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THE UNITED STATES VIRGIN ISLANDS

OFFICE OF THE VIRGIN ISLANDS INSPECTOR GENERAL

LETTER AUDIT REPORT

FOLLOW-UP REVIEW OF RECOMMENDATIONS MADE IN THE AUDIT OF THE ACCOUNTING AND COLLECTION OF DISHONORED CHECKS

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August 3, 2012

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Charlotte Amalie, V. I. 00802

Honorable Ronald E. Russell, Esq.
President
29th Legislature
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Dear Governor de Jongh and Senator Russell:

This letter audit report contains the results of our follow-up review of recommendations made in our June 2008 report on our audit of the accounting and collection of dishonored checks by the Government of the Virgin Islands (Government) during Fiscal Years 2005 and 2006. The recommendations made in the original report were addressed to the Commissioner of Finance, the Director of the Virgin Islands Bureau of Internal Revenue, and the Virgin Islands Attorney General.

The recommendations addressed findings related to improvements needed in (i) the manner in which dishonored checks were accounted for; (ii) the collection efforts undertaken to pursue payment; (iii) the number of outstanding cases referred to and the enforcement action taken by the Department of Justice in pursuing offenders; and, (iv) the handling of payments from individuals who had outstanding dishonored checks.

The objective of the follow-up review was to determine whether the Government implemented the recommendations made in the June 2008 audit report and made improvements in its accounting and collection activities. The scope of the review included dishonored checks received by the Government during Fiscal Years 2010 through May 31, 2011.

To accomplish our objectives, we interviewed officials and reviewed collection policies and procedures and supporting documentation for dishonored checks for the following departments and agencies: the Virgin Islands Bureau of Internal Revenue (Internal Revenue), the Department of Finance (Finance), Finance's Division of Government Insurance (Government Insurance), the Office of the Lieutenant Governor (Lieutenant Governor's Office), the Department of Justice (Justice), and the Department of Licensing and Consumer Affairs

(Licensing). We limited our follow-up review to these departments and agencies because they accounted for 97% of the dishonored checks reviewed in the prior audit.

Due to the disorganized state in which dishonored check copies and other supporting records were filed at Finance, we performed limited testing of the dishonored check records. Accordingly, we selected a judgmental sample of 30 dishonored checks, each with values of $100 or more, totaling $92,870. The selection was made based on bank records. Fifteen dishonored checks were selected from each fiscal year reviewed.

We conducted this performance review 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.

BACKGROUND

Title 3, Section 177 of the Virgin Islands Code (Code) places the responsibility for establishing a uniform policy for the acceptance of checks and establishing a penalty for returned checks with Finance. As such, Finance must maintain a system of accounting for all dishonored checks received by the Government. All other departments and agencies of the Government must comply with Finance's policies and procedures for reporting and handling dishonored checks.

Once a dishonored check is returned to Finance by the bank, Finance updates its dishonored check list and transmits the dishonored check back to the department or agency that initially accepted the check. The department or agency then becomes responsible for the collection of the check.

Title 14, Section 835 of the Code allows for the imposition of civil and criminal penalties on issuers of dishonored checks. This gives Justice the responsibility for the enforcement of the collection of all dishonored checks received by the Government.

In 1999, Finance notified the general public of penalty fees of $50 for all dishonored checks, and an additional 1% of the face value of the check for checks with amounts greater than $1,000. Title 33, Section 1285 of the Code provides the penalties to be imposed by Internal Revenue for the issuance of dishonored checks.

REVIEW RESULTS

Conclusion

Although, with the introduction of the Tele Check system, Finance made efforts to put in place a mechanism to reduce the number of dishonored checks accepted by the Government, the department's accounting and collection of dishonored checks remained ineffective. Our follow-up review revealed that Finance could not support as accurate the outstanding amount of $3,261,814 in 1,519 dishonored checks reportedly received by the Government from October 1, 2009 through May 31, 2011.

We also found that although Internal Revenue had updated its dishonored checks collection procedures, the agency had not effectively implemented these procedures and adequately increased its collection efforts. In addition, Justice failed to take action on the collection of outstanding dishonored checks.

We attribute these conditions to the departments and agencies' failure to adequately implement prior report recommendations and proposed corrective measures designed to improve the Government's accounting and collection activities for dishonored checks. We found that the recommendations and corrective measures were partially implemented or some not at all. In some instances, their implementation was initiated only after our review had begun. The proposed changes included revising the Revenue Manual and internal collection procedures, performing timely and consistent reconciliations of dishonored check transmittals between Finance and departments, and increasing collection and enforcement efforts on dishonored checks.

As a result of Finance and other departments not adequately and timely implementing the recommendations, the Government could not properly account for nor ensure the collection of more than $3 million in dishonored checks it had received during the review scope period. In addition, Government revenues were negatively impacted by the internal control breaches.

FINDING 1: ACCOUNTING FOR DISHONORED CHECKS

The prior audit found that Finance did not follow its own Revenue Manual procedures in accounting for dishonored checks issued to the Government. During Fiscal Years 2005 and 2006, it did not identify, control nor accurately report the status of $4.1 million in 2,278 dishonored checks returned to 21 departments and agencies, and an additional $500,000 in 962 dishonored checks referred to Justice.

Prior report Finding 1 recommendations were addressed to the Commissioner of Finance and were as follows:

Recommendation 1.1 - Document and properly authorize any changes to the existing check collection procedures detailed in the Revenue Manual as they relate to the collection of dishonored checks.
Recommendation 1.2 - Ensure that all departments and agencies are aware of the changes.

The Governor of the Virgin Islands issued a consolidated response to all the recommendations made in the prior report. The Governor concurred with both recommendations of Finding 1 and stated that a "Dishonored Checks Task Force" would be created to update Finance's Revenue Manual. Once updated, the Manual would be distributed to the departments and agencies. The target completion date was set for July 31, 2008.

In the prior report, we considered the Finding 1 recommendations resolved, pending the submission of additional information confirming implementation of the planned corrective measures. Finance was required to provide us with a copy of the revised Revenue Manual and a copy of the notification given to the departments and agencies.

Follow-up Review Results

Our follow-up review found that Finance did not make any updates to the Revenue Manual or to the dishonored checks collection process. We were provided with only draft standard operating procedures for the management of dishonored checks by Finance and policies and procedures governing dishonored checks collection activities for departments and agencies. We were told that these draft policies and procedures would be implemented on August 15, 2011; however, as of August 19, 2011, they had not been implemented.

