



Chautauqua County

Financial Condition

2023M-111 | December 2023

Contents

- Report Highlights 1**

- Financial Condition 2**
 - How Should Financial Condition Be Managed and Monitored? 2
 - Officials Overestimated Revenues. 3
 - Officials Did Not Monitor the District’s Financial Operations or
Take Appropriate Actions to Maintain Fiscal Stability 6
 - What Do We Recommend? 9

- Appendix A – Response From County Officials 10**

- Appendix B – OSC Comment on the County’s Response. 12**

- Appendix C – Audit Methodology and Standards 13**

- Appendix D – Resources and Services. 14**

Report Highlights

Chautauqua County

Audit Objective

Determine whether Chautauqua County (County) officials adopted realistic budgets, routinely monitored financial operations and took appropriate actions to maintain the North Chautauqua County Water District's (District's) fiscal stability.

Key Findings

The District Board (Board), County Legislature (Legislature) and other County officials did not adopt realistic budgets, routinely monitor the District's financial operations or take appropriate actions to maintain the District's fiscal stability. As such, all County taxpayers have been indirectly funding District operations instead of just the real property owners who benefited from the District's services. County officials:

- Overestimated revenues by a total of \$1.6 million, an average of \$410,000 or 29 percent each year, from 2019 through 2022.
- Did not enforce collection of water usage billed to Chadwick Bay Intermunicipal Water Works (CBI), resulting in a balance owed of \$1.4 million.
- Spent \$5.2 million from the general fund for District operations and did not repay the general fund, as required, because the District did not have sufficient funds.
- Did not thoroughly review budget-to-actual reports and did not prepare cash flow analyses.

Because officials were not monitoring the District's financial operations, the District had a growing negative cash balance totaling over \$5 million as of December 31, 2022, was experiencing, on average, \$150,000 operating deficits each year, and owed the general fund \$5.2 million, plus related interest.

Key Recommendations

- Adopt realistic budgets and develop a plan to collect amounts owed.
- Closely monitor the District's finances by reviewing budget-to-actual reports and cash flow analyses to prevent further decline in financial condition.

County officials generally agreed with our findings. Appendix B includes our comment on issues raised in the County's response.

Background

The County encompasses 27 towns, 13 villages and two cities. The County is governed by the Legislature, which is composed of 19 elected Legislators, one of whom serves as the Chair. The Legislature is responsible for the general oversight of financial affairs and safeguarding County resources.

The County established the District in February 2016 to construct water transmission facilities and provide wholesale water distribution to County residents living in parts of the towns of Dunkirk, Pomfret, Portland and Sheridan, and the Village of Brocton. A Financial Analyst to the Legislature (Financial Analyst), although not appointed as the District program administrator, acts as such and develops the District's budget. The Budget Director and County Executive are responsible for reviewing the Financial Analyst's budget estimates prior to submission to the Legislature for budget adoption.

The Legislature established the nine-member Board, consisting of six ex-officio members (i.e., the supervisors of the four towns and mayor of the village in the District, and the Chair of the North County Industrial Water District No. 1), and three members appointed by the Legislature. In general, the Board establishes water rates, and bills and collects water fees based on usage.

Quick Facts

2023 Budgeted Revenue	\$1.6 million
2022 Actual Revenue	\$1.3 million
Accounts Receivable Balance as of 12/31/2022	\$1.4 million

Audit Period

February 24, 2016 – May 2, 2023

Financial Condition

A county water district is a geographic area established by a county's governing board under the provisions of Article 5-A of the New York State County Law for, among other things, developing or acquiring a water supply for distribution to other municipalities.

In 2015, the County entered into a Water Purchase/Supply Agreement (WPSA) with the City of Dunkirk and the five municipalities (Municipalities) partially located in the District. According to the WPSA, the County, on the District's behalf, agreed to purchase water from the City of Dunkirk to sell and distribute to the Municipalities.

