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September 8, 2005

Mr. Jack Rose
Chairman, Board of Commissioners
Sanitary District No. 1, Town of Hempstead
1 Bay Boulevard, P. O. Box 342
Lawrence, NY 11559

Re: *Sanitary District No. 1, Town of Hempstead*

Dear Chairman Rose:

My Office recently attempted to conduct an audit of Sanitary District No. 1, Town of Hempstead (district) in compliance with Generally Accepted Government Auditing Standards (GAGAS). The district, however, failed to cooperate sufficiently with our auditors to permit audit findings to be made in compliance with GAGAS¹. Therefore, in accordance with the United States General Accounting Office Government Auditing Standards, we are writing to inform you why our audit of the district was abruptly terminated on June 23rd, 2005, and to summarize the results of our work through the date of termination. See www.gao.gov/govaud/yb2003.pdf.

Audit Scope, Methodology and Limitations

The objective of our audit was to examine the district's administrative policies and procedures relating to expenses, revenue collection, procurement and contract monitoring. We also intended to analyze operating costs and the appropriateness of the district's fund balance for fiscal years 2003 and 2004. The district had an operating budget of \$14,187,375 in 2003 and \$14,259,861 in 2004. It provides garbage collection and disposal services to the 16,514 residential and commercial properties within the district. In 2003, the district employed approximately 114 full-time and 19

¹ The county charter authorizes the county comptroller to audit special districts, such as sanitary districts. Nassau County Charter, Section 402.6.

seasonal employees; in 2004, 110 full-time and 19 seasonal employees. The district's average tax levy per parcel in 2003 was \$859; in 2004, it was \$863. The cost per ton for the district was \$328 and \$308 in 2003 and 2004 respectively as compared to \$238 and \$241 for the Town of Hempstead. Included in this cost are the following three components of disposal fees:

- Eastern Waste of Long Island was paid \$1,906,682 in 2003 and \$1,796,572 in 2004 to operate the district's recycling materials separation and refuse transfer station;
- C & K Trucking was paid \$747,833 in 2003 and \$747,136 in 2004 to transport and dispose of yard waste; and
- Town of Hempstead was paid \$2,408,275 in 2003 and \$2,289,345 in 2004 for the disposal of post recycled solid waste.

Our audit began on March 21, 2005 and our final day of field work was June 23, 2005. The period to be audited was January 1, 2003 to December 31, 2004. To obtain an overview of the district's structure, services, operations, policies and procedures, we interviewed the Superintendent, Assistant Superintendent, Treasurer and general counsel. We also reviewed the district's audited financial statements for 2003, general ledger transaction details for 2003-2004, board minutes from January 2002 through February 2005, policies and procedures, bank statements, and union contracts.

We attempted to conduct our audit of the district in accordance with GAGAS. These auditing standards require that the audit be planned and performed to obtain reasonable assurance that the audited information is free of material misstatements. The audit should include the examining of documents and other evidence to substantiate the accuracy of information tested, including all relevant records and contracts. It should include testing for compliance with applicable laws and regulations and any other auditing procedures necessary to complete the examination.

The district staff failed to cooperate sufficiently with our auditors. Therefore, our audit could not be completed in compliance with GAGAS. On the contrary, the district imposed multiple obstacles that prevented us from conducting necessary audit tests. The district prevented us from obtaining a complete, accurate view of its operations and from obtaining the information necessary to develop a full set of constructive audit recommendations.

Examples of the district's failure to cooperate include:

- Failure to provide our auditors with complete or current contracts. As a result, our auditors were not able to validate the propriety of approximately \$3,130,947 in contractual costs expensed in 2003 and \$3,238,745 expensed in 2004. The contractual costs represent 20% of total 2003 expenses and 21% of total 2004 expense.
- Failure to allow our auditors to conduct a physical inventory of district vehicles and equipment.
- Failure to respond adequately to our document requests.
 - Our requests for documentation were frequently met with excuses and delays, such as the person with access to the documents was unavailable or ill; cancellations of meetings at which documents were to be produced; arguments that the documents requested were not

within the scope period; and demands that we obtain a court order before speaking with district personnel.

- The district claimed some supporting documentation was unavailable because it had been disposed of prior to our audit or did not exist. For example, when we noticed that our payroll calculations for the first pay period in June 2004 (using the same calculation methodology as applied by the district) resulted in figures different than the district's, we requested supporting worksheets to reconcile the differences. In response, the district informed us that it had disposed of the worksheets. When we requested a list of retired employees to reconcile charges for retired employee health coverage, we were told that one did not exist.

At the time of our final meeting with the district, the district had not complied with five pages of information requests, containing 69 specific items. At that meeting, the district's general counsel stated that a court order would be needed to meet with the district superintendent and that the district would comply with our outstanding documentation requests "maybe next week." At that point, we concluded that the district simply was not cooperating, and discontinued our audit fieldwork because of the lack of cooperation and the restrictive conditions the district imposed on us.

