CIP Fiscal Policy

DEFINITION AND PURPOSE OF FISCAL POLICY

Fiscal policy is the combined practices of government with respect to revenues, expenditures, and debt management. Fiscal policy for the Capital Improvements Program focuses on the acquisition, construction, and renovation of public facilities and on the funding of such activities, with special attention to both long-term borrowing and, increasingly, short-term debt.

The County Charter (Article 3, Sections 302 and 303) provides that the County Executive shall submit to the Council, not later than January 15 of each even-numbered calendar year, a comprehensive six-year program for capital improvements. This biennial Capital Improvements Program takes effect for the six-year period which begins in each odd-numbered fiscal year. The Charter provides that the County Executive shall submit a Capital Budget to the Council, not later than January 15 of each year.

The County Executive must also submit to the Council, not later than March 15 of each year, a proposed operating budget, along with comprehensive six-year programs for public services and fiscal policy. The Public Services Program(PSP)/Operating Budget and Capital Improvements Program(CIP)/Capital Budget constitute major elements in the County's fiscal planning for the next six years. Fiscal policies for the PSP and CIP are parts of a single consistent County fiscal policy.

In November 1990, the County's voters approved an amendment to Section 305 of the Charter to require that the Council annually adopt spending affordability guidelines for the capital and operating budgets. Spending affordability guidelines for the CIP have been interpreted in subsequent County law to be limits on the amount of general obligation debt and Park and Planning debt that may be approved for expenditure for the first year of the CIP and for the entire six years of the CIP. In October 1997, County law was amended to align with the biennial CIP process. Spending affordability guidelines are now adopted in odd-numbered calendar years, and limit the amount of general obligation debt that may be approved for the first year, the second year, and for the entire six years of the CIP. Similar provisions cover the bonds issued by M-NCPPC. Since 1994, the Council, in conjunction with the Prince George's County Council, has adopted one-year spending limits for WSSC. These spending control limits have included guidelines for new debt and annual debt service.

The purposes of the CIP fiscal policy are:

- To encourage careful and timely decisions on the relative priority of programs and projects;
- To encourage cost effectiveness in the type, design, and construction of capital improvements;
- To assure that the County may borrow readily for essential public improvements; and
- To keep the cost of debt service and other impacts of capital projects at levels affordable in the operating budget.

CURRENT CIP FISCAL POLICIES

The fiscal policies followed by the Executive and Council are relatively stable, but not static. They evolve in response to changes in the local economy, revenues and funding tools available, and requirements for public services. Also, policies are not absolute; policies may conflict and must be balanced in their application. Presented here are the CIP fiscal policies currently in use by the County Executive.

Policy on Project Eligibility for Inclusion in the CIP

Capital expenditures included as projects in the CIP should:

- Have a reasonably long useful life, or add to the physical infrastructure and capital assets of the County, or enhance the productive capacity of County services. Examples are roads, utilities, buildings, and parks. Such projects are normally eligible for debt financing.
- Generally have a defined beginning and end, as differentiated from ongoing programs in the PSP.
- Be related to current or potential infrastructure projects. Examples include facility planning or major studies. Generally, such projects are funded with current revenues.
- Be carefully planned, generally as part of a facility planning process, to enable decision makers to evaluate the project based on complete and accurate information. In order to permit projects to proceed to enter the CIP once satisfactory planning is complete, a portion of "programmable expenditures" (as used in the Bond Adjustment Chart) is deliberately left available for future needs.

Policy on Funding CIP with Debt

Much of the CIP should be funded with debt. Capital projects usually have a long useful life and will serve future taxpayers as well as current taxpayers. It would be inequitable and an unreasonable fiscal burden to make current taxpayers pay for many projects out of current tax revenues. Bond issues, retired over approximately 20 years, are both necessary and equitable.

Projects deemed to be debt eligible should:

- Have a useful life at least approximately as long as the debt issue with which they are funded.
- Not be able to be funded entirely from other potential revenue sources, such as intergovernmental aid or private contributions.
- Special Note: With a trend towards more public/private partnerships, especially regarding projects aimed at the revitalization or redevelopment of the County's central business districts, there are more instances when public monies leverage private funds. These instances, however, generally bring with them the "private activity" or private benefit (to the County's partners) that generally make it necessary for the County to use current revenue as its funding source. It is County fiscal policy that financing in partnership situations ensure that tax-exempt debt is issued only for those improvements that truly meet the IRS requirements for this lowest cost form of financing.

