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April 2018

Richard E. Updegrove, County Manager  
Kyle R. Andrews, County Treasurer  
Members of the Legislature  
Niagara County  
Philo J. Brooks County Office Building, 2<sup>nd</sup> Floor  
59 Park Avenue  
Lockport, New York 14094

Sheriff James R. Voutour  
Niagara County  
5526 Niagara Street Extension  
Lockport, New York 14094

Report Number: S9-17-14

Dear County Manager Updegrove, Treasurer Andrews, Sheriff Voutour and Members of the Legislature:

A top priority of the Office of the State Comptroller is to help county officials manage their resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support county operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard assets.

In accordance with these goals, we conducted an audit of six counties throughout New York State (NYS). The objective of our audit was to determine whether counties received and expended all emergency surcharge revenue received from communication service suppliers and used these surcharges to improve their county's 911 systems and operations.

We included Niagara County (County) in this audit. Within the scope of this audit, we examined the County's process for enhanced emergency service communication (E911) revenue collection and the expenditure of such revenues for the period January 1, 2014 through June 30, 2016. This audit was conducted pursuant to Article V, Section 1 of the State Constitution, and the State Comptroller's authority as set forth in Article 3 of the NYS General Municipal Law.

This report of examination letter contains our findings specific to the County. We discussed the findings and recommendations with County officials and considered their comments, which appear

in Appendix A, in preparing this report. County officials generally agreed with our recommendations and indicated they plan to initiate corrective action. At the completion of our audit of the six counties, we prepared a global report that summarizes the significant issues we identified at all six counties audited.

### Summary of Findings

County officials could improve controls over E911 revenues. Officials expended all E911 surcharges to improve communication networks and surcharges received from landline and VoIP<sup>1</sup> were used for E911 center expenditures. The County upgraded their E911 system to Phase II in 2014, but have not yet implemented and have no plans to implement next generation 911 (NG911) technologies in the near future.

Officials were unable to determine whether the County received all E911 surcharges from its communication suppliers because nothing exists to identify all the communication suppliers operating within the County. In addition, County officials accepted in good faith that supplier remittances included all applicable revenue and withheld the appropriate amount of administrative fees. As a result, officials cannot be sure that the County received all the surcharges to which it was entitled and whether the administrative fees withheld and amounts suppliers remitted to the County were accurate or appropriate.

### Background and Methodology

Niagara County has a population of 216,469<sup>2</sup> and is governed by a 15-member County Legislature (Legislature). The County’s adopted 2016 general fund budget totaled \$320.4 million. The Treasurer’s office is responsible for the collection of E911 revenues, while the Sheriff’s office is responsible for the E911 program and expenditures. The E911 services budget for 2016 was approximately \$2.8 million, funded by surcharges, real property taxes, grants and sales and use tax.

To summon emergency aid, people commonly call 911, a nationally recognized number. An E911 service program reduces response delays with rerouting and automatic number and location identification through the use of technology. The County’s E911 service program has three public safety answering points<sup>3</sup> located in the Cities of Niagara Falls and Lockport and at the Sheriff’s Communications Center. In 2016, approximately 148,000 emergency E911 calls were answered in the County (Figure 1).

<b>Figure 1: Calls Answered in 2016</b>	
<b>Answering Point</b>	<b>Number of Calls</b>
City of Niagara Falls	33,723
City of Lockport	3,342
Sheriff’s Communications Center	111,161
<b>Total</b>	<b>148,226</b>

<sup>1</sup> Voice over Internet protocol

<sup>2</sup> 2010 US census

<sup>3</sup> Sites designated and operated by a local government to receive emergency calls from customers of a telephone service supplier.

More than half of American homes, or 50.8 percent, rely solely on wireless telephone service.<sup>4</sup> Furthermore, the majority of 911 calls are received from cell phones. Data from reporting states showed 70 percent of consumers use cell phones to call 911, compared to 25 percent of consumers using landline telephones. If counties want to ensure the general public has 911 access from multiple communication devices, they need to ensure that the 911 infrastructure can accommodate new technologies. If left unchanged, the current 911 systems face increasing challenges in providing service as society and technology continue to advance.

