

# OFFICE OF THE NASSAU COUNTY COMPTROLLER



## Audit Follow-Up

**Limited Review of the Nassau County  
Department of Public Works  
Calculation of Charges and Fees for Out of  
District Sewer Connections**

*Original Report Dated: September 24, 2018*

*December 17, 2019*

**JACK SCHNIRMAN  
COMPTROLLER**

# OFFICE OF THE NASSAU COUNTY COMPTROLLER

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This report is also available on our website at: <https://www.nassaucountyny.gov/Audits>



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**Hon. Jack Schnirman**  
*Nassau County Comptroller*

December 17, 2019

Dear Nassau County Taxpayers:

From day one, a key priority for my Office continues to be our focus on conducting audits that achieve results.

That's why in 2018, our team implemented a new policy establishing a follow-up review of our audits. Along with providing an update and making it accessible for taxpayers, this new follow-up procedure will help us better ensure that the audit's recommendations are implemented, further increasing efficiency and accountability within our County government.

This process is not about playing "gotcha" with our audits; it's about real work getting done, focused on outcomes and results for our taxpayers.

This report provides a follow-up to the *Limited Review of the Nassau County Department of Public Works Calculation of Charges and Fees for Out of District Sewer Connections*, which was released in September of 2018. I encourage you to read the original audit and this follow-up report to evaluate both the work of this Office and the Nassau County Department of Public Works' implementation of the corrective actions recommended by our Office. All audits are posted on our website, at [www.nassaucountyny.gov/Audits](http://www.nassaucountyny.gov/Audits).

Please feel free to reach out to our *Report It Reform It* tipline at [ReportItReformIt@nassaucountyny.gov](mailto:ReportItReformIt@nassaucountyny.gov) with any suggestions or questions that you might have.

Sincerely,

Honorable Jack Schnirman  
Nassau County Comptroller

## EXECUTIVE SUMMARY

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### **INTRODUCTION**

On September 24, 2018 the Nassau County Comptroller's Office released an audit of the Nassau County Department of Public Works Calculation of Charges and Fees for Out of District Sewer Connections. The audit included a review of Out of District Sewer Connection Agreements approved by the Legislature from 2014 to September 24, 2018. The objective of the review was to perform an independent evaluation of the methodology used in the determination and calculation of sewer connection fees, permit fees and related charges.

A copy of the this report, *Limited Review of the Nassau County Department of Public Works Calculation of Charges and Fees for Out of District Sewer Connections* can be found online at the Comptroller's website ([Part 1](#) and [Part 2](#)).<sup>1</sup> There is also a one-page Audit Report Overview available to view [here](#).

### **Auditor Assessment of Progress Objectives and Methodology**

Under a new policy implemented in 2018, the Comptroller's Office conducts a follow-up review of audits to ensure that the recommendations made are being implemented. Working with the Nassau County Department of Public Works and with limited follow-up analysis performed by the Auditors, we have prepared this status report.

- **The audit of DPW's Out of District Sewer Connection Charges contained 7 audit findings, with a total of 17 recommendations.**
- **The recommendation to adopt a consistent valuation policy for calculating Equalization Charges for Out of District sewer agreements has been implemented as the Nassau County Legislature approved a new valuation policy on November 25, 2019. Two related recommendations were also implemented.**
- **Four recommendations have not been implemented related to proper billing of usage charges under the newly adopted valuation policy and the need for more transparency in the accounting for Equalization Charges in the County's general ledger.**
- **The remaining 10 recommendations are in the process of being implemented, which illustrates the Department of Public Works is working towards strengthening its internal controls, to improve the department's efficiency and decrease the risk for fraud, waste and abuse.**

We commend the Department of Public Works for making positive strides toward implementing our recommendations and thank their staff for the courtesy extended to our Office during this review.

