



STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

January 11, 2007

Ms. Frances Kayne, Chairperson
And Members of the Board of Commissioners of the
Town of Hempstead Sanitary District Number Six
80 Cherry Valley Avenue
West Hempstead, NY 11552

Re: Retirement Reporting
Report 2006-S-13

Dear Ms. Kayne and Members of the Board of Commissioners:

One of the Office of the State Comptroller's primary objectives is to identify areas where local governments and sanitary districts can improve operations and provide guidance and services that will assist local officials in making those improvements. Our goals are to develop and promote short-term and long-term strategies to enable and encourage local government and sanitary district officials to reduce costs, improve service delivery, and to account for and protect their entity's assets.

In accordance with these goals, we conducted audits of five Nassau County sanitary districts to determine whether sanitary district officials have established appropriate internal controls over the reporting of retirement service credits to the New York State and Local Employees' Retirement System (NYSLERS). We included the Town of Hempstead Sanitary District Number Six (District) in our audits. Within the scope of this audit, we reviewed the District's efforts to ensure proper accounting for, and reporting of, employee salaries and service credits in accordance with criteria set forth by the NYSLERS. The audit period was January 1, 2003 through November 30, 2005.

This report contains our findings and recommendations specific to the District. We discussed the findings and recommendations with District officials and considered their comments in preparing this report. The District's response is attached to this report in Appendix A.

A. Summary of Findings

Our audit found that the District is not consistently applying the appropriate policies and procedures that govern reporting employee retirement service credits as stipulated by NYSLERS guidelines. The audit identified weaknesses in the District's reporting process that resulted in employee credits being incorrectly reported. For example, we noted that the 78 District employees scheduled to work on January 1, 2005, but who were on paid leave due to the holiday, were not reported for retirement service credit for that day,

as required. We also found two District employees had not been reported to the NYSLERS and that the District did not maintain any documentation to support the retirement credits being reported for three elected officials, as well as a part-time employee.

Based upon our audit, we conclude that numerous improvement opportunities exist for the District to implement and strengthen their internal controls over retirement reporting.

B. Background and Methodology

The District, located in Nassau County, was established by the Town of Hempstead pursuant to chapter 516 of the Laws of 1928. Its general and legal authority to operate is described in the Nassau County Civil Divisions Act (L 1939, ch 273). The District is governed by six Commissioners, each of whom is elected for a five-year term and is eligible to become a member of the NYSLERS. For 2005, the District had about 220 employees, with a total payroll of \$11 million.

To accomplish our audit objectives, we reviewed the District's processes for recording and reporting employee data to the NYSLERS. We met with District officials and compared their reported practices with requirements included in the Employer Guide published by the NYSLERS. Our audit included tests of the monthly reports the District filed with the NYSLERS, as well as the supporting documents that evidenced the District's method of accounting for employee time in terms of retirement service credits. We also verified that all employees were either enrolled as a NYSLERS member or had appropriately opted not to join as authorized because of their individual employment circumstances. Furthermore, our audit examined the circumstances surrounding District employees for whom two or more employers were reporting retirement data to the NYSLERS. To obtain reasonable assurance that these employees were not inappropriately receiving salary and service credit from multiple employers, we tested their respective work schedules.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and conduct our audit to assess adequately those District operations within our audit scope. Further, those standards require that we understand the District's internal controls and its compliance with those laws, rules, and regulations that are relevant to its operations included in our scope. An audit includes examining, on a test basis, evidence that supports the transactions recorded in the accounting and operating records and applying such other auditing procedures, as we consider necessary in the circumstances. We believe that our audit provides a reasonable basis for our findings, conclusions, and recommendations contained in this report.

C. Audit Results

Membership

The NYSLERS requires each full-time employee to be a member of the system. For employees hired after July 27, 1976, membership is optional if one of the following circumstances is met:

- The position is considered temporary or provisional;
- The employee works less than 30 hours per week, or less than the standard number of hours for full-time positions established by the employer;
- The employee is employed for less than one year, or for less than 12 months a year; or
- Annual compensation is less than the State's minimum wage multiplied by 2,000 hours.

