



THOMAS P. DINAPOLI
COMPTROLLER

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER
110 STATE STREET
ALBANY, NEW YORK 12236

GABRIEL F. DEYO
DEPUTY COMPTROLLER
DIVISION OF LOCAL GOVERNMENT
AND SCHOOL ACCOUNTABILITY
Tel: (518) 474-4037 Fax: (518) 486-6479

May 20, 2014

Honorable Mike Spano, Mayor
City Council Members
City of Yonkers
City Hall
Yonkers, NY 10701-3886

Report Number: B6-14-13

Dear Mayor Spano and City Council Members,

Chapter 55 of the Laws of 2014 authorizes the City of Yonkers (City) to issue debt totaling \$45 million to liquidate the current deficits in the City School District's (District) general fund as of June 30, 2014. Additionally, Chapter 55 requires the City to submit to the State Comptroller and the Commissioner of Education, starting with the fiscal year during which it was authorized to issue obligations and for each subsequent fiscal year during which the deficit obligations are outstanding, its proposed budget for the next succeeding fiscal year.

The budget must be submitted no later than 30 days before the date scheduled for the City Council's vote on the adoption of the final budget or the last date on which the budget may be finally adopted, whichever is earlier. The State Comptroller and the Commissioner of Education must examine the proposed budget and make recommendations as deemed appropriate after examining the estimates of revenues and expenditures of the City.

The City Council, no later than five days prior to the adoption of the budget, must review all recommendations made by the State Comptroller and the Commissioner of Education and make adjustments to the proposed budget consistent with the recommendations made by the State Comptroller and the Commissioner of Education. The State Comptroller's recommendations on the City's proposed budget for the 2014-15 fiscal year are contained in this report.

Our Office has recently completed a review of the estimates of revenues and expenditures set forth in the City's proposed budget for the 2014-15 fiscal year. The objective of the review was to provide an independent evaluation of the proposed budget. Our review addressed the following question related to the City's proposed budget for the 2014-15 fiscal year:

- Are the significant revenue and expenditure projections in the City's proposed budget reasonable?

To accomplish our objective we reviewed the proposed budget, salary schedules, debt payment schedules and other pertinent information. We identified and examined significant estimated revenues and expenditures for reasonableness with emphasis on significant and/or unrealistic increases or decreases. We analyzed, verified and/or corroborated trend data and estimates, where appropriate. We identified any significant new or unusually high revenue or expenditure estimates, made appropriate inquiries and reviewed supporting documentation to determine the nature of the items and to assess whether the estimates were realistic and reasonable. We also evaluated the amount of fund balance appropriated in the proposed budget to be used as a financing source and determined if the amount of fund balance was available and sufficient for that purpose.

The scope of our review does not constitute an audit under generally accepted government auditing standards (GAGAS). We do not offer comments or make specific recommendations on public policy decisions, such as the type and level of services under consideration to be provided.

The proposed budget package submitted for review for the 2014-15 fiscal year consisted of the following:

- The 2014-15 Mayor’s Budget Letter
- 2014-15 Proposed Executive Budget
- Supplementary Information

The proposed budget submitted to our Office is summarized as follows:

Fund	Appropriations and Provisions for Other Uses	Estimated Revenue	Appropriated Fund Balance	Fund Transfers In/(Out)^a	Real Property Taxes
General Fund ^b	\$459,012,075	\$327,377,274	\$24,000,000	(\$226,645,331)	\$334,280,132
Water Fund	\$27,212,519	\$36,759,700	\$1,046,879	(\$10,594,060)	\$0
Sewer Fund	\$2,525,948	\$6,693,542	\$0	(\$4,167,594)	\$0
Library Fund	\$8,202,467	\$165,070	\$0	\$8,037,397	\$0
Museum Fund	\$196,000	\$0	\$0	\$196,000	\$0
Yonkers Public Schools	\$521,853,968	\$288,680,380	\$0	\$233,173,588	\$0
Total	\$1,019,002,977	\$659,675,966	\$25,046,879	\$0	\$334,280,132
^a Includes transfers to and from various funds					
^b Includes debt service for non-school debt					

Based on the results of our review, except for the matters described in the following sections, we found that the significant revenue and expenditure projections in the proposed budget are reasonable.

