



STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

January 11, 2007

Ms. Anne M. Cox, Commissioner
And Members of the Board of Commissioners of the
Town of Hempstead Sanitary District Number Fourteen
P.O. Box 106
Atlantic Beach, NY 11509

Re: Retirement Reporting
Report 2006-S-15

Dear Ms. Cox and Members of the Board of Commissioners:

One of the Office of the State Comptroller's primary objectives is to identify areas where local governments and sanitary districts can improve operations and provide guidance and services that will assist local officials in making those improvements. Our goals are to develop and promote short-term and long-term strategies to enable and encourage local government and sanitary district officials to reduce costs, improve service delivery, and to account for and protect their entity's assets.

In accordance with these goals, we conducted audits of five Nassau County sanitary districts to determine whether sanitary district officials have established appropriate internal controls over the reporting of retirement service credits to the New York State and Local Employees' Retirement System (NYSLERS). We included the Town of Hempstead Sanitary District Number Fourteen (District) in our audits. Within the scope of this audit, we reviewed the District's efforts to ensure proper accounting for, and reporting of, employee salaries and service credits in accordance with criteria set forth by the NYSLERS. The audit period was January 1, 2003 through November 30, 2005.

This report contains our findings and recommendations specific to the District. We discussed the findings and recommendations with District officials and considered their comments in preparing this report. The District's response is attached to this report in Appendix A.

A. Summary of Findings

Our audit found the District is not consistently applying the appropriate policies and procedures that govern reporting employee retirement service credits as stipulated by NYSLERS guidelines. Specifically, we found that one full-time employee was not a NYSLERS member, as required. We also found the District had incorrectly reported to NYSLERS lump sum payments made to two employees, thereby

overstating their salaries and service credits. Furthermore, our audit found the elected officials are not maintaining documentation that can support the number of work days being reported to NYSLERS on their behalf.

B. Background and Methodology

The District is located in Nassau County and was established by the Town of Hempstead pursuant to chapter 516 of the Laws of 1928. Its general and legal authority to operate is described in the Nassau County Civil Divisions Act (L 1939, ch 273). The District is governed by five Commissioners, each of whom is elected for a five-year term and is eligible to become a member of the NYSLERS. In 2005, the District had nine employees consisting of the five Commissioners and four sanitation workers, with a total payroll of \$135,000.

To accomplish our audit objectives, we reviewed the District's processes for recording and reporting employee data to the NYSLERS. We met with District officials and compared their reported practices with requirements included in the Employer Guide published by the NYSLERS. Our audit included tests of the monthly reports the District filed with the NYSLERS, as well as the supporting documents that evidenced the District's method of accounting for employee time in terms of retirement service credits. We also verified that all employees were either enrolled as a NYSLERS member or had appropriately opted not to join as authorized because of their individual employment circumstances.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and conduct our audit to assess adequately those District operations within our audit scope. Further, those standards require that we understand the District's internal controls and its compliance with those laws, rules, and regulations that are relevant to its operations included in our scope. An audit includes examining, on a test basis, evidence that supports the transactions recorded in the accounting and operating records and applying such other auditing procedures, as we consider necessary in the circumstances. We believe that our audit provides a reasonable basis for our findings, conclusions, and recommendations contained in this report.

C. Audit Results

Membership

The NYSLERS requires each full-time employee to be a member of the system. For employees hired after July 27, 1976, membership is optional if one of the following circumstances is met:

- The position is considered temporary or provisional;
- The employee works less than 30 hours per week, or less than the standard number of hours for full-time positions established by the employer;
- The employee is employed for less than one year, or for less than 12 months a year; or
- Annual compensation is less than the State's minimum wage multiplied by 2,000 hours.

For each employee who elects not to join the system, the District is required to keep on file a signed copy of the employee's acknowledgement of their right to membership into the NYSLERS and their decision not to join. Maintaining the required documentation preserves evidence of the employee's decision. In the event that the appropriate documentation is not maintained, the District is potentially at risk of future recourse should the employee invoke his/her right to become a member.

To determine whether the District is properly reporting all applicable employees to NYSLERS, we compared the District's payroll and daily attendance sheets for a selected two-week period to a listing of District retirement system members provided by the NYSLERS for the same period. Our audit found that three District employees (two Commissioners and one sanitation worker) have not been reported to the NYSLERS. Further review determined that the two Commissioners are part-time employees who had not provided the District with a signed acknowledgement of their right to NYSLERS membership and their decision not to join. The full-time sanitation worker, who was hired on July 19, 2004 and has earned \$34,350 in salary during the scope period, is not eligible to decline NYSLERS membership.

According to District officials, they were not aware of the requirement to document employees' membership decisions. They indicated that the appropriate form would be completed for the two Commissioners identified in the audit. Subsequently, officials told us they were able to contact each individual we identified and that the forms had been completed and filed with the District.

Reporting

According to NYSLERS guidelines, employers are required to collect data on the salaries paid and days worked for all members of the retirement system during each month and report them to the NYSLERS. Certain lump sum payments (e.g., buy back of unused vacation, personal, or sick leave credits) are not to be reported to NYSLERS. To test the District's compliance with reporting requirements, we judgmentally selected a total of 12 months (four months in each of the calendar years audited) that represented peak and non-peak garbage collection times throughout the 35-month audit period. For each sanitation worker, we compared the days reported on the monthly retirement reports the District had filed for each of these employees to the days they had reportedly worked, as indicated on their District attendance records. We also verified the salaries paid to the amounts reported to NYSLERS.

