Alan LeBovidge
Commissioner

Gerard D. Perry
Deputy Commissioner

City and Town

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

Volume 17, No. 9 October 2004

Procurement and Administration of Audit Services

by Katherine Rudeen, Massachusetts Office of the Inspector General

The Office of the Inspector General (OIG) recently issued *A Local Official's Guide to Procuring and Administering Audit Services* to clarify the narrow M.G.L. Chapter 30B exemption for services provided by Certified Public Accountants (CPAs). The guide explains circumstances when CPA contracts should be competitively procured and provides recommendations concerning the hiring of audit firms and the administration of audit service contracts.

Chapter 30B, the Uniform Procurement Act, establishes procedures that most local government jurisdictions must follow for the acquisition and disposition of supplies, equipment, services and real property. Chapter 30B contains a number of exemptions including one for the services of CPAs.[1] Despite these exemptions, the OIG encourages the use of competitive procedures even when such use is not legally mandated.

Chapter 30B requires a competitive procurement process using an Invitation for Bids or Request for Proposals for non-CPA auditing or accounting contracts estimated to cost $25,000 or more. For contracts estimated to cost less than $25,000, but more than $5,000, Chapter 30B requires three price quotations. Contracts costing $5,000 or less must be entered into using sound business practices.

Although CPAs provide an array of professional services, not all services provided by CPAs are exempt from Chapter 30B. It is the opinion of the OIG that the CPA exemption applies only to services that could reasonably be restricted exclusively to CPAs. For example, there would be a reasonable expectation that CPAs would prepare a community's annual financial audit, single audit, or attestation service. However, other contracts with CPAs are not exempt simply because a CPA is chosen to perform the service. For example, a CPA contract to purchase and install accounting software would not be exempt under Chapter 30B. Additionally, the exemption is only applicable if the accounting or auditing professional providing the service is a CPA. If a non-CPA provides the service, the contract is not exempt from Chapter 30B.

Numerous recommendations are provided in the guide for cities and towns to follow for all audit, consulting, and accountancy procurements and contracts. For example, the OIG recommends that vendor contracts be specific and clearly define all vendor responsibilities.

Cost alone should not be the sole determinate when procuring audit services for your jurisdiction, but cost is a legitimate factor to consider. The quality of the training, expertise, and the credentials of the personnel proposed by the vendor should be considered by your jurisdiction in addition to cost.

The OIG recommends contacting the Massachusetts Division of Professional Licensure to verify the registration status of a CPA. This agency grants certificates and licenses to practice public accountancy to individuals who comply with statutory requirements and may revoke, suspend, and/or discipline registrants that did not comply with statutory requirements and/or professional standards.

When a CPA firm is hired, the firm should conform to the requirements of the *Government Auditing Standards* (Yellow Book) published by the Government Accountability Office (formerly the General Accounting Office). The standards outlined in the Yellow Book provide a framework to ensure that governmental auditors have the competency, integrity and objectivity to plan, conduct and report their work. Very specific limitations on the types of non-audit services that an audit firm can perform are also explained.

continued on page four

Inside This Issue

From the Deputy Commissioner

During budget hearings, a town department head provided the finance committee with details about personnel costs and expenses. After town meeting approved the budget, the accounting officer used the information to allocate the department's personal services and expense appropriations. Eventually, the department head overspent an expense allocation and a dispute arose as to whether monies could be transferred from another expense allocation to cover it.

In most instances, these allocations are not binding because town meeting did not actually vote them as separate appropriations in the first place. They are simply informational and aid in monitoring expenditures within the voted line item appropriation. The department head has discretion to reallocate within the voted item.

The format of town budgets is not governed by state statute (unlike city budgets that are required by M.G.L. Ch. 44 Sec. 32 to include certain items for each department). Therefore, town meeting may give department heads complete flexibility to spend for any operating purpose by appropriating a single item for each department. If it wishes to retain greater control, it may appropriate in as many line items as considered desirable.

Therefore, it is important to recognize that a town department head's spending authority is a function of the budget format actually voted by town meeting.

