# Nassau County Interim Finance Authority

# NIFA

## REVIEW OF NASSAU COUNTY'S PROPOSED MULTI-YEAR FINANCIAL PLAN FISCAL 2014 - 2017

October 9, 2013

# NASSAU COUNTY
# INTERIM FINANCE AUTHORITY

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# I. OVERVIEW

On September 17, 2013, the County submitted to NIFA its Proposed Multi-Year Financial Plan, Fiscal 2014-2017 (the "Proposed Plan"), the first year of which is the Proposed Budget for FY 2014 (the "Proposed Budget"). The following discussion reflects staff's views on their submission.

The County appears closer to near-term balance on a budgetary-cash basis, but on a GAAP basis, as required by State law, remains out of balance in amounts which would necessitate the continuance of a control period for at least the coming year. The improvement in their cash position can be attributed to five major causes, not all of which are positive or representative of structural improvement.

The causes include:

1. An improving economy (*e.g.*, from increased sales tax);
2. State actions (*e.g.*, permission from the State to amortize retirement contributions);
3. The NIFA imposed wage freeze (cumulatively saved approximately $231 million through the end of FY 2013);
4. County actions (*e.g.*, reductions in headcount); and
5. County borrowing for expenses that should normally be paid for out of operating income.

Some of the County's fiscal discipline has been self-generated, but often it has come at the urging or direction of NIFA. A good example is NIFA's restriction on certain types of non-essential borrowing (cumulatively, since the beginning of the control period, NIFA has rejected borrowings of approximately $200 million). There is also the agreement that the County entered into with NIFA in 2011. That bilateral agreement allowed for proscribed amounts of continued County borrowing in return for $150 million in recurring labor savings and the assurance of a GAAP balanced budget by FY 2015.

FY 2014 is going to be a critical year for the County in its efforts to ensure GAAP balance in FY 2015; unfortunately, our analysis indicates that GAAP balance in FY 2015, although included in the Proposed Plan, is unlikely to be achieved. Too much has to be accomplished in a short period of time.

For example, the County believes that it can borrow $230 million, add $10 million in operating money and solve its tax certiorari backlog ($297 million as of December 31, 2012) while simultaneously handling the new annual influx of tax certiorari claims (historically averaging $75 million per year). The details of this arithmetic are not convincing. Likewise, we are skeptical that they can wean themselves from their dependence on borrowing for judgments and settlements.

This Report does not address the proposed PBA labor settlement that we were recently provided. While we have not yet completed our analysis, it appears that the agreement would throw the Proposed Plan further out of balance. Obviously, the other County unions will want similar concessions, which would exacerbate the imbalance.

# II. DISCUSSION OF FY 2013

Before examining the Proposed Plan we need to discuss the projected operating results for FY 2013 because they form the baseline for future years and are the foundation of our analysis of the County's revenue and expenditure assumptions for FY 2014 and FY 2015 – FY 2017 (the "Out-Years").

## FY 2013 RISKS

Our analysis of revenues and expenditures indicates that the County could end FY 2013 with a small negative operating deficit on a budgetary basis; however, the County will likely incur a substantial operating deficit on a GAAP basis (basis mandated by the NIFA Act), which could reach more than $100 million.

We project a GAAP deficit despite the County's multi-year efforts to increase revenue and reduce expenditures, including the receipt of significant savings from the NIFA imposed wage freeze. The County estimates that the wage freeze will have cumulatively saved approximately $231 million through 2013. The persistent projected GAAP deficit results primarily from the County's continued reliance on bonding certain operating expenses, such as tax certiorari refunds, judgments and claims, and employee termination expenses.

The small projected budgetary deficit could turn into a budgetary "surplus" to the extent that the County is allowed by NIFA to use borrowed funds, once again, to pay its unbudgeted employee termination expenses. The GAAP deficit would remain unchanged, however, since bond proceeds are not considered revenue under GAAP or our enabling statute. Consequently, the GAAP deficit for FY 2013 is likely to exceed by multiple times the control period trigger of a 1% deficit in the County's Major Funds. See "Projected FY 2013 Operating Results" table on page 5.

Some of the major projected *expenditure budgetary variances* in FY 2013 include the following:

- <u>Expenditures for personal services</u> are projected to exceed budget by approximately $14.5 million despite the County realizing savings from the ongoing wage freeze, lower than anticipated premiums for health insurance, continued reduction in headcount, and repeated amortization of its retirement system liability. The $14.5 million variance is composed of $25.8 million in unbudgeted salaries and wages which are partially offset by $11.3 million in fringe benefit savings.

  The $25.8 million in additional expenditures for salaries and wages are driven by at least $18 million in projected overspending on overtime (primarily in the

Police Department) and up to $25 million in unbudgeted costs for police terminal leave variances). Police overtime usage is running approximately 30% ahead of last year (for the period predating Superstorm Sandy) and the County did not budget for the projected police termination costs. The overtime and terminal leave variances are partially offset by projected savings arising from approximately 85 vacant full-time positions.

The County assumed that it would bond employee termination expenses, which are payments to separating employees for unused vacation and sick leave balances. The County Legislature recently approved the Administration's request to bond $30 million of these expenses; however, NIFA must approve all County borrowings.

In an effort to stem the increased use of police overtime, the County hired a class of 33 police officers in May and plans to bring on another class of 80 police officers before year-end. However, due to the length of training, it is unlikely that the new police officers can significantly impact overtime usage in FY 2013.

- <u>Fringe benefit savings</u>, which are driven primarily by health insurance premiums rising by less than the amount budgeted, will offset approximately $11 million in excess salaries and wages. It should be noted that fringe benefits costs would have been $57 million higher than currently projected had the County paid its full pension liability in FY 2013 rather than opting to amortize a portion of these costs over the next 10 years.

- <u>Debt service costs</u> are projected to be approximately $14.5 million less than budget due to lower than assumed debt issuances and interest rates. It should be noted that lower borrowing is partly due to the fact that NIFA has not approved certain borrowings requested by the County since declaring a Control Period (approximately $200 million in such borrowing has been rejected to date).

