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KEVIN D. WALSH
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February 18, 2021

Ms. Maureen Hulings, Chairperson
Jersey City Municipal Utilities Authority
555 Route 440
Jersey City, NJ 07305

Re: Follow-up Report - Jersey City Municipal Utilities Authority: Selected Fiscal and Operating Practices

Dear Chairperson Hulings:

On February 21, 2018, we issued an audit report, *Jersey City Municipal Utilities Authority, Selected Fiscal and Operating Practices*,¹ in which we made recommendations to address various identified weaknesses. Pursuant to *N.J.S.A. 52:15C-1 et seq.*, we have conducted a review of the audited entity's corrective action plan to assess the implementation of the recommendations contained in our initial report. Our findings and conclusions are set forth below.

Background, Scope, and Objective

The Jersey City Municipal Utilities Authority (JCMUA) was established in 1998 pursuant to the Municipal and County Utilities Authorities Law (*N.J.S.A. 40:14B-1 et seq.*) to operate and maintain Jersey City's (the City) sewer and water assets. JCMUA entered into a long-term agreement with United Water Jersey City. Suez Water Environmental Services, Inc. (Suez), the successor corporation to United Water Jersey City and successor to the contract, is responsible for operating, managing, and maintaining the City's water-supply system, including all treatment plants, watershed, aqueduct, and distribution systems. Suez also provides customer service and water meter reading and billing services. While JCMUA delegated to Suez most of its responsibilities with regard to the City's water-supply system, it remained responsible for setting sewer and water user rates.

¹Available at: https://www.nj.gov/comptroller/news/docs/jcmua_audit_report.pdf

JCMUA is governed by a Board of Commissioners (Board) consisting of five members and two alternate members, each of whom are appointed for staggered five-year terms by the Mayor of Jersey City, with the advice and consent of the City Council. As part of its governance responsibilities, the Board appoints an Executive Director who oversees the daily operations of the organization, including Suez's compliance with the agreement.

In our 2018 audit, we found weaknesses with controls over selected fiscal and operating practices and identified opportunities for potential cost savings. Specifically, JCMUA lacked key internal controls with regard to setting water and sewer user rates; monitoring bulk-water consumption and billing; procuring goods and services; and monitoring employee salary increases and other benefits.

The objective of our follow-up review was to determine if JCMUA has implemented the ten recommendations contained in our 2018 audit report.

Summary Conclusion

We found that JCMUA has made progress implementing the recommendations set forth in the initial audit report. Of the ten audit recommendations, seven were implemented, two were partially implemented, and one was not implemented. We urge JCMUA to continue its efforts to comply with the recommendations not yet fully implemented.

Status of Initial Audit Recommendations

Recommendation 1

Establish and implement policies and procedures that require the annual budget process to include detailed analysis of financial condition and user rates to determine whether the rates are appropriate and if adjustments are necessary.

Status: Implemented

JCMUA has the authority to set and revise its water and sewer rates. The Board authorizes annual water and sewer rate adjustments through resolutions. The resolutions for rate adjustments adopted by the Board in 2005 and 2009 directed staff to review JCMUA's financial status at least on a yearly basis to evaluate the need for rate adjustments. Our initial audit found that JCMUA staff failed to comply with the Board's directive and did not review JCMUA's financial status to determine whether the rate increases were justified. JCMUA advised us in its corrective action plan that it would conduct a comprehensive review of its financial condition annually to determine if water and sewer rate adjustments are appropriate.

During our review, we found that JCMUA's Board adopted new policies and procedures that require an advisory firm to review its financial position to address the annual budget and rate-setting process and to offer recommendations for water and sewer rate revisions.

Our review confirmed that JCMUA adopted a resolution on March 28, 2019 to hire a vendor to perform the required comprehensive review of its budget and water and sewer rates. The vendor completed the initial study on April 22, 2019 and included recommendations for sewer and water rate increases. The Board adopted a resolution on April 25, 2019 to approve the recommended rate increases effective July 1, 2019.

Recommendation 2

Develop and implement procedures to ensure that all actions authorized and required by Board resolutions are implemented and reported to the Board in a timely manner to allow for appropriate oversight and transparency of JCMUA operations.

Status: Implemented

Our initial audit found that, in their failure to review JCMUA's financial status and the need for a rate increase, JCMUA staff did not comply with Board resolutions. JCMUA's corrective action plan included assigning appropriate staff to ensure that they complied with the Board's directives.

During our review, we found JCMUA's Board adopted new policies that require management officials to meet to ensure that Board directives from previously approved resolutions were acted upon prior to monthly Board meetings. We verified that the Board's directives from our sample of resolutions adopted in March 2018 were completed by JCMUA staff.