Our test revealed that two employees' retirement service credits and salaries had been reported incorrectly to the NYSLERS. According to District officials, it is their practice to compensate employees who work their scheduled vacations with lump sum payments, in addition to their regularly-earned pay. We noted that in September 2004 two employees received lump sum payments for working during their vacations. The District incorrectly reported the lump sum payments to the NYSLERS and also reported the related vacation days as additional days worked. One worker was over-reported for five days and the other for ten days.

Unlike the regular District employees, elected officials do not usually have preset work hours, making it difficult to determine the number of days worked for retirement credit purposes. Therefore, the

NYSLERS Employer Guide provides the following guidance for the governing board to determine days worked for such positions:

- Establish by board resolution the standard workday for the elected positions.
- Direct the elected officials to maintain a record of activities for a period of one month. This record must contain daily details of hours worked and duties performed that are directly related to the elected position. As part of this record, elected officials should also document the amount of time they actually spend performing official activities outside of normal business hours.
- Review the activities record submitted by the elected officials to determine the total number of hours per month a person in that elected position should work. If more than one elected official is serving in the same position, and all of their duties are similar, an average should be used to determine that number.
- To determine how many working days should be reported for an elected official, the total number of hours worked during the month should be divided by the number in the established, standard workday.

District officials indicated to us that the Commissioners serve on a part-time basis, and that a total of ten days of retirement service credit is reported for three of them every month. However, the District could not document that it is reporting those officials' retirement service credits correctly. We determined that the District's board has not passed a resolution establishing a standard workday for its elected officials. Nor does the District have a record of typical activities that elected officials might be expected to engage in during a one-month period and the related work hours.

District officials indicated that they were unaware of the requirement to maintain a sample monthly schedule for each elected position. They agreed that, without the required documentation, there is no evidence supporting an elected official's claim of days worked or District reports of corresponding retirement service credits. District officials told us they would implement this requirement, thus complying with the NYSLERS guidelines.

Recommendations

1. *For each employee who elects not to join the NYSLERS, keep on file a signed copy of the employee's acknowledgement of their right to membership into the NYSLERS and their decision not to join.*
2. *Ensure that full-time employees become NYSLERS members. Regarding the full-time District employee identified in this report who was not a member, upon enrollment, file an adjustment with NYSLERS that will accurately reflect retirement service credits earned and arrears owed since the date of hire.*

3. *Identify all employees whose retirement service credits and salaries have been reported incorrectly to NYSLERS as a result of a lump sum payment and file an adjustment with NYSLERS.*
4. *Follow NYSLERS guidance for determining retirement service credits for elected positions.*

In responding to the discussion draft of this report, District officials indicated that they agree with the findings and recommendations. They also indicated that they have taken action to implement our recommendations.

The Board of Commissioners of Sanitary District Number Fourteen has the responsibility to initiate corrective action. Pursuant to Section 35 of the General Municipal Law, the Board should prepare a plan of action that addresses the recommendations in this report and forward the plan to our office within 90 days.

Major contributors to this report were John Buyce, Myron Goldmeer, Kevin Kissane, and Chris Morris.

We wish to thank the management and staff of Sanitary District Number Fourteen for the courtesies and cooperation extended to our auditors during this audit.

Very truly yours,

Frank J. Houston
Audit Director

APPENDIX A

Response From Town of Hempstead Sanitary District Number Fourteen Officials

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

**SANITARY DISTRICT NO. 14
TOWN OF HEMPSTEAD
P.O. BOX 106
ATLANTIC BEACH, N.Y. 11509**

**Mr. Frank Houston
Audit Director
Office of the State Comptroller
123 William Street
New York, New York 10038**

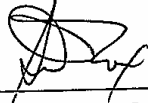
March 30, 2006

Dear Mr. Houston:

The Commissioners of Sanitary District 14 have reviewed the recent Audit findings and recommendations and have concluded that there were no major exceptions to the findings. Some of the recommendations have already been implemented and others will be addressed with the personnel of the New York State Retirement System.

As discussed with the Audit Staff and at the March 2, 2006 meeting with Mr. Myron Goldmeer and Mr. Kevin Kissane, the three Commissioners involved in the Retirement System (1 tier 1 and 2 tier 4) do not have a "standard workday". The positions can be considered both proactive and reactive in content. We are maintaining a daily log that will be submitted as requested. Additionally, we are restricted by the retirement system regulation not allowing time to be reported without compensation. This was discussed with the retirement system in November 2003. Therefore, time worked cannot be reported once the current maximum compensation of three thousand dollars has been reached. Typically, time for at least two months of the year cannot be reported.

In conclusion, in a very professional manner, the audit staff made suggestions that are informative and will be incorporated in our future guidelines.



Anne M. Cox, Commissioner

**Copy: Mr. Myron P. Goldmeer, State Program Examiner 3
Mr. Kevin Kissane, Office of the State Comptroller
Mr. Christopher Morris, Office of the State Comptroller
Commissioners Sanitary District 14:
Mr. Stanley Drachman
Mr. Eli Gordon
Mr. Edward G. Uehlinger**