



# Albany County Department of Weights and Measures

## Potential Revenue Enhancement and Internal Controls Over Cash Receipts

### Report of Examination

Period Covered:

January 1, 2012 — April 30, 2013

2013M-278



Thomas P. DiNapoli

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# State of New York Office of the State Comptroller

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## **Division of Local Government and School Accountability**

April 2014

Dear County Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government 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 County Legislature governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of the Albany County Department of Weights and Measures, entitled Potential Revenue Enhancement and Internal Controls Over Cash Receipts. 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 General Municipal Law.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller  
Division of Local Government  
and School Accountability*



## State of New York Office of the State Comptroller

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### EXECUTIVE SUMMARY

The Albany County (County) Department of Weights and Measures (Department) is a County agency under the supervision of the Commissioner of General Services. The Director of Weights and Measures (Director) manages the Department's operations, including supervising two full-time inspectors. The New York State Department of Agriculture and Markets, through its subdivision, the State Bureau of Weights and Measures, is available to assist the Department to achieve its goals and provides oversight of the Department's operations. The Department's 2013 budget was approximately \$220,000.

In accordance with New York State Codes, Rules and Regulations, certain devices used to weigh and measure commodities that are sold on the basis of their weight, volume or size must be inspected and tested for accuracy at least once a year. Agriculture and Markets Law (AML) provides that certain packaged commodities may be subject to inspection to help ensure that the packages contain the amount of the commodity indicated on the label. The Department is responsible for performing these inspections. Annually, the Department inspects approximately 700 establishments throughout the County that have weighing/measuring devices, packaged commodities or gasoline and diesel fuel pumps.

#### **Scope and Objectives**

County officials requested the Office of the State Comptroller to conduct an assessment of the County's operations to determine if there were areas for improvement. This audit resulted from that assessment. The objectives of our audit were to assess whether there were potential revenue enhancement opportunities and if the Department had adequate controls over the cash receipt process for the period of January 1, 2012 through April 30, 2013. For certain inspections, we extended our scope period through June 2013. Our audit addressed the following related questions:

- Are there potential revenue enhancement opportunities for the Department?
- Has the Department segregated duties and established effective internal controls over the cash receipts function?

#### **Audit Results**

Department employees may not be conducting inspections of all eligible businesses in the County, and, when inspections are performed, employees are imposing fines below maximum amounts allowed by AML. Because of this, there could be significant revenue enhancements in the Department. If the number of potential eligible businesses inspected was increased and the fines imposed had been

increased to the AML maximum amounts, potential revenue enhancements could have ranged from \$550,000 to \$2.3 million for 2013 and could range from \$591,000 to \$2.6 million for 2014. Additional revenues could be collected if the Department were to increase follow-up inspections for business that fail to meet minimum requirements.

County officials have not segregated duties for billing, cash collecting and recordkeeping. For example, the Director and both inspectors bill customers for fees and fines and collect payments, and despite his other duties, the Director also records activities in the software application. Despite this lack of segregation of duties, County officials have not implemented mitigating controls. Further, although Department employees maintain individual customer accounts to record amounts billed and collected, they do not reconcile activity in customer accounts or use a control account to track the total accounts receivable. County officials also have not assigned a system administrator. As a result, system users have access rights and privileges they do not need and can delete or modify data without supervisory approval. Despite these weaknesses, the software cannot produce audit trail reports to establish accountability. As a result, there is an increased risk that cash could be misappropriated, that the accounting records could contain misleading information or material errors and that critical system data will be lost.

### **Comments of Local Officials**

The results of our audit and recommendations have been discussed with County officials and their comments, which appear in Appendix A, have been considered in preparing this report. County officials generally agreed with our recommendations and indicated that they planned to initiate corrective action.

## Introduction

### Background

Albany County (County) is located in eastern New York State and has a population of approximately 303,000. The County Legislature (Legislature) serves as the County's policy-making body. The Legislature comprises 39 County Legislators who are elected to four-year terms to represent the citizens residing in their respective Legislative Districts. The County Executive is elected to a four-year term and serves as the County's chief executive officer.

The Albany County Department of Weights and Measures (Department) is a County agency under the supervision of the Commissioner of General Services (Commissioner). The Director of Weights and Measures (Director) manages the Department's operations, including supervising two full-time inspectors. The New York State Department of Agriculture and Markets, through its subdivision, the State Bureau of Weights and Measures (State Bureau), is available to assist the Department to achieve its goals and provides oversight of the Department's operations. The Department's 2013 budget was approximately \$220,000.

New York State Codes, Rules and Regulations require that certain devices used to weigh and measure commodities that are sold on the basis of their weight, volume or size be inspected and tested for accuracy at least once a year. Agriculture and Markets Law provides that certain packaged commodities may be subject to inspection to help ensure that the packages contain the amount of the commodity indicated on the label.

