

COUNTY OF CHEMUNG LAW DEPARTMENT

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February 5, 2021

Cindy Kalweit, Clerk Chemung County Legislature 203 Lake St. Elmira, NY 14902-0588

Dear Mrs. Kalweit,

I am writing with regard to the Legislature's proposed Resolution No. 21-085, attached here, which purports to authorize the Legislature to enter into an agreement with CGR to "study the composition and structure of Chemung County's government" at a "total cost not to exceed \$48,000." Please be advised that the Resolution is unauthorized under the County Charter and constitutes an improper attempt by the Legislature to unilaterally amend the approved 2021 budget without the County Executive's required approval.

As you know, the County Charter vests the County Executive, as the Chief Budget Officer, with authority over the operating and capital budgets of the County. In December 2020, the Legislature approved the 2021 County Budget submitted by the County Executive in accordance with Section 503 of the County Charter. The Legislature did not appropriate any funds for a CGR study, rendering the \$48,000 estimated cost an unanticipated expense. Nor does the Legislature have any available funds within its department that can be transferred or adjusted to cover the anticipated costs of the CGR study.

As a result, the County Charter lays out a clear process that the Legislature must follow in order to move appropriations within its own unit to provide for the unanticipated cost of the CGR study. In accordance with Section 510 of the County Charter, only the County Executive can initiate the approval process by the following: (1) transfer part or all of any unencumbered appropriation balance within the same administrative unit, (2) transfer part or all of any unencumbered appropriation balance from one administrative to another, or, finally, (3) transfer any unencumbered appropriation balance from a contingent fund to an administrative unit.

Consistent with the requirements of Section 510 of the County Charter, for the past 30 years, the County has followed a standard and routine process for budget transfers and adjustments. Where, as here, a department in County governance seeks to transfer monies from either a contingent or any other fund to cover an unanticipated cost, the approval from the County Executive is required.

To cover the cost of the CGR study, the Legislature thus requires the County Executive's approval, but has not obtained it. Instead, the Legislature bypassed the County Executive and, over and above the County Executive's objections, sought the approval of the County Treasurer to accommodate the budget transfer for the CGR study. While the County Treasurer enjoys certain powers outlined in Section 402 of the County Charter, the Treasurer notably lacks any authority to unilaterally approve or administer budget transfers and adjustments.

The Legislature, in essence, seeks to add to and amend the already-approved County budget. New York law and the doctrine of separation of powers prohibits it from doing so. As New York courts have recognized, any attempt by a legislative branch to "discard the executive budget and write one of its own" is unconstitutional (*Pataki v New York State Assembly*, 190 Misc 2d 716, 737 [Sup Ct 2002], *affd*, 7 AD3d 74 [3d Dept 2004]).

Furthermore, Section 511 of the charter, says "[c]ertain Obligations and Payments Prohibited. No payment shall be authorized or made and no obligation incurred against the County except in accordance with appropriations duly made, or except as permitted otherwise by the Local Finance Law, provided that this shall not be constructed to prevent contracting for capital improvements to be financed by borrowing, or entering into any lawful contract or lease providing for the payment of funds beyond the end of the current fiscal year."

In sum, the proposed Resolution is not only unauthorized under the County Charter and the County's longtime, established practice for budget transfers and adjustments, but also flatly barred as a matter of New York law. I urge the Legislature not to undertake such unauthorized action. Please be advised that I have been informed by the office of the County Executive that his office reserves all rights to challenge this improper resolution passed by the Legislature during its meeting on February 8, 2021.

Sincerely

M. Hyder Hussain County Attorney

cc:

Chemung County Legislature
Jennifer Furman, County Treasurer
Christopher Moss, County Executive
Bryan Maggs, Attorney to Legislature
Steve Hoover, County Budget and Research Dir.

