Vermont State Auditor

Douglas R. Hoffer

Vermont Employment Growth Incentive Parts 2 and 3:

VEPC Due Diligence and Other Matters

12/8/2020 • Office of the Vermont State Auditor • Non-Audit Report 20-07

Mission Statement

The mission of the Vermont State Auditor's Office is to hold government accountable. This means ensuring taxpayer funds are used effectively and efficiently, and that we foster the prevention of waste, fraud, and abuse.

Non-Audit Inquiry

This is a non-audit report. A non-audit report is a tool used to inform citizens and management of issues that may need attention. It is not an audit and is not conducted under generally accepted government auditing standards. A non-audit report has a substantially smaller scope of work than an audit. Therefore, its conclusions are more limited, and it does not contain recommendations. Instead, the report includes information and possible risk-mitigation strategies relevant to the entity that is the object of the inquiry.

INTRODUCTION

The Vermont Employment Growth Incentive (VEGI) is the State's flagship business grant program and is administered by the Vermont Economic Progress Council (VEPC).[1] The Legislature created VEGI in 2006[2] to replace the Economic Advancement Tax Incentive (EATI), which ran from 1998 - 2006.[3]

> "[VEGI] *provides incentives from the State…to businesses to encourage prospective economic activity…that is beyond an applicant's "organic" or background growth* [and] *that would not occur, would not occur in Vermont, or would occur in a significantly different and less desirable manner, except for the incentive provided...Once authorized, the incentives are earned, and installments paid when performance requirements are met and maintained*."[4]

From the program's inception through December 2019, VEPC authorized $90.4 million in VEGI awards.[5] Of that, $38.5 million has been rescinded or forfeited. The remaining $51.8 million has been paid out or is available to eligible companies. In addition, $34 million in tax credits have been applied to offset income tax from the EATI.[6]

VEPC claims there is no cost to taxpayers because the incentives are paid from tax revenues derived from economic activity incentivized by the program that would not have occurred "but for" the awards.[7]

The "but for" criterion is the touchstone of the program. In theory, it protects taxpayers. But, in practice, VEGI's effectiveness cannot be determined because applicant self-attestations about intent (the "but for") are based on corporate decisions that cannot be independently tested or verified. Therefore, it is impossible to validate VEPC's claims about job creation purportedly resulting from the awards.

There has long been uncertainty about the effectiveness of incentive programs that rely on "but for" attestations. In a recent literature review, a leading economist Timothy Bartik[8] reported that:

> "*Based on a review of 34 estimates of "but for" percentages, from 30 different studies, this paper concludes that typical incentives probably tip somewhere between 2 percent and 25 percent of incented firms toward making a decision favoring the location providing the incentive. In other words, for at least 75 percent of incented firms, the firm would have made a similar location / expansion / retention decision without the incentive.*"[9] (emphasis added)

Putting aside claims about the "but for," the cost of the two programs – VEGI and EATI – is approaching $90 million over the last 22 years, and that does not include the cost of administering them, which is not insignificant.

In the absence of direct evidence on the veracity of the "but for" attestations, we've chosen to review the award authorized last year for Marvell Technology (Part I), VEPC's due diligence in administering the program (i.e., examining application materials, public statements, VEPC staff analyses, and other relevant information; Part II), and some other issues uncovered during the research (Part III).

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1 32 V.S.A. § 3325
2 Act 184 (2006) and Title 32 Chapter 105.
3 Act 71 (1998) Sec. 48.
4 2020 VEGI Annual Report, page 1.
5 2020 VEGI Annual Report, page 14.
6 2016 EATI Annual Report.
7 2020 VEGI Annual Report, page 7 and VEGI "But For" Approval Criterion, page 1.
8 Mr. Bartik's work has been cited more than 3,000 times since 2015.
9 Bartik, Timothy. Upjohn Institute Working Paper 18-289, July 2018.

Part II: DUE DILIGENCE

SCOPE and METHODOLOGY

VEPC requires applicants to provide information about the company and the proposed activity. Some information is for background and context, some serves as inputs to the cost-benefit model, and some may become the basis of performance measures. Our primary focus is the "but for" statements and related materials.

This review is limited to materials submitted to VEPC by applicants and communications between the parties. Information obtained by Council members during executive session is not available as notes are not taken. Much of the information submitted to VEPC by VEGI applicants is considered confidential.[10] Therefore, while we had access to all relevant materials about applicants and how the program is managed, we are unable to share some important details.

