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| **DEPARTMENT OF**  **AUDIT AND CONTROL**  **TRAFFIC DIVERSION PROGRAM AUDIT**  **NOVEMBER 2018**  *Alex J. McLaughlin, Comptroller* |

November 14, 2018

District Attorney Cornwell,

The Department of Audit and Control has conducted an audit of the Traffic Diversion Program. The principle objective was to ascertain whether funds are being used and accounted for properly.

The audit was conducted in accordance with generally accepted auditing standards. Such standards require that the Department of Audit and Control plan and perform the audit to adequately assess the accuracy of the financial records and adequacy of the internal controls, and that we examine, on a test basis, sufficient competent and relevant evidence to afford a reasonable basis for our conclusions.

Based on the results of our examination, it is our opinion that Traffic Diversion Funds are being used and accounted for properly. We have, however, included some suggested areas for improvement in this report.

Sincerely,

Alex J. McLaughlin

Comptroller

cc: Daniel J. Reynolds, Chairman of the Legislature

Members of the Legislature

Aaron M. Martin, Clerk of the Legislature

Jason T. Garnar, Broome County Executive

Jerome Z. Knebel, Director of OMB

 **BACKGROUND INFORMATION:**

Our objective was to conduct an Audit in accordance with Local Law No. 5 of 2016.

The period of our audit was calendar year 2017 and included tests for compliance with the provisions of chapter 257 of the Broome County Charter and code.

We initially reviewed legislation and The Broome County Charter with regard to the Traffic Diversion Program. We also inquired about internal controls, tested transactions, and compared the totals in Broome County’s financial system (PeopleSoft) to the District Attorney’s database (PCMS).

We identified 10 other New York Counties that currently have a Traffic Diversion Program. We contacted them and discussed how they account for their Traffic Diversion Programs. We noted that other Counties, in contrast to Broome County, do not account for Traffic Diversion Program funds in a trust account.

At the end of 2017, the Traffic Diversion Trust Account had a balance of $924,947.

Prior Audits:

Trust Account Audit – December 2016\*

\*Addresses subject of Trust Accounts in general

**OFFICE OF MANAGEMENT AND BUDGET RELATED ITEMS**

**AUDIT FINDINGS, RECOMMENDATIONS AND RESPONSES**

**FINDING 1: TRAFFIC DIVERSION PROGRAM SHOULD NOT BE**

**ACCOUNTED FOR AS A TRUST FUND**

The County uses a trust fund to account for monies received and disbursed through the Traffic Diversion Program.

These funds are used by the District Attorney’s Office to procure items for the use of and/or to deliver programs or services offered by the District Attorney’s Office.

In accordance with the standards promulgated by the Governmental Accounting Standards Board (GASB), monies used by a government in this way are not properly accounted for as trust funds.

Specifically, GASB advises that “….trust funds may never be used to report government programs, even if those programs do provide specific benefits to specific beneficiaries.”

All of the 10 (ten) other Traffic Diversion Programs that we identified across New York State are accounted for as part of the operating budget.

Additionally, it should be noted that the use of trust funds to support programs undermines budgetary control and reduces transparency.

Expense transactions processed against trust accounts simply reduce the liability associated with the trust account. There is no verification of funds availability as there is with expenses processed against an appropriation. From a transparency standpoint, spending that comes from trust funds is not appropriated in a budget or subjected to public scrutiny.

**RECOMMENDATION:**

We recommend that all Traffic Diversion Program monies be accounted for in the operating budget.

**MANAGEMENT RESPONSE:**

The Diversion Program is accounted for in conformance with Local Law No. 5 of 2016.

**FINDING 2: TRAFFIC DIVERSION PROGRAM FUNDS SHOULD NOT BE PROGRAMMED AS GRANTS**

During our Audit, we noted that the County transfers money from the Traffic Diversion trust account to grants to pay employees hired by the District Attorney’s Office.

The transferred funds from the Traffic Diversion Program are not grants. Grants are resources procured from sources outside of the agency receiving the resources. Grants are disbursed or gifted by one party to another party.

**RECOMMENDATION:**

We recommend that the County program Traffic Diversion monies through the operating budget.

**MANAGEMENT RESPONSE:**

The accounting for Diversion Program expenditures separate from operations was established when personnel costs became a component since the trust account could not readily be utilized directly in the payment of payroll costs and associated withholdings and taxes.

**DISTRICT ATTORNEY’S OFFICE RELATED ITEMS**

**FINDING 1: THE FIRST $100K OF PROGRAM FEES WAS NOT DEPOSITED**

**TO THE OPERATING BUDGET**

During our review, we verified all inflows and outflows from the Traffic Diversion Program Trust account and noted that the for the audit period (2017), $100,000 of program fees was not deposited into the general operating fund until October 2017.

The Broome County Charter and Code states that “The initial $100,000 collected by the

program in each calendar year, shall be deposited into the District Attorney’s general

operating fund.”

By not depositing the initial $100,000 of program fees into the general operating fund the

District Attorney’s Office has failed to comply with this provision of Broome County’s

Charter and Code.

**RECOMMENDATION:**

We recommend that, going forward, the District Attorney’s Office deposit the first

$100,000 of program fees into the general operating fund.

**MANAGEMENT RESPONSE:**

The expectation of the District Attorney’s Office was that Office of Management and Budget would assist in making the transfer as they did in 2016 under the prior administration. The District Attorney’s Office did not employ a Fiscal Manager during this time period, but now the position has been filled. The District Attorney’s Office has requested that the Legislature direct Office of Management and Budget to make the transfer of funds in the future, not the District Attorney’s Office.

**FINDING 2: QUARTERLY REPORTS SHOULD BE IMPROVED**

During our audit, we examined the required quarterly reports submitted by the District Attorney’s Office for the Traffic Diversion Program. We compared these reports to the general ledger and noted that much of the information provided did not match the details in the County’s accounting system.

Additionally, we noted that the format of these reports is not consistent from quarter to quarter.

**RECOMMENDATION:**

We recommend that the District Attorney’s Office insure that amounts reported match amounts recorded in the ledger, develop a report format to follow for each quarterly report and consistently use it for filing.

**MANAGEMENT RESPONSE:**

The Resolution did not specify the specific type or format of the quarterly “report” that was required. The District Attorney’s Office did not employ a Fiscal Manager until December of 2017. Since that time, detailed financial reports have been prepared quarterly by the Fiscal Manager.