Our review disclosed the following issues which should be reviewed by City officials for appropriate action. Chapter 55 of the Laws of 2014 requires the City Council to make adjustments to the proposed budget consistent with our recommendations. We believe that any such adjustments will help improve the City’s financial condition.

Board of Education – Nonrecurring Funding Sources

Municipal Relief – In prior years, we have expressed concern about the City’s practice of financing recurring operating expenditures with nonrecurring funding sources. The 2014-15 proposed budget relies on nonrecurring funding of \$28 million, authorized by Chapter 55 of the Laws of 2014, to finance operating expenses. To be eligible for these funds, the City must enter into an intermunicipal agreement with the Board of Education (BOE) to assume the BOE non-academic functions, subject to the approval of the Director of the New York State Division of the Budget. As of May 19, 2014, the City has not entered into such an agreement. Although this aid will provide relief in the 2014-15 budget, this funding source will not be available in future years thereby creating a funding gap in the 2015-16 fiscal year that the City must address by finding an alternate source of revenue or by reducing appropriations.¹

Textbooks – The District’s 2014-15 budget request did not include an appropriation for the purchase of textbooks. District officials plan to have the City issue a bond anticipation note (BAN) for the acquisition of textbooks. The exact amount that will be borrowed is not yet known. The District will use the balance of funds remaining from a \$5.2 million BAN that was issued for the purchase of textbooks and equipment in the 2013-14 fiscal year, and issue a new BAN for the remainder that is needed. The purchase of textbooks is a recurring District expenditure and generally should be included as an appropriation in the annual budget. The City will incur additional debt and interest costs by borrowing for textbooks.

Pension Costs – The District’s 2014-15 budget request contains \$6.8 million for payments due the New York State and Local Retirement System (NYSLRS). NYSLRS allows municipalities to amortize certain pension costs as part of a stabilization program which spreads payments over several years, and the District elected to participate in the program. However, the minimum payment permitted under the program for 2014-15 is \$9.4 million. Therefore, the District has underestimated pension costs by approximately \$2.6 million.

City of Yonkers

Nonrecurring Funding Sources

Fund Balance – The City has projected a general fund balance of \$54.9 million at the end of the 2013-14 fiscal year. The City has appropriated \$24 million, or approximately 44 percent of the available fund balance, in its general fund in the 2014-15 proposed budget.² In addition, the City appropriated \$1 million of fund balance in the water fund. The City’s use of fund balance to close gaps in the budget decreases the fund balance that is available to cover unforeseen shortfalls in revenue or unexpected expenses. We are concerned that the City continues to rely on

¹ If the City’s 2014-15 budget includes the \$28 million in municipal relief, before the adopted budget can be approved under the Fiscal Agent Act (Laws of 1976, Chapter 488, as amended) and related bond covenants, the City must obtain the Division of the Budget’s approval of the intermunicipal agreement and written assurance from the New York Municipal Bond Bank Agency that the money will be paid to the City during its 2014-15 fiscal year.

² To comply with the requirements of the Fiscal Agent Act and bond covenants, the City’s 2014-15 adopted budget may not appropriate fund balance in excess of the aggregate of the fund balance of the various operating funds of the City as of the end of the 2012-2013 fiscal year.

nonrecurring revenue, such as fund balance, to balance its budget. City officials will have to replace this nonrecurring revenue in the 2015-16 budget.

Revenues³

Sales Tax - The 2014-15 proposed budget estimates sales tax revenues at \$73.6 million, which is a 4.9 percent increase over projected amounts the City will receive in the 2013-14 fiscal year. City officials need to reassess whether this increase is achievable and, if not, will need to lower the sales tax revenue estimate.

