



Bulletin

2012-02B

FY2013 BUDGET ISSUES AND PROCEDURES

TO: City/Town/Regional School District Officials
FROM: Gerard D. Perry, Director of Accounts
DATE: March 2012
SUBJECT: FY2013 Budget Issues and Procedures

This *Bulletin* addresses several issues that cities, towns, regional school and other districts should consider for FY2013 revenue and expenditure budgeting and other related matters.

G.L. Chapter 44, § 31 Emergencies

Over the past several months, many Massachusetts communities experienced multiple emergencies after which they were granted permission to expend in excess of appropriation by the Director of Accounts under G.L. c. 44, § 31. Accounting-wise, the Bureau suggests that Accountants track expenditures and possible reimbursements for these emergencies individually to prepare for any final reporting requirement or necessary borrowing authorization.

The Bureau's policy on this matter is that emergency expenditures prior to June 30, 2011 should have been provided for on the FY2012 tax rate. Emergency expenditures after July 1, 2011 may have been so provided for but must be provided for on the FY2013 tax rate less any FEMA/MEMA reimbursements received for that emergency. Funds borrowed for an emergency purpose is considered being provided for.

Budgeting in Full Prior to Tax Rate Certification

In the Bureau's opinion, although events may occur after tax rate certification that require additional budget action, the city or town budget as reported on the tax rate recap should represent final spending authority as budgeted and appropriated. Cities and towns should not submit the form for tax rate certification with the intention of funding the remainder of the budget as funds become available.

Transfer of Overlay to Overlay Surplus

In June of 2011, the Bureau released [IGR 11-101](#) regarding the overlay and proper determination of overlay surplus. Overlay surplus is an available fund that may be appropriated for any lawful purpose until June 30, after which it must be closed to the General Fund. The Commissioner of Revenue, through the Bureau of Accounts, may take any of the following actions where the Assessors certify and the Accounting Officer records an improper transfer amount:

- Reduce certified free cash by the excessive transfer;
- Treat any appropriation from overlay surplus as an appropriation from free cash;
- Require local action to remedy the excessive transfer before approving the tax rate.

The Bureau suggests that this IGR be reviewed by Assessors and Accountants.

Levy Limit Rule Clarification

In its annual levy limit instructions, the Bureau clarified its policy regarding the debt exclusion when unspent debt proceeds are transferred to another project.

If the project to which the unspent debt excluded proceeds relates has been completed and the proceeds are transferred into another project applying the provisions of G.L. c. 44, § 20, the debt exclusion must be proportionately reduced unless:

- the project into which the debt excluded proceeds are transferred into is already debt excluded; or
- the transferred amount is de minimus, i.e. represents less than \$.01 on the prior fiscal year's tax rate.

In both cases, the excess proceeds had to result from reasonable, good faith actions on the part of the Treasurer and other local officials in issuing the debt, i.e. not intended to create available funds for other spending purposes.

If the project into which the debt excluded proceeds are transferred into is not already debt excluded, a new debt exclusion vote may request exclusion of the transferred proceeds emphasizing in the vote the original exclusion and change of purpose.

[FY2013 preliminary levy limits](#) for budget planning purposes and instructions are available on the DLS website. The levy limit calculation is the same as in FY2012 unless otherwise noted in the instructions' cover letter.

Community Preservation Fund

During FY2012, 147 cities and towns collected the local Community Preservation Act (CPA) surcharge and are eligible for state matching grants in FY2013. The Division of Local Services (DLS) estimates that the balance in the state trust fund will be sufficient to provide a first round match of 22% of the surcharge levied by each city and town. This will trigger an equity and surplus distribution for those cities and towns that have adopted the maximum 3% surcharge. With these additional distributions, the total state reimbursement for qualifying cities and towns will increase, depending on their decile and total surcharge amount (see <http://www.mass.gov/dor/local-officials/municipal-data-and-financial-management/data-bank-reports/cpa/> for applicable decile). Please note that these estimates are subject to change depending on Registry of Deeds collections between now and September.