For each employee who elects not to join the system, the District is required to keep on file a signed copy of the employee's acknowledgement of their right to membership into the NYSLERS and their decision not to join. Maintaining the required documentation preserves evidence of the employee's decision. In the event that the appropriate documentation is not maintained, the District is potentially at risk of future recourse should the employee invoke his/her right to become a member.

To determine whether the District is properly reporting all applicable employees to NYSLERS, we compared the District's payroll and daily attendance sheets for the two-week period ended November 16, 2005 to a listing of District retirement system members provided by the NYSLERS for the same period. Our audit found that two employees listed on the payroll and attendance sheets had not been reported to the NYSLERS. Further review determined that they were part-time employees who had not provided the District with a signed acknowledgement of their right to NYSLERS membership and their decision not to join.

According to District officials, the employees had been provided with the appropriate form to record their decision, but had not returned it to the District. Subsequent to our review, officials contacted the two employees and instructed them to complete and return the form. Once the forms were complete, we were able to verify that all employees on the District payroll, as of November 16, 2005, either were a member of the NYSLERS or had completed the appropriate form indicating their decision not to join.

Reporting

According to NYSLERS guidelines, employers are required to collect data on the salaries paid and days worked for all members of the retirement system during each month and report them to the NYSLERS. To test the District's compliance with reporting requirements, we judgmentally selected a total of 12 months (four months in each of the calendar years audited) that represented peak and non-peak garbage collection times throughout the 35-month audit period. For each of the years, we randomly selected ten employees for a total of 30 to be reviewed from a total population of 592 employees. We compared the days reported on the monthly retirement reports the District had filed for each of these employees to the days they had reportedly worked, as indicated on their District attendance records.

Our test revealed that the District did not include January 1, 2005 on either the December 2004 or January 2005 reports to the NYSLERS. As a result, the 78 District employees scheduled to work that

date, but who were on paid leave due to the holiday, were underreported by one day to the NYSLERS. District officials indicated that they report to the NYSLERS on December 31 of every year for service credit earned in December even when this date occurs in the middle of a pay period. Because the pay period had ended on January 1, 2005, the officials indicated that they had forgotten to report this day. While all employees were paid correctly, they were not provided with retirement credit for the day.

Our test also revealed two instances where employees received more service credit than they earned: one employee received .5 of a day and another .13 of a day extra. We expanded the testing for the former employee to include the entire 35-month audit period and found that this employee received a total of three more days of retirement credit than he earned in that period. According to District officials, when a regular sanitation worker substitutes as a driver, a second line item is created on the payroll to account for the driver pay differential. Service credit was mistakenly reported for both line items, a duplication. District officials indicated that this payroll system problem will be corrected.

We also observed that the District occasionally reports in advance of the reporting period end date. In these instances, an employee who did not report to work and did not have sufficient leave credits to cover the day would be over-reported for that period. During the next reporting period, the District would then deduct the over-reported hours to correct the amount of retirement credits earned. This is not the proper procedure for adjusting service credits. As indicated in the NYSLERS Employer Guide, the applicable adjustment form should be used instead to make such adjustments. The results of our testing found three instances in which the District did not follow the proper procedure for adjusting retirement service credits.

Elected Officials

Unlike the regular District employees, elected officials do not usually have preset work hours, making it difficult to determine the number of days worked for retirement credit purposes. Therefore, the NYSLERS Employer Guide provides the following guidance for the governing board to determine days worked for such positions:

- Establish by board resolution the standard workday for the elected positions.
- Direct the elected officials to maintain a record of activities for a period of one month. This record must contain daily details of hours worked and duties performed that are directly related to the elected position. As part of this record, elected officials should also document the amount of time they actually spend performing official activities outside of normal business hours.
- Review the activities record submitted by the elected officials to determine the total number of hours per month a person in that elected position should work. If more than one elected official is serving in the same position, and all of their duties are similar, an average should be used to determine that number.
- To determine how many working days should be reported for an elected official, the total number of hours worked during the month should be divided by the number in the established, standard workday.

