

MARCH 2011

AUDIT OF THE BUFFALO NIAGARA CONVENTION & VISITORS BUREAU, INC.

FOR THE PERIOD JANUARY 1, 2008 THROUGH JUNE 30, 2010



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March 2, 2011

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

Dear Honorable Members:

The Erie County Comptroller's Office ("Office" and sometimes referred to herein as "we") has completed an audit of the Buffalo Niagara Convention & Visitors Bureau, Inc. ("CVB") for the period January 1, 2008 through June 30, 2010.

Our Office conducted the audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions. Our objectives were to determine whether the CVB and Erie County were in compliance with the contract entered into by the parties. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our objectives.

Management of CVB is responsible for establishing and maintaining a system of internal control. The objectives of a system are to provide management with reasonable, but not absolute, assurance that transactions are executed in accordance with management's authorization and are recorded properly. Because of inherent limitations in any system of internal control, errors or irregularities may nevertheless occur and not be detected.

In our opinion, the internal control structure was adequate to insure that expenditures were incurred for valid CVB purposes.

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I. EXECUTIVE SUMMARY

Our Office identified several issues requiring remediation and/or action as follows:

- **CVB has failed to file certain required reports with the County.**
- **CVB board meeting minutes are not always approved.**
- **Certain CVB board members are not recorded as present at board meetings and could be removed for cause.**
- **CVB claims to not have a surplus for 2008 and 2009, though its IRS filings show otherwise.**
- **CVB did not hold a formal, annual meeting in 2008 and 2009.**
- **Bidding procedures for purchases are not defined.**

II. BACKGROUND

The CVB is a New York not-for-profit corporation formed in 1987 to encourage tourism within Erie County and to promote Erie County as a convention, film and entertainment location.¹

The CVB's specific mission is:

“To market and promote the region's assets and attractions to visitors outside the Buffalo Niagara region as a convention location and leisure destination for the economic benefit of the community . . .”²

Pursuant to Resolution No. 128 adopted on March 19, 1974, the Erie County Legislature authorized the introduction of state legislation to enable Erie County to enact a hotel occupancy tax (“Bed Tax”). The purpose of such tax was to partly finance a convention facility with the option to use the revenues from the hotel occupancy tax in the way that local officials determine to be the best use for the funds. As a result, pursuant to Chapter 614 of the Laws of 1974; a Local Law imposing a Tax on Occupancy of Hotel Rooms was enacted by the Erie County Legislature effective December 1, 1974.

The original 1974 law provided that all revenues collected from the Bed Tax would be used for convention center and tourism purposes; however, the law was amended in 1975 to authorize the County to deposit the Bed Tax into the general fund of the County for any County purpose.³

The tax is composed of two separate sections: a 3% tax and a 5% tax. A tax of 3% is applied to net room rentals by those hotels with 30 or fewer rooms. A tax of 5% is applied to net room rentals by those hotels with more than 30 rooms. The Bed Tax covers only the rental of a room in Erie County: occupant charges for telephone, cable movies, bar or restaurant charges or dry cleaning are not taxable revenues as regards to the Bed Tax.

¹ The CVB was originally named the “Greater Buffalo Convention and Visitors Bureau, Inc.” but changed its name to the current one on October 5, 2001.

² From CVB 2009 IRS 990.

³ Erie County Local Law No. 8-1975

After an individual has rented the same room for 30 days or more, the Bed Tax no longer applies. Such rentals are reported as exemptions to the Bed Tax, on the same line as other non-taxable exemptions, such as governmental employees renting rooms on official business.

Hotel ownership must register to collect the tax. An application is requested from Erie County, and a certificate to collect Bed Tax is transmitted to the hotel. This certificate must be posted at the hotel.

The Comptroller's Office performed an audit of the Bed Tax in 2007 for the period of February 28, 2006 through February 28, 2007. That report can be found at http://www.erie.gov/comptroller/pdfs/audit_occupancy_tax_2007.pdf. Prior to 2006, Bed Tax was monitored and collected by the County's administration; however, that responsibility was moved to the Comptroller's Office effective 2007.

For much of the past 35 years, revenue generated by the Bed Tax has been used by the County to support County general fund operations. At the same time, the County Executive and County Legislature have annually appropriated funds from the County's general fund to support CVB and the operations, capital improvements and debt service related to the Buffalo Niagara Convention Center ("BNCC"), which is a County owned facility. At times, this funding to the CVB, as well as the Buffalo Niagara Convention Center Management Corporation for operation costs related to the BNCC, has fluctuated depending on the County's fiscal situation and policy decisions by the current County Executive and Legislators.

The CVB's financial statements include the Buffalo Niagara Convention & Visitors Bureau Foundation ("the Foundation"). We did not audit the Foundation. The CVB files IRS Form 990 with the Internal Revenue Service. That form does not include the Foundation. Since the Foundation was not part of our audit, we used IRS Form 990 information as the basis for our report.

While the CVB is not a department or administrative unit of the County, as described in Table One, in 2008 and 2009 the CVB received approximately eighty-three and eighty-six percent (83% and 86%), respectively, of its operating revenues from the County.⁴

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⁴ Though not a part of our scope period, in 2010 the CVB received eighty-three percent (83%) of its revenues from the County.

Table One – CVB Revenues & County Contribution

| Year | CVB Revenues | County Contribution | Percentage of CVB Revenues Received from Erie County |
|------|--------------|---------------------|--|
| 2004 | \$3,682,000 | \$3,200,000 | 87% |
| 2005 | \$1,811,000 | \$1,400,000 | 77% |
| 2006 | \$2,200,000 | \$1,673,000 | 76% |
| 2007 | \$2,716,000 | \$1,900,000 | 70% |
| 2008 | \$3,115,000 | \$2,600,000 | 83% |
| 2009 | \$3,024,000 | \$2,600,000 | 86% |
| 2010 | \$3,609,000 | \$3,000,000 | 83% |

* Source – The Erie County budget, CVB IRS Form 990 for 2004 – 2009. 2010 data is from CVB operating plan.

Additionally, since 2004, the CVB’s annual expenditures and surplus or deficit have been as follows:

Table Two – CVB Expenses and CVB Revenues Less Expenses ⁵

| Year | Expenses - CVB | Revenues less Expenses |
|------|----------------|------------------------|
| 2004 | \$3,636,770 | \$45,243 |
| 2005 | \$2,120,126 | (\$309,175) |
| 2006 | \$2,175,002 | \$24,689 |
| 2007 | \$2,727,303 | (\$11,649) |
| 2008 | \$2,984,689 | \$129,968 |
| 2009 | \$3,024,421 | \$269 |
| 2010 | \$3,609,200 | Not Available |

* Source – CVB IRS Form 990 for 2004 – 2009. 2010 data is from CVB operating plan.

The CVB’s by-laws provide that it is to be managed by a board of directors. Pursuant to the current by-laws, the CVB’s board of directors is currently composed of twenty-one (21) persons representing the following groups:

- Three (3) representatives of the hotel industry, including at least one (1) major hotelier (owner of 250 or more rooms in Erie County);
- Five (5) appointees of the Erie County Executive;
- Two (2) appointees from the Erie County Legislature (one (1) from the majority and one (1) from the minority party);
- The Erie County Commissioner of Environment and Planning (or her designee);
- An appointee of the Mayor of Buffalo;
- The President of the CVB;

⁵ The 2010 figure is a budgeted, not actual amount.

- The immediate past Chair of the CVB;
- The Chair of the Buffalo Niagara Partnership (or his designee); and
- Six (6) at large members nominated by the Executive Committee based upon the needs of the CVB for specific leadership skills and to assure that a balanced mix of interests are represented on the Board.

All members serve terms of one (1) year. Directors cannot send an alternate to represent them at a board meeting. Board members are not compensated for their service.

The 2010 board has filled nineteen (19) of twenty-one (21) seats as of October 27, 2010. (*See "Board of Directors Comparisons" later in this document.*)

III. AUDIT FINDINGS

A) CVB has failed to file certain required reports with the County.

The 2009 and 2010 County contracts with the CVB provide:

" . . . with each invoice submission Organization agrees to provide quarterly written reports regarding efforts made toward achieving funding purposes stated in their 200X Marketing Plan & Budget sent to the Department of Environment and Planning, the County Executive and the Enrichment Committee (sic) of the Legislature."

The contract also states that prior to the release of the first County payment to the CVB, a current monthly cash flow and forecast must be provided to the County.

Additionally, the contract requires the CVB to submit with the above reports a statement, signed by the president and chief executive officer or board of directors chairperson, attesting to the following:

"The statements attached are to the best of my knowledge a fair representation of the state of the CVB. I know of no material issues that would adversely affect the continued operation of this Organization based upon the financial information we are providing. I am satisfied our Organization's financial state is fairly represented, and the included information is in agreement with the board and staff's plan for the year."

We were unable to obtain copies of these reports or copies of the approvals of these reports from the Commissioner of Environment and Planning, as the representative of the County Executive for this contract. The Commissioner and the County Executive sign the contract on behalf of the County. Additionally, these reports have not been filed with the Community Enrichment Committee of the Legislature.

We met with the Commissioner and we were assured these reports and the quarterly approval memorandum would be provided. Despite repeated e-mails, which included assurances that the information would be available soon, it was not forthcoming. As such, it appears that CVB either did not file the required reports, or the administration is refusing to turn them over to our Office.

WE RECOMMEND that the CVB comply with the contract and formally submit to the County a current year cash flow forecast and budget showing budget and actual data before the release of the first payment, and the signed statement as per the contract.

WE ALSO RECOMMEND that the County withhold the release of any payments until the documents are received.

WE RECOMMEND that the CVB file copies of its marketing plan and budget with the County Legislature and that the Legislature formally approve said documents before appropriating future County funds for the CVB.

B) CVB board meeting minutes are not always approved.

The CVB board is not required to meet every month, and does not do so. The minutes for specific meetings were not approved at the next meeting, and in some cases were never approved at all. Five (5) meeting minutes were never approved for the period of our audit.

