



Town of Berkshire

Board Oversight

2023M-122 | August 2024

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Report Highlights

Town of Berkshire

Audit Objectives

Determine whether Town of Berkshire (Town) officials ensured non-payroll disbursements were for appropriate Town purposes.

Determine whether the Town Board (Board) audited the Town Supervisor's (Supervisor's) records and whether the Supervisor filed the required Annual Financial Reports (AFRs).

Key Findings

Town officials did not ensure non-payroll disbursements were for appropriate Town purposes. The Board did not:

- Segregate non-payroll disbursement duties.
- Approve all claims, require adequate supporting documentation for 59 claims totaling \$51,519 or establish procedures to detect and prevent duplicate payments. We identified \$12,465 in duplicate payments.
- Annually audit the Supervisor's records and reports.
- Ensure the AFRs were filed, as required.

Key Recommendations

- Segregate non-payroll disbursement duties or implement adequate compensating controls.
- Ensure all claims are approved, supported by sufficient supporting documentation and only paid once.
- Annually audit the Supervisor's records and reports and ensure AFRs are filed timely.

Town officials generally agreed with our findings and indicated that they plan to initiate corrective action.

Audit Period

January 1, 2021 – September 30, 2022. We extended the audit period back to January 1, 2020 to review credit card disbursements and forward to July 22, 2024 to review AFR filings.

Background

The Town is located in Tioga County and is governed by an elected five-member Board, including the Supervisor. The Board is responsible for the general oversight of the Town's operations and finances including auditing and approving non-payroll disbursements.

The Supervisor, as chief fiscal officer, is responsible for disbursing money and providing financial reports to the Board. The former Supervisor was in office prior to the start of our audit period and resigned February 15, 2023. On this same date, the current Supervisor was appointed.

The elected Town Clerk (Clerk) is the Clerk of the Board and is responsible for preparing and certifying abstracts of audited claims and authorizing the Supervisor to make payments.

Quick Facts

Total Non-Payroll Disbursements	
Number	637
Dollar Amount	\$1.7 million
Non-Payroll Disbursements Reviewed	
Number	217
Dollar Amount	\$232,101
Bank Transfers Reviewed	
Number	30
Dollar Amount	\$155,893

Non-Payroll Disbursements

How Should Town Officials Provide Adequate Oversight of Non-Payroll Disbursements?

Town officials should establish and implement procedures to provide reasonable assurance that non-payroll disbursements are for appropriate town purposes and that no one individual controls all aspects of the transaction without proper oversight. Town supervisors are responsible for ensuring that only approved non-payroll disbursements are paid and recorded in the accounting records. Town supervisors should ensure accurate monthly bank reconciliations are performed to help ensure all collections and disbursements are properly recorded and provide a way to identify, correct and document differences between the town's records and bank transactions. Bank reconciliations, bank statements and canceled check images should be provided to the board for review. In a town that does not have a town comptroller, the town clerk is responsible for authorizing and directing the supervisor to pay claims that have been audited and approved by the board, as required by New York State Town Law Section 119. The separation of duties between the town supervisor and town clerk is intended to provide checks and balances over the powers and duties of these positions and is important for internal control purposes.

The claims audit process is an important element in assuring non-payroll disbursements are for appropriate town purposes. Town boards should establish and implement procedures to provide reasonable assurance that non-payroll disbursements are authorized, supported by appropriate documentation (mathematically accurate for the correct amount owed and do not contain sales tax) and for legitimate town purposes. This includes ensuring that all claims are properly audited and are paid only after the board approves payment. Town boards may, by resolution, authorize the payment in advance of the audit of claims for utility services (i.e., electric, gas, water, sewer, fuel oil and telephone), postage, freight and express charges. However, all such claims must be presented at the next regular town board meeting for audit. Employees should provide original records – such as invoices, packing slips and monthly account statements – to those auditing claims. The town board is required to determine whether the claims being reviewed have been paid before, in whole or in part. The town board may need to pay extra attention to vendors with charge accounts that issue frequent and similar bills to help ensure that the current claim is not a duplicate of one previously paid.