The Department shares the responsibility for performing these inspections with the New York State Bureau of Weights and Measures. Annually, the Department inspects approximately 700 establishments throughout the County that have weighing/measuring devices, packaged commodities or gasoline and diesel fuel pumps. The State Bureau inspects selected specialized weighing/measuring devices, such as large scales and pumps for gasoline and diesel fuels sold by distribution terminals. In addition to performing the specialized inspections, the State Bureau provides training to the Department's inspectors.

The Department is operating with three full-time employees under the supervision of the Commissioner. For 2012, the Department budgeted for three employees (a Director/inspector and two field inspectors). The Department charges fees for the inspection of devices and imposes fines for certain violations. The Director assumes the responsibilities of issuing and imposing fines, collecting payments,

preparing deposits, maintaining the database and overseeing the inspectors. The Department collected approximately \$343,000 of fees and fines in 2012.

## **Objectives**

The objectives of our audit were to assess whether there are potential revenue enhancement opportunities and if the Department has adequate controls over the cash receipt process. Our audit addressed the following related questions:

- Are there potential revenue enhancement opportunities for the Department?
- Has the Department segregated duties and established effective internal controls over the cash receipts function?

## **Scope and Methodology**

County officials requested the Office of the State Comptroller to conduct an assessment of the County's operations to determine if there were areas for improvement. This audit resulted from that assessment. We examined potential revenue enhancement and internal controls over cash receipts of the Department for the period of January 1, 2012 through April 30, 2013. For certain inspections, we extended our scope period through June 2013.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit is included in Appendix B of this report.

## **Comments of Local Officials and Corrective Action**

The results of our audit and recommendations have been discussed with County officials and their comments, which appear in Appendix A, have been considered in preparing this report. County officials generally agreed with our recommendations and indicated they planned to initiate corrective action.

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 the 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 to the Legislature's office.



## Potential Revenue Enhancement

Agriculture and Markets Law (AML) and certain local laws help to ensure that consumers can rely on the accuracy of certain vendor scales and other weighing and measuring devices and can expect to pay advertised prices for their purchases. County officials are responsible for ensuring that the Department is adequately protecting consumers by inspecting certain weighing and measuring devices, performing packaged commodity inspections and verifying pricing and scanning accuracy, as provided by these laws. The Department's duties include maintaining up-to-date inventories of retail businesses for both inspection and price testing purposes, and documenting inspection and test results.

Department employees may not be conducting inspections of all potentially eligible businesses in the County, and when inspections are performed, employees are imposing fines below maximum amounts allowed by AML. If the number of potential eligible businesses inspected was increased and the fines imposed had been increased to the maximum amounts allowed by AML, the Department could have received additional revenue that ranged from \$550,000 to \$2.3 million for 2013, and potential revenue enhancements could range from \$591,000 to \$2.6 million for 2014. Additional revenues could be collected if the Department were to increase follow-up inspections for business that fail to meet minimum requirements.

### **Packaged Commodity Inspections**

Packaged commodity inspections involve Department officials inspecting and weighing packaged commodities to determine if the stated rates are accurate. AML provides the Department with the authority to "weigh, measure and inspect packaged commodities kept, offered or exposed for sale, sold or in the process of delivery to determine whether such packages contain the amounts represented..."<sup>1</sup> Under certain circumstances, fines may be recovered by the County if violations of certain AML provisions are found.<sup>2</sup> According to AML, these fines are generally set at not more than \$600 for the first violation, and not more than \$1,200 for the second and each subsequent violation.<sup>3</sup>

County officials did not establish written policies and procedures to provide guidance on the number and frequency of packaged commodity inspections to be conducted in retail stores that we believe are subject to AML. Without specific guidance, the Department may

<sup>1</sup> AML, Section 181(6)

<sup>2</sup> AML, Section 181(7)

<sup>3</sup> AML, Section 39



not be conducting packaged commodity inspections in accordance with the expectations of County management. Also, the Department does not have a specific fine schedule, defining the exact amounts to be assessed for all violations, including repeat violations.

