



Evaluating—and Safeguarding—Township Expenditures

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The newspaper headlines and top stories on the news are unsettling.
“Clerk indicted for embezzling thousands of dollars from township.”
“Supervisor used township credit card for personal trips, cars.”
“Treasurer resigns from board following fraud charges.”

Such stories certainly aren't limited to township government—fraud, embezzlement and misappropriation of public funds happen at all levels of government. Fellow board members are often shocked that such a betrayal could happen right in their own community, and angry residents demand answers as to why their public money wasn't properly safeguarded.

Fiduciary responsibilities are critical for every township board member, and in fact, are among an elected official's most important duties. Both individually and collectively, board members have responsibility for the township's finances and for protecting the township's assets.

To safeguard against improprieties and, even more simply, to ensure that the township is operating lawfully and properly, every township board must have a strong accounting and financial reporting system in place. All expenditures must serve a valid public purpose and be authorized—either expressly or fairly implied—by law. How do officials know if an expenditure is allowed, and that proper procedures are being followed? Read on to find out.

Township Revenues & Expenditures

Townships exist to provide good government and services for their residents. These activities are funded with local, state and federal monies. Townships receive revenues from several sources including, but not limited to:

- State shared revenues
- *Ad valorem* property taxes on real and personal property
- Special assessments
- Borrowing
- Investments
- User fees
- Grants and donations
- Franchise fees

The purposes and activities on which townships expend money are as varied as townships themselves. Typically, funds are expended in areas such as salaries,

fringe benefits, goods and services, and insurance, and for programs and services provided as part of the township's legislative, assessing, tax collecting, elections, board of review, building inspection, ordinance enforcement, planning and zoning, public safety, and public utility functions.

Townships can only exercise the powers specifically granted or bestowed upon them through the Michigan Constitution and state statutes, as well as those powers necessarily implied by the provisions of the Constitution and statutes (Article VII, §34). Although the Constitution states that both the Constitution and statutes should be construed “liberally” in a township's favor, this does not mean that *any* expenditure would be supported by a state agency or the courts. Essentially, a township may expend funds only for

a public purpose, and only if the Constitution or a statute provides specific authorization or necessarily implies authorization for the township to make the expenditure.

What Constitutes a Lawful Expenditure?

So how do township officials determine whether or not an expenditure is considered lawful? The following four guidelines can act as a litmus test for determining the legality of expenditures:

1) The expenditure must be authorized by statute.

Always check to see if there is a statutory provision covering a particular request. Where the Legislature has intended to grant a municipality authority to make an expenditure, it has done so explicitly.



A good rule of thumb is that if you can't find a statute authorizing an expenditure, it is a good indication that the expenditure is not allowed.

Townships can also put the burden on the requester to cite the statutes or public acts that authorize the township to appropriate funds for their request.

2) Contracts can clarify the value the township will receive.

Townships can contract for services authorized by statute. Generally speaking, a contract is an agreement between two or more parties that obligates one or more parties to perform a particular service in exchange for some consideration—usually money. In contrast, a donation or gift does not imply any obligation between the parties.

Just because a township has a contract for a service does not necessarily make it a lawful expenditure. A contract does address the issue of obligation and can clarify what the township is receiving for its expenditure. Take, for example, an instance when one township made a contribution to a city economic development council without specifying that the township was to be included in the advertising. When the township complained that the promotional materials made no mention of the township, the council indicated that it had considered the funds a “donation,” with no obligation to promote the township.

A contract, even a simple one, would address this issue, not only providing value for the money spent and making the expenditure legal but also ensuring the township received mention in the advertising.

3) Will the township receive a specific benefit?

Officials must also determine if the money being requested is “value for value.” This means asking, “What is the township receiving for the money it is expending?” Article IX, §18 of the Michigan Constitution prohibits a township from lending its “credit” to any person, association or corporation, public or

private, except as authorized in the Constitution. The Michigan Supreme Court has held that “lending of credit” occurs when a municipality gives something of value, such as money, without receiving something of specific value, as opposed to general value, in return.

For example, an area civics organization asked your township to donate money or items to their Thanksgiving food drive. No statute authorizes a township to provide food for needy residents. And, there is no promise or requirement that the donor meet some obligation of the township. So even though board members might feel good about having the township make such a gesture in the interests of helping the less fortunate, it is of general value, not a specific value, and therefore, is not a “value for value” matter as contemplated by the statutes. Expenditures should always be looked at as to what law or statute is being furthered, or what public policy is being achieved.

