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TESTIMONY ON BILL 31-0014 AND BILL 31-0039
Committee on Government Services, Consumer and Veterans Affairs
April 15, 2015 – 9:00 a. m.

Good morning Senator Harrigan, Chairman of the Committee on Government Services, Consumer and Veterans Affairs, other members of the Committee, other senators present, members of the Legislative staff, ladies and gentlemen present and in the viewing and listening audience, I am Steven van Beverhoudt the Virgin Islands Inspector General. I am here today to comment on two bills that would affect the operations of the Office of the Virgin Islands Inspector General (V. I. Inspector General's Office); specifically:

- Bill 31-0014 - An Act amending Title 33 of the Virgin Islands Code, by adding Chapter 119 to re-establish the Office of the Virgin Islands Inspector General as a semiautonomous agency of the Government; and
- Bill 31-0039 - An Act amending Title 3, Chapter 40, Section 1205 of the Virgin Islands Code by expanding the scope of audits conducted by the Inspector General.

Bill 31-0014

I will begin my comments of Bill 31-0014, by stating that I fully support this proposed legislation, and I would like to thank Senator Clifford Graham for his support, work on and sponsorship of the bill. There is one suggested amendment that I will point out in my discussion of the section entitled Budget Issue.

Having served as the V. I. Inspector General since 1989, under 5 different administrations, I have seen potential and real challenges to the independence of the V. I. Inspector General's Office. I have had an administration attempt to transfer one half of my staff to another agency; I have had an attempt made to cancel ongoing or planned audits; I have had an attempt made to place an unqualified individual into a management position; I have been forced to meet the mandatory continued professional education requirements for the staff by scheduling training in the Virgin Islands only through the USDA Graduate School's auditor training program to the point that all of the relevant courses have been used; and I have been forced to request that the V. I. Department of Justice fund the expenses for a V. I. Inspector General's Office investigator to travel to the mainland to escort a prisoner back to the Virgin Islands. Those are a few examples of major interferences with and attempts to compromise our independence. Everyone knows that the appearance of diminished independence can be as harmful as the real lack of independence. I must say that, to date the current administration has been supportive of the V. I. Inspector General's Office and our ability to independently carry out our mandate. But what issues or challenges might the next administration bring?

Before I discuss the specifics of Bill 31-0014, let me give you a little background on the evolution of the V. I. Inspector General's Office.

In the early 1980's the Federal Inspectors General reviewed financial management and local audit oversight within the Virgin Islands and recommended that the then Audit Division of the Department of Finance become an independent entity. This was partially accomplished in 1982 with the creation of the Virgin Islands Bureau of Audit and Control (Audit Bureau). The late Senator Ruby M. Rouse was the driving force behind the legislation.

The Audit Bureau although now independent from the Department of Finance, was still under the direct control of the Executive Branch of the Virgin Islands Government (Government), with only audit authority and no clear definition as to the extent of its authority to audit any entity of the Government.

In 1999, with the help of former Senators Anne Golden and the late Gregory Bennerson, Act 6333 was passed, over the Governor's veto, basically abolishing the Audit Bureau and creating the independent V. I. Inspector General's Office. The new act gave the local audit office the authority to not only audit the Government, but to also investigate potential instances of fraud, waste and abuse within the Government. It also more clearly defined the authority of the V. I. Inspector General's Office, prohibiting interference with any ongoing or planned audit or investigation.

Although great strides were made in protecting the independence of the V. I. Inspector General's Office, areas that potentially compromise this independence remain. These areas are (i) the location of the V. I. Inspector General's Office within the Government's structure, (ii) the manner in which the V. I. Inspector General's Office's annual work plan is impacted by the way the budget is funded, and (iii) the reporting of violations of law.

Title 3 Chapter 40 Section 1203(e) of the Virgin Islands Code (Code) requires the V. I. Inspector General's Office to comply with standards established by the Government Accountability Office of the United States (GAO) and the American Institute of Certified Public Accountants (AICPA).

The *Government Auditing Standards* issued by GAO discusses the issue of independence in their first General Standard. It states; *"In all matters relating to the audit work, the audit organization and the individual auditor, whether* *government or public, must be independent."* It further states that; *"The ability of audit organizations in government entities to perform work and report the results objectively can be affected by placement within government and the structure of the government entity being audited."*

Bill 31-0014 basically takes Title 3, Chapter 40 of the Code and moves it to Title 33. It further addresses the issue of budget funding, control, and the investigation and reporting of violations of local and Federal laws.