Currently the Department fines businesses \$100 for the first violation and \$200 for all subsequent violations. We calculated the amount of fines that could be imposed if the Department set the fines at \$600 for first violations and \$1,200 for second and subsequent violations.<sup>4</sup> Further, based on a review of the Department's master business list, we projected the potential revenue enhancement for 2013 and 2014, if the Department were to perform packaged commodity inspections in each retail store that we believe is subject to AML<sup>5</sup> once per year. Table 1 illustrates the potential revenue enhancement:

		Number of Inspections	Current Fine Schedule	Possible Fine Amount
Actual Inspections	2012	21	\$26,300	\$160,200
Actual Inspections through June 2013	2013	11	\$80,900	\$526,800
	Total	32	\$107,200	\$687,000
	Average Fine	-	\$3,350	\$21,469
Estimated Lost Revenue	2013	98 <sup>b</sup>	\$328,300	\$2,103,962
Potential Revenue Enhancement <sup>a</sup>	2014	109 <sup>c</sup>	\$365,150	\$2,340,121
<sup>a</sup> Based on the average fine amount <sup>b</sup> Number of remaining uninspected stores possibly eligible for inspection in 2013 <sup>c</sup> Total number of possible eligible stores				

Increasing the number of packaged commodity inspections and the amount of the fines could potentially be a revenue enhancement opportunity for the County while providing enhanced consumer protections for residents. If the Department performs inspections of all of the 109 stores that we believe may be eligible for inspection pursuant to AML but keeps the amount of the fines at their current levels, it appears that the Department could have received an additional \$328,300 in revenue in 2013 and there is a potential revenue enhancement of \$365,150 for 2014. If the Department also increases fines to \$600 for first violations and \$1,200 for second and subsequent violations, it appears the Department could have increased 2013 revenue by \$2.1 million and could increase 2014 revenue by \$2.3 million.

<sup>4</sup> For purposes of this report, we have assumed there is authority pursuant to AML to allow the County to set such fines at these amounts for the retail stores we have identified (AML, Section 39).

<sup>5</sup> Using our professional judgment, we selected retail stores from each test year. Refer to Appendix B - Audit Standards and Methodology for more information.

## Item Pricing Inspections

The County adopted a Local Law entitled the “Albany County Item Pricing Law” in 1992, which was amended in 2011.<sup>6</sup> According to the Local Law, as amended, the purpose of the Item Pricing Law is to “ensure that consumer goods offered for sale in the County ... are clearly, accurately, and adequately marked as to their selling price.” At the same time, the Local Law states that the County Legislature recognizes the numerous efficiencies and economies available to the retail food industry through the use of computer-assisted checkout systems (together with shelf tag labeling) as the primary method of pricing consumer goods. According to the Local Law, the intent of establishing the item pricing law was to require that retail food stores place individual item prices on products available for sale and to require scanning accuracy at checkout registers.

According to the Local Law, unless a retail store<sup>7</sup> obtains an item pricing waiver or the item is exempt, “every person, firm, partnership, corporation or association which sells, offers for sale or exposes for sale in a retail store a stock keeping unit that bears a Universal Product Code shall disclose to the consumer the price of each stock keeping item by individually marking each item with the sale price.” Inspectors<sup>8</sup> are authorized to perform item pricing inspections and under certain circumstances may impose a fine for retail stores which fail to mark any stock keeping item.

The Department does not have written policies and procedures that specify how many item pricing inspections for each retail store should be conducted or the number of retail stores which should be inspected, when a retail store has not applied for an item pricing waiver. Without such policies and procedures, County officials may not be able ensure that retail stores have accurate item pricing.

Based on a review of the Department’s master business list, we projected the potential revenue enhancement opportunity if the

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<sup>6</sup> Chapter 665 of the Laws of 2006 added a new Section 197-b to AML to establish new price accuracy requirements for retail stores. According to Section 197-b, political subdivisions which had a local pricing law or regulation in effect prior to the effective date of Section 197-b would not be subject to its provisions, unless the political subdivision were to repeal its local pricing laws (AML, Section 197-b[5]). Therefore, for purposes of this report, we assume Local Law No. C for 1992, amended by Local Law No. “J” for 2009 (adopted on April 11, 2011), addressing item pricing and item pricing waivers is applicable.

<sup>7</sup> Unlike the provisions of AML applicable to packaged commodities inspection, the Local Law does contain a definition of retail store. (see also AML, Section 197-b[1][a]). The Local Law defines a retail store to include “a store selling stock keeping units at retail including, but not limited to, grocery retailers, pharmacies and department stores.” The Local Law expressly provides for certain exclusions.

<sup>8</sup> According to the Local Law, an inspector includes “the authorized government official or his agents or employees having jurisdiction to enforce the provisions of this Local Law.”