Recommendation 3

Develop policies and procedures that limit contracting actions to responsible JCMUA officials as delegated by the Board and ensure appropriate oversight of all contract actions.

Status: Implemented

Our initial audit found that the former Executive Director negotiated an informal agreement with a customer to resolve a bulk-water billing discrepancy without the Board's authorization. JCMUA advised us in its corrective action plan that it would assign appropriate staff to monitor contract amendments and changes to ensure compliance with its policies and procedures.

During our review, we found JCMUA's Board revised its purchasing policies and procedures to require the purchasing agent to monitor decisions involving contracts and compliance with contractual obligations. We selected a judgmental sample of contracts and verified that those with

contract amendments included evidence that the purchasing agent had monitored the contract changes.

Recommendation 4

Establish policies and procedures that include adequate monitoring of bulk-water consumption and billings to ensure that these customers are billed in accordance with the terms of their agreements in a timely manner.

Status: Not Implemented

As part of its contractual obligations, Suez is responsible for monitoring bulk-water usage and billing customers. Our initial audit found that JCMUA failed to ensure that Suez billed the bulk-water customers according to the terms of the bulk-water contracts. The bulk-water customers underpaid JCMUA approximately \$575,000 as a result of these deficiencies. JCMUA advised us in its corrective action plan that appropriate staff would coordinate and oversee bulk-water billings to ensure they comply with the terms and conditions of the bulk-water agreements.

During our review, we found JCMUA's Board adopted new policies and procedures that require management staff to conduct semi-annual meetings with all bulk-water customers. The meetings are held to confirm the actual water used and to confirm that customer billings comply with the contract terms. Although JCMUA officials informed us that semi-annual meetings commenced in 2019, JCMUA failed to provide evidence that these meetings were actually held and, according to public documents, there is no reference to such meetings having occurred in any of the Board meeting minutes for 2019 and 2020. As such, we were prevented from reviewing the agenda, meeting attendees, reconciliation of actual bulk-water used and billed compared to the contract terms, and final disposition of the bulk-water analysis.

Our review also found that JCMUA failed to verify the accuracy of the customer water usage reports submitted from Suez. Our review of the 2017 and 2018 bulk-water usage and billing records for all four bulk-water customers identified approximately \$2.4 million of under-billed bulk-water for two customers. JCMUA was unaware of the under-billed amount prior to our notification.

Upon investigating the bulk-water usage and Suez reports, JCMUA officials provided us evidence demonstrating that Suez posted incorrect customer bulk-water usage data for one of the customers. Our review confirmed that approximately \$2.3 million was attributable to incorrect data reporting, not under-billed bulk-water usage. We found that JCMUA failed to ensure that Suez billed the other bulk-water customer pursuant to the agreement resulting in under-billed bulk-water usage in 2017 of approximately \$89,000. We confirmed that, in 2019, Suez appropriately billed and collected the under-billed amount.

We urge JCMUA to ensure it complies with its new policies and procedures that require it to confirm the accuracy of billings for bulk-water customers in a timely manner to prevent billing disputes. In addition, we remind JCMUA of the importance of examining all bulk-water usage reports to assess data accuracy reported by Suez.

Recommendation 5

Develop policies and procedures to perform adequate monitoring and timely oversight of the monthly zero-consumption and consecutive estimates reports to ensure appropriate investigation and timely resolution of the issues for any meters requiring follow-up action.

Status: Partially Implemented

Our initial audit found that Suez did not issue notifications or assess fees to customers with zero-consumption meter readings (those meters that did not register any consumption in the prior month) or consecutive estimate meter readings (meters that have been billed based on estimates for consecutive billing periods). JCMUA advised us in its corrective action plan that it had revised its policies and procedures to require monthly meetings with Suez to review the status and actions taken regarding the zero-consumption or consecutive estimate meters.

During our review, we found JCMUA's Board adopted new policies and procedures that require the Director of Operations to review the monthly reports of zero-consumption and consecutive estimate meters prepared by Suez. These procedures require JCMUA officials to inform Suez if further investigation is needed for any of those meters. Our review also confirmed that in 2018 Suez took corrective action, including notification and assessment of fees to customers with zero-consumption and consecutive estimate meter readings.

Although JCMUA officials informed us that monthly meetings commenced in 2019, JCMUA failed to provide evidence that these meetings were actually held and, according to public documents, there is no reference to such meetings having occurred in any of the Board meeting minutes for 2019 and 2020. As such, we were prevented from reviewing the agenda, meeting attendees, and evidence of JCMUA's oversight of Suez's monitoring of customers with these meters.

