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July 10, 2015

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

Report Number: B6-15-16

Dear Mayor Spano and City Council Members,

By letter dated July 2, 2015, the Office of the State Comptroller, as Fiscal Agent for the City of Yonkers (City), determined that the City's adopted budget for fiscal year 2015-16 and the related justification documents are in compliance with the requirements of the Fiscal Agent Act (Chapter 488 of the Laws of 1976) (Act).

Generally the Act requires the City to appropriate for each cost category at least as much as was appropriated or spent in the previous two years and to only anticipate receiving miscellaneous revenue in amounts no greater than the amounts received in the prior two years. If the City wants to appropriate less money or budget additional miscellaneous revenue, it must provide to us a detailed justification supporting the proposed action. While we have determined that the 2015-16 budget complies with the provisions of the Act, we wish to comment on the following issues which impact the City's financial condition in the current and future years.

The City's 2015-16 budget totals \$1.07 billion. The budget includes operating and debt service funding of \$550.5 million for the Yonkers Public Schools and \$519.8 million for the City. The 2015-16 budget is \$48.5 million more than the City's budget for 2014-15, an increase of 4.74 percent.

### **Nonrecurring Funding Sources**

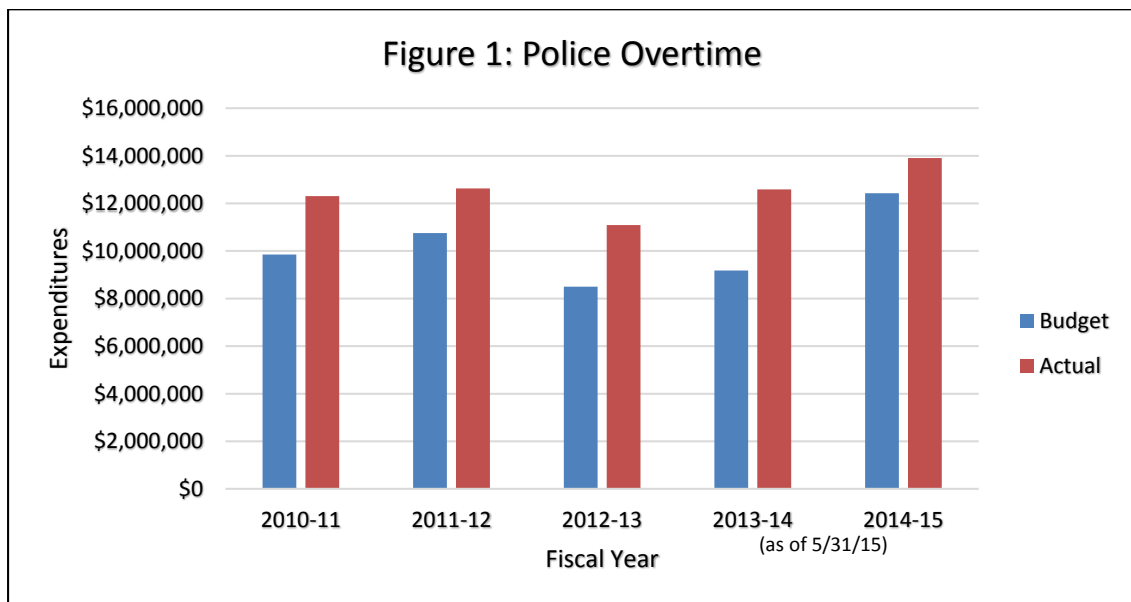
Municipal Relief – In prior years, we have expressed concern about the City's practice of financing recurring operating expenditures with nonrecurring funding sources. The 2015-16 budget relies on nonrecurring funding of \$14 million, authorized by Chapter 20 of the Laws of 2015, to finance operating expenditures. To be eligible for these funds, the City must submit a comprehensive financial plan that provides for continuity of current educational services for approval by the New York State Division of the Budget. Although this aid will provide relief in the 2015-16 budget, this funding source will not be available in future years. Therefore, a potential funding gap will

occur in the 2016-17 fiscal year that the City must address by finding an alternate source of revenue or by reducing appropriations.

**Fund Balance** – The City has projected a general fund balance of \$70 million at the end of the 2014-15 fiscal year. The City appropriated \$37.5 million, or approximately 54 percent, of the projected fund balance from the general fund in the 2015-16 budget.<sup>1</sup> In addition, the City appropriated \$3.26 million of fund balance from the water fund and \$580,330 from the library fund. The City’s use of fund balance to close gaps in the budget decreases 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 2016-17 budget.

