ULSTER COUNTY COMPTROLLER'S OFFICE

Elliott Auerbach, Comptroller

September 30, 2016

Ulster County Bureau of Weights and Measures Audit Report

The mission of the Ulster County Comptroller's Office is to serve as an independent agency of the people, to protect the public interest by monitoring County government and to assess and report on the degree to which its operation is economical, efficient and its financial condition sound.

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September 30, 2016

Dear County Officials:

Following herewith is our audit of the Ulster County Bureau of Weights and Measures ("UCWM" or "Bureau") regarding the inspection process pertaining to commercial pricing and measuring accuracy, including the billing and collection of fines and fees. Our analysis focused on the adequacy of procedures in place that govern the receipt of these types of payments.

We conclude that there is generally not an appropriate segregation of duties in place primarily due to a lack of written policy and/or procedure, as well as the small size of the Bureau. In an effective system of internal control, one individual cannot control all phases of a transaction, and the work of one employee should be independently verified in the course of another employee's regular duties. Currently, personnel in the UCWM have responsibilities related to billing, cash collecting, and recordkeeping, which increases the risk that cash could be misappropriated without detection. Moreover, we offered several other recommendations that may be found in the Additional Recommendations section of this report.

The reports issued by the Office of the Ulster County Comptroller ("Office") are an important component in accomplishing the development and promotion of short and long-term strategies to achieve reduced costs, improved service delivery, accountability, and protection for the County's assets. These reports are expected to be a resource and are designed to identify currently emerging fiscally related problems and provide recommendations for their improvement.

The Office conducted this audit and produced this report in accordance with the Comptroller's authority as set forth in Article IX, Section 57, first paragraph, and Sections 57(A) and (G) of the Ulster County Charter, as well as applicable New York State laws, rules, and regulations.

If we can be of assistance to you, or if you have any questions concerning this report, please feel free to contact us.

Respectfully submitted,

Ulster County Comptroller

Background

New York State's Weights and Measures program is a cooperative effort of state and local offices aimed at enforcing Article 16 of the New York State Agriculture and Markets Law. The NYS Department of Agriculture and Markets' State Bureau of Weights and Measures ("State Bureau") has statewide jurisdiction over the inspection, sampling, and testing of all commercially used measuring devices, packaged commodities, and petroleum products; however, NYS law mandates that each county have a weights and measures inspection function.[1] All devices used to weigh and measure commodities that are sold on the basis of their weight, volume, or size should be inspected and tested for accuracy at least once a year.[2]

The UCWM conducts inspections and tests that promote equity in commercial transactions. They also investigate consumer and business complaints related to pricing and measuring accuracy and are tasked with enforcing Chapter 169 of the Ulster County Code.[3] This Local Law requires accurate marking and pricing of consumer goods offered for sale in supermarkets and also ensures that the quality of gasoline and diesel fuel sold in Ulster County is in accordance with the NYS Petroleum Quality Contract.

In execution of the aforementioned responsibilities, the UCWM Director has been granted the authority to inspect, bill, document, and collect fees, fines, and forfeitures, as well as record this information within the County's financial system. Cash receipts associated with various transactions are remitted to the Ulster County Department of Finance ("DOF") for deposit.

During 2015, the UCWM collected $74,200 in device inspection fees from over 380 locations, investigated 23 complaints by consumers, operated the petroleum quality program, and performed pricing accuracy tests, taking over 190 samples from over 85 stations.

Objectives

The purpose of this audit was to provide reasonable assurance as to whether the Bureau had adequate controls in place to ensure compliance with NYS and local weights and measures laws and regulations for the period of January 1, 2015, through December 31, 2015.

Specifically, our audit sought to determine whether the Bureau:

- Inspected and tested weighing and measuring devices that are used to price goods in accordance with the aforementioned parameters;

[1] *See* Article 16, Section 180 (Municipal directors of weights and measures) of NYS Weights and Measures Law.
[2] *See* Title 1 New York Codes, Rules and Regulations Part 220.5 (Frequency of inspection and testing of devices).
[3] *See* Chapter 169: Consumer Protection of the Ulster County Code. Available at http://ecode360.com/9671442.

