City of Buffalo

Department of Audit & Control

Budget Response

2019-2020 Fiscal Year
&
2020-2023 Four Year Financial Plan

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Comptroller

MAY 9, 2019

Charter of the City of Buffalo

§ 20-7 Comptroller's Assessment of Accuracy of Revenue and Expenditure Assessments.
[Amended 10-2-2012 by L.L. No. 1-2012, effective 10-2-2012]

"On or before the tenth day of May, the Comptroller shall submit to the council an assessment of the accuracy of the revenue and expenditure estimates of the budget and the four-year financial plan the mayor submits to the council. The comptroller shall opine on the sufficiency of the financial plan and whether it contains sufficient data to support the outcomes projected."

Introduction

Pursuant to the City Charter, and the Comptroller's role as the City's chief fiscal officer, I hereby submit this assessment of the Mayor's recommended budget for the fiscal year 2019-2020, as well as the four-year financial plan for fiscal years ending 2020-2023.

While progress was made in some areas, this office has concerns about the revenues in the proposed budget, and the City's reserve position.

On the positive side, the property tax levy increased $2.5 million without an increase in residential tax rates, and some revenues are more realistically budgeted. But the administration continues to rely on revenue sources that are untested. While the pursuit of new revenue streams is worthwhile, it is risky to rely on revenues in an adopted budget that appear uncertain or premature, as prior years have proven.

If revenues do not come in as budgeted, reserves will be needed. Over the past two years, the City has used $57 million in reserves to close its budget gaps, and according to our estimates, could use another $10 million in the current year, or even as much as $27 million if past due casino funds are not received.

The use of those reserves for the current year would deplete the City's Rainy Day Fund, which per the City Charter, should not be used to balance operations. Such a use of Rainy Day Funds could cause a bond rating downgrade and negative findings on the City's yearly financial audit.

The proposed budget for next year does not utilize any fund balance to balance its budget. However, a potential shortfall would cause a further depletion of the Rainy Day Fund.

In addition to assessing the accuracy of revenue and expense estimates, this report will address the City's reserve position, the four-year financial plan, and the potential consequences of adopting the recommended budget in its current form.

Revenues

The recommended budget includes revenues of $508.7 million in 2019-2020, a reduction of $4.9 million, approximately 1% from the prior year. Approximately $21 million of these revenues are questionable, and require further information in order to corroborate these estimates.

Below is a chart showing budgeted amounts compared to prior and current year actuals, as well as more responsible revenue estimates for each item:

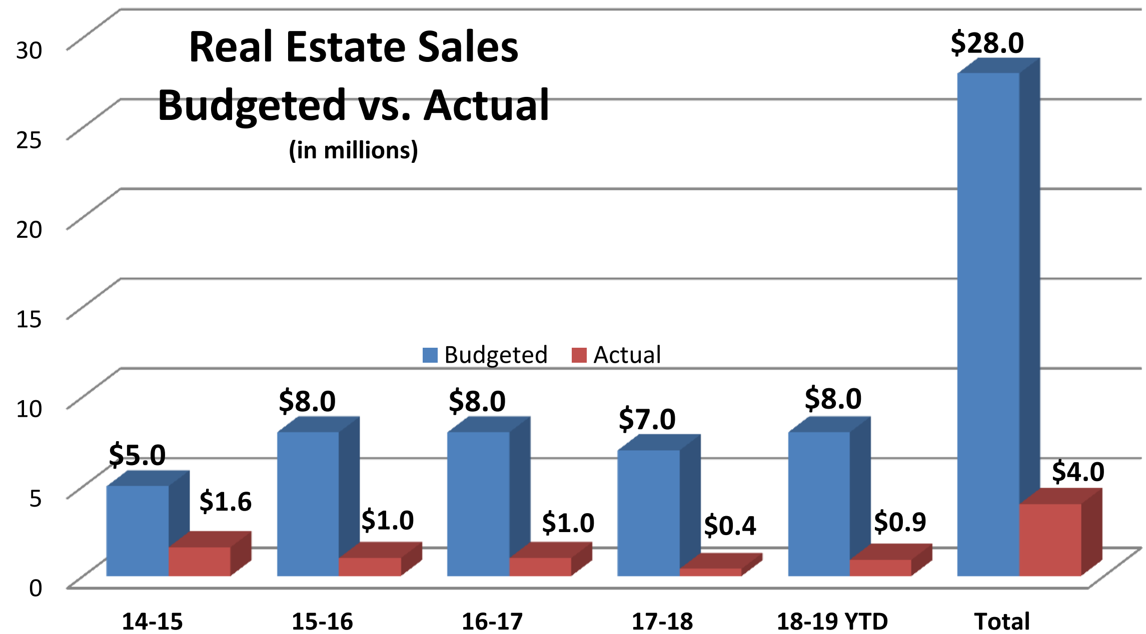
Questionable Items included in the 2019-2020 Budget	**A 2019-2020 Proposed Budget**	**B Current FY Actual as of 4/30/2019**	**C 2017-2018 Actual**	**D Responsible Budgeting**	**E Potential Overestimated Revenue (A-D)**
Tribal Pact Casino Revenue	$11,000,000	$0	$0	$0	$11,000,000
Sale of City Owned Real Estate	6,900,000	914,000	362,000	1,000,000	5,900,000
Entertainment Ticket Fee	755,000	0	N/A	0	755,000
Gifts and Donations	1,250,000	132,000	0	150,000	1,100,000
Rental Dwelling Registrations	3,747,000	906,890	912,040	1,000,000	2,747,000
Total	**$23,652,000**	**$1,952,890**	**$1,274,040**	**$2,150,000**	**$21,502,000**

