



## **CPA Bootcamp Training – Fall 2021 Questions and Answers from Chat**

**Question: If a Town Department works on CPA project (the Department of Public Works, for example) in lieu of a private vendor, can they be reimbursed with CPA money from project budget?**

No. Because of the “no supplanting” language in the CPA legislation, current municipal employees may not be paid for their time from the CPA budget, even if they are working on a CPA project. Presumably, the salary for all the DPW employees is included in the municipality’s general budget, so you can’t “supplant” that spending with CPA funds. However, you can use CPA funds for any outside vendors, consultants, materials, and other eligible expenses of the project.

**Question: Can we use administrative funds to help write the required CPA Plan?**

Absolutely, provided that Town Meeting or City Council first appropriates money to your CPC administrative budget.

**Question: What if our community’s actual CPA revenues end up being much higher than the estimates and one of the project categories did not have the required 10% expended or reserved? Do you need to transfer funds to those accounts at the end of the year?**

Generally, no. Here’s what the Department of Revenue says on this topic: “If at the end of any year, the amount of the 10% minimum was underestimated for more than a *de minimis* amount, e.g., the community assumed a 50% state match and received 100%, then the CPC should recommend appropriations to the reserves from fund balance in the amount needed to satisfy the requirement.”

**Question: What is the match for communities that adopted the 3% surcharge?**

The CPA Trust Fund distribution for 3% CPA communities will vary widely, depending upon the property values and population of the community. This article on our website explains the Trust Fund distribution method in detail: <https://www.communitypreservation.org/distribution-formula>

**Question: On the CPA allowable uses chart, could you distinguish the difference between "Preserve" and "Rehabilitate and/or Restore" for the Open Space category?**

Here are the definitions from Section 2 of CPA for those two terms:

*"Preservation", protection of personal or real property from injury, harm or destruction (but not including maintenance)*

*"Rehabilitation", 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;*

Preservation projects are rare on conservation land, but one example would be removal of invasive species from conservation land before they injure or harm the property.

Rehabilitation projects are even rarer when it comes to open space conservation land, because you can only rehabilitate these properties if they were purchased with CPA funds.

**Question: Can you renovate/rehabilitate an historic landscape or garden?**

It depends on the specifics of the project. See the Coalition's historic flow chart and follow it along to see if your project qualifies. This can be a difficult project to determine allowability, so contact the Coalition for assistance. <https://www.communitypreservation.org/technical-assistance/files/historic-project-flowchart>

**Question: Do you have any guidance for if a business person applies for CPA funding in regards to an historic building?**

This is another type of project where allowability is very specific to the details of your project. See this article on our website, and then contact your municipal attorney or the Coalition if you need assistance. <https://www.communitypreservation.org/private-projects>

**Question: Should a CPA land acquisition vote at Town Meeting or City Council be majority or 2/3?**

According to DOR, municipal lawyers have differing views on this. Most require a 2/3 vote when purchasing a real property interest, but we have definitely seen examples where only a majority was required. Ask your municipal legal staff. The answer is clearer if you are paying for the purchase with CPA bonds, or taking the property by eminent domain. In those cases, Massachusetts General Law always requires a 2/3 vote.

**Question: Can you provide some information on allocating CPA funds to private owners of historic homes?**

Communities should proceed with caution on these types of projects, as there has to be clear public benefit to any grant of public money to private individuals. See these articles on our website:

<https://www.communitypreservation.org/cambridge-grants>

<https://www.communitypreservation.org/private-projects>

**Question: Regarding the topic of eligible applicants, are churches allowed to apply for CPA funding?**

This type of CPA project was the subject of a lawsuit in Acton a few years ago, and we have a summary of the decision from the Supreme Judicial Court on our website:

<https://www.communitypreservation.org/home/news/ma-supreme-judicial-court-issues-decision-acton-lawsuit>

When communities receive CPA applications from active religious organizations, we encourage you to forward those to your municipal lawyer and ask for their determination.

**Question: Is there a capacity on how many bonds you can have with CPA funding?**

The limit on bonding within CPA is the amount you can pay back on an annual basis from your community's local surcharge revenue. You cannot bond against the Trust Fund distribution revenue because the state match can be a highly variable amount. One thing to remember is that the debt service for a CPA bond cannot use 100% of your estimated local surcharge revenue; you still have to allocate 10% for the other two categories. For example, when you pay the debt service each year for an open space purchase, you still have to spend (or set aside for later spending) 10% of your revenue for the housing and historic categories. And probably 5% for an administrative budget, too. So, in most cases, the practical limit for the debt service on a CPA bond is 65% of your anticipated local surcharge revenue.

The state's general bonding law, Chapter 44, may also place additional limits on a CPA bond. Check with your municipal Treasurer.

**Question: If projects have been approved by the legislative body, and money has been approved, does our CPC have any more responsibility to manage or monitor the progress of the project?**

The answer to this depends on the local procedures in your community. It is always advisable to specify in the CPA recommendation which board, commission, or department is responsible for managing the project. Wording such as "...said expenditure to be made under the direction of (name of committee)" can be very helpful in avoiding confusion or disagreements after the appropriation has been made. In most cases there are municipal departments or employees to manage projects, but it is a good idea for the CPC to monitor the implementation to ensure compliance with the CPA legislation. Although the CPC is generally not responsible for implementation, it will reflect poorly on the CPA program if things go wrong. In some very small communities, CPC committees may take a more active role in administering projects.

