

# Public Library Finance and the Trustee's Fiduciary Responsibilities

*A Webinar sponsored by the New York State  
Division of Library Development and the  
Library Trustees Association of New York State*

*December 4, 2014*



*Presented by: Jerry Nichols, Director, Palmer Institute for Public Library Organization and Management;  
Palmer School of Library and Information Science  
Long Island University; LIU Post.*

# Welcome

Carol Ann Desch,

Coordinator of Statewide Library Services and Director of the Division of Library Development



*During her tenure at the State Library, Carol Desch has provided leadership and vision for statewide programs, policies and services designed to improve library services for 19 million New Yorkers through a comprehensive network of 73 library systems and over 7000 public, school, academic and special libraries.*

# Today's Topics

- Your Job as a Trustee
- Providing Resources
- Critical Laws
- The Board Review Process
- Governing your Assets
- State Comptroller's Audits
- Additional Resources



# Your Job as a Trustee

- To act in good faith;
- Be loyal to the institution;
- Fulfill the mission;
- Comply with the law;
- **Provide Fiscal Oversight;**
- Advocate for the Library;
- Hire the CEO.



# Your Job as a Trustee

## *Your Fiduciary Responsibilities*

### *Fiduciary Accountability*

*“ensure that financial resources are being used efficiently and effectively toward meeting the institution’s goals”; and “hire a CEO to manage the operation of the institution and evaluate his/her overall performance”.*

- Select a qualified Library Director and let them manage.
- Secure sufficient financial resources.
- Monitor expenditures and get an annual independent audit.

NYS Board of Regents, *Statement on the Governance Role of a Trustee or Board Member:*

[www.regents.nysed.gov/about/statement\\_governance.html](http://www.regents.nysed.gov/about/statement_governance.html)

# Providing Resources

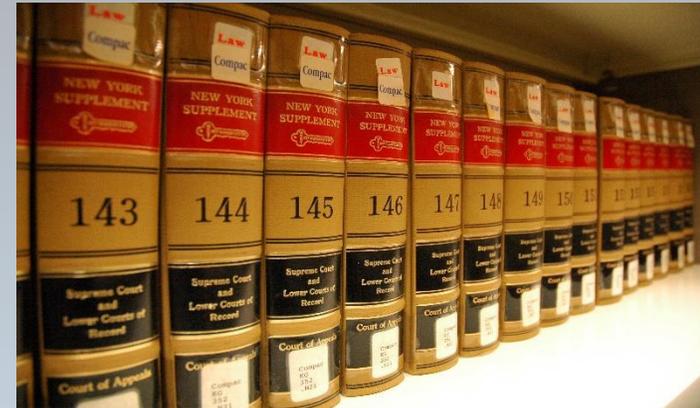
*“Secure sufficient financial resources”*

- Over 93% of public library revenues in New York State are from public funds;
- Tax Cap/Tax Freeze legislation chills additional library funding and results in cuts to municipally funded libraries;
- In fact, very few public libraries in New York State derive truly significant support from fundraising.

*Be realistic about your funding and plan ahead!*

# Critical Laws

- NYS Ed. Law Section 226 – Powers & Duties of Trustees
  - Property Holding, etc.
- NYS Ed. Law Section 259 – Taxation
  - “Continuing Appropriation”
  - **Trustees approval of expenditures**
  - Receipt and Segregation of Library funds
  - “Chapter 414” process
- NYS Ed. Law Sec. 260 – Powers of Trustees; school district public library authority
  - Separate budget and trustee vote
  - “Requiring” School District to Bond Construction



# Critical Laws, continued

- NYS General Municipal Law (Public Libraries)
  - Competitive Bidding and Procurement
  - Conflicts of Interest
- NYS Not-for Profit Revitalization Act (Association Libraries)
  - [www.charitiesnys.com](http://www.charitiesnys.com)
  - Conflicts of Interest
    - “Related Party Rules”
  - Audit Committees and Independent Audits
- Public vs. Association Libraries: Adopting “Best Practices”

# The Board Review Process

## *The Need for Due Diligence, Oversight and Transparency*

- Public Access to Decision Making
  - Open Meetings Law
  - FOIL and the Principles of Access to Public Records
  
- Transparency in Financial Issues
  - Budget Process
  - Audits
  - Reserve Funds



# The Board Review Process

*Areas of Concern.... It starts at the top!*

- Cash flow
  - When and How you get your money
  - Using your Reserves Intelligently
- Expenditures
  - Personnel
  - Services
  - Operations
- Effective Board Meetings
- Internal Controls
- Investments
- Risk Management



