

Internal Review and Investigation
of Cuyahoga County, Ohio

Report to William D. Mason, Cuyahoga County Prosecutor

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I. Executive Summary

On July 28, 2008, federal agents executed search warrants on multiple locations throughout Cuyahoga County (the “County”), including County offices and residences of selected County officials. The warrants were issued in connection with a public corruption investigation by the United States Department of Justice, centered on a number of County officials and parties associated with County contracts. Subsequent warrants were executed over the next few months, including warrants on the offices of two Cuyahoga County Common Pleas Judges. The situation raised a number of serious concerns for County management, including the integrity and administration of certain contracts, financial transactions, and property valuations, among other matters that came to light as a result of the criminal investigation. There were also concerns on the part of the Ohio Auditor of State’s Office and the County’s outside accounting firm, Deloitte & Touche LLP (“Deloitte”). Given the breadth of the investigation and overall concern about the possible fiscal impact on the County’s financial status, Deloitte informed County officials in late 2008 that it could not release the County’s 2007 Comprehensive Annual Financial Report (“CAFR”) and Single Audit Report.

To address the concerns raised by the federal investigation, the County conducted an internal review of its operations and specific individuals and projects reported by local media as being “of interest” to the FBI. County department heads and the elective offices of the County Auditor and County Engineer were instructed to investigate all transactions within their respective departments referenced in articles published by *The Cleveland Plain Dealer* regarding the federal investigation, federal Grand Jury subpoenas, or federal search warrants served on County offices. These individuals were also instructed to examine all transactions within their respective departments involving individuals or entities referenced in *The Cleveland Plain Dealer* articles, federal Grand Jury subpoenas or federal search warrants served on County

offices as well. Such methodology involved the gathering of information for individuals and entities who may be wholly innocent of any criminal activity or wrongdoing under investigation by the federal government. The fact that such information was reviewed by the County and Bricker should not be construed as implying involvement by these parties in any criminal activity or wrongdoing whatsoever.

In March and April of 2009, the following County departments provided reports on their findings:

1. Department of Central Services
2. Department of Development
3. Office of Human Resources
4. Department of Justice Affairs
5. County Engineer's Office
6. Office of Procurement and Diversity
7. County Auditor's Office

The Department of Justice Affairs and County Engineer's Office provided a joint report focused on their working relationship as related to the County's Geographic Information System Project ("GIS"). These reports are attached at Attachments 1 through 6. The County's internal review did not include the review of email communications, nor were specific allegations by the government addressed, as no charges had been filed at that time.

In June 2009, after the United States Attorney's Office filed charges against officials with the County Engineer's Office, the County sought to expand the scope of its initial internal review and seek the assistance of outside counsel with experience in such matters. Accordingly, the law firm of Bricker & Eckler LLP ("Bricker"), through Richard H. Blake, a partner in the firm's

Cleveland office (“Blake”), was asked to assist the County with its expanded internal review. Bricker was asked, among other things, to: (1) examine the work initially performed by the County and expand on that work as needed; (2) review all available emails and pertinent electronic documents maintained by the County for selected County personnel, and; (3) review specific transactions subject to the federal government’s ongoing public corruption investigation.

Blake assembled a team of Bricker attorneys and an Information Technology (“IT”) specialist to assist in the investigation. The team consisted of Richard Blake, Maria Armstrong, Andrew Balcar, Scott Davis, Rod Davisson, Christopher Ernst, Dan Gibson, Molly Philipps, Hank Reder, Rob Thumann, Matt Warnock, and Mike McBride (IT Specialist). A brief description of each team member’s background is attached as Attachment 13.

The purpose of Bricker’s review was not to duplicate the FBI’s investigation nor determine the validity of the government’s allegations against specific parties. Rather, the purpose was to provide an independent analysis of the potential impact the ongoing public corruption investigation could have on the County’s financial statements and overall financial position. Bricker was instructed by each of the three County Commissioners and County Prosecutor’s Office to conduct the investigation in any manner deemed appropriate by the investigative team. Bricker was instructed by the Commissioners and Prosecutor’s Office to follow all leads, whatever the outcome and wherever they led. Consequently, the scope of Bricker’s review expanded several times during the course of its investigation. Bricker received full cooperation from all County personnel contacted by members of the investigative team, and was not hindered in any way during the investigation.

In conducting its review, Bricker examined all records and resources made available by the County; analyzed relevant contracts, including the procurement process used and vendors

selected for the work; reviewed the status of work performed by vendors and payments made by the County; interviewed relevant County personnel and individuals with knowledge of matters relevant to this review, and; analyzed the legal implications of the County's potential financial exposure from disappointed bidders on County contracts, County taxpayers, and the federal government in cases where federal funds were provided to pay for portions of County contracts subject to investigation by the Department of Justice. In determining whom to interview, Bricker considered all individuals who could possibly have relevant information and excluded no one from its list of potential interviewees. The decision of whom to interview was left solely to Bricker's discretion and was in no way influenced by County officials.

Finally, although the focus of Bricker's investigation was the potential impact of the federal government's activities on the County's financial statements and overall financial position, we examined all relevant transactions, however small, for the possibility of illegal actions by County officials and parties related to those transactions. Bricker did not disregard or ignore any activity that appeared to be illegal simply because the dollar amounts involved would have no impact on the County's financial position.

Based on all the information we have reviewed, it is our conclusion that whatever the outcome of the federal government's ongoing investigation and prosecutions, it is highly unlikely that such outcome will significantly affect the fair presentation of the basic financial statement of the County's financial position. The County's overall budget is approximately \$1.5 billion of which approximately \$370,000,000 makes up the general fund. The unreserved undesignated fund balance for the general fund ending December 31, 2008 was approximately \$197.7 million. Given the amount of funds involved, as discussed further below, the possibility

that the County's overall financial position would be significantly impacted by any of the activities uncovered in the federal public corruption investigation is remote.

II. Scope of Bricker & Eckler LLP Review

A. Identification of Target Issues

Bricker examined a series of resources to gather information and identify the full scope of its review. Records and information reviewed include the following:

1. Federal Charges Filed in District Court for the Northern District of Ohio

To determine the full scope of the matters publicly known to be under criminal investigation, Bricker examined the allegations charged in the following cases (Attachments 7 through 12):

- *United States v. John Kevin Kelley, et al.* (Case No. 1:09 CR 272, filed June 12, 2009)

Counts 1 and 2 of this Information address the contract for post-incarceration treatment between Alternatives Agency, Inc. and the Cuyahoga County Probation Department. The government alleges that representatives for Alternatives Agency asked Kelley to use his contacts at the County to retain the contract and paid money to J. Kevin Kelly's consulting company. Kelley used a portion of this money to pay and entertain County Commissioner Jimmy Dimora ("Dimora") and County Auditor Frank Russo ("Russo") so they would use their influence in awarding and retaining the contract with Alternatives Agency. Neither Dimora nor Russo have been charged.

Count 3 addresses the contract for the construction of the Juvenile Justice Center. The government alleges that Kelley acted on behalf of Blaze Building, Inc. to have Dimora and Russo use their influence with the County to award certain aspects of the

contract. In return, the owner of Blaze paid for the cost of travel to Las Vegas for Kelley, Dimora, and Russo.

Count 4 addresses the Lease Agreement for the County Engineer's Office, charging that the K&D Group gained an unfair advantage over other potential landlords in obtaining the Engineer's Office as a tenant and maintaining the office as a tenant, by providing and offering to provide things of value to public officials. K&D paid money to Daniel Gallagher, who in turn paid a portion of that money to Payne, who in turn used a portion of that money to entertain Dimora with the understanding that Dimora would use his influence to benefit K&D.

Count 5 addresses the contract for document imaging, aka Docuware, charging that Broma Information Technologies paid a 10% kickback to Gallagher's consulting company in return for obtaining the contract. Gallagher split the funds equally with Payne and another County employee.

Count 6 addresses the contract for the geospatial information system ("GIS Project") and charges that Kelley, Russo, Payne and another County employee exerted influence over the award and administration of the contract. The government alleges that Broma paid kickbacks to Gallagher's consulting company in return for being hired as a subcontractor, a portion of which was then distributed by Gallagher to Kelley and other public officials.

Count 7 addresses additional GIS related contracts, including contracts for Digital Orthoimagery and Sanitary Engineer's Work Order Management System projects. The government alleges that Woolpert paid money to a local Cleveland attorney for assistance in the bidding process, and that the attorney paid money to Gallagher's consulting firm.

Gallagher in turn paid a portion of the money to Payne, who together with Kelley used their influence to award the contracts to Woolpert.

Count 12 addresses various personnel decisions wherein Kelley and others improperly received benefits at the expense of the County.

The remaining counts do not involve Cuyahoga County projects. All parties named in the Information have entered guilty pleas to the allegations described above.

- ***Unites States v. Steven Wayne Pumper*** (Case No. 1:09 CR 317, filed July 8, 2009)

Count 1 of this Information addresses the Courthouse Square construction management contract. The government charges that DAS Construction performed work for Dimora at his home at a discounted rate in return for Dimora using his influence with the County to award the contract to DAS, and also for an extension on a loan for Parkview/Allerton.

Count 1 also alleges that Pumper asked Dimora to use his influence with the County to facilitate the County's purchase of real estate from one of Pumper's associates, and to assist Pumper in obtaining public contracts and loans for Green-Source. In addition, Pumper and Dimora planned to have another individual hired by Green-Source who would kickback a portion of his salary to Dimora and that Dimora would be hired as a consultant for Green-Source after retiring from the County. In return, Dimora's influence would be used to obtain contracts for Green-Source.

Count 1 further alleges that Dimora intervened on Pumper's behalf with the K&D Group by recommending that K&D use DAS as a preferred contractor on two downtown Cleveland development projects. Dimora is also alleged to have used his influence by contacting the head of a County agency to push through a re-investigation related to

Pumper's divorce, and contacting a County Common Pleas Judge to expedite settlement of a civil lawsuit involving DAS.

The remaining counts do not involve Cuyahoga County projects. Pumper has pleaded guilty to these charges.

- ***United States v. Dennis Dooley*** (Case No. 1:09 CR 329, filed July 22, 2009)

This single count Information charges that Dooley paid \$5,000 to Kelley in return for Kelley using his influence to obtain a higher paying position for Dooley in another County agency. Dooley has pleaded guilty to this charge.

- ***United States v. John J. Carroll, et al.*** (Case No. 1:09 CR 342, filed August 6, 2009)

Counts 1 and 2 of this Information address the issuance of contracts from MetroHealth System to East West Construction Company. The government charges that John Carroll and another hospital official received bribes from East West Vice President Nilesh Patel in return for the company receiving favorable contracts with the hospital. Carroll and Patel have each pleaded guilty to the charges.

Counts 3 and 4 address the issuance of contracts from MetroHealth System to Doan Pyramid Electric and Reliance Mechanical. The government alleges that officials with these companies bribed Carroll and his co-worker in exchange for favorable treatment in connection with hospital business. Both companies deny any wrongdoing and neither have been charged.

- ***United States v. Anthony C. Sinagra*** (Case No. 1:09 CR 364, filed August 13, 2009)

Count 1 of this Information does not address a Cuyahoga County project.

Count 2 addresses consulting contracts between Alternatives Agency, Sinagra's consulting firm and Kelley's consulting firm. The government alleges that Alternatives

Agency's attorney conspired with Sinagra and Kelley to defraud Alternatives Agency by having Alternatives Agency hire Sinagra's and Kelley's firms and paying high fees for unnecessary work. Sinagra also paid a portion of his consulting fees to one of the attorney's family members. Both Sinagra and Kelley have pleaded guilty to these charges.

- *United States v. Santina Klimkowski, et al.* (Case No. 1:09 CR 408, filed September 18, 2009)

Count 1 of this Information addresses County commercial appraisal contracts between the County Auditor's Office and V.A.S. Enterprises. The government alleges that between 1998 and early 2009, V.A.S. and its principals paid kick backs exceeding \$1.2 million to Russo and more than \$150,000 to Santina "Sandy" Klimkowski in return for Russo ensuring that they received the County's commercial appraisal contracts. It further appears from the charges that V.A.S. received less than \$9 million of the more than \$21 million paid by the County since 1998. The remainder of the money went to V.A.S. principals and attorneys representing V.A.S. who allegedly kicked back a portion to both Russo and Klimkowski. Klimkowski has pleaded guilty to these charges.

The remaining counts do not involve Cuyahoga County projects.

2. County Internal Review Summaries

In response to concerns arising from the federal investigation, the County conducted its own internal review, including the examination of a large number of files. The County completed its review under the direction of the County Administrator, Cuyahoga County Prosecuting Attorney's Office, and Office of Budget and Management ("County Review".) The County Review focused on issues related to the County that were implicated in the federal search

warrants and Grand Jury subpoenas served upon County offices, and featured in various press accounts.

