



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

# **SIGNIFICANT FLAWS REVEALED IN THE FINANCIAL MANAGEMENT AND PROCUREMENT PRACTICES OF THE U.S. VIRGIN ISLANDS' PUBLIC FINANCE AUTHORITY**

**This is a revised version of the report prepared for public release.**



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

Memorandum

**SEP 29 2017**

To: Douglas Domenech  
Assistant Secretary for Insular Areas

From: Mary Kendall   
Deputy Inspector General

Subject: Audit Report – Significant Flaws Revealed in the Financial Management and Procurement Practices of the U.S. Virgin Islands’ Public Finance Authority Report No. ER-IN-VIS-0015-2014

This report presents the results of our audit of the U.S. Virgin Islands’ Public Finance Authority (PFA). We examined the PFA’s system of internal controls and its compliance with contract terms and conditions, applicable laws, and PFA board resolution. We found that PFA did not maintain sufficient internal controls to safeguard assets and did not provide reasonable assurance that financial transactions and related reports were accurate, as evidenced by the \$50 million in financial discrepancies, conflicts of interest, and the \$101.1 million in questionable expenditures we found during our fieldwork.

We offered 21 recommendations to help improve the PFA’s operations. We provided the results of our audit to the U.S. Virgin Islands Governor, Kenneth Mapp, and the Virgin Islands Legislature’s Senate President, Myron Jackson.

The PFA’s executive director provided us a copy of the PFA’s response, and Senate President Jackson provided the Legislature’s response to the draft report. Based on these July 31, 2017 and August 21, 2017 responses, we consider eight recommendations resolved but not implemented and seven recommendations unresolved. We consider six recommendations resolved and implemented with no further action required. Appendix 5 of our report details the status of all 21 recommendations.

The Office of Insular Affairs (OIA) is the U.S. Department of the Interior’s coordinator for Federal policy and activities impacting Insular Area territories and governments. As such, we recommend that OIA monitor and track the PFA’s and the Legislature’s efforts, including resolution and implementation of the recommendations in our audit report.

The legislation creating the Office of Inspector General requires that we report to Congress semiannually on all audit, evaluation, and inspection reports issued; actions taken to implement our recommendations; and recommendations that have not been implemented.

If you have any questions regarding this memorandum or the subject report, please do not hesitate to contact me at 202-208-5745.

Attachment



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

**SEP 29 2017**

The Honorable Kenneth Mapp  
Governor, U.S. Virgin Islands  
No. 21-22 Kongens Gade  
St. Thomas, VI 00802

The Honorable Myron D. Jackson  
Senate President, U.S. Virgin Islands Legislature  
P.O. Box 1690  
St. Thomas, VI 00804

**Subject:** Audit Report – Significant Flaws Revealed in the Financial Management and Procurement Practices of the U.S. Virgin Islands’ Public Finance Authority  
Report No. ER-IN-VIS-0015-2014

Dear Governor Mapp and Senator Jackson:

This report presents the results of our audit of the management of the U.S. Virgin Islands’ Public Finance Authority (PFA). We determined that PFA did not maintain sufficient internal controls to safeguard assets and did not provide reasonable assurance that financial transactions and related reports were accurate, as evidenced by the \$50 million in financial reporting discrepancies, conflicts of interest, and the \$101.1 million in questionable expenditures we found during our fieldwork.

We offered 21 recommendations and requested a response by July 31, 2017. We appreciate your responses to the draft report (Appendixes 3 and 4 of the final report). Of the 21 recommendations we made, we addressed 18 to PFA. PFA concurred with seven recommendations, partially concurred with four recommendations, and did not concur with seven recommendations. We addressed three recommendations to the Virgin Islands Legislature, which stated that it will take action on all three.

Based on the responses we received, we considered six recommendations resolved and implemented, eight recommendations resolved but not implemented, and seven recommendations unresolved (Appendix 5).

If you have any questions regarding this letter or the subject report, please contact me at 202-208-5745 or Virgin Islands Inspector General Steven van Beverhoudt at 340-774-3388.

The legislation creating the Office of Inspector General requires that we report to Congress semiannually on all audit, inspection, and evaluation reports issued; actions taken to implement our recommendations; and recommendations that have not been implemented.

Sincerely,



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



Steven van Beverhoudt  
Virgin Islands Inspector General

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## Results in Brief

Since its creation in 1988, the Board of Directors charged with oversight and leadership at the Government of the U.S. Virgin Islands' (GVI) Public Finance Authority (PFA) has operated without proper controls that would ensure transparency and accountability. We audited PFA at the request of the Virgin Islands Legislature and found deficiencies that place millions of dollars at risk for fraud, waste, and mismanagement:

- PFA did not have internal controls over its operations, including written operating policies and procedures for its employees to follow. PFA's failure to implement and adhere to a system of internal controls has created an environment where errors and potential conflicts of interest flourish.
- PFA has not managed its budgeted funds and bond proceeds appropriately, nor has it complied with current laws and regulations.

These deficiencies contributed to the issues we found during our fieldwork, which included \$50 million in financial reporting discrepancies, potential conflicts of interest, and \$101.1 million in questionable expenditures.

We issued an audit report in 2002 that provided recommendations for several issues at PFA, but these issues still existed during our current review. In fact, because PFA decision makers did not implement our recommendations, some of the issues had worsened. Had PFA taken corrective actions after our 2002 audit, there would have been greater accountability for funds entrusted to it on behalf of the people of the Virgin Islands.

PFA serves as a financing conduit to GVI, incurring billions of dollars in 20- to 30-year debts and disbursing the proceeds of these debts to pay for operations, construction, and GVI's day-to-day needs. Because these debts will be the burden of future generations of Virgin Islanders, GVI must safeguard the funds from misuse and ensure that they are used for their intended purposes. This audit presents an opportunity for the Legislature and PFA's board to correct longstanding problems that keep the Virgin Islands on a path toward financial calamity, weakening its self-sustaining capabilities and increasing its dependency on the U.S. Government. We offer 21 recommendations that will help improve PFA's operations and thus safeguard the funds entrusted to it.

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# Introduction

## Objective

The objective of this audit was to determine whether the U.S. Virgin Islands Public Finance Authority (PFA) managed its budget funds and bond proceeds by:

1. Maintaining sufficient internal controls that safeguard assets and provide reasonable assurance that financial transactions and related reports are accurate
2. Performing its duties in accordance with contract terms and conditions, the Virgin Islands Code (V.I.C.), the U.S. Internal Revenue Code, and PFA board resolutions

We performed this audit at the request of the Finance Committee of the 30th Legislature of the Virgin Islands. Our audit scope and methodology are included as Appendix 1.

## Background

PFA, a public corporation and autonomous governmental instrumentality<sup>1</sup> of the Government of the Virgin Islands (GVI), was established by Act No. 5365, also known as “The Government Capital Improvement Act of 1988” (29 V.I.C. Chapter 15).

PFA’s main responsibility is to raise and manage capital for public projects. It finances GVI capital improvement projects and working capital by issuing bonds with maturity dates spanning up to 30 years. As of July 31, 2015, PFA had 22 active bond issuances with initial offerings of over \$2.6 billion. As of September 30, 2015, PFA had a total of \$515,043,605 affiliated with bond proceeds in 151 depository accounts at the Bank of New York Mellon Trust Company and Banco Popular de Puerto Rico.

PFA disburses the bond proceeds to support GVI’s day-to-day needs, such as working capital, and to fund the construction of a variety of capital projects. The Department of Property and Procurement (DPP) is responsible for procuring all GVI construction projects, and the Department of Public Works (DPW) manages the projects.

PFA’s annual operating budgets for fiscal years (FYs) 2010 through 2014 averaged \$6.77 million. Its operating budget is derived from a combination of a 1 percent fee assessed against bond issuances and a matching fund, which is the

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<sup>1</sup> The V.I.C. (29 V.I.C. Chapter 15 § 918) states that “the debts, obligations, contracts, bonds, receipts, expenditures, accounts, funds, facilities and property of the Authority shall be deemed to be those of the Authority and not be those of the Government of the United States Virgin Islands, or any office, bureau, department, agency, commission, branch, agent, office or employee thereof.”



portion of payments issued by the U.S. Department of the Treasury for alcoholic beverages produced in the Virgin Islands and imported into the United States.<sup>2</sup> PFA's executive director has custody of all PFA funds, signs all orders and checks for payment under the direction of PFA's Board of Directors, and keeps the books of accounts showing receipts and expenditures.

Chapter 15 of 29 V.I.C. requires that PFA be governed by a seven-member board of directors. Three board members are required to be GVI employees, and four must be nongovernmental Virgin Islands residents appointed by the Governor of the Virgin Islands with the advice and consent of the Legislature. The legislation also requires the Governor to serve as the board chair and GVI's commissioner of finance and director of the Virgin Islands Office of Management and Budget (OMB) to serve as ex officio members.

## **Prior OIG Audit Coverage**

In November 2002, we issued an audit titled "Public Finance Authority, Government of the Virgin Islands (GVI)" (Report No. 2003-I-0002), which reported that PFA did not effectively manage bond proceeds and funds from its operating budget. It specifically stated that PFA:

- Allowed bond proceeds to go unused for 8.5 years and did not effectively use the funds in accordance with the Internal Revenue Code
- Failed to adequately plan the construction of three schools, causing \$17.3 million in cost overruns and more than 600 days in project delays
- Paid expenses unrelated to its functions, such as travel and cellular phone expenses for employees of the Office of the Governor
- Did not enforce the collection of \$571,000 in interest and credit enhancement fees and the reimbursement of \$706,000 in expenses from GVI's central government

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<sup>2</sup> The matching fund consists of rum "cover-over" revenues paid by the Treasury Department's Trade and Tax Bureau and the U.S. Department of the Interior (DOI) under the Caribbean Basin Economic Recovery Act of 1983 (Pub. Law 98-67). The amount of the cover-over is \$10.50 to \$13.25 on each proof gallon of alcoholic beverage produced in the Virgin Islands and imported into the United States. Every year PFA requests an advance of these funds from DOI's Office of Insular Affairs based on a forecast of imported rum production. The Treasury Department deposits the funds into an escrow account at the Bank of New York Mellon, which then ensures all bond obligations, such as the debt service reserve, are met. The balance of the funds is distributed to the two Virgin Islands-based rum companies and GVI, and the amount GVI receives is deposited into the matching fund.

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# Findings

PFA did not maintain sufficient internal controls to safeguard assets and did not provide reasonable assurance that financial transactions and related reports were accurate, as evidenced by the \$50 million in financial reporting discrepancies, nine potential conflicts of interest, and \$101.1 million in questionable expenditures we found during our fieldwork.<sup>3</sup> Operating without strong internal controls has also contributed to longstanding deficiencies in PFA’s contracting practices, which have placed millions of dollars at risk for fraud, waste, and mismanagement. In addition, PFA did not perform its duties in accordance with contract terms and conditions, the V.I.C., the U.S. Internal Revenue Code, and PFA board resolutions.

## **PFA Did Not Maintain Sufficient Internal Controls**

Internal controls provide reasonable assurance that a government is meeting the basic objectives of effectiveness, efficiency, safeguarding assets, reliable reporting, and compliance. PFA’s board, however, did not establish policies and procedures for basic operations, put sufficient systems in place to control and prevent financial discrepancies, properly monitor charge card transactions, or create proper segregation of duties over cash transactions and fund transfers. Compounding these issues was PFA’s failure to commit to establishing and adhering to internal controls, which has led to multiple potential conflicts of interest between GVI employees, contractors, and vendors.

## **PFA Did Not Have Policies and Procedures for Basic Operations**

PFA did not have any written policies and procedures to address its human resources, inventory, procurement, and petty cash practices. Without these controls, PFA has failed to provide adequate oversight over its employees’ job responsibilities; proper authorization, review, approval, verification, and reconciliation of business transactions; physical security for assets; employee training; and segregation of duties.

### *Absence of Human Resource Policies Led to Missing or Outdated Job Descriptions*

None of PFA’s 11 employees had up-to-date written job descriptions, leaving them uncertain about their roles and responsibilities. The two written descriptions that did exist were dated 2008, when those employees joined PFA.

We interviewed seven PFA employees in an effort to better understand each employee’s role, but even after our interviews, we were still not certain about their roles and responsibilities because they overlapped and did not match the employees’ position titles. One employee said that she was creating her own job description because management did not have one on file for her. Without clear

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<sup>3</sup> In this report, we use the term “questionable expenditures” in lieu of “questioned costs” because there is no expectation that PFA will resolve or recover these costs.

roles and responsibilities, employees cannot effectively meet PFA’s expectations and PFA cannot hold employees accountable for inappropriate actions.

*PFA Had No Policies for Tracking Inventory Property*

We tested PFA’s procedures for ensuring inventory accountability and found that PFA does not have a formal inventory system to track valuable property such as computers, copiers, smart devices, and office furniture. As a result, we could not verify the location of \$12,935 in computer equipment purchased on November 29, 2012. Without policies and procedures and a formalized inventory tracking system, PFA equipment and property are at risk.

*PFA Had No Policies and Procedures for Procuring Professional Services*

PFA did not have policies and procedures in place to ensure that it competitively, fairly, and transparently procured its annual average of \$5.1 million in goods and services to deliver the best economic value. The outcome of these deficiencies is discussed on p. 13, in the section titled “PFA Mishandled the Awarding and Management of Professional Service Agreements and other Expenditures, Paid with Budgeted Funds.”