# The Board Review Process

## *Effective Board Meetings*

- Every Trustee's Fiduciary Responsibility - "Doing Diligence"
- Responsibility of the Treasurer/ Finance Officer
  - 501 (c) 3 Audit Committees
- Content of Financial Reports - The Need for Clarity
- Board Approval of all Expenditures
- Authorization of Pre-pays, Petty Cash and Discretionary Funds



# The Board Review Process

## *Financial Reports - What you should see*

- **Bank Account Reconciliation** (Prepared by Library Treasurer or other independent source)
  - Details of Recent Activity;
  - Information on all Library accounts.
- **Library Revenues** (Prepared by Library business office)
  - Showing month to month details of “Budgeted” and “Received”:
    - Tax revenues
    - Fines & Fees
    - Donations
    - Interest
    - Other anticipated revenues
    - Unanticipated revenues

# The Board Review Process

## *Financial Reports - What you should see*

- **Library Expenditures:** (Prepared by Library business office)
  - Your line item annual budget;
  - Your year-to-date expenditures by item;
  - Your line item expenditures this month;
  - Your “encumbrances” (what you are committed to pay);
  - Your balance for each line item;
  - The percentage remaining for each budget line.
- **Vouchers/Warrants:** (Prepared by Library business office)
  - **Audit and Approval of expenditures:** NYS Ed. Law 259.1
    - Bill vouchers & Payroll warrants
    - Pre-pays & Director’s discretionary funds.



# Governing your Assets

## *Key Areas for Review*

- Internal Controls
- Annual Independent Audits
- Reserve Funds
- Investments
- Risk Assessment
- Essential Policies & Procedures



# Governing your Assets

## *Internal Controls*

*A process, effected by an entity's board of directors, management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:*

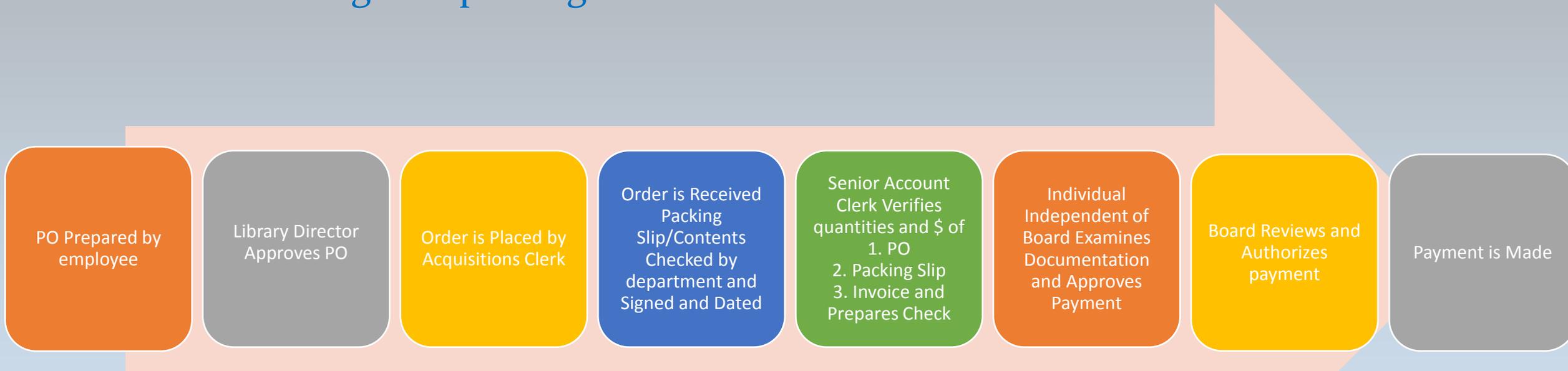
- Effectiveness and efficiency of operations;
- Reliability of financial reporting;
- Compliance with applicable laws and regulations;
- [www.osc.state.ny.us/localgov/pubs/lmgm/managementsresponsibility.pdf](http://www.osc.state.ny.us/localgov/pubs/lmgm/managementsresponsibility.pdf)

- ✓ Review budget, revenues and expenditures monthly;
- ✓ Review documentation;
- ✓ Dual authorization for checks;
- ✓ Segregation of duties;
- ✓ Securing cash;
- ✓ Making deposits.



