OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

ADMINISTRATIVE FUNCTIONS — LEGISLATURE OF THE VIRGIN ISLANDS

Office of Inspector General
U.S Department of the Interior

Office of the Virgin Islands Inspector General
Government of the Virgin Islands

November 28, 2011

The Honorable Ronald E. Russell
Senate President
Legislature of the Virgin Islands
P.O. Box 1690
St. Thomas, VI 00804

Re: Audit Report — Administrative Functions — Legislature of the Virgin Islands
Report No. VI-IN-VIS-0001-2010

Dear Senate President Russell:

This report presents the results of the audit of the administrative functions of the Virgin Islands Legislature (Legislature) performed jointly by the U.S. Department of the Interior Office of Inspector General and the Office of the Virgin Islands Inspector General. We found that the Legislature is not using sound business practices in its stewardship of public funds and resources, and that there is an absence of transparency, accountability, and documented procedure to prevent fraud, waste, and mismanagement. Specifically, there are a number of weaknesses related to improper use of allotted funds, such as cash advances and employee bonuses, procurement of goods and services, and security of sensitive equipment.

We offered 11 recommendations to which we requested your response. We appreciate your response to the draft report (Appendix 3) on September 25, 2011, and we are pleased that overall you agree with our recommendations.

We applaud your willingness to implement immediate change and we hope that you move quickly to codify policies and procedures regarding your internal stewardship of public funds. This will encourage more transparency and accountability within the Legislature of the Virgin Islands.

Based on your response, we consider 10 recommendations resolved but not implemented, and 1 recommendation is considered unresolved (Appendix 4). If you have any questions concerning this report, you may contact Steven van Beverhoudt, Inspector General for the Virgin Islands, at 340-774-33-88, or Hannibal M. Ware, Assistant Regional Manager for the U.S. Department of the Interior Office of Inspector General, at 703-487-8058.

Sincerely,

Mary L. Kendall
Acting Inspector General
U.S. Department of the Interior

Steven van Beverhoudt
Inspector General
Virgin Islands Inspector General

Table of Contents

Results in Brief 1
Introduction 2
  Objective 2
  Background 2
Findings 3
  Policies and Procedures 3
  Use of Allotted Funds 3
    Cash Advances 4
    Employee Bonuses 5
  Procurement Practices 6
    Contracts and Competition 7
    Internal Controls 8
    Tax Requirements 9
  Sensitive Equipment 10
    Inventory Control 11
Conclusion and Recommendations 13
  Conclusion 13
  Recommendation Summary 13
Appendix 1: Objective, Scope, and Methodology 18
  Objective 18
  Scope 18
  Methodology 18
Appendix 2: Prior Audit Coverage 20
Appendix 3: Virgin Islands Government Response 21
Appendix 4: Status of Recommendations 26
Appendix 5: Monetary Impact 28

Results in Brief

A number of highly questionable practices came to light during this audit regarding the Virgin Islands Legislature's (Legislature) stewardship of public funds. We attribute the serious deficiencies to an absence of formal policy and procedures as well as weak internal controls. The unregulated administration of public funds has led to a culture with almost no accountability and transparency, especially in areas such as the improper use of allotted funds, arbitrary procurement of goods and services, and inadequately secured sensitive equipment.

During our audit, we found—

- payment of cash advances to senators for travel with no verification that the travel actually occurred;
- awarding of bonuses to employees without written standards or justification of such awards;
- selection, approval, and payment of contracts without competition and internal controls, leading to overpayment and absence of documentation the work had been performed;
- no reporting to the IRS, leading to underpayment of tax receipts to the Government of the Virgin Islands; and
- absence of documentation for sensitive equipment, potentially leading to the equipment being misused, lost, or stolen.

Introduction

Objective

The purpose of this audit was to determine whether the Legislature conducted proper and effective stewardship of public resources, including appropriate allocation and spending of funds as well as the proper use and accounting of equipment. We performed this audit at the requests of both the incoming and outgoing senate presidents of the 28th Legislature, who felt that the audit could be a useful tool for improving the current system. This audit is a collaborative product of OIG and the Office of the VI Inspector General.

Background

The Legislature is one of three coequal branches of the Government of the Virgin Islands of the United States, with powers delegated by the Revised Organic Act of 1954. The Legislature operates under two districts, St. Thomas/St. John and St. Croix, and is headquartered in Charlotte Amalie, St. Thomas.

The Legislature, a unicameral body composed of 15 senators elected by popular vote for 2-year terms, adopts its own rules and procedures, establishes standing committees, maintains its own records, and elects its own officers. The senators enact laws subject to the veto power of the Governor. These laws must not conflict with any Federal rule or law or violate the Constitution of the United States.

Senators elect officers, including the senate president, who is responsible for managing the administrative duties of the Legislature. These duties include supervising and administering the internal affairs of all legislative offices, including hiring and firing central staff employees, approving contracts, and authorizing payments. Central staff employees are those who support the entire Legislature and are not assigned to a specific senator.

The Legislature's executive director manages day-to-day administrative functions, which are carried out by the central staff. Exceptions include hiring and firing central staff and approving Legislature contracts.

The director of business and financial management (business office director) manages the fiscal operations of the Legislature. The business office director approves contracts for financial sufficiency and authorizes payment of expenses.

Findings

We found that the Virgin Islands Legislature is not using sound business practices in its stewardship of public funds, including an absence of transparency, accountability, and procedure. Specifically, we found the legislature's policies and procedures to be fundamentally insufficient in providing the controls necessary to manage risk associated with fraud, waste, and mismanagement. We found that the poor control environment resulted in a number of weaknesses related to the use of allotted funds, such as cash advances and employee bonuses, procurement of goods and services, and security of sensitive equipment. Currently, the Legislature's entire travel, procurement, and payroll operations are governed only by a single undated and unsigned two-and-a-half page document.