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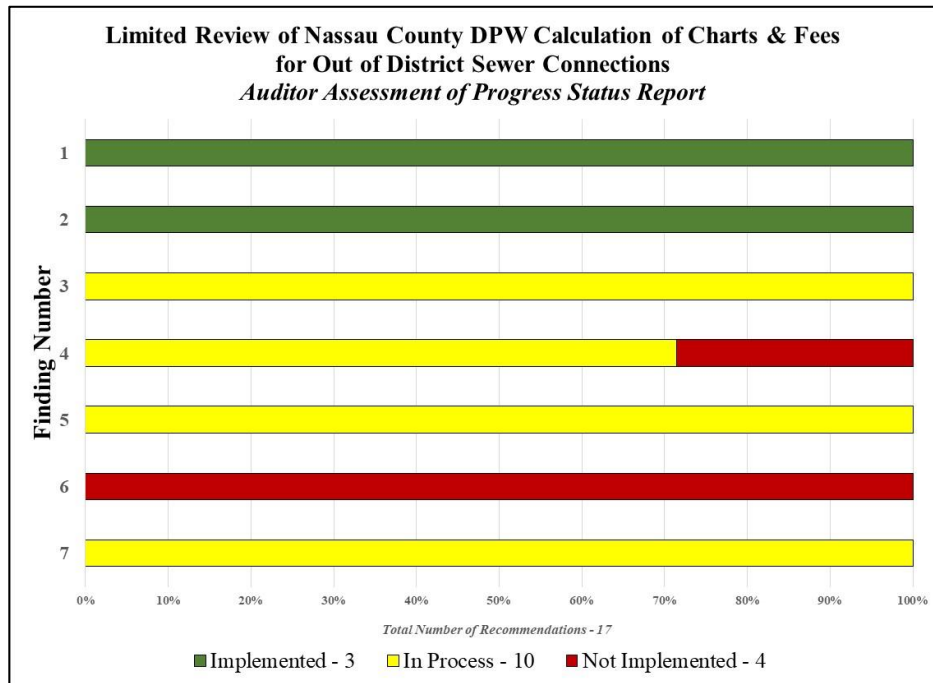
<sup>1</sup> [September 24, 2018: Limited Review of the Nassau County Department of Public Works Calculation of Charges and Fees for Out of District Sewer Connection](#)  
[Appendix B: Limited Review of the Nassau County Department of Public Works Calculation of Charges and Fees for Out of District Sewer Connections](#)  
[Report Overview: Limited Review of Nassau County DPW Calculation of Charges and Fees for Out of District Sewer Connections](#)

## EXECUTIVE SUMMARY

### Summary of Department of Public Works' Implementation of Audit Recommendations

Based on conversations with DPW and the limited follow-up analysis performed by the Auditors, each recommendation has been assessed by the Auditors as either Implemented (**Green**), In Process (**Yellow**), or Not Implemented (**Red**). Exhibit I & II below provide summaries of the Auditors' Follow-Up Assessment of Progress for each finding's recommendation.

#### Exhibit I



#### Exhibit II

Audit Follow-Up				
Limited Review of the Nassau County Department of Public Works Calculation of Charges and Fees for Out of District Sewer Connections				
Summary of Department Implementation of Audit Recommendations				
		Implemented	In Process	Not Implemented
Finding #	# Recommendations	<span style="color: green;">●</span>	<span style="color: yellow;">●</span>	<span style="color: red;">●</span>
1	2	2	0	0
2	1	1	0	0
3	2	0	2	0
4	7	0	5	2
5	1	0	1	0
6	2	0	0	2
7	2	0	2	0
<b>Totals</b>	<b>17</b>	<b>3</b>	<b>10</b>	<b>4</b>
<b>Stages of Completion</b>		<b>17.6%</b>	<b>58.8%</b>	<b>23.5%</b>

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## **INTRODUCTION**

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### **Summary of Original Report Findings and Recommendations:**

The Nassau County Charter Section 1234 allows individuals or corporations not located within a County sewage collection district (“Out of District”) to contract with the County to dispose of sewage originating on such property into county sewage facilities. The contracts include certain fees and charges. One such charge is called an Equalization Charge imposed as a proportional “catch-up” contribution by the contracting entity to connect to existing County sewer infrastructure which was previously paid for by the taxpayers. The Department of Public Works (“DPW”) estimated there were 16 known agreements for Out of District and/or Out of County sewer connections with municipalities and private entities.

### **Major Findings of the Original Report**

The major findings of the original report included:

- The largest charge/fee associated with Out of District sewer connections, the “Equalization Charge,” is negotiated by DPW and the developer, using a convoluted formula. DPW has used differing methods to determine the property values used to calculate Equalization Charges. Depending upon the method chosen, developers can save thousands and possibly millions of dollars at taxpayers’ expense.
- At the 10/19/15 General Meeting of the Nassau County Legislature, two Out of District sewer contracts were approved which used two differing methods to calculate Equalization Charges.
- DPW did not always follow County ordinance, for example agreeing to allow a developer to provide site inspections.
- Contract terms were not consistent throughout Out of District contracts.

### **Major Recommendations of the Original Report**

The major recommendations of the original report included:

The Legislature should adopt a consistent valuation policy for calculating Equalization Charges for Out of District sewer agreements.

- DPW should cease from individually negotiating Equalization Charges for Out of District sewer agreements.
- DPW should follow all County ordinances and not allow developers to provide their own inspections due to lack of County inspectors.
- All fees and charges related to Out of District sewer charges should be posted clearly on the Nassau County website and DPW should not deviate from established fees and rates.

## INTRODUCTION

### Summary of Assessment of Audit Recommendations

Exhibit III below shows the audit findings and recommendations. The recommendations have been individually color coded to denote the Auditors' status assessment of each recommendation: Implemented (**Green**), In Process (**Yellow**), or Not Implemented (**Red**).