In a letter dated August 1, 2011, the Commissioner of Finance informed us that the department had experienced a reduction in staffing. As a result, it could not "execute the recommendations in its totality as this activity required a dedicated staff." The Commissioner also stated that in the department's efforts to control the number of dishonored checks received by the Government, the department had "implemented the Tele Check system government-wide at the beginning of July 2010."[1]

Although the implementation of the Tele Check system may reduce the number of dishonored checks received by the Government, it is imperative that Finance step-up efforts to collect on outstanding dishonored checks. Its failure to implement collection procedures has allowed the ineffective management and collection on dishonored checks to continue as was observed in the previous audit. For instance, Finance records showed that the department transmitted $3,261,814 in dishonored checks to 22 other departments and agencies. However, the dishonored checks listing provided by Finance did not include all of the outstanding dishonored checks. For instance, of the 30 checks valued at $92,870 that we selected for testing based on bank records, there were two checks valued at $7,394 that were not included in the listing

[1] Tele Check allows the Government to electronically screen checks in order to make a decision regarding accepting or rejecting a tendered check.

provided by Finance. The Finance listing was also missing other key information, such as check numbers, check dates and bank debit advice dates.

Position on the Status of the Recommendations

Based on our review, the recommendations remain open due to Finance's failure to revise its Revenue Manual, which is fundamental to its accounting and collection activities. As noted, a target completion date for the revision was set for July 31, 2008. Review results have shown that Finance's current accounting of dishonored checks is ineffective. Revising the Manual would be an adequate starting point for improving the Government's accounting and collection activities. In addition, enabling the Enforcement Task Force and revoking the check writing privileges of those who issue bad checks to the Government would aid in implementing the recommendations.

Governor's Response

The Governor of the Virgin Islands, on behalf of his administration, issued a general response to the position of the Office of the Virgin Islands Inspector General regarding whether the Government implemented the recommendations made in the June 2008 audit report. His response prefaced the individual responses of the audited departments/agency. The Governor stated that the Government did not fully concur with the position held by our office on the status of the recommendations. Reference was made to improvements initiated by Finance in its record filing and retention policies and practices, aided by the conversion of many of the department's physical records to digital files by an optical scanning process. The response also noted the current Finance building renovation project which was undertaken to improve the department's working environment to allow for, among other things, better retention and management of records. It was noted that the project is funded by more than $1.5 million in bond proceeds.

In explaining the Government's position, the Governor stated that our conclusion that the Government had inadequately accounted for and had not ensured the collection of more than $3 million in dishonored checks during the review scope period was "over-reaching." He indicated that it was unreasonable to reach that conclusion based on a judgment sample of 30 dishonored checks totaling $92,870, of which only 2 checks, totaling $7,394, were not on the listing provided by Finance. He added, "This limited testing, whether or not [our office] attributes it to the alleged 'disorganization' is not sufficient to fairly represent a reasonable basis for the findings and conclusions."

The response also indicated that the report pays little attention to the government-wide introduction of the Tele Check system in Fiscal Year 2010 by Finance. It noted that the use of the Tele Check system is a preventive measure which was largely responsible for a 42% reduction in the number of dishonored checks received by the Government between 2009 and 2011. The response emphasized that the reduction occurred even before the system has been fully implemented by the Internal Revenue, the single largest Government revenue collector, which is intensely working on resolving any issues related to its use of the system.

The Governor stated that Justice will furnish our office with the policy and procedure it has established for the collection of dishonored checks. However, the department could not establish the "Government Collection Unit" due to insufficient personnel brought on by the hiring freeze. He added that Finance, Justice, and Internal Revenue are "committed to proactively ensure the continuity and/or the implementation of updated measures to address the issue of dishonored checks for the Government of the Virgin Islands. They will work as a team in this endeavor, with a preference for eliminating dishonored checks upfront (rather than having to account for them after-the-fact), and leveraging the use of available services and technologies to streamline the workflows and accomplish this goal." The Governor expressed appreciation for our office's follow-up review of the dishonored checks audit.

V.I. Inspector General's Comments

We appreciate the gratitude expressed by the Governor regarding our follow-up review of the dishonored checks audit. We also appreciate his and his administration's unwavering commitment to improve and enhance the operations of the Government. To that end, we must address some apparent misconceptions regarding the basis for our review findings and conclusions. Although limited inferences were made about the population from our judgmental sample, our findings were based primarily upon the totality of the documentation and processes we reviewed. In the report, it is not stated nor implied that review conclusions were reached based on projecting our judgmental sample of 30 dishonored checks, valued at $92,870, to the population of 1,519 dishonored checks valued at $3.3 million.

Even without the aid of the sample, the evidence we examined to draw our follow-up review conclusions was compelling. First, Finance did not provide any documentation or evidence showing that it had developed or implemented procedures for tracking the status of collection activities for dishonored checks. This is based on our examination of provided reports listing and accounting for the more than $3 million in dishonored checks. Second, the $603,187 difference between Finance and Internal Revenue's dishonored checks records also exposed the inadequacies in accounting for the checks. Although Internal Revenue failed to routinely update its records, Finance was ultimately responsible for monitoring the status of collection activities for accuracy and completeness. The lack of procedural coordination existing between Finance and Internal Revenue also existed between Finance and Licensing and the Lieutenant Governor's Office, departments whose collection procedures we had extensively reviewed.

Third, even in view of the staffing challenges, Finance and Justice did not develop or implement any enforcement measures, collaboratively or individually, to address the dishonored checks "dilemma". No dishonored checks referrals were made to Justice during the review audit scope period, nor had Justice taken action on any of the boxes of outstanding dishonored checks that were referred to the department prior to our review.

Finally, Finance and Internal Revenue failed to effectively address the issuance of dishonored checks by repeat offenders. As noted, of the population of 1,519 dishonored checks valued at $3.3 million, 791 dishonored checks valued at $1.2 million were written by 234 repeat offenders. One offender wrote 22 dishonored checks totaling $22,970. Repeat offenders' checks

accounted for 52% or more than half of the total number of the dishonored checks received by the Government during the review scope period (791 checks / 1519 total checks). These repeat offenses by individuals and businesses persisted even during the implementation of the Tele Check system. Even though the Tele Check system was gradually being introduced government-wide, Finance and Internal Revenue had a responsibility to aggressively monitor the activities of repeat offenders.

The Governor's response makes reference to a 42% decline in the number of checks received by the Government between Fiscal Years 2009 and 2011 due to the implementation of Tele Check. However, Finance did not provide this statistic and any corresponding supporting documentation during the follow-up review. As it relates to variations in the number and value of dishonored checks held by the Government from the original audit period to the follow-up review period, we found there were a 33% decline in the number of dishonored checks and a 20% decline in the dollar value of those checks. This is based on differences between the 2,278 dishonored checks valued at $4.1 million from the original audit and the 1,519 dishonored checks valued at $3.3 million from the follow-up review.