Gerard D. Perry
Deputy Commissioner

Legal

in Our Opinion

Are Interim Year Adjustments a State Mandate?

by James Crowley

As many are aware, the Bureau of Local Assessment (BLA) has instituted for fiscal year 2005 a new policy concerning the reporting of interim year adjustments as part of its *Guidelines for Development of a Minimum Reassessment Program*. Every three years the Commissioner of Revenue certifies whether the board of assessors is assessing property at full and fair cash value as set forth in M.G.L. Ch. 40 Sec. 56. In the following two years only those assessors who adjusted valuations more than 10 percent to reflect changes in market values had to report the results of their program to the Department of Revenue (DOR) before setting the tax rate.

Under DOR's new policy, all assessors whose communities are not being certified must now furnish an Interim Year Adjustment Report annually commencing in FY2005. Under DOR Guidelines, assessors may complete a valuation adjustment plan without prior approval from the BLA. Once the valuation adjustment plan has been completed, the community's new valuations must be uniform. Where valuation changes have been made, the assessors must prepare and retain any documentation such as sales ratio analyses. In addition, the assessors must submit a valuation adjustment report to the BLA on or before the due date of the LA-4 Assessment/Classification Report. Even if no valuation adjustments were made, this new report must be filed to permit the approval of the property tax rate.

State Auditor Joseph DeNucci issued an advisory opinion on whether DOR's new policy was an unfunded state mandate. It was his understanding that implementation of this new report would impose additional costs on some cities and towns. Under M.G.L. Ch. 29 Sec. 27C(c) "Any administrative rule or regulation taking effect on or after January first, nineteen hundred and eighty-one which shall result in the imposition of additional costs upon any city or town shall not be effective until the General Court has provided by general law and by appropriation for the assumption by the Commonwealth of such cost, exclusive of incidental local administration expenses, and unless the General Court provides by appropriation in each successive year for such assumption."

According to the state auditor, the new report initially appeared to be a new requirement. Upon reviewing the matter with DOR and local officials, he concluded, however, that the report was "actually an administrative effort to compel compliance with the long-standing duty to determine the full and fair cash value of property on an annual basis." As courts in Massachusetts have recognized, the Local Mandate Law only applies where there is a change in some pre-1981 law or regulation that imposes new obligations on municipalities.

Even prior to January 1, 1981, there was a state statutory and constitutional requirement to assess property at full and fair cash value. See in this regard M.G.L. Ch. 59 Sec. 2A and *Town of Sudbury v. Commissioner of Corporations and Taxation*, 366 Mass. 558 (1974). Despite this legal duty, not all boards of assessors had been making interim year adjustments. In fact, the state auditor noted that DOR, prior to the issuance of the new guidelines, had only required an Interim Year Adjustment Report from those communities that had made adjustments that resulted in a 10 percent or greater increase in total assessed value. Yet, the

continued on page eight

Focus

on Municipal Finance

Changes in Reporting and Funding Postemployment Benefit Costs

by Samuel R. Tyler, President, Boston Municipal Research Bureau

Change is coming in how state and local governments will be required to account for and report their costs and obligations related to postemployment benefits such as health and life insurance for retired public employees and eligible spouses. The reporting and funding of retiree benefits is somewhat comparable to addressing the pension liability over 15 years ago and is similar to what is required of for-profit entities. These changes have potential cost implications that cities and towns should understand before fiscal year 2007 and that may require a move to a standardized statewide approach as done with pension obligations.

The Governmental Accounting Standards Board (GASB) has issued Statement No. 45, Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions (OPEB). A companion Statement No. 43 deals with related plans. The purpose of these statements is to improve the relevance and usefulness of financial reporting by requiring states and municipalities to identify, through actuarial analysis, the true costs of the OPEB earned by employees over their estimated years of active service. Massachusetts cities and towns primarily budget for OPEB on a pay-as-you-go basis and thus information about the nature and size of long-term financial obligations related to OPEB are not reported. The statements require public employers to determine the actuarial accrued liabilities associated with OPEB in a similar fashion to pensions and to report the extent that these liabilities are funded and the amount of the unfunded liability in footnotes in their financial statements. The reporting format would be in accordance with Generally Accepted Accounting Principles (GAAP).

