THE UNITED STATES VIRGIN ISLANDS

OFFICE OF THE VIRGIN ISLANDS INSPECTOR GENERAL

LETTER AUDIT REPORT

AUDIT OF THE LAND LEASING AND LAND PREPARATION PROGRAMS
DEPARTMENT OF AGRICULTURE, ST. CROIX

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September 16, 2013

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

Honorable Shawn M. Malone
President
30th Legislature
Capital Building
Charlotte Amalie, St. Thomas, VI 00802

Dear Governor de Jongh and Senator Malone:

This letter report contains the results of our audit of the Land Leasing and Land Preparation programs at the Department of Agriculture, St. Croix District (Agriculture).

The objective of the audit was to determine whether Agriculture administered its Land Leasing and Land Preparation programs effectively and in accordance with the law, and rules and regulations. The scope of the audit covered Fiscal Years 2009 and 2010 and focused on auditing Agriculture's management of the programs in the St. Croix district.

To accomplish our audit objectives, we reviewed applicable laws, regulations, and policies and procedures. We also interviewed officials from Agriculture and reviewed supporting documentation for the audited programs. The specific documents reviewed included job orders for agricultural services, invoices, payment documents, lease agreements, and monitoring and agricultural production reports. We also reviewed relevant documents from the Department of Licensing and Consumer Affairs, Department of Property and Procurement (Property and Procurement), and Department of Planning and Natural Resources (Planning and Natural Resources).

As part of the audit, we judgmentally selected, for review, the files and records for 83 land leaseholders and performed site visits to 22 of the leaseholders' farms. The site visits allowed us to test land use compliance and the effectiveness of Agriculture's oversight of the leased properties. We also selected a judgmental sample of 127 job orders and related invoices for separate services provided during the audit scope period. The purpose was to determine Agriculture's overall timeliness in billing for services. In assessing the effectiveness of Agriculture's collection efforts, we reviewed documentation for 47 small claims cases initiated by the department against clients with delinquent outstanding balances. We determined that our

judgmental samples provided a fair assessment of Agriculture's overall management of the audited programs.

We conducted this performance audit in accordance with the "Government Auditing Standards" issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. Accordingly, we performed such tests of available records and performed other auditing procedures that were considered necessary under the circumstances. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

PRIOR AUDIT COVERAGE

We are unaware of any audits completed within the past five years that addressed Agriculture's Land Leasing and Land Preparation programs.

BACKGROUND

The Virgin Islands Department of Agriculture is established pursuant to Title 3, Chapter 17, §290 and §291 of the Virgin Islands Code (Code). The department's mission is to develop, support, and promote an economically profitable agricultural industry in the U.S. Virgin Islands, while protecting consumers and the environment. In 2006, Act No. 6836 repealed and reenacted Title 7, Chapter 1 of the Code to provide for a sustainable farming industry. This chapter, referred to as the Sustainable Farming Act, was established "to promote and protect the agricultural industry of the Virgin Islands, to include the protection of prime agricultural farmland necessary to promote and protect public health, safety and welfare of the people of the Virgin Islands." Title 3, Chapter 17, §291 authorizes Agriculture, through the Commissioner of Agriculture (Commissioner), "to promote, administer, and enforce the programs under Title 7" of the Code.

Title 7, Chapter 1 gives the Commissioner administrative control over agricultural-zoned land in the territory, which includes limited authority to lease public land to agriculturalists for farming. The below exhibit provides a breakdown of Agriculture's land distribution statistics as of the end of Fiscal Year 2010.

DOA* Land Distribution	Total in Acreage
Agricultural-Zoned Land	2,653.60
Distributed/Leased	1,132.12
Distributed to other Departments	547.07
Available for Lease	974.41

*Department of Agriculture

Title 31, §232 of the Code stipulates that the Commissioner of Property and Procurement is the authority responsible for leasing all grounds, buildings, offices or other space that may be required by government departments and agencies…" In addition, Title 31, Chapter 21, §205 states, "no conveyances, leases, or other instruments relating to the disposition of government real estate shall be deemed binding on the Government of the United States Virgin Islands without the written approval of the Governor of the United States Virgin Islands…".

Title 7, Chapter 1 gives the Commissioner discretionary powers to purchase and make available to agriculturists in the Virgin Islands equipment and supplies to promote a sustainable farming industry and aid farmers in maximizing farming revenues. The equipment and supplies may be made available to farmers by sale or on a rental basis. The Department of Agriculture, through its Division of Agriculture Development, provides land preparation services (or land clearing services) at subsidized rates for qualified farmers and livestock owners in the Territory. These services are available to private land owners and farmers leasing public land through Agriculture. The overall purpose of the land preparation services is to aid farmers in transforming overgrown, cleared or uncultivated land into land suitable for food production and other agricultural usage. This includes the use of departmental personnel and heavy equipment to perform the services. Agriculture officials informed us that recipients of subsidized services are required to engage in approved agricultural activities on the cleared land for a period of one year from the date of receiving the services.

