



**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 19, 2016

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

Report Number: B6-16-10

Dear Mayor Spano and City Council Members:

Chapter 55 of the Laws of 2014 authorized the City of Yonkers (City), subject to certain requirements, to issue serial bonds not to exceed \$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 2016-17 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 2016-17 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 2016-17 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 significant new or unusually high revenue or expenditure estimates, made appropriate inquiries and reviewed supporting documentation to determine the nature of the items. We assessed 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 2016-17 fiscal year consisted of the following:

- The 2016-17 Mayor’s Budget Letter
- 2016-17 Proposed Executive Budget
- 2016-17 Proposed Board of Education Budget Request
- Supplementary Information

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

<b>Fund</b>	<b>Appropriations and Provisions for Other Uses</b>	<b>Estimated Revenue</b>	<b>Appropriated Fund Balance</b>	<b>Fund Transfers In/(Out)<sup>a</sup></b>	<b>Real Property Taxes</b>
General Fund	\$450,926,574	\$369,622,173	\$37,950,372	(\$301,933,475)	\$345,287,504
Water Fund	\$28,804,081	\$40,869,352	\$0	(\$12,065,271)	\$0
Sewer Fund	\$2,990,911	\$8,040,783	(\$999,294)	(\$4,050,578)	\$0
Library Fund	\$9,153,417	\$165,070	\$811,831	\$8,176,516	\$0
Museum Fund	\$237,500	\$0	\$0	\$237,500	\$0
Yonkers Public Schools <sup>b</sup>	\$569,251,709	\$311,207,529	\$720,092	\$257,324,088	\$0
Debt Service Fund	\$53,649,538	\$0	\$1,338,318	\$52,311,220	\$0
<b>Total</b>	<b>\$1,115,013,730</b>	<b>\$729,904,907</b>	<b>\$39,821,319</b>	<b>\$0</b>	<b>\$345,287,504</b>

<sup>a</sup> Includes transfers to and from various funds

<sup>b</sup> Includes debt service for school debt.

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**

Textbooks – The District’s 2016-17 budget request does not include an appropriation for the purchase of textbooks. In 2014-15, the District expended approximately \$1.8 million for this purpose. District officials plan to have the City issue a bond for the acquisition of textbooks during 2016-17, and the City’s capital budget includes up to \$5.5 million for this acquisition. 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 costs by borrowing for textbooks.

Contractual Settlements – The District has three unsettled union contracts which expired in June 2014: the Yonkers Federation of Teachers contract, the CSEA contract and the Yonkers Council of Administrators contract. The District could face additional expenditures when these contracts are settled. The District has not budgeted any amount for these potential liabilities and, therefore, will need to find a funding source for any additional expenditures when contract agreements are reached.

## **City of Yonkers**

### **Nonrecurring Funding Sources**

Fund Balance – The City had nearly \$38 million in unassigned fund balance in the general fund on June 30, 2015 and projects a total general fund balance of \$61.8 million at the end of the 2015-16 fiscal year. The City appropriated about \$38 million,<sup>1</sup> or approximately 61 percent of the projected fund balance, in its general fund in the 2016-17 proposed budget. In addition, the City appropriated \$811,831 of the fund balance in the Library fund. However, the projected fund balance at the end of 2015-16 is only \$231,501. Therefore, the appropriation of library fund balance that is not available could result in a structurally imbalanced budget and a fund balance deficit of up to \$580,330 at the end of 2016-17.

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. We are concerned that the City continues to rely on nonrecurring revenue, such as fund balance, to balance its budget. City officials will have to replace this nonrecurring revenue in the 2017-18 budget.