We consider the $3.3 million in dishonored checks still an excessive amount. This becomes even more problematic in relation to the Government not aggressively and effectively pursuing collection on these checks. We do agree that Tele Check is a useful system for screening checks tendered from businesses and individuals on the frontend; however, it is imperative that the Government implement measures to effectively monitor dishonored checks collections activities on the backend to recover revenue.

As noted in the report, we believe that the evidence obtained and examined during the course of the review provided a reasonable basis for our findings and conclusions based on our audit objectives. To reiterate, the findings and conclusions were not derived solely from sample results. The judgmental selection of the 30 dishonored checks allowed us to follow, in detail, a limited number of checks through the existing Government collection system to help make determinations on its overall effectiveness. For instance, from the judgmental sample, we discovered that it took between 5 to 69 days for Finance to record dishonored checks in the Enterprise Resource Planning (ERP) system from the date of the bank debit advice notice. Likewise, it took between 7 to 55 days to transmit the dishonored checks back to the department or agency for collection action.

Department of Finance's Response

Finance did not fully agree with the position taken by our office regarding the status of the recommendations. The department supported its position by stating, "The matter of dishonored checks does not require, nor should it wait upon revision of the entire Revenue Manual." The response made reference to attached Statement of Policies and Procedures (SOPP) #122, which was disseminated to departments/agencies via a memorandum, dated June 27, 2012, and addressed the handling of dishonored checks from the point they are returned to Finance by department/agencies to the point they are referred to Justice for legal action.

Finance explained two initiatives of the department which involved (i) the convening of an Enforcement Task Force and (ii) the implementation of the Tele Check Service. The response noted that the Enforcement Task Force, which is scheduled to convene by August 15, 2012, will exist for a limited period and comprise the Justice department and all departments/agencies providing collector services. It will address reconciliation of the outstanding checks and come to an agreement on what checks are actually outstanding. "Thereafter, collection activities will be pursued by the relevant department/agency and/or the Department of Justice, with regular updates provided to [Finance] for updating its dishonored checks database," the response stated.

Finance explained that the "Tele Check Service eliminates the check writing privileges of those who issue bad checks." It also indicated that Tele Check will be supported by the Government's ERP system, which has incorporated a Customer File feature that allows all Government collectors to access information on dishonored checks and their issuers.

V.I. Inspector General's Comments

The response given by Finance requires that we explain (or restate) our position regarding the status of the recommendations put forth in the original report, particularly the recommendations made to Finance. In Finding 1, we recommended that Finance "Document and properly authorize any changes to the existing check collection procedures detailed in the Revenue Manual as they relate to the collection of the dishonored checks and ensure that all departments and agencies are aware of the changes." Our recommendations specifically addressed dishonored checks collection procedures and did not require the revision of the entire Revenue Manual.

As noted, the objective of our follow-up review was to determine whether the Government implemented the recommendations made in the original report and made improvements in its accounting and collection activities. Our review found that the Government's accounting and collection of dishonored checks were ineffective, primarily due to non-implementation of the recommendations and corrective measures that had been proposed by the Government in its consolidated responses made in the June 2008 report. The Government's corrective measure essentially entailed comprehensively updating the Revenue Manual by means of the creation of a Dishonored Checks Task Force. The consolidated response further stated that the revised manual would be distributed to the departments/agencies. As a result, we resolved the recommendation, pending the submission of: (i) additional information confirming implementation of the planned corrective measures; (ii) a copy of the revised Revenue Manual; and, (iii) a copy of the notification given to the departments and agencies.

Our review found that the manual had not been revised, nor, at the very least, had Finance stepped up collection efforts on outstanding dishonored checks due to its failure to implement collection procedures. During our review, had we observed or had been provided with evidence of the development, distribution, and successful implementation of updated collection policies and procedures for addressing dishonored checks, we would have duly noted this in our follow-up report, whether or not the entire Revenue Manual was revised.

In its response to this report, Finance attached Statement of Policies and Procedures #122 (for dishonored checks) which had been distributed to departments/agencies via memorandum dated June 27, 2012. We are pleased that the department has updated and distributed its collection policies and procedures. However, we note that Finance distributed the updated policies and procedures several weeks after the issuance of our official draft report and our exit conferences with the other audited government entities. Despite our repeated attempts to schedule an exit conference with Finance officials, they did not respond to our requests. Exit conferences allow auditees the opportunity to discuss preliminary draft report findings and recommendations, and to address any factual concerns or issues they may have with the report. Had Finance officials met with us and had provided the updated statement of policies and procedures at that time, we would have given the department credit for this initiative in the official draft report.

Our position regarding the status of the Finding 1 recommendations remains open. We require evidence of the adequate implementation of the updated policies and procedures.

FINDING 2: COLLECTION EFFORTS

The prior audit determined that collection efforts by departments and agencies were inconsistent and needed improvement. Government departments and agencies had not aggressively, nor effectively pursued the collection of dishonored checks, nor had they adequately maintained a record of the status of checks returned to them for collection. As a result, at least $3.5 million in outstanding dishonored checks remained uncollected.

In addition, Internal Revenue, having separate revenue collection responsibilities from Finance, did not establish an effective process to collect, control and account for the collection of dishonored checks. Beyond the initial demand letter sent to taxpayers of dishonored checks, Internal Revenue did not follow-up, nor refer outstanding checks for further collection action. The Internal Revenue Manual did not contain a step by step collection process for employees responsible for initiating contact with the offending taxpayer, nor did it indicate a time period for the taxpayer to honor the dishonored check or a referral process to be used if the taxpayer does not respond.

The prior audit report recommendations for Finding 2 were individually addressed to the Commissioner of Finance and the Director of Internal Revenue.

Recommendations to the Commissioner of Finance

Recommendation 2.1 - Ensure that any revised policies and procedures for the handling of dishonored checks are documented and disseminated to the various departments and agencies.
Recommendation 2.2 - Ensure that all employees from departments and agencies responsible for the collection of dishonored checks follow the established procedures when collecting on dishonored checks.

The Governor's response to the prior audit report indicated that the revised Revenue Manual would be disseminated to all departments and agencies responsible for the collection of revenues. In addition, the Revenue Manual would include a section of "follow-up" procedures to ensure that collection procedures are followed. Finally, each department would be responsible for providing Finance with regular updates on the status of collection activities.

In the prior audit report, we considered the recommendations addressed to Finance resolved, but still open because we required that the agency provide us with a copy of its revised Revenue Manual and a copy of the notification given to the departments and agencies.

Follow-up Review Results – Finance

As noted, our follow-up review found that Finance did not update its Revenue Manual as the Governor indicated would be done in the prior audit report response. We also found that the absence of "follow-up" procedures promoting uniformity in agencies' collection requirements and activities contributed to the agencies continuing to use varying procedures for the collection

of revenues from dishonored checks. For instance, these collection procedures variances were noticeable from our review of the collection policies and procedures of the Lieutenant Governor's Office, Licensing, Finance and Government Insurance.