DRAFT

RESOLUTION NO. 21-085

RESOLUTION AUTHORIZING AGREEMENT WITH CGR ON BEHALF OF THE CHAIRMAN OF THE CHEMUNG COUNTY LEGISLATURE

By: Manchester

Seconded by:

WHEREAS, the Chairman of the Chemung County Legislature (the 'Chairman') has requested authorization to enter into an agreement with CGR for CGR to study the composition and structure of Chemung County's government compared to similar counties including the size of Legislature, ratio of representation, selection of county officials, estimated costs of various branches of government; and a separate redistricting phase agreement involving analysis of Census data and development of new legislative district maps and descriptions for consideration as amendments to the Chemung County Charter, all to assist the Legislative Redistricting and Efficiency of County Government Operations Advisory Committee in making recommendations to the Chairman at a total cost not to exceed \$48,000; and

WHEREAS, the Budget Committee has recommended the Chemung County Legislature approve this agreement; now, therefore, be it

RESOLVED, that the Chairman of the Legislature is hereby authorized and directed to enter into the aforementioned agreement with CGR, as more particularly described in the Preamble to this Resolution, at a total cost not to exceed of \$48,000 during the period February 1, 2021 through December 31, 2021, the terms and conditions of this agreement to be subject to the review and approval of the Attorney for the Legislature; and, be it further

RESOLVED, that this agreement shall not be renewed, the initial term thereof extended, or the agreement amended without the express consent by Resolution of this Legislature.

RESOLUTION NO. 21-085

BACKGROUND INFORMATION

Requested by: Chairman of the Legislature

Purpose: to authorize agreement

Authority: Section 203 of Chemung County Charter

Funds involved: not to exceed \$48,000

Approved by: Budget Committee, February 1, 2021

STATE OF NEW YORK) COUNTY OF CHEMUNG) SS:

THIS IS TO CERTIFY, that I, the undersigned Clerk of the Chemung County Legislature, have compared the foregoing copy of resolution with the original resolution now on file in my office, and which was passed by the Chemung County Legislature on the 8th day of February 2021, a majority of all the members elected to the Legislature voting in favor thereof, and that the same is a correct and true transcript of such resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and the official seal of the Chemung County Legislature this 9th day of February 2021.

____Cynthia G. Kalweit_____ Cynthia G. Kalweit, Clerk Chemung County Legislature



CHEMUNG COUNTY ROUTE SLIP * PERSONNEL REQUISITION

Resolution authorizing agreement with CGR on behalf of the Chairman of the Chemung County Legislature Resolution #: Slip Type: CONTRACT SEQRA status State Mandated False Explain action needed or Position requested (justification): Phase 1 - \$28,000 Phase 2 - not to exceed \$20,000 Vendor/Provider Center for Government Research Term 2/1/2021 -Total Amount not to exceed Prior Amount 12/31/2021 \$48,000 Local Share State Share Federal Share Project No Funds are in Budgeted? Account # **CREATION:** Date/Time: Department: 1/26/2021 12:10:47 PM APPROVALS: Date/Time: Approval: Department: ATTACHMENTS: Name: Description: Туре: Legislative and Gov Ops. Benchmarking- Agreement Cover Memo 128a.pdf



Government & Education | Economics & Public Finance | Health & Human Services | Nonprofits & Communities

Benchmarking Legislative Composition and Government Efficiency Comparison of Similar Counties for Chemung County, NY



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Our Mission

CGR improves the quality of communities through impactful research, analysis, consultation and data management for the public, nonprofit and philanthropic organizations that serve them

Our Vision

CGR makes communities strong, thriving and competitive

Our Values

Informed
Inquisitive
Ever-improving
Innovative
Collaborative
Communicative
Applied
Inclusive



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Introduction

CGR is pleased to submit this proposal to assist the Chemung County in an effort to **Benchmark Legislative Composition and Government Efficiency**. CGR's public finance, budget, policy and government management expertise are precisely what the Legislature needs for this engagement. Our team of experts can ably assist in reviewing the existing situation for the county, conducting a detailed analysis of comparable New York counties and offering actionable options for enhancing the representation of county residents and operations of the government.

Statement of Qualifications

Company Profile

A unique resource to the public sector, CGR is an independent non-profit corporation providing research, analysis, management guidance and implementation support to local governments. Founded in 1915, we have grown to become a leading organization in the analysis and development of financial and governance options and municipal service delivery plans across local governments.

CGR was founded by George Eastman to serve the public interest and serve as "an independent, non-partisan agency for keeping citizens informed." Our 105 years of experience is a testament to CGR's credibility and the value we offer our clients, not just in **understanding the complexities of government operations** and municipal services, but in **leveraging information to drive action**.

