



Dave Yost • Auditor of State

**City of Niles
Trumbull County, Ohio**

**Fiscal Emergency Analysis
As of December 31, 2013 and July 31, 2014**

Local Government Services Section

City of Niles, Trumbull County

Fiscal Emergency Analysis

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Declaration of Fiscal Emergency

The Auditor of State performed a fiscal analysis of the City of Niles pursuant to Section 118.03 of the Ohio Revised Code. This analysis indicates and it is hereby declared that a fiscal emergency exists at the City of Niles as defined in Sections 118.03(A)(5) and 118.03(B) of the Ohio Revised Code.

Accordingly, on behalf of the Auditor of State, this report is hereby submitted and filed with Ralph Infante, Jr., Mayor of the City of Niles; Robert Marino, Council President of the City of Niles; John Kasich, Governor; Jon Husted, Secretary of State; Josh Mandel, Treasurer of State; Timothy S. Keen, Director of the Office of Budget and Management and Adrian S. Biviano, Secretary of the Trumbull County Budget Commission.

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DAVE YOST
Auditor of State

October 7, 2014

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City of Niles, Trumbull County

Fiscal Emergency Analysis

Introduction

As provided by Section 118.04(A) of the Ohio Revised Code, Mayor Ralph Infante, Jr. requested that a fiscal analysis be performed by the Auditor of State for the City of Niles, Trumbull County (the City). The purpose of this analysis is to determine if the financial condition of the City justifies the declaration of a fiscal emergency.

A city is placed in fiscal emergency if any one of the six conditions described in Section 118.03 of the Ohio Revised Code exists. The six conditions are: 1) default on a debt obligation; 2) failure to make payment of all payroll; 3) an increase in the minimum levy of the city which results in the reduction in the minimum levy of another subdivision; 4) significant past due accounts payable; 5) substantial deficit balances in city funds; and 6) a sizeable deficiency when the city’s treasury balance is compared to the positive cash balances of the city’s funds.

The year-end conditions described under Conditions four, five, and six do not constitute a fiscal emergency if the City clearly demonstrates to the satisfaction of the Auditor of State prior to the time of the Auditor of State’s determination that the conditions no longer exist at the time of the determination.

This report identifies the procedures performed and the conclusions reached with respect to each condition as of December 31, 2013, and July 31, 2014, the date of determination.

Condition One – Default on Any Debt Obligation

Section 118.03(A)(1) of the Ohio Revised Code defines a fiscal emergency condition as:

The existence, at the time of the determination by the Auditor of State under Section 118.04 of the Revised Code, of a default on any debt obligation for more than thirty days.

We reviewed the outstanding indebtedness of the City as of December 31, 2013, which consisted of one debt issue. A summary of the City’s outstanding debt is presented below:

Debt Issue	Interest Rate	Issue Date	Issue Amount
General Obligation Bonds Payable:			
Various Purpose Bonds - 2011	2.00-4.00%	November 1, 2011	\$7,500,000

We obtained a list of outstanding debt from the 2011 audited financial statements and reviewed the existing minutes for the period of January 1, 2012 through July 31, 2014 to identify any new debt issues. We obtained the vouchers for the payments made before July 31, 2014, and compared the billing statements, invoices, or requests for payment to the amortization schedules and debt proceedings to determine if the City met its debt obligations in a timely manner. We also reviewed the billing statements, invoices, and requests for payment for any delinquent amounts. There were no debt payments more than 30 days past due.

The debt issues, the payment dates, and the amounts due and paid prior to the date of determination are presented below:

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Debt Issue	Interest Rate	Principal or Interest Payment Date	Amount Due	Payments 30 Days Past Due at June 30, 2014
General Obligation Bonds Payable:				
Various Purpose Bonds - 2011	2.00-4.00%	12/1/2013	\$419,350	\$0

Conclusion: A fiscal emergency condition does not exist under Ohio Revised Code Section 118.03(A)(1). No default on any debt obligation for more than thirty days existed at July 31, 2014.

Condition Two – Payment of All Payroll

Section 118.03(A)(2) of the Ohio Revised Code defines a fiscal emergency condition as:

The existence, at the time of the determination by the Auditor of State under Section 118.04 of the Revised Code, of a failure for lack of cash in the funds to make payment of all payroll to employees of the municipal corporation, county, or township in the amounts and at the times required by laws, ordinances, resolutions, or agreements, which failure of payment has continued:

- (a) For more than thirty days after such time for payment, or
- (b) Beyond a period of extension, or beyond the expiration of ninety days from the original time for payment, whichever first occurs, if the time for payment has been extended for more than thirty days by the written consent of at least two-thirds of the employees affected by such failure to pay, acting individually or by their duly authorized representatives.