For purposes of completing schedule A-4, part 1a, state trust fund distribution, the Bureau will accept no amount greater than 22% of the FY2012 net (after abatements) surcharge committed unless:

- the actual FY2013 distribution calculated and published by DLS (by law no later than October 15) shows a greater amount; or
- reasonable supporting documentation submitted can support a greater amount.

Enterprise Funds

Combining Water and Sewer Funds

Communities with separate water and sewer enterprise funds voted under G.L. c. 44, § 53F½ may, by vote of the local legislative body, combine both utilities into a single water-sewer fund. The combined fund will be treated the same as the individual funds were and will have only one certified retained earnings.

When Converting from Special Revenue to Enterprise

When converting from a special revenue fund to an enterprise fund, the fund balance in the special revenue fund may be transferred to the fund balance of the enterprise fund by vote of the city or town legislative body. Any fund balance not so transferred must close to the General Fund on June 30. Any fund balance transferred will become retained earnings only after certification by the Bureau.

On Estimating FY2013 Enterprise Revenues

The Bureau will not allow FY2013 estimated revenue for user charges based upon the government's intent alone to raise these charges in the future. These charges must be raised before the tax rate recap is submitted for tax rate certification to the Bureau.

When revenues are estimated based upon consumption alone, the Bureau will continue to require reasonable supporting documentation for this claim. Be reminded that a structural deficit in enterprise fund retained earnings (not due to timing) must be provided for in the next tax rate.

On Appropriating Enterprise Retained Earnings

Appropriation from retained earnings may only be made after the earnings are certified by the Bureau and in no greater amount than so certified.

On Betterments and Proceeds from Borrowed Funds

Without special legislation, communities cannot reserve betterments or the proceeds from borrowed funds in an enterprise fund. [See IGR 08-101](#). Communities intending to appropriate betterments solely for enterprise fund debt service are advised to appropriate from retained earnings the amount received in the prior fiscal year from betterments into a special purpose stabilization fund for this purpose. Should the legislative body change the purpose of this stabilization fund, the funds must be returned to retained earnings of the enterprise from which they were voted. Proceeds from borrowed funds should be recorded in the capital projects fund.

Appropriation of Excess and Deficiency by Regional School District

As a reminder to regional school districts, both the Bureau of Accounts and the Department of Elementary and Secondary Education agree that excess and deficiency must be certified by the Bureau of Accounts from a regional school district's balance sheet and can only then be applied by the members for purposes of the FY2013 assessment.

Massachusetts School Building Authority (MSBA) Lump Sum Payments

[IGR 08-102](#) provides guidance to local officials on the treatment of lump sum payments from MSBA. If the lump sum payment results in no further debt due on the project, the payment must close to the General Fund at fiscal year's end unless the community voted a debt exclusion for the project. If so and if the tax rate for that fiscal year has already been certified, the payment must be reserved to reduce the following fiscal year's levy limit. The payment may then be used as a local estimated receipt on page 3 of the tax rate recap. For a regional school district, the amount returned to the members must be treated as indicated in this paragraph.

Please be reminded that if any district sells, leases or otherwise removes a building which has received MSBA financial assistance, MSBA will take steps to recoup its investment and the district may need to appropriate funds. The district must provide 6-month prior notice to MSBA of any sale, lease or removal from service of an assisted school building.

State Special Education Reimbursement Fund ("Circuit Breaker")

As a reminder, per Department of Elementary and Secondary Education (DESE) regulations, the balance in this fund at the close of FY2012 can be no greater than DESE's FY2012 reimbursement, not including extraordinary assistance. Any excess fund balance must close to the General Fund. Any deficit fund balance must be charged to FY2013's school budget. See [603 CMR 10.07](#) for additional details.