- Investigated consumer complaints in a timely manner; and
- Had sufficient internal controls in place over financial operations, including billing, recordkeeping, and collecting of cash receipts.

Scope

This audit was conducted in conformance with generally accepted government auditing standards. Those standards require that we plan and perform an audit in order to obtain sufficient and appropriate evidence so that we may provide a reasonable basis for our findings and conclusions, which are ultimately based on our aforementioned audit objectives. To view a short description of the Bureau's procedures regarding collections, complaints, and the Petroleum Quality Program, please see Appendix A within this report.

The *collection process* was documented and tested using the following methods:

- Interviewed the Director during field work from August 16 to August 19, 2016;
- Received a listing of all receipts recorded for the period of January 1, 2015, through December 31, 2015;
- Reviewed the inspection report numbers for continuity for the month of June 2015 to identify whether any gaps or voids existed – all of which were accounted;
- Tested 12 accounts receivable items as of December 31, 2015 – one receipt was recorded with the wrong GL date and was voided in the subsequent year, one receipt was voided as it was deemed uncollectible, one receipt was voided as the wrong vendor name was applied due to change in ownership, all other receipts were properly recorded and deposited into the bank account; and
- Tested 60 receipts throughout the year for various inspection fees – all were properly recorded, although we noted 14 were collected after 30 days as stated on the invoice. We were unable to trace deposits prior to April 2015 due to the method by which they were entered into the financial system; however, all deposits subsequent were made timely to the bank account.
- Tested four receipts that were collected in 2015 and subsequently voided – all voids tested were voided and re-issued for valid reasons.

The *complaint process* was documented and tested using the following methods:

- Interviewed the Director during field work from August 16 to August 19, 2016;
- Received a listing of all complaints for the period of January 1, 2015, through December 31, 2015;
- Tested 10%, or 3 of the 23 complaints, for timely response and proper documentation of the results of the complaint inquiry – all complaints were handled timely. However, the follow up with the complainant was not documented in the file despite records of verbal communications.

The *Petroleum Quality Program* was documented and tested using the following methods:

- Interviewed the Director during field work from August 16 to August 19, 2016;
- Tested 20 samples throughout the year to ensure proper documentation of the collection of petroleum, the subsequent transfer to the third party vendor, and that the certificate of testing was maintained. Two samples, which were taken at the same time at one station, were "void" because they were left at the station being tested. All other samples contained proper documentation.

Findings & Recommendations

A. Segregation of Duties

Finding – We noted that no written policies or procedures exist to ensure proper segregation of duties, partially due to staffing limitations. When one person performs essentially every duty related to billing, cash collection, and recordkeeping, it increases the risk that cash could be misappropriated without detection.[4] The Director and Deputy Director have the ability to perform inspections, issue bills, and collect payment. The Director also prepares deposit sheets for the DOF and records the activity in the financial system.

Recommendation – The Bureau should establish written policies and procedures to ensure proper segregation of duties. Specifically:

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

We understand that, largely due to UCWM being a department of two individuals, it may not be feasible to segregate all duties to such a desired level. However, if duties cannot be segregated adequately due to lack of personnel then County officials should implement mitigating controls such as independent monthly reviews of bank deposits, cancelled checks, and reconciliations for accounts receivable in comparison to the accounting records.

[4] *See gen* "Albany County Department of Weights and Measures: Potential Revenue Enhancement and Internal Controls Over Cash Receipts," by the Office of the New York State Comptroller (April 2014). Available at https://www.osc.state.ny.us/localgov/audits/counties/2014/albanycoweightsmeasures.pdf.

