



CITY OF NEW YORK  
**OFFICE OF THE COMPTROLLER**  
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DEPUTY COMPTROLLER FOR  
AUDIT

BUREAU OF AUDIT

March 17, 2021

Commissioner Vincent Sapienza  
New York City Department of Environmental Protection  
59-17 Junction Boulevard, 19<sup>th</sup> Floor  
Corona, NY 11373

**Re: Final Letter Report on the New York City Department of Environmental Protection's  
Billing of City-Owned Properties for Water and Sewer Usage  
(Audit Number SR19-103AL)**

Dear Commissioner Sapienza:

This Final Letter Report concerns the New York City (City) Comptroller's audit to determine whether the New York City Department of Environmental Protection (DEP) is properly billing and collecting water and sewer usage fees from City-owned properties.

### **Background**

DEP delivers one billion gallons of drinking water on average each day to New York City's 8.4 million residents, 200,000 businesses, and thousands of schools and other institutions. DEP maintains the City's water supply system, which includes 19 reservoirs and three controlled lakes situated north and west of the City. Additionally, this upstate water system provides about 110 million gallons of drinking water each day to approximately one million residents in the counties of Westchester, Putnam, Orange, and Ulster. DEP also protects the City's environment by treating an average of 1.3 billion gallons of wastewater per day at 14 water pollution control plants.

DEP is also responsible for reading water meters and charging property owners City fees related to water and sewer usage that are established by the New York City Water Board, an entity created by State law independent of DEP.<sup>1</sup> The revenue DEP collects through water and sewer payments funds the City's water and sewer infrastructure.

City agencies occupy and use thousands of City-owned properties to carry out their responsibilities, and the City pays an annual fee for its own water and sewer usage, as described below. At the behest of the City, in March 2007, Amawalk Consulting Group LLC (Amawalk) prepared a report of City agencies' water and sewer usage, in which it quantified the volume of water

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<sup>1</sup> New York State Public Authorities Law, Article 5, Title 2-A, Section 1045-j, states the "water board shall establish, fix and revise, from time to time, fees, rates, rents or other charges for the use of...the sewerage system or water system."

they consumed.<sup>2</sup> Based on the usage rate reflected in that report, the New York City Water Board, in consultation with Amawalk, established the water and sewer charge for the City for 2007. In each succeeding year, DEP has relied on the Amawalk report's "usage rate" as the City's amount of consumption, and multiplied that by a separate "charge rate" established by the Water Board to determine the amount due from the City.<sup>3</sup>

DEP's Bureau of Customer Services manages 835,000 water and sewer customer accounts, which include 3,428 accounts related to metered City-owned properties. The billing and collection of funds related to these City accounts is the subject of this audit. DEP sends one bill annually to the City's Office of Management and Budget (OMB) for all of the water and sewer charges related to City-owned properties.<sup>4</sup> For Fiscal Year 2019, DEP billed OMB \$113,926,964 for the City's water and sewer usage.

## **Audit Findings**

### *1. DEP Lacks Adequate Policies and Procedures to Ensure That the Correct Parties Are Billed for Charges Where the City Leases Privately-Owned Property*

DEP generally included the eligible City-owned properties located in the City in its annual charge to the City for water and sewer usage in accordance with DEP's policies and procedures, which incorporate the New York City Water Board's *Water and Wastewater Rate Schedule*. However, our audit found that DEP also included in its list of 3,428 metered City-owned accounts a number of properties that were not owned by the City in contravention of guidance from the New York City Water Board and without any established DEP procedures and authority. Specifically, we found that in its list of 3,428 metered City-owned accounts, DEP included 38 properties that the City leased from private owners, and thus charged the City for these accounts. As the City did not own those properties, DEP should have billed their owners—not the City—for their water and sewer usage, in accordance with the New York City Water Board's written policies and procedures, as explained below.

According to the New York City Water Board's *Water and Wastewater Rate Schedule*, which DEP is supposed to follow in billing those responsible for water and sewer charges, "Water and wastewater charges and all unpaid charges are the legal responsibility *of the owner of a property* [emphasis added] receiving water and wastewater service." The Water Board's rate schedule further states that "[t]he owner's responsibility *to pay such charges is not affected by . . . any lease* [emphasis added], license or other arrangement, or any assignment of responsibility for payment of such charges." Thus, under the Water Board's *Water and Wastewater Rate Schedule*, DEP should have billed the property owners for these 38 properties water and sewer usage rather than the City as the lessee.

