

City of Cortland

Non-Contractual Employees' Payroll Benefits

AUGUST 2021



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

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Report Highlights

City of Cortland

Audit Objective

Determine whether the City of Cortland's (City) non-contractual (NC) employees' payroll benefits were authorized and accurate.

Key Findings

Two OSC audits issued in 2010 found NC employees received benefits inconsistent with Council approvals. Most of the prior control weaknesses remain and the Council still has not established specific leave benefits of NC employees. As a result, we found:

- Seven NC employees earned 2,213 more hours of leave than employees in the collective bargaining agreements, valued at \$110,500.
- Four NC employees were paid for 265 more hours of unused vacation leave than limits established for employees in the collective bargaining agreements, valued at \$13,700.
- The Mayor did not require department heads to track their time worked or to submit leave requests for taking time off, and the Council did not approve all leave drawdown payments.
- The Director of Administration and Finance and City Attorney did not track their time worked or charge leave accruals when off, and sold excess hours totaling \$5,800 and \$4,900, respectively.

In addition, the City paid \$59,500 to provide health insurance for two Council members without proper approval and establishment of eligibility requirements and contribution rates.

Key Recommendations

- Clearly define the benefits that all officials and NC employees are entitled to and properly track time worked and adhere to provisions in the City Charter, Code of Ordinances (Code) and CBAs.

City officials generally agreed with our recommendations and indicated they will take corrective action.

Background

The City is located in Cortland County and has a population of approximately 19,000. The eight-member Council is the City's legislative branch responsible for creating local laws and ordinances and approving budgetary spending, personnel appointments and collective bargaining agreements (CBA).

The Mayor is the City's chief executive officer responsible for supervising, directing and controlling the administration of all City departments. The Director of Administration and Finance (Director of Finance) is the chief fiscal officer, head of the Department of Administration and Finance and is responsible for coordinating personnel matters.

The Charter and Code govern City operations by outlining the powers and duties of City management, including the Council, Mayor and Director of Finance.

Quick Facts

NC Employees	24
2019 NC Employees' Personnel Costs	\$1.9 million
2019 NC Employees' Health Insurance Costs	\$345,500
2019 NC Employees' Drawdown Payments	\$50,500

Audit Period

January 1, 2018 – December 31, 2019

Non-Contractual Employees' Benefits

How Should Payroll Benefits Be Determined and Processed?

A council should establish and approve the payroll benefits of all employees in accordance with a city's charter, code, local enactments (e.g., local laws) and individual employment agreements or pursuant to a collective bargaining agreement (CBA). Employee benefits not authorized by a city's charter, code, local enactment or a preexisting agreement should not be awarded. The terms and conditions of all benefits, including agreements and contracts addressing employee leave benefits, should be clearly documented and communicated to those responsible for payroll processing. Clear documentation of such benefits should include specifics on accruing and using leave, receiving payments for the cash value of unused leave accruals (drawdown payments), and contributions an employee is responsible for with respect to health insurance coverage. Such documentation helps communicate a council's intent to the employees who must execute the payroll process and provides transparency to the public.

Moreover, a well-designed payroll processing system requires policies and procedures to ensure that payroll is processed consistently and accurately; leave accruals are properly recorded, earned and used; drawdown payments are allowed and accurate; and health insurance contributions are consistently and properly deducted. Individual payroll benefits should be traceable to authorization documents and supported by time and attendance records where applicable. In addition, supervisors should ensure that employees eligible to earn and use leave have set work schedules and properly track their time worked and leave taken. Employees who are not required to work set hours, track their time, or use leave accruals for time not worked, should not be allowed to earn leave accruals or receive drawdown payments. Lastly, officials should initiate immediate corrective action when they are made aware of weaknesses in the process.

The Council Did Not Clearly Establish NC Employees' Benefits

The majority of the City's employees were covered by six CBAs which specifically detailed the benefits for each job title. However, there were 24 employees who were not specifically covered by a CBA or individual employment agreements. For purposes of this report, we refer to these 24 individuals as non-contractual City employees (NC employees), of which 11 were department heads, four were deputy department heads and nine were non-managerial full-time employees.

A 1973 Council resolution stated, in part, that employees not covered under any employment agreement, such as department heads, sub-department heads' and deputies and other full-time employees, are to receive the same terms and conditions of employment to the extent provided for employees under their jurisdiction or within which department they are employed (i.e., unionized employees within the same department).