Today, from our headquarters office in Rochester, New York, CGR works to bring clarity to issues that affect the quality, efficiency and financial condition of communities and their governments, both inside and outside of New York State. We inform and empower leaders and managers through empirical, objective research and analysis and by providing practical guidance and achievable recommendations. Our clients value the quality of our work, our pragmatic approach and our commitment to remaining independent and non-partisan.

CGR has adjusted our work practices in light of COVID-19 to reduce the risk of transmission to staff and clients. Whenever apporiate, CGR will use video or teleconfrencing to conducting meetings and interviews. Any in-person meetings are conducted in a manner consistent with current guidance on health and safety.



Staff Overview

Our staff of twelve researchers and support personnel are dedicated to providing our clients with valuable insights and comprehensive analysis. CGR's staff typically works in teams led by a principal with several research staff assigned to the project based on their expertise and the skills needed to accomplish the deliverables. CGR's principal-level staff have all been with the organization for more than eight years. As an entire organization, CGR has been participating in the Racial Equity and Justice Initiative (https://www.urbanleagueroc.org/interruptracism), alongside several dozen Rochesterbased organizations, with the goal of creating a more inclusive workplace and improving organizational practices.

Our work in the past 10 years alone includes dozens of municipal service, budgetary and restructuring studies; service delivery redesign efforts; and departmental and operations assessments for local governments, more than any similar organization in New York State. These analyses have covered the service and fiscal / budgetary aspects of the broad range of issues affecting local government today, including governance structures, fiscal impact, tax collection, assessment, police, fire, highways, public works and

schools.

CGR has worked directly with more than half of the county governments in New York in the last twenty years. We have provided a wide variety of services to the counties, from broad strategic plans and fiscal reviews to assisting with specific service-level reviews and process improvement.

Figure 1 County Governments Engaged by CGR since 2000





Project Staff and Biographies

CGR's team for this engagement would be led by two staff members with deep public finance experience, both in New York and nationally. They bring a wealth of expertise in public budget analysis, as well as in identifying policies and factors with real or potential impacts on government budgets. In addition to the team leaders, CGR's research assistant and associate staff will provide analytical and data management support for this engagement.

Paul A. Bishop, M.P.A., Principal

Paul Bishop is an experienced public policy researcher with a passion for addressing local government and public safety issues. He draws on his experience in observing a



wide variety of government organizations and conducting financial reviews to each aspect of analysis. He brings his experience in emergency response, system coordination, and thorough analysis to each CGR project on which he works. His familiarity with the demands of public service allows him to examine situations from multiple points of view. He specializes in analyzing complex operations to synthesize key influences and identify actionable

opportunities for improvement.

Mr. Bishop is the leader of CGR's local government practice and strategic budget consulting team. He led CGR's review of the Rockland County Budget for 2020 and served as a staff member for the review of the 2018 and 2019 budgets. He has led a broad scope of CGR's recent projects, including: the Evaluation of the Oswego County Criminal Justice and Public Safety System, the Future of Law Enforcement in Tompkins County, and the Future of Emergency Services in Greater Racine (WI). He performed key staff roles on the Tompkins County Criminal Justice Evaluation, the NYS Financial Restructuring Board review of Yonkers and Syracuse, the evaluation of government operations in Lewiston and Auburn Maine, and the report on Cayuga County Operations. He led the Countywide Shared Service Initiative projects in Allegany and Herkimer Counties in New York, as well as potential dissolution studies for the New York State Villages of Hoosick Falls, Medina, Forestville, Sherman and Van Etten. He led the consolidation and shared services studies for the Town and Village of Cazenovia, as well as the EMS Strategic Plan in Essex County, NY. He also was a key team member on a consolidation evaluation for the western New York counties of Yates and Schuyler. In addition, Mr. Bishop has directed a variety of public safety evaluations, including for the Consensus CNY- Commission on Local Government Modernization for Onondaga County, Essex County (NY) EMS Strategic Plan, the Northeast Dutchess EMS Service evaluation and led CGR's evaluation of law enforcement operations in Orleans County, the Village of Watkins Glen and the Village of Dryden (NY).



