the need to provide ample training for all users both initially and on an on-going basis.

## Get Smart With Your Chart of Accounts

Let's ask a few questions:

- How much does Homeland Security actually cost your town? How do you know?
- How much is the town spending among all of its departments for services to youth or seniors? How do you know?

Towns face a special challenge in identifying and understanding the costs of activities like Homeland Security, youth or senior services which cross departmental lines.

Homeland Security, for example, can entail direct operating and caiptal expenditures which involve police, fire, EMS, public works, the board of health and others. In addition, there are indirect costs such as the percentage of time which the town administrator may be spending on Homeland Security.

What does this have to do with Management Information Systems?

The basic answer is that our towns could and should be using their computer-based systems to budget for and track expenditures for activities like these that cross multiple departments or town agencies.

The good news is that this can be done very easily. And the ability to do this program based budgeting and accounting has probably been sitting there on your system, unused, for years.

The chart of accounts included in almost every vendor's financial system for towns in Massachusetts already has at least one additional dimension in its chart of accounts for exactly this type of activity.

Where the first four dimensions of the chart of accounts typically are used in accordance with the Department of Revenue UMAS standards for fund,function, department and object of expenditure, there is also a fifth dimension which can be used for activity or program. This would cover things like Homeland Security, youth or senior services which are not limited to a single department or town office. The other benefit of this approach is that it does not interfere at all with the normal appropriations process of town meeting.

Every town also has a clear precedent for this use of the fifth dimension of its chart of accounts. Your school department, whether local or regional, has had to do this same activity.

The challenge rests with the finance committee and other local leaders to be smart in how they use their computer-based chart of accounts to improve financial management. As the next paragraph indicates, establishing this use of the fifth dimension in your chart of accounts will also require working especially closely with your board of selectmen, town manager/administrator, town accountant and other officials.

## Working With Other Town Officials

A finance committee's work depends on the quality of its interaction with other town officials. Financial information resides in many different places, many of which are not necessarily accessible by computer. As much as computer technology may help each finance committee member, cooperation on a face-to-face basis is still necessary.

## External Resources

The last several years have seen the advent of important resources regarding municipal finance. These include information provided by the Massachusetts Municipal Association at www.mma.org, the Commonwealth of Massachusetts at www.mass.gov and others on the Internet.

## Massachusetts Municipal Association

The Massachusetts Municipal Association (MMA), of which the ATFC is an affiliate organization, provides a wealth of information useful to finance committees on its Web site, www.mma.org.

The MMA's Web site operates at two levels.

First, the public part offers many resources. Finance Committee members will most likely want to click on the first tab at the top of page titled *News and Resources* and then on Local Finance on the next page. The Local Finance page presents a wide range of links to valuable resources originating both with the MMA and the Commonwelth. It also provides news items extending back at least two years.

The public part also has a tab for *Members* which then links to the page for the ATFC.

Second, the MMA has a members-only section. Every individual finance commitee member (whose town is a dues-paying member of the ATFC) is eligible to ahve access to the members only-section. This can be used to communicate with other MMA members. While useful all year, the member-only section can be especially valuable during the peak months of the budget season.

## Mass.Gov

The Commonwealth of Massachusetts Web portal, Mass.Gov, brings together in one place access to a variety of information on cities and towns. By

clicking on the section titled "your government" under the Mass.Gov home page, the user comes to a page with a section for "Local Government." On the next page, one can click on "Finance" to find a variety of information central to local government such as Cherry Sheets and links to state agencies involved in areas of interest to local officials. Mass.Gov can be found at www.mass.gov.

## National Resources

Finance committees can use the Web sites of leading national and international organizations to find much valuable information on budgeting and other financial policies and practices. The two organizations which are the leaders in this area are the Government Finance Officers Association (GFOA), whose Web site is www.gfoa.org and the International City/County Management Association (ICMA), whose Web site is www.icma.org

## Internet

Finance committees should be using the Internet, through their municipal Web site, to keep the public informed about their work. For example, the finance committee, working in cooperation with the town's staff and selectmen, should make available on the town's web site:

- the agenda and minutes for each of its meetings, accumulating these permanently and making them searchable.
- hyperlinks from the agendas and minutes to supporting documents such as memos and spreadsheets from the finance committee itself or the town's staff.
- the operating budget as proposed the by the town manager/selectmen.
- the capital improvement plan (CIP) as proposed the town manager/selectmen.
- the finance committee's warrant /report for town meeting.
- the final operating budget and CIP as voted by town meeting.

In this context, it is important to observe that almost all of these documents are public record; using the town's Web site to share them on a timely basis with the public will enhance the standing of the finance committee in the community. The finance committee's use of the Internet should be coordinated with the town's general strategy for Internet access.

## Conclusion

The finance committee needs to keep a few important principles in mind as they relate to computer technology. First, finance committee members need to be trained on their town's computer system in order to get the greatest benefit from these resources for their work. Second, whatever a finance committee does with computer technology needs to be coordinated with the town's general efforts in computer technology. And finally, finance committees must remember that their use of the town's computer resources will give them a better understanding of the value of these resources and the need to support prudent investments in them.

*This chapter was prepared and updated by Sheldon S. Cohen, President, Systems Consulting Group, Inc. of New Jersey.*

APPENDIX

# A

# AMERICAN DISABILITIES ACT

## Overview

State and local governments throughout the U.S. are required by the Americans with Disability Act (ADA) of 1990, P.L. 101-336, not to practice discrimination against any disabled individual. The stress is on the services, programs, and activities offered by these governments. The Finance Committee should double check to assure that all budget items are in conformity under the law.

As of January 26, 1993 state and local governments were required to evaluate current services, policies and practices to identify and modify those that are discriminatory. State and local governments that employ fifty or more people must maintain the evaluation, for public inspection, for three years and designate an employee responsible for handling complaints. State and local governments must also provide notice regarding the rights and protections available to people with disabilities under the ADA.

## Nondiscrimination

ADA sets the following nondiscrimination requirement for state and local government:

- It is illegal to refuse to allow a person to participate in a service, program, or activity simply because the person has a disability.
- Programs and services must be provided in an integrated setting unless separate programs are necessary to ensure equal access.
- State and local governments must eliminate unnecessary eligibility standards or rules that exclude or tend to screen out people with disabilities.
- State and local governments must make reasonable modifications to policies, practices, and procedures to ensure equal access.
- Programs must be readily accessible to and usable by people with disabilities.
- It is illegal to place special charges on people with disabilities to cover the costs of ensuring nondiscrimination.

These requirements also apply if a town or any of its constituent units use a private facility for a governmental purpose, including a meeting or a public forum.

## Accessibility

State and local programs, services, and activities are to be readily accessible to and usable by people with disabilities. Programs must be made accessible unless doing so would fundamentally change the nature of the operation or cause undue financial or administrative burden. Extensive structural alternations of existing facilities are not required where alternative methods, such as the reassignment of services to accessible facilities, delivery of services at alternate accessible sites, redesign of equipment, or home visits, provide adequate access. Structural barrier removal is required only where there is no other way to achieve access. Such change must have been made no later than January 26, 1995.

Governments with fifty or more employees had to develop a Transition Plan by July 26, 1992 if structural changes are needed to achieve program accessibility. The Transition Plan must identify the physical barriers, describe the methods that will be used to make the official responsible for implementation. The plan must include a schedule for providing curb cuts on sidewalks for which the public entity has responsibility.

## Communications

Effective communication, which may include the use of TTY/TDD, telephone relay services, sign language interpreters, large print materials, or

other auxiliary aids and services, must be ensured for all applicants, beneficiaries, participants, and others. Telephone emergency services (such as Police, Fire, and Ambulance, including 911 service) must have TTY/TDD to ensure direct access. Accessible routes, facilities, or equipment must be identified with appropriate accessible signage. These actions are required unless they would cause a fundamental alteration of the program or service or an undue financial or administrative burden.

## New Construction and Alterations

State and local government facilities that are built or renovated after January 26, 1992 must be readily accessible to and usable by people with disabilities. Entities can use either the ADA Accessibility Guidelines or the Uniform Federal Accessibility Standards (UFAS). Accessible features must be adequately maintained.

*This appendix was prepared by Christopher J. Dostoomian.*

APPENDIX

# B

# PUBLIC RECORDS

## Introduction

The importance of records in public business has long been recognized by the legislature. The history of state records management services for local government in the Commonwealth may be traced back to 1884. The legal citation for Public Records is Chapter 66 M.G.L. (The Public Records Law).

## Definition

"Public Records" means all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any agency, executive office, department, board, commission, bureau, division or authority of the Commonwealth, or of any political subdivision thereof, or of any authority established by the General Court to serve a public purpose, unless such materials or data are specifically exempt under Chapter 4, s 7 (26)M.G.L .

Finance Committee records including all materials collected or presented during committee or subcommittee deliberations are a matter of public record unless they fall into one of the exemption categories. Personal notes of members are not considered public unless they are distributed to other committee members and are therefore part of the deliberative process.

## Retention Period

There is no formal retention eries prescribed by the commissioner of public records for finance committee records. However, as a general rule, minutes should be kept as a permanent record, correspondence can be discarded after three years if of no informational value, and reports and budgets can be discarded after town meeting has voted. Any questions on records should be referred to the commissioner of public records, in the office of the secretary of state.

## Exemptions

The statutory definition of "Public Records" contains twelve exemptions which provide the basis for withholding records in whole or in part. They are as follows:

- specifically or by necessary implication exempted from disclosure by statute;
- related solely to internal personnel rules and practices of the government unit;
- personnel and medical files or information;
- inter-agency memoranda or letters relating to policy positions being developed by the agency;
- notebooks and other materials prepared by an employee which are personal and not maintained as part of the files of the agency;
- investigatory materials necessarily compiled out of the public view by law enforcement the disclosure of which would prejudice effective law enforcement;
- trade secrets or commercial or financial information voluntarily provided to an agency for use in developing policy and upon a promise of confidentiality;
- proposals and bids to enter into any contract or agreement until the time for the public opening of bids, and until the time for the receipt of bids or proposals has expired; and interagency communications made in connection with an evaluation process for reviewing bids or proposals, prior to a decision to enter into negotiations with or to award a contract to a particular person;
- appraisals of real property acquired or to be

acquired until (1) a final agreement is entered into; or (2) any litigation relative to such appraisal has been terminated; or (3) the time within which to commence such litigation has expired;

- the names and addresses of any persons who has applied for or been issued a license to carry of possess firearms; and the names and addresses on sales or transfers of any firearms or ammunition;
- repealed in 1988-Library registration/circulation records. (The exemption applies under Chapter 78, s 7M.G.L.)
- test questions and answers, scoring keys and sheets, and other examination data used to administer a licensing examination;
- contracts for hospital or related health care services between (1) any hospital, clinic or other health care facility operated by a unit of government and (2) a health maintenance organization, a non-profit hospital service corporation or medical service corporation, a health insurance corporation or any legal entity that is self insured and provides health care benefits to employees.

## Access

State regulation, 950CMR 32:00, governs public records access. Requests for public records may be oral or written, either in person or by mail. The requestor should provide a reasonable description of the record and the custodian must comply as soon as is practicable and within 10 days. Reasons for request and proof of identity of requestor is not required.

## Fees

The fees charged for public records are regulated by 950CMR 32:06 except where fees for copies are prescribed by statute:

- photocopies up to .20 per page (8 x 11)
- microfilm/fiche copies up to .25 per page
- computer printouts up to .50 per page
- computer search - the actual cost for the use of computer time
- non-computerized records - prorated fee based on the hourly salary of the lowest paid employee capable of performing the task plus copying fee.

*This appendix was prepared by Jane Chew.*

# APPENDIX C OPEN MEETINGS AND EXECUTIVE SESSION

## Open Meetings

For Finance Committees the Open Meeting Law (Chapter 39, s 23A-23CM.G.L. ) is required reading.

The Open Meeting Law is based on the premise that the public is entitled to see the process of government and not simply its result. In general, the public and the news media have the right to attend all meetings. However, the law does provide seven specific exceptions to this rule that permit to meet behind closed doors, in "executive session," to discuss certain subjects. While the law does not limit what may be discussed or acted upon at any meeting, it does impose restrictions on the way in which meetings are called, conducted, and recorded. Any rules of procedure adopted must be in conformance with the Open Meeting Law.

## When is a meeting a meeting?

Basically, a meeting occurs any time a quorum (usually a simple majority) of the members get together and discuss or consider any public business or policy over which the committee has some jurisdiction or advisory power. It is against the law for a quorum to meet in private for the purpose of deciding or deliberating toward a decision on public business. A meeting must be public even if there is no vote taken or decision reached.

## Calling a meeting

The officer in charge of calling a meeting is responsible for filing a notice of the meeting with the Town Clerk at least forty-eight hours (including Saturdays but not Sundays or legal holidays) before a meeting is to take place. Notice of the meeting, printed in "easily readable type" and including date, time, and place, must be posted within the same amount of time. In case of an emergency, defined as "a sudden, generally unexpected occurrence or set of circumstances demanding immediate action," an open meeting may be held even though notice was not posted in time. Notice of an emergency meeting should still be posted as much in advance of the meeting as possible.

A chance meeting or social meeting of members need not be open with notice as long as no final agreement on a public matter is reached and as long as it can be demonstrated that the meeting occurred by chance or for social reasons. However, the law states that a chance or social meeting shall not be used "in circumvention of the spirit or requirements" of the law.

## Recording and Addressing Meetings

Any person in attendance at an open meeting may record the meeting by any means of sonic reproduction, including videotaping, provided that there is no active interference with the conduct of the meeting.

While anyone can attend public meetings, they must have permission to speak.

## Violation of the Law

Three or more voters, the District Attorney, or the Attorney General can sue the committee or any member of it for failure to comply with the Open Meeting Law. A court hearing must be held "at the speediest possible" time after the complaint is filed in court. The burden of proof will be on the committee to show that the requirements of the law were met.

If it finds a violation, the court may, at the very least, order the committee or committee member to comply with the law at future meetings. Disobedience of such a court order could be punished as contempt of court. The court also has the

power to invalidate any action taken at a meeting.