We reviewed the payroll records of the City as of July 31, 2014. We reviewed the City Council’s minutes, ordinances and other personnel records to determine the employees of the City, pay rates, frequency of payroll, and whether any extensions for the payment of payroll exist. We reviewed payroll reports and interviewed various employees to see if payroll checks were issued on the scheduled pay dates. These procedures were performed to ascertain whether City employees had been paid within the time specified by Section 118.03(A)(2) of the Ohio Revised Code.

Conclusion: A fiscal emergency condition does not exist under Section 118.03(A)(2) of the Ohio Revised Code as of July 31, 2014. All employees have been paid in amounts and at the times required by City ordinance and negotiated agreements.

Condition Three – Increase in Minimum Levy

Section 118.03(A)(3) of the Ohio Revised Code defines a fiscal emergency condition as:

An increase, by action of the county budget commission pursuant to division (D) of Section 5705.31 of the Revised Code, in the minimum levy of the municipal corporation, county, or township for the current or next fiscal year which results in a reduction in the minimum levies for one or more other subdivisions or taxing districts.

We confirmed with the Trumbull County Budget Commission whether there had been an increase, pursuant to division (D) of Section 5705.31 of the Ohio Revised Code, in the minimum levy of the City for 2014, which resulted in a reduction in the minimum levies for one or more other subdivisions or taxing districts. The confirmation received from the Trumbull County Budget Commission indicated that

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the Budget Commission had not taken any action for 2014 to increase the inside millage of the City, and no other subdivision’s inside millage was reduced.

Conclusion: A fiscal emergency condition does not exist under Section 118.03(A)(3) of the Ohio Revised Code as of July 31, 2014. The Trumbull County Budget Commission has not taken any action to increase the inside millage of the City, thus reducing another subdivision’s millage.

Condition Four – Past Due Accounts Payable from the General Fund and All Funds

Section 118.03(A)(4) of the Ohio Revised Code, defines a fiscal emergency condition as:

The existence of a condition in which all accounts that, at the end of its preceding fiscal year, were due and payable from the general fund and that either had been due and payable for at least thirty days at the end of the fiscal year or to which a penalty has been added for failure to pay by the end of the fiscal year, including, but not limited to, final judgments, fringe benefit payments due and payable, and amounts due and payable to persons and other governmental entities and including any interest and penalties thereon, less the year-end balance in the general fund, exceeded one-sixth of the general fund budget for that year, or in which all accounts that, at the end of its preceding fiscal year, were due and payable from all funds of the municipal corporation, county, or township and that either had been due and payable for at least thirty days as at the end of the fiscal year or to which a penalty has been added for failure to pay by the end of the fiscal year, less the year-end balance in the general fund and in the respective special funds lawfully available to pay such accounts, exceeded one-sixth of the available revenues during the preceding fiscal year, excluding nonrecurring receipts, of the general fund and of all special funds from which such accounts lawfully are payable. Accounts due and payable shall not include any account, or portion thereof, that is being contested in good faith.

We prepared a schedule of accounts payable as of December 31, 2013, that were due and payable from the general fund, and that had been due and payable for at least thirty days or to which a penalty had been added for failure to pay as of December 31, 2013, including, but not limited to, final judgments, fringe benefit payments due and payable, and amounts due and payable to persons and other governmental entities, including any interest and penalties. From this amount, we subtracted the year-end fund balance available in the general fund to determine if the accounts payable in excess of the available fund balance exceeded one-sixth of the general fund budget for that year.

Schedule I

General Fund Accounts Payable Over 30 Days Past Due
Ohio Revised Code Section 118.03(A)(4)
As of December 31, 2013

	Payables Over 30 Days Past Due	General Fund Balance Available	Payables In Excess of Available Balance	One-Sixth of General Fund Budget	Accounts Payable in Excess of General Fund Budget
General	\$3,144	\$1,886,652	\$0	\$1,650,296	\$0

We prepared a schedule of accounts payable (as defined above) for all funds which were at least thirty days past due or to which a penalty was added as of December 31, 2013. From this amount, we subtracted the year-end fund balance available to pay such outstanding bills. We then determined if the accounts payable in excess of the available fund balance exceeded one-sixth of the available revenues during 2013, excluding non-recurring receipts of the general fund and of all special funds from which such accounts are lawfully payable.