Income Tax Surcharge – The 2014-15 proposed budget includes City income tax surcharge revenues of \$50.2 million. The projected amount to be received in the 2013-14 fiscal year is approximately \$39.7 million, which means that the 2014-15 budget estimates an increase of approximately \$10.5 million. Since it is not certain that the City will realize this additional revenue from expected growth in resident income, the City Council may have to pass a local law to increase the income tax surcharge rate or may need to reduce the budgeted revenue for this category.

Metered Water Sales – The 2014-15 proposed budget includes metered water sales revenue of \$31.8 million, which is an increase of approximately \$4.1 million from the amount projected to be received in the 2013-14 fiscal year. City officials should analyze this expected increase in metered water sales revenue and determine whether water rates need to be increased to allow this revenue to be achieved.

Sewer Rents – The 2014-15 proposed budget includes sewer rent revenues of \$6.5 million, which is an increase of approximately \$1.5 million from the amount projected to be received in the 2013-14 fiscal year. City officials should analyze this expected increase in sewer rent revenue and determine whether sewer rents need to be increased to allow this revenue to be achieved.

Appropriations

Tax Certiorari – The proposed budget includes \$500,000 for payment of tax certiorari claims in 2014-15. In 2012-13 the City settled claims for approximately \$7.5 million and, as of April 30, 2014, the City has settled claims of approximately \$6.1 million. Based on these trends, the City may need more funds to pay tax certiorari claims in the 2014-15 fiscal year than have been budgeted. In the past the City has bonded to pay tax certiorari claims. The continued practice of using debt to pay for these costs is imprudent. Tax certiorari claims are a recurring cost of doing business and should be paid from annual appropriations. The City will incur additional debt and interest costs by bonding the cost of tax certiorari claims instead of financing them through the current year's operating budget.

³ If any of the revenues discussed in this section are included in the City's adopted budget in an amount which exceeds the amount of such revenue either realized in 2012-13 or "properly attributable" to 2013-14, then the City must submit a "justification document" with respect to the excess before the adopted budget may be approved under the Fiscal Agent Act and bond covenants. If the amount of any such revenue included in the City's adopted budget requires an increase in a rate or charge, the City must act to increase the rate or charge before the justification document can be approved under the Fiscal Agent Act and bond covenants.

Firefighter Overtime – Historically, the City has not stayed within budgeted amounts for firefighter overtime costs. During the 2012-13 fiscal year, the City spent \$11.7 million on firefighting overtime, and we project the City will expend approximately \$10.2 million in firefighter overtime costs for the 2013-14 fiscal year. The City’s 2014-15 general fund budget includes an appropriation of \$8.2 million for firefighter overtime. City officials should assess the amount budgeted for firefighter overtime and determine whether expected measures to reduce overtime costs are reasonable. If reductions in overtime costs do not occur in 2014-15, the City could face a shortfall of up to \$2 million.

Contingency Funds – The City’s proposed budget does not include an appropriation for contingencies. In light of recent economic conditions, we believe it would be prudent for City officials to have funds set aside for unforeseen increases in expenditures. City officials should consider establishing a contingency appropriation at a level that would provide the City with reasonable flexibility in the event that it has to deal with unanticipated or insufficient appropriations. The lack of a contingency fund, along with the decrease in the City’s unassigned fund balance, leaves the City vulnerable to unexpected events.

Other Matters

Constitutional Tax Limit – The Constitutional Tax Limit is the maximum amount of real property tax that may be levied in any fiscal year. The State Constitution limits the taxing power of cities to 2 percent of the five-year average full valuation of taxable real property of the City. Under the 2014-15 proposed budget, the City will have exhausted 86.77 percent of its taxing authority. We caution the City that if property values do not increase, the ability to increase taxes may be reduced in future years.