We urge JCMUA to ensure it complies with its new policies and procedures that require oversight of Suez's monitoring of zero-consumption and consecutive estimate meter readings to prevent billing errors and a loss of revenue to JCMUA.

Recommendation 6

Establish and implement policies and procedures that provide appropriate management oversight of the procurement, bidding, evaluation, and contract award process. This process should also include specific measures to ensure compliance with the appropriate laws and regulations, including Local Public Contracts Law, pertaining to the award and modification of contracts.

Status: Partially Implemented

Our initial audit found that JCMUA did not have adequate oversight of the contract process to prevent overpayments or improper contract change orders and amendments. JCMUA advised us in its corrective action plan that it would assign the appropriate staff members to ensure compliance with recently revised purchasing policies and procedures adopted by the Board.

During our review, we found that JCMUA's Board revised its purchasing policies and procedures. These revisions require the Director of Compliance and the purchasing agent ensure that contract awards, performance, and modifications comply with applicable local, state, and federal public contracting laws and JCMUA purchasing policies before the Board acts upon them. We judgmentally selected five contracts to confirm that JCMUA complied with its revised policies and procedures. Our review found a change order for one contract did not meet a performance metrics goal as outlined in JCMUA's Purchasing Manual.

We remind JCMUA that contracts should comply with all contracting laws and policies and that its oversight of the contract process must be done carefully and thoroughly to ensure adequate contract management administration.

Recommendation 7

Develop a contract tracking system or process and actively monitor all contract actions to ensure timely amendments, renewals, invoice reviews and approvals, and payment processing in accordance with appropriate laws and regulations, internal policies, and contract terms.

Status: Implemented

Our initial audit found that JCMUA lacked monitoring and oversight for all contract actions, including awards, authorizations, changes, amendments, and payments. The failure to implement an adequate oversight and monitoring process contributed to JCMUA's noncompliance with applicable purchasing regulations and internal policies and procedures. JCMUA advised us in its corrective action plan that it would assign the appropriate staff to ensure compliance with recently adopted purchasing policies and procedures.

During our review, we found JCMUA implemented adequate tracking processes for contract

awards, purchase orders issued, and expenditures paid under the contracts. The newly implemented tracking processes provide JCMUA with real-time contract information, including accurate data that enable it to ensure that contract amendments or change orders are executed when appropriate and do not exceed the contract award amounts.

Recommendation 8

Document all contract overpayments noted in this report with change orders authorized by the Board, as appropriate, and in compliance with the guidelines and standards of the Manual.

Status: Implemented

Our initial audit found that JCMUA issued payments on three contracts in excess of the maximum contract amount authorized by the Board, resulting in unauthorized overpayments of approximately \$94,000. JCMUA management officials advised in its corrective action plan that it would request appropriate resolutions for contract adjustments.

Our review verified that the Board adopted resolutions authorizing change orders to amend contract maximum amounts for all three contracts.

Recommendation 9

Develop a policy and procedure to ensure salary adjustments and other employee benefits for the Executive Director are approved by the Board.

Status: Implemented

Our initial audit found that the former Executive Director authorized and approved more than \$26,000 in salary increases and other benefits for himself without Board knowledge or approval in violation of *N.J.S.A. 40:14B-18*. JCMUA advised in its corrective action plan that it would amend its bylaws to clarify and affirm responsibility of the Board to approve any adjustments to the Executive Director's compensation and to approve any employment contract with the Executive Director.

During our review, we found that JCMUA's Board amended its bylaws in March 2018 to specify the Board's direct oversight of the Executive Director's compensation and approval of the Executive Director's contract. In addition, the Board adopted policies and procedures that require the Board's Personnel Committee to conduct an annual performance review of the Executive Director.

Recommendation 10

Establish and implement a process that ensures payments to employees for the reimbursement of leave buy-backs are paid at the correct rate of pay.

Status: Implemented

Our initial audit found that JCMUA calculated leave buy-back payments using the employee's current pay rate rather than the pay rate when the leave was earned. JCMUA advised us in its corrective action plan that it would ensure that leave buy-backs are calculated at the correct rate of pay and that there would be direct oversight of leave buy-backs by both the Director of Finance and the Executive Director.

During our review, we found JCMUA's Board adopted new policies and procedures that require the payroll supervisor to provide the available leave balance and the rate of pay to the Director of Compliance for review before it is submitted to the Executive Director for approval. We reviewed a judgmental sample of leave buy-back payments for five employees and confirmed that the payments were calculated with the employees' pay rate when the leave was earned.