- <u>Expenditures for Early Intervention/Preschool Special Education</u> services are projected to be approximately $15.1 million less than budget due to lower service rates and a decline in caseloads.

- <u>Direct assistance costs</u>, which include expenditures for recipient grants, purchased services, and emergency vendor payments, are projected to be $10.4 million less than budget. These costs are down primarily as a result of lower caseloads under the Temporary Assistance for Needy Families, Safety Net, Foster Care and other social services programs.

- <u>Tax certiorari payments</u> from operating funds are projected to be only $20 million in FY 2013 with additional refunds to be paid with borrowed monies.

An agreement between the Administration and the Legislature calls for supplementing the $20 million operating budget commitment with up to $75 million of bond proceeds. The Legislature has formally approved this borrowing (approved $40 million earlier this year and $35 million in September; NIFA has already approved the first $40 million).

The Comptroller estimated the size of the tax certiorari backlog to be $297 million at the end of 2012, which was $74 million higher than it was at the end of 2011. This long term liability will increase further to the extent that the actual payments made in 2013 are less than any new liability added in 2013.

| Projected FY 2013 Operating Results on a Budgetary Basis | | | |
|---|---|---|---|
| ($ in millions) | Adopted Budget | Current Projection | Surplus/(Risk) |
| **Revenues:** | | | |
| **Fines and Forfeitures** | **$62.5** | **$58.7** | **($3.8)** |
| **Rents and Recoveries** | **27.6** | **25.0** | **(2.6)** |
| **Department Revenues** | **178.2** | **165.0** | **(13.2)** |
| **Federal and State Aid** | **388.5** | **359.7** | **(28.8)** |
| **Sales Tax** | **1,121.3** | **1,143.3** | **22.0** |
| **Other Revenue** | **1,013.3** | **1,014.0** | **0.7** |
| **Total Revenues** | **2,791.4** | **2,765.7** | **(25.7)** |
| | | | |
| **Expenditures:** | | | |
| **Salaries and Wages** | **784.6** | **810.4** | **(25.8)** |
| *Overtime(Police and Corrections)* | *60.2* | *78.2* | *(18.0)* |
| *Terminal Leave* | *9.6* | *34.4* | *(24.8)* |
| *Other* | *714.8* | *697.8* | *17.0* |
| **Fringe Benefits** | **470.1** | **458.8** | **11.3** |
| **Contractual Services** | **221.2** | **223.5** | **(2.3)** |
| **Debt Service** | **148.0** | **134.0** | **14.0** |
| **Tax Certiorari Payments** | **18.0** | **20.0** | **(2.0)** |
| **Early Intervention/Special Education** | **170.0** | **154.9** | **15.1** |
| **Recipient Grants** | **67.2** | **63.2** | **4.0** |
| **Purchased Services** | **59.3** | **59.8** | **(0.5)** |
| **Emergency Vendor Payments** | **62.4** | **55.5** | **6.9** |
| **Other Expenditures** | **790.6** | **786.8** | **3.8** |
| **Total Expenditures** | **2,791.4** | **2,766.9** | **24.5** |
| | | | |
| **Total Risk** | | | **($1.2)** |

Some of the major projected *revenue budgetary variances* in FY 2013 include the following:

- Sales tax revenue is up 9.4% over the same period last year. Based on this strength, we project total year-end receipts to be at least $22 million higher than budget. Actual collections will depend on the vigor and duration of post-Superstorm Sandy sales tax activity as well as the health of the underlying economic recovery.

- Departmental revenues are projected to fall below budget by $13.2 million. The projected shortfall includes: $5.3 million in the Correctional Center from a failed initiative to house incarcerated undocumented immigrants and additional Suffolk County inmates at the jail; $3 million in the Assessment Department because of its failure to implement a tax map verification fee; $2.2 million in lower parks revenue; and $1.5 million in tow truck franchise fees in the Police Department.

- Federal and State aid will be lower than budget primarily due to lower reimbursable expenses for Early Intervention/Preschool Special Education and Direct Assistance services.

- Fines and Forfeitures are projected to fall $3.8 million below budget. The shortfall is driven primarily by lower than assumed ticket revenue for traffic and parking infractions, court fees, and alarm permit fines.

# III. DISCUSSION OF FY 2014

As required by the County Charter and NIFA Act, the County submitted its Proposed Multi-Year Financial Plan, Fiscal 2014-2017, the first year of which is the Proposed Budget for FY 2014. See Appendix A. Our analysis of the Proposed Budget indicates that the County could end FY 2014 with a budgetary deficit of approximately $104.4 million, including $65 million in unbudgeted tax certiorari refunds and $17 million in unbudgeted judgments and settlements, if the risks we have identified are not resolved. The projected risks (as shown in the chart that follows) total approximately $122 million on a GAAP basis (basis mandated by the NIFA Act) and is more than four times the $28 million deficit which would trigger a control period. Consequently, we do not expect the control period to be terminated.

