



# NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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February 11, 2025

Gus Moreno, Chairperson  
Village of Ithaca  
530 Main Street  
Ithaca, NE 68033

Dear Chairperson Moreno:

The Nebraska Auditor of Public Accounts (APA) has reviewed the audit waiver request received from the Village of Ithaca (Village) for the fiscal year ending 2024. **That request has been approved.**

While performing, pursuant to Neb. Rev. Stat. § 84-304 (Reissue 2024), 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. Payment of Unapproved Claims

During our comparison of the Village's bank account details to claims approved by the Board, the APA identified one check, totaling \$3,350.00, which was paid but not included on the claims listing to be approved by the Board.

Details of the unapproved payment are included in the table below:

Name/Vendor	Check Date	Amount	Check #
W. E. Arbor Solutions	4/25/24	\$ 3,350.00	1654

Neb. Rev. Stat. § 17-614(1)(a) (Cum. Supp. 2024) 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 February 20, 2024, which can be found on the APA’s website. However, this issue does not appear to have been 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.

**2. Payment of Claims Prior to Board Approval**

During our comparison of the Village’s bank account details to claims approved by the Board, the APA noted that the following check, totaling \$316.57, was issued before the underlying claim was approved by the Board. The table below provides a summary of the premature payment:

<b>Name/Vendor</b>	<b>Amount</b>	<b>Approval Date</b>	<b>Check Date</b>	<b>Days Paid Before Approval</b>
Windstream	\$ 316.57	4/18/24	4/16/24	2

Neb. Rev. Stat. § 17-614(1)(a) (Cum. Supp. 2024) sets out the proper method for the appropriation or payment of money by the Village, as follows:

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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.

**3. Expenditure in Excess of Budget**

For the fiscal year ended September 30, 2024, actual Village expenditures exceeded the adopted budget by \$4,740. No amended budget was filed with our office for these additional expenditures.

Neb. Rev. Stat. § 13-510 (Reissue 2022) states, in relevant part, the following:

*No expenditure during any fiscal year or biennial period shall be made in excess of the amounts indicated in the adopted budget statement, except as authorized in section 13-511, or by state law. Any officer or officers of any governing body who obligates funds contrary to the provisions of this section shall be guilty of a Class V misdemeanor.*

Neb. Rev. Stat. § 13-511 (Reissue 2022) sets out the procedures for amending the adopted budget accordingly.

When expenditures are made in excess of the amounts budgeted, with no appropriate budget amendment by the Board to address those excesses, the Village is noncompliant with State statute, further increasing the risk for loss and/or misuse of funds.

We recommend the Board implement procedures for monitoring closely its budget status on an ongoing basis to avoid incurring expenditures in excess of the amount budgeted, amending the budget as necessary to accommodate any unforeseen expenses.

#### **4. Job and Wage Publication**

The APA noted that the Village failed to publish its annual job and wage publication between July 15, 2024, and August 15, 2024, as required by State statute. No publication was made by the Village.

Neb. Rev. Stat. § 19-1102 (Reissue 2022) states, in relevant part, the following:

*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.*

Good internal control requires procedures to ensure that the Village's annual job and wage publication is published between July 15 and August 15 annually, as required by law. Without such procedures, there is an increased risk of not only statutory noncompliance but also lack of transparency and loss or misuse of funds.

We recommend the Board implement procedures to ensure the Village's annual job and wage publication is published between July 15 and August 15 annually, as required by law.

#### **5. Payroll Tax Withholding Issues**

During the fiscal year ended September 30, 2024, taxes were not withheld from wages paid to Village employees and remitted to either the Internal Revenue Service (IRS) or the Nebraska Department of Revenue (Department). The Village is required to withhold Federal taxes, including income tax, Social Security tax, and Medicare tax, as well as State income tax from compensation paid to municipal employees.

According to the Village Clerk, the Village provides each Village Board member and the Clerk with an IRS Form 1099 instead of withholding and remitting taxes through either a quarterly Form 941 or an annual Form 944, and then issuing a Form W-2 to those employees.

The requirements for withholding payroll taxes from compensation paid to public officials and employees are explained in various Federal and State publications, as described below.