County officials should establish written policies and procedures that provide for the periodic reconciliation of billing and collection activity for individual customer accounts and the use of an accounts receivable control account.[5]

If a true segregation of billing and receiving payments is not feasible or otherwise cost effective, UCWM should discontinue the collection of cash in the field and limit collections to check or money orders. Further, perhaps the County Administration should consider shifting some of the aforementioned financial management and monitoring workload to the Department of Finance in order to overcome some of the issues associated with segregation of duties.

B. Complaint Recordkeeping

Finding – The complaint process should be fully documented from the receipt of the complaint to its full resolution, including notification to the complainant. UCWM does not maintain full documentation of all aspects of the complaint process. Without proper documentation, County officials have no tangible assurances that complaints are promptly investigated and resolved to protect consumers' interests.

Recommendation – Lack of documentation for complaints could accordingly result in lack of evidence as to their nature, no real concept as to how long the department took to address the complaints, or a misunderstanding as to the information utilized by departmental staff to determine that the complaint was unfounded.[6] UCWM should develop a process to ensure that all complaints are promptly investigated, all records documenting the complaint are maintained from the receipt of the complaint, and actions are taken to address the complaint and the final resolution of the complaint, including the notification of the complainant.

Additional Recommendations

While auditing the price verification inspections, we noted that the sheets were not pre-numbered for this type of inspection. We recommend UCWM purchase pre-numbered sheets in the future to make it easier to identify whether any gaps or voids exist.

When discussing the fines for "short weight" items, we were unable to determine a fee schedule on either the State or County level. This gray area gives the Director discretion in issuing the amount of fees to each business, which if not assessed consistently, leaves UCWM potentially susceptible to litigation regarding unequally levied fee amounts. Accordingly, County officials should implement a fee schedule for "short weight" fines as to promote uniformity and prevent opportunities for favoritism.

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[5] *See gen* id.
[6] *See gen* "Consumer Protection: Accuracy of Weights and Measures," by the Office of the New York State Comptroller (December 2011). Available at https://www.osc.state.ny.us/localgov/audits/swr/2011/weightsmeasures/global.pdf.

When discussing the notification of new businesses that may have scales to be inspected or changes in ownership, we noted that there was no formal process for UCWM to be notified. We recommend other County departments, such as the Health Department or any other department that may have contact with new businesses, regularly communicate with UCWM to notify the Bureau of new business activity requiring their oversight. UCWM could then contact the owners and discuss the laws and regulations regarding Weights & Measures.

We noted that UCWM is reimbursed by NYS for some work performed during the inspection process. The forms submitted to NYS contain information regarding travel and did not contain a certification from the Director and the Deputy as to the mileage and other expenditures on the form. We recommend that the Director and Deputy prepare and certify separate reimbursement forms to be attached to the total main reimbursement that is submitted by DOF.

Conclusion

Based on our evaluation, we recommend County officials establish written policies and procedures to ensure proper segregation of duties. A process should be developed to ensure that all complaints are promptly investigated, all records documenting the complaint are maintained from the receipt of the complaint, actions are taken to address the complaint, and the final resolution of the complaint includes the notification of the complainant.

Considering the size of the department and the amount of time spent in the field during the year the segregation of duties may not be able to be fully implemented without the assistance of an outside department.

Prior to release, a draft version of this report was sent to the Bureau for their review. Any response received from UCWM has been incorporated into the final report.

The Comptroller's Office would like to thank the Director for his helpfulness, accommodations, and having documents readily available for review. This cordiality extended to our Office ensured the testing portion of the audit was efficient as possible. We would also like to thank the Director of Finance for his assistance in the tracing of receipts through the financial system. Once all aspects of the weights and measures program were accessible through the financial system, the tracing of receipts was performed in a timely manner utilizing the method suggested by the Director of Finance.