As a result, townships do not “donate” money to any cause. This is also a practical matter of policy. If a township could make donations to service organizations, where would the board draw the line? How can it say “yes” to one organization and “no” to another?

4) You cannot exceed your budget.

This guideline may seem obvious, but it is important to remember when discussing any expenditure. In no case should township expenditures exceed what has been appropriated in the budget for a particular line item without an amendment to the budget (MCL 141.421). Each township has certain statutory obligations that require funding. If the township finds that there are excess funds available over and above these obligations, those funds could be used for lawful expenditures that will benefit the entire township.

It is not always immediately clear whether an expenditure is lawful or unlawful. Following the above guidelines should help township officials to determine whether their board is expending funds properly. Sidebar articles at right and on pages 12-13 provide examples of both allowed and prohibited expenditures, as

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Unlawful Township Expenditures

Contributions not specifically authorized by state statute cannot be granted, regardless of the worthiness of the cause. Examples of such prohibited contributions where no contract for specific beneficial services to a township have been negotiated are as follows:

- Defending against recall petitions, unless invalid petitions would require an unnecessary invalid election expense
- Donations to churches
- Donations to a community organization
- Donations to veterans, nonprofit associations
- Donations to a Little League, Scouts, Big Brothers/Sisters
- Donations to a private ambulance or emergency medical service not under contract with the township
- Expenditures for legal suits by taxpayers
- Expenses for private road construction or maintenance, unless a special assessment district is formed
- Extra compensation for summer tax collection, unless part of the treasurer's initial salary determination or authorized under appropriate procedures for an increase in salary
- Extra compensation to the clerk for extra elections, unless part of the clerk's initial salary determination or authorized under appropriate procedures for an increase in salary
- Flowers for the sick or departed
- Mileage of officials to and from their residence to the township hall or township meeting rooms
- Office picnics
- Office refreshments
- Payment of funeral expenses for a person injured on township grounds
- Payments to a private or public, nonprofit hospital where no contract for services is entered into
- Per diem compensation to township supervisor, clerk or treasurer for township board meetings (MCL 41.95(2))
- Gifts to officials
- Promoting election proposals or candidates
- Retirement recognition events
- Retroactive pay increases for township officials

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spelled out by statutes, court rulings or attorney general opinions. *For more information, download the Department of Treasury bulletin "Determining Lawful Expenditures," which is available at www.michigantownships.org. Click on the "At Your Service" tab, then "Resource Toolkits."*

Determining the legality of expenditures is only the first step. When it has been determined that an expenditure is lawful, how do township officials ensure that payments are being made properly?

Budget Required to Expend Funds

The Uniform Budgeting and Accounting Act (Public Act 2 of 1968, as amended by PA 621 of 1978) requires that each township annually adopt a general appropriations act—in other words, the township budget. The budget is the most

important document the board will act upon. It determines "who gets what" and shows how township funds will be used in the ensuing fiscal year. The budget provides a level of accountability to both the board and the public, determines what services will be offered, and states how money will be raised and spent.

Without a budget, the township has no authority to spend any money. The budget must be adopted prior to the new fiscal year. Throughout the year, board members must carefully monitor the budget, and if it appears revenues or expenditures will not match what is projected in the budget, the board must take action to amend it. *The Uniform Budget Manual, compiled by the state Department of Treasury, is available at www.michigantownships.org, by clicking on the "Resource Toolkits" link under "At Your Service."*

All Board Members Play a Role

While the supervisor is charged with developing the annual township budget, with involvement from all officials and departments, the clerk and treasurer are most involved in the monthly financial reporting and recordkeeping. This doesn't mean, however, that other board members don't have an active role in the township's financial aspects—all board members play a critical function in approving and safeguarding township funds.

In effect, both the clerk and treasurer keep financial records. The treasurer is required to receive, take charge of and deposit all funds belonging to the township treasury, including all investments, money received, money spent and the balance on-hand. Meanwhile, following the Michigan Uniform Chart of Accounts—which is also available on MTA's Web

Lawful Expenditures

A number of Michigan statutes or attorney general opinions authorize specific township expenditures. Always check for an authorizing statute before proceeding with an expenditure. The following list includes examples of authorizing statutes. It is not a comprehensive list, and other statutes may affect expenditures listed here. In some cases, more than one statute may apply to a particular activity. When in doubt, consult your township attorney to be sure you are using the most appropriate authorizing statute for your township's needs.

