

A Publication of the Massachusetts Department of Revenue's Division of Local Services



May 6th, 2021

It's Time to Update the Local Officials Directory!
Donnette Benvenuto - Data Analytics and Resources
Bureau Data Analyst



In this edition:

- **It's Time to Update the Local Officials Directory!**
- ***Ask DLS: Community Preservation Act - Part 11***
- **Community Preservation Fund: Projected State Match**

It's election season and this is a good time to remind municipal clerks of the critical role they play in updating the Local Officials Directory. The Directory, located within the [Division of Local Services \(DLS\) Gateway](#), serves as the key communications tool for DLS communication with municipal officials in every community in the Commonwealth. It consists of contact information such as email address, telephone number, department and official title and election/appointment information. It also maintains real-time tracking for training qualifications for assessing department members.

Municipal clerks are designated as the Local Account Administrators (LAA), as they are the official keeper of records, are the administrators of all oaths of offices and oversee municipal elections. As Administrators, clerks are responsible for adding and modifying Gateway Accounts.

The most frequent maintenance task this time of year is updating officials based on recent election results or appointments. To do this, go into the Directory and on the

- **Due Date Extended for Mosquito Spraying Opt-Out Applications**

Important Dates & Information

DLS Seeks Municipal Tax Counsel

The Division of Local Services is seeking an experienced attorney to join its dedicated municipal finance legal team. The attorney who fills this position serves as a legal resource for personnel within the Department of Revenue and other state agencies on the legal and policy issues that arise in the course of the local tax and finance oversight responsibilities of the Division. The attorney drafts advisory notices, opinions, guidelines and other publications that interpret municipal tax and finance laws and explain agency positions, policies and practices to local officials; drafts and reviews legislation; conducts training programs and presentations for local officials; responds to formal and informal

left side under Local Official Directory, click on Add/Edit Person/Position. The easiest way to add a new official is to use the former official's record, change the data and click save. Gateway will then ask: "Are you adding a newly elected or appointed official to the Directory, or are you correcting the data of an existing official?" by clicking ADD NEW, you will deactivate the former official and add the new official to the Directory. A new account can then be opened for the new official. See below.

Look for a follow-up to this article focusing on FAQ's on Directory maintenance in our next edition. In the meantime, if you have any questions please reach out to DLS Gateway Support at dlsgateway@dor.state.ma.us. If you are a municipal clerk or an assigned LAA for the Directory and would like assistance, you may access our [Guide to Local Accounts Administrators](#).

Ask DLS: Community Preservation Act - Part 11

This month's Ask DLS features Part 11 of frequently asked questions concerning the Community Preservation Act (CPA) and CPA funding for eligible historic resources. Additional questions about the CPA will be featured in future editions of *City & Town*. For Part 10 of the series, see the [April 1, 2021 edition of City & Town](#). For additional information on

inquiries from state and local officials about municipal tax and finance law; and performs other duties as assigned. The position requires minimal travel throughout Massachusetts.

The preferred candidate will have experience or background in municipal finance or state or local government. The preferred candidate will also be familiar with the requirements of legal practice in the public sector, have strong interpersonal skills and be able to work in a fast-paced environment. To learn more about this exciting public service opportunity, please [click here](#).

New IGR Related to Supplemental Tax Assessments and Abatements Due to Fire or Natural Disaster

The Division of Local Services (DLS) has issued and posted Informational Guideline Release (IGR) 2021-12 informing local officials of the requirements of G.L. c. 59, § 2D allowing supplemental tax assessments and abatements due to fire or

the Community Preservation Act see [Informational Guideline Release \(IGR\) 19-14](#). Please let us know if you have other areas of interest or send a question to cityandtown@dor.state.ma.us. We would like to hear from you.

In general, what community preservation projects are eligible for funding under the CPA?

There are three community preservation project or asset categories: (1) open space (including land for recreational use); (2) historic resources; and (3) community housing. These FAQs will discuss “historic resource” projects that are eligible for CPA funding.

What is the definition of “historic resources?”

“Historic resources” for CPA purposes is defined in [G.L. c. 44B, § 2](#) as a “building, structure, vessel real property, document or artifact that is listed on the state register of historic places or has been determined by the local historic preservation commission to be significant in the history, archeology, architecture or culture of a city or town.”