Location within the Government's Structure

The Territory of Guam and the Commonwealth of the Northern Mariana Islands (CNMI) are the two Pacific territories that most closely resemble the Virgin Islands in population, structure, and advancement as it relates to local audit and investigative activities.

Guam's Organic Act authorizes the Guam Government to create a Public Auditor's Office independent of the three branches of their government. The Public Auditor of the CNMI is established by their constitution as an independent agency of the Commonwealth Government. In the 50 states, most Public Auditor's Offices (most of which are known as the Auditor General) are either a part of the Legislative Branch or are independent offices with the head an elected position.

Under the current structure, the V. I. Inspector General's Office's enabling legislation places it under Title 3 of the Code, the Executive Branch. A 2002 Letter of Advice issued by then Attorney General Iver Stridiron basically stated that the V. I. Inspector General's Office, although "… an independent agency…is situated structurally within the executive branch…" and is "… subject to the usual statutory obligations of all executive government agencies." A copy of the 2002 Letter of Advice is attached.

Bill 31-0014 removes the V. I. Inspector General's Office from Title 3 and places it under Title 33 Subtitle 3 (Finance) of the Code under a new Chapter 119. This should give the V. I. Inspector General's Office the level of administrative and fiscal independence as the other semiautonomous entities like the Water and Power Authority and the Port Authority. The Legislature's Legal Counsel can better explain this level of independence.

It is my opinion that ultimately this body should petition the United States Congress to amend the Virgin Islands Organic Act to create an independent V. I. Inspector General's Office similar to Guam.

The Budget Issue

In Guam, 1 G.C.A. § 1911 (Repealed), established the Public Auditor's Office budget at .25% of the budget for the Government of Guam. In correspondence with the current Public Auditor, it was indicated that the provision was repealed because the Lieutenant Governor did not want any agency with a set aside budget. They do have more flexibility than V. I. Inspector General's Office however, in that their budget is submitted directly to their Legislature and not through the executive budget office. Unlike the V. I. Inspector General's Office whose budget request must conform to the budget ceiling restrictions established and controlled by the Office of Management and Budget (OMB). I must note that the restrictive nature of the fiscal constraints has negatively impacted our ability to conduct several audits and investigations due to limited staff.

For the CNMI, their constitution guarantees a budget of $500,000, and requires the Secretary of Finance to withhold 1% of all appropriations to fund the Public Auditor's Office. The funds are deposited into a special account established specifically for the Public Auditor.

Is it a coincidence that in Fiscal Year 2015 when this legislation was making its way through the 30th Legislature, for the first time in 25 years of budget presentations, the previous administration decided to budget the V. I. Inspector General's Office as an independent agency?

Recently, OMB submitted a 2016 Budget ceiling of $1.6 million, a 20% cut of $400,000 from the $2 million 2015 Budget. An appeal was made to Governor

Mapp and fortunately, he agreed with the need to maintain our full funding.

Bill 31-0014 in subsection 3506 establishes the annual budget at "…one-half of one percent of the overall Budget of the Government, but not less than $3,000,000." It further provides that any unused funds be returned to the General Fund for the Legislature to appropriate.

I do recommend that the last sentence of subsection 3506(c) be changed as follows;

- After "…allotted in…" delete "…12 equal allotments over …" and replaced by either;
    - "…its entirety at the commencement…". As the current Code says, or
    - "two equal biannual allotment over…".

The current language of the proposed legislation limits the available funding early in the fiscal year and by the time payroll and related fringe benefits are paid, there may not be sufficient funds with which to operate until the second allotment is received later in the fiscal year.

Reporting of Violations of the Law

Currently, Title 3 Section 1203(f), (g) and (h) require the V. I. Inspector General to report suspected violations of law to the Attorney General. The proposed legislation adds the United States Attorney after Attorney General wherever it appears in the language. This would give the V. I. Inspector General the ability to report matters to the United States Attorney when possible violations of Federal law are uncovered.

