

Good day Chairperson Donna Frett-Gregory, members of the Committee on Budget, Appropriations & Finance, other Senators of the 35th Legislature of the U.S. Virgin Islands, and members of the listening and viewing audience. I am Jenifer O’Neal, Director of the Office of Management and Budget (OMB) and I appear before you pursuant to your invitation for members of the executive branch to provide testimony on the status of the Compliance Agreement between the U.S. Virgin Islands and the U.S. Department of Education as a result of the U.S. Virgin Islands being designated a “high-risk grantee” under 34 CFR § 80.12. Accompanying me today are Dionne Wells-Hedrington, PhD, Commissioner, Virgin Islands Department of Education (VIDE), Kimberley Causey-Gomez, Commissioner, Virgin Islands Department of Human Services (VIDHS), Justa Encarnacion, Commissioner, Virgin Islands Department of Health (VIDOH), Lisa Alejandro, Commissioner Nominee, Virgin Islands Department of Property & Procurement (VIDPP), and Sharon Murphy, Partner, McConnell & Jones LLP (MJ).

The Virgin Islands Office of Management and Budget (OMB) remains committed to guiding the Government of the Virgin Islands (GVI) out of third-party fiduciary oversight for federal grants from the US Department of Education. Collaboration efforts continue between OMB and the Virgin Islands Department of Education (VIDE), the Virgin Islands Department of Human Services (VIDHS), the Virgin Islands Department of Health (VIDH), the Virgin Islands Department of Finance (VIDOF), and the Virgin Islands Department of Property and Procurement (VIDPP) to ensure that all agencies are effectively managing funds received by the United States Department of Education (USDOE). This effort is managed by VIOMB’s Federal Grants Specialized Processing Unit, Self-Contained Model (SCM) which works with our current third-party fiduciary agent (TPFA), McConnell & Jones, LLP (MJ), to manage all USDOE grant funds and maintain proper documentation of the agencies’ expenditures.

Both the Department of Finance and the Department of Property and Procurement are actively working on bringing the GVI's Standard Operating Policies and Procedures (SOPPs) in alignment with the federal guidelines and remain dedicated to maintaining our current progress on the specific conditions.

Historical Background for TPFA

In September 1999, the U.S. Department of Education designated the GVI as a "high-risk grantee" under 34 CFR80.12(a) and imposed specific conditions on several awards to the GVI and its agencies. The major non-compliance areas included: (1) Procurement Processes, (2) Program Planning and Implementation, (3) Financial Management, and (4) Property Management. In addition to the non-compliance areas, USDOE noted lack of human capital and management accountability as contributors to GVI's "high-risk" designation.

In September 2005, because USDOE did not see sufficient progress, formal specific conditions were imposed that required GVI to procure and maintain the services of a third-party fiduciary agent (TPFA) to perform financial management duties required under federal regulations. In August 2006, GVI engaged its first TPFA vendor, *Alvarez & Marsal*, and awarded the contract to the second TPFA vendor in May 2009, (*Bazilio, Cobbs & Associates*). The second vendor was responsible for managing the TPFA contract activities until November 2020.

McConnell & Jones LLP (MJ) assumed responsibility for the TPFA contract on December 1, 2020. MJ's main role, as the TPFA, is to ensure that fiscal transactions are fully compliant with 2 CFR 200, the Uniform Guidance and 34 CFR- Education Department General Administrative Regulations (EDGAR).

The TPFA:

- Reviews requisitions/process vendor payments and avoids disallowed expenditures.
- Reviews, approves, and uploads budgets into the Munis system.

- Ensures policies and procedures are in place to oversee grant operations.
- Provides management reports (weekly and monthly) to support and evaluate operations.
- Provides technical assistance to the OMB SCM staff and VIDE/VIDHS grant staff to ensure they build capacity to oversee USDOE grant funds independently.

