



Municipal Guide to Local Cultural Council (LCC) Fundraising

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

- Local Cultural Council's ability to fundraise: Statute Regulation and Code
- How Municipalities and LCCs are required to manage Locally Raised Funds
- Receipt and expenditure of municipal funds
- Receipt and expenditure of non-state and non-municipal funds
- Additional Resources

Local Cultural Council's ability to fundraise: Statute, Regulations, and Code

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..."

Regulations for Local Cultural Council Operations and Procedures 962 CMR

2.08(2):

“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 local cultural council 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.”

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.”

How Municipalities and LCCs are required to manage Locally Raised Funds

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

962 CMR 2.05: Management of Local Council Funds

“Each local council must keep *all funds* (state funds from the Mass Cultural Council, 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 Mass Cultural Council, prior Mass Cultural Council 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 Mass Cultural Council. Unlike state funds distributed to the LCC from the Mass Cultural Council, prior Mass Cultural Council approval for expenditure of locally raised funds and interest earned is not required."

962 CMR 2.08(3) Initiating council-originated projects

"Local cultural councils 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."

A number of municipal auditors and accountants asked for clarification of the Massachusetts's Cultural Council's (Mass Cultural Council's) expectations in regards to maintaining a separate interest bearing account for the Local Cultural Council. To that end, the LCC program statute (M.G.L. c.10, s.58) 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 Mass Cultural Council 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. Expenditures from the LCC revolving fund must be approved through the local warrant process.

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, allocate interest, and to track the receipt and expenditure of different types of LCC funds separately (state funds, locally raised funds and interest). To satisfy Mass Cultural Council 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.

Receipt and expenditure of municipal funds

Municipalities may choose to allocate municipal funds to the Local Cultural Council to further promote arts, humanities and science locally. Municipal governments have the authority to specify how town funds may be used. The Mass Cultural Council encourages Local Cultural Councils and Municipal authorities to work together to determine what best meets their specific community's needs. The municipality may choose to direct municipal funds to three broad areas of support specifying that municipal funds be:

- Distributed using the state grant cycle and processes established by the Mass Cultural Council
- Used for council administrative expenses
- Used for programs organized by the Local Cultural Council itself, such as concerts, festivals, open studio tours, etc.

Several communities have asked whether the redistribution of municipal funds through the state grant cycle and processes violates the Anti-Aid Amendment. The Mass Cultural Council enabling statute (M.G.L. c. 10, §§ 52-58), regulations and guidelines operate to ensure that Local Cultural Council 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 Local Cultural Councils, comply with guidelines set out by the Division of Local Services in its opinion letters on the subject. (See Opinion EM2006-280 and 2013-118 - not attached herein).

In brief, the following defines a “grant” and the “grant cycle” in the context of the Local Cultural Council Program: The Local Cultural Council is required to issue a call for proposals. It reviews the proposals to determine which provide the most public benefit and then awards funds to finance those programs or performances. A formal agreement is reached between the Local Cultural Council and the performers, or with an organization that contracts with performers. When the grant recipient seeks payment, the council evaluates whether the program has been completed as promised and submits a payment request to the Town Accountant, who then reviews documentation and must approve the request. In all cases, no payment is made until after the performance or program is complete.

In addition to the experts of the enabling legislation and regulations already provided in this document, additional guidelines that govern the distribution of state funds can be found below. Municipalities can require that the same requirements apply to the distribution of municipal funds.

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.”

Receipt and expenditure of non-state and non-municipal funds

The relevant statute and regulations regarding locally raised funds have been provided above. Local Cultural Councils 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.

Typically the municipality does not play any role in the securing of 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. Each municipality can determine its own policies on providing such documentation.

The MASS CULTURAL COUNCIL 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. The notwithstanding clause also eliminates any expenditure review by the mayor in a city, or council or selectmen in a town.

Additional Resources

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

[Local Cultural Council Regulations and Guidelines](#)

[Municipal Guide to the LCC Program](#)

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

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