Regional School District Balance Sheet Required

Regional school districts must submit a balance sheet to the Bureau for certification of excess and deficiency as of June 30. DESE regulations indicate that if a balance sheet is not filed timely, the Commissioner of DESE may request of the Commissioner of Revenue to withhold all or some part of the quarterly distribution of state aid for that school district until a balance sheet is submitted.

State law and the DESE regulation require a balance sheet to be submitted to the Bureau on or before October 31 of each year. Annual Bureau instructions indicate the submission requirements. Audited balance sheets are not required, but the submission must be in a format that will allow the Bureau to calculate an excess and deficiency amount.

Use of Sale of Real Estate

Proceeds from the sale of real estate are not allowed as an estimated receipt on page 3 of the tax rate recap without special legislation. These proceeds must be placed into an available fund for appropriation toward certain restricted purposes indicated in G.L. c. 44, § 63.

Dealing with an FY2012 Revenue Deficit

The Bureau reminds that a revenue deficit occurs when actual revenues and expenditures (exclusive of legal appropriation deficits) compare unfavorably to budgeted non-property tax revenues and appropriations. If appropriation turn-backs are insufficient to cover the non-property tax revenue shortfall, a revenue deficit exists that must be provided for in the following fiscal year, no later than the setting of that fiscal year's tax rate.

Dealing with an FY2012 Appropriation Deficit

G.L. c. 44, § 31 specifically states that "no department financed by municipal revenue, or in whole or in part by taxation of any city or town...shall incur a liability in excess of the appropriation made for the use of such department..." Overspending is allowed by the General Laws only in certain circumstances. All governmental entities must closely monitor their spending pattern, especially during the latter half of the fiscal year, so that improper overspending does not occur. Appropriation deficits must be provided for in the following fiscal year's tax rate recap. [IGR 06-209](#) detailing alternative year-end transfer procedures may be of assistance.

Workers' Compensation Fund Deficit

Communities having voted a Workers' Compensation Fund under either G.L. c. 40, § 13A or § 13C and having a fund deficit as of June 30 must provide for the deficit in the next fiscal year's tax rate. The deficit will also be a reduction in the calculation of free cash. A deficit caused by recognizing future claims as liabilities on June 30 need not be so provided for on the next tax rate and will not be a reduction to free cash.

Pension Reserve Transfers and PERAC Approval

Any city or town with a Pension Reserve Fund pursuant to G.L. c. 40 § 5D and is considering a transfer from this fund pursuant to G.L. c. 32, §22 part 6A(b) must first receive permission from PERAC, the Massachusetts Public Employee Retirement Administration Commission. Any transfer reported on Schedule B-2 submitted with the tax rate recap indicating Pension Reserve as the transfer source must be accompanied by PERAC's written approval prior to tax rate certification.

Revenue Budgeting for FY2013

- The Bureau **will continue to require** that any FY2013 estimated receipt above its FY2012 actual amount (except for rounding) be supported by reasonable documentation. The Bureau cautions against unreasonable FY2013 estimates that may be rejected by the Bureau for tax rate setting purposes.
- *Meals Excise Taxes:* According to DLS' Municipal Data Bank, 151 cities and towns have adopted the local option meals excise tax. Cities and towns expecting to adopt this local option effective at the beginning of FY2013 must vote to accept it by May 31, 2012.
- *Rooms Excise Taxes:* According to DLS' Municipal Data Bank, 176 cities and towns have adopted a local option room occupancy excise tax. Cities and towns expecting to adopt this local option effective at the beginning of FY2013 must vote to accept it by May 31, 2012.

- *Meals/Rooms Estimated Receipts:* For cities and towns that adopted either or both of these local options effective in FY2012, revenue estimates for FY2013 will be based upon 12 months of receipts. For cities and towns adopting by May 31, 2012 either or both local option for the first time in FY2013, only 10 months of receipts should be expected. [DLS' Municipal Data Bank](#) provides meals tax revenue estimates and room occupancy actuals to assist in FY2013 revenue estimation.
- *School-Based Medicaid estimated receipts:* The Bureau suggests that city and town budget officials review their FY2013 revenue estimate carefully with their school department or local program administrator. Any increase from actual receipts received in FY2012 must be supported by reasonable supporting documentation.
- *Revolving Funds:* For cities and towns that adopt revolving funds under G.L. c. 44, § 53E½, the law limits authorized receipts to 1% of the prior fiscal year's tax levy for each department and a total of 10% of the prior fiscal year's tax levy for all revolving funds voted under this section.