Meetings of other governmental groups within Erie County, such as the Erie County Fiscal Stability Authority, the Erie County Industrial Development Agency and the Buffalo Fiscal Stability Authority show minutes that record not only who has attended, but who has an excused absence and who does not, and which board members voted yea or nay for which motions. We believe these details are important and should be included in the CVB board minutes.

WE RECOMMEND minutes of the board meeting are approved at the meeting immediately following.

C) Certain CVB board members are not recorded as present at board meetings and could be removed for cause.

Article 3, Section 6 of the by-laws of the CVB provides that directors can be removed for cause, including absence from five (5) or more board meetings over a twelve (12) consecutive month period.

“Directors may be removed with or without cause; provided however, that appointees of the Erie County Executive and the Erie County Legislature cannot be removed without cause, unless so requested by the appointing party. Cause

includes absence from five or more Board meetings over a twelve consecutive month period. Directors cannot send an alternate to represent them at a Board meeting. Removal with cause shall require a vote of a majority of the Directors at any meeting of the Board at which a quorum is present. Removal without cause shall require a vote of not less than two-thirds of the members of the Corporation.”

We found that during the period of our review, seven (7) directors were not recorded as present at five (5) or more board meetings over a twelve (12) month period. Some of these directors had resigned but the resignation was not recorded in the minutes. After a resignation, some Board seats have remained open for more than a year.

WE RECOMMEND that the Board be notified by the Secretary whenever a director has missed five (5) or more board meetings over a twelve (12) month period. This gives the board the option of replacing a director who is not attending meetings.

WE ALSO RECOMMEND that when Board members resign, the resignation be reflected in the minutes of the following meeting.

WE ALSO RECOMMEND that Board appointments be filled in a timely fashion. Some appointments, such as the Mayor of the City of Buffalo’s appointment, have remained open for twelve (12) or more months.

At the Exit Conference, the CVB asserted that since Board members are appointed for a one-year term, should a Board member not contribute, or not attend meetings, the Board member is easily replaced at the end of his or her term. The CVB also provided documentation demonstrating that the Board members we counted as absent had in fact resigned.

D) CVB claims to not have a surplus for 2008 and 2009, though its IRS filings show otherwise.

The 2008 and 2009 contracts include a provision requiring the CVB to refund any surplus or unappropriated funds to the County. Section 12 of the 2008 contract (Section 11 in the 2009 contract) provides:

“(a.) That within ninety (90) days of the end of its fiscal year, the Organization shall certify to the County in writing whether a refund is owed to the County per the remaining provisions of this section.”

“(b.) The Organization agrees to refund to the County any unused amount of monies paid to it hereunder, that is, any amount of said monies encumbered by any current operating expenses, it being understood that in the event the unencumbered revenue of the Organization exceeds its expenses for the Organization’s fiscal year, the Organization shall refund to the County within ninety (90) days of the Organization’s audit report that part of the surplus which

bears the same ratio to the total surplus as the amount actually paid to the Organization by the County bears to the total revenue of the Organization.”

“(c.) In determining whether a surplus is accrued by the Organization during the fiscal year, pursuant to subdivision (b.) of this paragraph, all revenue of the Organization, not expressly restricted to a particular purpose by the grantor of the revenue, shall be deemed “operating revenue.” All encumbered expenses of the Organization, other than those paid from funds specifically restricted to a particular purpose by a grantor, or paid from a segregated capital fund, shall be deemed “operating expense”. The Organization shall be deemed to have a surplus if operating revenue exceeds expense before any transfer of operating revenue into capital, endowment or other restricted funds or accounts.”

It appears that the CVB did not file a certification with the County stating whether a refund is owed as per the 2008 and 2009 contracts.

WE RECOMMEND that the CVB file a separate certification for 2008 and 2009 attesting to whether a refund is owed to the County and the reasons for said determination.

Federal Form 990 for the year 2008, completed by the CVB, shows an excess of revenues over expenditures of \$129,968 with a fund balance of \$297,919. In 2009, the excess of revenues over expenditures was \$269 with a fund balance of \$298,188.

As noted, the CVB’s financial statements are different from their Form 990s as the financial statements include information related to the Foundation, while the Form 990s do not. Irrespective of that fact, the CVB’s financial statements indicate that the CVB ended 2008 with a \$106,875 surplus and 2009 with a \$7,703 deficit.

We discussed with CVB the 2008 and 2009 Federal Form 990 and its display of an excess of revenues over expenditures. The CVB informed our office that the Form 990 surplus did not include other commitments, as described in CVB financial statements. According to the CVB, these commitments include convention commitments, equipment purchases and public relations obligations that exceed the revenues over expenditures figure on Form 990. According to the CVB, the result of including these commitments would reduce revenues below zero and the CVB states that this is the reason why funds were not remitted back to the County.

Our office can confirm that these commitments are not recorded on the Statement of Revenues and Expenses, footnotes to the Financial Statements, nor the IRS Form 990 of the CVB. However, it is the concern of the Comptroller’s Office that these commitments could be entered into for monies that will not be expended, thus manipulating expenditures into appearing larger. As a result, the CVB could retain surpluses indefinitely that contractually should be returned to the County.

The information on the commitments was not included in the CVB minutes we reviewed, nor was it in any of the material provided to the Erie County Department of Environment and Planning. Moreover, this information is also not included in their 2008 and 2009 calculations of

net assets in their audited financial statements. Therefore it is the opinion of the Comptroller's Office that the CVB did have a surplus in 2008 and 2009.

WE RECOMMEND that the language for future contracts be changed to reflect a particular accounting method used by the CVB and clarify how a surplus would be calculated. Our suggested method is to use the IRS Form 990 as the determinant of any surplus or deficit.

At the Exit Conference, the CVB agrees with our recommendation that the language in the contract be changed to reflect the particular accounting method used by the CVB and clarify how a surplus would be calculated. The CVB agrees that the use of the term "encumbrances" in the contract is confusing, as encumbrances are used in governmental accounting but not the not-for-profit accounting method that CVB uses. The CVB disputes our use of the IRS form 990 in our calculations, as this does not include the Foundation. CVB believes the Foundation should be included in this calculation. CVB acknowledged that if the Foundation was not included in the calculation, funds could be transferred between the CVB and Foundation, manipulating the amount of any surplus. Audit agrees with this contention. The Foundation is not discussed in CVB's contract with the County, and Audit sees that as underlining the recommendation that the calculation of surplus needs to be clarified.

CVB emphasized that they did not believe they had a surplus in 2008 or 2009. CVB management asked Audit to remove any references to a surplus in 2008 or 2009. Audit declined to do so, the reason being Audit believes based upon the IRS 990's that there was a surplus. CVB management also stated that a strict requirement to return surplus funds would severely impact the cash flow of the CVB as well as jeopardize its ability to operate successfully.

E) CVB did not hold a formal, annual meeting in 2008 and 2009.

The CVB's by-laws require it to hold a formal annual meeting. Article 2, Section 1 states:

"A meeting of the members shall be held annually for the election of directors and for the transaction of other business at such place and time as the Board of Directors shall designate."

There was no stated, formal, annual meeting during two (2) of the three (3) year periods of our audit. Board minutes do not chronicle the replacement of board members. The annual re-appointment of board members is not found in the minutes for the period of our audit.

WE RECOMMEND that the CVB board designate one (1) meeting as its "annual meeting." Ideally, this meeting would take place on or about the same date annually, and at this meeting the minutes should reflect the appointment of the members of the board for the following year pursuant to the appointment provisions as noted above.

At the Exit Conference, CVB management has stated that in 2008 and 2009 the election of officers was performed without formally convening an annual meeting. A formal annual meeting was held in 2010.

F) Bidding procedures for purchases are not defined.

While the CVB is not an administrative unit of the County, considering it derives almost all of its revenue from the County there is an expectation that it would follow many New York State and Erie County laws and regulations related to the use of public funds. One of those laws relates to the bidding of contracts and the requirement to use the “lowest responsible bidder” as outlined in General Municipal Law.

“New York General Municipal Law § 103: Advertising for bids; letting of contracts;

1.Except as otherwise expressly provided by an act of the legislature or by a local law adopted prior to September first, nineteen hundred fifty-three, all contracts for public work involving an expenditure of more than twenty thousand dollars and all purchase contracts involving an expenditure of more than ten thousand dollars, shall be awarded by the appropriate officer, board or agency of a political subdivision or of any district therein, ..., to the lowest responsible bidder furnishing the required security after advertisement for sealed bids in the manner provided by this section.”

It does not appear that the CVB has followed such bidding procedures. In fact, the CVB’s Accounting Manual states:

Acquisitions:

“All purchases of a non-recurring nature costing \$200 or more will require the use of a... purchase order...approved by the department head as well as the president... .”

The bidding process should include not just contracts for goods but services as well.

WE RECOMMEND that the CVB adopt the good business practice of bidding out large contracts including following the purchase bid policy as per General Municipal Law.

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IV. AUDITOR COMMENTS

A) Comparing the Buffalo Niagara CVB with other, like, organizations

The CVB's mission is:

To market and promote the region's assets and attractions to visitors outside the Buffalo Niagara region as a convention location and leisure destination for the economic benefit of the community.⁶

As part of our work, we began an evaluation to determine if the CVB is accomplishing its mission. Published within their Annual Marketing Plan, the CVB tracks its own success through a series of "Key Performance Metrics."

These metrics are collected and provided by the CVB and are shown in Table Three below. The items underlined are metrics upon which the CVB's President receives a bonus if certain targets are met or exceeded. The bonus for meeting or exceeding the metrics is \$5,468.75 for each of the four (4) items or potentially \$21,975.00. Other bonus items include: delivery of a "Regional Branding Initiative", adoption of the "CVB Leads System," addressing various HR issues, and outreach and collaboration with constituents, and overall leadership and change management. Each can generate a bonus of \$4,375.00. The bonus metrics are to be reviewed by the Board Executive Committee and the total annual bonus for which the CVB President is eligible is \$43,750.00. Past CVB Presidents were not awarded bonuses based upon specific performance targets.

Although the Board Executive Committee has determined that the CVB President met her performance targets in 2010, the President voluntarily declined her bonus.