Town Officials Did Not Segregate Non-Payroll Disbursements Duties

The Board did not provide adequate oversight over non-payroll disbursements. There was an overall lack of segregation of duties regarding the Town's disbursements process with insufficient oversight and mitigating controls. The former Supervisor controlled all aspects of the Town's disbursements process, as

he compiled supporting documentation, prepared a list of unaudited claims for the general fund and highway fund, recorded disbursements in accounting records, printed and mailed checks for payment of claims, initiated bank transfers and performed bank reconciliations. Each month, the former Supervisor provided the Board with a list of unaudited claims as well as the claims themselves for review and approval. However, the Clerk was not involved in the claims audit process and did not certify the audited abstracts authorizing the Supervisor to pay claims. The former Supervisor told us the Clerk had not participated in the claims audit process since prior to his tenure. However, when a town supervisor assumes the duties of a town clerk, checks and balances over the powers and duties of the town supervisor go unchecked. As a result of our audit, in January 2023, the Clerk began certifying the abstracts authorizing the Supervisor to pay claims.

In addition, the Board did not periodically review bank reconciliations, bank statements or canceled check images to help ensure that all disbursements made were Board-approved and for appropriate Town purposes. The former Supervisor told us that he discarded the bank statements each month and that he could, but never did, access canceled check images online. We reviewed completed bank reconciliations for July and August 2022 for the general fund and highway fund bank accounts – the Supervisor correctly completed bank reconciliations for the general fund, but he did not properly reconcile the highway fund for July and August 2022. The July 2022 reconciliation included a check that had been outstanding since February 2021 and additional checks returned to the Town from vendors for duplicate payments made in June and November 2021. The August 2022 reconciliation also included these outstanding checks, and the adjusted bank balance was negative \$135,269, indicating the potential for an overdrawn bank account and lack of available funds for Town operations. The former Supervisor told us that nobody investigated the outstanding checks, and he did not review the printed bank reconciliations to ensure negative bank balances were not actually occurring. The former Supervisor also told us that starting in 2022, a Board member sat with him on a rotating monthly basis to close the Town's books (i.e., pay claims and complete bank reconciliations) in the Town's accounting software. However, we found this practice was undocumented and appeared inconsistent through the end of our audit period.

When there is a lack of adequate segregation of duties and implementation of oversight measures such as compensating controls, there is an increased risk that errors or inappropriate transactions could occur and remain undetected, including the misappropriation of Town funds.

Due to the lack of adequate segregation of duties and compensating controls, we reviewed six months of transfers and withdrawals from the general and highway fund bank accounts, totaling \$156,842, and determined they were all for appropriate Town purposes.

Officials Made Payments Before Approval and Without Adequate Support

We reviewed 217 non-payroll disbursements totaling \$232,101 to determine whether they were properly supported, Board-audited prior to payment, not paid in duplicate and for legitimate purposes. Unless stated otherwise, we were able to determine that the disbursements were for legitimate Town purposes by reviewing claims support and from discussions with officials. We found certain claims lacked adequate support, were paid before Board audit and approval, were duplicated disbursements and/or were questionable and/or improper Town expenditures.

Unsupported Payments – There were 59 claims totaling \$51,519 that lacked support, such as receipts or itemized invoices. These unsupported payments included 41 claims totaling \$39,361 for highway materials, health insurance premiums, legal services and utilities; six claims totaling \$7,892 for reimbursements for purchases made by Town officials and employees; and 12 claims totaling \$4,266 for purchases made on the Town’s credit cards.

Town officials were unable to provide us with documentation to support all disbursements made for payments to the Town’s credit cards. Due to the lack of supporting documentation, we were unable to determine whether four credit card disbursements totaling \$935 were for legitimate Town purposes. Additionally, the Board was unaware of these disbursements because these credit card charges were never submitted for audit.

Claims Paid Before Audit – There were 30 claims totaling \$15,804 paid before Board audit.¹ These included 12 claims for health insurance premiums totaling \$6,174, 12 claims for payments made on the Town’s credit cards totaling \$6,387, three claims for reimbursement payments to officials and employees totaling \$1,624 and three claims for utilities totaling \$1,619. Although the utility claims were subsequently audited at the ensuing Board meetings, the Board did not pass a resolution authorizing the payment in advance of the audit of claims for the utility services. As for the remaining 27 claims, there is no exception to the audit of claims process, and hence each of the claims should have been audited by the Board prior to payment.

