OFFICE OF THE NEW YORK STATE COMPTROLLER

DIVISION OF LOCAL GOVERNMENT
& SCHOOL ACCOUNTABILITY

Dunkirk City School District

Financial Management

Report of Examination

Period Covered:

July 1, 2013 – May 25, 2017

2017M-122

Thomas P. DiNapoli

Table of Contents

		Page
AUTHORITY LETTER		1
INTRODUCTION		2
	Background	2
	Objective	2
	Scope and Methodology	2
	Comments of District Officials and Corrective Action	2
FINANCIAL MANAGEMENT		4
	Budgeting	4
	Fund Balance	5
	Reserve Funds	6
	Recommendations	8
APPENDIX A	Response From District Officials	9
APPENDIX B	OSC Comments on the District's Response	13
APPENDIX C	Audit Methodology and Standards	14
APPENDIX D	How to Obtain Additional Copies of the Report	15
APPENDIX E	Local Regional Office Listing	16

State of New York
Office of the State Comptroller

Division of Local Government
and School Accountability

October 2017

Dear School District Officials:

A top priority of the Office of the State Comptroller is to help school district officials manage their districts efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support district operations. The Comptroller oversees the fiscal affairs of districts statewide, as well as districts' 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 district operations and Board of Education governance. Audits also can identify strategies to reduce district costs and to strengthen controls intended to safeguard district assets.

Following is a report of our audit of the Dunkirk City School District, entitled Financial Management. 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 district 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 Dunkirk City School District (District) is located in the City of Dunkirk and the Towns of Dunkirk and Sheridan in Chautauqua County. The District is governed by a seven-member Board of Education (Board), which is responsible for the general management and control of the District's financial and educational affairs. The Superintendent of Schools (Superintendent) is the District's chief executive officer and is responsible, along with other administrative staff, for the District's day-to-day management under the Board's direction. The Business Manager, along with other office staff, is responsible for preparing and maintaining the accounting records and filing required financial reports.

The District operates six schools with approximately 2,000 students and 500 employees. The District's general fund budgeted appropriations for the 2016-17 fiscal year totaled more than $40 million and were funded primarily with State aid and real property taxes.

Objective

The objective of our audit was to review the District's financial management practices. Our audit addressed the following related question:

- Did District officials properly manage District finances by ensuring that budget estimates, unrestricted fund balance, and reserve fund balances were reasonable?

Scope and Methodology

We examined the District's financial records for the period July 1, 2013 through May 25, 2017.

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.

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. District officials agreed with some of our findings and indicated they would take certain corrective action. Appendix B includes our comments on issues raised in the District's response letter.

The Board has the responsibility to initiate corrective action. Pursuant to Section 35 of General Municipal Law, Section 2116-a (3)(c) of New York State Education Law and Section 170.12 of the

Regulations of the Commissioner of Education, a written corrective action plan (CAP) that addresses the findings and recommendations in this report must be prepared and provided to our office within 90 days, with a copy forwarded to the Commissioner of Education. To the extent practicable, implementation of the CAP must begin by the end of the next fiscal year. 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. The Board should make the CAP available for public review in the District Clerk's office.

Financial Management

The Board and District officials should ensure that unrestricted fund balance does not exceed the amount allowed by New York State Real Property Tax Law, which currently limits unrestricted fund balance to no more than 4 percent of the subsequent year's budget. Any unrestricted fund balance over this percentage must be used to reduce the upcoming fiscal year's tax levy or fund necessary reserves. School districts are legally allowed to establish reserves and accumulate funds for certain purposes (e.g., unemployment insurance, retirement expenditures). District officials should plan for the funding and use of these reserves.

The District needs to improve its budgeting practices to ensure that budgets are accurate and take action to address the reasonableness of fund balance, including reserves. The Board and District officials consistently overestimated appropriations by an average of $3.7 million, or 9 percent, leading to average annual surpluses of $1.2 million. District officials appropriated an average of $3.2 million in fund balance each year which was not needed to finance operations. When unused appropriated fund balance was added back, the District's recalculated unrestricted fund balance exceeded the statutory limit by 7 to 9 percentage points. In addition, the District maintains seven reserves totaling $15.6 million as of June 30, 2016, three of which, totaling $14.8 million, appear to be overfunded.