When we raised this point with DEP officials, they informed us that DEP's practice is to include the charges for water and sewer usage for privately-owned properties leased by City agencies

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<sup>2</sup> Amawalk Consulting Group LLC provides financial and management consulting services to water, wastewater, and storm water utilities, local governments, and other organizations.

<sup>3</sup> The New York City Water Board is responsible for setting the water and sewer rates and must ensure that it is able to fund the entirety of the water and sewer system's operating and capital needs.

<sup>4</sup> Both metered and non-metered City-owned properties are included in the annual City charge. The New York City Housing Authority, Health + Hospitals, and Metropolitan Transportation Authority are charged separately and are not part of this annual charge.

in the annual bill DEP sends to OMB. The officials explained that DEP does not separately bill the owners of these properties to prevent double billing. However, DEP has no written policies and procedures to support its claimed practice of billing the City for the water and sewer usage at the privately-owned properties it leases. Further, DEP produced no legal authority, written legal opinion, or other written justification for its departure from the Water Board's above-quoted instruction that the property owner's responsibility to pay water and sewer charges is "not affected" by "any lease."

Moreover, our review of DEP's billings for all City-owned and leased properties listed on the City's Department of City Planning's website found 517 privately-owned properties leased to the City that were *not* part of the annual City rate but were instead billed to their private owners. DEP officials informed us that some of these properties should have been part of the annual City rate. However, they did not otherwise explain the criteria DEP used to determine which particular privately-owned properties should be billed to the City and which should be billed to the property owners. Accordingly, the existence of these 517 privately-owned properties leased by the City but billed to the private property owners demonstrates (1) that DEP's practices are internally inconsistent, and (2) that DEP's billing the City for the 38 privately-owned properties is not only contrary to the Water Board's written policy but also inconsistent with DEP's own practice.

The lack of an internal written policy supported by appropriate authority and detailed procedures for the proper billing and applicable rates for privately-owned properties leased by the City increases the risk that DEP has been charging and will continue to charge the wrong party for any such property's water and sewage usage. To provide clear, correct, and consistent guidance to its employees and to ensure that its practices are appropriate and authorized, DEP should establish, subject to Water Board approval, a written policy and detailed procedures for billing water and sewer charges where a privately-owned property is being leased to the City.

City agencies enter into lease agreements with private property owners that may include terms delineating the parties' responsibilities for the cost of water and sewer usage. Accordingly, DEP should establish a written policy and specific procedures to ensure that its staff follows a standard and consistent practice in obtaining the relevant information from City agencies in such cases to ensure that water and sewer usage is properly charged and recorded in DEP's billing system. Comptroller's Directive # 1 – *Principles of Internal Control* provides that "[i]nternal control activities help ensure that management's directives are carried out. They are, basically, the policies, procedures, techniques, and mechanisms used to enforce management's direction." Such written policies are necessary to provide consistent direction and clarity to agency staff, particularly to ensure financial accountability when an agency's responsibility includes the collection and safeguarding of City revenue.

## 2. *DEP Improperly Billed the City for 8 Privately-Owned Residential Properties*

The audit additionally found that 216 out of the 3,428 metered City-owned accounts involved properties classified as residential buildings in classes A, B, C, or D, which apply to one-family residences, two-family residences, three- to six-family residences, and elevator apartments, respectively. Through further review, we found entries in DEP's account records indicating changes of ownership from the City to private owners at 18 of those 216 properties, raising the issue of whether DEP had continued to bill the City, potentially incorrectly, for water and sewer usage at properties that appeared to have changed to private ownership.

After we informed DEP of the change of ownership entries in its records as to the 18 above-mentioned properties, the agency reviewed the 18 accounts in question. DEP thereafter provided us with information sufficient to establish that it had properly billed 10 of them. Specifically, DEP informed us that 5 of those 10 accounts involved City-owned properties that DEP properly included in the City rate and that DEP had correctly billed the 5 remaining accounts to the private owners through different accounts and did not include them in its bills to the City. We verified the billing information DEP provided as to the 10 properties using DEP's Browser Customer Information System (BCIS) and verified the property ownership information through the City's Automated City Register Information System (ACRIS) maintained by the Department of Finance.