| Analysis of Proposed FY 2014 Budget on a Budgetary Basis | | | | | |
|---|---|---|---|---|---|
| ($ in millions) | **FY 2013 Projection** | | **FY 2014 Proposed** | **FY 2014 Projection** | **Estimated Surplus/(Risk)** |
| **Revenues:** | | | | | |
| **Use of Fund Balance** | **$10.0** | | **$10.0** | **$10.0** | **$0.0** |
| **Fines and Forfeitures** | **58.7** | | **67.9** | **62.8** | **(5.1)** |
| **Rents and Recoveries** | **25.0** | | **22.2** | **19.0** | **(3.2)** |
| **Department Revenues** | **165.0** | | **166.3** | **159.7** | **(6.6)** |
| *Mortgage Recording Fees* | *22.0* | | *27.9* | *25.4* | *(2.5)* |
| *GIS Tax Map Fee* | *0.0* | | *1.5* | *0.0* | *(1.5)* |
| *Clerk Initiative* | *0.0* | | *1.0* | *0.0* | *(1.0)* |
| *Other* | *143.0* | | *135.9* | *134.3* | *(1.6)* |
| **Sales Tax** | **1,143.3** | | **1,165.8** | **1,165.8** | **0.0** |
| **Other Revenue** | **1,363.7** | | **1,357.9** | **1,357.3** | **(0.6)** |
| **Total Revenues** | **2,765.7** | | **2,790.1** | **2,774.6** | **(15.5)** |
| | | | | | |
| **Expenditures:** | | | | | |
| **Salaries and Wages** | **810.4** | | **809.5** | **821.1** | **(11.6)** |
| *Overtime (PD and CC)* | *78.2* | | *66.2* | *76.2* | *(10.0)* |
| *Terminal Leave* | *34.4* | | *31.2* | *31.2* | *(0.0)* |
| **Fringe Benefits** | **458.8** | | **480.4** | **485.4** | **(5.0)** |
| **Tax Certiorari Payments** | **20.0** | | **10.0** | **75.0** | **(65.0)** |
| **Judgments & Settlements** | **25.2** | | **3.0** | **20.0** | **(17.0)** |
| **Other Expenditures** | **1,452.5** | | **1,487.2** | **1,489.5** | **(2.3)** |
| **Total Expenditures** | **2,766.9** | | **2,790.1** | **2,891.0** | **(100.9)** |
| | | | | | |
| **Subtotal of Risks** | | | | | **($116.4)** |
| **Contingency** | | | | | **12.0** |
| **Total Net Risk** | **($1.2)** | | | | **($104.4)** |

**<u>FY 2014 RISKS</u>**

The risks in FY 2014 fall into two main categories:

A. Category One Risks **– Implementation Risks** ($34.4 million).

These are risks from actions that our analysis indicates may be difficult to execute and/or may result in fewer savings or less revenue than assumed.

For example, the County plans to sell certain properties for which no contracts currently exist. In addition, the County projects an increase in the amount of departmental revenue and fines and forfeitures as well as a decrease in police overtime compared to projected FY 2013 levels.

B. Category Two Risks **– Requires NIFA or County Legislative Action** ($82.0 million).

These are risks that cannot be implemented until the County Legislature or NIFA takes a favorable action(s).

For example, the County proposes to bond almost all payments for tax certiorari refunds and other judgments and settlements.

**Other Major Concerns**

In addition to these risks, there are two concerns that we have not included on the risk table, but are important factors in achieving and maintaining GAAP balance.

First, the Administration has reached a memorandum of agreement with the largest of its police unions, the Police Benevolent Association ("PBA"), under which its members are seeking to have the County-wide wage freeze lifted. The agreement, which requires ratification by its members, the Legislature and NIFA, purportedly provides sufficient savings, over time, to offset the unbudgeted costs generated by terms of the agreement. While certain proposed contractual concessions may be considered groundbreaking and will yield recurring savings prospectively, our preliminary analysis indicates that the Proposed Plan does not contain sufficient funding (assuming the most favorable assumptions) to cover the additional costs that would result from ending the wage freeze. We will make a final determination on a cost analysis, and any related matters, if and after it is formally submitted to NIFA and we complete our review.

Furthermore, it is our understanding that the Administration is negotiating with its other unions to find alternatives to the County-wide wage freeze. We will review these agreements in due course to assess their individual and collective impact on the Multi-Year Plan.

Second, the Proposed Budget includes as "revenue" a draw of $10 million against its unreserved fund balance, as was done in both FY 2012 and FY 2013. The County has informed us that it would take this action only if, and to the extent, that the $10 million is needed to mitigate budgetary variances.

Fund balance "resources" are not considered revenue under GAAP and, therefore, its use does not help to advance the County's effort to achieve GAAP balance. Of equal importance is that the Comptroller has noted previously that the County's unreserved fund balance, including the County-wide Special Purpose Funds, is already well below the County's official fund balance policy and industry standards. Not only is a low fund balance fiscally dangerous to carry in case of unforeseen budgetary emergencies, but any further reduction could also lead to a further downgrade in the County's credit rating.

Although the Sewer and Storm Water Resources District is not one of the five Major Funds, as defined in the NIFA Act, we note that the Proposed Budget includes the use of at least $29 million of the District's fund balance reserves to maintain sewer operations. A preliminary injunction has prevented the County from implementing its plan to begin charging certain previously exempt non-profit organizations (excluding houses of worship, but including school districts) a waste disposal fee. The County expected to generate almost $20 million in annual revenue from these fees. Taken together, the Sewer and Storm Water Resources District does not appear to have a sustainable business model in the absence of the proposed new revenue stream or other tax increase.

The following discussion explains in greater detail what NIFA staff considers to be the major projected risks.

**Fines and Forfeitures –** The County has budgeted $67.9 million in anticipated revenue from fines and forfeitures, of which we project $5.1 million to be at risk. Most of this risk stems from projected shortfalls in ticket revenues received for parking and traffic violations and alarm permit fines assessed by the Police Department.

**Rents and Recoveries –** The County has budgeted $22.2 million in rents and recoveries, which is a category of revenue that includes the sale of County property, rental income from tenants that occupy County facilities, recoveries generated by the reversal of prior year appropriations, and recoveries associated with the settlement of claims brought by the County against defendants. Of this amount, the County expects to realize $3.2 million from the sale of County property in FY 2014. We consider the additional revenue to be at risk until specific parcels and potential purchasers are identified, contractual agreements are reached, and the legislative approvals are secured.

**Department Revenues –** The County has budgeted $166.3 million in departmental revenue, of which we project $6.6 million to be at risk. Most of this risk stems from four sources: a Geographic Information Services ("GIS") tax map verification fee initiative, which was approved by the Legislature in 2013, but not implemented; Clerk fees from a web-based document access initiative, which was also approved by the Legislature in 2013, but not implemented; mortgage recording fees, which may be negatively impacted by a slowdown in the mortgage refinancing boom in response to rising interest rates; and police tow truck franchise fees, which have never met the County's expectations.

