



Town of Plymouth

Employee Benefits

2023M-176 | March 2025

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Report Highlights

Town of Plymouth

Audit Objective

Determine whether Town of Plymouth (Town) officials accurately recorded Highway Department (department) leave and properly paid separation payments.

Key Findings

Officials did not accurately record department leave or properly pay separation payments. As a result, of the 14 employees we reviewed, officials overpaid 11 employees a total of \$25,238 for one or more type of leave, as follows:

- Ten employees were collectively paid \$12,037 for 20 holidays that were not authorized in the Town's collective bargaining agreements (CBAs).
- Seven employees were collectively paid \$9,942 for 64.25 days of unearned vacation, sick or personal leave accruals.
- Upon leaving Town employment, two employees received compensation totaling \$3,259 for 10 vacation days each that exceeded their earned, but unused, leave accruals.

Key Recommendations

- Ensure employees are only paid for holidays listed in CBAs.
- Independently review and approve all unused leave and separation payments to ensure that accruals are accurately calculated, supported and disbursed, according to CBAs and the Town's employee benefit plan.
- Consult with legal counsel about recovering payments that were inconsistent with CBAs or other applicable laws.

Town officials generally agreed with our recommendations and indicated they planned to initiate corrective action.

Audit Period

January 1, 2018 – May 31, 2023

Background

The Town is located in Chenango County and is governed by an elected five-member Town Board (Board), which includes the Town Supervisor (Supervisor) and four Board members. The Board is responsible for managing and overseeing the Town's financial operations, which include employee benefits.

The Supervisor is the Town's chief executive and chief fiscal officer and is responsible for the Town's day-to-day operations. The Board appointed a bookkeeper to record and report financial transactions including leave accruals on employee pay checks.

The Town's elected Highway Superintendent (Superintendent) oversees department operations, including tracking leave for all department employees.

Quick Facts for Audit Period

Population	1,619
Department Payroll	\$1.2 million
Department Employees	14

Employee Benefits

During our audit period, the Town had two Supervisors and three Superintendents who were elected and/or appointed. The Board appointed the current Supervisor on May 31, 2023, who was later elected on November 7, 2023. The former elected Supervisor served from January 1, 2016 to May 30, 2023.

The Board appointed the current Superintendent on June 21, 2023, who was later elected on November 7, 2023. The former interim Superintendent was also appointed by the Board and served from November 15, 2022 to May 31, 2023. Before the interim Superintendent, there was a former elected Superintendent who served from January 1, 2018 to November 3, 2022.

What Determines Paid Holiday Leave and Leave Accruals for Town Employees?

Leave accruals represent time off earned by town employees, typically according to a CBA, an individual employment contract (contract) or a town policy (e.g., an employee benefit plan). CBAs, contracts and employee benefit plans generally address how employees can accumulate leave time – such as accruals for vacation, sick and personal leave – and use leave time. In addition, CBAs, contracts or a town policy may establish each employee’s entitlement to paid holiday leave.

Each of the three Town CBAs indicated that the terms of the agreement applied to full-time employees. For instance, the three CBAs that were in force during our audit period stated that full-time employees were entitled to receive paid holiday leave. The 2015-18 and 2019-22 CBAs provided nine holidays to full-time employees, while the 2023-24 CBA provided 12 holidays for full-time employees.

Vacation, sick and personal time that is credited, deducted and/or carried forward to the following year should also comply with applicable CBAs and be supported by accurate time and attendance records. For instance, each of the three CBAs were silent with respect to whether employees were entitled to carry forward earned, but unused, leave accruals to subsequent years.

Generally, when a CBA is silent, unclear or ambiguous on such a matter, State courts have recognized the doctrine of “past practice.” Pursuant to these principles, a “past practice” is recognized if it relates to a mandatory subject of negotiations (i.e., compensation), is “unequivocal” and has continued uninterrupted for such a period of time as to create a reasonable expectation among employees that the practice would continue. In these instances, the employer (i.e., the Town) may not unilaterally discontinue the “past practice” without prior negotiation with the collective bargaining unit.

Employees Were Paid for Excess Holiday Days and Used Unearned Leave Accruals

The Board entered into three CBAs during our audit period. Each of the CBAs specified paid holiday leave benefits for full-time employees. Each CBA also addressed how the Town would allocate vacation, sick and personal leave accruals to employees based on the employees’ length of employment with the Town. In addition, the Town had a policy in place during our audit period for highway employees, referred to as the highway employees benefit plan (benefit plan). During our audit period, two of the three CBAs that were in effect included a reference that vacation, sick and personal leave accruals would accrue according to the benefit plan. Furthermore, the amount of leave accruals that employees were eligible to earn varied between the different contract periods.

