

January 26, 2006

Erie County Legislature
92 Franklin Street
Buffalo, New York 14202

Dear Honorable Members:

RE: Audit and review of operations of the Erie County Board of Elections

We have completed a limited review of the operations of the Erie County Board of Elections ("BOE") for the period 10/1/2004 through 9/30/2005 which included partially observing the process of conducting the November 2005 general election. Our review included the examination of data system records, interviews with management and staff and other tests necessary to evaluate the staffing levels essential to conduct elections. It is important to note that the BOE processes we reviewed covered the use of existing voting machines and that with the implementation of the Help America Vote Act ("HAVA") in 2006, there will be significant mandated changes to those processes and associated costs.

The primary function of the BOE is to oversee the conduct of elections and any matters related to it within Erie County, under the dual authority of election commissioners: one Democrat and one Republican. The BOE workload is highly seasonal and for the most part readily predictable. The busiest periods center on the petition filing process in July and August and conducting the primary and general elections from September through November. Local municipal elections occur throughout the remainder of the year.

Based on the quantifiable data that was analyzed, we conclude that the 36 budgeted full-time positions at the Erie County BOE, efficiently utilized and properly augmented by part-time, regular part-time and seasonal employees appear sufficient to provide the necessary election services prior to HAVA implementation. It must, however, be made clear that these budgeted positions do not include the impact of HAVA and the need to hire additional staff to comply with the new procedures and regulations in 2006 and future years.

I. 2006 BUDGET

Applying our findings and the assumptions derived there from the 2006 Adopted Budget for the BOE, we conclude that the budget appropriations are not sufficient to meet the obligations for the coming year.

The 2006 Budget presumes hiring 21 part-time employees and \$47,106 is allocated for that purpose. However, our analysis is that the \$47,106 appropriated is not sufficient to pay for 21 part-time employees. Based on our calculations, the \$47,106 will fund 4 part-time people at 19 hours per week for 52 weeks or 9 part time people at 19 hours per week for 26 weeks. In order to allow the hiring and utilization of all 21 part-time employees, the appropriation should be increased in an amount ranging from \$66,354 to \$179,815.

Part-Time Salary Estimates

Hiring Period	26 Weeks	52 Weeks
Work Hours Allowed	<u>19/wk</u>	<u>19wk</u>
Total Hours	494	988
BOE Part-time Employees Budgeted	<u>21</u>	<u>21</u>
Total Hours	10,374	20,748
Hourly Rate – Group 1 Step 0	<u>10,937</u>	<u>10,937</u>
Maximum Estimated Cost	\$113,460	\$226,921
Less: 2006 Budget	<u>47,106</u>	<u>47,106</u>
Increased Funding Estimate	<u>\$66,354</u>	<u>\$179,815</u>

In addition, no funding has been appropriated to address the New York State Senate special election expenditures that will be incurred on February 28, 2006. The BOE estimates that expense to be approximately \$200,000. The 2006 Budget also does not provide for HAVA related expenditures which at a minimum will be \$1.4 million and will require additional staff and associated personal service costs.

WE RECOMMEND that BOE management provide detailed plans on the use of part-time employees to further justify any appropriation increase. Further, WE RECOMMEND that the BOE Commissioners meet with your Honorable Body and the Division of Budget, Management and Finance to solidify the source(s) of funding for these pending obligations.

The 2006 Budget request submitted by the BOE to the Division of Budget, Management and Finance did include \$3.6 million for HAVA imposed mandates. That \$3.6 million was not included in the BOE's final appropriations. The BOE requested \$3.8 million in its budget request for non-HAVA operations. Its final budget was reduced to \$2.9 million. Included in the \$900,000 reduction were salaried positions.

Most disturbingly, the \$3.6 million requested in the BOE's presentation was not included in the 2006 Department Request line of the 2006 Budget, Book A when submitted to the Legislature in October 2005 by the County Executive.

WE RECOMMEND that the Division of Budget, Management and Finance meet with BOE management to determine how such an oversight could occur, and to ensure it does not happen again.

II. 2005 BUDGET PRESENTATION

We examined and reviewed the data and assumptions contained in the BOE’s 2005 Budget Presentation. Work activities were described for all departments within the BOE. The tasks for all departmental activities were detailed to include such things as the number of requests processed, calls made, ballots mailed, items scanned, etc. and the time and manpower required to complete these duties. Our limited assessment found both over and under estimates of time required to complete certain tasks, as well as mathematical errors in the budget presentation that inflated the total number of work days and full-time equivalent employees required. Accordingly, we feel that instead of the 66 Full Time Equivalent (“FTE”) positions requested by the BOE, only 50 FTE positions were supported by the data provided.