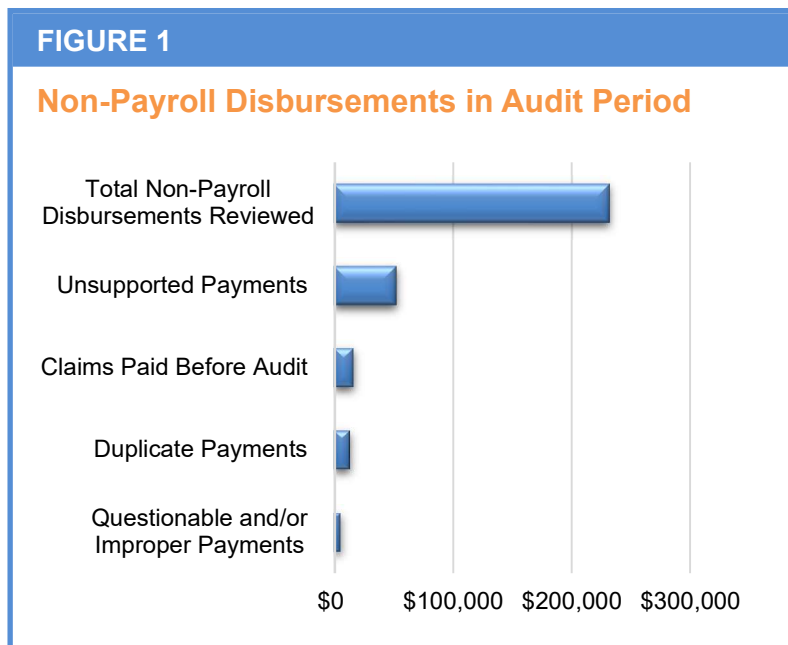
Duplicate Payments – The Board approved duplicate claims resulting in overpayments totaling \$12,465. In some instances, duplicate claims were paid in back-to-back months. Duplicate payments included:

- Six payments totaling \$6,984 for highway materials, fuel and truck parts, for which vendors either returned the check to the Town or applied the duplicate payment as a credit to the Town’s ensuing invoice,

¹ This includes 18 claims for \$9,330 that were included as unsupported payments previously identified.

- Three payments totaling \$3,731 for highway materials and vehicle repairs, for which Town officials were unaware of the duplicate payments and, therefore, did not receive refunds, and
- One payment totaling \$1,750 for the Town’s accounting software for which the vendor applied a partial credit of \$1,094 to an ensuing Town invoice; however the remaining funds of \$656 from the duplicate payment were not returned to the Town and no explanation was provided from the vendor.

Questionable and/or Improper Payments – The Board approved 27 claims, totaling \$5,169, that were questionable or improper. These payments included one claim for \$3,000 paid to a business run solely by the Highway Superintendent,² two claims totaling \$1,000 for school scholarships, three claims totaling \$726 for a retirement party and a gift to an employee for years of service and 21 claims which included \$443 in sales tax (Figure 1). The sales tax payments occurred on reimbursements paid to Town officials and employees, purchases made with the Town’s credit cards and payments for repairs to a Town vehicle. Sales tax could have been avoided if the Board ensured the Town was receiving tax-exempt status.



The former Supervisor told us that some bills did not have an invoice or statement to attach to the claim and some recurring monthly payments were made before

² For additional details on this payment, please refer to our separate audit report, *Town of Berkshire – Procurement and Conflict of Interest (2023M-84)*.

the Board's audit and approval. In certain instances, vendors submitted multiple invoices or Town officials paid the same invoice twice, resulting in the duplicate payments previously identified. Furthermore, the former Supervisor told us he did not thoroughly review claims submitted by the Highway Superintendent, and the Board missed other duplicate payments during the claims audit process. Additionally, some sales tax was included in reimbursement payments to officials because the Town reimbursed the total amounts paid by the individual.

However, all non-payroll disbursements should be presented with appropriate supporting documentation to ensure the Board approves only proper Town expenditures. Recurring monthly payments are not allowable exceptions to be paid prior to audit, and sales tax should be excluded from all disbursements, including reimbursements made to individuals.

