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Inter-Departmental Memo

To: Hon. Richard J. Nicolello, Presiding Officer
Hon. Kevan Abrahams, Minority Leader
All Members of the Nassau County Legislature

From: Maurice Chalmers, Director
Office of Legislative Budget Review

Date: August 2, 2018

Re: FY 18 Mid-Year Projections Report

Since 2011, the Nassau Interim Finance Authority (NIFA) has been a control board overseeing County finances. The FY 18 budget when crafted, faced many challenges, some of which were anticipated, but some unforeseen others have materialized and are adding fiscal stress to County finances. The Office of Legislative Budget Review (OLBR) has prepared this memo forecasting the FY 18 year-end results for the Legislature. OLBR is currently projecting a $75.8 million budgetary deficit in the Major Operating Funds. Since the County is in a control period, some adjustments will be needed to get to a NIFA GAAP basis. The Authority anticipates the year-end budgetary results will require an additional $8.3 million in adjustments which will result in an $84.1 million NIFA GAAP deficit. The chart below shows the year-end expense and revenue projections.

	Major Funds (in millions) Excluding SSW & Inter-Dept. Transfers		
	2018 Adopted Budget	OLBR 2018 Projection	Variance
Expense	2,955.4	3,032.5	(77.0)
Revenue	2,955.4	2,956.6	1.2
	Projected Budgetary Surplus / Deficit		($75.8)
	NIFA GAAP adjustments		($8.3)
	NIFA GAAP		**($84.1)**

The Administration will need to implement corrective actions in order to mitigate the projected deficit. The expense deficit is primarily a result of an underfunded budget for tax certiorari payments and other suits and judgments that the County has had to pay. The County was hit with a major judgment from the Restivo case and has made the $43.8 million payment by moving budget authority from other appropriation categories. This was seen as a temporary fix since the FY 18 budget did not include any appropriation for the Restivo case.

In addition, the current FY 18 budget contains only $30.0 million to cover the cost associated with tax certiorari payments, however, historical trends shown that on average over the past six years, the County paid out $76.5 million in annual property tax refunds. It is difficult to predict exactly when these payments will become due and payable. Although the County may have some control on when payments are made, the same can’t be said for the cases that become money judgments and payable nor the amount that will be accrued by year’s end.

The projections account for increased contractual expenses such as the NICE bus contract since NIFA has allowed the new Administration to make adjustments to the budget. On the expense side, the changes will result in increased costs, however the offsetting revenues may not be as certain.

Based on the current projected deficit, it appears that either expenses will need to be cut, revenues will need to increase and/or that some level of borrowing will be required to fund the shortfalls for tax certiorari expenses and other judgments. The Legislature approved $23.0 million in borrowing for the Restivo judgment and NIFA subsequently rejected the Administration’s request to use the bonding authority. However, NIFA’s rejection was in part based upon their desire to get a full picture of what the County’s borrowing needs are going to be moving forward. As such, borrowing could be an option to close the projected deficit and is shown as an opportunity. The projections also include some revenue items, such as dis-encumbrances that seem attainable and the use of Asset Forfeiture funds to defray expenses. The Administration will need to ensure they are attained, otherwise, this will further exacerbate County finances.

On a positive note, the County has had some good fortune in other areas and is projecting a surplus in sales tax, salaries, fringe benefits, direct assistance and rents and recoveries. OLBR has also identified opportunities that may help offset some of the projected shortfall in a table at the end of the report.