# Internal Controls, continued

- Segregation of incompatible duties:
  - Custody of assets
  - Authorization or approval of transactions affecting those assets
  - Recording or reporting of related transactions



Model Segregation of Duties for Purchasing

## ...a Word about Theft, Embezzlement & Fraud

- Though not commonplace, significant Library fraud and embezzlement does happen!!!
- Some degree of theft exists in every institution (even libraries!); from pilfering supplies and computer software to “appropriating” fine monies and petty cash.
- Your fiduciary responsibility includes asking your administration to review and discuss the safeguards they have in place.
- These safeguards should be based on the principles of a reasonable “segregation of duties”.
- Trustees are sometimes the perpetrators of such activity; often due to their ability to short circuit normal procedures.

# Governing your Assets

## *Annual Independent Audits*

- *An audit is an independent assessment of the fairness by which a library's financial statements are presented by its management. It is performed by competent, independent and objective person or persons, known as auditors or accountants, who then issue a report on the results of the audit.*
- *Such systems must adhere to generally accepted standards set by governing bodies that regulate business or governmental accounting practices. It simply provides assurance for third parties or external users that such statements present “fairly” a company's financial condition and results of operations.*

-----

- *Though an audit that conforms with generally accepted accounting principles (rather than a “review”) may not be required for your Library; it is in the Library's, the community's and the Trustees' best interest to do so.*
- *The Library Board should review the annual audit with the independent auditor at a public meeting and thoroughly discuss the financial position, policies and practices of the institution.*

# Governing your Assets

## *Proper Use and Reporting of Reserve Funds*

- Typical Use of Reserve Funds
  - Cash Flow
  - Future Significant Expenses
- Appropriate Use and Transparency of Reserve Funds
  - How Much????
    - Comptroller's Opinions and Recent Audit Comments
  - Board Authority
  - Public Accountability
  - GASB 54: <http://gasb.org>



# Governing your Assets

## *Investment Practices*

- Public vs. Association Libraries- **Adopting “Best Practices”**
- All Funds held by “Public” Libraries are subject to OSC Regulations
- Public Investment Regulations-  
*Public Libraries are required to adopt an investment policy based on guidelines developed by the New York State Comptroller.*

These guidelines stress the need to protect the public’s money over the possible gains derived through non-guaranteed investments.

*In effect, public libraries may only invest funds in secured investments such as FDIC insured accounts or U.S. Treasury bills.*

If the threshold for FDIC insurance is exceeded, third party collateral must be provided by the banking institution.

➤ [www.osc.state.ny.us/localgov/pubs/lgmg/investingpublicfunds.pdf](http://www.osc.state.ny.us/localgov/pubs/lgmg/investingpublicfunds.pdf)

# Governing your Assets

## *Risk Assessment*

- Insurance
  - Seeking the “Best” coverage
- Inventories
  - Insurance Purposes
  - Auditing: GASB 34
- Bonding Employees
- Negligent Hiring – Background Checks
- Business Continuity Plans



# Governing your Assets

## *Essential Policies & Procedures*

- Code of Ethics/ Conflict of Interest
- Procurement: [www.osc.state.ny.us/localgov/pubs/listacctg.htm#fiscal](http://www.osc.state.ny.us/localgov/pubs/listacctg.htm#fiscal)
- Investments: [www.osc.state.ny.us/localgov/pubs/lgmg/investingpublicfunds.pdf](http://www.osc.state.ny.us/localgov/pubs/lgmg/investingpublicfunds.pdf)
- Budget Process
- Payment of Bills
  - Authorization of Pre-payments (annually)
  - Director's pre-authorization (annually)
- Petty Cash
- Deposit of Funds (annually)
- Annual Audit
- Reserve Funds - GASB 54 Compliance: <http://gasb.org>
- Records Retention: [www.archives.nysed.gov/a/publications/pubs\\_records\\_mgmt.shtml](http://www.archives.nysed.gov/a/publications/pubs_records_mgmt.shtml)
- Whistleblower Policy (Association Libraries with +20 staff)

# New York State Comptroller's Audits

## *Who is Subject to OSC Audits?*

### Key Areas of OSC Audits:

- Board & Treasurer Roles and Duties
- Policies and Procedures
- Audit of Invoices Prior to Board Meetings
- Purchasing Practices
- Warrants/Vouchers
- Payroll Management
- Checks (*Appropriate Signatures and Safeguards*)
- Cash Receipts
- Segregation of Duties
- Reserve Funds
- IT and Technology
- Data Backup



# Primary Resources

- *Statement on the Governance Role of a Trustee or Board Member:* [www.regents.nysed.gov/about/statement\\_governance.html](http://www.regents.nysed.gov/about/statement_governance.html)
- U. S. Internal Revenue Service: [www.irs.gov/Charities-&-Non-Profits](http://www.irs.gov/Charities-&-Non-Profits)
- New York State Comptroller: [www.osc.state.ny.us](http://www.osc.state.ny.us)
- New York State Attorney General: [www.charitiesnys.com](http://www.charitiesnys.com)
- Government Accounting Standards Board: <http://gasb.org>