Based on Title 7, Chapter 1, the Commissioner administers, coordinates and enforces the provisions of the chapter in cooperation with other appropriate departments of the local and Federal Governments. This includes coordinating with the Department of Licensing and Consumer Affairs which administers the business licensing program, Planning and Natural Resources which administers the Earth Change Program, and Property and Procurement which manages all government properties.

Title 7 requires that the Commissioner "Secure and maintain statistical records of the production and harvest of various crops and livestock, and make the records available annually…to the President of the Legislature for dissemination among the members of the Legislature; to the Bureau of Economic Research and the public via electronic and print media." The Commissioner's statistical reports are, in part, comprised from notarized annual harvest reports received from licensed Virgin Islands farmers. The farmers' harvest reports, which are part of the licensing renewal process for farmers, state, among other things, the poundage and value of produce harvested and offered for sale.

AUDIT RESULTS

Conclusions

Agriculture did not manage the Land Leasing and Land Preparation programs effectively and in accordance with the Code and rules and regulations. Specifically we found that Agriculture (i) administered the programs without adequate formalized policies and procedures;

(ii) improperly executed land lease agreements; (iii) did not adequately monitor the programs to ensure that program recipients were in compliance with land use criteria; (iv) did not effectively collaborate with other appropriate governmental departments to administer and enforce provisions of the Code; (v) was slow and inconsistent in billing for services; (vi) was ineffective in pursuing collection of delinquent accounts; and, (vii) did not maintain organized and readily accessible program files. In addition, Agriculture did not compile and submit, to the President of the Virgin Islands Legislature, annual statistical records of the production and harvest of various crops and livestock as required by the law.

We attributed these conditions to (i) poorly developed internal policies and procedures; (ii) Agriculture's failure to follow procurement laws governing the execution of lease agreements; (iii) Agriculture's inconsistent and non-comprehensive approach to conducting land use compliance inspections; (iv) Agriculture's failure to ensure that noncompliant farmers had taken corrective actions as required; (v) lack of planning and coordination between Agriculture and other departments in administering the programs; (vi) ineffective management oversight of billing, collections, and the file management system; and, (vii) Agriculture's failure to ensure that farmers were compliant in reporting and its failure to follow the Code's reporting requirements for the department.

As a result, (i) there was no assurance that the missions of Agriculture and the Sustainable Farming Act, as amended, were always being achieved; (ii) Agriculture was in violation of the law and did not protect the interest of the Government due to improperly executed lease agreements; (iii) there was no assurance that the use of public land and other public resources had been optimized to promote the agricultural industry of the U.S. Virgin Islands; and, (iv) as of the end of Fiscal Year 2010, delinquent accounts for recipients of land leasing and land preparation services totaled at least $89,497. In addition, Agriculture's failure to compile and submit the required annual harvest reports deprived the Government of a measuring tool for assessing the performance of the agricultural programs.

Law and Rules and Regulations

The Code empowers the Commissioner to administer, coordinate, and enforce provisions of the Sustainable Farming Act. Accordingly, the Commissioner is authorized to promulgate rules, policies, and procedures to supplement provisions of the act. We found that the policies and procedures developed by Agriculture for the Land Leasing and Land Preparation programs were not adequately formalized. In addition, we found that Agriculture failed to follow Code requirements related to the leasing of public lands and the annual reporting of harvest and livestock statistics. As a result, Agriculture could not provide assurance that program services recipients had complied with established criteria. In addition, Agriculture's own noncompliance violated the law, did not protect the interest of the Government, and created an impediment to assessing the programs' performance.

As part of the audit, we requested copies of policies and procedures management said had been adopted to operate the agricultural programs during the audit scope period of Fiscal Years

2009 and 2010. Based on provided information, we found that not all of the policies and procedures had been documented in writing. For instance, management made reference to the establishment of a 2007 policy requiring business plans from individuals applying to lease public land. They also made reference to a policy requiring recipients of subsidized land clearing services to use the land exclusively for agricultural activities for a period of one year from the date of receiving service. Despite these references, we were not provided with any policy documents supporting their existence prior to or during the audit scope period. In addition, we received no documentation showing that individuals who had received land clearing services had been explained, in writing, the conditions for receiving the services.

We were not given any written internal control guidelines that addressed the overall approach and steps used by Agriculture for compliance monitoring. This was problematic in that Agriculture could not provide assurance that it had adequately monitored the land use compliance of program recipients, especially private land owners who had received land clearing services. The findings relative to the monitoring of land for private land owners are discussed in more detail in the "Monitoring" section.

Management acknowledged that the department had lacked comprehensive written policies and procedures and added that effort would be made to take corrective action. However, they indicated that acknowledgement should be given to the progressive policy changes that had been implemented by the current Commissioner, to include the creation of the business plan requirement for eligibility determinations in issuing leases. Although we acknowledge the changes, we emphasize management's responsibility to have developed organized and comprehensively written guidelines for better administering the programs.

During the audit, management eventually gave us policy documents which provided written support for certain changes and guidelines related to the land preparation and land distribution (leasing) programs. The policy documents were dated August 2011 and November 2011, respectively. None of them, however, included the policy requiring recipients of land clearing services to use the cleared land for a period of one year for only approved agricultural activities.

