



**SUFFOLK COUNTY  
OFFICE OF THE COMPTROLLER  
AUDIT DIVISION**

**John M. Kennedy, Jr.  
Comptroller**

**A Review of  
E-911 Emergency Telephone System Surcharge Revenue  
Follow-Up on Previous Surcharge Revenue Audit  
For the Period January 1, 2014 through December 31, 2015**

**Report No. 2017-07  
Date Issued: September 6, 2017**

**SUFFOLK COUNTY  
OFFICE OF THE COMPTROLLER**

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**LETTER OF TRANSMITTAL**

September 6, 2017

Hon. John M. Kennedy, Jr.  
Suffolk County Comptroller  
Suffolk County Department of Audit and Control  
H. Lee Dennison Executive Office Building  
100 Veterans Memorial Highway  
P.O. Box 6100  
Hauppauge, NY 11788

Dear Comptroller Kennedy:

In accordance with the authority vested in the County Comptroller by the Suffolk County Charter (Article V), we performed a follow-up audit of the recommendations made in our prior audit report of E-911 Emergency Telephone System Surcharge Revenue (Audit Report No. 2013-05, issued on March 5, 2013).

The objective of our follow-up audit was to determine if the recommendations contained in the aforementioned audit report, which was conducted for the period January 1, 2010 through June 30, 2012, were implemented. The follow-up audit focused on the status of those recommendations during the period January 1, 2014 through December 31, 2015.

Our audit determined that six of the ten recommendations made in our prior audit report were not fully implemented during the audit period. In addition, fourteen service providers failed to provide the County Comptroller with an annual accounting of the surcharge amounts billed and collected as required by §441-5 D. and §441-14 E. of the Suffolk County Charter.

Respectfully submitted,

Office of the County Comptroller  
Division of Auditing Services

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## **BACKGROUND**

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The enhanced E-911 Emergency Telephone System (E-911) went live in Suffolk County in 1997 to provide selective routing of emergency telephone calls with automatic telephone and location identification. The operator answering a 911 call receives critical information including the address and phone number of the caller. Additionally, the appropriate police, fire and ambulance unit that should respond to the call is identified by the system.

To finance the County's E-911 system costs, monthly surcharges are imposed on customers of landline, (Voice-Over-Internet Protocol) VOIP and wireless communications service suppliers and remitted to the County by the suppliers in conformity with New York State (NYS) County Law and the County code. All surcharge revenue and expenditures are recorded in Special Fund 102 (Public Safety Communications System E-911). Actual surcharge revenue of \$7,242,437 and \$7,212,136 was received for the fiscal years 2014 and 2015, respectively.

### Landline and Voice-Over-Internet Protocol (VOIP) Surcharge Revenue

Municipalities of New York State are authorized by NYS County Law, Article 6, (Sections 300 through 308) to impose a monthly surcharge not to exceed \$.35 per access line on the customers of service suppliers within that municipality. In accordance with these provisions, surcharge funds are to be expended only for the payment of system costs. If at the end of any fiscal year the total amount of such revenue exceeds the amount necessary for payment of system costs, such excess shall be reserved and carried over for payment of system costs in the following year. However, if such reserved fund balance exceeds five percent of that necessary for the payment of system costs in any fiscal year, the surcharge for the following fiscal year shall be reduced by local law to a level which more adequately reflects the system cost requirements of E-911. Section 301(8) of the NYS County Law was amended in 1996 to include all operations and maintenance costs in the definition of system costs.

Chapter 441 of the County code was adopted in 1995 mimicking NYS County Law to authorize, empower and direct service providers to impose a \$.35 surcharge per access line per month on each service supplier's subscriber in Suffolk County. Each service supplier is required to collect and remit surcharge funds within 30 days after the last business day of the month. Suppliers are entitled to retain two percent of their collections of the surcharge as an administrative fee, and must provide the County Comptroller with an annual accounting of the surcharge amounts collected and billed. In addition, each service supplier must provide the County with the amount of any unpaid surcharges and the name and address of any customer refusing or failing to pay the surcharge whenever it remits funds collected. Provisions of this chapter authorize the installation of a County-wide E-911 with twelve public safety answering points (PSAPs) including the Suffolk County Police Department and Fire Rescue and Emergency Services. Each of

the ten non-County PSAPs is required to enter into an inter-municipal agreement with the County outlining mutual responsibilities and liabilities.