**Sales Tax –** Sales tax is the largest revenue source for the County, comprising more than 40% of all revenues in the Major Funds, and is budgeted at $1.166 billion for FY 2014, including $4.4 million in sales tax earned in 2012, but for technical reasons not accounted for until FY 2014. ("Deferred Sales Tax").

The County projects that sales tax revenue will grow by 4.0% in FY 2014 over the amount budgeted in FY 2013. We consider this projection to be conservative, but prudent since it is unclear how much of the year-to-date sales tax strength (receipts are up 9.4%) is a result of post-Superstorm Sandy spending versus a result of a nascent economic recovery.

**Salaries and Wages –** The County projects that salaries and wages will total $809.5 million in its Major Funds, which are defined as the General Fund, the Police District Fund, the Police Headquarters Fund, the Fire Commission Fund, and the Debt Service Fund.

The projections reflect the County's assumption that the NIFA imposed wage freeze will continue through the end of 2015 and that employees will receive only step increases, and no cost of living adjustments (COLAs) in 2016 and 2017. Within this paradigm, our analysis indicates that expenditures for salaries and wages may still be underfunded by approximately $11.6 million in FY 2014, including $10 million for overtime and $1.6 million for unspecified savings initiatives.

Although we have not quantified the other risks, we emphasize that any savings generated by the continuation of a wage freeze requires that NIFA annually make a determination that a fiscal crisis exists and that a wage freeze is essential to the County's adoption and maintenance of a budget balanced in accordance with the NIFA Act. Also, despite the expiration of all labor agreements at the end of FY 2015, we remain skeptical of the County's ability to limit salary adjustments to step increases in FY 2016 and FY 2017.

Despite increasing the amount budgeted for police overtime by $6 million in FY 2014, compared to FY 2013, our analysis indicates that it still remains underfunded by approximately $10 million. We are cautiously optimistic that the County's plan to increase police headcount may ultimately impact overtime usage favorably; however, we remain unconvinced that the additional police officers will have a material impact on overtime usage in 2014. The County has not identified any other police overtime reduction strategies.

The Proposed Budget contains funding for 7,395 full-time positions, which is the same headcount level included in the FY 2013 Adopted Budget. See Appendix B. Although the County's on-board headcount was 7,301 at the end of August, or 94 positions below the Proposed Budget, we are doubtful that the County can realize its $1.6 million unspecified salary savings target. Our concern stems from perceived staffing needs in various County departments, which have been charged with maintaining services despite headcount levels that have been significantly reduced in prior years through layoffs, retirement incentives, and normal attrition. Furthermore, the County plans to increase the number of police officers from 2,207 (at the end of August) to 2,270 by hiring a class of up to 150 officers by the end of 2013.

**Fringe Benefits –** Our analysis indicates that the projected expenditures for health insurance may be understated by approximately $5 million. Our projections are based on more conservative assumptions than the County's, which they based on the optimistic end of a range of projected growth rates provided as guidance by the New York State Department of Civil Service. Since Civil Service has not yet concluded their rate-setting negotiations with the health insurance carriers, the County must be prepared to mitigate unanticipated costs should the final rate increases be greater than they assumed.

Although the County has reasonably estimated its pension liability, we believe it is important to note that for the third consecutive year, the County is taking advantage of a State authorized provision that allows the County to amortize certain pension costs. This provision translates to savings of approximately $71.5 million in FY 2014. As we have warned in previous years, while the use of this provision will yield considerable budget relief in FY 2014, the effect of the amortization is to merely extend current liabilities into the future.

**Tax Certiorari Payments –** The County has budgeted only $10 million for property tax refund payments in FY 2014. Based on the history of these payments, we project that the County has underfunded these expenditures by approximately $65 million. Although the County endeavors to bond all refund payments made in excess of the $10 million appropriated in the operating budget, it cannot execute this strategy without authorization by the Legislature and approval by NIFA. Specifically, the County wants to borrow $230 million in FY 2014 to fund both its FY 2014 liability as well as a portion of its intractable tax certiorari backlog, which stands at $297 million as of December 31, 2012.

The County claims they can accomplish their goal because of certain recently successful actions, the most prominent being its program to settle all of its residential appeals before the tax rolls become final. The program was extremely successful in 2013 and helped the County avoid having to pay 100% of any residential judgment(s).

Regrettably, residential tax certiorari claims are only 20% (approximately) of the value of appeals; with the commercial properties making up the vast majority of the remainder. We are not convinced that the County's desire to extend its rapid appeal process will be effective for commercial properties. We are also wary because the residential appeal process was completed some months ago and we have yet to see any measureable progress for the commercial properties. We believe the residential program will be hard to replicate because commercial appeals are much more complicated and the amounts of money involved are far in excess of those for residential properties.

Furthermore, it is unclear at this time if the County can obtain the requisite approvals necessary to implement the proposed borrowing plan, including securing an affirmative vote by 13 Legislators and NIFA. NIFA's earlier support of the original "transitional cert borrowing" plan, which proposed borrowing $305 million for tax certiorari refunds in the County's 2012-2015 Multi-Year Plan, was predicated on several conditions which have not been met. Among the conditions, was a County commitment to reach GAAP balance by FY 2015 and a County commitment to realize $150 million in recurring labor savings, beginning in FY 2012. The County is making progress on the former, but has never fully achieved the latter.

Consequently, it is unclear how much tax certiorari borrowing, if any, NIFA will approve going forward. Since FY 2012, NIFA has approved $40 million in tax certiorari bonding and will consider, after a formal request is made by the Administration, the additional $35 million recently authorized by the Legislature. The remaining $230 million sought by the County is derived by taking the difference between the originally contemplated $305 million and the $75 million authorized by the Legislature. NIFA will determine how much, if any, of the $230 million will be approved.

