



# Town of Hempstead Sanitary District No. 2

## Financial Condition and Procurement

### Report of Examination

Period Covered:

January 1, 2015 – June 30, 2016

2016M-388



Thomas P. DiNapoli

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# State of New York Office of the State Comptroller

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## **Division of Local Government and School Accountability**

March 2017

Dear 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 Commissioner 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 Town of Hempstead Sanitary District No. 2, entitled Financial Condition and Procurement. 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*



## State of New York Office of the State Comptroller

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### EXECUTIVE SUMMARY

The Town of Hempstead Sanitary District No. 2 (District) is located in the Town of Hempstead in Nassau County. The District provides refuse collection and recycling pickup services to more than 55,000 households and commercial businesses in Baldwin, Roosevelt, South Hempstead and parts of Uniondale, Rockville Centre and Freeport. The District's total expenditures were approximately \$11.4 million for 2014 and \$11.2 million for 2015, funded through real property taxes. The District budgeted approximately \$12 million for 2016. The District is governed by an elected five-member Board of Commissioners (Board). The Secretary to the Board and the General Supervisor are responsible for the District's day-to-day management under the Board's direction.

#### **Scope and Objectives**

The objectives of our audit were to evaluate the District's financial condition and controls over procurement for the period January 1, 2015 through June 30, 2016. We extended our scope back to January 1, 2013 to analyze financial condition and provide perspective and background information. Our audit addressed the following related questions:

- Did the Board and District officials effectively manage the District's financial condition by ensuring that fund balance and budget estimates were reasonable?
- Did the Board ensure that District officials purchased goods and services in compliance with General Municipal Law and the District's purchasing policy?

#### **Audit Results**

The Board needs to improve its management of the District's financial condition. The Board did not adopt a policy to address the level of unrestricted fund balance to be maintained or a multiyear financial plan. In addition, the Board adopted budgets that appropriated \$1.6 million of unrestricted fund balance between 2013 and 2015. However, the appropriated fund balance was not used because the Board also overestimated budgeted expenditures resulting in a total of \$1.65 million of operating surpluses, due in large part to expenditures for salaries and health insurance. Consequently, the District had unrestricted fund balances that ranged from 78 to 85 percent of the ensuing year's budgets over the past three years. As a result, the District's tax levies were higher than necessary.

The Board also needs to improve the District's procurement procedures. District officials made 38 purchases totaling \$395,731 without the use of requisitions or purchase orders and two payments

totaling \$117,421 to vendors that were not selected through a competitive bidding process. In addition, District officials made 12 payments totaling \$18,856 to vendors without obtaining quotes and procured services from five professionals totaling \$181,121 without using competition. As a result, there is an increased risk that budget appropriations could be overspent and that the goods and services procured will not be appropriate, necessary and acquired at the best cost.

### **Comments of Local Officials**

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. District officials generally agreed with our recommendations and indicated they planned to initiate corrective action.

# Introduction

## Background

The Town of Hempstead Sanitary District No. 2 (District) is located in the Town of Hempstead in Nassau County (County). The District provides refuse collection and recycling pickup services to more than 55,000 households and commercial businesses in Baldwin, Roosevelt, South Hempstead and parts of Uniondale, Rockville Centre and Freeport. Owners of homes and businesses in the District fund the District through real property taxes. The District's total expenditures were approximately \$11.4 million for 2014 and \$11.2 million for 2015. The District budgeted approximately \$12 million for 2016.

The District is governed by an elected five-member Board of Commissioners (Board). The Board is responsible for managing District operations, establishing rules and regulations, preparing the annual budget and setting the amount of taxes to be levied by the Town of Hempstead. The Secretary to the Board and the General Supervisor are responsible for the District's day-to-day management under the Board's direction.

## Objectives

The objectives of our audit were to evaluate the District's financial condition and controls over procurement. Our audit addressed the following related questions:

- Did the Board and District officials effectively manage the District's financial condition by ensuring that fund balance and budget estimates were reasonable?
- Did the Board ensure that District officials purchased goods and services in compliance with General Municipal Law and the District's purchasing policy?

## Scope and Methodology

We examined the District's financial condition and procurement process for the period January 1, 2015 through June 30, 2016. We extended our scope back to January 1, 2013 to analyze financial condition and provide perspective and background information.

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 B 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 Local 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. District officials generally agreed with our recommendations and indicated they planned to initiate corrective action.

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.