Expired Union Contracts – The City currently has seven different contracts with various employee unions. Of those seven contracts, only the Yonkers Police Benevolent Association (PBA) contract is settled. The other six contracts have expired, as indicated below. Without current employee contracts in place, the City faces possible back pay expenditures in the future when these contracts are settled.

Union	Contract Expiration Date
Service Employees International Union (SEIU)	December 31, 2008
American Federation of State, County and Municipal Employees (AFSCME)	December 31,2008
Teamsters Local 456	December 31,2008
Yonkers Police Captains, Lieutenants, and Sergeants Association (CLSA)	June 30, 2009
Yonkers Firefighters Local 628	June 30, 2009
Yonkers Uniformed Fire Officers Association (UFOA)	June 30, 2009

Tax Cap Compliance

The State Legislature and the Governor enacted Chapter 97 of the Laws of 2011 (Law) that established a tax levy limit for local governments, which was effective beginning in the 2012 fiscal year. The Law generally precludes local governments from adopting a budget that requires a tax levy that exceeds the prior year tax levy by more than 2 percent or the rate of inflation, whichever is less, unless the governing board adopts a local law to override the tax levy limit.

The City's proposed 2014-15 budget complies with the tax levy limit because it includes a tax levy of \$334,280,132 which increases the 2014-15 tax levy within the limits established by Law. In adopting the 2014-15 budget, the City Council should be mindful of the legal requirement to adopt a budget that includes a tax levy no greater than the tax levy limit, unless it adopts a local law to override the limit.

Recommendations

The City Council should:

1. Consider appropriating the necessary funding for the purchase of textbooks.
2. Assess the sufficiency of the appropriation in the District budget for employee pension costs and increase the appropriation as necessary.
3. Develop a plan to maintain fund balance at a reasonable level to ensure funds are available in the case of a shortfall in revenues or unexpected expenditures during the fiscal year.
4. Review the estimate of sales tax revenue and amend it as necessary.
5. Review budgeted revenue from the City income tax surcharge and determine whether the current rate is sufficient for generating budgeted revenue. If not, the City Council must either pass a local law to increase the surcharge rate or lower the estimated revenue from the income tax surcharge.
6. Review the estimate of metered water revenue and amend it as necessary.
7. Review the estimate of sewer rent revenue and amend it as necessary.
8. Consider adjusting the appropriation for tax certiorari refunds or settlements and provide a financing source for tax certiorari settlements.
9. Analyze the appropriations for firefighter overtime costs and determine if they are sufficient.
10. Consider establishing and funding a contingency fund.

The City Council has the responsibility to initiate corrective action. Pursuant to Chapter 55 of the Laws of 2014, the City Council must review the recommendations in this report and make adjustments to the proposed budget consistent with the recommendations contained in this report.

We hope that this information is helpful to you as you adopt the budget for the City. If you have any questions on the scope of our work, please contact Ms. Tenneh Blamah, Chief Examiner of our Newburgh Office, at (845) 567-0858.

Sincerely,

Gabriel F. Deyo

cc: Vincent E. Spano, City Clerk
John Liszewski, Commissioner of Finance
Dr. Micheal Yazurlo, Interim Superintendent of Schools
Hon. John A. Defrancisco, Chair, Senate Finance Committee
Hon. Herman D. Farrell, Chair, Assembly Ways and Means Committee
Hon. George Latimer, NYS Senate
Hon. Andrea Stewart-Cousins, NYS Senate
Hon. J. Gary Pretlow, NYS Assembly
Hon. Shelley Mayer, NYS Assembly
John B. King Jr., Commissioner, NYS Education Department
Charles Szuberla, Assistant Commissioner, NYS Education Department
Maria Guzman, Director, Office of Audit Services, NYS Education Department
Harold Coles, Superintendent Southern Westchester BOCES
Robert L. Megna, Director, Division of Budget
Tenneh Blamah, Chief Examiner, Newburgh Regional Office
Andrew A. SanFilippo, Executive Deputy Comptroller