Meeting the requirements of the GASB statements will:

- Identify the OPEB unfunded actuarial accrued liability for each city and town.
- Change financial statements to reflect prospective liability but may not affect general fund balance.
- Require new expenditures for actuarial analysis every two or three years.
- Potentially require a reassessment of the business model for funding OPEB and health care.
- Result in eventual budget increases for OPEB expenses that could be substantial.

GASB Standards

The GASB is the independent, nonprofit organization established in 1984 for the purpose of creating and improving financial accounting and reporting standards for state and local governments. As the standard-setting body, GASB standards are the source of GAAP and auditors note any departures from GAAP in their opinions. Governments are usually expected to prepare financial statements in accordance with GAAP to be comparable to other governments when they issue bonds or notes.

The concept behind GASB's new statements is that OPEB, as with pensions, is a promise made to employees as a condition of their employment that is part of compensation each year. Similar to pensions, the cost of these future benefits is a part of the cost of providing public services today. Even though these benefits are not received until after employment has ended, they constitute compensation to attract and retain qualified employees and the expenses should be associated with the years of active service.

OPEB generally takes the form of health insurance and life insurance but may also include dental, vision, prescription and other healthcare benefits provided to retirees and eligible surviving spouses or dependents of deceased employees. In Massachusetts, the state and municipalities that offer OPEB are obligated to provide retirees and eligible spouses with at least 50 percent of health and life insurance benefits and each community may choose to pay a larger percentage and provide other benefits as well. For example, Boston pays the same percent of premiums for life and health insurance for its retired employees as it does for its active employees, which in fiscal year 2003 cost $52.3 million.

OPEB Funding Requirements

The annual OPEB cost is similar in calculation to pensions, and is equal to the current year's estimated present value of benefits earned during the year (normal costs) and a component for amortization of the total unfunded actuarial accrued liabilities over a period not to exceed 30 years. The actuarial calculations are required to take into account the benefits expected to be earned by employees in the future and those benefits the employees have already earned. OPEB requires similar additional actuarial valuations, performed in accordance with GASB parameters, every two years for cities and towns with 200 or more members (both active employees and retirees) or every three years for plans with fewer than 200. Recognizing the potential added cost of these valuations, the standards allow towns with fewer than 100 plan members to estimate OPEB obligations using simplified methods and assumptions.

continued on page four

Postemployment Benefit Costs **continued from page three**

The new GASB standards are required to be implemented by the Commonwealth and cities and towns in phases based on a government's total annual revenues beginning in fiscal year 2007. Governments with total annual revenues of $100 million or more start in fiscal year 2007, those with revenues over $10 million but less than $100 million in fiscal year 2008 and those under $10 million in fiscal year 2009.

While GASB is requiring state and local governments to include a footnote in their financial statements noting the annual OPEB costs and the actuarial accrued liabilities, the statements themselves do not require any change in the funding of OPEB. However, the reporting and periodic updating of the OPEB liability and comparisons with other public entities will create pressure to reduce the liability. While the rating agencies are aware of this liability, credit reports will note the liability, providing further incentive to establish a funding plan to eliminate the unfunded OPEB liability over time.

State and Local Response

Currently, some towns, such as Wellesley, have secured special legislation authorizing them to create a special account from which to pre-fund OPEB expenses and amortized liabilities. The Wellesley legislation (Ch. 88, Acts of 2004) authorizes the town's retirement board to manage the fund and broadens its authority to invest funds beyond those investment vehicles now approved by the state. Legislation could be enacted that affords the same authority to all cities and towns. However, that approach would produce uneven results as the more affluent communities would begin to establish such funds based on actuarial assessments while other communities would approve only token funds or defer altogether and maintain the pay-as-you-go practice.

The Commonwealth's response to the GASB requirements could start with authorization of a study commission to evaluate and report, prior to fiscal year 2007, the estimate of the liability for the Commonwealth and cities and towns. Such a commission could make recommendations regarding what form of structure or business model is needed to manage this obligation and how the OPEB costs should be funded.