Department were to perform item pricing inspections in each business that we believe fits within the definition of retail store under the Local Law<sup>9</sup> once per year. Table 2 illustrates the potential revenue enhancement:

Table 2: Item Pricing Inspections			
		Number of Inspections	Total Dollar Amount
Actual Inspections	2012	5	\$1,500
Actual Inspections through June 2013	2013	1	\$130
	Total	6	\$1,630
	Average Fine		\$272
Estimated Lost Revenue	2013	89	\$24,208
Potential Revenue Enhancement	2014	90	\$24,480

The average fine per item pricing inspection for the scope period is \$272. Based on that average fine amount, the Department could have received an additional \$24,208 of revenue in 2013 and the potential revenue enhancement for 2014 is \$24,480, if the Department were to conduct item pricing inspections for all eligible stores. Finally, we found that the Department did not conduct follow-up item pricing inspections for violations. As a result, the Department is forgoing the opportunity to collect additional revenue for follow-up inspections and consumers could pay more than necessary if the stores continue to fail to meet minimum item pricing requirements.

## Item Pricing Waivers

According to the Local Law, a waiver of the item pricing requirements may be obtained for certain retail stores that demonstrate and maintain a high degree of computer-assisted pricing accuracy and that provide certain consumer protections and services that enhance the ability of consumers to record and verify individual item prices. The Local Law states the criteria that retail stores need to meet to obtain the waiver of item pricing. Generally, an application may be made in writing for the waiver to the County's Director of Weights and Measures. The written request is to include an "annual waiver application fee." Upon receiving the application and fee, the retail store is subject to two scanner accuracy inspections. The inspections consist of comparing the shelf, sale or advertised price of any stock keeping unit with the computer assisted checkout system. If any violations are detected, penalties are to be assessed in accordance with the Local Law. The Local Law, however, states that considering both inspections together,

<sup>9</sup> Using our professional judgment, we selected retail stores from the master business list. Refer to Appendix B - Audit Standards and Methodology for more information.

if the number of stock keeping units<sup>10</sup> found to be in violation does not exceed two percent of all stock keeping items<sup>11</sup> inspected, a revocable waiver from item pricing requirements is given provided that the applicant has paid all outstanding penalties imposed in connection with the Local Law. In the event that violations exceed 2 percent, a waiver shall not be given. The store may reapply for the waiver by submitting another application and fee.

The Department appears to be following the Local Law for new applications for item pricing waivers. However, it does not conduct two inspections for retail stores that apply for a renewal of the item pricing waiver. The Local Law refers to annual waivers, and it appears that retail stores are required to submit applications for waivers on an annual basis. Further, although not expressly stated in the Local Law, the Local Law could be read to require that retail stores be subject to the two inspection requirement prior to the renewal.<sup>12</sup>

The following table shows potential lost revenue for 2012 and 2013 for not conducting renewal inspections and the potential revenue enhancement for 2014:

<b>Table 3: Scanner Accuracy Inspections for Stores Seeking the Item Pricing Waiver</b>			
		<b>Number of Inspections</b>	<b>Total Dollar Amount</b>
Actual Inspections	2012	93	\$67,800
Actual Inspections through May 2013	2013	3 <sup>a</sup>	\$15,700
	<b>Total</b>	<b>96</b>	<b>\$83,500</b>
	<b>Average Fine</b>		<b>\$870</b>
Estimated Lost Revenue	2012	84	\$73,080
	2013	140 <sup>c</sup>	\$121,800
Potential Revenue Enhancement <sup>b</sup>	2014	142 <sup>d</sup>	\$123,540

<sup>a</sup> One of these inspections related to a 2012 application, but the Department conducted the inspection in 2013.  
<sup>b</sup> Based on the average fine amount  
<sup>c</sup> Number of potential remaining inspections for 2013  
<sup>d</sup> Total number of inspections for potential item pricing waiver applicants

<sup>10</sup> According to the Local Law, “stock keeping unit” is defined to include “each group of items offered for sale of the same brand name, quantity of contents, retail price and variety within the following categories: 1. food, ... 2. napkins, facial tissues, toilet tissues ...3. Detergents, soaps ... and 4. non-prescription drugs, ....”

<sup>11</sup> According to the Local Law, “stock keeping item” is defined to mean “each individual item of a stock keeping unit offered for sale.”

<sup>12</sup> We were informed that it is the understanding of the Department that the Local Law does not require the Department to perform the two inspections to obtain a renewal waiver. For purposes of this report, we have assumed that the two inspections are required for renewals. To the extent that the Local Law is ambiguous in this regard the County could consider a clarifying amendment.

The average fine per scanner accuracy inspection for the scope period was \$870. Because the Department did not conduct inspections for application renewals, the lost revenue for 2012 and 2013 could have been \$73,080 and \$121,800 respectively, and the potential revenue enhancement opportunity for 2014 could be \$123,540.

