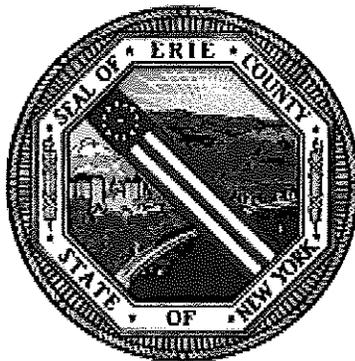

REPORT TO THE ERIE COUNTY LEGISLATURE
92 FRANKLIN STREET
BUFFALO, NEW YORK 14202

September 2009

ERIE COUNTY DEPARTMENT OF PERSONNEL
AUDIT OF PAYROLL TRANSACTIONS
FOR THE PERIOD JANUARY 1, 2007 – DECEMBER 31, 2008



MARK C. POLONCARZ

ERIE COUNTY COMPTROLLER

Michael R. Szukala
Deputy Comptroller - Audit & Control

**HON. MARK C. POLONCARZ
ERIE COUNTY COMPTROLLER'S OFFICE
DIVISION OF AUDIT & CONTROL
95 FRANKLIN STREET
BUFFALO, NEW YORK 14202**

September 30, 2009.

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



Dear Honorable Members:

The Erie County Comptroller's Office has completed an audit of the Erie County Department of Personnel ("Personnel"), for the period January 1, 2007 through December 31, 2008. We have audited selected Erie County ("County") payroll records which collectively comprise the majority of the County's General Fund payroll expenditures for the audit period.

Except as disclosed in the following paragraph, we conducted our 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 reasonable assurance about whether the payroll records are free of material errors and irregularities. Our objectives were to determine whether employee data maintained by Personnel was accurate; whether County departments were in compliance with County policies and procedures, New York Civil Service Law, and County Legislature ("Legislature") resolutions; and whether adequate internal controls exist over selected payroll transactions and activities. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Original time records were lost or destroyed for six departments for all of 2007 and for one additional department for at least one pay period in 2007 and for at least two pay periods in 2008.¹ We cannot determine why these records are missing and not available. Because of the loss of payroll records, whether by inadvertence or purposeful destruction, we were unable to determine the accuracy or propriety of those payroll records. In addition, we were unable to substantiate the salaries paid, overtime and compensatory

¹ The departments for which payroll records are missing for varying time periods in 2007 and/or 2008 are: Budget and Management; Real Property Tax Services; Public Advocacy; Commission on Status of Women; Equal Employment Opportunity; Veterans Services; and Information and Support Services.

time earned, and bonuses granted through the use of alternative methods. Accordingly, we have not opined on the accuracy of the payroll records.

County management, defined as the County Executive and Legislature, is responsible for the County's compliance with New York Civil Service Law, the Erie County Charter and Administrative Code, County Personnel Policies and Procedures and Legislative Resolutions. We selected and tested a sample of payroll transactions from various County departments and offices to obtain reasonable assurance that they were in compliance with established policies and procedures.

Our testing of transactions and records from these various County departments disclosed instances of non-compliance with policies, procedures and laws. All instances of non-compliance that we found are identified in the accompanying Schedule of Findings and Questioned Costs (Appendix One). Further, our testing was more limited than would be necessary to express an opinion on whether any programs and grants to which the County seeks advances and reimbursement of program expenditures based on payroll costs were in compliance in all material respects with laws and regulations. However, with respect to the transactions and records not tested by us, nothing came to our attention to indicate that the County had not complied with laws and regulations other than those laws and regulations for which we noted violations in our testing referred to above.

County management is also 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, weaknesses in the County's system of internal control over payroll transactions result in more than a relatively low risk that errors or irregularities may occur and may not be detected within a timely manner or at all.

SUMMARY OF FINDINGS:

- 1) Recording of Employee Time Worked – Some upper level managerial-confidential employees are not recording their daily work time.
- 2) Compensatory time was improperly granted to some employees.
- 3) Payroll Certification – The payroll is not being certified by Personnel as required by Section 100 of the Civil Service Law and Article 8 of the Erie County Administrative Code.

- 4) Payroll Registers – Originals of departmental payroll registers are not maintained in a permanent format.
- 5) Variable Minimums – One employee received a variable minimum pay rate that was not approved by the Legislature as required.
- 6) Payroll Records – Not all original payroll records are being retained as required by records retentions law.

