



**Edward J. Kurtz**  
*Emergency Financial Manager*

June 18, 2004

Mr. Frederick Headen, Deputy Director  
State of Michigan, Department of Treasury  
Bureau of Local Government Services  
4<sup>th</sup> Floor, Treasury Building  
430 West Allegan Street  
Lansing, MI 48922

Dear Mr. Headen:

Enclosed is the Final Report of the Emergency Financial Manager of the City of Flint submitted for your review.

If you have questions, please bring them to my immediate attention by calling (810) 766.7346.

Respectfully submitted,

Edward J. Kurtz  
Emergency Financial Manager

Enclosure: Final Report

**CITY OF FLINT**



**Emergency Financial Manager  
Final Report  
June 17, 2004**

**Final Report of the  
Emergency Financial Manager  
CITY OF FLINT  
June 17, 2004**

To summarize the status of the City of Flint as of this date, the Emergency Financial Manager (EFM) for the City of Flint offers the following final report:

There have been no new discoveries during this quarter that would have an impact on the financial status of the city.

Following is an update on the discoveries reported in previous quarterly reports:

In follow-up to the items reported in the First Quarterly Report, the EFM offers the following:

1. Significant problems still exist with the pension board. There are at least seven lawsuits pending with more being considered. The pension fund earnings during the boom years underperformed the market, and the practice of paying a "13<sup>th</sup> check," even in years when the fund lost money, has caused the fund to lose approximately 33% of its value. The city discontinued funding of the pension plan until such time as the pension board adopted up-to-date actuarial assumptions. The pension board subsequently adopted updated actuarial assumptions for the first time since 1999. As a result, it was discovered the city would have contributed about \$3.2 million more than necessary into the fund.

**Response (Third Quarterly Report):** Two additional lawsuits have been filed. Both name the city and the Emergency Financial Manager as defendants. This brings the total number of lawsuits involving the pension board to twelve. The city did receive a favorable ruling in the only suit that it has filed against the pension board. It has been determined that the city's Chief Legal Counsel is in fact the counsel for the pension board. The ruling indicates further that there is no "inherent conflict" between the city's Chief Legal Counsel and the pension board. The pension board is entitled to outside counsel only in the case of a clear conflict with the city. The pension board, on a 6 to 3 vote, is appealing the decision. The court intends to rule on the pension board's lawsuit against the Emergency Financial Manager, and his ability to issue directives to the pension board, sometime around the middle of June.

**Response (Fourth Quarterly Report):** The judge did issue his written order that the city attorney is in fact the attorney for the pension board. However, he immediately stayed the order pending the appeal. This means of course, that the city will continue to pay for outside counsel (projected to be approximately \$250,000 in this fiscal year) until such time as the appeal is heard. Including the cost of the city defending itself against the lawsuits filed by the pension board, unions and retirees, it is estimated that the legal fees for pension system related litigation could be in excess of \$500,000 in this fiscal year. The judge also now wants to hear witnesses in the lawsuit regarding

the EFM's ability to issue directives to the pension board. It is now likely that the court will not rule until sometime in November or thereafter.

**Response (First Quarterly Report-Second Year):** The court has heard the testimony and closing arguments. The city is now waiting for the judge's ruling.

**Response (Second Quarterly Report-Second Year):** The court has still not issued its ruling in the above case. A hearing was scheduled for March 10 but it was cancelled by the Judge. It has been rescheduled for late March.

**Response (Final Report):** In Mid May the judge finally ruled on the lawsuit relative to the EFM's ability to issue directives to the pension board. It was a mixed ruling. The judge ruled that the pension board is not a "public body" under PA 72. However, the judge only rescinded one of the five directives issued by the EFM, refused to grant an injunction preventing the EFM from further action and also ruled, importantly, that the pension board is in fact governed by the ordinance which is not superceded by state law. I believe that this gives the city all the authority it needs to handle all of the pension related issues at hand. However, it is possible that the pension board could appeal and because of the mixed message sent by the judge, further actions of the EFM and/or council could result in additional litigation.

2. All employees are still working on extensions to labor contracts as all have expired. AFSCME is in fact finding, Fire is in the 312-arbitration process, Police have asked for a mediator and will be quickly heading to 312-arbitration. The city has entered into an agreement with Genesee County to provide all labor relations services. The county staff brings 60 years of labor relations experience with them to this process.