The Superintendents and bookkeeper were responsible for ensuring that employee leave accruals were accurately tracked and accounted for so that employees used only the leave to which they were entitled. The Town's CBAs stated that all accrual balances (i.e., vacation, sick and personal leave) will be listed on all employees' paychecks.

The Superintendents also were responsible for maintaining leave accrual records for department employees, which included the use of a manual process to track leave usage.¹ Although the Superintendents manually recorded leave used by department employees, they did not ensure that leave accrual balances were included on employee timesheets. Also, leave accrual balances were not listed on department employees' paychecks in accordance with Town CBA requirements.

In addition, the Town did not have any written policies or procedures in place for processing leave accruals. Therefore, there was no policy or procedure in place to help ensure that leave accrual records were accurate, such as having another Town officer or employee (e.g., the bookkeeper or a Board member), independently review the leave accrual records maintained by the Superintendents.

We reviewed timesheets for all 14 department employees that were generated during our audit period to determine whether the employees were accurately paid for holidays and whether their leave accruals (i.e., vacation, sick and personal) were documented and tracked. We determined that 10 employees received excess holiday pay, either because the holiday was not stipulated in the CBAs or the employees were ineligible to receive holiday pay due to their part-time status.

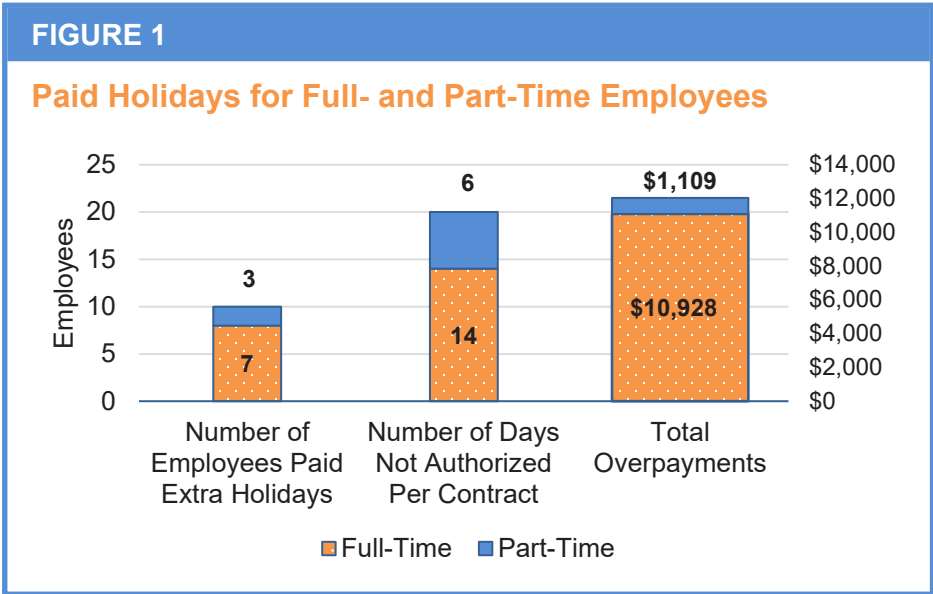
Ineligible Holiday Pay – The Town had 10 full-time employees throughout our audit period² who were eligible for paid holidays. Although the three CBAs collectively allowed for 49 paid holiday days during our audit period, we determined that seven employees were paid for 63 holiday days. Therefore, these seven employees received excess payments totaling \$10,928 for 14 additional holidays.

For example, in 2022, all four full-time employees employed during the year marked the Friday after Thanksgiving Day as a paid holiday on their timesheets and were paid for this time. However, the applicable CBA at that time did not designate that day as a paid holiday. As a result, each of the four employees received an additional \$622 of excess holiday pay for the year.

Furthermore, we determined that three part-time employees received excess payments totaling \$1,109 for six holiday days. However, according to each of the three CBAs during our audit period, only full-time employees were eligible to receive paid holiday pay (Figure 1).

1 The Superintendents tracked leave taken by department employees by using different colored highlighters to indicate the type of leave used on each employee's timesheet.

2 The Town typically employed four full-time employees. It had 10 employees in total during our audit period due to staff turnover and/or retirements.



These excess paid holiday days occurred because the former Superintendents did not enforce the requirements of the CBAs related to paid holiday leave. As a result, the Town overpaid \$12,037³ to 10 department employees.