#### Exhibit III

Summary of Assessment of Audit Recommendations		
#	Audit Finding	Audit Recommendation(s)
1	The Valuation Methodology Chosen by DPW Will Lead to an Estimated \$2.6 Million Less in Sewer Hookup Equalization Fees for the County	<p>a) DPW should adopt a consistent valuation policy for calculating Equalization Charges and have it approved by the Nassau County Legislature, which has the responsibility to set fees.</p> <p>b) The approval of the pending OHEKA Castle contract and any other future contracts, should be delayed until the Legislature has an opportunity to review the difference in the Equalization Charge formula.</p>
2	Negotiations by DPW Led to Disparate Agreements and Inconsistent Charges: OHEKA Castle Would Save \$4.3 Million in Fees by Connecting its Primarily Suffolk County Situated Property to Nassau County Sewers	DPW should cease from negotiating with developers and use one methodology for calculation of the Equalization Charge that has received Legislative approval.
3	The Pending OHEKA Castle Contract Does Not Include the 'Ordinance Required' Per Unit Inspection Fee that the Other Developers were Charged	<p>a) As DPW ordinances require County inspectors to be onsite to protect the County's interest, DPW should ensure that this is done or that the ordinances are changed. Any pending or future contracts should include this language.</p> <p>b) DPW should immediately remedy the lack of an inspection fee before the pending Cold Spring Hills Development, LLC contract for the OHEKA Castle project proceeds.</p>
4	Lack of Approval for Written Procedures Resulted in Varying and Ambiguous Charges	<p>a) DPW management should review and approve written Standard Operating Procedures for sewer connections.</p> <p>b) DPW management should institute financial controls over fee uniformity and collections.</p> <p>c) DPW should use consistent terminology in their contracts and on their website.</p> <p>d) The formula and methodology used to calculate Equalization Charges should be approved by the Legislature and posted on the DPW website.</p> <p>e) DPW should update fees on an ongoing basis in the SOP and website every time there is approval of a DPW fee ordinance.</p> <p>f) The formula and methodology used to calculate the prevailing rate be approved by the Legislature and posted on the DPW website.</p> <p>g) Procedures should be developed to apply usage levels to the prevailing rate to ensure proper calculation and billing for ongoing future usage charges.</p>
5	DPW Did Not Follow the County Ordinance in the Four Contracts Examined and Inconsistently Negotiated Contract Terms	DPW should adhere to the County Legislative approved ordinances for language and terms to be used in the contracts and to treat all developers in a fair and consistent manner.
6	Current Accounting Methods Do Not Segregate Various Out of District Sewer Revenue Receipts	<p>a) DPW should establish a clearly labeled Equalization Charge general ledger account.</p> <p>b) DPW should correctly identify and post future deposits.</p>
7	Inconsistent Contract Clauses Were Used in Out of District Sewer Contracts Approved on the Same Day	<p>DPW's legal representative should:</p> <p>a) consult with the County Attorney to analyze the insurance, termination and additional indemnification clauses under both contracts to determine if the clauses are comparable and adequately protect the County; and</p> <p>b) explain why DPW has an emergency equipment procurement on the first page of a request to the Legislature involving a sewer connection fee.</p>



## AUDITOR FOLLOW-UP ASSESSMENT OF PROGRESS

### Auditor Assessment of Recommendation Implementation Progress

This section provides details on the audit report findings, recommendations, progress reports from the Department of Public Works and the Auditors’ analysis of the recommendation implementation. The recommendation implementation status also includes a color-coded bullet to indicate its progress.

<b>Finding 1 Title</b>	<b>The Valuation Methodology Chosen by DPW Will Lead to an Estimated \$2.6 Million Less in Sewer Hookup Equalization Fees for the County</b>
<b>Finding 1 Recommendations</b>	<p>a) DPW should adopt a consistent Valuation Policy for calculating Equalization Charges and have it approved by the Nassau County Legislature, which has the responsibility to set fees.</p> <p>b) The approval of the pending OHEKA Castle contract and any other future contracts, should be delayed until the Legislature has an opportunity to review the difference in the Equalization Charge formula.</p>
<b>DPW Response to 09/24/18 Report</b>	<p><i>“The Department agrees that a consistent Valuation Policy for calculating Equalization Charges is beneficial. The Department is currently assessing the application of a flat fee methodology, similar to that of Suffolk County as referenced in the audit or a hybrid methodology inclusive of assessed value that would establish the entities cost share of a mature system of building infrastructure and collection system.</i></p> <p><i>Page 3; The Department disagrees with the following statement, "The Equalization formula was not set by the Legislature or codified in the ordinance which enabled DPW to create the Equalization Charge ." It should be noted that the Legislative approval occurred when each Out of District Agreement was reviewed and approved by the Office of the County Attorney, authorized by the Office of the County Executive and approved by the County Legislature.</i></p> <p><i>Page 4; The following statement is misleading "DPW could not provide comparable GIS maps for all the properties for the same time period" and as discussed at the exit interview should be modified to indicate that the GIS data could not be recreated because the data on the system is now only showing the current year assessment data. ”</i></p>
<b>Auditors’ Follow-Up Comments</b>	We are pleased that DPW agrees with our recommendation that DPW adopt a consistent Valuation Policy for calculating Equalization Charges. We encourage them to complete their assessment of the new