*Petty Cash Was Not Tracked or Protected*

PFA did not always prepare monthly petty cash reports, generate reports to justify replenishing the petty cash account, document independent reviews of petty cash reports, or physically safeguard the cash. While most of the purchases we reviewed had supporting documentation, we found \$333 in purchases that did not. (See Appendix 2 for a table of all questionable expenditures in this report.) Further, over half of the petty cash reports we reviewed—covering more than \$7,000 in purchases—were not signed by an independent reviewer, and up to \$500 in cash was stored in an unlocked file drawer. We found that PFA did not have a written petty cash policy; instead, it used several lax practices to replenish, account for, and secure petty cash. Without safeguards in place, petty cash is at risk for being misused or stolen.

## Recommendations

We recommend that the PFA Board of Directors:

1. Develop and implement operational policies and procedures to manage PFA’s day-to-day functions. These policies and procedures should, at a minimum, address human resources, inventory, procurement, accounting, and segregation of duties.
2. Create and implement petty cash policies and procedures that, at a minimum, provide guidance on the establishment, administration, appropriate uses, and safekeeping of funds.

## **PFA Did Not Have Sufficient Systems in Place To Control and Prevent Financial Discrepancies**

PFA invested an estimated \$5.4 million to purchase, upgrade, and maintain its two financial accounting systems, but it did not maximize all of the functions in these systems. Instead, PFA employees used Excel spreadsheets to track PFA's administrative revenue, project expenditures, and contractor and vendor tax forms.

Choosing not to ensure that all funding and business transactions were recorded in the systems led to several problems. PFA's reporting was delayed, PFA paid \$1 million to its public accountants between January 2008 and June 2015 to help prepare reports that the systems were capable of preparing, and one of the systems had over \$50 million in financial discrepancies.

### *PFA Used Excel Spreadsheets Instead of Its Financial Accounting Systems*

Instead of using its financial accounting systems, PFA used Excel spreadsheets to track administrative fees, bond proceed expenditures, and vendor payments.

PFA's compliance bond proceeds manager used an Excel spreadsheet to track over \$34 million in administrative fees. These fees, which are revenue to PFA, make up 1 percent for each bond issuance and are deposited into the project fund. Recording the project fund's income, interest earnings, and expenditures on an Excel spreadsheet is an inefficient and unsecure way to track such a large amount of revenue; it increases the risk of reporting errors and decreases transparency.

PFA officials used Excel to track bond proceed expenditures for the 14 construction projects we reviewed. (We discuss two of these projects starting on p. 12 of this report; the rest are discussed in a separate management advisory letter, No. ER-IN-VIS-0015-2014-A.) One of PFA's accounting systems was created specifically to track bond proceed expenditures by project, but because PFA does not use this program, it took PFA officials 5 months to compile a report of projects that we had originally requested at the beginning of the audit. In addition, compiling the data involved multiple GVI agencies, and the report they eventually submitted was incomplete.

PFA also tracked vendor payments using an Excel spreadsheet instead of entering them into its other accounting system, thus wasting resources and leaving PFA at risk of misreporting tax information. This system is able to automatically calculate each vendor's and contractor's expenses for the calendar year and compile the information into the 1099 and 1096 returns that PFA must submit to U.S. Internal Revenue Service (IRS) each year, but because PFA did not enter this data, it had to hire public accountants—at additional cost—to prepare the IRS returns. The public accountants, however, were only hired to offer accounting assistance, not to verify the numbers from the spreadsheet.

In addition, PFA did not use this system's reporting features to generate reports for upper management and required financial statements for submission to the Municipal Securities Rulemaking Board (MSRB). Instead, PFA paid its public accountants an additional \$1 million from February 2008 to June 2015 to help prepare these statements and perform other services. The public accountants used system reports, disbursement requests, checks, bank statements, trustee statements, and PFA bond counsel and staff correspondence to assist in preparing the MSRB financial statements. As with the IRS reports, the accountants were not required to offer assurance on the accuracy of the financial statements they prepared.

One possible reason that PFA staff has not used these systems to their full capabilities is that staff members were not trained in the systems' basic functions. For example, when we requested PFA's vendor financial summary, posting accounts, and transaction history reports, PFA's accountant did not know anything about them and had to consult PFA's information technology consultants for instructions on how to print them. After more inquiry, we learned that PFA employees had received only introductory training on one of the systems in 2008, when it launched. Instead of providing additional training to PFA staff, the former director of finance and administration decided to maintain an annual service agreement with the information technology consultants, and all questions on the system are routed to them.

#### *PFA's Inaccurate Reporting Led to Over \$50 Million in Discrepancies*

We reviewed and compared PFA-provided expenditure reports to the information reported in PFA's accounting system and found over \$50 million in discrepancies. Because PFA's financial and reporting data were unreliable, we used supporting documentation, such as invoices and checks, during our review.

First, we tested PFA's summary expenditures by comparing them to detailed expenditure transaction reports. Our tests found discrepancies totaling over \$6.2 million between calendar years 2010 to 2012, with one report failing to disclose 137 contractors.

Second, when we compared the vendor payments reported to IRS to those reported in PFA's accounting information systems, we calculated a difference of over \$50 million (see Figure 1). In some cases, vendor payments reported on PFA's Form 1099 were not recorded in PFA's accounting systems (the "Unrecorded Payments" column in Figure 1), or they were lower ("Under-Reported Payments") or higher ("Over-Reported Payments") than the amounts reported in the systems.

Year	Unrecorded Payments	Under-Reported Payments	Over-Reported Payments	Total Discrepancy
2010	\$3,059,692	\$1,595,718	\$7,472,149	\$12,127,559
2011	457,278	1,224,393	11,014,139	12,695,810
2012	6,086,494	228,452	5,230,375	11,545,321
2013	1,853,325	1,376,711	3,087,799	6,317,835
2014	990,168	607,029	5,783,770	7,380,967
<b>Total</b>	<b>\$12,446,957</b>	<b>\$5,032,303</b>	<b>\$32,588,232</b>	<b>\$50,067,492</b>

Figure 1. Comparison of IRS reports to PFA accounting system vendor payment (by calendar year).

These discrepancies occurred because PFA did not maximize the use of its financial systems, resulting in unreliable financial information and the inability to generate accurate real-time reports. At the time of our review, PFA was negotiating a contract with its information technology consultants to upgrade these systems, but the millions that it has already invested will prove useless without training and protocols to ensure that employees use the systems as fully and accurately as possible.

### Recommendations

We recommend that the PFA Board of Directors:

3. Direct PFA to use all applicable functions in its existing accounting financial systems and to capture its financial transactions in the systems so that reporting is prompt, accurate, and complete.
4. Implement reconciliation procedures to validate data entries, confirm that financial transactions in the systems are complete and accurate, and enable accurate tax reporting.
5. Direct PFA to train its employees to fully use the accounting system functions that are related to their duties and responsibilities.

### PFA Did Not Properly Monitor Charge Card Transactions

Our charge card review, which covered September 10, 2009, to November 10, 2014, and examined purchases totaling \$230,443, revealed that 84 percent of the charges (\$193,682) made during that period were not adequately supported by invoices, charge receipts, or other forms of confirmation. In addition, PFA paid some charge card bills in full without any supporting documentation, and the

then-director of finance and administration incurred unsupported charges and used the card for personal purchases.

Unsupported charges and personal use of PFA charge cards occurred because PFA did not have any policies to manage how employees used the card, nor did it have an independent review process in place to catch potential improper charges. As an example of unsupported costs, we reviewed three charge card bills, totaling \$35,318, that PFA paid between September and November 2009 without a single document to support the validity of the charges. As another example, we found a 2010 transaction in which the [REDACTED] charged \$3,786 to a marine cargo shipping company; these costs were unrelated to PFA's mission. The [REDACTED] did not provide any support for the unusual transaction and PFA did not flag it for further review, but PFA still paid the charge on June 3, 2010. When we inquired about it, PFA officials did not know what the charge was for, and our analysis could not determine whether it was personal or legitimate.

The need for an independent review process was highlighted by our finding that the same [REDACTED] used the PFA charge card in January 2011 for personal lodging and Apple online charges totaling \$5,399. Although he paid these charges a day after the due date, it is not a prudent business practice for PFA to allow an employee who can already generate, review, and approve his or her own charges to use PFA's charge card for personal purposes.

### **Recommendations**

We recommend that the PFA Board of Directors:

6. Create and implement a charge card policy that prohibits PFA's official charge card from being used for personal expenses. The policy should also note users' responsibilities, penalties for abuse of the official card, and timely payment to avoid finance charges.
7. Implement and enforce an independent review of charge card statements and corresponding receipts each month to ensure all charge card transactions are for PFA official business.

### **PFA Did Not Create Proper Segregation of Duties Over Cash Transactions and Fund Transfers**

As part of our audit, we reviewed controls over wire transfers and check payments, as well as hotel transactions at one of PFA's subsidiaries, King's Alley Management, Inc., and found that unsegregated duties and deficient oversight left PFA vulnerable to abuse. PFA could have detected or avoided irregularities if internal controls had been in place.

### *Only One Signature Is Needed for Wire Transfers and Check Payments*

In January 2015, a PFA board resolution gave four board members individual signing authority for all 171 of PFA's bank accounts, which had a total of \$535 million as of September 30, 2015, and empowered the members to wire transfer large dollar amounts. The board did not, however, require internal controls—such as supervisory reviews of transactions, two or more signatures for wire transfers and checks over a certain dollar amount, or reconciling all bank accounts—to correct errors and prevent fraud.

As a result, in late 2014 a PFA [REDACTED] wired \$3.1 million from the matching fund to PFA's "Administrative" account without supporting documentation to show it was authorized by the Virgin Islands OMB as required. When the director of the Virgin Islands OMB took over the [REDACTED] position a month later, she recognized the transfer as an error and reversed it. Still, this \$3.1 million error could have gone unnoticed because PFA did not establish controls to protect public funds.

### *Hotel Transactions Were Exposed to Risk*

Our review of controls over hotel transactions led us to perform a limited review of the hotel receipts, which revealed \$17,846 in discrepancies. We noted that PFA tasked a single employee with collecting, recording, and depositing lease payments and hotel receipts into PFA accounts instead of segregating these duties among several employees to provide a higher level of accountability. In addition, PFA management neglected to provide any type of compensating internal controls such as closely reviewing the employee's work.

We reviewed hotel receipts reported and deposited by this employee from January 2014 to March 2015 and found \$4,136 in unaccounted-for cash and \$13,710 in check transaction discrepancies. These irregularities went unnoticed because PFA had never created or implemented preventive and detective internal controls, such as supervisory reviews and account reconciliation. The absence of these controls provides employees the opportunity to defraud PFA.

## **Recommendations**

We recommend that the PFA Board of Directors:

8. Require multiple signatures on wire transfers.
9. Create and implement controls, such as adequate supervisory reviews and segregated responsibilities, over all collections and periodic reviews of monthly bank statements.



## **Operating Without Strong Controls Led to Multiple Potential Conflicts of Interest Between GVI Employees, Contractors, and Vendors**

PFA's failure to establish internal controls has impeded progress toward an effective control system at PFA and led to multiple potential conflicts of interest. Since PFA is GVI's financing conduit, adequate controls are central to safeguarding billions of dollars in public funds. During our review, we found an unusually high occurrence of potential conflicts of interest at PFA, which indicates a need for a code of ethics to promote a culture of integrity and thus help safeguard public funds. Our review of 12 professional service contracts and 14 construction projects revealed 9 potential conflicts of interest between PFA's vendors and contractors and its board members, employees, board counsel, bond counsel, and elected GVI officials.<sup>4</sup> For example:

- PFA's bond counsel issued a legal opinion in favor of a new bond issuance and later benefited from the proceeds of that bond issuance. The counsel collected \$463,505 for legal services related to the project for which the bonds were issued.
- The alcoholic beverage company Diageo USVI Inc. contributed \$2,500 from bond proceeds to a carnival troupe managed by a Virgin Islands senator who voted in favor of a \$250 million Diageo bond issuance. Diageo listed this cost on its invoice as "government contributions."
- Diageo also contributed \$1,000 in bond proceeds to a "Democratic Party – Gov. Prayer Breakfast" in 2009.
- A former Governor who had served as the chair of PFA's board entered into PFA contracts with his close relative.
- A member of PFA's board voted in favor of the Diageo bond issuance and later benefited from the proceeds when his company provided services for the project. When we interviewed him, he did not recognize his actions as unethical.
- PFA legal counsel simultaneously represented both GVI and its opponent regarding a work stoppage on a GVI project in February 2013.

A code of professional ethics at PFA would create a cohesive understanding of acceptable and unacceptable workplace behavior, thereby making it easier to hold PFA board members, administrators, employees, contractors, and other affiliates accountable in the event of a breach of ethics.

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<sup>4</sup> These potential conflicts of interest are related to some of the 14 construction projects we reviewed during our audit. Seven of the 9 potential conflicts occurred on construction projects that we highlight in our management advisory (Report No. ER-IN-VIS-0015-2014-A). We discuss them here because they are relevant to the management of PFA as a whole.

## Recommendation

We recommend that the PFA Board of Directors:

10. Create and enforce a comprehensive code of ethics that addresses conflicts of interest.

## **PFA Failed To Appropriately Manage Budgeted Funds and Bond Proceeds**

We found that PFA failed to manage over \$146 million in budgeted funds and bond proceeds in accordance with contract terms, laws, and PFA board resolutions. This failure was in addition to the absence of internal controls over PFA's business functions and transactions related to more than \$2.6 billion in budgeted funds and bond proceeds for which it was responsible between FYs 2010 and 2014.

