



COUNTY OF ERIE
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COMPTROLLER

ERIE COUNTY OFFICE BUILDING

April 25th, 2013

The Honorable Erie County Legislature
92 Franklin Street
Buffalo, New York 14202

Re: 2012 Year-End Financials

Dear Honorable Legislators:

The Office of the Comptroller is pleased to inform you that after working in tandem with the Division of Budget & Management and all County departments, the 2012 County fiscal year is closed. Draft financials have been prepared and will be turned over to the County's independent outside audit firm of Drescher & Malecki LLP. They will begin their work and will audit the results. It is anticipated that they will complete their work and final 2012 financial statements will be released by the end of June 2013.

While we have tentatively closed the 2012 County fiscal year, we must once again express our deep concern over aggressive sales tax revenue projections that could cause significant gaps in the 2013 budget.

Serious Sales Tax Issues

2013 Sales Tax Projection:	\$426,033,687
2012 Actual Sales Tax Revenue:	\$410,720,332
Difference:	\$15,313,355
2013 Percentage Growth Needed to Make Budget:	3.73%
2013 Sales Tax Growth Through January and February:	0.83%

Potential 2013 Deficit

0.83% sales tax growth:	- \$11,904,376
1% sales tax growth:	- \$11,206,152
2% sales tax growth:	- \$7,098,948
3% sales tax growth:	- \$2,991,745

As for the 2012 budget, these results indicate your actions amending the 2013 budget were prudent, responsible, and afforded already financially struggling families relief from being hurt by an unnecessary

property tax increase. It appears the administration's attempt to raise property taxes was based on flawed fiscal projections and inflated budget categories.

Specific spending reductions put forth by legislators to offset the proposed 2013 property tax increase came mostly from what appears to be inflated budget categories and did not negatively impact the budget. Facts show a more significant threat to the 2013 budget are potential gaps due to the administration's overly aggressive sales tax revenue projections.

There were significant miscalculations and big swings, both positive and negative, in approximately 19 of the administration's budget categories. This could lead to serious confusion for legislators when making budget amendments. How do you trust the administration's future projections and budget categories when 19 of them were significantly off the mark to the tune of tens of millions of dollars?

Without question the most alarming projection concerns overly aggressive sales tax revenues that could have a negative impact on the 2013 budget.

The Appendix shows **total revenues were missed by \$20,305,331 and total expenditures were missed by \$29,078,960** in their detail projection. The wild fluctuations in what the administration projected for revenues and expenses are highlighted below:

Account	Administration Projection	2012 Actuals	Difference
Property Tax	\$217,820,374	\$217,820,374	\$0
Property Tax Related	\$13,691,249	\$12,951,359	- \$739,890
Sales Tax	\$413,624,939	\$410,720,332	- \$2,904,607
Sales Tax/Other Govts.	\$285,870,348	\$283,983,931	- \$1,886,417
Other Sources	\$51,809,333	\$52,013,107	\$203,774
Fees, Fines, or Charges	\$34,370,507	\$36,121,975	\$1,391,468
Approp. Fund Balance	\$7,551,685	\$0	- \$7,551,685
Federal Revenue	\$172,476,186	\$174,043,574	\$1,567,388
State Revenue	\$160,429,313	\$150,499,950	- \$9,929,363
Interfund Revenue	\$1,197,166	\$741,167	- \$455,999
TOTAL REVENUES	\$1,359,201,100	\$1,338,895,769	- \$20,305,331
Salaries	\$161,682,278	\$160,366,001	\$1,316,277
Non-Salaries	\$23,193,155	\$22,871,363	\$321,792
Turnover	\$0	\$0	\$0
Fringe Benefits	\$118,515,749	\$114,806,615	\$3,709,134
Supplies and Repairs	\$9,792,450	\$9,147,292	\$645,158
Other	\$27,503,101	\$21,677,971	\$5,825,130
Contractual	\$449,339,633	\$441,327,567	\$8,012,066
Equipment	\$1,444,628	\$1,006,377	\$438,251
Allocations	\$38,137,954	\$37,745,566	\$392,388
FM GL Difference	\$0	- \$143	\$143
Program Specific	\$472,798,528	\$463,938,777	\$8,859,751
Debt Service	\$61,300,052	\$61,741,182	- \$441,130
TOTAL EXPENSES	\$1,363,707,528	\$1,334,628,568	\$29,078,960

NET	- \$4,506,428	\$4,267,201	\$8,773,629
LESS REAPPROPRIATION	\$9,112,140		
PROJECTED YEAR END SURPLUS: \$4,605,712			

Budget projections are very important and are relied upon by your Honorable Body in making decisions throughout the year and especially during the subsequent year's budget process.