Policies and Procedures

We found that the undated and unsigned two-and-a-half page document used by the Division of Business and Financial Management (business office) is considered an in-house "policy and procedures" guide for travel, procurement, and payroll. The document's cursory rules inadequately address what would normally be required to specify the acceptable use of public funds. It does not contain any specific or detailed rules and regulations and does not address appropriate approval and documentation to ensure accountability, transparency, and an open and fair selection process. Furthermore, the document is routinely disregarded by senators and legislative employees.

We contacted legislatures of other U.S. Territories and Nebraska, the only unicameral legislature in the United States, and found that, in contrast to the Legislature of the Virgin Islands, these legislatures have their rules and regulations publicly available in either their codes or regulations, or in legislative standing rules. As such, their legislatures were governed by more comprehensive rules to safeguard public funds and ensure transparency and accountability.

Without codified rules and regulations to govern the administrative functions of the legislative branch and ensure accountability and proper management, a culture has developed in the Legislature of the Virgin Islands that exposes public funds to the potential for fraud, waste, and mismanagement.

Use of Allotted Funds

We found major financial management weaknesses in the ways that senators and other legislative employees were allowed to obtain, use, and reconcile cash advances for travel and other purposes. For example, cash advances were issued to travelers who did not actually travel at all, to travelers who were allowed to pocket unspent portions of cash advances, and to travelers who obtained cash advances but did not submit expense reports or receipts as proof that the money was used for official government purposes.

We also found discrepancies in the way senators issued employee bonuses. Specifically, bonuses were issued to legislative employees without documented justification. We found no evidence that bonuses were based on performance or on any other objective criteria.

Cash Advances

The Legislature's in-house "policy and procedures" guide allows senators and legislative employees to receive cash advances for anticipated off-island travel expenses. Within 30 days of the conclusion of the trip, travelers must provide an expense report with supporting documentation. Any unused funds should be returned to the business office with the expense report, and if additional expenses were incurred, the traveler would be reimbursed. Our review of 133 cash advances totaling over $607,000 revealed that cash advances were routinely abused.

For instance, in December 2009, one senator received an $8,570 travel cash advance for travel originally scheduled for February 2010. We were unable to locate any supporting documentation indicating that travel occurred. We interviewed the senator, who told us that he rescheduled the trip and was keeping the cash advance in an off-island safety deposit box. We later determined that the trip was never taken and the money was never returned. After our repeated inquiries and a meeting with the senate president, the senator returned the money in June 2010.

We also found that over $9,000 was owed to the Legislature for 15 trips taken by travelers who pocketed unspent portions of their travel cash advances. In these instances, actual expenses were less than the cash advances issued, which left the travelers with monies to refund to the Legislature. These excess funds were never repaid and remain in the possession of these travelers, who were allowed to obtain untaxed and unreported income from the Legislature. After we brought this matter to the attention of the business office director, letters attempting to collect these funds were sent to only four out of the nine travelers for those trips. At the close of the audit, none of these senators had repaid their outstanding balances.

For example, a senator received a $6,650 cash advance on January 15, 2009. The senator only submitted receipts supporting $4,290. The senator failed to repay the $2,360 outstanding balance. The same senator received a cash advance in the amount of $4,000 on July 8, 2009. Based on our review of the expense report, only $1,470 was supported, resulting in an outstanding balance of $2,530 that had not been repaid by the close of the audit.

We spoke to the senator on July 19, 2010, about the outstanding balances he owed. The senator said that he was going to repay the money at the end of the month. At the close of our audit in December 2010, the combined balance of $4,890 was still outstanding.

Travelers routinely failed to submit expense reports and receipts as evidence to support their expenses. In fact, we found 41 instances where travelers received a total of $212,774 in travel cash advances and never provided supporting documentation. For example, a senator received an $11,330 cash advance for a trip to Brazil from April 1 to April 12, 2010. The senator submitted neither receipts nor expense reports to justify the expenses, but was allowed to pocket the entire amount.

The same senator received another advance for $8,285 for travel to Italy from April 22 to May 2, 2010. From April 12 to May 6, 2010, the legislature paid $4,338 for hotel bills and per diem payments for the senator's stay on St. Thomas. Although it is evident that the senator could not have been in St. Thomas and Italy at the same time, he was still allowed to keep the cash advance without submitting supporting documentation.

Over a 5-year period, a long-term senator received nine cash advances totaling over $25,000. During this time, the senator has never submitted an expense report with receipts.

Without supporting documentation, there is no proof that any trips occurred or that cash advances were not used for personal gain.

We found that the Legislature could issue cash advances to senators for purposes unrelated to travel. In one instance, a senator received 12 cash advance checks totaling $93,914 as payment to the Danish National Archives for research, scanning, reproduction, and translation of historic documents. The senator never submitted any receipts or invoices and never provided copies of the documents.

One of the 12 cash advance checks received by that senator on October 13, 2009, was for $27,636. We found that he cashed the check and deposited $9,050 into his niece's bank account to transfer to the Danish National Archives. According to the senator, the balance of $18,586 was placed in an off-island safety deposit box. As of January 19, 2011, the Legislature could not account for the use of the remaining funds and still did not have the historic documents.

As a result of our findings on cash advances, the senate president at the time issued a memorandum regarding stateside and international travel as well as per diem payments. The memorandum standardized a per diem rate of $100 for senators and $75 for legislative employees. Because of this memorandum, the Legislature stopped issuing unauthorized cash advances; however, the next senate president could disregard the memorandum because there are no codified laws to ensure that cash advances are not abused in the future.

Employee Bonuses

We also found that senators customarily issue annual bonuses to their individual staff members and central staff employees. These bonuses range from individual

bonuses of $100 to $10,500. From calendar years 2005 to 2010, more than $1.5 million in bonuses were issued.

The Legislature has no policies or procedures governing bonuses. Without policies, bonuses are issued without any written justification. We found no evidence of performance measures or appraisals on which to base bonuses. Senators write letters to the senate president stating that they want to give bonuses to their staff members from their personal or committee allotments. The Senate president initiates bonuses for central staff employees.

