Office of the New York State Comptroller

Division of Local Government
& School Accountability

Oyster Bay Water District

Payments in Lieu of Health Insurance

Report of Examination

Period Covered:

January 1, 2015 — October 31, 2016

2017M-43

Thomas P. DiNapoli

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State of New York
Office of the State Comptroller

Division of Local Government
and School Accountability

June 2017

Dear Water District Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and Board of Commissioners governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of the Oyster Bay Water District, entitled Payments in Lieu of Health Insurance. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

Office of the State Comptroller
Division of Local Government
and School Accountability

Introduction

Background

The Oyster Bay Water District (District) is located in the Town of Oyster Bay in Nassau County and serves an area of approximately four square miles in the northeast portion of the Town. The District provides water to about 8,800 customers. The District is governed by an elected Board of Commissioners (Board), which is composed of a Chairman, Secretary and Treasurer. The Board is responsible for setting administrative policies and general oversight for the District's expenditures, including health insurance.

The District's major sources of revenues are customer metered water sales and real property taxes collected by the Town. The District's 2016 budgeted appropriations totaled approximately $2.6 million. The District has eight full time employees, of which six receive health insurance through the District.

Objective

The objective of our audit was to review payments in lieu of health insurance coverage. Our audit addressed the following related question:

- Did the Board implement adequate controls over payments in lieu of health insurance?

Scope and Methodology

We examined the District's payments in lieu of health insurance for the period January 1, 2015 through October 31, 2016.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix C of this report. Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

Comments of District Officials and Corrective Action

The results of our audit and recommendations have been discussed with District officials, and their comments, which appear in Appendix A, have been considered in preparing this report. Except as specified in Appendix A, District officials generally agreed with our recommendations and indicated they planned to take corrective action. Appendix B includes our comments on the issues raised in the District's response letter.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report,* which you received with the draft audit report. We encourage the Board to make this plan available for public review in the Secretary's office.

Payments in Lieu of Health Insurance

It is important for local governments to monitor health insurance costs so that health expenditures remain manageable and within budget constraints. A review of health insurance cost helps ensure that the District is not expending more than necessary. Some local governments offer employees the option to cancel their health insurance and receive cash payments in lieu of health insurance if they have health insurance coverage through a spouse or other family member. When properly structured, payments in lieu of health insurance, or buy-back programs, can be beneficial to the local governments and employees. The District should perform a cost benefit analysis to ensure the plan is structured to realize cost savings and that tax dollars are spent in a prudent and economical manner. In addition, the District should ensure that employees certify their eligibility to receive payments each year.

The District paid a total of $66,689 to three Commissioners and two employees for payments in lieu of health insurance during our audit period. However, because the plan was not implemented in a prudent and cost effective manner, the buy-back program actually increased the District's cost of providing health insurance by $37,179. This occurred because the District allowed payments to individuals who did not actually have insurance with the District and to an individual who canceled the District insurance and obtained insurance through a spouse who was also a District employee. In addition, participants were not required to annually certify their eligibility to receive payments and their affidavits affirming other insurance coverage were between three and 14 years old.

The District provides health insurance to officials and employees through the New York State Health Insurance Plan (NYSHIP). The District's administrative policy states that the District's health insurance buy-back program allows eligible officers and employees to cancel their District health insurance and take cash payments. Applicants must submit notarized affidavits stating they have health insurance coverage other than that provided by the District, and must provide proof of that coverage. The buy-back program amount is one-half of the amount the District would otherwise pay for health insurance coverage. This should result in saving half the cost of insurance. However, because officials did not enforce eligibility requirements, cost savings were not realized.

Two Commissioners received payments from the buy-back program totaling $16,632 each, while the third Commissioner received $9,416, for a total of $42,680.[1] However, the Commissioners were not enrolled in the District's NYSHIP health insurance prior to receiving the payments. All Commissioners provided documentation that they had NYSHIP coverage from their own employment with other municipalities when they enrolled in the program.[2] Because NYSHIP regulations prohibit an employee from having coverage under the plan with more than one employer, the three Commissioners were not eligible to participate in the District's insurance when they submitted their original affidavits and proof of coverage; two of the three are still not eligible for District insurance. As a result, the buy-back program cost the District $42,680 in payments to the Commissioners that would otherwise not have been necessary.

In addition, the buy-back program increased the cost for one employee. This employee had individual coverage through the District, canceled the insurance and enrolled in family coverage under a spouse, who was also a District employee. This employee was paid the single rate reimbursement. The difference in insurance premiums ($3,754[3]), plus the cost of the payment ($7,377), increased the total cost to the District by $11,131. In addition, the plan decreased the cost for a second employee. The second employee who received a payment, canceled insurance with the District, and was covered under a spouse's insurance. Because this spouse was not a District employee, the $16,632 the employee received resulted in a savings of half the cost of health insurance for family coverage.

As a result, the buy-back program increased the District's cost of providing health insurance by $37,179 during our audit period.[4] Therefore, we question whether the buy-back program was implemented in the most prudent and cost effective manner.