PRELIMINARY AUDIT FINDINGS

The district interfered with our ability to conduct the audit in accordance with auditing standards. Nevertheless, we were able to make preliminary audit findings, and those findings raise serious concerns about the district's administration and operations. In fact, applying the criteria in the New York State Comptroller's 2005 report, *Red Flags for Fraud*, to our preliminary findings, many opportunities for fraud appear to exist at the district. The State Comptroller's report found that "the opportunity for fraud is generally provided through weaknesses in internal controls, including inadequate or no supervision and review, separation of duties, management approval requirements and system controls."

The Control Environment is Weak

The district has not fully established, documented, or ensured compliance with internal controls. Our auditors uncovered the following conditions suggestive of a weak control environment at the district:

- ***Lack of written policies and procedures.*** Written policies and procedures do not exist for recording fixed assets, cash receipts and disbursements, revenue collection, and accounts payable. Written policies and procedures also apparently do not exist for petty cash usage, travel and meal allowances, and for the purchase of food and beverages for use in district offices. The district's written procurement policy is insufficient and gives sole authority for procurement decisions to the district superintendent. As a result:
 - We could not reconcile the fixed asset balance in the financial statements to a list of fixed assets. The district does not have a fixed asset policy requiring periodic reconciliations or a capitalization threshold.

- Lacking a travel and meal allowance policy, the district spent amounts on business trips that appear to be unreasonable for government officials exercising official duties. The district paid a total of \$14,610 for two conferences, one in 2003 in New Orleans attended by 4 district managers and one in 2004 in Dallas attended by 3 district managers. This amount included stays at hotels where the daily room rate far exceeded the federal per diem reimbursement rate for hotel rooms in these cities, and expensive dinners at Morton's Steakhouse (\$676), GW Fins (\$446), Carmelo's (\$379) in New Orleans and the Palm (\$220) and Il Mulino (\$215) in Dallas. During these two trips, limousine service costing \$536 was ordered to transport district managers to/from airport and their residences. We noted \$643 in miscellaneous charges without receipts, and \$710 in questionable hotel lounge/bar charges.
- Lacking the guidance of a food and beverage purchase policy, the district purchased \$4,300 in coffee and dairy products for its automated coffee dispenser machine located in the administrative office and spent another \$2,300 on catering from local delicatessens, pizzerias and grocery stores for 19 board meetings during 2003-04.
- Lacking a sufficient procurement policy, the district apparently does not maintain written, current contracts with professional service providers, did not provide us with any evidence that it had conducted any competitive processes to obtain the services of professionals with which it contracts, and treats some contractors as employees for certain purposes but not for others. The district retains the services of an attorney who serves as general counsel and of a law firm as labor counsel, without the benefit of current contracts.² The district's general counsel, who has no office at the district and maintains a private, outside law office from which he advises the district, was paid a salary as general counsel of \$38,896 in 2003 and \$40,706 in 2004, \$9,050 in 2003 and \$14,250 in 2004 in consulting fees for general legal services, and \$3,800 in 2003 and \$4,000 in 2004 to attend board meetings. The district also treated the general counsel as an employee for health insurance purposes, at a cost to the district of approximately \$13,610 in 2003 and \$15,260 in 2004. The general counsel's compensation is reported to the Internal Revenue Service partially on a W-2 and partially on a 1099 form. The district contracts with a law firm as labor counsel, one of whose two named principals previously had been considered a district employee (he is provided retiree health insurance benefits by the district). This firm received \$40,262 in 2003 and \$40,435 in 2004 in consulting fees and \$3,400 in 2003 and \$3,600 in 2004 to attend board meetings.
- The district does not maintain detailed records (time in/time out) of the hours worked by all employees. The district's timekeeping process consists of a supervisor checking off employee names on a list when he sees them arrive at work. Our auditors also observed limited attendance by several highly compensated employees during the three months of field work.
- The district charges annual application fees and a per ton fee to contractors to dump agricultural waste and construction debris at the district's solid waste transfer station. During our review, we observed that only cash is acceptable from contractors as payment for tipping applications and fees. As a result, the district collected cash receipts of \$815,533 in 2003 and \$897,954 in 2004 from contractors for payment of tipping applications and fees. Controls over the receipt and recording of cash payments, however, are weak and presents a risk to the district that not all cash received is recorded and deposited. During our review, we noted cash

² In response to our request for agreements with the attorneys, we were provided an unsigned letter dated March 10, 1982, to the District describing services the general counsel had "customarily rendered" during the previous ten years. We were not provided any document currently in effect for the general counsel or for the district's labor counsel.

collected on a given day is only counted the following morning. Further, multiple examples were noted where tipping receipt records (off of Fairbanks scaling system) did not match what was collected and recorded in the cash register records. In some cases, amounts noted in the cash register were less and in other cases, there was no record of cash being received for the tipping.