**AUDITOR FOLLOW-UP ASSESSMENT OF PROGRESS**

	<p>methodology and to have the final decision approved by the Nassau County Legislature.</p> <p>The response does not address recommendation b) “We reiterate that DPW should contact the Legislature to ensure the approval of the pending OHEKA Castle contract, and any other pending or future contracts, be delayed until the Legislature has an opportunity to review the difference in the Equalization Charge formula.”</p> <p>With regard to DPW’s disagreement with the statement on page 3, “The Equalization formula was not set by the Legislature or codified in the ordinances which enabled DPW to create the Equalization Charge,” the Legislature did not approve a standard formula. The charges may have effectively been approved by the Legislature through approval of the contracts. However, DPW did not clearly disclose to the Legislature that the two contracts submitted together for approval on the same day, used two different formulas to calculate the same charges. We reviewed the Full Legislative Meeting and Rules Committee Meeting minutes for that day, noting that there was no mention about the formulas used to calculate the Equalization Charges or that they were different. This includes our review of the Rules Committee minutes that were incorrectly dated October 19, 2014 instead of October 19, 2015.</p> <p>We do not agree with DPW that the sentence stating, “DPW could not provide comparable GIS maps,” was misleading. The Auditors had requested GIS maps dated as of the time of contract talks, which DPW could not provide. To satisfy DPW’s concern, we adjusted the sentence as discussed and agreed upon during the Exit Conference. The sentence now reads: “DPW did not have comparable GIS maps for all of the properties for the same time period.”</p>
<p><b>DPW Response to Audit Follow-Up</b></p>	<p>a) <i>“The Department proposed a new Valuation Policy for County Administration and Office of Management &amp; Budget review and approval. Once approvals are obtained, it will be presented to the Legislature for approval. The Department is expecting to obtain Legislative approval by 3rd Quarter, 2019.”</i></p> <p>b) <i>“Until the Valuation Policy is finalized and approved by the Legislature, no contracts will be presented.”</i></p>
<p><b>Post Audit Follow-Up Analysis</b></p>	<p>1.a) Auditors requested and were provided with a copy of the proposed Valuation Policy, dated May 9, 2019.</p> <p>1.b) Auditors requested the status of the OHEKA Castle contract and were provided with an image of the contract routing screen that showed the contract was rejected by the Legislature on April 11, 2018.</p>

## AUDITOR FOLLOW-UP ASSESSMENT OF PROGRESS

<b>Auditor Assessment of Progress</b>	<p>● 1.a) On May 31, 2019, DPW provided Field Audit with a copy of the proposed Valuation Policy dated May 9, 2019.</p> <p>An Ordinance to amend Section 9 of Ordinance No. 266-1985, as amended by Ordinance Nos. 100-C-2001, 128-2006 and 74-2014, to include an Out of District Sewer Equalization Fee to be charged by the DPW was presented to and approved by the Nassau County Legislature on November 25, 2019.</p> <p>● 1.b) The OHEKA contract was rejected by the Legislature on April 11, 2018. Regarding future contracts, a new Valuation Policy was adopted by the Nassau County Legislature on November 25, 2019.</p>
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<b>Finding 2 Title</b>	<b>Negotiations by DPW Led to Disparate Agreements and Inconsistent Charges: OHEKA Castle Would Save \$4.3 Million in Fees by Connecting its Primarily Suffolk County Situated Property to Nassau County Sewers</b>
<b>Finding 2 Recommendations</b>	DPW should cease from negotiating with developers and use one methodology for calculation of the Equalization Charge that has received Legislative approval.
<b>DPW Response to 09/24/18 Report</b>	<i>“The current agreements were negotiated on a case by case basis and circumstances of the individual projects caused adjustments to the calculated formula amount. However, all agreements were authorized by the County Executive and approved by the Legislature contrary to the report finding which states that there is a lack of disclosure or lack of Legislative and County approvals.”</i>
<b>Auditors’ Follow-Up Comments</b>	<p>We stand behind our recommendation and reiterate that DPW cease from negotiating the Equalization Charge with developers and use one methodology approved by the Legislature.</p> <p>DPW did not present a standard Equalization Charge formula to be approved by the Legislature, nor was it disclosed on the DPW website, making it possible for DPW to change the formula and effectively negotiate the rates used in each contract.</p>
<b>DPW Response to Audit Follow-Up</b>	<i>“Until the Valuation Policy is finalized and approved by the Legislature, no contracts will be negotiated. Contrary to the report finding, prior executed contracts have been approved at the County Executive and Legislative levels.”</i>