- ✓ The **Lieutenant Governor's Office** manual provides several options for handling the collection of dishonored checks, such as calling and sending demand letters, but does not provide criteria regarding the timeliness of specific collection activities. The manual also includes provisions for an Alert List to prevent repeat offenders and lists penalty fees.

- ✓ **Licensing** issued written procedures after the start of our review. These procedures provide step-by-step actions and address the timeliness of each action. The procedures state that a Dishonored Check List should be maintained and posted for Licensing employees to see. The procedures also state that penalty fees should be displayed, but does not list what these fees are.

- ✓ **Finance** and **Government Insurance** did not have any written policies or procedures; however, employees stated that they send demand letters to offenders.

Since Finance did not track the status of the checks it had transmitted back to departments, they could not determine how many of the dishonored checks were still outstanding at any given time and could not determine if the collection procedures in place at each department were effective. Also, not knowing the status of these checks meant that Finance could not be aware that some checks that were supposed to have been transmitted back to departments or agencies were never recorded or received by the department or agency.

Of the 30 dishonored checks we tested, totaling $92,870, we found that there were three checks, totaling $46,859, for which the department had no record of receiving. We could not determine whether Finance failed to send the checks back to the department or the department had lost track of the checks. Regardless of why these checks were omitted from the department's dishonored checks records they went unnoticed because Finance was not monitoring the status of these checks.

Recommendations to the Director of Internal Revenue

Recommendation 2.3 - Revise the existing written procedures for the handling of dishonored checks to provide a more detailed step-by-step process. Ensure that the procedure includes the steps to be taken when taxpayers do not respond in a timely manner to the initial demand letters.
Recommendation 2.4 - Ensure that the excel spreadsheet database is accurate and updated on a regular basis so that an accurate status of the collection process can be known at all times.
Recommendation 2.5 - If there are discrepancies between Document Transmittals from Finance and actual dishonored checks received, ensure that there is a documented attempt to reconcile differences.
Recommendation 2.6 - Step up efforts to collect on the outstanding dishonored checks.

In the prior report response addressing proposed improvements to Internal Revenue's collection efforts, the Governor stated that revised collection procedures would be developed to provide a step-by-step process to be used for the processing and collection of dishonored checks. In addition, Internal Revenue would ensure that the database was current and updated so that an accurate status of the collection process could be known at all times.

The revised procedures would also require Internal Revenue to compare Finance transmittals to actual receipts to ensure that all dishonored checks were accounted for. Finance would immediately be notified if any discrepancies were found.

Finally, as incorporated in the revised collection procedures and in accordance with requirements established by the Internal Revenue Code, stepped-up efforts would be implemented to ensure timely collection on dishonored checks. All changes and revisions were supposed to be completed by July 31, 2008.

In the prior report, although we considered the proposed corrective measures acceptable, we required a copy of Internal Revenue's revised collection procedures to close the recommendations addressed to the agency.

Follow-up Review Results – Internal Revenue

During our follow-up review, we found that Internal Revenue had only partially implemented the recommendations. The agency implemented a standard operating procedures manual for dishonored checks on March 18, 2009, which provides step-by-step collection activities for the first 60 days a check is outstanding, after which the Internal Revenue Code manual is to be used. Although these procedures were implemented, collection activities had not increased.

We also found that Internal Revenue and Finance records, which accounted for the statuses of dishonored checks transmitted to Internal Revenue, differed by 232 checks totaling $605,187. Finance's records showed that 1,069 dishonored checks, totaling $2,966,313, were transmitted to Internal Revenue; however, Internal Revenue's listing for the same period only showed it received 837 dishonored checks, totaling $2,361,126. Despite the differences in records, an Internal Revenue official said that the agency had not reported any discrepancies between document transmittals from Finance and actual dishonored checks received by the Internal Revenue during the follow-up review scope period. Finance confirmed that it had not received any reports documenting discrepancies on the dishonored checks listings transmitted from Finance to Internal Revenue.

We also found that Internal Revenue's listing was incomplete in that key information for the dishonored checks was not listed. For instance, the listing did not have the return date for seven dishonored checks valued at $8,611. Also, there were several instances in which either the amount paid on the dishonored checks or the date of the payment was missing. As a result, we were not sure whether these transactions were completed or if the data entry was just incomplete.

Our review of Internal Revenue's dishonored checks listing also found that the agency had not followed established procedures for collecting on outstanding dishonored checks. Although first demand letters were sent to most offenders, second demand letters were not sent to any of the offenders. This happened even though their standard operating procedures manual requires that a second letter be sent between 30 and 60 days after a dishonored check is returned to the agency.

We were also informed by an official at Internal Revenue that the agency was not referring any cases to its Criminal Investigations Unit or to Justice for enforcement and collection. The official explained that cases were not referred to Justice because Internal Revenue was informed by Justice that there was no one assigned to pursue these cases and that Justice did not want to pursue low dollar amount cases. A threshold defining low dollar amounts was not provided by Justice to Internal Revenue.

Position on the Status of the Recommendations

Based on our review, the recommendations addressed to Finance remain open because Finance has not officially revised and issued its Revenue Manual. Although simply revising the manual does not necessarily guarantee improvements in the Government's collection efforts of dishonored checks, it would be, as we noted earlier, an adequate start. The varying and, in some cases, noncompliant revenue collection procedures used by departments and agencies urgently require that the manual be revised and that Finance periodically verify compliance with their procedures.

Internal Revenue's partial implementation of the recommendations has resulted in some recommendations remaining open. We acknowledge the agency's revision of its internal collection policies and procedures (Recommendation 2.3). However, the agency failed to: (i) ensure that its database was accurate and updated (Recommendation 2.4); (ii) reconcile differences between Finance transmittals and actual checks received (Recommendation 2.5), a step which requires implementation of the previous recommendation; and, (iii) step-up efforts to collect on the outstanding dishonored checks (Recommendation 2.6). Our review results showing a $605,187 undiscovered difference between Internal Revenue and Finance's dishonored checks records and Internal Revenue's failure to follow its own procedures in mailing out second demand letters support our position.

Department of Finance's Response

In its response Finance indicated that it did not fully concur with our position on the status of the Finding 2 recommendations. It reiterated that revision of the entire Revenue Manual was not required to address the matter of dishonored checks. The department again made reference to and briefly explained the application of its updated statement of policies and procedures for handling dishonored checks.

V.I. Inspector General's Comments

Please read our Finding 1 comments to the response given by Finance concerning our position on the recommendations. Our Finding 1 comments are applicable to the above Finance response.