# Additional Resources

- NY State Comptroller:
  - Local Government Publications: [www.osc.state.ny.us/localgov/pubs/listacctg.htm#fiscal](http://www.osc.state.ny.us/localgov/pubs/listacctg.htm#fiscal)
  - Code of Ethics Tutorial: [www.osc.state.ny.us/localgov/training/modules/protecting/index.htm](http://www.osc.state.ny.us/localgov/training/modules/protecting/index.htm)
  - Tax Cap Information: [www.osc.state.ny.us/localgov/realprop/index.htm](http://www.osc.state.ny.us/localgov/realprop/index.htm)
  - Tax Freeze Information: [www.osc.state.ny.us/localgov/realprop/taxfreeze/pdf/TaxFreeze\\_Instructions.pdf](http://www.osc.state.ny.us/localgov/realprop/taxfreeze/pdf/TaxFreeze_Instructions.pdf)  
[www.budget.ny.gov/pubs/press/2014/ptfc/rp5301fs.pdf](http://www.budget.ny.gov/pubs/press/2014/ptfc/rp5301fs.pdf)
- NY State Not-for-Profit Revitalization Act:  
<http://open.nysenate.gov/legislation/api/1.0/lrs-print/bill/S7431-2011>
- NY State Attorney General:  
[www.charitiesnys.com/pdfs/Right%20From%20the%20Start%20Final.pdf](http://www.charitiesnys.com/pdfs/Right%20From%20the%20Start%20Final.pdf)
- National Council of Non-Profits: [www.councilofnonprofits.org](http://www.councilofnonprofits.org)

# Trustee Information Resources

- Division of Library Development: [www.nysl.nysed.gov/libdev](http://www.nysl.nysed.gov/libdev)
- Library Trustees Association of New York State (LTA): [www.librarytrustees.org](http://www.librarytrustees.org)
- New York Libraries Trustees Online: [www.nylto.org](http://www.nylto.org) [login available from your regional library system]
- NYS Education Department: [www.nysed.gov](http://www.nysed.gov)
- NYS Comptroller: [www.osc.state.ny.us](http://www.osc.state.ny.us)
- NYS Attorney General: [www.ag.ny.gov](http://www.ag.ny.gov)
- Committee on Open Government: [www.dos.ny.gov/coog/index.html](http://www.dos.ny.gov/coog/index.html)
- NYS Trustee Handbook: [www.nysl.nysed.gov/libdev/pltrust/handbook/index.html](http://www.nysl.nysed.gov/libdev/pltrust/handbook/index.html)

# Public Library Finance and the Trustee's Fiduciary Responsibilities

*A Webinar sponsored by the New York State  
Division of Library Development and the  
Library Trustees Association of New York State*

*December 4, 2014*



*Presented by: Jerry Nichols, Director, Palmer Institute for Public Library Organization and Management;  
Palmer School of Library and Information Science  
Long Island University; LIU Post.*

# Acknowledgements

## Credits:

- “Money Puzzle”- slides 1 & 27: <https://www.flickr.com/photos/natloans>
- “NY State Library- slide 2: <https://www.flickr.com/photos/rkefer>
- “Money Scrabble” – slide 3: “PT Money”[ptmoney.com](http://ptmoney.com)
- “Balloon”- slide 4: [www.flickr.com/photos/librariesrock](http://www.flickr.com/photos/librariesrock)
- “Law Books” – slide 7: <https://www.flickr.com/photos/seychelles88>
- “Board Room” – slide 9: St. Thomas Public Library
- “Library Board” – slide 10: Chelmsford Public Library
- “Spreadsheet mug” – slide 11: <https://www.flickr.com/photos/craigmoulding>
- “Dice”- slide 14: <https://www.flickr.com/photos/snigl3t>
- “Trust” – slide 15: Weinstock; Symphony of Love
- “Segregation of Duties” graphic - slide 16: Ann Hofbauer, Amityville Public Library
- “Money” – slide 19: <https://www.flickr.com/photos/17084757@Noo>
- “Jump?” – slide 21: <https://www.flickr.com/photos/epsos/>
- “Broken Pencil” – slide 23: <https://www.flickr.com/photos/vvvracer>

## And thanks to:

Kevin Verbese, Suffolk Cooperative Library System.

Al Coster, CPA. Baldessari & Coster, LLP.: <http://fso.cpasitesolutions.com/baldessariandcoster>

Lauren Nichols, Patchogue-Medford Public Library.