



# NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

Mike Foley  
State Auditor

Mike.Foley@nebraska.gov  
PO Box 98917  
State Capitol, Suite 2303  
Lincoln, Nebraska 68509  
402-471-2111, FAX 402-471-3301  
auditors.nebraska.gov

March 14, 2024

Arlo Thayer, Chairperson  
Village of Bladen  
PO Box 37  
Bladen, NE 68928

Dear Chairperson Thayer:

The Nebraska Auditor of Public Accounts (APA) has reviewed the audit waiver request received from the Village of Bladen (Village) for the fiscal year ending 2023. **That request has been approved.**

While performing, pursuant to Neb. Rev. Stat. § 84-304 (Supp. 2023), the preliminary examination necessary to determine whether the audit waiver should be allowed or further audit work would be required, the APA noted certain internal control or compliance matters, or other operational issues, within the Village.

The following information is intended to improve internal controls or result in other operational efficiencies.

## Comments and Recommendations

### 1. Possible Taxable Fringe Benefit

According to the minutes for a meeting of the Village Board of Trustees (Board) on March 13, 2023, the compensation of Board members was discussed. Afterwards, the Board announced its plan to amend the Board members' compensation ordinance at the next meeting, which would waive the utility usage fees for all Village utilities (water, trash, and sewer) and leave Board members responsible for only a \$27 meter reading fee each month.

After March 2023, each of the Board members stopped paying for utility usage and paid only the monthly meter reading fee. As of February 22, 2024, however, almost an entire year after the Board's initial discussion of changing the members' compensation, the amended ordinance had yet to be approved. The Village Clerk informed the APA that the amended ordinance would be included on the agenda for the Board meeting to be held in March 2024.

Neb. Rev. Stat. § 17-209 (Reissue. 2022) provides the following regarding the compensation of Village officials and employees:

*The appointive officials and other employees of the village shall receive such compensation as the chairperson and village board of trustees shall designate by ordinance; and the annual salary of the chairperson and other members of the village board of trustees shall be fixed by ordinance.*

In addition to noting the lack of formal approval for the amended ordinance waiving the utility usage fees for Board members, the APA also questions whether this exemption from payment should be included as a taxable fringe benefit for the Board members.

The Internal Revenue Service (IRS) Publication 5137 (Rev. 10-2022), “Fringe Benefit Guide,” defines a fringe benefit as follows:

*A fringe benefit is a form of pay (including property, services, cash or cash equivalent) in addition to stated pay for the performance of services. Under Internal Revenue Code (IRC) Section 61, all income is taxable unless an exclusion applies. . . .*

Furthermore, IRS Publication 15-B (January 5, 2023), “Employer’s Tax Guide to Fringe Benefits,” provides the following:

*Any fringe benefit you provide is taxable and must be included in the recipient's pay unless the law specifically excludes it. Section 2 discusses the exclusions that apply to certain fringe benefits. Any benefit not excluded under the rules discussed in section 2 is taxable.*

The following explanation of how to determine the typical value of fringe benefits is found under the “General Valuation Rule” heading in Publication 15-B:

*You must use the general valuation rule to determine the value of most fringe benefits. Under this rule, the value of a fringe benefit is its fair market value.*

**Fair Market Value (FMV).** *The FMV of a fringe benefit is the amount an employee would have to pay a third party in an arm’s-length transaction to buy or lease the benefit. Determine this amount on the basis of all the facts and circumstances.*

*Neither the amount the employee considers to be the value of the fringe benefit nor the cost you incur to provide the benefit determines its FMV.*

The APA is unaware of any specific exclusion that would preclude the value of a Board member’s utility service usage fees from being considered a taxable fringe benefit.

Good internal control requires procedures to ensure that Board member compensation is properly set by ordinance, as provided in State statute. Those same procedures should ensure also that any such compensation determined to constitute a fringe benefit is treated as taxable wages in accordance with IRS guidelines.