## Reasons for Convening Executive Session Chapter 39, s 23B M.G.L.

*To discuss the reputation, character, physical condition or mental health* - rather than the professional competence - of an individual.

*To consider the discipline or dismissal* of, or to hear complaints or charges brought against a public officer, employee, staff member or individual.

*To discuss strategy with respect to collective bargaining or litigation* if an open meeting may have a detrimental effect on the government's bargaining or litigating position. Also, to conduct strategy sessions in preparation for negotiations with non-union personnel; to actually conduct collective bargaining and contract negotiations with non-union personnel.

*To discuss the deployment of security personnel or devices,* e.g., a "sting operation".

*To investigate charges of criminal misconduct* or to discuss the filing of criminal complaints.

*To consider the purchase, exchange, taking, lease, or value of real property* if such discussion may have a detrimental effect on the negotiating position of the governmental body.

*To comply with the provisions of any general or special law or federal grant-in-aid requirements* (generally privacy).

*To hold an initial screening, (including interviews if they are part of the initial screening process) of candidates for employment* if an open meeting would have a detrimental effect in obtaining qualified candidates.

*To meet with a mediator regarding any litigation* or decision.

## Procedure:

The session must be convened in open meeting and notice given.

Chairperson announces the purpose of the executive session.

Majority must vote in a recorded roll call for executive session.

Chairperson announces whether the meeting will reconvene in open session.

Votes taken in executive session must be recorded roll call votes.

## Rights of Individuals

When a governmental body wishes to discuss the reputation, discipline or dismissal or an individual, it must notify that person in writing at least 48 hours in advance of the meeting.

The individual may request that the meeting be held in the open.

If an executive session is held, the individual has the right to be present during discussion that pertains to him or her, to have counsel or a representative of choice present, and to speak on his or her own behalf.

Any individual may tape/record, or videotape from one or more designated locations determined by the governmental body, as long as there is no active interference with the meeting. This right does not apply to executive sessions.

*This appendix was prepared by the law firm of Kopelman and Paige.*

APPENDIX

# D

# CONFLICT OF INTEREST

## Introduction

Massachusetts General Laws Chapter 268A, the conflict of interest statute, imposes ethical standards upon employees of state, county and municipal governments. Its provisions are applicable to all "municipal employees", whether paid or unpaid, elected or appointed, full-time, part-time or employed on an intermittent basis. Any member of a Finance Committee is a municipal employee under c 268A. Some Finance Committees may be designated "special municipal employees" by the Board of Selectman. A special employee is unpaid or is paid for less than 800 hours per year. An office may also be so designated if the position specifically allows for private employment during normal working hours. ("Special municipal employees" may qualify for a broader range of exemptions from the prohibitions of Chapter 268A M.G.L. than regular municipal employees.)

## Prohibited Participation - Financial Interest

Chapter 268A, s19 prohibits any municipal employee (including "special employees") from participating as such an employee in any particular matter in which the employee, his immediate family members, business partners, private employers or organizations in which he serves as an officer, director, partner or trustee, has a "financial interest". As with most provisions of Chapter 268A, this prohibition is broadly construed by the State Ethics Commission. "Participation" includes any deliberation, discussion or voting on municipal budgets or any other matter within Finance Committee jurisdiction.

If a departmental budget or any other matter in which a member has a prohibited financial interest comes before the committee, it is recommended that the member step down from the committee and leave the room during the deliberation on that subject. Graham v. McGrail, 370 Mass. 133. For example, if a member of a Finance Committee member's immediate family is employed in the assessors' office and the assessors budget line item include the salary of that family member, the Finance Committee member must not participate in any discussion of that budget item, nor may he be counted towards a quorum at that time. He may, however, vote on the "bottom line" budget for that department.

There are certain limited exemptions from s 19. First, if the Finance Committee is an appointed position, a member may disclose all facts giving rise to the conflict of interest to his appointing authority prior to that matter coming before the committee. If the appointing authority makes a written determination that the financial interest involved is insubstantial and not likely to affect the integrity of the Finance Committee member's official actions, he may participate in the matter. This exemption may not be used to "cleanse" participation after the fact.

Another exemption applies "if the particular matter involves a determination of general policy and the interest of the municipal employee or members of his immediate family is shared with a substantial segment of the population of the municipality." The State Ethics Commission has determined that a "substantial segment of the population" is any number exceeding 10% of the residents of the town.

## Multiple Office Holding and Financial Interests in Contracts with the Municipality

Section 20 of c 268A generally prohibits a municipal employee from having a financial interest, directly or indirectly in a contract made by an agency of the same city or town. This prohibition extends to holding more than one paid, appointed

position, i.e., employment "contracts". Elected offices are not considered to be contracts with the town, even if they are compensated.

Section 20 is the most complex area of the conflict of interest statute and its application is driven by the specific facts of a given situation. In general, however, it is difficult for a municipal employee to have a financial interest in a contract with the town or to hold two paid appointed positions. Special municipal employees may be eligible to do so, if they file a written disclosure of their financial interest with the Town Clerk. A special employee may have an interest in a contract with his own board or department if he also obtains a vote of the Board of Selectman approving his exemption from s 20. It is not a prohibited financial interest if you own less than 1% of the stock of a company that has a contract with the city or town.

Finance Committee members should also be aware that many towns and cities have by-laws or ordinances which limit or prohibit multiple office holding. The Town Counsel should be the first contact regarding any question on the application of s 20. The next step is to bring the matter before the State Ethics Commission.

## Acting on Behalf of Others

Chapter 268A, s 17 generally prohibits a municipal employee from acting as agent or representative for anyone other than the town or city in connection with a matter involving that town or city. For example, a Finance Committee member may not appear before a municipal board on behalf of someone else. In addition, they may not receive compensation from anyone other than the town in relation to a particular matter in which the town is a party or has a direct and substantial interest. They may, however, appear before a town board on their own behalf.

Special municipal employees have a limited right to act as an agent or representative under s 17, provided that (a) they have never personally participated in the matter as a municipal official, (b) the matter is not within their "official responsibility" and (c) the matter is not pending before their municipal agency. While a Finance Committee member may avoid participating in a prohibited financial interest by stepping down from the committee (s 19), this lack of participation does not absolve the fact that a matter is within the Finance Committee's official responsibility for purposes of s 17.

Section 18 of the statute contains restrictions which apply after a member of a Finance Committee leaves public office. The former "municipal employee" may never be paid by anyone other than the town in connection with a particular matter in which they participated while on the Finance Committee. If the committee deliberated and recommended funding for a particular budget item, for example, they may not be paid by any private person or organization in connection with a contract funded by that line item. There is also a one year ban on their appearing personally before a municipal agency (other than on their own behalf) in connection with any particular matter which was under the committee's official responsibility, whether or not they participated in that matter.

## Standards of Conduct

Chapter 268A, s 23 imposes standards of conduct on all municipal employees and special employees. No municipal employee may accept private paid employment in which the responsibilities of that employment are inherently incompatible with the responsibilities of his public office. This section refers to compensation of "substantial value", which the State Ethics Commission has set at anything exceeding $50.00. Public employees must fulfill the duties of their office objectively, and not use or attempt to use their position to secure unwarranted privileges for themselves or others. Employees are also prohibited from disclosing any confidential records or data acquired in the course of their official duties.

Section 23(b) (3) prohibits any action which would lead a "reasonable person" to conclude that there is an appearance of a conflict. This would include participation in any particular matter in which a Finance Committee member's judgment or motivation appears to be biased, whether or not such

participation is barred by any other section of c 268A. The member may protect himself from such an allegation, however, by disclosing in writing to his appointing authority the facts which could lead to such a conclusion.

The statute prohibits any municipal employee from accepting gifts or gratuity worth in excess of $50.00 (as well as any "bribes").

## Administration and Enforcement

Chapter 268A is both interpreted and enforced by the State Ethics Commission. If it determines a violation has occurred, the Ethics Commission may pursue administrative enforcement against the municipal employee, which usually involves payment of District Attorney's office for criminal prosecution, as the statute provides for fines or imprisonment. Certain violations may also be enforced by rescinding or cancelling actions taken by a municipal agency.

If the State Ethics Commission determines a violation has occurred, they may pursue administrative enforcement against the municipal employee, which usually involves payment of a fine. The Commission may also refer a violation to the District Attorney's office for criminal prosecution; the statute provides for fines or imprisonment. Certain violations may also be enforced by rescinding or cancelling actions taken by a municipal agency.

The Ethics Commission will provide oral opinions to a municipal employee, but will only offer such opinions prospectively - the employee should, therefore, contact the Commission prior to participating in any matter which could lead to a violation. In addition, Chapter 268A, s 22 entitles any municipal employee to obtain a written opinion from the Town Counsel or City Solicitor. Copies of such opinions must be filed with the Town Clerk and with the Ethics Commission. The Ethics Commission has thirty days from receipt of an opinion to issue its own findings, either concurring or disagreeing with the opinion.

*This appendix was prepared by the law firm of Kopelman and Paige*

APPENDIX

# E

# TOWN CREDIT RATING

A credit rating is a determination by an independent rating authority on the ability and willingness of an issuer of debt (bonds or notes) to make debt service payments in full and on time. This service is purchased by the issuer when it sells its debt in order to attract as many buyers as possible. A good credit rating will assure the buyers that their investments are safe and that they will be paid principal and interest when due. The credit rating also provides the investor with the information needed to weight the risk of the investment with the reward (or interest rate). This credit rating service is provided by several companies, including Moody's Investors Service, Standard & Poor's Corporation, and Fitch Investors Service.

The rating agencies have four general areas that they research in developing their ratings on bonds or long term debt. A lesser number of towns apply for credit ratings on their notes (short term debt) unless they have a very large issue, so we will focus on long term ratings. The four areas are economics, finance, debt and management.

Economics - This area focuses on the ability of the community and its taxpayers to absorb the debt being issued. The credit rating agency examines such topics as median family income, per capita income, house values, breakdown of the tax base among residential, commercial and industrial properties, unemployment rates, growth within the community represented by such measurements as building permits and new jobs, and the ability of the community to absorb new growth. Of the four, economics is the most important factor and the least amenable to short term change. To a degree it will set the ceiling for the credit rating on your town, but it will not provide a floor. A wealthy but mismanaged community can be dropped to the same rating as a poor, struggling city or town.

Finances - This area focuses on the ability of the town to manage its budgets and finances. The town must demonstrate that it enacts truly balanced budgets, maintains adequate levels of reserves, mails and collects its taxes in a timely manner, and meets all of its obligations on a yearly basis. The subject of reserves is especially important because they provide the town with the ability to weather unforeseen adverse financial events and periodic economic downturns. Analysts will focus on the fund balances, both unreserved and total, free cash, collection rates, overlay or revenue deficits, stabilization and other reserve funds, budgets and tax recap sheets. Short term fluctuations are not as important as long term trends. If the trends are negative, a town must demonstrate that it is aware of the problems and what steps are being taken to strengthen its financial future.

Debt - This area includes not only the long and short term debt of the town, but long term contractual obligations such as trash disposal contracts, unfunded pension obligations and overlapping debt of the town from regional school, sanitary or other districts. Fortunately, this has not generally been a problem for most Massachusetts municipalities. Being a developed state, our debt is relatively low, and, thanks to various pension reforms of the 1980's, pension obligations are being funded. Fully self supported enterprise funds have reduced the impact of debt from local and regional water and sewer projects. In order to reduce any concerns by rating agencies in this area, it is important to plan carefully each debt authorization and issuance to minimize the budget impact while paying off the bonds in as short a period as possible. Designated revenue sources such as Proposition 2 _ debt exclusions and water, sewer or other revenues or a declining debt budget can be very useful in demonstrating how additional debt service will be absorbed within the budget.

A new long-term obligation that has recently entered this area is retired employee benefits. This was brought to the attention of municipalities by GASB 45. During the fiscal years 2008-2010, depending upon the size of the budget, all governmental entities will need to report the accurial unfunded liability of all retired municipal employee benefits in their annual audits. The rule does not require the municipality to actually fund the liability, but it will put the issue squarely before the town, its citizens and the rating agencies.

Management - This area is the hardest to quantify. Basically it represents a judgment by the agency on whether the management of the municipality understands its current problems and future challenges and has taken actions designed to ensure long term financial stability. The agency will look at factors such as: the ability to pass truly balanced budgets without relying on the use of reserves; the willingness to raise taxes and fees when the financial situation requires; and the ability to mail and collect taxes in an effective and efficient manner. The agencies will be interested in long term capital plans, revenue and expenditure forecasts, updated and complete accounting systems and how well the local officials work together.

A credit rating is more than a tool designed to obtain a lower interest rate on bonds. It is an objective third party analysis of how well the community and its management is doing. As such, it can raise many emotions if the "right" rating is not received. It is important to remember that the rating is a reflection of the agency's analysis of all four of the above factors. It is very possible to have top flight management in a municipality with a lower rating due to economic factors beyond their control and average management in a high rated community with very strong wealth levels. The key is to understand why the rating was received, what the concerns are, if any, and what needs to be done to reinforce or improve the rating in the future. If the rating is seen as providing objective feedback with which to improve the community's financial future, the rating process can provide an opportunity for you as a local official and for the community.

Included on the next page are definitions of long term bond ratings from Moody's. Moody's also subdivides its Aa, A, Baa and Ba categories into 1, 2 & 3 with 1 being the highest. Standard & Poors uses a parallel rating system with AAA, AA, A, BBB and BB with plus and minus within each general category below AAA to differentiate higher or lower credits.

*This appendix was written and updated by Allan Tosti.*

## Definitons of Long Term Bond Ratings

Aaa

Bonds that are rated Aaa are judged to be of the best quality. They carry the smallest degree of investment risk and are generally referred to as "gilt edge." Interest payments are protected by a large or by an exceptionally stable margin and principal is secure. While the various protective elements are likely to change, such changes as can be visualized are most unlikely to impair the fundamentally strong position of such issues.

