



# United States Department of the Interior

OFFICE OF INSPECTOR GENERAL  
Washington, DC 20240

JAN 19 2010

The Honorable John P. deJongh, Jr.  
Governor of the Virgin Islands  
No. 21 Kongens Gade  
St. Thomas, VI 00802

Re: Final Inspection Report *Security Improvements at the Governor's Private Residence*  
(Report No. VI-IS-VIS-0004-2009)

Dear Governor deJongh:

This letter transmits the results of the subject inspection. The report addresses only whether public funds were properly expended for security improvements that were begun in June 2007 at your private residence. We do not address security entitlement per se and recognize that security is a necessity for any sitting Governor. In the past, sitting Virgin Islands governors have had some level of security at their private residences — wherever located.

We found that the funds used for the purpose of providing security at your private residence were set aside for road repairs in the Virgin Islands by the Legislative Branch of Government. In using those funds, the Executive Branch of Government improperly diverted roughly half-a-million dollars of specifically earmarked public funds and usurped the authority of the Legislative Branch of Government. Under Virgin Islands law, only the Legislature is authorized to determine how public funds should be spent.

We provide four recommendations that, if implemented, should resolve the current situation and prevent improper use of funds in the future. Please provide a response to this report by February 16, 2010 to our Caribbean Field Office, Ron deLugo Federal Building — Room 207, St. Thomas, VI 00802. Your response should identify plans to address the recommendations cited in this report.

If you have any questions concerning this report, you may contact me at (202) 208-5745 or Mr. Hannibal M. Ware, Assistant Regional Manager, at (340) 774-8300.

Sincerely,

Mary L. Kendall  
Acting Inspector General

cc: **Louis Hill, President, Virgin Islands Legislature**  
**Nikolao Pula, Acting Deputy Assistant Secretary for Insular Affairs**

## WHY WE PERFORMED THIS INSPECTION

During the summer of 2009, we received requests to review the funding of security improvements begun in 2007 at the Virgin Islands Governor's private residence. A Virgin Islands senator and United States enforcement agencies had made a number of allegations that public funds, including federal funds, were improperly used to make the improvements. In response to these requests, we performed an inspection of the use of public funds to pay for the improvements at issue.

## OVERVIEW

The Revised Organic Act of 1954 established Government House on St. Thomas, Virgin Islands, as the official residence of governors. Government House is currently used for offices, however, and is not suitable for residential living. In the past, governors have resided at Estate Catherineberg, a residence provided by the West Indian Company, although no requirement exists that governors do so.

John P. deJongh, Jr., was elected Governor of the Virgin Islands in November 2006. Upon taking office in January 2007, Governor deJongh decided to continue living at his private residence. As a result of the Governor's decision, the Department of Public Works (Public Works) asked the Virgin Islands Attorney General's Office (AGO) to provide a legal opinion on whether public funds could be used for security-related improvements at the Governor's private residence. In response, the AGO rendered a legal opinion that the Government could incur the cost and that public funds could be used for the improvements.

In April 2007, Public Works informed the Virgin Islands Public Finance Authority that \$1.3 million, which the Legislature of the Virgin Islands intended for territorial road projects, could also be used for other projects. Those other projects included the security-related improvements at the Governor's residence. The Public Finance Authority then notified the Department of Property and Procurement (Property and Procurement) that funds were available and that the procurement process could begin (see Appendix 2).

## WHAT WE FOUND

The United States Virgin Islands democratic system distributes power among three branches of government, the Executive, Legislative, and Judicial Branches. This separation of power results in a system of checks and balances designed to ensure accountability and transparency and to minimize the potential for abuse of power.

~~We found that the Executive Branch ignored the rules of checks and balances when it~~  
~~circumvented the Legislative Branch by using a legal opinion to justify spending almost half-~~  
a-million dollars of legislatively obligated public funds for security improvements at the

Governor's private residence (Appendix 3). Moreover, these funds were spent without the benefit of a formal security vulnerability assessment to determine the level of security the Governor would require or the most cost effective way of providing that security.

### ***Legal Opinion Excluded Legislative Authority***

In response to the Public Works request regarding use of public funds, the AGO prepared a legal opinion based on five cases. The Acting Attorney General concludes in that opinion that "an expenditure of public funds is permissible, even if a private individual derived a special benefit, as long as a public purpose is served and that public purpose is the primary reason for the expenditure." Armed with this legal opinion, the Executive Branch initiated the process for funding and completing the security improvements at the Governor's private residence.

When we reviewed the five cited cases, we found a common thread in three of the five to be the fact that expenditure of public funds must be legislated. In fact, one of the cited cases concludes, "What is for the public good or what are public purposes for which appropriations may be made are questions which the legislature must in the first instance decide." According to Virgin Islands law, the authority to use public funds for any purpose, including improving security at the Governor's private residence, could only be obtained through legislation, not by a legal opinion from the AGO. Nevertheless, the AGO opinion remains silent regarding the requirements for legislative approval of public funds expenditures and for determination of whether public purpose is the primary reason for any given expenditure.