District officials indicated to us that all of the Commissioners serve on a part-time basis, and that a total of two days of retirement service credit is reported per month for the three Commissioners who have elected to join the NYSLERS. This is based upon their attendance at two Board meetings. Typically Board meetings are held twice per month and last two or three hours. However, the District could not document that it is reporting those officials' retirement service credits correctly. We determined that the District's board has not passed a resolution establishing a standard workday for its elected officials. Nor does the District have a record of typical activities that elected officials might be expected to engage in during a one-month period and the related work hours.

Employees with Two or More NYSLERS Employers

NYSLERS identified an average of about 35 District employees for whom one or more other employers were reporting retirement data during our audit period. Our review of the work schedules for 12 of the employees who earned over \$2,500 at each employer did not disclose any duplicate credits. However, the District does not maintain a work schedule or have records of actual days or hours worked for one of the 12 individuals. Officials indicated that this part-time employee, who earned about \$5,000 in both 2004 and 2005, is "on call" and works approximately two days per month as an Employee Assistance Specialist to help District employees in the areas of career guidance, workers compensation, sexual harassment training, and related areas. The District is required to maintain data on the days worked for all NYSLERS members.

Recommendations

1. *For each employee who elects not to join the NYSLERS, keep on file a signed copy of the employee's acknowledgement of their right to membership into the NYSLERS and their decision not to join.*
2. *Maintain documentation for days reported worked by NYSLERS members.*
3. *File an adjustment with the NYSLERS to accurately reflect credits earned by each employee identified as being under-reported for January 1, 2005.*
4. *Identify all employees who substituted as drivers, or otherwise had a second payroll line item created to account for a pay differential, and recalculate the days worked for retirement credit. File an adjustment with the NYSLERS for the affected employees.*
5. *Have the vendor that processes the District's payroll correct the retirement service credit calculation to prevent employees from receiving additional credits when a pay differential is reported for an employee on a second line item.*
6. *Follow the applicable NYSLERS procedures when making employee retirement service credit adjustments.*

7. *Follow NYSLERS guidance for determining retirement service credits for elected positions.*

In responding to the discussion draft of this report, Sanitary District Number Six officials indicated that they agree with the findings and recommendations. They also indicate that they are taking action to implement our recommendations.

The Board of Commissioners of Sanitary District Number Six has the responsibility to initiate corrective action. Pursuant to Section 35 of the General Municipal Law, the Board should prepare a plan of action that addresses the recommendations in this report and forward the plan to our office within 90 days.

Major contributors to this report were John Buyce, Myron Goldmeer, Kevin Kissane, and Chris Morris.

We wish to thank the management and staff of Sanitary District Number Six for the courtesies and cooperation extended to our auditors during this audit.

Very truly yours,

Frank J. Houston
Audit Director

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COMMISSIONERS

Vincent Bitetto
Cameron Blount Sr.
J. Michael Cairo
Frances Kayne
Philip Munda
Frederick G. Senti Jr.



Martin Carroll
Secretary to Board

SANITARY DISTRICT NO. 6

80 CHERRY VALLEY AVENUE
WEST HEMPSTEAD, N.Y. 11552
Telephone (516) 481-7110
Fax (516) 292-2970

March 29, 2006

Frank Houston
Audit Director
Office of the State Comptroller
State Audit Bureau
123 William St. 21st Floor
New York, NY 10038-3804

Re: Audit Findings & Recommendations
Report #2006-8-13
Sanitary District No.6

Dear Mr. Houston,

The District has corrected the reporting errors found by your office and has made all necessary changes in procedure so that no payroll is reported until the pay period is completed. In addition the District has eliminated split payroll so that retirement credits reported are not understated.

As to two employees whose time was over reported, the District has made the necessary changes to resolve this issue.

As to pension credits for elected officials in accordance with your recommendations those Officials will keep a diary, which will form a basis upon which a district resolution establishing the hours for the elected position.

The district is adopting all of the other recommendations made by your office.

Sincerely,

Martin Carroll
Secretary to Board

APPENDIX A