The Municipalities then entered into an Intermunicipal Cooperation Water Agreement (ICWA) dated January 10, 2019, to create an "operating group," referred to as Chadwick Bay Intermunicipal Water Works (CBI), to implement shared services for each of the Municipalities' respective municipal water systems.¹ According to the ICWA, CBI was created to manage and maintain a system to assist the District in leak detection; geographic information system mapping;² meter reading and replacement; billing and collections; paying bills; purchasing equipment; operations; repairs; and maintenance in order to realize cost savings. The Board entered into a Billing, Easement Acquisition, Operation and Maintenance Agreement (Billing Agreement) with CBI in May 2019. CBI purchases water from the District and, pursuant to the Billing Agreement, CBI then sets its own rates and bills water district customers directly within the Municipalities. Additionally, the four town supervisors and the village mayor of the Municipalities are ex-officio members of the District Board, as well as members of the CBI governing board. We addressed other issues related to CBI in two companion reports titled *Town of Sheridan Shared Services Costs (2023M-74)* and *Town of Sheridan Disbursements (2023M-101)*.

How Should Financial Condition Be Managed and Monitored?

A water district should be financially self-sufficient and funded by the real property owners receiving the services or benefits provided. To effectively manage financial condition and maintain fiscal stability, county officials should develop, and the county legislature should adopt, realistic and structurally balanced budgets that provide sufficient recurring revenues to cover recurring expenses. Should a special district require additional funding, a county legislature may authorize officials to temporarily advance money to the district from another county fund. However, any money temporarily advanced from one fund to another must be repaid to the fund from which it was advanced as soon as available, but no later

¹ For purposes of this report, we are not rendering an opinion as to the legal sufficiency of the creation or powers of CBI.

² A geographic information system is a computer system for capturing, storing, checking and displaying data related to positions on Earth's surface. A geographic information system can show many different kinds of data on one map, such as streets, buildings and vegetation.

than the close of the fiscal year in which the advance was made.³ In addition, when money is advanced to a fund with a different tax base than the originating fund, repayment of the advance must include an amount reasonably estimated to be the additional amount that would have been earned on the investment of the money in the fund making the advance, had the advance not been made.

The Board, Financial Analyst, Director of Finance, County Executive, Budget Director and County Legislature have a shared responsibility for managing and maintaining the District's fiscal health.⁴ As part of those responsibilities, these officials should review periodic, complete, accurate and timely financial information to effectively monitor the District's operations and financial condition, including the District's annual budget and operating results. The Financial Analyst should develop budget estimates using the most current and accurate information available and historical trends. The Board, Budget Director, County Executive and Legislature should perform a thorough review of the District's budget prior to adoption to ensure the budget is realistic and structurally balanced. The Director of Finance should prepare interim financial reports to provide timely information on financial position, results of operations and budget status reports to the Board, County Executive and Legislature. Generally, corrective action is easier to initiate when needs are identified early.

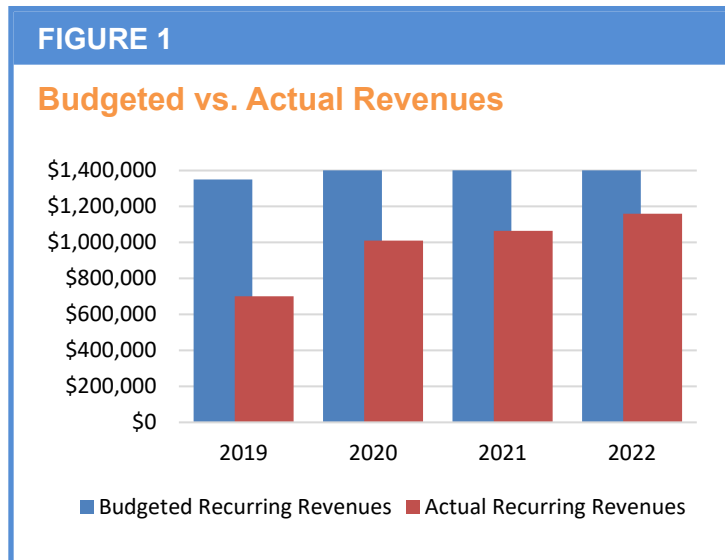
The Board is responsible for ensuring compliance with agreements it enters into, including its Billing Agreement with CBI. In addition, County officials should actively monitor available cash balances to ensure balances are not depleted to a point where operations could be impacted. To achieve this, the Director of Finance would need to routinely prepare and review cash flow analyses and provide them to the Board and Legislature to review. Such analyses should include cash balances at the beginning of the month, receipts by source during the month, disbursements during the month, cash on hand at the end of the month and reconciliation with bank statements.