### ***Public Funds Used Improperly***

In 1998, the Virgin Islands Government received surplus bond funds from the Public Finance Authority that the Legislature had earmarked for public projects. In August 2001, the Virgin Islands Legislature approved Act No. 6427, appropriating \$1.3 million of those funds for the Nadir Bridge Flood Control Project in St. Thomas. In April 2007, the Legislature passed Act No. 6917, reprogramming the \$1.3 million for the specific purpose of ***engineering design, construction, repair, or resurfacing of roads.***

The intention of the Legislature regarding Act No. 6917 was apparent during the legislative process, as it is now. During discussion, six senators mentioned that the funds were intended for the purpose of Virgin Islands road improvements. One senator specifically stated, "We have in this bill an appropriation of . . . one point three million dollars . . . to address road repairs in the territory, but more specifically on the island of St. Croix." Another senator noted that roads were in "terrible condition" on St. Croix. Clearly, no part of the \$1.3 million was to be used for security improvements at the Governor's private residence — or for any other purpose.

Despite the Legislature's intent, the former acting Commissioner of Public Works incorrectly notified the Public Finance Authority by letter dated April 25, 2007, that the reprogrammed funds could be used for other than road projects, to include security booth and road improvements at the Governor's residence (see Figure 1). Referencing the letter from Public Works, the Public Finance Authority notified Property and Procurement that all procurement documents needed to be in place and forwarded to the Public Finance Authority before disbursement of the funds could occur. This notice triggered expenditure of funds for the security improvements at the Governor's private residence.

**Figure 1. PROJECTS APPROVED  
BY PUBLIC WORKS APRIL 2007  
LETTER**

- Leonardo Trotman Dr.
- Security Booth & Road Improvements  
– Governor's Residence
- Cemetery Construction &  
Improvements
- Route 82 Drainage Improvements
- Planning & Design for Leonardo  
Trotman Dr.
- Plot #3 Estate Princess Drainage  
Improvement

After receiving the "go-ahead" from the Public Finance Authority, Property and Procurement awarded roughly \$490,000 in contracts related to security improvements at the Governor's private residence (See Table 1). These contracts were issued to erect a permanent, concrete, stone faced, security guard house; construct a new driveway and parking; and install aluminum security fencing. Surveillance equipment was also installed as part of the improvements.

According to Virgin Islands law, no officer or employee of the Government can enter into a valid contract before an appropriation is made for that specific purpose. Since the appropriated funds should never have been used to finance security improvements at the Governor's private residence, all contracts and agreements issued for that purpose are invalid. The Virgin Islands Code contains definitive penalties for Government officers or employees who violate the law. It specifically prohibits the spending of funds for reasons other than intended in a legislative appropriation and specifies penalties for violation, including fines and imprisonment.

**Table 1. TOTAL COST OF SECURITY IMPROVEMENTS**

Project	Contractor	Contract Cost	Change Orders	Total Costs
Grand House	WMK Mechanical Group	\$117,266.80	\$20,435.00	\$137,701.80
Security Fencing	WMK Mechanical Group	\$98,829.00	\$23,339.75	\$122,168.75
Security Fencing - Additional Work	WMK Mechanical Group			*\$25,271.70
Driveway & Parking	Betterroads Asphalt Corp.	\$156,160.00		\$156,160.00
Security System	Alert #1 International	\$48,698.00		\$48,698.00
<b>Total</b>				<b>\$490,000.25</b>

*\* \$25,271.70 has been obligated for additional work done on the security fence that will bring the total cost to \$490,000.25. A funding source has not yet been identified.*

By expending the funds for security improvements, the Executive Branch improperly depleted funds earmarked for much needed road repairs in the Virgin Islands. Further, the Executive Branch's actions usurped the Legislature's authority to determine how to spend public funds.

### ***Security Vulnerability Not Documented***

Personal security best practices require the conduct of a vulnerability assessment to determine necessary security requirements. Such an assessment should have been the first step in establishing the Governor's personal security program and should have:

- been tailored to the needs of the Governor based on factors such as workplace, residence, family, and domestic travel/and or international travel requirements;
- evaluated existing or perceived threat conditions and existing physical security measures and procedures; and
- provided logical recommendations, if needed, for cost effective security improvements.

None of these requirements was met.

The Executive Branch expended public funds on permanent physical improvements at the Governor's private residence without obtaining a security vulnerability assessment. The only semblance of an assessment consisted of undated, handwritten notes prepared by the Governor's Director of Security. These notes described the physical layout of the property only and did not address security vulnerabilities. While the Governor is entitled to some level

of security, the expenditure of half-a-million dollars in public funds on permanent security improvements cannot be justifiable without a proper assessment of security vulnerabilities.

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## ***Conclusion***

Whether the current Governor is entitled to security at his private residence is not germane to our inspection. We recognize that security is a necessity for any sitting Governor. In fact, past Virgin Islands governors have had some level of security at their private residences regardless of where they officially resided while in office. The Executive Branch of Government, however, cannot independently determine the purpose for which public funds are used. Only the Legislature has the authority to appropriate public funds to pay for security improvements for any governor. Therefore, all public funds diverted from Act No. 6917 for the purpose of providing security at the Governor's private residence were improperly expended. Further, any determination of the level of security necessary to protect a governor should be preceded by a formal vulnerability assessment.