Specifically, PFA did not have a procurement system that promoted, at a minimum, full and open competition, oversight, monitoring, and enforcement for its budgeted funds. PFA mismanaged taxpayer dollars by using bond proceeds to finance the Charles Wesley Turnbull Regional Library construction project and failed to thoroughly review invoices before disbursing bond proceeds for a rum distillery project on St. Croix. Further, PFA did not comply with V.I.C. requirements governing the number of members of its Board of Directors and did not comply with the Internal Revenue Code or its own board's resolutions regarding bond proceeds. These practices led to questionable expenditures of over \$101.1 million.

As part of our audit, we reviewed the procurement processes at PFA, three other autonomous and semiautonomous GVI agencies, the Office of the Governor, and GVI's Department of Property and Procurement (DPP). PFA directly procured its own 34 professional service agreements and the Turnbull Library construction project; it also provided funding for the Diageo rum distillery and 12 other projects procured by other divisions and agencies. (We report on these 12 PFA-funded projects in our management advisory.) We found multiple issues with PFA's professional services agreements, the library construction, and the rum distillery projects; its mismanagement of bond proceeds; and its noncompliance with laws and rules. We discuss these problems in the following sections.

### **PFA Mishandled the Awarding and Management of Professional Service Agreements and Other Expenditures Paid With Budgeted Funds**

We reviewed 12 of the 34 professional service agreements awarded by PFA, totaling \$27.7 million in expenditures, as well as 9 other expenditures totaling almost \$2.4 million. We found that many of the expenditures were mishandled,

sometimes in more than one way. For example, out of the \$30.1 million we reviewed, we found that not only did PFA sole-source each of the 12 agreements, but it also paid \$16.6 million to contractors without valid contracts, \$988,102 for services and rent without a written agreement, \$9.6 million for costs that were outside its mission, \$6 million to contractors who submitted invoices for payment without adequate support, and \$115,494 for services outside contract terms and conditions. All agreements were initiated and authorized by PFA’s executive director or the board chair. The agreements in our review included agreements for professional services, such as consulting, accounting, cleaning, lobbying, legal, project management and financial management, on behalf of PFA and other agencies, including the Governor’s Office.

*PFA Habitually Awarded Sole-Source Agreements*

As discussed on p. 5, PFA leadership did not develop and implement procurement policies and procedures for professional service agreements, thereby enabling the chairman of the PFA board and the executive director to handpick professional service contractors. PFA sole-sourced 12 professional service agreements totaling \$27.7 million without any type of justification, leaving no assurance that PFA paid the most economical price for services, had access to the largest pool of talent and expertise, or promoted the Virgin Islands’ economy and fair opportunities for businesses and tradespeople (see Figure 2).

<b>Sole-Source Contracts</b>	<b>Amount</b>
Legal ( <i>spanning several gubernatorial administrations</i> )	\$14,341,343
Consulting Contract with Former VI Senator	808,126
Lobbying	1,764,768
Cleaning Contract	311,991
Legal Office of Economic Opportunity (OEO) Contract	497,444
Accounting Contract	739,871
Legal – Purchase of Anchor Inn	27,984
Project Management Services	120,000
Financial Advisory-Grant Writing	39,773
Network Service Management	249,478
Information Technology Consultants	5,378,493
Financial Advisory – PFA Financial Consultants	3,407,233
<b>Total</b>	<b>\$27,686,504</b>

Figure 2. PFA's sole-source contracts made without justification.

As examples of this practice, we describe below the first three contracts listed in Figure 2.

In our first example, in January 1999 a Virgin Island Governor awarded, without any documented justification, a sole-source contract for legal services totaling \$14,341,343 for the purpose of representing GVI to Federal regulatory agencies and the court system. The contractor's compensation for these services ranged from [REDACTED] to [REDACTED] per hour, depending on the qualifications of assigned staff. The original contract period was from January 15, 1999, to December 31, 2001, plus three extensions, extending its term to December 2014.

In our second example, in February 2007, another Governor—again, without justification—awarded a sole-source consulting contract on behalf of PFA to a former Virgin Island senator for various services totaling \$808,126. As compensation, the former senator received a retainer of \$ [REDACTED] per month plus authorized out-of-pocket expenses. (Prior approval was required for expenses above \$2,500.) The original scope of the contract was February 1, 2007, to December 31, 2008, but the former senator negotiated three additional contracts—still without competition—with the same services, thereby extending the period to June 30, 2015.

In our last example, in March 2009 the same Governor awarded a sole-source financial advisory service contract for independent financial advisory services with payments totaling \$3,407,233 without any documented justification. The annual compensation for the contractor's services was \$ [REDACTED], paid in monthly installments of \$ [REDACTED], plus a graduated fee schedule based on financing transactions (level of borrowing).

### **Recommendation**

We recommend that the PFA Board of Directors:

11. Develop and implement procurement policies and procedures for professional services to ensure all contracts are competitively bid or are properly justified for sole-source.

#### *PFA Paid for Services Not Under Contract*

PFA paid contractors \$16.6 million without valid contracts because it continued to pay for services after the contracts expired and before they were renewed (see Figure 3). It also paid \$988,102 to vendors for services without any contract at all.

<b>Payments to Contractors Without a Valid Contract</b>	<b>Amount</b>
Legal ( <i>spanning several gubernatorial administrations</i> )	\$11,164,425
Consulting Contract with Former VI Senator	46,151
Financial Advisory Firm ( <i>PFA financial consultants</i> )	1,371,885
Lobbying	600,926
Legal ( <i>purchase of Anchor Inn</i> )	27,984
Information Technology Consultants	3,339,384
<b>Total</b>	<b>16,550,755</b>

Figure 3. PFA's payments made to contractors without a valid contract.

As examples of this practice, we describe below the first three payment amounts listed in Figure 3.

From January 2009 to December 2012, PFA paid a law firm during lapses in its contract. The contract spanned three gubernatorial administrations, from January 1999 to December 2014. The original contract period was from January 14, 1999, to December 31, 2001, plus three extensions and one amendment. We found, however, that during periods when the original contract expired and subsequent contracts were not yet finalized, the contractor submitted invoices and received payments. Specifically, the third extension to the contract was not sought until January 2013, 7 years after the second extension expired; we found that between the second and third extensions, PFA paid the law firm at least \$11,164,425.

Another example is a consulting services contract PFA entered into, which was awarded in February 2007 but did not become valid until 2 months later. During the period before the contract became valid, the contractor received payments totaling \$16,166. When this contract expired on December 31, 2008, the contractor received \$8,083 in payments before a new contract was awarded in early February 2009. This contract expired on December 31, 2010, and again the contractor received payments—this time \$21,902—until the contract was renewed in late March 2011. Altogether, PFA paid \$46,151 to this contractor without a valid contract.

In our final example of this practice, PFA continued to pay a financial advisory firm \$1,371,885 after a contract expired. The firm was awarded a contract for the period of March 1, 2009, to February 28, 2011. After the contract expired, PFA continued to pay the invoices for almost 4 years—until December 30, 2014.

Next, we examined PFA's expenditure reports covering October 2009 to December 2014 and found that PFA had paid five vendors a total of \$988,102 without written agreements (see Figure 4). Although PFA did not establish a threshold through its own policies and procedures, V.I.C. requires written

contracts for expenditures in excess of \$50,000. In addition, these vendors were not on the professional service contract listing that we obtained from PFA.

<b>Payments to Vendors Without a Written Contract</b>	<b>Amount</b>
Law Firm ( <i>litigation representation</i> )	\$ 91,974
Rent to Two Lessors	195,653
Public Relations	273,391
Board Counsel	427,084
<b>Total</b>	<b>988,102</b>

Figure 4. PFA's payments made to vendors without a written contract.

The following list describes these payments:

- PFA paid a law firm (not the same one discussed in the description for Figure 3) \$91,974 between October 1, 2009, and December 31, 2014. The firm did not have an agreement with PFA; instead, we found only a June 3, 2005 letter listing the firm's hourly rates for legal services and noting an oral agreement with PFA's then-director of finance and administration to continue representing PFA.
- PFA paid two lessors \$69,093 in FYs 2010 and 2011 and \$126,560 between October 1, 2012, and December 31, 2014, for rent on PFA's St. Croix office, but PFA had no written lease agreement for the monthly rent.
- PFA paid a public relations firm \$273,391 without a valid agreement for services rendered in FYs 2010 and 2011. The firm had a signed agreement for the period of November 1, 2004, to March 31, 2005. Another agreement with the firm, for the period of January 1, 2006, to December 31, 2006, was not signed by either the Governor or PFA's director of finance and administration.
- PFA paid its board counsel \$427,084 between October 1, 2010, and January 8, 2015, without a contract or agreement. In a July 8, 2013 email addressed to PFA's compliance bond proceeds manager, the counsel stated that he did not have a contract and that he billed the board for requested services at a discounted rate of \$█ per hour. We did not find evidence that PFA ever signed a written agreement or contract with him.

## Recommendation

We recommend that the PFA Board of Directors:

12. Develop and implement procurement policies and procedures for professional services to ensure that valid contracts are in place before paying contractors and vendors.

### *PFA Paid for Services That Were Outside its Mission*

PFA paid \$9,562,959 for services that were outside its mission (see Figure 5). PFA's executive director or board chair initiated contracts for non-mission-related services on behalf of other government agencies, mainly for the Governor's Office. PFA was not reimbursed the \$9,562,959 for these services, which included agreements for consulting, legal, public relations, and lobbying services. PFA also paid vendors that provided services without being under contract. As a result, PFA awarded contracts that did not always protect its interest and paid for a number of activities outside its core mission.

<b>Payments for Services and Travel Outside Its Mission</b>	<b>Amount</b>
Legal Services ( <i>spanning several gubernatorial administrations</i> )	\$5,344,824
Consulting Contract with Former VI Senator	808,126
Subcontract-Advisor to Law Firm	438,852
Public Relations Firm	273,391
Regional Governors Association	105,000
Employee Salary	791,667
Employee Travel	36,331
Lobbying	1,764,768
Total	9,562,959

Figure 5. PFA's payments for services outside its mission.

As examples of these practices, we describe below the payment amounts listed in Figure 5.

Between April 2009 and December 2014, PFA paid \$5,344,824 for services that we determined should have been paid by the Office of the Governor instead. The contract provided legal services, government relations, and other professional services for the purpose of representing GVI to Federal regulatory agencies and the court system. The contract stated that this representation was related to matters of "financial and economic recovery," income tax systems, international trade, environmental protection and compliance, healthcare and welfare reform,

and other matters. The contractor submitted itemized invoices detailing attorney hours spent in various categories, such as economic recovery, rum taxes, landfill, appropriations, health care reform, and the Virgin Islands constitutional convention. Based on our review of the work descriptions in each of these categories, we determined that with the exception of services related to rum taxes and economic recovery, the contractor's services fell outside PFA's mission.

We found that PFA also paid \$808,126 for services related to expanding the Virgin Islands' affiliation in the Caribbean region and crafting economic development policies—services that did not contribute to the overall mission and purpose of PFA. According to the contract, the contractor was to coordinate “coalition-building activities,” provide consulting services, attend meetings to expand GVI's participation in “Caribbean region and regional organizations,” formulate economic development policies, and develop initiatives on the island of St. John, including building a new school and creating loan programs with the Government Development Bank. The contractor's responsibilities did not align with PFA's mission to aid GVI in performing its fiscal duties and to raise and manage capital for capital projects.

As with its contracts, PFA paid vendors that provided services unrelated to PFA's mission and goals. Our review revealed \$817,243 in costs that the Office of the Governor, not PFA, should have paid:

- PFA paid a subcontractor (an advisor to a law firm) \$438,852 for services including negotiations with HOVENSA and assistance with the fuel supply for the Virgin Islands Water and Power Authority.<sup>5</sup>
- PFA paid a public relations firm \$273,391 in FYs 2010 and 2011 to manage breaking news and crisis communication for GVI, conduct media outreach for the Virgin Islands Governor and Lieutenant Governor on their trips to Washington, DC, and support ongoing lobbying for GVI.
- PFA paid \$105,000 to a regional governors' association from FY 2010 to FY 2014. The Governor is a member of this organization.

In addition, from August 2007 to October 2014 PFA paid an employee stationed in Washington, DC, an annual salary of \$ [REDACTED] (an estimated total of \$ [REDACTED]). The employee indicated that his job duties were to identify all Federal grant opportunities available to the Virgin Islands, prepare daily Federal funding grant reports for the Virgin Islands OMB, make sure that every agency in the territory was aware of its eligibility for competitive grants, and act as a liaison between PFA and Federal agencies. We determined, however, that these job duties were not related to the mission of PFA; they were related to the functions

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<sup>5</sup> HOVENSA was a petroleum refinery on St. Croix that was jointly owned by Hess Corporation and Petroleos de Venezuela. Its closure in 2012 created a crisis in the Virgin Islands, as it had been the fuel source for the territory's two electrical plants.



of the Office of the Governor and should have been paid from that office’s budget.

PFA also paid \$36,331 for this employee to travel to St. Thomas four times to attend multiple State of the Territory addresses as well as for fees and travel costs for him to accompany the Governor to regional and national conferences. His travel and attendance fees to attend these conferences were paid with PFA’s charge card, but these were direct expenses of the Office of the Governor. Although the Governor serves as the chair of PFA’s board, PFA’s operating budget and project fund should not be exploited as an extension of the Office of Governor’s budget.