Officials Overestimated Revenues

We compared budgeted appropriations and estimated revenues with actual operating results for 2019 through 2022. While appropriations were generally reasonably budgeted, revenues were overestimated by an average of \$410,000 (29 percent) each year, or a total of approximately \$1.6 million (Figure 1) over the four-year period.

3 See New York State General Municipal Law Section 9-a, which allows counties to temporarily advance money held in any fund to any other county fund. Any advance made must be repaid no later than the close of the fiscal year in which the advance was made.

4 This report uses "officials" to collectively refer to the District Board members, County Executive, Budget Director, Director of Finance, Financial Analyst and County Legislature.



The District derives most of its revenue from the Billing Agreement with CBI. Based on the Agreement and pursuant to the WPSA, the District bills CBI for water usage at a Board-authorized rate per 1,000 gallons of water use. From 2019 through 2022, the District billed CBI a total of \$4 million, or an average of nearly \$1 million each year. However, the District continued to budget an average of \$1.4 million in revenues each year, or 29 percent more than actual revenues, resulting in annual operating deficits averaging about \$150,000 and insufficient cash flow to cover recurring operating costs.

The Financial Analyst stated that she used the original water usage estimation from when the District was formed to determine the amount to budget for revenues, which was approximately 300 million gallons, multiplied by the Board-approved rate. However, the Financial Analyst has only billed for water usage averaging 208 million gallons each year. The Financial Analyst and four Board members told us they were aware that actual usage was less than the amount budgeted, but the Financial Analyst and three Board members could not explain why they did not adjust budgeted revenues to reflect actual usage, and one Board member told us they assumed that the budget was adjusted.

Furthermore, the Board, Budget Director, County Executive or the Legislature did not perform a thorough review of the District's budget prior to adoption. The Financial Analyst developed the budget, which was then reviewed by the Budget Director and presented to the Board for approval prior to presenting it to the County Executive, Director of Finance and Legislature. The Chairman of the Legislature and the County Executive stated that the Legislature relies on the Board to thoroughly review the budget. According to Board meeting minutes, the Board approved the budgets for fiscal years 2019, 2020 and 2021 prior to submission to the Legislature. However, six Board members told us that the

Financial Analyst prepared and presented the budget to the Board, and that the Board did not conduct an in-depth review of the budget. These six Board members generally assumed that the Legislature was performing an in-depth review of the budget; therefore, the Board members did not review the budget.

The Director of Finance, Chairman of the Legislature and one Legislator stated that during their review of the budget, the enterprise funds⁵ – such as the fund the District’s operations are accounted for in – do not get reviewed as thoroughly because these funds do not affect the tax levy. However, while enterprise fund operations are intended to be funded primarily through user charges, the District relied on the general fund to finance District operations. Therefore, the general fund portion of the tax levy could be impacted. One Legislator, who was also an appointed Board member, told us that the Board members cannot be expected to know the exact details of the budget.

In addition, although the Financial Analyst provided the Board with monthly budget-to-actual reports, the Board did not utilize the reports to adequately monitor the District’s financial operations. The Financial Analyst and seven Board members told us that the Board did not perform an in-depth review of the monthly budget-to-actual reports. The Board members generally stated that they relied on the Financial Analyst to monitor the budget against actual results of operations and did not question the contents of the reports presented. Additionally, neither the Financial Analyst nor the Legislator, who served on the Board, presented the budget-to-actual reports to the rest of the Legislature. Had the Board and/or Legislature reviewed any of the monthly budget-to-actual reports, they could have detected the unrealistic revenue estimates. For example, in June 2022, which is halfway through the County fiscal year, the Board was provided with a budget-to-actual report showing budgeted revenues of \$1.4 million and billed revenues of approximately \$324,000, or only 23 percent.