As noted, Agriculture did not follow provisions of the Code relative to the execution of leases and harvest and livestock reporting. These subjects are discussed in more detail in the sections entitled "Lease Management" and "Reporting".

Lease Management

Management leased public lands outside of the provisions of the Code. They executed lease agreements without involving and obtaining written approval, on the agreements, from Property and Procurement. This breach obstructed the chain of approval process in that the lease agreements were also not approved by the Governor of the Virgin Islands and the Virgin Islands Legislature as required. In addition, they were not approved for legal sufficiency by the Department of Justice.

Short-Term Lease Agreements: Agriculture leased public lands via long-term 20 year or short-term 1 year lease agreements. Based on document reviews and management interviews, we found that the short-term lease agreements, as a practice, were solely approved and executed by Agriculture in violation of the law. The format of the short-term lease agreements evolved in form over time. Originally, the short-term agreements were abbreviated versions of the long-term lease agreements. Their content comprised excerpts of the terms and conditions found in the formal "20 year" agreements. Although the original version allowed for all parties in the approval chain to sign, only the Commissioner signed the agreement, along with the lessee, a notary public and two witnesses. The short-term lease agreement was eventually redesigned and called a "Temporary Land Use Permit." The land use permit allowed for only the signatures of the Commissioner, lessee, a notary public and two witnesses. The permit was abbreviated in nature and its content deviated from the standard language used in leases processed through Property and Procurement. The stated terms and conditions did not include certain Code and other requirements related to the leasing and reporting obligations of the lessee and the rights of the lessor and lessee.

Management eventually allowed farmers to occupy and set up farms on public land based on one page letters signed only by the Commissioner. The letters specified that, until a formal lease agreement was approved, the farmers would be renting the assigned lands on a year-to-year basis by means of a Temporary Land Use Permit. We, however, found that Agriculture did not always ensure or require that farmers signed Temporary Land Use Permits. This discovery was based on the unavailability of signed permits in the files of farmers who had received letters as recent as Fiscal Year 2011 and statements by personnel that permits had not always been presented to the farmers for signature.

Prolonged Occupancy without Formal Leases: Agriculture allowed farmers to occupy public lands for several years without formal leases (leases processed through Property and Procurement). This occurred even though short-term agreements limited occupancy to one year and the Commissioner's letters stipulated that if formal leases were not approved the farmers would be required to "stop all activities on the premises immediately." For instance, a farmer who had signed a short-term lease agreement in Fiscal Year 2002 was still being allowed to occupy the land as of Fiscal Year 2010. Also, as of that same Fiscal Year, a farmer was being permitted to occupy land on a Temporary Land Use Permit issued in Fiscal Year 2007. Based on our review of the files, there was no supporting evidence showing that the short-term leases or permits had been renewed. Management informed us that, as of the end of Fiscal Year 2010, the last time a long term lease agreement had been issued was in 2003.

Our audit found that 64% of the leases or occupancies, active as of Fiscal Year 2010, were executed based on short-term agreements or letters. A provided land distribution list documented a total of 132 active leases, of which 39 or 30% comprised long-term leases, 84 or 64% comprised short-term leases, and 9 or 7% comprised leases that were not identified as to the type of lease. The number of short-term leases represented improperly executed lease agreements because they had not been processed through the entire approval chain.

In a letter response, the current Commissioner acknowledged that the use of permits is not sanctioned by Property and Procurement and that a formal lease is required for prospective lessees. The Commissioner, however, stated that the use of permits allowed Agriculture to "evaluate the performance of tenants before engaging in long term commitments." The Commissioner added that moving leases through the review and approval chain can be a lengthy period. This can be very discouraging for potential farmers. Since the start of the Audit, the Commissioner has discontinued the use of issuing permits, which he indicated preceded his administration.

Accountability: No matter how well intentioned, Agriculture's culture of allowing farmers to occupy public lands based on improperly executed agreements did not protect the interests of the Government and the farmers. The established rules and regulations governing the issuance of contracts and agreements help to ensure accountability and that the use of public resources is properly authorized. The Code stipulates that Property and Procurement is the department ultimately tasked with the management of public resources.

Monitoring

Agriculture did not adequately monitor the Land Leasing and Land Preparation programs to ensure that program recipients were in compliance with land use criteria. Farmers applying for certain land clearing services are required to obtain an earth change permit from Planning and Natural Resources and present it to Agriculture. The permit authorizes Agriculture to provide the land clearing services, which are offered at subsidized rates to tenants of public land and private land owners. Management indicated that farmers are required to engage in approved agricultural activities on the cleared land for at least one year from the date of receiving the service. We, however, found that management did not monitor cleared private land to ensure that owners complied with this requirement. They indicated that Planning and Natural Resources is ultimately responsible for monitoring land use compliance with issued earth change permit criteria.