However, our inquiry confirmed that DEP had incorrectly charged the City, rather than the private owners, for water and sewer usage at the remaining 8 of the 18 above-mentioned accounts. Accordingly, as a result of our audit findings and its own follow-up review, DEP issued bills to the private owners of those eight accounts totaling \$184,830 for water and sewer usage fees for the prior four years.

*3. DEP Improperly Billed Several Other Accounts Identified in a Sample Reviewed as Part of the Audit*

In addition to the above-mentioned audit procedures and findings, we selected a random sample of 780 of the 3,390 City-owned accounts to ensure that they were eligible for inclusion in the City rate for water and sewage use.<sup>5</sup> From that sample we identified 19 questionable accounts that appeared to have had changes of ownership that would have rendered them ineligible for inclusion in DEP's annual charge to the City for water and sewer usage.

After we informed DEP, the agency reviewed the 19 accounts we questioned and provided us with information that enabled us to verify the following: 16 of the 19 accounts were either properly billed or were inactive. However, as to the remaining 3 accounts, DEP's information reflected that it had erroneously billed the City for 2 properties and that it was attempting to collect back-charges from the private owners and that DEP planned to inspect and follow-up as appropriate at the remaining property.

Specifically, DEP informed us that 8 of the 19 accounts involved City-owned properties that DEP properly included in the City rate. We verified that information by checking the relevant records through DEP's BCIS system and ACRIS. In addition, DEP officials explained and provided records showing that it was already billing 6 of the 19 accounts to their private owners under different accounts and had not charged the City for their water and sewer usage following their changes to private ownership. DEP further informed us that 2 of the 19 accounts were inactive.

With respect to the 3 remaining accounts, DEP informed us that an inspection of one property was pending, after which DEP would determine the propriety of the billing. DEP agreed that it had improperly billed the City for water and sewer charges at two properties. In those two cases, as a result of our inquiry and its review, DEP has billed the private owners for up to four years of back payments totaling of \$153,633.

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<sup>5</sup> We selected from a total of 3,390 metered properties based on DEP's list of 3,428 City-owned accounts less the 38 accounts we identified as privately-owned but leased to City agencies, which resulted in a total population of 3,390 metered City-owned properties.

4. *DEP Relies on Old and Unreliable Data to Establish City Usage Rates*

Finally, the audit found that the City's current rate for water and sewer usage is based on a formula that relies on 16-year-old data and has not been updated to reflect changes in City agencies' headcounts, clients served, and operations. Specifically, in its 2007 report, Amawalk used data reflecting the numbers of agency employees, persons served, facilities used, and other relevant information from the 2005 Mayor's Management Report. The company also obtained the numbers of City agency personnel working in leased spaces, by location, from OMB and the Department of Citywide Administration Services (DCAS) as of approximately 2007. Amawalk developed estimates for the City's water and sewer usage using standard assumptions for each type of use of each facility by each agency, and established the formula that the City has used since 2007 to determine its rate for water and sewer charges.<sup>6</sup> We reviewed the 2007 report and the formula used to calculate the City's water and sewer usage and asked DEP officials whether the calculations are updated yearly to reflect the actual numbers of City employees. DEP officials stated that Amawalk has not produced a new usage rate structure since 2007 and confirmed that the figures for the population for each agency have not been updated since 2007.

**Recommendations**

DEP should:

1. Follow the direction of the New York City Water Board's *Water and Wastewater Rate Schedule* and properly charge the property owners for water and sewer usage. DEP should request input from the Water Board and written authorization for any digression from the rules and the Water Board's published rate schedule.

**DEP Response:** "The Comptroller's audit identified thirty-eight properties that are not owned by the City but are billed on the City Rate. The Audit further characterized these accounts as being billed inconsistently with both DEP policy and the Water Board Rate Schedule. As was explained during the audit, water usage for these properties, mostly schools, was already captured in the City Charge, so that billing the private owners based on metered usage would result in double billing. Ensuring that properties are not double-billed is entirely consistent with Water Board and DEP policies. Further, DEP's internal policies are clear cut and transparent regarding public schools; all such properties are consistently and uniformly billed on the City rate, regardless of ownership."