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⁶ From CVB 2009 IRS 990.

Table Three - CVB Key Performance and Bonus Metrics

| | <u>2009 Goal</u> | <u>2010 Goal</u> | <u>2010 Actual</u> | <u>2011 Goal</u> | <u>Description</u> |
|--|------------------|------------------|--------------------|------------------|--|
| CVB Lead | 515 | 550 | 565 | 620 | A lead requires 10 sleeping rooms specific nights to a hotel by CVB staff. |
| CVB Definite Bookings | 295 | 325 | 400 | 400 | A future event confirmed in writing specific dates rooms blocked. |
| CVB Definite Hotel Room Nights Booked | 135,000 | 150,000 | 150,000 | 165,000 | The total rooms secured by group booked by CVB |
| Direct Spending from CVB Bookings | \$70,000,000 | \$82,000,000 | \$82,000,000 | \$85,000,000 | The expenses derived from event attendees exhibitors and organizer. |
| Convention Center Bookings | 20 | 20 | 20 | 30 | A future convention/event booked by from a CVB lead. |
| Hotel Bed Tax Revenue | \$8,000,000 | \$8,000,000 | \$7,950,000 | \$8,250,000 | Projections are from the Smith Travel Report and confirmed by EC budget. |
| Group Tour Leads | 125 | 150 | 152 | 160 | A program inquiry by travel guide forwarded by CVB to hotel or attraction. |
| Media Publicity Value | \$375,000 | \$400,000 | \$231,000 | \$330,000 | Media value is equivalent of paid advertising. |
| Website Unique Visitors | 340,000 | 480,000 | 421,759 | 600,000 | A person with a unique ID accessing the website for first time that day. |
| Visitor Center Traffic | 10,000 | 10,000 | 7,123 | 10,500 | The number of walk-in visitors to each Visitor Center. |

* Source – 2009 and 2010 CVB Marketing Plan.

The Key Performance and Bonus Metrics have value as one measure of CVB success. Audit believes that a comparison of the CVB to other, like, organizations also has merit. We as auditors suggest that a comparison of the CVB with other, similar, groups exposes areas for closer examination and possible improvement.

We did not compare the CVB to the Ontario Tourism Marketing Partnership Corporation (“OTMPC”). Although the two organizations are geographically close, the OTMPC’s budget of \$56,809,000 and representation of the entire province makes any comparison with the CVB problematic. We also chose not to use the Erie Area Convention & Visitors Bureau and Greater Toledo Convention and Visitors Bureau in our comparisons due to budget and population differences (much smaller). For these same reasons we did not use the Convention & Visitors

Bureau of Greater Cleveland and the Greater Pittsburgh Convention & Visitors Bureau, Inc. (much larger) in our comparisons.⁷

Table Four - Groups Not Used in Our Sample with 2008 Expenses

| Groups Not Used In Our Sample | 2008 Total Expenses |
|---|----------------------------|
| Convention and Visitors Bureau of Greater Cleveland (OH) | \$9,178,946 |
| Erie Area Convention and Visitors Bureau (PA) | \$833,217 |
| Greater Pittsburg Convention & Visitors Bureau (PA) | \$10,734,863 |
| Greater Toledo Convention and Visitors Bureau (OH) | \$1,203,039 |
| Ontario Tourism Marketing Partnership Corporation (CANADA) | \$56,809,000 |

* Source – IRS Form 990 for 2008. Ontario data is from their website.

Except where noted, we used 2008 data for our comparison, as it was the most current data available for all the groups in our analysis. We examined the resources expended by these groups. The CVB ranks in the bottom half of our sample group in total expenditures.

Table Five – 2008 Expenses for Various Visitor Bureaus

| Group Name | 2008 Total Expenses |
|--|----------------------------|
| Albany County Convention & Visitors Bureau, Inc. (NY) | \$1,611,281 |
| Bucks County Conference & Visitors Bureau (PA) | \$2,938,916 |
| Buffalo Niagara Convention & Visitors Bureau (NY) | \$2,984,689 |
| Lehigh Valley Convention & Visitors Bureau, Inc. (PA) | \$3,105,166 |
| Long Island Convention and Visitors Bureau, Inc. (NY) | \$2,696,194 |
| Niagara Tourism and Convention Corporation (NY) | \$3,237,789 |
| Greater Rochester Visitors Association (NY) | \$3,067,626 |

* Source – Data is from 2008 IRS Form 990. All entities use a calendar year except for as follows: Lehigh Valley Convention & Visitors Bureau and Bucks County Conference & Visitors Center have a fiscal year of 07/01/2008 – 06/30/2009. The 2008 Form 990 was not available for Albany County Convention & Visitors Bureau, so the 2009 Form 990 was used.

To enable a comparison, we used the percentage of the total budget as a measure to compare each group. *We acknowledge that this is an inexact comparison.* Such a comparison does give an idea how resources are provided and allocated. We caution the reader to remember that there are differences in funding, membership and other resources between these groups. We do believe that a comparison of the CVB with these groups provides a useful yardstick for discussion of CVB performance.

The Buffalo Niagara CVB receives the vast majority of its funding, approximately 83% in 2008 and 86% in 2009, from Erie County. The other organizations on this listing receive the majority

⁷ While Cleveland-Cuyahoga County (1,275,709) and Pittsburgh-Allegheny County (1,219,494) are larger metropolitan areas than Buffalo & Erie County (909,247), Toledo-Lucas County is much smaller than Erie County, having a total countywide population estimate of (463,493) according to the U.S. Bureau of Census for 2009.

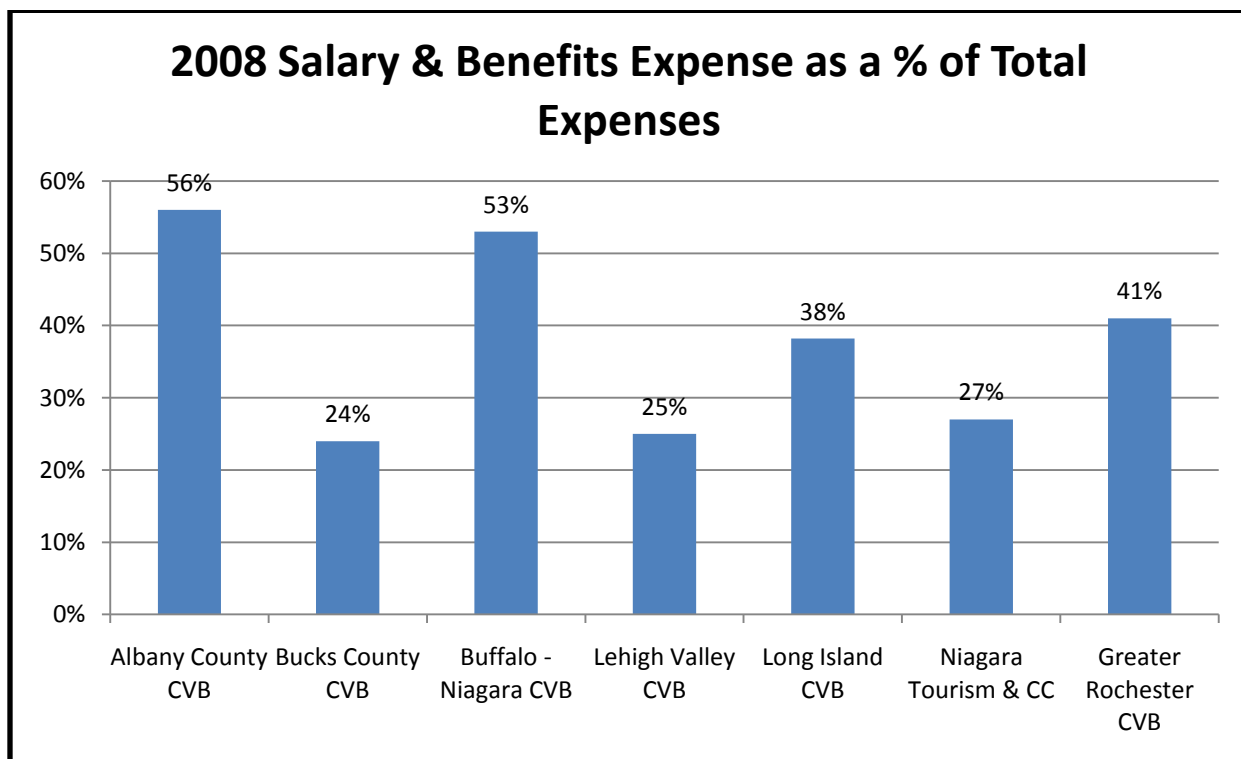
of their funding from some version of a Bed Tax. Every municipal government in this comparison has some form of a Bed Tax, although it may not directly support a specific convention/tourism operation. (See the separate section in this document, *The Erie County Hotel and Bed Tax, for details.*)

We obtained our information from IRS Form 990. The form breaks out financial data into categories such as compensation for officers and key employees, compensation for other employees, payroll taxes, advertising and office expenses. All the groups in our comparison file Form 990. We based our comparisons upon these pre-set categories.

It should be noted that on May 31, 2009, Richard Geiger separated his service as President and CEO of the CVB. The current President and CEO, Dottie Gallagher-Cohen, was appointed effective January 2010. All salary and leadership references in the 2008 comparisons are of Mr. Geiger, not Ms. Gallagher-Cohen.

Table Six shows that in our sample group, the Buffalo Niagara CVB spent more, as a percentage of total expenditures, on salaries than all but one of the other groups.