Policy on General Obligation Debt Limits

General obligation debt usually takes the form of bond issues. General obligation debt pledges general tax revenue for repayment. Paying principal and interest on general obligation debt is the first claim on County revenues. By virtue of prudent management and the long-term strength of the local economy, Montgomery County has maintained the highest quality rating of its general obligation bonds, AAA. This top rating by Wall Street rating agencies, enjoyed by very few local governments in the country, assures Montgomery County of a ready market for its bonds and the lowest available interest rates on that debt.

Debt Capacity

To maintain the AAA rating, the County adheres to the following guidelines in deciding how much additional County general obligation debt may be issued in the six-year CIP period:

- Total debt, both existing and proposed, should be kept at about 1.5 percent of full market value (substantially the same as assessed value) of taxable real property in the County.
- Required annual debt service expenditures should be kept at about ten percent of the County's total General Fund operating budget. Note: The General Fund no longer includes grants, which have been transferred to a Special Revenue Grant Fund. The General Fund also excludes other special revenue tax supported funds. If those special funds supported by all County taxpayers were to be included, the percentage of debt service would be below ten percent.
- Total debt outstanding and annual amounts issued, when adjusted for inflation, should not cause real debt per capita (i.e., after eliminating the effects of inflation) to rise significantly.
- The rate of repayment of bond principal should be kept at existing high levels and in the 60-75 percent range during any ten-year period.
- Total debt outstanding and annual amounts proposed should not cause the ratio of per capita debt to per capita income to rise significantly above its current level of about 3.5 percent.

Policy on Terms for General Obligation Bond Issues

Bonds are normally issued in a 20-year series, with 5 percent of the series retired each year. This practice produces equal annual payments of principal over the life of the bond issue, which means declining annual payments of interest on the outstanding bonds. Thus annual debt service on each bond issue is higher at the beginning and lower at the end. When bond market conditions warrant, or when a specific project would have a shorter useful life, then different repayment terms may be used. The Charter limits the term of any bond to 30 years.

Policy on Other Forms of General Obligation Debt

The County may issue other forms of debt as appropriate and authorized by law. From time to time, the County has issued Bond Anticipation Notes (BANs) and commercial paper for interim financing to take advantage of favorable interest rates within rules established by the Internal Revenue Service.

Policy on Use of Revenue Bonds

Revenue bonds are secured by the pledge of particular revenues to their repayment in contrast to general obligation debt, which pledges general tax revenues. The revenues pledged may be those of a Special Revenue fund, or they may be derived from the funds or revenues received from or in connection with any project, all or part of which is financed from the proceeds of revenue bonds. Revenue-based debt carries a higher interest rate but allows a direct relationship between the cost of a project and the users who benefit from it.

Policy on Use of Current Revenues

The County has the following policies on the use of current revenues in the CIP:

- Current revenues must be used for any CIP projects not eligible for debt financing by virtue of limited useful life.
- Current revenues should be used for CIP projects consisting of long-lived equipment replacement, for limited renovations of facilities, for renovations to facilities which are not owned by the County, and for planning and feasibility studies.
- Current revenues may be used when the requirements for capital expenditures press the limits of bonding capacity.

Most non-debt eligible projects funded with current revenues have been transferred to, and are budgeted in, the six-year Public Services Program/Operating Budget. This significantly

increases the visibility of all items competing for the same funding (current revenues), expands the capacity of elected officials and citizens to scrutinize all relevant spending choices over a multi-year time frame, and diminishes the tendency to presume that programs once in the CIP are entitled to more protection from budgetary pressures than those traditionally in the PSP.

Policy on Use of Federal and State Grants and Other Contributions

Grants and other contributions should be sought and used to fund capital projects whenever they are available on terms that are to the County's long-term fiscal advantage. Such revenues should be used as current revenues for debt avoidance and not for debt service.

Policy on Taxing New Private Sector Development

As part of a fair and balanced tax system, new development of housing, commercial, office, and other structures should contribute directly toward the cost of the new and improved transportation and other facilities required to serve that development. To implement this policy, the County has established the following taxes:

Impact Tax – Transportation. The County Council established new rates and geographical boundaries for transportation impact taxes in October 2003. The rates take effect on March 1, 2004. These taxes are levied at three rate schedules: for the majority of the County (the General impact tax area), for designated Metro station areas, and for Clarksburg.