We found that the main purpose of bonuses is to provide employees with extra cash. One senator informed us that he went to great lengths throughout the year to save money from his allotment in order to divide what was left over among his employees as bonuses.

Recommendations

1. Codify and implement rules and regulations for travel expenditures. At a minimum, these rules and regulations should require:
    a) That all stateside and international travel arrangements are made through the Legislature's contracted travel agencies;
    b) A daily per diem rate for senators and employees; and
    c) That hotel expenses are centrally billed.

2. Recover outstanding cash advances from all past and present senators and employees for monies received and unaccounted for. Unrecovered cash advances should be reported to the Internal Revenue Bureau as taxable income.

3. Assign staff to act as reviewing officials to ensure that travel occurred and that travel receipts are reconciled to expense reports prior to authorizing reimbursements.

4. Obtain the historical documents from the Danish National Archives that were purchased with Legislative funds. Coordinate efforts with the Virgin Islands Planning and Natural Resources – Libraries Division to preserve these documents for future display and historical reference.

5. Codify rules and regulations that define how employee bonuses are awarded. At a minimum, those rules and regulations should ensure that bonuses are awarded uniformly based on merit and performance.

Procurement Practices

We found that the Legislature funded a number of major projects, such as building renovations and purchasing custom-made furniture and fixtures, without issuing contracts. In those instances where the Legislature issued contracts for

major projects, almost all were awarded without full and open competition. We also found that there are no internal controls to award, monitor, and approve payments for services provided to the Legislature. In addition, contracts were routinely issued to vendors without ensuring that the vendors met Government of the Virgin Islands (GVI) tax requirements.

Contracts and Competition

We found that the Legislature routinely hand-selected service providers for major projects. We reviewed 152 payments worth $1.7 million made to 35 vendors to evaluate the use of funds in the Legislature's capital account. We found that 20 of these vendors received payments totaling $1.1 million for major capital improvements without contracts or justification for their selection to ensure that the Government's interest was protected and that the integrity of the procurement process was preserved.

For example, one vendor, who was hand-selected by the executive director, was paid in excess of $409,000 to perform various services for the Legislature. These services included building customized mahogany doors, frames, railings, moldings and tables. No contract was issued for these services.

Another vendor hand-selected by the executive director was paid more than $272,400 for removing and installing tiles throughout the Capitol building and grounds. No contract was issued for these services.

We interviewed the executive director to determine why the Legislature did not practice fair and open competition and to learn his rationale in hand-selecting vendors. According to the executive director, he felt that the Legislature's building was in disrepair and needed to be fixed immediately so he bypassed the "red tape of bidding and contracting" in order to repair the building in a timely manner and to ensure quality workmanship. His selections were based solely on vendors' work he observed at other locations around the island.

Procurement policies and procedures are created to promote the economy and fair opportunities for businesses and tradesmen, as well as protection and reasonable pricing for the Government. The Legislature's practice of procuring services without competition left it vulnerable to paying inflated prices.

For example, during the renovations of the Capitol building, the Legislature paid $18.65 per square foot to install new glazed porcelain and coral stone tiles. We contacted the same company from which the tiles were purchased and obtained three quotes from local tiling experts for the installation cost of the same tiles. We found that the highest estimated cost for installation was $5 per square foot. The Legislature overpaid by $124,599 for the tile installation because full and open competition was not used.

Internal Controls

Segregating Duties

Compounding the issue of hand-selecting vendors was the absence of a clear segregation of duties in the Legislature's process for procurement of services for capital projects. Not only did the executive director personally select vendors, but he also initiated requests for payment, and in at least eight transactions valued in excess of $57,000, he approved invoices, certified that funds were available for payment, and signed the official check for payment.

In instances where contracts were issued, the executive director personally negotiated the contracts without any documented involvement from legal counsel and the senate president. For example, the executive director negotiated and signed a contract with a contractor for two carpenters at an hourly rate of $30 per employee plus a 25 percent contractor's overhead fee. One month later, the contractor submitted an invoice, which was signed by the executive director, indicating that the work was performed and accepted. The executive director then initiated the payment request, which he approved the same day. He then signed the check for payment for the requested amount of $9,975.

A fundamental element of strong internal control is the segregation of certain key duties, which serves to reduce the likelihood of undetected fraud, waste, and mismanagement.

Monitoring Contract Terms

We also reviewed a total of 78 employee contracts and professional service contracts worth $4.8 million and found that no one was assigned to monitor contract terms. As a result, the Legislature routinely made payments in excess of contract compensation terms without evidence that any services were performed.

For example, the Legislature issued a 1-year contract to an individual in the amount of $20,000. The primary purpose of the contract was to create a written strategic plan and propose legislative measures to address the health and welfare of the aging community of the Virgin Islands. We found, however, that the contractor received a total of $29,600, or $9,600 in excess of contract terms, because no one monitored the payments. No documentation exists that the contractor actually performed any work; no written strategic plan or proposed legislative measures were ever submitted. Although the contract specified written reports, according to the former senate president, all reports were verbal.

The Legislature issued a 1-year contract to an individual in the amount of $12,000. The contract was for the purpose of obtaining weekly written reports related to fishing concerns and for initiating legislative action to promote the fishing industry. We found that the contractor received a total of $19,500, or $7,500 in excess of contract compensation terms, because no one monitored the payments. Once again, no documentation exists that the contractor actually completed any work under the contract terms.

Additionally, in the absence of monitoring, contractors were allowed to receive payment for services that were never included in executed contracts. For example, in the contract for the two carpenters previously discussed, we found two invoices in which the Legislature was billed for three carpenters. No one at the Legislature recognized that $3,780 was paid for the extra carpenter.

Payments were also being made on expired contracts. For example, on June 4, 2009, a 1-year agreement was made with a storage facility to store legislative records for a monthly fee of $200 with late charges of $20. As of September 7, 2010, payments totaling $32,526 were paid although the agreement had expired. Moreover, although the contract was for one bin, we found that as many as 12 bins were being used. As of October 29, 2010, no record had been found of a current agreement for the usage of the 12 bins.