OVERVIEW

The mechanics of the application process can be challenging,[11] but the requirements for documentation are modest. VEPC requires documentation for only a handful of largely perfunctory items (see highlighted cells below), although one of the applications we reviewed was authorized without a business plan. The Table below contains some of the items included in the application checklist.[12]

VEGI Application Checklist -- Items Requiring Documentation		
Project location	Project description	Incentives sought elsewhere
Primary business activity	Infrastructure needs	Public financing
Single entity or multiple	"But for" statement	Business plan / Financials
Other facilities located in VT	Advertising for jobs	Competition
Brief history of the company	Sought permits	Impact on VT businesses
Letter of good standing from the Tax Department	Purchase & Sale (P&S) agreement or leases	Expenditures made prior to authorization
Letters of support (municipal & Regional Planning Commissions)	Employment, payroll & benefits (recent & proposed)	Planned capital expenditures

Information regarding jobs, payroll and capital expenditures are used as inputs to the cost-benefit model to estimate possible awards. No supporting documentation is required, although the Tax Department reviews some of these data on the front end, as well as the performance (claims) data[13] submitted by companies before incentive payments can be made.

While the veracity of the "but for" statements is essential to the proper functioning of the program, applicants are not required to submit documentation in support of their self-attestations. This is at odds with the State's Internal Control standards, which call for verification of information supplied by applicants when "reviewing…a participant's eligibility for State program services."[14]

[10] 32 V.S.A. § 3341

[11] In our review of communications between applicants and VEPC staff, it was not uncommon for applicants to seek assistance navigating VEPC's Grant Electronic Application and Reporting System (GEARS).

[12] VEGI Initial or Final Application Checklist.

[13] Information submitted by companies in support of their performance achieving the benchmarks required for obtaining the award in a particular year (e.g., new qualifying jobs, capital expenditures, etc.).

[14] Internal Control Standards: Guide for Managers, Finance & Management Edition 2.0, 9/3/2019. Page 15.

"Verification…is the determination of the completeness, accuracy, authenticity and/or validity of transactions, events or information. It is a control activity that enables management to ensure activities are being performed in accordance with directives. Management should determine what needs to be verified, based on the risk to the department if there were no verification."[15]

The lack of supporting documentation and verifications characteristic of the VEGI program contrasts sharply with that required of low-income families applying for public assistance. The table below compares corresponding application requirements for Vermont Department for Children and Families (DCF) programs[16] with those of VEGI.

Documentation Required for DCF Public Assistance Programs vs. VEGI			
DCF applicant family	**DCF**	**VEPC**	**VEGI applicant company**
Ever convicted of beneficiary fraud?	Yes	No	Ever convicted of tax fraud? [a]
		No	Ever convicted of labor or environmental law violations?
Cash and amount in a bank?	Yes	No	Liquidity or access to capital? [b]
EITC or other public assistance? (can be validated with SS#)	Yes	No	Publicly funded business grants, incentives or other assistance? [c]
Financial assistance from another state in recent years?	Yes	No	Business incentives from another state in recent years? [d]
Bank or other accounts (with account numbers)?	Yes	No	Bank or other accounts (with account numbers)? [b]
Types & amounts of income (with tax returns)?	Yes	No	Net revenue (with tax returns)? [b]

a. VEPC requires a letter of good standing from the Tax Department, but the letter is current and provides no information on prior problems, if any.
b. VEPC does not require any current or historical bank or tax records, although some applicants provide limited financial information.
c. VEPC asks applicants if they anticipate any public financing for the proposed project, but not whether the company has benefitted from public subsidies in the past.
d. VEPC asks applicants if they are negotiating with other states about incentives for the proposed activity, but not whether they have received incentives previously from other states.

The discrepancy in application requirements is especially incongruous considering the value of the benefits available to businesses compared to those of low-income families. For example, the average monthly family benefit for the Reach Up program in March 2020 was $473,[17] while the average VEGI award through 2019 is $852,757.[18]

VEPC's "BUT FOR" DUE DILIGENCE

In each of the VEGI applications we reviewed, VEPC failed to perform sufficient due diligence in evaluating applications and awarding public dollars. Following are brief descriptions of those applications and VEPC's conduct.

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[15] Internal Control Standards: Guide for Managers, Finance & Management Edition 2.0, 9/3/2019. Page 15.

[16] Application provided by DCF and can be accessed here. It is used for 3SquaresVT, Reach Up, Fuel Assistance and Essential Person.

[17] Reach Up data.

[18] 2020 VEGI Annual Report, Tables 1A and 1b, pages 10 and 11.

1. An applicant noted that it had previously received a substantial incentive to expand operations in another state. The applicant stated that it would decide where to make its next investment based on total cost, net of any grants or incentives. The clear implication was that the company was willing and able to shop around and that incentives were an important consideration. However, the applicant reported that it was not seeking incentives from any other state, so it's unclear whether the company was seriously considering out-of-state alternatives.

   The VEPC staff write-up submitted to the Council referred to "competition" from the state where the company had received an earlier incentive. But there is no evidence to support this assertion because the applicant admitted it was not seeking an incentive from that or any other state. It is unclear why, in the face of a somewhat insubstantial "but for" statement, VEPC staff accepted the applicant's insinuation and mischaracterized the facts.

   The application was approved.

2. An applicant described three options for an expansion, assigned risk levels to each, and stated that the Vermont option required financial assistance to make it work. However, there is no evidence that VEPC requested information to support the company's characterization of the costs and risks of the options, which was the basis of the applicant's "but for" attestation.