- Lastly, controls over the recording of dump receipts appear to be generally lax. We noted that, in 2004, the district recorded approximately \$69,000 less in revenues from tipping fees and permits than the dump tickets would indicate should have been received. Conversely, in 2003, it received \$87,000 more in revenues than the dump tickets would reflect. The district did not comply with our request for an explanation for these variances.
- In 2004, a district commissioner received an unexplained \$5,000 payroll payment. According to the district ADP detailed records, the payment was coded as “Sick Pay”. As a result of this payment, the annual total paid to the commissioner exceeded the annual legal limit by \$4,000.³
- For the first pay period in June 2004, our calculations revealed that almost 50% of all union members’ base salaries exceeded the CSEA Collective Bargaining Agreement (CBA) pay scale⁴. When we attempted to understand the difference between our calculations and that of the district’s, the district informed us that they no longer had the payroll supporting worksheets.
- 18 of 45 employees’ accrued leave balances tested revealed vacation leave in excess of vacation time allowed under the CBA for a value of \$17,031.
- There is no proper validation of payments made to the New York State Health Insurance Plan (NYSHIP) for retiree health insurance, payments to retirees as reimbursement for Medicare Part B costs, or of reporting of retirement status to the New York State Employee Retirement System (NYSERS); incredibly, the district does not maintain a list of its retired employees entitled to receive benefits. During our review, we noted that a retired employee was classified as an active employee for two years after his retirement on a health benefit invoice.
- Health insurance invoice discrepancies went undetected and were subsequently paid. Examples include the district’s failure to acknowledge a vendor adjustment credit on an optical insurance invoice resulting in an overpayment of \$2,627.
- Upon reviewing the supporting documentation for nine payments to the New York State Health Insurance Plan (NYSHIP) for active and retired employee health insurance benefit coverage, we found that 5 payments totaling \$653,765 were missing the detailed support documenting covered employees. Therefore, there is no assurance that the payments correspond to current and former employees entitled to coverage.
- The district does not cancel invoices to prevent repayment.
- The district’s listing of fixed assets is incomplete. Existing fixed assets are not listed and obsolete fixed assets are still listed. During our test for fixed assets, we observed a garbage

³ Nassau County Civil Divisions Act § 203.0 – “...where the annual budget of a district established under this article is approved by the town board in an amount in excess of eight hundred thousand dollars, the board of commissioners, in lieu of the aforementioned compensation may by resolution fix an annual compensation for such commissioners to be paid at such rate as the board may provide, but in no event to exceed seventy-five hundred dollars per annum.”

⁴ Agreement by and between Sanitary District No. 1, Town of Hempstead and Civil Service Employees Association Inc, Local 1000, AFSCME, AFL-CIO

truck driving to and from district property, but this truck was recorded as having being disposed of in district records and was not listed in district insurance or fixed asset documents. The district did not permit us to perform physical inspections of vehicles.

- The investment policy lists accounts that no longer exist.
- The 2003 financial statements do not comply with Governmental Accounting Standards Board (GASB) Statement No. 34, *Basic Financial Statements and Management's Discussion and Analysis for State and Local Governments*.⁵

The District Treasurer was lax in his performance of his duties.

The District Treasurer is classified as a part-time employee at the district. According to the New York State and Local Retirement System (retirement system), he also works for the Village of Cedarhurst as Clerk Treasurer, Island Park Union Free School District Board of Education as Treasurer and the Inwood Fire District (role unknown). He also operates a private tax practice. Although he claimed to work about 20 hours a week for the district, we were unable to validate this claim because the district does not require management to complete timesheets. In addition, the district reported 245.42 days worked by the Treasurer to the retirement system for the fiscal year ending 2004, a service credit of .95 of one year. According to the retirement system report which shows days credited to the NYS retirement system for each employee, the Treasurer is credited with a total of 733.42 days worked from his four employers for the fiscal year ending 2004, a year that has approximately 262 work days. During the time we spent at the district, the Treasurer was generally offsite. To reach him for assistance, we often called his cellular phone. Although he sometimes was able to return to the district, many times he could not. Moreover, one district employee informed us that the Treasurer only performed his duties for a few hours prior to the district's Board meetings that take place twice a month.

- We found that the Treasurer performed his duties inadequately for the district: In March 2005, the 2004 general ledger was not yet available for us to review. The Treasurer informed us he had not posted all the entries because he was busy with tax season.
- District records were not readily accessible; according to the Treasurer, some records are kept at his "other" office.
- We identified overpayments, duplicate payments and duplicate transactions that were recorded incorrectly by the Treasurer in the general ledger. One notable example was a check totaling \$16,123 that was posted in the general ledger twice. The original check had cleared and had been reconciled with the general ledger. The duplicate transaction was noted as an outstanding check in the district's bank account reconciliations for a full year before being captured as an error.
- The Treasurer does not perform an analysis of budget to actual expenses.

