

**Nassau County
Office of the Comptroller
Field Audit Bureau**



**Limited Financial Review
of the
Nassau County
Vocational Education
& Extension Board**

HOWARD S. WEITZMAN
Comptroller

FA 01-05

March 17, 2005

NASSAU COUNTY
OFFICE OF THE COMPTROLLER

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EXECUTIVE SUMMARY

Background

The Nassau County Vocational Education and Extension Board (“VEEB”) is a special school district licensed by the New York State Department of Education to conduct courses in occupational skills and related topics. VEEB is governed by a board of nine directors, three appointed by the County Executive, three by the Board of Cooperative Educational Services (“BOCES”) and three by the Superintendent of BOCES, subject to the confirmation of the County Legislature.

Under its contracts with VEEB, administered by the Nassau County Fire Commission, the county provided funding of approximately \$3.4 million per year for 1999-2003 and \$3.63 million for 2004. The county funding supports VEEB’s stated mission to provide quality education programs in the areas of:

- Emergency Medical Services (“EMS”): To provide students with the knowledge, skills and values necessary to meet the emergency medical health care needs of all county residents.
- Public Fire Safety Education (“PFSE”): To promote public fire safety education to reduce injuries, deaths, and property loss caused by fire. VEEB educates the residents of the county and provides direct assistance to county schools by providing state required fire safety instructions to its students.
- Fire Suppression and related Emergency Services: To provide training programs through the Fire Service Academy (FSA) to members of the county’s 71 fire departments to enhance the safety of firefighters and the public. The training enables fire departments to comply with NYS Occupational Safety and Health Agency (“OSHA”) regulations and firefighting standards of the National Fire Protection Association.

In addition to direct funding, the county provides VEEB the rent-free use of a building it owned until September 1999, which is now owned by the Nassau Health Care Corporation (“NHCC”), located at 899-A Jerusalem Ave, in Uniondale (“headquarters”). NHCC charges the county yearly rent of approximately \$148,000 for the use of this building.

Additionally, VEEB collects revenues from the State Education Department (reimbursement of a portion of some employees’ salaries, up to a maximum of \$10,500 per employee, per year); the NYS Department of Health (a set fee for each graduate and EMS certificate issued); and reimbursements from schools for requested EMS training.

VEEB also conducts a licensed practical nursing education program that is not funded by Nassau County. Its purpose is to educate students to allow them to gain entry-level employment into health career occupations.

EXECUTIVE SUMMARY

Audit Scope, Objective and Methodology

The objective of our audit was to examine VEEB's financial records to determine whether the county funds have been properly utilized in accordance with contractual terms. The examination covered the period January 2001-December 2003, and included the examination of evidence, on a test basis, to support transactions recorded in the accounting and operating records. We reviewed applicable laws, VEEB's policies and procedures, interviewed management and staff, reviewed relevant accounting records and reports, and tested transactions. This agency was last audited for the period 1992-1995.

This audit was conducted in accordance with generally accepted government auditing standards. These standards require the audit be planned and performed to obtain reasonable assurance that the audited information is free of material misstatements. An audit includes examining documents and other available evidence that would substantiate the accuracy of the information tested, including all relevant records and contracts. It includes testing for compliance with applicable laws and regulations, and any other auditing procedures necessary to complete the examination. We believe that the audit provides a reasonable basis for the audit findings and recommendations.

Summary of Significant Audit Findings

Stipends Paid to Board Members

During the audit period, members of VEEB's Board of Directors were paid stipends of \$240 for attending each meeting. Board members were paid a total of \$109,613 for the period January 2001 through December 2003. Stipends paid since 1992 are estimated to total \$435,000.

Based on a 1995 County Attorney's opinion, our previous audit found these payments inappropriate and requested reimbursement. VEEB agreed to cease stipend payments unless it could obtain legislative authorization, but authorization apparently was not sought and VEEB continued this practice.