The evolution of 911 systems has had several phases including E911 Phase I, which enabled the call taker to see the wireless callback number and location of the cell tower closest to the caller. Phase II encompassed Phase I, but also allowed call takers to view the location of the caller by latitude and longitude with improved accuracy to within 125 meters (137 yards). Next generation 911 is the latest phase, which allows callers to text, send pictures, videos and other data to the answering points.

The County's E911 system is fully upgraded to the E911 Phase II. However, NG911 text, picture and video capabilities are not in place. Officials told us that the upgrade of their E911 system would be too costly at this time, because adequate funding is not available to support the upgrade. In addition, officials explained that if implemented, only two carriers in their County can currently support NG911 features.

A major obstacle of a fully upgraded E911 program is the cost of the equipment and services to operate the system. NYS legislation allows counties to fund E911 services through surcharges generated from using wireless and landline devices for communication services. Most counties are authorized to impose a surcharge not exceeding 30 cents per device per month on wireless services provided to a customer whose place of primary use (customer billing address) is a local government.

Currently, 49 counties (excluding Niagara) impose the wireless surcharge. All surcharges are collected by the suppliers and remitted directly to the counties imposing the surcharge. Similarly, all NYS counties are authorized to impose a surcharge, up to 35 cents on landlines. For both surcharge types, communication service suppliers are allowed to keep 2 percent of the amount collected to cover administrative costs. Surcharges are currently not permitted for prepaid wireless devices.<sup>5</sup>

To achieve our objective, we conducted interviews with County officials and reviewed County laws, policies and procedures to gain an understanding of the County's E911 system. We also reviewed County records related to E911 operations.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). More information on the standards and the methodology used in performing this audit are included in Appendix B of this report. Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or relevant population size and the sample selected for examination.

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<sup>4</sup> National Health Interview Survey Early Release Program *Wireless Substitution: Early Release of Estimates from the National Health Interview Survey*, July – December 2016.

<sup>5</sup> Budget bill (S2009-c/A3009-C, Part EEE) repeals, effective 12/1/2017, County Law 308-a through 308-y, the individual special acts authorizing county by county wireless surcharges. It also enacts a new Tax Law 186-g, which will authorize all counties to impose a wireless and prepaid wireless surcharge, to take effect on or after 12/1/2017.

## Audit Results

Accuracy of Surcharge Remittances – Niagara County is authorized by NYS County Law (County Law) to collect E911 surcharges for landline communication devices. The County imposes a 35 cent surcharge per device per month on landline communication services provided to customers within the County.

County officials told us that there has been no more recent notification to landline service suppliers of the requirement to remit surcharges to the County since 2001. Officials also told us there is no all-inclusive list available of all landline service suppliers providing service within the County.

The County collected 896 remittances, totaling approximately \$750,000 for the audit period, to be used for operating and improving E911 services and expended approximately \$7.3 million (Figure 2).

<b>Figure 2: Collections and Expenditures</b>				
<b>Revenues Collected</b>	<b>2014</b>	<b>2015</b>	<b>January 1 - June 30, 2016</b>	<b>Totals</b>
Landline	\$314,730	\$288,443	\$146,379	\$749,552
<b>Total Revenues</b>	<b>\$314,730</b>	<b>\$288,443</b>	<b>\$146,379</b>	<b>\$749,552</b>
<b>Expenditures</b>				
Personal Services and Benefits	\$2,312,111	\$2,528,997	\$1,186,378	\$6,027,486
Machinery and Equipment	\$341,215	\$40,744	\$49,962	\$431,921
Rents/Leases Copier Rental	\$1,590	\$2,080	\$1,020	\$4,690
Office Expenses Office Supplies	\$698	\$921	\$49	\$1,668
Reimbursements Travel, Conference	\$0	\$2,783	\$1,063	\$3,846
Communications Telephone Usage	\$142,048	\$119,415	\$50,548	\$312,011
Communications Cellular Phone	\$1,491	\$556	\$97	\$2,144
Contractual Expenses Maintenance Service Contracts	\$109,804	\$92,861	\$102,687	\$305,352
Partner/Outside Agencies Mercy Flight	\$14,804	\$14,804	\$0	\$29,608
Professional Development Training and Education	\$3,124	\$1,819	\$2,119	\$7,062
Services, Central Maintenance in Lieu of Rent	\$64,262	\$66,867	\$33,624	\$164,753
Supplies and Services	\$2,204	\$19,228	\$1,661	\$23,093
<b>Total Expenditures</b>	<b>\$2,993,351</b>	<b>\$2,891,075</b>	<b>\$1,429,208</b>	<b>\$7,313,634</b>

