

Town of Butternuts

Disbursements

AUGUST 2021



OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

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Report Highlights

Town of Butternuts

Audit Objective

Determine whether the Town of Butternuts (Town) Board provided adequate oversight of the disbursement process.

Key Findings

The Board did not provide adequate oversight of the disbursement process and exceeded its authority under New York State Town Law (Town Law) by authorizing insurance claims and annual contracts to be paid before audit and approval.

The Board also exceeded its authority under New York State General Municipal Law (GML) by allowing a third-party vendor direct access to the Town's bank account that, at times, had more than \$500,000 on deposit. In addition, the Board allowed debit cards to be used, which resulted in a circumvention of the Town's disbursement controls.

While the 142 disbursements totaling \$142,200 we reviewed were for proper purposes and adequately supported, the Board, although required to do so pursuant to Town Law, did not audit and approve 53 of these claims totaling \$15,600 before payment.

Key Recommendations

- Audit and approve all claims before payment, except as authorized by law.
- Discontinue the use of debit cards.
- Discontinue allowing the service provider access to the Town bank account.

Town officials agreed with our recommendations and indicated they will take corrective action. Appendix B includes our comment on an issue raised in the Town's response letter.

Background

The Town, located in Otsego County, is governed by an elected five-member Town Board (Board), which consists of the Supervisor and four Board members. The Board is responsible for general oversight of the operations and finances.

The Supervisor serves as the chief executive officer and chief financial officer responsible for maintaining the accounting records and providing financial reports to the Board. The Supervisor designated a bookkeeper to assist him with these financial duties.

The Town elects a Highway Superintendent who is responsible for the maintenance and repair of Town highways and bridges and snow removal. The Highway Superintendent provides oversight to the highway employees and operational needs of the department.

Quick Facts

2020 Appropriations	\$1.4 million
Disbursements as of September 30, 2020	\$1.0 million
Population	1,786

Audit Period

January 1, 2019 – September 30, 2020

Disbursement Oversight

How Should a Board Oversee the Disbursement Process?

To ensure that tax dollars are spent efficiently, it is essential that a board conducts a thorough and deliberate audit of claims before payments are authorized. Unless an exception applies, Town Law requires the board to audit all claims before payment. For example, a board, by resolution, may authorize payment in advance of the audit of claims for public utility services, postage, freight and express charges. However, such claims should be presented at the next regular board meeting for audit. Also, Town Law provides an exception to the audit of claims process for fixed salaries, principal and interest on debt and lawful contracts exceeding one year.

Debit cards should not be used because they pose additional risks by allowing a payment to be directly withdrawn from a town's bank account at the time of purchase, and unauthorized use may not be quickly detected. Debit card use also provides no opportunity for town officials to verify whether the purchase is for legitimate purposes before it is paid.

Officials should ensure only properly authorized individuals have access to a town bank account. GML allows towns to enter into a contract to provide for the deposit of the periodic payroll payments in a bank or trust company for disbursement. However, there is no authority allowing for third parties to directly access a town's bank accounts, including a town's general fund checking account.

The Board Did Not Always Provide Adequate Oversight of the Disbursement Process

The Supervisor received invoices and prepared claims and a list of all claims before the monthly Board meetings. The Board then reviewed and approved claims at its meetings. However, we found Town officials used debit cards to make purchases, and the Board did not audit all claims before payment.

Debit Cards – The Town had two debit cards, one linked to the town-wide general fund checking account with no limit and another with a designated bank account that was issued to the Highway Superintendent with a \$2,000 limit. We reviewed all 69 purchases totaling \$17,200 that were made with the debit cards within the audit period to determine whether these purchases were supported, for appropriate purposes and approved by the Board before payment. Although all debit card purchases were supported and appropriate, we found 36 purchases totaling approximately \$7,100, for items such as equipment and park supplies, which were made before Board audit and approval.

As a result of our audit, the Supervisor told us the Town would discontinue using debit cards and was exploring whether to replace the debit cards with a credit card.

... 36
purchases
totaling
approximately
\$7,100... were
made before
Board audit ...

Claims Audit – The Board, in an annual resolution, authorized insurance claims and annual contracts for various services to be paid before audit. However, the Board does not have authority pursuant to Town Law to authorize payment of such claims in advance of audit.

We reviewed 73 non-debit card disbursements during the audit period totaling \$125,000 to determine whether they were properly supported, for appropriate purposes and Board-approved before payment.¹

Although all claims reviewed were properly supported and appropriate, 17 claims totaling \$8,500 were paid before Board audit, including payroll service fees, office supplies and mowing and bookkeeping services. Paying expenditures before Board audit increases the risk that payments may not be for a legitimate purpose or may be in the wrong amount.