The potential cost implications of the GASB changes raise questions of the sustainability of supporting these costs in the mix of double-digit annual health insurance increases and pension increases that in percentage terms exceed the annual rate of revenue growth. This situation calls for a rethinking of the current business model for the management and funding of OPEB and health care in general. To help facilitate economies of scale and comparability, the long-term response to this obligation should move to a standardized statewide approach, as is the case with pension obligations. Absent any changes, state and local leaders may need to consider difficult changes in the public share of health care premiums for retired and active employees in the future.

At present, cities and towns should begin to understand the financial ramification of the GASB standards by requesting that their pension actuaries or others perform an actuarial analysis to determine the accrued liabilities associated with OPEB and the estimate of the normal cost and amortized unfunded liability for a period of 30 years. Knowledge of this potential cost will help guide budget and other financial decisions before the standards are phased-in, starting in two years. ■

Audit Services **continued from page one**

The OIG recommends that the vendor conform to the rules and regulations of the Sarbanes-Oxley Act of 2002. Specific selections of the act are outlined in the guide that the OIG feels are especially important when procuring audit services. The Audit Committee Institute published *Basic Principles for Audit Committees* in 2002 that offers a foundation for audit committees to establish "best practices." One important principle is the implementation of a monitoring system. A partial listing of these principles is provided in the guide as well as the benefits the OIG believes your jurisdiction can gain from the implementation of a system to monitor audit services.

Reporting relationships between audit staff and local officials must be clearly defined to assist in the management of an audit service contract. In most cases, the vendor should report to the governing body of your jurisdiction to avoid conflicts of interest, appearance issues, or any allegations of impropriety.

Organizations like the Government Accountability Office, the National Association of Local Government Auditors, the Mid-America Intergovernmental Forum and the American Institute of Certified Public Accountants have resources for your jurisdiction to use when developing standards, procedures, guidelines, Requests for Proposals, etc. A listing of these organizations and other helpful resources is provided at the end of the guide for assistance when procuring and administering audit services.

For a copy of this guide and other OIG publications, please visit our website at www.mass.gov/ig. The Office also has an attorney dedicated to answering Chapter 30B related questions. Questions can be submitted by telephone by calling 617-722-8838. ■

1. M.G.L. Ch. 30B Sec. 1(b)(15).

DLS Update

Data Bank and Local Aid Section Receive Award

Commissioner of Revenue Alan LeBovidge has announced that the Division of Local Services' Data Bank and Local Aid section has received the Commonwealth Citation for Outstanding Performance. This award is given annually to individuals and select groups throughout the state for accomplishments that have a positive impact on both government and the citizens of the Commonwealth.

The award recipients are: Lisa Juszkiewicz (Director), Jared Curtis, Dora Brown, Deborah Ferlito and Elise Sandel. The Data Bank and Local Aid section are part of the Municipal Data Bank and Technical Assistance Bureau, which is headed by Rick Kingsley, bureau chief.

Division of Local Services (DLS) Deputy Commissioner Gerard D. Perry said that, "The Data Bank and Local Aid section has accomplished numerous projects, including the Oracle conversion. … Certainly, their work in handling the data bank and local aid distribution often goes unnoticed, which is a result of their seamless and efficient efforts."

Perry also credited the Data Bank and Local Aid section for transforming the Commissioner's annual dissemination of Cherry Sheet local aid estimates "from a process where thousands of hard copies were mailed across the state to an entirely paperless electronic distribution."

The movement to a paperless Cherry Sheet process has enabled this section to implement another significant improvement. "Beginning this fiscal year," said Kingsley, "the Data Bank and Local Aid section will track local aid estimates throughout the state budget process. Estimates will be placed on the DLS website at critical junctures during the budget process. This new initiative will provide local officials with updated local aid estimates as the state budget process unfolds. The benefits of this achievement are perhaps best expressed by the fact that the number of Web hits to these Cherry Sheet files are likely to exceed 1.5 million this year."

The Data Bank and Local Aid section were also credited for their focus on customer service. "The unit goes well beyond normal good customer service practices to provide our clients with timely and accurate data that meets their specific needs," said Perry.

Editor's note: To receive up-to-date information on the Cherry Sheet process, subscribe to the Division's electronic Cherry Sheet distribution list. Simply follow the directions at the top of the DLS home page at www.mass.gov/dls.

