COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

May 20, 2013

Honorable Stefan Mychajliw
Erie County Comptroller
95 Franklin Street, 11th Floor
Buffalo, New York 14202

Re: 2013 Cash Flow and Revenue Anticipation Note

Dear Comptroller Mychajliw:

I am writing in response to Deputy Comptroller Gregory Gach's May 15, 2013 letter concerning your office's projected 2013 cash flow and the 2013 Revenue Anticipation Note ("RAN"). Please be advised that my office never received your letter; we became aware of the document only after being alerted that such a letter was posted on your website.

I met with Mr. Gach on May 17th regarding this issue. My office remains concerned by your cash flow projections and assumptions and is having difficulty validating some of your estimates. You are the chief fiscal officer of Erie County, and under Section 1802 (l) and (n) of the Erie County Charter, your office is solely responsible for handling and managing cash flow. In your May 15th letter, your office indicated that the 2013 RAN will be $110 million, and on May 17th Mr. Gach estimated the 2013 RAN at $130 million. For context and historical perspective, I would note that in 1994, when Mr. Gach was deputy budget director for the Gorski Administration, the County issued a $100 million RAN, a fact he omitted in his May 15th letter.

Since the second day you took office in January 2013, you have consistently confused cash flow issues with budget issues, including calling on the Erie County Fiscal Stability Authority ("ECFSA") to enter a control period due to a temporary cash flow issue earlier this year. My office and the County Executive have issued a number of clarifying letters to you, none of which you responded to or acknowledged.

As your letter indicated, cash flow and the resultant RAN sizing changes every year; we certainly are dependent on sales tax and state reimbursements, which are highly volatile and fluid revenues, subject to delays and timing issues and fluctuations in consumer spending. Special circumstances (such as intergovernmental transfer ("IGT") payments) can impact the cash flow.

ECFSA Debt Service Set Asides Dictating Cash Flow

There is one major reason why the 2013 cash flow is markedly different from prior years which your office has failed to note. The County has been issuing bonds through ECFSA for capital projects – a decision which you have praised and even taken credit for, even though you had no role in said decision. Due to ECFSA's covenants, the authority intercepts the County's sales tax receipts and retains millions of dollars every month ($5.0 million in May) to establish cash reserves held to pay future debt service. As a result, the County does not have access to that cash for cash flow purposes. Several years ago, then-Comptroller Mark Poloncarz warned about this very issue during the discussions about conducting capital borrowings through ECFSA. Through May 2013, ECFSA has retained $20.8 million of County sales tax revenue for debt service in 2013 and the number continues to grow. By year-end 2013 ECFSA will hold $23.6 million in sales tax that was previously available to the County for cash flow purposes. In February 2015, my office estimates that this withheld amount in advance of actual debt service due dates will grow to $39.7 million, a staggering amount, and which is a real concern. **That has an obvious and major effect on cash flow which must be acknowledged, and yet, you did not do so.**

Safety Net

Your office has noted the negative effects of the Legislature's 2013 reduction in appropriation for the Safety Net program in the Department of Social Services and caseload trends driving expenses in this account above budget. We concur and are pleased to see your office validate our long-standing concerns about this account. Certain case load trends have been tempered after a large spike in early 2013, and this account will require continued close monitoring. This is indeed one negative factor impacting cash flow.

Other Factors

In your May 15th letter, you inquired about 2012 designations for possible appropriation in 2013. As you well know, a major part of the 2013 cash flow situation is your projection that the County will appropriate $7.4 million of fund balance for the academic building project at Erie Community College. This is an initiative commenced by the Collins Administration and the County Legislature has previously approved of maintaining a designation for this project. In the pending 2012 Budget Balancing Amendments, the designation is continued into 2013, subject to Legislature approval. Appropriation and expending of these funds would be a special, one-time cost that would negatively impact cash flow in 2013.

One area that we remain concerned about, as does ECFSA, is overtime, especially in Correctional Health and the Sheriff Office (both divisions) and the potential impact on cash flow. For some reason your office's May 15th letter does not discuss this as a cash flow issue in the payroll category.

The Division of Budget and Management remains concerned about sales tax trends and is monitoring this account. When factoring out prior period adjustments and other special non-current categories our revenue growth strictly from 2013 sales currently stands at 2.91%, which is encouraging.

Finally, the County faces a large retirement payment in December 2013 at a time when the County is historically at its lowest cash point. The retirement payment amount is set by the New York State and Local Retirement System, which also specifies the date on which the payment must be made. In a recent Finance and Management Committee meeting at the Legislature, your office expressed opposition to the County's potential opting into the State pension amortization program which would provide cash flow relief in 2013.

Encouraging Factors

Your current cash flow appears to ignore the impact of several positive elements, such as the County's lower 2013 Medicaid-MMIS payment, which will be $1.8 million less than expected due to the adopted State budget. It is unclear if you are including the positive impact of higher than expected Property Tax and In Rem receipts in 2013, and the known lower Buffalo Bills game day expense. Mr. Gach has also stated his opposition to the recording of $7 million of revenue from the closure of dormant capital accounts (which was approved by the County Legislature) and refused to acknowledge that potential receipt in the cash flow. I feel that through working in coordination with your office and the County's bond counsel, the majority of these receipts can become available in 2013, as you surely would support measures to improve cash flow and this action would do so. Finally, based on data currently available from the New York State Department of Health we are guardedly optimistic regarding the County's net cash outlay for 2013 IGT payments.

Cash flow projecting is complex and requires a balanced and proactive approach. My office hopes that you will work cooperatively with my office as you make your cash flow projections and prepare the 2013 RAN resolution for transmittal to the County Legislature.

Sincerely yours,

Robert W. Keating
Director of Budget and Management

RWK

cc: Erie County Legislature
Erie County Fiscal Stability Authority
Erie County Executive Mark C. Poloncarz