Annual Certification — Employees in the buy-back program receive payments each year. District officials are responsible for ensuring that employees in the program remain eligible for the payments they receive. Because District officials do not require participants to certify on an annual basis that they are still eligible to receive payments, payments are made based on the original documentation. We found that the notarized affidavits affirming other coverage were submitted between three and 14 years prior to the end of our audit period. District officials told us that the Board did not monitor continued eligibility;

[1] The one and one half years of payments were made during the audit period.

[2] The three Commissioners initially enrolled in the program and submitted their affidavits in 2003, 2006 and 2013.

[3] The employee and spouse each had individual coverage. The cost of two individual plans was $3,754 less than the cost of one family plan.

[4] $42,680 plus $11,131 minus $16,632

however, because the District is small, management would know if there were any changes in a recipient's family status.

We requested that District officials obtain new documentation to determine whether District employees are currently eligible for payments. Although everyone certified that they have other insurance coverage,[5] without certification on an annual basis, there is an increased risk that payments will be made to participants after they are no longer eligible. Because insurance buy-back programs are generally implemented to save on health insurance costs, we question whether the plan was implemented in the most cost effective and prudent manner.

Recommendations

The Board should:

1. Perform a cost benefit analysis and review the District's eligibility requirements to ensure that the program benefits the District and is implemented in the most prudent and cost effective manner.

2. Require participants to certify on an annual basis that they are still eligible to receive health insurance buy-back program payments.

3. Consult with its counsel and determine whether it can seek recovery for any payments made to individuals who were not eligible.

[5] The updated affidavit for the Commissioner who initially enrolled in 2013 shows that he is now covered under his spouse's non-NYSHIP health insurance.

APPENDIX A

RESPONSE FROM DISTRICT OFFICIALS

The district officials' response to this audit can be found on the following pages.

OYSTER BAY WATER DISTRICT
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COMMISSIONERS
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May 2, 2017

Mr. Ira McCraken, Chief Examiner
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NYS Office Building, Room 3A310
250 Veterans Memorial Highway
Hauppauge, New York, 11788-5533

Dear Mr. McCraken,

The Board of Commissioners of the Oyster Bay Water District (hereinafter "District") acknowledges receipt of the preliminary draft findings of the Oyster Bay Water District entitled, *"Payments in Lieu of Health Insurance, Report of Examination 2017M-43"*. As stated in your initial letter, the audit focused on "policies and procedures related to the internal controls at the District" and covered the period from January 1, 2015 through October 31, 2016. During the actual audit our staff worked closely with your audit staff, we commend them for their diligence and professionalism. The Board deeply appreciates their constructive comments regarding the Districts operations. Be advised that this document consists of both the written Audit Response and the Corrective Action Plan (CAP).

Regarding the audit itself, the Board is very pleased that OSC made no audit findings and/or recommendations other than "Payments In Lieu of Health Insurance". While the audit covered all facets of the District's financial operations the findings raised only one issue for review.

The Administrative Policy of the Oyster Bay Water District and NYSHIP regulations entitled the employees of the District to the right to health insurance. In

addition to NYSHIP, employees are entitled to health insurance from another provider, namely HIP Prime HMO, at the expense of the District. Commissioners are considered employees of the District. This right is not questioned by the Audit. The practice and procedure of the District provides that employees who cancel their right to health insurance coverage from the District receive a buy-back payment of one half the cost of the health insurance premium, saving the District one half the cost of the insurance. The right to health insurance and buy-back program for employees was instituted in 1996 prior to the term of any of the current commissioners.

See Note 1 Page 12

The buy-back program resulted in a savings to the District of $44,679.65 for the audit period. During the period of the audit the District remitted $44,679.65 to three commissioners as part of the District health insurance buy-back program. If the commissioners took health insurance from the District for the same period the cost to the District would have been $89,359.30. The District saved one half the amount they would otherwise pay for health insurance coverage or $44,679.65.

See Note 2 Page 12

Applicants for the buy-back program must submit notarized affidavits stating they have health insurance coverage other than that provided by the District, and must provide proof of that coverage. The affidavits also state that the party cancels their right to health insurance coverage provided by the Oyster Bay Water District. Quoting the affidavit, "*Accordingly, I hereby apply for the cancellation of my right to health insurance coverage provided by the Oyster Bay Water District and I apply further for participation in the Oyster Bay Water District Health Insurance Buy-Back Program in lieu hereof.*"(emphasis added) The policy as interpreted and implemented with signed and notarized Affidavits and proof of other coverage applies to the cancellation of the right to health insurance coverage.

During the exit interview the Auditors acknowledged that had the commissioners taken health insurance from the District this would not have been an issue in the audit. Had the commissioners taken the health insurance it would have cost the District $89,359.30. However, because the commissioners did not take the health insurance coverage, but took the buy-back saving half the cost (or $44,679.65) there is a disagreement as to whether this resulted in a savings. In the view of the District, this example illustrates the purpose of the buy-back program, to save one half the cost of

See Note 2 Page 12

health insurance. The District disagrees with the finding that the buy-back program did not result in a savings for the District as applied to commissioners during the Audit period and that they were not "eligible".

