



Municipal Guide to Local Cultural Council (LCC) Fund Raising

This document is designed to provide relevant information to municipalities regarding:

- LCC's Ability to Raise Funds
- Management of Raised Funds
- Spending Decisions
- Payments from LCC Funds
- Additional Comments
- General Law, Regulations, and IRS Resources

LCCs' Ability to Raise Funds

The funds that LCCs receive to carry out their mission to promote the arts, humanities and sciences are generally derived from three sources: the Massachusetts Cultural Council, local government and other locally raised funds.

LCCs may, on application, receive funding from the Massachusetts Cultural Council during its annual grant award cycle. They may also receive municipal funds through an appropriation to the LCC from a city or town they serve. In addition, under [M.G.L. Chapter 10 Section 58](#), local and regional cultural councils "may accept grants, contributions, gifts, bequests, devises, and other donations from all sources..." which are referred to as locally raised funds.

LCCs are encouraged to communicate with their municipality early and often if they would like to undertake fundraising activities locally in order to ensure that the appropriate processes are in place to track the income and expenditure of locally raised funds.

Management of Raised Funds

The management of all funds raised by an LCC is dictated by the LCC program statute (M.G.L. c.10, s.58). It states that municipalities shall establish

"a revolving account which shall be kept separate and apart from all other monies" for the LCC "in which shall be deposited all receipts from the state arts lottery fund... and any other receipts or donations to the local or regional cultural council authorized by law" and that "all such funds, including interest earned thereon, may be expended at the direction of the local or regional cultural council, without further appropriation."

Municipal treasurers and accountants should follow their normal procedures for setting up and tracking revolving fund activity and are encouraged to call their MCC staff contact or their

Department of Revenue Bureau of Accounts field representative if they have questions. According to DOR, the statute directs that all revenue be credited to the LCC account, including gifts and interest, which would otherwise be segregated. LCC should also be aware that unlike other statutorily authorized revolving funds, the LCC revolving fund is permitted to receive appropriations from a municipality.

Ultimately, a system must be in place that allows the municipal treasurers, accountants and the LCC to track the revolving fund account balance and activity. Even though all funds reside in a single revolving fund bank account, the LCC and the local treasurer must be able to track the receipt and expenditure of different types of LCC funds separately (state funds, municipal funds and locally raised funds) as well as allocate interest accordingly. To satisfy MCC reporting requirements, we encourage the LCC to meet with the treasurer and accountant or auditor to determine how, working together, these recordkeeping goals might best be accomplished.

Requirements for managing local funds are outlined in both Mass General Law Section 58 chapter 10 and Regulations for LCC Operations and Procedures 962 CMR 2.05, 2.08(2), and 2.08(3).

Spending Purposes and Decisions

The mission of an LCC is to locally promote and advance the arts, humanities and sciences. Toward this end, LCC often sponsor school field trips, afterschool programs, concerts, festivals, lectures, films and theater, dance, music performances. Or, LCCs contract with others to provide these experiences and performances. LCC projects take place in schools, community centers, libraries, elder care facilities, town halls, parks, and wherever communities come together.

An LCC must conform to the MCC program requirements and the relevant provisions M.G.L. Chapter 10 when it considers what local programs to support with funds received from the MCC. When an LCC commits those funds to local programs, the money must be awarded on a reimbursement basis in support of community-based projects in the arts, humanities and sciences. Program parameters can be found on the MCC website at www.massculturalcouncil.org.

Additionally, an LCC has authority to establish spending purposes which are intended to be financed by locally raised funds. Often times, language will accompany grants, gifts or donations outlining specific spending purposes, which must be honored if consistent with the LCC mission.

Many municipalities, through their annual budget process, appropriate funds to the LCC for the general purpose of promoting the arts, humanities and science locally. While an appropriating article may specify how town funds are to be used, most communities defer to the LCC. Where a city or town chooses to direct the use of appropriated funds, it may do so by specifying three broad areas of support. Funds may be:

- Distributed using the state grant cycle and processes established by the MCC
- Used for council administrative expenses

- Used for programs organized by the LCC itself, such as concerts, festivals, open studio tours, etc.

