

Testimony
of
Lisa Maria Alejandro
Commissioner of the Department of Property and Procurement
On
Bill Request No. 24-1140, An Act amending title 31 Virgin Islands Code, chapters 21 and 23, sections 205, 231a, 232, 236, 236a, and 239 pertaining to the management of public property and procurement and sale of goods and services
Before
The Committee on of the Whole
35th Legislature of the Virgin Islands of the United States
November 20, 2024
Earle B. Ottley Legislative Hall
St. Thomas, U.S. Virgin Islands

1 Good morning, Honorable Novelle E. Francis Jr., President of the 35th Legislature of the
2 Virgin Islands of the United States, Honorable Marvin A. Blyden, Vice-President of the 35th
3 Legislature, Honorable Carla J. Joseph, Secretary of the 35th Legislature, all other Senators,
4 Legislative staff, fellow testifiers and to the listening and viewing audience.

5 I am Lisa Maria Alejandro, Commissioner of the Virgin Islands Department of Property
6 and Procurement (“DPP”), and with me today in Chambers are Mr. Vincent Richards, Assistant
7 Commissioner, and Ms. Magdalene A. Morancie, Esq., Chief Legal Counsel and Mrs. Sharnelle
8 Samuel-Molloy, Esq., Legal Policy Director in the Legislative Chambers on St. Croix. We are
9 here, pursuant to your invitation, to provide testimony on Bill Request No. 24-1140, An Act
10 amending Title 31 Virgin Islands Code, Chapters 21 and 23, sections 205, 231a, 232, 236, 236a,
11 and 239 pertaining to the management of public property and procurement and sale of goods and
12 services. Mr. President, the Department appears before this Body today in full support of the
13 proposed changes to Title 31 of the Virgin Islands Code to update practices and processes for the
14 Department of Property and Procurement as proposed by Governor Albert Bryan Jr.

15 In 2020, the Department appeared before this Body to propose changes to the
16 Procurement Statute geared toward process improvements and increased operational efficiencies
17 to meet the demands of the 21st Century and our current economic climate. Ultimately, through
18 what became Act No. 8436, the Department realized benefits by establishing a process for the
19 acquisition of goods and services valued up to Ten Thousand Dollars (\$10,000.00), adding



20 sections to the code for competitive proposals and alternative competitive structures to include
21 design-build services, adding the electronic advertisement of solicitations in line with 21st-
22 century operations and increasing the bonding threshold to One Hundred Fifty Thousand
23 Dollars and Zero Cents (\$150,000.00), among other changes.

24 As the Department continues its focus on improved operational efficiencies, the evaluation
25 of our operational statute and our current operations remain ever-present. As a result, we have
26 found it necessary to propose additional changes to our operational statute for both our Property
27 and Procurement Divisions against the backdrop of improved operational efficiencies while
28 focusing on areas that drive economic development.

29

30 **I. Property Operations**

31 **A. Title 31, Section 205 (b)** – Pursuant to Act No. 6634, the Government must
32 collect 35% of all rent collected from the subleasing of government property. Although this
33 requirement exists, it does not appear in Title 31, Section 205(b). Therefore, as a remedy, we
34 propose that we designate the existing language in title 31, section 2025(b) as paragraph (1). In
35 addition, we are proposing to add paragraphs (2) and (3) to provide for the inclusion of the
36 required subleasing fee of 35% as passed in Act 6634 and to give the Department the option to
37 negotiate lower subleasing fees with lessees who will invest at least Five Hundred Thousand
38 Dollars (\$500,000.00) in the leased premises. The addition of paragraphs (2) and (3) is
39 recommended for two (2) reasons. First, Act No. 6634, Section 15, incorrectly indicates it
40 amended Title 29 Section 205, and we seek to correct that error. Secondly, through negotiations
41 on more complex leases, the Department recognizes that a subleasing fee as high as 35% is cost-
42 prohibitive and a hindrance to attracting viable commercial tenants when the value of the
43 investment is high. Notwithstanding the existence of Act No. 6634, large-scale development
44 leases have included negotiated terms that deviate from Act No. 6634 and have been approved.