Consequently, because of undefined responsibilities regarding officials’ roles in financial management and budgeting, the adoption of unrealistic budgets by the Legislature, and because the Board, County Executive and Legislature did not monitor the budget and make amendments as necessary throughout the year and/or in subsequent years, the District realized operating deficits averaging \$150,000 each year, or a total of approximately \$600,000 for fiscal years 2019 through 2022. Because the District is operating at a deficit each year, County officials have relied on the general fund to finance District operations. As such, all County taxpayers have been indirectly funding District operations instead of just the real property owners benefitting from the services provided by the District.

⁵ Enterprise funds may be used to account for activities for which a fee is charged to users for goods or services.

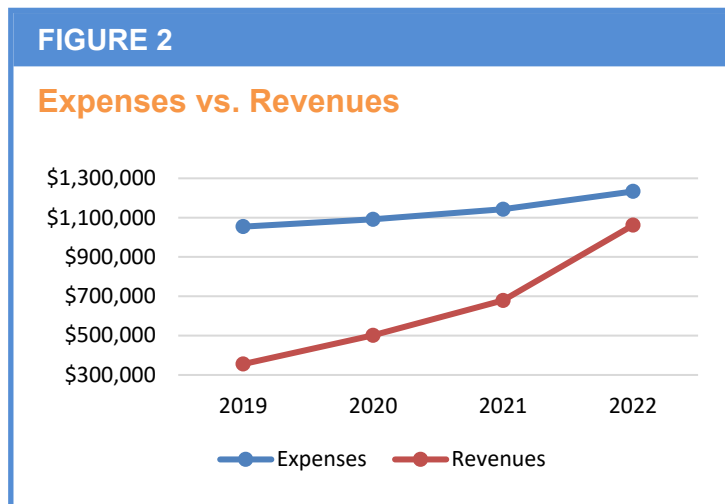
... [W]hile enterprise fund operations are intended to be funded primarily through user charges, the District relied on the general fund to finance District operations.

Because the District is operating at a deficit each year, County officials have relied on the general fund to finance District operations.

Officials Did Not Monitor the District’s Financial Operations or Take Appropriate Actions to Maintain Fiscal Stability

The Board did not request additional interim financial reports, such as cash flow analyses, and did not enforce collection of water usage payments from CBI. As a result, the District had a growing negative cash position and was owed nearly \$1.4 million pursuant to its agreement with CBI. Furthermore, the County funds advanced were not always approved by the Legislature and as of December 31, 2022, none of the \$5.2 million advanced from the general fund, and related interest, had been paid back.

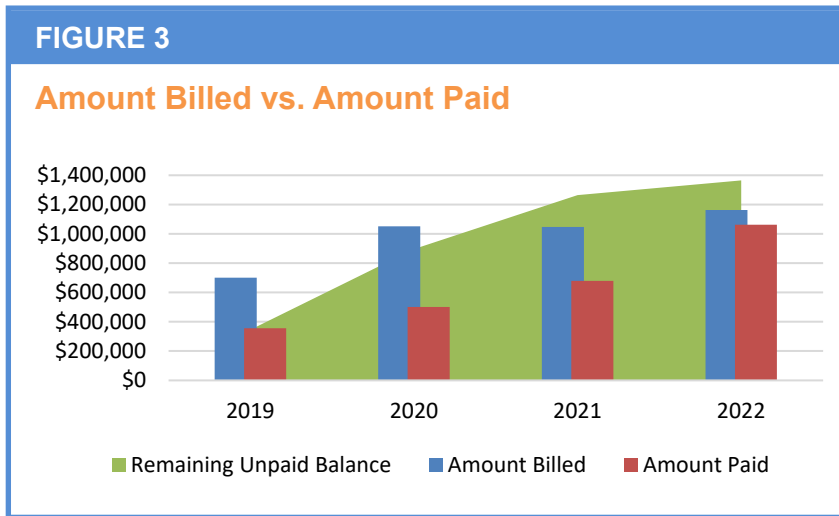
Cash Flow Analysis – The Board does not prepare, or request the Director of Finance to provide, a cash flow analysis for the District. Meanwhile, the District’s recurring expenses exceeded revenues each year (Figure 2), resulting in a cumulative negative cash position of more than \$1.9 million as of December 31, 2022. This is due, in part, to the District not collecting the billed revenues from CBI.