Aa

Bonds that are rated Aa are judged to be of high quality by all standards. Together with the Aaa group they comprise what are generally known as high-grade bonds. They are rated lower than the best bonds because margins of protection may not be as large as in Aaa securities or fluctuation of protective elements may be of greater amplitude or there may be other elements present which make the long term risks appear somewhat larger than Aaa securities.

A

Bonds that are rated A possess many favorable investment attributes and are to be considered as upper-medium-grade obligations. Factors giving security to principal and interest are considered adequate, but elements may be present which suggest a susceptibility to impairment some time in the future.

Baa

Bonds that are rated Baa are considered as medium-grade obligations; i.e., they are neither highly protected nor poorly secured. Interest payments and principal security appear adequate for the present but certain protective elements may be lacking or may be characteristically unreliable over any great length of time. Such bonds lack outstanding investment characteristics and, in fact, have speculative characteristics as well.

Ba

Bonds that are rated Ba are judged to have speculative elements; their future cannot be considered as well assured. Often the protection of interest and principal payments may be very moderate, and thereby not well safeguarded during both good and bad times over the future. Uncertainty of position characterizes bonds in this class.

B

Bonds that are rated B generally lack characteristics of the desirable investment. Assurance of interest and principal payments or maintenance of other terms of the contract over any long period of time may be small.

Caa

Bonds that are rated Caa are of poor standing. Such issues may be in default or there may be present elements of danger with respect to principal or interest.

Ca

Bonds that are rated Ca represent obligations which are speculative in a high degree. Such issues are often in default or have other marked shortcomings.

C

Bonds that are rated C are the lowest rated class of bonds, and issues so rated can be regarded as having extremely poor prospects of ever attaining any real investment standing.

Source: Moody's Investors Service, "An Issuer's Guide to the Rating Process".

APPENDIX

# F

# ALTERNATIVE DISPUTE RESOLUTION (ADR)

## Introduction

There is an inordinate reliance on our legal system for resolving disputes. In many ways this has created judicial bottlenecks up and down the entire legal system. It is simply too costly, too slow and too inaccessible for those who it is meant to serve, plus being an inefficient and inappropriate means to resolve many types of disputes in contemporary society. Fortunately, there are alternatives, principally, ADR, or Alternative Dispute Resolution that are quick, fair, effective and cost-efficient in comparison to expensive litigation and that for many classes of disputes produce superior and more timely results. In addition, ADR is more flexible, informal and user friendly. It also has the distinct advantage of enabling the parties to maintain confidentiality because proceedings are private and the parties themselves exercise maximum control of the process by setting the ground rules and selecting the neutral third party. Equally important, ADR helps preserve valuable relationships that are often strained or destroyed through the adversarial process.

ADR in general and mediation specifically has quietly emerged as the forum of choice for government and business as it provides for an economical, expedient and fair resolution of problems, and is increasingly favored by government, business and private parties who are unwilling or unable to pay for the high cost of litigation or accept the time consuming delays in an overburdened system of justice. Aided by new public policy initiatives by the federal government that supports wider use of informal dispute resolution systems and a judiciary that has continued to support the expansion of arbitral authority and the enforcement of arbitration awards, ADR and mediation are becoming the forum of choice for a host of emerging problems that bedevil society—workplace issues; employment disputes; discrimination and sexual harassment.

## Arbitration

In the pantheon of ADR, arbitration is the more formal of the processes. It can be binding or not binding. In arbitration, a neutral third party, selected by the parties to the dispute, is chosen to hear both sides of the case, and then resolve it by rendering a specific decision or award. In an arbitration proceeding both sides have an opportunity in the presentation of their case, to submit evidence, call witnesses and cross-exam although the level of formality is significantly lower than in a formal court proceeding. In instances where the decision of the arbitrator is non-binding, the decision of the arbitrator is often sufficient to induce the parties to settle.

## Mediation

Mediation is much less formal and is a process where a mediator, often referred to as The Third Party Neutral, assists parties to reach a settlement or resolution. The neutral, who is selected by the parties to the dispute, generally has no authority to impose a solution if the parties fail to reach an agreement. Voluntary and non-binding, mediation is designed to guide disputants toward a mutually agreed upon result which brings closure to the conflict.

Through this process, mediators help parties decide for themselves when and if to settle and on what terms. Like a catalyst, the mediator assists each party to negotiate a mutually satisfactory agreement by identifying issues, exploring options and possible basis for an agreement, as well as weighing the consequences of not settling. Typically, 85-90% of cases brought to mediation are resolved satisfactorily in several hours.

For towns, cases that may be appropriate for ADR include the following:

- workers compensation claims

- collective bargaining disputes and grievances
- disability discrimination claims
- conflict among staff; within and between town committees that impair the performance of local government.
- employment and workplace disputes; discrimination, sexual harassment, wrongful termination, breach of contract, compensation and other human resource issues.
- environmental disputes, toxic clean-up, or other health related issues
- siting issues
- subdivisions, local ordinances, zoning decisions, planning committee decisions
- injury or accidental death claims during official actions
- premise liability
- construction contract disagreements.

The Massachusetts Office of Dispute Resolution (MODR) is a state agency providing mediation, meeting facilitation, consensus building, and training services at affordable rates.

Meeting facilitation services address the need for public discussion of disputes involving many parties holding diverse views. By carefully structuring and conducting a series of public meetings on hotly debated subjects, MODR neutrals guide the parties towards consensus.

MODR's use of private sector mediators and facilitators creates a unique public-private partnership.

As a municipality, your community can access the services and resources at the Massachusetts Office of Dispute Resolution to assist you in resolving conflicts.

MODR maintains a panel of over 60 experienced, pre-qualified neutrals. Each facilitator and mediator has been through an extensive selection and approval process. By calling upon MODR, a municipality can benefit from our experience and resources. MODR provides case management and can assist in convening a mediation or facilitation.

MODR offers conflict assessments to help parties decide whether mediation, facilitation or another ADR process is appropriate for their conflict.

*TRAINING*

MODR provides dispute resolution trainings to state and municipal employees and officials, custom designing each training program. MODR offers a broad variety of skill-building trainings, including: Negotiation Skills; Mediation; Facilitation and Meeting Management; Consensus Building; and Communication with the Public.

Contact Info:

Massachusetts Office of Dispute Resolution

1 Ashburton Place, Room 501, Boston, MA 02108

Phone: 617-727-2224 Fax: 617-727-6495

www.state.ma.us/modr

In conclusion, private dispute resolution systems that are well designed and ensure due process and fundamental fairness hold promise for local government as an alternative to the expense and time of a lawsuit. In addition to avoiding the one-size-fits-all approach to justice, ADR offers advantages to most all parties involved in dispute that is generally superior to litigation. Even the most complex private systems generally do a superior job of resolving conflicts, and they are substantially less expensive and always more expedient. More importantly, ADR as a general rule brings closure to the dispute. Few disputes that are brought to ADR reach further adjudicatory mechanisms since the vast majority of disputes are resolved through the mutual consent of both parties, in a collaborative and joint problem solving process.

*This appendix was prepared by the law firm of ADR Associates.*

APPENDIX

# G

# GLOSSARY OF TERMS

**Abatement -** A reduction or elimination of a levy imposed by a governmental unit, applicable to tax levies, motor vehicle excise, fees, charges, and special assessments.

**Accounting System -** The total structure of records and procedures which identify, record, classify, and report information on the financial position and operations of a governmental unit or any of its funds, balanced account groups, and organizational components.

**Accrued Interest -** In an original governmental bond sale, accrued interest is the amount of interest which has accumulated on the bonds from the day they are dated, up to but not including, the date of delivery (settlement date).

**Amortization -** The gradual elimination of an obligation, such as a bond, according to a specified schedule of times and amounts. The principal amount of a home mortgage, for example, is amortized by monthly payments.

**Appropriation -** An authorization granted by a legislative body to make expenditures and to incur obligations for specific purposes. An appropriation is usually limited in amount and as to the time when it may be expended. Only a town meeting, council or the school committee can authorize money appropriated for one purpose to be used for another. Any amount which is appropriated may be encumbered (see Encumbrance). Any part of a "general" appropriation not spent or encumbered by June 30 automatically reverts to the undesignated fund balance which may result in Free Cash. If departments know of remaining unpaid bills at the close of the fiscal year and properly notify the accountant (Chapter 41, s 58), the departmental appropriation is encumbered to extend the general spending authorization until such time that the bill is paid or it is decided not to spend the funds. If these encumbrances are not acted on within a year, the accountant generally notifies the department and closes them out. A special warrant article/ appropriation, on the other hand, may carry forward from year to year until spent for the designated purpose or transferred by town meeting vote to another account.

**Arbitrage -** As applied to municipal debt, the investment of tax exempt bond or note proceeds in taxable higher yielding securities. This practice is restricted under Section 103 of the Internal Revenue Service (IRS) Code, and (beyond certain limits) earnings are required to be rebated (paid) to the IRS.

**Arbitrage Certificate -** A certified statement requested by purchasers and law firms serving as bond counsel in Massachusetts that borrowing proceeds of a specified bond issue shall not be used for the purposes of arbitrage. See Arbitrage.

**Assessed Valuation -** A valuation set upon real estate or other property by a government as a basis for levying taxes. In Massachusetts, assessed valuation is based on "full and fair cash value," the amount a willing buyer would pay a willing seller on the open market. Assessors must collect, record, and analyze information about the physical characteristics of the property and the market in order to estimate the fair market value of all taxable properties in their communities.

**Audit -** An examination of systems, procedures and financial data by a certified accountant, reporting on the fairness of financial statements and compliance with statutes and regulations. (The audit is a valuable management tool for evaluating the fiscal performance of a community.)

**Audit Report -** The product of an audit prepared by an independent auditor. The report often includes: (a) a statement of the scope of the audit; (b) explanatory comments as to application of auditing procedures; (c) findings and opinions; (d) financial statements and schedules; and (e) statisti-

cal tables, supplementary comments, and recommendations.

**Authentication -** See Certification.

**Available Funds -** These are funds established through previous appropriations or results of favorable conditions. These may be appropriated to meet emergency or unforeseen expenses, large one-time or capital expenditures. Examples: Free Cash, Stabilization Fund, Overlay Surplus, Water Surplus, and enterprise retained earnings

**Balance Sheet -** A statement which discloses the assets, liabilities, reserves and equities of a fund or governmental unit at a specified date.

**Basis of Accounting -**Basis of accounting refers to when revenues and expenditures or expenses are recognized in the accounts and reported on the financial statements. Basis of accounting related to the timing of the measurements made, regardless of the measurement focus applied. All governmental funds and expendable trust and agency funds could be accounted for using the modified accrual basis of accounting. Their revenues are recognized when they become measurable and available, as net current assets, with the following guidelines: Property taxes, excise taxes, departmental and governmental receivables are recorded as revenue when received in cash, as well as amounts received during the first 60 days of the following fiscal year. Expenditures are generally recognized under the accrual basis of accounting when the related fund liability is incurred. Exceptions to this general rule include principal and interest on general long-term debt which is recognized when due. All proprietary funds and nonexpendable trust and pension trust funds are accounted for using the accrual basis of accounting. Their revenues are recognized when they are earned, and their expenses are recognized when they are incurred.

**Basis Price -** The price expressed in yield or net return to maturity on investment. A basis point equals 1/100th of 1%.

**Betterments (Special Assessments) -** Whenever a specific area of a community receives benefit from a public improvement (e.g., water, sewer, sidewalk, etc.), special property taxes may be assessed to reimburse the governmental entity for all or part of the costs it incurred. Each parcel receiving benefit from the improvement is assessed for its proportionate share of the cost of such improvements. The proportionate share may be paid in full or the property owner may request the assessors apportion the betterment over 20 years. Over the life time of the betterment, one year's apportionment along with one year's committed interest computed from October 1 to October 1 is added to the tax bill until the betterment has been paid.

**Bond -** A written promise to pay a specified sum of money, called the face value (par value) or principal amount, at a specified date or dates in the future, called maturity date(s), together with periodic interest at a specified rate. The difference between a note and a bond is that the latter runs for a longer period of time.

**Bond and Interest Record -** The permanent and complete record maintained by a treasurer for each bond issue. It shows the amount of interest and principal coming due each date, the bond and coupon numbers, and all other pertinent information concerning the bond issue. The term is synonymous with Bond Register.

**Bond Anticipation Note (BAN) -** Once borrowing for a specific project has been approved by two-thirds vote of town meeting or city council and prior to issuing long-term bonds, short-term notes may be issued to provide cash for initial project costs. BANs may be issued for a period not to exceed five years, but with a reduction of principal after two years (Chapter 44, s 17). The final maturity date of the project borrowing, beginning from the date the short-term note was issued, may not exceed the term specified by statute (Chapter 44, s 7 and 8). BANs are full faith and credit obligations.

**Bond Authorization -** See Debt Authorization.

**Bonds Authorized and Unissued -** Bonds which a government has been authorized to sell but has not yet done so. Issuance at this point is only contingent upon action by the treasurer and mayor or

selectmen.

**Bond Buyer -** A daily trade paper containing current and historical information of interest to the municipal bond business.

**Bond Counsel -** An attorney or law firm engaged to review and submit an opinion upon legal aspects of a municipal bond or note issue.

**Bond Discount -** The excess of the face value of a bond over the price for which it is acquired or sold. An example is a $1,000 bond which is sold for $990. The discount equals $10.

**Bond Issue -** Generally, the sale of a certain number of bonds at one time by a governmental unit.

**Bonds Payable -** The face value of bonds issued and unpaid.

**Bond Premium -** The excess of the price at which a bond is acquired or sold over its face value. An example is a $1,000 bond which sells for $1,010. The premium equals $10.

**Broker -** Acts as an intermediary between dealers in obtaining and matching bids offers. Their fee for consummation a transaction is charged to the seller.

**Budget -** A plan of financial operation embodying an estimate of proposed revenues and expenditures for a given period and the proposed means of financing them. A budget may be "preliminary" - the financial plan presented to the Town Meeting, or "final" - the plan approved by that body. The budget should be separated into basic units, either by department, program or service. The format is important because by classifying by service or department, the budget is clearly defined and more easily understood by both local officials and Town Meeting.