This leads us to recommend that the administration should provide the Erie County Fiscal Stability Authority (ECFSA) with yet another revised Four-Year Plan (FYP).

Thankfully there was \$83,490,024 in unassigned fund balance the current administration inherited as of December 31st, 2011.

Article 25 of the Erie County charter as amended by Local Law 2-1 (2012) the Budget Modernization Act of 2012 Section 2605b states: "The County shall maintain (a) an unassigned balance in the General Fund fund balance equal to or greater than five percent of the amount contained in the adopted budget of the General Fund of the county's last audited financial statements. For purposes of this section, the total General Fund calculation shall not include sales and compensating use tax revenues shared with local governments and school districts."

In addition to the \$83,490,024 in unassigned fund balance inherited by the current administration, they can also thank Erie County Clerk Christopher L. Jacobs for his department providing roughly 50% of the county's entire operating surplus. Mr. Jacobs reported a surplus within his department of approximately \$2,179,241.

Based on this article and the final 2012 adopted budget as contained in this report, the five percent amount is \$55,570,254. Therefore the unassigned fund balance as of this report, \$93,262,414, exceeds the five percent amount by \$39,692,160. We caution your Honorable Body and the administration on using significant amounts of unassigned fund balance to keep future budgets balanced. This is the equivalent of a family irresponsibly using their unassigned savings account to pay recurring bills. Eventually the account will be depleted but significant expenses remain.

Pertaining to the **unaudited results**, they indicate that the County ended 2012 with an operating surplus of \$4,267,201 verses the budgeted deficit of \$7,551,685 a difference of \$11,818,886 (the budget surplus). Total fund balance increased by \$4,267,201 to \$120,402,549. Unassigned Fund Balance has increased by \$9,772,391 to \$93,262,414. All of this is subject to audit as well as any re-appropriations, assignment and/or restrictions of fund balance the administration may propose to your Honorable Body. At this time, the financial statements include the continuation of the \$7,400,000 designation for the new building at Erie Community College as well as the \$1,000,000 designation for Risk Retention that was approved earlier this year, \$3,522,637 in encumbrances and the \$5,400,000 included as revenue in the 2013 budget.

As Appendix A shows areas that were amended, other than Risk Retention, came in lower than what was anticipated in the County Executive's last Budget Monitoring Report (the "BMR") dated December 10th, 2012. While Risk Retention is an issue, the increase in fund balance indicates that adequate funds are available to fund normal expenses in that item. This is especially true considering that the 2012 results include the reduction of Social Services revenue of approximately \$5.1 million due to an error in closing 2011. As reported by Director of Budget Robert Keating on October 1, 2012 in the Budget Monitoring Report (BMR) for August 2012, in which he stated:

"The Department of Social Services ("DSS") has discovered that in 2011 their fiscal unit improperly recorded an over-advance from the New York State Office of Children and Family Services in the area of child welfare as revenue rather than as a

liability. This error caused an overstatement of 2011 revenue and will result in a 2012 charge of \$5.1 million in DSS which was not foreseen or budgeted.”

The 2012 budget surplus, absent this correction of 2011 error, would have been \$16,918,886.

The October 2012 BMR is being used, as that is the last BMR released by the administration. On January 25th, 2013 the Poloncarz administration announced a \$5.03 million positive variance and projected a surplus between \$4 to \$5 million.

However, they did not release the detail report that normally accompanies a BMR. Efforts to obtain the detail report were unsuccessful and consequently this report utilizes the October 2012 BMR. The final budget numbers used are as of the closing date and do not reflect any adjustments the administration may propose to your Honorable Body as part of any budget balancing amendment package but does reflect the administration's 2013 re-appropriation changes.

2012 REVENUES

SALES TAX

As you are well aware sales tax revenues are the largest revenue source for Erie County. Wall Street ratings agencies and the Office of Comptroller have issued numerous warnings on Erie County's risky reliance on volatile sales tax revenue.

The 2012 sales tax came in \$326,801 under budget. This was \$2,904,607 below the last projection released by the administration. As we have consistently stated, sales tax is the largest revenue in the budget and is subject to volatile economic conditions uncontrolled by the County.