In a written response, the Commissioner of Planning and Natural Resources indicated that site visits are periodically conducted by department inspectors to ensure compliance with permit provisions. Where noncompliance is observed, the property owner is notified in writing concerning needed mandatory corrective actions. If the property owner fails to comply with the directives, a Notice of Violation and Corrective Action is issued to the owner. Regarding permit adherence issues, the commissioner indicated that Planning and Natural Resources communicates directly with the private applicant and not Agriculture. As a result, the department "did not maintain any formal correspondence or reporting with the Department of Agriculture relative to the monitoring of land clearing permits for the purpose of farming."

Regardless of the monitoring responsibilities of Planning and Natural Resources, Agriculture has direct supervision of the agricultural programs under the Sustainable Farming Act. As a result, Agriculture had a direct responsibility to ensure compliance with established criteria, even as it related to private land owners. The Code delegates authority to the

Commissioner of Agriculture to "Administer, coordinate and enforce the provisions of [the Act], in cooperation with other appropriate departments of the Territorial and Federal Governments." Accordingly, Agriculture could have coordinated with Planning and Natural Resources in developing agreed-upon procedures for better enforcing provisions of the programs.

Enforcement Option: As noted, land clearing services are offered at subsidized rates, which we discovered are way below market rates. For instance, Agriculture's hourly rate for bulldozer work during the audit scope period was $40. A comparison of Agriculture's hourly rate with those of three vendors for bulldozing services yielded the following results:

Comparison of Agriculture and Vendors' Hourly Rates

Services	DOA*	Vendor 1	Vendor 2	Vendor 3
Bulldozing	$40.00	$250.00	$150.00-$275.00	$120.00-$135.00

*Department of Agriculture

Although the vendors' rates may have been predicated on various factors, such as the size of the bulldozer and other considerations, they provided an overview of the wide variances between the hourly rate charges of Agriculture and the market. To guard against private land owners fraudulently capitalizing on the low government rates, Agriculture must routinely monitor land use for compliance with program provisions. If owners fail to comply with the provisions, they should be required to pay the market rates for the subsidized services received. Agriculture, however, must coordinate its enforcement efforts with the appropriate government entities.

Documentation: As stated previously, Agriculture did not have written guidelines that addressed its overall approach and steps for compliance monitoring. This in part contributed to ineffective monitoring practices. A deficiency observed was the lack of documentation supporting follow-up assessments and actions by Agriculture in addressing noncompliance and violations. There was no proper paper trail corroborating the efforts of Agriculture in ensuring that corrective actions had been taken by farmers. Management informed us that they had not always documented the results of their farm assessments and reviews.

We selected a judgmental sample of 83 files, each representing distinct properties, to assess the monitoring practices of Agriculture. Of the 83 files, 34 contained farming deficiency and/or termination of lease notices related to farming productivity levels. The deficiency notices had either 2007 or 2009 dates. Of the 34 notices, 32 were issued for either having little or no farming activity and 2 were issued for abandonment of property. Termination notices were seen in 10 of the 34 files, of which the notices in 5 files had Fiscal Year 2011 dates. For the files containing only deficiency notices, we could not determine if the deficiencies had been resolved and if the farmers for the properties had been returned to good standing. We did not see follow-up assessment results or actions by Agriculture documented in the files. This was the same for

files which also contained termination letters. There was limited documentation showing the follow up actions of the department between issuance of the original notices and the termination notices.

Site Visits: In June 2012, we visited 22 properties leased to farmers who had received deficiency notices. Our purpose was to determine if Agriculture had effectively monitored the properties to ensure that the farmers had taken corrective measures after issuance of deficiency notices in Fiscal Years 2007 or 2009. As stated, the files lacked documentation supporting any follow-up reviews and assessments by Agriculture subsequent to sending out the notices. Based on our observations, 9 of the 22 properties appeared to show little evidence of meaningful commercial agricultural activity. Some properties appeared dismal and unoccupied; others were inundated with overgrown grass, shrubs, and trees amidst a scant population of fruit trees such as banana, mango, and coconut trees. The below pictures show the condition of one of the properties that seemed to be agriculturally unproductive.

Management indicated that the appearance of the properties did not necessarily mean they were void of meaningful commercial agricultural activity. To determine the agricultural production levels, we requested information on the harvest reporting status of farmers for the 22 properties visited. Based on provided information, farmers were delinquent in their harvest reporting for 20 of the 22 properties. Reports had not been submitted for Fiscal Years 2009 and 2010. Of the 9 we observed with noticeable farming deficiencies, reports were current for only 1. The farmers' harvest reports are required annually and provide crucial statistical information about the previous year's harvest productions. It is an excellent monitoring tool in determining farmers' yearly production levels.

Billing

Agriculture's billing practices were inconsistent and untimely. As part of our audit, we selected a judgmental sample of 127 job orders and the related invoices for land clearing services performed during Fiscal Years 2009 and 2010. Farmers requesting services are required to complete a job order form. If the job request is approved, a 50% deposit of the estimated job price is required before clearing the land. According to management, an invoice should be generated and mailed to farmers for the balances due no later than 2 days after performing the

service. We found that these billing policies were not always followed. For instance, for Fiscal Years 2009 and 2010, we identified 93 jobs, totaling $11,700 in charges, for which the required deposits were not collected from farmers. Management informed us that they were unaware of this practice, but also indicated that they were not entirely opposed to granting deposit waivers based on individual assessments. They, however, added that personnel were not authorized to grant such waivers on their own.

