ISSUED: September 17, 2009 **AR-02-11-09**

THE UNITED STATES VIRGIN ISLANDS

OFFICE OF THE VIRGIN ISLANDS INSPECTOR GENERAL

AUDIT REPORT

AUDIT OF SELECTED TRANSACTIONS
OF THE
BUREAU OF ECONOMIC RESEARCH

ILLEGAL OR WASTEFUL ACTIVITIES SHOULD BE REPORTED TO THE OFFICE OF THE VIRGIN ISLANDS INSPECTOR GENERAL BY:

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EXECUTIVE SUMMARY

The following summarizes the major findings resulting from the Audit of Selected Transactions of the Bureau of Economic Research (AR-02-11-09).

Finding 1: Management of Checking Accounts (pages 4 to 9)

- ✓ Economic Research had unchecked access and control to over $2.7 million of Federal and local funds.
- ✓ Commingled Federal and local funds into two checking accounts without oversight from the Department of Finance and the Office of the Governor.
- ✓ The failure to adequately monitor and control the activities in the accounts resulted in the former Deputy Chief of Staff for the Office of the Governor to embezzle more than $1.2 million from the accounts.

Finding 2: Questionable Compensation Payments (pages 10 to 14)

- ✓ Economic Research inappropriately paid $528,831 for work performed "after regular hours" by its employees using Federal and local funds.
- ✓ Circumvented the Government's payroll system by making the inappropriate payments directly from the checking accounts.
- ✓ In appropriately issued incorrect Internal Revenue Service Form 1099-MISC reporting some of the payments.

Finding 3: Procurement Practices (pages 15 to 21)

- ✓ Economic Research did not seek proposals nor document competitive negotiations for eight contracts, valued at $574,364, entered into.
- ✓ Thirteen vendors were paid $468,901 without contracts, violating the procurement process.
- ✓ Invoices totaling $264,492 were split in violation of the procurement requirement of Department of Property and Procurement approval for purchases in excess of $5,000.

- ✓ Contracts were entered into after the services had been performed, and services were performed for which no Legislative authorization was granted.

Finding 4: Conflict of Interest (pages 22 to 23)

- ✓ Economic Research created a conflict of interest situation by hiring a vendor for which the Director of Economic Research and spouse were the sole partners. A total of $47,985 was paid to the vendor.

- ✓ Another conflict of interest situation was created when a vendor doing business with Economic Research hired the same vendor for which the Director and spouse were partners. In this instance $15,000 was paid to the Director's business.

Finding 5: Advances to Employees and Loan to Vendor (pages 24 to 25)

- ✓ Economic Research extended $10,337 in advances to three employees before their employment documents (NOPA) were processed.

- ✓ A vendor was loaned $5,000, claiming that it was for services provided; however, the amount was later repaid by the vendor.

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September 17, 2009

Honorable John P. de Jongh, Jr.
Governor of the Virgin Islands
Government House
Kongens Gade
Charlotte Amalie, St. Thomas, VI 00802

Honorable Louis P. Hill
President
28th Legislature
Capital Building
Charlotte Amalie, St. Thomas, VI 00802

Dear Governor de Jongh and Senator Hill:

Attached is the final report of our audit of selected transactions of the Bureau of Economic Research (Economic Research). The objective of our audit was to determine if select Economic Research transactions were allowable, allocable and reasonable in accordance with laws, regulations and procedures. The audit objective included the identification of inadequacies in the management and accounting of funds, the processing of transactions, the awarding of contracts for professional services, and recommendations to address the inadequacies found.

We found that Economic Research: (i) had unchecked access to over $2.7 million in its checking accounts, in which local and Federal funds were commingled; (ii) inappropriately paid its employees for work performed after regular hours; (iii) failed to engage in competitive negotiations when procuring contractual services of certain vendors and failed to enter into contracts for vendor services valued at more than $5,000 as required by the Virgin Islands Code (Code); (iv) entered into transactions that created a conflict of interest for the Director of Economic Research (Director); and, (v) extended unauthorized advances to employees and a loan to a vendor.

We attribute these conditions to: (i) Finance not adequately monitoring the checking accounts controlled by Economic Research; (ii) the Office of the Governor failing to establish controls that would ensure compliance with laws and regulations; (iii) the Department of Property and Procurement (Property and Procurement) approving Economic Research contracts that did not meet the competitive negotiation requirements set-out in the Code; and, (iv) Economic Research's failure to comply with payroll, procurement, and conflict of interest laws, and sound business practices.

As a result, Economic Research: (i) put over $2.7 million in its checking accounts at risk and had over $1.2 million embezzled from those accounts by the former Deputy Chief of Staff; (ii) had $528,831 in unallowable expenses claimed for work performed after regular hours; (iii) did not ensure that it received the best quality and price for services provided by vendors; (iv) violated the conflict of interest provisions of the Code by engaging in transactions with the Director; and, (v) misused $15,337 by using it for purposes for which it was not approved.

We made several recommendations to address the conditions and causes cited in the report. The recommendations addressed areas dealing with: (i) establishing oversight over Economic Research; (ii) requiring compliance with payroll rules and regulations; (iii) ensuring proper monitoring and disbursement of funds; (iv) enforcing procurement rules and regulations; and, (v) Government employee awareness of the conflict of interest laws.

The response, included as Appendix I of this report, indicates agreement with all of the recommendations made and is considered responsive. Appendix II outlines the additional information needed for us to consider the recommendations implemented.

If you or your staff requires additional information, please call me at 774-6426.

Sincerely,

Steven van Beverhoudt

Steven van Beverhoudt, CFE, CGFM
V. I. Inspector General

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INTRODUCTION

BACKGROUND

Previously a part of the Government Development Bank, the Bureau of Economic Research (Economic Research) was placed under the Office of the Governor by Executive Order 296-2000, on July 25, 2000. The agency was placed under the direct supervision of the Assistant to the Governor for Fiscal Policy and Economic Affairs (Assistant to the Governor).

Economic Research's primary function is to provide public and private sector policymakers with information on the Virgin Islands' economy through the production of routine statistical reports and by conducting special research projects. To accomplish this, Economic Research routinely hires vendors in addition to relying on the work of its own staff.

Economic Research receives funding for research projects from various local sources and Federal grants. During Fiscal Years 2001 through 2007, Economic Research's funding included grant awards from the Department of Commerce's Economic Development Administration (EDA) and the Department of Health's Health Resources & Services Administration (HRSA). During this period, Economic Research received $390,536 from EDA to support strategic economic development plans in the Virgin Islands; and $1,386,274 from HRSA to study the health care system in the Virgin Islands.

The Department of Finance (Finance) gave Economic Research authority to open two checking accounts in order to manage these grant funds, even though the Government of the Virgin Islands' (Government) Accounting Manual provides for Finance to account for all Government funds and to establish internal control mechanisms to safeguard Government funds from fraud, waste and abuse.

As a recipient of Federal grant awards, Economic Research is required to follow Federal guidelines for the use of grant funds. The United States Office of Management and Budget, in 2 CFR 225, Circular A-87 requires that all expenses be allowable, reasonable and allocable. In order for costs to be allowable, they must be authorized or not prohibited by the Government and must be adequately documented. Reasonable costs must adhere to the constraints of sound business practices, arm's-length bargaining, and Federal and local government laws. For costs to be allocable, they must be incurred for the specific purpose for which they were allotted.

OBJECTIVES, SCOPE AND METHODOLOGY

The audit of select transactions of Economic Research was initiated based on the investigation and conviction of the former Deputy Chief of Staff, Office of the Governor. The former Deputy Chief of Staff opened an account in Economic Research's name and embezzled Government funds that had been deposited into this account. Based on the results of the investigation, we determined that funds under the control of Economic Research were at high risk and further review of select transactions was necessary.