   Also, VEPC never verified the assertion that the firm needed financial assistance. This is significant because the company's payroll had grown significantly in the preceding three years, which demonstrated its ability to grow without VEGI incentives. If the company meets its performance goals, the award authorized by VEPC represents 1.5% of the company's expected new payroll over the five-year term of a VEGI award. While every dollar matters these facts argue for a closer examination of whether such an incentive is pivotal to the company's decision.

   These deficiencies were not highlighted in the VEPC staff write-up, but the write-up did include this cautionary note to the Council:

   > *"The company has been quoted in the news…about their growth plans in Vermont, so the Council should vigorously question how the company's 'but for' statement matches with their representations to the media about their plan to continue growing in Vermont."*

   While the matter may have been discussed in executive session, there is no evidence that the Council sought additional documentation. The application was approved.

3. An applicant described investments made some years prior that resulted in considerable growth. It then sought to expand into what it characterized as a new product line to meet new and growing demand. Having reached capacity in its facility, the company said it needed an incentive to move forward.

   Based on information submitted by the applicant, this was a successful company, which needed to expand to keep up with its competitors. Given its growth and access to capital, the assertion that it would not expand without incentives was curious and the staff expressed concern:

   > *"The Council should vigorously question the company's But For statement. There has been not [sic] backup documentation provided to support the statements in this application, so the Council should question the assertion that without the incentive this investment wouldn't happen."*

   There is no evidence that the Council sought additional documentation. The application was approved.

4. An applicant provided VEPC with information about its facilities in other locations. The company stated that it would proceed here rather than elsewhere if it received the VEGI incentives. However, the firm said it was not negotiating with any other states for incentives. There is no evidence that VEPC sought additional information to substantiate the applicant's implied threat to take its business elsewhere.

   The application was approved.

