February 11th, 2013

MEMORANDUM

RESPONSE TO THE REVISED 2013-2016 FOUR-YEAR PLAN

OFFICE OF ERIE COUNTY COMPTROLLER

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ERIE COUNTY COMPTROLLER

February 11th, 2013

Mr. James Sampson
Erie County Fiscal Stability Authority Chairman
295 Main Street
Room #946
Buffalo, New York 14203

Dear Chairman Sampson:

Please accept the following memorandum as a response to the Erie County Executive's revised 2013-2016 Four Year Plan (FYP) submitted to the Erie County Fiscal Stability Authority (ECFSA) on February 7th, 2013.

All parts of Erie County government need to work cooperatively to avert the "Red/Green" fiscal crisis that impacted the County in 2004-2005 resulting in the imposition of the ECFSA. Based on numerous troubling economic indicators, it is our belief that your honorable body should begin the discussion of whether or not it is time to revert to a "hard" status.

While there is no formal threat to offer the Legislature and the people of Erie County a choice of a "Red" disaster budget or responsible "Green" fiscal plan that maintains services, let there be no mistake that is exactly what is being insinuated in the revised FYP. The administration's threat is there in black and white: pass a property tax increase or services will be drastically cut.

*"Without a significant revenue enhancement alternative (**property tax increase**), large, wholesale cuts to County services, including the elimination of some non-mandated services, would in all likelihood be required to balance the budget in 2014 and subsequent out-years."*

Source: 2013-2016 Revised Erie County Four Year Financial Plan, Erie County Executive Mark Poloncarz submission to the ECFSA, February 7th, 2013, bold "property tax increase" is our interpretation

The Erie County Executive's next paragraph then outlines potential cuts he will consider if property taxes are not increased: reductions in aid to arts and cultural institutions, Sheriff's road patrols, highways, parks, libraries, soil and water conservation, Buffalo Niagara Convention and Visitors Bureau, Operation Primetime, Cornell Cooperative Extension, and the road fund.

There are many discouraging fiscal "red flags" that have arisen that our office has reasonably sounded the alarm on to the ECFSA, County Executive, Legislature, and the public since taking office on January 1st, 2013. One issue of great concern is the fact that early estimates agreed upon between the administration and Office of Comptroller shows Erie County may have to issue a $110 million RAN in June to have adequate operating cash. The last time Erie County was forced to borrow at that high of a number? The "Red/Green" budget crisis years of 2005 and 2006.

The first sign of dire fiscal difficulties: cash flow problems. On my very first day in office Erie County could not pay its bills. The fiscal cupboard was bare. Empty.

The administration issued an additional $35 million in borrowing via a Revenue Anticipation Note (RAN) in 2012 with the specific intent to pay the $29 million Intergovernmental Transfer (IGT) payment to the Erie County Medical Center (ECMCC). The administration reached a deal to "kick the can" and delay the payment to 2013, but it appears the $35 million was spent in 2012 to try to balance the budget.

Can you imagine the devastating impact on the 2012 budget if that $29 million IGT payment had to be made as previously scheduled last year? The harsh fiscal realities facing the Erie County budget were not dealt with head on. They were merely delayed one year.

Factoring in the additional revenue that was borrowed but never used for the IGT payment that was delayed until 2013, Erie County **should have ended 2012 with approximately $41 million.** At this point the Office of Comptroller has determined Erie County ended 2012 with significantly less "cash in hand:" **only $9.6 million.** That's a difference of approximately $31.4 million.

Had the County actually made the $29 million IGT payment as scheduled in 2012, there is a strong chance we would not have been able to pay vendors and could have ended the year with a cash deficit.

In conjunction with Budget Director Robert W. Keating the Office of Erie County Comptroller released a preliminary estimate on January 15th, 2013 that showed Erie County may have to issue a RAN as high as $110 million to have adequate operating cash. As previously stated, taxpayers haven't seen a $110 million RAN since the "Red/Green" budget crisis years.

On Friday, February 8th, 2013 the Office of Erie County Comptroller released sales tax revenues for December 2012 and the entire year. This report was yet another sign of fiscal instability.

December 2012 sales tax revenue for Erie County to be $36,129,051, approximately $528,965 higher than the December 2011 sales tax revenue of $35,600,086. This figure represents a 1.48% monthly growth for December 2012 compared to December 2011.

In addition to reporting the December 2012 sales tax revenue, Erie County now has final sales tax revenue figures for all of 2012.

The administration fell short in their 2012 sales tax revenue budget projections. There is a $321,281 shortfall in what was budgeted for 2012 sales tax revenue than what was actually received. According to the 2012 budget, the estimated revenue for 2012 sales tax revenue was $411,047,133. Year-end figures show the actual amount of 2012 sales tax revenue received was $410,725,852.

The goal is to exceed sales tax revenue projections, not miss your target. The news is not good. Ideally we would want to collect sales tax revenue at a pace far stronger that what you project. Unfortunately for Erie County taxpayers, the administration's 2013 sales tax projected revenue is $426,033,687.

When you compare that to the actual sales tax revenues collected in 2012, the 2013 County sales tax needs to grow by **3.73%** or $15,307,835. That represents a very difficult number to attain as the economy continues its very slow and sluggish recovery.