New Tax Bill Requirements

Last year's Municipal Relief Act included a requirement that real and personal property tax bills notify taxpayers of the amount of any municipal tax or charge not included in those bills that is more than 90 days overdue. The annual tax bill guidelines issued in March 2004 included minimum standards for the form and content of this delinquency notice on FY05 tax bills.

Outside sections of the FY05 state budget, and the recent supplemental budget, modify this requirement and postpone its implementation. Communities may postpone placing the notice on actual tax bills until fiscal year 2006. In addition, the notice must now only appear on real estate tax bills and include a general statement that a delinquency exists. The overdue amounts do not have to be stated.

Any questions you have on tax billing should be directed to the Property Tax Bureau legal staff at 617-626-2400. Also, refer to Bulletins 2004-14B and 2004-18B, available on the Division of Local Services' website (www.mass.gov/dls).

Cape Cod Land Bank Conversion

An outside section in the FY05 state budget allows towns in Barnstable County to terminate their participation in the Cape Cod Open Space Land Acquisition Program (Cape Cod Land Bank) and replace it with acceptance of the Community Preservation Act (CPA), with some modifications. Both programs dedicate monies from a local property tax surcharge, and other sources, to a fund for special spending purposes.

Acceptance of the CPA will afford state matching funds to the town beginning in the year after the town first assesses the surcharge.

Bulletin 2004-16B provides detailed guidelines explaining the acceptance of, and transition to, the modified CPA. Click on www.mass.gov/dls/publ/bull/2004/2004_16B.pdf to link to this Bulletin. Any questions should be directed to the Property Tax Bureau legal staff at 617-626-2400.

For guidance on administering the CPA generally, refer to Property Tax Bureau Informational Guideline Release (IGR) 00-209 (as amended) *Community Preservation Fund*. In addition, specific implementation issues that have arisen since the CPA was enacted are addressed in Bulletins 2003-04B, 2002-12B, 2001-09B and 2000-16B. All materials are available on the Division of Local Services' website at www.mass.gov/dls. ■

DLS Update

Community Firsts

Deputy Commissioner Gerard D. Perry congratulates the following communities for their first place finish in the categories of first to receive FY05 tax rate certification, free cash certification and Schedule A submission. For tax rate certification, Sherborn in the state's eastern region received tax rate certification on September 3, 2004, while Great Barrington in the west received certification on September 8, 2004. Lenox was the first community statewide to receive free cash certification on July 26, 2004. Hats off to Lenox for its timely submission of Schedule A, which was received by the Bureau of Accounts on July 28, 2004.

Motor Vehicle and Boat Excise Abatement Procedure

On August 9, 2004, the governor signed into law Chapter 262 of the Acts of 2004. M.G.L. Ch. 60A Sec. 2A was amended to establish a new deadline date for abatement applications. By this legislation, assessors must receive excise abatement applications within three years after the excise was due, or one year after the excise was paid, whichever is later. Previously, applications were due by December 31 of the year after the excise year, or 30 days after the bill is sent, if later.

This example will explain the new rule. Assume that an excise bill is due on February 25, 2004. The abatement deadline would be February 25, 2007, or one year after payment of the bill, whichever is later. If payment were made on December 1, 2005, the abatement application would still be due on February 25, 2007. However, if the taxpayer paid the bill on June 10, 2008, then the abatement deadline date would be June 10, 2009.

Another provision of this legislation adds Section 8 to M.G.L. Ch. 60A. By its terms, the assessors have discretionary authority to abate all or a portion of excise taxes, interest and charges beyond the deadline period set forth in M.G.L. Ch. 60A. However, the excise tax must still be outstanding to give assessors jurisdiction in this matter. In addition, any such abatements granted must conform to DOR Guidelines which will be issued shortly. If the assessors decline to take action, the taxpayer has no appeal rights to any state or local board, agency or official. However, the taxpayer can still pay the excise and file for abatement within one year of the payment date.

This legislation is already in effect due to an emergency preamble. Furthermore, these provisions will also apply to boat excise since M.G.L. Ch. 60B Sec. 5 makes the motor vehicle excise abatement procedure applicable to boat excise abatements.