Below is a three-year comparative listing of Budgeted staff levels as approved by the Legislature for the BOE.

	<u>2004 Actual</u>	<u>2005 Adjusted Budget</u>	<u>Actual Staffing 12/31/05</u>	<u>2006 Budgeted</u>
Full-Time Employees	62	36	44	36
RPT Employees	6	1	0	1
Part-Time Employees	42	21	5	21
FTE estimates	89	48	46.5	48
Overtime Dollars-Budget	\$134,698	\$129,008		\$154,000
Overtime Dollars-Actual	\$285,767		\$114,642	

BOE actual 2005 expenditures exceed 2005 budgeted expenditures by about \$607,000, caused primarily by the countywide allocation and posting of actual fringe benefit costs that greatly exceed the adopted budget.

BOE actual 2005 revenue fell short of 2005 budgeted revenue by about \$23,000. Despite these 2005 budget shortfalls, due to the charge back provision, the BOE ultimately generated almost \$7,000 more in revenue than expenses when the year closed.

WE RECOMMEND that BOE management and the Division of Budget, Management & Finance re-evaluate the staffing levels needed to meet election requirements. It should be noted that the staffing structure shown in the 2005 budget appears to have ended the practice of always having two employees, one Republican and one Democrat for each pay-grade and title. However, equal representation of each party, as required by the NYS Constitution and Election Laws, should be

maintained, title and pay-grade notwithstanding. The 2006 Budget shows the effect of these staffing changes.

Based on staff interviews and observation of tasks performed to conduct the 2005 general election, we noted the effect of cross-training BOE employees, regardless of functional area assigned, title and grade, including part-time employees, worked appropriately to meet required deadlines, proving that the current full-time staff level is sufficient to perform tasks necessary to conduct a county-wide election. However, we acknowledge that other post-election tasks, such as re-canvassing, filing and various administrative tasks affecting voter records need to be completed.

WE RECOMMEND that during these peak workload periods, to augment full time employees assigned to more critical tasks, greater use of part-time employees should be made, thereby reducing the amount of overtime needed to complete assigned tasks.

III. ADMINISTRATIVE OVERSIGHT

The BOE Budget presentation describes nine individual departments. Understandably, the budget cuts have necessitated that all employees put aside personal differences and job titles and work responsibly to get the work accomplished as required. While we acknowledge that almost everyone was doing almost everything, it still is necessary to incorporate appropriate supervision on an ongoing basis. It is incumbent on BOE management to ensure that the remaining staff is utilized effectively and efficiently to meet work flow obligations as they arise with minimum interruption of normal day to day functions. What the BOE accomplished in 2005 with reduced staffing is only a precursor of what the future holds for all County departments in light of budget constraints and inevitable down-sizing. Therefore, to continue from year to year without a more formally defined plan for utilizing staff is a risky endeavor.

WE RECOMMEND that management of the BOE establish a plan to address both daily responsibilities and the processing needs of the annual election cycle. Such a plan would include the use of existing staff as well as the use of part-time workers as deemed necessary and appropriate.

IV. USER TRANSACTIONS

The BOE uses the Election Systems and Software (“ESS”) computer program to maintain voter registration records and election district rolls. Employees process transactions in ESS to update those records throughout the year.

Review of monthly ESS transaction reports disclosed a wide disparity in the number of transactions processed by individual employees. It is understood that some employees spend all or most of their time processing transactions while other employees are assigned other tasks and only process transactions when time permits. Due to this wide range of transactions processed each month, it is difficult to determine what is an acceptable number to process and more importantly, what is an unacceptable number to process.

We also noted that some employees had an unusually high number of transactions that we could not readily identify as input or output even after backing out the number of voter cards printed. Also skewing the real total number of individual transactions processed was the fact that several different employees were processing transactions while being logged onto the system using another employee's password.

WE RECOMMEND that BOE management establish daily/monthly production benchmarks for the various types of transactions that are processed. Together with the closer supervision recommended in Section III above, this will further increase the effectiveness and efficiency of the assigned staff. We further recommend that the practice of employees sharing user passwords be immediately stopped and each employee, whether full-time or part-time, be given his or her own separate password. This would improve system security and allow management to better monitor employee productivity.

V. TRANSACTIONS PROCESSED AND OVERTIME

Utilizing the monthly transaction reports which we requested, we prepared a schedule of transactions processed for each month during our audit period and compared the transactions processed with the amount of overtime worked each month. Acknowledging that overtime can be utilized for other than processing transactions, we were able to note some trends. For example, the month April 2005 had the second-most number of transactions processed in the last two years and yet overtime usage was just about non-existent. Also, for the first seven months of 2005, there were 121,000 transactions processed while only \$500 in overtime was expended in that same period. In addition, during the 12 months covered by this review, the Board expended approximately \$247,640 on overtime for full-time employees and incurred an additional \$45,315 in compensatory time while using only 5,438 part-time employee hours totaling \$58,468 to augment full time staff.

