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COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

January 31, 2013

Ms. Teresa Fraas, Deputy Comptroller-Audit
Erie County Comptroller's Office
95 Franklin Street, 11th Floor
Buffalo, New York 14202

Re: Videoconference Equipment Procurement

Dear Ms. Fraas:

I am responding to your letter dated January 29, 2013 to Director of Purchase Vallie Ferraraccio regarding the County's procurement of a video monitor and related equipment for a new multimedia and videoconferencing system ("System") to be permanently installed in the executive conference room on the 16th floor of the Edward A. Rath Erie County Office Building. Ms. Ferraraccio was out of the office on January 30th and 31st and was unable to reply immediately to your letter. In her absence, I am responding.

My administration welcomes every opportunity for our respective offices to work cooperatively together to discuss and resolve issues like this in the future without resorting to misleading or erroneous media or public attacks. I hope that you and Comptroller Mychajliw will join me in this collaborative effort on behalf of our residents and taxpayers and I look forward to hearing from you to develop such a protocol.

While I am happy to answer the questions you have posed regarding the new System, I am disappointed that your office has chosen to air in the media what we believe to be false accusations, based on a lack of understanding of procurement and requisition policies dictated by New York State General Municipal Law, before my administration had an opportunity to thoroughly respond. As will be noted in this letter, such accusations are completely without merit. Nevertheless, you have posed a series of questions regarding the purchase and the process behind the procurement of the System, which I am happy to answer to your satisfaction.

Following Superstorm Sandy, and the temporary failure of telecommunication lines into the County's emergency operations center in Cheektowaga, the administration made a determination to immediately pursue a long-discussed, "state-of-the-art" multimedia and videoconferencing system in the Rath Building.

In November 2012 the Department of Public Works' Division of Buildings and Grounds ("B&G") created the purchase requisition in SAP and contacted the Division of Purchase ("Purchase") to request that their career civil service buyers review the request and then procure the equipment for the System.

Purchase worked with B&G and the Division of Information and Support Services ("DISS") to determine and verify the appropriate equipment and telecommunication needs for the System. On December 11, 2012, Purchase created the purchase order and proceeded to purchase the materials for the System, which was subsequently delivered and is in B&G awaiting installation.

The vendor supplying the monitor, Best Buy for Business ("Best Buy"), initially supplied a quote for the System totaling $5,739.95. However, this quote included sales tax of $461.03, which was improper, as the County is a governmental entity and we do not pay New York State and local sales tax. In addition, Best Buy automatically included a four year "Geek Squad" protection cost with the quote totaling $549.99. The County did not request this up-sale "protection" and does not require such service due to the fact that the monitor comes with an automatic warranty, which will be honored by the vendor, and the County has in-house capabilities in DISS to provide servicing on the System without paying for extraneous costs. After subtracting the sales tax and Geek Squad costs, the System price totaled $4,628.93. That was the final cost to the County for the System and was the invoiced cost sent to the Comptroller's Office accounts payable unit for payment in January 2013 as per standard County procedures.

You have insinuated that the County lowered the price of the System below $5,000 to avoid certain procurement requirements for informal bids. Your insinuation is false and misleading to the public. As indicated, the County does not pay sales tax and did not need extraneous protection from Geek Squad, and the elimination of those charges from the invoice drove the price to $4,628. There were no other charges associated with the System. Under County purchasing policies, and as you well know, since you included a copy of the policy in your Internet posting, for purchases between $1,000 and $5,000, Purchase may award a purchase order to a single source vendor, as is usually recommended by the requesting department. B&G made such a request and Purchase had the authority to properly award and did so, fully complying with the Erie County Charter, Administrative Code, New York State General Municipal Law and County procurement rules.

You have asked why the County purchased a video monitor with an 80 inch screen. The size was determined by B&G and DISS technical staff as the most appropriate size necessary for the expected use of the System: (1) PowerPoint and other presentation formats; and (2) videoconference calls (i.e. large groups requiring a large screen to clearly view data, notes and other participants, including in multi-screen, multi-participant calls. In fact, the monitor will be replacing the older movie style-screen used for PowerPoint and other projector style presentations that is approximately 100 inches in diagonal measurement. Whether any one individual likes the size of the monitor is a matter of personal opinion, not an objective finding.