Use of Unearned Leave Accruals – Although the Superintendents manually tracked use of leave on department employee timesheets, the employees’ leave accrual balances were not recorded on their timesheets. Instead, the Superintendents reported the number of hours each employee worked to the bookkeeper, but did not provide employee leave usage or a copy of the manual timesheets to the bookkeeper. As a result, the bookkeeper could not provide leave accrual balances to the department employees.

Furthermore, the Superintendents and bookkeeper did not review employee leave usage or ensure that leave used by department employees was recorded and paid accurately. During our review of leave records for 11 department employees,⁴ we determined that seven employees (64 percent) used unearned leave accruals for a total of 64.25 days. As a result, the Town overpaid \$9,942 to these employees (Figure 2).

Figure 2: Use of Unearned Leave

	Vacation	Sick	Personal	Totals
Employees Who Used Unearned Leave	5	3	4	7
Total Days of Used Unearned Leave	39.99	9.76	14.50	64.25
Total Cost of Used Unearned Leave	\$6,076	\$1,628	\$2,238	\$9,942

3 \$10,928 + \$1,109 = \$12,037

4 One of these 11 employees was part-time and, therefore, was ineligible to accrue and use leave.

Deficiencies in tracking employee leave accruals occurred because officials did not establish procedures and controls to help ensure that the Superintendents or bookkeeper accurately maintained employees' leave records. Also, because the Superintendents did not provide employee leave usage information to the bookkeeper, the bookkeeper could not calculate or track running leave balances or provide them to department employees on paychecks, as required by the CBA. In addition, no other officials who were independent of the leave process reviewed leave accruals for accuracy.

Town officials provided leave benefits to employees that were not supported by the terms of the CBA. Therefore, employees were paid leave benefits to which they were not entitled. Also, inadequate oversight over leave accruals undermined the transparency of financial operations.

What Are Proper Separation Payments?

In addition to established wages and salaries, towns generally have the authority to make cash payments of the monetary value for all or a portion of an employee's earned, but unused, leave accruals (separation payments) when the employee separates from service (leaves town employment). A town's authority to make these payments may be pursuant to a CBA, individual employment agreement or a preexisting local enactment (e.g., town policy). However, without a preexisting CBA, employment agreement or other local enactment, courts have found that towns should not make these payments.

Separation payments can represent significant expenditures for a town. Therefore, town officials should ensure that employees are eligible to receive these payments and that each payment is accurate, adequately supported and authorized.

Furthermore, to avoid uncertainty about payments and benefits, town officials are responsible for clearly communicating the terms and conditions of applicable CBAs to those who are responsible for payroll processing. Officials and staff who are responsible for payroll processing must maintain and review leave accrual records to help ensure that records are accurate. Also, the Board should ensure that employees receive separation payments for leave accruals only to which the employees are entitled, according to a CBA or other agreement. For example, staff should attach adequate supporting documentation, such as accrual balance reports, to payment calculations for separation payments.

Each of the Town's CBAs included procedures for calculating payments to employees for their accrued, unused vacation leave upon leaving Town employment. In November 2022, a motor equipment operator employed by the Town took a leave of absence to perform the duties of the interim Superintendent. Consequently, he signed an employment agreement with the Town indicating that he was entitled to the same leave accruals (i.e., vacation and sick leave) and benefits as a Town employee. Upon our review of the employment agreement, we determined that the interim Superintendent was permitted to cash out earned, but unused, leave accruals when leaving Town employment.

Separation Payments Were Paid Improperly

We reviewed two separation payments totaling \$5,018 that the Town paid in 2023 for unused vacation leave to determine whether the payments were correctly calculated, adequately supported and

made according to applicable CBAs or contracts. These two payments were the only separation payments that the Town made during our audit period. We determined that both payments did not have documentation to support the exact amount of vacation leave accruals that each individual had at the time that they left Town employment.

We reviewed the CBAs and timesheets for the final year of employment for both employees to determine the amount of leave that employees used and any remaining vacation accrual balances that they had as of the date that they left Town employment. Based on our calculations, the Town overpaid these two individuals for unused vacation leave. For instance, the Town paid \$1,760 to one employee for 10 vacation days that the employee had not earned before he left Town employment. Furthermore, the interim Superintendent was paid \$1,499 for 10 vacation days that he had not earned before he left Town employment (Figure 3).

