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April 2018

Mary Krause, County Administrator  
Members of the Board of Supervisors  
Ontario County  
20 Ontario Street  
Canandaigua, NY 14424

Sheriff Philip C. Povero  
Ontario County  
74 Ontario Street  
Canandaigua, NY 14424

Report Number: S9-17-13

Dear County Administrator Krause, Members of the Board of Supervisors and Sheriff Povero:

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. The objective of our audit was to determine whether counties received and expended all emergency surcharge revenue from communication service suppliers and used these surcharges to improve their county's 911 systems and operations.

We included the Ontario 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 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 would 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, VoIP<sup>1</sup> and wireless communication suppliers were used for E911 center expenditures. We commend County officials for improving its E911 systems and operations using funds from grants, real property tax and surcharges.

Officials were unable to determine whether the County received all 911 surcharges from its communication suppliers because no resource was available 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 were accurate and appropriate.

## **Background and Methodology**

Ontario County has a population of 107,931<sup>2</sup> and is governed by a 22-member County Board of Supervisors (Board). The County's adopted 2016 budget totaled \$189.7 million. The Finance Department, under the County Administrator's direction, is responsible for collecting E911 revenues, while the County 911 center (center), under the County Sheriff's direction, is responsible for the E911 program and expenditures. The E911 service budget<sup>3</sup> for 2016 was approximately \$4.5 million, funded by surcharges, real property tax and grants.

To summon emergency aid, people commonly call 911, a nationally recognized number. An E911 service program eliminates response delays with rerouting and automatic number and location identification through the use of technology. The County's E911 service program has one public safety answering point<sup>4</sup> located at the center. In 2016, center staff answered approximately 181,000 emergency E911 calls.

More than half of American homes, or 50.8 percent, rely solely on wireless telephone service.<sup>5</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 who use wireline phones. If counties want to ensure that the general public has 911 access from multiple communication devices, they need to ensure that the 911 infrastructure can accommodate

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

<sup>2</sup> 2010 US census

<sup>3</sup> Includes the public safety communications system budget and wireless 911 communication program budget

<sup>4</sup> Sites designated and operated by a local government to receive emergency calls from customers of a telephone service supplier.

<sup>5</sup> National Health Interview Survey Early Release Program *Wireless Substitution: Early Release of Estimates From the National Health Interview Survey*, July- December 2016

new technologies. If left unchanged, the current 911 systems face increasing challenges in providing 911 service as society and technology continue to advance.

The evolution of 911 systems over the years 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, within 125 meters (137 yards). Next generation 911 (NG911) is the latest phase, which allows callers to text, send pictures, videos and other data to the answering point.

The County's E911 system is fully upgraded to the Phase II and NG911 text capabilities are in place, but cannot yet support picture or video messages. The County's system became text-to-911 ready in November 2015. However, depending on the wireless supplier providing service, the text-to-911 feature may be unavailable. If the supplier cannot handle the text-to-911 function, a text message will automatically be sent to the individual letting them know their text did not go through and to call 911 instead.

A major obstacle of a fully upgraded E911 program is the cost of equipment and services to operate the system. NYS legislation allows counties to fund E911 services through surcharges generated from use of 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 (including Ontario) impose the wireless surcharge, except for surcharges on prepaid wireless devices, which are not currently permitted. 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>6</sup>

To achieve our objective, we conducted interviews with County officials and reviewed County laws, policies and procedures. We also reviewed County records as they 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>6</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 – Ontario County is authorized by the NYS County Law (County Law) to collect E911 surcharges for landline and wireless communication devices. The County imposes a 30 cent surcharge per device per month on wireless communication services provided to customers whose billing address (place of primary use) is in the County and 35 cent surcharge on landlines.

While both landline and wireless surcharges were received, County officials were unable to verify whether all surcharges collected were accurate and complete. County officials told us that, in 1991, four landline service suppliers were notified of the requirement to collect and remit surcharges. However, wireless service suppliers were not contacted to inform them of this legal requirement. Officials acknowledge there is no all-inclusive list available of landline and wireless service providers providing service in the County.

The County collected 1,014 remittances, more than \$1 million in surcharges (landline \$438,063 and wireless totaling \$636,625) for the audit period to be used for operating and improving E911 services and expended approximately \$9 million (Figure 1).