Tribal Pact Casino Revenue – Prior to 2016-2017, the City had been receiving approximately $7 million per year from the Seneca Nation (via New York State) as the host community for the Buffalo Creek Casino. A dispute between the Seneca Nation and New York State had stopped those payments in 2016-2017.

In January 2019, a binding arbitration decision was delivered in favor of New York State, finding that the Seneca Nation must continue to pay slot revenue sharing payments to the state and host municipalities like Buffalo. As reported in the Buffalo News, The Seneca Nation contends that this ruling violates federal law, and has asked the United States Department of Interior to examine the arbitration panel's ruling to determine if it made the correct decision. As of this date, the timing and the final outcome of this review is unknown

The State itself has not included any Casino funds in its own budget for the upcoming fiscal year, and has recommended that host municipalities do not either. Because of the uncertainty of the timing of casino revenue, and the calculation of the amount of revenue that is to be received, there is a significant amount of risk on relying upon this revenue item.

Sales of City-Owned Real Estate – This is another source of revenue that is of concern, with $6.9 million budgeted for 2019-2020. The City has only received $4 million in revenue in the past five years ***combined***, as you can see from the graph below.



Actual revenue has been 14 percent of the $28 million that has been budgeted during that span. In 2017-2018, the administration budgeted $7 million in real estate sales and only took in $400,000. $8 million was budgeted in the current fiscal year, and to date, the City has received $914,000.

The administration has indicated that it will be handling tax-delinquent properties differently next year, foreclosing on them and taking title prior to the City's In Rem Auction, effectively bypassing the requirement of forwarding any gains to the county comptroller, who handles all unclaimed funds for the county. Currently these gains can be claimed by whoever the title holder and/or lien holders were at the time of the auction. Under the new process, the gains will stay with the City as it will be the legal title holder at time of auction. The administration is budgeting $4.8 million of the $6.9 million in real estate sales to come from this initiative. As in the past with other new initiatives, we recommend a more conservative approach budgeting these dollars until it's had time to fully test this new process during next year's In Rem auction.

Entertainment Ticket Fee – As was noted in the 2018-2019 Budget Response, the inclusion of revenue from the proposed Entertainment Ticket Fee appeared to be premature. In fact, that was the case, as the specifics of such a program have still yet to be defined. The 2019-2020 budget includes revenue of $755,000 (compared to $2 million in the prior budget). As legislation enabling this revenue stream is yet to be approved, and the venues involved have obtained legal representation to oppose the tax, we have concerns regarding its inclusion in the budget. Additionally, this revenue stream may jeopardize the tax-exempt status of the City's outstanding and future bonds for capital improvements in the affected venues.

