Nassau County Interim Finance Authority

NIFA

PRELIMINARY STAFF REVIEW OF THE PROPOSED MULTI-YEAR FINANCIAL PLAN FISCAL 2011 – 2014

September 28, 2010

I. OVERVIEW

On September 15, 2010, the County submitted the Proposed Multi-Year Financial Plan, Fiscal 2011-2014, the first year of which is the Proposed Budget for FY 2011. The following discussion reflects our view of their submission.

In sum, the Proposed Multi-Year Financial Plan, which includes the Budget for FY 2011, relies on significant State approvals, numerous revenue actions, passage of ordinances by the County Legislature, extraordinary levels of unacceptable borrowing for operating expenses, and most importantly, labor concessions that have not been secured. Each of these factors must be viewed as having a high degree of risk.

The magnitude of these various actions concerns us greatly. Indeed, given the level of risks in the County's Multi-Year Financial Plan as presented, we do not believe the Plan, and its FY 2011 Budget, meets the standards of prudence necessary for us to project budget balance at this time.

II. DISCUSSION

NIFA has reviewed the Proposed Multi-Year Financial Plan, Fiscal 2011-2014 (the "Proposed Plan"), the first year of which is the Proposed Budget for FY 2011 (the "Proposed Budget").

The following is a focused discussion of the County's baseline gap (which is a projection of the budgetary shortfalls that would exist if no remedial actions were taken), proposed gap-closing initiatives, and a summary of our findings and related concerns.

Baseline Gap

If no remedial actions were taken, we are in substantial agreement with the County's projection that the deficit in 2011 could have reached $343 million. Fortunately, stronger sales tax collections combined with steps taken in 2010 have already begun to lower the gap that would have existed in 2011; however, the County will have difficulty implementing some of its major initiatives.

The County's projections in the Proposed Budget reflect significant expenditure increases and revenue shortfalls. Major expenditure increases include spending on tax certiorari, health insurance, pensions, social services, and public safety overtime. Major revenue shortfalls arise from diminished sales tax receipts (caused by the repeal of the home energy tax) and investment income, as well as a failure to secure State authorization for a budgeted cigarette tax. Overall, our analysis indicates that the County's projections are reasonable.

Compared to its May Update of the Multi-Year Plan, the County has lowered its estimate of the baseline gap – after implementation of its FY 2011 gap closing program – but still project Out-Year gaps of $159.0 million in FY 2012, $217.0 million in FY 2013, and $267.8 million in FY 2014, as shown below. The County will need to develop a workable plan that can address the persistent structural imbalance between recurring revenues and recurring expenditures.

($ in millions)	**FY 2011**	**FY 2012**	**FY 2013**	**FY 2014**
MYP Update	($133.2)	($286.5)	($330.7)	($378.3)
Proposed MYP	-	(159.0)	(217.0)	(267.8)

FY 2011 Budget

The Proposed Budget includes a significant number of expense reductions and non-tax revenue increases. Most of the gap-closing initiatives require State or County Legislative approval, borrowing for operating expenses, and/or an aggressive interpretation of the County's statutory powers.

The Proposed Budget provides no operating funds to address its new tax certiorari liability, which has recently exceeded $100 million annually. The Proposed Plan assumes that the County will borrow up to $364 million in operating expenses to pay for tax certiorari refunds in 2011 and 2012 and to address its $164 million backlog. NIFA has consistently expressed its opposition to this fiscal practice.

Although the County announced that one of the major elements of its gap closing program was an expenditure reduction of $131 million generated from departmental cuts and headcount reductions, we were unable to reconcile these changes. However, our analysis does indicate that the County's projection of expenditures is reasonable, absent concerns we have regarding budgeted labor savings and ongoing management of headcount, as discussed below.

Substantial expenditure savings derive from a reduction in the size of the County's workforce, which is currently lower than the budgeted 2010 headcount by 608 full-time positions. This variance arises for two reasons. The first reason is that the 2010 Budget included funding for a significant number of positions that were never filled. The second reason is that more than 400 full-time employees separated from County service in 2010 due to early retirement incentive programs. Going forward, the County's decision to leave fewer funded, but unfilled positions in the Proposed Plan minimizes this inherent reserve that has been used in recent years to cover other unforeseen budgetary risks.