Budgeting

The annual operating budget represents the District's financial plan for a fiscal year and is an important tool for managing finances. A good budget begins with sound estimates and well supported budgetary assumptions to ensure that planned services are properly funded. The Board, Superintendent and Business Manager are responsible for accurate and effective budgeting.

We compared budgeted appropriations and estimated revenues with actual operating results from 2013-14 through 2015-16 and found that, while revenue variances were generally reasonable (underestimated by 1 percent), appropriations were overestimated by a total of almost $11 million, or an average of $3.7 million, or 9 percent, each year.

The most significant budget appropriations that were consistently overestimated included employee benefits, instructional salaries, special education, utilities and tuition.

Figure 1: Significantly Overestimated Appropriations

Type of Appropriation	Total Budgeted	Total Actual	Total Variance	Percent Overestimated
Employee Benefits	$30,354,123	$25,388,253	$4,965,870	20%
Instructional Salaries	$18,902,194	$14,838,439	$4,063,755	27%
Special Education	$2,433,483	$1,726,285	$707,198	41%
Utilities	$662,137	$18,751	$643,386	3431%
Tuition	$432,897	$52,446	$380,451	725%
Totals	**$52,784,834**	**$42,024,174**	**$10,760,660**	**26%**

Because salaries and benefits are determined by contractual agreements or set rates, District officials should be able to reasonably estimate these amounts in the annual budgets. The Business Manager stated that he budgets in a surplus in salaries, utilities, and benefits each year, and that tuition and special education costs are highly variable depending on the number of foster and special needs students within the District. However, budgetary practices that overestimate appropriations each year result in tax levies that are higher than necessary.

Fund Balance

A school district may retain a portion of fund balance at the end of the fiscal year for cash flow needs or unexpected expenditures. School districts may also establish reserve funds to restrict reasonable portions of fund balance for specified purposes in compliance with applicable statutes. When fund balance is appropriated to finance operations, the District should incur a planned operating deficit. However, the Board and District officials overestimated appropriations from 2013-14 through 2015-16 and realized annual operating surpluses, averaging $1.2 million.

Figure 2: Unrestricted Fund Balance at Year-End

	2013-14	2014-15	2015-16
Beginning Fund Balance	$17,646,501	$19,042,730	$19,841,782
Add: Operating Surplus	$1,581,604	$799,052	$1,119,624
Less: Use of Capital Reserve	$185,375	$0	$0
Ending Fund Balance	$19,042,730	$19,841,782	$20,961,406
Less Appropriated Fund Balance	$2,920,585	$3,176,857	$3,640,894
Less Encumbrances	$66,687	$84,938	$83,614
Less Reserves	$14,408,349	$14,896,546	$15,611,341
Unrestricted Fund Balance at Year-End	$1,647,109	$1,683,441	$1,625,557
Subsequent Year's Budgeted Appropriations	$41,177,757	$42,086,078	$40,614,061
Unrestricted Fund Balance as a Percentage of Subsequent Year's Budget	4%	4%	4%

From 2013-14 through 2015-16, the Board appropriated fund balance totaling $9.7 million,[1] or an average of $3.2 million each year. The District realized operating surpluses during the same period and did not need to use any of the appropriated fund balance to finance operations. The Business Manager stated that the appropriated fund balance in 2015-16 was intended to cover the anticipated loss of State transition aid related to a discontinued PILOT[2] payment. However, the State aid was received and the appropriated fund balance was not needed. When unused appropriated fund balance was added back, unrestricted fund balance exceeded the statutory limit each year by 7 to 9 percentage points.

Figure 3: Recalculated Unrestricted Fund Balance at Year-End

	2013-14	2014-15	2015-16
Unrestricted Fund Balance at Year-End	$1,647,109	$1,683,441	$1,625,557
Add: Unused Appropriated Fund Balance	$2,920,585	$3,176,857	$3,640,894
Recalculated Unrestricted Fund Balance at Year-End	$4,567,694	$4,860,298	$5,266,451
Recalculated Unrestricted Fund Balance as a Percentage of the Subsequent Year's Appropriations	11%	12%	13%

We also projected operating results for 2016-17 through year end. Based on the District's continued budgeting practices of overestimating appropriations, we project that the District will likely generate an operating surplus of around $1.2 million, consistent with the past three years. The practice of annually appropriating fund balance that is not needed to finance operations is, in effect, a reservation of fund balance that is not provided by statute and places an undue burden on residents.