<b>Figure 1: Collections and Expenditures</b>				
<b>Revenues</b>	<b>2014</b>	<b>2015</b>	<b>January 1 – June 30, 2016</b>	<b>Totals</b>
Landline	\$187,853	\$176,003	\$74,207	\$438,063
Wireless	\$260,388	\$265,145	\$111,092	\$636,625
<b>Total Revenues</b>	<b>\$448,241</b>	<b>\$441,148</b>	<b>\$185,299</b>	<b>\$1,074,688</b>
<b>Expenditures</b>				
Salaries and Benefits	\$2,895,971	\$2,896,628	\$1,401,198	\$7,193,797
Equipment	\$2,785	\$1,557	\$31,912	\$36,254
Renovations	\$0	\$422	\$0	\$422
Office Supplies	\$8,346	\$11,017	\$5,918	\$25,281
Telephone	\$90,643	\$82,649	\$89,066	\$262,358
Copying	\$2,531	\$2,543	\$2,567	\$7,641
Books and Subscriptions	\$1,571	\$169	\$0	\$1,740
Educational Materials	\$604	\$600	\$0	\$1,204
Membership and Dues	\$733	\$2,115	\$1,697	\$4,545
Mileage and Day Training	\$554	\$945	\$50	\$1,549
Consultation and Professional	\$790	\$2,765	\$4,788	\$8,343
Service Contracts	\$186,630	\$276,233	\$751,515	\$1,214,378
Uniforms	\$15,122	\$14,588	\$16,678	\$46,388
Training and Conferences	\$10,600	\$16,168	\$14,615	\$41,383
Technical Supplies	\$0	\$2,450	\$147	\$2,597
Vehicle Repair and Maintenance	\$1,228	\$1,527	\$43	\$2,798
Vehicle Fuel	\$2,188	\$1,522	\$481	\$4,191
Risk Retention Allocation	\$25,097	\$29,425	\$30,140	\$84,662
Transfer to Reserve	\$0	\$50,000	\$0	\$50,000
Information Services Charges	\$0	\$86	\$59	\$145
<b>Total Expenditures</b>	<b>\$3,245,393</b>	<b>\$3,393,409</b>	<b>\$2,350,874</b>	<b>\$8,989,676</b>

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

Periodic remittance recalculations can be performed to verify that the suppliers are billing accurately and keeping the 2 percent administrative fee they are permitted to retain. Although County officials told us that they performed “spot check” recalculations of administrative fees and the amounts billed and received, they were unable to provide us with supporting documentation for the work performed. As a result, we reviewed 129 remittances<sup>7</sup> totaling \$91,967 to determine whether the amounts received were accurate (Figure 2).

<b>Figure 2: Collections</b>						
	Total Collections		Collections Tested			
Year	Amounts		Landline	Wireless	Total Number	Total Amount
2014	\$448,241		33	2	35	\$23,601
2015	\$441,148		32	21	53	\$36,924
2016	\$185,299		26	15	41	\$31,442
<b>Total</b>	<b>\$1,074,688</b>		<b>91</b>	<b>38</b>	<b>129</b>	<b>\$91,967</b>

We found that 44 remittances (approximately 34 percent) totaling \$5,244 did not specify the amount of administrative fees withheld. In addition, five remittances totaling \$2,879 did not include the number of communication lines the suppliers were billing for to enable officials to calculate the amounts that should have been billed or the amounts that should have been charged for administrative fees.

Separate Accounting – County Law requires that the surcharges (landline, VoIP or wireless) received by counties be accounted for separately and used to provide an E911 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 center needed approximately \$9 million (annual average of about \$3.6 million) to operate (Figure 1). The County records separately tracked revenues by surcharge type (landline, VoIP or wireless) and disbursements as a center expenditure. We reviewed 50 expenditures (25 personnel and 25 non-personnel) totaling \$494,686 to determine whether they were appropriate expenditures (Figure 3).

<sup>7</sup> See Appendix B for information on our methodology.

<b>Figure 3: Expenditure Testing Summary</b>			
911 Center Expenditures		Testing Results	
Description	January 1, 2014 – June 30, 2016 <sup>a</sup>	Number of Expenditures	Amount of Expenditures Tested
Salaries and Benefits	\$4,654,602	25	\$328,403
Office Supplies	\$25,281	2	\$546
Telephone	\$255,782	5	\$6,354
Cellular Phone	\$6,575	2	\$265
Educational Materials	\$1,204	1	\$15
Membership and Dues	\$4,545	1	\$137
Service Contracts	\$1,103,637	1	\$113
Uniform Expense	\$32,917	2	\$173
Uniform Cleaning	\$13,974	2	\$196
Training and Conferences	\$41,383	4	\$1,240
Vehicle Wash	\$99	1	\$8
Vehicle Fuel	\$4,136	2	\$256
Service Contracts	\$56,980	1	\$56,980
911 Service Contract Expense	\$100,000	1	\$100,000
<b>Totals</b>	<b>\$6,301,115</b>	<b>50</b>	<b>\$494,686</b>
<sup>a</sup> Includes expenditures only for the categories selected as part of the audit sample. See Appendix B for more information on our sampling methodology.			