**Budget Message -** A statement by the town's policymakers summarizing the plans and policies contained in the budget report, including an explanation of the principal budget items, an outline of the municipality's experience during the past year and its financial status at the time of the message, and recommendations regarding financial policy for the coming fiscal year.

**Budget Unit -** A department to which the town meeting appropriates funds.

**Capital Budget -** An annual appropriation or spending plan for capital expenditures (tangible assets or projects that cost at least $25,000 and have a useful life of at least five years). This budget should recommend the method of financing for each item recommended and identify those items which are recommended to be deferred due to scarce resources.

**Capital Expenditures/Improvements -** These are items generally found in the capital budget such as construction, acquisitions, site development, major repairs or replacement to capital facilities and public ways and overhead costs. The fees for architects, engineers, lawyers, and other professional services plus the cost of financing, advance planning may be included.

**Capital Improvements Program -** A comprehensive schedule for planning a community's capital expenditures. It coordinates community planning, fiscal capacity and physical development. While all of the community's needs should be identified in the program, there should aslo be a set of criteria which prioritizes the expenditures. The capital program is a plan for capital expenditures that extends five years beyond the capital budget and is updated yearly.

**Capital Outlay Expenditure Exclusion -** A vote by a community at an election to exclude payments for a single year capital project from the levy limit. The exclusion is limited to one year and may temporarily increase the levy above the levy ceiling.

**Cash -** Currency, coin, checks, postal and express money orders, and bankers' drafts on hand or on deposit with an official or agent designated as custodian of cash and bank deposits.

**Cash Management -** The process of managing monies of a local government in order to insure maximum cash availability and maximum yield on short-term investment of idle cash.

**Cemetery Perpetual Care -** These funds are donated by individuals for the care of grave sites. According to Chapter 114, s 25, funds from this account must be invested and spent as directed by

perpetual care agreements. If no agreements exist, interest (but not principal) may be used as directed by the cemetery commissioners for the purpose of maintaining cemeteries.

**Certification -** The action of a bank or trust company (or DOR's Bureau of Accounts for State House Notes) in certifying the genuineness of the municipal signatures and seal on a bond issue. The certifying agency may also supervise the printing of bonds and otherwise safeguard their preparation against fraud, counterfeiting, or over-issue. Also known as Authentication.

**Certificate of Deposit (CD) -** A bank deposit evidenced by a negotiable or non-negotiable instrument which provides on its face that the amount of such deposit plus a specified interest payable to the bearer or to any specified person on a certain date specified in the instrument, at the expiration of a certain specified time, or upon notice in writing.

**Cherry Sheet -** Named for the cherry colored paper on which it was originally printed, the Cherry Sheet is the official notification from the Commissioner of Revenue of the next fiscal year's state aid and assessments to communities and regional school districts. State aid to municipalities and regional school districts consists of two major types — distributions and reimbursements. Distributions provide funds based on formulas while reimbursements provide funds for costs incurred during a prior period for certain programs or services. In addition, communities may receive "offset items" which must be spent on specific programs. Cherry Sheet Assessments are advanced estimates of state assessments and charges and county tax assessments. Local assessors are required to use these figures in setting the local tax rate. (Because these figures are estimates, it should be noted that based on filing requirement and/or actual data information the final aid or assessment may differ.)

**Cherry Sheet Offset Items -** Local aid accounts which may be spent without appropriation in the budget, but which must be spent for specific municipal and regional school district programs. Current offset items include Racial Equality Grants, School Lunch Grants, and Public Libraries Grants.

**Classification of Real Property -** Assessors are required to classify all real property according to use into one of four classes: Residential, Open Space, Commercial, and Industrial. Having classified its real properties, local officials are permitted to determine locally, within limitations established by statute and the Commissioner of Revenue, what percentage of the tax burden is to be borne by each class of real property and by personal property owners (see Classification of the Tax Rate).

**Classification of the Tax Rate -** In accordance with Chapter 40, s 56, the selectmen vote to determine the tax rate options. Based on the residential factor adopted (see Residential Factor), any community may set as many as three different tax rates for: residential property; open space; and commercial, industrial and personal property.

**Collective Bargaining -** The negotiations between an employer and union representative regarding wages, hours, and working conditions.

**Conservation Fund -** This fund may be expended for lawful conservation purposes as described in Chapter 40, s 8C. This fund may also be expended for damages related to the taking of land by eminent domain provided that such taking has first been approved by a two-thirds vote of city council or town meeting.

**Consumer Price Index -** The statistical measure of changes in the overall price level of consumer goods and services based on prices of goods and services purchased by urban wage earners and clerical workers, including families and single persons. The index is often called the "cost-of-living index."

**Cost-Benefit Analysis -** An analytical approach to solving problems of choice. First, different ways to achieve an objective are identified. Then an alternative is chosen to produce the required benefits at the lowest cost or greatest benefits for a given cost.

**Contingent Debt -** Debt which is not in the first instance payable as a direct obligation of the governmental unit, but has been guaranteed by a pledge of its faith and credit. (An industrial rev-

enue bond guaranteed by a municipality would constitute contingent debt.)

**Contingent Liabilities -** Items which may become liabilities as a result of conditions undetermined at a given date, such as guarantees, pending law suits, judgments under appeal, unsettled disputed claims, unfiled purchase orders, and uncompleted contracts.

**Crosswalk -** A clear path linking separate considerations, such as a crosswalk between a line-item and program budget For example, all department appropriations are set up the same way. However, because of the programmatic and reporting responsibilities a school department has to the Department of Education (DOE), a school department generally has a very detailed set of line-items by program. Expenditures must be tracked for DOE's purposes yet easily communicated to the town accountant. Therefore, a crosswalk is established from the infinitesimal school detail to the larger picture of the town's appropriation.

**Current Yield -** The coupon rate or percent of the annual interest divided by the market price of a bond.

**CUSIP -** This stands for the Standard Securities Classification System developed by the Committee on Uniform Security Identification Procedures of the American Bankers Association. CUSIP provides a unique number for each new security issued.

**Debt Authorization -** Formal approval to incur debt by municipal officials, in accordance with procedures stated in Chapter 44, specifically s 1, 2, 3, 4a and 6-15.

**Debt Burden -** The level of debt of an issuer, usually as compared to a measure of value (debt as a percentage of assessed value, debt per capital, etc.). Sometimes debt burden is used in referring to debt service costs as a percentage of the annual budget.

**Debt Exclusion -** This is a vote by a municipality at an election to exclude debt service payments for a particular capital project from the levy limit. The amount necessary to cover the annual debt service payment is added to the levy limit for the life of the debt only. A debt exclusion may temporarily increase the levy above the levy ceiling. Also see School Building Assistance Program.

**Debt Limit -** The maximum amount of debt which a municipality may have authorized for qualified purposes under state and self-imposed ceilings.

**Debt Service -** The cost (usually stated in annual terms) of the principal retirement and interest of any particular issue.

**Default -** Failure to pay principal or interest when due.

**Direct Debt -** Debt which a municipality has incurred in its own name, as opposed to overlapping debt.

**Effective Interest Rate -** For a municipal borrower, the net cost of borrowing (expressed as an interest rate) after costs associated with a loan is accumulated and added to the nominal interest rate.

**Emergency Board -** A board authorized by Chapter 44 s 8, ss 9 to review and approve emergency loan requests of municipalities. As used in this clause, emergency means a sudden, unavoidable event(s) which could not reasonably have been foreseen or anticipated at the time of submission of the annual budget for approval.

**Encumbrance -** Obligations in the form of purchase orders, contract, or salary commitments which are chargeable to an appropriation and for which a part of the appropriation is reserved.

**Enterprise Funds -** An accounting mechanism which allows a community to demonstrate to the public the portion of total costs of a service that is recovered through user charges and the portion that is subsidized by the tax levy. With an enterprise fund, all costs of service delivery-direct, indirect, and capital costs-are identified. This allows the community to recover total service costs through user fees if it so chooses. Enterprise accounting also enables communities to reserve the "surplus" or retained earnings generated by the operation of the enterprise rather than closing it out at year end. According to Chapter 44 s 53F(,

the services that may be treated as enterprises include, but are not limited to, water, sewer, hospital, and airport services.

**Equalized Valuations (EQVs) -** The determination of the full and fair cash value of all property in the Commonwealth which is subject to local taxation. EQVs have historically been used as variables in distributing certain state aid accounts, and for determining county assessments and certain other costs. The Commissioner of Revenue, in accordance with Chapter 58 s 10C, is charged with the responsibility of biannually determining an equalized valuation for each town and city in the Commonwealth.

**Estimated Receipts -** Estimates of state and local miscellaneous receipts based on previous year's receipts deducted by the Assessors from gross amount to be raised by taxation.

**Excess And Deficiency -** Also called the "surplus revenue" account, this is the amount by which cash, accounts receivable and other assets exceed the liabilities and reserves.

**Excess Levy Capacity -** The difference between the levy limit and the amount of real and personal property taxes actually levied in a given year. Annually, the board of selectmen or council must be informed of excess levying capacity and evidence of such acknowledgment must be submitted to DOR when setting the tax rate.

**Exemptions -** Upon approval of an application to the Board of Assessors, these are full or partial discharges from the obligation to pay a property tax by statute on particular categories of property or persons. Examples include hospitals, schools, houses of worship, and cultural institutions that are of benefit to the community. In addition, exemptions may be granted for qualified veterans, blind individuals, surviving spouses, persons over 70 years of age, and certain financial hardships.

**Expenditure -** The spending of money by the town, or city, for programs within the approved budget.

**Federal Aid Anticipation Note (FAAN) -** A short-term loan issued to be paid off at the time of receipt of a federal grant. FAANs are full faith and credit obligations.

**Fiduciary Funds -** Fiduciary funds account for assets held by the municipality in a trustee capacity or as an agent for individuals, private organizations, other governments, and other funds. These include expendable trust, nonexpendable trust, pension trust, and agency funds. Nonexpendable trust and pension trust funds are accounted for in essentially the same manner as proprietary funds since capital maintenance is critical. Expendable trust funds are accounted for in essentially the same manner as governmental funds. Agency funds are custodial in nature (assets equal liabilities) and do not involve measurement of results of operations.

**Financial Advisor -** An individual or institution which assists municipalities in the issuance of tax exempt bonds and notes. This function in Massachusetts is performed either by the public Finance Department of a commercial bank or a non-bank advisor.

**Fiscal Year -** The Commonwealth, state and municipalities (as of 1974) operate on a fiscal year which begins on July 1 and ends on June 30. The number of the fiscal year is that of the calendar year in which the fiscal year ends; e.g., the 1997 fiscal year, July 1, 1996 to June 30, 1997, usually written as FY97. This, however, no longer coincides with the fiscal year followed by the federal government, for beginning in 1976 the federal fiscal year was changed to begin on October 1 and end on September 30.

**Fixed Costs -** These are costs which are legally or contractually mandated. (Examples: retirement, FICA/Social Security, insurances, debt service or interest.)

**Float -** The amount of money making up the difference between the bank balance for a local government's account and its book balance at the end of the day. The primary factor creating float is clearing time on checks and deposits. Delays in receiving deposit and withdrawal information also influence float.

**Foundation Budget -** The target set for each school district defining the spending level necessary to provide an adequate education for all students. The Foundation Budget is comprised of both local effort and state aid.

**Free Cash -** (Also Budgetary Fund Balance) Funds remaining from the operations of the previous fiscal year which are certified by DOR's Director of Accounts as available for appropriation. Remaining funds include unexpended free cash from the previous year, receipts in excess of estimates shown on the tax recapitulation sheet, and unspent amounts in budget line-items. Unpaid property taxes and certain deficits reduce the amount of remaining funds which can be certified as free cash. The calculation of free cash is made based on the balance sheet, which is submitted by the community's Auditor, Accountant, or Comptroller. Typically, a community will attempt to maintain a free cash balance of between 3 and 5 percent of its total budget as a hedge against unforeseen expenditures, to insure there will be an adequate reserve to prevent sharp fluctuations in the tax rate, and to prevent expensive short-term borrowing. (Maintenance of an adequate free cash level is not a luxury but a necessary component of sound local fiscal management. Credit rating agencies and other members of the financial community expect municipalities to maintain free cash reserves; judgments regarding a community's fiscal stability are made, in part, on the basis of free cash.) Also see Available Funds.

**Full Faith and Credit -** A legal pledge of the general taxing powers for the payment of governmental obligations. Bonds carrying such pledges are usually referred to as general obligation or full faith and credit bonds.

**Fund -** an accounting entity with a self balancing set of accounts which are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with specific regulations, restrictions or limitations.

**Fund Accounting -** Organizing the financial records of a municipality into multiple funds. A fund is a distinct entity within the municipal government in which financial resources and activity (assets, liabilities, fund balances, revenues, and expenditures) are accounted for independently in accordance with specific regulations, restrictions or limitations. Examples of funds include the General Fund and Enterprise Funds. Communities whose accounting records are organized according to the Uniform Municipal Accounting System use multiple funds.

**General Fund -** This non-earmarked fund is used to account for most financial resources and activity governed by the normal Town Meeting/City Council appropriation process.

**General Obligation Bonds -** Bonds issued by a municipality which are backed by the full faith and credit of its taxing authority.

**Governing Body -** The board, committee, commissioners or other legislative body of a governmental unit including the school committee of a municipality.

**Indirect Cost -** Costs of a service not reflected in the service's operating budget. A determination of these costs is necessary to analyze the total cost of service delivery. (An example of an indirect cost of providing water service would be health insurance costs for water employees.)

**Industrial Revenue Bond -** A bond used by a municipality or development corporation to acquire an industrial capacity to be leased to a private corporation; these are not general obligation bonds.

**Interest -** Compensation paid or to be paid for the use of money, including interest payable at periodic intervals or as discount at the time a loan is made.

**Interest Rate -** The interest payable, expressed as a percentage of the principal available for use during a specified period of time. It is always expressed in annual terms.

**Investments -** Securities and real estate held for the production of income in the form of interest, dividends, rentals, or lease payments. The term does not include fixed assets used in governmental operations.

**Judgment -** An amount to be paid or collected by a governmental unit as a result of a court decision, including a condemnation award in payment for private property taken for public use.