On June 1, 2009, a senator awarded a contract to a corporation to serve as a community liaison and communications coordinator from June 1 to December 31, 2009. The contractor was to be paid a total of over $16,150. After the contract expired it was never renewed, but the contractor continued to work at the senator's office. As of November 30, 2010, the contractor had been paid over $54,000, receiving $37,927 in compensation without a valid contract.

The Legislature’s failure to adequately monitor contracts creates an environment devoid of all checks and balances. There is no assurance that contracts are awarded, and payments made, in the best interests of GVI.

Tax Requirements

The Legislature did not always issue or file IRS Form 1099-MISC to report payments to contractors or to deduct required gross receipt taxes from payments made. As a result, GVI was unable to collect all tax revenues it may have been due—possibly more than $325,000. Moreover, the Legislature did not ensure that contractors complied with all laws for conducting business in the Virgin Islands. Specifically, officials did not request all professional contractors to provide current business licenses as required by the Virgin Islands Code to ensure that all tax requirements had been met.

The Virgin Islands Code requires the preparation and submittal of IRS Form 1099-MISC for all persons whose annual compensation totals $600 or more. A legislative official stated that the preparation and reporting of the Form 1099 – MISC only began during 2005, when a prior executive director required preparation and distribution of these documents. We found that the Legislature did not accurately and consistently prepare and issue required IRS Forms 1099-MISC for all contractors and service providers who received payments over $600. In fact, the Legislature failed to report $1.7 million in payments made to contractors and other service providers. Utilizing a conservative tax rate of 15 percent, GVI potentially lost $262,190 in tax revenues.

The Virgin Islands Code also requires a deduction of a 4 percent gross receipt tax from single payments of at least $30,000, or total payments of $120,000 or more on any contract. We found that the Legislature did not deduct the required 4 percent gross receipt tax from payments of $1.6 million made to contractors and service providers. GVI's potential loss was $64,000 in tax revenues.

In addition, the Legislature did not ensure that contractors comply with all laws for conducting business in the Virgin Islands. Specifically, officials did not request all professional contractors to provide a current business license, which is required under the code. Almost 70 percent of the professional services contracts reviewed did not have proof of a valid business license on file. Failure to request a current business license from all contractors encourages the non-payment of taxes because by law, all tax requirements must be met prior to the issuance of a business license.

Recommendations

6. Codify rules and regulations that govern the procurement process for the Virgin Islands Legislature. At a minimum, these rules and regulations should ensure that:
    a) Competitive selection is required and documented;
    b) Expenditure thresholds are established for written contracts;
    c) Contract payments are measured against contract terms; and
    d) Procurement duties are properly segregated.

7. Assign an employee or employees to maintain and monitor all contracts.

8. Request and obtain copies of current business licenses from all contractors performing services for the Legislature.

9. Follow the requirements of the Virgin Islands Code regarding the issuance of IRS Form-1099 MISC to all contractors and service providers. Copies should also be forwarded to the Internal Revenue Bureau.

10. Follow the requirements of the Virgin Islands Code regarding the deducting and reporting of gross receipt taxes for contractors and service providers.

Sensitive Equipment

The Legislature did not properly account for or safeguard sensitive equipment, such as laptop computers, monitors, cameras, and printers. Specifically, no controls were in place to ensure that all purchases of sensitive equipment were included on the Legislature's inventory lists. We found these lists—some of which were updated during our review—to be inaccurate or incomplete both before and after they were updated.

Inventory Control

We found that the Legislature's inventory control system was in much the same condition as during our audit 11 years ago. Our audit report from December 2000 noted that the Legislature's computerized inventory system did not contain accurate, current, and complete information on the condition, status, location, and cost of equipment, which created the potential for misuse of equipment.

Currently, the potential for theft or other misuse of equipment still exists because the Legislature has no controls in place to ensure that all purchases of sensitive equipment are included on the Legislature's inventory lists. Although purchases of sensitive equipment are supposed to be received by the procurement/inventory control staff, tagged with property identification numbers and added to the inventory list prior to distribution, this was not always the case.

We selected 120 purchase orders for sensitive equipment to determine if the equipment was tagged, was included on the inventory lists, and could be located on the premises of the St. Thomas/St. John and St. Croix legislative buildings. Of these purchases, the Legislature could not locate 49 items and there was no assurance that they were tagged or included on the inventory list. In addition, although we were able to locate 71of the items, 28 were never included on the inventory list. Because there was no identifiable record of these items in the inventory system, the removal of these items from the premises of the Legislature would be difficult or impossible to detect.

We selected all 1,206 of the pieces of sensitive equipment on the St. Thomas/St. John and St. Croix inventory lists and conducted a physical inventory with Legislature officials in an effort to find these items. We were unable to locate 352 of these items and were not provided with any evidence that the removal of these items had been documented or reported.

Acquisition and Distribution

Sensitive equipment was not received or distributed by the procurement/inventory control staff. Instead, it was received by other offices within the Legislature. The procurement/inventory control staff was either not notified or was notified after the equipment was delivered and installed.

Moreover, computers and related equipment were ordered by the Management Information System division (MIS). The computers and equipment would sometimes be received by the MIS, which configured and delivered the computers to their respective offices without documenting the receipt or distribution of the equipment. The MIS would also not inform the procurement/inventory control staff in writing so that the item's property identification numbers could be affixed and the items recorded in the inventory system. This process left computers and equipment at risk of being stolen without the procurement/inventory control staff being aware that the equipment was purchased or received.

When computers were received directly by the procurement/inventory control staff they were generally sent to MIS without being assigned a property

identification number and recorded on the inventory list. The computers were only assigned the identification numbers and included on the inventory list after they were configured and installed. Therefore, the receipt of computers by the procurement/inventory control staff did little to prevent the risk of computer theft. In addition, the procurement/inventory control staff did not consistently document the disposal, donation, or disappearance of sensitive equipment, creating inaccuracies in the inventory list. By failing to document and report missing equipment, the Legislature weakened its deterrence of theft of sensitive equipment.