County officials accepted in good faith that supplier remittances included all applicable revenue and withheld the appropriate amount of administrative fees. While landline surcharge revenues were received, officials were unable to verify whether these amounts were accurate and complete. A complete list of all suppliers operating within the County could be used to ensure suppliers are sending surcharge payments on a monthly basis and a trend analysis could be performed to identify any fluctuations in payment amounts that might be made in error or missed entirely.

Although, periodic remittance recalculations can be performed to verify that the suppliers are billing accurately and keeping the 2 percent administrative fee they were permitted to retain, County officials did not recalculate the administrative fees or the amounts billed and received. As a result, we reviewed 162 remittances<sup>6</sup> totaling \$117,481 to determine whether the amounts received were accurate (Figure 3).

<b>Figure 3: Collections</b>				
	<b>Total Collections</b>		<b>Collections Tested</b>	
Year	Amounts		Landline	Total Amount
2014	\$314,730		64	\$47,294
2015	\$288,443		69	\$46,879
2016	\$146,379		29	\$23,308
<b>Totals</b>	<b>\$ 749,552</b>		<b>162</b>	<b>\$117,481</b>

We found that 66 remittances (approximately 41 percent) totaling \$4,745 did not specify the amount of the administrative fees withheld. County officials told us that suppliers were not withholding a percentage of collections. We recalculated the administrative fees for the remaining 96 remittances totaling \$112,736 and found no discrepancies.

However, for 29 remittances totaling \$3,613, the supplier remitted the wrong amount, resulting in a net overpayment of about \$1,860. For 21 of these remittances the vendors used a lower rate per customer than the 35 cent rate required by County law, including 17 with a 30 cent rate, one with a 28 cent rate, two with a 26 cent rate and one with a 25 cent rate, resulting in an underpayment of about \$130. In addition, for eight remittances vendors used a \$1 per customer rate, resulting in an overpayment of about \$1,990.

Separate Accounting – County Law requires that the surcharges (landline and VoIP) received by counties be accounted for separately and used to provide an enhanced 911 emergency telephone system including costs related to the design, installation, operation and system maintenance. Annually, the County is required to reserve any revenues that exceed expenditures.

The E911 center needed approximately \$7.3 million (annual average of about \$2.9 million) to fund operations during our audit period (Figure 2). The County records separately tracked surcharge revenues and disbursements as a 911 center expenditure. We reviewed 50 expenditures<sup>7</sup> (25 personnel and 25 non-personnel) totaling \$279,571 to determine whether they were appropriate expenditures (Figure 4).

<sup>6</sup> See Appendix B for information on our sampling methodology.

<sup>7</sup> Ibid.

<b>Figure 4: Expenditure Testing Summary</b>			
E911 Center Expenditures		Testing Results	
Description	January 1 2014 – June 30, 2016	Number of Expenditures Tested	Amount of Expenditures Tested <sup>a</sup>
Personnel Services and Benefits	\$6,027,485	25	\$234,539
Machinery and Equipment	\$431,921	2	\$1,379
Copier Rental	\$4,690	3	\$332
Office Expenditures	\$1,668	2	\$569
Reimbursements for Travel and Conferences	\$3,846	1	\$466
Communications Telephone Use	\$312,011	8	\$18,236
Maintenance Service Contracts	\$305,652	2	\$945
Professional Development, Training and Education	\$7,062	3	\$1,204
Central Maintenance in Lieu of Rent	\$164,753	4	\$21,901
<b>Totals</b>	<b>\$7,259,088</b>	<b>50</b>	<b>\$279,571</b>
<sup>a</sup> Includes expenditures only for the categories selected as part of the audit sample. See Appendix B for more information our sampling methodology.			