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Schedule II

All Funds Accounts Payable Over 30 Days Past Due
Ohio Revised Code Section 118.03(A)(4)
As of December 31, 2013

Funds	Payables Over 30 Days Past Due	Fund Balance Available	Payables In Excess of Available Balance	One-Sixth of the Available Budget/Revenues	Accounts Payable in Excess of Available Revenues
General	\$3,144	\$1,886,652	\$0	\$1,650,296	\$0
Police and Fire 1/2%	103	576,939	0	1,216,671	0
Water	169,025	0	169,025	925,057	0
Light	9,063	5,832,669	0	4,651,848	0
Sewer	9,063	0	9,063	429,937	0
Totals	\$190,398	\$8,296,260	\$178,088	\$8,873,809	\$0

Conclusion: Schedules I and II indicate that as of December 31, 2013, a fiscal emergency condition does not exist under Section 118.03(A)(4) of the Ohio Revised Code. Accounts payable which were at least thirty days past-due at the end of the year, less the year-end balance in the general fund and respective special funds did not exceed one-sixth of the general fund budget and available revenues of those special funds as of December 31, 2013. An analysis as of the date of determination was not completed because a fiscal emergency condition did not exist at year-end.

Condition Five – Deficit Fund Balances

Section 118.03(A)(5), of the Ohio Revised Code defines a fiscal emergency condition as:

The existence of a condition in which the aggregate of deficit amounts of all deficit funds at the end of its preceding fiscal year, less the total of any year-end balance in the general fund and in any special fund that may be transferred as provided in Section 5705.14 of the Revised Code to meet such deficit, exceeded one-sixth of the total of the general fund budget for that year and the receipts to those deficit funds during that year other than from transfers from the general fund.

We computed the adjusted aggregate sum of all deficit funds as of December 31, 2013, by subtracting all accounts payable and encumbrances from the year-end cash fund balance of each fund. We then determined if the aggregate deficit fund balance exceeded one-sixth of the general fund budget and the receipts of those deficit funds. We then identified funds that may be transferred, as provided in Section 5705.14 of the Ohio Revised Code, to meet such deficits to arrive at the unprovided portion of the aggregate deficit.

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Schedule III

Deficit Fund Balances
Ohio Revised Code Section 118.03(A)(5)
As of December 31, 2013

Funds	Cash Fund Balances	Less Accounts Payable and Encumbrances	Adjusted Aggregate Sum of Funds With Deficit Balances	One-Sixth General Fund Budget/ Fund Receipts	Unprovided Portion of Aggregate (Deficit)
General	\$1,950,013	\$66,505	\$1,883,508	\$1,728,534	\$0
Prisoner Transport	(1,065)	2,125	(3,190)	275	(2,915)
Permissive Tax	(11,494)	7,263	(18,757)	14,525	(4,232)
Water	(2,716,320)	289,532	(3,005,852)	925,131	(2,080,721)
Sewer	(419,604)	216,117	(635,721)	490,761	(144,960)
Motor Fuel	10,332	24,606	(14,274)	57,652	0
Self Insurance	(15,242)	79,581	(94,823)	704,095	0
	<u>(\$1,203,380)</u>	<u>\$685,729</u>	<u>(\$1,889,109)</u>	<u>\$3,920,973</u>	<u>(2,232,828)</u>
Funds available for transfer					<u>1,744,855</u>
Total Unprovided Portion of Aggregate Deficit Funds					<u>(\$487,973)</u>

Section 118.03(B), Ohio Revised Code, provides in part:

Any year-end condition described in division (A)(5) of this section shall not constitute a fiscal emergency condition if the municipal corporation, county, or township clearly demonstrates to the satisfaction of the Auditor of State prior to the time of the Auditor of State’s determination that such condition no longer exists at the time of the determination pursuant to Section 118.04 of the Revised Code. For the purpose of such demonstration, there shall be taken into account all deficit amounts of deficit funds, as at the time of such demonstration, rather than at the end of the fiscal year, and there shall be taken into account the moneys and marketable securities in the treasury of the municipal corporation, county, or township at the time of such demonstration that are, in the case of division (A)(5) of this section, held for the general fund or any special fund that may be transferred as provided in section 5705.14 of the Revised Code, to meet such deficit, provided that changes from the year-end condition resulting from transfers not authorized pursuant to Chapter 5705 of the Revised Code, borrowings or advances between funds, shall not be taken into account to demonstrate improvement in any fiscal emergency condition.