**Judgment Bonds -** Bonds issued to fund judgments.

**Land Fund -** A fund established in FY86 to which may be added an annual appropriation earmarked for the acquisition of land or debt service on designated land purchases.

**Law Enforcement Trust Fund -** A revolving fund established to account for a portion of the proceeds from the sale of property seized from illegal drug-related activities. Funds may be expended to defray certain qualified law enforcement costs as outlined in Chapter 94C, s 47. Funds from this account may be expended by the police chief without further appropriation.

**Legal Opinion -** An opinion, by an attorney or law firm that bonds have been legally issued by a public body, and that the bonds are exempt from federal income taxes and some Massachusetts taxes under existing laws, regulations and rulings.

**Levy Ceiling -** The maximum tax assessed on real and personal property may not exceed 2.5 percent of the total full and fair cash value of all taxable property (Chapter 59 s 21C). Property taxes levied may exceed this limit only if the community passes a capital outlay expenditure exclusion, a debt exclusion, or a special exclusion.

**Levy Limit -** The maximum amount a community can levy in a given year. The limit can grow each year by 2.5 percent of the prior year's levy limit (Chapter 59 s 21C (f,g,..k)) plus new growth and any overrides. The levy limit can exceed the levy ceiling only if the community passes a capital expenditure exclusion, debt exclusion, or special exclusion.

**Line-Item Budget -** A budget which focuses on inputs of categories of spending, such as supplies, equipment, maintenance, or salaries, as opposed to a program budget.

**Local Aid -** Revenue allocated by the Commonwealth to towns, cities and regional school districts. Estimates of local aid are transmitted to towns, cities and districts annually by the "Cherry Sheet." Most of the Cherry Sheet aid programs are considered revenues of the municipality's or regional school district's general fund and may be spent for any purpose, subject to appropriation.

**Local Appropriating Authority -** In a town, the town meeting, which has the power to levy directly a property tax. In a city, the city council has the power.

**Local Receipts -** Locally generated revenues other than real and personal property taxes and excluding enterprise fund revenues. Examples include motor vehicle excise, investment income, hotel/motel tax, fees, rentals, and charges. Annual estimates of local receipts are shown on the tax rate recapitulation sheet.

**Lock Box -** an effective case management system that reduces the float: payments are mailed to a post office box. The bank collects and processes these checks several times a day.

**Maturity -** The date upon which the principal of a bond becomes due and payable.

**Massachusetts Municipal Depository Trust -** Founded in 1977, it is an investment program in which municipalities may pool excess cash. It is under the supervision of the State Treasurer.

**Minimum Required Local Contribution -** The minimum that a town or city must appropriate from property taxes and other local revenues for the support of schools.

**Moody's Investment Services, Inc. -** One of the leading municipal bond rating agencies.

**Municipal(s) -** (As used in the bond trade) "Municipal" refers to any governmental unit below or subordinate to the state. "Municipals" (i.e., municipal bonds) include not only the bonds of all local subdivisions such as towns, cities, school districts, special districts, but also bonds of states and agencies of the state.

**Municipal Revenue Growth Factor -** An estimate

of the percentage change in a municipality's revenue growth for a fiscal year. It represents the combined percentage increase in the following revenue components: automatic 2 percent increase in the levy limit, estimated new growth, the change in selected unrestricted state aid categories, and the change in selected unrestricted local receipts.

**M.G.L (or M.G.L.A.) -** Massachusetts General Laws, Annotated

**Municipal Finance Oversight Board -** A board authorized by Chapter 10 s 47 to review and approve applications by municipalities to exceed their statutory debt limit, define the term of borrowing for certain purposes, and designate issues of "Qualified Bonds" under Chapter 44a.

**Net School Spending (NSS) -** Includes both school budget and municipal budget amounts attributable to education, excluding long-term debt service, student transportation, school lunches and certain other specified school expenditures. A community's NSS funding must equal or exceed the NSS Requirement established annually by Department of Education.

**New Growth -** The taxing capacity added by new construction and other increases in the property tax base. New growth is calculated by multiplying the value associated with new construction by the tax rate of the previous fiscal year. For example, FY97 new growth is determined by multiplying the value of new construction in calendar 1995 (as valued on January 1, 1996) by the FY96 tax rate. Originating in FY92, all increases in value that are not the result of revaluation or appreciation now qualify for inclusion in new growth figures.

**Nominal Interest Cost (NIC) -** The computed cost of a bond issue, used to compare competitive bids. The bidder with the lowest net interest cost is awarded the bond issue.

**Nominal Interest Rate -** The contractual interest rate shown on the face and in the body of the bond or on coupons attached to the bond.

**Note -** A short-term loan, typically of a year or less in maturity.

**Notice of Sale -** A detailed statement which is published to advertise the sale of municipal bonds by competitive bid.

**Objective -** Precise statement of expected output.

**Objects of Expenditures -** A classification of expenditures that is used for coding any department disbursement, such as "personal services", "expenses", or "capital outlay".

**Official Statement -** A document containing information about a prospective bond issue or a note issue which contains information about the issue and the issuer, and is intended for the potential investor. The Official Statement is sometimes published with the Notice of Sale. It is sometimes called an Offering Circular or Prospectus.

**Offset Receipts -** Includes certain education programs and the aid to public libraries program which are designated on the Cherry Sheet as offset items. These amounts can be spent without appropriation but must be spent only for these specific programs.

**Operating Budget -** The plan of proposed expenditures for personnel, supplies, and other expenses for the coming fiscal year.

**Other Amounts to be Raised -** The amounts raised through taxation, but which are not appropriations items. Generally, these are locally generated expenditures (e.g., overlay, teacher pay deferral, deficits) as well as state, county and other special district charges. Because these must be funded in the annual budget, special consideration should be given to them when finalizing the budget recommendations to Town Meeting. (See Tax Recapitulation.)

**Overlapping Debt -** The share of regional school district and/or other regional agency debt which is allocable to and payable by a municipality as part of the fees or assessment from the regional entity.

**Overlay -** (Overlay Reserve or Reserve for Abatements and Exemptions) An account established annually to fund anticipated property tax abatements and exemptions in that year. The overlay reserve is not established by the normal

appropriation process, but rather is raised on the tax rate recapitulation sheet.

**Overlay Deficit -** A deficit that occurs when the amount of overlay raised in a given year is insufficient to cover abatements and statutory exemptions for that year. Overlay deficits must be provided for in the next fiscal year.

**Overlay Surplus -** Any balance in the overlay account of a given year in excess of the amount remaining to be collected or abated can be transferred into this account (See Overlay). Within ten days of a written request by the chief executive officer of a town or city, the assessors must provide a certification of the excess amount of overlay available to transfer. Overlay surplus may be appropriated for any lawful purpose. At the end of each fiscal year, unused overlay surplus is "closed" to surplus revenue; i.e., it becomes a part of free cash.

**Override -** A vote by a community at an election to permanently increase the levy limit. An override vote may increase the levy limit to no higher than the levy ceiling. The override question on the election ballot must state a purpose for the override and the dollar amount. (See Underride.)

**Override Capacity -** The difference between a community's levy ceiling and its levy limit. It is the maximum amount by which a community may override its levy limit.

**Par Value -** The face amount of a bond, e.g., $ 1,000 or $5,000.

**Parking Meter Receipts Reserved for Appropriation -** This fund allows a community to charge for parking and to reserve these proceeds in a separate account. In accordance with Chapter 40 s 22A, the proceeds may be used to offset certain expenses for the acquisition, installation, maintenance and operation of parking meters and the regulation of parking and other traffic activities.

**Paying Agent -** A bank or other institution which acts as the agent for a municipality in making bond interest and principal payments.

**Performance Budget -** A budget which stresses output both in terms of economy and efficiency.

**Personnel Services -** The cost of salaries, wages and related employment benefits.

**Premium -** The amount by which the price exceeds the principal amount of a bond or par value.

**Price Index -** A statistical measure of change in overall prices. There are different indices, but they all compare the change in cost of a certain "bundle" of goods and services over a given period of time.

**Principal -** The face amount of a bond, exclusive of accrued interest.

**Productivity -** The ratio of outputs to inputs, or the amount of output per unit of input. Unit A is more productive than unit B if (1) it uses less resources but has the same output, or (2) it uses the same resources and has a greater output.

**Program -** A combination of activities to accomplish an end.

**Program Budget -** A budget which relates expenditures to the programs they fund. The emphasis of a program budget is on output.

**Property Tax Levy -** The amount a community can raise through the property tax. The levy can be any amount up to the levy limit plus exclusions.

**Purchased Services -** The cost of services that are provided by a vendor.

**Ratings -** Designations used by credit rating services to give relative indications of quality. Moody's ratings range from the highest Aaa down through Aa, A- 1, A, Baa- 1, Baa, Ba, B, Caa, Ca, C. Standard & Poor's ratings include: AAA, AA, A, BBB, BB, B, CCC, CC, C, DDD, DD, and D.

**Refunding -** System by which an issue is redeemed by a new bond issue under conditions generally more favorable to the issuer.

**Registered Bond -** A bond whose owner is registered with the issuer or its agents, either as to both principal and interest or principal only.

**Repurchase Agreement (Repo) -** An agreement whereby a local government transfers cash to a

financial institution, and the financial institution transfers securities to the local government and promises to repay the cash plus interest in exchange for the same securities within a given number of days.

**Reserve for Abatements and Exemptions -** See Overlay.

**Reserve Fund -** An amount set aside annually within the budget of a town (not to exceed 5 percent of the tax levy for the preceding year) or city (not to exceed 3 percent of the tax levy for the preceding year) to provide a funding source for extraordinary and unforeseen expenditures. In a town, the Finance Committee can authorize transfers from this fund for "extraordinary and unforeseen" expenditures. Other uses of the fund require budgetary transfers by Town Meeting. In a city, transfers from this fund may be voted by the City Council upon recommendation of the Mayor.

**Residential Factor -** Adopted by a community annually, this governs the percentage of the tax levy to be paid by property owners. If local officials choose a low residential factor, (for example the statutory minimum set by the Commissioner of Revenue) residential property owners will pay a proportionately lower share of the total levy (split or multi-tax rate). A residential factor of "1" will result in the taxation of all property at the same rate (single tax rate).

**Retained Earnings -** An equity account reflecting the accumulated earnings of an enterprise fund which may be used to fund capital improvements, to reimburse the general fund for prior year subsidies, to reduce user charges and for enterprise revenue deficits (operating loss).

**Revaluation (or recertification of property values) -** The Assessors of each community are responsible to develop a reasonable and realistic program to achieve a fair cash valuation of property in accordance with constitutional and statutory requirements. The nature and extent of that program will depend on the Assessors' analysis and consideration of many factors, including, but not limited to, the status of the existing valuation system, the results of an in-depth sales ratio study, the location and style of properties, and the accuracy of existing property record information. Every three years, Assessors must submit property values to the state Department of Revenue for certification. Assessors must also maintain these values in the years between certifications. This is done so that each property taxpayer in the community pays his or her share of the cost of local government - no more or less - in proportion to the amount of money the property is worth.

**Revenue Anticipation Borrowing -** Cities, towns and districts may issue temporary notes in anticipation of taxes (TANs) or other revenue (RANs). The amount of this type of borrowing is limited to the total of the prior year's tax levy, the net amount collected in motor vehicle and trailer excise in the prior year and payments made by the Commonwealth in lieu of taxes in the prior year. According to c 44 s 4, towns, cities and districts may borrow for up to one year in anticipation of such revenue.

**Revenue Anticipation Note (RAN) -** A short-term loan issued to be paid off by revenues, such as tax collections and state aid. RANs are full faith and credit obligations.

**Revenue Bond -** A bond payable from and secured solely by specific revenues and thereby not full faith and credit obligations.

**Revolving Fund -** Allows a community to raise revenues from a specific service and use those revenues to support the service without appropriation. For departmental revolving funds, c 44 s 53E( stipulates that each fund must be reauthorized each year at annual town meeting or by city council action, and that a limit on the total amount which may be spent from each fund must be established at that time. The aggregate of all revolving funds may not exceed ten percent of the amount raised by taxation by the town or city in the most recent fiscal year, and no more than one percent of the amount raised by taxation may be administered by a single department or board. No revolving fund expenditures shall be made for the purpose of paying any wages or salaries for full-time employees. Revolving funds for other pro-

grams as provided by statue are still allowed, and a departmental revolving fund may be implemented in addition to or in conjunction with other existing statutory revolving funds, provided that the departmental revolving fund does not conflict with provisions of other revolving funds.

**Sale of Cemetery Lots Fund -** This fund is established to account for proceeds of the sale of cemetery lots. The proceeds must be used to offset certain expenses of the Cemetery Department under provisions of Chapter 114 s 43C.

**Sale of Real Estate Fund -** This fund is established to account for the proceeds of the sale of municipal real estate other than proceeds acquired through tax title foreclosure. c 44 s 63 states that such proceeds shall be applied first to the retirement of debt on the property sold. In the absence of such debt, funds may generally be used for purposes for which the town or city is authorized to borrow for a period of five years or more.

**Scale -** The underwriter's re-offering prices expressed in yields for each maturity of a serial issue.

**School Building Assistance Program -** Established in 1948 and frequently revised by statutory amendments, this program of the Commonwealth provides grants for local and regional school construction projects. The SBA program is administered by the Massachusetts School Building Authority in the State Treasurer's Office. If a community votes a debt exclusion to fund a school construction project, the amount of SBA funds received towards any school construction debt must be deducted before determining the net school debt exclusion.

**Security -** For Massachusetts municipalities, bonds or notes evidencing a legal debt on the part of the issuer.

**Serial Bond -** A bond of an issue which has maturities scheduled annually over a period of years.

**Sinking Fund -** Amounts required to be set aside to either purchase bonds in the open market or call bonds so that term bonds will be retired at maturity. These are no longer legal in Massachusetts.

**Special Assessment Bonds -** These bonds are payable from the proceeds of special assessments. If, in addition to the assessments, the full faith and credit of the governmental unit are pledged, they are known as "general obligation special assessment bonds."