45

46 **B. Title 31, Section 205 (c)** - Currently, all leases with a term exceeding one year
47 require legislative approval. We are proposing to amend title 31, Section 205 (c) to be amended
48 to increase the minimum term for legislative approval on Business and Commercial leases from
49 exceeding one (1) year to exceed five (5) years to make corresponding changes on the term limits
50 for leases and permits which the Finance Committee can approve to ten (10) years. Our desire to



51 make this change is aligned with the need to deliver possession to the Lessee timelier, which
52 allows for them to begin permitting improvements, as well as allow for revenue generation. In
53 addition, we are seeking to add language to title 31, section 205(c), to exempt easements from
54 Legislative approval. We have seen that the interpretation of whether legislative approval is
55 required on easements varies from one administration to the next; thus, the proposed change will
56 clarify the requirement through legislation by exempting easements from Legislative approval.
57 We are faced with several instances where landlocked property was sold under the homestead
58 program in the 1960s, and the property owners access their properties over surrounding
59 government property but have no instrument that gives an interest in the access. As the property
60 owners need financing for improvements in the portion of property creating the access or in
61 attempting to sell property, transactions are stymied because an easement is necessary.

62
63 **C. Title 31, Section 231a(a)** - The Department recommends that title 31, section
64 231a(a) be amended to: 1) reduce the number of required appraisals from three (3) to two (2);
65 2)change the residency requirement for the appraisers to a licensure requirement as we rely on
66 the appraisers being duly licensed in the appropriate category by the Department of Licensing
67 and Consumer Affairs; and 3) outline a process for the Department to utilize when acquiring
68 property by exchange; and 4) provide that two (2) appraisals are required acquired for each
69 property in an acquisition by exchange and outline a process for the Department to use when
70 acquiring property by exchange. Over the years, the use of three (3) appraisals has not been
71 beneficial in acquisitions; in fact, it slows down the process due to the small pool of appraisers
72 and creates an additional cost.

73
74 **D. Title 31, Section 231a (b)** – In title 31, section 231a(b), the Department
75 recommends that we delete payment “for transportation expenses and a reasonable per diem
76 allowance when actually employed” and replacing it with “the services provided.” The
77 Department uses commercial appraisers who bill a fee for the service provided. We are not
78 compensating appraisers for transportation costs and per diem charges. This change will align
79 the statute with current business practices.

80



81 E. **Title 31, Section 231(c)** - The Department recommends that title 31, section
82 231a(c) be amended to reduce the number of appraisals from three (3) to two (2) to coincide with
83 the change proposed for title 31, section 231a(a). In addition, the Department also recommends
84 the addition of requirements or a process for acquiring property by exchange. While title 31,
85 section 231a covers acquisition by purchase or exchange, it outlines a process for acquisition by
86 purchase but does not similarly outline a process for acquisition by exchange. Therefore, for ease
87 and consistency of application, the Department is proposing the addition of language that would
88 require the Government to obtain two (2) appraisals for each of the properties, to use the average
89 of the two (2) appraisals and to equalize any difference between the average value of the two (2)
90 properties through a cash payment.

91

92 II. Procurement

93 A. **Title 31, Section 232 (7)** – In 2020, we added subsection (7) to title 31, section
94 232, intending to delegate authority to central government agencies to procure goods and
95 services valued up to Fifty Thousand Dollars (\$50,000.00). We are now proposing to increase
96 the small purchase threshold to One Hundred Fifty Thousand Dollars (\$150,000.00) under title
97 31, section 239(a)(3). As a result of this change, which will be further discussed below, for ease of
98 operations, all central Government agencies will be able to procure goods and services valued up
99 to One Hundred Fifty Thousand Dollars (\$150,000.00) using the informal quote process through
100 GVBUY, the territory's e-procurement platform. The proposed change allows agencies more
101 flexibility in procuring goods and services.