The County Attorney's office re-examined the 1995 opinion and issued a memorandum to Deputy County Executive Anthony Cancellieri on February 8, 2005. The new opinion concludes that although state law does not explicitly authorize stipend payments, it does not clearly prohibit their payment. It concludes that the 1995 opinion relied on incorrect facts and that the county would not be on firm ground requesting stipend reimbursements. The opinion also suggests stipends might be allowable through a contractual arrangement with the county. The county attorney's new opinion does not comment on the earlier opinion's advice that the New York State Department of Education, Counsel's Office "confirmed that no statutory authority exists for the payment of stipends to VEEB members for attendance at Board meetings."

EXECUTIVE SUMMARY

The February 2005 County Attorney opinion questions the County's ability to request reimbursement of previously paid stipends. However, VEEB should cease paying stipends to Board members for attendance at future meetings. In view of the State Education Department's advice, we fail to see how the county could consider granting VEEB members stipends by contract when they are apparently not authorized to receive them under state law. Future contracts should expressly prohibit stipend payments.

Use of County Facility by Practical Nursing Program, a Program Not Funded by the County

The county provides VEEB with a building in Uniondale at no cost, which it uses as its headquarters. Before 1993, the EMS division was located at VEEB's headquarters; EMS, however, moved to another NHCC-owned building to make room for VEEB's licensed practical nursing education program, which is not funded by the county. The rent expense for the EMS location was \$96,540 and \$115,464 for fiscal years ending June 30, 2002 and 2003, respectively. We found that:

- the county-funded programs have absorbed the entire rent expense for EMS, in addition to the rent expense for the headquarters building; and
- the county is essentially providing free rent to the licensed practical nursing education program, which takes up 80 to 85 percent of the space in the headquarters building.

Financial Condition

County funding provided to VEEB was constant over the five years ended December 31, 2003, while VEEB's costs continue to rise. (The County increased the funding to \$3.63 million for 2004.) According to VEEB's financial records, the county-funded programs sustained a deficit of \$724,000 for the years 1999 through 2003. The majority of this deficit was incurred in 2002 when:

- the demand for, and cost of, FSA training increased significantly due to the events of September 11, 2001; and
- VEEB incurred termination pay costs of \$171,000 due to retirements.

The current deficits have offset past accumulated surpluses. If VEEB is unable to continue to reduce costs unrelated to training, it may be necessary to reduce the current training schedules. Reduced training could leave a void in the community. Volunteer fire departments, for example, could face insufficient personnel to fight fires if VEEB reduces its training program.

EXECUTIVE SUMMARY

Improper Cost Allocations

Not all of the programs VEEB operates are county-funded. We found that the salaries of some personnel who perform maintenance duties are not properly allocated between programs. VEEB could not provide an updated analysis to support expense allocations. Before additional county funding is provided, VEEB should first assure the county that expenditures have been properly allocated, or transferred between the county programs and non-county funded programs as outlined in our report. Without proper allocation, the county will not know the true cost of running the programs it supports and be unable to evaluate funding needs.

Weak Internal Controls

VEEB did not comply with fundamental internal control procedures regarding bank account reconciliations and fixed assets. Bank reconciliations showed 25 checks, totaling approximately \$7,000, which had been outstanding for more than a year. These checks should have been investigated and perhaps reissued and/or payment stopped.

Financial accounting and controls over fixed assets were insufficient.

- Fixed asset detail listings were not reconciled to the financial statements.
- Proper capitalization policies were not implemented.
- Retired assets were not removed from the detail fixed asset listing.

VEEB's Response

The matters covered in this report have been discussed with VEEB officials during the audit. On January 7, 2005, we submitted a draft report to VEEB officials with a request for comments. VEEB's comments, received on February 1, 2005, and our responses to those comments, are included as an addendum to this report.

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Findings and Recommendations

Board of Directors-Stipend Pay

Audit Finding (1):

Background

During the audit period, members of VEEB's Board of Directors were paid a stipend of \$240 for each board meeting attended. The Board met twice a month, with each meeting generally lasting less than one hour.