These findings are detailed in the section entitled “**AUDIT RESULTS AND RECOMMENDATIONS.**”

REPORTING REQUIREMENTS:

A draft copy of this report was provided to Personnel for their review.

BACKGROUND:

In April 2004, Erie County deployed a new computerized financial, accounting and payroll system called Systems, Applications and Products in Data Processing (“SAP”). As with all new systems, there were problems and issues associated with the implementation of SAP.

An audit of the payroll system had not been performed since the SAP system was implemented. Problems with the County’s payroll process discovered during our office’s July 2009 Review of Time and Attendance Data in Personnel affirmed the need to audit the individual departmental payroll data processed by Personnel utilizing SAP.²

In 2008 the County budgeted for over \$320 million dollars in personal services expenses. These expenses include salaries, overtime, shift differential, fringe benefits and such specialized expenses as uniform allowances. The 2008 County adopted budget funded positions for 4,393 employees.

There are more than 1.3 million payroll transactions processed annually by the County on SAP. The vast majority of these transactions are generated by SAP itself, with human data input or oversight only in the case of an audit, or an error. Nearly all of the adjustments made to the payroll system are made by Personnel.

In 2008, the County began to implement the employee self service “swipe card” timekeeping system (“ESS) to replace paper “sign-in / sign-out” sheets which are highly susceptible to fraud or abuse as prior Comptroller investigations have shown. The ESS system was initially implemented in most, but not all departments located in the Rath Building. This automated system was also implemented with an intention in part of removing much of the data entry labor involved in processing the County’s payroll.

² The review can be found at http://www.erie.gov/comptroller/pdfs/personnel_payroll_review_2009.pdf

During the period of our audit, only a few departments had deployed and begun using the ESS system.

AUDIT RESULTS AND RECOMMENDATIONS:

Recording of Employee Time Worked – Chapter VI, Section 6, of the Erie County Policies and Procedure Manual (“Manual”) states that “daily time and attendance records must be maintained accurately for each employee for actual hours worked, and for actual lunch breaks.” During our audit we noted that many employees were not in compliance with this policy and yet were still being paid for time worked that was not substantiated as required. Further, Chapter VI, Section 1 of the Manual states that employees must record their attendance when leaving for and returning from lunch periods.

- We found that nine (9) managerial-confidential employees in our sample did not record their daily time as required. Eight (8) of the nine employees are appointees of the County Executive and one employee is an appointee at the Legislature. Two of these employees received sick leave bonuses during our audit period amounting to \$1,500 without having to record their daily attendance.

Some of these employees also earned cash overtime and/or compensatory time during the audit period while not recording their daily time as required.

Notwithstanding the blatant disregard for County policies, the absence of adequate time records could also have a negative impact on the reimbursement of administrative payroll costs for certain federal or state reimbursed grants and contracts through such departments as Social Services, Senior Services, Mental Health, Health, Public Works, etc. should some of these payroll costs be utilized as a reimbursable expense that cannot be supported through actual time and attendance records.

- We found that one-hundred-eleven (111) employees in twenty-five (25) departments in our 2008 sample did not regularly record lunch hours taken as required including many managerial-confidential employees and appointees of the Collins Administration. This is in addition to the hundreds of others who record lunch on an irregular basis contrary to the provisions of the Manual. Some or all these employees may be subject to a \$275 annual bonus or three compensatory days for giving up lunch hours in accordance with section 13.3 of the CSEA collective bargaining agreement.

Our 2007 sample found fifty-nine (59) employees in seventeen (17) departments did not regularly record lunch hours taken as required. This included a majority of employees in the County Executive’s Office and many other managerial-confidential employees of the Giambra Administration.

Because of the numerous instances of non-compliance that could not realistically be researched on an individual basis, we did not determine whether the employees in question voluntarily gave up lunch breaks, took lunches but did not record them, or were not given lunch breaks which would violate Section 162 of the New York State Labor Law.

- Due to the fact that time records were missing for so many departments, internal controls were deficient and there were several instances of non-compliance, we briefly looked at the ESS system which became fully operational for many Rath Building employees in 2009.³ We anticipated that the same errors that were prevalent in 2007 and 2008 would be corrected by this new system. Unfortunately, this did not occur. We found that while nine employees in our audit sample did not record their time during our audit period, the instances of non-compliance had swelled to forty-two (42) employees in 2009 with the ESS system. While we did not quantify the number, we also saw that the number of employees not recording lunch breaks became more wide spread as well, which deteriorated an already weak system of control.