Advertising—MCL 41.110c authorizes a township board to appropriate money to advertise the agricultural, industrial, commercial, educational or recreational advantages of the state, county or township to prepare and maintain an exhibition of the products and industries of the township at any domestic exposition to increase travel, to advertise the township or parts of the state to tourists, and to maintain and circulate a publication to disseminate information regarding township improvements, activities and functions.

Boundary protection—Attorney General Opinion No. 6710 of 1992 states that a township may pay the cost of detachment proceedings and defending against annexation or incorporation proceedings.

Community college—MCL 380.1607 allows the township board to contribute toward the support of a community college maintained by a school district.

Cooperative extension services—MCL 285.201 authorizes townships to appropriate money or raise money by taxation in order to promote agricultural interests of

the township and to provide for agricultural extension work for such townships.

Defending public officials—MCL 691.1408 authorizes a township to defend a public official sued for damages, criminal activities, injunction, etc., while performing their duties and acting within the scope of authority, including hiring an attorney and paying court costs and any judgment. The township may also settle the case and pay settlement amounts.

Economic Development Corporation—MCL 125.1601 provides for creating a township Economic Development Corporation (EDC) funding those EDC projects that are approved by the township board and are of public benefit.

Hiring—MCLs 41.75a and 42.10 authorize hiring a township manager or superintendent and other necessary township employees.

Historical interests—MCL 399.161 permits the township board to raise and appropriate money for fostering any activity that tends to advance the historical interests of the township.

Hospitals—MCL 41.712 permits a township board to pay any hospital a sum from unexpended balances in its general fund that fairly represents a reasonable share of the maintenance and support of the hospital whose facilities are made available to township residents at standard rates. The number of residents for which facilities shall be available per year shall be included in an agreement.

Installment contracts—MCL 123.721 authorizes a township board to purchase land and equipment under an installment purchase agreement up to a maximum of 1¼ percent of its state taxable valuation without Municipal Finance Commission approval and within its budget appropriations. The Revised Municipal Finance Act (MCL 141.2101, *et seq*) permits a township to purchase real or personal property by contract or lease. These are not considered the borrowing of money and are not subject to commission review.

July 4th—MCL 123.861 permits the township board to appropriate money for the purpose of defraying the expenses of observing



site—the clerk maintains the township’s general ledger, to which all cash receipts, checks and other financial transactions are posted, and additional subsidiary journals, such as accounts receivable and accounts payable. (MCL 41.65) Township trustees have the fiduciary responsibility to monitor the financial affairs of the township.

The amount of detail and procedures involved in a township’s accounting system varies, depending on the size of the township, the number of its funds and the types of reports the board requires. No matter how simple or extensive the township financial accounting system is, any member of the township board should be able to give an accurate picture of the township’s fiscal situation. *A Uniform Accounting Procedures Manual, which outlines basic financial records, docu-*

ments and procedures for all local units of government, is available on MTA’s Web site, www.michigantownships.org. Click on “At Your Service,” then “Resource Toolkits.”

Making Payments

The entire board is involved in approving expenditures. MCL 41.76 requires that the township board authorize any payments of township money (with the exception of tax collection account disbursements, which are authorized by statutory schedule). No checks should be issued without prior board approval, unless according to a board policy identifying limited, specific payments that will be “post-audited” by the board, such as payroll and utility bills.

The way in which statutes delineate duties to the treasurer and clerk provides

an inherent system of checks-and-balances into the township check-writing system. MCL 41.74 requires the treasurer to disburse and account for the money—implying that the treasurer is responsible for writing checks. MCL 41.65, meanwhile, requires the clerk to keep a separate account for each fund, and credit and charge each fund when payments are received or paid from that fund. This implies that the clerk prepares the warrant requesting that the check be issued.

For the most part, townships have consolidated the warrant and checks into a three-part check, so the clerk actually prepares the check simultaneously with preparing the warrant. Under this system, the clerk prepares the warrants for any bills or invoices, and presents them to the township board for approval.

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Armistice, Independence and Memorial or Decoration Day and of a Diamond Jubilee or Centennial.