⁵ GASB 34 now requires governmental entities to prepare full accrual accounting based government-wide financial statements. This change requires districts to place a value on all capital assets, calculate depreciation, record offsetting long-term debt and report information regarding the net value of assets. Another requirement is Management's Discussion and Analysis which provides an analysis of the district's overall financial position and results of operations. To the extent that other statutory requirements override GASB 34, the independent auditors are required to disclose this fact in their opinion letter.

The Treasurer's employment for the village of Cedarhurst may conflict with the duties he performs for the district.

Without proper financial controls, the district Treasurer's employment as the Cedarhurst Clerk Treasurer may conflict with his role as district Treasurer. During our review, we identified the receipt of several payments from Cedarhurst for dumping solid waste at the district, but could not ascertain whether the District maintained an accurate accounting of amounts owing from Cedarhurst to pay outstanding dump fees. We were informed by the district's Treasurer that a written agreement concerning payment terms does not exist between Cedarhurst and the district.

Lack of Segregation of Duties

Controls over district cash accounts do not exist, and duties are not segregated. The Treasurer conducts the accounting process for all cash accounts. He signs checks, transfers funds, posts cash disbursement entries and performs the bank reconciliation function without oversight or review. The District 1 Treasurer has sole control over wire transfers and significant control over cash disbursements. The Treasurer stated he sometimes keeps check stock overnight, an obvious lack of physical security and an opportunity for fraud.

Questionable Practices

In our review of district practices, we found the following additional weaknesses:

- The district does not provide documentation/schedules to support financial statement balances (e.g. fixed assets); thereby compromising the auditors' independence. ,
- The district did not properly reconcile bank accounts. For example, there was one month where \$1,377.70 in reconciling items consisted of \$916.70 in outstanding checks that had actually cleared the bank, and a \$461 check that was voided in the general ledger but shown as outstanding on the bank reconciliation. Upon further review of the bank statements and cash disbursements records, we found additional items, such as a check for \$1,340.89, that cleared the bank but was not recorded in the general ledger, and was not shown anywhere as a reconciling item.
- Outstanding stale dated checks are not properly addressed. During our review of the district's reconciliation of bank accounts to the general ledger, we identified six checks dating back to 2001 and totaling \$26,216 that remained as outstanding until August 31, 2004. At that time, the checks were voided, thus replenishing the cash in the bank account. These checks should have been either re-issued (after following up with the vendor) or escheated to the state (if vendor could not be contacted).
- A list of signatories for each district bank account was not on file at district offices.
- We questioned a Port Authority invoice for travel on the George Washington Bridge (inbound from New Jersey) by one of the district's garbage vehicles. The district was billed a "failure to pay" fine (the fine assessed when a vehicle goes through the toll without paying) of \$25 in

addition to the \$6 toll. We were not provided with an explanation, documented or otherwise, for this travel or for why the toll was not paid in the first instance.

- Some gasoline purchases were not substantiated by documentation. We obtained 11 invoices for the purchase of gasoline for power tools (which are not listed in the district's asset inventory). The number of gallons purchased appeared excessive for the intended use.
- Although the district could make use of New York State Office of General Services contracts to make purchases where a price advantage could be obtained, it does not do so. We found that the district awarded a contract for the purchase of diesel fuel to a local vendor who submitted the lowest bid in response to the district's issuance of a request for bids. Had the district made this purchase utilizing a State OGS contract, the price would have been lower than the amount paid on 17 out of 18 invoices tested, a total difference of approximately \$4,000.
- The hours that sanitation workers are required to work are not clear. The CBA covering the 2003-2004 period states specific, different starting hours depending on whether workers are assigned to residential or commercial routes and depending on the time of year – starting times that vary from 5:45 a.m. to 6:45 a.m. and states that “the routes shall be worked until they shall have been completed.” The CBA, Article XXIV, however also incorporates by reference the district Work Rule Book, which specifies that “employees assigned to Rubbish trucks shall work from 7:00 a.m. until 4:00 p.m.” During the audit, we observed that most of the workforce completed work by 2:00 p.m.

We expect that you and your fellow Commissioners will take immediate investigative and corrective action in response to our preliminary findings.

Sincerely,



Howard S. Weitzman
Nassau County Comptroller

HSW: AS

cc: Hon. Alan G. Hevesi, Comptroller, New York State
Hon. Denis Dillon, District Attorney
Harry Baltrani, Commissioner
Joseph Candella, Commissioner
Irving J. Kaminetsky, Commissioner
James Vilardi, Commissioner
Hon. Kate Murray, Town Supervisor