Recommendations
<p>We recommend that the PFA Board of Directors:</p> <p style="padding-left: 40px;"><b>13.</b> Pay only those expenses that are related to PFA's primary responsibilities as prescribed by the V.I.C.</p> <p>We recommend that the Virgin Islands Legislature:</p> <p style="padding-left: 40px;"><b>14.</b> Amend the legislation that created PFA to prohibit PFA from paying expenses unrelated to its mission.</p>

*PFA Paid for Unsupported Activities and Services Outside Contract Terms and Conditions*

PFA paid contractors \$6 million without properly supported invoices (see Figure 6) and \$115,494 for services outside contract terms and conditions (see Figure 7). Many of the contracts we reviewed did not require specific deliverables (such as reports on the contractor’s progress or accomplishments) other than a monthly invoice documenting hours worked, work performed, and expenses. Without support for payments, PFA is at risk for paying for non-mission-related tasks, out-of-scope work, and unneeded goods and services.

Payments Without Properly Supported Invoices	Amount
Legal Services <i>(spanning several gubernatorial administrations)</i>	\$5,394,034
Consulting Contract with Former VI Senator	363,735
Lobbying	123,501
Accounting	18,113
Project Management Services	120,000
<b>Total</b>	<b>6,019,383</b>

Figure 6. Payments for unsupported activities.

Payments for Services Outside Contract Terms	Amount
Cleaning	\$ 48,160
Legal ( <i>purchase of Anchor Inn</i> )	27,984
Financial Advisory ( <i>grant writing for Office of Economic Recovery</i> )	39,350
Total	115,494

Figure 7. Payments for services performed outside contract terms.

For example, PFA paid a law firm \$5,394,034 for legal services but could not provide us with any type of documentation to support the validity of these payments.

PFA also paid \$363,735 to a consulting firm without the required detailed invoices showing the work the contractor performed. Specifically, the contract called for biweekly invoices showing the contractor’s hours worked, activities undertaken and work performed, and expenses. The contractor fulfilled this requirement during the first and second contracts, but circumvented it during the third contract by submitting one-page invoices with a line item noting “consulting services.” These invoices did not contain enough detail to support the contractor’s costs, but PFA paid the contractor anyway.

Recommendation
<p>We recommend that the PFA Board of Directors:</p> <p style="padding-left: 40px;">15. Ensure that all costs are adequately supported and within agreed contract terms and conditions.</p>

*Unimplemented Recommendations From 2002 Worsened Contracting Issues*

Our 2002 audit report provided recommendations for many of these contract- and professional-service-related issues, but PFA decision makers did not implement the policies and procedures we recommended. Their inaction has allowed PFA’s contracting issues to balloon.

The 2002 audit reported six instances, valued at \$8.2 million, in which PFA did not competitively procure professional service contracts; as mentioned above, none of the 12 professional services contracts we reviewed for this audit were competitively procured. The 2002 report also reported four professional service contractors that PFA paid at least \$2.3 million for work that was not related to PFA’s primary functions; this audit reported almost \$9 million paid by PFA to cover expenses unrelated to its primary functions, mission, or goals.

Had PFA taken corrective action when we issued our first audit, there would have been greater accountability for the funds entrusted to it on behalf of the people of the Virgin Islands.

### **PFA Mismanaged Bond Proceeds Used To Fund GVI Projects**

In addition to the issues we found with budgeted funds, we found similar issues in our review of PFA's management of bond proceeds that funded GVI projects.<sup>6</sup> In the projects we describe below, PFA paid for projects with undocumented and unjustified scope changes and change orders, did not properly review invoices, and did not collect gross receipts taxes.

#### *PFA Paid for Contracts With Major Change Orders, Drastically Increasing Contract Costs*

During the construction of the Charles Wesley Turnbull Regional Library, scope changes and change orders caused PFA's costs to increase by 149 percent from the original estimate, while the overall footprint of the library decreased by nearly a third. PFA ultimately paid \$13.7 million more than originally estimated on the project.

PFA awarded the contract to a St. Thomas construction firm for \$9.2 million in November 2006. Approximately 6 months later, in May 2007, PFA's director of finance and administration terminated the contract, claiming unacceptable performance by the contractor, after the contractor was paid \$133,547 for groundbreaking and preconstruction services. The contract went back out for bidding in August 2008, and a different contractor received a \$12.7 million contract in November 2008.

Costs escalated under the new contractor with the issuance of 16 change orders, which increased the contract's value to \$14,461,890. In addition, PFA approved six addenda to the contract for various construction services without documented justification, further increasing the contract amount to \$20,334,275. During this time, the size of the library facility was reduced from 57,000 square feet to 39,000 square feet without a corresponding reduction in cost.

As of July 23, 2015, near the end of the project, the library construction payments totaled \$22,940,102. As a result of the unjustified escalations and decreased footprint of the building, PFA paid \$13,740,102 over the original estimate.

#### *PFA Did Not Properly Review Invoices Before Payment and Did Not Withhold Gross Receipt Taxes*

PFA continued its mismanagement of bond proceeds when it funded the construction of the Diageo rum distillery. For this project, we found \$374,169 in ineligible costs, \$29,796,185 in unsupported costs, and \$378,146 in uncollected tax revenues during our review of five fund requisitions worth over \$42 million. PFA issued many more requisitions for this project—354 altogether, for a total

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<sup>6</sup> See our management advisory for details on the other 12 GVI projects we reviewed.

cost of \$184,382,146—therefore, the potential questionable expenditures could be much greater.

GVI entered into an agreement with Diageo in June 2008 to increase rum production in the Virgin Islands and thus increase participation in the rum cover-over program (see note on p. 3). Unlike the other 13 construction projects we reviewed, the Diageo project was not procured, managed, or constructed through GVI; Diageo administered the entire project, and PFA requisitioned the funds from the fiduciary—the Bank of New York Mellon Trust Company—for Diageo. Under the terms of the agreement, GVI:

- Gave Diageo a grant of up to \$250 million to pay for the project
- Reduced or eliminated certain taxes due from Diageo, [REDACTED]
- Provided Diageo with annual statutory incentives [REDACTED]

In exchange, Diageo agreed to build a distillery in the Virgin Islands by January 1, 2012, and produce at this distillery all Captain Morgan-branded products to be sold in the United States.

We found that \$374,169 in bond proceeds designated for the construction of the rum distillery was inappropriately used because the funds went toward goods and services unnecessary for the construction of the facility. Of that amount, \$145,903 was contributed to nonprofit organizations, political campaigns, and community events; \$116,350 was used for employee, contractor, and subcontractor perks, including bonuses, gift certificates, jewelry, babysitting fees, and travel expenses for the spouse of a Diageo official; and \$111,915 went toward meals, entertainment, happy hours, and social events. PFA did not adequately review these invoices to prevent these costs from being reimbursed.

In addition, our review of five requisitions found that \$29,796,185 in expenses were unsupported. PFA employees stated they never received any support for the first (and largest) requisition, which was valued at \$29,191,295. PFA also did not have a single contract or agreement related to the project, nor did it have inspection reports on the status of the project at any given phase. Based on this, we believe that PFA did not exercise due diligence in ensuring that bond proceeds related to the project were spent in accordance with legislation (Act No. 7012), and that PFA failed to safeguard funds against fraud, waste, and mismanagement.

PFA also did not consistently withhold gross receipt taxes from the Diageo project's contractors and vendors, leading to a potential loss of \$378,146 in tax revenues due to GVI. For example, our review of 2 of the 354 requisitions

revealed that PFA had paid out \$9,453,644 to one of the biggest contractors on the Diageo project, but had failed to withhold applicable gross receipt taxes as required by 33 V.I.C. § 44. Furthermore, a brief review of the requisition list disclosed that PFA did not begin withholding gross receipt taxes against Diageo contractors and vendors (which is also required by 33 V.I.C. § 44) until the 23rd requisition—after having paid out over \$68 million in bond proceeds for the project. In addition, PFA did not withhold gross receipt taxes on the bond proceeds it paid directly to Diageo so that Diageo could pay the vendors and contractors. Thus, the overall potential loss to the GVI treasury could be significantly greater than \$378,146.

### Recommendations

We recommend that the PFA Board of Directors:

16. Ensure that the commissioner of property and procurement adhere to all applicable laws when procuring construction services for PFA.
17. Direct PFA to stop administering construction contracts for GVI and to require all construction and capital improvement projects funded through bond proceeds be administered and processed through GVI's central procurement path.
18. Direct PFA to follow the requirements of the V.I.C. regarding the deduction and reporting of gross receipt taxes for contractors and service providers.

We recommend that the Virgin Islands Legislature:

19. Amend the legislation that created PFA to stop PFA from administering construction contracts for GVI and to require all construction and capital improvement projects funded through bond proceeds be administered and processed through GVI's central procurement path.

### **PFA Has Not Complied With Laws and Rules for Board Membership and Bonds**

In addition to its complete absence of internal controls and its serious mismanagement of budgeted funds and bond proceeds, PFA has not complied with V.I.C. laws governing the number of members of its Board of Directors. It also has not complied with the U.S. Internal Revenue Code or its own board's resolutions regarding bond proceeds.

#### *PFA Does Not Have the Required Number of Board Members*

On April 21, 2008, the 27th Legislature increased the mandatory number of PFA board members from five to seven (Act 7002), but neither of the Virgin Islands

Governors elected since the legislation was enacted has complied with the V.I.C. by appointing two new members. As of April 2016, there were two nongovernmental vacancies in the St. Thomas/St. John District. These vacancies undermine the law's intent to enhance impartiality and increase accountability over bond proceeds and budgetary funds.

*PFA Wasted Millions of Dollars in Bond Proceeds To Pay an IRS Settlement*

In 2013, IRS required a \$13.6 million settlement from PFA for not following required practices for tax-exempt bonds. When PFA issued the nontaxable gross receipts bonds in 2006 at the advice of legal and financial advisors, it used some of the bond proceeds to refund gross receipt bonds from 1999. IRS determined that GVI had a cash surplus at the time of the 2006 issuance and should have used the surplus to refund the 1999 bonds. To maintain the bonds' tax-exempt status, PFA agreed to pay \$13.6 million to settle the issue with IRS. PFA issued \$14 million in bonds in 2014 to pay the \$13.6 million settlement.

*PFA Spent Bond Proceeds Without Proper Approval*

PFA issued \$13,032,474 in payments for projects funded with the Series 2003A gross receipt taxes bond without adequately documenting authorization for the disbursement by either the Legislature or the board's own resolutions.

We reviewed the authorizations pertinent to 14 of 81 projects funded by the bond issuance to determine whether PFA had complied with the V.I.C. and with its board's resolutions to properly fund various projects from the bond proceeds. We found that the following projects did not comply:

- PFA disbursed \$6,943,417 more than the amount documented in the board resolutions to acquire Lindquist Beach.
- PFA disbursed \$2,738,700 for a project involving the Toro Building on St. Croix without documenting the funding source.
- PFA disbursed \$918,161 more than the amount documented in the board resolutions for a project to renovate the Charles Harwood Medical Center.
- PFA disbursed \$8,030,415 for a project involving the Kimmelman Cancer Center. The project complies with board resolutions but is \$2,280,415 more than the amount the Legislature approved.
- PFA also spent earned interest without documenting appropriate approval for the following projects:
  - Housing Finance Authority – Islands of Saint Croix, \$147,000
  - Island Center at Saint Croix, \$4,781

## Recommendations

We recommend that the PFA Board of Directors:

- 20.** Require that PFA adhere to established laws set forth in the V.I.C. and the Internal Revenue Code, as well as the board's resolutions.

We recommend that the Virgin Islands Legislature:

- 21.** Amend the legislation that created PFA to provide a greater level of legislative scrutiny and public disclosure of day-to-day operations, such as ensuring the Board of Directors is impartial and requiring accountability for bond proceeds and budgetary funds through periodic reports.

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# Conclusion and Recommendations

## Conclusion

Our audit findings cover a range of improper activities and serious management deficiencies that raise significant questions about PFA's stewardship and expenditures of billions of dollars in public funds. PFA has operated haphazardly without any formal operating policies and procedures or an accurate accounting system. In addition, longstanding issues we identified in an earlier audit have escalated because PFA administrators did not implement our recommendations and failed to establish and implement basic internal controls to safeguard public funds.

We found \$101.1 million in questionable expenditures from professional services and construction contracts, charge card transactions, and petty cash disbursements. We also found that PFA did not competitively procure contracts for professional services and construction, paid for costs unrelated to its primary function, wasted bond proceeds, did not provide adequate support for all expenditures, and failed to collect revenues due to GVI's treasury. In addition, potential conflicts of interest compromised PFA decision makers' objectivity regarding bond issuances and related transactions.

## Recommendations Summary

We issued our draft version of this report for PFA and the Legislature to review and respond (see Appendixes 3 and 4).

Of the 21 recommendations we made, we addressed 18 to PFA. PFA concurred with seven recommendations, partially concurred with four recommendations, and did not concur with seven recommendations. We consider six recommendations resolved and implemented, five recommendations resolved but not implemented, and seven recommendations unresolved (see Appendix 5).

We addressed three recommendations to the Legislature, which stated that it will take action on all three recommendations. We consider these recommendations resolved but not implemented (see Appendix 5).

We will refer 15 recommendations to the Assistant Secretary for Insular Affairs for tracking implementation.

Under the scope and methodology section of this report (see Appendix 1), OIG noted audit scope limitations encountered during the audit. In response to the draft audit report, PFA provided information requested by auditors that was not provided during the fieldwork phase of the audit. We reviewed this information, and in most instances, the information PFA provided in its response conflicted with information received during the fieldwork phase of the audit. We did not



assess the validity of the information as that would have required additional audit work. We will forward the information to OIA.