Without a thorough review of all claims, the Board's ability to effectively monitor financial operations is diminished and errors and irregularities can occur and remain undetected and uncorrected. Furthermore, since the Board was unaware of all payments made toward credit cards, the possibility of misappropriation of Town assets was greatly increased. When claims are paid in duplicate, the Town expends funds for goods and services not provided. If Town officials identify duplicate payments previously disbursed, additional time resources are required to recoup the funds. We met separately with all of the Board members to discuss guidance available in our claims audit publication titled *Improving the Effectiveness of Your Claims Auditing Process*.³

What Do We Recommend?

The Board, Supervisor and Clerk should:

1. Ensure that any individuals performing the Clerk's duties do not create impairments to designed internal controls, such as those duties intended to be separated between town supervisors and town clerks.
2. Adequately segregate the duties of non-payroll disbursements or implement compensating controls.

The Board should:

3. Review bank reconciliations, bank statements and canceled check images to identify any questionable payments, improper transactions, errors or outstanding checks to ensure bank transactions are appropriate.

³ <https://www.osc.ny.gov/files/local-government/publications/pdf/improving-the-effectiveness-of-claims-auditing-process.pdf>

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4. Perform a deliberate and thorough audit of all claims to help ensure claims have adequate support, are complete, do not include sales tax and are for appropriate Town purposes.
 5. When appropriate, adopt a resolution authorizing the payment in advance of audit for eligible claims, as allowed by Town Law.
 6. Review the duplicate payments identified in this report and seek reimbursement.
 7. Establish procedures to detect and prevent the Board approval and payment of duplicate claims. Such procedures could include requiring only original invoices be submitted for approval of payment and reviewing prior months' abstracts, bill payment history reports and bank statements prior to processing claims.
 8. Review disbursements made toward credit cards to ensure appropriateness and, if necessary, seek reimbursement.
 9. Seek sales tax reimbursement from the New York State Department of Taxation and Finance at: https://www.tax.ny.gov/pubs_and_bulls/tg_bulletins/st/how_to_apply_for_a_refund_of_sales_and_use_tax.htm.

The Supervisor should:

10. Retain bank statements, complete accurate bank reconciliations and review outstanding checks.

The Clerk should:

11. Ensure all claims requiring Board audit are presented to the Board for audit prior to payment, including adequate, original supporting documentation.

Annual Financial Oversight

Why Should Town Officials Annually Audit the Supervisor’s Records and Prepare AFRs?

Town supervisors must submit their accounting records to the town board on or before January 20th for all money received and disbursed during the prior year so that the town board may conduct or cause to be conducted, the required annual audit of the town supervisor’s records. Additionally, supervisors of towns with populations less than 5,000 must file the town’s AFR with the Office of the New York State Comptroller (OSC) within 60 days of the end of a town’s fiscal year. The AFR provides the town board, OSC, town residents and other interested parties with a transparent tool to monitor and evaluate financial operations.

The Board Did Not Perform an Annual Audit of the Former Supervisor’s Records and Reports and AFRs Were Not Filed

The former Supervisor did not provide an annual accounting of records, and the Board did not provide necessary oversight by auditing, or contracting with an independent public accountant to audit, the former Supervisor’s accounting records for 2021. Board members told us they were unaware of the annual audit requirement. Had the Board members fulfilled the audit requirement, they may have detected the previously discussed deficiencies. The lack of Board oversight may put the Town at risk of additional errors and irregularities remaining undetected and uncorrected.

The former and current Supervisors did not file the Town’s AFRs with OSC for the last six completed fiscal years (Figure 2). The former Supervisor told us that upon taking the position in 2018, no one had trained him or told him the AFR needed to be completed. In 2020, the former Supervisor became aware that AFRs needed to be submitted and instructed the former bookkeeper employed by the Town to complete the 2020 AFR. However, the former bookkeeper was unable to file the 2020 AFR without the submission of prior years. In

Figure 2: Late and/or Unfiled AFRs as of July 22, 2024

Fiscal Year	Filed	Days Late
2018	No	1,970
2019	No	1,605
2020	No	1,239
2021	No	874
2022	No	509
2023	No	84

August 2023, the current Supervisor told us she was not informed by the former Supervisor of the delinquent 2018 through 2022 AFRs. In March 2024, the current Supervisor decided to forgo filing the 2018 through 2022 AFRs and focus on filing the 2023 AFR. In making this decision, the 2018 through 2022 AFRs will continue to be considered delinquent.