The County will realize significant recurring savings to the extent that it limits the number of positions that are backfilled; however, the current level of headcount may be difficult to sustain since the impact of these reductions on County operations has not yet been fully recognized. Implementation of the proposed headcount plan will require strong managerial skill and an acknowledgement by all stakeholders that service levels will likely decline to match the level that the County has calculated as affordable.

The County has also included a $61 million expenditure savings in the Proposed Budget from the unilateral imposition of reductions in employee salary and wages. The Administration intends to impose the cuts if it is unsuccessful at negotiating with its unions voluntary concessions of a similar magnitude. The County and its unions currently have collectively bargained contracts that extend through 2015. The Administration maintains that the County Legislature can authorize the ordered savings.

Finally, the Proposed Budget also includes approximately $60 million in non-tax revenue to be derived from increases in a number of fees and fines. These include mortgage and deed filing fees, park fees, fire safety fees, ambulance fees, and a surcharge on tickets for moving violations. Additionally, the Proposed Budget includes revenue growth from projected increases in volume, such as an increase in the number of operating red-light cameras.

FY 2011 Budget Risks

Listed below is NIFA's evaluation of the major risks related to the Proposed Budget. The County should consider these FY 2011 risks and be prepared to enact remedial actions, as it has in the past, to ensure that the Proposed Budget and Plan remain balanced.

	Estimated Risk ($ in millions)
FY 2011 Proposed Budget Risks and Offsets	
Certiorari Bonding	$100.0
Labor Savings	61.0
Long Island Bus Subsidy	26.0
Red Light Camera Expansion	17.3
County Clerk Fees	8.3
NIFA Restructuring Savings	8.0
TPVA Fines	7.3
Long Island Expressway Patrol Surcharge	5.0
Inmate Healthcare Initiative	4.8
Housing Suffolk Inmates	3.4
Parks Fees	2.3
Boot and Tow Initiative	1.0
Subtotal	**$244.4**
Less:	
Contingency Reserve	(10.0)
Total	**$234.4**

We have also identified as being at risk the Sewer Usage Charge initiative, which is budgeted to raise $19.3 million in revenue in the Sewer and Storm Water District Fund. This revenue would be generated by surcharging high usage properties and charging previously exempt non-profit organizations (excluding houses of worship, but including school districts) a waste disposal fee.

Discussion of FY 2011 Risks

- **Bonding for Certiorari Claims** – The County plans to forgo the use of operating revenues to fund its cert obligation and instead has proposed bonding of an additional $364 million over the next two years. The County estimates that this borrowing would cover refund payments of $100 million in each of 2011 and 2012 as well as its existing $164 million backlog.

If approved, the borrowing would provide relief to the operating budget in FY 2011 and 2012, but simultaneously create a long term expense for future taxpayers as the debt is amortized. We consider this initiative to be at risk since it requires County Legislative approval. Furthermore, NIFA has repeatedly expressed its opposition to the County's use of long term debt to pay for current operating expenses.

- **Labor Savings –** The County intends to unilaterally impose $61 million in salary savings on its workforce in 2011. Authorization would be provided by the County Legislature through "The Taxpayer Relief Act of 2010." The Act would "authorize and direct County officials to set and pay 2011 wages of County employees so as to be consistent with the County's 2011 Budget, notwithstanding any terms in any labor-related agreement to the contrary." We consider this initiative to be at risk since it requires County Legislative approval and could face possible litigation. In sum, the $61 million in savings has not yet been secured.

- **Long Island Bus Subsidy –** The County budgeted $9.1 million in subsidies to Long Island Bus, which includes $6.9 million in payments for fixed routes and $2.2 million for Able-Ride paratransit routes. However, the Metropolitan Transportation Authority ("MTA"), the parent corporation of Long Island Bus, has removed from its 2011 Preliminary Budget $26 million in funding that it had previously provided to cover the Bus system's operating deficit in 2010. The MTA indicated that it "will no longer make a financial contribution to LI Bus and that instead Nassau County will resume total funding of Long Island Bus Operations."

  While an official notice of termination has not been rendered by the MTA, we consider the potential loss of MTA subsidies to be a risk until a resolution of this matter is announced.

- **Red Light Camera Expansion –** The County proposes to double the number of intersections included in its Red Light Camera program by adding cameras to an additional 50 intersections. The County projects that the expanded program will yield an additional $17.3 million in net revenue in 2011 to supplement the $29 million it expects to realize from its existing program. We consider this initiative to be at risk since the expansion requires State approval. We also have concerns that delays experienced in rolling out of the existing program could recur and thereby negatively impact projected revenues.

