

Town of Delhi

Highway Department Leave Records

APRIL 2022



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

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Report Highlights

Town of Delhi

Audit Objective

Determine whether Town of Delhi (Town) officials accurately maintained Highway Department (Department) employee leave records.

Key Findings

Town officials did not accurately maintain Department employee leave records. Leave balances for the former Deputy Highway Superintendent (Deputy) from 2015 through 2019 were overstated by a total of 362 hours valued at almost \$8,000. Of this 272.5 hours was from leave time not being properly recorded, while 89 hours was attributed to the Deputy's failure to use sick leave for lost time due to an occupational injury, which resulted in an overpayment of his health and dental premiums of \$6,411.

- The 2018 and 2019 leave balances of six of the other seven Department employees were overstated by 94 hours valued at \$2,094.
- Adequate procedures were not in place to ensure Department employee leave records were accurately maintained.
- Based upon our examination and investigation of discrepancies in the former Deputy's leave records, the former Deputy was arrested in September 2020 and charged with Grand Larceny in the Third Degree. The matter is pending in court.

Key Recommendation

- Ensure someone independent from those who earn and use leave, such as the Highway Superintendent (Superintendent), maintains the leave records and properly calculates and deducts leave time used from Department employee leave balances in accordance with the collective bargaining agreement (CBA).

The Supervisor generally disagreed with the findings but indicated he would take corrective action. The Superintendent agreed with our findings and indicated he would take corrective action. Appendix B includes our comments to issues raised in the Supervisor's response.

Background

The Town, located in Delaware County, is governed by an elected Town Board (Board) composed of a Town Supervisor (Supervisor) and four Board members. The Board is responsible for the general management and control of finances, including employee benefits.

The Superintendent is responsible for overseeing all Department operations, including tracking leave for all Department employees. The Superintendent appointed a Deputy to oversee the Department in his absence.

Quick Facts

Department Employees	8
2020 Department Payroll Appropriations	\$388,168
Total 2020 Appropriations	\$2.5 million

Audit Period

January 1, 2018 – December 31, 2019. We extended our audit period back to January 1, 2015 to review the Deputy's leave records and forward through March 24, 2021 to review health and dental insurance premiums.

Highway Department Leave Records

The Town's CBA stipulates the terms and conditions of employment and leave time to which eligible Department employees are entitled. Full-time Department employees earn leave time (i.e., vacation, sick, personal and compensatory leave) in accordance with the CBA. The CBA includes provisions for these employees to receive a payment for unused leave when they leave Town employment.

Additionally, the CBA states that a Department employee absent from duty because of an occupational injury may use sick leave credits to supplement workers' compensation benefits. Department employees use a time clock to record their actual hours worked and indicate leave used on their timecards.

How Do Officials Accurately Maintain Department Leave Records?

A well-designed system of accounting for employee leave time requires town officials to periodically review the leave records to ensure the accuracy of leave balances and leave time earned and used. Town officials should establish procedures for periodic independent reviews of leave records and balances.

In addition, town officials should ensure personnel properly calculate and deduct leave time used from employee leave balances and leave is both earned and carried over from year-to-year in accordance with the town's CBA.

Officials Overstated Department Employee Leave Records

Town officials did not properly oversee leave records for Department employees maintained by the former Deputy during our audit period. We reviewed the leave records of all eight Department employees to determine whether used leave time recorded on the time records was properly deducted from the recorded leave balances and the amounts of leave credited and carried forward agreed with CBA requirements.

We found discrepancies that caused both under and overstatements in employee leave balances. We were unable to verify whether the former Deputy's beginning leave balances totaling 273 hours (valued at \$6,028) were accurate because leave records were not retained before January 1, 2015.

In addition, the former Deputy's documented leave balances as of October 31, 2019 totaling 833 hours (valued at approximately \$18,400) were overstated by up to 362 hours valued at almost \$8,000. We found that 272.5 of the 362 overstated hours totaling over \$6,000, resulted from leave time not being properly documented, calculated or carried forward in accordance with the CBA and 89 hours, totaling over \$1,900, were attributed to the former Deputy's failure to use sick leave for lost time due to an occupational injury.

A well-designed system of accounting for employee leave time requires town officials to periodically review the leave records to ensure the accuracy of leave balances and leave time earned and used.

Further, we found that the leave balances for six of the other seven Department employees were overstated by a combined total of 94 hours valued at \$2,094 (Figure 1).

These discrepancies occurred and went undetected, in part, because officials did not have adequate procedures in place to ensure employee leave records and balances were accurately recorded and maintained in

accordance with the Town's CBA. Every two weeks, the former Deputy (or the Superintendent in the former Deputy's absence) processed the timecards and recorded leave charged on a computerized leave tracking spreadsheet (including his own), which created an opportunity for misuse.