Implementation Plan to Eliminate Specific Conditions/Transition GVI From TPFA Requirement

Collaboratively, a plan has been developed to assist the GVI with eliminating the 25 specific conditions outlined in USDOE's monitoring report and to transition the GVI from the TPFA requirement. It includes:

- Redirecting the primary focus for addressing the specific conditions from VIDE, VIDHS, and VIDOH and placed higher emphasis on the DOF and DPP which will ultimately have compliance oversight responsibility once the specific conditions are eliminated.
- Establishing specific, measurable outcomes and key performance indicators (KPIs) to determine necessary steps to address deficiencies that caused the specific conditions. VIDE, VIDHS, DOF, and DPP are working to use the performance indicators to demonstrate that the deficiencies have been addressed based on pre-determined benchmark targets.
- Ensuring training and staffing needs are addressed.

MJ has worked closely with OMB, DOF, DPP, VIDE, and VIDHS to address the specific conditions outlined in the corrective action plan (CAP) requirements, and substantial progress has been made toward addressing managerial deficiencies. Both the quality of documentation submitted to USDOE in the quarterly CAP responses and the consistency of submissions by GVI agencies requiring CAP responses has improved.

In the two years that MJ has been the TPFA, not only has the scope of the grants under the management of the TPFA grown substantially over the past three years from \$154M in 2020, to \$328M in the current contract, but they have assisted OMB and the GVI agencies with reducing the number of specific conditions requiring a response to USDOE from 25 to 9. Further, the OMB SCM staff has been instrumental in improving the communication between USDOE and the other GVI agencies by obtaining regular feedback regarding the CAP report deliverables. The improved communication also contributed significantly to the reduction in the number of specific conditions GVI is currently required to address.

The table below summarizes the nine (9) remaining specific conditions that GVI submits CAP progress reports on to USDOE quarterly.

Specific Condition #	Description Summary
1 <i>Drawdowns</i>	The Virgin Islands, VIDE, VIDOH and VIDHS are responsible for executing their respective drawdowns of funds timely.
2 <i>Internal Control SOPPs</i>	The Virgin Islands, VIDE, VIDOH, and VIDHS must develop and implement a standard operating procedure that documents the use and application of fiscal controls and accounting procedures that ensure proper disbursement of, and accounting for, Federal funds, in accordance with 34 CFR § 75.702.
3 <i>Payroll SOPPs</i>	The Virgin Islands, VIDE, VIDOH, and VIDHS must develop and implement a standard operating procedure and guidance for payroll functions involving salaries paid with USDOE grant funds and establish and maintain an effective and accurate process for tracking and reporting time and effort spent by all employees whose salaries are paid under ED grants.
4 <i>Procurement SOPPs</i>	The Virgin Islands, VIDE, VIDOH, and VIDHS must develop and implement a standard operating procedure for procurement functions involving ED grant funds and provide effective oversight for proposed procurements, including, but not limited to, training all staff (SEA and LEA) on, and reviewing all requisitions against, local and ED requirements for procuring goods and services.
5 <i>Vendor Invoices from Agent</i>	The Virgin Islands, VIDE, VIDOH and VIDHS must develop and implement guidance requiring that within 24 hours of receipt of a vendor's invoice from the TPFA, staff must (i) accept or reject the goods or services, and, if accepted, (ii) draw down funds for the vendor payment for deposit into the separate bank account(s) maintained by the TPFA.
6 <i>Fixed Assets SOPPs</i>	The VIDE, VIDOH, and VIDHS must develop and implement a standard operating procedure for fixed asset functions involving assets acquired with ED grant funds and work with the Agent to ensure that all tangible personal property procured under all ED grants is managed in accordance with the requirements of 2 CFR §§ 200.313.
7 <i>TPFA Oversight for VIDOH Grant Funds</i>	The Department's grant awards to VIDOH under Part C of the Individuals with Disabilities Education Act (IDEA) for FFYs 2002 through 2022 include special or specific conditions, which are attached to, and specified in, the respective IDEA Part C grant award letters (IDEA Pan C Special or Specific Conditions) for those years.
Additional Condition 1 <i>Functional VIDE</i>	The Virgin Islands and VIDE must develop and implement a fully staffed, autonomous and independent internal audit division to ensure proper use and accounting of ED grant funds.