The objective of our audit was to determine if select Economic Research transactions were allowable, allocable and reasonable in accordance with laws, regulations and procedures. The audit objective included the identification of inadequacies in the management and accounting of funds, the processing of transactions, the awarding of contracts for professional services, and recommendations to address the inadequacies found.

The scope of the audit covered payments to Government employees, contractors and select vendors who received amounts in excess of $5,000, during Fiscal Years 2001 through 2008.

To accomplish our objective, we reviewed applicable laws, regulations and procedures; examined payments made through Economic Research's two checking accounts, and by Finance on behalf of Economic Research; examined documents related to funds made available to Economic Research; and, interviewed key officials and employees of Economic Research.

The audit was performed in accordance with generally accepted government auditing standards applicable to performance audits, contained in the "Government Auditing Standards" issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to provide a reasonable basis for our findings and conclusions. Accordingly, we have performed such tests of records and performed other auditing procedures that were considered necessary under the circumstances.

As part of our audit, we evaluated the internal controls over the management of funds controlled by Economic Research to the extent necessary to accomplish the audit objective. Weaknesses in internal controls are discussed in the Audit Results section of the report.

PRIOR AUDIT COVERAGE

There were no indications in the records we examined that Economic Research had been audited within the past five (5) years. However, a Certified Public Accounting firm did audit and issue a report on the financial statements of Economic Research's HRSA grant for the period ending August 31, 2004 and August 31, 2005.

The audit of the period ending August 31, 2004 had no reportable conditions. However, the audit for the period ending August 31, 2005 had three reportable conditions. The 2005 audit found that Economic Research: (i) was missing supporting documentation; specifically, receipts and timesheets; (ii) used grant funds that were approved for a specific purpose for other purposes without the required approval of HRSA; and, (iii) could not provide evidence that invoices were approved before payments were issued to vendors.

The audit report recommended that Economic Research: (i) maintain all original invoices and timesheets; (ii) adhere to the terms and conditions of the grant agreements; and, (iii) use a rubber stamp that provides spaces for responsible personnel to initial their approval of invoices.

AUDIT RESULTS

CONCLUSIONS

We found that Economic Research: (i) had unchecked access to over $2.7 million in its checking accounts, in which local and Federal funds were commingled; (ii) inappropriately paid its employees for work performed after regular hours; (iii) failed to engage in competitive negotiations when procuring contractual services of certain vendors and failed to enter into contracts for vendor services valued at more than $5,000 as required by the Virgin Islands Code (Code); (iv) entered into transactions that created a conflict of interest for the Director of Economic Research (Director); and, (v) extended unauthorized advances to employees and a loan to a vendor.

We attribute these conditions to: (i) Finance not adequately monitoring the checking accounts controlled by Economic Research; (ii) the Office of the Governor failing to establish controls that would ensure compliance with laws and regulations; (iii) the Department of Property and Procurement (Property and Procurement) approving Economic Research contracts that did not meet the competitive negotiation requirements set-out in the Code; and, (iv) Economic Research's failure to comply with payroll, procurement, and conflict of interest laws, and sound business practices.

As a result, Economic Research: (i) put over $2.7 million in its checking accounts at risk and had over $1.2 million embezzled from those accounts by the former Deputy Chief of Staff; (ii) had $528,831 in unallowable expenses claimed for work performed after regular hours; (iii) did not ensure that it received the best quality and price for services provided by vendors; (iv) violated the conflict of interest provisions of the Code by engaging in transactions with the Director; and, (v) misused $15,337 by using it for purposes for which it was not approved.

We made several recommendations to address the conditions and causes cited in the report. The recommendations addressed areas dealing with: (i) establishing oversight over Economic Research; (ii) requiring compliance with payroll rules and regulations; (iii) ensuring proper monitoring and disbursement of funds; (iv) enforcing procurement rules and regulations; and, (v) Government employee awareness of the conflict of interest laws.

FINDING 1: MANAGEMENT OF CHECKING ACCOUNTS

Economic Research had unchecked access and control to $2,770,006[1] of Federal and local funds commingled in two checking accounts maintained by the agency. This occurred because: (i) Finance failed to monitor the activities of the accounts; (ii) the Office of the Governor took a hands-off approach to the oversight and management of Economic Research; and, (iii) Economic Research officials did not use sound business practices and abused their authority.

Background

The Revised Organic Act of 1954, in Section 18 requires the Governor to establish and maintain systems of accounting and internal control to provide effective control over and accountability for all funds which the Government is responsible. Title 3, Section 177 of the Code requires Finance to provide uniform regulations for the disbursement of all public funds.

Title 33, Section 3203 of the Code requires heads of agencies or their authorized appointees to approve the disbursement of funds. Disbursing officers are also required to perform a proper review of vouchers and can be held accountable for any approvals under their purview.

In a letter dated December 13, 2000, several months after Economic Research was placed under the Office of the Governor, the Commissioner of Finance authorized the Government Development Bank to open a checking account for Economic Research, "Account I." According to the Commissioner's letter, the purpose of this account was to allow for separate and accurate management of EDA grant funds.

In an October 2, 2002 letter, the former Deputy Chief of Staff, who had no documented official role over Economic Research, sent a memorandum to the Commissioner of Finance requesting authorization for Economic Research to open a second bank account in order to manage its HRSA grant funds. The former Deputy Chief of Staff's request stated that Account I, was under the supervision of the Government Development Bank, and was being used to oversee EDA grant disbursements and that the Government Development Bank would also supervise the disbursements of the HRSA grant funds. On November 13, 2002, the Commissioner of Finance sent a letter authorizing the opening of a bank account to be managed by Economic Research. On November 14, 2002, "Account II" was opened with a $30,500 check issued by the Antilitter and Beautification Commission intended for the Abandoned Vehicle Program.

[1] This figure was determined by subtracting transfers between Economic Research's two checking accounts ($205,482) from the total amount of deposits to the accounts ($2,975,488).

Oversight by Finance

Finance failed to place controls over Economic Research's two checking accounts, by allowing Economic Research to have unchecked access to $2,770,006 without proper oversight. The Commissioner of Finance broke from the normal Government accounting system and gave Economic Research written permission to open two checking accounts (Account I and II) for the purpose of managing Federal grant funds. Finance did not place any restrictions on the accounts or monitor their transactions. When asked for records on Economic Research's checking accounts, Finance was unable to provide any records on Account I or II.

The weak control environment at Economic Research contributed to the embezzlement of over $1.2 million by the former Deputy Chief of Staff and the commingling of Federal and local funds. Additionally, the lack of oversight over Economic Research and its checking accounts played a part in allowing Economic Research to circumvent payroll, procurement, conflict of interest and application of appropriations regulations (see Findings 2 through 5 of this report). Based on the amount of funds awarded to Economic Research by Federal grantor agencies, it would have been prudent for Finance to maintain control over these funds.

The following chart shows the amount of local and Federal funds deposited into Economic Research's Account I and II from Fiscal Years 2001 through 2007.

Fiscal Year	Account I	Account II	Total
2001	$70,578		$70,578
2002	95,153		95,153
2003	154,951	$301,644	456,595
2004	102,835	420,939	523,774
2005	325,877	290,308	616,185
2006	33,912	925,777	959,689
2007	41,705	6,327	48,032
Total	**$825,011**	**$1,944,995**	**$2,770,006**

Oversight by the Office of the Governor

The Office of the Governor did not provide oversight over Economic Research operations, allowing Economic Research officials to act irresponsibly with the funds under its control. Both accounts were opened after Economic Research had been transferred to the Office of the Governor. However, the letter from the former Deputy Chief of Staff to the Commissioner of Finance misled Finance by stating that Account II would be monitored by the Government Development Bank even though the Government Development Bank no longer had any authority over Economic Research.