**Judgments and Settlements –** The County has budgeted only $3 million for judgments and settlements, a figure which is far below what has historically been needed in this category on a recurring basis. In fact, the County wants to borrow $20 million to cover these costs in FY 2014. The proposed borrowing, which merely defers the impact of the current year's operating costs to future periods, requires authorization by the Legislature and approval by NIFA. Even if the requisite approvals are secured, we remind the County that NIFA has directed it to stop using this fiscally imprudent funding practice after FY 2014.

**Other Expenditures –** We project that the County will exceed its $1.5 billion budget for various other items by approximately $2.3 million. The risks are composed of nominal variations within social services related expenditures.

**Contingency Reserve –**The Proposed Budget allocates $12 million for contingencies. Although our analysis indicates that the Proposed Budget contains fewer risks than in recent years, the amount appropriated for contingencies may be insufficient to mitigate unanticipated shortfalls that could emerge in FY 2014. However, we find the County's decision to not maintain any reserve for contingencies in the Out-Years to be even more disconcerting.

## Other Concerns

**County Guarantee –** In FY 2010 the County passed legislation ("tax cert legislation") to end the County's obligation to indemnify towns and villages for errors in the assessment process. In response, 40 school districts and other plaintiffs filed suit against the County claiming it was a constitutional violation of State law. In the State Supreme Court, the County prevailed; however, the plaintiffs appealed to the Appellate Division and won. Although the County has countered this decision with its own appeal, it must recognize that if the tax cert legislation is not upheld in the courts, the County will continue to amass this liability, largely unbudgeted within its Proposed Operating Budget. The County should be considering how they will address this problem if the plaintiffs' position continues to be affirmed.

# IV. THE OUT-YEAR GAPS: FY 2015 – FY 2017

This section of our report discusses the projected Out-Year gaps and the County's plan for ensuring balance in these years.

**Sizing the Out-Year Gaps** – Even if it can successfully implement its entire 2014 gap-closing plan, the County projects (on a non-GAAP basis) that baseline gaps of $32.3 million in FY 2015, $48.5 million in FY 2016, and $51.3 million in FY 2017 will remain in the Out-Years, as shown in the table below. The baseline gaps were calculated by the County using growth rate assumptions listed in Appendix C.

| Projected Out-Year Gaps on a Budgetary Basis | | | |
|---|---|---|---|
| ($ in millions) | **FY 2015** | **FY 2016** | **FY 2017** |
| **County Estimated Baseline Gap** | **($32.3)** | **($48.5)** | **($51.3)** |
| **NIFA Risks** | **(125.5)** | **(142.3)** | **(173.7)** |
| **NIFA Estimated Baseline Gap Surplus/(Deficit)** | **($157.8)** | **($190.8)** | **($225.0)** |

However, based upon our review of the Proposed Multi-Year Plan, our analysis indicates that the County's projections of Out-Year gaps may be understated by approximately $126 million in FY 2015, $142 million in FY 2016, and $174 million in FY 2017, if the risks we identified in FY 2014 are not satisfactorily addressed with recurring solutions.

The magnitude of risks identified by NIFA, or the amount of risk in each Out-Year above the County's estimated baseline gap, is greater than what we currently project for FY 2014 by approximately $21 million. The increase in risks between FY 2014 and FY 2015 (and more in subsequent years) is attributable to three major factors:

- $12 million – no contingency reserve
- $13 million – no historic mission payment to NHCC
- $15 million – health insurance growth rate assumption

The additional risk created by the three major factors is offset, in part, by $20 million in additional funding the County earmarked for tax certiorari refunds. However, despite the increase, which raised the budgeted amount for these expenditures from $10 million in FY 2014 to $30 million in FY 2015 (and subsequent years), we believe that projected spending on tax certiorari refunds remains significantly understated.

***Contingency Reserve*** - We advise the County to fund contingency reserves in each of the Out-Years; even the $12 million budgeted for FY 2014 seems too low considering the size of its $2.8 billion budget. Despite the County's endeavor to accurately project future revenues and expenditures, there is a high probability that certain assumptions will break unfavorably against the County each year. A modest contingency reserve could buffer the otherwise disruptive impact on operations caused by mid-year unforeseen increases in expenditures or unanticipated shortfalls in revenues.

***Historic Mission Payment*** - The County plans to end its annual $13 million historic mission payment to the Nassau Health Care Corporation ("NHCC") after its legal obligation to make this payment expires in FY 2014. The County's only remaining assistance would be limited to its guaranty of NHCC's $252 million in outstanding long-term debt, as of December 31, 2012. We are concerned that without additional County support NHCC's persistently weak fiscal condition could be further jeopardized.

***Health Insurance*** - Our analysis indicates that the County's projections for health insurance costs may be understated by approximately $15 million in FY 2015 and greater amounts in FY 2016 and FY 2017. We recommend that the County use more conservative growth rate assumptions to project the Out-Year costs of this fringe benefit, over which it has limited control for current employees and retirees.

***Judgments and Settlements*** - Every municipality encounters judgments and settlements in the normal course of business. Within a limited range, these costs are predictable. Consequently, they should be budgeted as part of the operating budget, as they are in the budgets of other municipalities in New York State. Only in the case of extraordinary judgments or settlements should they be funded through borrowing or from an appropriate reserve. Nevertheless, the Multi-Year Plan indicates that the County plans to borrow for substantially all of these costs in the Out-Years, which also contradicts NIFA's directive to fund these costs in the operating budget after FY 2014. It should be noted that the Administration acknowledged, subsequent to the release of its Multi-Year Plan, NIFA's directive to cease borrowing for these costs and informed us that this issue will be addressed before the budget is adopted.

The following discussion describes the County's plan to close the baseline gaps it has projected. However, as discussed above and illustrated in the table on the previous page, our analysis indicates that the County's projections of baseline gaps are understated.