Prior to joining CGR in 2012, Mr. Bishop was the Manager of Emergency Medical Services (EMS) Education at the Public Safety Training Center at Monroe Community College for 10 years. His work focused on all aspects of education for EMS including initial certification for emergency medical technicians (EMTs) and paramedics, as well as leadership development. His expertise includes program assessment, strategic planning and accreditation.

Education

M.P.A., College at Brockport, SUNY; B.A., Political Science, University of Rochester

Career

2018-present: Principal, CGR

2016-2018: Associate Principal, CGR 2012-2016: Senior Associate, CGR

2001-2012: Manager of EMS Education, Monroe Community College, Rochester, NY

David A. Riley, M.U.P., Senior Associate



David A. Riley is a planner, researcher and former journalist focused on improving quality of life in the communities he serves. He offers a unique mix of experience in urban planning, data and policy analysis, qualitative research and writing about government at the local, state and federal levels. Since joining CGR, he has served as a researcher and analyst for various local government engagements, including studies of municipal reorganization, operations and service delivery.

His work includes studies of operations, finances and efficiency opportunities in the Cities of Yonkers and Syracuse on behalf of the New York State Financial Restructuring Board, a municipal dissolution / merger study in Massena, NY, and an operational and facilities needs assessment in Grand Island, NY.

Mr. Riley earned his master's degree in urban planning at the University at Buffalo, where he focused on community development and neighborhood planning. While completing his graduate education, he researched innovative approaches to public engagement and worked on projects that focused on revitalizing neighborhoods, affordable housing, and analysis using geographic information systems (GIS). In both professional and volunteer capacities, Mr. Riley also has served as a facilitator for various public engagement processes, including design charrettes.

Prior to joining CGR, Mr. Riley worked as an independent consultant and analyst on both planning and data analysis projects. Previously, he was an award-winning journalist with extensive experience reporting on government and public policy in



upstate New York and Massachusetts, from town hall meetings to congressional elections.

Education

Master of Urban Planning, State University of New York at Buffalo School of Architecture and Planning; B.A., State University of New York at Albany

Career

2019-present: Senior Associate, CGR 2018-19: Research Associate, CGR

2017-18: Consultant, CGR; T.Y. Lin International Inc.

2013-16: Government and Development Reporter, Democrat & Chronicle / D&C Digital

2005-13: Reporter and Editor, GateHouse Media New England

Kieran Bezila, Ph.D., Research Associate



Kieran Bezila is a skilled researcher with experience in both quantitative and qualitative approaches, having taught classes and conducted individual and joint research work at the collegiate level for more than a decade. His research interests include government, politics and the social logic behind everyday decision-making. At CGR, Dr. Bezila has contributed to projects on local government efficiency, shared services, education and public safety, and has

authored reports on such diverse topics as veterans' needs, understanding the social determinants of health, and assessing the effectiveness of DWI regulations.

Prior to joining CGR, he was an assistant professor of sociology and a teaching fellow at Beloit College in Wisconsin. Previously, he worked for the Center for Responsive Politics, managing and preparing federal campaign finance data for public view. His National Science Foundation-funded dissertation project enrolled 288 research subjects in a study of the logic underpinning altruistic behaviors such as tipping and gratuities.

Dr. Bezila is proficient in every phase of the research process, from conceptualization and design to data collection, management, and analysis and interpreting results. He has particular skills in research design, questionnaire and survey construction, interview techniques, conducting focus groups and statistical analysis.

Education

Ph.D. and M.A. in Sociology, Northwestern University; B.A. in Sociology, Boston College



Career

2019-present: Research Associate, CGR

2012-2018: Assistant Professor of Sociology and Teaching Fellow, Beloit College

2003-2012: Graduate Student in Sociology, Northwestern University

1999-2001: Center for Responsive Politics

Katherine Bell, Senior Data Analyst / Information Systems Manager



Katherine Bell provides critical support for diverse projects, ranging from cost-of-government analyses to database design for public, private and nonprofit clients. She has played a key role in the development of every online community profile CGR has delivered to clients.

Her expertise also encompasses data collection; database analysis and management; technical support for program evaluations and needs assessments; and data management for online community profiles. Of particular importance to this engagement, Ms. Bell is skilled in GIS-based analysis, including interactive mapping. In addition, she manages in-house technology, overseeing all purchases, installations and innovations.