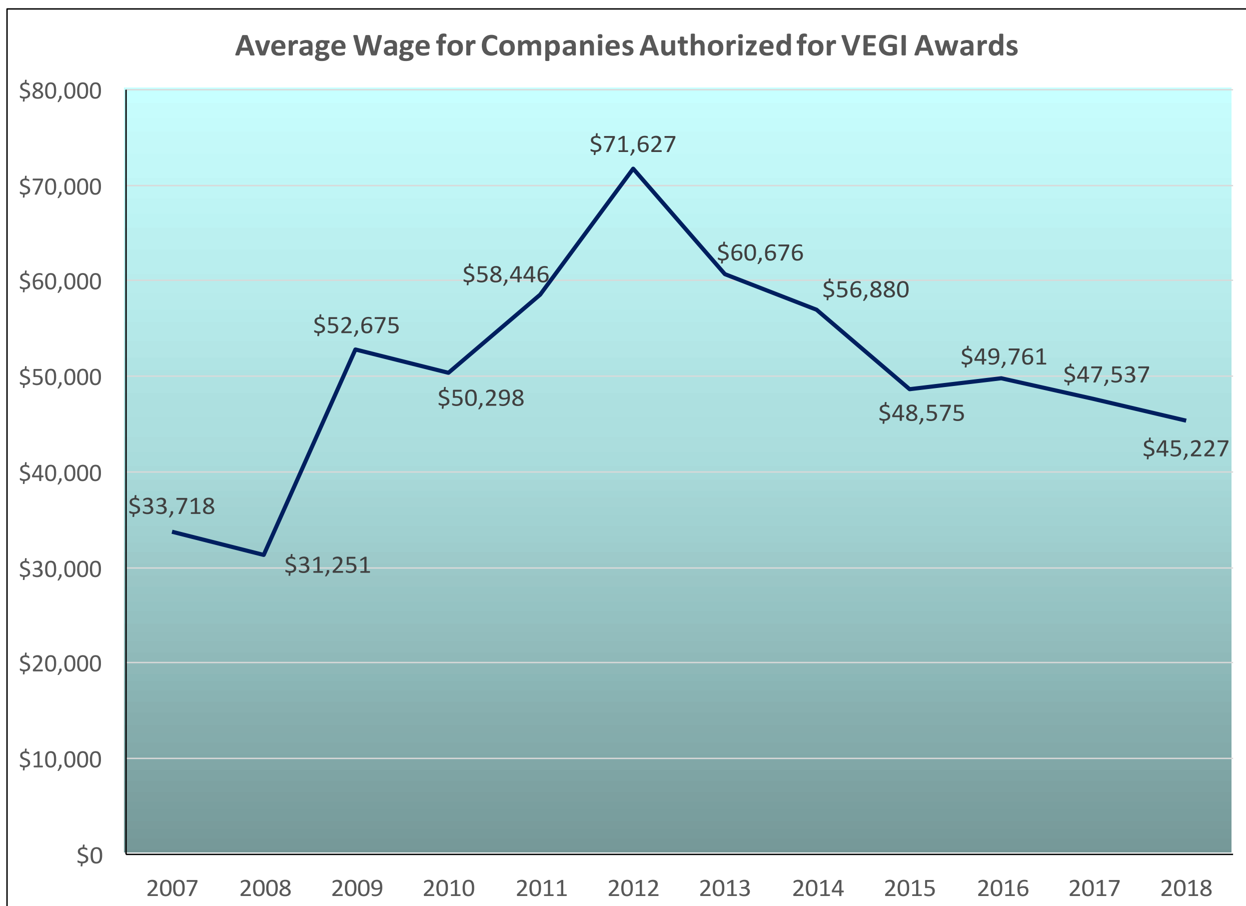
Part III: OTHER MATTERS

During our research, we came across information about aspects of the program that warranted further examination. They are largely programmatic structural issues rather than questions of due diligence.

REPORTING

VEPC's annual report on VEGI contains a lot of information, but there are some noteworthy omissions.

Wages: The average wage for new hires by VEGI firms has declined five of the last six years and is 37% lower than in 2012 when adjusted for inflation. But that's just part of the story.



Source: VEPC, 2018 dollars.

The average wage masks the distribution of wages for new hires. A lot of new qualifying employees make considerably less than the average. That was always the case, but the reduced threshold wage for some companies may have contributed to the trend.

VEGI applicants are required to pay new qualifying employees at least 160% of the current minimum wage, unless they are in areas with lower than average wages or higher than average unemployment. For those, the threshold is reduced to 140% of the minimum wage.[19]

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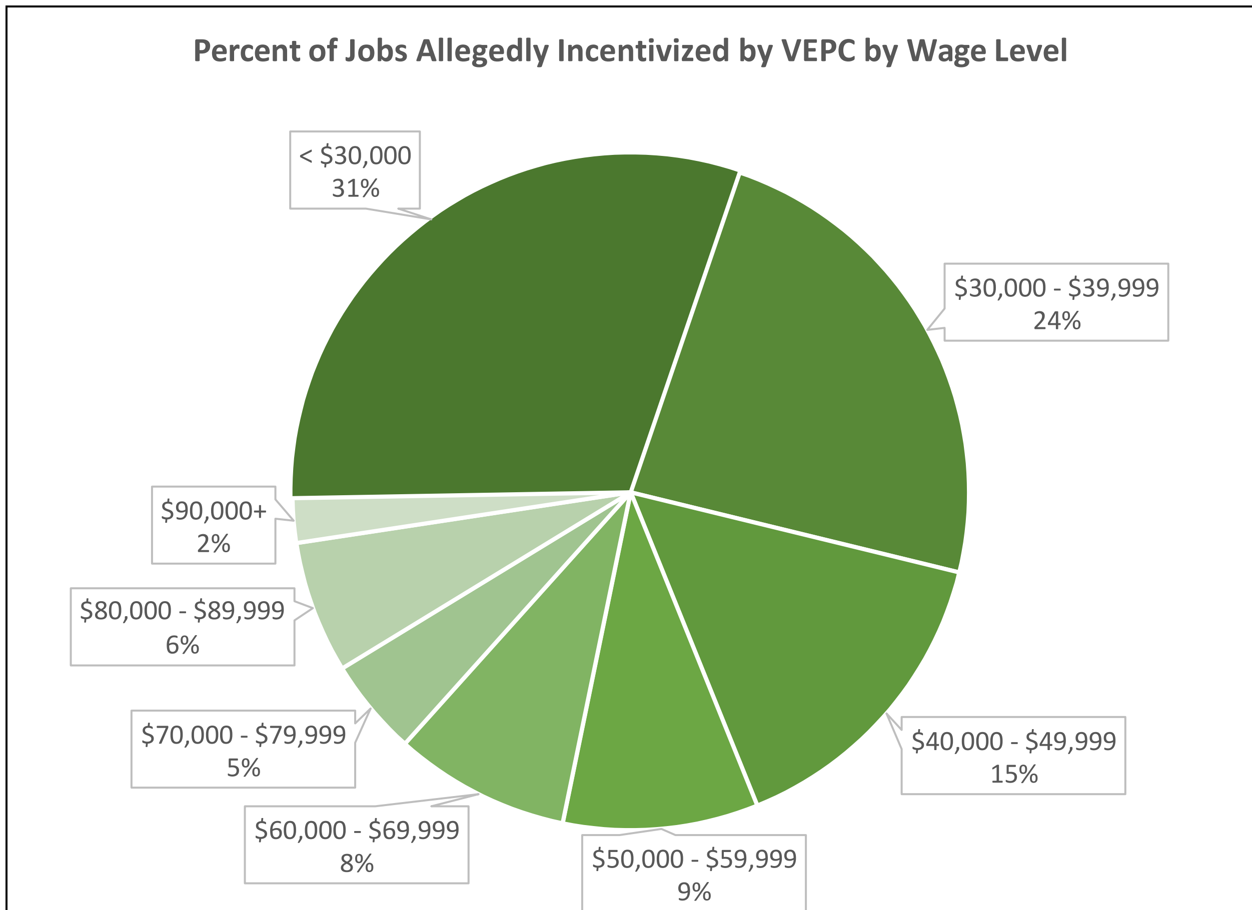
[19] 32 V.S.A. § 3331

Previous annual reports provided information on the range of wages paid by VEGI-authorized firms.[20] Recent reports present only the average wage, which hides the extent to which many VEGI-authorized jobs are comparatively low wage.