<i>Internal Audit Division</i>	
Additional Condition 2 <i>Programmatic Monitoring Reports</i>	The Virgin Islands, VIDE and VIDHS must conduct programmatic monitoring, in accordance with the Uniform Guidance at 2 CFR §§ 200.328 and 200.331, which require grantees to monitor activities under Federal awards to assure compliance with applicable Federal requirements and that performance expectations are being achieved, and to evaluate the risk of noncompliance.

Virgin Islands Department of Education

Historically, approximately twenty-four (24) specific conditions have been tied to VIDE, ranging from communication to policy and procedure requirements. Pursuant to these conditions, VIDE has been successful in creating but is not limited to:

- an intensive fixed asset policy and procedure manual
- the creation of an Internal Audit unit
- the creation of a Monitoring and Compliance unit
- Posting of the Office of Inspector General Hotline fraud, waste, and abuse hotline information has throughout the territory

As a result of these accomplishments, VIDE is currently responsible for reporting on only three (3) conditions:

- 24-hour drawdowns
- program monitoring
- program-specific conditions

At the end of each quarter, VIDE is responsible for submitting the Quarterly Corrective Action Plan (CAP) report to OMB, which contains support that the conditions mentioned above are being adhered to.

24-hour Drawdowns

VIDE is responsible for completing the drawdown from the G5 system within 24 hours after receiving a written drawdown notice from the TPFA. VIDE acknowledges the seriousness of this condition and

understands that if the 24-hour deadline is not adhered to, USDE will remove this task from VIDE and provide the TPFAs with full authority to perform all drawdowns. VIDE has been and will continue to comply with this condition. The Fiscal team has built capacity within the unit to ensure that multiple persons have access to the G5 system and they can perform the drawdowns. With the additional personnel, VIDE ensures that a drawdown request will be addressed right away by any trained individual.

Program Monitoring

VIDE must conduct comprehensive programmatic monitoring in accordance with the Uniform Guidance 2 CFR §§200.329 and 200.332, which requires the State Office to monitor activities under Federal awards to assure compliance with applicable Federal requirements, to confirm performance expectations are being achieved, and to evaluate the risk of noncompliance. From November 2022 to present, the Monitoring and Compliance unit has conducted approximately 42 monitoring visits. The Monitoring and Compliance unit acknowledges the dire need for monitoring training based on all submitted reports scheduled for the end of June 2023 and has provided USDE with a risk-based monitoring protocol, monitoring tools and instruments, and standard operating procedures for monitoring, which includes a risk assessment process that has been favorably accepted.

Program Specific Conditions

In accordance with 34 CFR § 76.132(a)(5), VIDE must submit an annual performance report to the Department, as required under 2 CFR § 200.329, for each of the programs for which we are using funds received under the Consolidated Grant. Each report must compare actual accomplishments to the objectives established in the approved Consolidated Grant plans and provide details, if appropriate. VIDE has been and will continue to adhere to this condition; currently, the Federal Grants Office submits this annual report at the close of every calendar year to the USDE Project Manager for the Consolidated grant.

Department of Human Services

The Department of Human Services (DHS) is currently under four (4) specific conditions pertaining to funds received through the Division of Disabilities and Rehabilitation Services for the Vocational Rehabilitation Program. This program assists individuals with disabilities to gain and maintain competitive integrated employment guided by various types of assessments, trainings, placements, and accommodations.

Priority areas of concern for DHS relate to timely drawdowns of funds, accurate tracking and reporting of time records and payroll expenditures, ensuring requisitions and purchase orders follow procurement guidelines, and establishing and complying with the requisite Standard Operating Procedures (SOPs) for those processes as well as overall fiscal controls and accounting practices.