### Appropriations

**Police Overtime** – The City has routinely exceeded budgeted amounts for police overtime costs each year. The City’s 2015-16 general fund budget includes overtime funding of \$12.8 million for the police department. The City spent \$12.6 million on police overtime in 2013-14 and, as of May 31, 2015, approximately \$13.9 million in 2014-15. Based on our projections, the City will spend a total of \$15 million on police overtime for 2014-15. The City plans to employ 11 new police officers, which may result in lower overtime costs than the City has been experiencing. However, if overtime savings are not realized, the City would potentially be over budget by as much as \$2.1 million based on the 2014-15 fiscal year overtime costs.



**Tax Certiorari** – The enacted 2015-16 budget includes \$500,000 for payment of tax certiorari claims. The City settled claims for approximately \$6.2 million in 2013-14 and, as of March 31, 2015, settled claims of approximately \$11.9 million. The City issued bonds in the prior years to

<sup>1</sup> To comply with the requirements of the Fiscal Agent Act, the City’s 2015-16 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 2013-14 fiscal year.

pay for tax certiorari claims and plans to borrow up to \$13 million for tax certiorari settlements in the 2015-16 fiscal year. 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 in the operating budget.

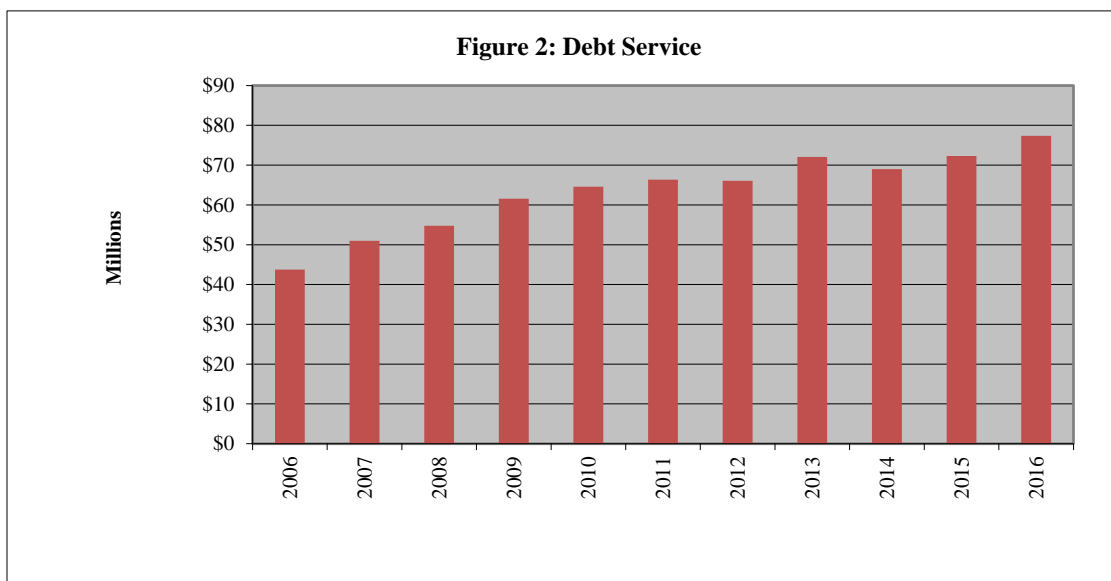
In addition, the \$6.2 million expended for tax certiorari claims in the 2013-14 fiscal year was not included in the 2015-16 budget under the 2013-14 “actual” column as it should have been for the budget-to-actual comparison. Instead, the 2013-14 budget only included the \$500,000 that was budgeted in 2013-14; excess expenditures which were financed by the issuance of debt were not included in this amount. As a result, there is a lack of transparency regarding the City’s actual tax certiorari expenditures.

### Other Matters

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. With the 2015-16 budget, the City will have exhausted 88.65 percent of its taxing authority. The City’s ability to increase property taxes may be limited in future years if property values do not increase.

### Debt

The City’s outstanding debt has grown almost 12 percent over the last 10 years. Over the same period, the City’s debt service payments have risen 52 percent as depicted in Figure 2. The City will need \$77.4 million to service its debt obligations during 2015-16. This amount represents about 7.4 percent of the City’s annual budget. A contributing factor to the increases in debt is the City’s continuing practice of bonding for recurring expenditures, such as textbooks for the school district and tax certiorari costs, which should be included in budgeted appropriations.



## **Tax Cap Compliance**

The New York 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 2015-16 budget complies with the tax levy limit because it includes a tax levy of \$341,072,515 which increases the 2015-16 tax levy by 1.68 percent, which is within the limits established by Law.

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  
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  
Mary Beth Labate, Director, Division of Budget  
Tenneh Blamah, Chief Examiner, Newburgh Regional Office  
Andrew A. SanFilippo, Executive Deputy Comptroller