



**Congress of the United States
House of Representatives**

March 21, 2013

The Honorable Gene L. Dodaro
Acting Comptroller General of the United States
U.S. Government Accountability Office
441 G. Street, N.W.
Washington, D.C. 20548

Dear Mr. Dodaro:

We write to request that the Government Accountability Office (GAO) conduct a study of the Michigan emergency manager law,¹ including the operation of federally-funded programs² (such as education, transportation, Medicaid, and public safety) in jurisdictions declared in financial crisis, and placed under the authority of an emergency financial manager. Among other things, we ask that you review and make recommendations with regard to the following:

1. Any misuse of federal or other funds, including with regard to grants, applications, expenditures, or accounting of such funds.
2. An evaluation of the various emergency managers' efficacy in applying for and obtaining federal grants, loans, and other funds.
3. Any controls, checks, audits or other reviews in place at the local, state, or federal level with respect to the use of such funds.
4. Any controls, checks, audits, or other reviews in place at the local, state, or federal level to identify or prevent conflicts of interest, self-dealing or other mismanagement of such funds.
5. Whether and the extent to which emergency services terminated or limited by an emergency manager creates greater dependency actions on federal grant programs that fund such services, e.g., Staffing for Adequate Fire & Emergency Response (SAFER) and Community Oriented Policing Services (COPS).
6. To the extent you deem it appropriate, an overall assessment of costs, benefits, fiscal or other efficacy of the various emergency managers appointed under Michigan emergency manager law.

¹Mich. Pub. Act 436 (2012). From 1988 to 2013, Michigan has had various iterations of an emergency manager law, allowing the appointment of an unelected financial overseer. The version of this law that was enacted in 2011 as Public Act 4 allowed the emergency manager to unilaterally terminate collective bargaining agreements, which raised significant constitutional questions. It was subsequently repealed by Michigan voters in November 2012. Governor Snyder thereafter signed a replacement measure, Public Act 436, into law on December 26, 2012, which also allows for termination of collective bargaining agreements.

² Michigan's current emergency manager law provides that an emergency manager may "[r]eceive and disburse on behalf of the local government all federal, state, and local funds earmarked for the local government." Mich. Pub. Act 436, §12(c) (2012).

We have previously observed that the unilateral appointment of an unelected emergency manager raises serious legal concerns, including questions about minority voting rights and the law's constitutional legitimacy. Our letter to you today, however, focuses on fiscal accountability issues.

We recognize that many Michigan jurisdictions face severe financial distress from a variety of interrelated budget and legal issues—including reductions in state revenue sharing and limitations on city taxing authority—and that difficult financial choices must be made in difficult times. These jurisdictions include the City of Detroit, which we represent, and for which, subject to appeal, an emergency manager was recently designated.

Your review of the impact of these laws on federally-funded programs would be particularly timely given that the Michigan law grants sweeping powers to terminate contracts and collective bargaining agreements, and the history of conflicts and self-dealing involving previous emergency managers as detailed below. As recently as last week, *The New York Times* observed that emergency managers are “unfettered by normal checks [and] balances,” and that in Pontiac, Michigan they have “overhauled labor contracts, sold off city assets and privatized nearly every service Pontiac once provided to its citizens.”³

On March 22, 2012, we wrote to Governor Snyder to inquire about Michigan's experience with emergency managers (letter attached). In particular, we asked him about numerous reports of alleged mismanagement and conflicts of interest. Unfortunately, we have not received a response to our letter, making review by the GAO all the more timely and important.

Several recent and troubling incidents have prompted our request. First and foremost, Lou Schimmel, the emergency manager appointed for the City of Pontiac, risked forfeiting almost \$700,000 per year in federal funds.⁴ Mr. Schimmel signed a contract to turn over Pontiac's FY 2012, FY 2013, and FY 2014 Community Development Block Grant (CDBG) funding to Oakland County. Under the contract, these funds, which normally would have gone directly to Pontiac, would have been directed to Oakland County to be calculated as part of the “Urban County” formula for fund allocation. Because they would no longer be calculated under

³ Steven Yaccino, *Lessons for Detroit in a City's Takeover*, N.Y. TIMES, Mar. 13, 2013, available at <http://www.nytimes.com/2013/03/14/us/lessons-for-detroit-in-pontiacs-years-of-emergency-oversight.html>.