## Financial Condition

It is essential for the Board to make financial decisions in the best interest of the District and the residents that fund its operations. Effective management includes maintaining a reasonable fund balance as a financial cushion. The Board should consider the timing of receipts and disbursements, volatility of revenues and expenditures and availability of contingency appropriations and reserves, and adopt a policy to apply these factors when preparing the budget. The Board should develop a multiyear financial plan to establish the goals and objectives for funding long-term operating needs. This plan should address the use of unrestricted surplus funds and funding of reserves, and it should be monitored and updated on an ongoing basis. Board members should adopt annual budgets with reasonable estimates of appropriations, revenues and other financing sources. Effective management also includes legally establishing and funding reserves to address long-term obligations or planned expenditures and using surplus fund balance as a funding source.

The Board did not adopt a policy to address the level of unrestricted fund balance to be maintained or adopt a multiyear financial plan. In addition, the Board appropriated a total of approximately \$1.6 million<sup>1</sup> of unrestricted fund balance to support the budgets for the 2013 through the 2015 fiscal years. When fund balance is appropriated, the expectation is that there will be a planned operating deficit, financed by the appropriated fund balance. This should have resulted in planned operating deficits and reduced fund balance. However, the general fund had operating surpluses totaling approximately \$1.65 million<sup>2</sup> between 2013 and 2015, due in large part to overestimated expenditures for salaries by \$1.2 million and health insurance by \$1.2 million. It is not sound budget practice to appropriate fund balance that will not actually be used. This results in budgets that are not transparent to District residents.

As a result, of these budget practices, from 2013 through 2015, the District maintained unnecessarily high unrestricted fund balances that ranged from 78 to 85 percent of the ensuing year's budgets.

<sup>1</sup> The Board appropriated \$375,124, \$758,051 and \$510,119, which totals \$1,643,294 to fund the 2013 through the 2015 budgets.

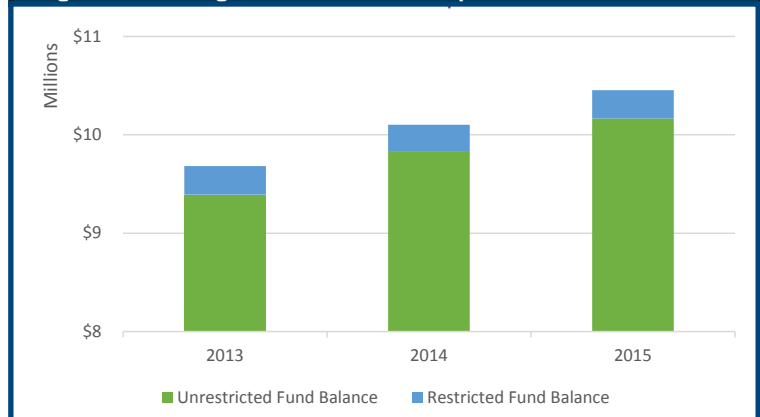
<sup>2</sup> Operating surpluses were \$873,882, \$419,149 and \$352,257, which totals \$1,645,288.



**Figure 1: Unrestricted Fund Balance**

	2013	2014	2015
Beginning Fund Balance	\$8,807,665	\$9,681,547	\$10,100,696
Add Operating Surplus	\$873,882	\$419,149	\$352,257
Ending Fund Balance	\$9,681,547	\$10,100,696	\$10,452,953
Less Restricted Funds	\$289,335	\$275,523	\$289,421
Total Unrestricted Funds	\$9,392,212	\$9,825,173	\$10,163,532
Ensuing Year's Budgeted Appropriations	\$12,004,300	\$12,174,300	\$11,971,900
Unrestricted Funds as a Percentage of Ensuing Year's Budget	78%	81%	85%

The District maintained an unrestricted fund balance of at least approximately \$9.4 million per year. As shown in Figure 2, the general fund had a very large unrestricted fund balance at the end of 2013 that continued to increase over the next two years.

**Figure 2: Ending Fund Balance Composition**

District officials attributed the overestimated expenditures in salary and health insurance to conservative budgeting practices. District officials also indicated they increased the fund balance levels to manage cash flows and absorb the cost of litigation. Additionally, the Board recently approved the creation of an Employee Benefit Accrued Liability Reserve. District officials told us that this reserve will be funded with a portion of unrestricted fund balance.

While it is prudent to be conservative in budgeting, it should be done by keeping a reasonable level of unrestricted fund balance or using a contingency appropriation in the budget. It should not be accomplished by consistently overestimating expenditures. The Board's lack of a policy to address the level of unrestricted fund balance to be maintained and of a multiyear financial plan, and the appropriation of fund balance that was not needed and overestimation of expenditures, have contributed to the excessive amount of unrestricted fund balance. As a result, the District's tax levies were higher than necessary.