**Question: In terms of housing, why is housing that has not originally been acquired using CPA funds eliminated from some funding categories?**

In light of the severe lack of affordable housing in the state, CPA was designed to create new housing opportunities in the Commonwealth, not rehabilitate existing affordable housing units. See this article for more information: <https://www.communitypreservation.org/existing-housing>

**Question: If someone comes to the CPC with a project, does it have to go to another committee first? For example, if someone wants a new playground, should they go to the Recreation Department for approval first before they go to the CPC?**

The only projects that require approval from another board is an historic project. In that case, the Historic Commission must vote to deem the project “significant in history, archeology, architecture or culture” of your city or town. If the historic building is on the State Register of Historic Places, it is eligible for funding, even without a vote of the Historic Commission.

But CPC’s often receive applications from folks that don’t have control of the site that is the subject of the application, such as when a neighborhood group would like to rehabilitate a park. In those cases, the applicant should be sent to the committee or department that oversees the property, as their approval will be necessary.

**Question: I understand it is the job of CPC to look over project applications to make sure they are eligible for CPA funds. If the project is eligible for funding, can the CPC reject a project for other reasons, or is that up to voters at Town Meeting? Is it only our job to make sure the project fits under the guidelines of CPA?**

A CPC really has two decisions to make on each proposed project:

1. Is the project eligible for CPA funding?
2. Does the CPC feel it is worthy of funding?

The CPC must evaluate each project carefully, balancing a number of factors, including available funding, priority, public benefit, category needs, and a whole host of other factors. The CPC does not automatically forward every legal project to Town Meeting or the City Council; it is the gatekeeper that recommends the best projects.

**Question: Can you explain the “Support” category on the Allowable Uses chart?**

The definition of “support” from Section 2 of the CPA legislation is:

*“Support of Community housing”, shall include, but not be limited to, programs that provide grants, loans, rental assistance, security deposits, interest-rate write downs or other forms of assistance directly to individuals and families who are eligible for community housing, or to an entity that owns, operates or manages such housing, for the purpose of making housing affordable.*

Many other projects may qualify as “support,” such as doing a feasibility study on a particular piece of land, hiring a consultant to do a Housing Production Plan and hiring a Housing Coordinator to work on building more affordable housing. But eligibility under this section of CPA is highly dependent on the specific details of a proposal.

**Question: We have a complicated CPA application process. Do you have examples of applications that are simple to understand?**

We have some examples listed in this article on our website:

<https://www.communitypreservation.org/applications>

In addition, our “CPA Databank” section of [www.communitypreservation.org](http://www.communitypreservation.org) has direct links to the CPC website of the majority of the local CPA programs in the state. If you choose a community from the drop down menu at this URL, you will most likely find many more examples.

<https://www.communitypreservation.org/cpa-databank/links/information-individual-cpa-communities>

**Question: We had the Recreation Department come and ask about replacing the fencing around tennis courts, as they have become hazardous. Are projects like this considered maintenance, and thereby shouldn't be eligible for CPA funding?**

Maintenance is never allowed with CPA funds. If the fencing merely needs repairs, that would likely be considered maintenance. If the fence needs to be replaced entirely, that would likely be OK as a capital improvement. See which of these definitions from Section 2 of the CPA legislation best applies:

NOT ALLOWABLE: *“Maintenance”, incidental repairs which neither materially add to the value of the property nor appreciably prolong the property’s life, but keep the property in a condition of fitness, efficiency or readiness.*

ALLOWABLE: *“Capital improvement”, 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 installation or is intended to remain there for an indefinite period of time.*

**Question: When a project is completed by an outside contractor, when is it required that the contractor pay “prevailing wage”?**

Virtually all CPA projects must adhere to the state’s prevailing wage and procurement laws, with the exception of purchasing real property. For this reason, it’s important for the CPC to coordinate closely with the municipality’s Chief Procurement Officer (CPO). Each municipality must designate a CPO, although this position is often combined with other jobs in small towns. See more on this topic here:

<https://www.communitypreservation.org/procurement>

## **Question: Why aren't Open Space Committees represented on the CPC by statute?**

The five statutory committees that send representatives had to be ones that are present in almost all Massachusetts communities. Only some communities in Massachusetts have Open Space committees, so it wouldn't have made sense to have that be a required committee on the CPC.

That being said, some CPA communities do dedicate one of their at-large slots to the Open Space committee in town. Groveland and Sturbridge are two examples. Bourne's CPC bylaw gives all four of their at-large slots to the open space committee! You can view the full text of these bylaws (as well as any other CPC bylaw or ordinance) by selecting a community in our "Information on Individual CPA Communities" report on the Coalition website:

<https://www.communitypreservation.org/cpa-databank/links/information-individual-cpa-communities>

## **Question: Why should our CPC use a Budgeted Reserve Account, and how does it work?**

To understand how a budgeted reserve works, one first needs to understand a basic principal of all municipal spending. Once a community sets its tax rate (usually in November or December), any anticipated revenue that wasn't reserved or appropriated in the annual budget will be unavailable for appropriation until the fiscal year ends. So, you should use a budgeted reserve if you want the flexibility to use any unappropriated or unreserved annual revenue after the tax rate is set.

Here's how it works: when your CPC crafts a budget for the fiscal year, you first include the required amounts for the 10% reserve accounts, up to 5% for your administrative fund, and then all the CPA projects you are recommending. If you anticipate receiving more CPA money that you need for these items, the additional funds should be placed in the budgeted reserve. Once your recommended budget has been approved at a town (or city council) meeting, the budgeted reserve money will be available for appropriation during the balance of the fiscal year. If the fiscal year ends and not all of the money in the budgeted reserve has been spent, it simply reverts back to the CPA fund balance for appropriation in future years.

This article on our website explains the CPA Budgeting process in detail:

<https://www.communitypreservation.org/finances>