Our previous audit report, issued in 1998, informed VEEB that this practice was not permissible based on the County Attorney's Opinion 15-1995, dated November 8, 1995. The opinion stated that board members may not be paid stipends, but may be reimbursed only for actual and necessary expenditures. We recommended that VEEB stop the practice and reimburse the county \$150,605 paid in stipends between January 1992 and September 1995.

VEEB's written reply to the 1998 report was "A letter requesting approval to pay board stipends with retroactive applicability will be sent to the Nassau County Legislature. Failure to comply will result in ceasing of stipends to the Board of Directors." (The 1995 County Attorney's opinion finding a lack of authorization for the stipends, however, interpreted state, not local, law).

Audit Finding (1):

According to VEEB, it did not receive legislative authorization to pay stipends nor could it provide evidence that the request had ever been submitted to the legislature. VEEB did not reimburse the county for the prior audit finding of \$150,605, and did not cease the practice of paying stipends.

VEEB's records show that board members were paid \$109,613 in stipends covering the period January 2001-December 2003. According to VEEB officials, stipends were also paid during the period not subject to audit, October 1995-December 2000. In total, it is estimated that \$435,000 in stipends were paid to board members between January 1992 and December 2003.

The County Attorney's Office re-examined the basis for the legal opinion that supported the previous audit's finding and recommendation. *See* its February 8, 2005 memorandum to Deputy County Executive Anthony Cancellieri (attached as Appendix 2)

The new opinion concludes that although state law does not explicitly authorize the payment of stipends, it does not clearly prohibit their payment. It concludes that the 1995 opinion relied on incorrect facts and that the county would not be on firm ground requesting the reimbursement of stipends paid in the past. The opinion also suggests that stipends might be allowable through a contractual arrangement with the county. The county attorney's new opinion does not comment on the earlier opinion's advice that the

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Findings and Recommendations

New York State Department of Education, Counsel's Office "confirmed that no statutory authority exists for the payment of stipends to VEEB members for attendance at Board meetings." If this is correct, we fail to see how the county could consider granting VEEB members by contract what they are apparently not authorized to receive under state law.

Audit Recommendations:

The February 2005 County Attorney opinion questions the County's ability to request a reimbursement of previously paid stipends. However, VEEB should cease paying stipends to Board members for attendance at future meetings. Future contracts should expressly prohibit the payment of stipends and either reduce future funding to account for this prohibition or require that the funds be used for other purposes.

Findings and Recommendations

EMS Building Rental Costs

Audit Finding (2):

The county provides VEEB with a building in Uniondale at no cost, which it uses as its headquarters. Before August 1992, the EMS division was located at the headquarters building. VEEB then relocated EMS to a non-county owned building in order to provide space in the headquarters building for its licensed practical nursing education program, which is not a county funded program. County funds are used to pay the rent for both locations. The nursing program uses approximately 80-85 percent of the headquarters space. The program is not being charged a prorated share of the rent for the space it occupies.

As a result of paying rent on both the headquarters building and the EMS location, the county is inadvertently funding a non-county program.

According to the footnotes to VEEB's audited financial statements for year ending June 30, 2002, "the County program has absorbed the entire rent expense" of \$96,540 for the EMS location. According to VEEB, the rent absorbed for the period ending June 30, 2003 was \$115,464.

Our 1992-1995 audit reported this practice and recommended that the rent be recovered through the reduction of future appropriations. VEEB's response indicated that it would contact the county administration to obtain cost-effective training sites, and if the space were forthcoming, would abandon the Plainview site. VEEB indicated that, in the meantime, it would request its Board to consider an increase in the administrative fee to the Nursing Program. VEEB did not provide any documentation showing that it had pursued these matters.

The failure to properly charge costs to the programs that incur the costs, as evidenced by this audit finding and the following audit finding (related to maintenance costs), occurred in part, because of weak contractual control over expenditures. The contract calls for expenditures for "vocational educational services and other services" based upon a budget segregated into only five expense categories, salary, fringe benefits, equipment, contractual services and general expenses. There are no budgetary allocations of expenses between programs and to administrative costs. As a result, proper allocation of costs cannot be monitored through the claim approval process.