**Auditor Comment:** DEP's response to this recommendation does not directly address the audit's recommendation. In its response, DEP reiterated that the privately-owned properties leased to the City "are captured by the City Charge so that billing the private owners based on metered usage would result in double billing." However, we are not suggesting that DEP should double bill any entity. Rather, our recommendation is for DEP to follow the requirements of the New York City Water Board's *Water and Wastewater Rate Schedule* and properly charge the *property owners* for water and sewer usage. Any

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<sup>6</sup> Amawalk's formula for calculating water and sewer usage is based on the total number of students, inmates, visitors, and City employees less the number of employees working in a leased property.

deviation from this requirement, even to prevent the possibility of double billing, should be with input and written authorization from the New York City Water Board.

Moreover, although DEP states that its internal policies are “clear cut and transparent regarding public schools,” DEP has not committed those policies to writing, has no written documentation of their existence, and has no written procedures for its staff to follow in applying them in practice. Written policies and procedures for DEP employees to follow would promote consistency in how DEP bills properties that the City occupies as lessee. We therefore urge DEP to reconsider implementing this recommendation.

2. Establish, subject to Water Board approval, written policies and procedures that set forth under what circumstances, if any, charges for water and sewer usage for privately-owned properties leased by the City should be sent directly to the City. DEP should clearly detail in the procedures how this information should be determined and recorded in its billing system. The procedures should also include how charges will revert to the private property owners in the event the lease is no longer in effect.

**DEP Response:** “As indicated above, there are properties, primarily public schools, not owned by the City for which the usage of those properties is already included in the City Charge. These properties are correctly billed by DEP on the City rate to avoid double-billing. Further, there are a small number of properties that are leased by the City for which the City is obligated to pay for water and sewer usage but are not included in the City Charge. These bills should continue to be billed to the appropriate City agency unless and until the usages are included in the City Charge.”

**Auditor Comment:** DEP’s response does not directly address the audit’s recommendation. In its response, DEP indicates that certain privately-owned properties leased to the City are properly included in the City’s charge for water and sewage usage, and some others are separately billed to the City. However, DEP lacks written authorization from the Water Board to include *any* privately-owned properties in the City’s charge, and its practices with respect to privately owned properties leased to the City are internally inconsistent. We therefore urge DEP to establish *written* policies and procedures, *subject to Water Board approval*, that would incorporate each step of the billing process. To reiterate, written procedures would serve as guidance for DEP employees and would promote consistency in the agency’s billing practices for City-occupied properties.

3. Ensure that a property’s transfer of ownership is reflected accurately and timely in DEP’s accounts and monitor this process to ensure that the proper owner is charged appropriately for water and sewer usage.

**DEP Response:** “DEP agrees fully with the recommendation that its records be as current as possible with respect to City ownership. DEP recommends that DCAS immediately notify DEP upon the transfer of property to or from City ownership as promptly as possible so that DEP can properly and accurately bill private owners for their water and sewer usage.”

**Auditor Comment:** While DEP agreed with this recommendation, its response directs responsibility to another agency (DCAS), without stating that it will work with that agency to see that the recommendation is adopted. DEP is ultimately responsible for the accuracy of its own accounts and should proactively work with other City agencies to ensure the transfers of ownership are reflected accurately and timely.

4. Update its population data when calculating the City charge for water and sewer usage. In this regard, the current number of City employees, those working in City-owned properties, and those working in City-leased properties should be used in determining the cost of water and sewer usage for City properties.

**DEP Response:** “DEP agrees fully with this recommendation to update the population data for calculating the City Charge. DEP is committed to ensuring that the City Charge accurately reflect current population totals as well as other usages such as student populations, shelter beds, etc. DEP will be working closely with Amawalk to revise the City Charge and will then adjust its billing records accordingly.”

## Scope and Methodology

We conducted this performance audit in accordance with generally accepted government auditing standards. 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The audit covered the period of July 1, 2018 through April 15, 2020.