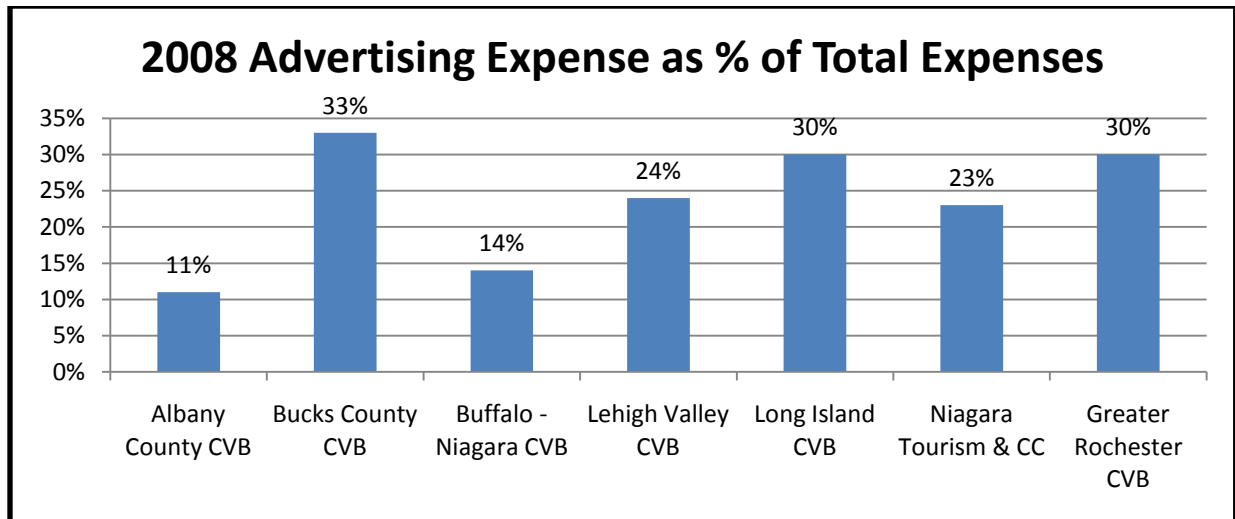
Table Six – Sample Group Salary & Benefits as a Percentage of Total Expenses



* Source is 2008 Form 990. All entities use a calendar year except for as follows: Lehigh Valley Convention & Visitors Bureau and Bucks County Conference & Visitors Center have a fiscal year of 07/01/2008 – 06/30/2009. The 2008 Form 990 was not available for Albany County Convention & Visitors Bureau, so the 2009 Form 990 was used.

As described in Table Seven below, the CVB spends less on advertising than all but one other in our sample group.

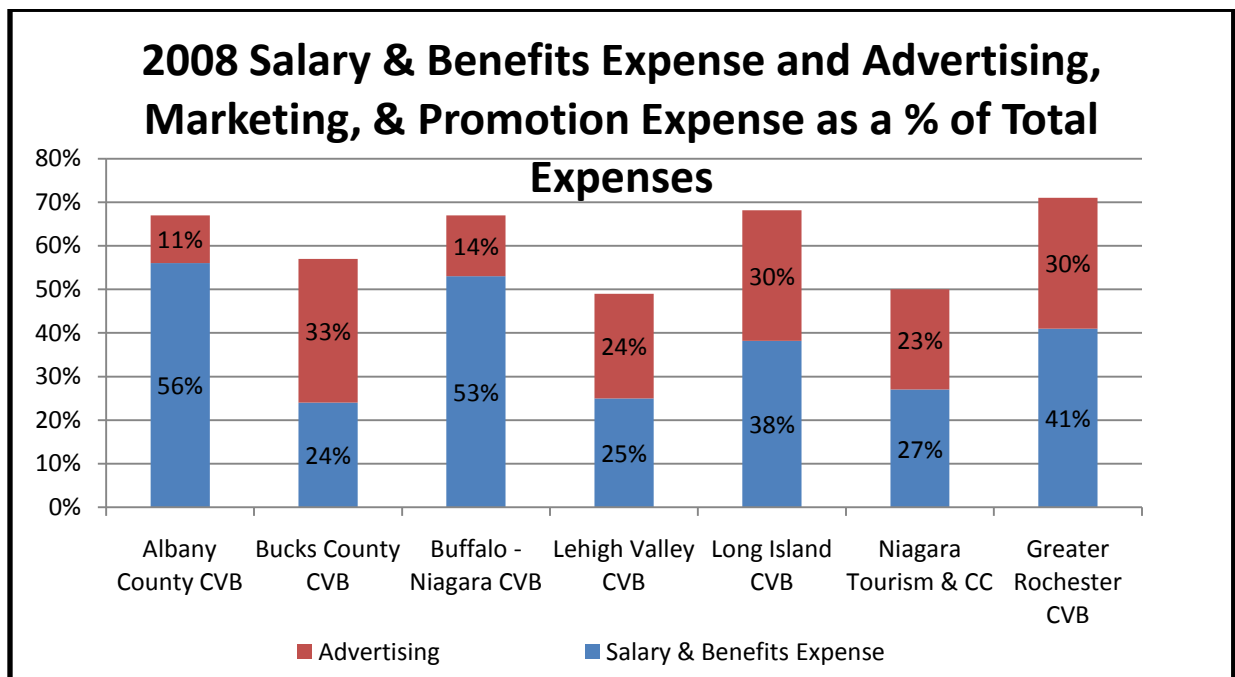
Table Seven – Sample Group Advertising Expense as a Percentage of Total Expenses



* Source is 2008 Form 990. All entities use a calendar year except for as follows: Lehigh Valley Convention & Visitors Bureau and Bucks County Conference & Visitors Center have a fiscal year of 07/01/2008 – 06/30/2009. The 2008 Form 990 was not available for Albany County Convention & Visitors Bureau, so the 2009 Form 990 was used.

To be sure that one (1) visitor bureau (generically individually known herein as “VB” and combined as “VBs”) in our sample group was not, for example, creating advertising in house (raising the cost of salaries and benefits) while other VBs had this work included in the cost of advertising, we combined the data in Table Eight.

Table Eight – Sample Group Salary/Benefits & Advertising Percentages



* Source is 2008 IRS Form 990. All entities use a calendar year except for as follows: Lehigh Valley Convention & Visitors Bureau and Bucks County Conference & Visitors Center have a fiscal year of 07/01/2008 – 06/30/2009. The 2008 Form 990 was not available for Albany County Convention & Visitors Bureau, so the 2009 Form 990 was used.

Table Nine below shows that the CVB’s 2008 payroll related expenses are demonstrably higher than its competitors.

Using the 2008 data from the various Form 990’s, we were able to perform a comparison among these groups using provided salary data. The Form 990 salary data includes fringe benefits, payroll taxes and pension plan contributions, as well as salaried compensation.

Table Nine shows the 2008 average employee payroll cost is over \$20,000 higher at the CVB than its next higher competitor and much higher overall than the sample group.

Table Nine – Sample Group Average Employee Payroll Cost

| | Albany County CVB | Bucks County Conference & Visitors Bureau | Buffalo Niagara CVB | Lehigh Valley CVB | Long Island CVB | Niagara Tourism & Convention Corporation | Great Rochester Visitors Association |
|--------------------------------|-------------------------|---|---------------------------|-------------------------|-----------------------|---|---|
| 2008 # of Employees | 48 | 25 | 26 | 21 | 25 | 32 | 40 |
| 2008 Salary & Benefits Expense | \$855,219 | \$714,453 | \$1,592,622 | \$781,105 | \$1,029,491 | \$860,836 | \$1,268,086 |
| Average Employee Payroll Cost | \$17,817 | \$28,578 | \$61,255 | \$37,195 | \$41,180 | \$26,901 | \$31,702 |

* Source is 2008 IRS Form 990. All entities use a calendar year except for as follows: Lehigh Valley Convention & Visitors Bureau and Bucks County Conference & Visitors Center have a fiscal year of 07/01/2008 – 06/30/2009. The 2008 Form 990 was not available for Albany County Convention & Visitors Bureau, so the 2009 Form 990 was used.

In addition to the other payroll comparisons, we performed a comparison with the CVB’s payroll data from 2004 through 2009 to determine a trend. Table Ten shows that average payroll expense per employee at the CVB dropped in 2008 and 2009 from a high of \$67,929 in 2007.

Table Ten – 2004 – 2009 Payroll Expenses and Employees for the CVB

| Year | Total Payroll Expense | # of Employees | Average Payroll Expense Per Employee | % Change |
|------|-----------------------|----------------|---|----------|
| 2009 | \$1,541,288 | 29 | \$53,148 | -13.23% |
| 2008 | \$1,592,622 | 26 | \$61,255 | -9.83% |
| 2007 | \$1,426,519 | 21 | \$67,929 | 13.96% |
| 2006 | \$1,251,777 | 21 | \$59,608 | 27.12% |
| 2005 | \$1,219,176 | 26 | \$46,891 | 5.67% |
| 2004 | \$1,686,229 | 38 | \$44,374 | |

* Source is IRS Form 990 for 2004 – 2009.

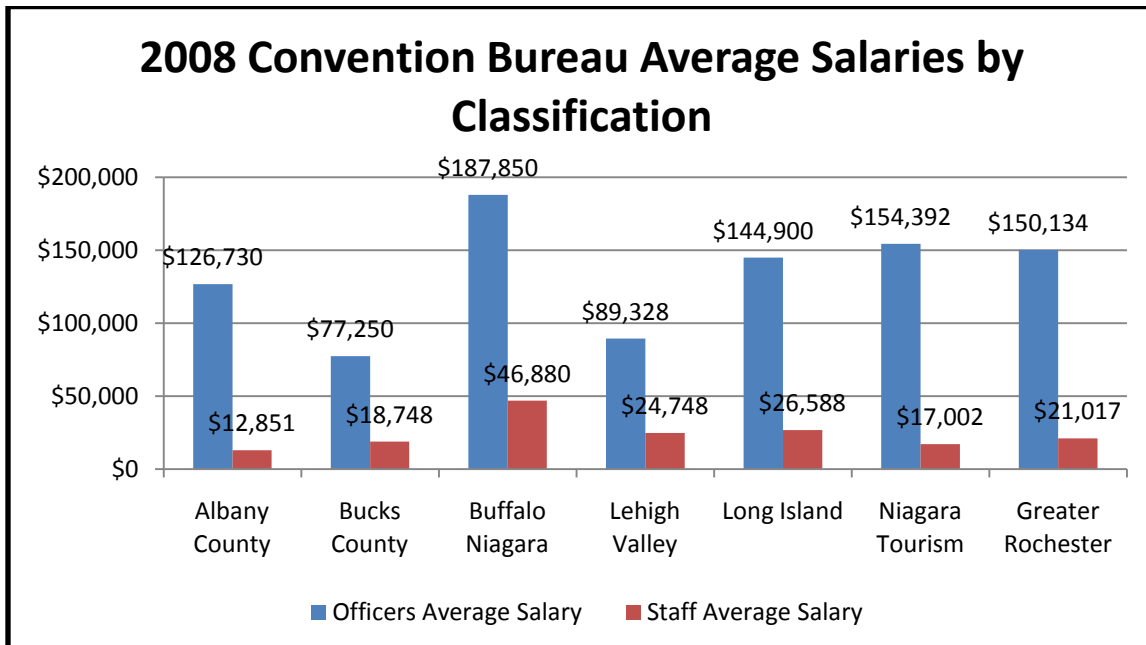
Our analysis of the Form 990 information allowed us to break out “staff” and “officer” payroll data. Table Eleven shows the average salaries for staff and officers for all of the VBs in our comparison. The CVB does not fare well in this comparison. The CVB has the highest average officers salary, and highest average employee salary of all the groups in our sample.