102

103 B. **Title 31, Section 236(g)(1)(B) and (C)** – We are proposing to delete the
104 requirements for the provisions of articles of incorporation/organization or their equivalent and
105 corporate resolutions or their equivalent from the solicitation process. With this proposed
106 change, bidders will not be required to submit these documents during the solicitation process.
107 Bidders will still be required to submit licenses and proof of good standing at the time of
108 responding to a solicitation to be evaluated for responsiveness. The Department finds this change
109 necessary as it became evident over time that bidders were being deemed non-responsive for
110 failure to submit these two (2) particular documents, which minimized the competitive pool.
111 When we reviewed the requirements of other jurisdictions at the time of bidding and assessed



112 the benefit of requiring these documents at the solicitation stage, we recognized there were
113 minimum benefits. Contractors are still required to submit articles of incorporation/organization
114 or their equivalent and corporate resolutions before contract execution.

115
116 C. **Title 31, 236 (1)** - We are proposing to add Section “236 or” before the reference
117 to 239 for clarification to ensure that the Request for Qualifications (“RFQ”) process is also an
118 approved solicitation method for both formal solicitations under Section 236 and informal
119 solicitations under Section 239.

120
121 D. **Title 31, Section 236a** - The Department seeks to change the minimum bonding
122 threshold requirement in the Preferred Bidders Statute from Fifty Thousand Dollars
123 (\$50,000.00) to One Hundred Fifty Thousand Dollars (\$150,000.00). As of Act No. 8436,
124 construction projects valued under One Hundred Fifty Thousand Dollars (\$150,000.00) do not
125 require payment and performance bonds. This proposed change will correct an oversight during
126 the last set of revisions and ensure the bonding threshold referenced in the Preferred Bidders
127 Statute aligns with the bonding thresholds for construction contracts. This change will delete
128 the first sentence in title 31, section 236a(c) and change the Fifty Thousand Dollar (\$50,000.00)
129 reference to One Hundred Fifty Thousand Dollars (\$150,000.00) in title 31, section 236a(c)(1).

130
131 E. **Title 31, Section 239(a)(3)** – Under title 31, section 239(a)(3), central
132 government agencies can procure goods and services valued more than Ten Thousand Dollars
133 (\$10,000.00) but not more than Fifty Thousand Dollars (\$50,000.00) through three (3) informal
134 quotes. An informal solicitation method means the agencies seek the quotes directly from the
135 vendor community without DPP’s advance involvement. The Department recommends
136 changing the threshold from “\$10,000.00 and \$50,000.00” to “\$10,000.01 to \$150,000.00.” The
137 change to \$10,000.01 provides clarification that the minimum threshold for this category exceeds
138 Ten Thousand Dollars (\$10,000.00). In addition, the shift from Fifty Thousand Dollars
139 (\$50,000.00) to One Hundred Fifty Thousand Dollars (\$150,000.00) is meant to provide ease of
140 operation and operational efficiencies for user agencies. Looking at the current climate and the
141 cost of goods and services, a fifty-thousand-dollar (\$50,000.00) maximum for informal
142 solicitations no longer serves the government's needs. This spending category primarily affects



143 agencies' purchase of equipment and small construction contracts. Increasing the maximum will
144 lead to quicker acquisitions and delivery of service across the Government, which in turn will
145 result in increased economic activity. All acquisitions will be done through the informal quote
146 process in GVIBUY for consistency and compliance among the agencies. Lastly, for this section,
147 the Department also seeks the ability to increase the thresholds of this section through the
148 issuance of policies and rules and regulations, which will be updated continuously to align with
149 changes in the Federal Government's amounts for the simplified acquisition threshold to account
150 for inflation adjustments. Currently, the Federal Government updates its thresholds on a five-
151 year (5) cycle to account for inflation.

