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July 15, 2010

Mr. Edward J. Zero, District Superintendent
Members of the Board of Education
Western Suffolk BOCES
507 Deer Park Road
Dix Hills, New York 11746

Report Number: S9-9-70

Dear Superintendent Zero and Members of the Board of Education:

A top priority of the Office of the State Comptroller is to help officials manage their resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support operations. The Comptroller oversees the affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished in part, through our audits, which identify opportunities for improving operations and governance. Audits also identify strategies to reduce costs and to strengthen controls intended to safeguard assets.

In accordance with these goals, we conducted an audit of six BOCES throughout New York

Summary of Findings

Our audit found that the Western Suffolk BOCES (BOCES) retained \$2.4 million in a reserve fund that they lacked specific legal authority to have; these funds were allocated from school district moneys. During our audit period, BOCES used approximately \$4.2 million in budgetary appropriations and operating surplus to fund four of its five reserves³— a workers' compensation reserve, an unemployment insurance reserve, an Employees' Retirement System contribution reserve, and an employee benefit accrued liability reserve⁴ without indicating to its districts that these moneys were allocated to the reserves. However, at the end of each fiscal year, if the reserve balance was greater than the limit prescribed by Board resolution, the excess reserve funds were returned to operating surplus. In addition, BOCES officials established the workers' compensation reserve, which included over \$2.4 million as of June 30, 2009, without clear statutory authority for this type of reserve.

BOCES officials also did not establish policies and procedures for the funding and use of the reserves. However, the Board resolution from June 2006, establishing the reserves, provides guidelines on the balance in each reserve. Further, the BOCES provided documentation that supports the balances maintained in the reserve accounts.

BOCES' failure to clearly report reserve allocations to the component and participating school districts has compromised the transparency of BOCES operations and denies the school districts complete knowledge of how BOCES is ultimately using money paid by districts for BOCES services.

Background and Methodology

The BOCES serves 18 component school districts in western Suffolk County. BOCES is governed by a seven-member Board of Education (Board) whose members were elected by the 18 component school districts. BOCES' operating expenditures totaled \$151 million in the 2007-08 fiscal year. These costs are funded primarily by charges to school districts for services, and Federal and State grants. New York State Law and the Office of the State Comptroller provide guidance with respect to the establishment, funding, and use of BOCES reserves.

BOCES allocated \$4.2 million¹⁰ to reserves during our audit period. However, we found that BOCES officials did not clearly report these reserve allocations to its districts during this time or for the prior two-year period July 1, 2005 to June 30, 2007. In addition, BOCES does not have any policies, procedures, or written plans for the funding and use of moneys allocated to reserves. Further, BOCES does not report to its districts that budgetary appropriations and operating surplus are used to fund the reserves or that excess reserves is refunded to operating surplus due to the districts. Therefore, these reserve fund allocations and disbursements were potentially made without the knowledge of component and participating school districts, and consequently those districts' taxpayers.

BOCES officials stated that transfers to reserves are included as budgeted expenditures in each Cooperative Services (CoSer) budget and are also allocated from surplus. BOCES officials provide detailed CoSer budgets and a Central Administration budget to the component and participating school districts. Budgeted allocations to the reserves are included as expenditures for fringe benefits in the individual CoSer budgets. This practice does not clearly indicate that these moneys are allocated to reserves; rather, they appear as budgeted expenditures. In addition, they do not provide a surplus report indicating the cost allocated to each district in the past year's budget, the actual expenditures associated with providing shared services to the district during the year, and any surplus or refund due and payable to that district or any other report that identifies surplus funds transferred to reserves. Therefore, moneys allocated to reserves is not clearly identified. Such lack of disclosure compromises the transparency of BOCES operations and denies the school districts complete knowledge of how BOCES is ultimately using money paid by districts for BOCES services.

Some Board members, who represent the 18 component school districts¹³, told us that BOCES business officials provide monthly financial statements and reports that include the balance of each reserve. Board members also told us that they, and BOCES officials, verbally communicate information regarding reserve funding to the component school districts, however, there was no written documentation of this communication and therefore there is no evidence that all component and participating school districts have knowledge of BOCES allocations to reserves.