## Scanner Accuracy Inspections

The Local Law does not describe the number of annual scanner accuracy inspections each retail store should be subject to if the store does not wish to obtain the item pricing waiver. Likewise, the Department does not have written policies and procedures that specify how many scanning accuracy inspections should be conducted each year, or how many retail stores should be inspected for scanning accuracy. Without specific guidance, County officials may not be able to ensure that pricing in retail stores is accurate, and consumers could pay more than necessary for purchases.

The following table illustrates the potential revenue enhancement for businesses in the Department's database that would be subject to this category of scanning accuracy inspections:

Table 4: Scanning Accuracy Inspections for Stores not Applying for the Item Pricing Waiver			
		Number of Inspections	Total Dollar Amount
Estimated Lost Revenue	2013	87	\$75,690
Potential Revenue Enhancement	2014	90	\$78,300

As shown in the table, if the Department were to conduct scanning accuracy inspections at each identified store once per year, the Department could have received an additional \$78,300 in revenue for 2013 and the potential revenue enhancement for 2014 would be \$78,300. To accomplish all of these enhancements, the Department will need to look at staffing levels and determine if more staff members need to be hired. Even if another staff member is required and increased revenues are offset by additional costs, there would be an improved level of protection for consumers.

## Recommendations

1. County officials should establish written policies and procedures stating the number of packaged commodity inspections that the Department should conduct for each retail store and a graduated fine schedule for packaged commodity inspections. The policy should provide guidance on how often a store should be inspected and when a follow-up inspection is necessary.
2. County officials should establish written policies and procedures specifically stating the annual number of item pricing and scanner accuracy inspections the Department should conduct for each

retail store. All retail stores should have an item pricing and scanning accuracy inspection at least once annually.

3. The Department should conduct follow-up item pricing and scanning accuracy inspections for all violations, to make sure that all initial violations have been corrected and the stores are in compliance. Fines for subsequent violations should be increased in accordance with the Local Law.
4. The Department should conduct two scanning accuracy inspections for each store that submits an item pricing waiver renewal application. The item pricing waiver should be granted only to stores that pass two consecutive scanning accuracy inspections with a combined score of 98 percent or higher.

## Internal Controls Over Cash Receipts

County officials are responsible for designing a system of internal controls over weights and measures receipts which ensures that all fees and fines are billed, collected, recorded, deposited and accounted for. County officials are responsible for segregating duties so that no one person controls all phases of a transaction. At a minimum, the duties of billing, collecting and recordkeeping should be separated. If limited resources make it difficult to segregate duties, County officials must implement mitigating controls, such as designating someone outside the cash collection and billing process to regularly review bank deposits, canceled checks and reconciliations, and compare them to the County's records to verify accuracy. County officials must also provide a means to reconcile and track accounts receivable and limit user access and capabilities within software applications. All user activity should be captured on audit trail reports to ensure accountability.

County officials have not segregated duties for billing, cash collecting and recordkeeping or implemented mitigating controls. In addition, Department employees do not reconcile individual customer accounts or use a control account to track total accounts receivable. Further, system users have access rights and privileges they do not need and can delete or modify information without supervisory approval. In addition to these weaknesses, the software cannot produce audit trail reports. As a result, there is an increased risk that cash could be misappropriated, that the accounting records could contain material errors and that critical system data could be lost.

Segregation of Duties — An effective system of internal control provides for the adequate segregation of duties so that no one individual controls all phases of a transaction and that the work of one employee is independently verified in the course of another employee's regular duties. When one person performs all the duties related to billing, cash collecting and recordkeeping, it increases the risk that cash could be misappropriated without detection.

Although the Department collects fees and fines that total over \$300,000 per year, County officials have not established written policies and procedures to ensure the appropriate segregation of duties. Consequently, although the Director and the inspectors conduct inspections and issue bills to customers for fees and fines, they also collect the related payments. The Director also prepares deposit transmittal sheets and deposit tickets for the finance department and records the activities in the software application.



Although the Commissioner reviews deposit transmittal sheets and signs fine letters, these mitigating controls are not sufficient because they do not constitute a complete and independent monthly reconciliation between what was billed and received. Examples of other mitigating controls that have not been instituted include periodic independent monthly reviews of bank deposits, bank statements, canceled checks and reconciliations in comparison to the accounting records to verify that they are up-to-date and accurate. The lack of segregation of duties, without mitigating controls, increases the risk that errors can occur and go undetected and uncorrected and that cash can be misappropriated.

Billed Receivable Reconciliations — It is the Department's responsibility to ensure that all businesses are properly inspected and all applicable receivables for fees and fines are appropriately billed, collected and accounted for by implementing adequate policies and procedures. Such policies and procedures include the reconciliation of the amounts billed, collected and recorded in the accounting records and the use of, and reconciliation to, a control account to track accounts receivable. This process should provide a timely means to detect and correct posting errors, detect duplicate billings, verify adjustments, account for returned checks and verify that the totals for billings, collections and receivables are correct.