The County Review examined a series of documents including the following:

1. Copies of the Search Warrants for: County Auditor Frank Russo's Office (and Receipt of Property Seized); County Commissioners Jimmy Dimora's Office (and Receipt of Property Seized); Cuyahoga County Engineer Robert Klaiber's Office; and a Subpoena to Testify Before Grand Jury Directed to the Director of Cuyahoga County Information Services Center. Other search warrants were issued for Russo's and Dimora's personal residences and the following firms: Blaze Construction, Doan/Pyramid and DAS Construction. The records sought related to the following County Projects: the Juvenile Justice Center, the AmeriTrust Project, the Geographical Information System, and the County's Real Property Tax System; altered real estate property valuations, public employees performing personal business during normal business hours; and employment qualifications.
2. Procurement documents for Blaze Construction, DAS Construction, and Doan Electric.
3. Allerton Apartments documentation.
4. Documents related to County economic development loan programs to companies where Principals of DAS or Doan Electric (Steve Pumper or Michael Forlani, respectively) were involved.
5. Supporting documents related to the Juvenile Justice Complex, the GIS contracts, and the Fusion Center.
6. Real estate property valuations and the property tax system information.

In completing the County's review, seven County department heads, including the elective offices of the County Auditor and County Engineer, were instructed to review all transactions within their respective departments referenced in any *Cleveland Plain Dealer* newspaper article, federal Grand Jury subpoena or federal search warrant served on County offices. These individuals were also instructed to examine all transactions within their respective departments involving individuals or entities referenced in any *Plain Dealer* newspaper article, federal Grand Jury subpoenas or federal search warrants served on County offices as well. These

individuals were instructed to retrieve relevant documentation and to review any of the aforementioned transactions, individuals, or entities, and to make an independent determination as to whether the relevant County office had complied in all material respects with applicable County policies and procedures concerning procurement and contracting. The seven departments were:

1. Department of Central Services
2. Department of Development
3. Office of Human Resources
4. Department of Justice Affairs
5. County Engineer's Office
6. Office of Procurement and Diversity
7. County Auditor's Office.

Employees of the relevant departments and offices reviewed all of the documents submitted and conferred with various individuals in each of the departments. The employees then followed up with various departments to obtain additional documentation and submitted those records to the County Prosecutor's Office. The County Review found that with regard to each of the contracts or transactions investigated, there was no evidence of violations of Ohio law, relating to the procurement and award of public contracts. Moreover, the County Review further concluded that the County's self-imposed internal policy with respect to Departmental Orders ("DOs") (which policy required departments to informally solicit three proposals when procuring goods and services at a price between \$1,000.00 and \$25,000.00) was consistently followed with the exception of small number of contracts under \$25,000.00 (including a November 16, 2004 contract with DAS Construction for value engineering services.) The

County further concluded that whatever the outcome of the FBI's public corruption investigation, the results of that investigation would have no significant affect on the fair presentation of the County's financial position. As identified in more detail below, Bricker found nothing to undermine the County's initial review or conclusion reached at that time.

3. Media reports

In addition to reviewing the charging documents and the summaries of the County Review, Bricker reviewed a series of media reports published in *The Cleveland Plain Dealer* and other media outlets related to the federal investigation. Any additional information referenced in such media reports were included in the scope of the review eventually undertaken by Bricker.

4. Personal Interviews

Bricker also interviewed a number of County officials and other individuals with knowledge of the federal government's allegations, for purposes of better understanding the County Review and establishing the scope of the Bricker investigation. Among others, interviews were conducted with James McCafferty, County Administrator; David Lambert, Civil Division Chief, County Prosecutor's Office; Sandy Turk, Director, Office of Budget and Management; Steven Letsky, Director of Accounting; Robert Klaiber, County Engineer; Tom Roche, Chief of Staff, County Engineer's Office; James Rokakis, County Treasurer; Lenora Lockett, Director, Office of Procurement & Diversity; Dan Weaver, Director, County Information Services Center; Paul Oyaski, Director, Department of Development; Shannon Gallagher, Director, Legal & Government Affairs, County Engineer's Office; Michael Chambers, Fiscal Officer; Jim Fritz, County Information Services Center; Linda Lingler, County Information Services Center; Cheryl Arslanian, County Auditor's Office; Jim Hopkins, County Auditor's Office; John Chyla, County Engineer's Office; Juliann Conway, Contract Coordinator; Thomas P. Sotak, P.E., Chief Construction Engineer; Michael Tworzydlo, P.E., Area

Construction Engineer; Joe Schiller, Project Manager for Michael Benza & Assoc., Inc.; Nick Willis, Project Manager, Cuyahoga County Department of Central Services; Jay Ross, Director, Central Services; Joe Molnar, Project Manager, Ozanne; Marc Scoble, Executive Associate, Heery International, Inc.; Luis Gaitan, Turner Construction; Brandi Smith, Cost Engineer; officials with Deloitte, and various attorneys and other individuals with knowledge relating to these matters.

B. Parameters of Internal Investigation

As a result of the review outlined above, Bricker identified a number of transactions, corporations, and individuals for further examination. In addition to a general overview of the records provided, we compiled thousands of records and emails and focused on any information that mentioned or related to the following parties. These names were chosen from various articles published by *The Cleveland Plain Dealer* regarding the federal investigation, federal Grand Jury subpoenas, federal search warrants and charging documents filed in federal court. Numbers appear next to these names below, identifying at least one of the sources for the names, as follows: *The Cleveland Plain Dealer* (1); federal subpoena (2); federal search warrant (3); federal charges filed in the Northern District of Ohio (4). Commissioners Tim Hagan and Peter Lawson Jones, as well as Deloitte and Touche, were also included, regardless of whether their names appeared in one of these sources.

1. ADA Architects Inc. (1)
2. All State Realty (3)
3. Alternatives Agency (3)
4. Ameritrust Complex Project (3)
5. Anthony C. Sinagra Co., LPA (4)
6. Anthony Calabrese (1)

7. Anthony Dimora (3)
8. Armstrong, Mitchell, Damiani and Zaccagnini (4)
9. Auditor (3)
10. Bart Leneghan (3)
11. Blaze Building, Inc. (2)
12. Blaze Construction (2)
13. Blue Technologies (1)
14. Board of Revision (3)
15. Bridget McCafferty (1)
16. Broma Information Technologies (2)
17. Brownfield Redevelopment Fund (3)
18. Bruce Zaccagnini (4)
19. Cohen & Co. (1)
20. County Auditor's Office (3)
21. Dan Weaver (3)
22. DAS Construction (4)
23. Deep Three Partners (1)
24. Deloitte & Touche
25. Detorre Brothers, LLC (3)
26. Detorre Companies, LLC (3)
27. Doan Pyramid Electric (1)
28. Ferris Kleem (1)
29. Fiorilli Construction (1)

30. Frank Russo (3)
31. Fusion Center (3)
32. GIS Project (Geographical Information Systems) (3)
33. Green Source Products (4)
34. 1170 Ivanhoe, LLC (1)
35. J. Kevin Kelley Consulting (3)
36. Jerry Skuhrovec (3)
37. Jim Herron (3)
38. Jimmy Dimora (3)
39. Johnson & Angelo (1)
40. Johnson & Colaluca, LLC (1)
41. Johnson Controls (1)
42. Joseph Dimora (3)
43. Juvenile Justice Center (3)
44. K&D Group (1)
45. Kevin Payne (4)
46. Linda Rybak (3)
47. Lisa Dimora (3)
48. Lori Dimora (3)
49. Louis Damiani (4)
50. Mark E. Detorre (3)
51. Mary Kelley (3)
52. Meritech Blue (1)

53. Michael Baker (1)
54. Michael Calabrese (3)
55. Michael Forlani (1)
56. Michael Gabor, Jr. (3)
57. Nature Stone (1)
58. Northeast Ohio Electric (1)
59. Parkview Apartments (1)
60. Pat Smock (3)
61. Peter Lawson Jones
62. Phoenix Cement (2)
63. Renee Strong (3)
64. Richard L. Bowen & Associates (1)
65. Rosemary Vinci (3)
66. Russell Massetta (1)
67. Santina Klimkowski (4)
68. Stephen Orcutt—Deloitte
69. Steve Pumper (4)
70. Timothy Armstrong (4)
71. Tim Hagan
72. Tony Ma (1)
73. V.A.S Enterprises (1)
74. Vorys Sater Seymour & Pease (3)
75. Weights & Measures Department (2)

76. Woolpert, Inc. (1)

The fact that these names were chosen for further examination in no way implies criminal conduct or wrongdoing by the parties listed. As stated above, these names, with the exceptions referenced above, were simply chosen from various articles published by *The Cleveland Plain Dealer* regarding the federal investigation, federal Grand Jury subpoenas, federal search warrants and charging documents filed in federal court. The list, although not exhaustive of every name that has been published in media accounts since the investigation went public last year, was sufficient to enable Bricker to determine what if any impact the ongoing federal investigation might have on the County's overall financial position.

III. Extent of Bricker Review

A. Electronic Document Review

A significant portion of Bricker's review involved the examination of the County's electronic records, comprised primarily of emails and document attachments to and from County employees and elected officials.

1. CT ██████████ and ██████████: Selecting The Program Used for Examination

In July 2009, Blake met with the County's technology representatives to arrange for the review of the County's source electronic data. At that time, the County was just starting to use its new electronic archiving program called "████████." Because of ██████████'s capability to allow controlled Internet access to the electronic archives, the County Information Services Center recommended that Bricker use the ██████████ program to search the County's archive. The County, however, was still in the process of transferring its information to the new ██████████ program and provided Bricker with limited access to documents archived in its new ██████████ data system at that time.

As discussed in more detail below, the amount of information needed to be reviewed exceeded 20 gigabytes. To handle the large volume of electronic documentation in a timely manner, Blake assembled a seven-member team of Bricker attorneys to conduct the email review. The team began searching the [REDACTED] archive and immediately identified some concerns. These concerns related primarily to the chain of custody of the information and certain technical problems with the [REDACTED] program itself.

With respect to the integrity of the data, Bricker explored many questions with the County and [REDACTED]'s technical staff. Those issues included access to the Administrator-level master search on the [REDACTED] screen; the parameters of the searches used to compile the [REDACTED] databases; the identities of those who compiled the [REDACTED] databases; and, exploring whether the search results could have been modified before Bricker was granted access.

In addition to the foregoing data integrity issues, Bricker identified items of concern related the operation of the [REDACTED] program. Bricker reported to the County that the [REDACTED] program, as then configured, was cumbersome and that searches were extremely slow. In addition to the magnitude of time that it took to perform a search, other complicating technical factors included:

- the default Text view for results was not user friendly and obscured relevant information
- switching to Original view as a default display caused the program to cycle endlessly without displaying all of the results
- the program seemed to lack Boolean or other advanced logic-based search capabilities
- highlighted search terms did not display in the "Find in Results" search function
- error messages and timeouts occurred frequently and the program frequently froze or lost the search results altogether

- the “Save to PDF” option was not functional
- the “Convert to PST” function had a 1000 message limit
- some searches appeared to return results without the search terms in them
- sorted results autonomously resorted based on relevance rather than date
- the date restriction function in the “Find in Results” did not always work

Finally, Bricker explored with the County and [REDACTED] whether the new archive system captured Calendar entries, Contacts, Tasks, Notes, Items filed in [REDACTED] folders, Deleted items, Sent items, and items that the user deleted from the email system. According to the County’s technical staff, only emailed items were captured in the [REDACTED] archive.

While [REDACTED]’s technical staff worked to resolve the issues Bricker identified—ultimately leading to a more functional archive system for the County—Bricker determined that the most cost effective way of conducting its review would be to transfer the raw data to DVD’s and load it into Bricker’s electronic discovery program called “[REDACTED]” (hereinafter “[REDACTED]”).

[REDACTED] is a widely used program in the legal profession. The [REDACTED] software, designed for the desktop or laptop, allows for the effective management of case information such as transcripts and documents with the benefits of full-text imaging/PDF support, OCR on-the-fly, electronic evidence support and comprehensive production tools. Bricker attorneys are well versed in the use of [REDACTED] and those economies of experience, combined with the program’s functionality, were the primary factors in choosing [REDACTED] for the most efficient review of the County’s nearly 400,000 relevant, electronic documents.

To that end, the County began to burn DVD’s of the emails from its archives for Bricker to review through [REDACTED]. Below, we discuss how the data was harvested and transferred to Bricker; how it was searched and reviewed; and, any relevant findings from that review.