As noted in Footnote 1, seven (7) departments represented that they do not possess payroll time and attendance records for 2007 and/or parts of 2008. Two departments, Budget and Management and Real Property Tax Services, informed us that they retained no timekeeping records for all of 2007, the final year of the Giambra Administration. For four (4) departments, Public Advocacy, Equal Employment Opportunity, Veterans Services and Commission on the Status of Women, time sheets for five (5) managerial-confidential employees are missing for all of 2007. Time sheets for at least two pay periods in 2007 and one period in 2008 are missing for the entire Division of Information and Support Services. The absence of these time sheet records for 12 month periods is disturbing and could lead some to question the propriety of the payroll for the affected departments and their employees.

WE RECOMMEND that Personnel take immediate action necessary to procure the required time and attendance records from each employee that was deficient in time keeping during our audit period.

WE ALSO RECOMMEND that the County Executive, through the Commissioner of Personnel, direct all County employees in writing to follow County policy and to daily swipe in / out or sign in / out for lunch when taking that meal break and at the beginning and end of every workday.

WE RECOMMEND that Personnel obtain time and attendance records for the two employees that received sick leave bonuses.

³ We briefly reviewed but did not audit the ESS system, the results of which had no impact with respect to our opinion regarding internal control and non-compliance.

Compensatory Time Improperly Granted – A Legislative resolution dated May 8, 1987 (Intro. 8-12) lists positions by title for which the incumbent employee shall not be credited with or receive compensatory time off for any overtime worked after May 8, 1987. We found that ten (10) employees in our sample received credit for compensatory time totaling \$20,067 contrary to this resolution. All 10 of these employees are managerial-confidential employees; 7 of the appointees were/are employees of the Collins Administration, including department heads and the two Deputy County Executives. One (1) appointee works for the Board of Elections, one (1) appointee is a Legislature employee, and one (1) appointee was a Giambra Administration appointee who separated from the County in early 2008.

WE RECOMMEND that Personnel take the appropriate steps necessary to ensure that these employees and the others listed on the May 8, 1987 resolution do not receive any further compensatory time. Moreover, **WE RECOMMEND** that Personnel adjust the compensatory time balances for the employees in question that inappropriately received credit and/or recoup funds from the employees and former employees who either utilized the time or received payment for the unused balance.

At the Exit Conference, Personnel asserted that these managerial-confidential employees were given the right to receive compensatory time under a 1999 legislative resolution (Comm. 14E-14) which established a new collective bargaining agreement for white collar employees in CSEA effective January 1, 2000. We do not agree with Personnel's assertion. While managerial-confidential employees generally follow the terms of the CSEA contract, there are clear differences and areas where appointees do not receive the same benefits or treatment as represented employees, such as summer compensatory time, paid cash overtime, and health insurance, to name a few. These differences are addressed in various legislative resolutions. Comm. 14E-14 did not add any new benefits to managerial-confidential employees or supersede any prior resolutions. Therefore our finding and recommendation stands.

Payroll Certification – As required by Section 100 of the Civil Service Law and Article 8 of the Erie County Administrative Code, the Commissioner of Personnel is not certifying the payroll (i.e. that the persons listed on the payroll have been, during the period specified, employed in their respective positions in accordance with law and rules made pursuant to law).

With the change from the County's previous computerized accounting system ("SFG") to SAP in 2004, the County's payroll process itself changed. Article 12 of the Erie County Administrative Code, specifically section 12.02(a), states the Comptroller shall:

examine and audit all claims or payrolls for services rendered the county, or for salaries of any county employee or county officer and furnish one certified transcript of such payrolls as approved to the commissioner of finance. All original payrolls shall be filed in the office of the comptroller. Before presentation to the comptroller of such payrolls, they shall be certified by the head of the

appropriate administrative unit or his deputy in the manner and form prescribed by the comptroller. The comptroller shall not approve any payroll or item thereof until the commissioner of personnel shall have certified that the persons named therein are employed in their respective positions in accordance with law and rules made pursuant to law.