The Director of Finance, First Deputy Director of Finance and seven Board members we spoke to told us that they were aware of the District’s continuing negative cash position but had not prepared cash flow analyses for the District or requested that such analyses be performed. The County Executive, Financial Analyst and Budget Director told us they were not aware of the District’s negative cash position. In addition, while the Financial Analyst stated that revenues collected by the District were enough to cover recurring expenses, neither the billed nor collected revenues were enough to finance recurring expenses. If County officials and/or the Board were reviewing a monthly District cash flow analysis, the District’s negative cash position would have been evident. Because the Board did not request additional interim financial reports, such as cash

reports or balance sheets, it was unable to provide adequate oversight of these operations or take appropriate action to improve the District's finances.

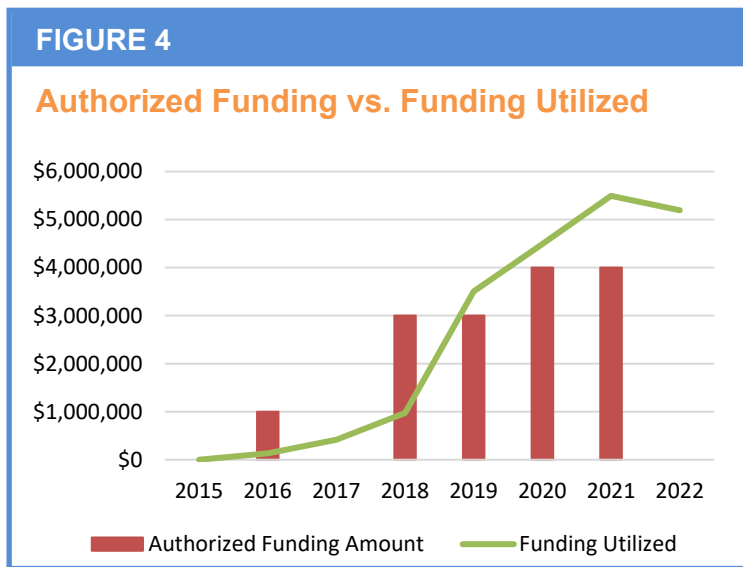
Accounts Receivable – From 2019 through 2022, the District recorded receivables, totaling nearly \$4 million, related to water usage billed to CBI. However, CBI only paid the District \$2.6 million, resulting in an accounts receivable balance totaling nearly \$1.4 million as of December 31, 2022 (Figure 3).



Because CBI payments are outstanding an average of 350 days, there is no indication that the \$1.4 million accounts receivable balance will be repaid in a timely manner, and the District's cash balance will continue to be negatively impacted. Furthermore, although County officials and the Board were aware of and told us they routinely discussed the accounts receivable balance, they did not enforce payment of water bills owed by CBI and did not impose penalties or interest on past due bills. The County Executive told us that he met with the CBI Board – the individuals who made up the CBI Board were also on the District Board – but that he and other County officials had not required a repayment plan or terminated the Billing Agreement with CBI because they wanted to give the District the opportunity to sort out the past due payments with CBI. Additionally, the former County Attorney stated that the Legislature could demand payment through each of the participating Municipalities; however, the Legislature has not used this option. As a result, sufficient funds were not available to finance District operations, and the District became reliant on County funds for cash flow and paying operating costs.

Interim Funding – The Legislature adopted resolutions to provide interim funding to the District in 2016, 2018, 2019, 2020 and 2021 to finance capital projects until the District could obtain long-term financing. The funds were to be repaid to the general fund on or before December 31 of each respective year. However, none

of the funds or related interest have been repaid because the District did not have sufficient cash to repay the interfund advances. Furthermore, because the County combines cash for all funds into one account, did not monitor District spending and did not prepare cash flow analyses, County officials were unaware that the District utilized funds in 2017 and 2022 without Legislative approval and that, in 2019, 2020 and 2021, the District utilized more funds than authorized by the Legislature (Figure 4).