In 1999, Chapter 441 was amended to establish an E-911 Commission comprised of the twelve representatives from the PSAPs, one member from the County Executive and one member from the County Legislature.

In 2009, the County code was amended to include providers of VOIP services (within a 911 service area) as service suppliers on which the monthly \$.35 surcharge per access line is imposed.

In 2013, the County code was further amended to define “system costs” as “...the costs associated with obtaining and maintaining the telecommunications equipment, all operations and maintenance costs and telephone service costs necessary to establish and provide the enhanced E-911 system.” In addition, Section 441-7 was also amended to require the County to allocate no less than 20% of the landline and VOIP surcharge revenue to the non-County PSAPs.

#### Wireless Surcharge Revenue

In accordance with §308-x of NYS County Law - Article 6, Suffolk County adopted §441-12 of the County code to impose a monthly surcharge, effective January 1, 2010, of \$.30 on each wireless communications device provided to a customer whose place of primary use is within Suffolk County. This legislation was vetoed by the County Executive and subsequently overridden by the Legislature on February 2, 2010. Therefore written notification to service suppliers to add wireless surcharges to their billings was delayed until February 4, 2010 resulting in implementation forty-five days thereafter.

Each wireless communications service supplier serving the County is required to collect and remit surcharge funds within thirty days after the last business day of the month. Suppliers are entitled to retain 2% of their collections of the surcharge as an administrative fee, and must provide the County Comptroller with an annual accounting of the surcharge amounts collected and billed. In addition, when remitting funds, each service supplier must provide the County with the amount of any unpaid surcharges and the name and address of any customer refusing or failing to pay the surcharge.

Wireless surcharge monies remitted to the County must be expended only for payment of actual costs incurred by the County related to the design, installation or maintenance of the system to provide enhanced wireless 911 services including, but not limited to, hardware, software, consultants, financing and other acquisition costs. In accordance with §441-16 of the County code, which was amended in 2013, no less than 20% of the surcharge monies remitted to the County in any fiscal year shall be allocated to the non-County PSAPs.

Prepaid Wireless Communications Service

Based on current NYS law, prepaid wireless communications devices are not subject to surcharges; however, in accordance with NYS Tax Law §186-f (2) effective December 1, 2017, the State will begin imposing a public safety communications surcharge. The County has been authorized and empowered by NYS Tax Law §186-g (2) to adopt and amend its local laws to impose a surcharge effective December 1, 2017 that will include both wireless communications service and prepaid wireless communications service at the rate of \$.30 per month on each wireless communications device.

Each service supplier serving the County is required to provide to the Suffolk County Comptroller an annual accounting of the surcharge amounts billed and collected within forty-five days of the end of the service supplier's fiscal year. In 2013, Suffolk County adopted §441-17 of the County code to impose a civil penalty of not more than \$250 per day that the required accounting of the surcharge amounts billed and collected is not received, not to exceed \$5,000 per year.

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## SCOPE AND METHODOLOGY

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The period covered by this audit was January 1, 2014 through December 31, 2015. We performed the following procedures in order to determine the implementation status of the recommendations contained in the aforementioned prior audit report:

