



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, 2017

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

Report Number: B17-6-10

Dear Mayor Spano and City Council Members,

Chapter 55 of the Laws of 2014 authorizes the City of Yonkers (City), subject to certain requirements, to issue serial bonds not to exceed \$45 million to liquidate deficits in the City School District's (District's) 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 proposed budget must be submitted no later than 30 days before the date scheduled for the City Council's vote on its adoption or the last date on which the budget may be finally adopted, whichever is earlier. The State Comptroller and the Commissioner of Education must then 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 its 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 2017-18 fiscal year are contained in this report.

Our Office has recently completed a review of the City's proposed budget for the 2017-18 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 2017-18 fiscal year:

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

To accomplish our objective, we reviewed your 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 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 whether 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 2017-18 fiscal year consisted of the following:

- 2017-18 Mayor’s Budget Letter
- 2017-18 Proposed Executive Budget
- 2017-18 Board of Education Budget Request
- 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	\$466,884,725	\$367,210,106	\$41,686,576	(\$298,404,465)	\$356,392,508
Water Fund	\$29,913,432	\$41,735,816	0	(\$11,822,384)	\$0
Sewer Fund	\$4,055,110	\$8,046,236	0	(\$3,991,126)	\$0
Library Fund	\$9,353,982	\$165,710	\$564,649	\$8,623,623	\$0
Museum Fund	\$250,000	\$0	\$0	\$250,000	\$0
Yonkers Public Schools ^b	\$589,397,920 ^c	\$311,812,707	\$374,687	\$260,741,921	\$0
Debt Service Fund	\$51,971,332	\$0	\$7,368,901	\$44,602,431	\$0
Total	\$1,151,826,501	\$728,970,575	\$49,994,813	\$0	\$356,392,508

^a Includes transfers to and from various funds

^b Includes debt service for school debt.

^c Yonkers Public Schools have a budget gap – appropriations exceed revenues by \$16,468,605.

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

Budget Gap – The District’s 2017-18 budget request is \$589.4 million for appropriations; however, the City’s Executive budget contains revenues for the District of \$572.9 million, resulting in a shortage of approximately \$16.5 million. City and District officials should work to address this gap between District revenues and appropriations.

Textbooks – The District’s 2017-18 budget request does not include an appropriation for the purchase of textbooks. The District expended approximately \$3.9 million for this purpose in 2015-16 and approximately \$2.2 million so far in 2016-17. District officials plan to have the City issue a bond for the acquisition of textbooks and equipment during 2017-18, and the City’s capital budget includes up to \$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.

Social Security – The District has budgeted \$21.4 million for the District’s share of Social Security tax payments. The employer’s share of the Social Security tax consists of 6.2 percent of wages up to a certain limit for Social Security and an additional 1.45 percent of all wages for Medicare. In January 2017, the Social Security Administration increased the amount of wages subject to the Social Security tax from \$118,500 to \$127,200. The District failed to recognize this increase when preparing its 2017-18 proposed budget estimate. As a result, the District underestimated the amount of its share of the Social Security tax by approximately \$910,000.

Charter School Tuition Payments – The District budgeted approximately \$10 million for charter school tuition, which includes a projected increase in enrollment of seven students. However, enrollment for 2017-18 could increase by approximately 35 students based on prior year trends. Therefore, the District’s budgeted amount for charter school tuition payments may be underestimated by approximately \$414,000.

City of Yonkers

Nonrecurring Funding Sources

Fund Balance¹ – The City is projecting unassigned general fund balance of \$38.6 million at the end of the 2016-17 fiscal year. The City appropriated \$37.7 million, or approximately 97.6 percent of the projected fund balance, in the 2017-18 proposed budget. This will leave the general fund with fund balance of less than 1 percent of appropriations, which will provide little cushion for unforeseen circumstances or fluctuations in cash flow. As noted in the Other Matters section of this report, the minimal fund balance is of particular concern given the lack of a contingency appropriation which would be an alternate means of providing for unforeseen events. In addition, the City has appropriated \$7.7 million of unassigned fund balance in the debt service fund and \$564,649 of unassigned fund balance in the library fund.

¹ 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 2017-18 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 2015-16 fiscal year.

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 2018-19 budget.

Non-Spendable Fund Balance² – The 2017-18 budget includes a \$4 million appropriation of non-spendable fund balance, with \$3.4 million to be transferred to the Community Development Fund, and the remaining \$600,000 to fund City operations. However, in August 2015, the City transferred the entire \$4 million of fund balance to a bank account in the Community Development Fund. City officials stated that the transfer is now included in the budget so the City Council can approve the transfer, which was not approved in August 2015. Therefore, this should actually be shown in the budget as a transfer of \$600,000 from the Community Development Fund to the general fund. If \$600,000 is not transferred back to the City's general fund, the 2017-18 budget will have a shortfall in the same amount.