As of December 31, 2022, the Legislature had not adopted a resolution to extend the interim funding (i.e., interfund advance) to the District, and the District had not repaid the \$5.2 million and related interest to the general fund. As a result, County taxpayers have funded District expenses instead of just the real property owners who received District services.

The Board, County Executive, Director of Finance and Legislature did not monitor the District’s financial operations and take corrective action throughout the year, resulting in operating deficits, a significant and growing accounts receivable balance, a negative cash position and no action taken to enforce the collection of water bills from CBI. As a result, the County continued to advance money from the general fund to finance District operations without being reimbursed. Therefore, County taxpayers are funding District operations, of which they may not be receiving a benefit.

What Do We Recommend?

The Legislature should:

1. Develop written duties that clearly define responsibilities for managing and maintaining the District's fiscal health, including:
 - a) Who should develop, review and present the District budget to the Legislature;
 - b) What financial reports should be developed and reviewed; and
 - c) Who should report the District's financial position to the Legislature and how often reports should be provided.

The Legislature, County Executive, Budget Director and Board should:

2. Thoroughly review proposed budgets and ensure adopted budgets include realistic estimates based on historical trends and fund recurring expenses with recurring revenues.

The Legislature, County Executive and Board should:

3. Thoroughly review monthly budget-to-actual reports to gain a better understanding of the District's financial position, and amend the budget as necessary throughout the year and/or in subsequent years.
4. Request and thoroughly review additional comprehensive and complete interim financial reports, including cash flow analyses and balance sheets, that provide an accurate presentation of the District's financial condition.
5. Consult with the County Attorney and determine the best course of action for the District to collect past due water usage bills, and whether penalties and/or interest may be charged.
6. Closely monitor the District's finances, including cash balances, to prevent further decline in financial condition.
7. Develop a plan to repay interfund loans from the general fund, plus interest.

The Financial Analyst should:

8. Develop District budget estimates using historical trends and the most current and accurate information available.

The Director of Finance should:

9. Prepare interim financial reports to provide timely information on the District's financial position, results of operations and budget status to the Board, County Executive and Legislature.

Appendix A: Response From County Officials



PAUL M. WENDEL, JR.
County Executive

CHAUTAUQUA COUNTY OFFICE OF THE COUNTY EXECUTIVE

Gerace Office Building – 3 N. Erie St. – Mayville, NY 14757-1007
(716) 753-4211 – FAX (716) 753-4756 – wendelp@chqgov.com
<https://chqgov.com/>

November 30, 2023

Melissa A. Myers
Chief of Municipal Audits
Office of the State Comptroller
295 Main Street, Suite 1032
Buffalo, New York 14203-2510

Via Email: Muni-Buffalo@osc.ny.gov

Re: Office of the State Comptroller (OSC) Draft Report of Examination:
Chautauqua County Financial Condition 2023M-111

Dear Ms. Myers:

We are in receipt of your draft audit report of the State Comptroller's Office audit of the County of Chautauqua and the North Chautauqua County Water District for the period February 24, 2016 through May 2, 2023. The County of Chautauqua strives for a culture of strict accountability and transparency, and appreciate your auditors' efforts to examine the County's internal control structure and provide the County with their recommendations for suggested improvements. The County of Chautauqua generally agrees with the financial findings found in the above-referenced report. After OSC's finalization of its audit report, the County will formalize a Corrective Action Plan (CAP) to address the fiscal stability of the North Chautauqua County Water District (District).

It is the County's intent that all advances from the County's general fund made to the District shall be repaid, and in accordance with General Municipal Law Section 9-a, shall include an amount reasonably estimated to be the additional amount that would have been earned on the County's investment of moneys had the advances not be made. All of the County Legislature's resolutions authorizing interim advances to the District stated that repayment would be made with interest equivalent to the County's lost investment earning rate.