Audit Recommendation:

VEEB and the Administration should negotiate a fair rental amount to be absorbed by VEEB's non-county funded programs.

Findings and Recommendations

To avoid any uncertainties about the sources and use of program funding, the annual contract should include a budget which clearly identifies:

- all sources and uses of VEEB's funding by program, including the value and use of donated space;
- compensation by employee, individual or by position; and
- the basis of allocation of any revenues or expenditures that relates to more than one program or to administration.

Findings and Recommendations

Allocation of Maintenance Cost

Audit Finding (3):

Our review of VEEB's Business Managers' Report¹ found that in 2002 approximately \$65,000 in salaries for two custodians assigned to the Uniondale headquarters was charged to "maintenance costs incurred both at the fire academy and headquarters." The headquarters building, as previously mentioned, is mostly used for the nursing program, which is not county-funded.

While VEEB does transfer a percentage of the administrative costs of the county program to the nursing program, this was not the case with the custodians' wages and fringe benefits, for which the county has absorbed all costs. VEEB stated that it made adjustments in 2003 by transferring one of the maintenance employees into the nursing program.

In response to the above, VEEB informed us that the current allocation of the county programs' administrative costs to the nursing program is inaccurate. The 15 percent currently allocated has changed, and may be less. They did not offer an updated analysis to quantify the proper allocation.

Audit Recommendation:

VEEB should:

- a. review prior year maintenance costs in their nursing program and determine the appropriate share of these costs that should have been charged to the nursing program. These costs should be reimbursed to the county;
- b. perform a study of the custodians' activities, as well as other expenditures in the administrative category, to document whether current cost allocations are proper, and adjust them if appropriate. The records of any time studies performed should be maintained for subsequent review;
- c. provide a proper accounting of expenditures charged to the county-funded programs to ensure that these programs are not charged for unrelated nursing program costs.

¹ This report includes detailed operating expenditures and revenues by program category, including a separate category for maintenance expenses.

Findings and Recommendations

Financial Condition

Audit Finding (4):

VEEB creates separate financial reports showing the revenues and expenditures for its nursing program and for the county programs (EMS, PFSE and FSA). According to VEEB's Business Manager's Report, VEEB accumulated a loss of \$724,235 during the period 1999 through 2003. In 2002, actual expenditures exceeded the budget by \$800,357, and VEEB incurred a deficit of \$571,174. According to VEEB officials, this loss was largely due to higher training costs caused by a significant increase in volunteers joining fire departments in 2002, a result of the events of September 11, 2001. VEEB also paid \$171,000 in termination pay during 2002 due to early retirements. The deficit in 2003 was \$85,000.

These deficits are in contrast with our previous audit, which reported that VEEB had a combined surplus of \$515,819 for the period from 1992 through 1994. We recommended that the surplus be returned to the county; however, VEEB retained it.

The county, under its contract, has given VEEB approximately \$3.4 million in funding per year for the past five years. Officials have stated that this level of expenditure will not be sufficient for VEEB to continue to provide necessary training in the future. VEEB stated it has reduced some costs but says that not all costs can be controlled. VEEB follows the CSEA contract as it relates to salary increases granted to employees. This results in yearly increases in its expenditures. It is also subject to substantial yearly increases in both health care insurance and pension expenditures.

The current deficits have offset past surpluses accumulated during the period 1992-1994. If VEEB is unable to continue to reduce costs unrelated to training, it may be necessary to reduce the current training schedules. Reduced training could leave a void in the community. Volunteer firefighters must be trained; otherwise fire departments could have insufficient personnel to fight fires. In June 2004, Nassau County provided an additional \$150,000 in funding.

Audit Recommendations:

VEEB and the administration should determine adequate budgets and appropriate levels of funding. The County funding commitment should require that VEEB cease paying stipends to Board members (Audit Finding 1) and should require the nursing program to pay a fair share of rent (Audit Finding 2). The agency should monitor its costs and adhere to its yearly budget.