Web Use During Elections

The Office of Campaign and Political Finance (OCPF) has issued further guidance concerning the use of the Internet for political activity, including municipal override elections.

Interpretive Bulletin IB-04-01 is now available in the Legal Guidance section of the office's website at www.mass.gov/ocpf. The direct link is www.mass.gov/ocpf/ao/IB-04-01.pdf.

The bulletin is expected to be helpful to officials with questions about the use of municipal websites and e-mail at election time. Municipal sites often contain information concerning budgets and other items that become the subject of an election, and officials often ask OCPF about any legal restrictions on postings of override information.

The campaign finance law prohibits the use of public resources to influence voters in an election. "Public resources" encompasses anything paid for with public funds, including a municipal website.

Notwithstanding the prohibition, however, officials may post information on a website that addresses the override, such as budget information or an architect's renderings of a proposed addition. Officials may not, however, take more proactive online steps that are similar to campaigning, such as e-mailing such information to voters who do not ask for it.

The bulletin also addresses the question of links to private political committees from municipal websites. For example, if a community facing an override provides a link to a ballot question committee website, it must afford the same opportunity to all other such committees that ask, to provide for the equal access required by the law. A municipality may also decide not to provide any such links, as long as such a ban is evenly applied.

The equal access principle would also apply to links to candidate websites from municipal home pages at election time: if one candidate is given a link, all must be given the same opportunity. Again, however, a municipality may also opt not to offer such links.

The bulletin also deals with municipal e-mail in light of the statutory prohibition against political fundraising in government buildings. E-mails to or from such buildings that ask for political contributions are prohibited, whether or not they are generated by or to public employees. (Such employees are prohibited from any political fundraising of any kind.)

OCPF offers seminars on the public resources issue to any municipality considering an override. For more information contact Denis Kennedy, director of public information, at 617-727-8352. ■

DLS Update

State-Owned Land: The MAAO Perspective

by Ed Childs, Chair,
MAAO Policy Review Committee

The history of state-owned land has been a tale of two procedures. The first is the valuation of state-owned land. The second surrounds the Legislature's annual funding of the reimbursement to communities that must forego the property tax revenue on state-owned land. This annual reimbursement is also known as "Payment in Lieu of Taxes" or the PILOT program.

Funding of the reimbursement is not the focus of this article because this issue occurs after the valuation of state-owned land. This appears to be a source of confusion to some state and local officials. Although the problems of underfunded reimbursements are of concern, the Bureau of Local Assessment (BLA) must first deal with the valuation of state-owned land.

As chair of the Massachusetts Association of Assessing Officers (MAAO) Policy Review Committee, I have been able to see first-hand the changes and planning in revising the system of valuing state-owned land. It has been a process that has seen its share of problems and delays. However, it also has been a process that, in the opinion of our committee, has been clearly defined, outlined, communicated and, at this writing, is near completion.

I would like to review the timeline that has brought the state-owned land process to this point from the perspective of the policy review process.

In the fall of 2002, Marilyn H. Browne, chief of the Bureau of Local Assessment, brought the revised plan for valuing state-owned land to the attention of the Policy Review Committee. The goals of the revised process were as follows: to equalize the point of time of valuation; ensure a more consistent standardized application of the valuation process; and to reconcile the records, some very ancient, of state-owned land holdings by ownership type and community.

The Policy Review Committee agreed with the potential benefits of this program and reported this to the MAAO membership at their annual meeting in November 2002. The report stated:

"The BLA has developed, with input from the committee, new guidelines and timeframes for the valuation of state-owned land. The program, which is now conducted in a different time frame than all other valuation projects, will in the future correspond with a communities' certification year. This will remove what is a now a duplication of effort, and a waste of funding resources by eliminating the need to hire outside consultants. More information on these proposed changes will be available in the near future.

The committee is working with the BLA on a project to expand the use of classification codes for exempt properties."

In February 2003, Ms. Browne wrote an article that appeared in *City & Town* that detailed the revised state-owned land process, along with the benefits that would result. This article also recognized that the process of reconciliation of data with some towns would be "daunting." Given the age and condition of some of the records of the older state-owned holdings, "daunting" was an accurate word to use. But while our committee has been advised of some delays, it appears that the majority of the reconciliations have been achieved.