Gifts and Donations – The 2018-2019 budget for Gifts and Donations is $2 million, while the amount realized year to date is $130,000. The budgeted amount for 2019-2020 is $1.25 million, a reduction from the prior year's amount. Any donations received to benefit the City's operating budget must be given without restriction. Any donations for capital projects should be included in the City's capital budget, not its operating budget. Additionally, according to the Office of the New York State Comptroller, there is no authority for municipalities to solicit monetary donations, as such practice is *"contrary to public policy and, therefore, not a proper municipal function."* (State Comptroller's Opinion 74-1102 and 77-292) This prohibition does not forbid the pursuit of established grants.

Rental Dwelling Registrations – This includes a new initiative requiring banks to pay the City a license fee as part of any bank foreclosures that take place in Buffalo. This will allow the City to more easily hold bank owned properties to higher maintenance standards on what are often referred to as "Zombie" properties. The City is budgeting $2 million on a new initiative without any prior results or enabling legislation in place. We recommend having some experienced revenue generation before budgeting such a material amount.

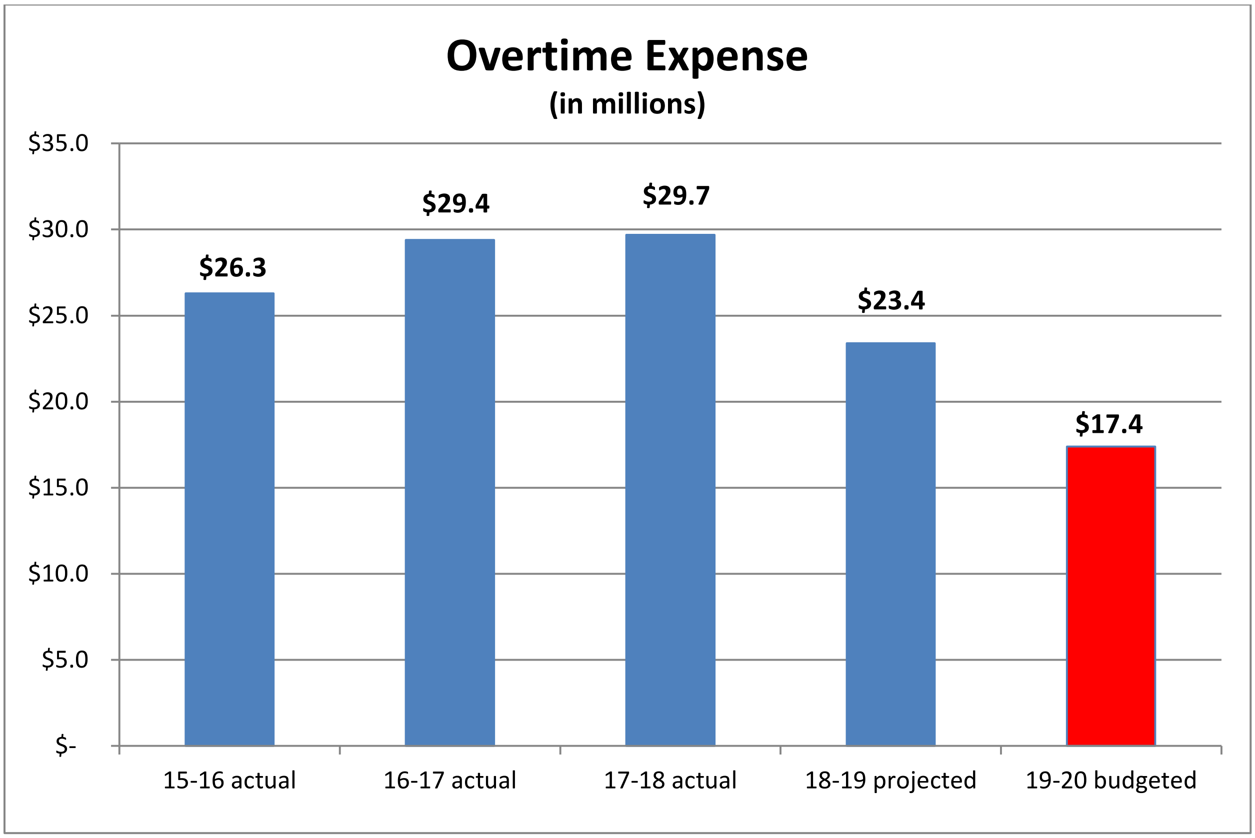
Parking Meters – Although not noted in the table, this revenue source should be monitored. The City increased the budget for this item by $1.5 million from the prior year. This is due to the addition of more parking spaces as well as increasing rates in specific areas. The full implementation of these changes did not occur until March 2019, only providing two months of data. Averaging March and April, this budgeted revenue would appear appropriate, but often parking meter revenue is negatively impacted by the cold weather months, for which we do not have data on the new rates and parking spaces.