As you may know, B&G (and DISS) serve as back-office support units for County government, providing services for all departments and branches of Erie County government. B&G routinely purchases and pays for goods and services that are used in departments and for the benefit of other departments without charging those departments. For instance, one month ago, at his request, B&G repainted the personal office of Comptroller Mychajliw and did not charge the Comptroller's Office for that service. This is an example of the services B&G performs for departments with the expense budgeted and accounted for in B&G.

It was appropriate under County policy and not out-of-the-norm for B&G to purchase and pay for the videoconferencing asset that will be permanently installed in the 16th floor conference room for the use of all County departments, officials and employees as per my January 29th letter to department heads and independent elected officials, including Comptroller Mychajliw.

In addition, you wrote in your letter that "We had no idea that although the 80" big screen television was being paid for out of the Buildings and Grounds department, that it was going to be used by the County Executive's office" and further stated "our audit staff had no idea the 80" big screen television was being purchased for the County Executive's office. All paperwork indicates this was a purchase for the Buildings and Grounds department." Your claim is factually incorrect and misleading to the public. The asset number data in SAP which was assigned by the Comptroller's Office at the request of B&G (as per County asset tracking policy) clearly shows that the System was to be located in the 16th floor executive conference room in the Rath Building. A SAP screen shot of the asset master data record in SAP which you attached to the file your office posted on the Internet reveals that fact. Therefore, your accusation was incorrect and a more in depth review of SAP by your Office would have revealed this fact prior to you going to the media.

You have further questioned the budget account in B&G (laboratory and technical equipment) through which the System was purchased. On December 20, 2012 the Legislature approved a B&G request (Comm. 20E-20) to transfer $15,000 from one account in B&G to laboratory and technical equipment to purchase needed cleaning equipment for B&G operations countywide. You have insinuated in your letter (and at least one county legislator has publicly stated the same to WIVB-TV) that funds to pay for the System arose from this legislative action, which is demonstrably false. Even if the County had not purchased the System, B&G would have still needed to transfer funds from one account to another, with legislative authorization as in Comm. 20E-20, to purchase the cleaning equipment. That budget transfer would have occurred under any circumstance.

Finally, you have asked why the purchase was requested by B&G as a "rush order" and posed the question of why the purchase wasn't made "until the new year when a new Comptroller began on January 1st, 2013?" First, County government does not wait until certain officials take office or begin employment. The County engages in actions when deemed necessary. Whether Comptroller Mychajliw had taken office or not is irrelevant to this discussion. County government continues operating regardless of which individuals are in office.

Second, and more importantly, and as indicated in my letter dated January 29, 2013, after telecommunication lines into the emergency operations center in Cheektowaga failed for at least 1.5 hours in November during Superstorm Sandy, County officials determined that developing the new multimedia videoconferencing capability in the Rath Building was an immediate priority. If a similar situation occurred in the future which put the public's safety at risk, after we had notice of the problem, the administration would be rightly criticized for not addressing the problem in a prompt manner. The administration determined it was best to address the issue as soon as possible rather than wait and potentially put the public's safety at risk. As a result, B&G requested and received a quote from a potential vendor in November, entered the purchase requisition into SAP in November, and requested and received the purchase order in early December.

B&G further requested priority handling of the procurement because in early December 2012, as is a standard annual practice (one which the Comptroller's Office is well aware of and has long-supported, and the current Deputy Comptroller Gregory Gach effectuated himself as the former-Director of Budget and Management under the Collins administration), in early December the Division of Budget and Management ("Budget") informed all County departments that it would start shutting down purchase requisitions and would block departments from spending unused 2012 funds. Budget performs this action every year as a fiscal control measure to prevent departments from engaging in late spending as we work with the Comptroller's Office to close year-end and start developing baseline fiscal projections for the year, including potential surplus estimates. In order to secure the requested System, B&G requested the expedited handling to ensure the System could be purchased from available, budgeted funds in 2012.

I trust this detailed and comprehensive response will address this issue and the Comptroller's Office will promptly pay the vendor for the System as is your responsibility under the Erie County Charter. It would be very unfortunate if the vendor commenced litigation against the County, at great taxpayer expense, due to your office's failure to properly and timely pay a vendor who delivered a product in good faith which was purchased appropriately.

Sincerely yours,

Mark C. Poloncarz, Esq.
Erie County Executive

cc: Erie County Legislature
Hon. Stefan Mychajliw, Comptroller
John Loffredo, Commissioner of Public Works
Vallie Ferraraccio, Director of Purchase
Robert Keating, Director of Budget and Management