Expenditure Budgeting for FY2013

- *Other Amounts to be Raised:* State law allows for only certain items to be raised without appropriation. Any other amounts being so raised must be supported by special legislation.
- *School lunch deficit:* The Bureau will not require a school lunch account deficit to be provided for on the next tax rate recap if the deficit is deemed to be due to timing of receipt of funds. Otherwise, a structural deficit must be raised, subject to approval of the Director of Accounts, on the tax rate recap without appropriation if not otherwise provided for.
- *Court Judgments and Settlements for Judgment:* Any final court judgment (one in which no further appeal has or will be taken) or settlement for judgment rendered between July 1 and the time the next tax rate is set must be raised on the tax rate recap without appropriation on page 2, part IIB, line 3 if not otherwise provided for. Any judgment or settlement for judgment rendered (1) after the setting of the tax rate through June 30, and (2) in an amount greater than \$10,000, may with the written approval of the Director of Accounts be paid from available funds in the treasury and be raised on the next fiscal year's tax rate recap.
- *Self-Insurance Plans for Employee Health Insurance:* If the June 30, 2012 claims trust fund balance is in deficit for cities, towns or regional school districts with such a fund, the deficit must be provided for (1) in a city or town by appropriation or by raising it on the tax rate recap as an other amount to be raised and (2) in a regional school district by providing for it in the FY2013 regional school district budget. The Bureau will notify DESE of any deficit in the regional school district. Any deficit is also a reduction to a city or town's certified free cash or to a regional school district's certified excess and deficiency amount.
- *Pension Appropriations:* A pension assessment must be provided for in the FY2013 tax rate. If the amount appropriated is less than the assessment, the amount needed to fully fund the assessment must be raised on the tax rate recap, (page 2, part IIB, line 10) per G.L. c. 32, § 22.

Certification of City, Town, District and Regional School District Notes and Receipt of Audit Reports

Audit reports of cities, towns and districts are required if expenditure of federal funds exceed threshold amounts promulgated by the federal Office of Management and Budget. Audits of regional school districts are required under G.L. c. 71, § 16A. For FY2013, the Bureau will not certify revenue notes of a city, town, district or regional school district if a required audit for the period ended June 30, 2011 has not been submitted to the Bureau.

Free Cash Update and Non-Recurrent Distributions to Cities and Towns

The Bureau will continue its policy to allow cities and towns an opportunity to request from the Director of Accounts authority to reserve and appropriate non-recurrent distributions over a certain period of time through the free cash update process.

For cities and towns, state law permits inclusion of receipts attributable to prior years, principally collection of property taxes, up to March 31. G.L. c. 59, § 23. This update to the amount previously certified provides additional spending authority based on those items, but must first be certified by the Director prior to appropriation. The Director will not certify an additional amount if use of those funds could, in the Director's opinion, result in a negative free cash as of the following June 30. Only one request may be made per fiscal year. If an amount is certified by the Director and a negative free cash as of the following June 30 results, the city or town may not request a similar update for the following fiscal year.

Pro Forma Recap and Preliminary Real and Personal Property Tax Bills

Semi-annual and quarterly tax billing city, town and special purpose taxing districts continue to have the option to issue preliminary tax bills (first half for semi-annuals and 3rd quarter for quarterlies) if a reassessment or the final determination of assessed valuations has been delayed. Although the purpose and procedure for issuance have not changed, it should be noted that pro forma approval is at the discretion of the Director of Accounts, subject to a recommendation from the Chief of the Bureau of Local Assessment.