**Response (Third Quarterly Report):** There has been little progress in negotiations with the various unions, however, we should have the results of the 312-arbitration with the fire fighters union soon. The new Labor Relation's staff has made significant progress in eliminating a backlog of hundreds of grievances and arbitrations. However, the city continues to receive, on average, ten new grievances per month.

**Response (Fourth Quarterly Report):** The city has received the results of the 312-arbitration with the fire fighters union. The outcome was favorable for the city and is now being implemented. However, the contract will expire in June of 2004. See number 1 above for the status of the AFSCME contracts (the City has reached a five year contract with AFSCME 1600 and 1799 that will have a positive affect on the City's finances). The police officers are still on track to go to 312-arbitration.

**Response (First Quarterly Report-Second Year):** There have been no formal negotiating sessions with any of the unions since the last quarterly report. The EFM believes now that the election in over, the negotiating process will resume. It should also be noted that at least two of the unions have new presidents as well.

**Response (Second Quarterly Report-Second Year):** Some informal discussions have occurred with both the police and fire unions. No formal discussions have occurred. Fire presents a unique dilemma at this point in time as the president of the union is a plaintiff in a lawsuit naming both the city and the union as defendants. The city has asked for clarification from the union's legal council as to who the city can appropriately meet with for negotiations. They city has not received a response at this time. There is also an ongoing attempt to remove the president of the union by some members of the union.

**Response (Final Report):** A five-year contract has been reached with AFSCME 1600 and AFSCME 1799. It is now likely that the police officers will proceed to 312 arbitration, as the two sides are far apart. Negotiations continue with the Police Sergeants and Command units. The fire fighters have recalled the president and appointed a new president. Discussions are now underway with the firefighters whose contract expires in June of this year. .

In addition, as required by the terms of the EFM's contract, the EFM is required to confirm or deny that adequate accounting systems and management practices are in place and that each of the following has occurred:

1. The revenues recorded in the most recent quarterly financial statements are fairly stated in all material respects on a modified accrual basis of accounting, except that in the case of water and sewer fund, revenues recorded in the most recent quarterly financial statement shall be fairly stated in all material respects on a full accrual basis of accounting.

**Response:** It is the belief of the EFM that the above is, in fact, occurring.

2. That expenditures recorded in the most recent quarterly financial statements are fairly stated in all material respects on a modified accrual basis of accounting, except that in the case of water and sewer fund, expenditures recorded in the most recent quarterly financial statements shall be fairly stated in all material respects on a full accrual basis of accounting. Accounts payable, vouchers payable, and accrued payrolls are to be included in the determination of expenditures.

**Response:** It is the belief of the EFM that the above is, in fact, occurring.

3. That all appropriate inter-fund transactions have been recorded in the financial records of the city.

**Response:** In the first quarterly report, the EFM indicated that "It is the belief of the EFM that the above is in fact occurring". However, as reported in the Third Quarter Report, there is some question as to whether or not all inter-fund transactions are being recorded. The EFM will continue to monitor this area closely. **The city has now implemented a cost allocation plan and all inter-fund transactions are being recorded.**

**Response (Final Report):** The previous report should have more accurately indicated that a cost allocation plan has been “adopted” instead of “implement”. A budget amendment has been made to recognize the plan but the accounting actions have not been taken pending HUD approval of the plan. HUD has reviewed the plan and asked for some minor changes. The consultant is preparing those as of this writing and a HUD approved plan should be complete within the next two weeks. All accounting transactions will then be made.

4. That the city is in compliance with its budget for the fiscal year on a year-to-date basis and that the budget has been amended as required by law.

**Response:** The city is in compliance with its budget as amended for fiscal year 2003/2004.

5. That the reconciliation of bank accounts has been completed and appropriate adjusting journal entries have been made to the general ledger of the city.

**Response:** It is the belief of the EFM that the above is, in fact, occurring.

6. That the remittances of payroll taxes, pension payments, 401(k) payments, debt payments, and taxes collected for other governmental units were completed on a timely basis.