For example, on December 28, 2006, the inventory control officer performed a physical inventory of a senator's office. The inventory disclosed that computer equipment was missing. After researching the disappearance of the equipment, the inventory control officer found that on two occasions, security guard logs reported things being moved from the senator's office just before the end of his term. The computer equipment was not returned even though the inventory control officer reported the loss to the former business office director.

On May 18, 2010, during our physical inventory at the same office, we noticed untagged computer equipment in the senator's office. Upon further inspection, we noticed that the property identification tag was removed. We later matched the serial number found on the equipment to the serial number on the written report that was sent to the former business office director and found that this was the same equipment that was missing 4 years ago.

Recommendation

11. Codify policy and procedures that provide controls over the acquisition, receipt, and movement of equipment bought with legislative funds. At a minimum, the policies and procedures should require that:
    a) An updated computerized inventory listing include serial numbers;
    b) All purchases are received and distributed by the inventory control officer(s) with distribution record forms signed by the custodian of new equipment;
    c) All equipment are affixed with property identification tags upon receipt;
    d) All equipment movement between offices is coordinated with the inventory control officer(s) and accompanied by a transfer form. This would ensure that the inventory listing is accurately updated to record the new custodian of the equipment; and
    e) A comprehensive physical inspection is conducted and documented 2 months prior to and 2 months after each legislative term so that the inventory list is accurate, current, and complete.

Conclusion and Recommendations

Conclusion

Good government inherently requires accountability and transparency to handle public funds. It also requires that those funds are expended in the public's best interest. In order to meet this standard, the Legislature needs to make immediate and fundamental changes in the way it handles and accounts for its resources. At the heart of these changes is codifying rules and regulations to preserve accountability and transparency for all future Virgin Islands legislative bodies. Equally important is the need to strengthen internal controls to deter the improper use of allotted funds, discontinue the arbitrary procurement of goods and services, and adequately secure sensitive equipment.

Recommendation Summary

According to the senate president's response to our draft report, the Legislature is beginning to address many of the deficiencies we identified. Appendix 4 further defines the actions the Legislature must take to implement our recommendations, which are as follows:

1. Codify rules and regulations that institute policies and procedures for travel expenditures. At a minimum, these rules and regulations should require:
    a) That all stateside and international travel arrangements are made through the Legislature's contracted travel agencies;
    b) A daily per diem rate for senators and employees; and
    c) That hotel expenses are centrally billed.

    VI Response:

    The senate president indicated that since he was notified of the preliminary audit findings, they have adhered to new rules that have been implemented to address the recommendations. The Legislature has eliminated cash advances and switched to a per diem system. In addition, they are developing rules and regulations regarding standardizing travel. This document is slated to be completed and adopted within 30 days of the response.

    OIG Reply:

    We consider the recommendation resolved but not implemented.

2. Recover outstanding cash advances from all past and present senators and employees for monies received and not accounted for. Unrecovered cash advances should be reported to the Internal Revenue Bureau as taxable income.

VI Response:

The senate president indicated that the cash advance system has been eliminated. The Legislature notified the individuals who were identified through the audit process and have implemented procedures that allow legislative staff to efficiently monitor the distribution and collection of outstanding advances. They have currently resolved a number of the outstanding vouchers and are working with the remaining individuals to resolve this issue by November 30, 2011.

OIG Reply:

We consider the recommendation resolved but not implemented.

3. Assign staff to act as reviewing officials to ensure that travel took place and that travel receipts are reconciled against expense reports prior to authorizing reimbursements.

VI Response:

The senate president indicated that the Business and Financial Management division now more aggressively monitors travel reconciliations and regularly contacts travelers to collect outstanding travel advances and travel reports.

OIG Reply:

We consider the recommendation resolved but not implemented.

4. Obtain physical custody of the historical documents purchased with Legislative funds. Coordinate efforts with the Virgin Islands Planning and Natural Resources – Libraries Division to preserve these documents for future display and historical reference for Virgin Islanders and their visitors.

VI Response:

The senate president indicated that he personally undertook the task of retrieving the 1878 Fire Burn documents. Unfortunately, he has received documentation from the senator involved that indicates that 90 percent of the documents were lost in the flooding of the Frits Lawaetz Conference Room in November 2010. According to the senate president, the situation requires further review and investigation.

OIG Reply:

Although the senate president has initiated retrieving the 1878 documents, due to the historical significance of those documents, it is imperative that a

full investigation be conducted. The results of the investigation should be made public.

We consider the recommendation unresolved.

5. Codify rules and regulations that define how employee bonuses are awarded. At a minimum, those rules and regulations should ensure that bonuses are awarded uniformly on a merit or performance basis.

   VI Response:

   The senate president indicated that they began to develop job descriptions on all employees and have developed an instrument for employee evaluations for use not only as a tool to address bonuses, but also to better manage staff, give feedback on performance of job duties and to better document staff work performance. Information compiled from these annual evaluations may be used as a criterion for the bonus award process.

   The senate president did not agree that bonuses must be uniformly granted, particularly if employee evaluations will be used to determine what bonus will be awarded and indicate otherwise.

   OIG Reply:

   We understand that bonuses are not guaranteed. Uniformity only speaks to the fairness of the bonus amounts, meaning that there should be a uniform scale for awarding bonuses based on employee performance.

   We consider the recommendation resolved but not implemented.

6. Codify rules and regulations that govern the procurement process for the Virgin Islands Legislature. At a minimum, these rules and regulations should ensure that:
   a) Competitive selection is required and documented;
   b) Expenditure thresholds are established for written contracts; and
   c) Contract payments are measured against contract terms.

   VI Response:

   The senate president indicated that since the installation of the 29th Legislature, the Senate requires three competitive bids for all projects. Final selections are based on cost and value analyses. Similarly, all contracts must be reviewed by legal counsel prior to implementation. Open-ended contracts are no longer accepted from vendors, and all vendors are required to present a current business license. Staff must monitor and sign documentation that confirms the work is being performed by contracted vendors.