Reserve Funds

Generally, school districts are not limited as to how much money they can maintain in reserves. However, funding reserves at greater than reasonable levels contributes to real property tax levies that are higher than necessary when the excessive reserve balances are not being used to fund operations. Therefore, it is important that the Board adopt a written policy that states its rationale for establishing reserve funds, objectives for each reserve, maximum targeted funding levels and conditions under which reserves will be used or replenished.

Although the Board adopted a reserve fund policy, the policy did not address the maximum funding levels for each reserve, the conditions necessary for using the reserve funds to finance the related costs or the circumstances under which reserve funds would be replenished. The policy indicated that the Board would periodically review reserve funds and an annual report of reserves would be provided to the Board.

As of June 30, 2016, the District reported approximately $15.6 million in seven reserves. We analyzed the District's reserves for

[1] The Board appropriated $2.6 million for the 2013-14 fiscal year.

[2] Payment in Lieu of Taxes

reasonableness and adherence to statutory requirements. We found that the employee benefit accrued liability reserve ($326,000), capital reserve ($265,000), repair reserve ($150,000) and debt reserve ($23,000) were reasonably funded. However, the unemployment insurance, retirement contribution and tax certiorari reserves appear to be overfunded.

Unemployment Insurance Reserve — General Municipal Law (GML) authorizes the Board to establish this type of reserve to reimburse the New York State Unemployment Insurance Fund for payments made to claimants on the District's behalf. As of June 30, 2016, this reserve had a balance of $4.1 million. The District incurred annual costs averaging $18,000 from 2013-14 through 2015-16, with the highest expenditure totaling $35,000 in 2013-14. However, the Board and District officials budgeted an average of $93,000 annually to pay for these expenditures from the general fund as routine operating costs. If the District faced employee layoffs, the District could fund the maximum amount of unemployment contributions for approximately 75 percent[3] of its faculty and staff. As such, we question the reasonableness of this reserve.

Retirement Contribution Reserve — GML authorizes the Board to establish this type of reserve to pay contributions for employees covered by the New York State and Local Retirement System. As of June 30, 2016, this reserve had a balance of approximately $6.9 million. The District incurred annual costs averaging $641,000 from 2013-14 through 2015-16, with the highest expenditure totaling $751,000 in 2013-14. However, the Board and District officials budgeted an average of $760,000 annually to pay for these expenditures from the general fund as routine operating costs. If the District were to use the reserve to fund expenditure spikes of $110,000 each year, the reserve could fund such expenditure increases for more than 60 years. As such, we question the reasonableness of this reserve.

Tax Certiorari Reserve — New York State Education Law authorizes the Board to establish this type of reserve to pay for judgments and claims resulting from tax certiorari proceedings. As of June 30, 2016, this reserve had a balance of $3.8 million. The Business Manager stated that there are currently no outstanding claims or cases related to tax certiorari proceedings.[4] As such, the balance of this reserve should be returned to unrestricted fund balance in the general fund.

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[3] We calculated this by taking the maximum allowed benefit per employee, $10,920, or $420 per week for 26 weeks, and dividing it by the total dollar value of the reserve. The reserve would cover approximately 380 employees, which is approximately 75 percent of the District's employees.

[4] A tax certiorari is a legal proceeding whereby a resident who has been denied a reduction in property tax assessment by a local assessment review board or small claims procedure challenges the assessment on the grounds of excessiveness, inequality, illegality or misclassification.

The Board should balance the intent for accumulating funds for future identified needs with the obligation to ensure that the tax levy is not higher than necessary.

Recommendations

The Board and District officials should:

1. Adopt budgets that realistically reflect the District's operating needs based on historical trends or other identified analysis.