We recommend that the PFA Board of Directors:

1. Develop and implement operational policies and procedures to manage PFA's day-to-day functions. These policies and procedures should, at a minimum, address human resources, inventory, procurement, accounting, and segregation of duties.

**PFA Response**

PFA concurred with this recommendation. In October 2015, PFA established financial policies to strengthen the internal control process, mitigate risk, and promote an ethical and transparent environment. PFA is in the process of formalizing the tracking and disposal of assets policy and performing physical inventory, which will be maintained in PFA's financial management system.

**OIG Reply**

We consider this recommendation resolved but not implemented.

2. Create and implement petty cash policies and procedures that, at a minimum, provide guidance on the establishment, administration, appropriate uses, and safekeeping of funds.

**PFA Response**

PFA partially concurred with this recommendation. PFA has begun monthly reconciliations of petty cash, and now stores petty cash in a locked safe until needed.

**OIG Reply**

We consider this recommendation resolved but not implemented.

3. Direct PFA to use all applicable functions in its existing accounting financial systems and to capture its financial transactions in the systems so that reporting is prompt, accurate, and complete.

**PFA Response**

PFA did not concur with this recommendation. PFA's current accounting system contains three modules: purchasing, sales, and financial; PFA does not use the sales module. PFA created the Financial Management Extension, a special feature within the purchasing module, to enable assignment of a project and funding source to a payment. This feature is linked to a project tracking database where disbursement requests are generated and projects tracked. It will be fully implemented by September 20, 2017.

**OIG Reply**

We consider this recommendation resolved but not implemented.

4. Implement reconciliation procedures to validate data entries, confirm that financial transactions in the systems are complete and accurate, and enable accurate tax reporting.

**PFA Response**

PFA concurred with this recommendation. PFA began tracking vendor's tax liability, payments to vendors, and payments made to the Virgin Islands Bureau of Internal Revenue on behalf of the vendors in the financial management system. These transactions are now reviewed and approved by the controller with a second approval by the director and executive director of Finance and Administration. Beginning in fiscal year 2019, the director and executive director of Finance and Administration will be included on Microsoft Dynamics Great Plains' accounting software workflow.

**OIG Reply**

We consider this recommendation unresolved because PFA did not address all elements of the recommendation.

5. Direct PFA to train its employees to fully use the accounting system functions that are related to their duties and responsibilities.

**PFA Response**

PFA concurred with this recommendation. PFA directed employees to obtain training on the Microsoft Dynamics GP system no later than September 30, 2017.

**OIG Reply**

We consider this recommendation resolved but not implemented.

6. Create and implement a charge card policy that prohibits PFA's official charge card from being used for personal expenses. The policy should also note users' responsibilities, penalties for abuse of the official card, and timely payment to avoid finance charges.

**PFA Response**

PFA concurred with this recommendation. PFA created a cash management policy as part of its new operational policies and procedures.

**OIG Reply**

We consider this recommendation unresolved because PFA did not address all elements of the recommendation.

7. Implement and enforce an independent review of charge card statements and corresponding receipts each month to ensure all charge card transactions are for PFA official business.

**PFA Response**

PFA concurred with this recommendation. Charge card users submit a monthly charge card reconciliation that includes supporting documentation. This reconciliation is reviewed by the comptroller before processing payment to ensure that all charges are valid. By approving payment, the cardholder is certifying that the charges are proper both as to the amount and purpose.

**OIG Reply**

We consider this recommendation resolved and implemented.

8. Require multiple signatures on wire transfers.

**PFA Response**

PFA concurred with this recommendation. PFA created policy that requires two signatures for all disbursements over \$10,000.

**OIG Reply**

We consider this recommendation resolved and implemented.

9. Create and implement controls, such as adequate supervisory reviews and segregated responsibilities, over all collections and periodic reviews of monthly bank statements.

**PFA Response**

PFA concurred with this recommendation. PFA created a cash management policy that is included in its new operational policies and procedures. The policy states that cash and check receipts must be deposited no later than the next business day. Cash receipts and bank deposits, including electronic fund transfers, must be recorded daily. Specifically in response to the hotel operations, PFA put new procedures in place in fiscal year 2016 to ensure segregation of duties over cash management, as well as to enhance the reliability of financial information, reduce risk, and detect irregularities.

**OIG Reply**

We consider this recommendation resolved and implemented.

10. Create and enforce a comprehensive code of ethics that addresses conflicts of interest.

**PFA Response**

PFA did not concur with this recommendation. PFA, however, created and included a code of ethics in its financial policies and requires all current PFA contracts to include a conflicts-of-interest provision.

**OIG Reply**

We consider this recommendation resolved and implemented.

11. Develop and implement procurement policies and procedures for professional services to ensure all contracts are competitively bid or are properly justified for sole-source.

**PFA Response**

PFA partially concurred with this recommendation. PFA, through its financial policies, has established procurement guidelines for competitive bidding, competitive negotiations, informal solicitations, and sole-source. The policies outline the general circumstances upon which process would be appropriate.

**OIG Reply**

We consider this recommendation resolved and implemented.

12. Develop and implement procurement policies and procedures for professional services to ensure that valid contracts are in place before paying contractors and vendors.

**PFA Response**

PFA partially concurred with this recommendation. All contracts are currently monitored through a ticker system that provides 90-day, 60-day, and 30-day notifications of a contract's expiration date. In addition, all disbursements now require copies of a valid contract as supporting documentation to be approved for payment.

**OIG Reply**

We consider this recommendation unresolved because PFA did not address all elements of the recommendation.

13. Pay only those expenses that are related to PFA's primary responsibilities as prescribed by the V.I.C.

**PFA Response**

PFA did not concur with this recommendation. PFA was created in 1988 as a public corporation and autonomous governmental instrumentality for

the purposes of: aiding the Government in the performance of its fiscal duties, and effectively carrying out its governmental responsibility of raising capital for public projects. Accordingly, in paying expenditures associated with the duties and responsibilities of the chairman of the PFA Board of Directors, PFA is operating within its legislative mandate and assisting the Government by identifying economic opportunity, encouraging economic development, engaging with other agencies' authorities and political entities in shaping national and regional legislation, and decision making that impacts the Virgin Islands.

**OIG Reply**

We consider this recommendation unresolved because expenses mentioned in the report should have been paid through the Office of the Governor's budget, not PFA's.

In addition, we recommend that the Virgin Islands Legislature:

14. Amend the legislation that created PFA to prohibit PFA from paying expenses unrelated to its mission.

**Virgin Islands Legislature Response**

The 32nd Legislature will be crafting the necessary legislation to address this recommendation.

**OIG Reply**

We consider this recommendation resolved but not implemented.

We also recommend that the PFA Board of Directors:

15. Ensure that all costs are adequately supported and within agreed contract terms and conditions.

**PFA Response**

PFA did not concur with this recommendation. PFA requires source documentation, such as an invoice, pay application, periodical estimate, or contract before payments can be processed. The financial system has a mandatory field where a unique invoice number is required before a payment can be posted.

**OIG Reply**

We consider this recommendation resolved and implemented.

16. Ensure that the commissioner of property and procurement adhere to all applicable laws when procuring construction services for PFA.

**PFA Response**

PFA partially concurred with this recommendation. All disbursement requests submitted for payment now require the requisite procurement documents, such as the bid evaluation documentation, justification letter, contract, and business license. By requiring these documents, PFA is ensuring compliance with all procurement and applicable laws.

**OIG Reply**

We consider this recommendation resolved but not implemented.

17. Direct PFA to stop administering construction contracts for GVI and to require all construction and capital improvement projects funded through bond proceeds be administered and processed through GVI's central procurement path.

**PFA Response**

PFA did not concur with this recommendation. Generally, GVI construction contracts are managed and administered through the Department of Public Works and the Department of Property and Procurement.

**OIG Reply**

We consider this recommendation unresolved because PFA disregarded the recommendation.

18. Direct PFA to follow the requirements of the V.I.C. regarding the deduction and reporting of gross receipt taxes for contractors and service providers.

**PFA Response**

PFA did not concur with this recommendation. PFA sought a determination from the Virgin Islands Bureau of Internal Revenue to establish if there was a tax liability. In the case of Diageo's largest vendor, the Bureau of Internal Revenue determined this vendor was not subject to gross receipts taxes.

**OIG Reply**

We consider this recommendation unresolved because PFA did not provide evidence to support its claim in its response.

We further recommend that the Virgin Islands Legislature:

19. Amend the legislation that created PFA to stop PFA from administering construction contracts for GVI and to require all construction and capital improvement projects funded through bond proceeds be administered and processed through GVI's central procurement path.

**Virgin Islands Legislature Response**

The 32nd Legislature will be crafting the necessary legislation to address this recommendation.

**OIG Reply**

We consider this recommendation resolved but not implemented.

We also recommend that the PFA Board of Directors:

20. Require that PFA adhere to established laws set forth in the V.I.C. and the Internal Revenue Code, as well as the board's resolutions.

**PFA Response**

PFA did not concur with this recommendation. PFA adheres to established laws set forth in the V.I.C. and the Internal Revenue Code, and complies with the PFA's enabling legislation outlined in Title 29 V.I. Code, Chapter 15, Section 916, et. al.

**OIG Reply**

We consider this recommendation unresolved because PFA did not provide support for all elements of this recommendation.

Finally, we recommend that the Virgin Islands Legislature:

21. Amend the legislation that created PFA to provide a greater level of legislative scrutiny and public disclosure of day-to-day operations, such as ensuring the Board of Directors is impartial and requiring accountability for bond proceeds and budgetary funds through periodic reports.

**Virgin Islands Legislature Response**

The 32nd Legislature will be crafting the necessary legislation to address this recommendation.

**OIG Reply**

We consider this recommendation resolved but not implemented.

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# Appendix 1: Scope and Methodology

## Scope

We conducted this audit in accordance with Generally Accepted Government Auditing Standards. 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. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The scope of the audit included transactions that originated at the Virgin Islands Public Finance Authority (PFA) during fiscal years 2009 to 2015 and other periods as deemed appropriate. We conducted our audit at PFA's offices in St. Thomas and St. Croix. We also conducted a review of PFA's commercial entity, Kings Alley Hotel, which was limited to internal controls over hotel receipts.

## Methodology

To accomplish our audit objectives, we reviewed applicable laws, rules, and regulations; files related to 12 professional service contracts paid from PFA's operating budget and 14 construction projects financed with bond proceeds; bond issuance statements; interest earning statements; charge card statements; petty cash files; financial statements; expenditure reports; 2003 bond issuance; and transcripts of meetings of PFA's Board of Directors and Administrators.

In addition to interviewing PFA's public accountants and bond counsel, we interviewed officials at:

- PFA
- Virgin Islands Next Generation Network, Inc.
- West Indian Company Limited
- Office of Economic Opportunity
- Department of Property and Procurement
- Department of Public Works (DPW)
- Magen's Bay Authority
- Virgin Islands Housing Finance Authority
- Virgin Islands Waste Management Authority



We also conducted site visits at the Office of the Governor, Dorothea Fire Station, DPW office, Smith Bay Park, Fort Christian, Coki Point Boardwalk on St. Thomas, Kings Alley Hotel, and Fredericksted Mall on St. Croix.

As noted in our report, PFA's board did not establish policies and procedures for basic operations, put sufficient systems in place to control and prevent financial discrepancies, properly monitor charge card transactions, or create proper segregation of duties over cash transactions and fund transfers. PFA's data proved inaccurate in many instances. Because PFA had no internal controls over its computer-generated data and was unable to provide support for a significant amount of its financial transactions, we were unable to rely on these data. Instead, we used source documentation provided by PFA to conduct our analysis and form conclusions for professional service, contract, charge card, petty cash, and expenditure reviews.

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## Appendix 2: Questionable Expenditures

### Questionable Expenditures Found During Our Policy and Procedure Review\*

Transaction Type	Amount Tested	Not Supported	Discrepancies	Total
Petty Cash	\$7,308	\$333		\$333
Charge Card Purchases	230,443	193,682		193,682
King's Alley Management, Inc. ( <i>hotel receipts</i> )	809,464		\$17,846	17,846

\* See pp. 5 through 10 of this report for explanations of our findings, as well as details about these transactions.

## Questionable Expenditures Found During Our Review of Professional Service Contracts\*

Contract Name	Amount Tested	Sole Source	No Valid Contract	Outside PFA's Mission	Not Supported	Outside Contract Terms	Total
Legal ( <i>spanning several administrations</i> )	\$14,341,343	\$14,341,343	\$11,164,425	\$5,344,824	\$5,394,034		\$14,341,343
Consulting ( <i>former VI senator</i> )	808,126	808,126	46,151	808,126	363,735		808,126
Lobbying	1,764,768	1,764,768	600,926	1,764,768	123,501		1,764,768
Cleaning	311,991	311,991				\$48,160	311,991
Legal ( <i>Office of Economic Opportunity</i> )	497,444	497,444					497,444
Accounting	739,871	739,871			18,113		739,871
Legal ( <i>purchase of Anchor Inn</i> )	27,984	27,984	27,984			27,984	27,984
Project Management Services ( <i>Library</i> )	120,000	120,000			120,000		120,000
Financial Advisory ( <i>grant writing for OEO</i> )	39,773	39,773				39,350	39,773
Network Service Management	249,478	249,478					249,478
IT Consultants	5,378,493	5,378,493	3,339,384				5,378,493
Financial Advisory ( <i>PFA financial consultants</i> )	3,407,233	3,407,233	1,371,885				3,407,233

\* See pp. 13 through 21 of this report for explanations of our findings, as well as details about select contracts.