OIG Reply:

We consider the recommendation resolved but not implemented.

7. Assign a qualified employee or employees to maintain and monitor all contracts.

   VI Response:

   The senate president indicated that since January 2011, all division heads have been tasked with monitoring the work performed by contractors for their area of responsibility/expertise.

   OIG Reply:

   We consider the recommendation resolved but not implemented.

8. Request and obtain copies of current business licenses from all contractors performing services for the Legislature.

   VI Response:

   The senate president indicated that since notification of the preliminary findings of the audit, copies of business licenses have been required of all contractors.

   OIG Reply:

   We consider the recommendation resolved but not implemented.

9. Follow the requirements of the Virgin Islands Code regarding the issuance of IRS Form-1099 MISC to all contractors and service providers. Copies should also be forwarded to the Internal Revenue Bureau.

   VI Response:

   The senate president indicated that IRS Form-1099 is being issued for 2010 to report payments to major contractors to the Internal Revenue Bureau. IRS Form-1099 MISC is now prepared for all ($600 or more) contractors. Notification and copies of the forms are also being sent to the Internal Revenue Bureau.

   OIG Reply:

   We consider the recommendation resolved but not implemented.

10. Follow the requirements of the Virgin Islands Code regarding the deducting and reporting of gross receipt taxes for contractors and service providers.

VI Response:

The senate president indicated that the Legislature of the Virgin Islands is deducting gross receipt taxes from applicable vendor payments and the amount(s) reported to the Bureau of Internal Revenue for contractors and service providers.

OIG Reply:

We consider the recommendation resolved but not implemented.

11. Codify policy and procedures that provide controls over the acquisition, receipt, and movement of equipment bought with legislative funds. At a minimum, the policies and procedures should require that:
    a) An updated computerized inventory listing include serial numbers;
    b) All purchases are received and distributed by the inventory control officer(s) with distribution record forms signed by the custodian of new equipment;
    c) All equipment are affixed with property identification tags upon receipt;
    d) All equipment movement between offices is coordinated with the inventory control officer(s) and accompanied by a transfer form. This would ensure that the inventory listing is accurately updated to record the new custodian of the equipment; and
    e) A comprehensive physical inspection is conducted and documented 2 months prior to and 2 months after each legislative term so that the inventory list is accurate, current, and complete.

    VI Response:

    The senate president indicated that he has ensured that all staff has a copy of and complies with the regulations set forth in the Perpetual Inventory Management System memo. They have also implemented a system whereby assigned equipment is retrieved from terminated employees prior to receiving their final paycheck. He also indicated that the Legislature has established a system wherein physical inspections regularly are conducted on a spot-check basis and comprehensive inspections occur once yearly, encompassing the months prior to and after each legislative term.

    OIG Reply:

    We consider the recommendation resolved but not implemented.

Appendix 1: Objective, Scope, and Methodology

Objective

This audit was conducted as a joint initiative by the Office of the Virgin Islands Inspector General and the U.S. Department of the Interior's Office of Inspector General. The objective of our audit was to determine whether the Legislature appropriately allocated and expended its resources, including the issuance of legislative contracts.

We conducted this 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 an audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on the audit objectives. We tested the validity of records conducted other auditing procedures as necessary under the circumstances. We believe that the work we performed provides a reasonable basis for our conclusion and recommendations based on our audit objectives.

Scope

Our scope included a review of activities and transactions that occurred during calendar years 2005 through 2010. We performed our work from February 2010 to December 2010 and interviewed officials; reviewed cash advances, expense reports, and original receipts; and reviewed procurement and payment files, contracts, inventory lists, and purchase orders. We conducted site visits and performed physical inventories on St. Thomas/St. John and St. Croix.

Methodology

To determine whether the Legislature appropriately allocated and expended its resources, including the issuance of legislative contracts, we selected judgmental samples in the areas of cash advances, employee bonuses, procurement practices, and sensitive equipment. During the course of the audit, every opportunity was given to both employees and senators to provide support for disbursements selected for review. We reviewed documents provided to us from the 26th, 27th, and 28th Legislatures. The examples used in the report were those that best demonstrated our findings.

We selected a judgmental sample of cash advances of $3,000 and over for travel and other purposes because we felt that was the median range. Our sample consisted of 133 cash advances totaling $607,029. Twelve of the 133 cash advances totaling $93,914 were for non-travel related expenses.

We selected the entire universe as our sample in auditing employee bonuses. The total sample size consisted of 711 individual bonus payments ranging from $100

to $10,500. Over the period of 5 years, more than $1.5 million in bonuses were issued.

We selected a judgmental sample of transactions from the Legislature's capital account because the Legislature building was going through major renovations and those payments came from the capital account. Our sample consisted of 152 transactions totaling $1.7 million for 35 vendors. The sample size was largest due to the value of the allotments deposited to the capital account. Over $1.1 million of the $1.7 million was paid to 20 vendors for major capital improvements without contracts or justification for their selection.

We selected a judgmental sample of 78 professional and employee contracts. Forty-three professional contracts valued at $5,000 or more totaled $4 million. Thirty-five employee contracts totaled $758,337.

We selected all 1,206 of the pieces of sensitive equipment on the Legislature's inventory lists and conducted a physical inventory to locate these items. We also selected a judgmental sample of 120 purchase orders for sensitive equipment to determine if the equipment was tagged, was included on the inventory lists, and could be located.

Appendix 2: Prior Audit Coverage

In December 2000, we issued report no. 01-I-107: "Administrative Functions, Legislature of the Virgin Islands, Government of the Virgin Islands." The report stated that the Legislature used its imprest (petty cash) fund for regular operating expenses totaling about $1.26 million, which would ordinarily be paid by the Department of Finance based on vouchers submitted by the Legislature for payment. The Legislature also—

- allowed personal services contractors to begin working before their contracts were legally executed;
- paid variable rates for contractors hired to perform similar functions;
- hired 22 full-time Government employees as contractors without using a system to track the number of hours worked by the contractors; and
- did not inform the Government Employee Retirement System that it had hired Government retirees, who improperly continued to receive their retirement annuities while working under contract.