Employees who are not required to work set hours, track their time, or use leave accruals for time not worked, should not be allowed to earn leave accruals or receive drawdown payments.

Furthermore, in 2011 the Council codified the 1973 resolution by adding a new Chapter to the Code,¹ which had the purpose of providing the terms and conditions of employment for City employees who act in a managerial capacity and are not covered under a collective bargaining agreement. Accordingly, department heads, sub-department heads and deputies would continue to receive no less than the same terms and conditions of employment related to, among others, health insurance, holidays, vacation, sick leave and personal leave, to the extent that such benefits were provided for employees under said department heads', sub-department heads' and deputies' managerial jurisdiction or within which department the individual is employed.² However, it did not specify whether other job titles should be considered managerial and did not address other NC employees.

In 2019, the Council adopted a resolution rescinding the 1973 resolution but indicated that such rescinding was to have no impact on the 2011 addition to the Code. However, neither the 2019 resolution nor Code establish specific or detailed leave benefits for managerial NC employees or communicate to those responsible for payroll processing what such leave benefits should be for NC employees. Furthermore, we found no written documentation to address benefits of NC employees who have non-managerial responsibilities or duties. Instead, the NC employees who do not have managerial responsibilities or duties continued to receive the same or similar benefits as the unionized employees within the same department. (The 2019 resolution also stated that new hires for specific clerical positions in the Police, Public Works and Water Departments would follow the clerical union's CBA instead of the CBA of their respective departments.)

Finally, the Office of the State Comptroller (OSC) issued two audit reports³ in 2010 identifying a number of instances where NC employees received benefits inconsistent with Council approvals. OSC recommended that the Council take immediate action to strengthen the City's control environment by developing, adopting and enforcing policies and procedures governing the City's payroll process. We found that most of these control weaknesses remained and the Council still had not established specific leave benefits of NC employees. This allowed department heads and deputies to approve benefits, including their own benefits, without any additional oversight by other City officials, such as the Mayor who has general responsibility for supervising, directing and controlling the administration of all City departments.

1 See, City Code, Chapter 29, article 1, Management Policy (Adopted 9-20-11 by local law 2-2011). The title of the article is the "City of Cortland Management Policy Commonly Referred to as the 1973 Resolution." Employees covered by the article include department heads, sub-department heads and deputies.

2 See, City Code, Chapter 29, article 1, section 6.

3 Refer to *City of Cortland – Financial Condition and Operational Improvements (2010M-91)*, and *City of Cortland – Internal Controls Over Selected Financial Operations (2010M-94)* released in December 2010.

Managerial NC Employees Received Leave Benefits in Excess of CBAs

Due to the lack of specific benefits guidance, we reviewed the leave accruals for all 24 NC employees who received leave benefits during the audit period to see whether they matched the provisions outlined in the CBAs for their respective departments. Except for minor discrepancies based on work schedule deviations, we found that eight of the 15 managerial and all nine non-managerial NC employees' leave accruals matched the CBA followed by unionized employees in the same department. However, seven of the managerial NC employees earned 2,213 hours of leave, valued at \$110,500, more than amounts set forth in the CBAs followed by unionized employees in the same department (Figure 1).

Figure 1: 2019 Year-End Managerial NC Employees' Leave Benefits in Excess of CBAs^a

Position	Hours	Value
Director of Finance	841	\$49,000
Youth Bureau Director	968	41,950
City Attorney	110	7,050
Deputy Director of Finance	140	6,700
Department of Public Works		
Superintendent	80	3,900
Planning and Zoning Officer	58	1,350
Department of Public Works		
Deputy Superintendent	16	550
Total	2,213	\$110,500

a) Amounts represent combined personal, sick and vacation leave.

For example, the Director of Finance each year accrued 135 hours of vacation leave benefits, which was more than twice the amount stipulated in the CBA followed by the department's unionized employees. In addition, he carried over 640 hours in 2018 and 760 hours in 2019, which is six and seven times more than the 105 hours available to the department's unionized employees covered by the same CBA. Further, the Youth Bureau Director accrued 920 hours of compensatory time valued at \$34,650, approximately eight times more than the amount stipulated in the CBA followed by the department's unionized employees. These deviations occurred because department heads authorized leave benefits based on informal agreements that were not approved by the Council.

Although the Code states that managerial NC employees will continue to receive *no less than* the same terms and conditions of employment as individuals covered by their respective department's CBA, it does not establish detailed leave benefits

for NC employees. In addition, the Mayor did not review or approve NC employee leave accruals. Therefore, we question whether the seven managerial NC employees received accrued leave as embodied by the Code.