For what purposes may CPA funds be spent regarding historic resources?

Under [G.L. c. 44B, § 5\(b\)\(2\)](#), CPA funds may be appropriated, on the recommendation of the Community Preservation Committee, “for the acquisition, preservation, rehabilitation and restoration of historic resources.” The CPA clarifies allowable community preservation project expenditures through its definitions which are found in [G.L. c. 44B, § 2](#). As a result, the CPA definitions should always be reviewed when determining if an expenditure is allowable.

natural disaster.

[IGR 2021-12 – Supplemental Tax Assessment on New Construction](#)

To access additional IGRs and Bulletins, please visit this [webpage](#).

MassDOT Shared Streets & Spaces Grant Program Bonus Round

MassDOT is pleased to announce a new round of the Shared Streets and Spaces Grant Program, which is now open for applications. All municipalities and transit authorities in the Commonwealth are eligible to apply.

The new phase will operate similarly to previous iterations of the Shared Streets and Spaces Program by supporting municipalities and transit authorities to improve plazas, sidewalks, curbs, streets, bus stops, parking areas, and other public spaces in support of public health, safe mobility, and renewed commerce. Bonus

“Acquisition” is defined in [G.L. c. 44B, § 2](#) as “obtain[ing] by gift, purchase, devise, grant, rental, rental purchase, lease or otherwise.” “Acquire” does not include a taking by eminent domain, except as provided under [c. 44B](#).

“Preservation” is defined under [G.L. c. 44B, § 2](#) as “protection of personal or real property from injury, harm or destruction.”

“Rehabilitation” is defined under [G.L. c. 44B, § 2](#) as “capital improvements, or the making of extraordinary repairs, to historic resources, open spaces, lands for recreational use and community housing for the purpose of making such historic resources, open spaces, lands for recreational use and community housing functional for their intended uses including, but not limited to, improvements to comply with the Americans with Disabilities Act and other federal, state or local building or access codes; provided, that with respect to historic resources, “rehabilitation” shall comply with the Standards for Rehabilitation stated in the United States Secretary of the Interior’s Standards for the Treatment of Historic Properties codified in 36 C.P.R. Part 68; and provided further, that with respect to land for recreational use, “rehabilitation” shall include the replacement of playground equipment and other capital improvements to the land or the facilities thereon which make the land or the related facilities more functional for the intended recreational use.”

“Capital improvement” is defined as “reconstruction or alteration of real property that: (1) materially adds to the value of the real property or appreciably prolongs the useful life of the real property; (2) becomes part of the real property or is permanently affixed to the real property so that removal would cause material damage to the property or article itself; and (3) is intended to become a permanent

points will be awarded to projects seeking to address an identified safety concern through measures such as street reconfigurations and traffic calming. Bonus points will also be awarded to projects with the following features:

- Environmental Justice communities. An additional bonus point will be awarded to projects that are situated in Census Blocks in which the area median household income is below the statewide median household income
- Municipalities designated as a COVID-19 'higher risk (red) community' at the time of application (check status [here](#))
- Cities and towns that have not previously received a Shared Streets and Spaces grant in either summer or winter cycles

installation or is intended to remain there for an indefinite period of time."

"Restoration" is not defined under the CPA and we are not aware of any cases defining "restoration" in the CPA context. In the absence of such an interpretation, we look to the usual and generally understood meaning of words from sources known to the legislature, such as use in other legal contexts and dictionary definitions. See [Seideman v. Newton, 452 Mass. 472, 477-478 \(2008\)](#). At [webster-dictionary.org](#), "restoration" is defined as "the act of restoring or bringing back to a former place, station, or condition."

What are some examples of allowable 'historic resources' CPA projects?

Rehabilitation and Restoration of historic resources - Funding is allowable for the rehabilitation of a historically significant municipally-owned building listed on the state register of historic places, provided the expenditure falls within the CPA definition of "rehabilitation," is not within the CPA definition of "maintenance" and the work complies with the Standards for Rehabilitation stated in the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties. [G.L. c. 44B, § 2](#).