Source: VEPC as of December 2016.

In 2016 (the last year for which this information was provided), VEPC reported that 30% of all jobs supposedly incentivized paid less than $30,000 (< $15/hr.) and over half paid less than $40,000.

Geography: For several years, the annual report included information about the distribution of awards by county for applications, incentives, and jobs. This was discontinued in 2018 and 2019 but reintroduced in 2020. The latest figures show that Chittenden County is expected to generate over half (52%) of the new jobs supposedly created by the program.[21] To some extent, this is not surprising. But it calls into question the extent to which this program is a useful tool in the effort to address the urban – rural disparity in Vermont's community and economic development.

For example, the latest figures show that there are no active or complete applications in five of Vermont's 14 counties, including Addison, Bennington, Essex, Grand Isle and Rutland.[22] VEGI awards are (and have been) concentrated in the fastest growing parts of the state.

[20] 2017 VEGI Annual Report, Table 5, page 20.
[21] 2020 VEGI Annual Report, page 6.
[22] 2020 VEGI Annual Report, pages 5 and 6.

Finally, the list of all active applicants contains only the town in which each company is located, not the county.[23] In addition, the list of applications denied, cancelled and terminated provides no geographic information.[24] The failure to provide such information is regrettable and forces policymakers and citizens interested in such matters to do the necessary work themselves.

Size of business: The latest annual report includes figures for the number of awards by size of firm, but not for incentives authorized.[25]

VEPC reported that over the life of the program, almost half of all authorized awards went to businesses with over 50 employees.[26] According to the Department of Labor, only 3.3% of all firms in Vermont have more than 50 employees.[27]

BACKGROUND GROWTH

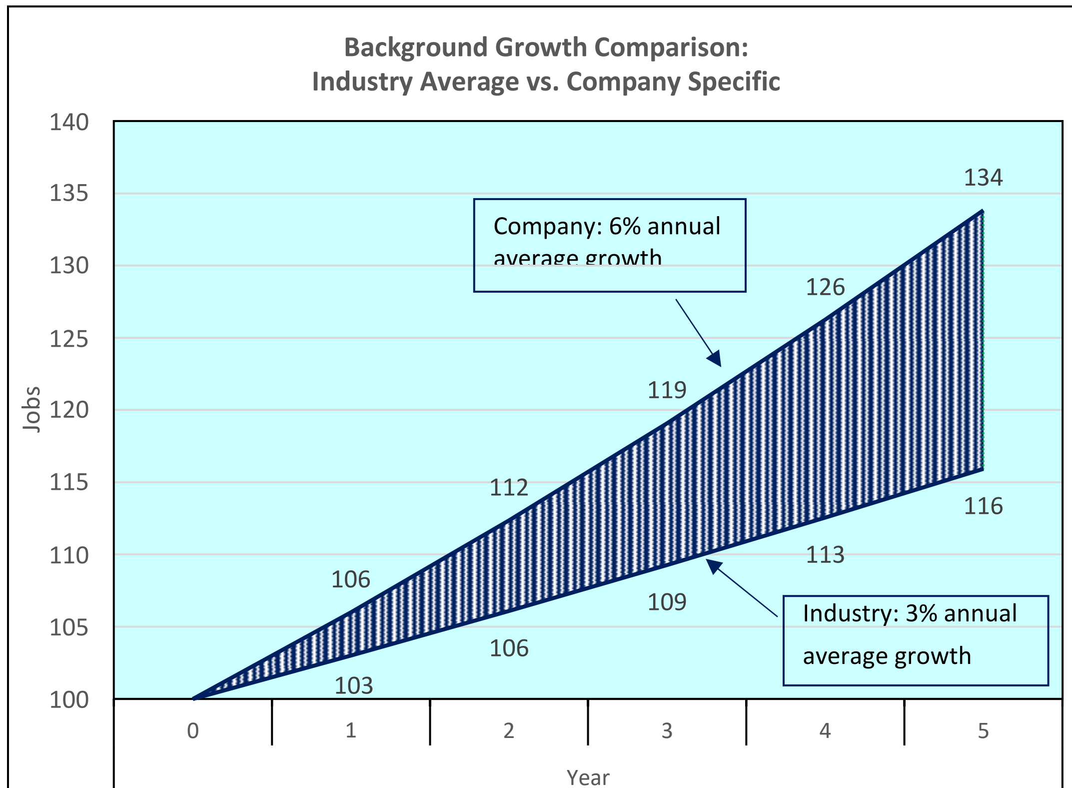
The program is not intended to reward economic activity that would have occurred without the incentive.[28] Among other things, the statute requires VEPC to account for background or organic growth in the incentive calculation. Growth is measured in payroll and the rate is calculated annually using a statewide, 15-year average annual rate of change by industrial sector.[29]

This approach is reasonable for applicants with little history in Vermont. But when VEPC authorizes awards to in-state firms whose growth has exceeded the industry average, the program wastes taxpayer funds. This is especially costly when VEPC authorizes multiple awards for companies with above-average growth rates over time. This is not uncommon and has likely cost the State millions in undeserving awards.[30] Since the relevant information is confidential, we offer a hypothetical to help explain.