County officials have not adopted written policies and procedures for the billing, collecting and accounting processes of Departmental operations. As a result, although Department employees maintain individual customer accounts to record the amounts billed and collected, they do not reconcile activity in individual customer accounts or use an accounts receivable control account to track the total outstanding accounts receivable. Therefore, the County is at an increased risk that billings are incorrect, collections are not recorded and the accounting records contain misleading information or undetected material errors.

Weights and Measures Software — The Department uses an internally developed software program for communicating, processing and storing data and for reporting to County officials and State agencies. County officials are responsible for assigning a system administrator to ensure that users have an appropriate level of access and that users cannot modify data without supervisory approval. County officials should also ensure that the system has audit trail capabilities so that management can determine when entries were made and what they entailed, and can establish individual accountability by identifying the associated user accounts.

County officials have not ensured adequate internal controls over administrative rights and the software application. County officials

have not assigned a system administrator. As a result, system users have access rights and privileges that are not always limited to only the levels they need to fulfill their daily duties; for example, all users have the same level of access to the software application. In addition, system users can delete or modify information such as billings and receipts from the software without supervisory approval. Also, the software does not have audit trail capabilities (a computer-generated record of any change or transaction made on the system). As a result, the Department's financial information and other critical data are at an increased risk of loss or improper modifications.

Due to these control weaknesses, we reviewed the receipt process for 40 inspections. Although we found no significant discrepancies, there is an increased risk that cash could be misappropriated, the accounting records could contain material errors and system data could be lost.

## **Recommendations**

5. County officials should establish written policies and procedures to ensure a proper segregation of duties. Specifically:
  - The Director and inspectors should conduct inspections and bill customers for fines and fees.
  - One employee who is independent from billing should receive payments and prepare deposits.
  - One employee who is independent from billing, receiving and depositing payments should perform monthly reconciliations between what is billed and received.
6. If duties cannot be segregated adequately, County officials should implement mitigating controls such as independent monthly reviews of bank deposits, bank statements, canceled checks and reconciliations in comparison to the accounting records.
7. County officials should establish written policies and procedures that provide for the periodic reconciliation of billing and collection activity for individual customer accounts and the use of an accounts receivable control account.
8. County officials should assign an administrator for the software who will limit access rights and privileges of the users based on the levels of access they need to fulfill their duties. The administrator should also ensure that users cannot delete or modify information without supervisory approval.
9. County officials should ensure that the software has audit trail capabilities and should review monthly audit trail reports for unusual activity.

## **APPENDIX A**

### **RESPONSE FROM LOCAL OFFICIALS**

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



DANIEL P. MCCOY  
COUNTY EXECUTIVE

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PHILIP F. CALDERONE, ESQ.  
DEPUTY COUNTY EXECUTIVE

March 26, 2014

[REDACTED]  
NYS Office of the State Comptroller  
Division of Local Government and School Accountability  
One Broad Street Plaza  
Glens Falls, NY 12801

Re: Albany County Department of Weights and Measures  
Potential Revenue Enhancements and Internal Controls Over Cash Receipts Report of  
Examination Period 1/1/2012 – 6/30/2013  
2013m - 278

Dear [REDACTED]

We have reviewed the Audit and are submitting the following letter for incorporation into your report.

As we stated at the exit interview when we reviewed the Draft report with your staff, this audit was conducted at the specific request of the incoming Albany County Executive when he took office in 2012. It was the Executive's desire to have the State Comptroller undertake a complete evaluation and audit of the operations and internal controls of the County's Departments in order to strengthen the operations of the County for the betterment of our residents. After performing a County-wide risk assessment, your office decided to further examine our Probation Department and the Department of Weights and Measures.

When your office first began your risk assessment, we specifically requested that you look at Weights and Measures. The County Executive was concerned that the department had never undergone an extensive audit designed to pinpoint managerial, operational, or financial shortcomings. Of equal concern, is the fact that the Department, after having experienced a significant reduction in staffing over the years, has witnessed an expansion of its duties as the guardian of consumer affairs issues mandated under both state and local laws. These laws include local laws governing tow trucks, taxi cabs, gold dealers and item pricing, in addition to the New York State statutory consumer protection provisions such as gas pump inspections, octane level checks, and numerous scale, weight, and measurement authorizations.

We appreciate the time and effort that you have taken to discuss these with us in our recent exit interview conference. Our comments, including some steps already taken, follow each recommendation.