WE RECOMMEND BOE management ensure that an aggressive approach is taken to create an effective work activities program to utilize its existing staff more efficiently, and to reduce the need for overtime to cover for employees on leave, when programming machines or performing any other functions. Based on our analysis, it would appear that only during limited times outside of Primary Day and Election Day, which is a county holiday, would the Board require the use of overtime.

VI. STAFF

The majority of Board employees' job groups and corresponding pay scales are significantly higher than those that exist throughout other County departments for positions performing similar functions.

We examined job specifications provided by the Erie County Department of Personnel and found that the job specifications did not properly reflect the actual duties performed by employees holding those positions. Our analysis of the actual duties performed by Board personnel disclosed that the majority of the Board's positions: Junior Election Clerks, Election Clerks, Senior Election Clerks and Principal Elections Clerks are non-supervisory clerical positions

performing nearly identical duties such as data entry, filing and cross-trained in numerous tasks not listed in the specifications, with their pay grades ranging from a job group 6 to a job group 8.

WE RECOMMEND that generic job titles should be created that would better reflect the actual functions of non-supervisory Board employees, and allow cross-training and utilization of staff in all departmental functions.

Also, as a result of the BOE's seasonal nature and the identified cross-training of employees and without a definitive organization chart we also recommend that job titles and related workload of Absentee Supervisor, Mapping Supervisor and Principal Supervisor be reviewed and evaluated for possible consolidation or transfer to a single Office Manager.

Implementation of these recommendations should involve management from the Department of Personnel, Labor Relations, County Attorney, the Board and the Division of Budget, Management, and Finance.

VII. OBSERVATIONS

During the course of our audit we became aware of or noted the following situations:

The 2005 Budget presentation analysis purports that 2.69 FTE's are required to manage the Business Office annually. Due to time constraints, we were not able to adequately evaluate the tasks performed and the time necessary to complete them. However, we noted that there are daily tasks that are not being addressed on a regular basis. For example, there are approximately \$13,000 in checks that have not been deposited, some from November 2005. In addition, there is a back log of both unprocessed and unpaid invoices. Also, some supply items are not in stock and have not been ordered either because vendor invoices are unpaid or the responsible individual has not kept up with these ongoing office responsibilities.

WE RECOMMEND that cross-training in some of the more critical business office activities take place to ensure that the necessary completion of certain tasks is addressed on a regular, ongoing basis. In consideration of workload requirements and staffing, and in lieu of cross-training, BOE management in conjunction with the Division of Budget, Management and Finance could evaluate the feasibility of centralized requisition and payment processing for the BOE as well as other small departments.

Checks must be deposited as soon as practical. The BOE must take immediate steps to process its checks and prevent another check processing backlog.

VIII. HELP AMERICA VOTE ACT

In 2006, the BOE will be faced with the implementation of HAVA. While work has been ongoing since 2003, the brunt of the implementation is supposed to occur in 2006. Since the NYS Board of Elections, who is funding the initial purchase, has not finalized the selection of the voting machines to use, the timeframe for the purchase of the new machines is uncertain.

What is relatively certain are the new costs associated with HAVA compliance as contained in Chapter 180, Laws of New York 2005 amending Article 3, Section 224 of the NYS Election Law and titled as the "Election Consolidation and Improvement Act of 2005" with an effective date of November 15, 2005, are now County obligations.

Prior to HAVA's implementation, voting machines were owned by the local municipalities with the BOE responsible for the setup of those machines for each election. Additionally, election inspector pay and inspector training fees were paid by the local municipalities. Any voting machine storage fees were also paid by the municipality. The HAVA legislation transfers those payments to the counties.

Key areas requiring additional costs are listed below:

1. All voting machines, and appliances and equipment relating to or used in the conduct of elections shall be in the care, custody and control of the Board of Elections. This applies to the new, yet to be acquired machines as well as all existing voting machines in the care, custody, control or ownership of a city or town.
2. All election inspector fees will be paid by the county at a daily rate fixed by the County Legislature. For example, New York City election inspection fees shall not be less than \$130. As of January 19, 2006, the Erie County Legislature has not yet set a rate for Erie County Election Inspectors. On January 19, 2006, New York Governor George Pataki set February 28, 2006 as the date for the special election for the open New York State Senate seat.
3. All election inspectors attending training shall be paid not less than \$25 for each meeting and at the option of the county, transportation expense not exceeding the county approved mileage allowance.