**Special Assessments -** See Betterments.

**Special Exclusion -** For a few limited capital purposes, a community may assess taxes above the amount of its levy limit or levy ceiling without voter approval. Otherwise, special debt and capital outlay exclusions are like voter approved exclusions. Presently, there are two special exclusion exclusions: 1) water and sewer project debt service costs which reduce the water and sewer rates by the same amount; and 2) a program to assist homeowners to repair or replace faulty septic systems, removal of underground fuel storage tanks, or removal of dangerous levels of lead paint to meet public health and safety code requirements. In the second special exclusion, homeowners repay the municipality for the cost plus interest added apportioned over a period of time not to exceed 20 years similar to betterments.

**Spread -** The difference between the average re-offering price and the bid price on a bond issue. The amount of spread is determined by a combination of market risk, expenses and estimated selling compensation required. It is the gross profit to the underwriters.

**Stabilization Fund -** An account from which amounts may be appropriated for any lawful purpose. Prior to FY92, use of the Stabilization Fund was restricted to purposes for which towns and cities could legally borrow. Revisions to Chapter 40 s 5B removed this restriction and amounts from the Stabilization Fund can now be appropriated for any legal purpose. Towns may appropriate into this fund in any year an amount not to exceed ten percent of the prior year's tax levy or a larger amount with the approval of the Emergency Finance Board. The aggregate of the Stabilization Fund shall not exceed ten percent of the town's equalized value, and any interest shall be added to and become a part of the fund. A two-thirds vote of town meeting or city council is required to

appropriate money from the Stabilization Fund.

**Standard & Poor's Corporation -** One of the leading municipal bond rating agencies.

**State Aid Anticipation Note (SAAN) -** A short-term loan issued in anticipation of a state grant or aid.

**State House Notes** - Notes for towns, cities, counties and districts certified by the Director of Accounts. State House notes are generally less costly and easier to issue than conventional issues for borrowings. Therefore, these notes are more commonly used for temporary loans and smaller long-term issues.

**Surplus Revenue -** The amount by which cash, accounts receivable and other floating assets exceed the liabilities and reserves.

**Syndicate -** A group formed by one or more firms for the purpose of purchasing all or part of a new issue of municipal securities from an issuer, and making a sale thereof. See Underwriter.

**Tailings -** This fund is reserved for unclaimed checks written on city or town accounts. The procedures for retaining money from unclaimed checks are outlined in Chapter 200A, s 9A. Written notice must be filed with the clerk if these procedures are to be followed.

**Tax Rate -** The amount of tax stated in terms of a unit of the tax base; for example, $14.80 per $1,000 of assessed valuation of taxable property.

**Tax Rate Recapitulation Sheet (also Recap Sheet) -** A document submitted by a town or city to the Department of Revenue in order to set a property tax rate. The recap sheet shows all estimated revenues and actual appropriations which affect the property tax rate. (In order to issue the first-half semiannual property tax bills before October 1st, the recap sheet should be submitted to the Department of Revenue in September, or, in December in order to issue the third quarterly property tax bills before January 1st.)

**Tax Title -** Collection procedure which secures a lien on real property and protects the municipality's right to payment of overdue property taxes. (Without following this procedure, the lien on real property expires if three years elapse from the October first following the assessment date, and the property is transferred. If amounts remain outstanding on the property after issuing a demand for overdue property taxes and after publishing a notice of tax taking, the collector may take the property for the city or town. After properly recording the instrument of taking, the collector transfers responsibility for collecting the overdue amounts to the treasurer.)

**Term Bond -** Bonds the entire principal of which matures on one date. Massachusetts municipal general obligation bonds are required by law to be retired on a serial basis.

**Trust Fund -** In general, a fund held for the specific purpose stipulated by a trust agreement. The treasurer acts as custodian of trust funds and invests and expends such funds as stipulated by trust agreements or as directed by the commissioners of trust funds or by town meeting. Both principal and interest may be used if the trust is established as an expendable trust. For non-expendable trust funds, interest but not principal may be expended as directed.

**Uncollected Funds -** Recently deposited checks included in an account's balance but drawn on other banks and not yet credited by the Federal Reserve Bank or local clearinghouse to the bank cashing the checks. (These funds may not be loaned or used as part of the bank's reserves and they are not available for disbursement.)

**Underride -** A vote by a community to permanently decrease the tax levy limit. As such, it is the exact opposite of Override.

**Underwriter -** For municipal debt issues, a commercial bank or securities dealer which purchases all or part of a new issue in order to sell the securities to investors. A group of underwriters is called a syndicate.

**Unfunded Pension Liability -** Unfunded pension liability is the difference between the value assigned to the retirement benefits already deemed by a town's employees and the assets the town's

retirement system will have on hand to meet these obligations. The dollar value of the unfunded pension liability is driven by assumptions about interest rates at which a retirement system's assets will grow and the rate of future costs of living increases to pensioners.

**Uniform Municipal Accounting System (UMAS) -** A comprehensive and practical municipal accounting system that conforms to Generally Accepted Accounting Principles (GAAP) for local governments. UMAS is regarded by the Department of Revenue as the professional standard for modern municipal accounting in Massachusetts. (Among the benefits of conversion to UMAS are increased consistency in reporting and record keeping and enhanced comparability of data among cities and towns.)

**Unreserved Fund Balance -** Also referred to sometimes as the "surplus revenue account", this is the amount by which cash, accounts receivable, and other assets exceed liabilities and restricted reserves. It is akin to "stockholders' equity" account on a cooperate balance sheet. It is not, however, available for appropriation in full because a portion of the "assets listed as "accounts receivable" may be taxes receivable and uncollected. (See Free Cash).

**Valuation (100%) -** Requirement that the assessed valuation must be the same as the market value for all properties; 100 percent valuation may offer greater equity in the redistribution of state aid to cities and towns based upon local real estate values.

**Warrant -** A list of items to be acted on by Town Meeting. (A treasury warrant and the assessors' warrant authorize the treasurer to pay specific bills and the tax collector to collect taxes in the amount and from the persons listed, respectively.)

**Water Surplus -** For water departments operating under Chapter 41 s 69B, any revenues in excess of estimated water receipts or unspent water appropriations close to a water surplus account. Water surplus may be appropriated to fund water-related general and capital expenses or to reduce water rates.

**Waterways Improvement Fund -** An account into which 50 percent of the proceeds of the boat excise are deposited. Use of these proceeds is limited to certain waterway expenses as outlined in Chapter 40 s 5G.

**Wire Transfer -** A method of moving funds from one bank to another through the use of the bank wire system or Federal Reserve System, so that funds are in transit for a minimum period of time.

**Yield -** The net annual percentage of income derived from an investment. The yield of a bond reflects interest rate, length of time to maturity and write-off of premium or accrual of discount. (Also referred to as "yield to maturity".)

*This appendix was prepared by Donald Levitan and Meilida J. Ordway (representing her opinions and not necessarily those of the Department of Revenue).*

APPENDIX

# H

# FINANCE COMMITTEE CHECKLIST:

The following is offered as a selected compilation of issues that a Finance Committee might address in its budget deliberations. Each Finance Committee is urged to use this list as a starting point and to develop a list that fits its town.

The proposed budget, as well as other town financial considerations, are prepared and presented in a manner that permits comprehension by the voters.

The proposed and approved budget is placed in the Library as well as in Town Hall, allowing easy voter access.

There is an established budgetary process and calendar. All units of town government follow an identical process and timetable.

All units of town government receive the same budget request package.

Financial reports are prepared on a regular calendar basis; monthly is desired but at a minimum on a quarterly basis.

There exists established financial policies regarding:

- free cash
- reserve funds
- stabilization fund (if one exists)
- cash management
- debt management
- investment management
- banking relations,
- etc., etc.

An accounting chart of accounts for expenditure items exists.

The budget is considered and approved on a program/departmental basis.

Departmental budgets are on the mark, relatively speaking, in that they run on a constant basis neither a "surplus" nor a "deficit".

All town fees and charges are realistic and "fair", cover the cost of delivering the service, and are listed in the budget request.

Records are maintained that allow comparison of actual costs to budgeted (projected) costs. These records allow for the analysis both as to unit costs as well as performance.

All financial documentation graphics and charts are summarized narratively.

A multi-year revenue-expenditure forecast exists and is updated yearly.

A cash management program exists and is regularly updated during the year.

In all financial documentation there is a consistency in choice, base, and use of statistics and graphics.

The property tax collection rate is higher than 95%.

The town receives its "fair share" of federal and state aid grants as compared to similar towns in the general area.

Town funds available for investment are invested at the highest rate consistent with liquidity and safety.

There is an existing inventory of fixed assets by location, age, condition, and cost of maintenance that is regularly updated.

A five year Capital Improvement Program exists that follows the criteria of the Government Finance Officers Association.

The specifications for major purchases are reviewed by experts.

All programs should be examined on a regular basis as to their continued need and service level.

All programs should be examined on a regular

basis to ascertain if there is another way of delivering the service. The costs as well.

Proposed budgetary increases and decreases are to be analyzed by service implication(s) rather than as objects of expenditure.

What would happen to a departmental budget if the budget were reduced:

- 5%?, or
- 10%?

What are the criteria, and the basis for choice, to evaluate programs?

How many people benefit from a program? Can they be "categorized"?

How much do other towns in the general area spend on similar programs?

The accounting system is either conforming to UMAS or is moving towards UMAS.

An annual audit is prepared, and items identified in the management letter are followed up.

There exist a job classification, salary, and benefit plans that are comprehensive and competitive as well as a multi-year personnel census.

Purchasing is closely coordinated, centralized, or performed in concert with other governmental entities.

Free Cash should be maintained at no less than 5% of the general fund operating revenues.

*This appendix was prepared by Donald Levitan*

APPENDIX

# I

# FINANCE COMMITTEE RESOURCES

## Committee Library

It is impossible for a professional in any endeavor to conduct business withour access to appropriate data and reference material. Finance committees should develop their own libraries of town data and be aware of local and national resources for information and assistance.

Below is a suggested list of materials for the library of each town finance committee. Material produced by the Department of Revenue may be obtained from them. Committees may obtrain most other material from town offices, the Massachusetts Municipal Association (MMA), or from a given town's public library. Some publications must be purchased through your local bookshop.

## Town Documents and Information

- annual municipal audit (for last five years)
- bond prospectus
- Capital Improvement Program and capital budget
- cash flow analysis
- Cherry Sheet (for the last five years)
- finance committee report (for the last five years)
- Free Cash certification (for the last five years)
- investment policies and analysis
- property classification report
- annual report (for the last five years)
- bylaws
- town charter
- manual on town meeting, etc.
- operating and capital budgets (for the last five years), and budget forms, calendar, and instructions
- tax recapitulation data (for the last five years)
- Schedule A (for the last five years)

*(In addition, comparable information from a town of similar socio-economic and financial characteristics may be useful.)*

## Materials Available from DOR

Assessor's Manual

Audit Primer and Audit Procurement Guide

CAMA Decision Kit (revaluation package)

Cherry Sheet Manual, forms and reports

City & Town

Costing Municipal Services

Developing a Capital Improvements Program

Everything You Always Wanted to Know About Levy Limits But Were Afraid to Ask

A Guide to Financial Management for Town Officials

Informational Guideline Releases and Index

In Our Opinion

Laws Relating to Municipal Finance and Taxation, Municipal Bulletin 34

Manual for a Collector of Taxes

Manual for a Treasurer

Municipal Calendar and Fiscal Calendar

Revenue/Expenditure Forecasting Software

## Other Documents and Publications

Bresler, *Citizens Primer on Town Meeting,* Commonwealth of Massachusetts

Levitan, *Your Massachusetts Government*

*The Finance Committee Handbook*, ATFC

*Municipal Financial Data*, Massachusetts Taxpayers Foundation

*An Issuer's Guide to the Rating Process*, Moody's

*Municipal Finance Criteria*, Standard & Poor's

*Handbook for Massachusetts Selectmen*, 3rd Edition, MMA

State Constitution

*Town Meeting Time, A Handbook of Parliamentary Law*, 3rd Edition, Massachusetts Moderators' Association

## Town and Committee Handbooks

Many towns in the Commonwealth have produced materials that may be of interest to other communities. The Brookline Advisory Committee has produced an "Advisory Committee Handbook" consisitng of the following sections:

- The town of Brookline's budget cycle;
- The Brookline Advisory Committee;
- Procedural guidelines and budget report forms for departmental budget;
- evaluation; and
- reference material.

The town of Concord has prepared a committee handbook that is distributed to every town committee and board memeber, whether elected or appointed. The handbook included relevant state laws and town bylaws, policies and procedures related to town committee/board opeations.

The handbook consists of the following sections:

- legal basis of town government/town charter;
- legal issues;
- committee/board procedures;
- miscellaneous items;
- individual committee/board descriptions; and;
- appendix, which includes a description of various laws.

A note on the front page of this handbook indicates that the appendix includes brief summaries of the conflict of interest law, open meeting law, and the town records management bylaw. This note also reminds committee members that: "All committee members are required to read these laws in their entirety." Copies of these laws can be read at the town manager's office or at the public libraries.

## The Massachusetts Department of Revenue and the Division of Local Services

The state Department of Revneue (DOR), Divisoin of Local Services (DLS) provides technical assistance to municipal officials on a braod range of topics concerning local finance and taxation. DLS also exercises supervisory and regularoty functions under various statuatory provisions. Assistance is provided through their four bureaus.

*Bureau of Accounts* – certifies tax rates for the towns and cities and is responsible under Proposition 2 1/2 for assuring compliance with property tax levy limits. This brueau alsomonitors, supervises and assists municipalities, counties and special districts in ensuring that their financial management and accounting practices comply with state statutes.

*Bureau of Local Assessment* – supervises property valuation and assessment as well as oversees the implementation of the Classificiation Amendment.

*Municipal Data Management and Technical Assistance Bureau* – is responsible for the distributiontion of local aid, operation of the Municipal Data Bank, and coordination of technical assistance.

*Property Tax Bureau* — is responsible for the interpretation of laws and statutes on municipal finance and taxation.