All of the expenditures we tested were for appropriate E911 goods and services such as personnel services and benefits, communications telephone use, machinery and equipment, office expenditures and service contracts.

County officials told us that historically the funding stream from the E911 landline surcharges were insufficient to fund the E911 system or NG911 upgrades. For example, the surcharge revenue in 2015 totaled approximately \$290,000, while the 911 center expenditures totaled about \$2.9 million. As a result, officials have no current plan to implement any NG911 technologies. Although the County does not currently receive wireless surcharges, we estimate that the potential surcharge revenue generated from wireless devices would average about \$546,000 per year.<sup>8</sup>

Annual Reporting - County law requires all landline suppliers to annually submit an accounting report of surcharge amounts billed and collected. The County has not contacted the suppliers to notify them of the requirements of the law and told us that they have never received any landline annual accounting reports from its 46 suppliers in 2014 and 44 suppliers in 2015. Annual accounting reports would help the County ensure that the supplier accurately remitted the correct amount of revenue for the year. The County could compare these amounts to payment tracking sheets or to deposits to confirm all surcharge revenues have been deposited. Further, the County has not contacted the suppliers to request these reports be submitted.

If the County is not receiving all surcharges collected by suppliers, the County may not be able to finance its E911 service as intended or upgrade to the latest available technology, such as NG911, due to insufficient funds.

<sup>8</sup> Ibid.

## Recommendations

County officials should:

1. Contact the major landline and VoIP suppliers to request all annual reports accounting for surcharges billed and collected.
2. Recalculate the administrative fee on all bills and the amounts billed and collected.
3. Track all suppliers remitting surcharges and the monthly amount submitted, to ensure all surcharges are remitted and allow for trend analysis and audit reconciliation.
4. Perform trend analysis from the monthly payments and the annual accounting reports.
5. Continue improving their 911 systems to handle the latest technologies, including NG911 capabilities.

The Legislature has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Legislature to make this plan available for public review in the Clerk's office.

We thank the officials and staff of the County for the courtesies and cooperation extended to our auditors during this audit.

Sincerely,

Gabriel F. Deyo  
Deputy Comptroller

## **APPENDIX A**

### **RESPONSE FROM COUNTY OFFICIALS**

The County officials' response to this audit can be found on the following pages.



**NIAGARA COUNTY  
TREASURER'S OFFICE**  
59 Park Avenue  
Lockport, New York 14094

KYLE R. ANDREWS  
County Treasurer  
(716) 439-7018  
(716) 439-7021 Fax

JENNIFER V. KOBRIN  
Deputy County Treasurer  
(716) 439-7019

November 16, 2017

Gabriel F. Deyo  
Deputy Comptroller  
Division of Local Government and School Accountability  
110 State Street, Albany, New York 12236

To Whom It May Concern:

The County of Niagara is in receipt of the State Comptroller's Office Draft Report Number S9-17-14 related to the County's 911 systems and operations for the period January 1, 2014 through June 30, 2016. On behalf of the County, we truly appreciate the Comptroller's Office's effort and professionalism exhibited during the performance of your audit.

This audit response also incorporates the corrective action plan (CAP) for the County. In general, the County agrees with the Comptroller's Office findings and will implement procedures to address each recommendation. We are pleased that the results of this audit found that all communications surcharges were used appropriately for E911 goods and services.

**Audit Recommendation:**

*Contact the major landline and VoIP suppliers to request all annual reports accounting for surcharges billed and collected.*

Implementation Plan of Action: Annually in January, the Treasurer's Office will distribute a letter to all known suppliers requesting the annual report. We will also confirm the surcharge rate and administrative fee withheld in this letter.

Implementation Date: January 1, 2018

Person Responsible for Implementation: Margaux Lingle, Chief Accountant

**Audit Recommendation:**

*Recalculate the administrative fee on all bills and the amounts billed and collected.*

Implementation Plan of Action: As payments are remitted to the County, the accounting staff within the Treasurer's Office will verify the surcharge rate and recalculate the administrative fee to verify it is equal to 2%. If the rate is incorrect, the Office of the Sheriff will contact the supplier to inform them of the appropriate rate (\$.35/line). If no fee appears on the monthly payments, the Treasurer's Office will verify that no fee is being withheld on the annual letter sent out in January.