## Questionable Expenditures Found During Our Review of Expenditures\*

Contract Name	Amount Tested	No Written Contract	Outside PFA's Mission	Total
Law Firm ( <i>litigation representation</i> )	\$91,974	\$91,974		\$91,974
Rent 1	126,560	126,560		126,560
Rent 2	69,093	69,093		69,093
Public Relations	273,391	273,391	\$273,391	273,391
PFA Board Counsel	427,084	427,084		427,084
Subcontractor ( <i>advisor to law firm</i> )	438,852		438,852	438,852
Regional Governor's Association	105,000		105,000	105,000
Employee's Salary	791,667		791,667	791,667
Employee's Travel	36,331		36,331	

\* See pp. 16 through 20 of this report for explanations of our findings, as well as details about select expenditures.

## Questionable Expenditures Found During Our Review of GVI Bond Proceed Projects\*

Contract Name	Amount Tested	Not Supported	Wasted	Ineligible	Uncollected Tax Revenue	Total
Charles Wesley Turnbull Regional Library	\$22,940,102		\$13,740,102			\$13,740,102
Diageo Project ( <i>rum distillery, \$250 million grant</i> )	42,033,331	\$29,796,185		\$374,169	\$378,146	30,548,500

\* See pp. 22 through 24 of this report for explanations of our findings, as well as details about these projects.

## Other Questionable Expenditures\*

Transaction Type	Amount Tested	Wasted	Improper Approval	Total
Bond Proceeds Compliance Review				
IRS Settlement	\$13,600,000	\$13,600,000		\$13,600,000
2003 Bond Issuance				
Lindquist Beach			\$6,943,417	\$6,943,417
Toro Building			2,738,700	2,738,700
Charles Harwood Medical Center			918,161	918,161
Kimmelman Cancer Center			2,280,415	2,280,415
Housing Finance Authority St. Croix			147,000	147,000
Island Center St. Croix			4,781	4,781
<b>Total Questionable Expenditures †</b>				<b>\$101,143,062</b>

\* See pp. 25 and 26 of this report for explanations of our findings, as well as details about the projects associated with these bonds.

† We removed duplicative costs to calculate the total questionable expenditures.

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## **Appendix 3: PFA's Response to the Draft Report**

The Virgin Islands Public Finance Authority's response begins on page 42.



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V · I · P · F · A

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VIRGIN ISLANDS PUBLIC FINANCE AUTHORITY

July 31, 2017

Ms. Mary L. Kendall  
DOI Deputy Inspector General  
U.S. Department of the Interior  
Office of Inspector General  
Mail Stop 4428 MIB  
1849 C Street, NW.  
Washington, DC 20240

Mr. Steven van Beverhoudt  
V.I. Inspector General  
Office of the V.I. Inspector General  
2315 Kronprindsens Gade No. 75  
St. Thomas, U.S. Virgin Islands 00802-6468

***Re: Office of Inspector General's Report (No. ER-IN-VIS-0015-2014)***

Dear Ms. Kendall and Mr. Van Beverhoudt:

The Virgin Islands Public Finance Authority (“VIPFA” or “PFA”) reviewed the above-referenced report and offers the following comments to certain findings and conclusions contained within said report:

**Findings:**

**(i) PFA Used Excel Spreadsheets Instead of its Financial Accounting Systems**

*The summary excel spreadsheets are solely utilized as an informational tool by upper management and the Board of Directors to reflect all deposits of administrative fees, interest earnings and board resolutions authorizing the spending of such funds. As such, the summary excel spreadsheets are not used as an alternative to the VIPFA's financial accounting system.*

**(ii) One of PFA's accounting systems was created specifically to track bond proceed expenditures by project, but because PFA does not use this program, it took PFA officials 5 months to compile a report of projects that we had originally requested at the beginning of the audit.**



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*The reason for not utilizing the Financial Management Extension System (FME), the module created specifically to track project related information, was because it was not fully implemented and updated during the audit period in question. However, during Fiscal Year 2017, the requisite updates, testing, report development and training relative to the financial accounting system and FME was conducted to ensure proper functionality and accuracy.*

*While the PFA's financial accounting system may have been able to calculate the tax liability for a vendor or contractor into the respective 1099 and 1096 returns, the reason for the non-utilization of this system function was not due to the PFA's failure to enter the data into the financial accounting system – in fact, all financial data and transactions have been, and continue to be, recorded into the financial accounting system -- but was due to the system not being fully implemented and updated. During Fiscal Year 2016, the requisite updates, testing, report development and training relative to 1099 and 1096 reporting was conducted to ensure proper functionality and accuracy.*

**(iii) Operating Without Strong Controls Led to Multiple Potential Conflicts of Interest Between GVI Employees, Contractors, and Vendors**

- **PFA's bond counsel issued a legal opinion in favor of a new bond issuance and later benefited from the proceeds of that bond issuance. The counsel collected \$463,505 for legal services related to the project for which the bonds were issued.**

*In 1998, Act No. 6227 authorized issuance of bonds secured by Matching Fund Revenues for several projects, including waste water treatment facilities. In 2009, Act No. 7081 authorized the issuance of the 2009 Matching Fund bonds for several capital projects, of which waste water treatment facilities was not included. However, at the time of Act No. 7081's passage and the rendering of bond counsel's legal opinion, waste water treatment facilities capital project was already authorized by prior legislation. Therefore, without further conclusive information to affirm or negate the assertion of a potential conflict of interest, it cannot be definitively concluded that a potential conflict of interest existed.*

- **The alcoholic beverage company Diageo USVI Inc. contributed \$2,500 from bond proceeds to a carnival troupe managed by a Virgin Islands senator who voted in favor of a \$250 million Diageo bond issuance. Diageo listed this cost on its invoice as "government contributions."**

*Diageo is a private corporation and is not 1) an employee, 2) contractor, or 3) vendor of the Government of the U.S. Virgin Islands. If Diageo submitted an invoice that may have included*

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*an improper cost from bond proceeds, the PFA will research the matter and take remedial actions to recoup those funds.*

- **Diageo also contributed \$1,000 in bond proceeds to a “Democratic Party – Gov. Prayer Breakfast” in 2009.**

*See previous response.*

- **A former Governor who had served as the chair of PFA’s board entered into PFA contracts with his close relative.**

*The PFA entered into the contract with said vendor on behalf of the Department of Public Works. Without further conclusive information to affirm or negate the assertion, it cannot be definitively concluded that the selection of this vendor was solely at the behest of a former Governor. Moreover, the PFA lacks any direct information or knowledge to ascertain whether the vendor was a “close relative”.*

- **A member of PFA’s board voted in favor of the Diageo bond issuance and later benefited from the proceeds when his company provided services for the project. When we interviewed him, he did not recognize his actions as unethical.**

*The Board Member is not an employee of the PFA. The Diageo Agreement was ratified into law by Act No. 7012 and signed on July 10, 2008. The passage of Act No. 7012 was the legislative general authorization for the PFA to issue the bonds. Through PFA Board Resolution No. 08-10, the PFA Board granted specific authorization for the execution of all necessary bond documents, certificates, and required declarations to effectuate the bond issuance process in accordance with Act No. 7012. The approval of any bond issuance and/or designated project begins with the V.I. Legislature and not the PFA Board. Thus, the PFA Board’s approval of the Diageo bond issuance was a perfunctory function to commence the bond issuance process. Therefore, since the members of PFA’s Board of Directors are not Senators of the VI Legislature, no Board member voted”, or could vote in favor, of the Diageo bond issuance.*

- **PFA legal counsel simultaneously represented both GVI and its opponent regarding a work stoppage on a GVI project in February 2013.**

*There is a lack of information to sufficiently affirm or negate whether legal counsel advised the PFA of any possible conflict of interest and if there was any determination whether the nature of services to be rendered to both the PFA and the GVI’s opponent was such that the parties’ interests would be adverse to the other.*

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**(iv) PFA Paid for Contracts With Major Change Orders Drastically Increasing Contract Costs**


*In 2006, the original RFP and conceptual plans was for a 57,000 SF library and record center for the Department of Planning and Natural Resources at the property located at Parcel Nos. 26A, 39 and 33A Estate Charlotte Amalie, No. 3 New Quarter, St. Thomas, U.S. Virgin Islands. The original RFP and conceptual plans were revised. In 2008, a new RFP and conceptual plans was issued for a 37,000 SF library and record center. After the issuance of the construction contract, additional design features and amenities were added to the scope of work. All supplemental contracts/addendas, with justifications and corresponding documentation, were submitted by the architect/project manager. Additionally, the Architect/Project Manager and the Department of Public Works were also present at the respective Board Meetings to discuss the proposed supplemental contracts/addendas. The PFA Board approved six supplemental contracts/addendas to the original contract. Increase in costs were attributable to the following as described in the board resolutions:*

- Board Resolution No. 09-014
  - a) *Improvements to access road*
  - b) *Sewage and drainage construction*
  - c) *Purchase of furnishings, fixtures and equipment*
  - d) *Construction of utilities and contingencies*
  
- Board Resolution No. 10-004
  - a) *Building and site enhancements*
  - b) *Off site utilities enhancements*
  - c) *Construction of a mezzanine for the children's wing*
  - d) *Expenses of design, engineering and construction of the DPNR Technical Wing (as requested by the Department of Planning and Natural Resources)*
  
- Board Resolution No. 10-010
  - a) *Architectural and Engineering Services for the design of the New Mezzanine level*
  
- Board Resolution No. 10-011
  - a) *Lighting Upgrades*
  - b) *Rough-in of electrical needed for installation of a photo-voltaic system*
  - c) *Installation of porcelain tile flooring*
  - d) *Installation of additional electrical outlets to accommodate modification of the New Mezzanine and Children's Reading Room*

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**(v) PFA Did Not Properly Review Invoices Before Payment and Did Not Withhold Gross Receipt Taxes**

A. The supporting documentation for the \$29,191,295 in expenses was properly documented, reviewed and approved by the PFA’s Director of Finance and Administration and its bond counsel. The supporting documentation, which is enclosed as a digital transmittal “Attachment A”, included six requisitions submitted by Diageo as follows:

Requisition No. 1	dated June 8, 2009	\$	
Requisition No. 2	dated June 18, 2009	\$	
Requisition No. 3	dated June 18, 2009	\$	
Requisition No. 4	dated June 18, 2009	\$	
Requisition No. 5	dated June 18, 2009	\$	
Requisition No. 6	dated June 18, 2009	\$	

B. PFA did have a copy of the Diageo Agreement, dated June 17, 2008, and ratified by the Legislature by Act No. 7012.

C. PFA received quarterly construction progress reports from Diageo, which were filed with Digital Assurance Certification, LLC (“DAC”), as part of the continual disclosure for the 2009 Matching Fund Diageo Bonds. The reports can be found at [www.dacbond.com](http://www.dacbond.com). One report is enclosed as a digital transmittal “Attachment B” for reference. DAC acts as disclosure dissemination agent for issuers of municipal bonds, electronically posting and transmitting information to repositories and investors.

**(vi) PFA Has Not Complied With Laws and Rules for Board Membership and Bonds**

Act No. 7002, Section 5 amended Title 29 V.I. Code §919 FIFTH to increase the Virgin Islands Public Finance Authority’s Board of Directors from five to seven members. Three members (the Governor, Commissioner of Finance and Director of Office of Management and Budget) serve as ex-officio members of the Board, while the Governor shall appoint four additional members with the advice and consent of the Legislature. As noted, there were two vacancies for the district of St. Thomas / St. John nongovernmental posts.

**(vii) PFA Wasted Millions of Dollars in Bond Proceeds To Pay an IRS Settlement**

Background: Through a random audit on the Series 2006 Gross Receipts Bonds (“GRT”), the IRS concluded a portion of the Series 2006 GRT Bonds that refunded the Series 1999A GRT Bonds should not have been issued on the basis that the Government had surplus amounts available that should have been used to retire the Series 1999A GRT Bonds that were refunded. Thus, to ensure

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that the holders of the Series 2006 GRT Bonds did not have their investment income re-characterized as taxable, the IRS offered a \$13,635,104 settlement upon acceptance by the Government of the Virgin Islands. Act 7508, Section 1 appropriated \$13,635,104 from the General Fund to pay the settlement amount of \$13,635,104, which is not indicative of “wasted millions of dollars.”

- A. Series 1999A GRT Bonds should not have been issued on the basis that the Government had surplus amounts available that should have been used to retire the Series 1999A GRT Bonds that were refunded. Thus, to ensure that the holders of the Series 2006 GRT Bonds do not have their investment income re-characterized as taxable, the IRS offered a \$13,635,104 settlement upon acceptance by the Government of the Virgin Islands. Act 7508, Section 1 appropriated \$13,635,104 from the General Fund to pay the settlement amount of \$13,635,104, which is not indicative of “wasted millions of dollars.”
- B. Through Act No. 7508, the Legislature authorized (i) the payment of the settlement amount of \$13,635,140 from the General Fund; and (ii) the Public Finance Authority and the Government of the Virgin Islands to issue a limited special obligation note to secure the repayment of the \$13,635,140 to the General Fund.
- C. The PFA Board of Directors passed Board Resolution No. 13-009 that authorized, among other documents, the approval and execution of a loan agreement and a loan note.
- D. Pursuant to Act No. 7508 and Board Resolution No. 13-009, Section 5, the PFA executed a \$14,000,000 loan (and not bond proceeds) with Banco Popular de Puerto Rico for the repayment of \$13,635,104 to the General Fund.