To obtain an understanding of DEP’s billing and collection process, we obtained and reviewed as criteria:

- DEP’s Policies and Procedures entitled *Back Billing for Underestimated Charges*;
- Amawalk’s Report on the *Annual Water & Sewer Charge for the City of New York* dated March 2, 2007; and
- The New York City Water Board’s *Water and Wastewater Rate Schedule Effective July 1, 2018 & July 1, 2019*.

To determine whether policies and procedures were being followed and to assess the internal controls over DEP’s billing for City-owned properties for water and sewer usages, we conducted walk-throughs and interviewed DEP’s Director of Management Analysis, Chief of Revenue Protection, Assistant Commissioner, and Water Board Treasurer.

We requested and obtained from DEP a list of 5,232 accounts being billed under the City meter rate plan W300 for City-owned properties. To determine the total population, we removed all duplicate accounts, testing accounts, and accounts listed with a W325, W330, and W350 meter rate.<sup>7</sup>

To determine the reliability of the list provided by DEP, we compared the information on the list with the Department of City Planning's database, City Owned Leased Properties (COLP),<sup>8</sup> the Department of Finance's property database, ACRIS, and DEP's BCIS. We identified 38 of the 3,428 accounts as privately-owned and being leased to the City and the remaining 3,390 accounts as City-owned.

To determine whether all privately-owned properties being leased to the City are billed under the City charge, we compared the leased properties listed on the City's Department of City Planning's website with DEP's list of accounts billed under the City meter rate plan W300 for City-owned properties.

We compared the information on the list of the 3,428 accounts provided by DEP with the Department of Finance's Assessment Value Roll (AVRoll) and identified 216 accounts with a residential building classification of A, B, C, D. To determine whether these accounts were eligible to receive the City rate, we reviewed and compared the information in DEP's records of these accounts with the Department of Finance's ACRIS and verified the ownership of these accounts. We also utilized DEP's BCIS to review the customer notes for any updated information on these accounts. We identified 18 out of the 216 accounts that might not be eligible to receive the City rate, and we sent those accounts to DEP for further review.

To further test the 3,390 accounts, we randomly selected a sample of 780 accounts to determine if they were eligible to receive the City rate. We compared the information on the list provided by DEP with ACRIS and verified if these accounts corresponded to City-owned properties. We also utilized BCIS customer notes to review if there was any updated information. We identified 19 accounts that might not be eligible for the City rate and sent those accounts to DEP for further review.

The results of the above tests provided a reasonable basis for us to assess whether DEP is properly billing and collecting outstanding water and sewer usage fees from metered City-owned properties.

The matters covered in this letter report were discussed with DEP officials during and at the conclusion of this audit. A preliminary draft letter report was sent to DEP and was discussed at an exit conference held on February 11, 2021. On February 17, 2021, we submitted a draft letter report to DEP with a request for written comments. We received a written response from DEP on March 3, 2021. In its response DEP did not directly address two of our four recommendations and generally agreed with the remaining two recommendations, stating that the audit "identified several areas in which DEP can make improvements in its processes" and that DEP is "pleased with the positive results of [the] audit and will take care to ensure the continued progress with reducing estimated billing for water and sewer charges and billing properties accurately."

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<sup>7</sup> W325 refers to the City Owned Property Water and Sewer Vacant (Discount) meter rate; W330 refers to the City Owned Property Fire Service Water and Sewer meter rate; and W350 refers to the Steam Discharge – City Owned Property meter rate.

<sup>8</sup> COLP is a list of City-owned and City-leased properties that includes geographic information as well as the type of use, agency, and other related information.



Commissioner Vincent Sapienza

March 17, 2021

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The full text of DEP's response is included as an addendum to this letter report.

Sincerely,

A handwritten signature in black ink, appearing to read "Marjorie Landa", with a long horizontal flourish extending to the right.