It is important to remember that the Form 990 data this table is based upon does not disclose such information as: part-time or full-time employment status for all employees, length of time

with the organization, employee experience or the average cost-of-living for the different geographical areas compared.

The Form 990 does disclose the average hours worked per week for officers, directors, key employees and highly compensated employees. The forms report that all officers in our sample group averaged 40 hours per week with the exception of Lehigh Valley, who reported their Director works an average of 60 hours per week.

Table Eleven – Comparison of Sample Group Salaries by Staff & Officers ⁸



* Source is 2008 IRS Form 990. All entities use a calendar year except for as follows: Lehigh Valley Convention & Visitors Bureau and Bucks County Conference & Visitors Center have a fiscal year of 07/01/2008 – 06/30/2009. The 2008 Form 990 was not available for Albany County Convention & Visitors Bureau, so the 2009 Form 990 was used.

Audit recognizes that a simple financial comparison is an incomplete picture of the performance of the CVB. The relationships between tourism, convention business, hotel rooms, the overall general economy and a region’s other assets is complex. However, we believe the CVB Board should consider carefully the proportion of its budget it spends on advertising, and on salaries and fringe benefits. As the CVB’s resources are limited, a balancing of priorities is a necessity.

At the Exit Conference, this topic generated the most discussion. CVB representatives stated any comparison is flawed and reminded Audit that comparisons between VBs are not an industry practice. Audit disagrees, though does note that any comparison between VBs is inexact.

CVB believes that Audit’s section of comparable VBs was flawed. CVB suggested that Audit use Cleveland, Syracuse, Grand Rapids and Providence as a comparison group.

⁸ As noted previously, Richard Geiger separated his service as President and CEO of the CVB effective May 31, 2009.

| CVB Suggested Comparisons | 2008 Total Expenses |
|---|----------------------------|
| Visit Grand Rapids, Inc. | \$274,407 |
| Providence Warwick Convention and Visitors Bureau | \$2,996,878 |
| Convention and Visitors Bureau of Greater Cleveland | \$9,178,946 |

We were unable to obtain data on the Syracuse VB.

Audit obtained data for Cleveland as part of our original analysis and rejected using it as a comparison VB due to the large differences in expenditures. Cleveland has more than three times the expenditures of the CVB. We reject Grand Rapids as a comparison VB for the reverse reason: Grand Rapids has one-tenth the budget of the CVB. We used the data from the 2008 Providence Warwick Convention and Visitors Bureau IRS 990 to create an addendum to Table Nine.

Table Nine Addendum

| Providence Warwick Convention and Visitors Bureau | |
|--|-------------|
| 2008 # of Employees | 25 |
| 2008 Salary & Benefits Expense | \$1,510,970 |
| Average Employee Payroll Cost | \$60,439 |

CVB also stated that the advertising has changed, and the 2008 number used in our analysis reflects the CVB's move away from traditional print advertising and a move to internet-based (and social media based) advertising. CVB management generously explained their methodologies and Audit sees these as sound.

CVB discussed with Audit the salary tables above, notably tables eleven and nine. CVB provided information that indicates that other VBs in our comparison group use more part-time employees than the CVB, and the CVB retains employees over a longer period than other VBs in our comparison group. We were unable to independently verify this information, but Audit does find it credible.

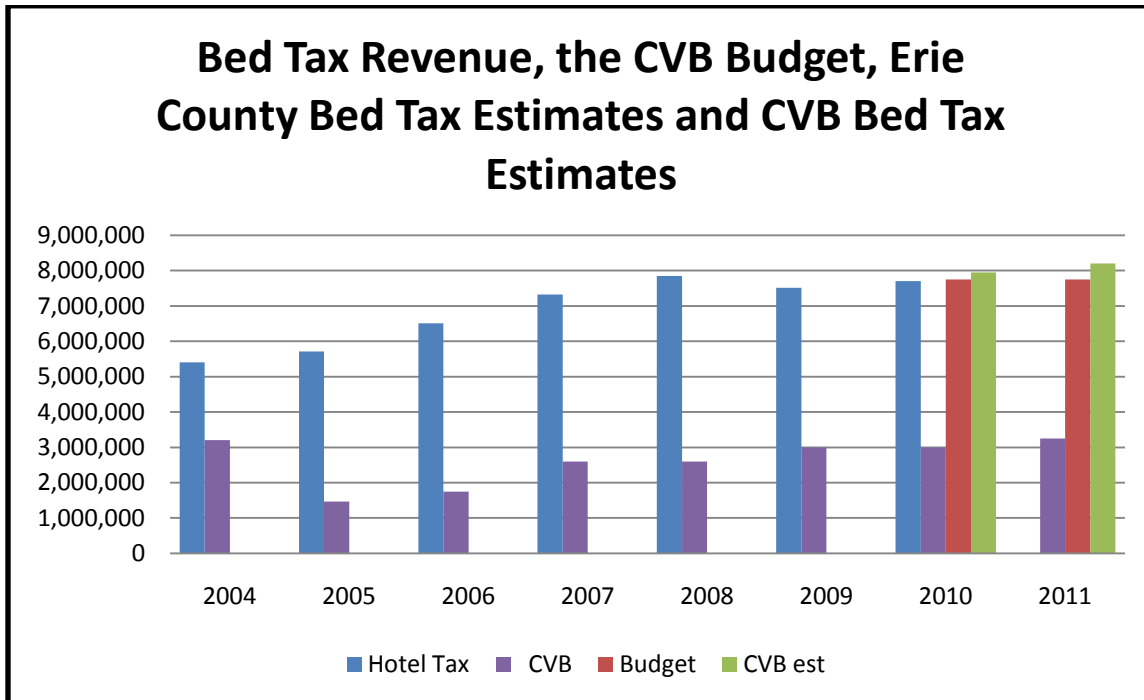
B) The Erie County Hotel and Bed Tax

As previously noted, since 1974, the County has levied and collected Bed Tax. As noted above, receipts derived from the Bed Tax were originally linked to the CVB, but since 1975 have been deposited into the County's general fund. Prior to the 2006 contract, the CVB was funded in part by receipts from the Bed Tax.

Table Twelve shows that Bed Tax revenue rose dramatically from 2004 through 2008, but has since leveled. The table also shows the amount of Bed Tax received in comparison to the budget of the CVB. For 2010 and 2011, we also show Erie County's Division of Budget and Management's estimate of Bed Tax revenues, and CVB's own estimates of Bed Tax revenues.

The 2010 and 2011 predictions of Bed Tax revenue by Erie County’s Division of Budget and Management show no increase in Bed Tax revenue. The CVB’s internal predictions for Bed Tax revenue show expected increases. For 2010, the CVB predicts \$200,000 more of Bed Tax revenue than the County estimate of \$7,752,000. In 2011, the CVB predicts nearly \$450,000 more in Bed Tax revenue being derived than the County estimate of \$7,752,000. Audit finds this disconnect odd, and believes that the Division of Budget and Management has underestimated Bed Tax revenue for 2010 and 2011.⁹

Table Twelve – CVB Expenses & Bed Tax Revenues 2004 – Projected 2011



* Source is 2004 – 2011 Erie County Budget, CVB IRS Form 990 for 2004 – 2009, 2010 CVB Marketing Plan.

As noted earlier, the Bed Tax was not intended to directly fund tourism and travel but rather, a funding source to pay for the convention center construction.

Additionally, it should be noted that prior to 2005, the County agreed to appropriate on an annual basis an amount equal to twenty-five percent (25%) of the gross proceeds of the initial three percent (3%) of the hotel bed occupancy tax and one hundred percent (100%) of the gross proceeds from the additional two percent (2%) of the hotel bed occupancy tax, subject to appropriation by the County Legislature. In 2006, the County and the CVB began to agree to a fixed series of payments, with additional monies flowing to the CVB if Bed Tax revenues were above estimate.