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## ***Recommendations***

We recommend that the Executive Branch of the Virgin Islands:

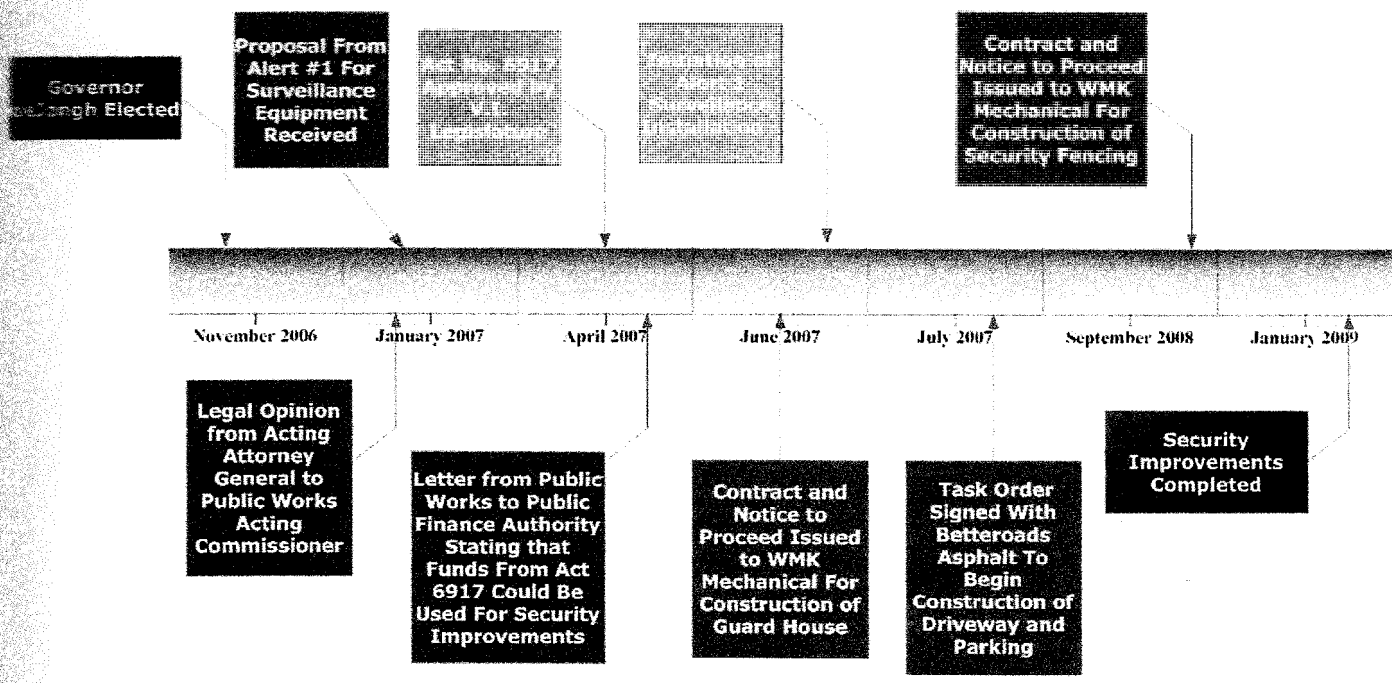
1. Determine whether Government House, as designated by the Revised Organic Act of 1954, can be made suitable to serve the residential needs of the Governor of the Virgin Islands. If so, secure the funds necessary to convert Government House from office to residential use. If not, pursue legislation that would identify alternative accommodations.
2. Adhere to existing laws regarding the use of public funds, which can only be used for purposes authorized by the Legislative Branch.
3. Ensure that funds redirected to the Department of Public Works by Act No. 6917 and improperly expended for security improvements at the Governor's private residence be returned and used as intended.
4. Ensure that an appropriate security vulnerability assessment is made in the event that any appropriation for security improvements at a governor's private residence is considered.

## INSPECTION SCOPE AND METHODOLOGY

The objective of our inspection was to determine solely whether public funds were properly expended for the security enhancements made at the Governor's private residence.

We performed our work from August to November 2009 in accordance with the "Quality Standards for Inspections" issued by the President's Council on Integrity and Efficiency. To accomplish our objective, we reviewed records and interviewed officials of the Departments of Justice, Public Works, and Property and Procurement and of the Public Finance Authority, the West Indian Company, and Government House. We also interviewed the Virgin Islands Governor and the former Senate President. In addition, we performed site visits of Government House, Estate Catherineberg, and the Governor's private residence, where we viewed the security improvements at issue.

# TIMELINE OF SECURITY IMPROVEMENTS AT GOVERNOR'S PRIVATE RESIDENCE



**MONETARY IMPACT**

<b>QUESTIONED COSTS</b>	
<b>CONTRACTS FUNDED BY ACT NO. 6917 FOR SECURITY IMPROVEMENTS AT GOVERNOR'S PRIVATE RESIDENCE</b>	<b>\$490,000</b>