**Response:** It is the belief of the EFM that the above is, in fact, occurring.

7. That cash flow reported for the most recent preceding month is fairly stated in all material respects.

**Response:** It is the belief of the EFM that the above is, in fact, occurring.

8. That overtime is properly disclosed and recorded in the most recent quarterly financial report of the city.

**Response:** It is the belief of the EFM that the above is, in fact, occurring.

9. That the original of all source financial documents have been properly retained and preserved and that the city is in compliance with all other legal requirements, except to the extent specified in the report.

**Response:** The EFM cannot with any degree of certainty confirm that this is factual. It appears at this point in time, the Finance Department is in compliance with all legal requirements.

The EFM also reports the following:

1. Adopted a Financial plan for the period effective February 1, 2003 to June 30, 2004. *(First reported in the Second Quarterly Report)* Adopted a revised financial plan covering the period from February 1, 2003 to June 30, 2005.
2. Submitted a Deficit Elimination plan to the Department of Treasury and has approval for the first year of the plan. Submitted a revised Deficit Elimination Plan. *(The revised plan has not been approved as of this date)*

**Response (Final Report):** The deficit has been further reduced to approximately \$8.6 million. It is estimated that the deficit as of the end of the fiscal year (June 30, 2004) will be further reduced to under \$8 million. Based on this reduction it is now the recommendation of the EFM that the city bond the remaining debt using a twenty-year repayment schedule. This will improve the city's General Fund budget by \$2.5 million partially negating the \$4.5 million in lost revenue projected for fiscal year 2004/2005. However based on the recommendation below, the city will face an additional loss of state revenue sharing dollars of approximately \$1.2 million which could raise the deficit back to above \$8 million.

3. Issued directives 110 through 121 aimed at improving the financial condition of the city. *(On file in the Treasurer's office)*
4. Adopted a balanced budget for fiscal year 2003-2004 and approved seven amendments to account for HUD funds carried over from the previous year. *(HUD is on an October 1 fiscal year)* These amendments also include approval of the first, second and third quarterly amendments to the budget and implementation of the cost allocation plan. A final amendment will be made in June to account for the loss of revenue sharing and any other fourth quarter changes necessary.
5. Adopted a balanced budget for fiscal year 2004-2005. Began budget review meetings with the council (at council's recommendation) to provide council with a solid understanding of the budget. This budget is "precariously" balanced and will require significant effort to manage.

**Response (Final Report):** The 2004-2005 budget as adopted assumes that the remaining deficit (approximately \$8 million) will be bonded and repaid over twenty years. Further, the payments are budgeted to be paid from the 401 "Public Improvement Fund", as per the Charter which states:

"B. Out of the total number of mills which may be levied in taxes annually for municipal purposes on each dollar of assessed valuation, there are hereby reserved two and one half (2 ½) mills for the purposes hereafter stated:

1. First, to pay promptly when due the principal of and interest on all bonds which are a general obligation of the City."

The EFM must note that the auditors for the city indicated to the budget director "While you might be right with the legal interpretation, it does not appear that such a reading would meet the spirit of the charter".

The EFM also intends to notify the Mayor and the Council of this issue in case they would prefer to handle it differently.

6. The EFM under the amendments to PA 72 did adopt for the first time, amendments to the ordinances without approval of the council

The EFM would also like to add the following comments relative to the condition of the city:

Based on the reduction in the deficit to under \$8 million and the recommendation to bond the remaining balance, it has become clear that the EFM has resolved the deficit to the point where it is manageable by responsible elected officials. Attempts are still underway to resolve the remaining pension issues as well as labor contracts with police and fire. While there are issues the EFM would like to stay to resolve such as those mentioned, the EFM has fulfilled his responsibilities under PA 72. It is therefore, the EFM's recommendation that authority be restored to the mayor and council by July 1, 2004. As per the EFM's letter to the state dated June 8, 2004 he is available until June 30, 2004 to discuss any transition plan as well as any consent agreement. The next two years will be extremely critical to the city's future and strong leadership, qualified and capable managers and good management practices will be essential. It is also the recommendation of the EFM that an independent monitor be appointed or a reporting process put in place to monitor the city's compliance until July 1, 2005.

Respectfully submitted,

  
Edward J. Kurtz  
Emergency Financial Manager