V. I. Bureau of Internal Revenue's Response

Internal Revenue indicated concurrence with our position on the status of the recommendations. The response indicated that the department has restructured its procedures for collecting on the outstanding checks. An initiative will involve assigning a dedicated employee to manage the daily operations of the dishonored checks process to ensure accurate updating and maintenance of the database. Changes to the process will include revising the existing database to clearly identify outstanding payments, immediately reversing the payments, and mailing, within 10 days of receiving notification from Finance, a 30-day demand letter to the taxpayer.

Internal Revenue added that the dedicated employee will be assigned to validate the accuracy of dishonored checks transmittals received from Finance by verifying that all checks are accounted for. If there are discrepancies, the agency will endeavor to reconcile any differences within a target period of 5 days through direct contact at Finance.

Internal Revenue indicated that its restructured procedures allow the agency to become more proactive and aggressive in collecting outstanding checks. As a follow-up to the demand letter, the agency will make at least two telephone calls to the taxpayer within 30 days of mailing the letter. If the taxpayer does not make payment within the 30-day period, the Delinquent Accounts and Returns Branch will use collection tools, such as placing liens and seizing properties, to collect on outstanding dishonored checks. The response noted that Tax Clearance Letters are not issued to nor Excise shipments cleared for taxpayers with outstanding checks. Referrals will be made to Justice for legal action to be taken on taxpayers from whom Internal Revenue is not able to collect.

V.I. Inspector General's Comments

We consider the corrective measures taken by Internal Revenue to be acceptable. However, we require a copy of the revised procedures and evidence of their adequate implementation.

FINDING 3: ENFORCEMENT

The previous audit found that departments and agencies did not always collect penalties when collecting on dishonored checks. Also, Finance and Internal Revenue did not refer issuers of dishonored checks to Justice on a consistent and timely basis. The last recorded date of checks being referred to Justice by Finance for action was in Fiscal Year 2000. There was no record of referrals from Internal Revenue to Justice.

In addition, Justice did not aggressively pursue referrals from Finance, nor did they track the status of the referrals. Justice had 962 dishonored checks valued at $497,240, all dated between 1980 and 1999, for which no action had been taken. The last record of action on dishonored checks taken by Justice was in Fiscal Year 2005.

Prior report Finding 3 recommendations were individually addressed to the Commissioner of Finance and Attorney General and were as follows:

Recommendations to the Commissioner of Finance

Recommendation 3.1 - Ensure that departments and agencies are aware of, and collect the penalties and fees as detailed in the 1999 Finance Memorandum. If penalties and fees are waived, the justifications should be fully documented.
Recommendation 3.2 - Update the current collection procedure, in conjunction with Justice, to address the issue of dishonored check issuers who do not respond to requests by departments and agencies to collect on the dishonored checks.
Recommendation 3.3 - Initiate collection efforts in a timely and consistent manner.
Recommendation 3.4 - Maintain documented control of the status of the enforcement efforts to collect on dishonored checks.

The response indicated that once the Revenue Manual was revised, all recommendations made to the Commissioner of Finance would be addressed. With a "Debtor Tracking Database" maintained by Finance, all revenue collection activities would be monitored by Finance.

In our prior report comments, we considered the recommendations addressed to Finance resolved, but not implemented until presentation of evidence that the Revenue Manual had been revised.

Follow-up Review Results - Finance

Our follow-up review found that in addition to Finance not updating its dishonored checks collection policies and procedures, it did not adequately notify departments and agencies of the required penalty fees for dishonored checks. Additionally, Finance did not take any steps to ensure the timeliness of collection efforts. Although officials at Finance said that departments and agencies were supposed to report the status of their collections to Finance on a monthly basis, Finance could not provide any policy stating this requirement and officials at Finance said

that they did not receive any status reports during the entire scope of our review, October 1, 2009 to May 31, 2011.

During our testing of 30 dishonored checks, we found that not all collectors or persons handling dishonored checks were aware of the required penalty fee. Although some employees handling dishonored checks knew the appropriate fees, some did not know about the additional penalty for checks over $1,000 and others did not know about the penalties at all.

Finance had not set a standard policy to ensure the timeliness of dishonored check collection activities. Our test of the 30 dishonored checks found that from the date of the bank debit advice notice it took between 5 to 69 days for Finance to record dishonored checks in the ERP system and between 7 to 55 days to transmit the dishonored checks back to the department or agency for their collection action.[2] In more than half of these cases, it took more than 30 days to transmit the dishonored checks to the departments or agencies. Additionally, there was no policy in place regarding timeliness of dishonored check collection activities once a check was sent to the department or agency.

Finance also failed to set up a system to track the status of collection activities for dishonored checks. Without a system of tracking the status of dishonored checks, Finance could not determine the timeliness of collections efforts or whether appropriate penalties were being charged for all dishonored checks.

Recommendations to the Attorney General

Recommendation 3.5 - Establish a function within Justice to enforce, in a timely and effective manner, Title 14 Section 835 of the Code and other applicable laws for the collection of dishonored checks. The initial efforts should be of abusive issuers of dishonored checks.
Recommendation 3.6 - Establish a procedure to document referrals of dishonored checks from Finance and Internal Revenue.
Recommendation 3.7 - Take steps to promptly notify Finance and Internal Revenue of the status on collection efforts by Justice.

In the prior report's response, the Governor indicated that Justice would "develop a collection procedure to address issuers who do not respond to departments and agencies initial collection efforts." The Governor also stated that the Attorney General was committed to the establishment of a "Government Debt Collection Unit" to actively pursue issuers of dishonored checks and that emphasis would be placed on repeat offender and blatant abusers.

[2] In this report, the acronym "ERP," refers to the Virgin Islands' Enterprise Resource Planning system. The ERP is a centralized computerized system which links Government agencies to accounting and financial management information.

In our prior report comments, we considered the recommendations addressed to Justice resolved, but not implemented until the agency had provided documentary evidence showing that it had established internal procedures for the timely and effective collection and enforcement of dishonored checks.

Follow-up Review Results - Justice

Our follow-up review disclosed that Justice did not implement any of the recommendations. The agency did not assign staff or establish any written procedures for the timely and effective enforcement of the collection of dishonored checks. A Justice official believed that no action had been taken on "boxes" of outstanding dishonored checks that had been referred to Justice prior to our review. The official also believed that no dishonored checks had been referred to Justice from any department or agency during the scope of our review. Officials from the Internal Revenue, Finance, the Lieutenant Governor's Office, Government Insurance, and Licensing confirmed to us that they had not referred any cases of dishonored checks to Justice.