Two Department Heads Did Not Track Time Worked or Their Use of Leave

As a general rule, elected officials receive a salary as an incident of their office and the absence of an elected official from his or her duties on account of sickness, vacation or personal reasons will not deprive the officer of his or her salary. Our Office has reached a similar conclusion with respect to certain appointed officers, such as department heads and other high-ranking appointed officials, who are not restricted or regulated in the hours they work. However, an appointed department head may receive overtime, sick leave, personal time and vacation credits, as well as accumulate and convert such time into cash if the department head has regular fixed hours of work.⁴

There was no formal system in place to ensure that department heads who were earning leave accruals appropriately tracked their time worked or charged leave accruals when taking time off from work. Although we found that the four deputies and nine non-managerial NC employees tracked their time and submitted leave requests to their respective department heads, each department developed its own informal procedures for tracking their department head's time worked and leave taken. Nine of the 11 department heads tracked their time worked and informally submitted leave requests to the Mayor and their department's deputies.

However, the Director of Finance and City Attorney did not track their time worked and did not charge any leave during the audit period while earning leave at the same time. At the end of 2019, the Director of Finance had a total unused leave balance of 1,639 hours, valued at \$95,500, and the City Attorney had a balance of 500 hours, valued at \$32,050. We found evidence that the Director of Finance took time off on nine instances and the City Attorney took time off on 27 instances during the audit period where leave accruals should have been charged. They both stated that they do not have set working hours and were not required to track their time worked or submit leave requests. The Director of Finance also stated that their positions require them to work extra hours outside of the City's normal business hours and that these extra hours exceeded any time taken off. However, part of the reason for a time tracking system would be to account for compensatory time. Furthermore, employees who are authorized to accrue leave should have set working hours and be required to document days and hours worked and leave used. If there are no set working hours, and no leave time documented, leave should not be accrued.

...[T]he Director of Finance and City Attorney did not track their time worked and did not charge any leave...while earning leave at the same time.

⁴ See, St. Comp. Opn No. 80-416.

Because the Mayor did not formally require the department heads to track their time worked or to submit leave requests for taking time off, there is less assurance that department heads are working their scheduled hours or properly charging leave for time taken off of work.

Managerial NC Employees Received Drawdown Payments in Excess of CBAs

Each of the CBAs we reviewed included a provision allowing employees covered by the CBA to request and receive payment for the cash value of a certain amount of unused leave accruals (i.e., drawdown payment). Each department had its own process for reviewing and approving drawdown payment requests and the Payroll Clerk processed the payments as long as the leave was available and the request was approved by a department head. During the audit period, 13 managerial and eight non-managerial NC employees received a total of \$106,700 in drawdown payments for unused vacation leave accruals. Except for minor discrepancies, we found that nine managerial and all eight non-managerial NC employees received drawdown payments in accordance with their department’s CBA. However, four managerial NC employees were paid for 265 unused vacation hours, totaling \$13,700, in excess of amounts outlined in their respective departments’ CBAs without the Council approving these payments as outlined in Figure 2.

Figure 2: Drawdown Payments for Unused Vacation Leave in Excess of CBAs

Position	Excess Hours	Value
Director of Finance	100	\$5,800
City Attorney	90	4,900
Deputy Director of Finance	35	1,600
Department of Public Works		
Deputy Superintendent	40	1,400
Total	265	\$13,700

Since the managerial NC employees are entitled to receive *no less than* the same terms and conditions of employment as individuals covered by their respective departments’ CBAs, the four managerial NC employees may have been entitled to receive drawdown payments. However, by not establishing detailed leave benefits for NC employees, we question whether the Council intended managerial NC employees to receive drawdown payments in excess of amounts outlined in each employee’s respective department’s CBA. The Director of Finance and City Attorney also received these drawdown payments even though they did not track their time worked, have set schedules or charge any leave accruals for time off from work as noted above.

These payments occurred because the departments calculated and approved the drawdown payments without clear direction or understanding from the Council of the number of hours allowed to be cashed out for NC employees, and the Payroll Clerk did not have the authority to refuse payments after receiving department head approval.

By paying managerial NC employees drawdown payments for unused leave accruals without clear Council approval, the City may have incurred unnecessary costs.