We computed the adjusted aggregate sum of all deficit funds as of July 31, 2014, by subtracting all accounts payable and encumbrances from the year-end cash fund balance of each fund. We then determined if the aggregate deficit fund balance exceeded one-sixth of the receipts available to those deficit funds. We then identified funds that may be transferred, as provided in Section 5705.14 of the Ohio Revised Code, to meet such deficits, to arrive at the unprovided portion of the aggregate deficit.

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Schedule IV

Deficit Fund Balances
Ohio Revised Code Section 118.03(B)
As of July 31, 2014

Funds	Cash Fund Balances	Less Accounts Payable and Encumbrances	Adjusted Aggregate Sum of Funds With Deficit Balances	One-Sixth Fund Receipts	Unprovided Portion of Aggregate (Deficit)
Prisoner Transport	(\$595)	\$2,013	(\$2,608)	\$275	(\$2,333)
Fire Pension	(34,500)	0	(34,500)	13,448	(21,052)
Permissive Tax	(47,714)	10,031	(57,745)	14,525	(43,220)
Park	(44,634)	5,195	(49,829)	27,414	(22,415)
Capital Project	(32,388)	138,062	(170,450)	38,828	(131,622)
Water	(2,696,835)	366,997	(3,063,832)	925,131	(2,138,701)
Sewer	(118,347)	221,859	(340,206)	490,761	0
Cemetery	(14,792)	620	(15,412)	24,155	0
Motor Fuel	(14,405)	78,131	(92,536)	57,652	(34,884)
Self Insurance	(4,896)	14,649	(19,545)	704,095	0
	<u>(\$3,009,106)</u>	<u>\$837,557</u>	<u>(\$3,846,663)</u>	<u>\$2,296,284</u>	<u>(2,394,227)</u>
Funds available for transfer					<u>2,333,134</u>
Total Unprovided Portion of Aggregate Deficit Funds					<u>(\$61,093)</u>

Conclusion: Schedules III and IV indicate that a fiscal emergency condition exists under Sections 118.03(A)(5) and 118.03(B) of the Ohio Revised Code as of December 31, 2013, and July 31, 2014. The total unprovided portion of aggregate deficit funds as of December 31, 2013, and July 31, 2014, are \$487,973 and \$61,093, respectively.

Condition Six – Treasury Deficiency

Section 118.03(A)(6), of the Ohio Revised Code, defines a fiscal emergency condition as:

The existence of a condition in which, at the end of the preceding fiscal year, moneys and marketable investments in or held for the unsegregated treasury of the municipal corporation, county, or township, minus outstanding checks and warrants, were less in amount than the aggregate of the positive balances of the general fund and those special funds the purposes of which the unsegregated treasury is held to meet, and such deficiency exceeded one-sixth of the total amount received into the unsegregated treasury during the preceding fiscal year.

As of December 31, 2013 and July 31, 2014, the City of Niles has not reconciled its journals and ledgers with the bank. The last reconciliation completed for the City was as of December 31, 2011.

Conclusion: Due to the lack of bank to cash reconciliations as of December 31, 2013 and July 31, 2014, this fiscal emergency condition under Section 118.03(A)(6) of the Ohio Revised Code, could not be determined.

Summary

A fiscal emergency is the existence of at least one of the above defined conditions. This analysis indicates that a fiscal emergency exists at the City of Niles as defined in Sections 118.03(A)(5) and 118.03(B) of the Ohio Revised Code as presented in Schedules III and IV above as of December 31, 2013 and July 31, 2014.

Because the above procedures were not sufficient to constitute an audit made in accordance with generally accepted auditing standards, we do not express an opinion on any of the specific accounts and fund balances referred to above. Had we performed additional procedures or had we made an audit of the financial statements in accordance with generally accepted auditing standards, other matters might have come to our attention that would have been reported to you.



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CITY OF NILES

TRUMBULL COUNTY

CLERK'S CERTIFICATION

This is a true and correct copy of the report which is required to be filed in the Office of the Auditor of State pursuant to Section 117.26, Revised Code, and which is filed in Columbus, Ohio.

Susan Babbitt

CLERK OF THE BUREAU

**CERTIFIED
OCTOBER 07, 2014**