Position on the Status of the Recommendations

The recommendations to Finance remain open because they were not implemented. Finance did not ensure that departments were adequately notified about penalty fees' requirements and amounts for dishonored checks. In addition, we saw no evidence that collections were timely and consistent and that Finance ensured that departments provided regular reports of the status of their collection efforts. The Revenue Manual, which is foundational to improving accounting, collection, and enforcement activities, was not revised.

The recommendations made to Justice also remain open. We take this position because, as noted, Justice did not implement any of the recommendations. The agency had not established any written procedures for the timely and effective enforcement of the collection of dishonored checks. In addition, Justice officials had not even taken action on "boxes" of outstanding dishonored checks that had been referred to the agency before our review.

Department of Finance's Response

In its response, Finance made reference to a memorandum dated July 2, 2012, which it said had been disseminated to all department/agencies, reminding them of the penalty fees requirements and amounts for dishonored checks. Finance stated that Statement of Policies and Procedures #122 made provision for departments/agencies to submit regular report updates to Finance summarizing the status of their collection efforts.

In concluding its response, Finance again indicated that it was not in full agreement with our position on the recommendations, stating that full revision of the entire manual was not required to address the dishonored Checks issue.

V.I. Inspector General's Comments

The government-wide distribution of the memorandum presenting the penalty fees requirements and amounts for dishonored checks was an acceptable action taken to reacquaint departments/agencies with the rules for the correct application of penalty fees. Ensuring the collection of the fees is just as important. The proposed corrective measure requiring regular report submissions by departments/agencies which summarize the status of their collection efforts is a good start. However, Finance must ensure that these reports are submitted as required and that thorough evaluations of provided information are done. Proper evaluations will aid in identifying the dishonored checks that should be referred to Justice. Justice indicated that referrals had not been made to the department as of January 2007.

To satisfy the recommendations, we require documentation confirming adequate implementation of the measure calling for regular progress reporting by departments/agencies.

Regarding Finance's position on the revision of the Revenue Manual, we have addressed this in our Finding 1 comments to the response given by Finance.

Department of Justice's Response

Justice did not indicate whether it agreed with our position on the status of the recommendations. However, the response noted that Justice's application of enforcement measures for collecting on dishonored checks is predicated on receiving referrals from departments/agencies…and no referrals were made to Justice as of January 2007. The response also noted that "the current Attorney General cannot speak of actions or inactions prior to 2007; however, [Justice] has established a procedure for handling referred dishonored checks." Reference was made to an attached memorandum dated July 6, 2012, which was addressed internally to the chief of the Civil Division and the Chief Deputy Attorney General. The memorandum detailed the procedure for addressing dishonored checks referrals.

The response stated the Attorney General planned to create a collection unit within the Civil Litigation Division but could not do so because of a staffing shortage directly linked to a Government hiring freeze which took effect going into Fiscal Year 2009 due to the impacting economic downturn. It was stated that establishing a collection unit required hiring additional attorneys, and this could not be done because of the hiring restriction. The seven attorneys working in the Civil Litigation Division could not be reassigned to handle collection of dishonored checks because of their demanding workload. They were tasked with defending the Government in hundreds of lawsuits.

The response indicated that once referrals are made to Justice for prosecution of repeat offenders, they will be prosecuted for violating Title 14, Section 835, of the Code. The response further stated, "However, Justice cannot be expected to prosecute every person who (or entity that) issues a dishonored check to the Government, regardless of the amount. To do so would certainly clog up the criminal justice system and burn out the staff." A memorandum, dated July 6, 2012, which was addressed to all agency heads summarizing procedures for referring

dishonored checks to Justice, was attached with the response.

V.I. Inspector General's Comments

Justice's creation and distribution of the procedure memoranda help to satisfy the recommendations which called for establishing procedures to document receipt of dishonored checks referrals and to notify Finance or Internal Revenue of the progress of the department's collection efforts. These procedures, however, must be adequately implemented in order to maximize any enforcement efforts by Justice. In the response, Justice related that the department could take no action to collect on dishonored checks because of a staffing shortage and because no referrals had been made to the department. While we understand the challenges these issues presented, our review found no evidence that action had been taken on any of the outstanding dishonored checks already stored in boxes at the department. Audit and review results showed that the department's inaction in addressing dishonored checks referrals ranged from Fiscal Year 2006 through May 31, 2011, covering 6 fiscal years. While we understand that the current Attorney General "cannot speak of actions or inactions prior to 2007," our audit and follow-up review looked at the effectiveness of the department's processes as a whole for the collection of dishonored checks.

Justice stated, "[It] cannot be expected to prosecute every person who (or entity that) issues a dishonored check to the Government, regardless of the amount. To do so would certainly clog up the criminal justice system and burn out the staff." Our position is that decisions concerning who should or will be prosecuted are left to the discretion of Justice. Our first recommendation to the Attorney General called for the department to focus its initial efforts on abusive issuers of dishonored checks. Our recommendation offered a targeted and efficient approach to pursuing collection on the dishonored checks, despite any staffing or other challenges.

To close the recommendations, we require documentation confirming adequate implementation of the procedure memoranda.

FINDING 4: REPEAT OFFENDERS

In our prior report, we found that the Government had not implemented a system to identify and take action against individuals or businesses who had issued more than one dishonored check to the Government. In Fiscal Years 2005 and 2006, there were 21 individuals or businesses who issued more than one dishonored check. The total value of these dishonored checks was more than $286,000.

The recommendations, from Finding 4 of the prior report, were addressed to both the Commissioner of Finance and Director of Internal Revenue and were as follows:

Recommendation 4.1 - Develop and implement a system to monitor the activities of individuals and businesses who repeatedly issue dishonored checks in payment of Government obligations.
Recommendation 4.2 - Prepare and maintain an updated list of individuals and businesses that have issued dishonored checks to the Government, especially repeat offenders, and make the list available to all Government collectors.
Recommendation 4.3 - Inform the collectors that only cash, money orders, certified checks or approved credit cards, would be accepted from these individuals and businesses.

The Governor's response indicated that a "Debtor Tracking Database" would be established to monitor repeat offenders. Once identified, collectors would be notified not to accept checks from the offender for a one year period.

In our prior report comments, we considered the Government's responses sufficient to resolve the recommendations, but required documentary evidence of the implementation of the system established to monitor the activities of repeat offenders.

Follow-up Review Results

Our follow-up review found that Finance and Internal Revenue did not implement the recommendations. They did not create a universal system to monitor the activities of repeat offenders. As such, offenders are able to write multiple dishonored checks to the same or various departments and agencies. Additionally, neither Finance, nor Internal Revenue, created a policy to direct individual departments and agencies on how to identify and handle repeat offenders. As a result, the number of repeat offenders increased as well as the total value of checks written by these offenders. However, some departments and agencies maintain their own list of individuals and businesses who issued dishonored checks to their department or agency to help prevent acceptance of more checks from these offenders.