On July 25, 2001, Economic Research and Government Development Bank officials changed the two signatories required on Account I. Two Government Development Bank Board members were replaced with the Assistant to the Governor and the Director of Economic

Research. Economic Research bypassed Finance and submitted the application for the change of signatories without notifying Finance. Since there is no evidence that the Assistant to the Governor, responsible for oversight, ever monitored the activities of the account, changing the signatories on the account in essence put Account I under the total control of the Director. A provision previously put in place by the Government Development Bank requiring two signatories for checks over $3,000 remained in place after the signatories were changed; however, between July 2003 and September 2007, the Director violated the provision 89 times. The Director's signature was the only one on all checks over $3,000 written after December 2000. These checks totaled $534,050 and included 24 checks written to the Director, totaling $127,834.

The Office of the Governor's failure to monitor the activities of Economic Research, also allowed the former Deputy Chief of Staff, who had no documented official supervisory role over Economic Research, to take on decision-making functions. In October 2002, the former Deputy Chief of Staff requested permission from Finance to open a checking account on behalf of Economic Research and in November 2002, Account II, was opened with the former Deputy Chief of Staff and the Director as the authorized signatories.

Once the account was opened the former Deputy Chief of Staff entered into transactions without notifying the Director of the transactions or their purpose. In 2007, the former Deputy Chief of Staff was convicted of embezzlement, conversion of government funds and grand larceny of more than $1.2 million from Account II.

Economic Research's Fiduciary Responsibility

Economic Research officials abandoned their fiduciary responsibility to the Government by failing to exercise due diligence and comply with Federal and local laws in its financial transactions. Economic Research officials took advantage of the weak control environment and abused their authority for the benefit of the employees of Economic Research (see Finding 2, 4 and 5 of this report).

Economic Research officials did not comply with the restriction over Account I requiring two signatories for checks over $3,000. As previously noted, the Director failed to obtain a second signature or written authorization for checks meeting the $3,000 requirement, instead the Director's signature was the only one on 89 checks totaling $534,050, including 24 checks issued to the Director, totaling $127,834. The Director also had knowledge of the questionable financial transactions made by the former Deputy Chief of Staff and did not report them. When the Director did not give the former Deputy Chief of Staff blank checks, he would obtain them from the bank. In a memorandum dated July 28, 2003, the Director asked the former Deputy Chief of Staff to stop writing checks from the account as the account was overdrawn. The Director stated that "my fear is that an audit will find that there were commingling of funds, inadequate financial controls and inappropriate use of funds". There was no evidence that this memorandum or any other correspondence regarding the former Deputy Chief of Staff's activities were sent to anyone other than the former Deputy Chief of Staff. As such, the former Deputy Chief of Staff's actions were allowed to continue.

Segregation of Duties

There was insufficient segregation of duties to ensure the prevention of fraud and errors over Economic Research's checking accounts. The Director had custody of both check books, authorized payments and signed checks. In addition, there were no reconciliations performed on either account after October 2002. An Economic Research employee, who reported directly to the Director, performed reconciliations for Account I from December 2000 – October 2002, and then stopped. No reconciliations were ever performed for Account II. However, had someone other than the Director or former Deputy Chief of Staff been monitoring the account transactions, the embezzlement scheme may have been prevented or detected earlier.

Commingling of Federal and Local Funds

Economic Research commingled Federal and local funds from various sources that had been allocated for specific purposes into the two checking accounts; $870,869 in Account I and $2,104,619 in Account II. By commingling these funds it became difficult to determine the source of the funds used to pay various expenses. As such the ability to assign a cost to its source became nearly impossible.

The following schedule shows how funds from various sources were commingled in Account I from December 2000 to September 2007.

Source/Allocated Purpose	Amount
EDA	$455,720
HRSA	194,536
VI Public Finance Authority	75,000
Economic Research Account II	45,857
VI Casino Control Commission	34,908
West Indian Company	25,000
Other or Unknown	39,848
Total	**$870,869**

By the end of September 2007, Economic Research had spent $851,938 from Account I on various expenses that included; EDA projects, HRSA projects, the Casino Smoking Ban Survey, Visitor Exit Surveys, Consumer Price Index Studies and Custom Card Surveys.

The following schedule shows how funds from various sources were commingled in Account II from November 2002 until the account closed in April 2007.

Source/Allocated Purpose	Amount
Law Enforcement Planning Commission	$700,000
Abandoned Vehicle Program	501,000
HRSA	206,554
Economic Research Account I	159,625
Anti-Litter Beautification Commission	95,500
General Fund	40,900
West Indian Company	25,870
Other or Unknown	375,171
Total	**$2,104,619**

Funds from this account were spent on various expenses, including HRSA grant projects and the Abandoned Vehicle Program, in addition to being embezzled by the former Deputy Chief of Staff.

Recommendations

We recommend that the Governor of the Virgin Islands:

1. Establish written policies, practices, and procedures to ensure the activities, including fiscal propriety, within Economic Research are properly monitored.

2. Ensure that Economic Research follows Government accounting practices and Federal grant provisions.

We recommend that the Commissioner of Finance:

- Ensure that access to all funds is strictly controlled, monitored and accounted for.

Governor of the Virgin Islands' Response

The Governor, in his August 17, 2009 response, agreed with all of the recommendations made in this section of the report. He indicated that by September 30, 2009, written policies and procedures will be developed to ensure that the activities of Economic Research will be properly monitored.

Regarding the accounting and monitoring responsibilities of Finance, it was indicated that banks have been instructed to refrain from opening accounts unless proper authorization from Finance has been obtained. In addition, Finance's Treasury Division has been instructed to ensure that departments and agencies follow Finance's Petty Cash/Imprest Fund Rules and Regulations.

V. I. Inspector General's Comments

The responses to the recommendations made in this section of the report are sufficient for us to consider them resolved. However, before they can be considered implemented, we would need a copy of the written policies and procedures for the operation and monitoring of Economic Research. In addition, we would need a copy of Finance's Petty Cash/Imprest Fund Rules and Regulations.

FINDING 2: QUESTIONABLE COMPENSATION PAYMENTS

Economic Research inappropriately paid $528,831 for work performed "after regular hours" by its employees using Federal and local funds. We attribute this to Economic Research officials misrepresenting "after regular hours" rules and regulations to Federal grantor agencies as well as to Economic Research's failure to follow payroll laws. As a result, Federal and local funds were misappropriated by paying unallowable added compensation to employees of Economic Research.

Background

A memorandum issued by Governor Roy Schneider on November 15, 1995, stated that exempt employees earning $25,001 or more were not entitled to overtime ("after regular hours") pay, but could be granted administrative time off. The memorandum also stated that "added work and responsibilities come with the position[s] in the exempt service." On July 10, 2003, Governor Charles Turnbull's issued Memorandum No. 23-03, which states that classified employees are entitled to overtime pay for authorized overtime hours worked. Exempt employees making $28,001, or more, are not entitled to overtime compensation; instead they may receive administrative time off. Employees eligible for overtime are required to receive advance authorization from their agency heads, and the agency is required to have available funds in their allotments. Additionally, the memorandum reminded employees in the exempt service that their positions do come with added work and responsibilities.

Since Executive Order No. 396-2000, effective on July 25, 2000, placed Economic Research under the oversight of the Office of the Governor and under the direct supervision of the Assistant to the Governor, authorization from either the Governor or the Assistant to the Governor was required for all permissible "work performed after working hours".

Title 33, Section 3241 of the Code requires all compensation to employees to be consolidated into one account by Finance. The Internal Revenue Service rules require that businesses file W-2 forms to report wages paid to employees. Additionally, the Government Personnel Employees Handbook states that several deductions must be withheld from the earnings of Government employees to include; Federal income taxes, Social Security taxes, garnishments/wage attachments and retirement plan contributions.