2. Review all reserves to determine if the amounts reserved are necessary and reasonable.

3. Use surplus funds as a financing source for:

   - Funding one-time expenditures;

   - Reducing District property taxes; and

   - Funding needed reserves.

4. Return funds in the tax certiorari reserve to the general fund unrestricted fund balance.

APPENDIX A

RESPONSE FROM DISTRICT OFFICIALS

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

DUNKIRK CITY SCHOOL DISTRICT

620 Marauder Drive
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Telephone (716) 366-9300

MR. DAVID DAMICO
President
Board of Education

DR. JAMES J. TRACY
Superintendent

September 29, 2017

Mr. Jeffrey D. Mazula, Chief Examiner
Office of the State Comptroller
295 Main Street, Suite 1032
Buffalo, New York 14203

Re: Draft Report, Comptroller Recommendations and District Corrective Action Plan [attached]

Dear Mr. Mazula,

Dunkirk City School District is in receipt of your Draft Report titled, Financial Management, for the period July 1, 2013 – May 25, 2017. We have reviewed the audit's results and recommendations, and have the following comment.

Budgeting: In March of 2012, the District disclosed in public debt filings the possibility of Dunkirk Power LLC [NRG] discontinuing operations and cancelling its PILOT payment approximating $4 million annually. To offset this risk and preserve operating capability, the District budgeted for surplus funds in key operating categories to allow for budgetary reductions without educational impact. These accounts, as charted by the Comptroller, were targeted for the surplus funds, and tracked and controlled accordingly, the Percent Overestimated [26%] merely confirms the District's strategic decision. More appropriately, when all categorical expenses are taken as a whole for the period, budgets totaled $124 million vs Expenditures of $113 million, leaving a similar $10.9 million variance [9.68% of total expenditures].

The tax levy began and ended the audit period relatively flat at $9.50 million in 2011-12 and $9.55 million in 2016-17, discounting the Comptroller's assertion that the budgetary risk management actions resulted in a higher tax levy. The District notes in 2016-17, the PILOT payment was reduced to $612,848, and for fiscal 2018 falls further to $205,597. The average fund balance deployed to protect the budget was $3.2 million annually over fiscal 2014 to 2016, accurately approximating the eventual PILOT loss. Through strong public, private and political efforts, the community was able to delay significant reduction in the PILOT payment for 5 years. In our judgement, this should not be a basis for criticism of budgetary risk management strategies.

See Note 1 Page 13

Fund Balance: The Comptroller states that fund balance is appropriated to offset the possibility of deficit operations of the District. As stated in the prior paragraph, this is exactly what the District accomplished given the year to year risk and eventual reality of the PILOT reduction. The District rejects the assertion that $9.7 million of excess fund balance was appropriated. As fund balance was not utilized, the rollover of the same $3.2 million annual fund balance appropriation insulated the District from the risk of PILOT loss and allowed for ongoing operations to continue unrestricted. Surpluses realized over this term averaged $1.2

See Note 2 Page 13

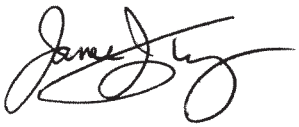
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million annually [3.0%], well within normal operating limits for school districts. In summary, had the PILOT been cancelled as threatened prior to 2017, the District would have utilized the bulk of the appropriated fund balance and generated no surplus.

Reserve Funds: By statute, the District is allowed to reserve funds in specific categories as authorized by the Board of Education. Said reserves were appropriately established and funded. No argument is made as to the facts offered by the Comptroller regarding the reserves taken individually. The District funded the reserves to provide future offsets to a potentially significant revenue loss, and used all available legal and properly approved methods to do so. Not to do so would in the District and Board's view have been a dereliction of financial responsibility to the students, staff and community.

The District appreciates the courtesy and attention to detail of the Comptroller's staff, as well as, the clear and respectful lines of communication established during the audit. Exchanging perspectives and concerns during these difficult and uncertain times is essential to uncovering solutions that work. This has proven to be a valuable process.

Very Truly Yours,



Dr. James J. Tracy
Superintendent of Schools

Corrective Action Plan – Dunkirk City School District

To Be Presented to the Board of Education – October 12, 2017

Comptroller Item 1 – Adopt budgets that realistically reflect the District's operating needs based on historical trends or other identified analysis.