Impact Tax - Schools. Beginning March 1, 2004, most residential development in Montgomery County will be subject to an impact tax for certain school facilities. The rates are the same Countywide but vary by housing type, commensurate with the average student generation rates of that type of residential development.

School Facilities Payment. In October 2003, the County Council established a school facilities payment which will be applied at subdivision review to residential development projects located in a school cluster where enrollment exceeds adopted standards but is less than 110 percent of capacity. The school facilities payment is made on a per-student basis, based upon standard student generation rates of that the type of residential development. Revenue from the school facilities payment is unpredictable and is not programmed for specific projects until after the revenue has been collected

Development Approval Payment (DAP). In November 1993, the Council created an alternative voluntary review procedure for Metro station policy areas as well as limited residential development. The DAP permits development projects to proceed in certain areas subject to development restrictions. Due to the voluntary nature of this payment, DAP revenue is an unpredictable funding source and is not programmed for specific transportation improvements until after the revenue has been collected. In October 2003, the County Council revised the Annual Growth Policy to replace the Development Approval Payment with an alternative payment mechanism based upon impact tax rates.

Expedited Development Approval Excise Tax (EDAET). The EDAET, also known as Pay-and-Go, enacted by the Council in October 1997, allows certain private development to proceed with construction in moratorium and non-moratorium policy areas after the excise tax has been paid. The tax is assessed on the project based on the intended use of the building, the square footage of the building, and whether the building is in a moratorium policy area. The purpose of the four-year EDAET is to act as a stimulus to residential and commercial construction within the County by making the development approval process more certain. A few subdivisions are permitted to retain the EDAET approval longer than four years. As of December 2003, no new subdivisions may use the EDAET procedure, but several projects previously approved under the procedure have not yet acquired building permits.

Development Districts. Legislation enacted in 1994 established a procedure by which the Council may create a development district. The creation of such a special taxing district allows the County to issue low-interest, tax-exempt bonds that are used to finance the infrastructure improvements needed to allow the development to proceed. Taxes or other assessments are levied on the property within the district, the revenues from which are used to pay the debt service on the bonds. Development is, therefore, allowed to proceed, and improvements are built in a timely manner. Only the additional, special tax revenues from the development district are pledged to repayment of the bonds. The County's general tax revenues are not pledged. The construction of improvements funded with development district bonds is required by law to follow the County's usual process for constructing capital improvements and, thus, must be included in the Capital Improvements Program.

Transportation Improvement (Loophole) Credits. Under certain conditions, a developer may choose to pay a transportation improvement credit in lieu of funding or constructing transportation improvements required in order to obtain development approval. These funds are used to offset the cost of needed improvements in the area from which they are paid.

Systems Development Charge (SDC). This charge, enacted by the 1993 Maryland General Assembly, authorized WSSC to assess charges based on the number and type of plumbing fixtures in new construction, effective July 19, 1993. SDC revenues may only be spent on new water and sewerage treatment, transmission, and collection facilities.

DETAILED DESCRIPTION OF CIP FUNDING SOURCES

Within each individual capital project, the funding sources for all expenditures are identified. There are three major types of funding for the capital improvements program: current revenues (including PAYGO); proceeds from bonds and other debt instruments; and grants, contributions, reimbursements, or other funds from intergovernmental and other sources.

Current Revenues

Cash contributions used to support the CIP include: transfers from general revenues, special revenues, and enterprise funds; investment income on working capital or bond proceeds; proceeds from the sale of surplus land; impact taxes, development approval payments, systems development charges, and the expedited development approval excise tax; and developer contributions. The source and application of each are discussed below.

Current Revenue Transfers. When this source is used for a capital project, cash is allocated to the capital project directly from the General, Special, or Enterprise Funds to finance direct payment of some or all of the costs of the project. The General Fund is the general operating fund of the County and is used to account for all financial resources except those required to be accounted for in another fund. The Special Revenue Funds are used to account for the proceeds of specific revenue sources that are restricted to expenditures for specified purposes. The Enterprise Funds are used to account for operations that are financed and operated in a manner similar to private business enterprises, where the intent of the governing body is that the costs of providing goods or services to the general public on a continuing basis be financed primarily through user charges.