**Closing the Out-Year Gaps –** Our analysis indicates that, at best, the projected value of the County's gap-closing plan will still be insufficient to close the NIFA estimated baseline gap (NIFA's projected risks plus the County's estimated baseline gap). See "County Gap Closing Plan" table on page 17.

In addition, we are concerned that the gap-closing plan repeats many of the same initiatives already proposed in earlier financial plan submissions, almost all of which contain considerable risk or require outside approval.

| County Gap Closing Plan | | | |
|---|---|---|---|
| ($ in millions) | FY 2015 | FY 2016 | FY 2017 |
| **Expense/Revenue Actions** | | | |
| Video Lottery Terminals | $19.0 | $19.0 | $20.0 |
| Office Consolidation | 3.0 | 7.0 | 7.0 |
| Improve Detainee to Staff Ratio at Correctional Center | 3.0 | 5.0 | 5.0 |
| 207c Reform | 2.0 | 2.0 | 2.0 |
| **Financing Options/Asset Sales** | | | |
| Sale of Surplus County Property | 5.0 | 5.0 | 5.0 |
| **NYS Actions** | | | |
| Mandate Reform | 10.0 | 10.0 | 10.0 |
| Other NYS Initiatives (e.g. speed cameras, etc.) | 8.0 | 12.0 | 12.0 |
| **Total Gap Closing Options** | **$50.0** | **$60.0** | **$61.0** |
| **NIFA Estimated Baseline Gap** | **($157.8)** | **($190.8)** | **($225.0)** |
| **Remaining Surplus/(Deficit)** | **($107.8)** | **($130.8)** | **($164.0)** |

**Expense/Revenue Actions** – The County has outlined several initiatives that it is pursuing and that it projects could generate additional revenue or reduce expenditures in the Out-Years. While this may be true, there are not detailed plans of implementation for us to evaluate.

*Video Lottery Terminals* – On July 30, 2013 Governor Cuomo signed a law allowing Nassau County to install up to 1,000 video lottery terminals ("VLT's"). A tentative agreement was subsequently reached between the County and OTB, allowing for the installation of 1,000 VLT's in the Race Palace in Plainview. The net revenue, after distributions for education, lottery administration and marketing, and New York Racing Association initiatives, is to be used to subsidize operations at the gaming facility. Any remainder is to be remitted to Nassau County to "defray property costs." Based on data from operating casinos, net revenue to the County is estimated to be $19 million per year after distributions and operating subsidies.

*Office Consolidation* – The County claims that reductions in its workforce have provided opportunities for reduction of office space and centralization of its staff.

*Improve Detainee to Staff Ration at Correctional Center* – As previously described in the County's FY 2013 – FY 2016 Multi-Year Plan, the County is seeking savings through a review of service levels provided to inmates, an analysis of the physical layout of the Correctional Center and a study of staff deployment.

*207c Reform* – As previously described in the County's FY 2013 – FY 2016 Multi-Year Plan, the County will continue to partner with its third party administrator to seek ways to achieve additional savings.

**Financing Options/Asset Sales**

*Sale of Surplus County Property* – Commencing in FY 2014, the County is counting on the receipt of revenue from sales of unidentified County property. While there may be immediate value from the sale of land as a gap-closing initiative, it is a one-shot cash infusion that bridges the deficit between recurring revenues and expenditures but does nothing to address the persistent structural imbalance.

**New York State Actions**

Among the initiatives are two proposals that would require State approval before they could be advanced: (1) installation of speed cameras at school crossings and red light camera locations; and (2) cost containment strategies within the Early Intervention/Special Education programs.

# V. CONCLUSION

Because of the uncertainty contained in the Proposed Plan, NIFA will continue to carefully monitor the County and be on the lookout for backsliding. While the projected cash deficit may be manageable, the GAAP deficit (the statutory standard by which NIFA is required to measure balance) continues to be well in excess of the trigger point for the continuation of a control period. Nevertheless, we conclude that the Proposed Plan and its FY 2014 Budget meet the standards of prudence necessary for us to recommend approval.

However, this recommendation is predicated on:

- The County identifying and incorporating acceptable alternatives to bonding for judgments and settlements in FY 2015, FY 2016, and FY 2017.
- No other significant actions by the County Legislature to alter the Proposed Plan.
- A detailed explanation of the County's plan for tax certiorari settlements that fits within the dollar amounts outlined in the Proposed Plan.

Finally, we remind the County that approval of the Proposed Plan is not approval of each single item in the Plan. It is solely an indication that after weighing all of initiatives in the Plan we believe that, on balance, it appears to be in substantial compliance with the requirements of the NIFA Act.