Implementation Date: November 1, 2017

Person Responsible for Implementation: Margaux Lingle, Chief Accountant

**Audit Recommendation:**

*Track all suppliers remitting surcharges and the monthly amount submitted, to ensure all surcharges are remitted and allow for trend analysis and audit reconciliation.*

Implementation Plan of Action: The Office of the Sheriff will maintain a log of all suppliers, addresses, and monthly payment amounts. This data will be provided to the Treasurer's Office on a quarterly basis for analysis.

Implementation Date: January 1, 2018

Person Responsible for Implementation: Beth Dunn, Administrative Assistant

**Audit Recommendation:**

*Perform trend analysis from the monthly payments and annual accounting reports.*

Implementation Plan of Action: The Treasurer's Office will review the data maintained by the Office of the Sheriff on a quarterly basis. Any suppliers that appear to have incomplete or missing payments will be contacted in an effort to collect payment.

Implementation Date: April 30, 2018

Person Responsible for Implementation: Margaux Lingle, Chief Accountant

**Audit Recommendation:**

*Continue improving their 911 system to handle the latest technologies, include NG911 capabilities.*

Implementation Plan of Action: Niagara County's current 911 telephony equipment (airbus) is NG911 capable. Fully integrated NG911 is not available as yet in New York State. Once the technology is available, our next challenge is financial resources. As one of the seven counties without a wireless surcharge, the Sheriff's Office fully supports a 911 surcharge on all wireless devices. These 911 surcharges will support ongoing improvements to the 911 and communications system.

The Sheriff's Office is continually striving to improve the 911 communications network in Niagara County. We apply annually for the Statewide Interoperable Communications Grants to support equipment purchases and technology upgrades. The Niagara County Sheriff's Office fully supports New York State developing and supporting the critical infrastructure necessary for NextGen 911, including development of the Emergency Services IP Network. As fully integrated NG911 becomes available, our financial need will outpace the current grant funding sources.

Implementation Date: Ongoing

Person Responsible for Implementation: James R. Voutour, Sheriff

**Conclusion:**

The County would like to comment that as noted in the audit report, there is a lack of resources available to the County to ensure all suppliers are properly remitting communications surcharge payments. This issue is also well documented in the published audit of the Department of Taxation and Finance regarding Controls Over the Collection of the Public Safety Communications Surcharge. This state audit listed key findings that "the Department has not established policies and systems to sufficiently ensure that Providers comply with the Tax Law" and "The Department's database of Providers is incomplete." It is clear that some additional action at the State level would be necessary in order for Counties to ensure proper collection of all communications surcharges.

On another note, the County is in the process of passing a local law to impose a wireless surcharge in line with the other 49 counties in New York State. Although the local law has not been changed as of the date of this letter, the intent is to pass legislation prior to the end of the 2017 calendar year, with wireless surcharge collections beginning in 2018.

Again, we thank you for your time and professionalism during this audit.

Respectfully,

Respectfully,

Kyle R. Andrews  
County Treasurer

James R. Voutour  
Sheriff

## **APPENDIX B**

### **AUDIT METHODOLOGY AND STANDARDS**

To achieve our audit objective and obtain valid evidence, we performed the following procedures:

- We interviewed County officials and staff, and reviewed the Legislature's minutes, resolutions and policies to gain an understanding of the process and procedures over the County's E911 revenues and expenditures.
- We performed a walkthrough of the emergency communications center to observe and document the E911 capabilities.
- We reviewed 162 remittances from December 2014, December 2015 and June 2016 to determine whether suppliers properly retained the 2 percent administration fee.
- We judgmentally selected and reviewed a sample of 25 non-personnel expenditures and 25 personnel expenditures to determine whether the purchases were appropriate.
- To project the County's wireless surcharge revenue (based on 70 percent of its population), we estimated the potential number of customer wireless device lines. We arrived at our population percentage by obtaining the total wireless surcharge revenue received by four other counties in 2014 and 2015 and dividing by the estimated annual revenue (12 months x \$.30). We used these results to estimate the total amount that the County could potentially generate from wireless devices.

We conducted this performance audit in accordance with GAGAS. 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 based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.