In addition, DLS publishes timely and useful publications dealing with the management of local government and provides information through the Internet at www..mass.gov/dls. These home pages offer local officials the opportunity to view or download various DLS publications and information.

Besides having its main office in Boston, DLS also maintains two field offices in Worcester and Springfield:

40 Southbridge Street
Room 210
Worcester, MA 01608
Tel: 508-792-7300
Fax: 508-792-7306

436 Dwight Street
Room 41
Springfield, MA 01103
Tel: 413-784-1000
Fax: 413-784-1034

100 Sleeper Street
P.O. Box 9569
Boston, MA 02114
Tel: 617-626-2300
Fax: 617-626-2330

## The Massachusetts Municipal Directory

The Massachusetts Municipal Association (MMA), of which the Massachusetts Association of Town Finance Committee is a constituent agency, annually provides each town and usually each selectman with The Massachusetts Municipal Directory. This directory provides a listing of municipal officials, including addresses, Web site addresses,telephone and fax numbers. The directory encompasses:

- town and city governments;
- county governments;
- regional planning councils;
- selected state government officers;
- selected federal government offices;
- Massachusetts professional organizations;
- national professional organizations;
- state legislators by community; and
- state and federal holidays.

## National Professional Organizations

The following is a partial listing of those national professional organizations that direct themselves to local government issues:

**American Association of School Administrators**
1801 N. Moore St. Alexandria, VA 22209 (703) 528-0700

**American Public Works Association**
1313 E. 60th St.
Chicago, IL 6037
(312) 667-2200

**American Society for Public Administration**
1120 G St. NW
Washington, DC 20005
(202) 393-7878

**Government Finance Officers Association**
180 Michigan Ave., Suite 800
Chicago, IL 60601
(312) 977-9700

**Institute of Public Administration**
55 W. 44 St.
New York, NY 10036
(212) 730-5480

**International Association of Assessing Officers**

1313 E. 60th St.
Chicago, IL 60637
(312) 947-2069

**International City Management Association**
1120 G St. NW
Washington, DC 20005
(202) 626-4600

**International Personnel Management Association** 1617 Duke Street
Alexandria, VA 22314
(703) 549-7100

**Labor-Management Relations**
Service 1620 Eye Street NW, 4th Floor
Washington, DC 20006
(202) 293-7330

**The Municipal Treasurers' Association for the United States and Canada**
1229 Nineteenth St. NW
Washington, DC 20036
(202) 833-1017; Fax: (202) 833-0375

**National Association of Towns and Townships**
1522 K St. NW, Suite 730
Washington, DC 20005
(202) 737-5200

**National League of Cities**
1301 Pennsylvania Ave. NW
Washington, DC 20004
(202) 626-3000

**National School Boards Association**
1680 Duke St.
Alexandria, VA 22302
(703) 838-6722

APPENDIX

# J

# THE ASSOCIATIONOF TOWN FINANCE COMMITTEES

## History

The Association of Town Finance Committees (ATFC) was founded in 1934 by Danforth W. Comins, of Brookline, who served as its executive secretary from 1944 to 1959. Stuard DeBard, of Hingham, served in that role from 1960 to 1994. Since 1994, the Massachusetts Municipal Association (MMA) has provided administrative support to the ATFC.

Today the ATFC includes 281 towns out of the Commonwealth's 351 municipalities as its members in good standing. The ultimate goal of the association is to have all eligible Massachusetts town finance committees as ATFC members.

## Purpose

The purpose of the ATFC is to assist all finance committees in their duties. To that end, the association engages in the education and training of its members, publishes and distributes materials' including this handbook, and holds meetings and workshops for its members.

The association attempts to promote the common good and general welfare by taking positions, alone or in conjunction with other organizations, on state and federal legislation relating to municipal finances. The association strives to be non-partisan in its positions and procedure.

## Governing Board

The Governing Board is made up of twelve members elected from among the ATFC membership: four officers, five directors, and three past presidents. The officers of the association are: a president, a first vice president, a second vice president and a treasurer. Both the president and first vice president serve as full members of the MMA's Board of Directors.

Many individuals have served on the ATFC Governing Board for several years, moving up from the position of director to president, and then continuing on as past president. These dedicated members deserve much of the credit for what the organization is today. A list of the most recent presidents are listed in the table on the next page.

The Board usually meets 7 times a year in different locations to accommodate the geographic diversity of its members. The annual meeting is held in the fall of each year in a location convenient to all the members.

The association is governed by its bylaws, which can be amended by a two-thirds vote of members present at the annual meeting.

## PAST PRESIDENTS OF THE ASSOCIATION OF TOWN FINANCE COMMITTEES

| | | |
|---|---|---|
| 1979 | Jay R. Gordon | Framingham |
| 1980 | David M. Benjamin | Stoughton |
| 1981 | Jean E. Hines | Scituate |
| 1982 | Kenniston Tidd | Georgetown |
| 1983 | Sheldon J. Thayer | Harwichport |
| 1984 | Lewis C. Restuccia | Nahant |
| 1985 | Robert L. Ashton | Lynnfield |
| 1986 | Patricia N. Leiby | Bedford |
| 1987 | Michael D. Altfillisch | Canton |
| 1988 | Edward H. Dlott | Natick |
| 1989 | Samuel D. Streiff | Rowley |
| 1990 | Philip Bucheck | Lynnfield |
| 1991 | John E. Brennan | Canton |
| 1992 | Michael J. O'Sullivan | Lexington |
| 1993 | Marilyn H. Browne | Plympton |
| 1994 | John J. Kent | Easton |
| 1995 | Allan Tosti | Arlington |
| 1996 | Nelson A. Valverde | West Newbury |
| 1997 | Thomas Brady | Wrentham |
| 1998 | John Tuffy | Duxbury |
| 1999 | Paul Lapointe | Lexington |
| 2000 | John Sanguinet | Plymouth |
| 2001 | June Michaels | Rockport |
| 2002 | Heidi Churchill | Easton |
| 2003 | Charles Foskett | Arlington |
| 2004 | Paul Tsatsos | Southwick |
| 2005 | Allan Tosti | Arlington |
| 2006 | Paul Joyce | Dedham |

# Association of Town Finance Committees
# Bylaws
# Adopted November, 2003

## ARTICLE I

Name

The name of this voluntary non-profit, association shall be "Association of Town Finance Committees," herein called the "Association."

## ARTICLE II

Purposes

The purpose of the Association shall be to assist all finance committees in their duties. The Association shall engage in the education of members of finance and capital budget committees, however named, of municipalities in Massachusetts, shall publish and distribute materials, and shall hold meetings and workshops for its members. It shall promote the common good and general welfare by taking positions on state and federal legislation relating to municipal finances and may also do this in conjunction with other organizations. The Association shall be non-partisan in its attitudes and procedures and shall not discriminate with regard to race, color, creed, national origin, disability, sex or age.

## ARTICLE III

Governing Board

The Governing Board (the "Board) shall be made up of twelve members as follows: four elected officers, six directors, three past presidents. The officers shall consist of:

A. A President who shall preside at all meetings of the Association and execute any documents required by the bylaws or the acts of the Association;

B. A First Vice President;

C. A Second Vice President;

D. A Treasurer.

Either the First Vice President or the Second Vice President shall assist the President and preside in his/her absence. The Board shall meet at the call of the President or any two members of the Board. The President shall appoint a nominating committee. The Board shall request an audit of the Treasurer's books as they deem necessary and may make recommendations to the annual meeting for changes in the constitution and bylaws or work of the Association. Each Board member shall be at the time of his or her first election a member of a capital or finance committee with no more than two being from the same county and taking into account maximum geographic representation. The President shall not be eligible for re-election to a consecutive term. The Board shall be elected at the Annual Meeting for the term of one year to commence on the succeeding January 1. They shall fill any vacancy in their number for the unexpired term.

Board members who are no longer serving on their finance or capital budget committee shall be required to resign from the Board. However, such resignation shall not take effect until the end of their current term. Past presidents may continue to serve on the Board regardless of his or her status as a member of a local finance or capital planning committee. The Board may ask a member to step down from his or her position due to lack of attendance at Board meetings.

The Treasurer shall furnish such bond as the Board may require. The Board and employees shall be entitled to reimbursement for out-of-pocket expenses under such policies as determined by the Board.

## ARTICLE IV

Membership and Voting

The finance committee, or the selectmen, when acting as such, of every town in Massachusetts shall be a member for each year in which its town pays dues.

Capital outlay or long-range financial planning committees, which are not subcommittees of finance committees, shall be eligible for membership on payment of separate dues.

Members of committees in good standing who are present at any scheduled meeting shall be entitled to one vote for each such individual.

Other persons may be elected Honorary Members by the Board. Honorary members shall not vote or hold office and shall be exempt from paying dues.

## ARTICLE V

Dues

Dues for each fiscal year shall be established by the Board at its first regular meeting following the Annual Meeting. The fixed amount shall be prorated among the different municipalities according to population categories, rounded to the nearest dollar. In addition, the Board shall determine separate dues for capital committees.

Dues shall be billed July 1 in each year for the fiscal year starting on that date. Unless dues are paid on, or a firm agreement has been made with the ATFC by December 1 of each year, a town will be suspended from membership. The fiscal year shall end June 30.

## ARTICLE VI

Office

The Association staff shall conduct the routine activities of the Association, and shall furnish such administrative services as assigned by the Board.

## ARTICLE VII

Meetings

There shall be such meetings as the Board shall determine. Meetings of the Divisions of the Association shall be held at such times as determined by their respective officers. A quorum at Board meetings shall consist of five members of the Board. No action shall be taken by the Board without a quorum. The Annual Meeting shall be held in the fall of each year at such time and place as determined by the Board.

## ARTICLE VIII

Nominations

In addition to the list to be submitted by the Board, other members may be nominated for any office upon the receipt by the Association staff at least five days before the Annual Meeting a nomination signed by individuals from three or more member towns.

## ARTICLE IX

Amendments

This Constitution and Bylaws of the Association may be amended by a two-thirds vote of members present at the Annual Meeting.

APPENDIX

# K

# CURRENT CONTRIBUTORS

Allan Tosti is a Senior Vice President at First Southwest Company, the chair of the Arlington Finance Committee and Past President of the ATFC

Marilyn Browne, Chief, Bureau of Assessing, Massachusetts Division of Local Services and Past President of the ATFC.

Stephen E. Cirillo, Deputy Town Administrator, Brookline

Sheldon S. Cohen, President, Systems Consulting Group, Inc., New Jersey

Kathleen Colleary, Esq., Tax Counsel, Massachusetts Division of Local Services

Sean Cronin, Deputy Town Administrator, Brookline

Michael Daley, President, Financial Advisory Associates, Inc.

Frederick Kingsley, Chief, Municipal Data Management and Technical Assistance Bureau, Massachusetts Division of Local Services

Elizabeth Kleipas, Finance Director, Reading (retired)

Leonard Kopelman, Esq., Partner, Kopelman and Paige

Maureen Valente, Town Manager, Sudbury

James E. Powers, Partner, Powers and Sullivan

# ORIGINAL CONTRIBUTORS

Donald Levitan, original editor, is a former college professor. He is the author of Your Massachusetts Government.

Catherine S. Bromberg , editor, is Senior Writer and Editor at New England Medical Center and a freelance writer and original editor.

Harvey Beth, Finance Director, Brookline(retired)

Alice Carlozzi, Finance Committee, Amherst

Paul C. Casey, State Representative, Massachusetts General Court

Jane L. Chew, Town Clerk, Burlington

Edward Dlott, former Director of Municipal Finance, BankBoston (deceaaed)

Daniel F. Donahue, Esq., DeFazio and Donahue, Northampton

Christopher J. Dostoomian, St. John's Prepatory School, Danvers

Mary Ellen Norman Dunn, Business Manager, Natick Public Schools

Kevin G. Gookin, MPA, Municipal Management Consultant

Timothy Higgins, Town Administrator, Lincoln

Melvin A. Kleckner, Town Administrator, Winchester

Mark Levy, former member, Finance Committee, Brookline

Anthony T. Logalbo, Finance Director, Concord

Anthony A. McMahon, Finance Committee, Barnstable and Treasurer, Dennis Water District

Donna A. Madden, Assistant Treasurer-Collector, Lincoln

Jennifer Magee, former Staff Associate, Association of Town Finance Committees

Richard Mountouri, former Town Administrator, Billerica

Mark. E. Morse, Esq., President, MMA Consulting Group

Melinda J. Ordway, Senior Financial Analyst, Massachusetts Division of Local Services

Marc R. Pacheco, State Senator, Massachusetts General Court

John J. Ryan, Finance Director, Lexington (retired)

James F. Russell, CPA, former partner, Arthur Anderson and Co.