DHS continues to work with the TPFAs to implement the corrective action steps needed to mitigate these areas of concern. Unfortunately, the department's continuing workforce challenges, including lack of fiscal staff and turnover of key program and other administrative staff have slowed the desired progress in these areas. Current efforts include executing drawdowns within 24 hours of requests and notifying the TPFAs of the status or any issues in a timely manner. VIDHS has made significant progress in entering and approving requisitions in compliance with procurement guidelines following training provided by the TPFAs on standard operating procedures for the requisition process, and the DHS Fiscal Unit has increased its attentiveness in vetting requisitions to ensure federal compliance.

DHS is working diligently to hire the necessary team members to make greater strides towards compliance and eventual elimination of specific conditions. On May 8th, the department onboarded a Federal Financial Grants Analyst, who will exclusively provide fiscal support to the Vocational Rehabilitation Program. Additionally, DHS has a target date of June 5th, 2023, to onboard a Federal Accounts Payable Specialist.

The program has been without fiscal support since 2018 and the hiring of these two positions will enable appropriate separation of duties and allow employees to focus on specific responsibilities for maximum efficiency.

DHS is required to generate and submit bi-annual time and effort certification on all employees paid by USDOE grants to the TPFAs. To achieve greater transparency of payroll reporting, the department is currently working towards the full implementation of the GVI STATS System. The target date for STATS implementation is June 19th, 2023, which should allow for more automation and the streamlining of requisite reporting.

Department of Property and Procurement

As noted, DPP remains fully engaged and continues to collaborate with all stakeholders in addressing the Specific Conditions. To that end, DPP has made significant strides in policy development and implementation through capacity building efforts. Accordingly, after proposing legislation to create efficiency and modernize the Territory's procurement statutes, Act No. 8436 was enacted by the 34th Legislature, which increased the purchasing thresholds, removed outdated processes, increased the bonding requirement threshold from \$50K dollars to \$150K dollars, added the Request for Qualification acquisition methodology, and expanded the publication of solicitations. DPP has delivered a series of trainings to Central Government agencies and supplementary materials were developed to provide guidance on proper application and utilization of the new statutes.

In November 2022, DPP completed and released its revised Procurement manual incorporating procurement changes that were affected via memoranda, and executive orders to ensure all procurement procedures were outlined and documented in one resource. Upon release of the revised Procurement Manual, DPP provided government-wide training to the Central Government on the proper application of

the revised Procurement Manual, specifically focusing on the guiding and general principles of acquisition planning and cost accounting principles under 2 CFR Part 200.

Along the path of continuous development, DPP, after engaging discussions with the TPFA and GVI stakeholders, authored training materials specific to addressing recurring process deficiencies and rolled-out in-person training on the topics of Contract Administration, fraud, acquisitioning, and budgeting and acquisition planning to include the cost accounting principles prescribed under the Uniform Guidance Act of 2014, during multiple two (2) day sessions delivered February 7, 2023, through February 23, 2023, in both Districts. Capacity building and retention remain critical as the GVI continues its efforts towards removing third-party fiduciary oversight. Therefore, the transition plan includes ongoing training and professional development.

DPP continues its efforts to provide responses to the TPFA on unresolved disputes and works with GVI stakeholders to ensure their internal processes and procedures align with the Central Government's policies and requirements of the special conditions. As the GVI works to take custodianship of its USDOE funds, DPP along with GVI's stakeholders has been working on the transition plan which includes the development and release of a Fixed Asset Manual. While DPP has completed its revised Procurement Manual, the Fixed Asset Manual is currently being drafted with plans for release at the beginning of Fiscal Year 2024.

With the pending completion of the Fixed Asset Manual and ongoing strategy to transition fixed asset management from TPFA oversight to the GVI, there is an identified need to sufficiently staff the Department and acquire/ create central warehouses to perform the functions required under 2 CFR Part 200.

Department of Finance

The DOF team has met over the course of several months with the VIDE team to learn their internal processes and better understand their challenges from grant award to drawing down the funds and financial reporting. DOF has dedicated resources to make this a high priority.