Appendix A: UCWM Procedures

A. Collections

All mandated devices located in Ulster County must be inspected annually. The Director maintains a business inventory list, which includes the date of last inspection. As the anniversary of the last inspection approaches, the Director contacts the business operator and schedules a date for inspection. Once the inspection is complete, the Director or Assistant Director has the ability to collect cash, check, or money order on site and documents such collection within the inspection report form. The inspection report forms are printed on multi-copy NCR papers that are sequentially numbered. A business representative signs the inspection report, which indicates the type and number of items tested, the charge per item, and any resulting payments made. The inspector also signs the inspection report and provides the business representative with a copy. If payment is not receivable on site, payment is to be remitted within 30 days of the inspection via mail directly to the Ulster County Department of Finance. For any fees outstanding after 30 days, UCWM re-visits the establishment and/or sends a delinquent payment notice.

Upon arrival back to the UCWM office, all inspection reports are entered into the New World financial system in the miscellaneous billing module by either the Director or Deputy. If the inspection fee was collected on site then the inspection report is marked paid in full within the financial system. Fees collected on site remain with the Director or Deputy Director at all times until the fees are entered into the financial system. At the end of standard workdays, all forms of receipts are brought directly to the Ulster County Department of Finance for deposit into the Deposit Account.

The Director of UCWM also maintains an Excel spreadsheet that logs daily inspections, which includes the Inspection Report number, date paid, type of payment, and cash receipt number that corresponds to the financial management system.

B. Complaints

Consumers of businesses in Ulster County may submit complaints to UCWM in regard to issues they may encounter related to weights and measures. Complaints can be made via telephone or in writing to UCWM. All complaints made are tabulated annually, and the number of complaints is submitted in an annual report.

UCWM documents the complaint by recording the individual making the complaint, their contact information, the nature of the complaint, and the business that is the subject of the complaint. UCWM then investigates each complaint and documents the manner in which it was tested. The Director calls the complainant and informs them of the results of the investigation.

C. Petroleum Samples

New York has adopted the quality standards of the American Society for Testing and Materials (ASTM) for both gasoline and diesel fuel. The ASTM standards are developed by Committee D-2 on Petroleum Products and Lubricants and specify fuels that will perform

adequately in most vehicles. The ASTM Committee works on a consensus basis and has members from the petroleum industry, automobile manufacturers, and federal and state regulatory officials.

UCWM participates in a NYS Petroleum Quality Program, which ensures that the petroleum at the terminals meets the ASTM standards. UCWM samples gasoline and diesel fuel at terminals within the County on a schedule set by NYS. UCWM inspectors sample gasoline and diesel fuels at the retail stations on a random basis. NYS tries to inspect about 60% of the stations in each municipality each year. All samples are shipped to a contract laboratory where they are tested for conformance with the standards. In addition to taking the samples, UCWM looks for other problems such as water contamination. UCWM is reimbursed by the State for their work under this program.

UCWM is instructed to test petroleum by NYS and usually obtains samples on a monthly basis. Pre-numbered bar codes are utilized and attached to the gas sample report sheet, the business owner signs the report sheet certifying the gas samples were taken, and the Director also signs the report sheet certifying the samples were taken. A copy of the report sheet is given to the business owner. A third party laboratory picks up the gas samples from UCWM and signs the report sheet indicating that the gas samples were transferred to them. The samples are then tested by the laboratory, and the certificate of analysis is certified by a chemist and a copy is sent to UCWM along with NYS WM.

Appendix B: UCWM Response

COUNTY OF ULSTER

WEIGHTS AND MEASURES
P.O. BOX 1800
KINGSTON, NY 12402

James F. DeGasperis
Director

Telephone:
845-340-3659

Michael P. Hein
County Executive

September 29, 2016

Dear Mr. Auerbach,

I am in receipt of your audit entitled "Ulster County Bureau of Weights and Measures Audit Report," and I appreciate the courtesy of being able to respond. Your office makes note of two findings and recommendations and I would like to respond to each individually.