We are aware that *N.J.S.A. 40A:9-10.4* and *N.J.S.A. 40A:9-10.5* limit the pay out of vacation and sick time for municipal authority employees who began employment after May 21, 2010. The scope of our audit and follow-up review concerned the calculation of the leave buy-back program and not any program limitations under those statutes. However, we have verified that the five employees tested were eligible for the leave buy-back program. We do not opine on whether all such employees are eligible to take part in such a program. Although beyond the scope of our audit and follow-up review, we recommend that JCMUA evaluate employee eligibility for its leave buy-back program to ensure compliance with State law.

Reporting Requirements


We provided a draft copy of this report to JCMUA for its review and comment. JCMUA agreed with the conclusions of our review and indicated in its response that it will continue to implement corrective actions to address our recommendations. Their response was considered in preparing our final report and is attached as Appendix A.

By statute, we are required to monitor the implementation of our recommendations. To meet this requirement, JCMUA officials must report periodically to our office advising what additional steps they have taken to address the unresolved issues in this report. JCMUA is required to report on the status of its corrective action plan within nine months of this final report. We will continue to monitor those steps.

We thank the management and staff of JCMUA for the courtesies and cooperation extended to our auditors during this review.

Sincerely,

KEVIN D. WALSH
ACTING STATE COMPTROLLER

By: 
Yvonne Tierney, Director
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c: Jose R. Cunha, Executive Director
John D. Folk, Director of Finance
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February 8, 2021

Via Electronic Mail and First Class Mail

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Re: Follow-up Report – Jersey City Municipal Utilities Authority: Selected Fiscal and Operating Practices

Dear Director Tierney:

On behalf of the Jersey City Municipal Utilities Authority (the “JCMUA”), we are in receipt of and have reviewed the draft “Follow-up Report – Jersey City Municipal Utilities Authority: Selected Fiscal and Operating Practices”, dated January 2021 (the “Draft Report”), prepared by the Office of the State Comptroller (“OSC”). In that Draft Report, the OSC acknowledges the significant progress made by the JCMUA in implementing the recommendations set forth in the OSC’s initial audit report. Thank you for recognizing the efforts of the JCMUA with respect to addressing the OSC’s recommendations. We offer the following responses and comments to the remaining matters addressed in the Draft Report as either “Not Implemented” or “Partially Implemented”.

Recommendation 4 – Establish policies and procedures that include adequate monitoring of bulk-water consumption and billings to ensure that these customers are billed in accordance with the terms of their agreements in a timely manner.

By Resolution No. 3/19/18, dated March 28, 2019, and Resolution No. 9/19/18, dated September 26, 2019, the JCMUA adopted procedures to address these monitoring concerns. Those procedures include, among other things, regular meetings with purchasers of bulk water to confirm compliance with their respective agreements. The JCMUA will ensure those procedures are followed and will ensure strict compliance with all bulk-water sale agreements. In particular, the JCMUA will closely scrutinize reporting of bulk water sales by its contract operator in an effort to avoid any future errors.

Recommendation 5 – Develop policies and procedures to perform adequate monitoring and timely oversight of the monthly zero-consumption and consecutive estimates reports to ensure appropriate investigation and timely resolution of the issues for any meters requiring follow-up action.

By Resolution No. 3/19/18, dated March 28, 2019 and Resolution No. 9/19/18, dated September 26, 2019, the JCMUA adopted procedures to address these monitoring and oversight concerns. The JCMUA will ensure those procedures are strictly followed going forward and that an adequate record is kept of action items and the follow-up to same. The JCMUA will closely review all reports prepared by its contract operator and will ensure prompt follow-up on any actions needed in this regard.

Recommendation 6 – Establish and implement policies and procedures that provide appropriate management oversight of the procurement, bidding, evaluation, and contract award process. This process should also include specific measures to ensure compliance with the appropriate laws and regulations, including Local Public Contracts Law, pertaining to the award and modification of contracts.

The JCMUA will ensure that all of its approved policies and procedures regarding procurement, bidding, evaluation and contract awards are strictly adhered to.

On behalf of the JCMUA, we thank the OSC for its diligence in its auditing procedures. As noted in the Draft Report, the JCMUA has made significant progress in implementing all of the recommendations contained in the OSC's initial audit report and we look forward to following up with the OSC in the near future to confirm complete implementation of those recommendations.

If you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,



John D. Folk
Director of Finance

Cc: (all via electronic mail)
Michael McCoy, Office of the State Comptroller
Hon. Maureen Hulings, Chair, JCMUA
Hon. Board Members, JCMUA
Jose R. Cunha, Executive Director
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