In every case, the MCC encourages LCCs to communicate with local officials on community needs and potential program goals.

Payments from LCC Funds

An LCC is regarded as a municipal department and therefore any payment from the LCC revolving fund must be approved through the local vendor warrant process. Invoices and requests for payments must be approved by a subcommittee of no less than two members of the LCC and then submitted to the city or town accountant, but only after the spending purpose has been achieved. Advance payments by municipal departments are not permitted under state law. Accordingly, the funds may be spent as the local council directs, but the revolving fund balance may be accessed only through the process used by the community's accountant's and/or treasurer's office for the expenditure of public funds. An LCC cannot establish and maintain a separate checkbook or non-municipal account from which it would disburse funds.

Additional Comments

Anti-Aid Amendment. The question has been raised whether the redistribution of municipal funds through the state grant cycle and processes violates the Anti-Aid Amendment of the State Constitution. The amendment prohibits the use of public money or resources for private purposes or for the benefit of private organizations.

The Massachusetts Cultural Council (MCC) enabling statute (M.G.L. c. 10, §§ 52-58), regulations and guidelines operate to ensure that LCC grants do not constitute a gratuity or gift of public funds for the sole benefit of a private individual or organization, but instead serve a public purpose. The procedures, and requirements placed on LCCs, comply with guidelines set out by the Division of Local Services in its opinion letters on the subject.

To avoid the risk of violating the State anti-aid Amendment, LCCs must comply with procedures set-out in MCC program regulations, which are described as follows:

The LCC is required to issue a call for proposals. It must review the proposals to determine which provide the most public benefit and then may award funds to finance those programs or performances. A formal agreement must be reached between the LCC and the performers or with an organization that contracts with performers. When the grant recipient seeks payment, the council must evaluate whether the program has been completed as promised. The LCC may then submit a payment request to the Town Accountant, who must review documentation and approve the request. In all cases, no payment is permitted until after the performance or program is complete.

Gift and Donations. Typically the municipality does not play any role in the securing of gifts or donations to the LCC. If a donor requires additional information about the LCC's tax exempt status LCCs are directed to provide them with the [LCC Fundraising Statute, Regulations, and Code](#). If a donor needs proof of the local council's connection to the municipality, the council may ask its city or town to provide a letter verifying that the LCC is a municipal entity. See a

[Sample Municipal Letter Verifying LCC is Part of City/Town Government](#). Each municipality can determine its own policies on providing such documentation.

The MCC has gotten questions about the process for cities and towns to accept funds donated to their LCC. The acceptance of gifts and donations in general for municipal government and its agencies is set out in MGL c.44, s.53A. However, c.10, s.58 is specific as to how an LCC accepts gifts and donations. And, because s.58 includes the language “notwithstanding the provisions of 44/53A,” the informal opinion of the Department of Revenue’s Division of Local Services is that a city or town cannot impose requirements on acceptance or alter a stated purpose of the gift or donation. The notwithstanding clause also eliminates any expenditure review by the mayor in a city, or council or selectmen in a town.

General Law, Regulations and IRS Resources

Massachusetts General Law Chapter 10 Section 58:

“Notwithstanding the provisions of section fifty-three A of chapter forty-four, local and regional cultural councils may accept grants, contributions, gifts, bequests, devises, and other donations from all sources, including governmental bodies and shall deposit such monies and any other revenues, including revenues derived from local or regional cultural councils activities, in the revolving fund established under the provisions of this section...”

“..Notwithstanding the provisions of section fifty-three of chapter forty-four, any city, town or consortium of cities and towns otherwise pursuant to the provisions of section four A of chapter forty, shall establish in the city or town treasury, or in one of the cities or towns in the consortium a revolving account which shall be kept separate and apart from all other monies by the treasurer and in which shall be deposited all receipts from the state arts lottery fund, distributed under the provisions of section fifty-six, and any other receipts or donations to the local or regional cultural council authorized by law... All such funds, including interest earned thereon, may be expended at the direction of the local or regional cultural council, without further appropriation, and such council may establish a subcommittee of no less than two members and may delegate thereto its authority to approve all payrolls, bills, requests for payment, or accounts prior to submission to the accountant, auditor or official performing similar functions; provided, however, that such subcommittee shall make available to such council at its next meeting, a record of such actions of such subcommittee...”

