

CITY OF BUFFALO  
DEPARTMENT OF AUDIT & CONTROL

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IN REM 45 AUCTION UPDATE  
OCTOBER 3, 4, 5, 2011

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## **BACKGROUND IN REM 45**

The City of Buffalo In Rem 45 Auction took place on October 3, 4 and 5, 2011 at the Buffalo Convention Center. Properties, lots and other parcels that were delinquent on Fiscal Year 2009-2010 City taxes and certain fees were auctioned. Also included in the Auction were unsold parcels and properties from previous auctions starting with In Rem 38. The In Rem auction number is sequential and increases each year. The winning bidder is absolved of all prior debts on the property acquired. However, any existing housing code violations related to the property become the responsibility of the new owner. Criteria for inclusion in the In Rem 45 foreclosure list include:

- City of Buffalo Property Taxes in arrears
- Water and Sewer Bills in arrears
- Prior year Garbage User Fees in arrears

In previous years delinquent Garbage User Fees were also automatically included in the Auction. This was challenged in County Court and on September 30, 2011 a Judge stayed the sale of properties that were in arrears due to outstanding User Fees for this year. This ruling the Friday preceding the Auction resulted in a change to what properties were offered. Over 1000 properties were removed from the foreclosure list.

The City notifies current property owners that they will be included on the foreclosure list if arrears payments are not made current. A property owner can be removed from this foreclosure list as late as the day of the auction by:

- Becoming current on their arrears
- Arranging for a court ordered payment plan
- Entering bankruptcy protection

All City of Buffalo In Rem Auctions involve a great deal of coordination among many City Departments. The Department of Assessment and Taxation is the lead department, identifying the properties for auction and setting the starting bid. The week before the auction this department is heavily involved in the Court Order process at the Erie County Courthouse, wherein property owners could petition to have their property removed from the foreclosure list. This year over 1500 properties were removed through the court system. The Treasury Division accepts, deposits and receipts all auction proceeds. The Director of the Treasury is the Auctioneer. The Audit Division validates the winning bid amount and the receipt and recording of the payment. The Management Information Systems Department (MIS) manages the technical needs of the Auction through a contract with an outside vendor, Algonquin Studios, whose customized software known as SIRF (System In Rem Foreclosure) provides the infrastructure to manage the Auction. Algonquin technical support personnel are on site during the auction. The Law Department also has a representative present. Other departments

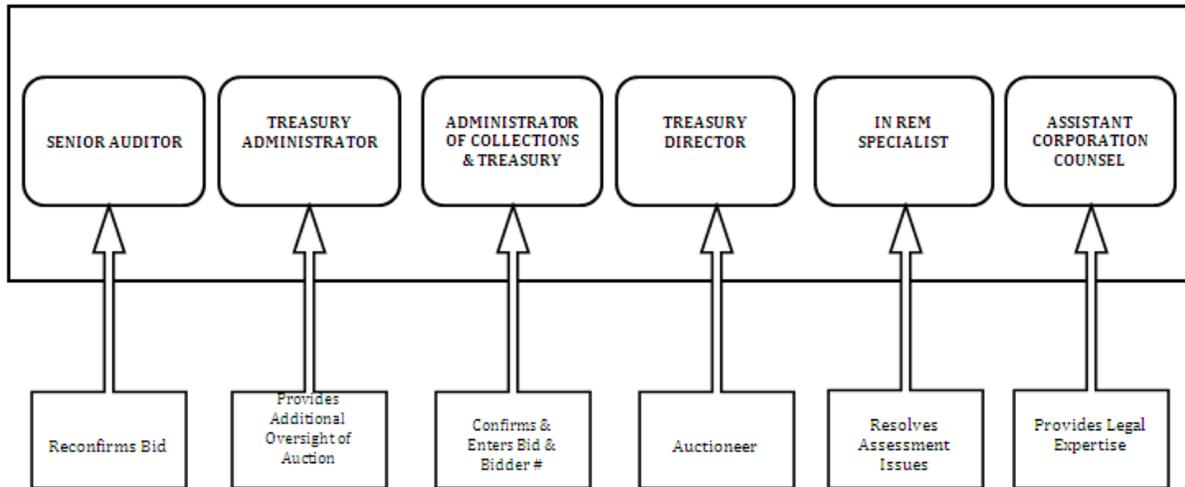
contributing manpower to the Auction include the Buffalo Sewer Authority, the Division of Accounting and the Department of Public Works, Parks and Streets.