Your first finding is in regard to segregation of duties, and due to the small size of the department with only two employees including myself, segregating duties can be a rather difficult task at times. As you make note in your report, Weights and Measures is responsible for the inspection and testing of every device within Ulster County used to weigh and measure commodities that are sold on the basis of their weight, volume, or size; inspection and testing to ensure accurate marking and pricing of consumer goods offered for sale in supermarkets; and also is responsible to ensure the quality of gasoline and diesel fuel sold in Ulster County is in accordance with the NYS Petroleum Quality Contract. This is an extreme workload in the course of a yearly span for two individuals to complete, however the workload is manageable with the procedures we currently have in place, without the need to add additional staff in order to unnecessarily segregate duties within this department. Utilizing the specialized and highly skilled workforce in Department of Finance, as noted below, allows us the necessary separations.

Your audit suggests "one employee who is independent from billing should receive payment and prepare deposits." While an inspection is being conducted, the business being inspected will receive a bill for an inspection fee, and at times the inspection fee is paid at the time of the inspection. This allows the business to pay their inspection fee immediately and eliminates additional burdens placed on the local businesses, as our inspections take time out of their already busy days. When a fee is not paid on site, the inspection fees are sent directly to the Ulster County Department of Finance, helping to eliminate the segregation of duties issue with the billing and collection of fee money. I would also like to make note, as you wrote in your audit, that the Department of Finance makes the deposits of all money billed and received by Weights and Measures. This also helps to eliminate any segregation of duties issues. Lastly, with regard to segregation of duties, the Department of Finance reviews, approves, and posts all bills entered by my office into the financial system, and they also review differences, if any, between what is billed and received.

Through a focus on operational efficiencies, and a dedication to protecting Ulster County taxpayers, the Ulster County Executive and the entire Ulster County Government allows other departments to assist with the administrative functions of my office, to not only keep my staff size low and maintain a low cost to County taxpayers, but to reduce and eliminate any segregation of duties issues. The Ulster County Department of Finance's continued assistance with billing, collection, and depositing of money from Weights and Measures is invaluable to the continued operations and success of my department.

Your second finding is in regard to complaint recordkeeping. When a complaint is received in Weights and Measures the complaint is documented, and followed up with the business within 48 hours. A call is placed back to the complainant after following up with the business. Records are kept for every complaint received by Weights and Measures, including the call back to the complainant. The only part of the complaint process not documented, as confirmed by your staff, is the date and time of the call back to the complainant, which will be added going forward.

Additional recommendations made by your office are to have pre-numbered inspection sheets. Pre-numbered inspection sheets would be an additional cost to Ulster County, that in my opinion, would have no value added to the inspection process. By having pre-numbered inspection sheets, as your report suggests, would "make it easier to identify whether any gaps or voids exist." Gaps or voids would exist if a business was physically not inspected at all, not whether the inspection sheets are pre-numbered.

Another recommendation for the fines for "short weight" items is there is no fee schedule in place. The State does not set a fee schedule and leaves the task of issuing the fine and the amount to my discretion, along with the other Directors from other Counties across the State. Fee amounts are issued by my office in fairly uniform amounts, and there are no opportunities for favoritism for fines levied in Ulster County.

The final item I would like to make note of is the reimbursement by New York State for a portion of the work performed by Weights and Measures during the inspection process. While there is no formal signature line for the Director of Weights and Measures to "certify" mileage and other expenditures, preparing and certifying "separate reimbursement forms to be attached to the total main reimbursement that is submitted by the Department of Finance" seems like an unnecessary undertaking. Essentially this recommendation is doubling the paperwork to be generated, sending additional paperwork that the State does not want or require, all while wasting valuable County resources. We will continue to send the necessary paperwork to the State for reimbursement, with the hopes of maximizing the amount of reimbursement allowed by New York State, and not jeopardizing valuable State Aid by submitting additional unnecessary documents.

Again, I appreciate the opportunity to respond to your audit, and if you have any further questions or concerns, please do not hesitate to contact my office.

Sincerely,

James F. DeGasperis

James F. DeGasperis
Director