Reserve Balances and Use of Funds

Although there is no statutory limit on the amount in most reserves, the balances in statutorily authorized reserves should be reasonable and based on intended future expenditures or estimable liabilities. In addition, reserve funds should be accounted for separately and interest earnings should be allocated to the reserves. Also, withdrawals from the reserves should comply with statute and be directly related to the purpose of the reserve.

¹⁰ Includes funding of the following reserves: workers' compensation reserve of \$3.2 million, Employees' Retirement System (ERS) contribution reserve of \$60,000, unemployment insurance reserve of \$220,000, and employee benefits accrued liability reserve of \$725,000

¹¹ The main vehicle for BOCES services provided to its school districts. CoSers programs must be approved by the State Education Department (SED).

¹² For the CoSers programs in which they participate

¹³ Although the seven Board members represent all 18 component school districts, each originates from one of the component school districts.

Expenditures from BOCES reserves were in compliance with statute and directly related to the purpose of the reserve. BOCES properly accounted for each reserve separately and appropriately deposited interest earnings to the reserves. In addition, the balances of the reserve funds were either adequately supported with related liability calculations or they were in compliance with the Board's documented funding plans.

Unemployment Insurance Reserve The Board established this reserve in June 2006 funding payments to reimburse the State Unemployment Insurance Fund for actual claims filed. We found that payments made from this reserve during our audit period (averaging \$62,000 a year) were in compliance with statute and directly related to the purpose of the reserve. The balance as of June 2009 (prior to year-end adjustments) was approximately \$254,000 and is in compliance with the Board's documented funding plan for this reserve. During our audit period, BOCES deposited \$219,479 from budgetary appropriations into the reserve, without identifying these moneys as reserve allocations. In addition, BOCES returned \$106,300 operating surplus to reduce the reserve fund balance to the Board's planned funding level resulting in no change to the end of year balance of the reserve. A

The BOCES' lack of a specific plan for the use of these reserve funds combined with the failure to report the allocations made to reserves – demonstrates inadequate planning and a lack of transparency in BOCES' reporting to the school districts.

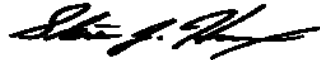
Workers' Compensation Reserve

Currently there is no clear statutory authority for a BOCES to create a reserve for workers' compensation. However, BOCES established a workers' compensation reserve by Board resolution in June 2006 and is using this reserve to accumulate money to pay for workers' compensation claims. During our audit period, BOCES officials allocated \$3,176,887 to this reserve using a combination of budgetary appropriations and operating surplus without clearly identifying these allocations as reserve funding.

OSC Audit Report which you received with the draft audit report. The Board should make the CAP available for public review in the Clerk's office.

Our Office is available to assist you upon request. If you have any further questions, please contact Ann Singer, Chief of Regional and Statewide Projects, at (607) 721-8310.

Sincerely,



Steven J. Hancox
Deputy Comptroller
Office of the State Comptroller
Division of Local Government
and School Accountability

APPENDIX A

RESPONSE FROM BOCES OFFICIALS

BOCES officials' response to this ~~it~~ can be found on the following pages.

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APPENDIX B

OSC COMMENTS ON BOCES' RESPONSE

Note 1

BOCES currently lack specific authority to have a workers' compensation reserve. Historical amendments to General Municipal Law Section 6, specifically that of subsection 5, do not illustrate intent by state policymakers to add BOCES the entities that are authorized to have such a reserve. BOCES can choose to pursue changes to the statute through the State legislature.

Note 2

Policies and procedures, including a written plan for the funding and use of BOCES reserve funds, provide a clear intent for reserves, provide guidance for future administrators, and enhance the transparency and accountability of BOCES' use of reserve funds. BOCES should incorporate good management practices in their daily operations whether they are required by law or not.

Note 3

We have provided BOCES officials with guidance on budgeting for reserve funding and recording related transactions.

Note 4

BOCES should be transparent in its reporting to component and participating school districts regarding BOCES' finances, including the use of reserve funds, whether there is a specific legal requirement to do so or not. BOCES operates with taxpayer money and has the responsibility to clearly report the intended use and ultimate disposition of all monies collected.