Payments to Employees

Without authorization, Economic Research paid exempt and classified employees for performing work on Economic Research projects, even though the payments were contrary to local and Federal rules and regulations. Of the $528,831 in added compensation paid to employees, only $1,000 of the total amount paid was processed through the regular Government payroll system in Finance. The remaining amount was paid through the Economic Research checking accounts.

In addition, Economic Research officials did not provide documentation to indicate the hours for which work was performed. We found unallowable payments to six Economic Research employees: five of whom were exempt employees, and not entitled to compensation for work after regular hours and one classified employee for whom proper authorization was lacking.

The former Office Manager of the Government Development Bank (Office Manager) and the former Deputy Chief of Staff also received payments from Economic Research for work related to Federal grant projects, even though they were not employees of Economic Research. No documentation was provided authorizing either the Office Manager or the former Deputy Chief of Staff to work for or receive compensation payments from Economic Research.

We found total payments to employees ranging from $2,500 to $250,829. In addition, there were some payments that were unidentifiable. The following table summarizes all compensation payments made from Fiscal Years 2000 to 2007.

Employee	EDA	HRSA	VES[1]	CSBS[2]	Other	Total
Director	$84,041	$ 142,877	$12,668	$11,243	$ -	**$250,829**
Senior Policy Analyst	52,903	76,173	9,193	5,875	9,344	**153,680**
Deputy Chief of Staff (not Economic Research Employee)	-	70,589	-	-	-	**70,789**
Chief Economist	-	12,000	-	-	10,650	**22,650**
Senior Economist	2,000	8,900	5,725	1,000	-	**17,625**
Administrative Officer	2,750	5,400	-	-	-	**8,150**
Economic Program Specialist	-	-	-	-	3,000	**3,000**
Office Manager (not Economic Research Employee)	1,500	1,000	-	-	-	**2,500**
Total	**$143,194**	**$316,939**	**$27,586**	**$18,118**	**$22,994**	**$528,831**

[1] VES = Visitor and Carnival Exit Surveys
[2] CSBS = Casino Smoking Ban Survey

U.S. Economic Development Administration (EDA) Grant. Economic Research was a recipient of Federal EDA grants, which required the Government to share the programs' costs. As such, the Government committed to contributing a portion of its staff's time, to the project as an in-kind contribution to the program, which meant that Economic Research employees were required to perform work for EDA projects as part of their regular job duties. However, Economic Research employees and the Office Manager received a total of $143,194 in added compensation for work they performed on EDA projects between Fiscal Years 2000 – 2007.

Economic Research officials requested approval for the added compensation from EDA for the first time in April 2005, even though Economic Research had already been using EDA grant funds to pay the added compensation since Fiscal Year 2000.

In justifying the added payments to EDA, Economic Research officials submitted an excerpt of an outdated Executive Order, found in the Code, which appeared to allow extra compensation to Government employees working on Federally funded programs, within local compensation guidelines. The excerpt was misleading in that it was part of the Code's discussion of the history of the Government regulations and the Code. However, the portion of the Code containing the excerpt had been superseded by Governor Schneider's memorandum and Memorandum 23-03.

Under Governor Schneider's memorandum and Memorandum 23-03, Economic Research employees, with the exception of the Administrative Officer, the only classified employee, were not eligible for the added compensation. However, authorization was necessary for the Administrative Officer to have received the added compensation. To our knowledge no such authorization was requested or granted.

U.S. Health and Human Services - Health Resources and Services Administration (HRSA) Grant. Economic Research also received Federal money through three HRSA grants. The first of these grants, issued in July 2002, required an in-kind contribution of services by the Government. The two subsequent grants did not contain provisions for in-kind contributions by the Government. Instead, Economic Research officials requested a total $116,565 to support employee salaries for work related to the HRSA grant. Economic Research employees, the Office Manager, and the former Deputy Chief of Staff, were paid $316,939 of the added compensation from Fiscal Years 2002 – 2007 for HRSA related activities, contrary to Government policy.

In late 2004, the Director responded to a HRSA official's request for an explanation on how grant funds would be used to support employee salaries, by stating that the funds would be used to pay staff members for performing "duties and functions above and beyond regular duties". However, this was misleading since HRSA officials were not aware that exempt employees were not entitled to the added compensation and were expected to take on "added work and responsibilities" without the added compensation as indicated in Governor Schneider's memorandum and Memorandum 23-03.

The Directors' response to HRSA's inquiry was followed by a letter prepared by Economic Research officials and signed by the then Acting Commissioner of Finance, which alleged that it was a standard practice for Economic Research to "supplement" staff salaries "for duties and functions performed above and beyond their regular duties and responsibilities." However, in discussions with the then Acting Commissioner, he explained that exempt employees were never entitled to overtime compensation and that he did not know whether employees at Economic Research were in the exempt, or classified service, at the time he signed the letter.

Based on the information supplied by the Director of Economic Research, HRSA ultimately approved the "supplemental salaries".

Local Projects. Economic Research employees also received added compensation for work related to locally funded projects, from Fiscal Years 2001 – 2007. Economic Research employees were paid a total of $27,586 for Visitor Exit and Carnival Exit Surveys and $18,118 for the Casino Smoking Ban Survey. The Director and Senior Policy Analyst began receiving the added compensation related to the Casino Smoking Ban Survey two months before Economic Research even signed an agreement to perform the study for the VI Casino Control Commission.

Economic Research employees also received added compensation totaling $22,994, from Fiscal Years 2001 – 2007, that we were unable to identify the purpose and source.

Internal Revenue Filings

The Director filed Form 1099-MISC with the Virgin Islands Bureau of Internal Revenue (Internal Revenue), reporting some of the payments made by Economic Research to its employees. However, since the Code requires that all compensation to employees must be consolidated into one account by Finance, no payments to Government employees should have been made by Economic Research. In addition, if Form 1099-MISC were deemed necessary, they should have been issued by Finance.

Since these added payments were made to Government employees as compensation for work allegedly performed, the payments should have been reported on Form W-2, not Form 1099-MISC. Also, income taxes, social security taxes and retirement plan contributions should have been withheld from any added compensation paid to Economic Research employees. This was not done. In addition, Economic Research did not report all compensation paid to employees on the Form 1099-MISC filed with Internal Revenue.

The following table compares actual amounts paid to Economic Research employees and the former Deputy Chief of Staff to amounts reported on Form 1099-MISC from Fiscal Years 2003-2006. Over the four year period, Economic Research under reported taxable compensation paid to employees by $173,802. Forms 1099-MISC were not filed prior to 2003.

Employee	2003 Actual	2003 Reported	2004 Actual	2004 Reported	2005 Actual	2005 Reported	2006 Actual	2006 Reported
Director	$34,172	$26,520	$56,216	$28,877	$69,389	$33,592	$47,290	$33,592
Senior Policy Analyst	27,068	14,976	29,236	16,848	41,928	18,728	32,740	18,720
Deputy Chief of Staff (not Economic Research employee)	19,188	19,188	20,487	19,899	17,767	17,767	3,553	-
Chief Economist	14,950	4,200	3,500	-	-	-	-	-
Senior Economist	2,700	2,700	7,225	-	2,000	2,000	-	-
Administrative Officer	2,700	2,700	-	-	-	-	-	-
Economic Program Specialist	-	-	-	-	-	-	2,000	-
Total	**$100,778**	**$70,284**	**$ 116,664**	**$ 65,624**	**$131,084**	**$72,087**	**$85,583**	**$52,312**
Overage/ (Shortage)		**($30,494)**		**($51,040)**		**($58,997)**		**($33,271)**

Recommendation

We recommend that the Governor of the Virgin Islands:

- Ensure that payroll rules and regulations are followed and all compensation payments are processed through Finance as required by the Code.