The first two months of 2013 sales tax has been received and the growth rate was 0.83%. While it is still too early to draw any conclusions on how 2013 sales tax will end, this reinforces my office's warnings about the overly optimistic sales tax projections contained in the Poloncarz administration's 2013 budget, an increase of 3.73% over 2012 actual.

The same concern was even expressed by representatives of the Erie County Division of Budget and Management last month, when they expressed before your Honorable Body similar concern of whether or not sales tax projections for all of 2013 are realistic:

*“(We) hope that sales tax comes in better than we expect, but right now we don't think that is going to be the case. **We think the budget for sales tax this year is overly optimistic. We are not going to make budget on that.**”*

Source: Erie County Senior Budget Consultant Timothy Callan, Erie County Legislature Finance and Management Committee, March 14th, 2013

This office will continue to monitor this account, the largest revenue in the budget at \$426,033,687, closely throughout the year and will report to your Honorable Body as we receive monthly updates from the State.

PROPERTY TAX & PROPERTY TAX RELATED

The 2012 Property Tax came in on budget. The Property Tax Related items came in \$1,909,670 over budget, a decrease of \$739,890 from the administration's projections. The main component of this variance was the net between Interest & Penalties and Property Tax Adjustment. In other words, property tax collections were better than budgeted, a very good outcome.

OTHER SOURCES

The 2012 Other Sources category came in \$4,787,676 over budget and \$203,774 higher than the last projection by the administration. This positive variance is due to Refund of Prior Year Expenses and Unanticipated Prior Year Revenue coming in a combined \$4,822,657 over budget

FEES, FINES OR CHARGES

The 2012 Fees, Fines and Other Charges category came in \$3,205,988 over budget and \$1,391,468 over the last administration projection. This positive variance is primarily due to the County Clerk and the Sheriff. County Clerk's Auto and Recording Fees came in a combined \$2,179,241 over budget. The Sheriff's Jail Management Division's Jail Facilities Other Government account came in \$941,178 over budget.

APPROPRIATED FUND BALANCE

There was no use of fund balance in 2012 as the County ended with a surplus. Thus, the \$7,551,685 that was budgeted to be used in 2012 was not. Technically, this results in a negative variance of the same amount that is also the amount that the administration's last projection provided was off by.

FEDERAL REVENUE

Federal Revenue came in \$291,702 over budget and \$1,567,388 over the last administration projection. The County benefited, as it has every year since 2009, from a FMAP payment of \$858,946 that was not budgeted. The rest of the federal accounts reflected both positive and negative variances that were offset by positive or negative variances in reimbursable expenses.

STATE REVENUE

State Revenue came in \$18,078,790 under budget and \$9,929,363 lower than the last administration projection. As in the case of federal revenue this reflects reduction of State Revenue as the result of lower expenses. Primarily \$7,599,616 negative variance in State Aid-Early Intervention and Special Needs program. The positive variance in the program expense was \$8,919,418. All major programs, as detailed below, came in under budget except for Child Care.

INTERFUND REVENUE

Interfund Revenue came in \$730,999 under budget and \$455,999 lower than the last administration projection. A negative variance here is offset by positive variances in the other fund expense that should net to zero.

2012 EXPENDitures

SALARIES/TURNOVER

Total salaries less turnover came in \$6,229,687 under budget and \$1,316,277 lower than the administration projection. While this is the gross savings, the net savings are reflected throughout the reimbursable departments. Turnover as defined by the administration in the Glossary included in the budget is "Anticipated savings in salary and fringe benefit expenses resulting from temporary vacancies created by employee turnover. This amount is subtracted from the amount of budgeted for salaries and fringe benefits in the form of a negative appropriation." See below for Fringe Benefit results. The large amount of savings generated reinforces your Honorable Body's decision to increase the turnover account in the 2013 adopted budget.

NON-SALARIES

Total non-salaries came in \$3,882,196 over budget and \$321,792 lower than the administration projection. Overtime was the majority of this negative variance. Primarily the Jail Management Division, \$2,505,484 and the Health Department, \$996,520. The Jail Management Division issue should be alleviated by the additional staff added in 2013 as part of an agreement between the County and the State Commission on Corrections that resulted in 31 new positions added to the Division in 2013, part of the multi-year program to increase staffing to meet State guidelines and reduce overtime. The Health Department overtime issue was primarily due to medical staff assigned to the Correctional Facility and Holding Center. The 2013 budget separates that operation from the Health Department to the Health Correctional Health. The Health Department was decreased by 59 positions and the Health Correctional Health was established with 70 positions. The 2013 overtime budget is \$200,000 for Department of Health Correctional Health.