⁴ See Press Release, Office of U.S. Representative Gary Peters, HUD Figures Released Late Yesterday Show That Pontiac Will Receive Almost \$700,000 More Per Year Than If Emergency Manager's Original Contract Was Put Into Place (Jan. 18, 2012) (“Newly released figures confirm that Pontiac will receive over \$1.4 million in federal funding after U.S. Rep. Peters intervened to save funds emergency manager would have forfeited.”), available at <http://peters.house.gov/news-releases/newly-released-figures-confirm-that-pontiac-will-receive-over-14-million-in-federal-funding-after-us-rep-peters-intervened-to-save-funds-emergency-manager-would-have-forfeited/>

the “Entitlement City” formula previously used, Pontiac would have missed out on nearly \$700,000 per year. Rep. Gary Peters intervened and asked HUD, Oakland County, and the emergency manager to reexamine the contract, after which Pontiac’s \$1.4 million in FY 2012 CDBG funding was restored.³

Second, numerous additional examples of apparent mismanagement and conflicts of interest have been identified under the Michigan emergency manager law. These include:

- Pontiac – Michael Stampfler, an earlier emergency manager for the City of Pontiac, “outsourced the city’s wastewater treatment to United Water just months after the Justice Department announced a twenty-six-count indictment against the company for violating the Clean Water Act.”⁵ This report is consistent with long-held concerns that the emergency manager law would be used as a vehicle allowing for the unnecessary privatization of public services. In this regard, the Mackinac Center for Public Policy, along with the American Legislative Exchange Council, “has been supporting laws like Michigan’s EM Law as a way to . . . identify privatization opportunities.”⁶ As a political observer from Michigan noted, “I have seen the training materials for the training sessions held for potential E.M.s In fact, the trainings were run primarily by representatives from companies who stand to benefit financially as E.M.s outsource many of the tasks normally handled by a municipality or school district. This is a big red flag for those of us who worry that [the emergency manager law] is a not-so-subtle vehicle for forcing privatization of our governments and schools.”⁷
- Detroit Public Schools – A Wayne County court ruled in 2010 that Robert Bobb, emergency manager for Detroit Public Schools, had unlawfully exceeded his mandate by attempting to make academic changes, which were at that time within the elected school board’s sole discretion. Mr. Bobb’s sweeping plan aimed to overhaul everything from instruction to evaluation processes for staff, most notably by implementing a series of additional standardized tests during the school year. The court held that although the law required Mr. Bobb to draft a financial plan to regulate expenditures and investments, it did not confer a power that the state legislature had not granted the emergency manager—in this case, usurping the elected board’s authority over academics and curriculum.⁸

⁵ See Chris Savage, *The Scandal of Michigan’s Emergency Managers*, THE NATION, Mar. 13, 2013, available at <http://www.thenation.com/article/166297/scandal-michigans-emergency-managers#>.

⁶ See Paul Aboud, Center for Public Integrity, *Michigan’s Hostile Takeover*, MOTHER JONES, Feb. 15, 2012, available at <http://motherjones.com/politics/2012/02/michigan-emergency-manager-pontiac-detroit>.

⁷ See Jonathan Mahler, *Benton Harbor: An Addendum by Chris Savage*, N.Y. TIMES BLOG, Dec. 20, 2011, available at <http://6thfloor.blogs.nytimes.com/2011/12/20/benton-harbor-an-addendum-by-chris-savage/> (quoting from an email authored by Chris Savage).

⁸ See *The Robert Bobb Sad Saga Continues: Part 2*, SEATTLE EDUCATION, Dec. 11, 2011, available at <http://seattleeducation2010.wordpress.com/2010/12/06/the-robert-bobb-sad-saga-continues-part-2/>.