Use of current revenues is desirable as it constitutes "pay-as-you-go" financing and, when applied to debt-eligible projects, reduces the debt burden of the County. Decisions to use current revenue funding within the CIP have immediate impacts on resources available to annual operating budgets, and require recognition that certain costs of public facilities should be supported on a current basis rather than paid for over time. Current revenues from the General Fund are used for designated projects which involve broad public use and which fall outside any of the specialized funds. Current revenues from the Special and Enterprise Funds are used if the project is associated with the particular function for which these funds have been established.

PAYGO is current revenue set aside in the operating budget, but not appropriated. PAYGO is used to replace bonds for debt-eligible expenditures.

Proceeds from the Sale of Public Property. When the County sells surplus land or other real property, proceeds from the sales are deposited into the Land Sale Fund, and are then used to fund projects in the CIP. By law, 25 percent of the revenue from land sales must be directed to the Montgomery Housing Initiative (MHI) Fund to promote a broad range of housing opportunities in the County. Properties may be excluded from the 25 percent requirement if they are within an area designated as urban renewal or by a waiver from the County Executive.

Impact Taxes are specific charges to developers to help fund improvements to transportation and public school infrastructure. School impact taxes are charged at one rate Countywide for each type of housing. There are three sets of rates for the transportation impact tax: the majority of the County (the General area), designated Metro station areas, and Clarksburg.

All new development (residential or commercial) within the designated areas is subject to payment of applicable impact taxes as a condition to receiving building permits. The tax rates are set by law to be calculated at the time a developer applies for a building permit. In October 2003, the County Council increased transportation impact tax rates, established the school impact tax, and reduced developers' discretion to save credits against the transportation impact tax. These changes are expected to increase future impact tax revenues.

Since revenues to be obtained from impact taxes are payable only when a developer applies for building permits (which may not occur for a number of years), other funding is sometimes required for funding project construction, predicated on eventual repayment from impact taxes.

Contributions are amounts provided to the County by interested parties such as real estate developers in order to support particular capital projects. Contributions are sometimes made as a way of solving a problem which is delaying development approval. A project such as a road widening or connecting road that specifically supports a particular new development may be fully funded (and sometimes built) by the developer. Other projects may have agreed-upon cost-sharing arrangements predicated on the relationship between public and private benefit that will exist as a result of the project. For stormwater management projects, developer contributions are assessed in the form of fees in lieu of on-site construction of required facilities. These fees are applied to the construction of regional facilities serving a particular area. They are separately designated and accounted for within the Capital Projects Fund.

Bond Issues and Other Public Agency Debt

The County government and four of its Agencies are authorized by State law and/or County Charter to issue debt to finance CIP projects. This debt may be either general obligation or self-supporting debt. General obligation debt is characterized in credit analyses as being either "direct" or "overlapping." Direct debt is the sum of total bonded debt and any unfunded debt (such as short-term notes) of the government, and constitutes the direct obligations of the County government which impact its taxpayers. Overlapping

debt includes all other borrowing of County agencies or incorporated municipalities within the County's geographic limits, which may impact those County taxpayers who are residents of those municipalities or those County taxpayers who are ratepayers or users of public utilities. More broadly, overlapping debt can help reveal the degree to which the total economy is being asked to support long-term fixed commitments for government facilities.

Direct General Obligation Debt is incurred by the issuance of bonds by the County government and the Maryland-National Capital Park and Planning Commission (M-NCPPC). Payment of some bonded debt issued by the Washington Suburban Sanitary Commission (WSSC) and the Housing Opportunities Commission (HOC) is also guaranteed by the County government.

County government general obligation bonds are issued for a wide variety of functions such as transportation, public schools, community college, public safety, and other programs. These bonds are legally-binding general obligations of the County and constitute an irrevocable pledge of its full faith and credit and unlimited taxing power. The County Code provides for a maximum term of 30 years, with repayment in annual serial installments. Typically, County bond issues have been structured for repayment with level annual payments of principal. Bonds are commonly issued for 20 years. The money to repay general obligation debt comes primarily from general revenues, except that debt service on general obligation bonds, if any, issued for projects of Parking Districts, Liquor, or Solid Waste funds is supported from the revenues of those enterprises.