## Recommendations

The Board should:

1. Adopt a policy to address the level of unrestricted fund balance to be maintained.
2. Develop a multiyear financial plan to establish the goals and objectives for funding long-term operating needs. This plan should address the use of unrestricted surplus funds and funding of reserves and should be monitored and updated on an ongoing basis.
3. Adopt budgets that do not appropriate fund balance that is not needed and include realistic estimates for salaries and health insurance.
4. Use surplus fund balance as a financing source for:
  - Funding one-time expenditures;
  - Funding needed reserves; and
  - Reducing District property taxes.

## Procurement

An effective procurement process helps the District obtain services, materials, supplies and equipment of the right quality and quantity at the best price and in compliance with applicable laws and Board requirements. Effective controls include the use of a requisition or purchase order (PO) system, which helps officials control expenditures by confirming there are sufficient funds to pay claims and that purchases are properly authorized, appropriate and necessary. The primary purpose for obtaining bids, quotes and proposals is to encourage competition in the procurement of supplies, equipment and services that will be paid for with public funds. The use of competition provides the greatest assurance that goods and services are procured in the most prudent and economical manner and at the lowest possible price, and that procurements are not influenced by favoritism, extravagance, fraud and corruption.

The Board needs to improve the District's procurement procedures. District officials made 38 purchases totaling \$395,731 without the use of requisitions or POs and two payments totaling \$117,421 to vendors that were not selected through a competitive bidding process. In addition, District officials made 12 payments totaling \$18,856 to vendors without obtaining quotes and procured services from five professionals totaling \$181,121 without using competition. As a result, there is an increased risk that budget appropriations could be overspent and that the goods and services procured will not be appropriate, necessary and acquired at the best cost.

### Purchase Orders

A requisition or PO system helps ensure that purchases of goods and services are properly authorized and preapproved and that adequate funds are available before purchases are made. The individual requesting a purchase submits a purchase requisition to the financial officer, such as a Board-appointed purchasing agent, who must verify that funds are available before a PO is sent to the vendor for goods or services. The purchase requisition provides preapproval accountability and assurance that the requested items are needed. The PO documents an authorized placement of an order, is a cross-reference to the vendor's invoice and is the source document for District claims (vendor bills) entered into the accounting system.

We reviewed 39<sup>3</sup> purchases totaling \$409,381 and found that 38 purchases totaling \$395,731 were made without a requisition or PO.

<sup>3</sup> We reviewed 17 purchases totaling \$30,982 that required quotes, seven purchases totaling \$223,873 that were bid or required to be, 13 purchases totaling \$138,925 that were under a State or local competitive contract, one purchase for \$1,951 that was from a sole source vendor and one purchase for \$13,650 that was for a Board-approved emergency.

The District's procurement policy does not explicitly require the use of requisitions or POs. Consequently, the senior account clerk did not initiate the claims until the goods were ordered and delivered and the services were completed. For example, the District paid \$2,000 for sidewalk repairs without documented preapproval.

Because District officials allow employees to make purchases without prior approval and without documenting the process starting at requisition, there is reduced assurance that purchases are appropriate and necessary or that there are adequate budget appropriations available to pay for those purchases.

## **Competitive Bidding**

General Municipal Law (GML) requires purchase contracts in excess of \$20,000 to be awarded to the lowest responsible bidder or on the basis of best value (e.g., competitive offer) and contracts for public work in excess of \$35,000 to be awarded to the lowest responsible bidder. The District must consider the aggregate amount reasonably expected to be spent on the same commodities, services or technology within 12 months beginning on the date of the purchase, whether from a single vendor or multiple vendors. GML allows exceptions to competitive bidding for items purchased under State or allowable municipality contracts, purchases from a sole source<sup>4</sup> or emergencies. The Board's procurement policy allows the Board to excuse the requirement to competitively bid for goods and services during an emergency.

We identified and reviewed nine claims totaling \$333,352 paid to nine different vendors that should have been procured through competitive bidding. Two of these claims were for payments to vendors in excess of \$117,000 that were not selected through a competitive bidding<sup>5</sup> process:

- The District paid a construction company \$71,053 during the audit period to repair and replace fuel tanks in the District's parking lot. District officials told us they initially selected this vendor to repair a tank vent for an amount that was estimated to be below the bidding threshold. Ultimately, the cost of the repair exceeded the bidding threshold because the need for additional work was uncovered, yet District officials did not bid for the repair work. District officials indicated that the District was limited by a requirement to complete the work

<sup>4</sup> The District must retain supporting documentation to indicate proof of the sole-source justification.