Without such procedures, there an increased risk for not only noncompliance with both State statute and Federal tax law but also financial liability on the part of the Village and its Board members.

We recommend the Village implement procedures to ensure: 1) Board member compensation is properly set by ordinance, as provided in State statute; and 2) any such compensation determined to constitute a fringe benefit is treated as taxable wages in accordance with IRS guidelines.

## **2. Debit Card Issues**

The APA’s review of the bank statements obtained from the Village’s audit waiver request revealed multiple debit card transactions, totaling \$9,094.90, throughout fiscal year 2023. Upon further inquiry, the APA learned that the Village utilizes a debit card for small general Village expenses.

It is important to note that a debit card does not provide as much fraud protection as a credit card or other purchasing method. Consequently, the use of a debit card increases the Village’s risk of unrecoverable loss of funds and may even facilitate fraudulent activity. Debit card use also risks undermining administrative oversight of municipal expenditures because such instruments lack monthly billing statements and do not require dual signatures for disbursements to be made. Furthermore, the following issues were noted.

### ***Lack of Formal Purchasing Card Policy***

It was noted also that the Village lacks a formal purchasing card policy outlining procedures for safeguarding Village assets when using the Village card, including the designation of allowable purchases and authorized users.

Neb. Rev. Stat. § 13-610 (Reissue 2022) provides, in relevant part, the following requirements for a political subdivision’s purchasing card program:

*(1) A political subdivision, through its governing body, may create its own purchasing card program. The governing body shall determine the type of purchasing card or cards utilized in the purchasing card program and shall approve or disapprove those persons who will be assigned a purchasing card. Under the direction of its governing body, any political subdivision may contract with one or more financial institutions, card-issuing banks, credit card companies, charge card companies, debit card companies, or third-party merchant banks capable of operating the purchasing card program on behalf of the political subdivision. Expenses associated with the political subdivision’s purchasing card program shall be considered, for purposes of this section, as an administrative or operational expense.*

\* \* \* \*

*(4) An itemized receipt for purposes of tracking expenditures shall accompany all purchasing card purchases. In the event that a receipt does not accompany such a purchase, purchasing card privileges shall be temporarily or permanently suspended in accordance with rules and regulations adopted and promulgated by the political subdivision.*

\* \* \* \*

*(6) No officer or employee of a political subdivision shall use a political subdivision purchasing card for any unauthorized use as determined by the governing body.*

(Emphasis added.) Ensuring that a Village purchasing card is used only for authorized purposes, or the privilege of its use is properly suspended, as required by law, is difficult, if not impossible, without formal municipal guidelines or, as referenced in statute, “rules and regulations adopted and promulgated by the political subdivision” to establish the parameters for such legitimate use.

Good internal control requires written guidelines for the proper use of a Village purchasing card, including formal designation of both the authorized users and the allowable uses thereof.

***Lack of Adequate Documentation***

The Village lacked sufficient documentation for the following purchases, including missing invoices and debit card receipts:

<b>Vendor</b>	<b>Amount</b>
BR Bumper	\$ 13.44
Rocket Law	39.99
Wintergreen Corp	782.95
<b>Total</b>	<b>\$ 836.38</b>

As noted above, § 13-610(4) requires all expenditures with a political subdivision’s purchasing card to be supported by an itemized receipt.

Moreover, good internal control requires procedures to ensure that proper documentation is maintained for all disbursement transactions, including itemized receipts for purchases made with a Village purchasing card.