Findings and Recommendations

Contractual Cash Advance

Audit Finding (5):

VEEB incurs approximately \$300,000 in monthly expenditures that are reimbursable by Nassau County. We found that as of March 31, 2003, VEEB's records showed available cash of only \$38,000. According to VEEB officials, this cash position necessitates delaying its payment of all non-essential services to preserve cash. This is not a desirable business practice.

VEEB did not receive its \$226,000 cash advance for the 2003 contract year until April 2003, and thus did not receive payments for services provided in January and February 2003 until April. The contract required that the advance be paid upon execution of the contract; however, we found that the approval process was lengthy. According to the 2003 contract routing slip, the county's contract office approved the agreement on January 15, 2003 and routed it to other county departments for approval. It was finally completed and approved by the County Executive's office on April 7, 2003, a period of almost two months; on that date the cash advance and the first two months claims were paid.

According to a VEEB official, the delay was partly due to significant changes that were made to the 2003 contract. VEEB says it submitted the agreement to the county on November 20, 2002 for review. The county returned it to VEEB a month later with the new format. This required VEEB's attorney to review the changes before signing the agreement. Additionally, we understand that the contract approval process for 2004 was completed on March 25, 2004 and the first payment to VEEB was on April 8, 2004.

Audit Recommendations:

- a. We understand the administration has taking steps to correct and expedite the contract process; however, as noted in our finding, as of 2004, VEEB had yet to benefit from this progress. In light of VEEB's cash flow needs, VEEB and the administration should ensure that the contract is completed in a timely manner.
- b. The county should consider entering into multi-year contracts with VEEB. This will eliminate funding delays for subsequent years of the contract.

Findings and Recommendations

Interfund Lending

Audit Finding (6):

County funds are periodically loaned to VEEB's Nursing Education Fund to cover cash shortages in that fund. We found that, as of December 31, 2003, the county funds loaned were \$253,762. This balance fluctuates with the advance and repayment of funds; the financial records, however, show that the balance is consistently over \$250,000 at the end of each year. County funds should only be used to fund programs included in VEEB's contract with the county.

This condition existed at the time of the prior audit. In its response to that audit, VEEB stated that the amount due the county had decreased to \$138,344. However, it did not agree to discontinue the practice.

Audit Recommendations:

VEEB should:

- a. repay the county funds loaned to the Nursing Education Fund; and
- b. discontinue the practice of using county funds to cover cash shortages in other funds.

Findings and Recommendations

Bank Reconciliations

Audit Finding (7):

Our review of the bank reconciliations as of December 31, 2003 found that four accounts had 25 checks, with a total balance of \$6,829 outstanding for a least one year. The reconciliations were not signed and dated by the preparer, or the supervisor, to document responsibility for preparation and review. Proper internal controls require that reconciliations be signed and dated by the preparer and supervisor and that stale checks be investigated in a timely fashion.

Audit Recommendation:

VEEB should implement procedures that require both the preparer and the supervisor to sign and date the bank reconciliations. Stale checks should be investigated and, if necessary, payment stopped and new checks issued.

Findings and Recommendations

Fixed Assets

Audit Finding (8):

The VEEB Board has not promulgated procedures for the recording, accounting and disposal of fixed assets. Written policies and procedures are a basic requirement of a proper internal control system.

After scanning the fixed asset inventory listing for unusual items, we found the following:

- The inventory includes items that should not be capitalized, such as clothing, supplies and other nominal dollar items;
- Tag numbers are not included in the listing for some inventory items;
- VEEB is reporting installment payments for vehicles as additions to the inventory, instead of the vehicle cost;
- For some fixed assets, fixed asset listing shows both the original entry of the asset when purchased, with its cost and another entry to show when the asset is retired (obsolete), offsetting the original entry. For example, it will show an initial entry for \$500, and later when the asset is retired, the listing will show an entry for minus \$500. Proper procedure is to eliminate the original entry from the record when the asset is retired.
- The records show two items deleted from the fixed asset balance, but we were unable to locate the corresponding entries originally used to record these fixed asset additions; and
- Per the audited financial statement for the period ending June 30, 2002, the property and equipment balance exceeds VEEB's Physical Inventory Summary Schedule by \$75,149.