Corrective Action Plan – The District has historically maintained expense growth at 1.5% annually [4 year average 2013 – 2016] and adopted budgets that met operating needs. The 2018 budget has a fund balance appropriation of $1.98 million, well below levels appropriated in the audit period, reflecting the realization of Mitigation Aid for 2017 and expectation for 2018, and despite further reduction of the NRG PILOT to $205,597. Electric Generation Facility Cessation Mitigation Aid for 2018 is capped at 70% of the net revenue loss, down from 80% in 2017. Future budgets will allocate reserves to maintain programming and fund deficit operations as the Mitigation Aid reduces annually by 10% points over 5 years under current law. Timeframe – May, 2019 budget adoption and continuous. Responsibility of the Business Manager, Superintendent and Board of Education.

Comptroller Item 2 – Review all reserves to determine if the amounts reserved are necessary and reasonable.

Corrective Action Plan – The District continues to review all reserves with respect to future revenue shortfalls occurring as a result of the NRG PILOT and Mitigation Aid reductions. The Board will receive a 5 year projection based on current law which details reserve use by January, 2018 as part of the fiscal 2019 budget process. Timeframe – January, 2018 and then continuous. Responsibility of the Business Manager, Superintendent and Board of Education.

Comptroller Item 3 - Use surplus funds as a financing source for funding one-time expenditures, reducing property taxes and/or funding needed reserves.

Corrective Action Plan – Given the current state of the NRG PILOT and the forecast decline of Mitigation Aid, it is inappropriate for the District to reduce reserve positions at this time. The District and Board will continue to review revenue sources and update the January, 2018, five year projection, as events warrant. As/if surplus funds are identified, the District will recommend actions for the Board to review. Noteworthy, local revenue sources are historically low given the PILOT reduction and, therefore, reliance on State Aid funds, including the Mitigation Aid, is extraordinarily high. Timeframe – January, 2018 and then continuous. Responsibility of the Business Manager, Superintendent and Board of Education.

Comptroller Item 4 – Return funds in the Tax Certiorari Reserve to the General Fund Unrestricted Fund Balance.

Corrective Action Plan – The Tax Certiorari Reserve is properly established and annually returns required unused contributions to the General Fund. The District and Board will continue to review revenue sources and update the January, 2018, five year projection, as events warrant. As/if surplus funds are identified, the District will recommend actions for the Board to review, including return of Tax Certiorari Reserve to the General Fund. Timeframe – January, 2018 and then continuous. Responsibility of the Business Manager, Superintendent and Board of Education.

APPENDIX B

OSC COMMENTS ON THE DISTRICT'S RESPONSE

Note 1

As we indicate in our report, the practice of overestimating appropriations each year results in tax levies which are higher than necessary. We agree that the tax levy was relatively flat from 2011-12 through 2016-17. However, it was consistently higher than necessary and confirms our assertion that District officials need to improve their budgeting practices.

Note 2

As we indicate in our report, when fund balance is appropriated to finance operations, the District should incur a planned operating deficit. The Board appropriated fund balance totaling $9.7 million over three fiscal years (2013-14 through 2015-16), or an average of $3.2 million each year. However, the District realized operating surpluses during the same period and did not use any of the appropriated fund balance to finance operations as was included in the adopted budget. Instead of using excess fund balance to reduce the tax burden, the budget included overestimated appropriations so that fund balance was not used and additional amounts were accumulated.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

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

- We interviewed District officials and reviewed policies, procedures and Board minutes to gain an understanding of the District's financial management practices.

- We analyzed budgeted appropriations and estimated revenues and compared them to actual results for the last three completed fiscal years.

- We reviewed the 2016-17 budget and projected operating results through the end of the fiscal year.

- We analyzed fund balance and assessed whether appropriated fund balance was used as budgeted. We calculated unrestricted fund balance as a percentage of the subsequent year's budget, including both appropriated fund balance and unrestricted fund balance in our calculation.

- We reviewed the reserve fund policy, reserve fund activity and evaluated each reserve for reasonableness.

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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