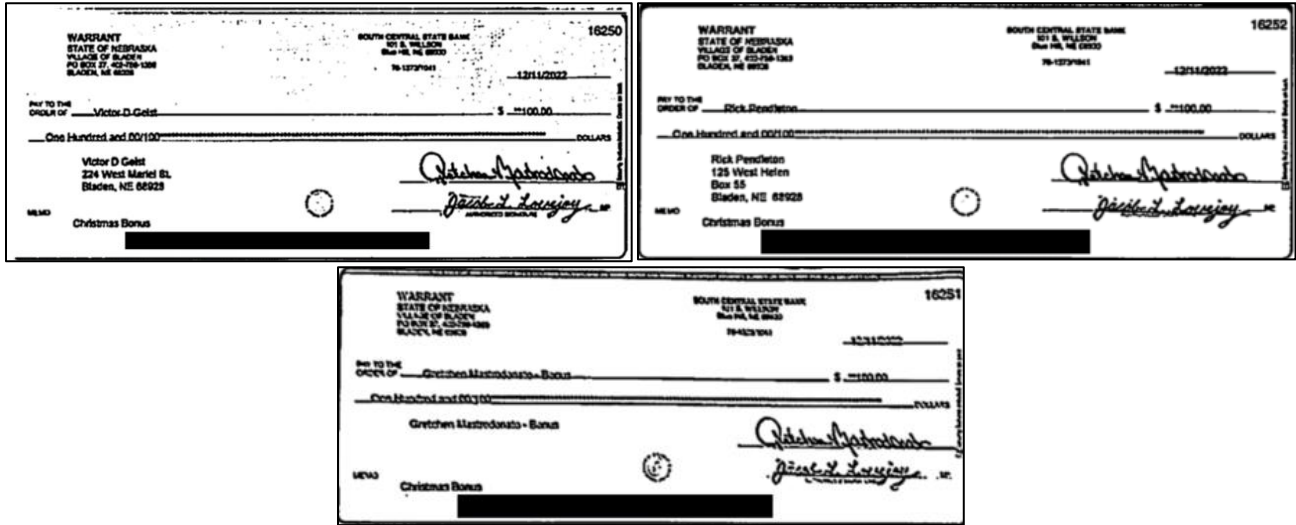
Without such procedures, there is an increased risk for not only loss, theft, or misuse of Village funds but also statutory noncompliance.

We recommend the Board implement procedures to ensure the following: 1) a formal purchasing card policy is implemented to outline procedures for the proper use of the Village’s card, including the designation of allowable purchases and authorized users; and 2) proper documentation is maintained for all disbursement transactions, including itemized receipts for purchases made with the Village’s purchasing card.

### 3. Impermissible Christmas Bonuses

In December 2022, the Village Board paid three Village employees \$100 each. According to the memos of these checks, the payments were for a “Christmas Bonus” – which was paid in addition to compensation received already for work performed.

The following are images of the three checks at issue:



For the reasons set out below, the APA questions the propriety of these bonus payments.

To start, the authority of a Village, like all other political subdivisions, is strictly limited. As the Nebraska Supreme Court (Court) has stated:

*A municipality or a political subdivision possesses, and can exercise, the following powers and no others: first, those granted in express words; second, those necessarily or fairly implied in or incident to the powers expressly granted; and third, those indispensable to the purposes of the municipality.*

*Professional Firefighters of Omaha, Local 385 v. City of Omaha*, 243 Neb. 166, 174, 498 N.W.2d 325 (1993). Moreover, the Court has elaborated:

*Statutes granting powers to municipalities are to be strictly construed, and where doubt exists, such doubt must be resolved against the grant.*

*L.J. Vontz Const. Co., Inc. v. City of Alliance*, 243 Neb. 334, 340-41, 500 N.W.2d 173 (1993). The APA is unaware of any express statutory provision authorizing Christmas bonuses by municipalities. Likewise, in light of the Court’s observation regarding the strict construction of any statutory grant of authority to a political subdivision, it is highly doubtful that such bonuses could be seen as “necessarily or fairly implied in or incident to the powers expressly granted” or “indispensable to the purposes of” the Village.

Likewise, the Local Government Miscellaneous Expenditure Act (Act), which is set out at Neb. Rev. Stat. §§ 13-2201 to 13-2204 (Reissue 2022), specifies various expenditures, aside from those otherwise authorized by law, that constitute allowable uses of public funds by designated political subdivisions, including Villages. The Act contains nothing that could reasonably be interpreted as authorizing Christmas bonuses.