Following are the expense and revenue highlights followed with the explanations:

Expense Highlights

The following chart details the expense variances by object code between OLBR's FY 18 projections and the FY 18 Adopted Budget for the Major Funds. Explanations are provided following the chart:

2018 OLBR Variances to Budget (Excl SSW)			
Expenses	**2018 Adopted Budget**	**2018 OLBR Projections**	**OLBR vs. Budget**
Salaries	$871.4	$861.0	$10.4
Fringe Benefits	577.2	571.5	5.7
Workers Compensation	34.3	33.5	0.8
OTPS	285.2	295.0	(9.8)
Utility Costs	33.6	31.8	1.8
Various Direct Expenses	5.0	5.0	0.0
Principal & Interest	221.3	218.8	2.5
Local Govt Assistance	70.9	72.0	(1.2)
Inter-Fund Charges	24.7	24.7	0.0
Mass Transportation	44.2	44.2	0.0
NIFA Expenditures	2.0	2.0	0.0
Other Expenses	243.3	333.7	(90.5)
Early Intervention / Special Ed.	134.5	134.1	0.4
Direct Assistance	170.3	165.9	4.4
Medicaid	237.7	239.2	(1.5)
Sub-total Expenses	**2,955.4**	**3,032.5**	**(77.0)**
Inter Department Transfers	**426.0**	**423.5**	**2.5**
Expenses Including Transfers	**$3,381.5**	**$3,456.0**	**($74.5)**

Salaries

OLBR is currently projecting a salary surplus of $10.4 million compared to the FY 18 Adopted Budget, primarily due to open funded vacancies. As of July 1, 2018 there were 7,103 full-time employees on board in the Major Funds, which results in approximately 347 fewer positions than the 7,450 included in the FY 18 Adopted Budget. Some departments with major vacancies include the Police Department with 93 open funded positions, the Correctional Center with 111 positions and the Department of Public Works (DPW) with 45 positions. The salary surplus is partially reduced by shortfalls in termination and overtime costs.

The Police Department's FY 18 termination budget is $29.8 million. To date, the Police Department has had roughly 110 separations and actual paid expenses of $28.5 million in the financial system. The projections anticipate an additional 16 separations will occur bringing the total to 126 and expenses will surpass the budget by approximately $6.7 million when all the payouts occur. The Administration has mentioned that it may utilize $6.0 million from the Employee Benefit Accrued Liability Reserve Fund (EBF) to offset the expense. Since that decision is not final, the offset was not included in the projections. This expense will need to be monitored closely, and may change, because the decision to retire is a personal choice influenced by many factors.

OLBR is currently projecting an overtime deficit of roughly $6.1 million, which is mainly related to the Police Department and the Correctional Center. The Police Department's FY 18 overtime budget is $50.8 million which is approximately $4.0 million less than the previous year actual expense. The overtime hours have been trending higher than the previous year and meeting the current's year budget will be challenging. The projection anticipates reducing overtime costs by $6.0 million by using Asset Forfeiture Funds, and these savings were included. However, the Administration will need to monitor the chargebacks to ensure that the $6.0 million credit is achieved. The Legislature approved bonding for the new Police Academy which is expected to free up Asset Forfeiture funds that can be used to offset overtime. If any part of the $6.0 million expense reduction is not achieved, the expenses could increase from the current projection of $54.1 million to $60.1 million. To mitigate overtime, the County hired 61 police officers in April 2018 and another class of 60 officers is slotted to be hired in November 2018.

In the Correctional Center, an overtime shortfall of $2.8 million is anticipated as a result of the historically low onboard headcount for Correction Officers. The department hired two classes of 13 Officers that commenced in June and July and expects another class in November 2018. However, these Officers are not expected to be fully deployed until the last quarter of 2018 and/or the first quarter of 2019, and they will not impact the projected overtime deficit.