In conclusion, the PFA was authorized, by both a legislative act and board resolution, to execute a loan agreement for the repayment of \$13,635,104 to the General Fund. This was a mandatory action and settlement to ensure the Series 2006 GRT Bonds were not re-characterized as “taxable bonds” to the detriment of the Series 2006 bond holders, and ultimately to negate any negative impact to future bond offerings of the U.S. Virgin Islands Government. Consequently, the PFA did not squander (or “waste” as noted in the report) millions in bond proceeds, as bonds were not proffered and moreover, the settlement agreement was authorized and mandated by both the legislative’s and the PFA Board’s actions. Additionally, the General Fund had to be reimbursed to ensure the continued operations of the Government of the U.S. Virgin Islands. As such, the PFA strictly adhered to the legislative act and settlement agreement with the Internal Revenue Service.

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**(viii) PFA Spent Bond Proceeds Without Proper Approval**

The PFA did not disburse \$13,032,474 without adequate documentation by either Legislative action or Board resolution. The respective projects, and respective sums, are listed below:

A.	<i>Lindquist Beach</i>	\$ 6,943,417
B.	<i>Toro Building</i>	\$ 2,738,700
C.	<i>Charles Harwood Medical Center</i>	\$ 918,161
D.	<i>Kimmelman Cancer Center</i>	\$ 2,280,415
E.	<i>V.I. Housing Finance Authority – St. Croix District</i>	\$ 147,000
F.	<i>Island Center – St. Croix</i>	\$ 4,781
	<b>Total:</b>	<b>\$13,032,474</b>

A. Lindquist Beach Project: Through legislative acts and board resolutions, the Lindquist Beach Acquisition project had a total budget authorization of \$12,100,000 and total expenditures of \$8,543,416.67, leaving an unexpended authorization of \$3,556,583.33 in unexpended funds. Thus, the PFA did not disburse \$6,943,417 more than the documented board resolutions, and respective acts, for the acquisition of Lindquist Beach.

The appropriated/allocated funding for the Lindquist Beach acquisition were as follows:

Act No. 6505, Section 8	\$ 3,500,000
Act No. 6868, Section 11	\$ 4,500,000
Board Resolution No. 03-013	\$ 2,500,000
Board Resolution No. 05-002	<u>\$ 1,600,000</u>
Total Project Budget:	\$12,100,000

B. Toro Building: PFA Board Resolution No. 04-003 allocated \$4,100,000 from the 2003 Gross Receipts Taxes (“GRT”) Bond issuance to the V.I. Department of Justice for the renovations of the Toro Building in Christiansted, St. Croix. The funding was clearly identified on all disbursed checks. A sampling of checks, totaling \$2,217,119.68, of the \$2,738,700 expenditures noted by the audit, shows that every check distinctly identified both the project as the “Toro Building” and the Series 2003 GRT bonds as the funding source. The sampling copy of checks is enclosed as a digital transmittal “Attachment C”. The Series 2003 GRT Bonds as the funding source was documented by (i) board resolution; and (ii) all check disbursements.

C. Charles Harwood Medical Center: Through board resolutions, the Charles Harwood Medical Center had a total budget of \$7,047,840 and total expenditures of \$6,861,000.65, leaving an available balance of \$186,839.35, which was later reprogrammed through Board

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*Resolution No. 15-028. The PFA did not disburse \$918,161 more than the documented board resolutions for the renovation of the Charles Harwood Medical Center. The following are the board resolutions allocating funding for the project:*

<i>Board Resolution No. 02-008 (as amended by No. 03-013)</i>	<i>\$4,000,000</i>
<i>Board Resolution No. 04-003</i>	<i>\$1,100,000</i>
<i>Board Resolution No. 05-002 (<u>Phase III</u>)</i>	<i>\$1,800,000**</i>
<i>Board Resolution No. 10-022 (Air Conditioning)</i>	<i><u>\$ 147,840</u></i>
<b><i>Total Project Budget:</i></b>	<b><i>\$7,047,840</i></b>

*\*\*Although PFA Board Resolution No. 05-002 reads “...up to \$1,800,000 shall be allocated to the Department of Health for Phase III of the Charles Harwood Hospital Complex on the island of St. Croix....”, this was not a reduction of the original budget from \$4,000,000 to \$1,800,000. Note, the term “Phase III” was not used in the prior board resolutions. By the time Resolution No. 05-002 was adopted on June 10, 2005, \$4,623,743.22 was expended from the \$5.1 million approved project budget. By reference to a letter dated May 2, 2005, the Department of Health requested an additional \$1,800,000 for Phase III.*

*D. Kimmelman Cancer Center. PFA Board Resolution No. 03-013, with legislative authority provided via Act No. 6514, as amended, provided \$5,000,000 towards the Kimmelman Cancer Center. Upon petition for additional funding from the Schneider Medical Regional Center CEO, the Board allocated an additional \$3,000,000 through Resolution No. 05-006, with legislative authority also found through Act No. 6587, as amended. Thus, the total budgetary allowance for the Kimmelman Cancer Center was \$8,000,000.00.*

*E. V.I. Housing Finance Authority – St. Croix District. This project had its own respective account where allocated bond funds were deposited and interest was earned on the deposit.*

*V.I. Housing Finance Authority: The total budgetary allowance for the Housing Finance Authority project was \$2,500,000.00. Ten percent of the approved budget would be \$250,000.00. However, additional interest earnings spent on the project was \$147,000.00, less than the maximum 10% price increase allowance of \$250,000.00.*

*F. Island Center - St. Croix. This project had its own respective account where allocated bond funds were deposited and interest was earned on the deposit.*

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*Island Center – St. Croix: The total budgetary allowance for the Island Center – St. Croix Project was \$350,000.00. Ten percent of the approved budget would be \$35,000.00. However, additional interest earnings spent was \$4,781.00, less than the maximum 10% price increase allowance of \$35,000.00.*

Notwithstanding, our numerous disagreements with the observations and conclusions enumerated in the report, based on your request that we respond to each “recommendation” and not necessarily the findings or conclusions, we hereby comply with your request to respond to the recommendations as follows:

1. Develop and implement operational policies and procedures to manage PFA’s day-to-day functions. These policies and procedures should, at a minimum, address human resources, inventory, procurement, accounting, and segregation of duties.

*Concur. The VIPFA Board of Directors established the enclosed financial policies (entitled “Financial Policies”) to strengthen the internal control process, mitigate risk and promote an ethical and transparent environment in October 2015. The policies addressed the following critical areas:*

*Ethical Standards  
Financial Management Responsibilities  
Audit  
Budgetary Process  
Accounting & Financial Reporting  
Cash Management  
Procurement  
Debt Management  
Credit Market  
Risk Management  
Record Retention  
Real Estate Leasing  
Energy and Sustainability*

*VIPFA’s Director of Finance and Administration is currently in the process of performing a thorough job analysis for each employee within the organization to prepare job descriptions specific to each employee job title. Each employee will have a clear understanding of their duties and responsibilities, the importance of their duties and how their position contributes to the VIPFA’s goals, mission and objectives by the 1st quarter of Fiscal Year 2018.*



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*As recommended, the VIPFA is in the process of formalizing the tracking and disposal of assets policy and performing physical inventory of valuable property to include furniture, office equipment and computers that are \$5,000.00 or more per unit. All capital items meeting this threshold will be maintained in VIFPA's financial management system (i.e., MS Dynamics GP) utilizing the Fixed Asset module and all assets will be tagged with a unique number for tracking purposes. The Fixed Asset module implementation project will be completed by March 2018, with inventory verification completed every two years; which will be prepared by the Chief Administrative Officer, verified by the Comptroller's office and approved by the Director of Finance and Administration.*

2. Create and implement petty cash policies and procedures that, at a minimum, provide guidance on the establishment, administration, appropriate uses, and safekeeping of funds.

*Partially concur. Historically, petty cash was reconciled on an as needed basis. Based on the recommendation by OIG, petty cash is now being reconciled monthly. The reconciliation is prepared by the Chief Administrative Officer, reviewed by the Comptroller and approved by the Director of Finance and Administration. All supporting documentation is retained with the reconciliation and filed. Receipts that have the potential to fade are copied prior to filing in order that the support for those transactions remain legible. Petty Cash has always been maintained in a locked draw which was communicated and shown to the OIG Auditors on separate occasions and the auditors agreed at those specific times that having the petty cash in a locked draw complied with the safekeeping of funds requirements. Nevertheless, the Petty Cash is now kept in a locked safe until needed.*

3. Direct PFA to use all applicable functions in its existing accounting financial systems and to capture its financial transactions in the systems so that reporting is prompt, accurate, and complete.

*Non-concur. The modules available in the current accounting system are (1) Purchasing, (2) Sales and (3) Financial. VIPFA is currently using the purchasing and financial modules in the existing accounting system to capture and record financial data. Because VIPFA does not have sales, the sales module is not being utilized. A special feature within the purchasing module was customized specifically for VIPFA to enable assignment of a project and funding source to a payment where applicable. This feature is linked to a project tracking database called Financial Management Extension (FME). FME is VIPFA's project tracking database where disbursement requests are generated and projects tracked through the efforts of the Controller and Bond Proceeds Manager. FME will be fully implemented by September 20, 2017 and utilized by the Controller and Bond Proceeds Manager as the official books and records. All reports generated in FME can be exported in several formats, for example PDF, Excel, Word, CSV etc.*

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4. Implement reconciliation procedures to validate data entries, confirm that financial transactions in the systems are complete and accurate, and enable accurate tax reporting.

*Concur. During the test period 1099s and 1096s were not prepared in house. Effective January 1, 2016, each vendor's tax liability was tracked in the financial management system of VIPFA (i.e., Microsoft Dynamics GP) and a vendor 1099 report covering calendar year 2016 was generated in January 2017. The financial system also captured all payments made to vendors and payments made to the Virgin Islands Bureau of Internal Revenue (VIBIR) on behalf of the vendors to give the total tax liability for each vendor. Prior to the final posting of any transaction in GP, it is entered by the Asst. Controller, reviewed (and approved) by the Controller, then final review and approval is conducted by the Director of Finance and Administration, as well as the Executive Director. Note that the final review/approval by the Director of Finance and Administration, as well as the Executive Director is currently being conducted outside of the system; therefore, posting can technically occur prior to said review/approval. Therefore, commencing Fiscal Year 2019, the Director of Finance and Administration, as well as the Executive Director will be included on GP's workflow.*

5. Direct PFA to train its employees to fully use the accounting system functions that are related to their duties and responsibilities.

*Concur. VIPFA understands that employees need to replenish their knowledge and acquire new skills to become more efficient in their roles as this will benefit both the employees and the agency. At the outset of Fiscal Year 2016, employees were directed to obtain the requisite training in order to fully implement the Microsoft Dynamics GP system by no later than September 30, 2017.*

6. Create and implement a credit card policy that prohibits PFA's official credit card from being used for personal expenses. The policy should also note users' responsibilities, penalties for abuse of the official card, and timely payment to avoid finance charges.

*Concur. During the period tested, credit card receipts were not provided by the sole holder and authorized user of the VIPFA's credit card for purchases made. The amount of \$3,786.00 charged to a marine shipping company was determined not to be a VIPFA related charged which was reimbursed to the VIPFA during the next billing cycle.*

*Currently VIPFA's credit card statements are reviewed promptly by the card holder and approved for timely payment to the credit card company, to avoid interest charges as stated in the VIPFA's financial policies. The process of review and payment is detailed in the Response to Number 7.*

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7. Implement and enforce an independent review of credit card statements and corresponding receipts each month to ensure all credit card transactions are for PFA official business.

*Concur. Currently, the authorized user submits a monthly credit card reconciliation once the credit card bill is received. The credit card bill, supporting documentation and the reconciliation is reviewed by the comptroller prior to processing to ensure that all charges are valid and the payment is then processed for approval. By approving payment, the cardholder is certifying that the charges are proper both as to the amount and purpose.*

8. Require multiple signatures on wire transfers.

*Concur.*

- *VIPFA Board has resolved via Board Resolution No. 17-08, that all disbursements over \$20,000.00 require two signatures.*
- *KAMI Board has resolved via Board Resolution 17-002, that all disbursements over \$10,000.00 require two signatures.*

9. Create and implement controls, such as adequate supervisory reviews and segregated responsibilities, over all collections and periodic reviews of monthly bank statements.

*Concur. Cash and Check receipts must be deposited promptly no later than the next business day. Cash receipts and bank deposits, including electronic fund transfers must be recorded daily as stated in VIPFA's cash management policy. In response to OOIG's concerns with regards to Kings Alley Hotel's cash management, please note the following:*

- *All hotel Deposits are made daily by the Hotel Manager.*
- *Deposit slips stamped received by the bank and daily hotel transaction support are given to and recorded by the Business Management Analyst at VIPFA St. Croix.*
- *Comptroller's office at VIPFA St. Thomas performs a final review of daily hotel transactions for accuracy.*
- *All vendor invoices related to the hotel are input into the system for payment by the Business Management Analyst.*
- *Comptroller's office reviews all vendor invoices, prior to processing, for final approval by an authorized signatory.*

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- *Monthly reconciliations are performed by the Comptroller's office at VIPFA St. Thomas.*

*During Fiscal Year 2016, these procedures were put in place to ensure segregation of duties over cash management, as well as to enhance the reliability of financial information, reduce risk and detect irregularities.*

10. Create and enforce a comprehensive code of ethics that addresses conflicts of interest.

*Non-concur. A Code of Ethics was one of the provisions included in the PFA's Financial Policies. All current PFA contracts now include a conflicts of interest provision. Additionally, the PFA, as a governmental entity, is also subject to V.I. Code Title 3, Chapter 37 which codifies a conflicts of interest policy. However, the PFA disagrees with the cited examples as posing potential conflicts of interest, or deems that a potential conflict of interest cannot be established without further investigation into the matter. Each cited example is addressed with further clarification and/or information to address the question whether there exists a "potential conflict of interest", as noted in pages 2-3.*

11. Develop and implement procurement policies and procedures for professional services to ensure all contracts are competitively bid or are properly justified for sole-source.