Juvenile delinquency—MCL 123.461 allows a township to appropriate funds for operating centers open exclusively to youth under 21 years of age aimed at curbing juvenile delinquency.

Library—MCL 397.210 authorizes the township, after voter approval, to levy up to 2 mills to establish, operate and maintain a township public library.

Newsletter—(See Advertising) MCL 41.110c authorizes a township to maintain and circulate a publication to disseminate information regarding township improvements, activities and functions. There are very few legal constraints on the type of information that can be included in a township newsletter. However, it is important to note that Michigan statutes prohibit the use of township funds to promote a position on an election, ballot question or millage proposal. You may discuss an election issue in a newsletter, but must be careful to include only factual, unbiased information.

Parks—MCL 41.421 authorizes the township board or a commission to expend funds to acquire, maintain, manage and control township parks and places of recreation. The board or commission may also acquire, construct and maintain wharves, piers, docks and landing places for the public.

Public improvements—The Revenue Bond Act and the Special Assessment Act (Public Act 188 of 1954), as amended, authorize payment for all or a portion of public improvements.

Recreation—MCL 123.51 permits expenditures for recreation purposes.

Senior programs—MCL 400.572 authorizes the township board to appropriate funds to a public or private nonprofit organization for the purpose of planning, coordinating, evaluating and providing services to persons 60 years of age and older. Township appropriations to private organizations must be followed by a published notice within 10 days in a local newspaper specifying the terms of the appropriation.

Substance abuse—MCL 333.6131 permits a township to contract and spend funds for preventing, counseling and treating substance abuse.

Tax Tribunal—MCL 211.44(3) permits a school board to contribute to the defense of tax tribunal issues defended by a township to the extent the cost exceeds 1 percent of the administration fee available to the township.

Urban cooperation—The Urban Cooperation Act (MCL 124.501) allows a township to contract for services with another municipality for any service that it could provide itself separately.

Other lawful expenditures include:

- Contracts for a specific public service or benefit that is within budget appropriations
- MTA dues (*Hayes vs. City of Kalamazoo*, 316 Mich 443)
- Meals and refreshments during extended working hours for emergency services by firefighters, police officers and for authorized seminars of an educational nature to officials
- Registration fees for attendance at useful public informational or educational workshops
- Mileage for attendance at authorized seminars and governmental meetings other than township board meetings
- Insurance premiums for pension plans, health, life and/or accident coverage of officials and employees under MCL 41.110b
- Intergovernmental contracts may qualify, and contracts with private organizations for such services as fire protection, ambulance service, assessing, rubbish collection may also qualify. Check authorizing statutes before proceeding.

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The township board must approve all claims against the township and authorize payment of allowed claims. The clerk should also prepare a checklist for the board to review, including the pre-printed check number for each check being issued (or voided) in numerical order, the payee, the amount and the purpose. Board members should be able to scan the list for missing check numbers or questionable payments. They should also have access to the bills, invoices, or reimbursement logs and receipts documenting each warrant.

Accounts approved by the township board are filed by the clerk. (MCL 41.75) Upon approval, the clerk or deputy clerk signs the warrant to show the board has authorized payment, and delivers it to the treasurer. The warrant becomes a check after it is signed by the treasurer, or his or her deputy, who then disburses it.

The proper Uniform Chart of Accounts number should be written on the warrant as a basis for recording in the journals. Each transaction is recorded twice in the disbursements journal—once to the affected cash account and once to the actual expenditure category. This summarization of expenditures may be used to make entries in the general ledger or, if the general ledger is not kept, the summarization may be the source for monthly reports or carry forward totals to the next month.

Townships are also authorized by Public Act 266 of 1995 to use credit cards to transact official township business. This is allowed only after the township adopts, by resolution, a credit card policy, defining who may use a township credit card and the process for approving the payments. *For a sample credit card policy, click on "At Your Service," then "Sample Documents" at www.michigantownships.org, or call (517) 321-6467 to have one sent to you.*

Tools to Monitor Expenditures

As previously mentioned, it is the duty of every member of the township board to have an accurate picture of the township's financial situation, and to ensure that all procedures and safeguards are being fol-

lowed, and public funds are being properly expended. Monitoring tools include regular financial reports and an internal controls system. Further requirements allow state officials to monitor local government expenditures, through annual audits and financial reporting.