NC Employees Contributed Inconsistently to Health Insurance Coverage

The City provides health insurance benefits to active employees and retirees based on applicable CBAs, with unionized employees contributing between 12 and 20 percent toward their health insurance premium costs. There is no documentation of Council approvals, however, to support what the NC employees should be contributing to these costs.

We reviewed the health insurance contributions made by the 24 NC employees and one NC retiree during the audit period; 10 of these (nine managerial) contributed 13 percent to the cost of their health insurance premiums while the unionized employees in their respective departments' paid 16 to 20 percent. As a result, collectively they contributed a total of \$22,000 less than the unionized employees. There was no approval from the Council for these NC employees to pay a lesser percentage. In addition, we found four NC employees who contributed between 18 and 20 percent instead of the 12 percent that the majority of the other NC employees and all unionized employees in one of the CBAs contributed without any documentation to support why they were paying more. As a result, they collectively contributed a total of \$9,550 more than the unionized employees.

We also found that two Council members received health insurance coverage and contributed 13 percent toward premiums without any documented approval or guidance from the Council. While it is permissible for the City to provide health insurance coverage to Council members, any benefits not specifically approved by the Council should not be awarded. As a result, the City has paid \$59,500 to provide health insurance for two Council members without any Council-approved resolutions detailing eligibility requirements or the amount that should be contributed.

As a result of these weaknesses and discrepancies we identified, officials and NC employees received benefits that may not be consistent with CBAs or approved by the Council.

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What Do We Recommend?

The Council should:

1. Clearly define the benefits that all NC employees are entitled to receive by assigning each employee to an approved CBA, approving individual employment contracts or adopting a local enactment.
2. Take immediate action to strengthen the City's policies and procedures for payroll processing to ensure that benefits are properly approved and monitored on a continual basis.
3. Require all employees who are entitled to leave benefits to maintain time records which document leave requests, approvals and usage.
4. Review the payments identified in this report and, if necessary, take appropriate action to seek reimbursement.

The Mayor should:

5. Provide oversight to those who act in a managerial capacity to ensure they are properly tracking time worked, submitting leave requests as applicable and adhering to provisions in the Charter, Code and CBAs.

The Director of Finance should:

6. Ensure that all benefits awarded to officials and NC employees are in accordance with Council approvals.

Appendix A: Response From City Officials



City of Cortland
City Hall – Mayor’s Office
Mayor Brian Tobin
25 Court Street, Cortland, New York 13045 (607) 753-0872
btobin@cutland.org Website: www.cutland.org

The City of Cortland was given two audit documents from the Office of the Comptroller. Upon review, we chose to discuss and craft one response. At the August 3 Common Council meeting, the city of Cortland Common Council approved the following Corrective Action Plan to correct the identified concerns. The recommendations from the office are numbered and in black (cut and pasted from the audit), and the city’s response and timeline are in red.

Corrective Action Plan for the 2021 Comptroller Audit of the City of Cortland

Section 1, Credit Card Usage

Recommendations from the comptroller, and the city’s response:

1. City Council should adopt policies that provide guidelines for appropriate usage, documentation requirements and the approval process for credit account purchases and employee reimbursements.

Council adopted a city-wide credit card policy that clearly outlines usage, documentation requirements, approval process, and employee reimbursements for work related expenditures (see attached proposed credit card policy). August 3, 2021.

2. City Council should ensure that the City-wide policies are followed by all departments. All credit card statements will be shared monthly with council (see policy). Effective September 7, 2021.

3. The Director of Finance should ensure that credit account and employee reimbursement claims are thoroughly audited, including verifying required documentation to support purchases is intact and that purchases are appropriate; credit account statements should be reconciled to itemized supporting documentation before approving claims for payment. The Director shall review any questionable claims (as noticed by a finance department employee) outside of the finance department. All credit card purchases by the Director shall be reviewed by the mayor for approval. Effective August 17, 2021.

4. The Director of Finance should ensure that credit account statements are paid timely to avoid unnecessary late fees and interest penalty charges.

In the event of a bill being paid late, the Director shall submit to the mayor and council an explanation as to why the bill was not paid on time. If applicable, it will include steps to ensure that it will not happen again. Effective August 3, 2021.



Section 2, Noncontractual Employee's Benefits

The Council should:

1. Clearly define the benefits that all NC employees are entitled to receive by assigning each employee to an approved CBA, approving individual employment contracts, or adopting a local enactment.

24 employees were listed as being non-contractual. We have established letters of understanding with Corporation Counsel and the Director of Administration and Finance. Individual contracts have been signed with the Superintendent of Public Works, Police Chief, Deputy Police Chief, and Assistant Fire Chief.