Finally, but certainly no less important, Article III, § 19, of the Nebraska Constitution prohibits gratuitous payments to public personnel, as follows:

*The Legislature shall never grant any extra compensation to any public officer, agent, or servant after the services have been rendered nor to any contractor after the contract has been entered into, except that retirement benefits of retired public officers and employees may be adjusted to reflect changes in the cost of living and wage levels that have occurred subsequent to the date of retirement.*

(Emphasis added.) The Court has explained the meaning of “extra compensation” as follows:

*A payment of compensation to a public servant constitutes extra compensation whenever there is no legal obligation to pay such compensation.*

*Myers v. Nebraska Equal Opportunity Com’n*, 255 Neb. 156, 163, 582 N.W.2d 362, 367 (1998) (quoting *Matter of Mullane v. McKenzie*, 269 N.Y. 369, 377, 199 N.E. 624, 627 (1936)). The Nebraska Attorney General has also weighed in on this constitutional provision by explaining, “Nebraska law generally requires work be performed in order for payment to be received.” Op. Att’y Gen. 95071 (Sept. 13, 1995).

According to the Nebraska Supreme Court, the prohibition in Article III, § 19, is applicable to both the State and its many political subdivisions. *Retired City Civilian Employees Club of City of Omaha v. City of Omaha Employees’ Retirement System et al.*, 199 Neb. 507, 512, 260 N.W.2d 472, 475 (1977). Consequently, the Village is subject to this constitutional injunction against gratuities.

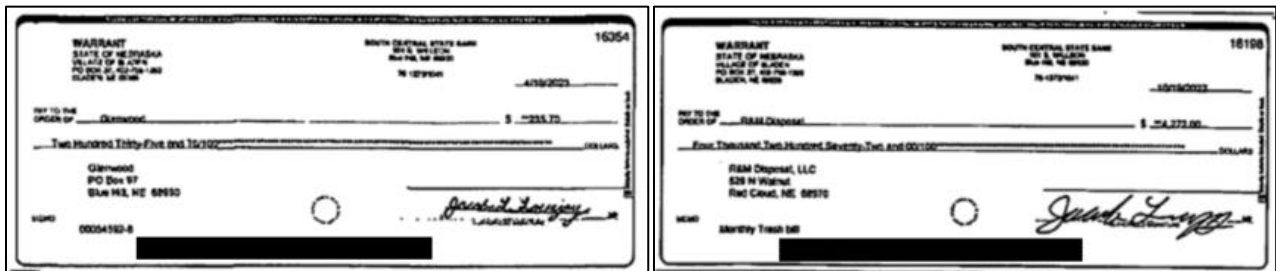
Good internal control requires procedures to ensure that all payments to Village officers or employees, including bonuses of any kind, are not only constitutionally permissible but also authorized by statute.

Without such procedures, there is an increased risk for the improper disbursement of public funds.

We recommend the implementation of procedures to ensure that all payments to Village officers or employees, including bonuses of any kind, are not only constitutionally permissible but also authorized by statute.

#### 4. Lack of Dual Signatures

The APA obtained the bank statements for the Village’s accounts from its fiscal year 2023 audit waiver request. From these statements, the APA noted that five of the Village checks written during the examination period contained only one signature. Examples of such checks are shown below.



State statute requires Village checks to be signed by both the Chairperson of the Board of Trustees (Board) and the Village Clerk. Specifically, Neb. Rev. Stat. § 17-711 (Reissue 2022) provides the following:

*All warrants drawn upon the city treasurer of a city of the second class or village treasurer must be signed by the mayor or chairperson of the village board of trustees and countersigned by the city clerk or village clerk, stating the particular fund to which the same is chargeable, the person to whom payable, and for what particular object. No money shall be otherwise paid than upon such warrants so drawn. Each warrant shall specify the amount included in the adopted budget statement for such fund upon which it is drawn and the amount already expended of such fund.*

(Emphasis added.) Good internal control and sound accounting practices require procedures to ensure that Village checks contain the statutorily required endorsements. Without such procedures, there is an increased risk for not only failure to comply with State statute but also loss and/or misuse of Village funds.