We reviewed the list of dishonored checks that Finance transmitted to departments and agencies during October 1, 2009 to May 31, 2011, which totaled 1,519 dishonored checks valued at $3,261,814. Of that amount, we found 791 dishonored checks totaling $1,221,100, were

written by 234 repeat offenders. There was one offender who wrote 60 dishonored checks totaling $1,965, which included 59 to Internal Revenue and one to Fire Services. Other examples include offenders who wrote:

- ✓ 22 dishonored checks for $22,970; 20 to Internal Revenue and 2 to Licensing
- ✓ 15 dishonored checks for $8,246 to Internal Revenue
- ✓ 8 dishonored checks for $1,680 to Planning and Natural Resources
- ✓ 7 dishonored checks for $15,809; 3 to Internal Revenue, 3 to Government Insurance and 1 to Property and Procurement
- ✓ 5 dishonored checks for $1,481: 2 to Licensing, 2 to Planning and Natural Resources and 1 to Fire Services
- ✓ 3 dishonored checks for $6,002: 2 to Lt. Governor and 1 to Internal Revenue.

Position on the Status of the Recommendations

Finance and Internal Revenue's failure to implement a system to monitor the activities of repeat offenders has allowed control breaches in the Government's accounting, collection, and enforcement activities to persist. These breaches have negatively impacted the revenues of the Government. As a result, the recommendations addressed to these agencies remain open.

Department of Finance's Response

The response stated the following, "The Tele Check Service eliminates the check writing privileges of those who issue bad checks. However, this will be backed up by utilization of the Enterprise Resource Planning (ERP) Customer File feature…, which will maintain information regarding the issuer of dishonored checks that can be accessed by the all [Government] Collectors."

V. I. Bureau of Internal Revenue's Response

Internal Revenue indicated that it will "establish procedures to identify repeat offenders. Once three checks have been dishonored from the same taxpayer, the taxpayer will no longer be allowed to utilize checks as payment for taxes. Only cash, bank checks, money orders and credit cards will be accepted by the [Internal Revenue's] offices. A list of the repeat offenders will be circulated among Internal Revenue employees on a monthly basis to ensure that all employees are aware of the repeat offenders."

V.I. Inspector General's Comments

To close the recommendations which were both addressed to the Commissioner of Finance and the Director of Internal Revenue, we require documentation confirming adequate implementation of the proposed corrective measures.

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

Sincerely,

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

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

July 6, 2012

Honorable Steven G. van Beverhoudt
Inspector General of the Virgin Islands
Office of the Inspector General
2315 Kronprindsens Gade No. 75
St. Thomas, Virgin Islands, 00802

Dear Inspector General van Beverhoudt:

First, let me express my appreciation for the extension granted until July 6, 2012 for a response to the "Follow-up Review of Recommendations Made in the Audit of the Accounting and Collection of Dishonored Checks" (LR-02-39-12, Issued: May 25, 2012). My administration appreciates your assistance in this endeavor and proffers the following response.

The Letter Audit Report addresses the four (4) findings from a June 2008 audit report (Scope: checks for Fiscal Years 2005 and 2006) and pertains to three departments/agency. The Government of the Virgin Islands (GVI) supports the importance of the continuity of procedures and measures to reduce and address dishonored checks; however, GVI is not in full concurrence with the position of the V. I. Office of the Inspector General (OIG) on the status of the recommendations. Reference should be made to Exhibit I (attached), which serves as GVI's response to the follow-up review of the prior audit. Additional supporting comments germane to the May 25th report follow.

The Department of Finance (DOF) has made tremendous strides in upgrading its record filing and retention policies and practices. This has been aided by the digitization of many of the department's physical records by optical scanning. Further, while DOF's antiquated work environment has been a hindrance to optimal records retention and management, this too is currently being addressed. Just last month, a contractor commenced a months-long renovation project funded by more than $1.5 million in bond proceeds. This will completely modernize much of DOF's physical premises, particularly the original and historic part of the complex.

It is over-reaching to extrapolate and conclude that "the Government could not properly account for nor ensure the collection of more than $3 million in dishonored checks it had received during the review scope period", based on a judgment sample of 30 dishonored checks valued at $92,870 (out of a population totaling $3.3 million), since just 2 checks totaling $7,394

were not included in the listing provided by Finance. This limited testing, whether or not the OIG attributes it to the alleged "disorganization" is not sufficient to fairly represent a reasonable basis for the findings and conclusions.

The Draft Letter Audit Report also gives short shrift to DOF's introduction of the Tele Check System to all GVI Collectors. This is a seminal development that addresses the issue of dishonored checks on the front end, as opposed to the more labor intensive and costly back end. Moreover, it shifts the credit risk and collection responsibility from the V. I. Government to Tele Check, which guarantees GVI that all payments it approves will clear the check issuer's financial institution.

Tele Check was introduced in FY 2010 and largely accounted for a precipitous 42% decline in the number of dishonored checks received by the V. I. Government between FY 2009 and FY 2011. And, this is before full implementation of Tele Check by the Bureau of Internal Revenue – the V. I. Government's single largest revenue collector – which continues to work aggressively to address any impediments to this upfront process.

The Department of Justice (DOJ) has established and will share the policy and procedure for the collection of dishonored checks with the OIG; however, it did not have sufficient staff, due to the hiring freeze, to establish the "Government Collection Unit". DOJ's policy has an internal as well as an inter-agency component. It includes provisions for the prosecution of repeat offenders, and also for offenders who issue checks for large amounts that are dishonored by the banks for Insufficient Funds.

The Departments of Finance and Justice and the Bureau of Internal Revenue are committed to proactively ensure the continuity and/or the implementation of updated measures to address the issue of dishonored checks for the Government of the Virgin Islands. They will work as a team in this endeavor, with a preference for eliminating dishonored checks upfront (rather than having to account for them after-the-fact), and leveraging the use of available services and technologies to streamline the workflows and accomplish this goal. In an era of reduced budgets and fewer human resources, this is the optimal approach to take. Tele Check, with its guarantee service is the linchpin of GVI's strategy for addressing dishonored checks and is rapidly enabling us to do exactly that.

To reiterate, thank you for the OIG's follow-up review of the dishonored check audit. GVI's commitment to enhancements and improvements in government overall, is unwavering. Should you have any additional questions or comments, please do not hesitate to contact my office at 774-0001.