Education

B.S., Management Information Systems, Rochester Institute of Technology

Career

2019-present, Senior Data Analyst / Manager of Information Systems CGR 2008-2018, Manager of Information Systems, CGR 2004-2008, Information Technologist, CGR

Select Reference Projects

CGR's expertise in government operations is a function of our extensive work with public sector clients – particularly in New York State – on issues related to their organizational effectiveness and delivery of essential services. This perspective allows us to better understand the context in which local government operations exist, and to tailor our analysis to the community in which we are working. While our experience across New York State positions us well to suggest certain "best practices," we recognize that no two communities are the same.



The following sample of reference projects illustrates our diverse work with local governments on issues related to budgets, service delivery and fiscal sustainability.

Chautauqua County, New York

CGR has been retained by Chautauqua County for the past several years to support efforts around shared services, fiscal sustainability and cost reduction. Most recently, CGR has worked with municipal officials on restructuring efforts in Forestville, Gerry-Charlotte-Sinclairville and the Village of Cherry Creek, as well as with the County administration to provide detailed analysis and planning support for its submission to the state's Municipal Consolidation and Efficiency Competition (MCEC) which involved a review of multiple efficiency and consolidation opportunities. CGR was also engaged to review the operations of several county clerk functions to identify opportunities to develop efficiency and costs savings through consolidation of services. The County is evaluating implementation of these plans.

Project Team: Kent Gardner, Ph.D. Paul Bishop, M.P.A., and Kieran Bezila, Ph.D. **Dates:** 2016-2019. **Contract Amounts Range**: \$11,500 to \$45,000

Reference: George Borrello, New York State Senator, former Chautauqua County, NY (716) 644-460-3753-4211, <u>borrello@nysenate.gov</u>

Tompkins County, New York

CGR was hired by Tompkins County to conduct an assessment of the County jail, the County's criminal justice system, alternative-to-incarceration and other criminal justice programs, policies and practices affecting the jail and its inmate population, trends over time in the numbers and characteristics of that population, and future jail population projections under various scenarios and assumptions. Substance abuse and addiction were addressed in depth as key issues driving trends at the jail, including examination of the drug courts, alcohol and drug assessments, and rehabilitation and detoxification programs. Through implementation of CGR's recommendations, the County has seen an impactful reduction in the inmate population that has led to cost savings in the Sheriff's Office and Probation Department.

Project Team: Paul Bishop, M.P.A. Dates: 2016-2017

Reference: Rich John, Tompkins County Legislator & Chair, County Public Safety Committee. (607) 279-9332 rjohn@tompkins-co.org



State of New York Division of Budget

The New York State Financial Restructuring Board for Local Governments engaged CGR (via the State Division of the Budget) from 2014-18 to assist the Board in conducting comprehensive reviews of four cities – Niagara Falls, Rochester, Syracuse and Yonkers – seeking assistance to address substantial fiscal challenges. CGR conducted top-to-bottom reviews of baseline / existing conditions to "size" the fiscal challenges the cities faced and then identified potential opportunities to enhance efficiency and effectiveness. In all four cities, this included a detailed review of every department, including analyses of operations, staffing and capital needs. Opportunities identified in CGR's final reports spanned three broad categories: cost savings, revenue enhancement and process improvement. The Board used CGR's reports to recommend efficiency improvements and identify areas for targeted funding to improve the stability of the cities.

Based in part on its work on the aforementioned four projects, in December of 2018 CGR was selected over other competing firms by New York State's Division of the Budget to be the state's primary consultant for work that is outsourced by the Local Government Management, Financial and Restructuring Board through January 31, 2024.

Project Team: Paul Bishop, M.P.A.; and David Riley, M.U.P. Dates: 2014-18;

Reference: Timothy Ryan, New York State Division of the Budget, (518) 486-9610, timothy.ryan@budget.ny.gov



Project Plan

Under County Charter, Chemung County is obligated to evaluate its legislative representation after the decennial census and present any potential changes to districts at the general election in the succeeding year. The County Legislature has asked CGR to use this opportunity to consider the composition and structure of its government compared to similar counties including the of size of legislature, ratio of representation, selection of county officials, and estimated costs of different branches of government.