We recommend the Board implement procedures to require dual signatures, from the Board Chairperson and the Village Clerk, on all Village checks, as required by law.

**5. Lack of Claim Purpose**

During our comparison of the Village’s bank account details to claims approved by the Board, the APA observed meeting minutes dated August 14, 2023, and noted that the claims listed therein lacked descriptions of their respective purposes. The following is an example of the approved claims listing provided by the Village for August 14, 2023:

CLAIMS: Kory McCracken \$50.00: R&M Disposal \$2136.00: Black Hills Energy \$380.31: Glenwood \$225.18 South Central Public Power \$1150.70: One Call Concepts \$3.58, Menards \$769.07, Nebraska Public Health Environ. Lab: \$719.00: SOS Portable Toilets \$110.78, Norders \$157.48, Century Lumber \$13.99, Skupa Agency Workman’s Comp \$428.00, League of Municipalities \$428.00, Federal 941 \$2269.54, NE Unemployment \$677.49, NE 941-N \$161.33, Wages \$3809.48: Cell Phone \$40.00: Mileage \$44.64.
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Neb. Rev. Stat. § 84-1413(1) (Cum. Supp. 2022) of the Open Meetings Act (Act), which is set out at Neb. Rev. Stat. §§ 84-1407 to 84-1414 (Reissue 2014, Cum. Supp. 2022), requires political subdivisions and other public entities to “keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.” (Emphasis added.)

Additionally, Neb. Rev. Stat. § 19-1102 (Reissue 2022) requires publication of the Board’s official proceedings, which must include, among other things, the purpose of each claim allowed, as follows:

*It shall be the duty of each city clerk or village clerk in every city or village having a population of not more than one hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census to prepare and publish the official proceedings of the city council or village board of trustees within thirty days after any meeting of the city council or village board of trustees. The publication shall be in a legal newspaper in or of general circulation in the city or village, shall set forth a statement of the proceedings of the meeting, and shall also include the amount of each claim allowed, the purpose of the claim, and the name of the claimant, except that the aggregate amount of all payroll claims may be included as one item. Between July 15 and August 15 of each year, the employee job titles and the current annual, monthly, or hourly salaries corresponding to such job titles shall be published. Each job title published shall be descriptive and indicative of the duties and functions of the position. The charge for the publication shall not exceed the rates provided for in section 23-122.*

(Emphasis added.) Good internal control and sound accounting practices require procedures to ensure that the Board’s meeting minutes describe the purpose of each claim allowed.

Without such procedures, there is an increased risk of not only failure to comply with statutory requirements pertaining to the keeping of proper meeting minutes and the publication of the municipality’s “official proceedings” but also a lack of transparency regarding the nature of public expenditures.

A similar issue was identified by the APA in a prior review and was disclosed to the Village in the APA’s letter dated March 30, 2023, which can be found on the APA’s website. However, it does not appear this issue was corrected after the APA’s notification.

We recommend the Board implement procedures to ensure the purpose of each claim allowed is included in both the Board’s meeting minutes and the “official proceedings” required to be published afterwards.

**6. Payment of Unapproved Claims**

During our comparison of the Village’s bank account details to claims approved by the Board, the APA identified the following payments, totaling \$7,495.26, which were paid but not included on the claims listing to be approved by the Board. Details of the unapproved payments are included in the table below:

<b>Name/Vendor</b>	<b>Check Date</b>	<b>Amount</b>	<b>Check #</b>
USPS	9/6/23	\$ 132.00	Debit
USPS	9/7/23	28.95	Debit
Comstock Custom Sale	9/8/23	418.00	Debit
Black Hills Energy	9/8/23	554.20	Debit
BR Bumper	9/11/23	13.44	Debit
Rocket Law	9/11/23	39.99	Debit
Intuit	9/18/23	68.58	Debit
Intuit	9/18/23	80.00	Debit
Intuit	9/19/23	62.50	Debit
Norder Supply	9/21/23	159.59	16480
R&M Disposal	9/21/23	2,109.00	16476
Century Lumber	9/21/23	13.99	16481
Black Hills Energy	9/21/23	201.30	16477
SOS Portable Toilets	9/21/23	110.78	16483
Glenwood	9/21/23	450.25	16478
Timm’s Service	9/21/23	37.29	16486
Miller & Associates	9/21/23	560.90	16487
Town Pump Works	9/21/23	2,175.00	16488
Grechen M. - Mileage	9/21/23	78.00	16492
Amazon	9/21/23	127.66	Debit
Microsoft	9/22/23	73.84	Debit
<b>Total</b>		<b>\$ 7,495.26</b>	

Neb. Rev. Stat. § 17-614(1)(a) (Supp. 2023) sets out the proper method for the appropriation or payment of money by the Village, as follows:

*All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all members elected to the city council in a city of the second class or village board of trustees.*

(Emphasis added.) Good internal control requires procedures to ensure that all claims are authorized by the Board prior to payment and are adequately documented in the meeting minutes of the month in which they are approved. Without such procedures, there is an increased risk for the loss or misuse of Village funds.

A similar issue was identified by the APA in a prior review and was disclosed to the Village in the APA’s letter dated March 30, 2023, which can be found on the APA’s website. However, it does not appear this issue was corrected after the APA’s notification.

We recommend the Board implement procedures to ensure all claims are authorized by the Board prior to payment and are adequately documented in the meeting minutes of the month in which they are approved.

**7. Negative Bank Balance**

During a review of the bank statements obtained from the Village’s audit waiver request, it was noted that the Village’s checking account had a negative balance three times during fiscal year 2023. The table below summarizes the negative account balance for those periods:

Date Range	Largest Negative Balance	Overdraft Fees
11/23/2022 – 11/27/2022	\$ 14,759.41	\$ 75.00
6/30/2023	1,851.85	50.00
7/18/2023	823.26	25.00
<b>Total</b>		<b>\$ 150.00</b>

As a result of that negative balance, the Village paid \$150 in overdraft charges.

Good internal controls and sound business practices require procedures to ensure that the Village’s bank account contains sufficient funds to pay claims. Without such procedures, there is an increased risk for not only the loss, misuse, or theft of Village funds but also the accumulation of overdraft fees.

We recommend the Village implement procedures to ensure the Village’s bank account contains sufficient funds to pay claims.

**8. Payment of Claim in Excess of Amount Approved**

During our comparison of the Village’s bank account details to claims approved by the Board, the APA noted that one check was issued for \$1,079.41 more than the amount approved by the Board. This overpayment is displayed in the table below:

Name	Claim Date	Approved Amount	Amount Paid	Overpayment
South Central Public Power	8/14/2023	\$ 1,150.70	\$ 2,230.11	\$ 1,079.41

Good internal control requires procedures to ensure that claims are not paid for an amount greater than the amount approved by the Board. Without such procedures, there is an increased risk for the loss or misuse of Village funds.

We recommend the Board implement procedures to ensure that claims against the Village are not paid for amounts greater than the amounts approved by the Board.

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The preliminary planning work that resulted in this letter was designed primarily on a test basis and, therefore, may not bring to light all existing weaknesses in the Village’s policies or procedures. Nevertheless, our objective is to use the knowledge gained during the performance of that preliminary planning work to make comments and suggestions that we hope will prove useful to the Village.

This communication is intended solely for the information and use of the Village and its management. It is not intended to be, and should not be, used by anyone other than those specified parties. However, this letter is a matter of public record, and its distribution is not limited.

If you have any questions, please contact **Dakota Christensen at 402-499-8702 or dakota.christensen@nebraska.gov.**

Sincerely,



Mark Avery, CPA  
Assistant Deputy Auditor