M-NCPPC is authorized to issue general obligation bonds, also known as Park and Planning bonds, for the acquisition and development of local and certain special parks and advance land acquisition, with debt limited to that supportable within mandatory tax rates established for the Commission. Issuance is infrequent, and because repayment is guaranteed by the County, it is considered a form of direct debt. Debt for regional, conservation, and special park facilities is included within County government general obligation bond issues, with debt service included within the County government's annual operating budget.

HOC bonds which support County housing initiatives such as the acquisition of low/moderate-income rental properties may be guaranteed by the County to an aggregate amount not to exceed $50 million, when individually authorized by the County and, as such, are considered direct debt of the County. The HOC itself has no taxing authority, and its projects are considered to be financed through self-supporting debt as noted below.

Overlapping debt is the debt of other governmental entities in the County that is payable in whole or in part by taxpayers of the County.

WSSC General Construction Bonds finance small diameter water distribution and sewage collection lines and required support facilities. They are considered general obligation bonds because they are payable from unlimited *ad valorem* taxes upon all the assessable property in the WSSC district. They are actually paid through assessments on properties being provided service and are considered to be overlapping debt rather than direct debt of the County government.

WSSC Water Supply and Sewage Disposal Bonds, which finance major system improvements, including large diameter water distribution and sewage collection lines, are paid from non-tax sources including user charges collected through water and sewer rates, which also cover all system operating costs. They are backed by unlimited *ad valorem* taxes upon all the assessable property within the WSSC district in addition to mandated rates, fees, and charges sufficient to cover debt service.

Self-Supporting Debt is authorized for the financing of CIP projects by the County government and its Agencies as follows:

County Revenue Bonds are bonds authorized by the County to finance specific projects such as parking garages and solid waste facilities, with debt service to be paid from pledged revenues received in connection with the projects. Proceeds from revenue bonds may be applied only to costs of projects for which they are authorized. They are considered separate from general obligation debt and do not constitute a pledge of the full faith and credit or unlimited taxing power of the County.

County revenue bonds have been used in the Bethesda and Silver Spring Parking Districts, supported by parking fees and fines together with parking district property taxes. County revenue bonds have also been issued for County Solid Waste Management facilities, supported with the revenues of the Solid Waste Disposal system.

HOC Mortgage Revenue Bonds are issued to support HOC project initiatives and are paid through mortgages and rents. HOC revenue bonds, including mortgage purchase bonds for single family housing, are considered fully self-supporting and do not add to either direct or overlapping debt of the County.

The Montgomery County Revenue Authority has authority to issue revenue bonds and to otherwise finance projects through notes and mortgages with land and improvements thereon serving as collateral. These are paid through revenues of the Authority's several enterprises, which include golf courses and the Montgomery County Airpark.

The County has also used the Revenue Authority as a conduit for alternative CIP funding arrangements. For example, swim centers, a building to house County and State Health and Human Services functions, and the construction of the

Montgomery County Conference Center are financed though revenue bonds issued or to be issued by the Revenue Authority. The County has entered into long-term leases with the Revenue Authority, and the County lease payments fund the debt service on these Revenue Authority bonds. Because these long-term leases constitute an obligation of the County similar to general debt, the value of the leases is included in debt capacity calculations.

Intergovernmental Revenues

CIP projects may be funded in whole or in part through grants, matching funds, or cost sharing agreements with the Federal government, the State of Maryland, regional bodies such as Washington Metropolitan Area Transit Authority (WMATA), or the County's incorporated municipalities.

Federal Aid. Major projects that involve Federal aid include Metro, commuter rail, interstate highway interchanges and bridges (noted within the CIP Transportation program), and various environmental construction or planning grants under WSSC projects in the Sanitation program. Most Federal aid is provided directly to the State, for redistribution to local jurisdictions.

Community Development Block Grant (CDBG). CDBG funds are a particular category of Federal aid received through annual formula allocations from the U.S. Department of Housing and Urban Development in response to County application and are identified as CIP revenues in the Housing and Community Development program. The County has programmed eligible projects for CDBG funding since 1976, with expenditures programmed within both capital and operating budgets. CDBG funds are used to assist in the costs of neighborhood improvements and facilities in areas where there is significant building deterioration, economic disadvantage, or other need for public intervention in the cycles of urban growth and change. In addition, CDBG funding is used as "seed money" for innovative project initiatives, including redevelopment and rehabilitation loans toward preserving and enhancing older residential and commercial areas and low/moderate-income housing stock.