Since Erie County is so dependent on volatile sales tax revenue as its largest source of revenue, and there appears to be such a big dependency on the budget being balanced on an extremely large anticipated spike in sales tax revenue, a big budget gap may be created if the administration's aggressive sales tax target of **3.73%** is not attained.

- December 2011 Sales Tax Revenue: $35,600,086
- December 2012 Sales Tax Revenue: $36,129,051
- Difference: $528,965

- Year to Date sales tax growth through December 2012: 2.43%
- Projected sales tax growth in the 2012 budget over 2011 actual: 2.51%

- Erie County Sales Tax Revenue for 2011: $400,993,639
- Erie County Sales Tax Revenue for 2012: $410,725,852
- Erie County projected Sales Tax Revenue for 2013: $426,033,687

Estimated Sales Tax percentage growth needed to reach the administration's projected 2013 figure: **3.73%**

Our office sounded the alarm again. There will be serious consequences to the 2013 budget if the administration's aggressive sales tax revenue projections are not met. It is extremely risky to depend so heavily on volatile sales tax revenues. Wall Street warned Erie County about this in the past. There can be significant budget gaps in 2013 if the administration's sales tax revenue projections are even slightly off.

Another negative impact on 2013 cash flow: union contract settlements.

1) Teamsters union signing bonus and back pay due January 18th, 2013: $1,369,000.

2) Teamsters union raises for 2013 (does not include fringe benefits and overtime): $1.3 million

3) CSEA raises for 2013 (does not include fringe benefits and overtime): $770,692

Furthermore, the revised FYP shows deficits in 2014-2016 totaling $25,387,722. The deficits are due primarily to **reduced sales tax** over that period totaling $11,667,445 and increased debt service of $17,154,319 in comparison to the proposed FYP approved on October 26th, 2012. The Erie County Legislature's 2013 amendments **did not impact these accounts**.

Once a potential 2012 deficit is identified, a more in depth analysis of the 2013 budget and FYP can be undertaken. The undesignated (unassigned) fund balance for year-end 2011 is $83,489,000. The risk of continuing to use undesignated fund balance to balance budgets is no different than a family depleting its savings account to pay recurring bills. Eventually the "savings" account will be gone but the bills to pay remain.

Surplus(Gap)	2013 Proposed Budget FYP	2013 Adopted Budget FYP	Difference
2014	366,881	-8,428,427	-8,795,308
2015	660,340	-8,863,278	-9,523,618
2016	1,175,904	-8,095,617	-9,271,521
Total	2,203,125	-25,387,322	-27,590,447
	Sales Tax	**Sales Tax**	**Difference**
2014	437,749,613	433,965,580	-3,784,033
2015	449,787,728	445,899,633	-3,888,095
2016	462,156,890	458,161,873	-3,995,017
Total	1,349,694,231	1,338,027,086	-11,667,145
	Debt Service	**Debt Service**	**Difference**
2014	55,222,146	60,735,984	5,513,838
2015	60,200,432	65,376,914	5,176,482
2016	60,668,653	67,132,712	6,464,059
Total	176,091,231	193,245,610	17,154,379

As the above table shows there was a $27,590,447 negative swing between the Proposed 2013 FYP to the 2013 Adopted 2013 FYP. The administration attributes the swing to adjustments "due to the Legislature's adoption of a 2013 Budget that does not include $8.7 million of previously anticipated property tax revenue in 2013 and in 2014-2016, as well as modifications necessary to the ratified Teamsters and CSEA Corrections Officers Unit contracts."

Source: 2013-2016 Revised Erie County Four Year Financial Plan, Erie County Executive Mark Poloncarz submission to the ECFSA, February 7th, 2013

The administration goes on to enumerate a number of assumption changes including "Reduced annual Capital Borrowings for construction projects." However, no mention is made of a change in Sales Tax assumptions and reduced capital borrowings imply a reduction in debt service. As the above chart details debt service expense increases, $314,180 is attributable to short term debt the balance of increase. $16,840,199 is due to long-term borrowing. That increase in expense plus the reduction in Sales Tax of $11,667,145 totals a negative swing in those two components of $28,507,344 that exceeds the total FYP negative swing of $27,590,447.

This contradicts the assertion by the Administration that the difference is due to the Legislature's changes to the 2013 budget. The balance of the FYP proves that the Legislature's adjustments are not the cause of the gaps in the FYP. It is the increased cost of debt service and the more realistic budgeting of Sales Tax.

While the administration is correct in detailing a number of gap closing options characterizing them as being the consequences of the Legislature's actions is a purely political statement and does not help the situation. The FYP points out the need for positive dialogue and cooperation among all branches of government not partisan finger pointing. The administration needs to analyze the capital projects slated for 2013 including the Health Care Clinic well as others to determine if they are needed in light of the gaps caused by their cost. A review of Fund Balance is also needed.

We are still processing 2012 year-end entries and are not in a position yet to determine a potential 2012 deficit at this time. However, last Friday's sales tax number was sobering in that the 2012 budget was not achieved. The increased need for RAN borrowing in 2013 to a level not seen since the Red/Green budget was a harbinger for the bad news revealed in the latest version of the administration's FYP.