Audit Recommendations:

VEEB should:

- a. establish and implement written policies for the recording, accounting and disposal of fixed assets;

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Findings and Recommendations

- b. reconcile the fixed asset balance per the general ledger and audited financial statements to the fixed asset listings; and
- c. correct the fixed asset listing for the noted findings:
 - Items with nominal costs should be eliminated from the list;
 - Supplies should be eliminated from the fixed asset listing;
 - Retired assets should be removed from the list;
 - Fixed assets should be recorded on a cost basis.

Findings and Recommendations

Purchasing

Audit Finding (9):

VEEB did not adhere to proper procedures by soliciting price comparisons for two separate purchases of \$5,950 and \$6,500 for electrical services from the same vendor. According to VEEB's "Procedure for Written Requisitions", "a price comparison of at least three (3) suppliers should be obtained and evidence attached to the requisition." However, according to a VEEB official, the vendor had been the lowest bidder for previous purchases, and since they were satisfied with past work and pricing, VEEB bypassed its procedures.

Audit Recommendation:

VEEB should comply with its policies and procedures and obtain appropriate price comparisons from at least three vendors. This is necessary to ensure that VEEB obtains the best possible price and to avoid any appearance of a conflict of interest.

VEEB's Response and Auditor's Follow-Up

Audit Finding (1)-Board of Directors' Stipend Pay:

I have reviewed the County Attorney's opinion dated February 8, 2005 (see Appendix 2).

We are in agreement with the opinion. It is our understanding the County will not seek to recover stipends paid to Board Members in the past. Additionally, the VEEB has ceased Board Stipends since January 1, 2005.

Auditor's Follow Up:

We are pleased that VEEB has ceased to pay stipends for attendance at board meetings.

Audit Finding (2)-EMS Building Rental Costs:

The existence of VEEB's LPN Program has been known to the County of Nassau since its inception. A portion of the Uniondale Facility is for this Program. Additionally, the Uniondale Facility houses VEEB Administration, Business Office and Public Fire Safety Education Division and is host to the Nassau County Fire Commission for their meetings.

The benefits of the LPN Program include:

1. provides a means for economically-disadvantaged individuals to learn and develop skills which enable them to enter the work force.
2. provides a supply of much needed LPNs to the Health Care Industry.
3. generates revenue which is used to offset costs of County-funded programs.
4. provides VEEB with much needed cash flow during times when payments are delayed by Nassau County.

An updated review of the allocation of costs will be instituted on an annual basis.

Auditor's Follow Up:

We concur with VEEB's plans to perform yearly reviews for the allocation of costs. We reiterate our recommendations that:

- *VEEB and the Administration should negotiate a fair rental amount to be absorbed by VEEB's non-county funded programs, and*
- *The annual contract include a budget which clearly identifies all sources and uses of funds, compensation by employee/position and the basis of allocations of revenues and expenditures.*

VEEB's Response and Auditor's Follow-Up

Audit Finding (3)-Allocation of Maintenance Cost:

Beginning Fiscal Year 2004, Maintenance Personnel for the Uniondale Facility is charged directly to the Education Program. VEEB will undertake a time study in the year 2005 to better monitor the allocation of Administrative expenses between the County and Education Programs.

Auditor's Follow Up:

We concur with the corrective action to be taken by VEEB and note that any time study documentation should be retained for future audits. We reiterate our recommendation that VEEB should reimburse the county for past overcharges.

Audit Finding (4)-Financial Condition:

The VEEB will meet with County Administration to discuss all issues raised in the Audit Finding. The VEEB is in total agreement with this Finding and has attempted to increase the level of funding provided to the Fire Service of Nassau County for the past number of years. In Fiscal Year 2003, Nassau County did commit to an increase of \$250,000. However, only \$150,000 was received by the VEEB.