State Aid. This funding source includes grants, matching funds, and reimbursements for eligible County expenditures for local projects in public safety, environmental protection, courts and criminal justice, transportation, libraries, parkland acquisition and development, mental health, community college, and K-12 public education, notably in school construction.

State aid consistently falls short of funding needs predicated on State mandates or commitments. Although the State of Maryland is specifically responsible for the construction and maintenance of its numbered highways and for the construction and renovation of approved school projects, the County has in fact advance-funded projects in both categories either through cost-sharing agreements or in anticipation of at least partial reimbursements from the State. Because large County fiscal liabilities are taken on when assuming any or all project costs of State-mandated or obligated facilities, State reimbursement policies and formulas for allocation of funds are important to CIP fiscal planning.

State Aid for School Construction. State funding for school construction, initiated in FY72, is determined annually by the General Assembly on a Statewide basis.

State Aid for Higher Education. State aid is also a source of formula matching funds for community college facilities design, construction, and renovation. Funds are applied for through the Higher Education Commission for inclusion in the State Bond Bill. Approved projects may get up to 50 percent State funding for eligible costs. The total amount of aid available for all projects Statewide is determined based on yearly allocations of available bond proceeds to all Maryland jurisdictions.

State Aid for Transportation. Within the Transportation program, State contributions fund the County's local share of WMATA capital costs for Metrorail and Metrobus, as well as traffic signals and projects related to interconnecting State and local roads. Most State road construction is done under the State Consolidated Transportation Program and is not reflected in the CIP.

State Aid for Public Safety. Under Article 27, Sec. 705 of the Maryland Code, when the County makes improvements to detention and correctional centers resulting from the adoption of mandatory or approved standards, the State, through the Board of Public Works, pays for 50 percent of eligible costs of approved construction or improvements. In addition, financial assistance may be requested from the State for building or maintenance of regional detention centers, and, under 1986 legislation, the State will fund up to half the eligible costs to construct, expand, or equip local jails in need of additional capacity.

Municipal Financing. Some projects with specific benefits to an incorporated municipality within the County may include funding contributions or other financing assistance from that jurisdiction. These include road construction agreements such as with the City of Rockville, wherein the County and City share costs of interconnecting or overlapping road projects. Incorporated towns and municipalities within the County, specifically Rockville, Gaithersburg, and Poolesville, have their own capital improvements programs and may participate in County projects where there is shared benefit. The use of municipal funding in County CIP projects depends upon the following:

- Execution of cost-sharing or other agreements between the County and the municipality, committing each jurisdiction to specific terms, including responsibilities, scheduling, and cost-shares for implementation and future operation or maintenance of the project;

- Approval of appropriations for the project by the legislative body of each jurisdiction; and
- Resolution of any planning or zoning issues affecting the project.

Other Revenue Sources

The use of other revenue sources to fund CIP projects are normally conditioned upon specific legislative authority or project approval, including approval of appropriations for the projects. Approval of a project may be contingent upon actual receipt of the revenues planned to fund it, as in the case of anticipated private contributions that are not subject to particular law or agreement. Other CIP funding sources and eligibility of projects for their use include:

Revolving funds include the revolving loan fund authorized to cover HOC construction loans until permanent financing is obtained. Funds are advanced from County current revenues and repaid at interest rates equivalent to those the County earns on its investments. The Advance Land Acquisition Revolving Fund (ALARF) is used to acquire land in advance of project implementation. Revolving fund appropriations are then normally repaid from the actual project after necessary appropriation is approved.

Agricultural land transfer tax receipts payable to the State but authorized to be retained by the County. These are used to cover local shares in the State purchase of agricultural land easements and for County purchase of or loan guarantees backed by transferable development rights (TDRs);

Private grants such as were provided under profit-sharing agreements with the County's Cable TV corporation, for use in developing public access facilities, and

Insurance or self-insurance proceeds, for projects being renovated or replaced as a result of damage covered by the County's self-insurance system.

THE FRAMEWORK OF FISCAL POLICY

This section presents information on a variety of information sources and factors that are considered in developing and applying fiscal policy for the CIP.