OVERTIME TRENDS

	2017 YE	2018 Adopted	2018 Projection	2018 Proj Vs Bud Variance
Police District	$ 24,054,025	$ 22,360,750	$ 24,332,449	$ (1,971,699)
Police Headquarter	30,779,166	28,480,000	29,748,244	(1,268,244)
Total	54,833,191	50,840,750	54,080,693	(3,239,943)
Corrections	22,016,211	19,888,012	22,688,012	(2,800,000)
Police & Corrections	76,849,402	70,728,762	76,768,705	(6,039,943)
Others	10,877,420	13,403,885	13,458,972	(55,087)
TOTAL:	$ 87,726,822	$ 84,132,647	$ 90,227,677	$ (6,095,030)

Fringe Benefits

For the mid-year, OLBR is projecting a surplus of $5.7 million in the Major Funds. The projected surplus will be from active employee health insurance and social security costs. The surplus is partially offset by a deficit for health insurance costs for retirees. The current vacancies are contributing to the surplus. The fringe benefit budget also includes $2.2 million in chargebacks to capital and $0.6 million in other chargebacks; these savings are included in the projection. If the $2.8 million in chargebacks are not achieved, the surplus would be diminished.

OTPS (Other Than Personal Services)

The Other Than Personal Services (OTPS) budget, which includes equipment, general expenses, and contractual expenses, is projected to end FY 18 with a combined shortfall of approximately $9.8 million. Contractual expenses are expected to have a deficit of approximately $10.0 million which is offset by small surpluses in the other categories. The shortages are mainly a result of the reinstatement of some funding that had previously been cut by NIFA. The largest deficit, $7.1 million, is projected in the Department of Public Works (DPW) to fully fund the Nassau Inter-County Express (NICE) bus for the year. The youth programs funding was also restored and driving a $0.8 million deficit to budget in the Department of Human Services. In addition, a decline of $1.5 million is projected in the Correctional Center contractual expenses from the inmate health care contract.

Other Expenses

Currently, OLBR is projecting a $90.5 million deficit in the Other Expense, “OO” category. The projected shortfall is a function of the County using operating funds to cover the cost of the Restivo judgment as well as anticipated additional tax certiorari payments above the budgeted $30.0 million.

Using operating funds to cover the Restivo judgment is projected to result in approximately $43.8 million overage in the Office of Management and Budget (OMB). An additional $46.5 million expense shortage is projected in the Assessment Department for tax certiorari expenses. The current FY 18 budget contains $30.0 million to cover tax certiorari payments, however, historical trends show that on average the County paid out $76.5 million in annual property tax refunds, resulting in an additional projected deficit of $46.5 million from the budget. It is difficult to predict exactly when these payments will become due and payable. The County could potentially push back the payments by exhausting all its recourses. However, it has been mentioned that the Tax Certiorari bar has become more successful in converting the judgments to money judgments which demand prompt payment. To the extent that the judgments are converted to money judgments, the Comptroller’s Office may have to accrue for the liability in the current year even if the check is not cut until the subsequent year. In light of these trends, the projections account for an additional $46.5 million in tax certiorari expenses.

The Administration has stated that they intend to try to bond for some of these expenses. If the County borrows for tax certiorari payments, it is unclear how the rating agencies would view this as they had positively viewed the County’s switch to Pay As You Go (PAYGO) funding of tax certioraris in FY 17.

Direct Assistance

Entitlement programs, which include Recipient Grants, Purchased Services and Emergency Vendor Payments, are expected to end FY 18 with a $4.4 million surplus. The projected surplus mainly relates to a decline in public assistance caseloads, such as Temporary Assistance to Needy Families (TANF) and Safety Net Assistance (SNA). Through June, the combined TANF and SNA cases are down roughly 14.8%.

Revenue Highlights

The chart below details the revenue variances by object code between OLBR's FY 18 projections and the FY 18 Adopted Budget for the Major Funds. Explanations are provided following the chart:

