

# NEW JERSEY ASSOCIATION OF COUNTIES

County Government with a Unified Voice!

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April 23, 2024

Honorable Nicholas P. Scutari  
Senate President  
67 Walnut Avenue  
Clark, NJ 07066

## RE: OFFICE OF THE STATE COMPTROLLER

Dear Senate President Scutari:

The New Jersey Association of Counties (NJAC) is respectfully requesting the State Legislature to independently review the manner in which the Office of the State Comptroller (OSC) conducts its investigations of local governments and levies accusations of wrongdoing through social media, the press, or other means without due process of the law. NJAC is particularly concerned with recent OSC press releases concerning Essex, Hudson, and Union counties where OSC alleges fraud, waste, or abuse with no regard for contested legal matters or disputed facts and circumstances.

With respect to Hudson County, the OSC issued a press release on 03/21/24 charging that *"the Office of State Comptroller finds Hudson County used an improper process and circumvented transparency requirements"* notwithstanding Hudson County's good faith difference of opinion on how the County awarded a contract for medical services at the Hudson County Correctional and Rehabilitation Center (HCCRC). Moreover, the County cooperated fully and transparently with the OSC throughout the investigation, provided hundreds of pages of documents as directed, and ultimately proposed that the Appellate Division settle all material matters to which the OSC summarily rejected. Importantly note that since 2019, Hudson County awarded a series of one-year professional services contracts for medical services at the HCCRC and provided timely notification to the OSC as required under the law with no objections or questions until now. For your review, please find enclosed under Appendix A, the OSC's "Letter on Hudson County's Improper Process for a Prison Healthcare Management Contract" and several correspondences between the OSC and Hudson County that demonstrate the County did not act in defiance of the law as sensationalized by the OSC.

In the matter of Union County, the OSC issued a press release on 12/12/23 declaring that an *"investigation by the Office of State Comptroller found Union County violated state law when it paid top officials an extra stipend and reimbursed tuition without following a public process"* despite Union County's contention on the merits that the County's practice for openly and transparently adopting salary ordinances for county professionals is consistent with the law and similar to how the State's five other optional charter counties adopt such resolutions or ordinances accordingly. As is the case with each investigation, the OSC refused to include Union County's 30-page response to the OSC's letter of which the OSC packaged to the media as *"Top Union County Officials Paid Extra Compensation without following public process, investigation finds."* In addition to this letter, please also find enclosed under Appendix B, examples of authorizing salary resolutions or ordinances from all six optional charter counties in Atlantic, Bergen, Hudson, Essex, Mercer, and Union and Union County's above referenced 30-page response that outlines how the County followed long understood statutory law.

Most recently, the OSC issued a 17-page report and accompanying press release alleging that an *“Investigation Uncovers Waste and Abuse in Essex County’s \$40.0 million COVID-19 Vaccination Program.”* Instead of holistically and objectively analyzing the swift and decisive actions taken by Essex County during a once in a generation pandemic, and subsequently recommending future best practices along with areas for improvement, the OSC zealously imposed its substantial resources, statutory powers, and pre-determined agenda to make contestable allegations nearly four years after the fact. Unfortunately, the Comptroller also fails to take into consideration the extraordinary circumstances county governments faced throughout COVID-19 in navigating supply chain demands along with deciphering hundreds of executive orders and multiple procurement laws all the while being responsible for purchasing personal protective equipment, operating testing centers, collecting and sharing public health data, sheltering the homeless and at risk individuals, managing correctional facilities, administering welfare and social service programs, conducting elections, and much more.

In addition to the OSC’s report enclosed under Appendix C as *“An Investigation of Essex County’s COVID-19 Vaccination Program”* and Essex County’s defense of its Program along with a letter from the State Department of Health applauding the County’s work as exceptional, please take a moment to review the 2023 YouTube video featuring Acting State Comptroller Kevin Walsh. In the video entitled *“How Your Town’s CFO Can Stop or Allow Local Government Waste,”* the Acting State Comptroller proclaims that his Office *“often finds staggering waste, and a big reason why, the chief financial officer is not doing their job.”* Throughout the recording, the Acting State Comptroller attempts to evoke fear in the minds of viewers that fraud, waste, and abuse is everywhere and that public finance officers are primarily responsible. Established in 2007 to audit, assess, and monitor public agencies, the Legislature could not have intended for the OSC to evolve into an agency that operates as prosecutor, judge, and jury.

Separate, but related, NJAC recently submitted a request for the OSC to withdraw its recent rule proposal as the OSC failed to follow the guidelines established by Governor Phil Murphy in Executive Order, No. 63, which in part, recommends that when considering rule changes, *“State entities should engage with affected communities and provide various groups to work in partnership with the State in crafting solutions.”* To the best of NJAC’s knowledge, counties, municipalities, licensed professionals, or other stakeholders, provided zero input into the rule proposal, which will unfortunately lead to further overreaching by the OSC. Moreover, the rule proposal ignores, circumvents, or undermines the critical roles played by the Division of Local Government Services (DLGS) in the Department of Community Affairs (DCA) as a valuable and trusted resource for local governing bodies; the Office of Attorney General as the State’s chief law enforcement agency; and, the Judiciary as the final arbiter of the law.

For the reasons set forth above, NJAC again is respectfully requesting the State Legislature to independently review the manner in which the OSC conducts its investigations and levies accusations of wrongdoing without due process of the law. Thank you for your time and consideration, and please do not hesitate to contact me with any questions or concerns.

Very truly yours,

  
John G. Donnadio, Esq.  
Executive Director

Encls: Appendices A – C

cc: Honorable Phil Murphy, Governor  
Honorable Diane Gutierrez-Scaccetti, Chief of Staff  
Honorable Brian P. Stack, Chairman, Senate Judiciary Committee