See Note 2 Page 12

CORRECTIVE ACTION PLAN

The board of commissioners recognizes that ultimately the largest cost savings for the taxpayers is the elimination of health insurance coverage for commissioners. This would also eliminate the buy-back program for them as well. Consequently, the board voted to eliminate health care benefits for commissioners which shall cease at the conclusion of the current term of the commissioner last elected with the benefit. To best save taxpayer dollars the commissioners have amended the Administrative Policy to sunset health insurance coverage. No commissioners will have health insurance coverage or the buy-back after December 31, 2019.

The intent and purpose of the buy-back program is to save money for the District by paying eligible participants one half the cost of health insurance that they are entitled to, saving the cost of one half. The affidavits required and completed with the program clearly state that it is the right to health insurance that is being cancelled. These affidavits were prepared by the prior counsel to the District who drafted the Administrative Policy. To interpret the policy otherwise would result in the outcome increasing parties taking health insurance coverage resulting in greater cost to the District.

It is the position of the District that the commissioners as employees were eligible to participate in the health insurance buy-back program when they submitted their original affidavits and proof of coverage and maintained that status during the period of the audit. The District accepts the recommendation of the auditors and District officials obtain new notarized affidavits and proof of health insurance coverage (health insurance cards) to determine the current eligibility status of buy-back program recipients on an annual basis. As noted in the Audit, the District is small with little turnover and management would have been aware of changes in a recipients family status. The District has assigned the administrative assistant to perform the annual certification and obtain Affidavits and proof of other insurance every November.

The District acknowledges that the program increased the cost for one employee who had individual coverage through the District, cancelled the insurance and enrolled under a spouse who was also a district employee. This employee was paid the single rate reimbursement. The District has amended the Administrative Policy to provide that if spouses are both employees of the District or retirees, employees shall have two individual coverage plans or they shall be entitled to family coverage if a dependent is involved, whichever plan is more cost effective to the District. These employees shall not be eligible for the buy-back program. At the time these parties took part in the buy-back program this unique scenario was within the parameters of the Administrative Policy and has been eliminated. These employees have already changed their health insurance coverage as outlined.

The District has sought the opinion of counsel regarding the buy-back policy as interpreted and intended. All participants in the District buy-back program were required to execute notarized affidavits declining their right to health insurance coverage and provide proof of other insurance. The affidavits at issue were prepared by the former counsel to the District who also drafted the Administrative Policy containing the buy-back program. The practice and procedure of the District was consistent with the intent of the buy-back program as interpreted. As noted above both the right to health insurance coverage and the buy-back program are being eliminated for commissioners to save taxpayer dollars.

We thank the auditors for their input and constructive criticism. We have taken their advise and amended the policies and procedures of the District to further serve the taxpayers.

Sincerely,

Robert J. McEvoy
Chairman of the Board

APPENDIX B

OSC COMMENTS ON THE DISTRICT'S RESPONSE

Note 1

The District's administrative policy does not state that employees who cancel their right to health insurance coverage are eligible to receive buy-back payments. The policy states that the District's health insurance buy-back program allows eligible officers and employees to cancel their District health insurance and take cash payments. The policy also provides procedures for canceling the District's insurance to participate in the buy-back program.

Note 2

It is not accurate to state that the buy-back program resulted in a cost savings. The District's administrative policy allows eligible officers and employees to cancel their District health insurance and take cash payments. The Commissioners were not enrolled in the District's NYSHIP health insurance prior to receiving the payments. Furthermore, they were not eligible to participate in the District's insurance because they already had NYSHIP from their own employment with other municipalities. Therefore, the program cost the District $42,680 in payments to the Commissioners that would otherwise not have been necessary. The District payroll records provided to us indicate the District remitted $42,679.65 to three Commissioners as part of the health insurance buy-back program.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

To achieve our audit objective and obtain valid evidence, we performed the following procedures:

- We interviewed District officials to gain an understanding of the District's payments in lieu of health insurance benefit and the controls to ensure that accurate payments are made to only eligible officers and employees.

- We reviewed the administrative policy for guidelines for the health insurance buy-back program.

- We reviewed payroll data to identify the officers and employees who received payments in lieu of health insurance.

- We reviewed health insurance bills and compared them to payroll data to determine whether the recipients of the buy-back program payments were covered under the District's health insurance.

- We recalculated insurance buy-back program payments for accuracy.

- We requested that District officials obtain new notarized affidavits and proof of health insurance coverage (health insurance cards) to determine the current eligibility status of buy-back program recipients. We compared the current eligibility status to their initial enrollment to determine whether there were any changes.

We conducted this performance audit in accordance with GAGAS. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

APPENDIX D

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