As soon as possible upon award of a contract, CGR's team will meet with County legislative leaders to review project objectives and align expectations regarding the format, presentation and timing of all required analysis and reports. This meeting will establish a framework for CGR's staff communications to the County Legislature; a preliminary protocol for accessing needed data and information from the County; and a format for presentations to ensure stakeholders receive all requisite information from CGR in the desired form.

CGR's general approach to this engagement is presented in the following sections. The various "phases" are presented in sequential order for ease of understanding; however, given the expedited timeframe of this study, it is likely that certain phases will take place concurrently.

Phase 1: Project Initiation

As soon as possible upon award of a contract, CGR's team will meet with key County officials to discuss the engagement, confirm timeframes and analysis / reporting format, and address the engagement team's immediate data requirements. CGR will also use this meeting to begin identifying areas / issues of concern or questions to the Legislature which may warrant more detailed review. CGR will also confirm with the county the list of about 20 benchmark counties that will be used for the study.

Phase 2: Gathering Benchmark Data

CGR will gather the necessary data from Chemung and the other benchmark counties related to the following:

- Population and recent demographic trends;
- County government structure, including:
 - Legislature/Board of Supervisors;
 - Executive/Manager/Administrator/None;



- Treasurer (elected or appointed)/Finance Manager;
- For elected legislatures, estimate the ratio of residents to legislators;
- For all elected positions, identify terms;
- For the above positions, identify salaries and other benefits; and
- Develop approximate costs for the overall branches of local government (legislative, executive, finance, other administration).

We will gather the data using publicly available sources and following up as necessary. With the above data, we will develop a report outlining the existing situation for Chemung County and how it relates to the selected peer counties in terms of size of legislature, ratio of representation, selection of county officials, estimated costs of different branches of government and other select characteristics. The benchmark report will be presented to the County Legislature or their designated group.

Phase 3: Developing Options

CGR will work with a group of legislators to develop a series of options related to the size of the legislature and the structure of other county positions. We envision this process including the following items:

- Anonymous survey of all legislators on their priorities related to representation (including factors for redistricting), the structure of government, and preferred criteria for redistricting;
- Interviews with key individuals in the legislature regarding their priorities on representation and government structure;
- Informal discussion of the findings of the survey and interviews.

CGR will develop a written report comparing and analyzing Chemung County's government structure and the potential options related to potential changes in the structure of county government, including the size of the legislature and their districts, the type of chief executive, the type of finance leader, changes in the cost of government and the findings of the legislative survey.

Phase 4: Report-Out to County

Throughout the course of CGR's analysis, the project team will provide bi-weekly written status reports to County officials, as designated by the Legislature. A formal written report will be developed at the conclusion of the project that will encompass both the benchmark data and options for change for the county. CGR will highlight



which options best meet the criteria identified during the options phase. CGR will also identify the areas of the County Charter that would need to be modified to meet the preferred options identified in the study.

Timeline

CGR understands that the legislature is looking to substantially complete this project by May 15, 2021. This is a reasonable timeline to accomplish the benchmarking, option development and creation of a final report as outlined above.

Cost

CGR is a not-for-profit 501(c)(3) consulting firm, and as such we use a bundled rate approach to project budgeting. Bundled rates are set for each position title and include direct expense (salary and benefits) as well as other than personal services (rent, insurance, etc.) and administrative and overhead charges (organizational and fiscal oversight). We propose to complete the above outlined scope of work for all-inclusive price of \$28,000.

In the event that our scope and project price does not meet the needs of the Legislature, CGR would welcome the opportunity to discuss appropriate revisions to help the Legislature.

Optional: Separate Redistricting Phase

The Census Bureau has not yet released the results of the 2020 count and has not provided a timetable for the release. Once the data is released, the adjustments to legislative districts will involve several iterations as the stakeholders in Chemung County consider the potential changes

CGR would suggest a separate redistricting phase of the project that includes taking the findings of the initial four phases regarding the appropriate size of the legislative districts, and the Census data and developing new district maps. This phase would require a specific work plan and an expansion of the agreement to complete. CGR would then work with the legislature to present the redistricting plans to draft the new district lines. CGR would present this to the Legislature for its consideration before adoption and presentation to the residents for consideration as amendments to the County Charter.