Hypothetical: Although the program measures growth in payroll, numbers of jobs is a good surrogate and makes this easier to explain. For example, a company with 100 employees promises to create 30 jobs over five years. The industry average annual growth rate is 3%, while the applicant's growth rate is 6%. Using the industry average, a company with 100 jobs would be expected to add 16 jobs over five years, so VEPC would calculate an award based on the fiscal impacts of an additional 14 jobs (30 minus 16).

At 6% annual growth, the hypothetical company would create 34 jobs without an incentive. Therefore, if VEPC were required to use company-specific growth rates, this applicant would have to promise more than 34 jobs to be eligible for an award. By using the industry average, VEPC can award the faster growing company for 14 jobs that (based on historic growth patterns) would have been created without the incentive (shaded area in the graph below).

[23] 2020 VEGI Annual Report, Tables 1A and 1B, pages 10 – 11.
[24] 2020 VEGI Annual Report, Tables 1C – 1E, pages 12 – 14.
[25] 2020 VEGI Annual Report, page 6.
[26] Ibid.
[27] Vermont Department of Labor, LMI, Size of Firm.
[28] 32 V.S.A. § 3332 (5)
[29] VEPC: VEGI Policies and Procedures – Background Growth Calculation.
[30] Including VEGI's predecessor EATI, VEPC has authorized multiple awards for 15 companies over 22 years. One company got five awards (Green Mountain Coffee / Keurig, including two that were terminated); one company got four (Autumn Harp); six companies got three (Commonwealth Dairy/Yogurt, Dealer.com, GS Blodgett, Mylan, Revision Ballistics / Military, and Twincraft), and seven companies got two (Champlain Chocolate, Energizer Battery, Logic Supply, National Hanger, New England Precision, Rhino Foods, and Vermont Precision Tool). Those awards totaled almost $47 million.



One of the companies we reviewed experienced dramatic growth in the two years prior to its application (jobs more than doubled). However, the industry-average annual growth rate applied to this firm was under 4%. Using an industry average that is significantly less than a company's actual growth rate will almost certainly lead to wasted tax dollars. This example illustrates the misleading nature of VEPC's characterization of this element of the program.

> The "*program provides incentives from the State of Vermont to businesses* ***to encourage prospective economic activity in Vermont that is beyond an applicant's "organic" or background growth.***"[31] (emphasis added)

The background growth rate issue was addressed by a Technical Working Group (TWG) established at the request of the Legislature in 2016.[32] The TWG was comprised of three representatives of the Administration along with the Legislature's economist. The group did not reach a unanimous position on this question.[33] Since the risk is highly material,[34] we encourage the Legislature to reconsider the matter.

The LOOKBACK Requirement

VEGI incentives are not intended to reward firms recreating jobs lost during the prior two years.[35] However, the "look back" requirement can be waived by the Council under certain circumstances.

[31] 2020 VEGI Annual Report, page 1.
[32] 2016 Acts and Resolves No.157, Section H.14.
[33] VEGI Technical Working Group Review, November 2016.
[34] The difference in VEGI authorizations could be in the millions depending on the background growth rate.
[35] 32 V.S.A. § 3331 (9)(E)

> “[New positions that exceed the applicant’s] *“average annual employment during the two preceding years* [will not be incentivized] *unless the Council determines that the business is establishing a significantly different, new line of business…*”[36] (emphasis added).

The method used to determine the applicant’s baseline employment for purposes of calculating an award is set in statute.[37] The Rules explain how it works:

> “*For example, a company applying in May 2017 had 66 full-time employees in Vermont at* [the] *end of 2015 and 56 at end of 2016 and is at 54 at time of application. The formula is: Average of 66 + 56 = 61 – 54 = 7. Therefore, 7 jobs must be added before any incentive is calculated. If the company projected adding 10 new, qualifying jobs in Vermont during 2017, only the payroll for the last three new, qualifying jobs would be used in the incentive calculation. The payroll…for the first seven new, qualifying jobs will be included as “background growth” and not count toward the incentive calculation*.”[38]

In this example, the applicant’s employment was 54 when the application was submitted, down from 66 two years prior. Logically, the applicant should be required to return to the earlier employment level before becoming eligible for an incentive. Instead, by averaging the two prior years, the program ignores the fact that 12 jobs were lost and fabricates a baseline where only seven jobs need to be replaced before considering new jobs for the award calculation.