To date, the DOF has worked on the following areas to provide the best support to departments as they work on their daily transactions.

1. Updating of the SOPPS
2. Collaborative meetings to build internal controls and monitoring based on the reporting needs.
3. Chart of Account clean-ups
4. Purchase order management
5. Liquidating invoices timely
6. Revamping the draw-down process to make it more centralized with oversight in our Treasury unit
7. Recurring training in basic and advanced accounting processing and reporting
8. Work with agencies on developing accurate federal receivables.

These areas should improve timeliness and accuracy, which are repeat findings for GVI and are a direct correlation with the expectation of the U.S. Department of Education.

Lack of staffing remains a concern throughout GVI, and steps are continuously being taken to train the fiscal employees we do have while recruiting others.

Department of Health - Infants and Toddlers Program

The Infants & Toddlers Program (ITP) has in place a separate third-party fiduciary agent from the VI Department of Education to administer all grant funds for the ITP. The agent of record for this grant is Lutheran Social Services (LSS), which is acceptable to the Office of Special Education (OSEP). Drawdowns are executed by the DOH Federal Grants Office into a separate bank account established and maintained by LSS.

Barriers to Sustained Progress Toward Eliminating Specific Condition Deficiencies

In addition to providing quarterly CAP documentation that demonstrates GVI agencies are addressing specific condition deficiencies, USDOE expects that sound management practices will be implemented and sustained to fully mitigate deficiencies. Below are some of the key management practices that need to be implemented.

- GVI must ensure that all impacted agencies (OMB, DOF, DPP, VIDE, VIDHS, and VIDOH) that are responsible for administering USDOE federal grant funds, are managed in compliance with Uniform Guidance and 34 CFR- EDGAR guidelines.
- Key vacancies must be filled, and the necessary human capital fully trained. Moreover, GVI agency leadership must hold division management accountable for ensuring critical federal management practices are consistently implemented. The GVI will need to provide high-level oversight so that the critical management practices in the table below are sustained once the TPFA requirement is eliminated.

Management Practices	Recommendation / Action Item(s)
Human Capital Vacancies	Identify and hire key management and support staff with the requisite proven grant management and/or functional area experience for the positions they are assuming. Review salaries for position openings and ensure salaries are sufficient to retain staff once hired. Minimize the time required to fill vacancies.
2 CFR 200 Content Implementation/ Training for New and Existing Staff	Provide a comprehensive overview of 2 CFR Part 200 to all new staff members who will be involved in the federal grants management process within five (5) days of being onboarded to the agency. A standard training PowerPoint presentation should be prepared to facilitate this training. Refresher training should be offered to existing staff every three months. The TPGA and SCM will be available to provide additional training as “back-up”, as needed.
General Requisition Processing Accuracy	Improve quality control measures to ensure submitted requisitions contain all required documentation such as current/up-to-date vendor business licenses/ certifications and SAM certifications. Processing accuracy rate should consistently be 97 percent or higher.
Use of Correct Accounting Object Codes	Ensure original budgets are adopted for intended purchases based on approved spending plans. If budgeted amounts are deemed inadequate prior to entering a requisition, a budget amendment should be recorded to fund the appropriate object code. Focus on the creation of adequate and appropriate object codes to expand the chart of accounts to make more budget codes available for specific expenditure types. In addition, detailed descriptions of the intended use of object codes should be provided to help applicable staff improve their understanding of the reason specific object codes are used when recording expenditures.
General Ledger Line-Item Allocations in the Requisitioning Process	Take steps necessary to understand the procedures for allocating funds and detail from multiple projects to a single line in MUNIS. In addition, the consequences of applying preset allocations near the end of grants’ lives must be discussed and understood. Planning decisions that relate to splitting line items across multiple projects/awards should be reviewed for accuracy and proper accounting application.
Timely Payroll Reconciliation and Cashflow Management	Document and execute the correct procedures and required timeframes for processing and reimbursing payroll. DOF should develop a cashflow model that is monitored each payroll period to “stay on top of” and enforce timely completion of federal payroll funds to better facilitate timely reimbursement. Hold departments accountable when payrolls are not processed and reconciled in a timely manner to avoid local funds being advanced for an extended period.
Timely Processing of Payments to Vendors	Convey to the divisions the importance of executing all purchasing responsibilities and processing vendor payments in a timely manner and hold the Procurement Division and Business Office accountable for executing this management practice.
Forward Planning to Minimize Lapsed Grant Funds	Develop reliable spending plan tools that accurately reflect available grant balances. As grants come online, have potential service providers identified to expedite expenditures and the delivery of goods and services to schools and students.
Procurement/Contract Management Processes	Streamline the amount of time required to issue purchase orders after contract approval so that vendors can be paid timely.
Compliance with 2 CFR 200.324, Contract Cost and Price	Establish an internal control mechanism to test for such omissions and to provide assurance that Federal procurement guidelines are being followed.
Proactive Spending Plans and Avoidance of Delays in Processing Budget Amendments	Enter budget amendments into the MUNIS system for approval immediately upon receipt of approval and as soon as possible after all internal approvals of the amendments are obtained. Review and assess budgets and spending plan development processes, monitor the ongoing need for expenditure items under consideration, and determine expenditure limits and funding sources. Developing proactive spending plans for VIDE and VIDHS will help move funds to program areas faster, provide benefits to recipients in a timelier manner, and demonstrate that these agencies can better manage their respective grant funds
Accounting For Fixed Assets	Implement procedures that provide assurance that receiving reports are submitted to the Fixed Assets Management Division (FAMD) monthly. This arrangement will allow the FAMD to reconcile FACPs fixed assets when received.