Robert Spongberg, Executive Director, ARC of Cape Cod

Anthony Torissi, Finance Director, Andover

John Tuffy, Business Manager, Silver Lake RSD

Kay M. Upham, Project Manager, Massachusetts Division of Local Services

Carl F. Valente, Town Manager, Lexington

Robert J. Wright, Director of Analysis, Finance and Budget and Chief Medical Examiner, Massachusetts Department of Public Safety

APPENDIX

# L

# SAMPLE CHERRY SHEET

C.S. 1-EC

**Commonwealth of Massachusetts Department of Revenue**
**NOTICE TO ASSESSORS OF ESTIMATED CHARGES**
**General Laws, Chapter 59, Section 21**

**FY2006**

## ABINGTON

| | |
|---|---|
| **A. County Assessment, County Tax:** *Ch. 35, ss. 30, 31* | 29,778 |
| **B. STATE ASSESSMENTS AND CHARGES:** | |
| 1. Retired Employees Health Insurance *Ch. 32A, s. 10B* | 0 |
| 2. Retired Teachers Health Insurance *Ch. 32A, s. 12* | 0 |
| 3. Mosquito Control Projects *Ch. 252, s. 5A* | 25,332 |
| 4. Air Pollution Districts *Ch. 111, ss. 142B,142C* | 3,745 |
| 5. Metropolitan Area Planning Council *Ch. 40B, ss. 26, 29* | 0 |
| 6. Old Colony Planning Council *1967, Ch. 332* | 4,510 |
| 7. RMV Non-Renewal Surcharge *Ch. 90; Ch. 60A* | 16,720 |
| Sub-Total, State Assessments | 50,307 |
| **C. TRANSPORTATION AUTHORITIES:** | |
| 1. MBTA *Ch. 161A, ss. 8-9;1974, Ch. 825, ss. 6-7* | 86,152 |
| 2. Boston Metro. Transit District *1929, Ch. 383; 1954, Ch. 535* | 0 |
| 3. Regional Transit *Ch. 161B, ss. 9, 10, 23; 1973, Ch. 1141* | 10,866 |
| Sub-Total, Transportation Assessments | 97,018 |
| **D. ANNUAL CHARGES AGAINST RECEIPTS:** | |
| 1. Multi-Year Repayment Programs | 0 |
| 2. Special Education *Ch. 71B, ss. 10, 12* | 1,727 |
| 3. STRAP Repayments *1983, Ch. 637, s. 32* | 0 |
| Sub-Total, Annual Charges Against Receipts | 1,727 |
| **E. TUITION ASSESSMENTS:** | |
| 1. School Choice Sending Tuition *Ch. 76, s. 12B, 1993, Ch. 71* | 5,000 |
| 2. Charter School Sending Tuition *Ch. 71, s. 89* | 79,087 |
| 3. Essex County Technical Institute Sending Tuition *1998, Ch. 300, s. 21* | 0 |
| Sub-Total, Tuition Assessments | 84,087 |
| **F. TOTAL ESTIMATED CHARGES, FISCAL 2006** | 262,917 |

C.S. 1-ER

Commonwealth of Massachusetts Department of Revenue
NOTICE TO ASSESSORS OF ESTIMATED RECEIPTS
General Laws, Chapter 58, Section 25A

FY2006

# ABINGTON

## A. EDUCATION:

**Distributions and Reimbursements:**

| | | |
|---|---|---|
| 1. | Chapter 70 | 6,869,653 |
| 2. | School Transportation *Chs. 71, 71A, 71B and 74* | 0 |
| 3. | Retired Teachers' Pensions *Ch. 32, s. 20 (2) (c)* | 0 |
| 4. | Charter Tuition Assessment Reimbursement *Ch. 71, s. 89* | 41,724 |
| 5. | Charter School Capital Facility Reimbursement *2004, Ch. 352, s. 31* | 7,265 |

**Offset Items – Reserve for Direct Expenditure:**

| | | |
|---|---|---|
| 6. | Racial Equality *Chs. 76, s. 12A, 71, ss. 37 I,J, 15, s. 1I* | 0 |
| 7. | School Lunch *1970, Ch. 871* | 9,664 |
| 8. | School Choice Receiving Tuition *Ch. 76, s. 12B, 1993, Ch. 71* | 0 |

**Sub-Total, All Education Items** 6,928,306

## B. GENERAL GOVERNMENT:

**Distributions and Reimbursements:**

| | | |
|---|---|---|
| 1. | Lottery, Beano & Charity Games | 2,006,215 |
| 2. | Additional Assistance | 0 |
| 3. | Local Share of Racing Taxes *1981, Ch. 558* | 0 |
| 4. | Regional Public Libraries *Ch. 78, s. 19C* | 0 |
| 5. | Police Career Incentive *Ch. 41, s. 108L* | 88,442 |
| 6. | Urban Renewal Projects *Ch. 121, ss. 53-57* | 0 |
| 7. | Veterans' Benefits *Ch. 115, s. 6* | 29,735 |
| 8. | Exemptions: Vets, Blind & Surviving Spouse *Ch. 58, s. 8A; Ch. 59 s. 5* | 22,124 |
| 9. | Exemptions: Elderly *Ch. 59, s. 5, Cl. 41, 41B, 41C* | 43,674 |
| 10. | State Owned Land *Ch. 58, ss. 13-17* | 70,290 |

**Offset Item - Reserve for Direct Expenditure:**

| | | |
|---|---|---|
| 11. | Public Libraries *Ch. 78, s. 19A* | 20,509 |

**Sub-Total, All General Government** 2,280,989

## C. TOTAL ESTIMATED RECEIPTS, FISCAL 2006 9,209,295

APPENDIX

# M

# SAMPLE TAX RECAP SHEET

State Tax Form 31C

**THE COMMON WEALTH OF MASSACHUSETTS**
**DEPARTMENT OF REVENUE**
**TAX RATE RECAPITULATION**
**OF**

**FISCAL 2006**

**ABINGTON**
City\Town\District

**I. TAX RATE SUMMARY**

Ia. Total amount to be raised (from IIe) $ 39,731,

Ib. Total estimated receipts and other revenue sources (from IIIe) 19,408,

Ic. Tax levy (Ia minus Ib) $ 20,322,

Id. Distribution of Tax Rates and levies

| CLASS | (b) Levy percentage (from LA-5) | (c) IC above times each percent in col (b) | (d) Valuation by class (from LA-5) | (e) Tax Rates (c) / (d) x 1000 | Levy (d) |
|---|---|---|---|---|---|
| Residential | 87.5304% | 17,788,530.10 | 1,737,162,084 | 10.24 | |
| Exempt | | | | | |
| Open Space | 0.0000% | .00 | 0 | | |
| Commercial | 9.6948% | 1,970,243.96 | 192,407,016 | 10.24 | |
| Exempt | | | | | |
| Industrial | 1.2710% | 258,301.36 | 25,224,000 | 10.24 | |
| SUBTOTAL | 98.4962% | | 1,954,793,100 | | |
| Personal | 1.5038% | 305,612.58 | 29,844,400 | 10.24 | |
| TOTAL | 100.0000% | | 1,984,637,500 | | |

MUST E

Board of Assessors of ABINGTON
City or Town

Date

Tel. No

**ABINGTON** — City/Town/District — **FISCAL 2006**

| | | | |
|---|---|---|---|
| **II. Amounts to be raised** | | | |
| IIa. Appropriations (col. (b) through col. (e) from page 4) | | | $ 38,694,240.83 |
| IIb. Other amounts to be raise | | | |
| 1. Amounts certified for tax title purposes | | .00 | |
| 2. Debt and interest charges not included on page 4 | | .00 | |
| 3. Final court judgements | | .00 | |
| 4. Total overlay deficits of prior years | | .00 | |
| 5. Total cherry sheet offsets (see cherry sheet 1-ER) | | 30,173.00 | |
| 6. Revenue deficits | | .00 | |
| 7. Offset receipts deficits Ch. 44, Sec. 53E | | .00 | |
| 8. Authorized deferral of teacher's pay | | .00 | |
| 9. Snow and ice deficit Ch. 44 Sec. 31d | | 417,991.35 | |
| 10. Other (specify onseparate letter) | | 5,508.73 | |
| TOTAL IIb (Total lines 1 through 10) | | | 453,673.08 |
| IIc. State and county cherry sheet charges (C.S. 1-EC cols. 1 and 2) | | | 262,917.00 |
| IId. Allowance for abatements and exemptions (overlay) | | | 320,581.25 |
| IIe. Total amount to be raised ( Total IIa through IId) | | | $ 39,731,412.16 |
| **III. Estimated receipts and other revenue sources** | | | |
| IIIa. Estimated receipts - State | | | |
| 1. Cherry sheet estimated receipts (C.S. 1-ER Total) | $ | 9,209,295.00 | |
| 2. Massachusetts school building authority payments | | .00 | |
| TOTAL IIIa | | | 9,209,295.00 |
| IIIb. Estimated receipts - Local | | | |
| 1.Local receipts not allocated (page 3,col.(b),Line23) | | 4,077,421.50 | |
| 2. Offset receipts (See Schedule A-1) | | .00 | |
| 3. Enterprise funds (See Schedule A-2) | | 1,703,256.00 | |
| 4. Community preservation funds (See Schedule A-4) | | .00 | |
| TOTAL IIIb | | | 5,780,677.50 |
| IIIc. Revenue sources appropriated for particular purposes | | | |
| 1. Free cash (page 4, col. (c)) | | 1,957,000.00 | |
| 2. Other available funds (Page 4, col. (d) ) | | 2,461,751.66 | |
| TOTAL IIIc | | | 4,418,751.66 |
| IIId. Other revenue sources appropriated specifically to reduce the tax rate | | | |
| 1a. Free cash...appropriated on or before June 30,2006 | | .00 | |
| b. Free cash...appropriated on or after July 1,2006 | | .00 | |
| 2. Municipal light source | | .00 | |
| 3. Teacher's pay deferral | | .00 | |
| 4. Other source : | | .00 | |
| TOTAL IIId | | | .00 |
| IIIe. Total estimated receipts and other revenue sources (Total IIIa through IIId) | | | $ 19,408,724.16 |
| **IV.Summary of total amount to be raised and total receipts from all sources** | | | |
| a. Total amount to be raised (from IIe) | | | $ 39,731,412.16 |
| b. Total estimated receipts and other revenue sources(from IIIe) | $ | 19,408,724.16 | |
| c. Total real and personal property tax levy (from Ic) | $ | 20,322,688.00 | |
| d. Total receipts from all sources (total IVb plus IVc) | | | $ 39,731,412.16 |

**LOCAL RECEIPTS NOT ALLOCATED ***

**ABINGTON**
City/Town/District

| | | (a) Actual Receipts Fiscal 2005 | (b) Estimated Receipts Fiscal 2006 |
|---|---|---|---|
| 1 | MOTOR VEHICLE EXCISE | 1,644,394.00 | 1,620,000.00 |
| 2 | OTHER EXCISE | .00 | .00 |
| 3 | PENALTIES AND INTEREST ON TAXES AND EXCISES | 219,123.00 | 210,000.00 |
| 4 | PAYMENTS IN LIEU OF TAXES AND EXCISES | .00 | .00 |
| 5 | CHARGES FOR SERVICES - WATER | 1,749,497.65 | 1,433,421.50 |
| 6 | CHARGES FOR SERVICES - SEVER | .00 | .00 |
| 7 | CHARGES FOR SERVICES - HOSPITAL | .00 | .00 |
| 8 | CHARGES FOR SERVICES - TRASH DISPOSAL | .00 | .00 |
| 9 | OTHER CHARGES FOR SERVICES | .00 | .00 |
| 10 | FEES | 101,575.00 | 100,000.00 |
| 11 | RENTALS | 12,180.00 | 12,000.00 |
| 12 | DEPARTMENTAL REVENUES - SCHOOLS | .00 | .00 |
| 13 | DEPARTMENTAL REVENUES -LIBRARIES | .00 | .00 |
| 14 | DEPARTMENTAL REVENUES - CEMETERIES | .00 | .00 |
| 15 | DEPARTMENTAL REVENUES - RECREATION | .00 | .00 |
| 16 | OTHER DEPARTMENTAL REVENUE | 119,965.00 | 118,000.00 |
| 17 | LICENSES AND PERMITS | 359,884.00 | 358,000.00 |
| 18 | SPECIAL ASSESSMENTS | .00 | .00 |
| 19 | FINES AND FORFEITS | 51,991.00 | 51,000.00 |
| 20 | INVESTMENT INCOME | 176,734.00 | 175,000.00 |
| 21 | MISCELLANEOUS RECURRING(PLEASE SPECIFY) | .00 | .00 |
| 22 | MISCELLANEOUS NON-RECURRING(PLEASE SPECIFY) | 302,023.00 | .00 |
| **23** | **TOTALS** | **$ 4,737,366.65** | **$ 4,077,421.50** |

I hereby certify that the actual receipts as shown in column (a) are, to the best of my knowledge correct and complete, and I further certify that I have examined the entries made on page 4 of the Fiscal 2006 tax rate recapitulation form by the City, Town or District Clerk and hereby acknowledge that such entries correctly reflect the appropriations made and the sources from which such appropriations are to be met.

| Date | Accountant/Auditor | Telephone No. |
|---|---|---|

* Do not include receipts in columns (a) or (b) that were voted by the City/Town Council or Town Meeting as offset receipts on Schedule A-1, enterprise funds on Schedule A-2, or revolving funds on Schedule A-3. Written documentation should be submitted to support increases /decreases of estimated receipts to actual receipts.

-> Written documentation should be submitted to support increases/decreases of FY2005 estimated receipts to FY2006 estimated receipts to be used in calculating the muncipal revenue growth factor.

**CERTIFICATION OF APPROPRIATIONS AND SOURCES OF FUNDIN**

**ABINGTON**
City/Town/District

**FISCAL 2006**

| APPROPRIATIONS | | | | | | | AUTHORIZATIONS MEMO ONLY | |
|---|---|---|---|---|---|---|---|---|
| City/Town Council or Town Meeting Dates | FY* | (a) Total Appropriations of Each Meeting | (b) ** From Raise and Appropriate (Tax Levy) | (c) From Free Cash See B-1 | (d) From Other Available Funds See B-2 | (e) From Offset Receipts (See A-1), Enterprise Funds (See A-2), or Community Preservation Fund (See A-4) | (f) *** Revolving Funds (See A-3) | (g) Borrowing Authorization |
| 04/04/05 | 2005 | 181,850.00 | | | 66,850.00 | 115,000.00 | | 4,000,000.00 |
| 04/04/05 | 2006 | 35,709,001.33 | 32,624,598.67 | 757,000.00 | 936,582.66 | 1,390,820.00 | 171,000.00 | |
| 11/07/05 | 2006 | 2,803,389.50 | 16,634.50 | 1,200,000.00 | 1,458,319.00 | 128,436.00 | | 1,133,041.00 |
| **Totals** | | 38,694,240.83 | 32,641,233.17 | 1,957,000.00 | 2,461,751.66 | 1,634,256.00 | | |
| | | Must Equal Cols. (b) thru (e) | | | | | | |

* Enter the fiscal year to which the appropriation relates, i.e., fiscal year 2005 or fiscal June 30,2006.

** Appropriations included in column (b) must not be reduced by local receipts or any other funding source. Appropriations must be entered gross to avoid a duplication in the use of estimated or other sources of receipts.

I hereby certify that the appropriations correctly reflect the votes taken by Town Meeting/City Council.

_____ _____ _____
_____

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