2018 OLBR Variances to Budget (Excl SSW)			
Revenue	**2018 Adopted Budget**	**2018 OLBR Projections**	**OLBR vs. Budget**
Fund Balance	$0.0	$0.0	$0.0
Interest Penalty on Tax	34.9	35.0	$0.2
Permits & Licenses	18.5	18.4	($0.1)
Fines & Forfeits	102.9	103.0	$0.1
Investment Income	2.0	4.2	$2.3
Rents & Recoveries	25.1	38.8	$13.7
Revenue Offset to Expense	17.3	17.3	$0.0
Department Revenues	237.1	227.9	($9.2)
Capital Chargebacks	0.0	0.0	$0.0
Payments in Lieu of Taxes	45.6	45.6	$0.0
OTB Profits	15.8	3.0	($12.8)
Debt Service From Capital	2.6	2.6	$0.0
Interfund Charge Revenue	69.2	69.3	$0.1
Intefund Transfers	2.9	2.9	$0.0
Federal Aid	134.6	133.8	($0.8)
State Aid	211.6	209.2	($2.3)
Sales Tax	1,188.8	1,198.8	$10.0
Property Tax	814.7	814.7	$0.0
OTB 5% Tax	2.1	2.1	$0.0
Special Taxes	29.9	29.9	$0.0
Sub-total Revenue	**2,955.4**	**2,956.6**	**1.2**
Inter Department Transfers	**426.0**	**423.5**	**(2.5)**
Revenue Including Transfers	**$3,381.5**	**$3,380.2**	**($1.3)**

Investment Income

Currently, OLBR is projecting a $2.3 million surplus in FY 18. Through June, the Treasurer's Office investment income collections has increased from this time last year. Moreover, the Federal Reserve has signaled that it is likely to increase interest rates two more times over the remainder of FY 2018[1]. OLBR included an additional investment income of approximately $1.8 million as an opportunity.

Rents and Recoveries

A $13.7 million surplus is expected in rents and recoveries. The Administration has included an additional $10.0 million from disencumbered funds in their June 2018 projections. The additional revenue stems from discussions with various County departments who felt that the funds were available from an aging amount of encumbered funds. For those reasons, OLBR has included the revenue in the projections. However, the Administration will need to execute this process and failure to do so will result in an increased overall gap.

[1] Taylor, Daron, "Federal Reserve Bumps Up Interest Rate, Signals Two More Hikes Likely in 2018", The Washington Post, June 13, 2018.

In the DPW, an additional $1.4 million surplus is primarily attributable to additional properties closing during FY 18 in the sale of County property line.

Departmental Revenues

OLBR is currently projecting a $9.2 million overall deficit in department revenues. Some of the major variances include:

- The $5.2 million revenue from the Annual Survey Income and Expense (ASIE) law which is not expected to come to fruition in FY 18 due to ongoing litigation.
- OLBR is currently projecting County Clerk departmental revenues to miss budget by roughly $2.0 million. Rising interest rates may be seen as impacting these revenues.
- OLBR is projecting a shortfall of approximately $1.6 million in the Police Department. The main components driving the loss of revenue are the tow truck impound & DWI fees, as well as ambulance fees.

OTB profits

Current projections only reflect the amounts that have been received from OTB, $3.0 million, and does not include any additional funds.

Federal Aid

Federal aid is projected to have shortfall of roughly $0.8 million. A deficit of about roughly $0.4 million is anticipated in the Department of Social Services (DSS) mainly because of the decline in reimbursable expenses for entitlement programs. The lower than expected inmate population housed at the Correctional Center is the driver of the other $0.4 million shortage.

State Aid

OLBR is projecting DSS to have a shortage of $2.3 million which is also attributed to a decline of reimbursable expenses from entitlement programs.

Sales Tax

The Administration is projecting a $10.0 million net sales tax surplus in FY 18. To achieve a $10.0 million net sales tax surplus, a 2.32% growth is required on all remaining checks. This growth rate seems achievable and is supported by the current year-to-date collections which have risen 4.4% from this time last year. In addition, current national economic forecasts are predicting a FY 18 real GDP growth of 2.8% and current construction starts in the New York area were nearly double what they were in June 2017.[2] Except for an unexpected downturn in the economy, the additional revenue appears achievable.