# VI. APPENDICES

## Appendix A

### PROPOSED FY 2014-FY 2017 MULTI-YEAR PLAN

| OBJECT | 2014 PROPOSED BUDGET | 2015 PLAN | 2016 PLAN | 2017 PLAN |
|---|---|---|---|---|
| ***EXPENDITURES*** | | | | |
| AA - SALARIES, WAGES & FEES | 809,531,333 | 807,581,541 | 821,371,932 | 823,393,722 |
| AB - FRINGE BENEFITS | 480,418,472 | 502,325,865 | 529,413,069 | 560,601,166 |
| AC - WORKERS COMPENSATION | 28,022,281 | 28,022,281 | 28,022,281 | 28,022,281 |
| BB - EQUIPMENT | 1,788,495 | 1,840,361 | 1,893,732 | 1,948,650 |
| DD - GENERAL EXPENSES | 33,299,079 | 33,991,037 | 34,784,254 | 35,600,782 |
| DE - CONTRACTUAL SERVICES | 237,747,536 | 238,676,428 | 241,853,304 | 245,119,501 |
| DF - UTILITY COSTS | 39,563,757 | 38,648,883 | 37,399,660 | 35,781,824 |
| DG - VAR DIRECT EXPENSES | 5,000,000 | 5,000,000 | 5,000,000 | 5,000,000 |
| FF - INTEREST | 98,451,669 | 122,452,216 | 127,641,152 | 127,007,202 |
| GA - LOCAL GOVT ASST PROGRAM | 69,572,689 | 71,622,370 | 73,733,541 | 75,908,047 |
| GG - PRINCIPAL | 69,234,999 | 88,960,000 | 96,135,001 | 108,520,000 |
| HC - NHC ASSN EXP NASSAU HEALTH CARE ASSN | 13,000,000 | 0 | 0 | 0 |
| HH - INTERFD CHGS INTERFUND CHARGES | 20,316,649 | 28,484,304 | 28,225,213 | 25,034,350 |
| MM - MASS TRANSPORTATION | 43,575,746 | 44,763,909 | 45,986,529 | 47,244,605 |
| NA - NCIFA EXPENDITURES | 1,960,000 | 1,875,000 | 1,850,000 | 1,850,000 |
| OO - OTHER EXPENSE | 263,944,053 | 264,963,345 | 255,259,963 | 240,169,546 |
| PP - EARLY INTERVENTION/SPECIAL EDUCATION | 139,500,000 | 142,290,000 | 145,135,800 | 148,038,516 |
| SS - RECIPIENT GRANTS | 64,100,000 | 63,459,000 | 63,459,000 | 63,459,000 |
| TT - PURCHASED SERVICES | 61,247,021 | 63,084,432 | 64,976,965 | 66,926,274 |
| WW - EMERGENCY VENDOR PAYMENTS | 56,595,000 | 54,897,150 | 53,799,207 | 53,261,215 |
| XX - MEDICAID | 253,257,500 | 253,257,500 | 253,257,500 | 253,257,500 |
| **TOTAL EXPENDITURES** | **2,790,126,279** | **2,856,195,623** | **2,909,198,103** | **2,946,144,181** |
| ***REVENUES*** | | | | |
| AA - FUND BALANCE | 10,000,000 | 0 | 0 | 0 |
| BA - INT PENALTY ON TAX | 29,100,000 | 29,100,000 | 29,100,000 | 29,100,000 |
| BC - PERMITS & LICENSES | 13,483,587 | 14,483,587 | 13,483,587 | 14,483,587 |
| BD - FINES & FORFEITS | 67,901,789 | 67,411,985 | 67,411,985 | 67,411,985 |
| BE - INVEST INCOME | 2,118,700 | 2,129,294 | 2,144,199 | 2,163,496 |
| BF - RENTS & RECOVERIES | 22,182,978 | 18,080,937 | 16,952,653 | 19,024,369 |
| BG - REVENUE OFFSET TO EXPENSE | 11,198,740 | 11,198,740 | 11,198,740 | 11,198,740 |
| BH - DEPT REVENUES | 166,298,625 | 165,798,625 | 165,798,625 | 165,798,625 |
| BI - CAP BACKCHARGES | 100,000 | 100,000 | 100,000 | 100,000 |
| BO - PAY LIEU TAX PAYMENT IN LIEW OF TAXES | 9,424,089 | 10,595,989 | 10,029,649 | 8,601,439 |
| BQ - D/S FROM CAP DEBT SERVICE FROM CAPITAL | 7,185,600 | 3,552,000 | 3,280,000 | 3,280,000 |
| BW - INTERFD CHGS INTERFUND CHARGES REVENUE | 83,787,910 | 102,916,723 | 105,407,156 | 99,530,846 |
| FA - FEDERAL AID REIMBURSEMENT OF EXPENSES | 141,461,668 | 141,461,668 | 141,461,668 | 141,461,668 |
| SA - STATE AID REIMBURSEMENT OF EXPENSES | 219,869,773 | 220,882,043 | 222,462,808 | 224,075,189 |
| TA - SALES TAX CO SALES TAX COUNTYWIDE | 1,072,930,055 | 1,105,117,957 | 1,138,271,495 | 1,172,419,640 |
| TB - PART COUNTY SALES TAX PART COUNTY | 92,933,278 | 91,212,333 | 93,948,703 | 96,767,164 |
| TL - PROPERTY TAX | 807,049,409 | 807,049,409 | 807,049,409 | 807,049,409 |
| TO - OTB 5% TAX | 2,999,078 | 2,722,794 | 2,475,130 | 2,253,025 |
| TX - SPECIAL TAXS SPECIAL TAXES | 30,101,000 | 30,101,000 | 30,101,000 | 30,101,000 |
| **TOTAL REVENUES** | **2,790,126,279** | **2,823,915,083** | **2,860,676,807** | **2,894,820,183** |
| **PROJECTED SURPLUS/GAP** | **0** | **(32,280,539)** | **(48,521,296)** | **(51,323,999)** |