Throughout New York State, various VBs and convention centers receive a portion of their funding from their respective Bed Tax. Erie County, as described above, does not directly

⁹ Although outside the scope of our audit, the total Bed Tax received in 2010 is \$7,918,120. This figure is unaudited and subject to adjustment. This figure is within \$30,000 of the CVB estimate.

allocate Bed Tax revenues to the CVB. The distribution of Bed Tax revenues for comparable counties and cities is as follows:

Table Thirteen – Comparison of Bed Tax Rates

| Municipality | Bed Tax Rate | Distribution (per Hotel Occupancy Tax Law) |
|----------------------------------|--|---|
| Albany County, NY | 6% | 1/6 to special fund for convention and tourism development less 10% admin fee (can contract with Albany County Convention and Visitors Bureau, Inc.; 2/3 to Civic Center Debt Service; 1/6 to Albany Convention Center Authority |
| Bucks County, PA | 3% | all to Bucks County Convention and Visitors Bureau |
| Erie County, NY | 3% / 5% | general fund |
| Lehigh Valley County, PA | 4% | 68.75% to the regional tourism promotion agency; 18.75% for further development of tourism facilities and for community initiatives within the County that enhance regional tourism; 12.5% for further development of facilities and for marketing purposes within the County to enhance regional tourism |
| Nassau County, NY (Long Island) | 3% | 75% to general fund; 25% allocated as follows: 66 2/3% to the tourism promotion agency which the County of Nassau contracts with; 21% for the care, maintenance, and interpretation for the general public of the historic structures, sites and unique natural areas that are managed by the Nassau County department of Recreation and Parks; 12 1/3% for ongoing operation or program support of those non-profit museums and cultural organizations in Nassau County so designated by the County Executive or by any County department, agency or office authorized by the County Executive to make such designation, subject to final approval of the County Legislature |
| Suffolk County, NY (Long Island) | 3% | 24% to Long Island Convention and Visitors Bureau; 10% to support cultural programs and activities related to the tourism industry; 10% to support The Suffolk County Vanderbilt Museum; 8% for the support of other museums and historical societies; the balance (48%) support care, maintenance and interpretation for historic structures and sites and natural areas managed by the Suffolk County Parks Department which are open to tourists on a regular basis |
| New York City, NY | 5.875% (plus \$0.50-\$2.00 flat rate based on room cost) | general fund |
| Niagara County, NY | 4% | maximum of 5% admin fee, remainder to a not-for-profit corporation under contract with the county for promotion of tourism in the county |
| City of Niagara Falls, NY | 5% | 80% for promotion of convention activities in the City of Niagara Falls, for which the City may contract with the Niagara Falls Convention and Visitors Bureau; 15% to be divided equally between and used for the promotion of tourism and for maintenance and repairs of convention facility; 5% admin fee |
| City of Lockport, NY | 4% | after 5% admin fee, 75% to a not-for-profit Corporation under contract with the County for the promotion of tourism in the County; 25% for promotion of community and economic development in the City of Lockport |
| Monroe County, NY | 6% | general fund |

* Source is Hotel Occupancy Tax laws for the various localities.

Our comparison indicates that the CVB’s comparable entities receive a larger portion of Bed Tax revenues and greater financial support than the CVB.

We do note that the County contributes to the CVB in the other ways, including capital improvements at the Convention Center, such as the major 2010 rehabilitation project. In addition, the County, which is the owner of the Convention Center, pays annual debt service on the building, totaling \$2.7 million in 2011.

During the 2007 election, the County Executive stated that he supported dedicating all Bed Tax revenue to the CVB. This would approximately double the resources available to the CVB. After election, the County Executive apparently reneged on this pledge while negotiating the 2008 contract with the CVB. Audit acknowledges that use of the Bed Tax is ultimately under the discretion of the County Executive and Legislature.

Erie County has the only “split” Bed Tax rate in our sample group. The three percent (3%) portion contributed only \$179,000.00 of the \$7.7 million of Bed Tax collected in 2008. To make the tax simpler to administer, Audit suggests charging one rate regardless of hotel size.

An overall five percent (5%) Bed Tax rate, as opposed to the current rate that differs by the size of the hotel, is an option that Erie County should consider. In 2008, if the three percent (3%) Bed Tax had been replaced with a five percent (5%) Bed Tax, the County would have seen an increase in Bed Tax revenue of about \$119,000.

If the 2008 Bed Tax had been replaced with an overall four percent (4%) Bed Tax rate, Bed Tax revenue would have decreased by about \$1.45 million, or nearly nineteen percent (19%). Due to the loss of significant revenue, Audit does not suggest a reduction in the Bed Tax rate to four percent (4%).

C) The Buffalo Niagara Film Commission

In June 2002, the Buffalo Niagara Film Commission (the “Film Commission”) was created by then Erie County Executive Joel Giambra to help attract filmmakers to Western New York. The Film Commission’s task is to bring revenue to the local economy by attracting film production companies to “shoot” movies, commercials, TV shows or videos in Western New York. Once a film crew arrives in Western New York, the Film Commission acts a liaison that coordinates services to a film production company. The Film Commission addresses such items as arranging location security, contacting local acting or construction unions and arranging permits that may be needed.

Film crews generate business for the local economy in several different ways:

- Hotel room nights
- Rental of vehicles, equipment, etc.
- Hiring of local construction or acting crews, catering, security, etc.
- Eating at restaurants, shopping at stores, visiting local attractions, etc.

The business generated by a film crew is measured through a Location Production Expenditure Report that is filled out by the various film companies. The report was developed by the

Association of Film Commissioners International (“AFCI”) as an industry wide guide and helps locations determine money spent by the film companies.

The WNY region is attractive to filmmakers first and foremost because New York State offers filmmakers a thirty percent (30%) refundable tax credit from qualifying project related costs – costs not including stories, scripts, salaries for writers, directors, producers and performers (other than extras without spoken lines).

The Film Commission has only one (1) employee, the Commissioner. The CVB provides services to the Film Commission including graphics for ads, accounting services and the Film Commission’s web presence. The amounts provided to the Film Commission:

| Year | Support Provided |
|------|------------------|
| 2008 | \$128,830 |
| 2009 | \$198,133 |
| 2010 | \$213,000 |

* Source is CVB management.

The Film Commission received an additional \$10,000.00 from Niagara County starting in 2010.

Revenue generated from film production companies shooting in Erie County is as follows:

Table Fourteen – Alleged Revenue Generated by Film Production Companies

| Year | Revenue Generated | # of Projects |
|-------|-------------------|---------------|
| 2008 | \$3,312,370.00 | 59 |
| 2009 | \$10,131,500.00 | 59 |
| 2010* | \$2,260,200.00 | 49 |

* Source is AFICI Location Production Expenditure Reports for 2008-2010. 2010 amounts are through June 30, 2010.

Audit believes the Film Commission is a worthwhile investment and we believe it is worth continued funding. For Erie County’s investment of \$55,000.00 annually, the potential exists for a multi-million dollar return to Erie County’s economy. The CVB should consider allocating additional resources to the Film Commission.

D) Hotel Rooms in Erie County

In December 2009, in part fueled by the difficult economy, a series of hotel owners and managers approached the Comptroller and requested that the payment of Bed Tax be deferred for ninety (90) days and interest and penalties for late payments of Bed Tax be waived. In several of those conversations, hotel owners and operators suggested to the Comptroller’s Office that “Erie County has too many hotel rooms.”¹⁰

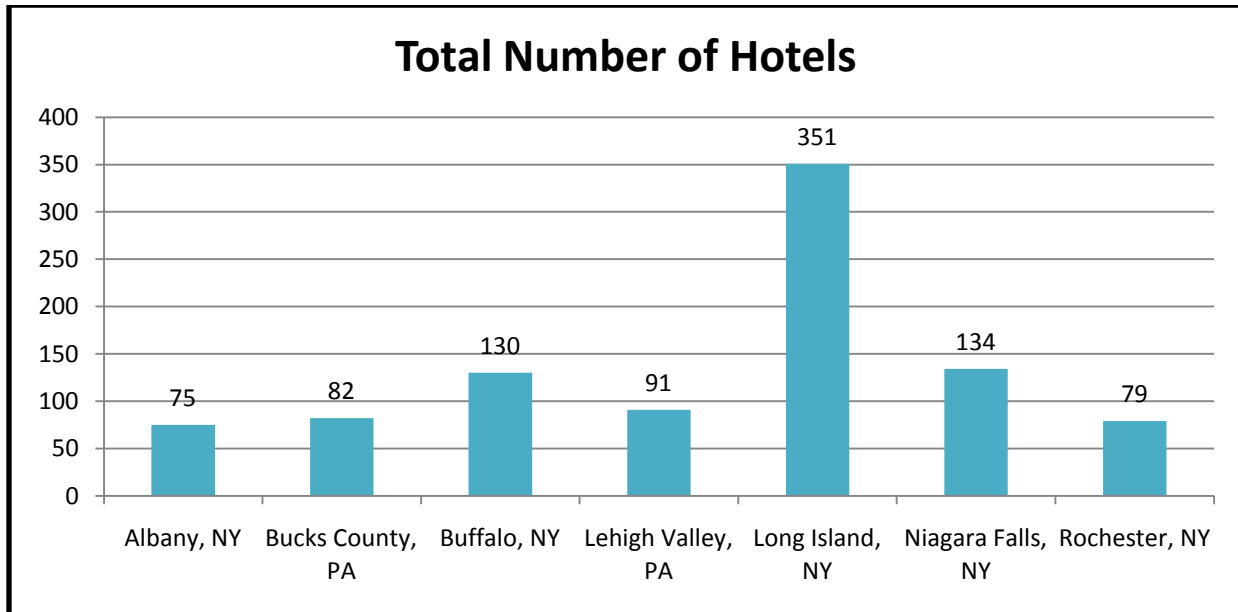
The request for the deferment of payment, and the waiver of late fees and penalties was denied.

¹⁰ In fact, the statements of the hotel owners were a predicate for the completion of this Audit and the examination of issues related to the CVB and hotel bed tax collected.

Erie County’s receipt of Bed Tax revenues and the number of new hotel projects being built or discussed and the recent \$7 million investment in the Convention Center prompted a discussion within Audit on the idea of Erie County having too many hotel rooms.