It should also be noted that the County's advance of approximately \$4 million for the construction of District capital improvements was made in lieu of the County issuing Bond Anticipation Notes (BANs) on behalf of the District. Had the County issued

See
Note 1
Page 12


See
Note 1
Page 12

BANs, the District would have incurred additional expense of bond counsel, a municipal fiscal advisor, and any other closing charges associated with the issuance of the BAN. As the District is an arm of County government, the County's ability by use of its general fund to avoid such BAN issuance costs was an appropriate action.

To put the audit and its findings in context, the North Chautauqua County Water District was created to facilitate the supply of water produced by the City of Dunkirk to its neighboring towns and villages. The creation of the District has allowed such local governments to be relieved of the responsibility of maintaining and operating independent water sources of their own. A regional approach to governmental operations, and in this case water production and delivery, will ultimately benefit the residents of the District and Chautauqua County as a whole. While in hindsight the participating local governments need additional time to adjust user charges and other financial arrangements to stabilize the District, the creation of the District and its securing of a consolidated, reliable water source for North County municipalities was a critical project for Chautauqua County's long term future.

County officials look forward to working further with OSC regarding the matters of concern raised in the draft OSC Report. We appreciate the time and dedication OSC staff have exhibited in the preparation of the draft report. Please do not hesitate to contact me to discuss the County's responses further.

Sincerely,

Paul M. Wendel, Jr. 
Chautauqua County Executive


Pierre Chagnon
Chairman of the County Legislature

Appendix B: OSC Comment on the County's Response

Note 1

The County's 2016, 2018, 2019, 2020 and 2021 resolutions relevant to the interfund advances state that the funds were to be repaid to the general fund on or before December 31 in the year they were advanced and, although GML Section 9-a also required the advances to be repaid by the end of the year the funds were advanced, they were not. The 2017 and 2022 general fund advancements were also made without a resolution or any stipulations for repayment.

Appendix C: Audit Methodology and Standards

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We reviewed the County Charter and Administrative Code for information relevant to budgeting and to determine County officials' fiscal responsibilities.
- We reviewed Board meeting minutes, Legislature meeting minutes and relevant committee meeting minutes for budget development and approvals, discussion of financial reports, interim funding approvals and contract approvals.
- We interviewed County officials to gain an understanding of the processes for budget development, review of financial reports and the District's overall financial condition.
- We reviewed budget-to-actual comparisons to assess whether budgeted revenues and appropriations were reasonable. We analyzed revenues to determine whether specific revenues were consistently and significantly overestimated.
- We prepared a cash flow analysis to assess the District's cash position, and ability to pay recurring expenses and repay interfund loans.
- We compared the water usage bills to the accounts receivable balance to determine the days outstanding.
- We compared the interfund advances from the general fund to the interim funding approvals. We reviewed financial records to determine whether these advances were repaid.

We conducted this performance audit in accordance with generally accepted government auditing standards (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.

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 provided to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Legislature to make the CAP available for public review in the County Clerk's office.

Appendix D: Resources and Services

Regional Office Directory

www.osc.ny.gov/files/local-government/pdf/regional-directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.ny.gov/local-government/publications

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.ny.gov/local-government/fiscal-monitoring

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.ny.gov/local-government/publications

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.ny.gov/local-government/resources/planning-resources

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.ny.gov/files/local-government/publications/pdf/cyber-security-guide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.ny.gov/local-government/required-reporting

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.ny.gov/local-government/publications

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.ny.gov/local-government/academy

Contact

Office of the New York State Comptroller
Division of Local Government and School Accountability
110 State Street, 12th Floor, Albany, New York 12236

Tel: (518) 474-4037 • Fax: (518) 486-6479 • Email: localgov@osc.ny.gov

<https://www.osc.ny.gov/local-government>

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BUFFALO REGIONAL OFFICE – Melissa A. Myers, Chief of Municipal Audits

295 Main Street, Suite 1032 • Buffalo, New York 14203-2510

Tel (716) 847-3647 • Fax (716) 847-3643 • Email: Muni-Bufferalo@osc.ny.gov

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