QUESTIONS

FOR

APPROPRIATORS

MACKINAC CENTER
FOR PUBLIC POLICY

INTRODUCTION

No money can be paid out of the Michigan treasury without appropriations made by law. This means that legislators have to authorize the state budget for each fiscal year. This requires a consensus about priorities and how to best spend taxpayers' money.

While there will often be disagreements about whether state government should fund certain functions at all, all policymakers have the responsibility to ensure that any program receiving taxpayer money produce maximum results for the resources received. The challenge for legislators is achieving that goal when they have limited knowledge of and interactions with the agencies they are funding, and, at least initially, limited experience with the appropriations process.

This questionnaire was developed to guide lawmakers as they scrutinize agency budget requests. In both good times and bad, **the sum of these requests will always exceed available revenues**. Government agencies' and program budgets should never operate on auto-pilot. By following this template and obtaining basic information about each program's origin, purpose, performance, legal authority, funding history and federal connections, policymakers can then hone in on specific changes to consider for the programs — including funding or staffing levels, performance measures and legislative reforms.

The conversation this information will spark can help forge agreement about how to efficiently and effectively meet the needs of Michigan residents and how to use the final state budget to best serve the needs of the public. Careful consideration of spending priorities such as this can boost public confidence in state government and elected officials.

ORIGINS & LEGAL AUTHORITY

Legislators should understand the origins of every program they fund. As a general rule, legislators should prioritize funding first for programs or functions specified in the constitution, followed by programs authorized in statute. If a program exists without constitutional or statutory authority, legislators should either create a statute to authorize the program — with conditions and constraints that they authorize — or consider doing away with the program.

QUESTIONS TO CONSIDER:

- **In what year was the program created?**
- **Is the program authorized in the state constitution?**
- **Is the program authorized in statute? If so, when were the laws passed and for what purpose?**
- **Is the program the result of agencies pursing federal funding opportunities?**
- **Is the program the result of executive or administrative actions?**
- **Are there federal or state judicial proceedings that constrain legislative decisions regarding the program?**

FEDERAL FUNDS

Almost 40 percent of Michigan's FY 2019 state budget consisted of federal funds. Nationwide, federal aid makes up approximately one-third of state general fund revenues. **State governments' acceptance of federal funds almost always comes with conditions.**

First, states commit their own revenues toward federal programs. This can take the form of a match, in which state dollars pull down federal dollars at a set percentage; or a "maintenance of effort" requirement, which threatens the loss of federal funds unless states maintain a constant level of financial support. These matching or MOE requirements may fluctuate based on economic conditions or externalities such as a federal budget sequestration. **Appropriators need to fully understand match or MOE obligations and forecasts so they are not caught off-guard by abrupt changes in federal funds.**

Second, states must agree to adopt certain laws or rules that are at least tangentially related to the program. Some examples include the requirement that states enact a 21-year-old minimum drinking age or face penalties on highway fund payments, or the requirement that they expand unemployment eligibility in order to receive federal unemployment stimulus funds. But the U.S. Supreme Court ruling in NFIB v. Sebelius put limits on the federal government's ability to strip existing funding from states that refuse to comply with subsequently adopted conditions. **It is essential that appropriators are aware of the extent to which their program decisions are constrained by federal law and rules.**

Matching and MOE requirements and federal conditions are especially important to consider in anticipation of future economic downturns, as both can have the effect of limiting legislators' options for addressing a state budget deficit or shortfall.

Additionally, because the federal government occasionally acknowledges that states have varying demographic and geographic profiles, some federal programs offer waiver opportunities that allow states some degree of flexibility in tailoring its implementation of the program to better meet local circumstances. The extent of flexibility will vary based on the program and the federal agency's leadership, and waivers that are granted will face a periodic review and reauthorization.

Appropriators in particular need to be aware of these opportunities and press state agency officials to pursue every opportunity to obtain the maximum flexibility for the benefit of Michiganders. And appropriators should not hesitate to turn back federal funds for activities that they would not undertake on their own volition should the federal funds dry up.

QUESTIONS TO CONSIDER:

- **Which programs have federal grants?**
- **What is the match or Maintenance of Effort requirements on programs with federal funds?**
- **What has been the five-year trend in our match percentage or MOE?**
- **What factors determine our match percentage or MOE over the next several years?**
- **What conditions are tied to our continued acceptance of those federal funds?**
- **What waivers have we received from federal program rules and when do they expire?**
- **What waivers are available under federal program rules for which our state has not applied?**

PERFORMANCE EVALUATION

An accurate assessment of the performance of government programs should inform all funding decisions, but **legislators should take special care to ensure that the data they are being provided by the respective agencies reflects progress toward discrete objectives as opposed to mere activity.**

Every state agency is required by statute or boilerplate within the state budget to report certain metrics to the state Legislature.

To understand whether an agency has been asked to measure the meaningful outcomes, legislators should back all the way out to what that ultimate success for the program should look like. The overarching goals should be ambitious but realistic. For example, “fighting hunger” is not a goal, but an activity. A goal such as “reducing food insecurity to 10 percent,” by comparison, is a realistic and achievable goal whose progress can be measured.