Governor of the Virgin Islands' Response

Agreement with the recommendation was indicated in the response to the report. It was stated that the Governor's Chief of Staff will ensure that departments and agencies are notified of the requirements related to the processing of Government payroll.

V. I. Inspector General's Comments

The response to the recommendation made in this section of the report is sufficient for us to consider it resolved. However, before it can be considered implemented, we would need a copy of the memorandum.

FINDING 3: PROCUREMENT PRACTICES

Economic Research failed to seek proposals and document competitive negotiations for contracts. They did not enter into contracts for services valued at more than $5,000 as required by the Code. Finally, they did not adequately monitor contract services to ensure compliance with procurement laws. We attribute this to Property and Procurement approving Economic Research contracts that did not meet Code procurement requirements for competitive negotiations and Economic Research's failure to comply with procurement laws. As a result Economic Research failed to ensure that it received the best services for the best price.

Background

Title 31, Section 236 of the Code, requires Property and Procurement, the contracting agency for the Government, to solicit bids, or competitively negotiate for the goods and services for departments, when the cost of such transactions is expected to exceed $5,000. Once a vendor is selected, the Code requires Property and Procurement to process and approve all contracts between the Government and vendors. Additionally, Property and Procurement must ensure that all contractors are licensed to do business in the Virgin Islands at least one year prior to entering into contract negotiations or solicitations with any Government department and agency.

Title 31, Section 239 of the Code in part allows departments and agencies to procure services on the open market provided that the purchase or contract is for professional services, and is procured by competitive negotiation.

Title 33, Sections 3203 and 3204 of the Code, states in part, that all payment vouchers for contractors and vendors should be properly reviewed by Government disbursing officers before payments are issued.

Title 3, Section 74 of the Code, requires that Government agencies requiring research assistance first seek the assistance of the University of the Virgin Islands to complete their project.

Contracts

We reviewed all thirteen (13) contracts, valued at $986,384 that Economic Research entered into from Fiscal Year 2001 through 2007. The Code required that Economic Research solicit proposals and competitively negotiate nine[2] of the thirteen contracts; however, Economic Research and Property and Procurement failed to seek proposals and document negotiations for eight of the nine contracts as required by procurement law. Instead, the Director submitted

[2] Economic Research entered into four contracts with the University of the Virgin Islands (University). Title 3, Section 74 of the Code, requires that Government agencies performing research projects first seek the assistance of the University to complete their projects, as such bids or proposals are not necessary when hiring the University.

letters to Property and Procurement explaining that the eight contracts valued at $574,364 were sole sourced based on Economic Research's evaluation of the contractors' experience and references. However, Economic Research could not make a valid conclusion of the contractors' experience or references because they made no effort to compare them to other qualified candidates as was required by law. Failing to competitively negotiate prevented Economic Research from ensuring that it received the best service and price possible.

Bypassing the Contract Process

We identified additional payments totaling $468,901, in which Economic Research inappropriately bypassed the procurement process by paying thirteen vendors, without contracts, amounts in excess of the $5,000 legal limit. Five of the thirteen vendors had contracts with Economic Research, but performed work outside of the contract scope and therefore, Economic Research should have extended their initial contracts or entered into new contracts for the additional work. Additionally, four of the thirteen vendors did not have a business license at the time they provided services to Economic Research as required by law. Payments to these vendors were paid through Accounts I and II, and Finance. Several vendors also split invoice amounts[3].

Split Invoices. We identified 19 instances where $264,492 in invoices were split in order to bypass the contracting process. Some vendors submitted as many as three invoices on the same date in amounts of less than $5,000 but in aggregate far exceeded the limit.

The following chart lists the split payment invoices submitted by Economic Research vendors.

Vendor	Invoice Date	Amount Paid	Total Paid	Payment Method	Description of Services
A	05/15/06	$4,895		Finance	Teleconferences & meetings and provided review & analysis of proposals
	05/15/06	4,965		Finance	Teleconferences & meetings and reviewed legislation amendments & actuarial analysis
	05/15/06	4,955	**$14,815**	Finance	Teleconferences & meetings and presented plan on marketing and outreach
A	12/12/06	$4,983		Finance	Teleconferences & meetings and provided review & analysis of proposals
	01/16/07	4,997	**$9,980**	Finance	Teleconferences & meetings and provided review & analysis of proposals
A	03/03/05	$4,970		Finance	Teleconferences & meetings and provided review & analysis of specific proposals
	03/03/05	3,500	**$8,470**	Finance	Teleconferences & meetings and provided review & analysis of specific proposals
B	02/23/2006	$4,903		Finance	Initial printing and binding SPD's
	03/01/2006	4,212		Finance	Initial stock SPD's
	03/14/2006	4,628	**$13,744**	Finance	Initial prepress SPD's

[3] Repeated invoiced amounts between $4,000 - $4,999 suggest that invoice amounts were split so that individual payments to vendors would not exceed legal limits, although combined payments did exceed the legal limit.

Vendor	Invoice Date	Amount Paid	Total Paid	Payment Method	Description of Services
D	04/07/2005	$7,000		Account I	Professional services
	04/07/2005	7,000		Account I	Professional services
	04/07/2005	7,000		Account I	Professional services
	04/07/2005	7,000		Account I	Professional services
	04/07/2005	7,000	**$35,000**	Account I	Professional services
D	07/27/2004	$4,950		Account I	Professional services
	08/06/2004	4,900	**$9,850**	Account I	Professional services
D	06/10/2004	$4,800		Finance	Professional services
	06/10/2004	4,900	**$9,700**	Finance	Professional services
G	11/04/2004	$6,205		Account I	Determination of scientific sample sizes and on-call consultation
	11/12/2004	6,545	**$12,750**	Account I	Determination of scientific sample sizes and on-call consultation
G	02/24/2006	$4,875		Finance	Determination of scientific sample sizes and on-call consultation
	03/17/2006	4,973	**$9,848**	Finance	Preparation of variance estimators for sample designs and on-call consultation
G	01/10/2008	$4,988		Finance	Preparation of sampling design and variance estimators and on-call consultation
	02/01/2008	4,975	**$9,962**	Finance	Preparation of sampling design and variance estimators and on-call consultation
H	11/28/2006	$4,925		Finance	Professional Services
	12/12/2006	4,820	**$9,745**	Finance	Professional Services
H	08/30/2007	$4,850		Finance	Professional Services: Summarize major issues in health insurance
	09/19/2007	4,750	**$9,600**	Finance	Professional Services: Analyze Medicaid data
H	08/13/2004	$272		Account I	Travel to meetings
	08/13/2004	4,700		Finance	Professional Services
	08/27/2004	603		Account I	Meeting & travel
	08/27/2004	3,600	**$9,175**	Finance	Professional Services
H	06/05/2006	$4,866		Finance	Professional Services
	06/29/2006	1,434	**$6,300**	Finance	Travel
I	10/03/2005	$1,438		Finance	Develop draft RFP, conference calls, review & submission of TPAs & discussion of pre-existing conditions for RFP, respond to TPAs questions and incidental expenses.
	10/25/2005	4,655		Finance	Meetings and develop spreadsheet materials for presentation.
	11/03/2005	4,907		Economic Development Authority	Correspondence, meeting, updating of reports & program and travel & incidental expenses.

