



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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November 8, 2024

Kenneth Ortmeier, Chairperson
St. Charles Township Cuming County
1432 B Road
West Point, NE 68788

Dear Chairperson Ortmeier:

The Nebraska Auditor of Public Accounts (APA) has reviewed the audit waiver request received from the St. Charles Township Cuming County (Township) for the fiscal year ending 2024. **That request has been approved.**

While performing, pursuant to Neb. Rev. Stat. § 84-304 (2024 Neb. Laws, L.B. 1143, § 3), the preliminary examination necessary to determine whether further audit work would be required or the audit waiver should be allowed, the APA noted certain internal control or compliance matters, or other operational issues, within the Township.

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

Comments and Recommendations

1. Possible Impermissible Gratuity

In December 2023, the Township Board paid a Township employee \$100. According to the Township Clerk, this payment was for an “annual Christmas bonus” – which appears to have been paid in addition to compensation received already for work performed.

Article III, § 19, of the Nebraska Constitution contains the following prohibition against gratuitous payments to public employees:

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.

The Nebraska Attorney General has summarized 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, this constitutional prohibition is applicable to both the State and its many political subdivisions. *Retired City Civilian Employees Club of City of Omaha Employees’ Retirement System et al.*, 199 Neb. 507, 512, 260 N.W.2d 472, 475 (1977). Consequently, the Township is subject to the injunction against gratuities.

Good internal control requires procedures to ensure that any payments, including bonuses, to Township employees are made in strict accordance with Article III, § 19.

Without such procedures, there is an increased risk of not only loss or misuse of public funds but also violation of the Nebraska Constitution.

We recommend the Township implement procedures to ensure all payments are constitutionally permissible.

2. Potentially Disallowed Purchases

Our review of the bank statements obtained from the Township’s audit waiver request revealed the following payments, totaling \$150, made by the Township:

Check Number	Check Date	Name/Vendor	Amount	Description
7657	11/14/2023	West Point Vol. Fire Dept.	\$ 100	Annual Donation
7691	2/22/2024	Cuming Co. Fair Foundation	50	Memorial for Former Board Member
Total			\$ 150	

The Local Government Miscellaneous Expenditure Act (Act), which is set out at Neb. Rev. Stat. § 13-2201 (Reissue 2022) et seq., specifies various expenditures, aside from those otherwise authorized by law, that constitute allowable uses of public funds by designated political subdivisions. The provisions of the Act are made applicable to Townships, among numerous other public entities, by both subsections (2) and (3) of Neb. Rev. Stat. § 13-2202 (Reissue 2022).

Neb. Rev. Stat. § 13-2203 (Reissue 2022) of the Act enumerates the miscellaneous expenditures permitted by governing bodies of local governments. Donations and memorials are not found among that select statutory list of permissible expenditures. As a result, such disbursements must be considered disallowed by law.

Good internal control requires procedures to ensure compliance with the provisions of the Act. Without such procedures, there is an increased risk for not only noncompliance with applicable statutory requirements but also loss or misuse of Township funds.

We recommend the Board implement procedures to ensure all Township expenditures are allowable under State statute, including the provisions of the Act.

3. Payments Not Approved

The APA obtained a copy of the March 12, 2024, meeting minutes for the Township Board (Board). Those minutes fail to reflect the Board’s approval of any Township expenditures. According to Township officials, claims that are received by the date of a meeting are verbally approved at meetings. All other claims are paid as received. While some claims are approved at meetings, this is not documented in the meeting minutes.

Nebraska law requires the Board to approve all claims against the Township. In particular, Neb. Rev. Stat. § 23-255 (Reissue 2022) states the following, in relevant part:

All claims and charges against the town, duly audited and allowed by the town board, shall be paid by order so drawn.

(Emphasis added.) Properly discharging the above statutory duties necessarily entails the Board’s approval of all expenditures of Township funds prior to the actual disbursement.

As a public body, moreover, the Board is subject to the provisions of the Open Meetings Act, which is set out at Neb. Rev. Stat. §§ 84-1407 to 84-1414 (Reissue 2014; Cum. Supp. 2022; 2023 Neb. Laws, L.B. 43, § 21; 2024

Neb. Laws, L.B. 287, § 74; 2024 Neb. Laws, L.B. 399, § 4; 2024 Neb. Laws, L.B. 1370, § 8). Per Neb. Rev. Stat. § 84-1413(1) (Cum. Supp. 2022) public bodies, including the Board, are required to “keep minutes of all meetings,” showing, among other things, “the substance of all matters discussed.”

Furthermore, a good internal control plan and sound business practices require procedures to ensure that the Board approves all expenditures and business transactions of the Township prior to payment. Those same procedures should ensure also that the Board documents such approval in its meeting minutes, specifying the name of each payee, the exact amount of any disbursement, and the specific purpose of the payment.

Without such procedures, there is an increased risk for not only failure to comply with State statute but also loss or misuse of public funds.

We recommend the implementation of procedures to ensure the Board approves all expenditures of Township funds prior to payment, and such approval is documented adequately in the Board’s meeting minutes.

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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 Township’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 Township.

This communication is intended solely for the information and use of the Township 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