Expenses

The recommended budget includes $508.7 million in expenses for 2019-2020, a decrease of 1% from 2018-2019 adopted budget.

Personal Services – This labor-driven line item represents $200.5 million of expenses, and includes items such as salary, overtime, duty disability pay, and longevity payments. While budgeted positions account for $208.8 million worth of expense, savings from "attrition" reduces this amount by $8.3 million. "Attrition" accounts for anticipated retirements and the expectation that those positions will go either unfilled, or filled by an employee earning lower wages.

While attrition is accounted for in the recommended budget, vacant positions are not, which could lead to savings on expenses. However, those savings could be wiped out by additional overtime costs, which are budgeted at $17.4 million, despite recent trends indicating an expense of significantly more than that amount.



The new Firefighters' contract has had a significant impact on reducing overtime expense. Even with the reduction in overtime, it appears that overtime expense is still under budgeted by $3 to $5 million in 2019-2020.

Judgments and Claims – This expense is regularly underestimated, and with $2 million budgeted in the 2019-2020 recommended budget, is most likely underestimated once again.

As seen in the following chart, the average annual expenditure for Judgments and Claims has been approximately $4 million over the past six years, and was nearly $7 million just last year.

Judgments and Claims					
2014-2015 Actual	**2015-2016 Actual**	**2016-2017 Actual**	**2017-2018 Actual**	**2018-2019 Projected**	**2019-2020 Recommended Budget**
$2,900,927	$3,624,789	$8,113,841	$6,931,482	$4,000,000	$2,000,000

Since the City is self-insured, this is an expense that can result in significant exposure. Without any funds within the Unassigned Fund Balance, the City will be unable to set aside any additional funds for potential exposure within the Assigned Fund Balance. In fact, the City only has set aside $2.7 million of the estimated $8.3 million of potential legal settlements that existed as of June 30, 2018. Therefore, it is likely that the current budgeted amount of $2 million is understated, likely by millions of dollars.

The City is undertaking an initiative to improve the centralized billing and collection for outstanding invoices as well as revising its collection policies and procedures. This is an area where extra focus and resources are needed, and the expectation is that any additional expense will more than pay for itself.

