

COUNTY OF MILWAUKEE

Interoffice Memorandum

DATE: May 10, 2012

TO: Supervisor Willie Johnson, Jr., Chairman, Committee on Finance and Audit

FROM: Steve Cady, County Board Fiscal & Budget Analyst
Jerome J. Heer, Director of Audits

SUBJECT: **REQUEST FOR REVIEW AND RECOMMENDATIONS RELATED TO THE PROPOSED RESOLUTION/ORDINANCE CREATING THE OFFICE OF THE COMPTROLLER (FILE NO. 12-245)**

REQUEST

At its meeting on March 8, 2012, the Committee on Finance and Audit requested County Board staff and the Department of Audit to review the County Executive's proposed resolution/ordinance to create the new Office of the Comptroller and to make recommendations after soliciting the input of the Comptroller, who was to be elected in April.

BACKGROUND

State Legislation (Senate Bill 259) to create a new, elected position of Milwaukee County Comptroller was introduced on October 25, 2011 and fast tracked through the Legislature and signed by the Governor sixteen days later on November 9, 2011. The legislation received one public hearing on October 31, 2011, in which the County Executive testified in support of the bill citing, among other things, the need for independence in fiscal analysis, including revenue estimates, and expressing concern for the \$107 million budgeted for debt service in 2012 that could have been used to fund other programs.¹ The Milwaukee County Board of Supervisors passed a resolution (File No. 11-666; Vote 13-5-1) on November 3, 2011 opposing the bill for many reasons, some of which were corrected by subsequent legislative amendments prior to final passage.

On March 15, 2012, the County Board of Supervisors approved the creation of the Comptroller position (File No. 12-233; Vote 17-2) with an annual salary of \$125,000 to reflect the duties as Chief Financial Officer of Milwaukee County. The Committee on Personnel also approved a reclassification of the Deputy Controller position to Deputy Comptroller, a position also mandated by the State Legislation. The incumbent County Controller, Scott Manske, sought and won election to the new Comptroller position and was sworn in on April 27, 2012.

ANALYSIS

The Office of the Comptroller which was created by 2011 Wisconsin Act 62 ("Act 62") defines the duties and responsibilities of the Comptroller. The overarching language can be found in state statute 59.255 (2)(a) that states:

¹ County Executive testimony to the Senate Committee on Transportation and Elections, October 31, 2011 as recorded on WisconsinEye.

The comptroller is the chief financial officer of the county, and the administrator of the county's financial affairs. The comptroller shall oversee all of the county's debt.

The County Executive's plan for creating the Office of the Milwaukee County Comptroller presents a foundation for County Board deliberation on the establishment of this new elected office. Within the Executive's proposal there are a number of items that warrant further review and refinement by the County Board. Specifically, the plan that has been advanced does not provide the resources to effectively implement the law. While the County Executive's proposal does transfer in existing positions in central accounting, accounts payable and payroll that are currently under the administration of the Controller, staffing resources for several key areas of new responsibility of the Comptroller have not been addressed.

Our comments on the County Executive's plan address the nine key duties and responsibilities of the Comptroller. (Two other items in the "Duties and Responsibilities" section of the law that relate to the appointment of the Deputy Comptroller and to Corporation Counsel's review of contracts are adequately addressed in the County Executive's proposal).

Chief Financial Officer and Debt (Wis. Stats. 59.255(2)(a))

The comptroller is the chief financial officer of the county, and the administrator of the County's financial affairs. The comptroller shall oversee all of the county's debt.

The County Executive's Comptroller proposal acknowledges the creation of the Comptroller as the County's Chief Financial Officer but states that "Debt oversight by the comptroller will be maintained at the level of oversight held by the previous controller..." Given the focus on debt as part of the primary statement of duties in the law and given the concerns about debt raised in testimony on the bill, we believe that the proposal does not go far enough. We recommend that the Board clearly transfer all debt oversight to the Comptroller. This includes selection and contracts for bond underwriters and counsel and financial advisor services. Capital monitoring is included in the oversight of the debt function. To be clear, it would not be the responsibility of the Comptroller to dictate budget policy matters related to debt issuance (e.g. amount, timing and purpose of debt) as that is the purview of the County Executive and County Board. Nonetheless, the Comptroller may weigh in on the structuring of the debt to offer other options that impact amortization, annual budgetary impacts and, ultimately, the total cost of the debt. To perform these tasks, our recommendation includes transferring two current positions in DAS-Fiscal Affairs that perform most of the debt administrative duties, including: one position each of Capital Finance Manager and Capital Finance Planning Analyst 3. It is understood that these positions may need to be reclassified at some later point to reflect that the duties would no longer include capital improvement budget development.

Financial Reporting Wis. Stats. 59.255(d)

Each month, at the County Board's first meeting, the comptroller shall report to the board and the county executive, in writing, the condition of the county's outstanding contracts and of each of the county's funds and the claims payable from the funds. The comptroller shall

also file with the county executive and the board each year on or before October 1 a certified and detailed statement of the receipts and disbursements on account of each fund of the county during the preceding fiscal year, specifying the source of each receipt and the object of each disbursement, and also an estimate of the receipts and disbursements for the current fiscal year.