Although the Superintendent told us that he periodically reviewed leave records, he was unaware of any discrepancies in the spreadsheet. For example, the Superintendent was unaware that leave activity was inaccurately recorded or not always recorded or properly deducted from the leave balance calculations on the spreadsheet. Furthermore, the Board did not review employee leave records when performing its annual audit procedures.

The Board agreed to pay the former Deputy's health and dental insurance premium (in lieu of a lump sum payment) upon retirement based on the overstated leave balance. The Town paid a total of \$16,809 toward the former Deputy's insurance premium for coverage through April 30, 2021. Based on our analysis of the leave records from 2015 through 2019, the former Deputy was owed \$10,398, which resulted in an overpayment of \$6,411 of health and dental benefits.

Without accurate leave records, Town officials are prevented from properly determining the amount of payments due to Department employees upon leaving Town employment, or ensuring these employees are accurately paid the amounts to which they are contractually entitled.

On September 11, 2020, the former Deputy was arrested and charged with Grand Larceny in the Third Degree for allegedly misstating his sick and leave accruals from 2015 to 2019. The matter is pending in court.

Figure 1: Department Leave Balances

	Hours Overstated (Understated)		Totals
	2018	2019	
Employee 1	8.50	1.00	9.50
Employee 2	.50	9.00	9.50
Employee 3	16.25	3.50	19.75
Employee 4	21.00	0	21.00
Employee 5	(4.00)	11.00	7.00
Employee 6	5.30	21.95	27.25
		Total	94.00

Without accurate leave records, Town officials are prevented from properly determining the amount of payments due to Department employees upon leaving Town employment. ...

What Do We Recommend?

Town officials should:

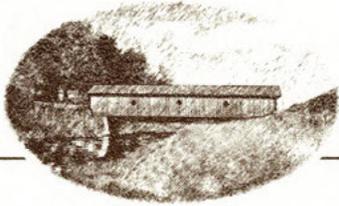
1. Ensure someone independent from those who earn and use leave, such as the Superintendent, maintains the leave records and properly calculates and deducts leave time used from employee leave balances in accordance with the Town's CBA.
2. Ensure the errors in the leave records identified in this report are corrected.

The Board should:

3. Working with the Superintendent, adopt written procedures outlining how employee leave records should be maintained and monitored by someone independent of the recordkeeping process.
4. Seek reimbursement for overpayments received by the former Deputy identified in this report.

Appendix A: Response From Town Officials

The Highway Superintendent included an employee timesheet form as an attachment to his response. We did not include this form in the final report because his response was sufficient to indicate his intentions.



TOWN OF DELHI

5 Elm Street, Delhi, New York 13753

607-746-TOWN (8696)
Fax: 607-746-7847

April 5, 2021

Office of the New York State Comptroller
Division of Local Government & School Accountability
PSU-CAP Submission
110 State Street, 12th Floor
Albany, NY 12236

Binghamton Regional Office Audit of:
Town of Delhi
Highway Department Leave Records
Audit Report # 2020M-53

Dear Ms. Singer:

Please let this document serve as our response letter for the above audit. We will be submitting our CAP at a later date.

Your key finding regarding inaccurate highway department leave records is confusing to say the least. At various times during this audit, the Town has been given numbers ranging from about \$4400 to over \$13,000.

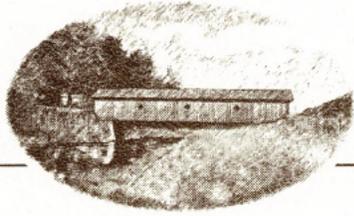
See
Note 1
Page 8

Since these allegations have been made, I have repeatedly asked for copies of the OSC worksheets but they have been denied. In fact our Town Attorney asked for them yet again at our Exit Conference on March 22, 2021. We were told no yet again. Without them, the Town has to simply guess as to how your office has come to its conclusions. Transparency has been totally lacking and unfortunately, still continues.

See
Note 2
Page 8

The Town of Delhi Highway Superintendent has always maintained all highway employee leave records. Apparently this was recently passed off to the Deputy Superintendent. While we do agree with your office that it shouldn't have been, neither I, in my capacity as the Town Supervisor, nor the Town Board members have any legal authority to compel the Highway Superintendent, as an independently elected Town Official, in what to do. The Town has no control over the Highway Department's time cards, computer programs or calculations regarding leave time.

See
Note 3
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TOWN OF DELHI

5 Elm Street, Delhi, New York 13753

607-746-TOWN (8696)
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The phone conference on May 8, 2020 from the 2 auditors from the Comptroller's Office was disorganized and appeared to be intended to intimidate me. Numbers were being thrown at me non-stop. I asked them to email me something to look at and they refused. When I asked if the discrepancy was related to the ½ days of Workers Compensation we were waiting for reimbursement on, they said "that would change everything".