- Obtained and reviewed prior audit findings identified in Audit Report No. 2013-05 for the period January 1, 2010 through June 30, 2012.
- Interviewed personnel in the Suffolk County Police Department's Finance Section and the Police Department's Director of Information Management.
- Made inquiries to the NYS Public Service Commission and the FCC for information regarding VOIP and wireless surcharges.
- Secured and reviewed applicable sections of the Suffolk County code and NYS County and Tax Laws.
- Obtained and reviewed inter-municipal agreements between the County and non-County PSAPs.
- Sent letters to 131 service suppliers (identified by remittances to the County) requesting an annual accounting of 2014 and 2015 surcharge amounts collected and billed.
- Obtained and reconciled the annual accountings of 2014 and 2015 surcharges to a crystal report of surcharge revenue recorded for fiscal years 2014 and 2015.
- Ensured that additional distributions of wireless surcharge revenue were properly distributed to the non-County PSAPs as recommended in the prior audit report.
- Reviewed the Budget Review Office reviews of the 2014 through 2016 recommended operating budgets.
- Reviewed landline, VOIP and wireless surcharge remittance documents submitted for the period January 1, 2014 through September 30, 2016.
- Obtained and reviewed crystal reports of distributions made to the PSAPs during the audit period.
- Attended teleconference hearings with the Suffolk County Comptroller and representatives for various service suppliers regarding the imposition of civil penalties for failure to submit the 2014 and 2015 annual accountings.

- Sent responses to all teleconference participants, mail and email respondents waiving imposition of any civil penalty for submission of the 2014 and 2015 annual accountings.
- Identified and notified service suppliers that were submitting monthly remittances or annual accountings to an incorrect address.
- Sent requests to all service suppliers that reported uncollectible surcharges to provide the names and addresses of their customers that refused or failed to pay surcharges.
- Sent notification to a representative for numerous service suppliers that the submitted annual accountings did not contain all information required by the County code.

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## AUDIT RESULTS

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Audit Report No. 2013-05 contained ten audit recommendations. Our follow-up audit determined that four of the ten recommendations were satisfactorily implemented. The six recommendations that were not fully implemented are reported herein with their current status and our suggested corrective measures:

***Prior Audit Recommendation*** – The Police Department should maintain properly detailed records of all surcharge revenue expended as required by section 441-7 of the County code. The records should include the amount and the source of the revenue expended as well as the object or purpose of the expenditure. These records should be used to determine if there is a surplus in any source of revenue and to ensure that any surplus is treated in accordance with the applicable section of the County code. Based on discussions with the Budget Office, consideration will be given to establishing a new appropriation to segregate funds.

***Current Status*** – This recommendation was not implemented. A new appropriation was not established and the Police Department could not provide detailed records of all surcharge revenue expended.

***Audit and Control's Follow-up Recommendation 1*** – The Police Department should comply with §441-7 of the County code and maintain detailed records of all surcharge revenue expended. The records should include the amount and source of the revenue expended as well as the object or purpose of the expenditure. These records should be used to determine if there is a surplus in any source of revenue and to ensure that any surplus is treated in accordance with the applicable section of the County code.

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***Prior Audit Recommendation*** – Distributions to the non-County PSAPs should be based on actual cash collections and made quarterly within 45 days of the end of the quarter to allow availability of funds for the payment of costs incurred for the enhanced 911 system. We note that payments of \$37,453 were distributed on 2/19/13 to each PSAP based on actual cash collections during the first six months of 2012. We recommend that additional distributions of \$37,094 be made to each PSAP representing cash collections during the remaining six months of 2012.

***Current Status*** – The recommended additional distributions of \$37,094 were made to each PSAP. However, the disbursements made for 2015 were not based on the actual cash collections, resulting in a total of \$9,135 in surcharge revenue that was not allocated and disbursed to the non-County PSAPs.

***Audit and Control's Follow-up Recommendation 2*** – The Police Department should ensure that all surcharge revenue for the quarter has been recorded prior to calculating the required allocation of surcharge revenue to be disbursed to the non-County PSAPs. In addition, the calculations should be reviewed by another employee in the Department to ensure the accuracy of the calculations prior to processing the disbursements to the non-

County PSAPs. Furthermore, the Department should distribute the \$9,135 in unallocated surcharge revenue to the non-County PSAPs.

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***Prior Audit Recommendation*** – Inter-municipal agreements outlining the responsibilities and liabilities of both the County and the local municipality should be executed. These agreements should include the requirement that unused funds revert back to the County if the PSAP does not expend the funds within a reasonable time frame defined in the agreement, as well as the right of the County Comptroller to audit the agreements.