Acquisition, Rehabilitation and Restoration of historic resources - Funding is allowable for the rehabilitation of the exterior of a building designed by H.H. Richardson, located on Main Street, owned by a nonprofit, a much-photographed and prominent feature of the downtown which has been determined by the local historic preservation commission to be "significant in the history, archaeology, architecture or culture" of the city or town, in exchange for the municipality's acquisition of a historic preservation restriction from the nonprofit, provided the

- Proposed projects with a budget of \$50,000 or less
- Quick-build projects that can be implemented by September 7, 2021
- Projects that are proximate to schools, senior centers, transit and transit connections, and open space and parks

Applications will be accepted until Friday, May 21st. Award notifications will be made by June 25th. Please visit the Shared Streets and Spaces Grant Program website for more information on eligible project types and how to apply. Please send any questions to sharedstreets@dot.state.ma.us.

For examples of previously funded Shared Streets and Spaces projects, please visit the [MassDOT Google Photo Drive](#) or the [Metropolitan Area Planning Council Flickr page](#) for photos of successfully

expenditure falls within the CPA definition of “rehabilitation,” is not “maintenance” and the work complies with the Standards for Rehabilitation stated in the U.S. Secretary of the Interior’s Standards for the Treatment of Historic Properties and provided the grant does not violate the Anti-aid Amendment.

The Anti-aid Amendment to the Massachusetts Constitution, Mass. Const. Amend. Article 42, § 2, as amended by Article 103, provides in relevant part:

No grant, appropriation or use of public money or property or loan of credit shall be made or authorized by the Commonwealth or any political subdivision thereof for the purpose of founding, maintaining or aiding any...institution...or charitable or religious undertaking which is not publicly owned and under the exclusive control, order and supervision of public officers or public agents authorized by the Commonwealth or federal authority or both.. and no such grant, appropriation or use of public money or property or loan of public credit shall be made or authorized for the purpose of founding, maintaining or aiding any church, religious denomination or society....

A three-factor test to determine the constitutionality of grants challenged under the first clause of the *Anti-aid Amendment* was developed by the court in [Commonwealth v. School Comm. of Springfield](#), 382 Mass. 665, 675 (1981). That three-part test was applied by the court in [Caplan v. Town of Acton](#), 479 Mass. 69 (2018) when evaluating the constitutionality of a grant of CPA funds under the second clause of the *Anti-aid Amendment*. The three factors are: (i) whether the proposed grant is for the purpose of founding, maintaining or aiding [the institution, private organization, nonprofit, church, etc.]; (ii) whether the effect of the grant is to substantially aid [the institution, private organization,

implemented projects. We also encourage applicants to refer to the [Award Announcements](#) page on the Shared Streets and Spaces Program website for descriptions of previously funded projects. Prospective applicants may also be interested in viewing the [Shared Streets and Spaces resource library](#) for case studies and other evaluation materials.

Bulletin 2021-2: FY2022 Budget Issues and Other Related Matters

This [Bulletin](#) addresses several issues that cities, towns, regional school and other districts should consider for FY2022 budget issues and other related matters including:

- **Coronavirus Relief Fund (CvRF) and The American Rescue Plan Act (ARPA)**
- **Dedication of Revenue Stream to a Stabilization Fund**
- **Estimating FY2022 Receipts**

nonprofit, church, etc.); and (iii) whether the grant avoids the political and economic abuses which prompted the passage of the *Anti-aid Amendment*.

Although the *Anti-aid Amendment* applies to grants to private entities and religious and charitable organizations, the principle that public funds may not be granted for private purposes and can be used only for public purposes also applies to grants of public funds to individuals. “It is a fundamental principle, conforming to constitutional requirements...and frequently declared, that money raised by taxation can be used only for public purposes and not for the advantage of private individuals.” [Opinion of the Justices](#) 313 Mass. 779, 784 (1943).

Whenever a grant of community preservation funds is being considered for a private organization or individual or entity over which the city/town has no legal control, municipal counsel should be consulted to ensure compliance with the *Anti-aid Amendment* and relevant case law. Additionally, a grant agreement should be required to ensure that the public’s funds are protected and spent as appropriated. Municipal counsel should again be consulted to draft or review the terms of a grant agreement.