Obviously it didn't, because it was shortly after the Town sent your office a copy of a check from our Worker's Compensation provider, in the amount of \$6,170.03, that the Deputy Superintendent was arrested.

To say I was shocked is an understatement! This was a 30+ year employee of the Town with a spotless record. I have known him personally since high school and completely trust him with regard to his professional performance.

Here are my concerns from this audit that has been dragging on for well over a year now:

1. I was never informed by OSC as to the outcome of a meeting with this employee conducted in February 2020. When I later found out, I was not allowed to ask questions of the auditors.
2. I was not contacted in any way by OSC before this employee was arrested.
3. I have been told repeatedly not to continue paying his health insurance premiums, as agreed to by the Town Board, when he retired. I asked for something in writing from OSC or some other agency, as we were advised by our Town Attorney to keep paying. Nothing was forthcoming.
4. Time cards and other records were removed from the town office and used by auditors working from their homes!. They were later put in a box and placed on a file cabinet in my office. Our Town Clerk is our RMO!
5. At the Exit Conference your Investigator simply lied to me regarding facts related to the investigation.
6. The letter arranging the Exit Conference also asked if I could have my response prepared immediately after the Conference. I told the 3 OSC Auditors and 2 OSC Investigators I felt that was impossible, seeing I can't get any of my questions answered or copies of the worksheets used by OSC in its investigation.

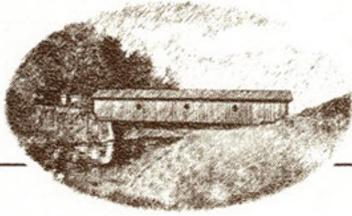
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7. It appears from the Town's perspective that this audit was driven not by the facts, but by a predetermined outcome, and when the other relevant facts were provided to the OSC, and their procedures and practices were questioned, they became defensive and refused both to provide their audit documents or to look at other relevant issues that could change the outcome.

See
Note 9
Page 10

In closing I would have to say we completely disagree about the way in which this was handled and who you are holding responsible.

Hopefully we will get our questions answered and copies of the necessary worksheets, so we can finalize a CAP.

If any further information is needed, please contact me at 607-746-9882.

Sincerely,

Mark E. Tuthill
Delhi Town Supervisor



**TOWN OF DELHI
HIGHWAY DEPARTMENT**

3 Elm Street, Delhi, New York 13753

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April 14, 2021

Office of the State Comptroller
Division of Local Government & School Accountability
PSU-CAP Submission
110 State Street, 12th Floor
Albany, NY 12236

Re: Town of Delhi
Highway Department Leave Records
Report of Examination 2020M-53

Dear Sir/Madam:

In accordance with the aforementioned Report of Examination this letter shall serve as my written Corrective Action Plan (CAP).

Based upon discussions with the NYS Comptroller auditors, I was made aware of possible discrepancies within the payroll records. I implemented a check and balance system, effective September 2020, to ensure the accuracy of the Highway Department payroll record keeping. Below is a list of safeguards I have created in an attempt to avoid future discrepancies from occurring.

- Employees are required to complete a daily breakdown of time earned and used in conjunction with their time cards. In addition, employees must sign the employee timesheet form (enclosed) certifying that the data provided is true and accurate.
- The employee timesheet form along with the time cards are reviewed by myself and once approved are submitted to the bookkeeper.
- A copy of both the employee timesheet form and time cards are provided to the bookkeeper for review to ensure the time recorded is accurate in order to process payroll. If there are any questions regarding the time recorded it is incumbent upon the bookkeeper to question me to resolve any issues.
- The bookkeeper now provides each employee with a handout in their pay envelope indicating the time used and earned. If the employee finds a discrepancy, they must bring it to my attention and I will address the issue with the bookkeeper for resolution.

With the implementation of the above practices, it is my sincere intent to ensure that the Highway Department payroll records are properly completed, maintained and are accurate.

Respectfully submitted,

Daren Evans
Town of Delhi Highway Superintendent

Enc.

Appendix B: OSC Comments on the Supervisor's Response

We appreciate the Supervisor's response letter on behalf of the Town in regard to our audit report. Overall, the letter contains numerous misstatements regarding our audit and interactions with the Supervisor.

We understand the Supervisor has personally known the former Deputy Superintendent for a significant amount of time and this long-term relationship may have impacted the tone and misstatements included in the response. However, the main purpose of our audits is to encourage local officials to work constructively in addressing improvement opportunities our audits identify in local government operations.

We encourage the Board and officials to take the opportunity to work in a constructive manner to develop and implement corrective measures that will serve in the best interest of the Town's operations. Following is our response to various sections of the response letter.