**AUDITOR FOLLOW-UP ASSESSMENT OF PROGRESS**

<b>Post Audit Follow-Up Analysis</b>	Auditors requested and were provided with a copy of the proposed Valuation Policy, dated May 9, 2019.
<b>Auditor Assessment of Progress</b>	<p>● The proposed Valuation Policy was approved by the Deputy County Executive on May 10, 2019. An Ordinance to amend Section 9 to include an Out of District Sewer Equalization Fee to be charged by the DPW was presented to and approved by the Nassau County Legislature on November 25, 2019.</p> <p>The adoption and application of a fully disclosed and consistent Valuation Policy should resolve inconsistent charges and questions as to actual approval.</p>

<b>Finding 3 Title</b>	<b>The Pending OHEKA Castle Contract Does Not Include the ‘Ordinance Required’ Per Unit Inspection Fee that the Other Developers were Charged</b>
<b>Finding 3 Recommendations</b>	<p>a) As DPW ordinances require County inspectors to be onsite to protect the County’s interest, DPW should ensure that this is done or that the ordinances are changed. Any pending or future contracts should include this language.</p> <p>b) DPW should immediately remedy the lack of an inspection fee before the pending Cold Spring Hills Development, LLC contract for the OHEKA Castle project proceeds.</p>

**AUDITOR FOLLOW-UP ASSESSMENT OF PROGRESS**

<b>DPW Response to 09/24/18 Report</b>	<p><i>“The OHEKA agreement was drafted but not approved by the legislature although the revenue was collected the contract was not executed. As discussed, current agreements were negotiated on a case by case basis and circumstances of the individual projects caused adjustments to the calculated formula amount. The standard inspection fee that was waived of \$399 per unit for 191 totaling \$76,209. The fee was waived according to agreed terms that the developer's engineer agreed to perform onsite inspections upon project completion and provide a professional engineer seal to certify the inspections, eliminating the need for the County to perform the work and hence charge for the inspection. As Departmental personnel continues to diminish the Department must seek alternative methods to carry its mission or eliminate functions. Along with the possibility of establishing a new flat rate or other methods the Department is also assessing whether outsourcing inspections and or other functions as well as expedited services charges can be assessed or credited as a fixed formula is viable. Therefore, the Department agrees with the recommendation and will seek to change the ordinance to allow the flexibility.”</i></p>
<b>Auditors' Follow-Up Comments</b>	<p>We stand by our recommendations and reiterate the need for DPW to require County inspectors to be onsite, per the current ordinance, to protect the County's interests.</p> <p>The pending OHEKA Castle contract does not include the \$76,209 Inspection Fee required by County ordinance that the other developers had in their contracts. Allowing OHEKA's engineer to inspect the sewer connections lacks independence.</p> <p>DPW's response explains that DPW's engineering staff has diminished and they must seek alternative methods to carry on its mission. As an alternative to outsourcing, the Administration should consider that the lost revenue of \$76,209 from this one inspection fee would more than pay for one full time County inspector. Not only would this employee provide independent assurance of the connection, he/she would also be able to absorb other County work duties.</p>

**AUDITOR FOLLOW-UP ASSESSMENT OF PROGRESS**

<b>DPW Response to Audit Follow-Up</b>	<p>a) <i>“The Department continues to explore the possibility of establishing a new flat rate or other methods for the billing of inspection services. The Department is considering other multiple options such as outsourcing inspections and or other functions, offering expediated services fees or offering credit as a fixed formula. Final decisions will be reviewed with County Administration and the Office of Management &amp; Budget for approvals. Once approved, the existing ordinance will be amended and presented to the Legislature for their approval. The Department anticipates formal decisions on the various items be considered by year end, 2019.”</i></p> <p>b) <i>“The Department will follow current ordinances until amended.”</i></p>
<b>Post Audit Follow-Up Analysis</b>	<p>Auditors requested the rationale for why DPW is considering allowing contractors to inspect their own property. DPW responded that <i>“According to the current SOP, contractors have the option to inspect for a reduced fee compared to if DPW performs inspections,”</i> which did not answer the question.</p> <p>Auditors requested clarification as to what DPW meant in b) above as it relates to the OHEKA contract. DPW responded that <i>“b) above does not relate to the OHEKA contract since the contract was never implemented; it was rejected by the Legislature.”</i></p>
<b>Auditor Assessment of Progress</b>	<ul style="list-style-type: none"> <li>● 3.a) While DPW continues to consider multiple options, we reiterate and stress the need for County inspectors to be onsite, per the current ordinance, to protect the County’s interests. We encourage DPW to finalize its decision and obtain Legislative approval for any amendment, at such time.</li> <li>● 3.b) A contract routing screen indicated that the OHEKA Castle contract was rejected by the Legislature on April 11, 2018. Any revised or future contracts should include Inspection Fees as required by County ordinance.</li> </ul>

<b>Finding 4 Title</b>	<b>Lack of Approval for Written Procedures Resulted in Varying and Ambiguous Charges</b>
<b>Finding 4 Recommendations</b>	<p>a) DPW management should review and approve written Standard Operating Procedures for sewer connections.</p> <p>b) DPW management should institute financial controls over fee uniformity and collections.</p>