A Payroll Service Provider Was Allowed Access to Town Funds

Town officials contracted with a payroll service provider to process the biweekly payroll and other payroll related services.² Each pay period, the service provider sent the Supervisor a report that contained the payroll amounts to be transferred to the Trust and Agency account, along with an itemized invoice for its services. The service provider then electronically withdrew its service fees directly from the town-wide general fund checking account. However, there is no legal authority for such direct access to Town bank accounts.

We reviewed all five electronic fund transfer transactions totaling \$320 from two months of our audit period and verified the amounts withdrawn by the service provider were supported and for appropriate purposes. However, Town funds were unnecessarily exposed to an increased risk of loss by allowing a service provider's direct access to a Town bank account that, at times, had balances in excess of \$500,000.

What Do We Recommend?

The Board should:

1. Discontinue the use of debit cards.
2. Audit and approve all claims in accordance with Town Law.
3. Discontinue allowing service providers access to the Town bank account in accordance with GML.

... Town funds were unnecessarily exposed to an increased risk of loss by allowing a service provider's direct access to a Town bank account that, at times, had balances in excess of \$500,000.

¹ Refer to Appendix C for information on our sampling methodology.

² For the purposes of this report, we are not opining on the legal propriety of a payroll service provider making payroll payments on the Town's behalf.

Appendix A: Response From Town Officials

Town of Butternuts NY

Supervisor Bruce Giuda
PO Box 318 Gilbertsville NY 13776
607-783-2127

Town Clerk Rebekah Huff

Town Board Members
Keith Lilley Scot Lueck
John Hill Paul Irwin

July 15, 2021

Town of Butternuts NY response to OSC Disbursement Audit 2021M-62 provided by Town Supervisor Bruce Giuda

I would like to begin by commenting on my personal experiences with [REDACTED] throughout the OSC audit process. Both of these individuals came to the Town with positive attitudes and were very helpful in explaining what the purpose of this audit was. It should be noted that the COVID pandemic occurred during the latter half of this audit and yet we all made necessary accommodations to get the audit completed. When I had questions or concerns, I was always able to get direct answers to any question or concern that I had. I found the auditors' attitudes to be positive and felt that they helped me understand any problematic issues and were willing to assist me in formulating any possible remedies to those issues. I know that I speak for the entire Town Board when I say that we take this audit seriously and will do what is necessary to fine tune our oversight of processes and procedures related to the financial health of the Town.

Finding # 1

The Board did not provide adequate oversight of the disbursement process and exceeded it's authority under New York State Law (Town Law) by authorizing insurance claims and annual contracts to be paid before audit and approval.

Response - It is my understanding that this has to do with the authority given to the Town Supervisor, by the Board, at the annual reorganizational meeting. At this meeting, the Board authorizes the Supervisor to pay certain bills and /or contracts throughout the year prior to Board monthly audits. Among other things, the Board also mandates that the Supervisor keeps insurance in place that is sufficient to cover all physical losses and liability claims against the Town and it's property. After some discussion with the auditors it was brought to my attention that there was a stipulation concerning "contracts" that we were unaware of. The law stipulates that any contracts that may be paid prior to Board audit must be three (3) year contracts. In the instance of the insurance company contracts, or several other contracts, they were for one year of length. Examples of such contracts would be: cemetery mowing, contracts with building trade contractors, Fire Departments and several others. With this additional insight it will be simple to change this at our annual reorganizational meeting, and therefore, correct this problem. I will clarify and explain proposed remedies to Finding # 1 in a Corrective Action Plan which will be forthcoming at a later date.

See
Note 1
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Finding # 2

The Board also exceeded it's authority under New York State General Municipal Law (GML) by allowing a third party vendor direct access to the Town's bank account, that at times had more than \$500,000 on deposit. In addition, the Board allowed debit cards to be used which resulted in a circumvention of the Town's disbursement controls.

Response - These issues are simply put as follows. The Town has several debit cards that are used for internet purchases and to pay certain vendors automatically, who have a monthly service contract with the Town. Two specific vendors that were identified were a

payroll company that has access to the General account, and also an internet website / domain provider. Although this has been an ongoing practice in the Town, the auditors explained all the inherent risks involved. The most obvious is that any vendor, company, or person, with such access to the debit card information, could potentially access any or all monies in that specific Town bank account. This is a high risk scenario that we never considered before authorizing these debit cards to be used. The second issue is that there is no recourse for the Board to refuse payment or negotiate a different payment after a debit card has been used. The transfer of funds when using a debit card is immediate and therefore the Board has no opportunity to audit the purchase before the payment was made. This finding has the most potential to harm the Town, and I discussed this issue at length with both auditors. I found their insights and suggestions informative and helpful, and I began implementing changes immediately to remedy this issue. I will clarify and explain actions already taken to resolve this finding, and all relevant proposed actions in a Corrective Action Plan which will be forthcoming at a later date.