We need to memorialize with: Youth Bureau Director, 3 additional in Youth Bureau (soon to be 4 with a new hire), Head and Deputy in Wastewater, new Deputy Superintendent of Public Works (when hired), Head Water Clerk, Water Department Head, Fire Chief, IT Head, Zoning Officer. Corporation Counsel and the mayor will continue to work on individual contracts, tailored to the specific positions. Anticipate conclusion by October 19, 2021.

The Codes Secretary was included. However, she is a member of SEIU.

No longer employed by the city, do not need to be addressed: Deputy Director of Admin/Finance, former Superintendent of Public Works, former Police Chief, former Assistant Fire Chief, 3 retired from the police (clerical, new employees are members of SEIU), a Youth Specialist in the Youth Bureau (resigned).

2. Take immediate action to strengthen the City's policies and procedures for payroll processing to ensure that benefits are properly approved and monitored on a continual basis.

Any payments that are not regular/contractual must be approved by the Mayor. Monthly payouts for overtime (who received and why) shall be shared with Council. End of the year accruals for every employee will be shared with the Mayor and Council, broken down by category. Effective August 3, 2021.

3. Require all employees who are entitled to leave benefits to maintain time records which document leave requests, approvals and usage.

All leave requests/approvals are to be documented and kept with the appropriate department head. Department Heads and others who report directly to the Mayor will complete bi-weekly time sheets, and shall submit leave requests and notifications of taken time to the Mayor, appropriate department personnel, and the city payroll clerk. End of the year accruals/time use will be shared with Council. Effective August 17, 2021.



4. Review the payments identified in this report and, if necessary, take appropriate action to seek reimbursement.

Council will review the report, and vote on recommendations on whether or not to seek reimbursements. Council review to commence August 3, 2021, and to be submitted by December 7, 2021.

The Mayor should:

5. Provide oversight to those who act in a managerial capacity to ensure they are properly tracking time worked, submitting leave requests as applicable and adhering to provisions in the Charter, Code and CBAs.

We are moving toward contracts with all employees who do not have a union that they belong to. Department heads will be expected to fill out bi-weekly timesheets, documenting their time. All time off for department heads and others who report directly to the Mayor shall be submitted via email (or in writing). All time off requests are already expected to be submitted to the Mayor. We will work to establish an efficient method of accounting for time. A recommendation will be made to Council on August 17, to be effective shortly thereafter.

The Director of Finance should:

6. Ensure that all benefits awarded to officials and NC employees are in accordance with Council approvals.

The Director of Finance or the Mayor will sign off on all payments to officials/department heads/noncontractual employees (until they sign a contract) that are not part of regular salary. Effective August 3, 2021.

Respectfully submitted,

Brian Tobin
Mayor, City of Cortland

Appendix B: 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 officials and other key employees and reviewed the City Charter, Code, CBAs and resolutions to gain an understanding of the City's policies and procedures related to internal controls over payroll processing and benefits administration.
- We selected all 12 elected officials and all 24 NC employees and judgmentally selected 21 unionized employees out of the total 172 employees (excluding 235 seasonal Youth Bureau employees) that were active during our audit period to determine whether salaries and benefits were in accordance with applicable CBAs.
 - We compared actual salaries totaling approximately \$5.4 million, to amounts approved in adopted budgets, Council-approved salary sheets and CBAs to determine whether salaries and pay rates were accurate.
 - We compared annual leave accruals, carryovers and usage in 2018 and 2019 to amounts approved in CBAs to determine whether leave accruals were accurate.
 - We compared drawdown payments for unused vacation leave totaling \$157,900, and separation payments totaling \$42,200, to authorized pay rates, available leave and limits authorized in CBAs to determine whether drawdown payments were accurate.
 - We reviewed cash benefits and drawdown payments for used leave (other than vacation leave) totaling \$247,300, to amounts allowed by CBAs to determine whether they were in accordance with CBAs and appropriate.
 - We compared amounts deducted for health insurance contributions in 2018 and 2019 to contribution requirements in the CBAs to determine whether officials and employees were contributing accurately to their health insurance coverage.
- We reviewed leave records, email records and work calendars from 2018 and 2019 to identify individuals who earned but did not charge leave, and to determine whether leave requests were submitted and leave was charged for time taken off from work.

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.

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 Council to make the CAP available for public review in the City Clerk's office.

Appendix C: 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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