### Background of Auction Logistics

To participate in the Auction, all bidders must register. There is no charge. Registration can be done in advance online or at the Auction. **All bidders** sign in the day of the Auction in the lobby of the Convention Center and receive a bid paddle with a number.

The main auction room is set up with an elevated auction table at the front of the room. The diagram below depicts the roles and responsibilities handled at the main auction table.

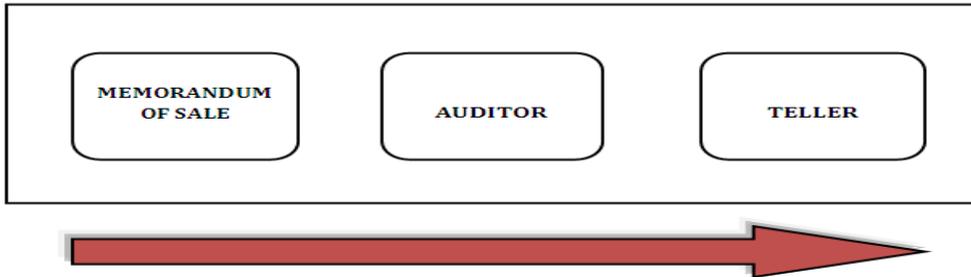
#### HEAD AUCTION TABLE



The Director of the Treasury as the Auctioneer announces the property and opening bid. If there is a successful bidder, the Administrator of Collections and Treasury enters the successful bidder paddle number and the final bid amount into the SIRF software on a laptop personal computer. The Senior Auditor confirms the bidder and the amount in the SIRF screen on their laptop personal computer. The successful bidder goes to a payment area set up along the far side of the auction room. When a bid number is not recognized due to a registration error, a generic paddle number (e.g. 9999) is entered as the winning number. This helps to keep the auction flowing without delay while the correction to the winning bidder is manually rectified by Algonquin personnel at the first available break.

The payment area is set up with four payment stations each staffed with a team of three individuals. The diagram below depicts the roles and responsibilities handled at a payment station.

**IN REM PAY STATION**



The Memorandum of Sale (MOS) person enters the bidder number in SIRF which displays the property successfully bid. The purchaser tells the MOS person the amount they will pay, e.g. minimum due 20% of the purchase price, full payment or an amount between the minimum and full payment. The MOS contract is printed in duplicate and the bidder/purchaser signs both copies. The Auditor is given the signed Memorandum of Sale which is reviewed for the amount to be paid. The MOS is given to the Treasury Teller who takes the payment from the purchaser, records the receipt in SIRF, stamps the MOS as paid, retains one copy and returns one copy to the Purchaser as a receipt. Each Teller has an open cash drawer where the cash is kept. As the day progresses, the Teller bundles the cash and balances to the SIRF total. At the end of each day, the Tellers balance their total receipts. The Auditors monitor the Teller’s revenue reconciliation. A bank deposit slip is filled out by the Teller and the money is placed in a deposit bag in the possession of a Treasury Administrator. The deposit is brought to the Treasury Teller Room in City Hall by the Treasury Administrator under police escort. The deposit is then picked up by armed guards and deposited into the M&T Clearing Account.

**Audit Scope**

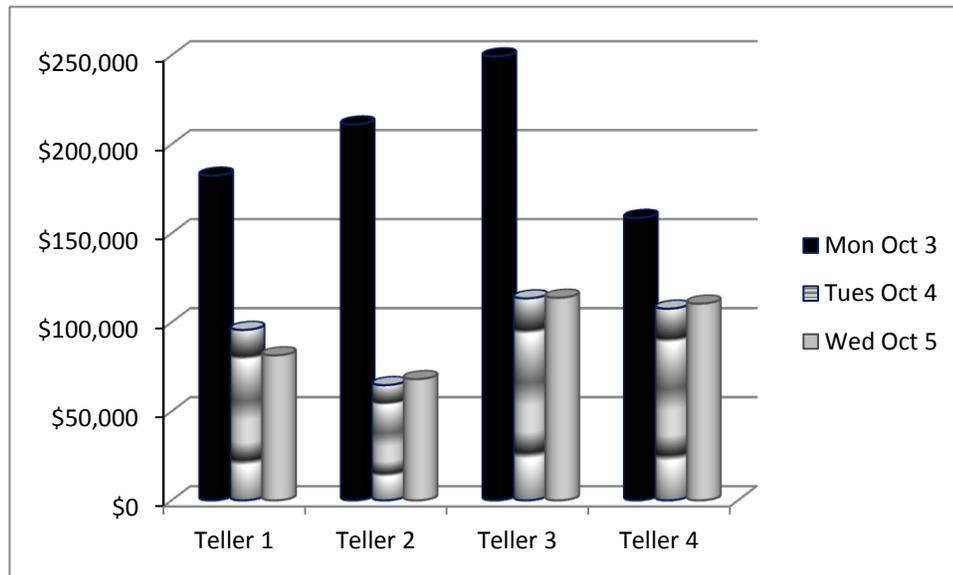
The scope of this audit update is In Rem 45 financial results along with recommended enhancements for future auctions.