2. Mapping the County's System

Bricker worked with officials with the County Information Services Center to understand and map the County's computer system as it related to the Bricker investigation. The County currently uses the [REDACTED] program for its email. The County maintains one primary domain and three secondary domains for this information in: "DO_CCGW"; "DO_CCPO"; and "DO_CP." As subsets of those domains, the County maintains six electronic Post Offices ("PO") to house its electronic communications. The Domains, Post Office identifiers, and assigned groups are:

1. Domain: DO_CCGW
 - a. PO1_CCGW: Justice Affairs, Emergency Services, CSEA, Clerk of Courts, Sanitary Engineering, Coroner, Public Defender, Engineers, and Domestic Relations
 - b. PO2_CCGW: Board of County Commissioners, Board of Elections, Probate Court, Central Services, Department of Development, and Recorder
 - c. PO3_CCGW: Information Services, Auditor, Treasurer, Planning Commission, Veterans Services
 - d. PO4_CCGW: Juvenile Court and Sherriff's Department
2. Domain: DO_CCPO
 - a. PO_CCPO: Prosecutors
3. Domain: DO_CP
 - a. PO_CP: Common Pleas Court and Adult Probation

3. Targeting the Relevant Data

Bricker reviewed the government's charging documents and allegations discussed above, local media stories, and interviewed County employees in its effort to determine the best list of

relevant search terms to explore within the electronic documents. Once Bricker created its relevant search term list, Bricker set out to capture the documents where the relevant search terms would be located. Bricker identified more than 60 employees, elected officials, companies, and individuals that warranted review in light of the ongoing federal investigation. Based on its review of the federal investigation, the map of the county computer system, and its collaboration with the County's technical staff, Bricker was able to target specific post offices where any relevant data would likely be found. During this process and based upon the forgoing preliminary reviews, Bricker identified twenty-nine email accounts and obtained those in their entirety for review. That fact that these email accounts were chosen in no way implies criminal conduct or wrongdoing by the individuals associated with the accounts, nor does it imply that the individuals have any involvement whatsoever with the ongoing federal investigation. The email accounts were:

1. Bart Leneghan
2. Barbara Lontor
3. Camille Wimbish
4. Daniel Gallagher
5. Erin Davis
6. Essie Allen
7. Frank Russo
8. Jerry Skuhrovec
9. Jim Herron
10. Jimmy Dimora
11. John Kevin Kelly

12. Kevin Payne
13. Laura Roche
14. Lauren Forbes
15. Linda Rybak
16. Mark Detorre
17. Mary Kelley
18. Mary Kelly
19. Michael Gabor, Jr.
20. Pat Smock
21. Peggy McBride
22. Peter Lawson Jones
23. Renee Strong
24. Rosemary Vinci
25. Sam Mohamad
26. Sandy Klimkowski
27. Stella Miller
28. Steve Letsky
29. Tim Hagan

The source electronic documents Bricker ultimately reviewed were mined from two primary sources - the Post Office known as "PO2_CCGW"; and, data produced to the FBI pursuant to the federal search warrant.

4. Copying the PO Databases

Once the search list was compiled, Bricker worked with the County to capture the electronic files. In turn, the County coordinated with the [REDACTED] technical staff to capture the

requested files. Collaborating with [REDACTED]'s technical staff, the County Information Services Center created an [REDACTED] connection between the County's Post Offices and [REDACTED] using a [REDACTED] protocol. The [REDACTED] protocol allows for a [REDACTED] encrypted, secure connection between a client and a server, over which any amount of data can be sent securely.

Through that connection, [REDACTED] then copied over all the information contained in the targeted Post Offices. Because the [REDACTED] project was in its infancy at the start of the Bricker review, Bricker ensured that the relevant portions of the [REDACTED] archive were completely populated and had fully captured all of Bricker's requested data before copying the electronic documents to be searched with respect to the Bricker targets.

The data Bricker requested was copied from the archive, as described above, and arranged in Personal Storage Table or ".pst" files — also containing Post Office identifiers. Those PST files were burned to DVD's by the County Information Services Center and delivered to Bricker's Electronic Discovery Litigation Support Manager ("Bricker Support Manager") on the following DVD's:

- Kkelley
- Kkelley2
- [REDACTED]Kelley
- Special5pst.pst
- BlakeAug07.pst
- PO2Part1.pst
- PO2Part2.pst
- PO2part3.pst

- Klimkowski

5. Copying the FEDS1 and FEDS2 Databases

As noted above, federal agents executed search warrants on County offices on July 28, 2008. Among these search warrants included a warrant for County electronic records. The FBI provided the County with a licensed copy of Transend Migrator that the County Information Services Center used to hack into and recover the email accounts subject to the warrant. Transend Migrator is a Windows utility used for converting email data between virtually all legacy and leading edge email systems and clients, including Outlook/Exchange, Notes, GroupWise, IMAP, POP, Netscape/ Mozilla/Thunderbird, Eudora, Pegasus, AOL, Outlook Express and others. Once the FBI documents were gathered, the County produced the requested documents to the FBI and created an identical file, which were saved on the County's network server. The identical file remained on the server unaltered until the County copied it for Bricker's review. The County provided Bricker with a copy of those files given to the FBI on the following DVD's:

- Feds1 (contained folders for bleneghan, frankrusso, frusso, jdimora, lrybak and mkelley and one small PST BlakePO2.pst)
- Feds2 (contained folders for kpayne, kpayne2 and psmock)

6. Processing the PO and Feds Data

Once Bricker received the raw electronic data, the Bricker Support Manager began processing it to load into the [REDACTED] program. In total, Bricker now had approximately 22 gigabytes ("GB") of data to search—roughly, the amount of information contained in twenty pickup trucks loaded with books.

Many of the PST's from the Feds DVD's and KKelley folders were password protected. In instances where the passwords to those files were unavailable to Bricker, the Bricker Support

Manager used a tool called [REDACTED] to recover the password, open the PST in Outlook, and remove the password so the files could be processed into [REDACTED]. No other changes were made to the data during this process.

It took eighteen days to process the 22GB of files into [REDACTED]—from July 30, 2009 to August 17, 2009. The Bricker Support Manager processed the files in batches through [REDACTED]. Processing consists of: 1) extracting emails and attachments from PST and loose message files in [REDACTED] folders, 2) TIFF imaging the documents, 3) performing Optical Character Recognition; and, 4) exporting the same as a [REDACTED] load file.

There were a small number of records that could not be processed, mostly due to the following reasons: GIS data that uses proprietary software, [REDACTED] Emails that either exported with empty message body from the County's archive, or had very large attachments encoded as [REDACTED] that the software was unable to extract; and Audio and Video files that could not be TIF imaged. The Bricker investigation team members were aware of these issues and if such a file was identified as relevant via its textural description or otherwise, those files could have been retrieved through other means. Ultimately, none of those files contained information relevant to Bricker's investigation.

All of the processed batches were then loaded into [REDACTED] for search and review. In view of the time it would take to process the data and the need for a timely report from Bricker concerning the results of the investigation, Bricker created five separate databases enabling the review team to begin searching databases while others were being processed. The final databases, with the concomitant number of documents and pages contained therein were:

- Feds1 - 39,711 documents, 74,938 pages
- Feds2 - 9,055 documents, 13,115 pages

- PO2 – 89,918 documents, 180,885 pages
- PSTs – 50,653 documents, 118,024 pages
- Klimkowski – 1,259 documents, 1,847 pages
- Total: 190,596 documents (emails and attachments), 388,809 pages

7. Conducting the Searches

Each member of the Bricker electronic document investigation team thoroughly reviewed the charging documents filed by the United States Attorney’s Office and familiarized themselves with the individuals subject to the email searches before beginning the search for relevant documents. Based on its thorough review of the criminal allegations and charges, and interviews with County staff as discussed above, Bricker created and searched for the following list of single search terms, Boolean searches, and, where appropriate, variations of those terms based upon the most common spelling errors.

1. ADA Architects Inc.
 - a. ADA, architect, ADA architects
2. All State Realty
 - a. All State, Realty, ASR
3. Alternatives Agency
 - a. Alternatives, AA
4. Ameritrust Complex Project
 - a. Ameritrust, Complex Project
5. Anthony C. Sinagra Co., LPA
 - a. Signara, Anthony, Tony AND Signara
6. Anthony Calabrese

- a. Calabreze
7. Anthony Dimora
8. Armstrong, Mitchell, Damiani and Zaccagnini
9. Auditor
10. Bart Leneghan
 - a. Bart, Leneghan, Bart AND Leneghan, Lenhan
11. Blaze Building, Inc.
12. Blaze Construction
13. Blue Technologies
14. Board of Revision
15. Bridget McCafferty
16. Broma Information Technologies
17. Brownfield Redevelopment Fund
18. Bruce Zaccagnini
19. Cohen & Co.
20. County Auditor's Office
21. Dan Weaver
22. DAS Construction
23. Deep Three Partners
24. Deloitte & Touche
 - a. Deloitte AND Touche, Deloitte, Delloitte, Delloite, Touche
25. Detorre Brothers, LLC
26. Detorre Companies, LLC

27. Doan Pyramid Electric
28. Ferris Kleem
29. Fiorilli Construction
30. Frank Russo
31. Fusion Center
32. GIS Project
 - a. GIS AND project, geographical information systems, geographical AND information AND systems, geographic* AND information AND system*, GIS
33. Green Source Products
34. Ivanhoe, LLC
35. J. Kevin Kelley Consulting
36. Jerry Skuhrovec
 - a. Jerry, Skuhrovec, skurovec, Jerry AND S*
37. Jim Herron
 - a. Herron, Heron, Harron, James AND Herron, Jim AND Herron
38. Jimmy Dimora
39. Johnson & Angelo
 - a. Johnson AND Angelo, Angelo
40. Johnson & Colaluca, LLC
 - a. Colaluca, Johnson AND LLC, Johnson AND cola*, J/C
41. Johnson Controls
 - a. Johnson AND cont*, Johnson Controls

42. Joseph Dimora
43. Juvenile Justice Center
 - a. Juvenile AND Justice AND Center, Juvenile AND Center
44. K&D Group
 - a. K AND D AND Group, Group AND K, KDG
45. Kevin Payne
 - a. Kevin AND Payne, Kev* AND Payne, Payne, kfpayne
46. Linda Rybak
 - a. Linda AND Rybak, Rybak, Ryback, lrybak
47. Lisa Dimora
48. Lori Dimora
49. Louis Damiani
50. Mark E. Detorre
51. Mary Kelley
 - a. Mary AND Kelley, CNMPK (beginning of her old email address), mkelley
52. Meritech Blue
 - a. Meritech AND Blue, Meritech
53. Michael Baker
54. Michael Calabrese
 - a. Michael Calabreze, Mike Calabreze, Mike Calabrese
55. Michael Forlani
56. Michael Gabor, Jr.
 - a. Michael Gabor, Mike Gabor

57. Nature Stone
58. Northeast Ohio Electric
59. Parkview Apartments
60. Pat Smock
61. Peter Lawson Jones
62. Phoenix Cement
63. Renee Strong
64. Richard L. Bowen & Associates
 - a. Richard Bowen
65. Rosemary Vinci
 - a. Rosemary AND Vinci, Rosemary, Vinci, Vincci
66. Russell Massetta
 - a. Russell AND Massetta, Massetta, Masetta, Masseta, Russell AND Massetti, Russell, Massetti, Masetti, Masseti
67. Santina Klimkowski
 - a. Sandy AND Klimkowski, Sandy, Klimkowski
68. Stephen Orcutt
69. Steve Pumper
 - a. Stev* AND Pumper, Pumper
70. Timothy Armstrong
71. Tim Hagan
72. Tony Ma
 - a. Ma, Anthony AND Ma

73. V.A.S Enterprises
 - a. V.A.S. AND enterprises, V.A.S., VAS AND enterprises, Enterprises
74. Vorys Sater Seymour & Pease
 - a. Vorys, Vories, Sater, Seemore, Peace, Attorney
75. Weights & Measures Department
 - a. Weights, Measures, Weights AND Measures
76. Woolpert, Inc.
 - a. Wolpert

Again, the fact that these names were chosen for further examination in no way implies criminal conduct or wrongdoing by the parties listed. As stated earlier, these names were simply chosen from various articles published by *The Cleveland Plain Dealer* regarding the federal investigation, federal Grand Jury subpoenas, federal search warrants and charging documents filed in federal court. In addition to the foregoing search terms, Bricker searched for relevant documents using more salacious terms, including but not limited to: bribe, corruption, cheat, lie, and steal.

8. Results of the Searches

As each team member reviewed the electronic documents, they flagged any document that had the slightest potential of being relevant to the investigation. Those flagged documents were compiled together and subsequently reviewed by Blake for final determination of relevancy. In an abundance of caution, team members flagged emails and attachments that totaled nearly 6,200 documents. After an additional review of each of these “hot” documents, none of them appears to raise concerns that would likely cause a negative impact on the County’s financial position.

9. Data Not Reviewed

As discussed above, Bricker methodically selected data for review. Those efforts notwithstanding, some data was unavailable resulting from routine data maintenance by the County. Prior to April of 2008, the County operated a 90-day expire/reduce program that deleted emails that were older than 90 days and not otherwise saved. That program was in place for PO's [REDACTED]. The program was never in place for PO [REDACTED]; and, the program is still in place for PO [REDACTED]. Because the bulk of emails reviewed by Bricker emanated from PO [REDACTED], this had little impact on the documents available to Bricker.

When the County stopped the automatic 90-day purge in April of 2008, it began routinely emptying the trash items folders on Sunday nights. In other words, if a user moved an email to the trash file, those emails were purged every Sunday from April 2008 until January 2009 — when the County discontinued that practice. As a result, any email that a user moved to their trash file during the aforementioned period was subsequently unavailable for Bricker to review. Because of regular upgrades to later versions of the [REDACTED] program, whether that data can be forensically recreated is doubtful. Bricker can explore the same if so directed.