The process as described above has not been performed since the SAP system went live in May 2004. In fact, this process has not been conducted for many years. Personnel does not actively certify the payroll and the Commissioner of Personnel does not present the payroll to the Office of Comptroller. Individual departments also do not and have not for many years certified their bi-weekly payrolls via a written statement provided to Personnel and the Comptroller's Office. Personnel, who controls the payroll process, maintains that due to the nature of the SAP system, this certification process is not necessary. We disagree and believe a countywide certification statement could easily and readily be signed by the Commissioner of Personnel on a bi-weekly basis.

In 2006, the Erie County Charter was revised and amended. However, the accompanying Erie County Administrative Code was not revised at that time. As a result, there are inconsistencies, errors, omissions and irregularities between the revised Charter and the unrevised, stale and dated Code.

WE RECOMMEND that the County Legislature and County Executive review and update the Administrative Code to reflect much needed changes and to sync the Charter to the Code.

WE ALSO RECOMMEND that Personnel formally certify the payroll each pay period via a written communication to the Office of the Comptroller stating, in part, that the employees are duly appointed and that they actually performed the proper duties of their position and appointment for the period specified.

At the Exit Conference, Personnel stated that they were uncomfortable with this finding, as they had not been previously asked to perform this task. We do not believe Personnel was doing anything improper, and agree that the previous Comptroller may have tacitly approved of this process whereby no payroll certification occurred. That said, the internal controls on this process can be improved, and our recommendation stands.

Payroll Registers – Payroll registers are not run each pay period and stored electronically. While payroll registers can be “created” for any pay period, it may not be a true representation since anytime a record is changed and stored with a prior date, it will change the reports that can be created within that date range. A stored electronic payroll register would indicate whether there were any errors in a specific pay period at the time payroll was run and whether there were any discrepancies between the payroll register and the gross payroll for a department.

WE RECOMMEND that the Commissioner of Personnel, in conjunction with the Division of Information and Support Services, create and forward electronic copies of payroll registers each pay period to the Office of the Comptroller in a compact disc format.

At the Exit Conference, Personnel stated that they were uncomfortable with this finding, as they had not been previously asked to perform this task. We do not believe Personnel was doing anything improper, and agree that the previous Comptroller may have tacitly approved of this process whereby no payroll registers were run and maintained for each pay period. That said, the internal controls on this process can be improved, and our recommendation stands.

Variable Minimums - As required by 2007 and 2008 budget resolutions, when it is impossible to recruit personnel through regular channels, the granting of salaries at a higher increment level must be authorized by the Legislature. Our testing revealed 13 instances where variable minimums were granted. In two of these cases, SAP contained a reference to the legislative resolution supporting the increase while the remaining eleven contained no such reference. In the end, twelve of the thirteen variable minimum payments were supported by either legislative resolutions or NYS Election Law. The one remaining employee that received the higher than minimum pay rate was awarded this variable minimum based on a 2003 legislative resolution that no longer applies.

WE RECOMMEND that Personnel make the adjustments necessary to bring the employee back to her appropriate step and recoup the amount of the overpayments made from the time she was placed in the higher than approved step.

At the Exit Conference, Personnel disagreed with this assessment. We believe otherwise because the resolution clearly states "... once a variable minimum is approved for a particular position or job title, said variable minimum shall be in effect for all employees placed in said position during the year." In other words, it is our interpretation that the resolution was only intended to affect the 2003 fiscal year.

Payroll Records – Part 185, 8NYCRR (Regulations of the Commissioner of Education) provides for the custody and management of records. This is more fully depicted in Schedule J of Section 185.13 which is the records retention and disposition schedule ("schedule") for use by counties. We found that the seven County departments previously identified (Budget and Management; Real Property Tax Services; Public Advocacy; Commission on Status of Women; Equal Employment Opportunity; Veterans Services; and Information and Support Services) were not in compliance with the schedule requiring time records to be retained for six years.

WE RECOMMEND that Personnel, in concert with elected officials, the County's Records Management Officer and appointed department heads, take the appropriate

action necessary to ensure the integrity and safekeeping of original time records as mandated by the Record Retention Schedule.