In conclusion, I fully support Bill 31-0014, assuming it does what it intends to do. It can finally give the V. I. Inspector General's Office the ability and resources to better meet the enormous mandate, responsibilities, and many requests for audit, of which several are from the Legislature. It can also help us provide Government entities with the assistance, through audits and inspections, to operate effectively and efficiently. I ask that, with the one change recommended, each of you give this legislation your support. I also hope that you consider to take the steps necessary to petition the United States Congress to amend the Organic Act allowing an independent V. I. Inspector General's Office.

Bill 31-0039

Regarding Bill 31-0039, I cannot support the proposed legislation for several reasons. Although I think that I understand the sponsor's intent, the law as it exists now already gives the V. I. Inspector General's Office the authority, in the subsections dealing with powers and duties, to do the things identified in the bill. In addition, it is being placed in the wrong subsection of the V. I. Inspector General statute. The bill places it in the reporting section of the statute and accordingly would require the V. I. Inspector General's Office to do and report on these things on an annual basis, an impossible task given the limited resources currently available. Even with additional funding proposed in the previous Bill 31-0014, resources would be stretched in an attempt to meet the requirements of this bill on an annual basis. Accordingly, I strongly recommend that this proposal not be approved.

I want to thank you for the opportunity to present my position on the two bills before you today that affect the operations of the V. I. Inspector General's Office, and I am available to answer any questions that you might have.

THE UNITED STATES VIRGIN ISLANDS
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

IVER A. STRIDIRON, ESQUIRE
ATTORNEY GENERAL

September 17, 2002

Honorable Steven Van Beverhoudt
V.I. Inspector General
No. 75 Kronprindsens Gade
Charlotte Amalie
St. Thomas, VI 00802

Re: Request for Letter of Advice, Independence of Office of the V.I. Inspector General [OIG]. A.G. File No. SOL-02-0884

Dear Inspector General Van Beverhoudt:

Please accept the following in reply to your request for a Letter of Advice wherein you ask substantially the following questions:

QUESTIONS:

1. Is the OIG subject to oversight by the Governor its day-to-day operations?
2. Is the OIG obligated to submit its annual budget to the Office of Management and Budget [OMB]?
3. Can OMB reduce or otherwise control the budget of the OIG, e.g., can OMB withhold any portion of the budget, pursuant to *3 V.I.C. §26(c)(3)*?
4. Is the OIG obligated to use the V.I. Office of Personnel when employing OIG staff?
5. Is the OIG affected by an Executive Order implementing a hiring freeze?

SHORT ANSWERS:

1. No.
2. No.
3. Yes.
4. Yes.
5. Yes.

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DICUSSION:

1. We begin the analysis with a discussion of the legal status of the Government of the Virgin Islands as expressed in the *Revised Organic Act of 1954, §2*. We next turn to the *Revised Organic Act of 1954, §11* which vests the executive power of the government in the Governor, hence the creation of the Executive Branch of the Government of the Virgin Islands.

Specifically, the Executive Branch is headed by the Governor and is granted via the *Revised Organic Act of 1954* the …general supervision and control of all the departments, bureaus, agencies, and other instrumentalities of the executive branch of the government of the Virgin Islands….

The OIG is established by the Legislature of the Virgin Islands in *3 V.I.C. §1200* as an *independent agency* of the Government of the Virgin Islands. Although an independent agency, the OIG is situated structurally within the executive branch. See *8 Adm. L.J. Am. U. 461, 471* "…an agency is sometimes called independent while situated structurally within the executive branch." Also, we note that the budget of the OIG is included in the annual "executive branch" appropriation. Moreover, as a practical matter, the OIG must be established within either the executive branch, the legislative branch, or the judicial branch of Government.

Notwithstanding its independent status, the OIG logically falls within the executive branch. See, e.g. *96 Yale L.J. 787, 814*. "…reading the statutes creating independent agencies as having created agencies with autonomy from presidential political direction but still within the executive branch would serve one of the first values of constitutional adjudication, that of resolution of doubtful issues to avoid constitutional questions." *See Ashwander v. Tennessee Valley Authority*, 297 U.S. 288, 345-48 (1936).

Accordingly, the OIG is an independent agency existing within the executive branch but with autonomy from political direction from the Governor.