Revenues³

Mortgage Tax – The 2017-18 proposed budget includes City and State mortgage tax revenues of \$7.1 million, which is a 19.4 percent increase over what we project the City may receive in the 2017-18 fiscal year. The City could potentially face a shortfall of \$1.4 million if revenue estimates are not realized. City officials should reassess whether this increase is achievable and, if not, they should lower the mortgage tax revenue estimates.⁴

Income Tax Surcharge – New York State Tax Law authorizes the City to enact a local law to impose an income tax surcharge on City residents and non-residents who work within the boundaries of the City. Under current law, the surcharge only applies to taxable years beginning before 2018; therefore, the New York State Legislature will have to extend the law authorizing the continuation of this tax for the City to be able to collect this tax in 2018.

The 2017-18 proposed budget includes City income tax surcharge revenues of \$50.1 million. We project that the City will receive approximately \$49.2 million in the 2016-17 fiscal year, which is a decrease of approximately 2.6 percent from the amount received in the 2015-16 fiscal year and would be a more conservative estimate for revenue in 2017-18. If the City does not realize the \$50.1 million budgeted, it could face a shortfall in revenue. Since it is not certain that the City will

² For budget review purposes, we did not address the legal or accounting propriety of the treatment of this appropriation and transfer.

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 2015-16 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.

⁴ These estimates are contingent on the New York State Legislature extending the New York State Tax Law that authorizes the City to impose an additional mortgage recording tax. This law is due to expire on August 31, 2017.

realize this additional revenue from expected growth, the City Council may have to pass a local law to increase the income tax surcharge rate or reduce the \$50.1 million budgeted revenue.

Parking Violations Bureau – The City budgeted \$20.2 million in revenue from the Parking Violations Bureau (Bureau). This includes approximately \$112,000 from increases in fines and \$800,000 from an additional public safety fee on all Bureau violations. The 2017-18 proposed revenue is a 2.5 percent increase over the \$19.7 million that we project the City will receive in the 2017-18 fiscal year. The City could potentially face a shortfall of \$515,000 if revenue estimates are not realized. City officials should reassess whether this increase is achievable and, if not, lower the Bureau revenue estimate. In addition, the City Council should pass a local enactment authorizing the additional fee on all violations or adjust the Bureau revenue estimates.

Sales Tax - Education – The City budgeted \$15.4 million in revenue for sales tax to be used for education. This amount appears reasonable provided the New York State Legislature extends the law authorizing the implementation of this tax.⁵

Consumer Protection Bureau – The City budgeted \$1.3 million in revenue from the Consumer Protection Bureau for various licenses and fees, which is an increase of \$454,457 from the 2015-16 fiscal year revenue. This amount appears reasonable but requires the City Council to amend 19 local laws to increase the various licenses and fees prior to the adoption of the budget.

Civil Service – The City budgeted \$590,000 for exam fees, which is an increase of \$419,486 from the 2015-16 fiscal year. In order for the City to receive this increased revenue, the City Council will have to amend its local law to increase the uniform exam fees from \$50 to \$100 and open competitive and promotional exam fees from \$25 to \$40 prior to the adoption of the budget.

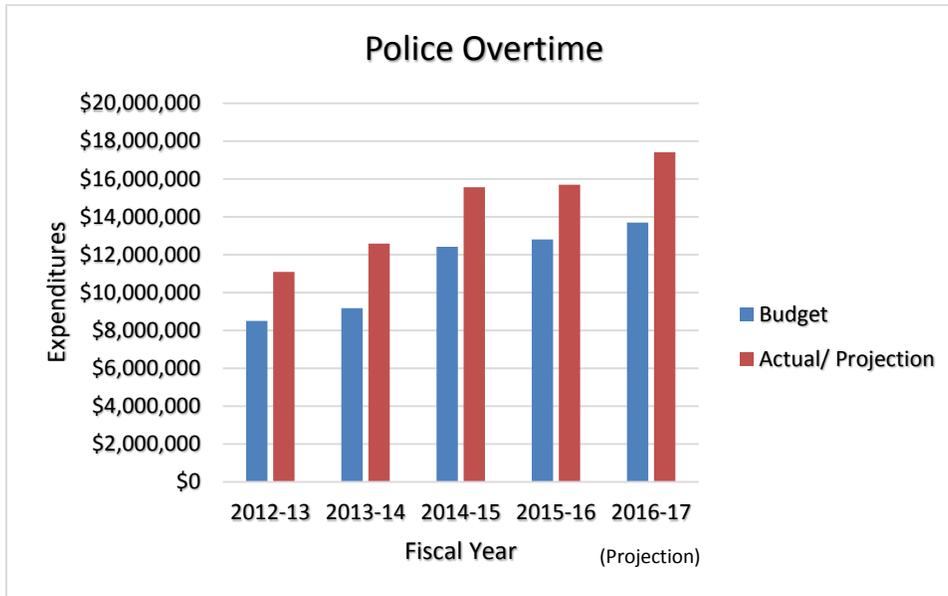
Metered Water Sales – The 2017-18 proposed budget includes metered water sales revenue of \$36.5 million, which is an increase of approximately \$7.3 million from the amount billed in the 2015-16 fiscal year. The City will need to increase rates for metered water sales by approximately 2 percent to realize the additional revenues budgeted if usage stays the same. The City Council must pass a resolution to raise water rates prior to the adoption of the budget or lower the estimates for metered water sales revenue.