With a clear understanding of what ultimate success looks like, appropriators should then evaluate the existing performance metrics. It is imperative that legislators not confuse inputs with outcomes — value results over activities.

Legislators should look to existing metrics or those tracked by other states but not confine themselves to those. If there are additional metrics that would show whether a program is achieving its objectives, those should be tracked. **As a legislator, you have the ability to require, or alter the reports state agencies produce as part of the state budget.** This may require updates or enhancements to the data systems currently in use.

Michigan's Open Government Initiative includes "information on the strategic direction and current performance levels of each of the executive branch agencies." Appropriators should ensure that the scorecards each agency produces under this initiative are current.

Finally, in instances where an agency contracts with an outside consultant to conduct the performance analysis, legislators should review the selection process for the consultant and the methodology to ensure the analysis is independent, rigorous and not compromised by ethical conflicts.

QUESTIONS TO CONSIDER:

- **What is the purpose of the program?**
- **What results should we see if the program achieves its goals?**
- **What performance measures are in place for this program, and what have been the results over the last five years?**
- **Do the existing performance measures align with ultimate success? Are they outcomes instead of inputs?**
- **How do our performance measures compare with those of similar programs in other states?**
- **How does our performance compare with similar programs in other states?**
- **Are there additional data points that would help us determine how well this program is performing and can we capture them with our existing data systems?**
- **Are the Open Government Initiative scorecards current?**
- **Are the performance analyses of this program performed in-house or by an outside consultant? If by an outside consultant, who selects the consultant and determines the propriety of the methodology?**

FUNDING

Appropriators must look beyond the current fiscal year to understand the long-term funding trends for a particular program or function. Especially when there is a downturn in state revenues, understanding which programs have disproportionately benefited from recent revenue growth may present another useful tool for budgetary adjustments.

An evaluation of long-term spending patterns should include an adjustment for inflation based on the Consumer Price Index, which measures the inflation that affects taxpayers. Besides being the most commonly used and understood measurement of inflation, it is used for cost-of-living adjustments for government programs and many employment contracts. **Government agencies and special interests will argue for use of alternative inflation indices that they argue more accurately represent the trends of their expenses; the practical effect of such indices is to justify higher levels of spending on those programs.**

When programs have received appropriations that either exceed the rate of CPI inflation or have declined in real terms, it is valuable to know the back story behind such funding decisions — whether they be changes in federal funding streams, state tax revenues, state or federal law or a result of legislative priorities.

Other factors that are important for appropriators to consider include the client caseload or services provided by a program, its primary cost drivers and the full-time equivalent employees assigned to the program.

Finally, legislators should ensure that a check register of agency expenditures is not only available to the public but readily accessible on the agency's website. As a general rule, government activities should be transparent to the public. Having financial transactions posted publicly allows more watchful eyes to evaluate the propriety of agency spending. It also creates a disincentive for agency management and rank-and-file to approve wasteful or inappropriate expenditures.

QUESTIONS TO CONSIDER:

- **What have been the funding levels over the last five years?**
- **How do these funding levels compare with CPI inflation during that time?**
- **What factors (legislative or external) have led to spending increases greater than CPI inflation?**
- **What factors (legislative or external) have led to actual spending reductions?**
- **What are the caseloads or number of services provided over the last five years?**
- **What are the primary cost drivers for this program?**
- **How many FTEs have been allocated to this program over the last five years?**
- **Is a check register of financial transactions related to the program easily accessible on your agency's website?**

OTHER CONSIDERATIONS

Legislators need to be aware of the broader landscape for a particular program or service. If multiple entities are engaged in a similar activity, appropriators should explore whether a consolidation of authority and resources would produce better results and save taxpayer money.

Appropriators should also **look for opportunities to engage private sector or charitable entities** as a contractor or a partner in program operations. These options can offer the opportunity to improve the service delivery and allow taxpayer money to be reallocated toward other needs or returned to the taxpayers.

Each state has an independent auditor with the responsibility to ensure that all financial statements conform with generally accepted accounting principles. Their audits are meant to improve program performance, operations, cost and public accountability and to investigate potential fraud, waste or abuse involving state government officials, state employees or entities receiving state money or other support. Legislators need to be aware of all negative findings from such audits regarding an agency's financial or operational performance, as well as the extent to which the agency has remedied those findings.

QUESTIONS TO CONSIDER:

- **Are similar programs (or programs with similar goals) operated by other federal, state or local agencies?**
- **Have other states partnered with the private or charitable sector to deliver this service? Has your agency explored such opportunities?**
- **If this program were to be eliminated, could the private or charitable sector feasibly fill any remaining need?**
- **Has the state auditor general produced any reports in the last five years identifying deficiencies in the operations of the agency or program?**
- **To the extent deficiencies have been identified, what actions has the agency implemented to resolve those deficiencies, and has the auditor general concluded that the deficiencies are now resolved?**

QUESTION SHEET

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