Acquisition, Rehabilitation and Restoration of historic resources – Funding to restore or rehabilitate religious-content stained glass windows of an active church building (within the CPA definition of historic resource) in exchange for conveyance of a historic preservation restriction to the municipality is not allowable because such funding is in violation of the *Anti-aid Amendment*. [Caplan v. Acton, 479 Mass. 69 \(2018\)](#). In applying the three-part test, the court determined: (i) the stated purpose of the proposed grant was for historic preservation and there was insufficient evidence to demonstrate a hidden purpose to aid the

- **Estimating FY2022 Enterprise Revenues**
- **Appropriations from Free Cash to Reduce the Tax Levy**
- **Appropriating from Free Cash or Enterprise Retained Earnings**
- **Balance Sheets as of 6/30/2021 and Revenue Recognition**
- **Betterment Reserve**
- **Special Accounting Treatment for Intended FEMA Reimbursement**
- **Early Voting Law**
- **911 Reimbursements**
- **Borrowing Purposes and Terms**
- **Borrowing - Premiums, Surplus Proceeds and Debt Exclusions**
- **Certification of Notes and Receipt of Audit Reports**
- **Court Judgments**
- **Departmental Revolving Funds**
- **Emergency Expenditures**

church; (ii) the effect of the grant would be to substantially aid the church; and (iii) the grant would not avoid the political and economic abuses which prompted the passage of the Anti-aid Amendment. After weighing and balancing the three factors, the court concluded that even if the sole motivating purpose of the grant was to preserve historic resources, “the other factors in our analysis – especially the third factor, to which we accord special weight – still compel the conclusion that the stained glass grant runs afoul of the anti-aid amendment.” [Caplan, 479 Mass at 95-96.](#)

Rehabilitation of historic resources - Painting that is an integral part of a larger, eligible rehabilitation or restoration project, i.e., painting after extraordinary repairs or restoration of walls, woodwork, trim or siding (etc.) is allowable. However, periodic painting or repainting of a historic building on a recurring basis would be in the nature of “maintenance” and not be eligible for CPA funding.

Restoration of historic resources - Painting to restore a historic building to its original historic color is allowable. For example, a historic building originally painted yellow was painted purple in the 1970s. In this case, restoring the building to its historic yellow color is not periodic or recurring painting and is not "maintenance." However, repainting the building yellow in a few years after its original painting would be “maintenance” and is not allowable.

Preservation of historic resources - Funding to move a historic lighthouse, within the CPA definition of “historic resource,” away from the edge of an ocean bluff that is eroding due to ocean wave and storm action such that the lighthouse is in danger of falling into the ocean, is an allowable CPA expenditure for the purpose of “preservation.” As previously stated, “preservation” is defined narrowly in [G.L. c. 44B, § 2](#) as “protection of

- **Energy Generating Facilities Enterprise Fund**
- **Energy PILOTs under G.L. c. 59, § 38H(b)**
- **Estimating FY2022 Medicaid Receipts**
- **Expenditure Budgeting for FY2022**
- **Expenditure of Federal Funds Threshold**
- **Free Cash Update and Non-Recurrent Distributions to Cities and Towns**
- **Advances in Anticipation of Issuing Debt**
- **Minimum Performance Bond – Treasurers, Collectors and Clerks**
- **Year End Transfers**
- **School Finance**

To review other Bulletins and Publications recently issued by DLS, please see this [webpage](#).

New Informational Guideline Releases

personal or real property from injury, harm or destruction.” If the lighthouse is owned by a nonprofit, legal counsel should be consulted to ensure that the Anti-aid Amendment is not violated. A historic preservation restriction running to the municipality should be required to ensure the continued preservation of the lighthouse which was the purpose of the CPA expenditure.

Preservation or Restoration of historic resources - If a municipal document is determined by vote of the local historic preservation commission to be “significant in the history, archeology, architecture or culture of a city or town,” then CPA funding is allowable for the “acquisition, preservation, rehabilitation and restoration” of the physical document. For example, CPA funding could be used to de-acidify the paper, repair tears, remove harmful films and residues and encase the document in protective mylar. These expenditures would be allowable as “restoration” or “preservation” of the historic resource – the document.