Agriculture did not bill for services in a timely manner. Initial invoices for 104 of the audited 127 jobs were issued to farmers from 31 to over 180 days after land clearing services were provided. The following exhibit shows the elapsed times, in days, between job completions and the issuance of initial invoices.

Elapsed Time between Job Completions and Issued Invoices

Number of Days Invoices Issued After Job	0 – 30	31 - 90	91 – 180	Over 180
Number of Invoices Fiscal Year 2009	11	21	16	2
Number of Invoices Fiscal Year 2010	12	42	19	4
Totals	23	63	35	6

The issuance times for 5 of the 6 invoices in the "Over 180" days' category ranged from 209 to 275 days. The late billing practices of Agriculture negatively impacted the department's collection efforts.

Collections

Agriculture did not effectively pursue collection on outstanding balances owed for land leases and land preparation services. Based on a provided accounts receivable aging report, as of September 30, 2010, there were 323 accounts, totaling $89,497, that were delinquent 31 or more days. Of that amount, 288 or 90%, totaling $86,497, were in arrears 90 or more days. Eight (8) of the 288 accounts had outstanding balances ranging from $2,345 to $8,678. The total delinquent outstanding balance due the department was more than two times the estimated $39,203 in revenue collected during Fiscal Year 2010 for both programs.

Although Agriculture made attempts to collect the outstanding receivables, its efforts were sporadic and unsystematic. We saw instances of initial demand letters being sent to clients, but no follow-up letters or other actions being taken for most of the accounts even though they remained in arrears.

Small Claims Court: In Fiscal Year 2010, Agriculture initiated action with the Small Claims division of the Superior Court of the Virgin Islands to collect on several delinquent outstanding accounts. We reviewed documentation for 47 cases filed with the court. Due to limited documentation, we were unable to determine the claim amounts for all the filed cases. However, the provided accounts receivable report revealed that the cases were initiated against clients with delinquent debts totaling at least $28,714. This amount was based on outstanding balances owed as of the end of Fiscal Year 2010. From reviewed court documents, we identified only 3 cases that received judgments, totaling $3,180, in favor of Agriculture. We were unable to determine the litigation status for all of the cases, but found that a majority were dismissed based on specific conditions.

Conditional Dismissals: Of the 47 cases, we identified 22 that were dismissed without prejudice. This judgment allowed Agriculture to file new cases against the clients based on the same issues as the dismissed cases. We found that for 16 of the cases dismissed without prejudice, the court advised Agriculture to hire a process server to serve the clients because the clients could not be located by the court. As of the fieldwork stage of the audit, we saw no documentation in the files showing that the advisement had been followed. The 22 cases were initiated against clients who had delinquent accounts totaling at least $19,846 as of the end of Fiscal Year 2010.

We identified an additional 3 cases that were also dismissed, but were dismissed with prejudice. This judgment barred Agriculture from filing new cases on the same issues as the dismissed cases. Our audit found that the 3 cases were dismissed because Agriculture failed to appear at the hearings and did not notify the court for a continuance. The cases were for clients owing a total of $3,545 as of the end of Fiscal Year 2010. One client's debt was $3,227 of that amount. Agriculture officials informed us that the reason they did not appear at the hearings was because they were unaware that the hearings had been rescheduled.

File Management

Agriculture did not maintain organized files and records for the land lease program. This made it difficult for us to follow the paper trail of documents needed to assess Agriculture's operations and compliance with established criteria. Invoices and correspondences were stored in boxes instead of in file folders that had been specifically created for clients. We also encountered instances of misfiled documents. These deficiencies presented a challenge in documenting the follow-up efforts of Agriculture in addressing delinquent accounts.

As stated, in order to receive land clearing services, clients are required to secure an earth change permit from Planning and Natural Resources and present to Agriculture. From our review of the 127 job orders (see section entitled "Monitoring"), we saw no copies of earth change permits on file for individuals who had received land clearing services. Management informed us that, after presentation, it was their practice to return the earth change permit to the client without filing copies. As a result, we could not, using Agriculture's records, determine if the services were properly authorized.

Reporting

The Code requires the Commissioner to secure and maintain statistical records of the production and harvest of various crops and livestock, and make the records available annually to the Legislature, the Bureau of Economic Research, and the public via the print and electronic media. We found that Agriculture had not been submitting the harvest and production report as required. The Commissioner's report is essentially a compilation of the information obtained from the harvest and production reports submitted by farmers. As noted, we found that farmers for 20 of the 22 leased properties we visited were not current with the reporting (see "Monitoring"). The Commissioner indicated that staffing limitations presented a challenge in preparing the department's annual statistical report. The report is a great tool for assessing program performance measurements. Therefore, priority must be given to preparing, analyzing and submitting the report to the appropriate government entities and the public as required.