# Appendix B

**FY 2014 PROPOSED BUDGET FULL-TIME HEADCOUNT (HC) COMPARISON TABLE**

| Department | Sum of 2013 Adopted HC | Sum of 2014 Proposed HC | Inc/Dec | On-Board Aug 30, 2013 | Inc/Dec |
|---|---|---|---|---|---|
| AC - DEPARTMENT OF INVESTIGATIONS | 0 | 0 | 0 | 0 | 0 |
| AR - ASSESSMENT REVIEW COMMISSION | 29 | 29 | 0 | 28 | (1) |
| AS - ASSESSMENT DEPARTMENT | 160 | 158 | (2) | 156 | (2) |
| AT - COUNTY ATTORNEY | 106 | 107 | 1 | 106 | (1) |
| BH - DEPT OF MH, CHEM DEPEND & DISABLE | 0 | 0 | 0 | 0 | 0 |
| BU - OFFICE OF MANAGEMENT AND BUDGET | 25 | 25 | 0 | 21 | (4) |
| CA - OFFICE OF CONSUMER AFFAIRS | 27 | 27 | 0 | 26 | (1) |
| CC - NC SHERIFF/CORRECTIONAL CENTER | 1,152 | 1,134 | (18) | 1,093 | (41) |
| CE - COUNTY EXECUTIVE | 20 | 18 | (2) | 18 | 0 |
| CF - OFFICE OF CONSTITUENT AFFAIRS | 39 | 38 | (1) | 38 | 0 |
| CL - COUNTY CLERK | 84 | 84 | 0 | 83 | (1) |
| CO - COUNTY COMPTROLLER | 86 | 86 | 0 | 76 | (10) |
| CS - CIVIL SERVICE | 53 | 51 | (2) | 49 | (2) |
| DA - DISTRICT ATTORNEY | 375 | 375 | 0 | 361 | (14) |
| EL - BOARD OF ELECTIONS | 139 | 139 | 0 | 154 | 15 |
| EM - EMERGENCY MANAGEMENT | 10 | 9 | (1) | 9 | 0 |
| FC - FIRE COMMISSION | 97 | 95 | (2) | 91 | (4) |
| HE - HEALTH DEPARTMENT | 169 | 173 | 4 | 169 | (4) |
| HI - HOUSING & INTERGOVERNMENTAL AFFA | 12 | 12 | 0 | 12 | 0 |
| HP - PHYSICALLY CHALLENGED | 0 | 0 | 0 | 0 | 0 |
| HR - COMMISSION ON HUMAN RIGHTS | 8 | 8 | 0 | 8 | 0 |
| HS - DEPARTMENT OF HUMAN SERVICES | 80 | 77 | (3) | 74 | (3) |
| IT - INFORMATION TECHNOLOGY | 85 | 79 | (6) | 75 | (4) |
| LE - COUNTY LEGISLATURE | 97 | 102 | 5 | 88 | (14) |
| LR - OFFICE OF LABOR RELATIONS | 4 | 5 | 1 | 4 | (1) |
| MA - OFFICE OF MINORITY AFFAIRS | 5 | 6 | 1 | 6 | 0 |
| ME - MEDICAL EXAMINER | 74 | 72 | (2) | 68 | (4) |
| PA - PUBLIC ADMINISTRATOR | 6 | 6 | 0 | 6 | 0 |
| PB - PROBATION | 198 | 200 | 2 | 193 | (7) |
| PD - POLICE DEPARTMENT | 3,025 | 3,052 | 27 | 2,969 | (83) |
| PE - DEPARTMENT OF HUMAN RESOURCES | 9 | 9 | 0 | 9 | 0 |
| PK - PARKS, RECREATION AND MUSEUMS | 151 | 151 | 0 | 153 | 2 |
| PL - PLANNING | 0 | 0 | 0 | 0 | 0 |
| PR - PURCHASING DEPARTMENT | 11 | 11 | 0 | 11 | 0 |
| PW - PUBLIC WORKS DEPARTMENT | 422 | 417 | (5) | 410 | (7) |
| RE - OFFICE OF REAL ESTATE SERVICES | 0 | 0 | 0 | 0 | 0 |
| RM - RECORDS MANAGEMENT | 14 | 14 | 0 | 12 | (2) |
| SA - COORD AGENCY FOR SPANISH AMERICA | 4 | 4 | 0 | 4 | 0 |
| SC - SENIOR CITIZENS AFFAIRS | 0 | 0 | 0 | 0 | 0 |
| SS - SOCIAL SERVICES | 644 | 640 | (4) | 641 | 1 |
| TR - COUNTY TREASURER | 33 | 32 | (1) | 30 | (2) |
| TV - TRAFFIC & PARKING VIOLATIONS AGEN | 43 | 43 | 0 | 43 | 0 |
| VS - VETERANS SERVICES AGENCY | 6 | 7 | 1 | 7 | 0 |
| YB - NASSAU COUNTY YOUTH BOARD | 0 | 0 | 0 | 0 | 0 |
| **SubTotal** | **7,502** | **7,495** | **(7)** | **7,301** | **(194)** |
| Unallocated HC Reduction | **(107)** | **(100)** | **7** | **0** | **100** |
| **Grand Total** | **7,395** | **7,395** | **0** | **7,301** | **(94)** |

## Appendix C

| Expense/Revenue Category | FY 2015-17 Plan | FY 2015- FY 2017 Plan Explanations |
|---|---|---|
| **Expenditures** | | |
| ***Wages*** | | |
| Non-Police Pension | 5.47%, 8.34%, 10.02% | Estimates provided by the NYS Comptroller |
| Police Pension | 7.62%, 4.37%, 7.06% | Estimates provided by the NYS Comptroller |
| Health Ins. – Active | 3.57%, 5.50%, 5.50% | Reflects NYSHIP average change from 2011-2013 |
| Health Ins. – Retirees | 5.05%, 6.50%, 6.50% | Reflects NYSHIP average change from 2011-2013 |
| Other Than Personal Services | 2.9%, 2.9%, 2.9% | |
| ***Utilities*** | | |
| Light and Power | -1.76%, 1.06%, 0.21% | EIA (DOE) 2013 Annual Energy Outlook Price Projection |
| Brokered Gas | -1.67%, 4.41%, 1.79% | EIA (DOE) 2013 Annual Energy Outlook Price Projection |
| Trigen | 3.09%, 4.94%, 2.66% | Blended weighting for the 10 yr avg CPI [2.79%] |
| Fuel | 0.27%, 1.69%, 2.09% | EIA (DOE) 2013 Annual Energy Outlook Price Projection |
| Water | 3.18%, 3.18%, 3.18% | EIA (DOE) 2013 Annual Energy Outlook Price Projection |
| Telephone | 1.00%, 1.00%, 1.00% | Historical Trend |
| Medicaid | Flat, Flat, Flat | Reflects most current caseload information |
| Social Services Entitlements | Variable | Reflects most current caseload information |
| Special Education | Variable | Reflects most current caseload information |
| | | |
| **Revenues** | | |
| State Aid | Variable | Variable based upon reimbursement formula |
| Federal Aid | Variable | Variable based upon reimbursement formula |
| Sales Tax | 3.00%, 3.00%, 3.00% | |
| Property Tax | None | No property tax increase in the baseline |