Auditor's Follow Up:

We concur with VEEB's plan to meet with the administration to discuss the issues raised. However, prior to meeting with the administration VEEB should complete all studies to determine the proper allocations of rental and other costs between programs.

Audit Finding (5)-Contractual Cash Advance:

The Audit Finding is accurate and presents significant cash flow problems to VEEB each year. Currently, VEEB has no surplus and will be in financial crisis by the end of February 2005 unless County funding begins.

We have in the past and will continue to work with the Administration of Nassau County and to stress the importance of the fulfillment of the County Contract on a more timely basis. We will approach County Administration with the idea of a multi-year contract.

VEEB's Response and Auditor's Follow-Up

Auditor's Follow Up:

We concur with the corrective action plan to be taken by VEEB. We note that the administration recently announced that it has overhauled the contract process which should lead to contracts being completed and funded in a timely manner.

Audit Finding (6)-Interfund Lending:

We are working toward reducing any interfund balance between County and Education Programs.

Auditor's Follow Up:

VEEB should discontinue the practice as recommended and repay the loan.

Audit Finding (7)-Bank Reconciliations:

VEEB's Internal Auditor has initiated measures to rectify this problem. A formal policy and procedure is in the process of being developed to avoid this issue in the future.

Auditor's Follow Up:

We concur with the corrective action being taken by VEEB.

Audit Finding (8)-Fixed Assets:

VEEB is currently in the process of establishing written guidelines for recording, accounting and disposal of Fixed Assets that will meet the guidelines outlined in Recommendations A, B and C. A copy of the guidelines will be submitted for your review upon completion.

Auditor's Follow Up:

We concur with the corrective action being taken by VEEB.

VEEB's Response and Auditor's Follow-Up

Audit Finding (9)-Purchasing:

VEEB recognizes the Audit Finding. VEEB will initiate appropriate documentation in the future which verifies that the policy has been followed. This documentation will be attached to the relevant requisition.

Auditor's Follow Up:

We concur with the corrective action being taken by VEEB.

THOMAS R. SUOZZI
County Executive



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To: Chief Deputy County Executive Cancellieri

From: Elizabeth Botwin

Date: February 8, 2005

Re: VEEB, Comptroller Draft Audit Dated January 7, 2005

This office has reviewed the Comptroller's Draft Audit of the Vocational Education and Extension Board ("VEEB"). Based on a November 8, 1995 memo from then County Attorney Owen Walsh, the draft audit concludes that VEEB may not pay stipends to its Board members without authorizing legislation. The Audit recommends that the County seek to recover stipends paid to such Board members in the past.

After preliminary review, it is apparent that the November 8, 1995 County Attorney memo relied on incorrect facts. In reaching its conclusion, the Memo relied on provisions of law applicable to Boards of Education and school districts. The term "Board of Education", however, is set forth in Education Law §2 and does not include a VEEB. Similarly, VEEB is not a school district.

VEEB is governed by Education Law §1101, et. seq. That statute does not address the issue of stipends for Board members. Education Law §1102 provides for compensation to be paid to the Clerk and Treasurer of VEEB and thus, arguably, implicitly prohibits a salary for other members of the VEEB Board. However, the law does not resolve whether a small stipend for attendance at meetings may be paid. Accordingly, the County would not be on firm ground in claiming that VEEB Board members must refund past stipends based on the analysis in the 1995 County Attorney's Memo or the language of the VEEB statute.

It should be noted that the 1995 County Attorney's memo correctly opined, based on the advice of the New York State Department of Education, that VEEB Board members may

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receive reimbursement for actual expenses of attending a Board meeting. Thus, if the VEEB Board should determine that it will eliminate the practice of paying stipends to Board members for attendance at meetings in the future, it would still be able to reimburse Board members for the expense of attending Board meetings.

Please note that VEEB is also governed by its own by-laws and by its contracts with the County, which may include provisions relevant to the payment of stipends.

C: Ruth Markovitz