**Initial Auction Totals 2011**

<b>In Rem 45</b>	
Winning Bid Totals	\$6,580,350
Number of Successful Bids	1,086
Number of Properties Auctioned	2,239
Percentage of Properties Successfully Bid <sup>1</sup>	49%
Average Bid Amount	\$6,059
<sup>1</sup> Closing is contingent on Full Payment	

Based on prior year's experience, a certain percentage of the bids will not close. Buyers may opt not to complete the purchase or previous owners may obtain last minute bankruptcy protection. Proceeds from the Auction are applied to past due amounts owed to the City and the County. If the bid amount exceeds the amount owed, the surplus is turned over to the Erie County Comptroller for a period of 5 years. During the 5 year period, lien holders may petition for money owed to them. Subsequent to the 5 year period, any remaining funds are turned over to the State of New York. Bidders had until November 21, 2011 to pay any remaining balance at this year's auction

**Auction Day Proceeds Processed by Each Teller**



3 day total amounted to just over \$1.5 million

➤ **Revenue received from selling In Rem 45 property listing**

Auction participants who wish to purchase an up to date list of the properties for sale are required to pay a \$5.00 fee for this information. Most lists are purchased at registration. The amount of money taken in during the three day auction is directly deposited into the foreclosure fee account. Based upon the amount of money that was deposited into the Treasury from the sales of these lists, \$3,246 was verified by auditors in the MUNIS system. This equates to approximately 650 foreclosure listings sold at the \$5 price. List revenue on the first day equated to \$2,500 or 500 lists sold. There was a **revenue decrease** of over \$3,300 from last year's sales of lists. **77 %** of all lists sold were purchased on the first day of the auction. Auditors were told that additional lists for Days Two and Three were not produced due to the fact that the first day of the Auction did not end until 9:30PM. Based upon last year's recommendation, an auditor

was present for the opening and closing inventory of the auction lists for each day of the Auction.

### **Recommendations gleaned from the In Rem 45 Auction**

Two general areas will be discussed:

- **Registration**
- **Payment and Auction Procedures**

#### **Registration:**

There is general agreement that the registration process can be time consuming and slow with long lines in the Convention Center lobby each day of the auction. A number of forms must be signed by participants and identification must be presented at time of registration. While 20.5% of the bidders pre-register, these individuals queue up in the same lines as those individuals who have not pre-registered.

#### **Recommendations:**

- Create an express check-in for people who have pre-registered. Use signs to properly direct people to the express check-in, also inform them on the pre-registration site of the availability of an express line.
- Conduct a cost benefit analysis on use of scanning technology to simplify the registration process. As an example, bar-coding on the back of a driver's license could be used to populate data fields in the SIRF software used at registration.
- Drive more use of online preregistration through incentives, an example, preregistered bidders could be given a free list of the properties to be auctioned.
- Investigate use of a self-registration computer kiosk in the Convention Center lobby.

#### **Payment and Auction Procedures:**

##### **Noted Improvements observed during In Rem 45:**

- **SIRF:** An important SIRF improvement introduced at this year's auction was the ability to identify bidders who requested that an adjourned property be brought back for rebid. These bidders were identified by bidder number in the comment section of SIRF. If the bidder did not subsequently place a bid after their rebid request, the Auctioneer would eliminate the bidder from auction participation. This penalty process helped to eliminate time wasted on re-auctioning properties and made bidders

responsible for their actions. **We recommend** this policy be emphasized and enforced at all future auctions.