B. Independent Review of County's Internal Findings

1. Office of Procurement and Diversity

A memorandum from Lenora Lockett, Director, Cuyahoga County Office of Procurement & Diversity (“OPD”), dated March 20, 2009, summarized the internal review by OPD (the “OPD Memorandum”). (Attachment 5). The OPD Memorandum was addressed to James McCafferty, Cuyahoga County Administrator, David Lambert, Chief Civil Division, Cuyahoga County Prosecutor's Office, and Sandy Turk, Director, Cuyahoga County Office of Budget and Management.

OPD prepared a Table summarizing procurement activities for four areas, as well as the OPD Memorandum. The OPD Memorandum included a brief summary of the County's procurement process and summaries of four Tables appended to the OPD Memorandum. Briefly, these tables relate to the following:

- Table 1: Procurement activities related to Blaze Construction, Doan Pyramid Electric, and DAS Construction
- Table 2: Procurement activities related to the Juvenile Justice Center Project
- Table 3: Procurement activities related to the County Administration Building/Ameritrust Complex
- Table 4: Procurement activities related to the GIS Project

The OPD Memorandum accurately summarizes the information presented in the four Tables. The OPD Memorandum and Tables state that files related to certain procurement activities were not in the possession of OPD; some apparently were in the possession of the relevant County Department, while others had been sent to County Archives. Of those files sent to County Archives, some were reported as having been destroyed. The OPD Memorandum draws no conclusions.

Provided with the OPD Memorandum were seven attachments labeled "A" – "G", totaling approximately 389 pages. These attachments include various documents related to the selected procurement activities, such as Requests for Board Action, Board of County Commissioners ("BOCC") Agency Briefing Memoranda, BOCC Resolutions approving various contract awards and amendments, OPD Tabulations of Bids, Purchase Orders, and related documents. Also included were a small number of emails requesting that OPD conduct the internal review.

A review of these attachments shows that the OPD Memorandum and Tables accurately reflect most of the attachments. A small number [less than 10] of award amendments are documented in the attachments, but not included in the OPD Memorandum and Tables. Examples include RQ07-8635, awards to McKinney Drilling and Independence Excavating related to the Juvenile Justice Center Project; three amendments to these contracts, each in excess of \$100,000, are not included in the OPD Memorandum or Tables. Several other amendments that are not reflected did not result in any change to the amount of the award or Purchase Order.

The attachments include fewer than 10 copies of bids received by the County; instead, with respect to most procurement transactions involving competitive bidding, the attachments include the OPD Tabulations of Bids. Similarly, some attachments document the conclusion that a bidder has been deemed non-compliant with SBE Requirements; however, the basis for that conclusion is not explained or documented in the attachments.

Table 1: Blaze Construction, Doan Electric, and DAS

The attachments support the information included in the OPD Memorandum and Tables.

Table 2: Juvenile Justice Center Project

The attachments reflect that the Combined Masonry and General Trades Contractor procurement process initially resulted in two qualified bidders submitting bids that exceeded the cost estimate. See RQ 07-10172. Both bids were rejected and a Partial Re-Bid was conducted, apparently limited to the General Trades Contractor work. See RQ 0811247. The re-bid process included a County estimate that was \$200,000 higher than the estimate for RQ 07-10172. In response to the re-bid, Panzica Construction Company submitted a bid that was lower than the estimate; the contract was awarded to Panzica.

Table 3: County Administration Building/Ameritrust Complex

Nine Purchase Orders were processed for “consulting services” apparently provided by Sanchez Group. Each Purchase Order was for approximately \$10,000. No information regarding these services is included in the attachments.

Table 3 appears to include the following minor errors:

RQ/PO 08-10857: the attachments show that the Purchase Order Number was 0850155 (rather than 0850144);

RQ/PO 06-8783: No Vendor is identified;

RQ/PO 07-8212: the attachments show that the Purchase Order was submitted in the amount of \$22,219.38 (rather than \$21,155.14);

RQ/PO 06-7503: Neither the Vendor nor the amount paid are included

RQ/PO 06-6820: The Contract Amount was \$1,063,200.00 (rather than \$1,210,000.00);

RQ/PO 05-4969: the attachments show that the Purchase Order was submitted in the amount of \$11,808.00 (rather than \$11,512.80)

Table 4: GIS Project

The Contract for engineering services awarded to Michael Baker included an initial contract of \$725,000.00. The contract was awarded pursuant to an RFQ process and was structured into multiple phases. The attachments include the County’s Tabulation of Proposals. It is not apparent from this tabulation, however, what the basis was for awarding the contract to Baker. After an initial feasibility phase subsequent to the original contract, phases were treated as amendments for amounts in excess of the amount of the original contract. Three amendments were made to this contract in the amounts of \$634,054.00, \$3,141,646.00, and \$760,300.00. This matter is discussed in further detail below in the Department of Justice Affairs and County Engineer section.

2. Auditor's Office

The Auditor's Office report focused on property valuations and explained the various factors that could result in a change in real property values. The report draws no conclusions, nor does it list the properties to be reviewed. (Attachment 6).

Attached to the report were 349 pages of property records, including Valuation Summary Reports, Parcel Listings, Property Transfer Cards, and other Auditor's Office property records relating to property ownership and valuation for owners of real property. The real property records relate to property owned by individuals or affiliated parties who were in any way referenced in one of more of the following sources: (1) articles appearing in *The Cleveland Plain Dealer*; (2) federal grand jury subpoenas, or (3) FBI search warrants.¹ The transaction or persons whose real property records were reviewed were as follows:

1. Kleem, Ferris E. (5 parcels)
2. Forlani, Michael (5 parcels)
3. James C. Dimora (1 parcel)
4. J. Kevin Kelley (1 parcel)
5. Lopat Development Company (3 parcels)
6. Lucarelli, Jason (1 parcel)
7. Lucarelli Properties, LTD (5 parcels)
8. Lucarelli, Samuel (1 parcel)
9. O'Malley, Joseph P. (2 parcels)
10. Russo, Vincent A (3 parcels)

¹ Although Attachment 6 makes reference to individuals named in the federal investigation, the Auditor's Office conducted a broad review of properties of owners who were mentioned in any way in one or more of the foregoing sources, i.e., articles appearing in *The Cleveland Plain Dealer*, federal grand jury subpoenas and FBI search warrants, or whose owners were mentioned in those same sources.

11. Russo, Frank (3 parcels)
12. Masetta Holdings LLC (1 parcel)
13. Terry, Steven J. (2 parcels)
14. McCafferty, Bridget M. (1 parcel)
15. Payne, Kevin (1 parcel)

Included in the documentation regarding these properties is a memorandum from Lou Gentile, of V.A.S. Enterprises to Sandy Klimkowski, outlining the method used to gather the records. Mr. Gentile notes that he was asked to review the property valuation history of DAS, Doan, Blaze and Vincor (sic). None of those corporations held property in Cuyahoga County. (Attachment 14).

Mr. Gentile, however, independently verified corporate addresses through a phone book search for each company's place of business and gathered property records through the Auditor's CAMA System. Property valuations were then verified with the Treasurer's records. Mr. Gentile also included information about several parcels used by the targeted companies and their affiliates. That information included:

- Parcel # 371-01-001; Owned by RJE Properties Ltd, which lists the same address as Lori Ann Kleem and used by Blaze Construction.
- Parcels ## 791-06-020 and 791-06-027, owned by Pyramid Investments LTD Partnership and Deep Three Partners, LLC, which apparently operate from a parcel owned by seemingly affiliated with Doan Pyramid Electric.

Bricker reviewed each document and spoke with Steven Letsky briefly about the Auditor's report. With the exception of Lucarelli Properties LTD, no unusual property valuation was apparent from the records provided for any parcel. Most parcels seemed to have modest

property valuation increases from 1998 through the present, with some parcels seeing a modest decrease in more recent years. In each instance, property value fluctuations appeared to be consistent with general market conditions in the area at the time. Where applicable, decreases in property valuation seemed to be supported with the proper information in the public record related to adjustments or owner complaints.

A noticeable property valuation decrease occurred with the Lucarelli Properties LTD parcels in 2000, where the valuation decreased from \$2,293,800 to \$1,797,700. The property in question includes the following five parcels: 103-16-9, 103-16-10, 103-16-12, 103-16-54 and 103-16-56 located on Cedar Road in Cleveland. The property includes a parking lot and Class C 1935 vintage walkup office building that was rehabilitated in 1997 and 1998. In 1997, prior to the rehab, the property was valued at \$320,000. As of January 1, 1998, the County estimated that 60% of the new construction had been completed and therefore increased the property's valuation to \$1,145,200 for 1998. As of January 1, 1999, 100% of the new construction had been completed and the County increased the valuation by an additional \$828,600 to \$2,293,800 for 1999. According to individuals who were interviewed and are familiar with the County's appraisal methodology, initial valuations for new construction normally include the construction costs incurred by the property owners, as of the appraisal date.

The County performs appraisals of all commercial properties every six years. These appraisals involve onsite inspections of the properties by licensed commercial appraisers and an analysis of sale prices of comparable properties, commonly referred to as "comps." In addition, the County performs what are called "sales update" appraisals every three years. These appraisals do not include onsite inspections and rely solely on the percentage increase or

decrease in the sale prices of comparable properties within the previous three years of the sales update.

Bricker has seen no underlying documentation that specifically addresses the methodology employed for either the 1999 or 2000 valuations of the property in question. Although the summary provided by the Auditor's Office indicates that the value in 2000 was adjusted during an informal complaint process, that representation is incorrect because the year 2000 was one in which the County performed its six-year reappraisal of all commercial properties located in the County. Therefore, the appraised value of \$1,797,700 was based on a more complete review than that performed one year earlier in 1999. Moreover, subsequent valuations of the property are consistent with the 2000 valuation. Specifically, the 2003 sales update appraisal valued the property at \$1,824,700 and the 2006 full appraisal valued the property at \$1,791,000. More recently, the 2009 sales update appraisals valued the property at \$1,701,500. These fluctuations in value are consistent with current market conditions and support the validity of the 2000 valuation. Therefore, it appears that the decrease in property valuation from 1999 to 2000 was appropriate. Furthermore, the amount of tax not collected due to the reduced property valuation was approximately \$15,000 (3% of decreased valuation), and occurred nine years ago. Such amount would have no significant impact on the County's overall financial position, and any impact at all is arguably not within the current audit period.

3. Central Services

The Central Services Department is tasked with maintenance and upkeep of all County buildings on County property whether owned or leased. The Department does not do any other construction or procurement, such as contracting for roads or bridges, or for other types of goods or services.

On April 6, 2009, Director Jay Ross submitted a report on behalf of Central Services to County Administrator James McCafferty summarizing approximately 485 pages of documents. (Attachment 1). Central Services' ("CS") internal review focused on financial records and payments made to Doan Electric and DAS Construction. CS reports following County policy for the purchase of goods and services, which CS summarized as follows:

- "All costs over \$25,000 are handled through a formal bid process; the commissioners must approve the issuance of bids and the award of the bid to the lowest and best bid. The only exceptions to the bid process here are state term contract awards and emergency awards, both of which still require commission approval.
- Costs between \$1,000 and \$25,000 are handled through department orders (DO's); the department must get three quotes from local vendors. The three-quote requirement does not apply to emergencies, purchases under state contracts, sole source purchase, or purchase from another governmental unit. The DO is then awarded to the lowest bidder; these DO's do not require formal commission approval.
- Under Ohio law, architectural, engineering, and construction management services do not have to be bid regardless of their amount. Instead, for architectural management services over \$25,000.00 a request for qualification process is followed. In cases of the purchases of such professional services at a cost of less than \$25,000.00, the County, nevertheless, has followed a policy of requiring the solicitation and receipt of three informal bids before awarding such contracts.
- The exception to the DO policy is professional services, including architectural, engineering and construction management services. While these services do not have to be bid if under \$25,000, they must be handled as contracts and require formal commission approval.
- Costs under \$1,000 are handled through office vouchers, with departmental staff ordering these goods and services at their discretion to meet the day-to-day needs of the department. The companies invoice the County for these items, and the invoices must be approved by the ordering party, and then are reviewed by the Facilities Manager and the department director. Office vouchers do not require formal commission approval."

Bricker's review of County policy and relevant state laws suggests that the CS summary is accurate and consistent.

CS searched the County's financial accounting and management information system ("FAMIS") for these two vendors and found one contract approved for DAS Construction in 2004, and a number of expenses for Doan Electric from 2005 to 2008. The analysis of each vendor's expenses was handled in the following manner:

DAS Construction

One expenditure for \$24,842 was identified for a professional services contract approved by the County Commissioners on November 16, 2004. The DAS contract related to value engineering services for a building owned by the County and known as Courthouse Square, which housed the Department of Senior and Adult Services. Records at CS indicate that the CS Director chose DAS because of its construction experience and negotiated this contract. Due to the nature of this work (value engineering consulting on office building renovation) multiple quotes were not solicited on this contract. Nonetheless, the contract complied with Ohio bidding laws. The CS report notes that the County eventually decided not to move forward with the project, but that DAS Construction attended multiple project meetings, provided input on a variety of project issues, and submitted several deliverables related to the project.