Recommendations

We recommend that the Commissioner of Agriculture:

1. Develop comprehensively written formalized internal policies and procedures to aid in administering and monitoring the Land Leasing and Land Preparation programs in accordance with Code requirements.

2. Follow the Virgin Islands procurement laws governing the execution of contracts and lease agreements.

3. Have appropriate staff monitor the subsidized cleared lands of private land owners to ensure compliance with land use criteria. If noncompliance is noted and it persists, require that the owners pay the market rates for the subsidized services received.

4. Have appropriate staff conduct routine, thorough, and well documented monitoring of leased public lands to ensure leaseholders' compliance with land use criteria. Based on the terms and conditions of formalized lease agreements and provisions of the Code, take appropriate action for assessed continued noncompliance.

5. Collaborate with Planning and Natural Resources, Property and Procurement and other appropriate Government entities in enforcing provisions of the Code.

6. Ensure that the department's billing and collection processes are timely and consistent and that appropriate follow through measures are taken to settle delinquent accounts.

7. Ensure that program files and records are properly organized and maintained.

8. Ensure that farmers submit their annual harvest and production reports.

9. Adhere to the reporting requirements of the Code for submission of the department's annual harvest and production report to the Legislature, Bureau of Economic Research and the public via electronic and print media.

Department of Agriculture's Response

The Commissioner of Agriculture in his September 6, 2013, response, agreed with all of the recommendations made in the report. The following summarizes the responses to each of the recommendations.

Regarding the first recommendation, the Commissioner indicated that Standards Operating Policies and Procedures are being prepared and should be finalized by the end of the calendar year.

As it relates to the second recommendation, it was acknowledged that Agriculture is required to follow procurement laws as it relates to leasing land, and will follow the requirements of the law. However, Agriculture feels that a one-year probationary period, at the discretion of the Commissioner, should be given to assess a farmer's potential for agricultural productivity and success. Agriculture will propose draft legislation to address this concern.

Agriculture is revising its Land Preparation Job Order form to include the monitoring, oversight, and fee requirements contained in the third recommendation.

Regarding the fourth recommendation, semi-annual site visits will be conducted with violations and recommendations documented for corrective actions.

Relating to the fifth recommendation, Agriculture, Planning and Natural Resources and Property and Procurement will work together to ensure farmers are in compliance with the land clearing and lease agreements. Violations will be addressed in a cooperative manner.

For the sixth recommendation, the Commissioner indicated that bills will be mailed to farmers within ten days of the services provided by Agriculture. In addition, accounts outstanding for more than three months will be referred to the Director of Administration and Management for further action to include the potential of legal action.

In response to the seventh recommendation, the Director of Administration and Management will ensure that program files are properly maintained.

Regarding the eighth recommendation, farmers will receive training in how to record and report their production and sales levels. In addition, they will be required to submit their annual Harvest Report beginning in Fiscal year 2014. Failure to provide the necessary information can result in the farmer being denied the use of the Government-owned farmland.

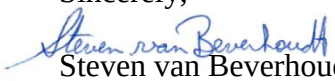
Finally, with reference to the ninth recommendation, Agriculture will submit the Code required Harvest/Production Reports to the Legislature and the Bureau of Economic Research within the required time frames.

V. I. Inspector General's Comments

The Commissioner of Agriculture's responses to the nine recommendations made in this report are sufficient for us to consider them resolved. At a later date we will follow-up on the success of the implementation of the proposed corrective actions. We have included a copy of the response to the report as an Appendix beginning on page 15.

If you require additional information, please call me at 774-6426.

Sincerely,



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

Appendix:

DEPARTMENT OF AGRICULTURE'S RESPONSE

THE UNITED STATES VIRGIN ISLANDS
DEPARTMENT OF AGRICULTURE
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September 6, 2013

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Through

Honorable Debra Gottlieb
Director
Office of Management & Budget
No. 41 Norre Gade, EGS 2nd Floor
St. Thomas, VI 00802

Dear Inspector General van Beverhoudt:

Greetings from the VI Department of Agriculture (VIDOA)! The VIDOA is in receipt of your August 19, 2013 letter replying to a previous letter from the VIDOA regarding our agency's response to the recommendations in the draft letter audit report of the Land Leasing and Land Preparation Programs of the VIDOA in the district of St. Croix.

This letter serves as the official response to the July 8, 2013 Draft Letter Audit Report (#LR-01-83-13) conducted on the Land Leasing and Land Preparation Programs at the VI Department of Agriculture, St. Croix.

First and foremost, the VIDOA would like to thank your agency, especially Ms. Marsha Dubois, who worked diligently and professionally in the collection of information pertinent to the audit.

The responses shown in Exhibit I are in the same sequence as the recommendations noted in your report.

I trust that the submitted information is helpful in completing the audit process for the VI Department of Agriculture. We look forward to your report and any recommendations that may result from the audit process.

DEPARTMENT OF AGRICULTURE'S RESPONSE

If you have any questions or need further information, please feel free to contact me at my office. Thank you.