AUDITOR COMMENTS:

Sudden End to Official Recording of Time and Attendance

In our testing of time and attendance records we noted that during pay period #21 of 2008, certain managerial-confidential department heads and deputies of the Collins Administration suddenly stopped recording their daily time and attendance. We were informed by the Commissioner of Personnel that this was the result of a memorandum sent to departments stating that this was no longer a requirement. We asked the Commissioner of Personnel for, but were not provided with, a copy of this memorandum. As a result it is unclear who sent this memo and under what authority this action occurred. This action was strange because it expressly violated the County's personnel policies and procedures and especially because these employees had been regularly maintaining their time and attendance previously.

This action is contradictory to the Collins Administration's decision in 2008 to deploy, at significant expense, the ESS system to stop possible waste and abuse in timekeeping. Thus, at approximately the same time as the ESS system was being implemented, a number of Collins appointees and department heads who are supposed to enforce the timekeeping system and policy, stopped recording their time. As a result, there is no certainty or assurance whatsoever that these appointees are actually working when they are supposed to, and receiving pay as though they are working.⁴

Overtime Limitations

There are many sources that we examined to ascertain who is eligible to receive overtime, both compensatory time earned and overtime paid, within Erie County. Elected officials cannot receive overtime in any form. Individuals covered by a union contract are governed by the specifics of that contract. Managerial-confidential employees in appointed positions are sometimes covered but in other instances omitted from an unwieldy and confusing series of laws and regulations. We considered the CSEA collective bargaining agreement; legislative resolutions Intro. 8-12 of 1987, Comm. 14E-14 of 1999, Comm. 5E-11 of 2000 and Comm. 20E-8 of 2006; and the Rules for the Classified Civil Service of Erie County in addition to reviewing numerous e-mails

⁴ While outside the date scope of this audit, we further observed that throughout 2009, more than 40 managerial-confidential employees of the Collins Administration whose departments have deployed ESS are not swiping in / out for work. This includes department heads, deputies, and others from the Deputy County Executive down. Most of these employees recorded their time on paper time sheets in 2008 but are not recording time on ESS in 2009.

and holding discussions with the Commissioner of Personnel. The result is that there was no list made available to us that can be utilized to deduce that one employee who is not an elected official nor covered by a union contract should be able to receive overtime in any form. This also includes a list of those who clearly should not receive overtime because they are Fair Labor Standards Act exempt or unclassified.

Throughout this document, there are clear disputes between the Office of Comptroller and Personnel over the application of legislative resolutions to various managerial-confidential employees. As a result, we believe the Legislature should review existing legislative resolutions and regulations pertaining to managerial-confidential employees and adopt a new, definitive, all-encompassing resolution clarifying the benefits and status of managerial-confidential employees including the accrual of cash overtime, compensatory time, the recording of time and other benefits and obligations.

Overtime and States of Emergency

Managerial-confidential County employees who follow the CSEA contract are barred by County policy from receiving cash overtime or earning compensatory time in excess of 80 hours.⁵

On October 12-13, 2006, Erie County experienced a severe lake effect snow storm precipitating federal, state and local disaster declarations. During and after the storm, County officials coordinated significant storm operations for weeks, with many County employees accruing significant amounts of overtime. As a result, the Giambra Administration requested and received Legislature approval on October 24, 2006 of a request (Comm. 20E-8) to award cash overtime to County employees who worked overtime associated with this storm, including managerial-confidential employees who would otherwise be barred. This action was a significant policy shift.

As amended by the Legislature, this resolution gave a broad group of titles, particularly managerial-confidential employees who would not otherwise be entitled, the ability to receive cash overtime during a state of emergency declared by the County Executive. The resolution covered the period “October 12, 2006 through the end of the Declaration by the County Executive” and “any future time period”. The resolution covers all titles except those listed in the resolution. Those titles that cannot be compensated on a cash basis for their overtime in a declared emergency are:

Clerk of the Erie County Legislature
Deputy County Executive
Director of Budget & Management
Purchasing Director
Director of Labor Relations
Director of Central Data Processing
County Attorney
Commissioner of Personnel

Commissioner of Public Works
Commissioner of the Board of Elections
Executive Director of the Office of the Disabled
Commissioner of Fire Safety
Commissioner of Central Police Services
Superintendent of the Correctional Facility
Director of Probation
Crime Control Coordinator

⁵ Managerial-confidential employees below Job Group 12 may earn up to 240 hours of compensatory time. Those appointees above that job group may only accrue up to 80 hours.

