COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

April 25, 2014

Honorable Members
Erie County Legislature
92 Franklin Street, Fourth Floor
Buffalo, New York 14202

Re: Comptroller Review of Wireless Devices

Dear Honorable Legislators:

On April 15, 2014, after six months of work, the Office of the Erie County Comptroller issued a report concerning wireless devices in Erie County government ("Review"). This letter serves as the formal written response of the Division of Information and Support Services ("DISS") to the Review. While DISS is not required to provide a response to the Review (because it is not an audit), we have elected to provide a response.

Review Found no Major Findings

It is important to note that the Review reported no major substantive findings. After six months of work, the Comptroller's Division of Audit and Control found no evidence of misappropriation of wireless devices or improper use (save one incident which I discuss below). This is important because it highlights the many improvements and controls put into place by DISS and this administration, especially following the many serious deficiencies identified by then-Comptroller Mark C. Poloncarz in his office's April 2006 audit of wireless devices (see http://www.erie.gov/comptroller/pdfs/cell_phone_audit_2006.pdf). Among other substantive findings, the 2006 audit found that former County employees who had been laid off in March 2005, including political appointees, still retained County cell phones and were using them, at taxpayer expense, more than 12 months after they had left County employment. That 2006 audit also found massive abuse of wireless devices by County employees. This 2014 Review found no evidence of such control problems or abuse.

Based on the 2006 Comptroller Poloncarz audit, DISS systematically improved controls over wireless devices, including making departments identify the assignment of wireless devices to specific employees and work units. Previously, phones and provider billing records did not show specific employee names associated with them, thus making tracking impossible.

To be clear, there are still some issues associated with wireless devices, including departments failing to follow County wireless policy and notify DISS in a timely manner when employees separate from the County. For example, the Review found that the names of three retired/former employees (one of whom was a senior Sheriff commander) were still shown on Verizon billing records for wireless devices even though the devices were being used by other County employees. To reiterate: the former employees did not have the devices and were not using them, but their names were still associated with the billing record, and this was addressed and corrected by DISS during the Review.

Cost of Wireless Devices Decreased

I am pleased to note that the cost of wireless devices in County government has been significantly reduced since the 2006 audit, in part, due to fewer devices being utilized, as well as the County's decision to use the New York State contract to reduce costs. DISS has aggressively policed wireless devices and will continue to do so, requiring that department heads justify wireless devices and assignments.

The Review correctly notes that between January 2012, when this administration took office and 2013, the costs per wireless device went down – from $33.78 per month to $14.99 for a cell phone and from $64.87 per month to $49.35 for a smart phone. These cost savings are a direct result of measures DISS took to lower the per-device cost through the standardization of wireless plans and the switch to a recently available New York State Contract option for smartphones which not only reduces per-device cost but increases device options. That is cause for commendation. However, the Comptroller's press release does not note this fact and makes inaccurate comments alleging "poor cost controls" that was not reported by the auditors. The Comptroller should be praising DISS for working with the State to take advantage of their contract instead of using a County contract (as had been the case in a prior administration) to help attain significant savings.

At the exit meeting DISS noted that the Review does not accurately describe the County's overall costs for wireless devices. The document provides financial numbers purporting to be the costs of devices, but the Review fails to acknowledge that in many departments (including Social Services, Health and Mental Health) the County receives tens of thousands of dollars in state reimbursement and grant funding for devices that are used by employees involved in state-related and/or grant-funded programs. As such, the cost estimate of devices for the eighteen month period of $341,592 is not actually the County cost; it is really about $45,000 less due to reimbursement.

At the same time, I would note that of the total fleet of wireless devices in Erie County government, independent elected officials and the independent Sewerage Management districts controlled 26% of the devices during the period of the Review. I would also note for the record that the Comptroller's press release regarding the Review boasted that no one on his staff has a wireless device; his press release neglected to mention

that the Comptroller's chief of staff was assigned a County paid smartphone for years while he worked for the County Legislature. He only relinquished the smart phone in December 2013 when he assumed his position with the Comptroller and only after the Interim Review Memorandum was released.

Repeated Factual Errors in Review Report

On April 3, 2014, DISS held an exit meeting with the Comptroller's staff. DISS spent two hours with the Comptroller's staff going line-by-line through the draft Review document. We were concerned because the draft report had repeated and systematic factual errors throughout the document, including the quantification of cell phones, smart phones and air cards, as well as the quantification of costs for devices.

During and after the exit meeting, DISS provided the Comptroller's staff with accurate numbers and data to support our numbers. We were pleased that in the final document, many changes were made to correct errors. However, in many other places in the report, there remain factual errors. For instance, on the cover page, the Review refers to DISS as the "*Department* of Information and Support Services." DISS is not a department of County government, but is a Division. DISS pointed this out to the Comptroller's staff in the exit meeting, but the error was not corrected in the report. While we acknowledge this is a minor point, it is telling in that the error, like other, more serious errors, was (1) made; and (2) not corrected by the Comptroller after it was revealed by DISS at the exit meeting.