The "Guidelines for Development of a Minimum Reassessment Program" were revised with the new procedures for state-owned land valuation clearly spelled out. In April of 2003, all inventories of state-owned land, by community, were posted on the BLA website, and were soon followed by the valuation schedules for absorption and size adjustment.

It is clear that over the past several months, the revised state-owned land valuation program has been clearly articulated and constantly reviewed. Our committee shares the belief that a consistent system of value application can truly be achieved through this program, and will be of great benefit to all communities.

Guidebooks Available Online

The Municipal Law Unit of the state Attorney General's Office has made the following guidebooks available online.

Guidebook for Town Clerks. This guidebook explains how to complete each of the forms required in the submission of bylaws and charter amendments to the Attorney General for approval.

Zoning Guidebook. This guidebook summarizes the procedural steps in the adoption of zoning bylaws. *(Updated January 2003)*

Open Meeting Law Guidelines. *(Updated 03/11/02)*

The Municipal Law Unit works with municipal attorneys and local officials to help communities avoid legal problems and to function effectively in the best interests of the citizens of the Commonwealth. Visit their website at www.ago.state.ma.us/index.cfm. ■

DLS Profile: Technical Assistance Staff

Lydia Hill has joined the Division of Local Services with a diverse background — both academically and in terms of work experience. She is the Division's newest member of the Technical Assistance Unit and joins staff members Melinda Ordway and Joe Markarian. Since the Division first began offering this service in 1984, well over 200 projects have been completed, resulting in comprehensive written reports with results-oriented and practical recommendations. Financial management assistance may be requested by the chief executive officer(s) of any city or town and is free of charge.

Lydia Hill

A native of Washington, D.C., Lydia graduated from Brown University where she majored in not one but two disciplines — business economics and urban studies. A few of her courses included research on various aspects of the "Big Dig."

While a student at Brown, she worked for one year in New Zealand and completed a summer internship with the National Trust for Historic Preservation. In her honors thesis, for which she received an award for excellence from the university, she tackled the question of whether the Eisenhower system of interstate highways should receive recognition in the National Register of Historic Places.

Lydia said that she "has a strong interest in how cities and towns operate as well as the capital planning issues they commonly confront." She also enjoys working with city and town officials "one-on-one to help resolve particular budgetary issues or other problems that they have identified."

Prior to joining the Division, Lydia worked for a real estate development firm in Washington, D.C. She currently resides in Boston. ■

At the New Officials Finance Forum

Martin DiMunah of the Bureau of Accounts assists participants at the New Officials Finance Forum held on June 4, 2004.

Legal **continued from page two**

state auditor acknowledged that judicial precedent supported DOR's position that the new report merely helped implement a pre-existing 1981 duty.

In *City of Worcester v. The Governor*, 416 Mass. 751 (1994), the Supreme Judicial Court held that a 1986 Department of Education (DOE) amendment to the definition of "child in need of special education" was not an unfunded local mandate. The amendment to the DOE regulations appeared to expand the class of preschoolers who would be eligible for special education services. The city had stated that the Worcester School Department, as a result of the state regulatory amendment, now served three- and four-year-old children whom the school department would not have served prior to the 1986 amendment. In the court's view, however, "the amendment was a clarification of existing law rather than a new law changing existing law resulting in the imposition of new direct service or cost, and that therefore it was not an unfunded local mandate."

In accordance with this court decision, the state auditor concluded, under the facts presented, that DOR's new report was based on a duty to assess at full and fair cash value that existed prior to the January 1981 effective date of the Local Mandate Law. Consequently, the new Interim Year Adjustment report was not a state mandate. ■

City & Town
City & Town is published by the Massachusetts Department of Revenue's Division of Local Services (DLS) and is designed to address matters of interest to local officials.

Joan E. Grourke, *Editor*

To obtain information or publications, contact the Division of Local Services via:
• website: www.mass.gov/dls
• telephone: (617) 626-2300
• mail: PO Box 9569, Boston, MA 02114-9569