FRINGE BENEFITS

Total fringe benefits came in \$4,988,037 over budget and \$3,709,134 better than the administration projection. While negative this combined with the savings generated in the Salaries/Turnover categories, above, netted gross savings for the County. The fact that it came in below the administrations projection reinforces the decision by your Honorable Body to decrease fringe benefits in the 2013 budget. The adopted 2013 budget for fringe benefits is \$124,745,318, an increase of \$9,938,703 or 8.7%.

SUPPLIES and REPAIRS

Total Supplies and Repairs came in \$682,539 under budget and \$645,158 lower than the administration projection. Primarily this variance was due to lower maintenance and auto repair expenses. Medical supplies did come in over budget by \$146,106.

OTHER

Total Other expenses came in \$2,508,293 under budget and \$5,825,130 under the administration projection. The variance is the result of savings in Pivot Wage Subsidies \$815,478, Rent, \$419,886, Chargebacks \$357,054 and Other \$302,270.

CONTRACTUAL

Total Contractual expense came in \$8,145,077 under budget and \$8,012,066 under the administration projection. This was primarily due to \$5,090,031 positive variance in Non Profit Purchase of Services that consisted of various Mental Health and OASES agencies; these savings are offset by State Revenues that were not realized as detailed above. In addition \$1,485,667 in various payments to Erie County Medical Center (ECMCC) was not expended as well as \$1,519,521 in professional contracts.

EQUIPMENT

Total Equipment expense came in \$183,542 under budget and \$438,251 under the administration projection.

ALLOCATIONS

Total Allocations came in \$4,151,912 under budget and \$392,388 over the administration projection. Savings were realized in subsidy transfers to the Road fund, \$857,869; E-911 fund \$561,951 and Utility fund \$1,547,677.

PROGRAM SPECIFIC

Total Program expense came in \$11,600,928 under budget or \$8,859,751 under the administration projection. This positive variance in expense is partially offset by the negative variance in State revenues, discussed above. Two areas that came in over budget are Child Care CCBG and Title XX that came in a combined \$2,070,883 over budget that was partially offset by additional Federal Child Care Block Grant exceeding budget by \$1,596,601 and State Child Care Block Grant exceeding budget by \$190,453. The other area was UPL and DSH expense, payments to ECMCC under the Intergovernmental Transfer umbrella exceeded budget by \$2,683,019.

DEBT SERVICE

Total debt service expense came in \$141,129 over budget or \$441,130 higher than the administration projection. This is due to lower interest earnings on capital project cash that increased the need for subsidy from the General fund.

ROAD FUND

The Road Fund total fund balance increased by \$957,237 to a total of \$2,943,304, this despite the fact that the entire budgeted subsidy was not transferred from the General fund to the Road fund, see above. The Transfer Tax came in at \$9,432,256 or \$1,432,256 over budget. This amount was added to the Reserved for Repairs assigned fund balance bringing that total to \$2,535,047.

E-911 FUND

The E-911 Fund total fund balance decreased by \$667,708 to \$1,332,524 reflecting the General fund not transferring the entire budgeted subsidy, see above.

SUMMARY

The 2012 unaudited results reflect the soundness of the 2012 budget proposed by former Erie County Executive and now Congressman Chris Collins as amended by your Honorable Body. The results also confirm your Honorable Body's decision to amend the 2013 budget and eliminate the property tax proposed by County Executive Mark Poloncarz, a proposed property tax increase we now know was based on inflated and flawed budget categories.

The Four Year Plan as accepted by the Erie County Fiscal Stability Authority reflected an overall \$25.4 million gap over the period 2014-2016. The results of 2012 reflect that portions of the FYP should be reviewed to reflect final 2012 results, specifically Fringe Benefits, Social Service Programs and Sales Tax that ended 2012 significantly different from the last projection as provided by the administration. In addition the administration made the decision to reduce the 2013 capital borrowings by approximately \$9.3 million as well as offer a new contract to the CSEA. If passed by CSEA membership, it will also impact the FYP.

My staff and I are available to answer any questions you may have.

Sincerely yours,



Stefan I. Mychajliw
Erie County Comptroller

Cc: Erie County Fiscal Stability Authority
Mark Poloncarz, Erie County Executive