On page two of the Review, the Comptroller wrote: "In the process of this review, the Audit Division was faced with several delays in reporting our findings stemming from difficulties in *obtaining documentation* (italics added), scheduling meetings with DISS Management, and our normal scheduling conflicts with other audits and reviews which were underway." As we told the Comptroller's staff at the exit meeting, DISS needs to correct the record. The delays in the completion of the Review were due to the Comptroller's Office. In fact, the Comptroller's Office cancelled several meetings in December 2013 to discuss their initial findings and then DISS never heard back from the Comptroller about the Review until February 5, 2014 when they sent a letter inquiring about meeting with us. In addition, I would note that in the draft Review document discussed at the exit meeting, the phrase "obtaining documentation" was not present and was added by the Comptroller after the exit meeting, presumably in an attempt to try and disparage DISS. The Comptroller's failure to timely complete this Review was due to his own actions, not DISS and such comments were improperly included in the document in violation of GAGAS which requires auditors to be non-biased and objective.

On page eight of the Review, the Comptroller included a chart purporting to show the total cost of wireless devices by type in 2012 and 2013. The chart erroneously stated that in 2012, the costs of cell phones was $181,873 when it was $117,993 – a fact DISS told the Comptroller's Office at the exit meeting. Similarly, the chart says cell phones cost

$57,606 for the first six months of 2013 when the real cost was $48,869. The chart also says smart phones cost $63,065 for the first six months of 2013 when the actual cost was $52,113.

The Review also falsely claims that "detailed invoices" are required by the New York State Records Retention and Disposition Schedule CO-2 ("CO-2") to be retained for six years. This is inaccurate. Invoices (not detailed invoices) are required by the CO-2 to be retained for six years; the Comptroller's own accounts payable unit receives Verizon invoices from DISS every month to process payment and that unit holds responsibility to retain the records. If the Comptroller is not retaining the invoices for the required six years then his own office is in violation of State records retention requirements. There is no mention of "detailed invoices" in the CO-2 according to the Erie County Records Management Officer (who is also the DISS Director of Central Data Processing). During the review, the Comptroller requested detailed usage reports and was provided with those reports. There is no mention of retention requirements for detailed usage reports in the CO-2 but call detail reports are always available from Verizon through the Verizon Wireless Business Portal or upon request.

The Review erroneously claims that two County employees had a cell phone and a smart phone during the review period. In fact, as DISS informed the Comptroller's Office at the exit meeting, only one County employee had two mobile phones (both smart phones) during the review period – Sheriff Timothy B. Howard.

There are many other factual errors in the document, but in the interest of time, I will not address them in this document. However, in the event your Honorable Body wishes to discuss wireless devices and the Review in a committee meeting, I would be happy to attend and continue this dialogue further.

Violation of Government Auditing Standards

When DISS was provided with a draft copy of the Review prior to the exit meeting, we were surprised to see that the document included a list of four objectives which the Comptroller had established for the Review. We were surprised because at no time from July 2013 when the Comptroller first requested wireless data via electronic mail, to his September 2013 review entrance letter, to our October 2013 entrance meeting, to his December 2013 "Interim Review Memoranda", or at any other time during the six months he was working on the Review, did the Comptroller state his objectives in conducting the Review.

This failure by the Comptroller's Office to articulate audit objectives at the start of an audit or review is in violation of Generally Accepted Government Audit Standards ("GAGAS"), as written by the U.S. Government Accountability Office, which requires that auditors expressly state their objectives at the commencement of work:

> **2.03** All audits begin with objectives, and those objectives determine the type of audit to be performed and the applicable standards to be followed.

GAGAS further states:

> **2.11** Performance audit objectives vary widely and include assessments of program effectiveness, economy, and efficiency; internal control; compliance; and prospective analyses. These overall objectives are not mutually exclusive. Thus, a performance audit may have more than one overall objective. For example, a performance audit with an objective of determining or evaluating program effectiveness may also involve an additional objective of evaluating internal controls to determine the reasons for a program's lack of effectiveness or how effectiveness can be improved. Examples of the various types of the performance audit objectives discussed below are included in Appendix I.

Again, it was not until the draft final report was delivered to DISS did the Comptroller state his objectives, almost as if he waited until he conducted field work to see what findings he had before deciding on the objectives.

Number of Devices Increased due to CPS Needs

The Comptroller's Review reported that the number of wireless devices in County government has increased since January 2012. That is accurate. However, despite a DISS formal request that he do so, the Comptroller refused to include an explanation for why the number of devices increased. The number of devices increased during the Review scope period in large part because the Child Protective Services unit in the Department of Social Services started reassigning cell phones and air cards (not smart phones) to caseworkers to allow them to communicate with clients and supervisors and to complete work and file reports on laptop computers while in the field monitoring at-risk children. As you may recall, the former administration arbitrarily took away cell phones from field caseworkers, making it difficult for such child protection workers to interact with clients and complete critical reports. DISS requested that the Comptroller note the increase in such assigned devices in the Review to provide context and an explanation, but his office apparently refused.

Probation Ring Tones

The Review did find one area of concern, namely, that a pool phone assigned to the Department of Probation had downloaded ring-tones on one day in January 2012 resulting in a Verizon charge of $102.89. This finding, which the Comptroller did not disclose in his

Interim Review Memoranda, but did disclose in the draft report, is troubling and violates established County policy prohibiting such a download. DISS has already taken action with the Commissioner of Probation regarding this matter and device (which was turned off in January 2012). All pool phones have already been returned by Probation.

Thank you for the opportunity to respond to the Comptroller's Review. If you have any questions regarding DISS' response to the Review, please do not hesitate to contact me.

Sincerely,

Michael Breeden
Chief Information Officer
Division of Information and Support Services

cc: Robert W. Keating, Director of Budget and Management
Stefan I. Mychajliw, Comptroller
Erie County Fiscal Stability Authority