Additional Aid – Chapter 20 of the Laws of 2015 authorized the City to receive up to \$25 million from the State of New York Municipal Bond Bank Agency for the fiscal year ending June 30, 2016. The City’s 2015-16 adopted budget relied on \$14 million of this additional aid, which left \$11 million unused. The 2016-17 proposed budget includes the remaining \$11 million. In order for the City to budget and use the \$11 million in 2016-17, it must still receive, from the State of New York Mortgage Agency, written assurance that that Agency will transfer the \$11 million to the Municipal Bond Bank Agency for distribution to the City in accordance with the 2015

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<sup>1</sup> To comply with the requirements of the Fiscal Agent Act (Laws of 1976, Chapter 488, as amended) and the City’s related bond covenants, the City’s 2016-17 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 2014-15 fiscal year.

legislation. Since this funding source will likely not be available in future years, a potential funding gap will occur in the 2017-18 fiscal year that the City must address by finding an alternate source of revenue or by reducing appropriations.

## **Revenues<sup>2</sup>**

Sales Tax – The City has budgeted \$74.2 million revenue for sales and use tax in 2016-17. This is an increase of approximately \$2.6 million over the amount anticipated to be received in the 2015-16 fiscal year. Therefore, the City’s budget is relying on a 3 percent growth in sales tax revenue. This may be an overly optimistic estimate considering sales tax revenue is estimated to decline by 2.6 percent in 2015-16 from the 2014-15 fiscal year. The City could potentially face a \$2.6 million shortfall in revenue if it does not receive the projected amount of sales tax revenue.

Metered Water Sales – The 2016-17 proposed budget includes metered water sales revenue of \$35.8 million, which is \$3.6 million more than what is projected to be received in 2015-16. The City plans to increase metered water rates 11.44 percent. The City Council must pass a resolution to raise the metered water rate prior to the adoption of the budget if this budgeted revenue increase is included in the budget.

Sewer Rents – The 2016-17 proposed budget includes sewer rent revenues of approximately \$7.8 million, which is an increase of approximately \$380,000 from the amount projected to be billed in the 2015-16 fiscal year. The City plans to increase sewer rates by 6.8 percent. The City Council must pass a resolution to raise sewer rates prior to the adoption of the budget, if this budgeted revenue increase is included in the budget.

Real Estate Transfer Tax – The 2016-17 proposed budget includes real estate transfer tax revenues of approximately \$19.6 million, which is an increase of approximately \$8.7 million (80 percent) from the amount projected to be received in the 2015-16 fiscal year. The City plans to increase the real estate transfer tax rate from 1.5 to 3 percent. The City Council must pass a resolution to raise the real estate transfer tax prior to the adoption of the budget, if this budgeted revenue increase is included in the budget.

## **Appropriations**

Tax Certiorari – The proposed budget includes \$500,000 for payment of tax certiorari claims in 2016-17. In 2014-15 the City settled claims for approximately \$11.9 million and in 2015-16 the City has an exposure of approximately \$1.4 million. Based on these trends, the City may need more funds to pay tax certiorari claims in the 2016-17 fiscal year than have been budgeted. The City has borrowed funds to pay tax certiorari claims in prior years. The continued practice of using

