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COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

May 14, 2014

Honorable Members
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Re: Comptroller's Pre-Audit Analysis of 2013 Fiscal Results

Dear Honorable Members:

On May 9, 2014 my office received a copy of a press release and accompanying letter issued by the Office of Erie County Comptroller discussing preliminary 2013 fiscal results.

As you may recall, on March 3, 2014, County Executive Mark Poloncarz sent your Honorable Body a detailed letter discussing the preliminary unaudited 2013 financial results. On March 27, 2014, despite my office's presence at the committee to discuss the results and answer questions, your Finance and Management Committee received and filed that letter without comment. Between March 3rd and May 9th, the Office of Comptroller did not respond to the County Executive's letter nor contact the Division of Budget and Management to discuss the preliminary unaudited 2013 financial results.

The County ended 2013 with a modest unaudited surplus of $1.1 million. That is reason for commendation, not attack. The Comptroller's press release and letter seemed to go out of its way to criticize the administration for having a balanced budget. Since when is it a negative to have a modest surplus and not a deficit?

Lest we forget, this is the same official who on January 15, 2013 issued a press release confusing cash flow and budgeting, and falsely stating that "Initial cash flow projections from the office of Erie County Comptroller show Erie County would have to borrow $110 million to keep the 2013 budget balanced. . ." Mr. Mychajliw also stated: "The first sign of potential budget problems are when a government entity experiences cash flow issues. These preliminary fiscal signals are not good." Despite his skepticism, the County ended 2013 on a solid financial footing.

This is but one example of the many false statements made by the Comptroller concerning the County's finances since he took office.

Factual Errors in the Comptroller's Statements

In his May 9th press release, the Comptroller attacked the County Executive regarding the pension stabilization contribution option initiative, erroneously claiming that the final 2013 financial results demonstrated that the County could "have paid the pension obligation in full, rather than borrowing for it, with interest." As your Honorable Body is aware, the County budgeted to participate in that program for the pension payment due and owing in December 2014 – not the pension payment we made in December 2013. The Comptroller confused his fiscal years and falsely claimed we amortized the 2013 pension payment when we did no such thing.

I would also note that while the Comptroller issued his letter and press release on Friday, May 9, 2014, he erroneously commented on your Honorable Body's actions vis a vis the 2013 Budget Balancing Amendments. In his letter, he opined on a situation that could develop if the Legislature approved the amendments, when in fact, you approved those amendments the day before, on May 8th. That kind of inexactitude featured prominently in his letter and press release.

Selective Editing

Once again, just as he did in April 2013 in opining on the preliminary 2012 financial results, Comptroller Mychajliw has chosen to make a number of inaccurate statements seemingly designed to mislead the public and the Legislature. The Comptroller's attention-seeking generalizations are deliberately misleading and omit key details. He twisted statistics to fit his agenda and provided no explanations for variances. He noted only seven (7) out of sixteen (16) major positive variances and only two (2) out of twelve (12) major negative variances. Without references to explain positive or negative variances, the data are useless and meaningless – unless one wants to get media attention, which seems to be Mr. Mychajliw's intention.

The Budget is a fluid document and is constantly in flux. Adopted budget and actual results are constantly changing between the development of a Budget and its issuance on October 15th annually, its adoption by the Legislature in early December and the closing out of the fiscal year sixteen or seventeen months later. The unaudited 2013 Budget actual results show variances in revenue and expenditure accounts. That happens every year.

If your Honorable Body compares total revenue projections to year end actual results, there is a variance of only 1.35% and on the expense side, the variance is only 1.08%. That means that more than 98% of our projections were accurate. Given the inherent difficulty of forecasting and budgeting in a $1.5 billion budget, those variances are minor. But the Comptroller did not tell you that, and instead alleged a large error rate which plays well in media headlines but is not accurate.

Because of the series of false statements and representations and lack of explanations and references to the variances contained throughout Mr. Mychajliw's letter and press release, my office feels compelled to comment on his assertions and to set the record straight.

2013 Issues

The preliminary, unaudited results for 2013 happened because of two reasons: (1) strong management controls and effective supervision over executive departments, especially through vacancy control; and (2) a number of positive elements and factors that was unforeseen during the 2013 budget process in summer and fall 2012.