The Audit claims Albany County is “imposing fines below maximum amounts allowed by AML” (Agriculture and Markets Law). Much of the Audit findings suggest we are foregoing revenue due to our fine structure as well as interpretation of “retail store” under our local “item pricing law.” Albany County has a fine structure based on AML and has chosen to set the rate at \$100 per violation for short weight and \$200 for MAV (Maximum Allowable Variation) violations for packaged commodity violations. In checking with neighboring Counties and Counties of comparable size we have found that Albany County’s fine structure is in the middle of the range. While some Counties charge very low fines as compared to Albany, some also charge only for the entire lot.

County	Short weight	MAV
Erie	\$10 per unit	
Saratoga	\$25	\$100
Monroe	\$75	\$125
Albany	\$100	\$200
Schenectady	\$200	\$200
Columbia	\$600 (Lot)	
Rensselaer	\$600 (Lot)	

The Audit suggests increasing the fines to \$600 per violation with a \$1,200 level for second and subsequent violations. We believe that increasing our fine schedule to the maximum level recommended in your report would be unnecessarily punitive towards small businesses without any additional benefit to the consumers.

However, the County will review the impact of fines higher than present levels.



One additional revenue enhancement was adopted recently. The Department has recently changed its local fee schedule for various inspections as authorized under the Agriculture and Markets Law effective June 2013. This recent change (June 1, 2013) is estimated to collect over \$15,000 in additional revenue for Albany County on an annual basis. This change is the first increase to the Albany County Weights and Measures fee schedule since 1995.

Audit Recommendation 1:

County Officials should establish written policies and procedures stating the number of packaged commodity inspections the Department should conduct for each retail store and a graduated fine schedule for packaged commodity inspections. The policy should provide guidance on how often a store should be inspected and when a follow-up inspection is necessary.

Response 1: The Audit states that the County is foregoing various “potential revenue enhancement opportunities” including lower fines than authorized under State Law, fewer inspections of local retail stores as estimated by the Audit’s calculation of the total number of retail stores in the County, and less frequent inspections – thus less assessment of fines - than are currently undertaken.

Under current staffing (two inspectors, one sealer) we are already performing follow-up inspections as soon as possible and we abide by our existing policy to at least inspect biennially all retail stores. We are currently seeking the addition of two (2) new inspectors so as to expand our inspection schedule.

The Audit states that the County could realize more revenue if it inspected more establishments. The Comptroller believes that there exist a total of 109 retail stores eligible for commodity inspections of which the County only inspected 32. This recommendation would require the County to add several additional staff in order to reach every possible store in the county on a yearly basis. Seeing that the Department must also inspect numerous other industries such as taxis, gasoline stations, gasoline and milk tanks, vehicle scales, oils trucks, laundry mats, air pumps at gasoline and convenience stores, and a variety of other miscellaneous industries, given existing manpower, the Department limits its inspections to every other year in relation to its ability to do so under its current staff levels.

Audit Recommendation 2:

County Officials should establish written policies and procedures specifically stating the annual number of item pricing and scanner accuracy inspections the Department should conduct for each

“retail store.” All “retail stores” should have an item pricing and scanning accuracy inspection at least once annually.

Audit Recommendation 3:

The Department should conduct follow-up item pricing and scanning accuracy inspections for all violations, to make sure that all initial violations have been corrected and the stores are in compliance. Fines for subsequent violations should be increased in accordance with the Local Law.

Audit Recommendation 4:

The Department should conduct two scanning accuracy inspections for each store that submits an item pricing waiver renewal application. The item pricing waiver should be granted only to stores that pass two consecutive scanning accuracy inspections with a combined score of 98 percent or higher.

Response 2,3,4:

The Department has adopted a written policy that all stores utilizing scanners under the item pricing waiver must be inspected biennially. The Department has also adopted a written policy that all eligible retail establishments under the item pricing law must be inspected on a biennial basis. As stated in the Audit, Albany County has opted to enact its own “item pricing law.” Albany County does not believe that some “retail” stores, as understood by the Comptroller, meet the local item pricing law requirements thus narrowing the number of stores eligible for item pricing. Currently, Albany County has issued 72 waivers under the item pricing law. The Auditors state we should inspect each store for scanning accuracy yearly. While we have established a schedule for re-inspection every other year, we do not currently have either the manpower, or software, to undertake a yearly re-inspection process. As noted in the audit, the County also interprets its own local item pricing law as not requiring the annual or bi-annual inspections. However, we have made it a policy in our corrective action report to inspect biennially in the future. The County will investigate the feasibility of annual inspections as well as the suggested increase in fines as suggested by the Audit. Lastly, in response to recommendation 3, the Department’s inspectors witness the correction of the item price failures before they leave the store making re-inspection of that item or a return visit unnecessary.