Presently, Erie County has 130 hotels providing 9,286 hotel rooms. A comparison with other regions shows the following:

Table Fifteen - Comparison of Hotels by Region



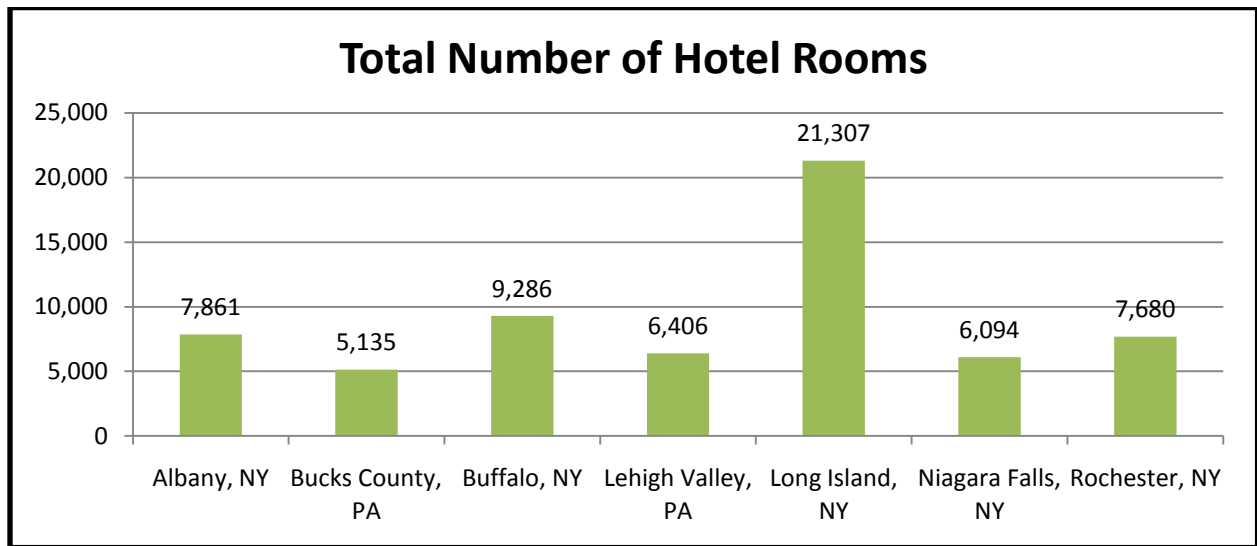
* Source is various VB and hotel websites.

As noted above, Buffalo is near the top of our sample group for total number of hotels. Table Sixteen below, illustrating the number of rooms available, indicates the same result: the Buffalo region has more hotel rooms compared to most of the VBs in our sample group.

It is worth noting that as described in Table Five, the CVB is not in the upper half of expenses within the sample group though it is in the top half of hotels and rooms available. This means that less is spent by the CVB per hotel and room to advertise the region compared to most of the other VBs in our sample group.

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Table Sixteen – Comparison of Hotel Rooms by Region



* Source is various VB and hotel websites.

The raw number of rooms is not by itself an indication of an excess of rooms. The type of room is important. Different customers require different rooms. The hospitality industry tracks rooms by the types: luxury, upscale, midprice, economy and budget. Price points, the cost of a room, vary widely between these groups. Finally, different customers look for different amenities within a hotel, such as internet access, meeting rooms, dining and pools. Therefore, it is possible to have an excess of rooms in one category, while not having enough in another category.

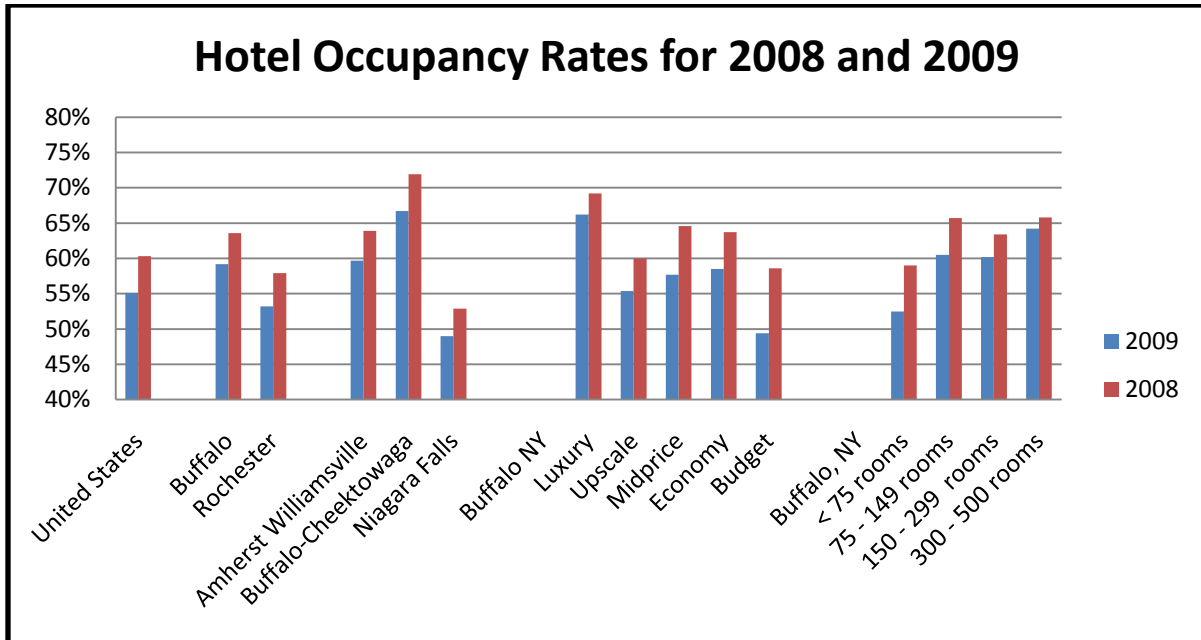
The distance between rooms and attractions is a factor in room demand. Demand in downtown Buffalo for rooms has remained constant for years, as compared to lower demand in the southern parts of Erie County. Customers look for rooms physically close to the reason for their visit.

Table Seventeen below shows these differences in occupancy rates, both for regions and for types of rooms. Buffalo consistently has a higher occupancy rate than Rochester, and a higher rate than the United States overall. Amherst and Williamsville show lower occupancy rates than the Buffalo-Cheektowaga corridor, and both areas consistently show higher occupancy than Niagara Falls.

Within Buffalo, the occupancy rate for luxury rooms is dramatically higher than other types of rooms, and larger hotels have a higher occupancy rate than smaller establishments.

Table Seventeen also shows the impact the economy can have on occupancy rates. 2008 is considered a stronger economic year than 2009, and the fall in rates between the years is illustrative of the worldwide economic recession. Tourists are considered the mainstay of budget-priced rooms, and the differences between 2008 and 2009 occupancy rate for budget-priced rooms graphically illustrates the falloff in tourist activity between the two (2) years.

Table Seventeen - Hotel Occupancy Rates for 2008 & 2009

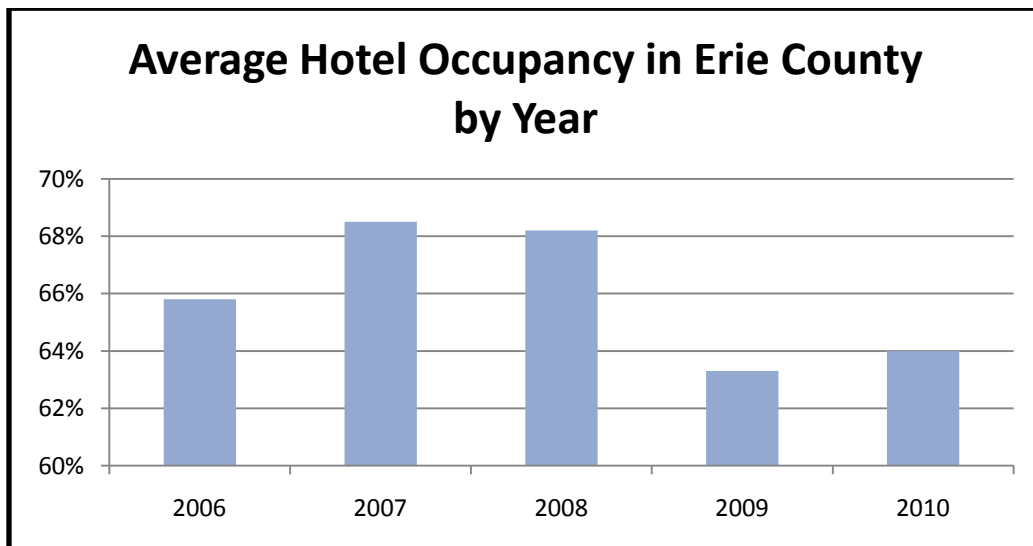


* Source is Smith Travel Report – October 2010 and Business First monthly recap.

Hotel rooms, once built, remain in the region’s inventory for decades. Additionally, barring major renovations, the room type does not change. Therefore, the property developer needs to plan, not just for demand for the next year, but for the next decade or more.

Hotel vacancy rates are an indicator of the excess of hotel rooms. Table Eighteen below shows how vacancy rates in Erie County have varied, albeit within a narrow range.

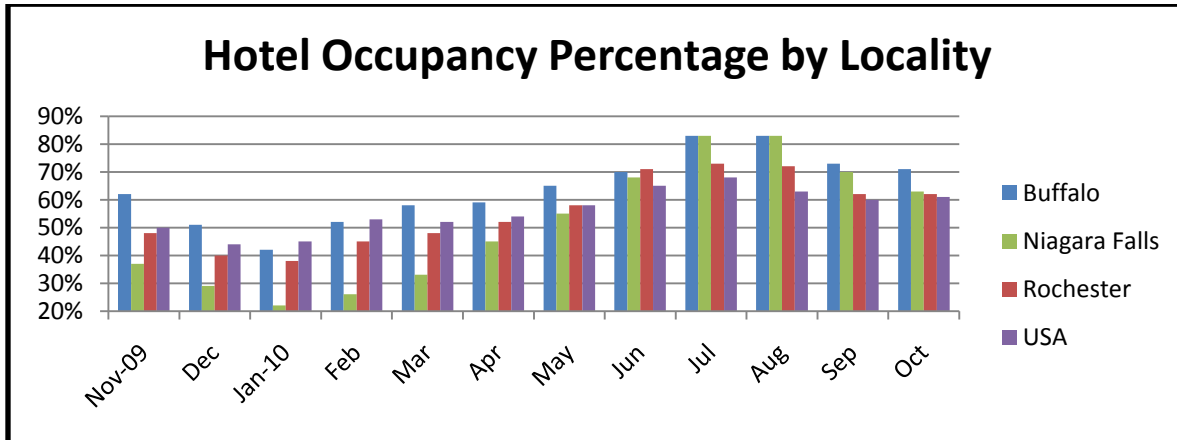
Table Eighteen - Average Erie County Hotel Occupancy - 2006 to 2010



* Source is Smith Travel Report - October 2010.