Ineligible “historic resource” projects

- Funding for an inventory of historic buildings within the municipality is not allowable as a CPA project expenditure because an inventory is not a “historic resource” under the CPA definition. However, preparing the inventory may be fundable, in whole or in part, under the CPC’s administrative and operating budget if the inventory will assist the CPC in performing its statutory duties, including reviewing the community’s community preservation “needs, possibilities and resources.” [G.L. c. 44B, § 5\(b\)\(1\)](#).
- A document on file at the municipal clerk’s office is not a historic resource under the CPA unless the document has been determined by vote of the local

The Division of Local Services (DLS) has issued and posted the following Informational Guideline Releases (IGRs) regarding the form and content of tax bills and cost of living adjustments for FY2022.

[IGR 2021-3 - Fiscal Year 2022 Tax Bills Semi-Annual Payment System](#)

[IGR 2021-4 - Fiscal Year 2022 Tax Bills Semi-Annual Payment System – Optional Preliminary Bills](#)

[IGR 2021-5 - Fiscal Year 2022 Tax Bills Semi-Annual Payment System – Annual Preliminary Bills](#)

[IGR 2021-6 - Fiscal Year 2022 Tax Bills Quarterly Payment System](#)

[IGR 2021-7 - Social Security Deduction for Fiscal Year 2022](#)

[IGR 2021-8 - Optional Cost of Living Adjustment for Fiscal Year 2022 Exemptions](#)

The Bureau of Accounts has also posted its updated Enterprise Fund Manual. [See IGR 2021-11 -](#)

historic preservation commission to be “significant in the history, archeology, architecture or culture of a city or town.” [G.L. c. 44B, § 2](#). For example, the birth record of Benjamin Franklin or the municipality’s original charter could be determined by the local historic preservation commission to be “significant in the history, archeology, architecture or culture of a city or town.”

- Funding for cataloging, indexing, scanning, digitizing, transcribing or otherwise preserving the information content of municipal documents rather than preserving or restoring the physical historic resource itself, is not allowable. The historic document is the “historic resource.”
- Funding for the codification of a municipality’s by-laws or ordinances is not allowable because the expenditure does not acquire, preserve, rehabilitate or restore a “historic resource” under the CPA definition.
- Funding to research and write a history of the municipality is not an allowable expenditure because the expenditure does not acquire, preserve, rehabilitate or restore a “historic resource” under the CPA definition.
- Funding for the acquisition, preservation, rehabilitation or restoration of replicas of historic resources is not allowable because “replicas” are not within the CPA definition of historic resource.

Stay tuned for next month’s *City & Town* for Part 12 in our FAQ series on the CPA where we will discuss the disposition of CPA property. For more information see [Informational Guideline Release \(IGR\) 19-14](#).

[Enterprise Funds.](#)

To access additional IGRs and Bulletins, please visit this [webpage](#).

Municipal Vulnerability Preparedness (MVP) Program FY22 Funding Round Now Open

Municipal Vulnerability Preparedness Program Planning Grants

The Executive Office of Energy and Environmental Affairs (EEA) is seeking proposals for Municipal Vulnerability Preparedness (MVP) Planning Grants, which provide support for Massachusetts cities and towns to complete climate vulnerability assessments and develop action-oriented climate resiliency plans. The program helps communities define extreme weather and natural and climate related hazards; understand how their community may be impacted by climate change; identify existing and future vulnerabilities and strengths; and develop, prioritize, and implement key actions. State-trained MVP

Community Preservation Fund: Projected State Match Lisa Krzywicki - Data Analytics and Resources Deputy Bureau Chief

The Division of Local Services (DLS) has projected the first round CPA state match at 32.3% for FY2022. This match percent is based on projected FY 2021 local surcharge commitments of \$187.2 million with 177 communities eligible for a state match. We expect a state trust fund balance of \$75.5 million to be available in November of 2021.

Trust fund revenues are generated by real estate transactions as recorded at the Registry of Deeds. Our projected balance is based on trends in revenue reporting to the MA Department of Revenue over the last twelve months. If actual revenue collections result in a material change, DLS will revise the estimated first round state match and an update will be released in *City & Town*.

For information on historical surcharges and state matching funds, please visit the DLS website by clicking [here](#). Local officials or Community Preservation Committees needing additional information or having questions can contact the Data Analytics & Resources Databank team at databank@dor.state.ma.us.