Note 1

Over the course of our audit, draft numbers changed based on the outcome of workers' compensation hearings, which we explained to the Supervisor at various times.

Note 2

We were not asked for worksheets at any time during our audit until the exit conference on March 22, 2021 when we again met with the Supervisor and discussed our work papers in more detail.

At the time of our exit conference, the Supervisor indicated he would need something in writing to assist him in making a decision on whether to stop or continue paying the former Deputy's health and dental insurance. We provided summary worksheets to the Supervisor, Board members and Superintendent after our discussion at the exit conference as requested. The worksheets were shared nine days before we received the Supervisor's response letter.

Note 3

During our audit, both the Superintendent and the former Deputy said the former Deputy maintained the electronic Highway employee leave records, which were used for our audit, dating back to January 1, 2015.

Generally, the Superintendent is responsible for ensuring proper recording of Highway employee timecards and leave records. In addition, the Board is responsible for setting policies and procedures with respect to time and leave records. We encourage the Board to work with the Superintendent to implement effective procedures to monitor and review leave records.

Note 4

The purpose of our May 8, 2020 telephone conference was to communicate the preliminary audit findings and answer any questions. The Supervisor did not request us to email anything, and if he was overwhelmed with the numbers we shared, he could have asked for clarification. We informed the Supervisor of the discrepancies related to workers' compensation and that our audit findings were subject to change based on the outcome of pending workers' compensation hearings. For clarification, the former Deputy was arrested based on discrepancies in the leave records that were unrelated to workers' compensation.

Note 5

Regarding concerns 1 through 3, it is our standard practice to not discuss the status of, or the outcome of meetings with other individuals regarding ongoing investigations. As for paying for the health and dental insurance premiums, we did not instruct the Town officials to stop paying for the former Deputy's insurance.

Additionally, we have no record of a request for anything in writing until the exit conference. At that time, we updated our findings to reflect recent health and dental insurance premium payments, and provided that information to officials nine days before receiving the Supervisor's response letter.

Note 6

We did not remove any records from Town Hall. In fact, once we were done reviewing the timecards on-site, the Supervisor requested we put the records on top of the filing cabinet in his office, which we complied with.

Note 7

This statement is false. The State Comptroller's Office is committed to protecting taxpayers and rooting out waste, fraud and abuse at all levels of government.

All the information relayed to the Town was based upon factual findings uncovered as a result of the Comptroller's examination. This same information was relayed to the District Attorney's Office which charged the former Deputy with Grand Larceny. In light of the Supervisor's long standing personal relationship with the former Deputy Superintendent, the Comptroller's Office questions the objectivity of the Town's response.

Note 8

As clearly stated in our letter arranging the exit conference, it is our policy to give Town officials up to 30 days from the date they receive the draft report to respond to our findings and recommendations, although we do encourage a shorter response time, if possible. We repeated this policy at the exit conference.

Note 9

We performed our audit with objectivity, in a professional manner, and without any predetermined outcomes. Our findings and conclusions are based on our review of leave information and interviews with Town officials as stated in Appendix C and supported by appropriate evidence. At no point during the audit did we refuse to provide audit documents or consider relevant facts.

Additionally, we have no record of a request from the Supervisor for anything in writing until our exit conference. After the exit conference, we updated our audit findings to reflect recent health and dental insurance premium payments, and provided that information to officials nine days before receiving the Supervisor's response letter.

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 employees and reviewed the Town's CBA to gain an understanding of internal controls and procedures related to the maintenance of leave records.
- We reviewed the 2018 and 2019 leave records for all eight Department employees to determine whether leave time recorded on their timecards was properly included on the leave tracking spreadsheet, the leave time credited and carried forward agreed with the CBA and the formulas in the leave tracking spreadsheet accurately calculated the leave balances. Due to significant discrepancies occurring with the former Deputy's leave records, we extended our testing of his leave records back to 2015.
- We determined whether the Town paid the former Deputy his full rate of pay while he was off work due to an occupational injury and whether he received any payments directly from the Town's workers' compensation insurance. We reviewed the Workers' Compensation Board decisions for the former Deputy for the periods of January 19 through March 10, 2019 and March 10 through June 12, 2019 and determined whether the Town received the reimbursement from workers' compensation insurance. We recalculated the sick leave that should have been deducted from the former Deputy's leave records in accordance with the CBA.
- Using the 2019 pay rates, we recalculated the total amount of leave balance discrepancies and the total amount owed to the former Deputy upon his retirement for his leave balances. We used the November 2019 through April 2021 health and dental insurance bills to determine the amount of money paid by the Town for the former Deputy's health insurance.

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.

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

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

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

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

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

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

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