Vendor	Invoice Date	Amount Paid	Total Paid	Payment Method	Description of Services
	11/30/2005	1,185		Economic Development Authority	Correspondence, meeting, updating of reports & program and travel & incidental expenses.
	12/15/2005	4,813	**$16,998**	Finance	Meetings, preparation of initial data and travel & incidental expenses.
J	05/30/2005	$3,580		Finance	Evaluation of data from STX hospital, generated charts and participated in meetings.
	06/01/2005	3,120	**$6,700**	Finance	Evaluation & analysis of data, prepare tables, discussion with hospital and discussion & update grant personnel.
K	01/03/2003	$2,071		Account I	Back-up unit, zip drive, technical services and installation of virus protection
	01/06/2003	6,995		Account I	TV monitor with speakers
	01/14/2003	6,498		Account I	Video conferencing system
	01/14/2003	6,498		Account I	Video conferencing system
	01/20/2003	9,586		Account I	Video conference system, camera & stand and delivery charges
	01/24/2003	8,694		Account I	Router, television cart, television and conference telephone
	02/18/2003	3,882		Finance	Computer, hub & cable
	02/28/2003	2,250	**$46,473**	Finance	Computer hardware & technical support
K	11/30/2004	$8,170		Account I	Television and installation, training and set-up of video conference equipment
	11/30/2004	4,085		Account I	Television and installation, training and set-up of video conference equipment
	12/15/2004	1,720		Account I	2 computers
	12/15/2004	1,720	**$15,694**	Account I	2 computers
K	10/01/2002	$4,892		Account II	Printer, telephone set, teleconferencing unit and installation
	10/01/2002	4,795	**$9,687**	Account II	Server
	Total		**$264,492**		

***Invoices were not provided for these expenditures.**

- From January 2005 to September 2007 "Vendor A" was paid $61,752 by Economic Research for consulting services related to the HRSA grant project. This vendor was required to have a contract because payments in excess of $5,000 were made for a single project. Vendor A split HRSA project invoice amounts into ten invoices with amounts between $4,371 and $4,997, totaling $48,560. In fact, Vendor A submitted two invoices each for less than $5,000, but totaling $8,470 on March 3, 2005 and three invoices each for less than $5,000, but totaling $14,815 on May 15, 2006.

Health Care Benefit Summary Plan. Economic Research incurred unallowable costs when it hired and paid "Vendor B" $13,744 to begin the printing of plan summaries for a health care plan that had not received Legislative approval. The amounts paid to Vendor B required a contract, but Economic Research bypassed the procurement process, failing to obtain proposals or enter into a contract to print the plan summaries.

The proposed legislation that required mandatory employer sponsored health care was held in committee by the Virgin Islands Legislature on June 23, 2006. However, between April 25, 2006, and May 25, 2006, Economic Research prematurely engaged the services of Vendor B to print plan summaries. As a result of the legislation being stalled, the plan summary printing was brought to a halt, wasting $13,744.

Additionally, Economic Research compounded the situation by misusing local funds that were allocated for Traveler Exit Surveys to pay Vendor B invoices for printing benefit plans.

Health Care Plan Administrator. On November 16, 2005, Economic Research presumptuously entered into a contract with "Vendor C" without the knowledge of Property and Procurement. Vendor C was contracted as a third-party administrator to manage the employer sponsored health care plan that required the passage of legislation by the Virgin Islands Legislature. However, the legislation was never passed. The agreement between Economic Research and Vendor C, was initiated by Economic Research on behalf of the Office of the Governor, approved by the Department of Justice and signed by the Governor. Property and Procurement officials stated that they had no record or knowledge of this agreement.

Medicare Advantage Study Transaction. Economic Research officials paid "Vendor D" $35,000 for work related to the VI Medicare Advantage Feasibility study. We could not find any evidence that Economic Research or the Government had any official involvement in the VI Medicare Advantage Feasibility Study; therefore, there was no reason for Economic Research to have paid invoices submitted for this study. Economic Research used HRSA grant funds to pay for the VI Medicare Advantage Feasibility Study performed by Vendor D.

Contract Monitoring

We identified four instances where Economic Research entered into contracts with vendors after the vendor had either begun or completed work on the assigned project. These instances represent examples of non-compliance with Federal cost principles and local procurement laws as well as poor business practices. Because Economic Research allowed vendors to begin work before entering into a contract, Economic Research could not effectively negotiate the terms of the work performed or the contract agreement and could not ensure that it received maximum benefit from its agreements.

Example 1. Economic Research entered into a $99,484 contract with "Vendor E" on January 9, 2004, to provide support on sample design and data collection related to the HRSA grant project. Because the contract period was for services performed from September 1, 2002 – July 31, 2003, Property and Procurement required that the agreement be for "services rendered," acknowledging that work had already been completed before the contract date.

Example 2. Economic Research entered into a $25,000 contract with "Vendor F" on November 28, 2005, to provide legal language for the modification of the Code for the implementation of an employer sponsored health care program related to the HRSA grant project. However,

Vendor F submitted an invoice dated August 11, 2005, for services that had been rendered nine months prior to the contract date, for activities "in connection with research and drafting of health insurance legislation for the United States Virgin Islands."

Recommendations

We recommend that the Governor of the Virgin Islands:

1. Ensure that Economic Research follows procurement laws, and rules and regulations.

2. Establish policies and procedures to ensure that work performed by vendors is reviewed and approved before payments are made.

We recommend that the Commissioner of Property and Procurement:

- Ensure that approval is given only to contracts meeting the procurement requirements outlined in the Code.

We recommend that the Commissioner of Finance:

- Establish procedures for monitoring the timing, amounts and purpose of payments to ensure that vendor invoices and payments are not split in order to bypass the procurement process.

Governor of the Virgin Islands' Response

The Governor's response indicated agreement with the five recommendations made to the three agencies in this section of the report.

Regarding the first two recommendations, it was indicated that written policies and procedures would be developed to ensure that Property and Procurement and Finance procedures were followed.

Property and Procurement will utilize the "Vendor Maintenance Module" in the Enterprise Resource Planning (ERP) System. In addition, a memorandum will be issued to the various departments and agencies reminding them of the procurement requirements.

Finally, Finance will work with Property and Procurement to ensure that split payments are identified. In addition, a Government-wide policy will be established to address the issue of split payments.

V. I. Inspector General's Comments

The responses to the recommendations made in this section of the report are sufficient for us to consider them resolved. However, before they can be considered implemented, we would need a copy of the written policies and procedures, and memorandums that are to be issued.

FINDING 4: CONFLICT OF INTEREST

Economic Research entered into transactions that created a conflict of interest for the Director. This occurred because Economic Research did not comply with conflict of interest laws and the Office of the Governor failed to provide management oversight to Economic Research. As a result, the Director's independence was compromised when Economic Research paid "Vendor G," a company owned by the Director and spouse, $47,985 to do work on behalf of Economic Research. In addition, Vendor G was paid $15,000, for work performed as a subcontractor for a company hired by Economic Research.

Background

Title 3, Section 1102 of the Code, prohibits Government employees from having a financial interest in a contract made or negotiated by the employee; having an interest in a business transaction that conflicts with their duties; and having employment that would impair their ability to do their official duties.

Partnership Interest

The Director of Economic Research created a conflict of interest when Vendor G, a company for which the Director and spouse were the sole partners, was hired to perform work for Economic Research. Vendor G was paid $47,985 for services performed from May 2006 through February 2008.

The conflict of interest was further complicated because the other partner of Vendor G, was the Director of the University of the Virgin Islands' (University) Eastern Caribbean Center, a research division of the University, which was also hired by Economic Research to perform similar services for the same projects for which Vendor G was hired. Although, the Code requires Government agencies to first seek assistance from the University for research projects, it was not appropriate for the Director of the University's Eastern Caribbean Center or the Director of Economic Research to receive additional compensation through a private company for work they were required to perform in their official capacity of employment.

Relationship with Economic Research Contractor

Vendor G, owned by the Director and spouse, was also paid $15,000 in April 2005 by "Vendor H," an Economic Research contractor, for work performed for Economic Research's HRSA grant project. In essence, Vendor H hired the Director of Economic Research and spouse to perform work for Economic Research. This was an inappropriate relationship because the Director was being paid through Vendor H to do work related to the Director's official duties. Additionally, the relationship put Vendor H in the awkward position of both working for and employing the Director.

