

**A RESOLUTION TO BE SUBMITTED
BY LEGISLATOR MARINELLI**

RE: Supporting the Poloncarz Administration in its Opposition to Any Attempt by the Federal Emergency Management Agency to Recoup Grants Awarded for the October 2006 Storm

WHEREAS, on January 29, 2013, the Office of Inspector General of the U.S. Department of Homeland Security (OIG) issued Audit Report Number OIG 13-23 titled, "FEMA Should Recover \$48 Million of Public Assistance Grants Awarded to Erie County, New York – Severed Weather – October 2006;" and

WHEREAS, on March 14, 2013, Erie County Executive Mark Poloncarz formally replied to the OIG Audit by letter, disputing the findings in the audit and noting that OIG's principal finding was fatally flawed due to factual errors made by the federal auditors; and

WHEREAS, on March 29, 2013, OIG published a revised audit, making the extraordinary request that the previously received OIG Audit be destroyed; and

WHEREAS, such an action is highly unusual, and among other concerns, would violate New York State's Records Retention laws and policies; and

WHEREAS, in essence, the revised March 29 OIG audit report repudiates – without public admission – its January 29 audit report and tacitly admits that its major finding in the original audit was without merit and instead devised multiple new, unsubstantiated reasons and alleged factors in demanding that Erie County, NY now repay FEMA \$39.4 million; and

WHEREAS, the conduct of OIG auditors in this matter, to wit substantially revising the original audit only one month later, not permitting the County with an opportunity to comment in the audit report, and requesting the destruction of the original audit, belies Government Auditing Standards (the "Yellow Book") as established by the U.S. Government Accountability Office; and

WHEREAS, the deeply flawed audit and subsequent reports furnish evidence that the OIG failed to comply with the "binding nature of grant requirements" provision in Section 705 (c) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("Stafford Act") regarding Disaster Closeout Procedures; and

WHEREAS, furthermore, Erie County argues that it should be held harmless by FEMA, since a similar OIG audit of the City of Buffalo had its findings repudiated by FEMA in August 2010 for essentially the same reasons for which Erie County is now being criticized and sanctioned; and

WHEREAS, Erie County is not alone in its experience of weather-related disasters, and the unjustifiable standards OIG seeks to impose on Erie County, if applied nationwide, could threaten the health, safety and well-being of residents across the United States.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature convey its full support of the Poloncarz Administration in its fact-based, regulation-supported rebuttal of OIG's findings in both the original and revised audit reports stemming from grants awarded for the October Surprise Storm of 2006; and be it further

RESOLVED, that this Honorable Body request that FEMA deny, outright, OIG's request that FEMA take action to recoup disaster relief aid provided to Erie County as a result of the October 2006 storm; and be it further

RESOLVED, that certified copies of this resolution be conveyed to County Executive Mark Poloncarz; U.S. Senators Charles Schumer and Kirsten Gillibrand; the WNY Congressional Delegation; W. Craig Fugate, Administrator of FEMA, U.S. Department of Homeland Security; Charles K. Edwards, Acting Inspector General for the U.S. Department of Homeland Security; Stephen Acquario, Executive Director of NYSAC, and all others deemed necessary and proper.

FISCAL IMPACT: Positive for Erie County if FEMA denies the OIG's recommendation.