Sincerely,

John P. de Jongh, Jr.
Governor

Exhibit I

Government of the Virgin Islands Response to the
Follow-up Review of Recommendations Made in LR-02-39-12
"The Audit of the Accounting and Collection of Dishonored Checks"

Finding No. 1: Accounting for Dishonored Checks

Department of Finance (DOF or "Finance")

DOF does not fully concur with the Office of the Virgin Islands Inspector General's (OIG) position on the status of the recommendations. The matter of dishonored checks does not require, nor should it wait upon revision of the entire Revenue Manual. DOF has issued Finance Memorandum No. 013-2012 (Attachment I), which disseminated Statement of Policies and Procedures (SOPP) #122 (Attachment II). It provides guidance from the point that a check is returned to the Department of Finance by a financial institution to the point that said check is referred to the Department of Justice for legal action.

The Department of Finance will convene an Enforcement Task Force comprised of all Government of the Virgin Islands (GVI) departments/agencies with Collectors, and the Attorney General Office, for a limited duration (e.g. six months), to reconcile and come to an agreement on what dishonored checks are actually outstanding. Thereafter, collection activities will be pursued by the relevant department/agency and/or the Department of Justice, with regular updates provided to DOF for updating its dishonored checks database.

The Tele Check Service eliminates the check writing privileges of those who issue bad checks. However, this will be backed up by utilization of the Enterprise Resource Planning (ERP) Customer File feature (discussed in SOPP #122), which will maintain information regarding the issuer of dishonored checks that can be accessed by all GVI Collectors.

Responsible Party: Commissioner of Finance – DOF

Implementation Date: June 27, 2012 and on-going (SOPP #122)

Due Date: August 15, 2012 (Enforcement Task Force)

Finding No. 2: Collection Efforts

Department of Finance

DOF does not fully concur with the OIG's position on the status of the recommendations. The matter of dishonored checks does not require, nor should it wait upon revision of the entire Revenue Manual. DOF has issued Finance Memorandum No. 013-2012, which disseminated Statement of Policies and Procedures (SOPP) #122. It provides guidance from the point that a check is returned to the Department of Finance by a financial institution to the point that said check is referred to the Department of Justice for legal action.

Responsible Party: Commissioner of Finance – DOF

Implementation Date: June 27, 2012 and on-going (SOPP #122)

Due Date: August 15, 2012 (Enforcement Task Force)

Bureau of Internal Revenue (BIR or "the Bureau")

BIR concurs with the OIG's position on the status of the recommendations. A dedicated employee will manage the day-to-day operations of the dishonored check process to ensure that the database is accurately updated and maintained. There will be several changes to the process, to include revising the present database to clearly identify outstanding payments, performing upfront reversal of the payments, and mailing one (1) 30-day demand letter to the taxpayer within a ten (10) day period, after receipt of the information from Finance.

The dedicated employee will be charged with validating the transmittal received, to ensure that all checks are accounted for. Discrepancies will be resolved immediately through direct contact at DOF, with an expected resolution time period of five (5) days.

The Bureau has restructured its procedures to become more proactive and aggressive in collecting the outstanding checks. At least two (2) telephone contacts will be made to taxpayers within 30 days of the demand letter. After 30 days, the Delinquent Accounts and Returns (DAR) Branch will utilize its collection tools (such as placing liens and seizing properties) to collect outstanding balances. Taxpayers with outstanding checks are not granted Tax Clearance Letters nor allowed to clear Excise shipments. Taxpayers from whom BIR is not able to collect will be referred to the Department of Justice for further action.

Responsible Party: Chief, Processing Branch – BIR

Due Date: July 31, 2012 and on-going

Finding No. 3: Enforcement

Department of Finance

DOF has disseminated a memorandum (Finance Memorandum No. 014-2012) to all departments and agencies, as a refresher, on the penalty fees requirements and amounts for dishonored checks (Attachment III).

Finance will ensure that departments and agencies provide regular reports on the status of their collection efforts, per SOPP #122.

DOF does not fully concur with the OIG's position on the status of the recommendations. The matter of dishonored checks does not require, nor should it wait upon revision of the entire Revenue Manual. DOF has issued Finance Memorandum No. 013-2012, which disseminated Statement of Policies and Procedures (SOPP) #122. It provides guidance from the point that a check is returned to the Department of Finance by a financial institution to the point that said check is referred to the Department of Justice for legal action.

Responsible Party: Directory of Treasury - DOF

Implementation Date: June 27, 2012 and on-going

Department of Justice (DOJ or "Justice")

The Department of Justice can only take steps to collect on dishonored checks when the matter is properly referred to DOJ. Justice is not sure where the break down may have occurred, but there were no referrals made to DOJ as of January 2007. The current Attorney General cannot speak of actions or inactions prior to 2007; however, DOJ has established a procedure for handling referred dishonored checks. The procedure (Attachment IV) includes notifying the source agency of the progress of the collection action and will be effective immediately.

While the Attorney General intended to establish a collection unit within the Civil Litigation Division that was not possible due to the shortage of staff. In 2008 GVI started to feel the effects of a downturn in the economy, which resulted in a hiring freeze going into the 2009 fiscal year. At that time DOJ had a Civil Litigation Unit with seven (7) attorneys. These attorneys were primarily occupied with defending the Government (GVI) in hundreds of lawsuits. It was difficult to pull these few attorneys and re-direct their efforts to a dedicated task of collection of dishonored checks. To establish a collection unit required additional staff to be brought in to the Department of Justice.

On the other hand, if dishonored checks are referred to the Department of Justice for prosecution of repeat offenders, DOJ would certainly prosecute such individuals and businesses for violation of Title 14, Virgin Islands Code (VIC), Section 835 (Attachment V – Memorandum No. 06-12). However, Justice cannot be expected to prosecute every person who (or entity that) issues a dishonored check to the Government, regardless of the amount. To do so would certainly clog up the criminal justice system and burn out the staff.

Responsible Party: Attorney General and Chief, Civil Division – DOJ

Due Date: July 9, 2012 and on-going

Finding No. 4: Repeat Offenders

Department of Finance

The Tele Check Service eliminates the check writing privileges of those who issue bad checks. However, this will be backed up by utilization of the Enterprise Resource Planning (ERP) Customer File feature (discussed in SOPP #122), which will maintain information regarding the issuer of dishonored checks that can be accessed by all GVI Collectors.

Responsible Party: Commissioner of Finance – DOF

Implementation Date: July 2010 and on-going (Tele Check)

Bureau of Internal Revenue

The Bureau will establish procedures to identify repeat offenders. Once three checks have been dishonored from the same taxpayer, the taxpayer will no longer be allowed to utilize checks as payment for taxes. Only cash, bank checks, money orders and credit cards will be accepted by the Bureau's offices. A list of the repeat offenders will be circulated among BIR employees on a monthly basis to ensure that all employees are aware of the repeat offenders.

Responsible Party: Chief, Processing Branch – BIR

Due Date: July 31, 2012