When AFRs are not filed in a timely manner, the transparency of Town financial operations is diminished, and it leaves the Town without a means to demonstrate its financial standing to the Board, taxpayers, OSC and other interested parties.

What Do We Recommend?

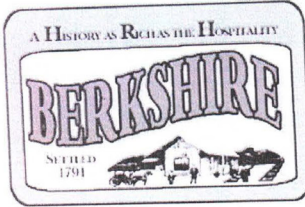
The Board should:

12. Perform, or obtain, an annual audit of the Supervisor's records and reports, as required by Town Law.

The Supervisor should:

13. File Town AFRs, as required pursuant to General Municipal Law.

Appendix A: Response From Town Officials



TOWN OF BERKSHIRE

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As the new Town Supervisor, I am responding to the Audit of the Previous Supervisor and part of the current board. The Town officials, agree with the finding that the State comptroller's office has shared with us. The Town Officials are in the process of reviewing and responding to the claims from the state comptroller's office.

Town of Berkshire Supervisor,

Barbara Gehm-Jordan

8/20/24

Appendix B: Audit Methodology and Standards

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. We obtained an understanding of internal controls that we deemed significant within the context of the audit objectives and assessed those controls. Information related to the scope of our work on internal controls, as well as the work performed in our audit procedures to achieve the audit objectives and obtain valid audit evidence, included the following:

- We interviewed Town officials and reviewed Town procedures, Board meeting minutes and resolutions to gain an understanding of and evaluate the adequacy of procedures related to the claims audit and annual audit procedures.
- We reviewed the former Supervisor's bank reconciliations and monthly financial reports for July and August 2022 to determine whether they were complete and accurate.
- We used our professional judgment to select a sample of six months of the 21 months (29 percent) of Town bank account activity. From this sample, we reviewed all 30 transfers and both withdrawals totaling \$156,842 to identify any unusual transactions and determine whether they were for appropriate Town purposes. Months were selected to create a sample that covered the multiple quarters and fiscal years from our audit period.
- We used our professional judgment to select a sample of three months of the 21 months (14 percent) of non-payroll disbursement activity in the audit period for the general fund and highway fund, for 98 claims totaling \$133,675, to determine whether they were properly supported, for appropriate Town purposes, audited and approved before payment and whether any unnecessary taxes were paid. We included claims from various times of the year which resulted in a sufficient variety of vendors.
- We reviewed all purchases made during the audit period recorded in the cash disbursements journal to determine whether the Town made any duplicate payments. We then reviewed Town records to determine whether the Town received credits or returned checks for the duplicate payments identified. Disbursements for 20 claims totaling \$30,459 were included in duplicate payments testing.
- We reviewed all 14 disbursements totaling \$6,563 made to the Town's credit cards for the period January 1, 2020 through March 31, 2021 to determine their propriety, whether they were properly supported, audited and approved before payment and whether any unnecessary taxes were paid.
- We reviewed the former Supervisor's cash disbursements journal for all claims and payments made to employees, local officials and family members during the audit period (64 claims totaling \$40,169) to determine whether

claims were properly supported, audited, approved before payment and for appropriate Town purposes.

- We reviewed the former Supervisor's cash disbursements journal for questionable or improper payments to organizations or individuals and used our professional judgment to sample nine payments totaling \$17,167 made to local organizations and individuals to determine their nature and appropriateness.
- We used our professional judgment to non-biased judgmentally select a sample of three months of the 21 months (14 percent) in the audit period which included 12 utility payments totaling \$4,068, to determine whether they were properly supported and for appropriate Town purposes.
- We reviewed AFR submissions and calculated the number of days they were late.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and provided to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make the CAP available for public review in the Clerk's office.

Appendix C: Resources and Services

Regional Office Directory

www.osc.ny.gov/files/local-government/pdf/regional-directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.ny.gov/local-government/publications

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.ny.gov/local-government/fiscal-monitoring

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.ny.gov/local-government/publications

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.ny.gov/local-government/resources/planning-resources

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.ny.gov/files/local-government/publications/pdf/cyber-security-guide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.ny.gov/local-government/required-reporting

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.ny.gov/local-government/publications

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

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Contact

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