<sup>5</sup> Five purchases totaling \$121,397 were made through a State or County contract, one purchase for \$16,855 was from a sole source vendor and one purchase for \$121,000 was through competitive bidding.

within 30 days. Although the Board's procurement policy allows the Board to excuse the requirement to competitively bid for goods and services during an emergency, the Board did not declare this as an emergency.

- The District paid a vendor \$46,368 during the audit period for vehicle tires. Although District officials obtained competitive quotes and selected the vendor with the lowest cost, the vendor should have been selected through competitive bidding.

Without the appropriate and prescribed use of competition, District officials and the Board cannot be assured that they are obtaining the best quality goods and services at the most reasonable cost.

## **Quotes**

GML requires the District's procurement policy to provide guidance for purchases not subject to competitive bidding. District officials should consider the aggregate amounts to be expended for the same commodity, service or technology within 12 months when determining if the thresholds will be exceeded. The District's procurement policy requires all purchases between \$1,000 and the bidding thresholds to be procured after obtaining three written or verbal quotes or proposals from vendors. Additionally, the policy specifies that the purchase can only be made with Board approval.

We reviewed 30<sup>6</sup> claims totaling \$76,029 that required quotes and found that District officials could not provide quotes for 12 claims totaling \$18,856. For example, one claim for work gloves totaled almost \$1,800. This occurred because the Board did not enforce the requirement to obtain and document written and verbal quotes. Without the appropriate and prescribed use of competition, District officials and the Board cannot be assured that they are obtaining the best quality goods and services at the most reasonable cost.

## **Professional Services**

GML does not require competitive bidding for the procurement of professional services that involve specialized skill, training and expertise, use of professional judgment or discretion or a high degree of creativity. However, GML does require the adoption of policies and procedures governing the procurement of services when competitive bidding is not required. It further provides that, with certain exceptions, the District secure alternative proposals through a request for proposal (RFP) process or quotes for such services. GML permits local governments to set forth the circumstances for which the local government has determined RFPs will not be in the best

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<sup>6</sup> Randomly selected from a population of 610 purchases totaling \$426,139 that were subject to quotes in the aggregate during 2015 or individually during our audit period

interests of the local government. However, using competition helps ensure that the District obtains needed qualified services in the most prudent and economical manner, and without favoritism.

The District received services from eight professionals totaling \$688,073 during our audit period. The District's procurement policy does not address the selection of professional services. As a result, District officials did not use competitive methods to procure services from five of the eight professionals totaling \$181,121. These included \$85,536 for computer services, \$34,965 for a labor relations attorney, \$34,710 for the District's counsel, \$13,900 for accounting services and \$12,010 for mediation services.

District officials told us that four of these professionals have been providing services to the District for 10 years or more. The remaining professional, providing mediation services, was referred by the District's counsel. All eight professionals were paid in accordance with their contractual terms. Without a competitive process, the District may be not be procuring professional services in the most prudent and economical manner, and without favoritism.

## **Recommendations**

The Board should:

5. Develop procedures that require the use of requisitions and POs prior to ordering goods and services.
6. Require District officials to procure items above the bidding thresholds through a competitive bidding process.
7. Enforce the requirement for District officials to obtain written and verbal quotes for procurements between \$1,000 and the bidding thresholds.
8. Consider revising the procurement policy to include use of competitive methods, such as an RFP process or quotes when procuring professional services.

## **APPENDIX A**

### **RESPONSE FROM LOCAL OFFICIALS**

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



# SANITARY DISTRICT NUMBER TWO

## TOWN OF HEMPSTEAD

BALDWIN SOUTH HEMPSTEAD ROOSEVELT

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February 27, 2017

Ira McCracken, Chief Examiner  
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250 Veterans Memorial Highway  
Hauppauge, New York 11788-5533

RE: Sanitary District No. 2  
Report of Examination 2016M-388

Dear Mr. McCracken:

On behalf of the Board of Commissioners of Sanitary District No. 2, I am writing to acknowledge the receipt of the Draft Report of Examination which covered the time frame of January 1, 2015 through June 30, 2016. The Board of Commissioners realizes that an audit is a collaborative effort to help identify opportunities for improving operations and governance of the District. I wish to convey our appreciation for the time and effort your staff put toward our audit, as well as assisting in the implementation of the recommendations.