**AUDITOR FOLLOW-UP ASSESSMENT OF PROGRESS**

	<p>c) DPW should use consistent terminology in their contracts and on their website.</p> <p>d) The formula and methodology used to calculate Equalization Charges should be approved by the Legislature and posted on the DPW website.</p> <p>e) DPW should update fees on an ongoing basis in the SOP and website every time there is approval of a DPW fee ordinance.</p> <p>f) The formula and methodology used to calculate the prevailing rate be approved by the Legislature and posted on the DPW website.</p> <p>g) Procedures should be developed to apply usage levels to the prevailing rate to ensure proper calculation and billing for ongoing future usage charges.</p>
<p><b>DPW Response to 09/24/18 Report</b></p>	<p><i>“The Department agrees with the recommendations of the audit findings that will review and approve written Standard Operating Procedures for out of district sewer connections. As stated previously the lack of a written procedure was associated with the fact that each Out of District Agreement was negotiated individually.</i></p> <p><i>The Department agrees that a consistent Valuation Policy for calculating Equalization Charges is beneficial.</i></p> <p><i>The Department agrees that the County website should be consistent with terminology, formulas, calculations, approved fee ordinances as it relates out of district sewer connections and be reconciled and maintained for future changes.</i></p> <p><i>The Department currently use the NIFS accounts receivable module to send out bills and we will continue to do so.”</i></p>
<p><b>Auditors’ Follow-Up Comments</b></p>	<p>We are pleased DPW agrees with recommendations a) through f), and encourage them to:</p> <ul style="list-style-type: none"> <li>• review and approve written standard operating procedures for out of district sewer connections;</li> <li>• apply a consistent Valuation Policy for calculating Equalization Charges; and</li> <li>• ensure the website contains consistent terminology, formulas, calculations, approved fee ordinances and that they are reconciled and maintained for future changes.</li> </ul> <p>Sewer usage is absorbed in the Sewer District’s levy for In-District sewer connections and is billed on an equitable basis through property</p>

**AUDITOR FOLLOW-UP ASSESSMENT OF PROGRESS**

	<p>taxes based on assessed value. Out of District properties are not part of that calculation and instead are to be billed separately for actual usage. Therefore, we reiterate the need, in recommendation (g), to develop procedures for the billing of wastewater service charges (for out of district sewer connections) to ensure proper calculation and billing for ongoing future usage charges.</p> <p>The County has the ability to add properties (located within the County, but not the Sewer District) to the Zone of Assessment for the Sewer District enabling the property to participate in the tax levy and not be billed separately. Where applicable, we encourage DPW to invoke a contract’s “Inclusion” clause (quoted below), to minimize the need for separate billing.</p> <p><u>“Inclusion in the Countywide Sewer and Stormwater Resources District</u></p> <p>The County reserves the right to include the properties within the Project in a zone of assessment in the Countywide Sewer and Stormwater Resources District. Once the properties within the Project are included in a Zone of Assessment and the sewer charges are paid pursuant to a tax levy the Annual Service Fee will be terminated by the County.”<sup>2</sup></p>
<p><b>DPW Response to Audit Follow-Up</b></p>	<p>a) <i>“The Department has reviewed written Standard Operating Procedures for out of district sewer connections.”</i></p> <p>b) <i>“The Department has drafted a new methodology for implementation under review with the Office of Management and Budget subject to all required approvals.”</i></p> <p>c) <i>“Agreed. Once the proposed a new Valuation Policy is approved by for County Administration and Office of Management &amp; Budget along with approval of the County Legislature the department and County Attorney’s office will ensure that use consistent terminology in all contracts and on the website.”</i></p> <p>d) <i>“Once approvals are obtained, the Department will use approved formulas and methodologies.”</i></p> <p>e) <i>“Agreed. As fees are updated, the SOPs will be revised. The change in SOPs will be documented and dated.”</i></p>

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<sup>2</sup> This clause is typically found in contracts where the property is within the county, but not within the Sewer District. An example can be found in Section 9 of the Glen Harbor Partners, LLC contract.