Doan Pyramid

Multiple expenses were found for this contractor, which fell into three categories: contracts, departmental orders, and vouchers. Information for each expense was pulled from the County's computerized Financial Accounting and Management Information System ("FAMIS") and reviewed. CS findings as to each were summarized in its report as follows:

1. Contracts: Doan Pyramid was awarded a contract for \$941,000 on November 9, 2004 for the emergency generator installation at the County Justice Center. This project was publicly bid by the County Commissioners through the standard process, with an estimated cost of \$1,600,000. Doan Pyramid was the low bidder.

As part of this office's investigation, [Mr. Ross] contacted Nick Willis, the project manager for this work, to determine if there were any issues with the bid and the project work. Doan was confirmed as the low bidder, there were no problems or issues with their bid and no change orders, and they performed satisfactorily on the project.

2. Departmental Orders: Ms. Ginley, in her review, noted eight (8) departmental orders with Doan Pyramid totaling \$65,572.78. All DO's were pulled and reviewed to determine the process for selection and the purpose of the DO. All DO's were awarded to Doan via state contract pricing based on service and time issues (DO's do not state this but we confirmed that state contract prices were used). The department utilizes multiple vendors for electrical and telecommunications supply purchases, with Doan being one of these vendors.

The Facilities Manager and Foreman will select one of these vendors for supply purchases, based on bids or state contract pricing, emergency needs, project timing and/or vendor delivery schedules. In addition to their review and approval, the Purchasing Analyst and Department Director review each DO, providing multiple opportunities for review. As a follow-up at this time, Ms. Ginley and [Mr. Ross] reviewed each DO again, and determined that each expense had been reviewed and approved by the Facilities Manager, confirming that the supplies had been received by the County.

At the same time, we also reviewed the number of departmental orders for other electrical supply vendors to determine if Doan had been treated differently from other vendors during this period. Please see the attached listing of DO's for the 2005-2008 time period, which shows that Doan Pyramid, along with four other electrical supply vendors, received multiple DO's during this period.

3. Office Vouchers: Ms. Ginley, in her review, noted six office vouchers with Doan Pyramid. All office vouchers were pulled to determine their purpose. Departmental staff, in this case trades foremen, make these purchases while performing their daily functions. The Doan Pyramid purchases were for various electrical supplies. The invoices submitted by Doan are reviewed and approved by the specific trades foreman to assure that the supplies were received, and then reviewed by both the Facilities Manager and the Department Director.

At the same time, we also reviewed the number of office vouchers for other electrical supply vendors to determine if Doan had been treated differently from other vendors during this period. Please see the attached listing of office vouchers for the 2005-2008 time period, which shows that Doan Pyramid along with four other electrical supply vendors received multiple office vouchers during this period."

The report also included a copy of the state term schedule contract for Doan Pyramid, which allows the County to legally procure from Doan Pyramid without bidding, but using the approved preferred pricing schedules negotiated by the State of Ohio.

The documents provided with the CS report included a series of Requests for Board Action, or requests for approval by the Commissioners for approval of a purchasing action recommended by CS. Also included were bid specifications, Board resolutions, bidding summaries and tallies, and other documents related to the bid awards for emergency generator work at the Justice Center.

Documentation provided supports the findings outlined by CS in its report. The contract to Doan Pyramid for emergency generators appears to be complete and seems to be accompanied by all of the required attachments, approvals, encumbrances, and payments. Although not discussed in the Report, the documentation also includes a number of records related to a \$2.1 million contract awarded to Doan Pyramid for work done for the Coroner's Office in 1998.

Again, it appears the Doan Pyramid was the lowest and best bidder and all contract procedures and documentation appear to be in order.

Bricker interviewed Director Jay Ross concerning the report and verified that Central Services did no business and had no records on any of the other suspected contractors that were part of the scope of this review. Director Ross confirmed that many of the other contracts which were subject of some of the criminal allegations did not involve his department, and that his department would have no reason and did not have any records on those transactions. Finally, Director Ross confirmed that the information contained in his report was the entirety of that department's intersection with any of the suspected entities.

4. Department of Justice Affairs and County Engineer

The Department of Justice Affairs and the Cuyahoga County Engineer's Office jointly prepared a report, and submitted it to the County Administrator on March 16, 2009. (Attachment 4). The report was prepared by Gary Holland, Director, Department of Justice Affairs and Michael W. Chambers, CPA, Fiscal Officer of the Cuyahoga County Engineer's Office. Based upon the information available to these departments from the identified search warrants, media reports and media requests, the Department of Justice Affairs and County Engineer's Office ("Departments") identified several contracts or transactions which involved John Kevin Kelley and Kevin Payne, both of whom were named parties in federal search warrants.

The Departments identified a series of contracts and transactions for further review. Each of these transactions involved or was related to the Geographic Information Systems project ("GIS"), a combined effort of the County Engineer, County Commissioners, the County Auditor, the County Information Services Center, and the Department of Justice Affairs. A number of contracts and other transactions related to GIS were identified and reviewed. Those projects and the findings of the Departments were as follows:

- Vorys, Sater, Seymour, and Pease, 5/24/2004 - \$11,000. A contract for professional services was reviewed and exempt from competitive bidding;
- URS Corporation, 5/25/2004 - \$5,500. This project was also exempt from competitive bidding because it was under \$25,000;
- Michael Baker, Jr. Inc., 5/24/2005 - \$725,000, 10/29/2005 - \$634,050, 11/21/2006 - \$3,141,646, 10/18/2007 - \$760,300. The original GIS contract was procured through an RFP process and Michael Baker was determined to be the best out of ten (10) proposals submitted to design, develop, and

implement the GIS. Subsequent amendments were awarded to the company without competitive bidding;

- Intergraph Corporation, 2/21/2006 - \$34,210, 7/19/2007 - \$250,000. This contract was also exempt from competitive bidding because it was purchased under a state term contract as allowed by Ohio Revised Code Section 125.04;
- MNJ Technologies Direct, 10/04/2007 - \$9,560, 10/05/2007 - \$12,830. This was a contract for computer server hardware and software and was procured through an informal competitive bid which was acceptable under County policy as each contract was under \$25,000; and
- Mythics, Inc., 4/27/2006 - \$604,819.58. This was a purchase for Oracle software and related support that was obtained under a state term contract through the state of Ohio as allowed by Ohio law.

In addition to reviewing the report summarized above, Bricker obtained and reviewed the 789-page attachment to the report and interviewed Tom Roche and Shannon Gallagher. The contents of those 789 pages were summarized in the chart titled *GIS Project*, which was included with the County Engineer's materials. (Attachment 15). A review of the documents provided supported the summary by the Departments. As to each of the transactions, the following documents were obtained and reviewed.

Vorys, Sater, Seymour, and Pease ("Vorys")

Documents provided by the Engineer's Office and reviewed by Bricker include: the contract for \$90,000 to Vorys approved by the Board of County Commissioners for government relations consulting services; the W-9 for Vorys assurance of no unresolved findings for

recovery from the Auditor of State; the Declaration of Material Assistance form completed by Vorys; and certification of compliance with campaign finance laws.

In addition, Bricker obtained and reviewed engagement letters and other correspondence from Vorys, as well as contract encumbrance and County Commission approvals. All of the above documents appear to be in order and in proper form. Interviews revealed that Vorys had been retained by the Engineer's Office to provide lobbying services in Columbus for passage of legislation providing the Engineer's Office with increased funds from license plate taxes. The contract amount was from February 1, 2008 through January 31, 2009. Vorys was paid \$6,500 per month to provide those services pursuant to an engagement letter issued by Vorys and reviewed by Bricker. The engagement lasted for a little less than a year, at which point it became clear that the stated legislative objective of the lobbying engagement could not be obtained. The Engineer's Office reported that Vorys worked diligently on the project and put a substantial amount of effort into the lobbying services. Weekly conference calls were held and monthly invoices provided and reviewed by the Engineer's Office. The Engineer's Office concluded that it believed that it received the services paid for. The engagement was terminated upon mutual understanding of both parties. All monthly invoices were paid in full, and the County Engineer's Office does not owe Vorys any additional monies.

Documentation was also provided and reviewed for a contract given to Vorys from April 1, 2004 through April 1, 2005 at a contract price of \$11,000. Again, the contract encumbrance, approval by the Board of County Commissioners, the Auditor of State's declaration of no unresolved finding for recovery were all provided, reviewed and appear to be in order. In addition, an engagement letter outlining the scope of services to be provided by Vorys was attached and notes that fees were to be capped at \$11,000. Interviews, conducted by Bricker,

related that services were actually performed and provided in relationship to this contract, and that the Engineer's Office felt that it received adequate work for the amounts paid. All amounts have been fully disbursed under this contract and the County no longer owes Vorys any amounts under this agreement.

Bricker also examined additional contracts not originally reviewed by the County involving vendors that retained the services of Vorys in connection with those contracts. Our findings are discussed in more detail below.

URS Corporation

Documents provided and reviewed related to this contract include: the contract encumbrance; the contract itself; approval by the Board of County Commissioners; the Auditor of State's declaration of no unresolved findings for recovery; and a letter from Gary F. Hribar of URS Corporation outlining the scope of the engagement and dated May 12, 2004.

Project costs as outlined in the scope of the engagement were not to exceed \$5,500.

Intergraph Corporation

As with the contracts listed before, the Engineer's Office provided and Bricker reviewed: the contract encumbrance forms; approval of the County Commissioners' Office; W-9 forms; Auditor of State declaration related to findings of recovery; Declaration of Material Assistance; and campaign finance compliance forms.

All documents provided appear to be in order. Purchase orders were also submitted for Intergraph Corporation and appear to be signed and properly approved by the Engineer's Office.

MNJ Technologies Direct

For this vendor, a purchase order in the amount of \$9,560 is provided which appears to be appropriately signed and approved. A second purchase order for MNJ Technologies in the

amount of \$12,830 also appears to be signed and approved. Purchase orders, a fee quotation, and approval forms were provided and reviewed. All appear to be signed where required and completed as needed.

A copy of the state term contract for MNJ Technologies was also provided and verified by Bricker. The state term contract allows the County to make a purchase from MNJ Technologies without competitive bidding consistent with Ohio law.

Mythics, Inc.

A purchase order for \$544,882 is included with the materials submitted. A copy of a purchase order from Mythics for Oracle software was also provided and appears to be signed by the purchasing manager as required. A copy of the state term contract for Mythics was also provided and verified by Bricker. The state term contract allows the County to make a purchase from Mythics without competitive bidding consistent with Ohio law.

Michael Baker, Jr. Inc., (“Baker”)

A request for proposals for the development of a countywide geographic information system and data integration plan was issued in March 2005. Ten proposals were received and were ranked by a committee consisting of members representing the Board of County Commissioners, the County Engineer, the County Auditor, and the County Information Services Center. Michael Baker Jr., Inc. was the highest ranked proposer. The contracts were awarded in phases as provided for in the original request for proposals. Records provided to Bricker support the County’s contention that the committee chose Baker as the best and most qualified vendor in what appears to be a typical contract award process. There were no protests during the contract process and by all appearances, the award, and subsequent amendments, were made according to County procedure, and consistent with state law.

Although there were some sizable contract amendments issued to Baker, state law and County procurement processes for engineering services allow for the awards using the processes that were employed. It appears that all required contracts and amendments were provided, and appear to be in a proper format and approved by the County Commissioners.

In response to the federal charges filed against County Engineer officials, Bricker was asked to review all outstanding Baker contracts and amendments with the County. Our findings are discussed in more detail below.

General Fiscal Information

The Engineer's Office also provided a series of County Commissioner resolutions that authorized the GIS system and approved what appear to be all subsequent contractual amendments and payment amounts.

The Department of Justice Affairs provided a memorandum dated January 8, 2009 from Gary L. Holland, the Director of the Department of Justice Affairs to Ohio of Budget and Management Director, Sandy Turk. (Attachment 16). In addition to explaining the general purpose for the GIS project, this memorandum outlined the funding sources and highlighted that U.S. Department of Homeland Security and Grant Funding in the amount of approximately \$5.9 million was used to support the project. That memorandum is accompanied by a series of purchase requisitions, purchase orders, and other documents that appear to be appropriately completed and signed where necessary.

Recent Steps Taken by Engineer's Office in Response to Federal Investigation

In addition to cooperating with the ongoing federal investigation, the County Engineer has taken numerous proactive steps, to identify potential procedural issues and avoid future problems. These steps include:

1. In-Service training for 300 employees of the Cuyahoga County Engineer's Office and Sanitary Engineer's Division; the Ohio Department of Ethics conducted a two-hour training session covering all aspects of Ohio Ethics law;
2. Internal audit whereby all contractors and consultants were contacted and queried as to any contact or solicitation posed by any or all of three former employees who have pleaded guilty to federal charges. Mr. Roche advised that none of the contractors or consultants they spoke with had been solicited by any of the three former employees;
3. Retention of CBIZ, a risk-management audit firm for the purposes of examination of all internal policies, procedures and protocols;
4. Retention of Bricker for the purposes of examination of all contractual relationships in which the three former Engineer's Office employees who pleaded guilty to federal crimes, had a relationship. These include the contracts with Michael Baker, Broma and Woolpert, discussed herein; and
5. Review by the Cuyahoga County Prosecutor's Office of the lease agreement between the Engineer's Office and the K&D Group. The Prosecutor's Office completed its review and concluded that the Engineer's Office complied with Ohio law in advertising for proposals for new office space and that the lease is reasonable in light of market conditions. A copy of the report prepared by the Prosecutor's Office is attached at Attachment 17.