This effectively limits the adverse impact of the lookback procedure for applicants who have laid off employees and, conversely, results in increased costs to taxpayers. Here, too, the risk could be material, so the Legislature should consider revising the Lookback procedures and it should seek advice from its consulting economist on the question of whether a two-year lookback is optimal.

COST-BENEFIT MODEL – THE MISSING VARIABLE

Statute requires VEPC to *“adopt and maintain a cost-benefit model for assessing and measuring the projected net fiscal cost and benefit to the State of proposed economic development activities*.”[39]

The cost-benefit model employed by the Agency of Commerce is a sophisticated tool[40] that estimates state revenues (personal and corporate income, sales, rooms & meals, property, etc.) from the proposed new activity, along with costs associated with the State’s General, Education, and Transportation Funds.

However, among the many variables in the model, there is at least one cost that is not considered – namely, the cost of public assistance for new low-wage employees at firms receiving VEGI awards.

The Department of Vermont Health Access (DVHA) reported that there were 31 VEGI-authorized firms in 2017 and 2018 that employed over 300 people who were enrolled in one or more Medicaid programs.[41] The cost to the state for those public assistance benefits over two years was over $3.2 million.[42] We do not know how many, if any, of those individuals were hired as part of a VEGI award authorization.

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[36] 32 V.S.A. § 3331 (9)(E)
[37] Ibid.
[38] VEPC: VEGI Policies and Procedures – Lookback Requirement and Potential Waiver.
[39] 32 V.S.A. § 3326
[40] Regional Economic Models, Inc. (REMI).
[41] December 13, 2018 e-mail from DVHA Commissioner Cory Gustafson to Doug Hoffer.
[42] Ibid.

As mentioned, statute allows some VEGI-authorized firms to pay 140% of the minimum wage. To put this cost in perspective, we asked DVHA to quantify the statewide cost of Medicaid benefits for all Vermonters who earn between 140% and 160% of the state's minimum wage. The average for 2017 and 2018 was $17 million per year.[43]

DVHA also reported that the State spent $21 million in 2017 and 2018 for Vermonters earning between 160% of minimum wage to $40,000,[44] so it's not just those below 160% requiring help to make ends meet.

By not considering these costs to the state, the cost-benefit model likely over-estimates the net fiscal benefits of VEGI applications, which leads to higher (and less-deserving) awards. Each application is different, so the magnitude of the impact is unknown. But the Legislature's Joint Fiscal Committee, which has authority over the model, could revisit the issue with the Legislature's consulting economist, who testified on the matter when the LMA Enhancement was adopted, but has not yet reviewed the data we obtained from DVHA. Speaking of the reduced wage thresholds allowed by the proposed LMA Enhancements, he said:

> "*…these changes will serve to diminish the State return on VEGI public expenditures, since the VEGI* [cost-benefit] *model used to calculate award maximums does not assume that qualifying jobs created through the program will trigger public assistance payments…If this change is made, the model should also be changed so as to account for this added potential State cost in calculating award levels*."[45]

COST-BENEFIT MODEL – INCORRECT INPUT

The model is designed to measure the economic and fiscal impacts of new jobs, payroll, and capital expenditures. A key input to the model is the six-digit North American Industry Classification System (NAICS) code that classifies businesses by industry.

The model is based on government data that reflect complex business interactions in the economy. Not surprisingly, investments in different industries produce different results because inputs for each industry can vary considerably (e.g., labor - different mixes of occupational skills and wages; raw materials for manufacturing; energy; local, regional, or global supply chains, etc.). Based on the NAICS code, the impacts within Vermont can differ significantly and can have a large impact on the estimated award.

During our research, we encountered a NAICS-related problem with one application. Marvell told VEPC that its NAICS code was 334413, which is "Semiconductor and Related Device Manufacturing." However, in its application, Marvell described Avera as a "fabless semiconductor provider of high-performance semi-conductor solutions." "Fabless" is understood to mean a company that designs microchips but does not manufacture them. Therefore, the NAICS code submitted by Marvell was not accurate and VEPC failed to catch the mistake.

VEPC should probably have used NAICS code 541512, which is Computer Systems Design Services rather than manufacturing. By using the manufacturing NAICS code (334413), it is likely that VEPC's cost-

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[43] January 16, 2020 e-mail from DVHA Deputy Commissioner Adaline Strumolo to Doug Hoffer.
[44] Ibid.
[45] February 23, 2015 Memorandum from Tom Kavet to House Commerce and Senate Economic Development.

benefit Model overstated the economic and fiscal impacts of the Marvell / Avera project and resulted in an award larger than was justified.

The Legislature could ask ACCD's analyst to run the cost-benefit model again with the appropriate NAICS code and adjust the award accordingly. Although decisions by VEPC cannot be contested, statute does not forbid VEPC from altering an award if an error was made.[46]

AWARD SIZE

The statute prescribes the method for determining the sizes of awards offered to applicants. Strict adherence is likely to maximize the award rather than the benefit to the State.

