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April 28, 2020

Hon. Daniel McCoy
Albany County Executive
112 State Street
Room 1200
Albany, NY 12207

Hon. Andrew Joyce
Chairman, Albany County Legislature
112 State Street
Room 710
Albany, NY 12207

Re: Time and Attendance Report
Follow-up to Allegations

Gentlemen,

The Albany County Department of Audit and Control has completed the Time and Attendance Audit. This letter accompanies the final audit report on internal controls over time and attendance recording in Albany County. This letter is focused only on the allegations brought forward by the previous Comptroller which are not directly related to the Time and Attendance Audit and were not addressed in the Berdon Report.

Background

Albany County Comptroller's Office includes the Department of Audit and Control (DAC). Under the leadership of the previous Comptroller, DAC performed an audit on Time and Attendance records. The work was initiated based on allegations that were received from whistleblower reports. The previous Comptroller also hired an outside attorney, Hinckley Allen, LLP who in turn hired a CPA firm, Berdon LLP, to perform a forensic review. Two reports were issued at the end of the term of the previous Comptroller, an Interim Report by the then Comptroller and an Expert Report by the outside firm, Berdon LLP. Both reports indicated potential internal control weaknesses related to time and attendance recording, however no reliable conclusion was reached and no credible evidence was presented to support the allegations. The current Comptroller determined that further

work should be done to confirm or dispel the allegations. Additional work was performed to identify and evaluate the effectiveness of controls to ensure that time recorded is both accurate and authorized.

The previous Albany County Comptroller, Michael Conners stated that he received information alleging:

- An Albany County employee (Employee 1) performed work for an elected official's campaign effort during Albany County labor hours recorded; and
- Salary for Employee 2 was spread out over additional budget lines using the pay code Out of Title (OOT) as a way to reward political loyalty and circumvent the approval process.

Objectives

- Determine if evidence exists to support the allegation that one or more Albany County employees were instructed to perform work on the County Executive's re-election campaign during labor hours paid by the County;
- Further evaluate the circumstances surrounding the allegation related to an employee being paid on separate budget lines. Determine if any evidence exists to support the allegation that multiple budget line salaries were used as a method for adjusting salaries based on political support, circumventing the normal process for salary increases; and
- Provide evidence to the appropriate authority, if and where appropriate.

Scope

The scope¹ of this review included:

- Time and attendance records specifically related to the employees² and time periods³ named in the allegations
- E-mails collected from Employee 1's private g-mail account and provided by Chris Fenlon with Hinckley Allen.

¹ Note the original audit scope included all time and attendance records dating back to 2012 when the current software program for recording time and attendance was first placed in service. However the current Comptroller determined that reviewing only records directly related to the allegations would be necessary to provide a sufficient conclusion and that no additional value could be provided by reviewing seven years of time and attendance records.

² Names of employees do not appear in this report as a measure to preserve confidentiality.

³ March – November 2015 and calendar years 2017 and 2018

Conclusion

As noted in audit report preceding this letter, The Department of Audit and Control (DAC) reviewed the previous Comptroller's Interim Report and the Expert Report issued by the outside firm Hinckley Allen. DAC conducted numerous interviews with Albany County Human Resources personnel and various department staff (the previous Comptroller did not conduct interviews with departments). Several observations were identified as a result including an overarching need for improvement in the area of producing and maintaining documentation for manual recording of time in a format that can be stored and retrieved at any point in the future upon request. The following determinations were made with regards to the allegations. It should be noted that the previous Albany County Comptroller, did not obtain prior approval from the Albany County Attorney, Contact Administration Board or the Albany County Legislation to expend in excess of \$213,000 of Albany County resources for outside counsel.

Allegation One Employee 1 working on campaign tasks during paid work hours.

The DAC reviewed the e-mails and are able to establish that Employee 1 spent a significant amount of time attending to various aspects of the campaign through the sending and receiving of e-mails during time recorded and submitted to the Albany County payroll system.

The volume, frequency and timing of a majority of the emails indicates that this activity was not confined to the individual's break or meal periods, as it appears to have been for the rest of the County employees implicated in the original allegations. Nevertheless, DAC was unable to obtain any evidence credible or otherwise to suggest that the County Executive or any of his campaign managers instructed Employee 1 or any other individual to engage in any tasks, including the sending or receiving of e-mails during the hours designated as work time and paid via Albany County payroll. It should also be noted that Employee I operates a consulting service business for political campaigns referred to as Next Step Strategies.

Allegation Two Employee 2 paid Out of Title Pay as a means to reward political loyalty.

The circumstances surrounding Employee 2's Out of Title (OOT) pay is well documented and was reviewed thoroughly by the DAC. When applied correctly OOT facilitates the accurate allocation of salary for employees who have job responsibilities in two or more separate departments. No credible evidence was found to support an allegation of any wrongdoing related to this Employee 2's salary.

Please do not hesitate to contact us if you have any questions.

Sincerely,



Susan Rizzo, County Comptroller

cc. Stephanie Slominski CIA, Chief Auditor