



**THOMAS P. DiNAPOLI**  
COMPTROLLER

STATE OF NEW YORK  
**OFFICE OF THE STATE COMPTROLLER**  
110 STATE STREET  
ALBANY, NEW YORK 12236

**ELLIOTT AUERBACH**  
DEPUTY COMPTROLLER  
DIVISION OF LOCAL GOVERNMENT  
AND SCHOOL ACCOUNTABILITY  
Tel: (518) 474-4037 Fax: (518) 486-6479

November 6, 2020

The Honorable Michelle Roman  
Members of the Common Council  
City of Lockport  
Lockport Municipal Building  
One Locks Plaza  
Lockport, NY 14094

Report Number: B20-1-9

Dear Mayor Roman and Members of the Common Council:

Pursuant to Chapter 332 of the Laws of 2014, as amended by Chapter 147 of the Laws of 2015 (the "Act"), the New York State Legislature authorized the City of Lockport (City) to issue debt to liquidate the accumulated deficits in the City's general, water, sewer and refuse funds as of December 31, 2013.

The Act requires the City to submit to the State Comptroller each year, beginning January 1, 2015, and for each subsequent fiscal year during which the debt incurred to finance the deficit is outstanding, the proposed budget for the next succeeding fiscal year. The Act requires that the submission of the proposed budget be made to our Office no later than thirty days before the last date on which the budget must be finally adopted.

The Act further provides that the State Comptroller must examine the proposed budget and make recommendations as deemed appropriate to the Common Council no later than 10 days before the last date on which the budget must be adopted. Such recommendations are made after the examination into the City's revenue and expenditure estimates. The Common Council, no later than five days prior to the adoption of the budget must review the State Comptroller's recommendations and make adjustments to its proposed budget consistent with any recommendations made by the State Comptroller.

Our Office has recently completed a review of the City's proposed budget for the 2021 fiscal year. The objective of the review was to provide an independent evaluation of the proposed budget. Our review addressed the following question related to the City's budget for the upcoming fiscal year:

- Are the significant revenue and expenditure projections in the City's proposed budget reasonable?

To accomplish our objective in this review, we requested your proposed budget, salary schedules, debt payment schedules and other pertinent information. We identified and examined significant estimated revenues and expenditures for reasonableness with emphasis on significant and/or unrealistic increases or decreases. We analyzed, verified and/or corroborated trend data and estimates, where appropriate. We identified any significant new or unusually high revenue or expenditure estimates, made appropriate inquiries and reviewed supporting documentation to determine the nature of the items and to assess whether the estimates were realistic and reasonable.

The scope of our review does not constitute an audit under generally accepted government auditing standards (GAGAS). We do not offer comments or make specific recommendations on public policy decisions, such as the type and level of services under consideration to be provided.

The proposed budget package submitted for review for the 2021 fiscal year consisted of the following:

- 2021 Proposed Budget
- Supplementary Information

The proposed budget submitted to our Office is summarized as follows:

<b>Fund</b>	<b>Appropriations and Provisions for Other Uses</b>	<b>Estimated Revenues</b>	<b>Appropriated Fund Balance</b>	<b>Real Property Taxes</b>
General	\$24,602,327	\$10,897,625	\$529,999	\$13,174,703
Water	4,311,284	4,311,284	0	0
Sewer	4,078,718	4,078,718	0	0
Refuse	1,308,000	1,308,000	0	0
<b>Total</b>	<b>\$34,300,329</b>	<b>\$20,595,627</b>	<b>\$529,999</b>	<b>\$13,174,703</b>

Based on the results of our review, except for the matters described in this letter, we found that the significant revenue and expenditure projections in the proposed budget appear reasonable. Our review disclosed the following findings which should be reviewed by the Common Council for appropriate action. We also discussed minor budget deficiencies we noted during our review with City officials. As noted, the Act requires the Common Council to review our recommendations and make adjustments to the proposed budget consistent with our recommendations. We believe that prompt action by City officials will help improve the City’s financial condition.

**Effects of COVID-19 Pandemic**

Our review considered City officials’ projections in response to the potential impact of the COVID-19 pandemic (pandemic). However, due to the continuously evolving circumstances caused by the pandemic, City officials should carefully monitor revenues and expenditures and make adjustments to the budget as needed throughout the year as more information becomes available.

## **General Fund Revenues**

State Aid – The City’s 2021 proposed budget includes estimated revenues of \$2,120,420 in State aid, which is \$530,105, or 20 percent less than the State aid to be received in 2020. We caution City officials to be mindful that due to the continuously evolving circumstances caused by the pandemic, it is difficult to predict the effects on the 2020-21 and 2021-22 State budgets. As a result, City officials should closely monitor this revenue estimate throughout 2021 and develop a plan to balance the budget if this revenue projection is not fully realized.

Sales Tax – The City’s 2021 proposed budget includes estimated revenues of \$5,535,000 for sales tax. Sales tax received in 2019 totaled \$6,661,736. Sales tax received through August 2020 was \$3,795,450, which is \$309,997 or 7.6 percent less than 2019 receipts for the same period (\$4,105,427).

The New York State Department of Taxation and Finance reported that sales tax was 4.7 percent less than projected for the western New York region during the January through August 2020 period compared to the same period last year. The City shows a larger decline partially because the City’s sales tax collections include an annual reduction of \$77,000 for a prior overpayment.<sup>1</sup> Although sales tax receipts in 2020 were higher than anticipated earlier in the year, City officials should closely monitor this revenue estimate throughout this year and next year and develop a plan to balance the budget if this revenue projection is not fully realized.