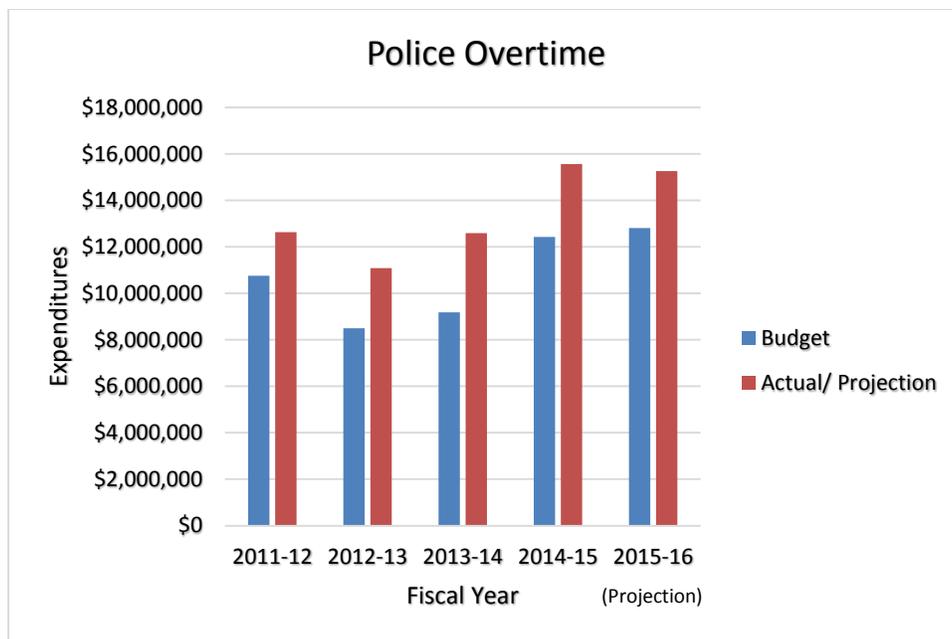
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<sup>2</sup> If any of the revenues discussed in this section are included in the City’s adopted budget in an amount which exceeds the amount of such revenue either realized in 2014-15 or “properly attributable” to 2015-16, then the City must submit 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. Similarly, if the amount of any such revenue included in the City’s adopted budget requires enactment of State legislation, the legislation must be enacted before the justification document can be approved.

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 borrowing for the cost of tax certiorari claims instead of financing them through the operating budget.

Reserve for Uncollected Taxes – The reserve for uncollected taxes is calculated based on a formula set forth in the Fiscal Agent Act (Chapter 488 of the Laws of 1976) (Act). We reviewed the City’s calculation and found that the formula used by the City was not in accordance with the Act. As a result of the error, the reserve for uncollected taxes is underestimated by approximately \$474,000.

Police Overtime – The City has routinely exceeded budgeted amounts for police overtime costs each year. The City’s 2016-17 general fund budget includes overtime funding of \$14.3 million for the police department. The City spent \$15.6 million on police overtime in 2014-15 and, as of March 31, 2016, approximately \$11 million in 2015-16. Based on our projections, the City will spend a total of \$15.3 million on police overtime for 2015-16. If historical trends continue and overtime savings are not realized, the appropriation for overtime could be underestimated by as much as \$964,000.



### 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 2016-17 proposed budget, the City will have exhausted 87.91 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.

## **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 2016-17 budget complies with the tax levy limit because it includes a tax levy of \$345,287,504 which increases the 2016-17 tax levy within the limits established by Law. In adopting the 2016-17 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**

City officials should:

1. Work with District officials to identify alternatives to borrowing funds for the purchase of textbooks.
2. Consider adding an appropriation for the potential exposure related to contractual settlements.
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 during the fiscal year.
4. Seek written assurance from the State of New York Mortgage Agency that the Agency will transfer \$11 million to the Municipal Bond Bank Agency for distribution to the City in accordance with the 2015 legislation.
5. Review the estimate of sales tax revenue and amend it as necessary.
6. Consider adjusting the appropriation for tax certiorari refunds or settlements and provide a financing source for tax certiorari settlements.
7. Review the estimate for the reserve for uncollected taxes and amend it as necessary.
8. Review the estimate for police overtime and amend it as necessary.

The City Council must:

9. Pass a resolution to raise water rates, sewer rents and real estate transfer taxes prior to the adoption of the budget or lower the estimates for these revenues.

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 upcoming budget. 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  
Deputy Comptroller

cc: Vincent E. Spano, City Clerk  
John Liszewski, Commissioner of Finance  
Edwin Quezada, Superintendent of Schools  
Hon. Catharine Young 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  
MaryEllen Elia, Commissioner, NYS Education Department  
Thalia Melendez, Director, Office of Audit Services, NYS Education Department  
Harold Coles, District Superintendent, Southern Westchester BOCES  
Robert F. Mujica, Director, NYS Division of Budget  
Tenneh Blamah, Chief Examiner, Newburgh Regional Office  
Andrew A. SanFilippo, Executive Deputy Comptroller