Finding # 3 –

While the 142 disbursements totaling \$142,200, we reviewed were for proper purposes and adequately supported, the Board, although required to do so pursuant to Town Law did not audit and approve 53 of these claims totaling \$15,600 before payment.

Response - This finding is related in some ways to finding # 1, which authorizes the Town Supervisor to pay on contracts prior to monthly Board audit. Absent the understanding that these contracts need to be three (3) years in length, payments were made to a variety of vendors, by the Town Supervisor, prior to monthly Board audit and approval. Several examples would be: mowing contract for cemeteries, an internet / website provider; contractors who were working on various construction projects for the Town, and caretakers for the Town campground and park, to name just a few. All purchases were subsequently reviewed and approved by the Board. The rationale for this procedure was based on the understanding that any contract approved by the Board could be paid prior to monthly audit since the Board was fully aware of the details of said contract. This “understanding” did not, however, take the three (3) year contract requirement into consideration.

See
Note 1
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There are some other issues that have been problematic. As the Town runs a campground, there are emergency issues that have come up that require immediate attention to insure the safety and health of our patrons. In the instance that I am told that we have a problem with infrastructure or other issues, I must act immediately. These issues include, but are not limited to, electricity, water, and septic problems. If a vendor insists on immediate payment, I cannot call a special Board meeting immediately to authorize said payment. There are other situations that have contributed to finding # 3, and after talking with both auditors I feel it is possible to remedy these issues. I will clarify and explain actions already taken to resolve this finding, and all relevant proposed actions in a Corrective Action Plan which will be forthcoming at a later date.

Bruce Giuda - Supervisor

Appendix B: OSC Comment on the Town's Response

Note 1

Town Law provides an exception to auditing claims for lawful contracts exceeding one year. Lawful contracts of one year or less are subject to Board audit of claims before payment. We provided the Supervisor with a link to our publication *Improving the Effectiveness of Your Claims Auditing Process* available on our website at www.osc.state.ny.us/files/local-government/publications/pdf/improving-the-effectiveness-of-claims-auditing-process.pdf.

Appendix C: 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. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed Town officials and reviewed Board meeting minutes, claims, lists of claims and bank statements to gain an understanding of the disbursement process, including the claims audit process and online banking procedures.
- We reviewed the 2019 bank statements and canceled check images for all bank accounts to determine whether the Supervisor or other Town officials made unauthorized electronic transactions or cash withdrawals or wrote checks payable to "cash."
- We interviewed the Supervisor, scanned bank statements, reviewed claims and supporting documentation and reviewed the contract with the payroll company to gain an understanding of online banking procedures and check assigning, numbering and monitoring processes.
- We used our professional judgment to select a sample of four consecutive months (April through July 2019) in the town-wide general fund checking account and town-wide/town-outside-village highway checking account to determine whether all checks issued either cleared the bank, were canceled or were voided. Due to minimal activity, we reviewed all checks that were paid from the town-outside-village general fund checking account during the audit period.
- We used our professional judgment to select two months of disbursements (October 2019 and July 2020) in the town-wide general fund checking account and (February 2019 and June 2020) in the town-wide/town-outside-village highway checking account, all disbursements in the town-outside-village general fund checking account and all debit card purchases for a total sample of 142 disbursements totaling \$142,200. We reviewed our sample to determine whether these disbursements were supported, appropriate, recorded and audited before payment.
- We used our professional judgement to select a sample of 34 canceled check images paid to vendors that could be used for personal purposes and to Town officials, totaling \$46,000, from the town-wide general fund checking account and the town-wide/town-outside-village highway checking account. We reviewed our sample to determine whether these disbursements were for appropriate Town purposes.

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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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 Town Clerk's office.

Appendix D: Resources and Services

Regional Office Directory

<https://www.osc.state.ny.us/files/local-government/pdf/regional-directory.pdf>

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

<https://www.osc.state.ny.us/local-government/publications>

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

www.osc.state.ny.us/local-government/fiscal-monitoring

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

<https://www.osc.state.ny.us/local-government/publications>

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

www.osc.state.ny.us/local-government/resources/planning-resources

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

<https://www.osc.state.ny.us/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.state.ny.us/local-government/required-reporting

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

<https://www.osc.state.ny.us/local-government/publications>

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

www.osc.state.ny.us/local-government/academy

Contact

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