Table Nineteen below illustrates hotel occupancy in Buffalo, Niagara Falls, Rochester and the United States national average on an annual basis. Within a year, vacancy rates change with the seasons. Summer in Western New York is a busy time for the hotel business, with winter generating less demand. The swing in occupancy rates over a year in Niagara Falls illustrates the extraordinary dependence that location has on the tourist trade. Buffalo and Rochester do not see such swings due to their diversity of client base: tourists and the different types of business clientele.

Table Nineteen – Hotel Occupancy by Region from November 2009 – October 2010



* Source is Smith Travel Report – October 2010.

Based upon our comparison to the average occupancy in the US, Niagara Falls and Rochester, Erie County has consistently had a higher rate of occupancy. As a result of our analysis, our office opines that Erie County does not have too many hotel rooms. However, we do not opine on whether or not there are too many of a specific type of hotel room in Erie County.

E) Board of Directors Comparisons

From 2007 to 2008, the CVB Board changed in composition and amended its by-laws. Major changes included the following:

- The County Executive shall have five (5) appointees in addition to the Erie County Commissioner of Economic Development (previously, he appointed three (3) persons, including the Commissioner).
- No board appointee of the County Executive shall be removed without cause.
- The President and CEO may be removed, at any time, by a majority vote of the Board of Directors.
- A Committee of six (6) should be formed for recruiting and hiring a new President and CEO – composed of three (3) at large members and three members appointed by the County Executive.
- The number of Board members was reduced to twenty-one (21) from twenty-two (22).

The County Executive requested the ability to remove the CEO himself, but this change was not adopted.

As of October, 2010, the CVB board is composed of:

Vic Carucci

Senior Columnist
NFL.Com

Dennis P. Murphy

President
InnVest Lodging Services, Inc.

Drew Cerza (*Secretary*)

President
Just Wing It Productions, Inc.

Minesh Patel

General Manager
Adams Mark Buffalo

Jonathan A. Dandes (*President and Past Chair*)

President
Rich Baseball Operations

Gary D. Praetzel, Ph.D. (*Chair*)

Dean, College of Hospitality and Tourist Management
Niagara University

Dottie Gallagher-Cohen

President & CEO
Buffalo Niagara Convention & Visitors Bureau

Mary F. Roberts

Executive Director
Martin House Restoration Corporation

C. Douglas Hartmayer

Director of Public Affairs
Niagara Frontier Transportation Authority

Andrew J. Rudnick, Ph.D.

President & CEO
Buffalo Niagara Partnership

Kathy Konst

Commissioner
Erie County Department of Economic Development, Environment & Planning

James T. Sandoro

Executive Director
The Buffalo Transportation Pierce Arrow Museum

Florine Luhr

Executive Director
Advancing Arts and Culture

Holly A. Sinnott (*Vice Chair*)

Planning Works International, LLC

Honorable Lynn Marinelli

Legislator
Erie County

Mark Stadler

Chief Executive Officer
BAVServices, Inc.

Honorable John J. Mills

Legislator
Erie County

Patrick W. Welch, Ph.D.

Director
The Veterans & Family Services Center

Mark Mortenson

President & CEO
Buffalo Museum of Science

2 Open Seats

The sources of appointment for the board members is described in Table Twenty:

Table Twenty – Composition of CVB Board of Directors

| | |
|--|----|
| Representatives from the hotel industry | 2 |
| Representatives from a major hotelier (250+ rooms) | 1 |
| Appointees from the County Executive | 5 |
| Appointee from the County Legislature majority party | 1 |
| Appointee from the County Legislature minority party | 1 |
| Erie County Commissioner of Economic Development | 1 |
| Appointee from the Mayor of Buffalo | 1 |
| The President of the Corporation (the CVB) | 1 |
| The immediate past Chair of the Corporation | 1 |
| At-Large Members | 6 |
| The Chair of the Buffalo Niagara Partnership | 1 |
| Total | 21 |

* Source is CVB By-Laws as of June 24, 2010.

Table Twenty-One indicates that the CVB has one of the highest levels of County government involvement in our sample group. Bucks County, PA has no county government appointments on its board, and Albany has only one (1). The Erie County Executive directly appoints six (6) members to the CVB board, including the Commissioner of Economic Development.

The by-laws of the CVB, changed at the insistence of the County Executive, now require a committee of six (6) to propose a new head to the CVB. Prior to that change, there was no hiring committee. The County Executive appoints three (3) of six (6) members of that hiring committee. As a result, the County Executive controls half of the votes required for the hiring of, and thus the appointment of, the CVB Chair and by definition, the CVB Immediate Past Chair, both of which are on the CVB Board.

If either the majority or minority legislator appointed to the CVB Board is considered as allied with the County Executive, the total votes on the twenty-one (21) person CVB board influenced or controlled by the County Executive is nine (9), two (2) short of the eleven (11) votes needed for a majority. No other organization in our sample has so much government influence and so much influence in the hands of one individual.

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Table Twenty-One – Sample Group Board Composition

| | Albany County CVB | Bucks County Conference & Visitors Bureau | Buffalo Niagara CVB | Lehigh Valley CVB | Long Island CVB | Niagara Tourism and Convention Corporation | Greater Rochester Visitors Association |
|------------------------------------|-------------------------|---|---------------------------|-------------------------|-----------------------|--|---|
| Advertising/Media/ Promotion | 1 | 2 | 1 | | | | |
| Banking & Investment Industry | | 2 | | 1 | | | 1 |
| College/University | 2 | 1 | 1 | 1 | 2 | 1 | |
| Cultural Org/Tourist Attraction | 4 | 2 | 5 | 5 | 6 | 2 | 4 |
| Convention Center/VB Employee | 2 | | 1 | 1 | | 1 | |
| Economic Development | | | 1 | 1 | | 1 | |
| Government Official - City | | | 1 | 3 | | 2 | 1 |
| Government Official - County | 1 | | 4 | 4 | 2 | 1 | 2 |
| Government Official - State | | | | | 3 | 1 | |
| Hospitality Industry | 5 | 8 | 4 | 9 | 20 | 1 | 6 |
| Lawyers/Accountants | 2 | | | | | | 1 |
| Local Industry | | 2 | 1 | 3 | 1 | 2 | 2 |
| Non-Profits | | | | | | 1 | |
| Property Management/Real Estate | 2 | | | | | 1 | |
| Sports/Athletic Clubs | 1 | | 1 | 1 | 1 | | |
| Transportation Industry | 1 | | 1 | 3 | 2 | 2 | |
| Total | 21 | 17 | 21 | 32 | 37 | 16 | 17 |
| Ex-Officio/Non-Voting Members | | | | 9 | 5 | 3 | |

* Source - VB Websites and Annual Reports.

Table Twenty-Two breaks out board membership by government for the sample group. The CVB has the highest proportion of government appointees/members of any VB in our sample group.

Table Twenty-Two – Government Officials on Sample Group Boards

| | Albany County CVB | Bucks County Conference & Visitors Center | Buffalo Niagara CVB | Lehigh Valley CVB | Long Island CVB | Niagara Tourism & Convention Corporation | Greater Rochester Visitors Association |
|--|-------------------------------|---|--|---|--|---|---|
| Government Official - State | | | | | 3 | 1 | |
| | | | | | NYS Parks – LI Region | NYS Parks - Western District Director | |
| | | | | | NYS Economic Development | | |
| | | | | | NYS Economic Development | | |
| Government Official - County | 1 | | 4 | 4 | 2 | 1 | 2 |
| | Deputy County Executive | | County Legislator | Director of Administration | Nassau IDA * | County Legislator | County Executive |
| | | | Commissioner of Dept of Env & Planning | Councilman | Suffolk County Economic Development * | | President, Monroe County Legislature |
| | | | County Legislator | Commissioner | | | |
| | | | Veterans Services | Director of Community & Econ Dev | | | |
| Government Official - City | | | 1 | 3 | | 2 | 1 |
| | | | City of Buffalo Chief Economic Development Officer | Assistant to the Mayor - City of Easton | | City of Lockport Director Dept of Community Development | City of Rochester Mayor |
| | | | | Allentown Communications Coordinator | | City of Niagara Falls Mayor | |
| | | | | Dep Director of Community & Econ Dev - Bethlehem | | | |
| Total Directors from Government | 1 | 0 | 5 | 7 | 5 | 4 | 3 |

* Source - VB Websites and Annual Reports.

Table Twenty-Three below compares the size of the CVB Board to the other VBs in our sample group:

The CVB does appear to have a board that is the appropriate size for its responsibilities.

Table Twenty-Three – Comparison of Visitor Bureaus Board Size

| | Albany County CVB | Bucks County Conference & Visitors Bureau | Buffalo Niagara CVB | Lehigh Valley CVB | Long Island CVB | Niagara Tourism & Convention Corporation | Great Rochester Visitors Association |
|---|-------------------------|---|---------------------------|-------------------------|-----------------------|---|---|
| 2009 Board of Directors | 21 | 17 | 21 | 32 | 37 | 16 | 17 |
| 2008 # of Voting Members of Governing Body | 21 | 18 | 21 | 25 | 39 | 20 | 17 |
| 2008# of Independent Voting Members | 21 | 18 | 11 | 25 | 39 | 20 | 17 |

* Source - VB Websites and Annual Reports.

V. RESULTS OF EXIT CONFERENCE

An Exit Conference was held on February 24, 2011 with representatives of the CVB. The contents of this report were discussed.

We request that the CVB prepare a written response to our office and the County Executive concerning the findings and recommendations of this report. The final written response should be submitted to our office and the County Executive by March 31, 2011.

We also request that the Commissioner of Environment and Planning forward copies of the response to the Erie County Legislature by March 31, 2011.

cc: Hon. Christopher Collins, County Executive
 Kathy Konst, Commissioner of Environment and Planning
 Gregory Gach, Director of Budget and Management
 Dorothy Gallaher-Cohen, President and CEO of the Buffalo Niagara Convention
 & Visitors Bureau, Inc
 The Board of the Buffalo Niagara Convention & Visitors Bureau, Inc
 Erie County Fiscal Stability Authority