***Current Status*** – Inter-municipal agreements which contain the right of the County Comptroller to audit the agreements were executed. However, there is no requirement that unused funds revert back to the County if the PSAP does not expend the funds.

***Audit and Control's Follow-up Recommendation 3*** – Inter-municipal agreements executed after the expiration of the current agreements should include the requirement that unused funds revert back to the County if the PSAP does not expend the funds within a reasonable time frame defined in the agreement. In addition, the agreements should require the PSAPs to provide the County with an annual accounting of the program.

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***Prior Audit Recommendation*** - Procedures should be put in place by the Police Department to ensure that surcharge revenue is received on a monthly basis from all wireless communications service suppliers and major landline and VOIP service suppliers. An Excel spreadsheet can be used to verify the accuracy of the remittances as well as to confirm that a remittance is received each month. To ensure that all surcharge revenue has been properly recorded in the County's Integrated Financial Management System (IFMS), a reconciliation of the spreadsheet total to IFMS should be completed prior to distributing any surcharges to the PSAPs. The spreadsheet should be reconciled to the annual accountings provided by the service suppliers. Additionally, statements submitted with monthly surcharge remittances should be reviewed to ensure surcharges are collected and that names and addresses are provided for any uncollectible surcharges, and surcharge revenue should be deposited on a timely basis.

***Current Status*** – The Department did not have any procedures in place in 2014 and while a spreadsheet was used in 2015, it was not reconciled to the revenue recorded in IFMS. In 2016, the Department began reconciling the spreadsheet to the revenue recorded in IFMS prior to processing any distributions of surcharge revenue to the PSAPs. In addition, the Department did not begin performing a proper review of the surcharge remittance documents for uncollectible surcharges until 2016. Currently, the Department notifies Audit and Control when a service supplier reports uncollectible surcharges without providing the names and addresses of the customers refusing or failing to pay the surcharges. Audit and Control follows up with a letter to the service supplier requesting the names and addresses of the customers.

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***Prior Audit Recommendation*** – Annual accountings of the surcharges billed and collected should be obtained from all wireless, landline and VOIP service suppliers by Audit & Control. The annual accountings for the surcharges should be reconciled to the surcharge revenue recorded in IFMS to ensure the allocation of the surcharge revenue to the PSAPs is based on the appropriate amount of surcharge revenue.

***Current Status*** – Prior to our follow-up audit this recommendation was not fully implemented. However, all service providers that did not submit an annual accounting for 2014 and/or 2015 were requested by Audit & Control to submit annual accountings. The annual accountings received for 2014 and 2015 were reconciled to the revenue recorded in IFMS.

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***Prior Audit Recommendation*** – The Police Department should initiate correspondence with all suppliers remitting surcharge revenue to ensure that remittances are made to the Police Department on a monthly basis and the County code should be amended to reflect this.

***Current Status*** – The Police Department did not implement this recommendation. Therefore, Audit & Control obtained copies of remittances sent to Finance & Taxation and informed those service providers of the correct address for submission of monthly remittances.

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In addition to the above, our follow-up audit revealed the following:

***Fourteen service providers failed to provide the County Comptroller with an annual accounting of the surcharge amounts billed and collected as required by §441-5 D. and §441-14 E. of the Suffolk County Charter.*** Sections 441-5 D. and 441-14 E. of the County Charter require each service supplier to maintain adequate records to permit the review of surcharge amounts billed and collected, and require an annual submission to the County Comptroller of the surcharge amounts billed and collected within 45 days of the end of the service provider's fiscal year. Furthermore, §441-17 of the County Charter states, "Any service supplier who fails to comply with the provisions of this chapter shall be subject to a civil penalty of not more than \$250 per day that the required accounting of the surcharge amounts billed and collected is not received, not to exceed \$5,000 per year."

***Recommendation*** – The County Comptroller should seek to impose this civil penalty on all noncompliant service providers.

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