5. Department of Development

Paul Oyaski, Director of the Department of Development (DOD), submitted a report dated March 19, 2009. (Attachment 2). The Community/Economic Development Division of the Department of Development ("DOD") reviewed files regarding the individuals identified as

being part of the federal investigation who received direct financial assistance from the DOD. The report was supported by 116 pages of documents, which Bricker reviewed.

The DOD report sets forth the general process used for all DOD projects as follows:

1. Application received by DOD Economic Development staff.
2. Staff and Management reviews application; determine eligibility.
3. Eligible projects are presented to the Loan Review Committee for their review and recommendation.
4. Loan Committee recommends, denies, or tables loan request.
5. Loans recommended by the Loan Review Committee are presented to the Board of County Commissioners for their consideration.
6. Board of County Commissioners approve or deny loan request
7. Staff works with outside legal counsel and the County Prosecutor's Office on the preparation of legally binding documents.
8. Legally Binding documents are presented to Borrower.
9. County Administrator or the Director of Development executes Loan Agreements after approval of legal form from County Prosecutor's Office.
10. Funds are disbursed according to the terms of the Loan Agreement. Under the terms of the Loan Agreement, the Department of Development, similar to a bank, can pay the Borrower's contractors directly for verifiable, eligible project costs.
11. DOD Fiscal Division independently reviews each disbursement request and approves or disapproves all disbursement requests submitted by the Economic Development staff.
12. Borrower pays back the County loan per the terms of the Loan Agreement.

DOD identified several transactions related to suspect parties, as follows:

Doan Pyramid Electric

DOD provided a \$350,000 Community Development Block Grant economic development loan to Deep Three Partners, LLC. owned by Michael Forlani. Mr. Forlani is also a majority shareowner Doan Pyramid. The loan was used to partially finance the acquisition of property located at 5060 Corbin Drive, Bedford Heights, Ohio. DOD found that the loan was fully disbursed, Deep Three Partners met all its job creation requirements, and was current on loan repayments as of the date of the report. Deep Three Partners remains current on its loan payments today.

Parkview Apartments

DOD gave a \$1 million Brownfield Redevelopment Fund construction loan to Allerton Housing L.P. and a \$1 million Brownfield Redevelopment Fund loan to Teamster Retiree Apartments - Youngstown, Inc. to complete a major renovation of the multi-family Parkview Apartments located at 1802 East 13th Street. The Parkview Apartments is a HUD Section 8 facility and the U.S. Department of Housing and Urban Development is financially participating and holds a first mortgage position. HUD has contracted with an independent architect to inspect and verify the completion of the work being completed.

At the time of the DOD's original report in March 2009, the Allerton loan had \$81,439.51 remaining left to disburse and the Teamster Retiree loan had \$115,553.56 left to disburse. It is our understanding that currently, both loans are fully disbursed and are current on all quarterly interest-only loan payments. (Note: Some documents related to this loan are attached with the documents labeled as being from Central Services.)

Green-Source Products (1170 Ivanhoe LLC)

1170 Ivanhoe, LLC received an \$800,000 Commercial Redevelopment Fund loan and a \$200,000 Brownfield Redevelopment Fund loan to purchase and redevelop property located at 1170 Ivanhoe Road in the City of Cleveland. The loan was used to assist the borrower with the redevelopment of the former Reliance Electric building into the headquarters of Green-Source Products, a privately-owned company affiliated with DAS Construction, which leases the premises.

DOD found that the principals of 1170 Ivanhoe, LLC are as follows:

- John A. Pumper Chief Executive Officer 40%
- Daniel Pumper Vice President 20%
- John D. Pumper Chief Financial Office 20%
- Jeffrey Troxell Vice President 20%

DOD reported that the County fully disbursed the \$1 million in loans and the project has received a No Further Action letter from a Certified Environmental Professional. At the time of the report, Green Source Products was current on all quarterly interest-only loan payments. Bricker has verified that the loan payments are, as of September 1, 2009, current.

The DOD provided copies of:

- The relevant Cuyahoga County Department of Development Loan Procedures
- Cuyahoga County Community Improvement Corporation/Economic Development Loan Review Committee members for the years 2005, 2006, 2007
- Deep Three Partners LLC Loan Presentation Package

- Parkview Apartments Brownfield Redevelopment Loan Review Summary
- 1170 Ivanhoe LLC Loan Review Summary, including a January 17, 2008 summary of 1170 Ivanhoe LLC's request for a revision in collateral and attached appraisal report.

DOD staff reviewed its files for each transaction and “found no irregularities. Each transaction followed our normal documented loan procedure.”

Bricker reviewed the report and the attached files. Some additional files were also included with the documents labeled as Central Service records, which were also reviewed. Based upon our review of the documents provided, we see nothing at this time to undermine DOD's conclusions, nor any basis to believe that the loans or grants awarded might significantly impact the County's financial status.

1170 Ivanhoe LLC has recently requested a three-year extension on the interest-only portion of the loan to provide them sufficient time to boost sales and attract financing. In response, the County asked Bricker to review the loan in greater detail to determine whether the requested loan modification is appropriate.

Bricker has reviewed the borrower's request and sees no reason for the County not to grant an extension in some form. It is not uncommon for borrowers to request extensions on loans, particular during times of economic difficulties, as we are now experiencing. Bricker recommends, however, that the County consider whether three years is too long a timeframe, and whether a shorter timeframe is appropriate to better provide the County greater flexibility to administer the loan. Finally, even if the borrower defaults on this loan, it will have no significant impact on the County's overall financial position.

C. Additional Contracts Reviewed

Bricker was asked to examine several contracts involving vendors who still have outstanding payments to be paid by the County for work they performed. One contract is “The Repair and Resurfacing of Snow Road from Ridge Road to Broadview Road in the City of Parma Project” awarded to Blaze Construction, Inc. A second contract relates to the County Juvenile Justice Center project, specifically the “Contract for Supply of Concrete in Connection with the Cuyahoga County Juvenile Justice Center” awarded to Phoenix Cement. Bricker also examined a number of contracts that the Engineer’s Office entered into with Broma Information Technology, LLC (“Broma”), Michael J. Baker, Jr., Inc. (“Baker”), and Woolpert, Inc. (“Woolpert”) for non-roadway projects. These contracts also involve work that has been performed and which the vendors are awaiting payment from the County.

Snow Road Resurfacing Project

This project encompassed the re-surfacing of Snow Road between Ridge Road and Broadview Road in the City of Parma and encompassed just over 60,000 square yards of road re-surfacing. The project was funded through a combination of Federal Highway Administration funds, as administered through the Ohio Department of Transportation, as well as county and local (City of Parma) resources.

Bricker was asked by the County to determine whether approval of a \$327,681.66 Change Order by Blaze Construction was warranted. Based on our review, we found no irregularities in the contract administration of the Snow Road Project and concluded that approval of the Change Order was appropriate. The costs charged by Blaze and paid by the Engineer’s Office were supported by proper documentation, including reports maintained by the Engineer’s Office, personnel in the field, project correspondence, and project photos. A detailed

description of Bricker's analysis and findings is set forth in the attached report dated September 9, 2009. (Attachment 18).

One matter relating to the Snow Road project that was addressed in the federal charges against Kelley and referenced above was the allegation that Blaze asked for a particular inspector to be assigned to the project. The inspector in question was Mr. John Chyla ("Chyla").

Chyla was assigned to the project 31 of the 455 days the project was under construction. The project file contains no records indicating that Chyla approved defective or non-conforming work by Blaze. All quantities installed by Blaze were verified by measurements recorded in the Inspector's Daily Reports and Daily Diary Reports, as well as the separate file of recorded quantities. These reports document both the location and amount of materials installed by Blaze and were prepared by individuals other than Chyla. Consequently, as further described in the attached September 9th report from Blake to the County Prosecutor's Office, our review of the project records and interviews of relevant parties, including Mr. Chyla himself, supports the finding that Mr. Chyla engaged in no wrongdoing on the project.

County Juvenile Justice Center Project

This project involved the construction of a new juvenile detention and Court's Tower building of approximately 630,000 square feet together with surrounding site development of approximately eleven acres on Quincy Avenue in Cleveland.

Bricker was asked to review a proposed Change Order for Phoenix Cement, Inc. in the amount of \$459,762.88 for services provided on the project. We reviewed all relevant documentation, including the Contract and associated documents and project records; interviewed critical participants in the contracting and construction aspects of the project; and inspected the project site. We found no evidence that the Contract was or could have been

steered to Phoenix Cement, or that the company received any advantage or payment to which it was not otherwise entitled. Consequently, it was our recommendation that the Board of Commissioners approve payment to Phoenix Cement for that amount requested by the company, totaling \$333,939.89. Bricker did not recommend authorization of the full \$459,762.88 proposed by the County, unless the County could justify the additional \$125,822.99 requested. It was our conclusion that the additional amount was unnecessary because Phoenix Cement was 95% complete and other contractors were on site that could address future contingencies. A detailed description of Bricker's analysis and findings is set forth in the attached report dated September 9, 2009. (Attachment 19).

Other Contracts with County Engineer's Office

Bricker was asked to conduct a more detailed review and analysis of five contracts and related amendments issued by the County Engineer's Office variously to Broma, Baker, and Woolpert. Each of these vendors appear to have been implicated in some fashion in the federal charges, and Bricker was asked to determine whether there appeared to be any reason to withhold payment from them.

The five contracts at issue are as follows:

- 1) A contract to Broma awarded on April 30, 2002 for consulting services to develop a strategic plan for the document management process within the Engineer's Office. This contract was amended on November 12, 2002 to add AutoCAD training for an additional \$24,600.00.
- 2) A contract to Broma awarded on June 16, 2005 for the implementation of a document management system, called Docuware, in the Engineer's human resource department.

3) A contract to Baker awarded on July 21, 2005 for a countywide GIS system for \$725,000.00 (referenced above). This contract was modified three times by amendment as follows:

- Amendment #1 (dated 10/29/05 for \$634,050.00) for aerial photography and digital elevation mapping;
- Amendment #2 (dated 11/21/06 for \$3,141,646.00) for land base mapping, address verification and other services; and
- Amendment #3 (dated 10/18/07 for \$760,300.00) for web mapping applications.

4) A contract to Woolpert awarded on March 6, 2008, in the amount of \$94,539.72 for consultant services for a digital orthoimagery project. This contract was amended June 26, 2008 to add several services for an additional \$179,000.00.

5) A contract to Woolpert awarded on April 1, 2008 to provide information technology services related to consolidated work order and resource management applications and also for a reusable automated vehicle location subsystem, in the amount of \$485,000.00.

Charges filed by the United States Attorney's Office allege that Kelley, Payne, Gallagher, and attorney Anthony O. Calabrese, III, engaged in kickback schemes that involved contracts with each of the vendors. Kelley, Payne, and Gallagher acknowledged their involvement and pleaded guilty to the charges.

Given the substance of the charges and the fact that the defendants pleaded guilty to them, we conclude that three of the five contracts are void and unenforceable as a matter of law.

These three contracts are:

- Docuware contract to Broma;
- GIS contract to Baker;

- Digital Orthoimagery contract to Woolpert.

Section 2921.42 of the Ohio Revised Code provides, in relevant part, that no public official shall knowingly:

(A)(1) Authorize, or employ the authority or influence of the public official's office to secure authorization of any public contract in which the public official, a member of the public official's family, or any of the public official's business associates has an interest;

* * * *

(A)(4) Have an interest in the profits or benefits of a public contract entered into by or for the use of the political subdivision or governmental agency or instrumentality with which the public official is connected;

* * * *

(H) Any public contract in which a public official... has an interest in violation of this section is void and unenforceable.

It is our conclusion that these three contracts are void and unenforceable pursuant to R.C. 2921.42(H). Each of these three contracts is identified in the federal charges as being part of the defendants' kickback scheme whereby the defendants benefited from the awarding of those contracts. The remaining two contracts are not identified in the federal charges as having a part in the scheme. The vendors have no recourse to enforce an illegal or void contract, and therefore are not entitled to any unpaid funds on those contracts. Given the clear and strict language of the statute, this would apply even where the vendor companies themselves engaged in no criminal wrongdoing.

Bricker understands that the following unpaid balances remain on the three contracts at issue:

- Docuware contract to Broma: \$10,740.00
- GIS contract to Baker: \$390,065.45
- Digital Orthoimagery contract to Woolpert: \$98,675.72

Pursuant to R.C. 2921.42, Kelley and Payne appear to have had an interest in these three contracts in violation of the statute, making the contracts void and unenforceable. Consequently, if the government's allegations are true, the County may not pay the vendors the remaining balance on these three contracts. Regarding the remaining two contracts, Bricker has recommended that the County pay whatever balance if any, is due on them. A detailed description of Bricker's analysis and findings is set forth in the attached reports dated October 19, 2009. (Attachments 20 and 21).