Appropriations

Tax Certiorari – The proposed budget includes \$500,000 for payment of tax certiorari claims in 2017-18, which is low compared to the \$2.6 million in certiorari payments the City made in 2015-16. The City bonded to pay tax certiorari claims in prior years and plans to bond for 2017-18 payments. The continued practice of using debt to pay for these recurring 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 operating budget.

⁵ The New York State Tax Law authorizes the City to impose an additional sales tax of .5 percent to be used for education. The law is due to expire on November 30, 2017.

Police Overtime – The City routinely exceeds budgeted amounts for police overtime costs each year. The City’s 2017-18 general fund budget includes overtime funding of \$15 million for the police department. The City spent \$15.7 million on police overtime in 2015-16 and approximately \$12.2 million in 2016-17 (as of March 31, 2017). Based on our projections, the City will spend approximately \$17.4 million on police overtime in the 2016-17 fiscal year. The City has not implemented procedures to reduce overtime, so it is likely the historical trends will continue, which means the appropriation for overtime could be underestimated by as much as \$2.4 million.



Social Security – The City budgeted \$16.9 million for the City’s share of Social Security tax payments. The employer’s share of the Social Security tax consists of 6.2 percent of wages to a certain limit for Social Security and an additional 1.45 percent of all wages for Medicare. In January 2017, the Social Security Administration increased the amount of wages subject to Social Security tax from \$118,500 to \$127,200. The City failed to recognize this increase when preparing its 2017-18 proposed budget estimate. As a result, the City underestimated the amount of its share of the Social Security tax by approximately \$813,000.

Contingency Funds – The City’s proposed budget does not include a contingency appropriation. In light of recent economic conditions, we believe it would be prudent for City officials to have contingency funding available 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 near depletion 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

2017-18 proposed budget, the City will have exhausted 93.25 percent of its taxing authority. We caution the City that if property values do not increase, its ability to increase taxes may be reduced in future years.

Interfund Transfers – The water fund’s budget includes a \$11.8 million transfer to the general fund for support services the City provides to the water fund. We reviewed the City’s calculation for the transfer and found that the water fund may be subsidizing the general fund for services not related to the water fund. For example, the City’s calculation identifies that 5.7 percent of the City Council’s salaries, materials and supplies, and contractual services are funded through the water fund. City officials should perform a detailed analysis to ensure that cost allocations charged to the water fund are related to operating the water system.

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 2017-18 budget includes a tax levy of \$356,392,508. In adopting the 2017-18 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 eliminate the \$16.5 million gap in the District’s budget request.
2. Work with District officials to identify alternatives to borrowing funds to purchase textbooks.
3. Recalculate the estimated amount of Social Security tax payments the District will be responsible for and amend it as necessary.
4. Review the estimate for charter school payments and amend it as necessary.
5. Develop a plan to maintain fund balance at a reasonable level to ensure funds are available in case of a shortfall in revenues during the fiscal year.
6. Reevaluate and adjust the transfer from the Community Development Fund to accurately reflect the transfer that took place and address the budgetary shortfall created.

7. Review the estimate for the mortgage tax revenue and amend it as necessary.
8. Review the estimate for the income tax surcharge revenue and amend it as necessary.
9. Review the estimate of Parking Violations Bureau revenue and amend it as necessary.
10. Consider adjusting the appropriation for tax certiorari payments and provide a financing source for tax certiorari settlements.
11. Review the estimate for police overtime and amend it as necessary.
12. Recalculate the estimated amount of Social Security payments the City will be responsible for and amend it as necessary.
13. Consider establishing and funding a contingency fund.
14. Perform a detailed analysis to ensure that cost allocations charged to the water fund are related to water operations.

The City Council must:

15. Pass the necessary amendments to the City Code for the fee in the Parking Violations Bureau, license fees and other fees in the Consumer Protection Bureau, and fees for the civil service exams prior to the adoption of the budget or lower the estimates for these revenues.
16. Pass a resolution to raise water rates prior to the adoption of the budget or lower the estimate for water rents.

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 this information is helpful 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
Dr. 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, Superintendent Southern Westchester BOCES
Robert F. Mujica Jr., Director, NYS Division of Budget
Tenneh Blamah, Chief Examiner, Newburgh Regional Office
Andrew A. SanFilippo, Executive Deputy Comptroller