Id. Thus, it follows that the OIG is not subject to oversight by the Governor in its day-to-day operations. The Inspector General ["IG"] is appointed by the Governor with the advice and consent of the Legislature of the Virgin Islands for a term of 6 years. …*The V.I. Inspector General may be removed from office by the Governor, but only upon a finding of neglect of duty or malfeasance in office….* 3 V.I.C. §1201. Unlike other appointees of the Governor, the IG can be removed only for neglect of office or malfeasance; in short, for cause. He cannot be removed at will. Thus, it is clear that the Legislature wanted to ensure that the IG performed his duties independent of supervision by the Governor. Such independence would reasonably include making decisions with respect to the day-to-day operations of the OIG.

The OIG is, however, subject to the usual statutory obligations of all executive government agencies. A prime example is found in *2 V.I.C. §27* which requires each department and agency, other than the Legislature and the Courts, to file annual performance reports with the Director of the Budget on forms prescribed by the Director of the Office of Management and Budget; copies are likewise filed with the Legislature of the Virgin Islands. Also, as discussed below, pursuant to Section 11 of the Revised Organic Act, the personnel hired by the IG are subject to approval by the Governor.

2. Pursuant to *3 V.I.C. §1202* the IG submits an annual budget directly to the Legislature of the Virgin Islands [Note: However that the IG's budget appears as part of the Executive Branch Budget.]. Accordingly, the IG is not required to submit its annual budget to the Director of the Office of Management and Budget. Once the budget is approved by the Legislature of the Virgin Islands it is to be allotted in its entirety at the commencement of the relevant fiscal year.

The term "allot" is defined in the *American Heritage Dictionary* as ***"to distribute".*** Therefore, at the commencement of each fiscal year the funds, which appear in the approved OIG budget, are to be made available for use by the OIG.

3. Although the IG submits its annual budget to the Virgin Islands Legislature, and not to the Director of the Office of Management and Budget (OMB), OMB may have the authority to exercise control over the expenditure of monies to OIG. If OMB determines that certain adjustments are necessary during a given fiscal year because of shortfalls in the actual revenue collections, adjustments can be made in the IG's budget as it can be done in the Legislature's budget. The Director of OMB may modify or withhold an expenditure to the OIG during an appropriation period if the Director finds that receipts and surpluses will be insufficient to meet the authorized expenditure levels to the departments, agencies and instrumentalities. See *2 V.I.C. §26(c)(3)*

4. The IG is required to process employment of personnel through the Division of Personnel. As stated earlier the Governor has general supervision and control of the agencies of the executive branch. Such supervision includes the power to appoint and remove all officers and employees of the executive branch, except as otherwise provided by law. See *Revised Organic Act of 1954, §11*. As discussed above, the OIG is an executive branch agency, and accordingly employees of the OIG are subject to the same employment procedures of other executive branch departments and agencies, which includes processing through the Division of Personnel and approval by the Governor of a Notice of Personnel Action.

Admittedly, *3 V.I.C. §1203* provides that the IG shall *"employ personnel as needed to execute the provisions of this chapter."* Nevertheless, *§1203* cannot override the provisions of the *Revised Organic Act of 1954, §11* and strip the Governor of his authority to appoint OIG personnel. In fact, the power granted the IG pursuant to §1203 is subject to the authority granted to the Governor by the U.S. Congress pursuant to the *Revised Organic Act of 1954, §11*.

5. Because the Governor has the authority over the general management of the executive branch and may, in the exercise of that authority, implement a hiring freeze, any such hiring freeze imposed by the Governor would affect the OIG. See *Revised Organic*

Act of 1954, §11. Consequently, the OIG would be affected by hiring freezes imposed by the Governor, and must utilize the normal hiring procedures, including the use of the Division of Personnel and the NOPA process, signed by the Governor.

CONCLUSION

Clearly the intent of the Legislature of the Virgin Islands in creating the Office of Inspector General was to establish an agency that would not be susceptible to the day to day supervision of the Governor, or for that matter any government official, and limiting the power of the Governor the authority to remove the IG for neglect of duty or malfeasance in office.

Therefore, the Office of the Virgin Islands Inspector General is established under the laws of the Virgin Islands as an independent agency of the Government of the Virgin Islands. As such the OIG is not subject to the general supervision of the Office of the Governor; however the OIG is required to submit its budget to the Legislature and annual reports to the Office of Management and Budget.

Should you have any questions please contact me or Deputy Solicitor General Paul Paquin 714-9610.