IV. Additional Transactions Implicated in Federal Investigation

A number of allegations addressed in the federal government's subpoenas, warrants and charging documents, as well as media reports were not specifically addressed in the County's earlier review. This was due in part because the allegations did not involve the County or would have little or no impact on County funds. For example, a series of allegations refer exclusively to matters related to the City of Parma and Maple Heights City School System. Although serious allegations in and of themselves, these activities have no direct or significant impact on the County's financial position. Other matters include:

MetroHealth System

The charges set forth in the *U.S. v. Carroll, et al.* Information relate to contracts issued by MetroHealth to various contractors and bribes paid to MetroHealth officials. Bricker did not receive documentation concerning this issue, nor was it addressed in any County department reports. Bricker did however, interview County officials and established that MetroHealth System operates separately from the County, and is managed and operated by a separate board of directors. Although MetroHealth receives a subsidy from the County, its accounting, payroll, auditing records, and procurement processes are not handled by the County.

This subsidy to MetroHealth is currently set at \$40 million per year and is funded by Health and Human Services levies voted on by the electorate for health services to the County.

We conclude that the County would suffer no significant fiscal impact as a result of the activities charged in the *Carroll* Information. Bricker understands that the operation and financing of MetroHealth System is discrete. Any potential findings or awards against MetroHealth would have no direct or demonstrable impact on the County's fiscal position.

DAS Construction

Some of the government's charges relating to DAS include illegal activities by Steve Pumper that will have little or no impact on the County's financial position. For example, the government alleges that Pumper illegally attempted to influence Judge Bridget McCafferty in connection with the disposition of a civil lawsuit involving DAS. Similarly, Count 3 alleges that DAS provided bribes to a City of Cleveland building inspector in exchange for favorable treatment on building permits, occupancy permits, and similar administrative matters.

Bricker did not receive any documentation or other information related to these allegations. Based on the facts available, however, there is no reasonable possibility that any of these activities could have a significant impact upon the County's fiscal status.

Dooley Employment

The *Dooley* Information referenced above alleges that Dooley paid \$5,000 to Kelley to receive a job with another County agency, although he never received it. Other than the charging document itself, Bricker did not receive any documentation regarding this matter, but did discuss it with Office of Budget and Management Director, Sandy Turk, and Director of Accounting, Steven Letsky. Although Dooley acknowledged the charges by pleading guilty to them in

District Court, we conclude that there is no realistic possibility that Dooley's actions will have a significant impact on the County's fiscal position.

County Auditor Contracts with V.A.S. Enterprises

The most recent charges filed by the federal government address County commercial appraisal contracts between the County Auditor's Office and V.A.S. Enterprises. The government charges that in return for steering County's commercial appraisal contracts to V.A.S., the company paid kickbacks of more than \$1.2 million to Russo and more than \$150,000 to his deputy, Klimkowski.

According to the charges, the County paid approximately \$21.5 million to V.A.S. on commercial appraisal contracts dating from March 1998 through January 2008. V.A.S. was a joint venture substantially controlled by Louis C. Damiani, an attorney who passed away in September 2006. Damiani was a partner in the law firm of Armstrong, Mitchell, Damiani and Zaccagnini ("AMDZ"), located in Cleveland. Until his death, Damiani and other partners of AMDZ received a portion of the funds paid by the County to V.A.S. Following Damiani's death, Belcuy Partners ("Belcuy") was created as a partnership between an unnamed relative of Damiani's and Bruce Zaccagnini to ensure that the two of them continued to receive a portion of the V.A.S. funds.

The government charges that of the approximate \$21.5 million paid by the County to V.A.S., AMDZ received \$8,985,380 and Belcuy received \$3,689,000, totaling \$12,674,380. V.A.S. received only \$8.8 million. If these charges are accurate, the County paid more than \$21 million dollars for less than \$9 million dollars worth of appraisal work. Even assuming that AMDZ provided some sort of legal services to V.A.S. throughout the period in question, it is not plausible that the firm legitimately provided \$8,985,380 worth of value to the company.

Therefore, the County has been defrauded by as much as \$12,674,380 as a result of this alleged scheme. It is unclear at this time whether the County can recover any of these funds.

It is important to note that the federal government's charges do not allege that appraisals performed by V.A.S. were inaccurate or substandard. There are currently reports in the media, however, questioning the validity of the County's appraisals. In a *Cleveland Plain Dealer* article published September 22, 2009, Cuyahoga County Treasurer James Rokakis was quoted as saying that he had reason to believe "that it was not uncommon for Ms. Klimkowski to contact V.A.S. and ask that values be set lower on properties. . . ." Blake interviewed Rokakis after the article was published. Rokakis stated that he had information that Klimkowski did in fact ask that property values be lowered on two or three occasions, but could not identify the specific properties in question. Rokakis stated that he had no information that Klimkowski routinely requested decreases in values, or that there was a systemic devaluation of properties in the County.

Bricker recently obtained documentation from the Auditor's Office identifying instances where Klimkowski asked V.A.S. to review the valuation of various properties on behalf of the property owners. The documentation identifies approximately 196 instances where individuals filed complaints with either the Auditor's Office or directly with V.A.S. about the valuations assigned to their properties. Complaints that were received at the Auditor's Office were sent to V.A.S. for review. Of the approximately 196 complaints received, 35 were provided to V.A.S. from Klimkowski.

Given the fact that Klimkowski was the Auditor's point of contact for V.A.S., it is not unusual that she would refer taxpayer complaints filed at the Auditor's Office to V.A.S. In fact,

seven of the referrals from Klimkowski to V.A.S. resulted in no change to the valuations reviewed, indicating that Klimkowski had no influence in the valuation of those properties.

The County has approximately 38,000 industrial and commercial properties with a value exceeding \$8 billion (of note, the value of residential properties within the County is approximately \$22 billion). The changes in value of the properties that Klimkowski referred to V.A.S. appear to be consistent with value changes resulting from the mass appraisal process incorporated by the County. The likelihood that these changes would significantly impact that County's overall financial position is remote.

At this time, Bricker is unable to provide any conclusions on the validity of specific appraisals. It is important to note, however, that funding for the V.A.S. contract was derived from the Real Estate Assessment Fund not the County General Fund. Moreover, none of the funds paid by the County to V.A.S. derive from federal sources and that the Auditor's Office has confirmed to Bricker that it has no other "no-bid" contracts with outside vendors. Therefore, as discussed further below, the likelihood that the County could have contingent liabilities resulting from of its dealings with V.A.S. is remote. Any financial losses suffered by the County due to overpayments to V.A.S. or undervaluation of property, have already occurred and are reflected in the County's financial position. In fact, the County is entitled to any restitution obtained in the federal government's investigation where the County is deemed a victim, and could seek redress in future civil lawsuits against parties responsible for monetary losses to the County.

V. General Legal Issues

A. Allegations Relating to V.A.S. Enterprises

Authority to Hire V.A.S.

The County Auditor may hire outside appraisers to assist him with his statutory duty to assess uniformly the property in his county. V.A.S. was hired pursuant to R.C. 5713.01(E),

which provided in pertinent part that: “The auditor, with the approval of the tax commissioner, may appoint and employ such experts [or] employees as the auditor deems necessary to the performance of the auditor’s duties as assessor, or, with the approval of the tax commissioner, the auditor may enter into a contract with an individual, partnership, firm, company, or corporation to do . . . the [appraisal] work. . . .”

Contracts for the professional services of an outside appraiser to assist the auditor need *not* be awarded pursuant to the competitive bidding statutes. R.C. 5713.01(F). “Any contracts for goods or services related to the auditor’s duties as assessor . . ., *but not including contracts for the professional services of an appraiser*, shall be awarded pursuant to the competitive bidding procedures set forth in [the Revised Code].” R.C. 5713.01(F) (emphasis added).

Possible Claims Against the County

If V.A.S. improperly assessed the values of real property in Cuyahoga County, a variety of claims related to property tax valuation could arise. The damages associated with these claims, however, relate to the amount of taxes paid on the improperly assessed property, and statutory procedures provide administrative methods of recourse to improper property assessment.

Board of Revision Complaints as to Property Valuation

The Revised Code creates and sets forth detailed rules governing Boards of Revision—county entities that hear complaints against property values. *See* R.C. 5715.02; R.C. 5715.19. A property owner, a taxing district, and others who own property in the county, may file property tax valuation complaints. Thus, any property owner who feels his or her property valuation is too high may file a complaint to reduce the valuation. Likewise, any taxing district (most notably school districts), if it is deemed to be during the years in question (1998 – 2008), may

file a complaint to increase the value of a parcel undervalued by the Auditor. The complaints relate to the instant tax year's tax valuation, which, because taxes are paid one year in arrears, relate to the preceding calendar year. Essentially, any person who was dissatisfied with the Auditor's valuation of his—or another's—property could have filed a valuation complaint with the Board of Revision. While we should expect increased activity as to Tax Year 2009 valuations, the damages to the county should not be extraordinary (though a backlog of cases could take more than a year to resolve).

If the complainant were dissatisfied with the Board of Revision's decision, he could appeal the Board of Revision's determination of value to the Board of Tax Appeals in Columbus, or to the local Court of Common pleas. *See* R.C. 5717.01. Further appeals of right to the Supreme Court of Ohio are also permitted. In short, special administrative proceedings are provided by statute to address the very matters that would be the subject of any complaints against the county that relate to improper, illegal, or unconstitutional tax assessment.

Notably though, a person cannot file a property tax valuation complaint with a Board of Revision that relates to years prior to the instant tax year (i.e., the preceding calendar year).

Because pending Board of Revision cases may relate to prior years, information about the Auditor's alleged malfeasance could be relevant to some of those pending cases, particularly in cases that relate to property that V.A.S. appraised, or for parties that attorneys associated with AMDZ firm represent. However, to the extent the Auditor valued the properties too low, any increase in value would be a benefit, not a loss, to the County.

Original Actions in State Court to Challenge Illegal Collection of Taxes

In addition to the Board of Revision's ability to resolve taxpayers' and taxing districts' complaints about the valuation of property for the purposes of taxation, the Court of Common

Pleas is vested with jurisdiction to enjoin the illegal collection of taxes, and to hear actions to recover illegal taxes. *See* R.C. 2723.01.

The federal government's charges do not allege any undervaluation of properties by V.A.S. If the government's charges are proven true, taxes collected by the County based on an improper assessment method are arguably illegal; however, the Court of Common Pleas' jurisdiction to entertain actions to recover illegally-collected taxes must be brought within one year after the taxes or assessments are collected: "*no recovery shall be had unless the action is brought within one year after the taxes or assessments are collected.*" R.C. 2723.01 (emphasis added). Moreover, to withstand dismissal in such an action, the taxpayer-plaintiff must have filed a written protest of the assessment; otherwise, his complaint would suffer from the defect of voluntary payment. *See* R.C. 2723.03; *Ryan v. Tracy* (1983), 6 Ohio St. 3d 363, Syll. P1 ("The provisions of R.C. 2723.03 relating to the filing of a written protest and notice of intention to sue, are mandatory and a failure to comply with them shall bar an action brought under R.C. 2723.01 *et seq.* to recover previously paid taxes or assessments.").

Thus, no action may proceed under this section that either relates to taxes that are more than a year old, or in instances in which the property owner did not previously file a protest of the taxes.

B. County Contracts

Assuming there was a clear showing that contracts were issued under some fraudulent or illegal circumstances, recovery of amounts paid under any such contracts would still be limited under Ohio law. As outlined above, our review was detailed, but necessarily limited by the records and information made available to us. It is always possible that some activity that has been intentionally hidden from reviewers or was not a part of this review could come to light in the future.

Even under circumstances where the fraudulent award of a County contract is proven, the fiscal or contractual impact to the County for such a contract would be extremely limited. Any disappointed bidder, taxpayer, auditor, or funding source would have limited ability to recover funds from the county even if the contract was shown to have been fraudulently or illegally awarded. At this point in time, the contracts in question are completed or substantially completed, and most funds have been paid. The County has equitable benefit from the completed construction or the provision of goods and services and no longer has possession of the funds already paid.

As a result, recovery of 100% of all contract funds from County resources would not be a realistic possibility under any scenario. This is true even if a contract was illegally awarded and subsequently found to be void and unenforceable by the Courts.

Enforcement of Void Contracts

The law relevant to the enforcement of contracts awarded in contravention of law is set forth in *Cuyahoga Cty. Bd. of Commrs. v. Richard L. Bowen and Assoc., Inc.*, 8th Dist. No. 81867, 2003 Ohio 3663. In that case, the Cuyahoga County Architect and a selection committee reviewed a large number of proposals from design professionals to design a new Juvenile Detention Center. The selection committee ranked the top five architects in order from most preferred to least preferred and submitted the list to the Board of County Commissioners for contact award. The Commissioners awarded Bowen the contract, even though he was the fourth ranked finalist and despite state law requiring that negotiations begin with the first ranked architect.

In January 2001, shortly after a new Board of County Commissioners took office², the County notified Bowen that its contract would be terminated. The County then filed for a declaratory judgment action to find the contract void *ab initio* for violations of the selection process. The Court ruled the Board “acted in contravention of the applicable statute when awarding the contract in question to Bowen” making the contract void.