Legal Mandates

State Law. The Annotated Code of Maryland provides the basis for fiscal policy related to debt, real property assessments, and other matters:

- Article 25A (Section 5P) provides for the borrowing of monies on the faith and credit of the County and for the issuance of bonds or other evidence of indebtedness. The aggregate amount of outstanding indebtedness may not exceed 15 percent of the assessed property valuation of the County.
- Section 8-103 provides for updated assessments of property in three-year (triennial) cycles. The amount of the change in the established market value of the one-third of the properties reassessed each year is phased in over a three-year period. State law also created a ten percent assessment limitation tax credit. This program provides an automatic credit against property taxes equal to the applicable tax rate (including the State rate) times that portion of the current assessment which exceeds the previous year's assessment increased by ten percent. This benefit only applies to owner-occupied residential property.
- Other provisions of State law mandate requirements for environmental review, permits, and controls for public facilities, such as solid waste disposal sites, affecting both the cost and scheduling of these facilities.
- State law mandates specific facility standards such as requirements for school classroom space to be provided by the County for its population and may also address funding allocations to support such requirements.
- State law provides for specific kinds of funding assistance for various CIP projects. In the area of public safety, for example, Article 27, Section 705 of the Maryland Code, provides for matching funds up to 50 percent of the cost of detention or correctional facilities.
- The Maryland Economic Growth, Resource Protection and Planning Act requires the County to certify that all construction projects financed with any type of State funding are in compliance with local land use plans, including specific State-mandated environmental priorities.

County Law. Article 3 of the County Charter provides for the issuance of public debt for other than annual operating expenditures and imposes general requirements for fiscal policy:

- The capital improvements program must provide an estimate of costs, anticipated revenue sources, and an estimate of the impact of the program on County revenues and the operating budget.
- Bond issues may not be for longer than 30 years.
- Capital improvement projects which are estimated to cost in excess of an annually-established amount (for FY05, $11.15 million) or which have unusual characteristics or importance, must be individually authorized by law, and are subject to referendum.
- In November 1990, County voters approved an amendment to Section 305 of the Charter to require that the Council annually adopt spending affordability guidelines for the capital and operating budgets. Spending affordability guidelines for the CIP have been interpreted in subsequent County law to be limits on the amount of County general obligation debt which may be approved for the first and second years of the CIP and for the entire six-year period of the CIP. Similar provisions apply to debt of the M-NCPPC. These limits may be overridden by a vote of seven of the nine Councilmembers.
- In April 1994, the Council adopted Resolution No. 12-1558 establishing a spending affordability process for WSSC. The process limits WSSC new debt, debt service, water/sewer operating expenses, and rate increases.

- The Charter amendment to Section 305, known as "Question F," limits the annual increase in property tax revenues to the rate of inflation plus the revenue associated with the assessed value of new construction. The limit may be overridden by a vote of seven of the nine Councilmembers. This revenue limit affects CIP fiscal policy by constraining revenue available for future debt service on bond issues and for current revenue contributions to capital projects.

Federal Law. Policies of the Federal Government affect County fiscal policies relative to debt issuance, revenue expectations, and expenditure controls. Examples of Federal policies that impact County fiscal policy include:

- Internal Revenue Service rules under the Tax Reform Act of 1986, as amended, provide limits on the tax-exempt issuance of public debt, and limit the amount of interest the County can earn from investment of the bond proceeds.
- County shares of costs for some major projects, such as those relating to mass transit and highway interchanges, are dependent upon Federal appropriations and allocations.
- Federal Office of Management and Budget circular A-87 prescribes the nature of expenditures that may be charged to Federal grants.
- Federal legislation will impact the planning and expenditures of specific projects, such as requirements for environmental impact statements for Federally-assisted road projects; and the Davis-Bacon Act, which requires local prevailing wage scales in contracts for Federally-assisted construction projects.

Fiscal Planning Projections and Assumptions

Several different kinds of trends and economic indicators are reviewed, projected, and analyzed each year for their impacts on County programs and services and for their impact on fiscal policy as applied to the Capital Improvements Program. Among these are:

Inflation, which is important as an indicator of future project costs or the costs of delaying capital expenditures;

Population growth, which provides an indicator of the size or scale of required facilities and services, as well as the timing of population-driven project requirements;

Demographic change in the numbers or location within the County of specific age groups or other special groups, which provides an indication of requirements and costs of specific public facilities;

Annual Growth Policy thresholds and other land use indicators, which are a determinant of major public investment in the infrastructure required to enable implementation of land use plans and authorized development within the County;