Sincerely,

Iver A. Stridiron
Attorney General

Cy: Honorable Charles W. Turnbull
Governor, U.S. Virgin Islands

Juel Molloy, Chief of Staff

Ira Mills, Director
Office of Management and Budget

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COMMITTEE ON GOVERNMENT SERVICES, VETERANS AND CONSUMER AFFAIRS

BILL NO. 31-0014

Thirty-first Legislature of the Virgin Islands

February 4, 2015

An Act amending title 33 Virgin Islands Code, adding chapter 119 to re-establish the Office of the Virgin Islands Inspector General as a semiautonomous agency of the Government

PROPOSED BY: Senator Clifford F. Graham

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 33 of the Virgin Islands Code is amended by adding chapter 119 to read as follows:

"**CHAPTER 119 OFFICE OF THE VIRGIN ISLANDS INSPECTOR GENERAL**

§3501. As used in this chapter, the term:

(1) "Audit or investigative data" means the working papers, including but not limited to, draft reports, documents containing the evidence to support the findings, conclusions, judgments, and the collection of evidenced prepared or obtained during the audit inspection or investigation.

(2) "Report" means the final audit, inspection or investigate report issued after the auditee or respective officials have had the opportunity to review and respond to its findings and recommendations.

(3) “V. I. Inspector General” means the Virgin Islands Inspector General.

(4) “Office of the V. I. Inspector General means” Office of the Virgin Islands Inspector General.

(5) “Government” means the Government of the Virgin Islands, all three branches and their respective departments, agencies, authorities, instrumentalities, boards and commissions.

§3502. Office of the V. I. Inspector General established.

(a) The Office of the V. I. Inspector General previously established as a separate and independent agency of the Government in chapter 40 of title 3 of this Code is continued under this chapter as a semi-autonomous agency of the Government.

(b) The Office of the V. I. Inspector General is administered and supervised by the V. I. Inspector General.

(c) The V. I. Inspector General is appointed by the nomination of the Governor of the Virgin Islands, with the advice and consent of the Legislature, without regard to political affiliation, and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial management, or investigations.

(d) The nomination must be made no later than 90 days from the V. I. Inspector General’ position’s becoming vacant.

(e) The V. I. Inspector General shall serve a term of seven years from the date of appointment, and may be reappointed. The V. I. Inspector General may be removed from office by the Governor of the Virgin Islands only upon a finding of neglect of duty or malfeasance in office. Any vacancy occurring in the Office of the V. I. Inspector General must be filled in the same manner as the initial appointment.

(f) The V. I. Inspector General must be bonded in an amount equal to that of a commissioner in the Executive Branch.

(g) The V. I. Inspector General shall appoint a Deputy V. I. Inspector General who in addition to the duties assigned by the V. I. Inspector General, shall supervise the performance of audit, investigation, and inspection activities relating to programs and operations. The Deputy V. I. Inspector General must be qualified in the same manner as the V. I. Inspector General and must be bonded in an amount equal to that of a commissioner in the Executive Branch.

(h) The salary of the V. I. Inspector General is equal to that of the highest paid commissioner in the Executive Branch, and may not be reduced during the incumbent's term.

§3503. Powers and duties; authority; report of criminal violations to the Virgin Islands Attorney General or the United States Attorney

(a) The Office of the V. I. Inspector General shall:

(1) conduct and supervise audits, inspections, and related investigations of programs and operations of the Government;

(2) provide leadership, coordination and recommend policies for activities designed:

(A) to promote economy, efficiency, and effectiveness in the administration of; and

(B) to prevent and detect fraud, waste, and abuse in such programs and operations; and

(3) provide a means for keeping the Governor, the Legislature, and the Judiciary fully and currently informed about problems and deficiencies relating to the administration of government programs and operations and the necessity for and progress of corrective action;

(4) conduct audits, inspections, and investigations relating to the programs and operations of any Government executive department, board, bureau, commission, or instrumentality and the legislative and judicial branches;

(5) take such steps as may be necessary and lawful to ensure that recommendations are fully implemented;

(6) coordinate efforts with the Office of the Inspector General of the Department of the Interior and the Legislative Post Auditor to avoid unnecessary duplication of work;

(7) give advice and issue opinions, not in conflict with its duties and responsibilities, when requested by other Government departments, agencies, or instrumentalities;

(8) seek advice from Government experts or private consultants when necessary;

(9) employ personnel into classified positions without following the certification and appointment procedures prescribed in section 3 V.I.C. §526, and employ such other employees by contract or otherwise, as needed to execute the provisions of this chapter;

(10) establish its own compensation, wage, and salary scales in accordance with industry standards;

(11) promulgate, pursuant to 3 V.I.C., chapter 35, such regulations as may be necessary to carry out the provisions of this chapter;

(12) recommend changes in existing law which will assist the Office of the V. I. Inspector General in performing its duties efficiently; and

(13) faithfully execute the provisions of this chapter and all laws relating to it.

