



Local Finance Opinion

LFO 2018-2
July 23, 2018

TOPIC: Insurance and Restitution Proceeds

ISSUE: Accounting treatment of fire or physical damage insurance policy proceeds or restitution received for damage to city, town or district property

This LFO addresses questions relating to (1) the accounting treatment of money received by a city, town or district under an insurance policy or as restitution for damage to its property and (2) the availability of the money for expenditure.

1. What is the general rule related to the receipt of money by a city, town or district officer or department?

All money received or collected from any source by a city, town or district belongs to its general fund and can only be spent after appropriation unless a general or special law provides an exception, *i.e.*, expressly restricts use for a particular purpose or allows expenditure without appropriation. [G.L. c. 44 § 53](#). Additionally, under ordinary municipal finance laws and accounting standards established by the Director of Accounts, the availability of any receipts or collections for appropriation depends in large measure on when they are received. [G.L. c. 59 § 23](#). If received between July 1 and the setting of the tax rate, they can be treated as estimated receipts to support an appropriation from the levy before the rate is set for the proposed purpose. If received later or not budgeted as part of the tax rate, they are not available for appropriation until after the close of the fiscal year and certification by the Director as free cash.

2. Is there an exception to the general rule for insurance or restitution proceeds?

Yes. Money received under the terms of a fire or physical damage insurance policy or received in restitution for damage done to city, town or district property may be spent by the department or officer having control of the property for its restoration or replacement with the approval of the chief executive officer of the municipality or district. No appropriation is required to spend the proceeds for that purpose. Restitution proceeds include, but are not limited to, court-ordered money or money received under relevant agreements or settlements. However, this exception only applies where the total amount received for the insurance claim or restitution is \$150,000 or less. Additionally, the department or officer must spend the proceeds to restore or replace the damaged property on or before June 30 of the fiscal year in which the proceeds are received, or 120 days after receipt, whichever is later. [G.L. c. 44 § 53](#). Upon receipt, the accounting officer must establish an account for the proceeds. If the department or officer does not spend the proceeds, *i.e.*, incur a contractual liability, for the restoration or replacement of the property within that time frame, the accounting officer must close any unspent or unencumbered balance to the general fund.

For example, a fire damages the town's Department of Public Works (DPW) storage shed and the insurance company pays the town \$25,000 on its claim for the damage. Because the amount of the fire insurance proceeds is \$150,000 or less, the DPW can spend the \$25,000, with the approval of the chief executive officer, to repair or replace the shed. No appropriation is needed, but the DPW can only spend the proceeds for this specific purpose and must do so on or before June 30 of the fiscal year the town received payment on its claim, or 120 days after receipt, whichever is later. Any unspent or unencumbered money at the end of that time period will close to the general fund.

Moneys received as reimbursement for economic loss do not receive similar preferential treatment under [G.L. c. 44 § 53](#). In addition, revenue cannot be credited to an appropriation. Therefore, if an existing appropriation was used to finance the repair or replacement of the property before the insurance or restitution proceeds were received, the proceeds are credited to the general fund.

3. How should accounting officers treat the receipt of insurance or restitution proceeds of more than \$150,000?

The Director of Accounts establishes accounting standards for municipalities and districts and determines available funds in accordance with those accounting standards. [G.L. c. 44, § 38](#); [G.L. c. 59, § 23](#). The Director has determined that where the total amount received for the insurance claim or restitution is more than \$150,000, the proceeds may be reserved for appropriation during the fiscal year received for the purpose of restoring or replacing the damaged property. These proceeds may be the only or a significant financing source for the repair or replacement of the damaged property. Depending on when received, however, the municipality or district might have to wait for a considerable period of time before it could repair or replace the damaged property. Because [G.L. c. 44 § 53](#) establishes insurance and restitution proceeds as a class of receipts that may be spent for a particular purpose without first being certified as free cash, the Director has determined that money received for an insurance claim or restitution in an amount greater than \$150,000 is available for appropriation for that restricted purpose until June 30. The accounting officer should establish a receipt reserved for appropriation account and credit the proceeds to that account. Any proceeds not appropriated by the legislative body by June 30 to repair or replace the damaged property close to the general fund. In the ordinary course, the proceeds would then become part of the free cash certified by the Director as of the following July 1 and once certified, may be appropriated for any lawful purpose.

Note, however, that if the proceeds are received on or before March 31, and the municipality or district wants to appropriate them for a purpose other than to repair or replace the damaged property, it may request that the Director update its free cash certified as of the previous July 1 to include the unappropriated proceeds and make them available for appropriation for the other purpose on or before June 30.



Kathleen Colleary, Chief
Bureau of Municipal Finance Law