The assessable property tax base of the County, which is a major indicator for projections of revenue growth to support funding for public facilities and infrastructure;

Residential construction growth and related indicators, which provide early alerts to the specific location and timing of future public facilities requirements. It is also the most important base for projecting growth in the County's assessable property tax base and estimating property tax levels;

Nonresidential construction activity, which is the indicator of jobs, commuters, and requirements for housing and transit-related public investment. It is also one of the bases for projecting the growth of the County's assessable tax base and property tax revenues;

Employment and job growth within the County, which provide indicators for work-related public facilities and infrastructure;

Personal income earned within the County, which is the principal basis for projecting income tax revenues as one of the County's major revenue sources; and

Implementation rates for construction of public facilities and infrastructure. As measured through actual expenditures within programmed and authorized levels, implementation rates are important in establishing actual annual cash requirements to fund the CIP, and thus are a chief determinant of required annual bond issuance.

Generally Accepted Accounting Principles (GAAP)

The application of fiscal policy in the financial management of the CIP must be in conformity with GAAP standards. This involves the separate identification and accounting of the various funds which cover CIP expenditures; adherence to required procedures, such as transfers between funds and agencies; and regular audits of CIP transactions, such as the disbursement of bond proceeds and other funds to appropriate projects.

Credit Markets and Credit Reviews

The County's ability to borrow at the lowest cost of funds depends upon its credit standing as assessed by major credit rating agencies such as Moody's Investors Service, Standard & Poor's, and Fitch. Key aspects of the County's continued AAA credit ratings include:

- Adherence to sound fiscal policy relative to expenditures and funding of the CIP;
- Appropriate levels of public investment in the facilities and infrastructure required for steady economic growth;
- Effective production of the necessary revenues to fund CIP projects and support debt service generated by public borrowing;
- Facility planning, management practices and controls for cost containment, and effective implementation of the capital program;

- Planning and programming of capital projects to allow consistent levels of borrowing;
- Appropriate use and levels of revenues other than general obligation bond proceeds to fund the capital program;
- Appropriate levels of CIP funding from annual current tax revenues in order to reduce borrowing needs; and
- Assurances through County law and practice of an absolute commitment to timely repayment of debt and other obligations related to public facilities and infrastructure.

Intergovernmental Agreements

Fiscal policy for the CIP must provide guidance for and be applied within the context of agreements made between the County and other jurisdictions or levels of government. Examples include:

- Agreements with municipalities for cost shares in the construction of inter-jurisdictional roads and bridges;
- Agreements with adjacent jurisdictions related to mass transit or water supply and sewerage; and
- Agreements with Federal agencies involving projects related to Federal facilities within the County.

Past County Practice and Principles

Fiscal policy not only guides but is conditioned by the results of past as well as current County practice. Examples include:

- The former use of general obligation bond funding for the construction of parking garages, which are now more appropriately funded through revenue bond issues;
- The development of more stringent criteria for project funding through debt, with projects once considered eligible for bond-financing now being funded through current revenues or other funding sources;
- The practice of early identification within the CIP of likely projects and requirements for capital expenditure, to avoid sudden program expansion and peaks in debt issuance; and
- The principle of programming projects and expenditure schedules within their most realistic implementation time frames, rather than either inflating the early years of the program or deferring known project requirements to later years of the CIP.

Compatibility with Other County Objectives

Fiscal policy, to be effective, must be compatible with other policy goals and objectives of government. For example:

- Growth management within the County reflects a complex balance among the rights of property owners; the cost of providing infrastructure and services to support new development; and the jobs, tax revenues, and benefits that County growth brings to its residents. Fiscal policy provides guidance for the allocation of public facility costs between the developer and the taxpayer, as well as for limits on debt-supported costs of development relative to increasing County revenues from a growing assessable tax base.
- Government program and service delivery objectives range from conveniently located libraries, recreation centers, and other amenities throughout the County to comprehensive transportation management and advanced waste management systems. Each of these involves differing kinds and mixes of funding and financing arrangements that must be within the limits of County resources as well as acceptable in terms of debt management.
- Planning policies of the County affect land use, zoning and special exceptions, and economic development, as well as the provision of public services. All are interrelated, and all have implications both in their fiscal impacts (cost/revenue effects on government finances) and in economic impacts (effects on the economy of the County as a whole).