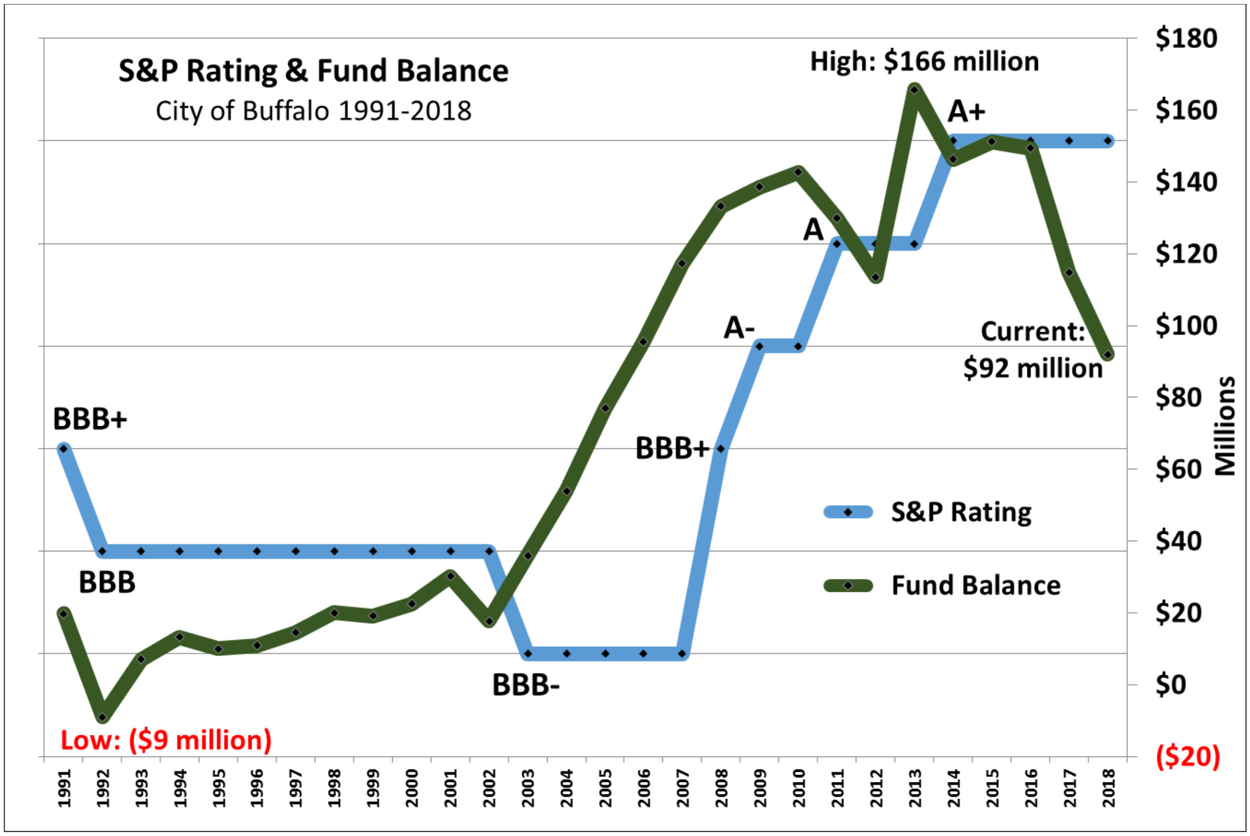
Fund Balance

The City's reserves, known as Fund Balance, acts as a savings account for the City. Unfortunately, in recent years it has been used to shore up budgets. $107 million in reserves have been depleted the past eight years, and with $10-$27 million (depending on the receipt of the $17 million in Casino Funds) potentially needed for the current fiscal year, the amount of reserves used to close budget gaps will be about $120-135 million.

All of the City's Fund Balance is currently set aside for specific purposes. The only category of Fund Balance that can be used to fill budget gaps is Unassigned Fund Balance, which today has a zero balance.

The depletion of the City's Fund Balance has led both Moody's and Standard & Poor's to revise the City's bond ratings from "Positive Outlook" to "Stable Outlook." Such actions are precursors to rating downgrades from those rating agencies, as well as Fitch Ratings, the third of the "Big Three" rating agencies. Downgrades lead to increased interest costs for capital borrowing.

As you can see from the chart below, the City's bond rating has had a significant correlation with the amount of Fund Balance it has.



Four-year Financial Plan

The four-year financial plan allows for increases in the tax levy of about 2% annually, and no other significant increases in other revenue sources. Expenditures are budgeted to increase approximately 1% each year of the plan. Given raises in union contracts, as well as inflation and annual increases in employee benefits expense, these predicted expense amounts appear understated. The four-year plan does not contain sufficient data to support the outcomes projected. Also absent from the plan is a replenishment of the City's Fund Balance.

Conclusion

While the 2019-2020 recommended budget balances on paper, it contains $21 million in revenues that are of concern. Additionally, for the first time in recent years, expenses appear to be budgeted very close to recent actual results, rather than containing some cushion that has previously helped to offset some of the revenue shortfalls. So any shortfall of actual revenues will have a negative impact on services and/or further deplete the City's reserves.