(b) In addition to the authority otherwise provided by this chapter, the Office of the V. I. Inspector General may:

(1) have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the applicable entity which relate to programs and operations to which the Office of the V. I. Inspector General has responsibilities under this chapter;

(2) make such investigations and reports relating to the administration of the programs and operations of the applicable entity as are, in the judgment of the V. I. Inspector General, necessary;

(3) require by subpoena the production of all information, documentation, reports, answers, records, accounts, papers, other data and documentary evidence, and witnesses necessary in the performance of the functions authorized by this chapter. The subpoena, in the case of contumacy or refusal to obey, is enforceable by order of any court of jurisdiction in the Virgin Islands; but, procedures other than subpoenas must first be used by the V. I. Inspector General to obtain documents and information;

(4) administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the functions authorized by this chapter. An oath, affirmation, or affidavit, when administered or taken by or before an employee of the Office of the V. I. Inspector General designated by the V. I. Inspector General, has the same effect as if administered or taken by or before an officer having a seal;

(5) upon the request of the Governor, the Legislature, the Judiciary, or on the V. I. Inspector General's own initiative, conduct audits, inspections, and investigations of any recipient of funds from the Treasury of the Virgin Islands; and

(6) have direct and prompt access to the head of the entity involved, including the Chief Justice of the Supreme Court, the Presiding Judge of the Superior Court, the President of the Legislature, the Governor, commissioner or head of any department or agency, the executive director of any instrumentality of Government, and the chairperson of any board or commission, when necessary for any purpose pertaining to the performance of functions and responsibilities under this chapter.

(c) No Virgin Islands Government official may:

(1) prevent or prohibit, or attempt to prevent or prohibit, the V. I. Inspector General from initiating, carrying out, or completing any audit, inspection, or investigation, or from issuing any subpoena or report in the course of any such activity; or

(2) interfere or attempt to interfere with the V. I. Inspector General's performing any activity authorized by this chapter.

(d) If the V. I. Inspector General has reasonable grounds to believe that any act prohibited by subsection (c) has occurred, the V. I. Inspector General shall expeditiously and simultaneously notify the Governor, Chief Justice of the Supreme Court, the Presiding Judge of the Superior Court, or President of the Legislature, as appropriate.

(e) In carrying out the powers, duties, and authority of this chapter, the Office of the V. I. Inspector General shall comply with generally accepted auditing standards established by the Government Accountability Office and the American Institute of Certified Public Accountants.

(f) In carrying out the powers, duties and authority of this chapter, the Office of the V. I. Inspector General shall report expeditiously to the Attorney General or the United States Attorney whenever the V. I. Inspector General has reasonable grounds to believe there has been a violation of law.

(g) Subsection (f) of this section may not be construed to authorize the Attorney General or the United States Attorney to limit the authority of the V. I. Inspector General to conduct an investigation.

(h) The V. I. Inspector General shall notify the Governor, Chief Justice of the Supreme Court, the Presiding Judge of the Superior Court, or President of the Legislature, as appropriate, no later than 30 business days after the Attorney General or the United States Attorney declines orally or in the writing to prosecute a matter referred to, or otherwise brought to the attention of the Attorney General or United States Attorney pursuant to subsection (f) of this section.

(i) To enforce the provisions of this chapter, any investigator of the Office of the V. I. Inspector General as designated by the V. I. Inspector General has the same designation, powers and authorization as those of a peace officer under 5 V.I.C., chapter 305.

§3504. Complaints by employees; disclosure of identity; reprisals

(a) The V. I. Inspector General may receive and investigate complaints or information from employees of the Government concerning the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health or safety.

(b) The V. I. Inspector General may not, after receipt of a complaint or information from any employee, disclose the identity of the employee without the consent of the employee, except in accordance with a request of the Attorney General or United States Attorney for the purpose of a criminal investigation.