Bowen, who was paid for all services rendered up until the date of termination, appealed seeking to retain his contract. The Court held that a void contract is unenforceable and that courts will “leave the parties where they have placed themselves.” Quoting *Buchanan Bridge Co. v. Campbell* (1899), 60 Ohio St. 406, the Court concluded that if “the contract is executed, no action can be maintained to enforce it, and if executed on one side, no recovery can be had against the party of the other side.”

Thus, even if the contracts that have been reviewed in this investigation are proven to have been illegally awarded and therefore void (as with the three contracts discussed above with the County Engineer’s Office) the parties have no recourse to enforce the contract or recover funds as a matter of contract law.

Liability to Other Bidders

It also seems highly unlikely that the County would face fiscal liability from any other bidders who sought, but were not awarded any of the contracts in question. Ohio courts have routinely held that monetary damages are not available to unsuccessful bidders in a public bidding situation. *Cementech, Inc. v. Fairlawn* (2006), 109 Ohio St. 3d 475. *See, also, Cavanaugh Bldg. Corp. v. Bd. Cuyahoga Cty. Comm’rs* (Jan. 27, 2000), Cuyahoga App. No. 75607, 2000 Ohio App. LEXIS 241; *Midwest Serv. Mgmt. v. Local Bd. of Edn.* (2001), 144 Ohio

² Jimmy Dimora, Timothy McCormick, and Peter Lawson Jones took office in 2001 from Tim Hagan, Lee Weingart and Mary Boyle.

App.3d 443, 760 N.E.2d 837. This is the case even where the contract is later determined to be fraudulent or illegal. *See, Current Source, Inc. v. Elyria City Sch. Dist.*, 157 Ohio App. 3d 765, 2004 Ohio 3422 (holding that a disgruntled bidder could not raise a fraud claim for award of a design contract because, among other things, no private cause of action for money damages accrues.)

Fiscal exposure to the county from other bidders that unsuccessfully attempted to secure an illegally awarded contract seems speculative, at best, and not supported by current case law.

Taxpayer Actions

Ohio Revised Code Section 309.12 allows the county prosecutor to initiate an action to recover damages, for the benefit of the county, resulting from the execution of an illegal contract. If the prosecutor refuses to do so, a taxpayer may bring an action pursuant to R.C. 309.13. In each scenario, however, the action is brought “for the benefit of the county.”

The taxpayer recovers only his costs, and any other funds recovered are for the benefit of the County, not the taxpayer bringing suit. *State ex rel. Shetzer v. Harshaw Chemical Co.*, 1975 Ohio App. LEXIS 6938 (Ohio Ct. App., Cuyahoga County Dec. 18, 1975). The political subdivision is the true party in interest in any taxpayer suit. *Laituri v. Nero* (2000), 138 Ohio App. 3d 348; *City of Cincinnati ex rel. Ritter v. Cincinnati Reds, LLC* (2002), 150 Ohio App. 3d 728. Thus if any contract were issued illegally and a taxpayer successfully brought suit, any damages would be paid to, not from, the County.

Federal Funding

Bricker was asked to review situations in which the federal government might seek to recover funds that it provided to the County for various contracts or programs that were implicated in the federal investigation. Based on our review, it seems unlikely that any federal

government recovery of funds from the County would have a demonstrable impact on the County's overall fiscal status. Moreover, any recovery by the federal government would likely be limited to the amounts of any particular contract that were in excess of the amounts that should have been paid had the illegality not occurred. In other words, even if a contract was issued as a result of criminal activity, the County has received some material and tangible benefit from that contract. Thus, any recovery as a result of illegal activity or an improperly granted contract would, in all likelihood, be limited to any amount in excess of the fair market value of the goods or services provided. Furthermore, any recovery by the federal government would likely be focused upon the individuals found to have violated policy or committed wrongdoing, and not the County itself.

We understand that, of all the contracts at issue in this review, those handled by the County Engineer's Office obtained the most federal funding. At Bricker's request, the Engineer's Office examined its federal funding sources and the penalty provisions associated with the federal funding streams involved. As to the Snow Road project, the Engineer's Office affirmed that Federal funding for use by local public agencies (LPA) was made available through the National Transportation Act. The Federal Highway Administration (FHWA) designated the Ohio Department of Transportation (ODOT) as the agency in Ohio to administer FHWA's Federal funding programs. The Engineer's Office entered into an Agreement with ODOT for all federal construction projects. Section 9.2 of that Agreement provides "if for any reason the PROJECT is not completed in its entirety or to a degree acceptable to ODOT and FHWA, the LPA (CCEO) shall repay to ODOT an amount equal to the total funds ODOT disbursed on behalf of the Project."

While possible however, recovery of the “total funds ODOT disbursed on behalf of the Project” is remote. The FHWA, Contract Administration Group published the “*Contract Administration Core Curriculum Participant’s Manual and Reference Guide 2006*” (“Guide”) which outlines relevant “contract provisions, administrative procedures, and applicable policies related to Federal-aid design and construction contracts.” (Guide, Section 1, A, Course Objectives.) In addition, the Guide covers “the reporting of fraud to the Office of the Inspector General (OIG), U.S. Department of Transportation (USDOT), and detecting of fraud in all phases of the contract award process for highway construction projects.”

The Guide requires that any allegations of fraud, collusion, bribery, gratuities, kickbacks, or other wrongdoing be referred to the OIG. The OIG is authorized to conduct audits and investigations, the results of which are published twice yearly in Semiannual Reports to Congress. While every situation is different, a review of recent OIG Semiannual Reports reveals that in cases that appear to contain similar allegations as those known to have been raised in Cuyahoga County, the OIG’s focus for recovery has been on the individual wrongdoers, not the grant recipients.

For example, the most recently published Semiannual Report for the period ending March 31, 2009 includes the outcome of an investigation of two New York Department of Transportation employees who accepted bribes from a contractor. The DOT employees were sentenced to prison, fined, and ordered to pay restitution. There is no mention of any attempt to recover from the NYDOT itself. The same Report summarizes a FAA investigation related to bribery of an FAA official by a contractor in exchange for contracts that were steered to the contractor. The individuals involved were sentenced to prison and ordered to pay restitution, and the contractor was debarred, but there is no mention of any sanction against the FAA itself.

Likewise, the OIG's website includes a "Criminal Investigations Reading Room" (<http://www.oig.dot.gov/Room?subject=33>) which lists summaries of hundreds of criminal matters reviewed by the OIG, the vast majority of which focus on the wrongdoers, not the agencies that received federal funds.

However, the OIG can and has sought administrative recovery from grant recipients in the past. For example, the North Carolina Department of Transportation was ordered to repay \$1.3 million following an investigation of two employees who were found to have violated FHWA policies and procedures. The violations involved claim approvals, contract awards, and authorization of payments for non-compensable work and items.

Thus, recovery of federal funds provided on County projects reviewed by Bricker is remote. Recovery seems even more remote given that the projects at issue are generally complete, appear to have been completed appropriately, and are providing a value to the County. For example, the Engineer's Office reports that the total cost to date on the Snow Road project is \$3,526,143.40. Of this amount, \$2,828,914.80 is federally reimbursable and the remaining balance is the local contribution. Currently, the Snow Road project is essentially complete waiting on final inspection. As detailed in the attached report from Blake to the County Prosecutor's Office, there is no indication that the project will not be acceptable to ODOT or that the County will face any penalty from the federal government. The Engineer's Office has stated that they are satisfied with the work performed on the project and the County has received value for the money it has paid and still owes the contractor. Therefore, the possibility of the County owing money to the federal government is remote and it does not appear that any funds will be reimbursed to the federal government from this project. Even assuming, *arguendo*, that the County did not receive any value for the funds spent, the maximum potential at risk dollars

pertaining to the Snow Road project is \$2,828,914.80, an amount that would have no significant impact on the County's overall financial position.

The Engineer's Office also reported that federal, state, and local funds were used to implement the GIS system in the County. Federal and state funding was provided through grant agreements and 911 tariffs, and the local funding was provided by the County Commissioners and the County Engineer. The grant agreements applicable to the GIS project between the County Engineer and the US Department of Homeland Security under Section B2 provide: "The Cuyahoga County Engineers Office shall be liable to the BOARD for findings of recovery made as a result of a state audit." No recovery language was noted in the 911 /CECOMS tariff fund agreement that is collected under Ohio HB 361, which allows the county to collect a surcharge on wireless telephone handsets registered within the county.

The Engineer's Office confirmed that the total costs pertaining to GIS and related projects involving parties implicated in the federal investigation are approximately \$6.86 million. Of this amount, \$2,973,579 is related to a federal grant program, \$2,500,496 is related to a state funded program, and the balance is local funding. Of the \$2,973,579 in federal grant funds, \$1,747,382 was paid to contractors implicated in the federal investigation. The balance of federal funding was spent on items and firms not implicated in the investigation. The Engineer's Office further confirmed that they received value for the services rendered because the GIS system is working very well and that they are satisfied with the system. Even assuming, *arguendo*, that the County did not receive full value for services rendered and that the federal government is entitled to some reimbursement of funds, the likelihood that such reimbursement would significantly impact that County's overall financial position is remote.

Finally - although highly unlikely - even if every contract implicated in the federal public corruption investigation that involved federal funding were found to be illegal, and even if the federal government sought to recoup 100% of the federal dollars involved in those contracts, the total amount of the federal recovery would be only a small portion the County's operating budget in the general fund of approximately \$370,000,000 and unreserved undesignated fund balance for the general fund of approximately \$197.7 million. While in no way suggesting that any such recovery would be insignificant or unimportant, given the amount of funds involved, the possibility that the County's overall financial position would be significantly impacted by any of the activities uncovered in the federal public corruption investigation is remote.

VI. Conclusion

Bricker conducted an extensive review of the County's email system for any emails, reviewed each of the County department's summary reports, and analyzed the documentation provided by those County departments. Follow up interviews were held and additional documentation was sought on significant transactions and issues raised during the Bricker review. Based upon our review and subject to the accuracy and thoroughness of the documentation and other information provided by various County sources, Bricker concludes as follows:

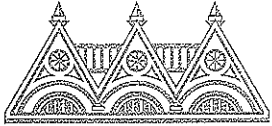
1. Bricker found nothing in the documents reviewed to undermine or call into question any of the initial summary reports prepared by the County's departments.
2. Bricker found no significant defect or procedural irregularity that would significantly jeopardize the County's financial status as to any of the above-referenced transactions.

3. Even if every allegation set forth in the federal government's charging documents were proven to be true, there is little recourse, if any, for recovery against the County as a result of the various transactions outlined above.
4. The contracts that Bricker examined were substantially performed by the vendors.
5. Even if there were recourse against the County for 100% of the entire contractual amount for every contract and transaction at issue, in this review, the possibility that the County's overall financial position would be significantly impacted by any of the activities uncovered in the federal public corruption investigation is remote.

Bricker in no way intends this report to diminish or undermine the seriousness of the government's criminal charges, nor does Bricker provide any opinion as to the validity or truth of the allegations made. This review is limited solely to the issues outlined herein and necessary for the fiscal analysis of the County's finances.

The opinions and representations contained in this report are rendered only as of the date hereof, and we undertake no obligation to update this report or the opinions and representations set forth herein after the date hereof or to make any further investigation, legal or factual, with respect to such matters after such date. The opinions and representations contained in this report only constitute our professional judgment as to the matters set forth, and should not be considered to be a guarantee of any particular result.

This Report is intended solely for the information of the County, and solely in connection with the matters described herein. It is not to be distributed to or relied upon by any other person or for any other purpose without the prior written consent of this firm; provided, however, that the County may provide copies of this Report for information purposes, and not for reliance to the general public as may be required by applicable law.



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October 28, 2009

The Honorable William D. Mason
Cuyahoga County Prosecutor
Attention: David G. Lambert, Asst. Prosecutor
Justice Center Courts Tower
1200 Ontario Street, 8th Floor
Cleveland, OH 44115

Re: *Revisions to Internal Investigation Report*

Dear Mr. Mason:

Please accept the attached revised Report of Internal Review and Investigation, dated October 28, 2009. Revisions were made to ensure that individuals referenced in the report are not erroneously viewed as having engaged in criminal or wrongful activities. We added language in several locations stressing the fact that simply because individuals' names appear in the report, it does not imply that they engaged in criminal activity or wrongdoing, or were necessarily involved in the federal government's investigation.

We also removed the names of several individuals originally listed on page 35 whose property valuations were examined by the Auditor's Office earlier this year. Two of the individuals, Cleveland attorneys John McCaffrey and Kevin Spellacy, were referenced in media accounts simply in their capacity as attorneys for other parties. None of these individuals are under investigation by the federal government.

In addition, we made other changes to the Report, specific to other individuals, also clarifying their inclusion in the Report. Again, we believe these revisions are prudent to ensure that no one reading the report improperly assumes that these individuals engaged in improper conduct or are subjects of the ongoing federal investigation.

These revisions in no way change the report's overall conclusion and are intended to clarify the report and clear up any confusion that may exist regarding those individuals.

Should you have any questions, please contact me at 216-523-5470.

Sincerely,

Richard H. Blake