Commissioner of Emergency Services
Commissioner of Mental Health
Commissioner of Health
Assistant Director of Public Health (Laboratory)
Director of Erie County Medical Center
Commissioner of Social Services
Veterans Service Officer

Commissioner of Senior Services
Commissioner of Parks and Recreation
Director of Buffalo and Erie County Public Library
Commissioner of Youth Services and Detention
President of Erie Community College
Director of Government Affairs

Note that this resolution does not deny any job title overtime, it denies the cash payment of overtime. Compensatory time can still be earned by those who qualify. The titles that could receive cash overtime under this resolution cannot be fully determined, as the titles that qualify for overtime as compensatory time have not been determined. As a result, the Legislature has approved a resolution that may incur unintended financial consequences. Our review of 2007 and 2008 records indicates that employees who would not have previously been eligible to receive cash overtime did so at significant expense based on the passage of the above-referenced resolution.⁶

We believe that the broad authority the Legislature gave to the County Executive for awarding cash overtime in emergency situations is unnecessary. We believe that the above resolution should be rescinded by the Legislature and instead the Legislature should allow cash payments for overtime for job titles as necessary to certain employees on a case-by-case basis as requested by the County Executive and approved via resolution by the Legislature.

At the Exit Conference, Personnel voiced the opinion that the above ‘blanket’ resolution was necessary and was fiscally responsible because for those managerial-confidential employees working on disasters, the County could recoup the salary expense through federal or state disaster assistance funds, whereas compensatory time is not eligible for reimbursement. Personnel maintains that without the ability to award managerial-confidential employees with cash overtime, those employees would not work during a disaster.

We recognize the potential validity of Personnel’s comments, but our objection remains. The Legislature can still, retroactively, approve such overtime on a case-by-case basis as they did during the October 2006 storm.

Regulation on Reporting for Elected or Appointed Officials

In August 2009, the New York State Retirement System changed the regulations for the reporting of time worked for appointed and elected officials. In the past, elected and some appointed officials were not required to maintain a record of daily hours worked. Elected officials were required to maintain a one month record of hours worked, and this record was used to estimate the annual hours worked. This new regulation stipulates that for those elected and appointed officials in the New York State Retirement System a

⁶ While outside of the time scope of this audit, many managerial-confidential employees also received far larger and significant amounts of cash overtime and/or compensatory time in 2006 after the October storm.

record of work hours over a three consecutive month period must be maintained, and that record used to estimate the hours worked by that employee for a full year.

Additionally, the Erie County Legislature, as the County's Governing Board, must establish a "standard work day" for each elected and appointed position. This work day can be no less than six hours (6) per day, and no more than eight hours (8) per day.

All appointed and elected Erie County officials are covered by the New York State Retirement System. Therefore, those officials appointed or elected after August 12, 2009 will be required to record their time on a daily basis, or for a three-month period as described above.

A copy of the resolution is provided as Appendix Two.

RESULTS OF EXIT CONFERENCE:

An exit conference was held on September 29, 2009 with the Commissioner of Personnel and a member of his staff. The contents of this report were discussed.

Where the Commissioner of Personnel and/or his staff disagreed with our audit, we discussed those concerns in the body of this document, at the end of each relevant section.

In accordance with the County's Audit Response System and Procedures, we request that the Commissioner prepare a written response to our office and the County Executive concerning the findings and recommendations. The final written response should be submitted to our office and the County Executive by October 30, 2009.

We also request that the Commissioner forward copies of the response to the Erie County Legislature and Erie County Fiscal Stability Authority by October 30, 2009.

ERIE COUNTY COMPTROLLER'S OFFICE

cc: John Greenan, Commissioner of Personnel
Hon. Christopher Collins, County Executive
Gregory Gach, Director of Budget and Management
Erie County Fiscal Stability Authority

Appendix One

**County of Erie
 Department of Personnel
 Audit of Payroll Data
 Schedule of Findings and Questioned Costs
 For the Years Ended December 31, 2007 and 2008**

Section I. Summary of Auditor's Results

Accuracy and Propriety of Payroll Records: Missing payroll records identified	Scope limitation; no opinion Yes
Compliance:	Qualified
Non-compliance with County Personnel Policies and Procedures identified	Yes
Non-compliance with Civil Service Law identified	Yes
Non-compliance with Erie County Administrative Code identified	Yes
Internal Control over payroll processing: Significant weaknesses identified	Adverse Yes

Section II. Findings and Questioned Costs

<u>Description</u>	<u>Agency</u>	<u>Number of Transactions</u>	<u>Amount</u>	<u>Comments</u>
Compensatory Time	County	10	\$20,067	Compensatory Time not allowable
Sick Leave Bonus	County	3	<u>1,500</u>	Unsupported by records
		Total Questioned Costs	<u>\$21,567</u>	

APPENDIX TWO

Regulation on Reporting for Elected or Appointed Officials

315.4 Additional reporting requirements for elected or appointed officials of a participating employer.

(a) Record of Work Activities.