The report also cited weaknesses related to procurement and property management. Specifically, the Legislature did not routinely use its procurement officer to buy goods and did not properly safeguard or account for equipment. As a result, the Legislature lacked assurance that it obtained the most favorable prices, terms, and conditions for 10 purchases that we reviewed totaling $192,394. Based on a physical inspection of Legislature equipment, we were unable to locate 1,470 of 3,531 equipment items and determined that the Legislature's computerized inventory system did not contain accurate, current, and complete information on the condition, status, location, and cost of equipment, which created the potential for misuse of the equipment.

Appendix 3: Virgin Islands Government Response

The Virgin Islands Legislature's response to the draft report follows on page 22.

Office of the Senate President
29th Legislature of the Virgin Islands
Capitol Building
St. Thomas, VI 00804

September 25, 2011

Ms. Mary L. Kendall
Acting Inspector General
U.S. Department of the Interior
Office of the Inspector General
Caribbean Field Office
Federal Building, Room 207
St. Thomas, VI 00802

Mr. Steven G. van Beverhoudt
Inspector General
V.I. Bureau of Audit and Control
75 Kronprindsens Gade
St. Thomas, Virgin Islands 00802

Dear Madam and Sir:

Thank you for the opportunity to respond to Audit of the Legislature of the Virgin Islands, No. VI-IN-VIS-0001-2010, which yielded a very candid and instructive assessment of the administrative functions of the Legislature of the Virgin Islands, for which we are very grateful and appreciative.

As president of this institution it is my intention to comply with all accepted recommendations of the audit; in so doing, we ensure the institution is transparent and accountable in its management of public funds. As indicated previously, I believe that it is important to state that upon preliminary notification during the audit process some of the recommendations were enacted in the 28th Legislature by President Louis P. Hill and his staff. During my tenure, we have strengthened and/or developed further these procedures and internal regulations and have begun the process of creating procedural manuals to ensure proper accounting and management of public funds. Manuals are being prepared (for Travel, Procurement, Employee Evaluations and Inventory Management) for distribution; this process should be completed within the next two months to ensure continued adherence to Legislative policies and procedures, regardless of managerial or staffing changes. Our manuals will serve as guides which provide continuity and consistency in decision-making and to highlight standards and expectations of how certain tasks should be performed.

Rather than codifying any of the recommendations, we are implementing appropriate mechanisms and have developed policies and regulations to ensure our continued compliance with the best administrative practices. As president, I will, after further discussion and input from the entire body develop language for the codification of these measures.

Attached is a response from former Senate President Louis P. Hill regarding this matter.

Sincerely,

Ronald E. Russell, Esq.
President

attachment

cc: Members of the 29th Legislature
Pamela R. Samuel, Executive Director

Audit of the Legislature of the Virgin Islands, No. VI-IN-VIS-0001-2010.

Recommendation No. 1: Codify and implement rules and regulations for travel expenditures. At a minimum, these rules and regulations should require:

a. That all stateside and international travel arrangements are made through the Legislature's contracted travel agencies;
b. A daily per diem rate for senators and employees; and,
c. That hotel expenses are centrally billed.

Recommendation No. 2: Recover outstanding cash advances from all past and present legislators and employees for monies received and not accounted for. Unrecovered cash advances should be reported to the Internal Revenue Service as taxable income.

Recommendation No. 3: Assign staff to act as reviewing officials to ensure that travel occurred and that travel receipts are reconciled to expense reports prior to authorizing reimbursements.

Recommendation No. 4: Obtain the historical documents from the Danish National Archives that were purchased with Legislative funds. Coordinate efforts with the Virgin Islands Planning and Natural Resources—Libraries Division to preserve these documents for future display and historical reference.

Recommendation No. 5: Codify rules and regulations that define how employee bonuses are awarded. At a minimum, those rules and regulations should ensure that bonuses are awarded uniformly based on merit and performance.

Recommendation No. 6: Codify rules and regulations that govern the procurement process for the Virgin Islands Legislature. At a minimum, those rules and regulations should ensure that:

a. Competitive selection is required and documented;
b. Expenditure thresholds are established for written contracts;
c. Contract payments are measured against contract terms; and
d. Procurement duties are properly segregated.

Recommendation No. 7: Assign an employee or employees to monitor and maintain all contracts.

Recommendation No. 8: Request and obtain copies of current business licenses from all contractors performing services for the Legislature.

Recommendation No. 9: Follow the requirement of the Virgin Islands Code regarding the issuance of IRS Form-1099 MISC to all contractors and service providers. Copies should also be forwarded to the Internal Revenue Bureau.

Recommendation No. 10: Follow the requirement of the Virgin Islands Code regarding the deducting and reporting of gross receipt taxes for contractors and service providers.

Recommendation No. 11: Codify policy and procedures that provide controls over the acquisition, receipt, and movement of equipment bought with legislative funds. At a minimum, the policies and procedures should require that:

a. An updated computerized inventory listing include serial numbers;
b. All purchases are received and distributed by the inventory control officer(s) with distribution record forms signed by the custodian of new equipment;
c. All equipment are affixed with property identification tags upon receipt;
d. All equipment movement between offices is coordinated with the inventory control officer(s) and accompanied by a transfer form. This would ensure that the inventory listing is accurately updated to record the new custodian of the equipment; and,
e. A comprehensive physical inspection is conducted and documented 2 months prior to and 2 months after each legislative term so that the inventory list is accurate, current and complete.