Sincerely,

Louis E. Petersen, Jr., Ph.D.
Commissioner of Agriculture

ENCLOSURE (s)

cc: Luther F. Renee, Assistant Commissioner – VIDOA
Errol Chichester, Deputy Commissioner – VIDOA
Delreese C. Brown, Director of Administration & Management – VIDOA

DEPARTMENT OF AGRICULTURE'S RESPONSE

Exhibit I

Government of the Virgin Islands
Response to the Draft Letter Audit Report
of the Office of the Virgin Islands Inspector General (VIOIG)
Audit of the Land Leasing and Land Preparation Programs
Department of Agriculture, St. Croix
(Report No. LR-01-83-13, July 8, 2013)

FINDING

Agriculture did not manage the Land Leasing and Land Preparation programs effectively and in accordance with rules and regulations.

Recommendations (Commissioner of Agriculture):

1. Develop comprehensively written formalized internal policies and procedures to aid in administering and monitoring the Land Leasing and Land Preparation Programs in accordance with Code requirements.
2. Follow the Virgin Islands procurement laws governing the execution of contracts and lease agreements.
3. Have appropriate staff monitor the subsidized cleared lands of private land owners to ensure compliance with land use criteria. If noncompliance is noted and its persists, require that the owners pay the market rates for the subsidized services received.
4. Have appropriate staff conduct routine, thorough, and well documented monitoring of leased public lands to ensure leaseholders' compliance with land use criteria. Based on the terms and conditions of formalized lease agreements and provisions of the Code, take appropriate action for assessed continued noncompliance.
5. Collaborate with Planning and Natural Resources, Property and Procurement and other appropriate Government entities in enforcing provisions of the Code.
6. Ensure that the department's billing and collection processes are timely and consistent and that appropriate follow through measures are taken to settle delinquent accounts.
7. Ensure that program files and records are properly organized and maintained.
8. Ensure that farmers submit their annual Harvest and Production Reports.
9. Adhere to the reporting requirements of the Code for submission of the department's annual Harvest and Production Report to the Legislature, the Bureau of Economic Research and the public, via electronic and print media.

Government's Response

Recommendation No. 1

The V.I. Department of Agriculture (VIDOA) concurs.

DEPARTMENT OF AGRICULTURE'S RESPONSE

Action Plan

The management of VIDOA has reviewed the procedures that are known and routinely conducted by staff and formulated a draft Standard Operating Policies and Procedures (SOPP) document as it relates to the Land Leasing and Land Preparation Programs.

Employees who will be involved in the Land Leasing Program once the SOPP is finalized will include the Commissioner, Assistant Commissioner, Deputy Commissioner, Special Outreach Coordinator and the Accounts Receivable Clerk. The full implementation date for the Land Leasing Program in accordance with the SOPP will be December 1, 2013.

Employees who will be involved in the Land Preparation Program once the SOPP is finalized will include the Accounts Receivable Clerk, the Director of Food Production, the Assistant Director of Food Production, the Heavy Equipment Operators, the Collection Agent, and the Special Outreach Coordinator. The full implementation date for the Land Preparation Program pursuant to the SOPP will be December 1, 2013 (See Attachments A, B1 & B2).

Due Date: December 1, 2013

Person Responsible: Commissioner – **DOA**
Assistant Commissioner, Deputy Commissioner – **DOA**
Special Outreach Coordinator, the Director of Food Production – **DOA**

Government's Response

Recommendation No. 2

VIDOA concurs, and acknowledges the provisions of the VI Code as they pertain to the execution of contracts and lease agreements and the appropriate procedures to follow. VIDOA also acknowledges that the VI Code does not sanction the decades-long practice of issuing "Letters of Occupancy" to land tenants in lieu of the formal Land Lease Agreement. However, the Commissioner and the senior management team of VIDOA are of the opinion that an exception or special provisions need to be made regarding the execution of formalized Land Lease Agreements.

Action Plan

VIDOA will comply with the procurement laws in the VI Code, and propose to the Executive and then the Legislature that the execution of Land Lease Agreements should be vetted before the formal 20 year-long process begins. This would include establishment of a probationary period at the discretion of the Commissioner for a period of at least one (1) year, granting farmers permission to use government-owned agriculture properties with a 'Letter of Occupancy'. This probationary period will be used to assess the farmer's onsite potential for

DEPARTMENT OF AGRICULTURE'S RESPONSE

agricultural productivity and success. For these reasons the Commissioner of Agriculture will be responsible for proposing draft legislation to support temporary or short term occupancy of farm plots during Fiscal Year 2014. Effective immediately, the Commissioner, Assistant Commissioner and Property Manager will initiate lease agreements in accordance with the VI Code.

Implementation Date: September 2013 (compliance with procurement laws)

Due Date: Fiscal (FY) 2014 (draft legislation – short term arrangements)

Person Responsible: Commissioner – **DOA**
Assistant Commissioner, Property Manager – **DOA**

Government's Response

Recommendation No. 3

VIDOA concurs.