- **Payment Area Setup:** First day setup of computers at the Memorandum of Sale table was handled more efficiently this year. In prior years the payment area was not fully equipped at the start of the day due to cross utilization of computers with the lobby registration area. The improvement was the result of having dedicated computers for each area. More laptops were rented and the Division of Audit loaned three additional laptops. **It is recommended** that this level of equipment support be repeated at future auctions.
- **Security:** The police presence in the payment area of the auction room had greater visibility at this year's auction. The officer assigned was actively engaged in observing the payment area which resulted in a heightened sense of security. The police interaction with purchasers on when and where to proceed contributed to an orderly and improved customer flow. **We recommend** that the police presence at future auctions replicate this year's approach to security.
- **Bid Errors:** During In Rem45, the Auctioneer continually instructed bidders to know the property for which they bid. Bidders were told they would have their bid paddle disqualified if individuals repeatedly claimed they had mistakenly bid on a property. One error in bidding is entirely plausible, but numerous times during the auction could indicate a bid scam trying to win a property for far less with the help of another bidder. **We recommend** that the Auctioneer continue to stress the importance of this throughout the days of the auction.

### **Opportunities for Improvement:**

- **Increased Use of Technology , Signage and a FAQ sheet**
  - To hinder those bidders who attempt to scam a property by bidding up the price and never paying, Algonquin could add this bidder number to the comment section of the SIRF software instead of having the Auctioneer trying to remember these numbers. Current practice is manual as bid numbers are jotted down on paper.
  - We recommend a large sign be prominently displayed to indicate “**Pay Here**” at the Memorandum of Sale Table.
  - We recommend projecting the top auction questions on a screen in the Auction room. A video identifying these same issues should also be explored and developed through the help of the Office of Telecommunications, Utilities and Franchises.

- We recommend replacing the dry erase board used to identify parcels taken off the auction list with a screen projector.
- We recommend exploring the acquisition of an industrial shredder to eliminate paper waste generated during the sale. Many discarded sheets of paper contained sensitive personal information, which were disposed of in an unsecure manner. This practice could facilitate identity theft and should be addressed for next year.
- We recommend exploring a direct link from Treasury which would permit real time updates to the Auction Removal List.
- We recommend the development and availability of a simple handout of **Frequently Asked Questions and Answers**. The FAQ sheet would eliminate unnecessary confusion, prevent delays in the payment process, and contribute to a smoother overall auction. This recommendation was also made in the In Rem 44 Auction Report.
- **Anti-Money Laundering**
  - Given the heavy cash transactions at the auction, it may be prudent to utilize stronger anti-laundering prevention controls. There are numerous federal laws and regulations that dictate anti-money laundering efforts. It is unclear whether municipalities are subject to the same requirements as banks and other financial institutions, but it would not be inappropriate to institute recordkeeping measures to identify sources of funds and individuals who are moving \$10,000 or more, the standard financial threshold.

## **Conclusion**

Due to the fact that the Convention Center had already been booked for an event for the last week of October, this year's auction took place three weeks earlier than usual. The earlier start to this year's auction may have contributed to the record attendance on the first day. Convention Center walls had to be expanded to accommodate the heavy first day crowd that attended. First day parcels up for auction numbered over 1,500, and included properties from In Rem 38 up to and including In Rem 45.

An Auction recap follows: Cash deposits for In Rem 45 totaled \$1,556,860, an increase of over \$100,000 from In Rem 44. Total Sales for In Rem 45 inclusive of foreclosure fees totaled \$6,580,350. This equated to a 10 % or \$587,250 increase from last year's auction. The number of parcels sold for In Rem 45 totaled 1086, which is 47 more than the prior auction, a 4.5% increase.

The Audit focus going into the Auction was how payments were monitored for accuracy along with a follow-up on last year's audit recommendations. We conclude that the SIRF (System In Rem Foreclosure) software enables an accurate and reliable record of the sale. It should be noted there was only one Teller Shortage (\$100) during the course of the auction, a noteworthy accomplishment.

Another cash item of Audit interest was the sale of City of Buffalo In Rem 45 property listings for \$5.00. An opening inventory and closing inventory of these lists was verified by an auditor at the start and ending of each auction day. The sales of these lists declined on the second and third days due to a shortage of lists. As noted earlier, the Auction lasted until 9:30 PM on the first day. Due to the late finish, updated lists were not printed or available for sale. Our recommendation is to have the Print Shop produce these lists for Day Two and Three of the auction. Revenue received from property lists sales could cover the cost of overtime that would be required.

We recognize that there are natural limitations in terms of availability of personnel, timing and budgetary constraints. However, if ideal conditions could be realized, an optimal auction experience could be achieved. The technology improvements mentioned earlier under the audit recommendations highlight viable next steps that will improve the auction process. Overall the auction process has advanced significantly from its infancy and progressed to become an effective and professional operation.