## **Appropriations**

Salaries – In 2020 the City lost an arbitration ruling that requires the City to hire 12 firefighters. City officials told us they negotiated with the collective bargaining unit to hire four new firefighters each year beginning in 2021 through 2023, but this has not been documented in a written agreement. The 2021 proposed budget includes funding for four new firefighter positions. In addition, the City included a fire department contingency appropriation in anticipation of being awarded a grant which would have allowed the City to hire the eight additional positions. These positions would have been used to restore ambulatory services; however, the City was not awarded the grant for 2021.

City officials told us they will continue to apply for these grants to staff the additional positions as soon as possible. However, the City should enter into a written agreement with the collective bargaining unit regarding hiring these firefighters over a three-year period.

Overtime – The proposed budget includes overtime funding of \$315,000 for the police department, \$120,000 for the fire department, and \$90,000 for street maintenance. The total overtime appropriation is \$110,000 less than was budgeted in 2020 and \$55,000 less than the projected overtime expenditures for 2020. While department officials told us they are making an effort to ensure they stay within budgets, overtime can be driven by factors beyond their control. In addition, the City is in negotiations to increase minimum staffing levels for the fire department

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<sup>1</sup> In 2019 the City was notified by the New York State Department of Taxation and Finance that it was overpaid \$770,000 in sales tax. An agreement was made to reduce sales tax over a 10-year period beginning in 2019.

which may result in increased overtime. As a result of these factors, the Common Council should ensure that these appropriations are reasonable when adopting the final budget.

Negative Budget Items – The 2021 proposed budget includes a negative appropriation of \$317,287 for employee benefits, labeled as ‘additional and other compensation’. The budget narrative states that this negative line item is to account for projected personnel turnover and was calculated as 2.75 percent of general fund salaries. This is not a conservative or appropriate budgeting method. If projected personnel turnover is not realized, it will negatively affect the general fund budget. City officials should remove this line item from the budget and assess the accuracy of the original projection, which may result in an increase in total appropriations. Consequently, the Common Council will need to ensure the budget is balanced.

### **Collective Bargaining Agreements**

City officials told us they are nearing a settlement on two collective bargaining agreements (CBAs) with various City employees, therefore it is likely these CBAs will be in place in 2021 and the Common Council and City officials should budget accordingly. The 2021 proposed budget includes a 1.5 percent increase in appropriations for an estimated salary increase of \$60,000. However, since the contracts are still being negotiated the Common Council should ensure that budgets include expenditures that are likely to occur and are measurable.

### **Contingency**

Contingency accounts are used by local governments as a means of providing funding for unexpected events and uncertainties. The City has 29 employees that are retirement eligible, and if they choose to retire in 2021 will be due buyouts averaging \$26,000<sup>2</sup> per retiree, totaling over \$750,000. The City has included \$500,000 in the 2021 proposed general fund, \$20,000 in the proposed water fund and \$25,000 in the proposed sewer fund budgets to fund buyouts.

The City’s fund balance policy states that the general fund budget requires a contingency account of at least 1.25 percent of appropriations. The City’s proposed budget includes a general fund contingency appropriation totaling \$308,000, which meets the 1.25 percent threshold. The proposed budget contains a water fund contingency appropriation of \$136,783 (3 percent of appropriations) and a sewer fund contingency appropriation of \$80,368 (2 percent). The Common Council needs to consider whether the contingency appropriations are adequate if unanticipated retirements occur.

### **Tax Overlay**

It is important for City officials to make necessary adjustments to the tax levy each year to ensure that the full property tax levy is collected, especially when the City is responsible to enforce unpaid amounts. These adjustments are known as a tax overlay, which is the amount of taxes estimated to be uncollected and unavailable to finance budgetary appropriations. Adding the tax overlay to the original calculated amount that is needed to operate the City determines the actual amount of the current year’s tax levy. The proposed budget does not include a tax overlay, which could create a

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<sup>2</sup> Based on historical data.

shortfall in 2021. While the City's collection rate over the last five years was 96 percent, due to the pandemic there is a risk that taxpayers may be unable to pay their 2021 taxes timely and/or payment of prior year delinquent taxes will fall short, as these amounts are not guaranteed as future collections. The Common Council should include a tax overlay in the adopted budget.

### **Tax Cap Compliance**

New York State General Municipal Law Section 3-c establishes a tax levy limit on local governments. The law generally precludes local governments from adopting a budget with a tax levy that exceeds the prior year tax levy by more than 2 percent or the rate of inflation, whichever is less, unless the governing board adopts a local law to override the tax levy limit. The tax levy limit for 2021 is 1.02 percent.

The proposed budget includes a tax levy of \$13,174,703 which is below the maximum levy the City can impose without the Common Council needing to override the tax levy limit. In adopting the 2021 budget, the Common Council should be mindful of the legal requirement to maintain the tax levy increase to no more than the tax levy limit as permitted by law, unless it properly overrides the tax levy limit prior to adopting the budget.

In accordance with the Act, the Common Council has the responsibility to make adjustments in the proposed budget consistent with the recommendations in this report. We request that you provide us with a copy of the adopted budget.

We hope that this information is useful as you adopt the upcoming budget for the City. If you have any questions on the scope of our work, please feel free to contact Jeffrey D. Mazula, Chief Examiner of the Buffalo Regional Office, at (716) 847-3647.

Sincerely,

Elliott Auerbach  
Deputy Comptroller

cc: Susan A. Mawhiney, City of Lockport Treasurer  
Timothy Russo, City of Lockport Finance Director  
Paul K. Oates, City of Lockport Clerk  
Hon. Liz Krueger, Chair, Senate Finance Committee  
Hon. Helene E. Weinstein, Chair, Assembly Ways and Means Committee  
Hon. Michael J. Norris, State Assembly Representative  
Hon. Robert G. Ortt, State Senate Representative  
Robert F. Mujica Jr., Director, Division of the Budget  
Jeffrey D. Mazula, Chief Examiner