CPA communities should begin completing the CP-1 surcharge report in the [DLS Gateway application](#) as soon as possible. This form, along with the [CP-3 project inventory report](#), is due on September 15, 2021, and all forms must be completed before the actual state match can be completed. If you need password assistance for either Gateway or the CP-3 application, please contact the Data Analytics & Resources support team at dlsgateway@dor.state.ma.us.

providers offer technical assistance to communities in completing the assessment and resiliency plans.

Communities that complete the MVP planning grant program become certified as an MVP community and are eligible for MVP Action Grant funding. The link to the COMMBUYS website hosting the RFR and required forms can be accessed through the new [MVP program website](#).

Planning Grant applications are due by 4:00 p.m. on June 4, 2021 (via email, see RFR for details) for MVP planning processes that must be complete by June 30, 2022. Please reach out to kara.runsten@mass.gov with questions.

Municipal Vulnerability Preparedness Program Action Grants

EEA is also seeking proposals for MVP Action Grants, which provide designated MVP Communities funding to implement priority climate adaptation actions identified through the MVP

Due Date Extended for Mosquito Spraying Opt-Out Applications

Executive Office of Energy and Environmental Affairs

The Executive Office of Energy and Environmental Affairs (EEA) is extending the application deadline for municipalities to opt-out of SRMCB mosquito spraying to **Friday, May 28, 2021**.

For an application to be considered for approval by EEA, an email containing the alternative mosquito control management plan and a certified vote by local City Council or Select Board must be submitted by midnight on May 28, 2021 to the email inbox EEAopt-out@mass.gov. For an alternative mosquito control management plan to be considered complete, the minimum requirement is a detailed public outreach and education component. Program details can be found [here](#).

planning process or similar climate change vulnerability assessment and action planning that has led to MVP designation after EEA review.

Projects are required to use climate data and projections. Projects that propose nature-based solutions or strategies that rely on green infrastructure or conservation and enhancement of natural systems and that have robust community engagement plans are preferred. Applicants can request up to \$2 million in funding (regional proposals may request up to \$5 million), and a 25 percent match of the total project cost is required.

EEA recommends reading the RFR in full as there have been several updates to the Action Grant RFR from the last round; significant changes are outlined on page 1. The link to the COMMBUYS website hosting the RFR and required forms can be accessed through the new [MVP program website](#).

Action Grant proposals are due by 2:00 p.m. on May 7, 2021 (via online form, see RFR for

details) for project proposals that must be completed by June 30, 2022, or June 30, 2023.

Please reach out to kara.runsten@mass.gov with questions.

Cybersecurity and IT Health Check Programs

The Office of Municipal and School Technology has announced the following programs available to Massachusetts municipalities and schools. If you have any questions, please contact Catherine.Marques@mass.gov

[Cybersecurity Health Check](#)

The Cybersecurity Health Check Program provides opportunities for local government to access basic cyber security services at no cost.

These services can be a good first step in discovering, assessing and identifying cybersecurity gaps that could impact IT systems that support essential business functions. This is a rolling application.

[IT Health Check](#)

An IT Health Check is a high-level assessment of current IT assets. A Health Check can be a good first step in discovering, assessing and identifying gaps that could impact IT systems that support essential business functions.

The discovery will result in a completed score card that will identify the current state of critical IT systems, and platform and vendor agnostic suggestions. This is a rolling application.

DLS Links:

[COVID-19 Resources and Guidance for Municipal Officials](#)

[Events & Training Calendar](#)

[Municipal Finance Training and Resource Center](#)

[Local Officials Directory](#)

[Municipal Databank](#)

[Informational Guideline Releases \(IGRs\)](#)

[Bulletins](#)

[Tools and Financial Calculators](#)



Editor: Dan Bertrand

Editorial Board: Sean Cronin, Donnette Benvenuto, Linda Bradley, Paul Corbett, Theo Kalivas, Ken Woodland and Tony Rassias

Contact *City & Town* with questions, comments and feedback by emailing us at cityandtown@dor.state.ma.us.

To unsubscribe to *City & Town* and all DLS alerts, email dls_alerts@dor.state.ma.us.