[2] Winzelberg, David, "Construction Starts Soar", LIBN.com, July 26, 2018.

Opportunities

Below is a list of items that could be considered opportunities:

Opportunities	
More Probable	
Restivo Bonding	$23.0
Use of EBF funds for Police Termination	$6.0
Investment Income	$1.8
Sale of County Property	$3.0
Debt Service Interest Savings	$1.8
Subtotal	$35.6
Other Possibilities	
PILOT Payment	$5.2
Worker's Comp - 2nd Injury Disability ($14-$16)	$15.0
FTA Reimbursement for NICE Bus System	$5.6
Subtotal	$25.8

- **Restivo Bonding** – The County Legislature approved $23.0 million in bond authorization to be used for the Restivo judgment in February 2018. NIFA rejected the Administration's initial attempt to utilize the bonding authority as they would like to see a complete borrowing plan.
- **Use of EBF funds for Police Termination -** The Administration has stated that they plan to utilize $6.0 million from the Employee Benefit Accrued Liability Fund to offset Police termination costs.
- **Investment Income** – In addition to the surplus that is being projected, OLBR has included additional investment income of approximately $1.8 million as an opportunity. The Federal Reserve has signaled that it is likely to increase interest rates two more times over the remainder of FY 18.
- **Sale of County Property** – An additional opportunity of 3.0 million from the sale of additional properties may exist if the County successfully closes some sales this year.
- **Debt Service Interest Savings Opportunity -** Subsequent to the Adoption of the FY 18 Budget, the County completed a debt refunding. The Administration has reflected $2.5 million of these savings in their current debt service projections for the Major Funds. According to the update to the MYP, an additional $1.75 million of interest savings appears to have been obtained through the refunding in the Major Funds. The additional savings is seen as an opportunity.
- **Payment in Lieu Taxes (PILOTS) -** The Administration has been automating the PILOT billing process and expects to receive a $5.2 million pick up in FY 18 from an unbilled FY 17 Town of Hempstead PILOT. OLBR is reflecting this as an opportunity pending receipt of the funds.
- **Workman's Compensation Opportunity** – The Administration anticipates it could get $14-$16.0 million in a one-time payment opportunity from New York State. The Administration

explains that the State had been paying the cost of its second injury workman's compensation program. The program is no longer accepting new applicants and the State has decided to provide the impacted municipalities with a one-time payment to cover the future costs of the recipients currently enrolled in the program. The State had been providing the impacted municipalities with an annual reimbursement, and with the one-time payment, the County will cease to receive the annual payment.

- **Federal Transportation Authority (FTA) Reimbursement for NICE Bus -** An additional $5.6 million could be expected from the FTA for reimbursement of the NICE bus system pending an award letter and seen as an opportunity.

Conclusion

The County currently faces an $84.1 million GAAP deficit in FY 18, (Major Funds excluding the SSW Fund), and will need to actively implement corrective actions geared towards reducing the projected deficit. The current projection for the SSW Fund anticipates usage of $23.5 million in fund balance, which when added to the budgetary deficit of $75.8 million, rises to total deficit of $99.3 million (prior to any GAAP adjustments). The Control Board, NIFA, has indicated that it would consider measures that may be financially painful if the projected deficit is not reduced. The options, at this point of the year, may be limited to increasing the revenues as most of the expenses may be obligated. The projections include additional revenues and expense reductions that will need to be managed by the Administration and failure to execute some items will only exacerbate the current financial situation.

An underbudgeted tax certiorari expense budget and the payment of a major settlement (for Restivo) are at the root of the County's financial difficulties. The Administration has indicated that it planned on some borrowing for these expenses because of their magnitude. However, since the Control Board has rejected the initial request for $23.0 million, the County's options may be limited and require a creative solution which may include some borrowing. In addition, it must be kept in mind that some solutions may not be GAAP compliant and lead to an increased GAAP deficit result.

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