For Federal income taxes, the "Tax Withholding for Government Workers" information (last updated December 13, 2024), which appears on the IRS website, states the following, as is relevant:

*Internal Revenue Code section 3401(c) indicates that an "officer, employee, or elected official" of government is an employee for income tax withholding purposes.*

\* \* \* \*

*The courts generally define "public official" and "public officer" to mean anyone who exercises significant authority pursuant to public laws. This includes any official who administers or enforces public laws whether the public elected the individual or an office appointed them.*

(Emphasis added.) Additionally, the "Frequently Asked Questions" section of IRS Publication 963 (Rev. 7-2020), "Federal-State Reference Guide," states the following, in relevant part, about the employment status of government officials, especially with regard to not only Federal income taxes but also Social Security and Medicare tax withholdings:

For income tax purposes, elected (or elective) and most appointed officials are defined by IRC Section 3401(c) as employees of the public entity they serve (mayors, members of the legislature, county commissioners, city council members and board or commission members). In general, elected and appointed officials will meet the common-law tests to be considered employees. Regardless of the common-law tests, some positions may be defined as employment by state statute. Some fee-basis officials are by law treated as self-employed. An elected or appointed official who is an employee is subject to rules for mandatory Social Security and Medicare unless covered under a Section 218 Agreement or a qualified participant in a retirement system. All officials elected or appointed to their positions after March 31, 1986, are subject to Medicare withholding.

(Emphasis added.) Turning specifically to State income taxes, the “2024 Nebraska Circular EN,” published by the Nebraska Department of Revenue, provides the following, as is relevant:

If you have an office or conduct business in Nebraska and are considered an employer for federal purposes, you must withhold income taxes for Nebraska. This includes payments made to all employees, including nonresidents, for services performed in this state.

(Emphasis added.) Good internal controls require procedures to ensure both the correct classification of employees for tax purposes and the collection of all required Federal and State taxes from such personnel, as appropriate, and the proper remittance thereof. Without such procedures, there is an increased risk for not only failure to comply with State statute and Federal regulations but also the resulting liability of the Village and its employees alike.

A similar issue was identified by the APA in a prior review and was disclosed to the Village in the APA’s letter dated February 20, 2024, which can be found on the APA’s website. However, this issue does not appear to have been corrected after the APA’s notification.

We recommend the Village implement procedures to ensure both the correct classification of employees for tax purposes and the collection of all required Federal and State taxes from such personnel, as appropriate, and the proper remittance thereof.

## **5. Lack of Purchasing Card Policy**

During our analysis of the Village’s bank statements, the APA noted multiple debit card transactions, totaling \$3,118.20, during the fiscal year October 1, 2023, to September 30, 2024.

With the use of a debit card, the Village increases its risk of unrecoverable loss of funds because such cards do not provide as much fraud protection as credit cards or other purchasing cards. Use of a debit card also increases the risk of public funds being spent without Board approval because no monthly billing statements are created. With credit cards, however, the Village’s payments for the monthly billing statements must, per Neb. Rev. Stat. § 17-711 (Reissue 2022), be signed by both the chairperson of the Board and the Village Clerk. While a debit card purchase results in an immediate transfer of funds requiring no supervisory approval, therefore, payment on a municipal credit card billing necessitates not only Board authorization but also the increased oversight of two official signatories.

Of no less concern is the Village’s lack of a formal, written purchasing card policy outlining procedures for the proper use of the municipal debit 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.) Compliance with the above statutory requirements – including, aside from the underlying creation of an actual “purchasing card program” itself, acting “in accordance with rules and regulations adopted and promulgated by the political subdivision” and determining what constitutes “any unauthorized use” of a municipal card – is virtually impossible without adoption of a formal purchasing card policy.

Good internal control requires the Village: (1) to consider whether use of a debit card or a credit card would prove most conducive to the security of municipal transactions and the protection of public funds; and (2) to implement a formal purchasing card policy that outlines the proper use of the card, including the designation of allowable purchases and authorized users. Without such procedures, there is an increased risk for not only the loss, theft, or misuse of Village funds but also the inability to comply fully with State statute.

A similar issue was identified by the APA in a prior review and was disclosed to the Village in the APA’s letter dated February 20, 2024, which can be found on the APA’s website. However, this issue does not appear to have been corrected after the APA’s notification.

We recommend the Board consider whether use of a debit card or a credit card would prove most conducive to the security of municipal transactions and the protection of public funds. We recommend also the implementation of a formal purchasing card policy that outlines the proper use of the card, including the designation of allowable purchases and authorized users.

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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