152
153 F. **Title 31, Section 239(a)(4)** – This section allows central government agencies
154 to procure services valued at less than Ten Thousand Dollars (\$10,000.00) through one (1)
155 informal quote. We propose replacing “less than” with “does not exceed” before \$10,000.00. Thus,
156 instead of the micro-purchase threshold being less than \$10,000.00, it would be capped at
157 \$10,000.00, in line with Federal standards. The Department is also seeking the ability to increase
158 the thresholds of this section through the issuance of policies and rules and regulations, which
159 will be updated continuously to align with changes in the Federal Government's amounts for
160 micro-purchase threshold to account for inflation adjustments.

161
162 G. **Title 31, Section 239(a)(12)** – This section currently provides an exemption to
163 the formal bidding process for the acquisition of goods and services directly from the Federal
164 Government's General Services Administration or Contracts held by it. We are proposing to
165 expand this exemption to all agencies of the Federal Government, or to any contract held by a
166 federal grantor agency providing the grant used for the acquisition or to similar cooperative
167 agreements or contracts held by nationally recognized procurement organizations and their
168 member states, which complies with the competitive and/or non-competitive requirements of the
169 grant award. This intended change will provide additional opportunities for central government
170 agencies to acquire goods and services at reduced operational and administrative costs.

171
172 H. **Title 31, Section 239(a)(13)** – This section provides an exemption for
173 acquisitions not exceeding Twenty-Five Thousand Dollars (\$25,000.00). We are proposing to
174 delete this text in its entirety. This provision currently provides no added benefit to user agencies



175 as acquisitions within this threshold are already captured within the current exemption in title
176 31, section 239(a)(3) for acquisitions up to Fifty Thousand Dollars (\$50,000.00).

177
178 I. **New title 31, section 239(a)(13)** – Following the proposed deletion of the text
179 in section 239(a)(13), the Department recommends replacement text creating an exemption from
180 the formal bidding process in title 31, section 236 for first responder agencies to procure goods
181 and services to be used in direct response to an accident or emergency. The proposed addition is
182 similar to that provided in title 31, section 239(a)(6) for medicine and medical supplies. The
183 agencies using this exemption would still be required to seek competition to the extent possible
184 under the circumstances. While we recognize that title 31, sections 239(a)(1) and (2) already
185 provide exemptions under a declared state of public emergency or a public exigency, subject to
186 the Governor’s approval, not every accident or emergency meets the definition of section
187 239(a)(1) and (2). Consequently, there are day-to-day circumstances where agencies such as the
188 Police Department, Fire and Emergency Medical Services, VITEMA, and DPNR need goods
189 and services in direct response to an accident or emergency that do not squarely fall within an
190 already existing exemption and where there is not sufficient time to solicit those goods and
191 services formally.

192
193 Continuous process improvements are paramount to our ability to serve the public
194 effectively. In doing so, as we recognize areas for improvement, we are committed to making
195 changes to achieve said improvements while also focusing on areas for improvement that
196 positively impact our economy. Therefore, the proposed changes seek to bring increased
197 efficiencies in Government operations. Increased acquisition thresholds for user agencies are a
198 step in the direction of improving operations. With the implementation of GVIBUY and the fact
199 that all acquisitions will be done through the platform, both formal and informal, the Department
200 believes sufficient controls are in place to increase the thresholds for informal solicitations and
201 bring a bit more ease of operations to the user agencies while improving the timeline for delivery
202 of services. Similarly, with our renewed focus on revenue generation and improving the value of
203 the Government’s real estate portfolio, the changes seek to create a more efficient process in our
204 property operations.



205 Mr. President, this concludes my prepared testimony. Thank you again for the invitation
206 and the opportunity to be a part of today's discussion. We remain available to answer any
207 questions the Committee may have.