**AUDITOR FOLLOW-UP ASSESSMENT OF PROGRESS**

	<p>f) <i>“The Department has proposed a new Valuation Policy for County Administration and Office of Management &amp; Budget review and approval. Once approvals are obtained, it will be presented to the Legislature for approval. The Departments is expecting to obtain Legislative approval by 3rd Quarter, 2019.”</i></p> <p>g) <i>“Necessary procedures will be applied relative to the new Valuation Policy.”</i></p>
<b>Post Audit Follow-Up Analysis</b>	<p>Auditors requested copies of the three documents referred to in DPW’s Follow-Up Response (Standard Operating Procedures for Out of District Sewer Connections, Draft New Methodology for Implementation and the Proposed Valuation Policy). DPW only provided the Proposed Valuation Policy. As for the other two, DPW responded that they would be shared once finalized.</p>
<b>Auditor Assessment of Progress</b>	<ul style="list-style-type: none"> <li>● 4.a) and 4.b) DPW indicated that it reviewed written Standard Operating Procedures and drafted a new methodology but an updated version on neither has been provided to Audit.</li> <li>● 4.c) and 4.d) DPW indicated that once the proposed Valuation Policy is approved, DPW and the County Attorney's office will ensure consistent terminology in all contracts and on the website; and the DPW will use approved formulas and methodologies.</li> <li>● 4.e) Progress cannot be determined without a current SOP, however DPW noted they agree with the recommendation and they will revise SOP’s as fees are updated.</li> <li>● 4.f) The Ordinance, that includes the Valuation Policy mentioned above, approved by the Nassau County Legislature on November 25, 2019, does not address procedures necessary to ensure that properties not listed on the tax roll are charged at appropriate usage levels at the correct prevailing rate for future annual usage by Out of District Nassau County or Suffolk County properties.</li> <li>● 4.g) DPW stated that necessary procedures will be applied relative to the Valuation Policy. The newly adopted valuation policy does not address this recommendation. We reiterate procedures should be developed to apply usage levels to the prevailing rate to ensure proper calculation and billing for ongoing future usage charges.</li> </ul>

**AUDITOR FOLLOW-UP ASSESSMENT OF PROGRESS**

<b>Finding 5 Title</b>	<b>DPW Did Not Follow the County Ordinance in the Four Contracts Examined and Inconsistently Negotiated Contract Terms</b>
<b>Finding 5 Recommendations</b>	DPW should adhere to the County Legislative approved ordinances for language and terms to be used in the contracts and to treat all developers in a fair and consistent manner.
<b>DPW Response to 09/24/18 Report</b>	<i>“Department agrees with the recommendation to draft agreements in a consistent manner and language so that the County Legislative approved ordinances for language and terms in the contracts and apply fees consistently.”</i>
<b>Auditors’ Follow-Up Comments</b>	We concur with DPW’s response that they accept our recommendation to adhere to the County Legislative approved ordinances for language and contract terms and to apply terms consistently.
<b>DPW Response to Audit Follow-Up</b>	<i>“Effective immediately, any new contracts will consistently follow approved ordinances.”</i>
<b>Post Audit Follow-Up Analysis</b>	<p>Auditors requested whether any new contracts were pending or in negotiations and DPW responded that there is one contract.</p> <p>Auditors asked if a new template for drafting contracts is being used to ensure the terms are the same for all new contracts, and if yes to please provide a copy. DPW responded that “Once the Valuation Policy is finalized and approved by the Legislature, the County Attorney’s Office will draft a new template to be used consistently.”</p>
<b>Auditor Assessment of Progress</b>	<p>● To comply with our recommendation, we were informed that a new template will be drafted when the proposed Valuation Policy is approved by the Legislature. The new Valuation Policy was approved by the Legislature on November 25, 2019. We encourage DPW to draft agreements to be consistent with County Legislative approved ordinances in the form of language, terms and fees.</p>

**AUDITOR FOLLOW-UP ASSESSMENT OF PROGRESS**

<b>Finding 6 Title</b>	<b>Current Accounting Methods Do Not Segregate Various Out of District Sewer Revenue Receipts</b>
<b>Finding 6 Recommendations</b>	<p>a) DPW should establish a clearly labeled Equalization Charge general ledger account.</p> <p>b) DPW should correctly identify and post future deposits.</p>
<b>DPW Response to 09/24/18 Report</b>	<p><i>“The Comptroller's Office by Charter is the keeper of the chart of accounts, therefore, any change can be requested by DPW but must be executed by the Comptroller's Office. The Department consistently used code R0813 CONTRACTUAL SERVICES to book out of district revenues. OHEKA was booked in R0801 MISC RECEIPTS (Miscellaneous receipts) and then reversed because the agreement was never executed, but the check was cashed. Once the Department establishes a flat fee methodology, similar to that of Suffolk County as referenced in the audit or a hybrid methodology inclusive of assessed value so that it can be applied consistently and uniformly. This new structure may include different components at which time the Department want to capture separately and may ask the Comptroller's office to establish new coding structure to capture the revenue separately, other than being booked to code R0813 CONTRACTUAL SERVICES.</i></p> <p><i>The recommendation requesting that the Department reclassify prior postings to these newly established accounts is not feasible and the Department does not agree with the recommendation. The prior postings are part of the audited results of the CAFR and cannot be changed once the fiscal year is closed. Once new coding is established the Department will establish policies and procedures to book receipts consistently to the new codes.”</i></p>
<b>Auditors' Follow-Up Comments</b>	<p>We reiterate the need for DPW to establish a clearly labeled Equalization Charge general ledger account; and correctly identify and post future deposits. This would require the Department of Public Works to submit a request to the Comptroller's Office.</p> <p>We disagree with DPW's statement that they “consistently used code R0813 CONTRACTUAL SERVICES to book out of district revenues.” Had DPW consistently used the code, all 4 payments received from separate developers would have been posted to Contractual Services. Instead, two of the four were posted inconsistently to Miscellaneous Receipts and two were posted to Contractual Services.</p>