Legislative of the Virgin Islands' Response:

Recommendation 1: Since notification of the preliminary findings of the audit, we have strictly adhered to new rules that have been implemented to address these concerns. We have eliminated cash advances and switched to a per diem system. Additionally, we are developing rules and regulations relative to travel which standardizes travel policies (with written procedures and controls) and directs that employees of the Legislature are expected to be prudent and conscientious in their use of public funds, and to travel by economical and efficient means. Our new policies allow for the reimbursement of actual expenditures rather than estimated expenses, travel expense policies and reporting requirements. This document will be completed and adopted within 30 days; however, the policies within are currently being implemented.

Recommendation 2: We concur; our cash advance system has been eliminated. We have addressed the matter of outstanding cash advances by notifying the individuals who were identified through the audit process and have implemented procedures which allow our staff to monitor more efficiently the disbursement and collection of monies outstanding. We currently have resolved a number of the outstanding vouchers and are working with the remaining individuals to resolve this issue by November 30, 2011.

Recommendation 3: We concur; the Business & Financial Management division more aggressively monitors the travel reconciliations diligently and regularly contacts travelers to collect monies and travel reports.

Recommendation 4: We concur; as president, I have undertaken the task of retrieving the 1878 Fire Burn documents. Unfortunately, I have received documentation from the Senator involved which indicate that 90 percent of the documents were lost in the flooding of the Frits Lawaetz Conference Room in November 2010. This situation will need further review and investigation.

Recommendation 5: We concur that bonuses, if awarded, must be determined by merit and/or performance. We have begun to develop job descriptions on all our employees and have developed an instrument for Employee Evaluations for use not only as a tool to address bonuses, but to better manage our staff, give feedback on performance of job duties and to document better the work performance of our staff. Information compiled from these annual evaluations may be used as a criterion for the bonus award process.

We do not agree that bonuses must be uniformly granted, particularly if the findings of Employee Evaluations will be used to determine what bonus will be awarded and indicate otherwise. Thus, any bonus, if awarded, should be on a sliding scale, based on merit or performance, which does not guarantee an employee the right to a bonus.

Recommendation 6: We concur with all Sub-sections of this recommendation. Since the installation of the 29th Legislature, we have directed that three competitive bids be required for all projects, and final selections are completed based on cost and value analyses. Similarly, all contracts must be reviewed by Legal Counsel prior to implementation. Additionally, open-ended contracts are no longer accepted from vendors and all vendors are required to present a current business license. Staff are required to monitor and sign documentation that confirms the work being performed by our contracted vendors.

Recommendation 7: We concur; since January, all Division Heads have been tasked with monitoring the work performed by contractors for their area of responsibility/expertise.

Recommendation 8: We concur; since notification of the preliminary findings of the audit, copies of business licenses have been required of all contractors.

Recommendation 9: We concur; at this time, we would like to report that IRS Form-1099s were issued for 2010 to report payments to its major contractors to the Bureau of Internal Revenue. Further, an IRS Form-1099 MISC now is prepared for all ($600 or more) contractors. Thus, the Legislature now is in compliance with Federal requirements regarding the issuance of IRS Form-1099 MISC annually, as applicable. Notification and copies of the form also are being sent to the Internal Revenue Bureau.

Recommendation 10: We concur; pursuant to V.I. Code Title 33, Section 44 (which states that four percent gross receipt payments shall be deducted and withheld from any single payment of at least $30,000 and for any payment pursuant to a contract providing a total expenditure of $120,000 or more), the Legislature of the Virgin Islands is deducting gross receipt taxes from such vendor payments and the amount(s) reported to the Internal Revenue Bureau for our contractors and service providers.

Recommendation 11: We concur with Sub-sections a-e, and specifically have ensured that all staff have a copy of and comply with the regulations set forth in our *(A) Perpetual Inventory Management System*, which addresses all Sub-sections of this concern. Additionally, our Inventory Control staff have been more diligent in documenting and tagging all incoming equipment and keeping accurate records of their placement and functionality prior to distribution or assignment to staff. We also have implemented a system whereby assigned equipment is retrieved from terminated employees prior to receiving their final paycheck.

We also have established a system wherein physical inspections regularly are conducted on a spot-check basis and comprehensive inspections occur once yearly, encompassing the months prior to and after each legislative term.

Appendix 4: Status of Recommendations

Recommendations	Status	Action Required
1	Resolved; not implemented.	Please provide documentation eliminating cash advances and written procedures and controls for the standardization of travel policies.
2	Resolved; not implemented.	Please provide evidence of implementation by November 30, 2011.
3	Resolved; not implemented.	Please provide names of employees designated as reviewing officials by November 30, 2011.
4	Unresolved; not implemented.	Please provide the results of the review and investigation into the circumstances surrounding the 1878 historical documents by November 30, 2011.
5	Resolved; not implemented.	Please provide the evidence of the instrument for Employee Evaluations and regulations defining how employee bonuses are awarded.
6	Resolved; not implemented.	Please provide evidence of the regulations governing competitive procurement and contract monitoring.

Recommendations	Status	Action Required
7	Resolved; not implemented.	Please provide memorandum or written meeting notes tasking Division Heads with monitoring contractor work.
8	Resolved; not implemented.	Please provide written requirement for the submission of business licenses and copies of the business licenses provided by current contractors.
9	Resolved; not implemented.	Please provide copies of the IRS Form 1099s that were issued for 2010.
10	Resolved; not implemented.	Please provide copies of gross receipt tax forms reported to the Internal Revenue Bureau.
11	Resolved; not implemented.	Please provide written requirements to provide controls over the acquisition, receipt, and movement of equipment bought with legislative funds.

Appendix 5: Monetary Impact

Virgin Islands Legislature	
Funds for Better Use	
Avoidance of Unnecessary Expenses	$124,599
Other Savings	$12,843
Total	**$137,442**
Questioned Costs	
Ineligible Costs	$1,177,723
Unsupported Costs	$1,873,912
Total (Questioned Costs)	$3,051,635
Total	**$3,189,077**

Virgin Islands Government	
Unrealized Tax Income	
Unreported Income	$3,321,241
Potential Taxes Lost	$325,123
Total	**$3,646,364**

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By Fax: 703-487-5402

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