Audit Recommendation 5: County officials should establish written policies and procedures to ensure a proper segregation of duties. Specifically:

- The Director and inspectors should conduct inspections and bill customers for fines and fees.
- One employee who is independent from billing should receive payments and prepare deposits.
- One employee who is independent from billing, receiving and depositing payments should perform monthly reconciliations between what is billed and what is received.

Audit Recommendation 6: If duties cannot be segregated adequately, County officials should implement mitigating controls such as periodic independent monthly reviews of bank deposits, bank statements, cancelled checks and reconciliations in comparison to the accounting records.

Audit Recommendation 7: County officials should establish written policies and procedures that provide for periodic reconciliation of billing and collection activity for individual customers accounts and the use of an accounts receivable control audit.

Response 5,6,7:

While the Audit process was underway the Department ended the practice of accepting cash for inspections. All inspection fees are now accepted only by check payable to the Department of Consumer Affairs. We have never accepted cash for fines.

A complete operations manual with segregation of duties has been drafted to better delegate the separation of duties between staff members assessing fines/fees, collecting revenues, and making deposits. One inspector records all fines and fees (these are in triplicate form); the Director deposits all checks for fines and fees once payment is remitted. Upon deposit with the County's Department of Finance, revenues (deposits) are verified by the Commissioner of General Services who maintains a running master list. Currently, a finance clerk in General Services reconciles this list on a monthly basis.

Audit Recommendation 8: County officials should assign an administrator for the software who will limit access rights and privileges of the user based on the levels of access they need to fulfill their duties. The administrator should also ensure that users cannot delete and/or modify information without supervisory approval.

Audit Recommendation 9: County officials should ensure the software has audit trail capabilities and should review monthly audit trail reports for unusual activity.

Response 8,9: The County of Albany is researching new software and computer systems to replace the antiquated system currently in place. Weights and Measures staff, with the assistance of the Commissioner of General Services and the staff of the Department of Information Services (IT), are researching new computer systems. The Weights and Measures staff is also querying other Counties to determine what software and computer systems have provided the best service. This will enable Albany County to learn from the experience of other Counties.

We appreciate the recommendations of the Auditor's report and will work diligently to update our policies and procedures to reflect such. We look forward to detailing our work in the Corrective Action Plan.

Sincerely,

Daniel P. McCoy  
County Executive

## APPENDIX B

### AUDIT METHODOLOGY AND STANDARDS

We reviewed Albany County's inspection and testing documentation, including supporting materials and reports. We also reviewed the County's 2012 and 2013 Annual Report to the State Bureau. We conducted testing of inspection documentation, conducted site visits and observed inspections, interviewed County and Department officials and examined other documentation related to the objectives for the audit scope period. In addition:

- We reviewed the Department's master list of County businesses and, using professional judgment, developed an estimate of which businesses we believe could qualify for packaged commodity and item pricing inspections.
- We calculated commodity fines for 2012, 2013 and 2014 according to the current fine schedule and the maximum allowable fine schedule from New York State Agriculture and Markets Law.
- We reviewed all scanner accuracy inspection reports to make sure that they were conducted in accordance with Local Law. Then, we reviewed the corresponding payment information for each waiver and traced all payments to deposit transmittal sheets and deposit slips.
- We calculated the scanning accuracy revenue enhancement for 2013 and 2014 if the County were to conduct scanning accuracy inspections at each identified store.
- We reviewed the Department's database and records for item pricing waiver applications, including inspections reports, deposit transmittal sheets, deposit tickets, check stubs and all supporting documentation. We also observed a scanner accuracy inspection in a retail store.
- We selected all seven waivers from 2013 and used a random number generator to randomly select 14 waivers from 2012 to generate a sample of 21 waivers in total. We reviewed initial item pricing waiver applications for new stores and renewal waiver applications.
- We divided the total number of inspections by the total dollar amount of fines for those inspections to come up with an average dollar amount of fine per inspection for each category. Then we multiplied the average dollar amount of fine per inspection with the potential inspections that could have been conducted to estimate lost revenue for 2012 and 2013. We projected revenue enhancements for 2014 by multiplying the average fine dollar amount per inspection with the potential number of inspections.
- We inquired as to internal controls for fee and fine revenues including the segregation of duties and mitigating controls. We also inquired about billed receivable reconciliations and software controls, including user access, supervisory approval and audit trails.
- We randomly selected a sample of 40 inspection receipts. We reviewed original inspection receipts, deposit transmittal sheets, deposit tickets, fine letters, business check images and

check stubs, reports from the Department's software and supporting documentation. Then, we compared the information from the inspection receipts to the reports from the software to identify discrepancies. We also examined deposit transmittal sheets, deposit tickets, check images and check stubs to make sure that all documents agreed and that deposits were made in a timely manner.

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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