Let me be clear: we have an audited surplus for 2013 due to effective management, but also due to some fortuitous developments which neither the administration, comptroller or your Honorable Body expected or could have planned for more than one year earlier. Some of these elements are one-time events.

Positive 2013 News

The County ended 2013 with an unaudited surplus of $1.1 million. There were a number of important positive factors behind the modest surplus.

The County came in under-budget on fringe benefits by $7.2 million net – not the $10.3 million statistic Mr. Mychajliw cited. The $10.3 million number was gross before reimbursement was factored out, because, as your Honorable Body understands, but Comptroller Mychajliw apparently does not, we cannot claim reimbursement for vacant positions. This positive variance was principally due to aggressive vacancy control, which meant that vacant positions were not incurring pension, health insurance or workers compensation expense. Additional fringe savings was attributable to reduced workers compensation expense associated with ECMCC due to legacy cost reductions, aggressive pharmacy benefit management (and reduced expense) by the County's new pharmacy benefit manager Pharmacy Benefit Dimensions, and a $1.6 million net retirement credit we received from the State Retirement System in 2013.

Due to aggressive management vacancy control, we incurred $5.6 million less in salary expense (after revenue was netted out) due to vacancy control and vacant positions. This was not the $8.1 million statistic Mr. Mychajliw cited - which was a gross number before reimbursement was factored out.

We received $6.2 million in In Rem/Foreclosure property revenue in 2013 that was unexpected. Simply put, delinquent property owners, when faced with the threat of foreclosure or county actions for the first time, paid their overdue taxes in a rate and range that was unprecedented and unexpected. The Persons with Special Needs program incurred $3.3 million in programmatic savings – less expense than anticipated. The County Clerk received $1.9 million more in revenue than he budgeted, mostly in the Registrar Division due to re-financings and other actions.

The County received a Medicaid-MMIS credit totaling $1.9 million that was announced by the State in January 2013 after our budget was adopted and we received a one-time Early Intervention settlement payment from the State totaling $1.8 million from a prior period. We received $1.0 million more in Hotel Occupancy Tax revenue than expected and the City of Buffalo reimbursed the County for cellblock costs totaling $670,548 that was not budgeted. Also, unexpectedly, the Erie County Fiscal

Stability Authority provided us with $720,000 in intercepted sales tax revenue that they had retained over the course of many years which they deemed as surplus. We received a $576,975 Medicaid settlement payment associated with Jail Management for services provided in 2010 and 2011. And finally, we received $317,977 in Medicare Part D revenue that was unanticipated.

Again, many of these were one-time revenues and most could not have been foreseen in September 2012 when the 2013 Budget was being finalized.

Negative 2013 News

As stated earlier, we also experienced a number of negative factors in 2013, some of which could happen again in 2014 and for which we will be closely monitoring. Sales tax revenue was $5.6 million less than budgeted (after factoring out NFTA sharing). Expense in the Department of Mental Health was $3.3 million more than budgeted, due in part to adjustments due to prior year events. Correctional Health expense, due to the federal and state mandated services was $2.7 million more than budgeted. Safety Net expense, based on caseloads and the amended budget, was $2.4 million higher than budget. Jail Management overtime was $2.1 million over budget in 2013 and Sheriff Division overtime was $784,551 over budget. The County used $1.57 million of fund balance to cover the costs of the Sheriff PBA contract. Community College chargeback expense was $881,000 higher than budgeted. And finally, we accrued the $705,640 repayment to settle the October 2006 Storm FEMA audit and recoupment.

We welcome an earnest and vigorous discussion in about these issues. What we will not ignore or tolerate are reports or comments that are not factually correct and/or laden with innuendo or false representations for political purposes.

Throughout his tenure as Comptroller, Mr. Mychajliw has made a habit of not working with the Division of Budget and Management to address financial concerns and issues. His year end 2013 report, just like last year, bears that out. It is my hope that in the future, Mr. Mychajliw will consult with the Division of Budget and Management before inaccurately commenting in public forums and soliciting media attention.

Sincerely yours,

Robert W. Keating
Director of Budget and Management

RWK

cc: Erie County Executive Mark C. Poloncarz
Erie County Comptroller Stefan Mychajliw
Erie County Fiscal Stability Authority