## AUDITOR FOLLOW-UP ASSESSMENT OF PROGRESS

	<p>As agreed to at the Exit Conference, the recommendation to reclassify prior postings to the new account has been removed from the report. We are pleased that once new coding is established, DPW will create policies and procedures to book receipts consistently to those new codes.</p>
<b>DPW Response to Audit Follow-Up</b>	<p><i>“The Department will continue to consistently use the code - R0813 CONTRACTUAL SERVICES to book out of district revenues and correctly identify and post future deposits.”</i></p>
<b>Post Audit Follow-Up Analysis</b>	<p>Auditors asked DPW to explain the rationale for not taking steps to submit a request to the Accounting Division of the Comptroller’s Office to obtain a new general ledger code to separate Out of District revenues. DPW responded, “Staff was retrained to ensure that code R0813 CONTRACTUAL SERVICES will be used.”</p> <p>DPW’s current accounting methods do not segregate various Out of District Sewer revenue receipts and do not establish a clearly labeled Equalization Charge general ledger account to correctly identify and post future deposits. This would only require that DPW submit a request for the new general ledger account to the Comptroller’s Office.</p>
<b>Auditor Assessment of Progress</b>	<p>● 6.a) and 6.b) DPW has not implemented the recommendations.</p> <p>In order for charges to be easily identified and accurately apportioned, the Equalization Charges received need to be posted to the same account. The account title needs to be clearly labeled to identify <b>Out of District Equalization Charges</b> and <u>accounted for separately from other DPW fees</u> in order to ensure that the Equalization Charges that have not been paid in full will be collected appropriately.</p>

**AUDITOR FOLLOW-UP ASSESSMENT OF PROGRESS**

<b>Finding 7 Title</b>	<b>Inconsistent Contract Clauses Were Used in Out of District Sewer Contracts Approved on the Same Day</b>
<b>Finding 7 Recommendations</b>	<p>DPW’s legal representative should:</p> <p>a) consult with the County Attorney to analyze the insurance, termination and additional indemnification clauses under both contracts to determine if the clauses are comparable and adequately protect the County; and</p> <p>b) explain why DPW has an emergency equipment procurement on the first page of a request to the Legislature involving a sewer connection fee.</p>
<b>DPW Response to 09/24/18 Report</b>	<p><i>“The Department agrees with the recommendation that insurance, termination and additional indemnification clauses under all contracts are comparable and consistent to adequately protect the County. We will work with County Attorney to avoid the inclusion of language that does not pertain to agreement at hand, as cited in the audit. Additionally, DPW cannot explain why there is a reference in the resolution related to Emergency Equipment. DPW does not draft the resolution but we believe that the inclusion was a typo left over from a previous project.”</i></p>
<b>Auditor’s Follow-Up Comments</b>	<p>We are pleased that DPW is in agreement with our recommendation; and that they will consult with the County Attorney to analyze the insurance, termination and additional indemnification clauses to determine if the contract clauses are comparable and adequately protect the County.</p> <p>We appreciate DPW’s efforts to explain why an emergency equipment procurement request would be included in a sewer connection contract and concur with their efforts to work with the County Attorney to avoid the inclusion of unrelated language into the Legislative records that does not pertain to the contracts being voted upon.</p>
<b>DPW Response to Audit Follow-Up</b>	<p>a) <i>“In collaboration with the County Attorney's office and to adequately protect the County's interests, the Department will ensure the comparability of insurance, termination and additional indemnification clauses under all contracts.”</i></p> <p>b) <i>“DPW will be more mindful and avoid the inclusion of language that does not pertain to agreement at hand.”</i></p>

## AUDITOR FOLLOW-UP ASSESSMENT OF PROGRESS

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<b>Post Audit Follow-Up Analysis</b>	Auditors asked DPW if there is contract template that will now ensure the comparability of insurance, termination and additional indemnification clauses under all contracts, and if so, to provide a copy. DPW responded that “The County Attorney’s Office will draft a new template to be used consistently.”
<b>Auditor Assessment of Progress</b>	<p>● 7.a) We encourage DPW and the County Attorney to create and finalize a new contract template, mentioned in the recap to Finding #5, to be utilized to ensure the consistency and comparability of insurance, termination and additional indemnification clauses under all contracts.</p> <p>DPW agreed to avoid including language in a contract that does not pertain to the agreement at hand.</p> <p>● 7.b) Although DPW could not explain why there is a reference in the resolution related to Emergency Equipment, DPW agreed to avoid including language in a contract that does not pertain to the agreement at hand.</p>

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