When companies file a VEGI pre-application, VEPC has ACCD run the cost-benefit model and provide applicants with an estimate of the award they may be eligible to receive. At first contact, however, an applicant cannot know the magnitude of a possible award and VEPC cannot know the applicant's expectations.

Hypothetical (assume the "but for" is valid): Based on the pre-application inputs, the model determines that the proposed economic activity justifies an award of up to $600,000. By informing the applicant of the maximum possible award, VEPC assumes that an incentive of that size is necessary to induce the proposed activity. However, it is entirely possible that the applicant would proceed if offered less.

At present, VEPC does not have the authority to offer less than the maximum benefit as calculated by the cost-benefit model. The Legislature may wish to reconsider this.

[46] 32 V.S.A. § 3325(g)

Appendix A: SAO Response to VEPC Comments

The Vermont Economic Progress Council (VEPC) and its Executive Director were given three weeks to respond to this 16-page report. At the Director's request, we extended the deadline for their review and response. However, the Council and staff chose not to comment on the substance of the investigation, citing COVID-19-related work as the reason (see Appendix B).

VEPC's chair and the other members of the council are not state employees involved in the State's response to COVID-19, and VEPC met twice during the pandemic before the draft report was sent for comment (April 30 and June 25) and approved VEGI awards of $1.3 million during that period.

Despite not commenting on the substance of the report or supplying any additional information, the Director asserted that she was "concerned about the number of serious allegations in this document reached without clear evidence."

Everything in the report is based on materials provided by VEPC or from public sources clearly footnoted (72 footnotes in all). Furthermore, I requested all evidence related to the applications examined in this investigation and was assured that everything was provided.

The second section of the report discusses VEPC's due diligence and describes application materials and other records that are deemed confidential by statute. Therefore, some details were required by law to be withheld. Nevertheless, VEPC – which is the custodian of all such records – could have communicated privately if they had questions about the facts as presented. They chose not to do so or to supply any additional evidence.

The Executive Director also asserted that "many of the representations in [the report] are not an accurate reflection of events," but she failed to identify specific inaccuracies or provide evidence in support of such claims.

She further stated that "it is unclear what the goal of this document is." Like all state entities that are responsible for spending or awarding taxpayer dollars, VEPC's administration of the VEGI program is subject to review by the Auditor's Office. There is nothing unusual or inappropriate about examining the performance of a state entity, especially when such concerning behavior was brought to my attention by a publicly available report.[47] Like all other work done by the Auditor's Office, the goal is to hold state government accountable. The specific goals of the review were made clear in the one-page introduction:

> *"In the absence of direct evidence on the veracity of the "but for" attestations, we've chosen to review the award authorized last year for Marvell Technology (Part I), VEPC's due diligence in administering the program (i.e., examining application materials, public statements, VEPC staff analyses, and other relevant information; Part II), and some other issues uncovered during the research (Part III)."*

The work of state government – including the State Auditor's Office – must continue, even during a pandemic. Identifying efficiencies and efficacies in State spending and operations is critical in a time of shrinking budgets and economic uncertainty. That was our focus before the pandemic, and that is our focus now.

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[47] Epp, Henry. Days Before Announcing Essex Junction Layoffs, Company Secured $5.3 Million State Incentive, November 15, 2019.

The Executive Director concluded her brief remarks by stating that she looks "forward to continuing the important discussion on how to objectively review and improve Vermont's economic development programs including the Vermont Employment Growth Incentive…"

Unfortunately, the response did nothing to enhance the discussion about these matters or identify ways to improve the State's economic development programs. Challenging the veracity of a report without identifying evidentiary failures is opinion, not an argument supported by facts. VEPC's three paragraph response to this report contributed nothing of substance to the issues flagged in this investigation.

Appendix B: VEPC Management Comments

The following is a reprint of management's response to a draft of this report.

Vermont Economic Progress Council
Agency of Commerce and Community Development
6th Floor, Deane C. Davis State Office Building
1 National Life Drive, Montpelier, VT 05620-0501

Friday, August 7, 2020

The Honorable Douglas R. Hoffer, State Auditor
132 State Street
Montpelier, VT 05633-5101

Dear Mr. Hoffer,

Thank you for the opportunity to offer comment on the provided document. While I am in receipt, I will not be able to comment fully on each segment at this juncture as we are in the midst of responding to the overwhelming impacts of the current global pandemic, COVID19.

Generally, I am concerned about the number of serious allegations in this document reached without clear evidence and without important steps taken in this review process. I have found many of the representations in this document are not an accurate reflection of events. Given this and in light of the fact that global, national, and state economies are contracting at a rate none of us have seen in our collective lifetimes, it is unclear what the goal of this document is.

I look forward to continuing the important discussion on how to objectively review and improve Vermont's economic development programs including the Vermont Employment Growth Incentive in a manner that lives up to standards of Vermont's long tradition of respectful discourse.

Sincerely,

Megan Sullivan

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