Figure 3: Separation Overpayments

Title	Unused Vacation Days at Separation	Days Actually Paid	Amount Paid	Number of Days Overpaid	Amount Allowed to be Paid per CBA	Amount Overpaid
Motor Equipment Operator	5	15	\$2,640	10	\$880	\$1,760
Interim Superintendent	6	16	\$2,378	10	\$879	\$1,499
Totals	11	31	\$5,018	20	\$1,759	\$3,259

The interim Superintendent told us that he confirmed with the union representative the number of unused vacation days that he and the other employee should be paid for the two separation payments. The former Supervisor then directed the bookkeeper to make these payments based on the amounts provided by the interim Superintendent. However, without adequate documentation to support the vacation leave accruals, the Board and bookkeeper could not verify whether these employees were entitled to the separation payments.

These improper separation payments occurred because the Board and bookkeeper did not provide adequate oversight over separation payments to help ensure that they were accurate. Had these officials reviewed and verified leave balances used in the calculation of separation payments, they may have detected and prevented these overpayments to the employees.

What Do We Recommend?

The Board should:

1. Ensure that the Superintendent and bookkeeper comply with CBA provisions for accruing, using and reporting leave to employees.
2. Clarify the Board's expectations for future CBAs for carrying forward unused leave accruals.
3. Ensure that an individual who is independent from those who earn and use leave maintains the leave records and properly calculates and deducts leave accruals used from employee leave balances according to the CBAs.

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4. Ensure that the Superintendent and bookkeeper accurately maintain and monitor accruals on timesheets and paychecks.
 5. Consult with the Town's legal counsel regarding recovering payments that are inconsistent with CBA language, or any other applicable laws.
 6. Verify that accrual balances and separation payment calculations are accurate before approving the payments.

The Board and Superintendent should:

7. Ensure employees use leave only as allowed, and are paid for only the holidays listed, in the CBAs.
8. Develop and adopt written procedures for maintaining leave accrual records.

Appendix A: Response From Town Officials



March 10, 2025

Office of the State Comptroller
Division of Local Government & School Accountability
RDU-CAP Submission
110 State Street, 12th Floor
Albany, NY 12236
Attn: Mr. Lucas Armstrong

Audit Period January 1, 2018-May 31, 2023
Audit Period - Disbursements and Asset Inventory Management was extended to November 20, 2023

Response-For the Town of Plymouth Employee Benefits Report # 2023M-176
Response- For the Town of Plymouth Fuel and Motor Oil Inventories and Procurement Report # 2024M-16
Response -For the Town of Plymouth Highway Department Disbursements and Asset and Inventory Management Report # 2024M-121

Dear Mr. Armstrong

The Town of Plymouth Supervisor and Highway Superintendent generally agree with the findings and recommendations in these draft audit reports.

We appreciate all of your time and guidance with the audit procedure. We also ask for your patience and understanding, as we go through the process of correcting these extensive findings.

Sincerely

Patricia A. Murray
Town of Plymouth Supervisor

Louis D. Redenback
Town of Plymouth Highway Superintendent

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. We obtained an understanding of internal controls that we deemed significant within the context of the audit objective and assessed those controls. Information related to the scope of our work on internal controls, and the work performed in our audit procedures to achieve the audit objective and obtain valid audit evidence, included the following:

- We interviewed Town officials and reviewed CBAs, the benefit plan and timesheets to gain an understanding of the leave accrual processes and the benefits entitled to employees.
- We reviewed the CBAs and documented the number of paid holidays that employees were entitled to each year and compared these to the holidays that all employees were paid for based on all timesheets for January 1, 2018 through May 31, 2023. We then calculated the cost associated with any overages by multiplying the number of hours paid by the applicable pay rates and totaled the amount overpaid each year during our audit period.
- Starting with January 1, 2018, we used CBAs to document allowable leave hours by type and employee, and leave rolled over to the next year, if allowed. We also used timesheets to document leave used to calculate leave balances as of May 31, 2023 and documented any leave used for all department employees who used leave. We then calculated the cost associated with improperly used leave by multiplying the number of improperly used leave hours by the applicable pay rates and totaled the amount overpaid to employees each year during our audit period.
- We reviewed supporting documentation for all two separation payments totaling \$5,018 for unused vacation leave accruals made during our audit period to determine whether they were accurately calculated, supported and disbursed according to the CBA and the benefit plan's requirements.

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.

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.ny.gov/files/local-government/pdf/regional-directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.ny.gov/local-government/publications

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.ny.gov/local-government/fiscal-monitoring

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.ny.gov/local-government/publications

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.ny.gov/local-government/resources/planning-resources

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.ny.gov/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.ny.gov/local-government/required-reporting

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.ny.gov/local-government/publications

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.ny.gov/local-government/academy

Contact

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<https://www.osc.ny.gov/local-government>

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

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