The County Executive's Comptroller proposal acknowledges that there will be an expanded role for the Comptroller and that it will create additional responsibilities both in terms of the required detail and the frequency of reporting. However, no additional resources are provided to carry out these duties.

Countersign All Contracts Wis. Stats. 59.255(e)

The comptroller shall countersign all contracts with the county if he or she determines that the county has, or will have, the necessary funds to pay the liability that the county may incur under the contract. No contract is valid until so countersigned.

Additional responsibilities are acknowledged in the County Executive's Comptroller proposal but no additional resources are provided. Instead, the proposal notes the Comptroller can work with the language in the law to perform the countersign function efficiently. We concur with this view.

Monitor Treasurer's Accounts Wis. Stats. 59.255(f)

At least monthly the comptroller shall examine the treasurer's accounts as reported and as kept, and shall report to the county executive and board as to their correctness and as to any violation by the treasurer of the treasurer's duty in the manner of keeping accounts or disbursing moneys.

The County Executive's Comptroller proposal notes that this duty is currently being done by the Department of Audit Bank Reconciliation Unit. We concur with this view.

Fiscal Analysis and Fiscal Notes Wis. Stats. 59.255(g)

Whenever requested to do so by the county executive or board, the comptroller shall provide an independent fiscal analysis of any matter affecting the county, and shall provide the county executive and board with a fiscal note for all proposed legislation.

The County Executive's Comptroller proposal notes that these duties would be transferred from DAS-Fiscal Affairs but does not provide any additional resources to conduct the work. Currently, DAS-Fiscal Affairs reviews some, but not all, fiscal notes prepared and presented to the County Board. It is our interpretation that the Comptroller must review, or establish the policy on how fiscal notes will be reviewed, for proposed legislation even if they are prepared by departmental fiscal staff. That will require additional staff resources within the Office of the Comptroller since there are as many as 60 fiscal notes produced each month for County Board files. It is also recommended that the Comptroller establish fiscal note review policies in the coming months so that policymakers can better understand how fiscal notes will be prepared and reviewed in a timely fashion going forward.

Five Year Financial Forecast Wis. Stats. 59.255(h)

Annually, the comptroller shall prepare a written 5-year financial condition forecast for the county, which shall be distributed to the county executive and the board.

The County Executive's Comptroller proposal states this function is currently being done by DAS-Fiscal Affairs and that the Comptroller will fulfill his obligations by working closely with DAS. We recommend that this function be transferred to the Office of the Comptroller with input, as needed, provided by DAS-Fiscal Affairs. Again, no staff or consulting² resources are provided to perform these duties.

Audit Wis. Stats. 59.255(i)

The comptroller shall perform all audit functions related to county government. The comptroller shall also have the duties and all the powers and responsibilities conferred upon the clerk as auditor under s. 59.47 (1), and shall perform any additional duties and shall have any additional powers as are imposed and conferred upon him or her from time to time by resolution adopted by the board. Audit functions under this paragraph shall be performed in accordance with governmental auditing standards issued by the comptroller general of the United States and generally accepted auditing standards.

Under the County Executive's Comptroller proposal, the Department of Audit will report to the Comptroller instead of the County Board and all positions will be transferred. We concur with this recommendation based on the adopted state statutes.

Shared Service Contracts Wis. Stats. 59.255(j)

The comptroller shall administer and oversee all shared services contracts.

The County Executive's Comptroller proposal envisions that the Comptroller will work closely with departments that administer shared services contracts. No additional resources are provided to the Comptroller to perform this function.

Annual Pension Obligation Bond Report Wis. Stats. 59.85(2)(d)(2) (Intro)

Annually, the county comptroller under s. 59.255 shall submit to the governor, the department of revenue, and the department of administration, and to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2) a report that includes all the following:

The responsibility for the annual report to the State as required in the pension obligation bond statute is transferred to the Comptroller. No additional resources are provided to the Comptroller to perform this function.

OTHER MATTERS

² DAS-Fiscal Affairs uses the services of Municast software to assist in the five-year fiscal forecast. Ongoing costs are approximately \$2,000 per year.

Revenue Estimates

There is one other area of potential responsibility for the Comptroller that is not addressed directly in the County Executive's Comptroller proposal; revenue estimates. Over the years, there have been numerous discussions about the need for better estimates of key revenues. Specific concerns regarding land sale and transit advertising revenues were highlighted in testimony to the Legislature in support of the Comptroller bill. Yet neither the law, nor the County Executive's Comptroller proposal speak directly to this important matter. Arguably, monitoring revenues can be seen as a component of other general duties of the Comptroller. The County Board may want to consider the need for Milwaukee County to enhance revenue monitoring efforts when making resource decisions about the new Comptroller's Office.