Bypassing the Procurement Process

Economic Research circumvented the legal procurement process by failing to enter into contracts with Vendor G for three of five projects. Vendor G was paid $12,750, $20,720 and $9,962 for services related to the 2005, 2006 and 2008 Visitor Exit Surveys, respectively. However, had Economic Research gone through the proper procurement process, Property and Procurement would have identified the conflict of interest during a review of Vendor G's business license and could have taken appropriate action.

Recommendation

We recommend that the Governor of the Virgin Islands:

- Ensure that Government employees are reminded of the conflict of interest provisions as stated in the Code.

Governor of the Virgin Islands' Response

The Governor agreed with the recommendation made, and indicated that the Chief of Staff will issue a memorandum to departments and agencies reminding them of the conflict of interest provision in the Code and the potential ramifications for non-compliance.

V. I. Inspector General's Comments

The response to the recommendation made in this section of the report is sufficient for us to consider it resolved. However, before it can be considered implemented, we would need a copy of the written memorandum that is to be issued.

FINDING 5: ADVANCES TO EMPLOYEES AND LOAN TO VENDOR

Economic Research extended $10,337 in advances to employees and a $5,000 loan to Vendor H, an Economic Research contractor. This occurred because of the lack of oversight over Economic Research by the Assistant to the Governor and because Economic Research did not comply with the Code regarding the use of appropriated funds. As a result, Economic Research misused funds that were intended for other purposes.

Background

Title 33, Section 3112 of the Code requires that funds appropriated for expenditures only be used for the objects for which they were appropriated.

Advances and Loan

Economic Research misused Government funds by extending advances to its employees and a loan to Vendor H. Economic Research was not given funds to provide advances and loans, but went ahead and provided $15,337 in advances to employees and a loan to a contractor without identifying the source of funds used.

Economic Research provided $10,337 in advances to three employees between December 2000 and August 2001.

Employee	Period	Amount
Senior Economist	12/15/00 – 01/26/01	$4,298
Economic Program Specialist	04/11/06 – 05/24/06	3,335
Senior Policy Analyst	07/27/01 – 08/10/01	2,703
Total		**$10,337**

The payments to the employees were made in advance of the employees receiving their Notices of Personnel Action (NOPA) and Government pay checks.

On March 21, 2005, Economic Research also provided a $5,000 loan to Vendor H, stating that it was a payment for consulting services relating to the HRSA grant project; however, the repayment of the funds suggests that the true nature of the transaction was that of a loan.

All amounts advanced and loaned by Economic Research were repaid.

Recommendation

We recommend that the Governor of the Virgin Islands:

- Ensure that Economic Research disburses funds solely for the purposes for which they were authorized.

Governor of the Virgin Islands' Response

The Governor agreed with the recommendation made in this section of the report. It was indicated that policies and procedures would be written to ensure proper monitoring and fiscal propriety.

V. I. Inspector General's Comments

The response to the recommendation made in this section of the report is sufficient for us to consider it resolved. However, before it can be considered implemented, we would need a copy of the policies and procedures.

GOVERNOR OF THE VIRGIN ISLANDS' RESPONSE

THE UNITED STATES VIRGIN ISLANDS
OFFICE OF THE GOVERNOR
GOVERNMENT HOUSE
Charlotte Amalie, V.I. 00802
340-774-0001

August 17, 2009

Mr. Steven van Beverhoudt
Virgin Islands Inspector General
Office of the Inspector General
2315 Kronprindsen Gade
St. Thomas, V. I. 00802

RE: Response of the Government of the Virgin Islands to Draft Audit Report
Audit of Selected Transactions of the Bureau of Economic Research, Handling of Audit Data/Information
AR-02-11-09, June 2009

Dear Mr. van Beverhoudt:

The purpose of this correspondence is twofold. First to thank you for the extensions granted until August 17, 2009 to respond to the Draft Audit Report of Select Transactions of the Bureau of Economic Research (AR-02-11-09). Secondly, transmitted herewith (Attachment I) is the Government of the Virgin Islands (GVI) response to the aforementioned report. Overall GVI concurs with the recommendations and/or findings. The audit heightens the need to enhance our internal controls regarding checking accounts, payroll matters, procurement, and issues germane to conflicts of interest.

Please know that the Office of the Governor, coupled with the Departments of Finance (DOF) and Property and Procurement (P&P), is committed to addressing the critical areas outlined in the audit report. Both P&P and DOF are already proactively addressing some of the issues in the report. For example, P&P has forged ahead with stricter monitoring and enforcement of sole source procurement requirements, while DOF has to-date initiated contact with its financial institutions to halt the establishment of GVI checking accounts without authorization from Finance.

Similarly, the Office of the Governor (OFG) will not waiver in its resolve to provide written guidelines for the Bureau of Economic Research, other such related entities, and as applicable, government-wide to departments and agencies, in order to foster greater fiscal propriety, compliance with policies and procedures, and consistent application of these measures within government. Further, OFG will endeavor to provide

GOVERNOR OF THE VIRGIN ISLANDS' RESPONSE

greater oversight of its satellite units and activities through financial system approvals and other mechanisms available to this office.

Thank you and your staff for the service rendered to the people and the Government of the Virgin Islands, during the audit process. To reiterate, the Office of the Governor (inclusive of the Bureau of Economic Research), the Department of Finance, and the Department of Property and Procurement are all encouraged to move forward with implementation of the applicable corrective actions that will improve the manner in which we conduct business for the Territory.

Sincerely,

John P. de Jongh, Jr.
Governor

Attachment

GOVERNOR OF THE VIRGIN ISLANDS' RESPONSE

Attachment I

GVI Draft Response
to
Draft Audit Report by Office of the Virgin Islands Inspector General
Bureau of Economic Research
Control Number AR-02-11-09, dated June 29, 2009

FINDING #1: MANAGEMENT OF CHECKING ACCOUNTS

The Bureau of Economic Research (BER) had unchecked access and control to $2,770,006 of Federal and local funds commingled in two checking accounts maintained by the agency.

Recommendations (Office of the Governor (OFG)):

1. Establish written policies, practices, and procedures to ensure the activities, including fiscal propriety, within BER are properly monitored.
2. Ensure that BER follows Government accounting practices and Federal grant provisions.

Recommendation (Department of Finance (DOF))

1. Ensure that access to all funds is strictly controlled, monitored and accounted for.

Government's Response

OFG – OFG concurs with the recommendations re: monitoring and compliance with grant provisions and accounting practices.

DOF – DOF concurs with the recommendation re: access to funds.

Corrective Action

OFG - OFG will develop written policies and procedures, consistent with Department of Finance procedures, to ensure that activities, inclusive of those relative to fiscal propriety, are properly monitored.

DOF - The Department of Finance has instructed all banks doing business with the Government of the Virgin (GVI), via written correspondence to refrain from opening bank accounts under the purview of any GVI department or agency without formal written approval from the Commissioner of Finance. Internally, the current Commissioner of Finance has indicated to the Treasury Division that no such approvals shall be granted for any accounts outside of the Department of Finance, *other than the occasional Imprest Fund opened for minor disbursements*; however, departments and agencies must adhere to DOF's Petty Cash/Imprest Fund Rules and Regulations. In collaboration with GVI's banking partners, the Department of Finance is in the process of identifying and closing all unauthorized accounts.

Implementation date(s): April 2009 (DOF – re: banks)

Due date(s): September 30, 2009 (OFG)
4th quarter of FY 2009 & on-going (DOF – unauthorized accounts)

GOVERNOR OF THE VIRGIN ISLANDS' RESPONSE

Responsible Party(ies): Chief of Staff, OFG and **Director of Business and Administration, OFG**
Commissioner, DOF and **Director of Treasury, DOF**

FINDING #2: QUESTIONABLE COMPENSATION PAYMENTS

The Bureau of Economic Research (BER) inappropriately paid $528,831 in additional compensation to its employees using Federal and local funds.