962 CMR 2.08(2): Regulations for LCC Operations and Procedures

“Local or regional councils are encouraged to leverage funds from sources other than the state, including private contributions, local government allocations, program revenues, interest from the LCC’s municipal account, and so on. To enhance the opportunity for the donors of such funds to qualify their gift as deductible for federal income, gifts and estate tax purposes, funds received by gift to a LCC are considered to be donated to a political subdivision of the Commonwealth exclusively for public purposes as defined in Section 170(c) of the Internal Revenue Code of the United States.”

962 CMR 2.05: Management of Local Council Funds

“Each local council must keep *all funds* (state funds from the MCC, interest earned and locally raised funds) in the LCC’s municipal account. The LCC’s municipal account must be a revolving account kept separate and apart from all other monies administered by the city or town treasurer as specified by M.G.L. c. 10, § 58. Councils are entitled to interest on their municipal account

and to regular financial reports from the municipality. The funds may be spent as the local council directs, but may be accessed only through the process used by the community's treasurer and/or accountant's office for the expenditure of public funds. Separate checkbooks or non-municipal accounts are not permissible.

Locally raised funds and interest earned can be spent at the discretion of the local council, but only to support the arts, humanities and interpretive sciences. Unlike state funds distributed to the LCC from the MCC, prior MCC approval for expenditure of locally raised funds and interest earned is not required."

962CMR 2.08(2): Fundraising from sources other than the state

"...Regardless of the source, all of a local council's funds must be used to support programs in the arts, humanities or interpretive sciences in Massachusetts, and should meet the other substantive requirements set forth in the *LCC Guidelines*. Locally raised funds and interest earned must be kept in the LCC's municipal account with the LCC's state funds (as specified by 962 CMR 2.05). Locally raised funds and interest earned should be identified on the books of the city or town as funds derived from sources other than the MCC. Unlike state funds distributed to the LCC from the MCC, prior MCC approval for expenditure of locally raised funds and interest earned is not required."

962 CMR 2.08(3): Initiating council-originated projects

"LCCs are themselves eligible to apply for funds for local council-originated programs that respond to cultural needs that are not otherwise being addressed in the community. Councils should refer to the *LCC Guidelines* for information about eligibility, review criteria and procedures.

Funds raised locally from local council-originated projects must be kept in the LCC's municipal account. LCCs must observe the process and procedures outlined in 962 CMR 2.05 and 2.08(2) that detail how these funds must be kept, distributed and reported."

LCC Program Regulations and Guidelines: Criteria for awarding funds

"Individual applicants must show that a public benefit results from the project for which they are applying. A public presentation of an individual's work may provide the needed public benefit."

"Local council funds must be used to support activities that contribute to the cultural vitality of the community as a whole, rather than benefiting any private individual or group."

LCC Program Regulations and Guidelines: Payment to Awardees

"Grant recipients have one year from the date of their final approval letter to request reimbursement. In order to request reimbursement the recipient must complete a reimbursement form, which is provided by the council. Reimbursements may be made either directly to the applicant or to third party vendors who have provided goods, materials or services to the applicant... If the local council is satisfied that the project has been completed as promised, a minimum of two council members sign the form and forward it to the municipal treasurer, who will authorize the release of funds to the grantee."

Internal Revenue Code 26 USC § 170 – Charitable, Etc., Contributions and Gifts:

“(a) Allowance of deduction (1) General rule: There shall be allowed as a deduction any charitable contribution (as defined in subsection (c)) payment of which is made within the taxable year.”

“(c) Charitable contribution defined: For purposes of this section, the term “charitable contribution” means a contribution or gift to or for the use of—

(1) A State, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.”

Links

[Mass General Law Chapter 10 Section 58](#)

[LCC Regulations and Guidelines](#)

[Municipal Guide to the LCC Program](#)

[Massachusetts Cultural Council, LCC Program Staff](#)

[Department of Revenue, Division of Local Services](#)