- Highland Park -- emergency manager Arthur Blackwell II was terminated in 2005 for taking \$264,000 in payments not authorized by the State. In 2011, Mr. Blackwell was ordered to repay these amounts.⁹

Finally, there are numerous instances where the appointment of an emergency manager has not served to repair the finances of local jurisdictions or proved to be a more effective mechanism for the stewardship of federal funds. These instances include:

- Ecorse – A receiver was appointed to oversee Ecorse’s finances in 1986. A second emergency manager was appointed in 2009 and remains in control of the city today. Ecorse has not yet returned to fiscal stability.¹⁰
- Hamtramck – Hamtramck was placed under control of an emergency manager from 2000 to 2007. Notwithstanding this takeover, the city remains in financial difficulty and has reportedly been unable to make pension payments.¹¹
- Highland Park – Highland Park was under emergency manager control from 2001 to 2009. In August 2011, DTE, the electricity supplier for Highland Park, removed more than 1,000 streetlights because the city owed \$4.5 million on its power bill.¹² The city is currently dealing with a \$1.5 million deficit and is reportedly some \$58 million in debt.¹³
- Flint – Flint was under the control of an emergency manager from 2002 to 2006, and a second emergency manager was appointed in 2011 and remains in control today. A recent audit showed the city ended the 2011 year with a \$7.3 million deficit.¹⁴
- Benton Harbor – Benton Harbor has been under the control of emergency manager Joe Harris for three years. Notwithstanding the consolidation of power under Mr. Harris, the city’s financial problems remain ongoing. A recent independent audit found that Benton Harbor: (a) overspent its receipts by more than \$650,000; (b)

⁹ See Gus Burns, *Granholtm-appointed Highland Park Emergency Manager Arthur Blackwell Faces Renewed Charges of Embezzling \$264,000*, MLIVE, July 5, 2012, available at http://www.mlive.com/news/detroit/index.ssf/2012/07/granholtm-appointed_highland_pa.html.

¹⁰ See *Emergency Manager in Ecorse Says City Ready to Transition Back to Traditional Leadership*, WDIV DETROIT, Jan. 9, 2013, available at <http://www.clickondetroit.com/news/Emergency-Manager-in-Ecorse-says-city-ready-to-transition-back-to-traditional-leadership/-/1719418/18068196/-/8leq2l-/index.html>.

¹¹ See Monica Davey, *Michigan Town is Left Pleading for Bankruptcy*, N.Y. TIMES, Dec. 27, 2010, available at <http://www.nytimes.com/2010/12/28/us/28city.html?pagewanted=all>.

¹² See Corey Davis, *Highland Park Turns off City Lights*, HUFFINGTON POST, Nov. 3, 2011, available at http://www.huffingtonpost.com/2011/11/04/highland-park-turns-off-lights_n_1075870.html.

¹³ See *Will Emergency Manager Be Appointed in Highland Park?*, CBS DETROIT, Dec. 12, 2011, available at <http://detroit.cbslocal.com/2011/12/12/will-emergency-manager-be-appointed-in-highland-park/>.

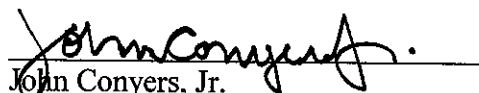
¹⁴ See City of Flint, Michigan, Department of Finance and Administration, *Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2012*, available at <http://www.cityofflint.com/finance/CAFR/2012/CoFCAFR2012.pdf>.

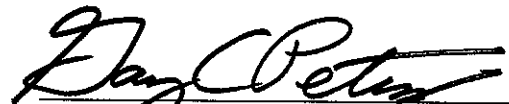
suffered from material weaknesses in its controls over financial reporting; and (c) has not made required contributions to its employees' pension fund.¹⁵

Given these documented incidents of fiscal mismanagement and conflicts of interest as well as the proliferation of emergency managers throughout the state of Michigan, we believe it is imperative for the GAO to review these matters.

We understand that the GAO may have performed work on similar issues in the past and we would of course welcome any input you may have on modifying our request. Accordingly, we look forward to hearing from you to discuss our requested study at your earliest convenience. Thank you for your time and attention to this matter.

Sincerely,


John Conyers, Jr.
Member of Congress


Gary C. Peters
Member of Congress

¹⁵ See Smith, Lindsey "Independent audit of Benton Harbor's finances reveals problems," Michigan Radio, Jan. 5, 2012, available at <http://www.michiganradio.org/post/independent-audit-benton-harbor%E2%80%99s-finances-reveals-problems>.