

Town of Roxbury

Payments to Not-For-Profit Organizations

2022M-177 | January 2023

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Report Highlights

Audit Objective

Determine whether payments made by the Town of Roxbury (Town) officials to certain not-for-profit organizations were appropriate municipal expenditures.

Key Findings

We reviewed the 25 payments Town officials made to not-for-profit organizations, totaling \$33,760. Officials could not support twelve payments totaling \$10,790 were proper municipal expenditures. As a result, neither Town officials nor we can assure taxpayers that these payments were appropriate and not impermissible gifts.

Key Recommendations

- Consult with the Town’s legal counsel in connection with each proposed payment to ensure that it does not violate Article VIII, Section 1 of the New York State Constitution.

Town officials agreed with our findings and indicated that they will take corrective action.

Background

The Town, located in Delaware County (County), is governed by an elected Town Board (Board) composed of five members including the Town Supervisor (Supervisor).

The Board is responsible for managing operations and finances.

The Supervisor serves as the chief fiscal officer.

Quick Facts

Not-For-Profit Organization Payments January 1, 2021 – June 30, 2022	
Total Amount	\$33,760
Number of Payments	25
General Fund	
2021 Disbursements	\$1.2 million

Audit Period

January 1, 2021 – June 30, 2022

Payments to Not-For-Profit Organizations

How Should Town Officials Ensure Payments to Not-For-Profit Organizations Are an Appropriate Municipal Expenditure?

Town officials should safeguard town resources, comply with applicable laws and ensure they act in an ethical manner. Officials must comply with Article VIII, Section 1 of the New York State Constitution that generally prohibits towns from loaning or giving money to any private individuals, organizations, associations, or corporations such as not-for-profit organizations, collectively referred to as an entity. Officials should ensure payments to an entity are based on a contractual obligation or statutory requirement. For example, town officials may pay a not-for-profit entity for goods or services provided by the entity to a town. Under such circumstances, officials should maintain documentation to support that such payments are for a proper municipal purpose.

Officials Did Not Ensure Payments to Not-For-Profit Organizations Were Always Appropriate

Town officials made 25 payments to not-for-profit organizations, totaling \$33,760, during the audit period. We reviewed each of these payments and found certain payments were not supported with documentation to determine whether the payment was a proper municipal expenditure.

Of the 25 payments reviewed, we were unable to determine whether 12 payments, totaling \$10,790, to five not-for-profit organizations were appropriate. Officials could not provide documentation to support the payments were based on a contractual or statutory obligation or that goods or services were received in exchange for the payments. As a result, we question whether the 12 payments made by the Town were impermissible gifts of public funds and neither Town officials nor we can assure the Town's taxpayers that these payments were appropriate. The unsupported payments include:

- Two payments, totaling \$5,000, were made to a local service organization, outside of the Town. Officials said the payments were made to reduce the cost of swimming lessons, lifeguarding instructions and classes for Town residents. While there is statutory authority that permits a town to promote leisure-time activities for youth or assistance to children and to establish, maintain and operate projects devoted in whole or in part to such activities, the Town had no documentation or written agreements to support that the payments were permitted pursuant to this statutory authority.
- One payment, totaling \$2,500, was made to a local service organization. Officials said the payment provided financial assistance with respect to repairing wreaths located throughout the Town, and related equipment, such as LED lighting and wreath brackets. While a town may generally

contract with such an organization to provide specific goods or services that constitute a proper municipal purpose, the Town had no written agreement formalizing the terms and conditions of the arrangement, or other documentation to support the purpose for which the payment was made.

- Five payments, totaling \$1,540, were made to two not-for-profit veteran's organizations. Officials said the payments were for the veteran organization's general operating expenses. While there is statutory authority for a town to appropriate money to such organizations for certain purposes (e.g., to defray the expenses of rental or maintenance costs of such an organization's meeting hall or the proper observance of certain veteran-related holidays), the Town did not maintain any documentation to support that the payments were permitted pursuant to such statutory authority.
- Two payments, totaling \$1,000, were made to a not-for-profit senior club. There was no specific purpose stated for the payments. While there is statutory authority for a town to appropriate money to such organizations for certain purposes (e.g., to contract with private, not-for-profit organizations for the operation and maintenance of programs devoted in whole or in part to the welfare of the aging), the Town had no written agreements formalizing the terms and conditions of the arrangement or other documentation to support that the payments were permitted pursuant to such statutory authority.
- Two payments, totaling \$750, were made to the County's historical association. The payments were for general donations with no specific purpose stated. While there is statutory authority that permits a town to appropriate money to certain historical associations for certain purposes (e.g., to support or maintain certain historic structures pursuant to a contract), the Town had no written agreements formalizing the terms and conditions of the arrangement or other documentation to support that the payments were permitted pursuant to such statutory authority.

Town officials told us that they made the payments for the purpose of supporting the local community. The Supervisor said he had consulted with the Town attorney, but only for general advice on making donations. However, as noted, absent statutory or contractual authority, municipalities are generally prohibited from giving or loaning money to private individuals, associations, or corporations, such as not-for-profit organizations.

What Do We Recommend?

The Board and Town officials should:

1. Consult with the Town's legal counsel in connection with each proposed payment to ensure that it does not violate Article VIII, Section 1 of the New York State Constitution.
2. Ensure all payments made to not-for-profit organizations are properly supported by written documentation, including, without limitation, documents or other records specifying the statutorily authorized purpose for which a payment is being made or written contractual agreements, as applicable, setting forth the specific terms and conditions of each agreement.

Appendix A: Response From Town Officials

Town of Roxbury
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January 18, 2023

Office of the NYS Comptroller
State Office Bldg., Room 1702
44 Hawley Street
Binghamton, NY 13901-4417


Dear Sir/Madame,


This letter shall serve as the Town of Roxbury's Audit Response to the Report of Examination received by the Town on January 18, 2023.

The Town agrees with the findings presented in the report.

The Town Board will create a Corrective Action Plan to be submitted within the required 90-day response period.

The Town Board thanks your office for assistance in detecting these deficiencies so proper procedures can be implemented.

Sincerely, 


Allen Hinkley
Town Supervisor

THE TOWN OF ROXBURY IS AN EQUAL OPPORTUNITY PROVIDER AND EMPLOYER. COMPLAINTS OF DISCRIMINATION SHOULD BE SENT TO: USDA, Director, Office of Civil Rights, 1400 Independence Ave., SW, Washington, DC 20250-9410 or call 800-795-3272 (Voice) or 202-720-6382 (TDD)

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 Town officials to gain an understanding of the Town's processes on payments made to not-for-profits.
- We reviewed claim vouchers, contracts, and resolutions for all payments made to not-for-profit organizations for the period of January 1, 2021 through June 30, 2022 to determine whether payments were for appropriate purposes.

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 C: 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

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

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

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

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

Office of the New York State Comptroller
Division of Local Government and School Accountability
110 State Street, 12th Floor, Albany, New York 12236

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

Local Government and School Accountability Help Line: (866) 321-8503

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