The Board of Commissioners is pleased that the Comptrollers Office found no evidence of fraudulent activity or any significant financial problems. While the District generally agrees with the audit recommendations and shares the Comptroller's commitment to strengthen controls intended to safeguard the District's assets, there are some items which we would like to clarify.

The following, shall constitute the District's response to the Draft Report of Examination #2016M-388.

Sincerely,

John A. Cools,  
Chairman



*Financial Condition*

Recommendation 1: Adopt a policy to address the level of unrestricted fund balance to be maintained.

Recommendation 2: Develop a multi-year financial plan to establish the goals and objectives for funding long-term operating needs. This plan should address the use of unrestricted surplus funds, funding of reserves, and should be monitored and updated on an ongoing basis.

Recommendation 3: Adopt budgets that do not appropriate fund balance that is not needed and include realistic estimates for salaries and health insurance.

Recommendation 4: Use surplus fund balance as a financing source for: a) Funding one-time expenditures; b) Funding needed reserves; c) Reducing District property taxes

District Response: The District's fiscal year begins on January 1 and ends on December 31 of each calendar year. The District begins budget preparations in July and must submit the adopted budget to the Town of Hempstead Comptroller for review and Town Board approval in October.

The Board of Commissioners realized that the Unrestricted Fund Balance is in excess and has been working to reduce that. The District had increased the Unrestricted Fund Balance several years prior upon receipt of several lawsuits that have ended. The Board is in the process of adopting a formal policy on the Unrestricted Fund Balance and a Multi-Year Financial Plan.

In reviewing our budget lines, it is evident from the Comptroller's report that only two budget lines, Salaries and Health Insurance need to be reviewed. The Salaries budget line is based on the Collective Bargaining Agreement that is in place with the unions, as well as for the anticipated retirements and possible over-time situations. The Health Insurance budget line is based on the projections that District received from the New York State Health Insurance Plan (NYSHIP) and the policy premium renewal was far less than NYSHIP had projected.

The Board, during the budget preparation, reviews the short and long-term needs of the District, prioritizes those needs, and determines what can be used for reducing the District property taxes. The District will adopt a formal policy.

Recommendation 5: Develop procedures that require the use of requisitions and PO's prior to ordering goods and services.

Recommendation 6: Require District officials to procure items above the bidding thresholds through a competitive bidding process.

Recommendation 7: Enforce the requirement for District officials to obtain written and verbal quotes for procurements between \$1,000 and the bidding thresholds.

Recommendation 8: Consider reviewing the procurement policy to include use of competitive methods, such as an RFP process or quotes when procuring professional services.

District Response: The District generally agrees with these recommendations. The District has developed a program to track requisitions and issue purchase orders.

The District Purchasing Policy addresses the requirements for bidding thresholds and when written and verbal quotes are required. The Board will ensure that all emergency repairs and or purchases are properly declared and documented.

The Board will review the procurement policy and will ensure that the procurement of Professional Services is done in the accordance with General Municipal Law and in the most prudent and economical manner

## **APPENDIX B**

### **AUDIT METHODOLOGY AND STANDARDS**

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

- We interviewed District officials and employees to gain an understanding of the internal controls and procedures for budget development and use of fund balance.
- We reviewed policies and procedures regarding budgeting, maintaining fund balance and purchasing.
- We reviewed annual financial statements prepared by the District's independent public accountant and compared amounts reported to reports from the District's accounting system to determine the reliability of the District reports.
- We analyzed revenue and expenditure trends and budget to actual comparisons for the District's general fund for 2013 through 2015. We calculated the unrestricted funds as a percentage of the ensuing years' budget for each of the three years.
- We interviewed District officials and employees to gain an understanding of the internal controls and procurement procedures, particularly for the use of requisitions, POs, competitive bidding, written and verbal quotes and professional services.
- We randomly selected 39 purchases and determined if District employees made purchases without prior approval.
- We identified payments to nine vendors that aggregated to more than \$20,000 for goods and services and \$35,000 for public works in a calendar year. We determined if the District publically advertised for bids and awarded the contracts to the lowest responsible bidders. We judgmentally selected one claim from each vendor and tried to select claims that were evenly dispersed throughout the audit period.
- We randomly selected 30 claims to determine if District officials made purchases between \$1,000 and the bidding thresholds after obtaining three written or verbal quotes.
- We identified all eight of the professionals used by the District and determined if District officials employed a cost-awareness procedure, such as an RFP process, when selecting providers.

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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