Marjorie Landa

c: Mark Ritze, Assistant Commissioner, Management Planning and Analysis, DEP  
William Morris, Director, Management Analysis, DEP  
Jeff Thamkittikasem, Director, Mayor's Office of Operations  
Brady Hamed, Chief of Staff, Mayor's Office of Operations  
Florim Ardolli, Assistant Director for Audits, Mayor's Office of Operations



March 3, 2021

Ms. Marjorie Landa  
Deputy Comptroller for Audit  
Office of the Comptroller  
1 Centre Street, Room 1100  
New York, NY 10007

**Vincent Sapienza, P.E.**  
*Commissioner*

Re: Draft Audit Report on the New York City Department of Environmental Protection's Billing of City Owned Properties for Water and Sewer Usage (Audit Number SR19-103AL)

59-17 Junction Blvd.  
Flushing, NY 11373

Tel. (718) 595-6565  
Fax (718) 595-3525  
vsapienza@dep.nyc.gov

Dear Ms. Landa:

Thank you for the opportunity to comment on the New York City Comptroller's Draft Audit Report on the New York City Department of Environmental Protection's (DEP) Billing of City Owned Properties for Water and Sewer Usage (Audit Number SR19-103AL)

We have reviewed the Report and are pleased with results of your audit. The Report indicated that of the 835,000 water and sewer accounts managed by DEP, of which 3,428 concern billing of City-owned properties, the vast majority were billed correctly. You identified only 10 accounts that were incorrectly billed to the City rather than private owners, which were immediately corrected and re-billed to the private owners. Those 10 accounts were rebilled for four years for \$338,463 or approximately \$8,460 per account per year. You further identified several areas in which DEP can make improvements in its processes, which will be discussed further herein.

The Report made four specific recommendations:

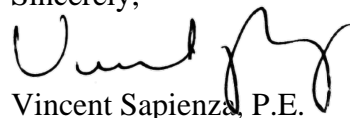
- 1) DEP should follow the language set forth in the Rate Schedule and request written authorization for any deviation therefrom;
- 2) DEP should set forth written procedures for any circumstance in which a property not owned by the City is included within the City Rate;
- 3) DEP should ensure that all previously City-owned properties, when transferred to private parties, are recorded as such and billed on standard rates; and
- 4) DEP should update the population data for calculating the City Charge, including for employees working in City-owned and City-leased properties.

DEP's responses the above recommendations are as follows:

- 1) The Comptroller's audit identified thirty-eight properties that are not owned by the City but are billed on the City Rate. The Audit further characterized these accounts as being billed inconsistently with both DEP policy and the Water Board Rate Schedule. As was explained during the audit, water usage for these properties, mostly schools, was already captured in the City Charge, so that billing the private owners based on metered usage would result in double billing. Ensuring that properties are not double-billed is entirely consistent with Water Board and DEP policies. Further, DEP's internal policies are clear cut and transparent regarding public schools; all such properties are consistently and uniformly billed on the City rate, regardless of ownership. If the Comptroller believes that certain private owners that lease space to public schools are required to pay back the City for water and sewer usage, DEP recommends that the Department of Education identify how many students and staff occupy those properties so that DEP and the Water Board's rate consultant, Amawalk Consulting Group LLC (Amawalk), can calculate the bills for those properties.
- 2) As indicated above, there are properties, primarily public schools, not owned by the City for which the usage of those properties is already included in the City Charge. These properties are correctly billed by DEP on the City rate to avoid double-billing. Further, there are a small number of properties that are leased by the City for which the City is obligated to pay for water and sewer usage but are not included in the City Charge. These bills should continue to be billed to the appropriate City agency unless and until the usages are included in the City Charge.
- 3) DEP agrees fully with the recommendation that its records be as current as possible with respect to City ownership. DEP recommends that DCAS immediately notify DEP upon the transfer of property to or from City ownership as promptly as possible so that DEP can properly and accurately bill private owners for their water and sewer usage.
- 4) DEP agrees fully with this recommendation to update the population data for calculating the City Charge. DEP is committed to ensuring that the City Charge accurately reflect current population totals as well as other usages such as student populations, shelter beds, etc. DEP will be working closely with Amawalk to revise the City Charge and will then adjust its billing records accordingly.

Thank you for your time and attention to our written responses. DEP is pleased with the positive results of your audit and will take care to ensure the continued progress with reducing estimated billing for water and sewer charges and billing properties accurately. We are available to respond to assist with any questions you may have.

Sincerely,



Vincent Sapienza, P.E.  
Commissioner

- c: Jeff Thamkittikasem, Director, Mayor's Office of Operations
- Brady Hamed, Chief of Staff, Mayor's Office of Operations
- Florim Ardolli, Assistant Director for Audits, Mayor's Office of Operations