Recommendations (Office of the Governor (OFG)):

1. Ensure that payroll rules and regulations are followed and all compensation payments are processed through the Department of Finance as required by the Virgin Islands Code.

Government's Response

OFG – OFG concurs with the recommendation re: compliance with payroll rules and regulations.

Corrective Action

OFG – OFG will issue a memorandum to departments and agencies of the Executive Branch, directing their compliance with payroll rules and regulations and reminding Certifying Officers that payments for compensation must be processed through the Department of Finance.

Due Date: September 30, 2009

Responsible Party(ies): **Chief of Staff, OFG**

FINDING #3: PROCUREMENT PRACTICES

The Bureau of Economic Research (BER) failed to seek proposals and document competitive negotiations for contracts; did not enter into contracts for services valued at more than $5,000 as required by the Virgin Islands Code; and did not adequately monitor contract services to ensure compliance with procurement laws.

Recommendations (Office of the Governor (OFG)):

1. Ensure that the BER follows procurement laws, and rules and regulations.
2. Establish policies and procedures to ensure that work performed by vendors is reviewed and approved before payments are made.

Recommendation (Department of Property and Procurement (P&P))

1. Ensure that approval is given only to contracts meeting the procurement requirements outlined in the Virgin Islands Code.

Recommendation (Department of Finance (DOF))

1. Establish procedures for monitoring the timing, amounts and purpose of payments to ensure that vendor invoices and payments are not split in order to bypass the procurement process.

GOVERNOR OF THE VIRGIN ISLANDS' RESPONSE

Government's Response:

OFG – OFG concurs with the recommendations re: following procurement laws and the review and approval of vendor payments.

P&P – With one (1) exception, the Department of Property and Procurement concurs with the recommendation re: approval of contracts. P&P did not process the contract that was entered into with Vendor C.

P&P received letters of justification (re: eight contracts) from the Director of the Bureau of Economic Research, indicating that the services were necessary and further requesting that based on the vendors' areas of expertise and practice that the vendor was the best vendor for the Government. In general, relative to a sole source justification, P&P relies on the knowledge and representations of the Department or Agency Head.

It is P&P's policy that a contractor/vendor must not begin to perform services without a fully executed contract.

DOF - DOF concurs with the recommendation re: monitoring payments.

Corrective Action

OFG – OFG will develop written policies and procedures, consistent with Department of Property and Procurement procedures, to ensure that BER and other entities under OFG follow procurement laws, rules, and regulations. OFG will also develop written policies and procedures, consistent with Department of Finance procedures, to ensure that work performed by vendors is reviewed and approved before payments are made.

P&P – Since 2007 P&P has provided increased scrutiny of sole source requests (e.g. type of services) being sought by user departments and agencies. P&P will utilize the Vendor Maintenance Module, which it is responsible for, in the Enterprise Resource Planning (ERP) System to verify the uniqueness of the vendor's services. P&P is strictly enforcing the requirement that sole sourced justifications be properly justified. P&P will issue a memorandum government-wide to departments and agencies, reminding them of the following procurement matters and notifying them that these measures will be strictly enforced:

(1) Contractors/vendors must not commence work without a fully executed contract;
(2) Procurements in excess of a specified amount (e.g. $5,000.00, $50,000.00) must go through the competitive bidding process; and
(3) Requests for approval of sole source justification letters must be properly justified.

DOF - The Department of Finance's Accounting Division will work in conjunction with DOF's M.I.S. Division and its ERP Financial Management System software vendor to develop reports for monitoring purposes in order to identify split payments to vendors. DOF will also establish a written government-wide policy to address the matter of split payments to vendors.

Implementation date(s): 2007 (P&P)

GOVERNOR OF THE VIRGIN ISLANDS' RESPONSE

Due date(s):	September 30, 2009 (OFG); Immediately – August or September 2009 (P&P – sole source justification enforcement); September 2009 (P&P – government-wide memo); 4th quarter of FY 2009 – 1st quarter of FY 2010 (DOF - monitoring report(s)); September 2009 (DOF – government-wide memorandum)
Responsible Party(ies):	Chief of Staff, OFG and **Director of Business and Administration, OFG** Commissioner, P&P and **Deputy Commissioner of Procurement, P&P** Commissioner, DOF and **Director of Accounting, DOF**

FINDING #4: CONFLICT OF INTEREST

The Bureau of Economic Research (BER) entered into transactions that created a conflict of interest for the Director. The Bureau of Economic Research did not comply with conflict of interest laws and the Office of the Governor failed to provide management oversight to Economic Research.

Recommendation – Office of the Governor (OFG)

1. Ensure that Government employees are reminded of the conflict of interest provisions as stated in the Virgin Islands Code.

Government's Response

OFG – OFG concurs with the recommendation re: conflict of interest.

Corrective Action

OFG – OFG will issue a memorandum to departments and agencies of the Executive Branch reminding them of the conflict of interest provisions in the Virgin Islands Code and the potential ramifications for lack of compliance with these provisions.

Due date(s):	September 30, 2009
Responsible Party(ies):	**Chief of Staff, OFG**

FINDING #5: ADVANCES TO EMPLOYEES AND LOAN TO VENDOR

The Bureau of Economic Research (BER) extended $10,337 in advances to employees and a $5,000 loan to Vendor H, an Economic Research contractor.

Recommendation – Office of the Governor (OFG)

1. Ensure that the Bureau of Economic Research disburses funds solely for the purposes for which they were authorized.

Government's Response

OFG – OFG agrees with the recommendation to disburse funds for the purpose(s) for which they are authorized. The monies identified as advances were for the payment of salaries for employees and the funds identified as a loan were for contractual services performed by a vendor.

GOVERNOR OF THE VIRGIN ISLANDS' RESPONSE

Corrective Action

OFG – To ensure BER's compliance with disbursement of funds for authorized purposes only, OFG will develop written policies and procedures, consistent with Department of Finance procedures, to ensure that activities, inclusive of those relative to fiscal propriety, are properly monitored.

Due date(s): September 30, 2009

Responsible Party(ies): Chief of Staff, OFG and **Director of Business and Administration, OFG**

ADDITIONAL INFORMATION NEEDED TO CLOSE RECOMMENDATIONS

Recommendation Number and Status	Additional Information Needed
Finding 1:	
To the Governor of the Virgin Islands:	
1-1 Resolved	Provide a copy of the written policies and procedures for Economic Research.
1-2 Resolved	Same as Recommendation 1-1 above.
To the Commissioner of Finance:	
1-1 Resolved	Provide a copy of the revised Petty Cash/Imprest Fund Rules and Regulations.
Finding 2:	
2-1 Resolved	Provide a copy of the payroll compliance memorandum.
Finding 3:	
To the Governor of the Virgin Islands:	
3-1 Resolved	Same as Recommendation 1-1 above.
3-2 Resolved	Same as Recommendation 1-1 above.
To the Commissioner of Property and Procurement:	
3-1 Resolved	Provide a copy of the procurement compliance memorandum.
To the Commissioner of Finance:	
3-1 Resolved	Provide a copy of the Government-wide policy regarding split payments.

ADDITIONAL INFORMATION NEEDED TO CLOSE RECOMMENDATIONS

Recommendation Number and Status	Additional Information Needed
Finding 4:	
4-1 Resolved	Provide a copy of the conflict of interest laws compliance memorandum.
Finding 5:	
5-1 Resolved	Same as Recommendation 1-1 above.

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Office of Inspector General, Department of the Interior 1

Office of the United States Attorney, Department of Justice 1

Federal Bureau of Investigation, Department of Justice 1