County Board Oversight

Another issue that was not addressed in the legislation or the proposed implementation plan is the availability of oversight resources that report directly to the County Board. As the Board of Directors for a \$1.2 billion municipal corporation, the Board could reasonably allocate resources to provide the legislative branch with tools for holding administrators accountable. Indeed, this is the model that is used by both the State of Wisconsin and the United States government. However, Milwaukee County was successful in obtaining an amendment to the Comptroller legislation that requires that audits be conducted in accordance with government audit standards. As such, audit reports will continue to be provided to those charged with governance. In addition, the Comptroller plans to update the 1996 audit protocols so that the County Board will continue to have accountability resources available under the new reporting model. If the County Board determines that the approach is not working, resources could be added or re-deployed at a later date.

Fiscal Independence

Discussion of the creation of the new Comptroller's Office has also generated interest in three other matters that have been the subject of debate over the last decade. The first relates to the independence of all staff charged with providing policymakers with impartial analysis. One of the clear strengths of the Comptroller legislation is the solid level of independence that can come from being accountable only to the electorate. Yet there are other staff in Milwaukee County that are charged with providing policymakers with objective fiscal, policy, program and management analysis. This may be the appropriate time to re-visit the employment status of all staff in this type of position. Placing those staff in civil service positions, rather than politically appointed, would be one way to achieve independence.

Another point that was raised during our review was the reporting line of the County's Fiscal and Management Analysts. Under the "DAS Model" adopted ten years ago, several of these staff are employed by the Department of Administrative Services but they are deployed to operating departments. If the Comptroller will take on the role of holding operating departments accountable for their fiscal operations, it may be appropriate to have those staff in a direct reporting line to the heads of operating departments.

Finally, when the "DAS Model" was implemented, there was discussion of applying that same model to the County's accounting positions. At the time, the unique nature of many of our accounting functions lead to the maintenance of status quo. Now that the County has an

elected CFO, it may be worthwhile to revisit this structure since the Comptroller already oversees all central accounting functions and is responsible for implementing uniform accounting procedures throughout all departments.

SUMMARY

The County Executive's Comptroller proposal transfers duties of the former Milwaukee County Controller, as well as the Department of Audit, to the new Office of the Comptroller. The proposal recognized some of the new duties that the Comptroller would be responsible for under the legislation but failed to provide any additional resources to successfully do the work. Several of the duties such as overseeing debt, financial reporting, and reviewing fiscal notes could be very staff intensive if the Comptroller is to fulfill the requirements of the law effectively. Other duties such as counter signing contracts, fiscal forecasting, shared services contracts and pension bond reporting, will probably be less time demanding yet they are crucial. Some of these additional duties added were previously performed by DAS-Fiscal Affairs or, in some instances, not done at all.

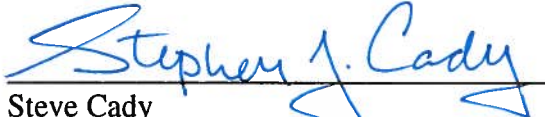
We understand that the County Executive, with the assistance of DAS-Fiscal Affairs, has an obligation to develop and put forth a recommended budget. That includes having adequate staff to prepare the budget. But the legislation creating the Office of the Comptroller confers authority for many of the duties, other than budget preparation, that are currently handled by DAS-Fiscal Affairs. Therefore, we recommend that the County Executive's proposal for the creation of the Office of the Comptroller be amended to provide for the transfer of the DAS-Fiscal Affairs Capital Finance unit (two positions) to the Comptroller's Office. Further we recommend that two Fiscal and Management Analyst 3 positions be created in the Comptroller's Office to assist in fulfilling the other duties of the Office that are not staffed in the original proposal. It is understood that the responsibilities the Capital Finance unit had in developing the County Executive's Budget would remain with DAS-Fiscal Affairs.

The state legislation creating the Office of the Comptroller also mandated that during 2012 only, the creation of the Office of Comptroller shall cost no more than what was appropriated in the 2012 Adopted Budget to perform these functions. Basically, the 2012 funding for the Comptroller shall be funded within existing county appropriations. This will require an appropriation transfer to establish the expenditure authority for the positions and consulting contracts that are either transferred in from other departments or that are newly created. The funds for the two newly created positions should be provided by DAS-Fiscal Affairs, or some other reasonable alternative based on the work (e.g. fiscal note reviews) that is performed on behalf of departments.

Finally, we recommend that the Comptroller, working in conjunction with DAS and County Board staff, review fiscal and accounting positions throughout the County to determine if line of reporting and fiscal independence can be improved in light of the creation of the Milwaukee County Office of the Comptroller.

The Comptroller reviewed this report and provided input as requested by the Committee on finance and Audit. We have also performed a crosswalk of what is in Act 62 to ensure that all

provisions are addressed in county ordinances. The attached substitute resolution/ordinance reflects the recommendations contained within this report.


Steve Cady
County Board Fiscal and Budget Analyst


Jerome J. Heer
Director of Audits

cc: Supervisor Marina Dimitrijevic, Chairwoman, County Board of Supervisors
Scott Manske, Comptroller
County Executive Chris Abele
Kelly Bablitch, County Board Chief of Staff
Amber Moreen, Chief of Staff, County Executive's Office
Pat Farley, Director, DAS
Craig Kammholz, Acting FABA, DAS
Carol Mueller, Chief Committee Clerk, County Board