(i) Except as otherwise provided in this subdivision, an elected or appointed official shall record his or her work activities for a period of three consecutive months. Such requirement shall not apply to any elected or appointed official who is not a member of the Retirement System nor to any elected or appointed official whose employer maintains a daily record of actual time worked. In recording work activities, such official may include time outside the normal working hours that requires his or her attention to attend to official duties, including responding to an emergency, attending an employer sponsored event, or meeting with or responding to members of the public on matters of official business. Such record of activities shall be completed within 150 days of taking office and shall be submitted by such official to the secretary or clerk of the governing board within 180 days of taking office. Such record of activities shall be accepted by such secretary or clerk as submitted without alteration thereof. An elected or appointed official who has prepared a record of activities pursuant to this subdivision for a previous term, may certify in writing to the governing board within 180 days of taking office that his or her duties, responsibilities and hours have not substantially or materially changed. A record of work activities and any certification based upon such record shall not be valid for more than eight years from the date of the taking of office for which the record of activities was initially maintained. Each such record of activities and any subsequent certification shall be retained by the employer for a period of at least ten years and full and complete copies thereof shall be provided to the State Comptroller upon his or her request.

(ii) In the event the initial recording of work activities for a period of three consecutive months is not representative of the average number of hours worked by the elected or appointed official, he or she may record work activities during the same calendar year for an alternative period of three consecutive months which is representative of the average number of hours worked by such official. Such alternate record of work activities shall be submitted to the governing board.

(b) Standard Work Day and Reporting Resolution.

In addition to the reporting requirements set forth in subpart 315.3 of this Part, and for the sole purpose of reporting days worked to the Retirement System, the governing board of a participating employer of an elected or appointed official shall establish, by resolution, a standard work day for each elective or appointive office or position. Such resolution shall indicate: (i) the number of hours prescribed as a standard work day for each such elective or appointed office or position; (ii) the expiration of the term for each such office or position; (iii) that the employer maintains an actual daily record of time worked for the elected or appointed official or that the official holding the office has recorded and

submitted to the clerk his or her work activities for a period of three consecutive months; and (iv) for each elected and appointed official who has submitted a record of work activities pursuant to paragraph (i) of subdivision (a) of this section, the total number of days per month to be reported based upon such record of work activities. For the purpose of determining days worked, no fewer than six hours nor more than eight hours shall be established as a full-time standard work day. Such resolution shall be adopted no later than the first regular meeting held 180 days following commencement of the term of office and shall be applicable to employers whose elected and appointed officials are members of the Retirement System and are reported to the Retirement System by the employer. In the event an official submits an alternate record of activities pursuant to Paragraph (ii) of subdivision (a) of this section, the governing board may pass an additional resolution amending the maximum total number of days per month that will be reported for such official and directing the appropriate personnel to submit an adjustment report amending the number of days previously reported to the Retirement System.

(c) Resolution: Filing and Posting Requirements.

The resolution required by subdivision (b) of this section shall be posted on the employer's website for a minimum of thirty days or, in the event the employer does not maintain a website available to the public, such resolution shall be posted on the official sign-board or at the main entrance to the office of the clerk for the municipality or similar office of the employer for a minimum of thirty days. A certified copy of the resolution and an affidavit of posting shall be filed by the secretary or clerk of the governing board with the Office of the State Comptroller within 45 days of the adoption of the resolution. The failure of the governing board to adopt such resolution shall result in the suspension of service crediting and Retirement System membership benefits for the elected or appointed official until such time as the resolution is adopted, posted, and filed with the Comptroller. In the event the governing board submits an additional resolution amending the maximum total number of days per month that will be reported for an official pursuant to subdivision (b) of this section, such additional resolution shall be subject to the posting and filing requirements set forth in this subdivision.