Budget appropriations will be required for storage facilities and election inspector pay and training, estimated by BOE at a minimum of approximately \$1.4 million for the countywide primary, general, City of Buffalo School Board, and special NYS Senate elections. In addition, there are other city, town, village and special district elections costs that the Commissioners need to identify and estimate.

WE RECOMMEND that BOE management communicate and coordinate with the NYS BOE to identify costs and inquire if additional funding can be obtained for the mandated costs contained in the legislation. We also recommend that BOE management meet with the Division of Budget, Management and Finance to identify additional costs and funding sources for unbudgeted 2006 election obligations.

WE RECOMMEND that the Erie County Legislature set the rate for Election Inspectors in Erie County as soon as possible.

AUDITOR'S COMMENTS

1. When our review of operations began, SAP records indicated that there were 34 full time positions, one Regular Part Time ("RPT") position and 5 Part Time ("PT") positions. RPT positions work from 20 to 39 hours per week. PT positions work from 1 to 19 hours per week. At the conclusion of our review, these same SAP records showed that the constitution of the office had drastically changed. There were now 44 full time positions, 0 RPT positions and 5 part time positions. While we acknowledge the authority of the BOE to fix the number of positions as deemed necessary within the boundaries of the appropriations set by the Legislature, we question the propriety of this action and whether this was a prudent use of available funds given the fiscal crisis in the County. Realistically, every County office would prefer the rehiring of all full time employees. Unfortunately, this is not a feasible economic alternative. Therefore, management has to look beyond the obvious and focus on what is best for the department in the long term.

What this encompasses is the management of the appropriations at their disposal. By creating and utilizing full time positions instead of part time, the BOE is paying out more in salary and fringe benefit costs when part time workers could be utilized to generate more work hours for the same dollars. During the course of our review, additional monies became available for personal services from two sources. In the first instance, the Erie County Legislature approved a budget transfer of \$201,000 and in the second instance; two employees resigned which in essence freed up additional funding for 2006. Combined, the annual pay for these two positions (a job group 9 position with the title of Elections Finance Analyst (RPT) and a job group 6 position with the title of Election Clerk) is \$57,640.

WE RECOMMEND that BOE management in conjunction with the Division of Budget, Management and Finance consider additional hiring options. There are many variables, but at a minimum, consideration should be given to hiring all new employees at the entry level position of Junior Election Clerk (job group 4). Or, consideration could be given to keeping a full time base of 35 or 40 employees and then hiring any additional employees at the part time level of Election Worker (job group 1) to bring the FTE level up to 50, with no HAVA considerations. This option would provide for additional hours of service with no fringe benefit costs.

In the future, similar consideration should be given to other positions that become available through attrition. This planned down grading of positions would be beneficial to the BOE as they would be getting more hours of work for the same dollars previously appropriated and at the same time saving additional expenditures in fringe benefits.

2. HAVA mandates the purchase and use of state-of-the-art voting machines which results in the BOE becoming the owner of approximately 1200 new machines. To ensure the availability of sufficient funds to repair some machines whenever possible and to purchase replacement machines as necessary in other instances, WE RECOMMEND that the BOE consider instituting an annual chargeback of depreciation costs and accumulate these monies in a sinking fund. Acknowledging that all BOE expenses are chargeable to

the various cities, towns and villages, this methodology would mitigate the need to borrow funds or raise taxes whenever repair and replacement costs are incurred.

3. We disclose that Joseph Surdyk, former Deputy Comptroller who supervised the audit team that performed a portion of the above work, has a family member working at the Board of Elections. His wife, Alicia, is a “Principal Election Clerk – Audit” for the Board of Elections.

EXIT CONFERENCE RESULTS

An exit conference was held on January 25, 2006 with the BOE Commissioners and Deputy Commissioners. The contents of this report were discussed and there was general agreement with the findings and recommendations for the period covered by this report.

The Commissioners emphasized that due to the dramatic budget cuts affecting the Board’s 2005 appropriations, they were prevented from meeting all New York State Election Law mandates. Mandates such as conducting election inspector training were not performed, subjecting the Board to criticism and/or sanctions by the NYS Board of Elections for not complying with election laws. They also noted that during this period hiring freezes set by the County Administration and approved by the Legislature prevented the hiring of additional staff at one of the Board’s most active periods in the 2005 election cycle. Their greatest concern was that budget estimates prepared by the Board and submitted to the Budget Office to meet HAVA mandates, were ignored in establishing the 2006 appropriations.

In accordance with the County’s Audit Response System and Procedures, we request the BOE Commissioners prepare a written response to the Erie County Legislature and County Executive concerning the findings and recommendations by February 28, 2006.