(c) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, may not with respect to such authority, take or threaten to take any action against any employee as a reprisal for making a complaint or disclosing information to the V. l. Inspector General, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

§3505. Handling of audit or investigative data and reports; annual report

(a) Audit or investigative data is confidential information, pursuant to 3 V.I.C. § 881(g), any authorized disclosure of audit, inspection, investigation information is subject to all applicable laws.

(b) Reports must be submitted to the appropriate officials of the audited organizations, to the appropriate officials of the organizations requiring or arranging for the audits, to the Governor and the Legislature of the Virgin Islands, unless legal restrictions, ethical considerations, or other arrangements prevent it. Unless restricted by law, copies of final reports must be available for public inspection.

(c) The Office of the V. I. Inspector General shall retain audit data and audit reports for a period of not less than five years, or until all findings have been cleared or otherwise settled to the satisfaction of the V. I. Inspector General.

(d) The V. I. Inspector General shall submit to the Governor and the Legislature an annual report summarizing the activities of the Office of the V. I. Inspector General for the preceding fiscal year. The annual report must include without limitation:

(1) A description of significant problems, abuses, and deficiencies relating to the Government's administration of its programs and operations disclosed by the investigative activities of the Office of the V. I. Inspector General during the reporting;

(2) A description of recommendations for corrective action made by the Office of the V. I. Inspector General during the reporting period, with respect to the significant problems, abuses, and deficiencies identified;

(3) An identification of each significant recommendation described in previous annual reports on which corrective action has not been completed;

(4) A summary of matters referred to the Attorney General or United States Attorney and the prosecutions and convictions that have resulted; and,

(5) A list of each audit and inspection report completed by the Office of the V. I. Inspector General during the reporting period.

§3506. Annual budget

(a) The Office of the V. I. Inspector General is funded annually through the General Fund by one-half of one percent of the overall Budget of the Government, but not less than $3,000,000. Any unused funds must be returned to the General Fund for appropriation by the Legislature.

(b) The Office of the V. I. Inspector General may by regulation establish and collect reasonable fees to defray the costs of audits, inspections and investigative services to other entities of the local or federal government.

(c) The V. I. Inspector General shall prepare and submit directly to the Legislature an annual budget that includes staffing levels for the Office of the V. I. Inspector General. The budget, once appropriated by the Legislature, must be allotted in 12 equal allotments over the fiscal year, and is not subject to the allotment control of the Office of Management and Budget.

(d) The V. I. Inspector General shall establish and maintain an imprest checking account. No later than 15 days after the beginning of each fiscal year, the Commissioner of Finance shall deposit into the Office of the V. I. Inspector General's imprest account the sum of $100,000 from the annual operating budget of the Office of the V. I. Inspector General.

(e) The V. I. Inspector General may expend monies from the imprest account for any purpose in exercising powers of the office and carrying out duties of the V. I. Inspector General as set forth in this chapter or any other law. Before the expiration of 30 days following the end of each quarter, the V. I. Inspector General shall submit to the Department of Finance a report detailing the amount, the nature, and the justification for each item of expenditure in the previous quarter. The report must be accompanied by receipts and any other such documentation required by the Department's regulations or other laws of the Virgin Islands. Before the expiration of 30 days following the end of the fiscal year, the V. I. Inspector General shall compile and submit to the Commissioner of Finance an annual financial report for the fiscal year's expenditures from the imprest account.

SECTION 2. The person serving in the position of V. I. Inspector General on the effective date of this Act shall continue to serve in the position until the expiration of the person’s term, unless removed pursuant to 33 V.I.C. §.3502 (e), as added by section 1 of this Act.

SECTION 3. Title 3 Virgin Islands Code, chapter 40 is repealed.

SECTION 4. This Act takes effect October 1, 2016.

BILL SUMMARY

Section 1 of this bill reestablishes the Office of the V. I. Inspector General under title 33. The Office of the V. I. Inspector General is currently established under title 3, chapter 40 and is designated a separate and independent agency. Under section 1 of this bill, the Office of the V. I. Inspector General would become a semiautonomous agency.

Different from existing law, the bill provides for the budget of the Office of the V. I. Inspector General from an annual appropriation of one half percent of the overall Budget of the Government, but not less than $3,000,000. Section 1 of the bill also requires that once the budget for the Office of the V. I. Inspector General has been appropriated, the funds must be allotted in 12 equal allotments over the fiscal year and is not subject to OMB allotment control."

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