*Partially concur. The PFA, through its Financial Policies, has established procurement guidelines for competitive bidding, competitive negotiations, informal solicitations and sole source. The policies outline the general circumstances upon which process would be appropriate.*

*Some contracts are appropriate for sole source given the nature of the Authority's operations and responsibilities, policy formulation, and confidential and sensitive matters. Moreover, the PFA's enabling legislation, Title 29, Chapter 15, Section 919, FOURTH (H) provides: "To appoint, employ and contract for the services of officers, agents, employees and professional assistants and to pay such compensation for their services as the Authority may determine".*

12. Develop and implement procurement policies and procedures for professional services to ensure that valid contracts are in place before paying contractors and vendors.

*Partially concur. All contracts are currently monitored through a ticker system that provides 90, 60 and 30 day(s) notifications of a contract's expiration date. Additionally, all disbursements now require copies of a valid contract as supporting documentation to be approved for payment. The PFA disagrees with the inclusion of the two rental properties within this category. There were valid and unexpired contracts for the two leasehold properties. The landowner filed for bankruptcy and the properties were placed into receivership. Consequently, the receiver bore the*

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responsibility of managing and maintaining the properties, including the collection of rental income. The receivership does not extinguish any existing leases, but shifts control and management of the properties to a receiver. Thus, those leases did not expire upon the property going into receivership.

13. Pay only those expenses that are related to PFA's primary responsibilities as prescribed by the V.I.C.

*Non-concur. The PFA was created in 1988 via Act No. 5365, et. al., as a public corporation and autonomous governmental instrumentality for the purposes of: a) aiding the Government in the performance of its fiscal duties; and b) effectively carrying out its governmental responsibility of raising capital for public projects. Title 29 V.I. Code §918. Accordingly, in paying expenditures associated with the duties and responsibilities of the Chairman of the Board, the PFA is operating within its legislative mandate and assisting the Government by identifying economic opportunity, encouraging economic development and engaging with other agencies, authorities, political entities in shaping national and regional legislation, decision-making that impacts the Virgin Islands.*

We recommend that the Virgin Islands Legislature:

14. Amend the legislation that created PFA to prohibit PFA from paying expenses unrelated to its mission.

*Non-concur. See Response to Recommendation No. 13.*

15. Ensure that all costs are adequately supported and within agreed contract terms and conditions.

*Non-concur. Before payments can be processed at the VIPFA, source documentation is required, whether in the form of an invoice, pay application, periodical estimate or contract. No payment is processed without source documentation. The financial system has a mandatory field where a unique invoice number is required before a payment can be posted.*

*Secondly, based on the type of services being provided, reports and other deliverables are provided directly to the Board of Directors, and/or management, and not shared, or made a part of, a submittal invoice. Nevertheless, invoices are not paid until approved by an authorized signatory. Thus, deliverables are also reviewed for sufficiency.*

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16. Ensure that the commissioner of property and procurement adheres to all applicable laws when procuring construction services for PFA.

*Partially concur. All disbursements requests submitted for payment now require the requisite procurement documents, i.e. bid evaluation documentation, justification letter, contract, business license, etc. By requiring these documents, the PFA is ensuring compliance with all procurement and applicable laws.*

17. Direct PFA to stop administering construction contracts for GVI and to require all construction and capital improvement projects funded through bond proceeds be administered and processed through GVI's central procurement path.

*Non-concur. Generally, GVI construction contracts are managed and administered through the Department(s) of Public Works and the Department of Property and Procurement.*

18. Direct PFA to follow the requirements of the V.I.C. regarding the deduction and reporting of gross receipt taxes for contractors and service providers.

*Non-concur. The PFA diligently follows the requirements regarding the deduction and reporting of gross receipts taxes for contractors and service providers. If there is a question regarding whether gross receipts taxes are payable, the general course of action is to seek a determination from the USVI Bureau of Internal Revenue (BIR) to establish if there is a tax liability due for a particular vendor. BIR assesses each vendor on a case by case basis to determine gross receipts tax liability and provides a response in writing. In the case of Diageo's largest vendor, the PFA received the enclosed letter (digital transmittal Attachment "D"), dated November 30, 2009, advising that the vendor was not subject to gross receipts taxes.*

19. Amend the legislation that created PFA to stop PFA from administering construction contracts for GVI and to require all construction and capital improvement projects funded through bond proceeds be administered and processed through GVI's central procurement path.

*Non-concur. In consideration of the response by the Legislature, it should be noted that since 2009, administration of construction contracts are split between the GVI central procurement (which handles procurement, contracting, and any project management) while the PFA processes the necessary disbursements for that project.*

20. Require that PFA adhere to established laws set forth in the V.I.C. and the Internal Revenue Code, as well as the board's resolutions.

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*Non-concur. As outlined above, the PFA has, and continues to, adhere to established laws set forth in the V.I.C. and the Internal Revenue Code, as well as comply with the PFA's enabling legislation outlined in Title 29 V.I. Code, Chapter 15, Section 916, et. al.*

We recommend that the Virgin Islands Legislature:

21. Amend the legislation that created PFA to provide a greater level of legislative scrutiny and public disclosure of day-to-day operations, such as ensuring the Board of Directors is impartial and requiring accountability for bond proceeds and budgetary funds through periodic reports.

*Non-concur. In consideration of the response by the Legislature, it should be noted that on a quarterly basis, the PFA provides reports to the Legislature outlining funding levels of capital projects. On an annual basis, a listing of agreements and contracts, operational expenses, schedule of federal funds received, etc. are also provided. Additionally, on an annual basis, the PFA undergoes a mandatory independent financial audit, which has been unqualified for several consecutive years and is concluded with the distribution of financial statements.*

As it pertains to the Management Advisory, we will forward copies to both the Department of Property and Procurement and the Department of Public Works for their respective review and comments, as the PFA cannot respond regarding a department's policies and operations. It would also be helpful if those agencies receive the benefit of an exit conference to pose any questions or concerns to the Office of the Inspector General.

We are available to further discuss the report and our responses should you so desire.

Sincerely,



Valdamier O. Collens  
Executive Director

cc: Honorable Kenneth E. Mapp, Governor and Chairman of the Board, PFA  
Honorable Myron Jackson, Senate President, 32<sup>nd</sup> Legislature  
PFA Board of Directors  
Margaret Guarino, Director of Finance & Administration, PFA  
Yvette Ross-Edwards, Board Counsel

Attachments

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## **Appendix 4: Legislature's Response to the Draft Report**

The Virgin Islands Legislature's response begins on page 59.





# Legislature of the Virgin Islands

CAPITOL BUILDING, P.O. BOX 1690  
ST. THOMAS, U.S. VIRGIN ISLANDS 00804  
(340) 774-0880

*The Honorable  
Myron D. Jackson  
President, 32<sup>nd</sup> Legislature*

August 11, 2017

Ms. Mary L. Kendall  
Deputy Inspector General  
U.S. Department of the Interior  
Via E-mail: [ais\\_report@doioig.gov](mailto:ais_report@doioig.gov)

Mr. Steven van Beverhoudt  
Virgin Islands Inspector General  
Via E-mail: [svanbeverhoudt@viig.org](mailto:svanbeverhoudt@viig.org)

Dear Ms. Kendall and Mr. van Beverhoudt:

My review of Report No. ER-IN-VIS-0015-2014 and ER-IN-VIS-0015-2014-A reveals the following recommendations for the Legislature of the Virgin Islands:

- 1) Amend the legislation that created the PFA to prohibit PFA from paying expenses unrelated to its mission.
- 2) Amend the legislation that created the PFA to stop PFA from administering construction contracts for GVI and to require all construction and capital improvement projects funded through bond proceeds be administered and processed through the GVI's central procurement path.
- 3) Amend the legislation that created the PFA to provide a greater level of legislative scrutiny and public disclosure of day-to-day operations, such as ensuring the Board of Directors is impartial and requiring accountability for bond proceeds and budgetary funds through periodic reports.
- 4) Amend 31 V.I.C., Chapter 23 §236a (c & d) to include minimum thresholds for performance bonding requirements for preferred bidders to limit VI's exposure to loss if the contractor does not perform.

By this letter I advise you that the 32<sup>d</sup> Legislature will be crafting the necessary legislation to address the four recommendations enumerated above.

Sincerely

A handwritten signature in blue ink, appearing to read "Myron D. Jackson".

Myron D. Jackson  
Senate President

## Appendix 5: Status of Recommendations

Recommendations	Status	Action Required
1	Resolved but not implemented	Established policy does not address the inventory function. Please provide the Office of Insular Affairs (OIA) with the tracking and disposal of assets policy mentioned in the Virgin Islands Public Finance Authority's (PFA's) response. We are referring this recommendation to OIA to track implementation.
2	Resolved but not implemented	Please provide OIA with a written petty cash policy that, at a minimum, provides guidance on the establishment, administration, appropriate uses, and safekeeping of petty cash funds. We are referring this recommendation to OIA to track implementation.
3	Resolved but not implemented	Please provide OIA with evidence of the Financial Management Extension's full implementation and supporting documentation to sustain PFA's claims of the use of purchasing and PFA financial modules in existing accounting financial systems. We are referring this recommendation to OIA to track implementation.
4	Unresolved	Please provide OIA with reconciliation procedures that validate data entries, confirm that financial transactions in the systems are complete and accurate, and enable accurate tax reporting. We are referring this recommendation to OIA to track implementation.
5	Resolved but not implemented	Please provide OIA with the Microsoft Dynamics Great Plains and Financial Management Extension training certification for all employees. We are referring this recommendation to OIA to track implementation.

Recommendations	Status	Action Required
6	Unresolved	PFA established operational policies and procedures that addresses charge card use under its cash management policy. The policy, however, does not include language prohibiting PFA's official charge card from personal use nor does it outline users' responsibilities and penalties for abuse of the official card. Please provide OIA with the updated charge card policy. We are referring this recommendation to OIA to track implementation.
7	Resolved and Implemented	No further action is required.
8	Resolved and Implemented	No further action is required.
9	Resolved and Implemented	No further action is required.
10	Resolved and Implemented	No further action is required.
11	Resolved and Implemented	No further action is required.
12	Unresolved	PFA's procurement policy requires a contract before obligations and commitments (disbursements) but does not mention controls to prevent payment on contracts that have expired. Please provide OIA with policy that requires valid contracts before disbursement for professional service. We are referring this recommendation to OIA to track implementation.
13	Unresolved	Please provide OIA with plans to discontinue the practice of paying expenses unrelated to its primary functions, mission, or goals. This practice has continued since 2002 when we reported four professional service contractors who PFA paid at least \$2.3 million for work that was not related to PFA's primary functions. This audit found \$9 million paid for unrelated expenses. We are referring

Recommendations	Status	Action Required
		this recommendation to OIA to track implementation.
14	Resolved but not implemented	Please provide OIA with the amended legislation prohibiting PFA from paying expenses unrelated to its mission. We are referring this recommendation to OIA to track implementation.
15	Resolved and Implemented	No further action is required.
16	Resolved but not Implemented	Please provide OIA with evidence that that the new process has been implemented. We are referring this recommendation to OIA to track implementation.
17	Unresolved	PFA disregarded this recommendation, stating it generally uses the Government of the Virgin Islands' (GVI) acceptable procurement path. Our report, however, confirmed otherwise. Please provide OIA with a plan to direct PFA from administering construction contracts. We are referring this recommendation to OIA to track implementation.
18	Unresolved	Please provide OIA with evidence to support the claim that the vendor had "no presence in the Virgin Islands, no employees in the Virgin Islands, and the performance of the contract will be performed entirely outside of the Virgin Islands," as required by the Virgin Islands Bureau of Internal Revenue determination letter. We are referring this recommendation to OIA to track implementation.
19	Resolved but not implemented	Please provide OIA the amended legislation that stops PFA from administering construction contracts for GVI and require all construction and capital improvement projects funded through bond proceeds be administered and processed through GVI's central procurement path. We

Recommendations	Status	Action Required
		are referring this recommendation to OIA to track implementation.
20	Unresolved	Please provide OIA with PFA's plan to comply with Act 7002, which increased membership of the PFA Board of Directors from five to seven members, as well as the various Acts and board resolutions that authorized spending for Lindquist Beach, Toro Building, Charles Harwood Medical Center, Kimmelman Cancer Center, Housing Finance Authority, and Island Center projects. After several attempts, PFA's compliance bond proceeds manager did not provide any documents to support these projects during the fieldwork phase of our audit. Without actual copies of PFA-referenced board resolutions, we are unable to verify spending approval for projects. We are referring this recommendation to OIA to track implementation.
21	Resolved but not implemented	Please provide OIA the amended legislation that provides a greater level of legislative scrutiny and public disclosure of PFA's day-to-day operations. We are referring this recommendation to OIA to track implementation.