All 50 expenditures tested (i.e., salaries and benefits, office expenses, training, service contracts and telephone expenses) were for appropriate E911 related goods and services.

County officials told us that historically the funding streams from the E911 surcharges for landline, VoIP and wireless devices were insufficient to fully fund the NG911 upgrades. In 2014 and 2015, the County’s surcharge revenues averaged \$445,000, while expenditures averaged \$3.3 million, resulting in an average deficit of \$2.9 million during those years.

Officials rely on real property tax to fund these expenditures, including NG911 upgrades. Because the County tracked wireless surcharges separately from landline surcharges and did not expend all of the wireless surcharge revenue, the amount of excess revenues retained in wireless surcharge reserves totaled \$598,300 at the end of 2015. County officials told us that the reserve will be used for future E911 wireless related expenditures.

Annual Reporting - County Law requires all landline and wireless suppliers to annually submit an accounting report of surcharge amounts billed and collected. Although some landline suppliers were notified of this requirement directly by the County, officials told us that they have never received any landline or wireless annual accounting reports from its 52 (33 landline and 19 wireless) suppliers in 2014 and 58 (39 landline and 19 wireless) suppliers in 2015.

Annual accounting reports would help the County ensure that the supplier accurately remitted the correct amount of revenue for the year. County officials 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.

### **Recommendations**

The Finance Department should:

1. Contact the wireless communication, 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 providers 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.

The Board 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 Board 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.

The County's response letter refers to an attachment that supports the response letter. Because the County's response letter provides sufficient detail of its actions, we did not include the attachment in Appendix A.



**Ontario County**  
**Office of County Administrator**

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**Mary A. Krause**  
County Administrator

**Brian H. Young**  
Deputy County Administrator

**Cynthia R. Abraszek**  
Confidential Secretary to  
the County Administrator

November 17, 2017

[REDACTED]  
Division of Local Government and School Accountability  
Office of the State Comptroller  
110 State Street  
Albany, New York 12236

Dear [REDACTED]:

This letter is to serve as Ontario County's response to the Comptroller's preliminary draft findings for the Office of Sheriff, 9-1-1 surcharge revenue as well as its Corrective Action Plan to address the findings and recommendations in the report. I'd like to thank you for the opportunity to work collaboratively with the Comptroller's Office to improve operations related to the collection of 9-1-1 surcharge revenue and value the input you have provided within your report.

**Summary of Findings**

Officials were unable to determine whether the County received all 911 surcharges from its communication suppliers, because no resource was available 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 were accurate and appropriate.

**Recommendations**

The Finance Department should:

1. Contact the wireless communication, major landline and VoIP suppliers to request all annual reports accounting for surcharges billed and collected.

*The Finance Department has developed a form letter to request this information from communication suppliers, see attached. In addition, the Finance Department, in conjunction with the Communications Division of the Office of Sheriff, will work with neighboring counties in an attempt to identify any wireless communication providers operating in surrounding areas from which we are not receiving surcharge revenue. The Finance Department will use that information to contact providers and request information related to operations within Ontario County as well as surcharge collections and remittance.*

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

*The Finance Department will more fully document its efforts to audit the information received with payments. Additionally, some providers do not provide enough information on remittance paperwork to perform a complete audit of the payment. The Finance Department has developed a form letter to request this information from communication suppliers, see attached.*

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

*The Finance Department, in conjunction with the Communications Division of the Office of Sheriff, will work to develop an all-inclusive database of communication providers to track payment remittance information. This database will be used to review and reconcile the annual account reports submitted by providers.*

4. Perform trend analysis from the monthly payments and the annual account reports.

*The Finance Department will utilize historic and future payments and annual account reports to perform detailed analysis of surcharge collection, by provider and by type of surcharge, land-line or wireless.*

If you have any additional questions, please feel free to give me a call.

Sincerely,

Mary A. Krhuse  
County Administrator

cc: John F. Marren, Chairman of Board  
Gary L. Curtiss, County Attorney  
Sheriff Philip C. Povero, Ontario County Sheriff  
Mary M. Gates, Director of Finance

## **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 reviewed Board 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 911 Center to observe and document the 911 capabilities.
- We reviewed 129 remittances from December 2014, December 2015 and June 2016 to determine whether the suppliers properly retained the 2 percent administration fee.
- We judgmentally selected a sample of 25 non-personnel expenditures and 25 personnel expenditures to determine whether the purchases were appropriate.

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.