Action Plan

The VIDOA is revising its Land Preparation Job Order form to remove the land clearing (bulldozing) activity as an option. A new Land Preparation Job Order specifically for land clearing will be created to include language establishing rules for usage, required follow-up activity after the job is completed, and notice of increased rate to market comparables if activity (including maintenance) does not occur within two months after the job is completed. Language will also include provisions that lack of subsequent agricultural activity will not be the fault of the VIDOA's Food Production Division. Farmers will also be notified to make alternative arrangements (if the VIDOAs resources are not available) with private companies or other farmers who have machinery to facilitate land preparation services and production activity. These steps are designed to place the ultimate responsibility of land preparation on the farmer, and reinforce the policy that land prepared by the VIDOA that fails to be developed into a productive plot will not be the VIDOA's responsibility. The VIDOA will monitor the property 1 – 2 months after the land clearing job is completed to assess usage and maintenance. If noncompliance is noted and/or persists, VIDOL will require that the owners pay the market rates for the subsidized services received.

Due Date: 2nd quarter of FY 2014

Person Responsible: Property Manager – **DOA**

DEPARTMENT OF AGRICULTURE'S RESPONSE

Government's Response

Recommendation No. 4

VIDOA concurs.

Action Plan

Through the resurgence of the VIDOA's Assess and Assist Program, a small team of staff headed by the Property Manager will conduct formalized site visits semi-annually to each government-owned leased property by appointment with farmers' presence. Informal checks will also be made routinely. Violations found during informal checks will be documented. Violations and recommendations during semi-annual site visits will be documented with an infraction letter and corrective action with the required timeframe.

Due Date: 1st quarter of FY 2014

Person Responsible: Property Manager – **DOA**

Government's Response

Recommendation No. 5

VIDOA concurs.

Action Plan

A working relationship has been fostered with the VI Department of Planning and Natural Resources – Environment Protection (DPNR-EP) Division and DOA to focus on private land owners who have requested land clearing (bulldozing) services. If DPNR-EP has found a non-compliant client according to its standards for land clearing and a violation letter is sent, the VIDOA will ask to be copied on the correspondence (See Attachment C).

A better working relationship will also be fostered with the VI Department of Property and Procurement – Property Division and VIDOA to work hand-in-hand with violators who are on government-owned agriculture leased property. Once the VIDOA sees and documents violations that warrant the removal of a non-compliant farmer from a property, P&P will be responsible for the formal eviction process of the farmer upon recommendation from the VIDOA.

Implementation Date: September 2013

Person Responsible: Property Manager – **DOA**
Deputy Commissioner – **DOA**

DEPARTMENT OF AGRICULTURE'S RESPONSE

Government's Response

Recommendation No. 6

VIDOA concurs.

Action Plan

A reasonable and realistic timeframe will be established for the Food Production Division to submit activity hours to the Accounts Receivable Clerk for final billing to the farmers. The timeframe will be five (5) business days for the completed activity hours to be reported to the Accounts Receivable Clerk after the full job order is concluded. A secondary reasonable and realistic timeframe will be established as to how long it takes the Accounts Receivable Clerk to input the activity hours for each job order into the QuickBooks software for billing purposes. The established timeframe will be five (5) business days for the activity hours to be inputted into the software and the paper bill/invoice to be mailed out to the farmer.

Regarding delinquent accounts, once bills have been outstanding for more than three (3) months, the Director of Administration and Management will be responsible for taking further steps to collect monies owed, including legal action. Corrective actions to correct billing and collection deficiencies will be in place, effective first quarter of Fiscal Year 2014.

Due Date: 1st quarter of FY 2014

Person Responsible: Accounts Receivable Clerk – **DOA**
Director of Administration and Management - **DOA**

Government's Response

Recommendation No. 7

VIDOA concurs.

Action Plan

Under the supervision of the Director of Administration and Management the VIDOA Administration Division will better organize and maintain program files, effective immediately.

Implementation Date: September 2013

Person Responsible: Director of Administration and Management – **DOA**

DEPARTMENT OF AGRICULTURE'S RESPONSE

Government's Response

Recommendation No. 8

VIDOA concurs.

Action Plan

The VIDOA staff in conjunction with partner agencies will continue to educate farmers on how to record their production and sales levels on the VIDOA's Harvest Report form through training workshop and on-site assistance. For example, during the months of May and June 2013, the VIDOA in collaboration with the Small Business Development Center conducted training on Farm Financial Planning in both districts (See Attachment D). In addition, the VIDOA will deny the renewal of farmers' licenses if Harvest Reports are not submitted. For farmers who are on government-owned agriculture lands, the VIDOA will make submission of the Harvest Report a requirement to retain use of the properties. Should farmers fail to submit an annual Harvest Report, permission to occupy and use the property will be revoked.

Implementation Date: July 2013 and on-going (training workshops and assistance)

Due Date: FY 2014

Person Responsible: Project Coordinator – **DOA**

Government's Response

Recommendation No. 9

VIDOA concurs.

Action Plan

The VIDOA will submit to the Legislature and the Bureau of Economic Research, and make available to the general public a compilation of the submitted Harvest/Production Reports within the mandated timeframes, according to Act 6836.

Due Date: August 2014

Person Responsible: Commissioner - **DOA**
Project Coordinator – **DOA**