Reconciling account balances. One of the most important controls in township accounting is reconciling cash account balances. The clerk and treasurer should arrive at bank balances at the end of each month and should reconcile these balances to each other's records. It is highly

recommended that the treasurer and clerk compare cash balances to account for and adjust any differences at least once a month. Large townships may reconcile accounts more often, while smaller townships may find that every five to six weeks is sufficient. However, waiting too long to compare balances may result in a frustrating, time-consuming process trying to get the account balances to match.

Reports. Township officials should see a summary of the township's financial activities at scheduled board meetings. Interim financial reports usually consist of the

Internal Controls All Townships Should Have

The township board is responsible for establishing and maintaining a system of internal controls to reduce the risk that significant errors or irregularities will occur and go undetected. In general, laws are not designed to provide internal control. However, auditors are responsible for evaluating the township's financial internal control procedures when preparing the audit report.

The state Department of Treasury's *Uniform Accounting Procedures Manual* outlines minimum internal controls that every unit of government in Michigan should have in place. Among those internal control procedures are:

Receipts

- Pre-numbered, three-part official receipts imprinted with the township name must be issued for all revenues.
- Method of payment—cash, check or credit card—must be indicated on the receipt.
- Receipt must allow for immediate revenue account classification in conformance with the Uniform Chart of Accounts.
- When possible, collections must be reconciled by an individual not involved in the receipt process.

Bank Accounts & Deposits

- Deposits must be made timely and reconciled to official receipts.
- Deposit tickets must list checks, by name or number, and amount.
- All bank accounts must be in the name of township and township treasurer.
- Bank signature cards should be kept current, with limited authorized signers.

Disbursements

- Dual signatures—clerk (or deputy clerk) and treasurer (or deputy treasurer)—are required for all checking accounts.
- Supporting documentation must be attached for all disbursements.
- Original bills—not copies—must be used for documentation.
- Township board must approve all disbursements prior to disbursement, unless otherwise authorized by board.
- Bank accounts must be promptly reconciled by an individual not involved in the receipt/bank deposit process. In small townships where segregation of duties is not possible, a second official must review the reconciliation.
- Blank checks must never be signed.

*For additional internal controls and township accounting information, download a copy of the *Uniform Accounting Procedures Manual* from www.michigantownships.org.*

balance sheet, which shows assets, liabilities and fund equities, and revenue and expenditure reports for the period and fiscal year to-date. Generally compiled monthly or quarterly, these reports help officials monitor and evaluate the township's current financial situation, determine the financial viability of policy changes that will have a fiscal impact, and create a system of internal control. *For more on internal controls, turn to page 14.*

Audit. PA 2 of 1968 requires all township financial records, accounts and procedures to be audited annually by a certified public accountant. In townships with a population less than 4,000, the audit may take place every two years. The audit could be performed more frequently, if so desired by the township board. The Charter Township Act requires that an independent audit be made of all the township's accounts at least annually and more frequently if deemed necessary by the township board. (MCL 42.30)

A copy of the audit report must be filed

with the state treasurer within 120 days after the end of the fiscal year, subject to a 60-day maximum extension by the state treasurer upon a reasonable request. Typically in conjunction with the filing of the audit, the township submits an annual financial report, on the Michigan Department of Treasury's F-65 reporting form. The required report details the amount of all revenues and expenditures, of all indebtedness, fund balances and any other additional information required by law (MCL 141.424).

Often the auditor prepares the annual report, but ultimately, it is the township board's responsibility to ensure that the F-65 form is prepared and submitted annually.

Under a Watchful Eye

As media and public scrutiny of governmental activities intensifies, so too does the need for all township board members to be diligent in monitoring township expenditures and ensuring proper procedures are being followed by all officials

and employees who have a hand in township financial matters.

When considering your township's fiscal situation, ask yourself a few simple questions:

- Do all expenditures serve a governmental function?
- Are all expenditures authorized by statute?
- Am I playing an active role in approval of payments?
- Are proper internal controls in place—and being followed?


Answering these questions, and following the guidelines outlined in this article, should help make sure that your township doesn't see itself in the headlines for anything except positive news. ■

Information for portions of this article was excerpted from "Determining the Legality of Township Expenditures," which appeared in the June 2001 issue of Michigan Township News, and from MTA's Officials Guides to Township Government.

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