- **County Clerk Fees –** The County proposes to increase the mortgage and deed recording fees charged by the County Clerk and thereby generate $8.4 million in additional revenue in 2011. We consider this initiative to be at risk since it requires County Legislative approval.

- **NIFA Restructuring Savings –** The County included in its Proposed Budget savings of $8.0 million from a refunding of NIFA debt. NIFA has subsequently informed the County that this level of savings is not attainable at this time and should be removed from its Proposed Budget.

- **TPVA Fines and LIE Patrol Surcharge –** The County proposes to impose a $15 processing fee on all tickets where there is a final disposition other than dismissal. It also has proposed a surcharge on moving violations to reimburse the County for the costs of patrolling the Long Island Expressway and Sunrise Highway, both of which are State roads. We consider these initiatives to be at risk since they require County and State Legislative approval, respectively. Additionally, the surcharge on moving violations on State roads has repeatedly been rejected at the State level.

- **Inmate Healthcare –** The County estimates that it can reduce its expenditures on medical and psychiatric services provided to inmates at the Correctional Center by $4.8 million. The County has issued an RFP for these services, which are currently provided under contract by the Nassau Health Care Corporation. Until a contract is awarded, we question whether these savings are achievable.

- **Housing Suffolk County Inmates –** The County estimates that it could generate $3.4 million in net revenue in 2011 by housing Suffolk County inmates at the Correctional Center. The County expects to complete renovations on a cell block during the first quarter of 2011, which it will use to house up to 100 Suffolk inmates at a rate of $125 per day. The initiative is at risk to the extent that renovations are not completed in a timely manner and/or the requisite inmate population is not produced.

- **Parks Fees –** The FY 2011 Proposed Budget includes a projected revenue increase of approximately $2.3 million over the current budget. The increased revenue is expected to be generated, in part, by various fee increases for existing services. We feel this component of the projected revenue is at risk because it requires County legislative approval and the County Legislature has historically demonstrated an unwillingness to increase various service fees.

  The year-to-year revenue increase is also attributed to new initiatives that were not included in the FY 2010 Budget. These include "advertising revenue" and "summer programs," which are expected to generate $1 million and $600,000, respectively. As these are both new and untested revenues, we are also concerned about their viability.

- **Sewer Usage Charge –** The County is proposing to establish a surcharge on high usage properties and charging previously exempt non-profit organizations (excluding houses of worship, but including school districts) a waste disposal fee. The County estimates that these changes will generate $19.3 million in revenue in the Sewer and Storm Water District Fund. Although this initiative does not directly impact the major funds, failure of implementation will have a significant impact on the taxpayers who support the Sewer and Storm Water District Fund.

Discussion of Major Out-Year Risks

- The Proposed Plan closes a majority of the Out-Year gaps with revenue it hopes to derive from public-private partnerships. These options, while vague, include privatizations, disposition of surplus assets, and debt restructuring. The County indicates that wastewater assets would be a valuable candidate for this effort. We question whether the County could realize its projections of $125 million in FY 2012, $125 million in FY 2013, and $125 million in FY 2014 from these actions.

  These types of financings are always subject to innumerable risks. Equally important, we are very disturbed by the use of these "proceeds" for operating expenses. Any successful actions should be used for capital purposes or to reduce planned borrowings, such as for certiorari.

- The County also intends to eliminate the "County Guarantee" of property tax refunds, thereby shifting these costs to other levels of government after 2012. Even if this highly controversial proposal passes legislative and legal hurdles, the Proposed Plan does not appear to account for the County's share of these costs in 2013 and 2014, which would be approximately $20 million in each year. It is doubtful that the County's other recently enacted assessment reforms, even if successful, would completely eliminate the County's liability.

III. CONCLUSION

The County's adoption of its Proposed Budget and Multi-Year Plan are at least a month away. During that time, hearings will take place to assist the Legislature in its deliberations. Negotiations are also continuing with labor and their successful conclusion would mitigate many of our current concerns. In addition, although we oppose borrowing for certiorari payments, it is undeniable that a financing could generate a short term infusion of funds. Finally, we need to see if numerous smaller revenue generating proposals are passed by the County Legislature.

We recommend that the Directors consider postponing commenting on the Proposed Budget and Plan until more conclusive information becomes available. However, based on our analysis at this time, and given the magnitude of the risks, we cannot project budget balance.