Management Practices	Recommendation / Action Item(s)
Maintaining Fixed Assets Locations	Ensure proper and accurate locations of fixed assets are documented to show where the assets are received. Notify the Fixed Assets Management Department where the fixed assets are to be located to provide assurance that the Fixed Assets reporting is always accurate.
Participation in Monthly "Tag-up" TPFA/ OMB SCM Monthly Meetings	DOF, DPP, VIDE, and VIDHS should request that the TPFA and OMB SCM place a select number of items that still need to be addressed on the agenda for discussion and issue resolution during each Monthly "Tag-up" meeting. Key staff members should offer possible solutions to ongoing issues and commit to the development of detailed corrective action plans that would include staff assignments to bring final resolution ideas to subsequent meetings. This process should be ongoing and is geared towards encouraging and reinforcing collaboration, accountability, and issue/problem resolution skills that will be necessary after GVI transitions from TPFA oversight.

Foundational Documentation Requirements

It is important that the GVI remain current on other requirements such as ensuring our Audits, inclusive of the Single Audit, are completed in a timely manner. Federal law requires any non-federal entity that expends \$750,000 or more in federal award funds during its fiscal year to obtain a Single Audit (or Program-specific Audit). The auditors contracted by the GVI submitted the draft findings for the FY 20 Single Audit for management response about one week ago and are in the data collection and testing phase for the FY 21 Single Audit. OMB has held meetings with all applicable agencies with Findings and will continue to work with those agencies to formulate responses for prompt submittal to the auditors.

To date, the FY 21 Schedule for the Expenditure of Federal Awards (SEFA), the precursor to the actual Single Audit, has been completed and the FY 22 SEFA will begin shortly. These reports establish GVI's accountability for the federal grant dollars it receives, including the \$328 million dollars it is currently receiving from USDOE, and is another important compliance requirement that demonstrates responsible stewardship of USDOE federal grant awards.

We understand that it is more than just VIDE to make the necessary changes and requires a collaborative effort from the central service agencies as well, in order to actually show measurable progress. To this end, the GVI team along with our TPFA, MJ, continues in constant communication with the U.S.

Department of Education and remain committed to further advancing and improving our processes and procedures to remove the remaining 9 Specific Conditions.

Madam Chair, this concludes our combined testimony. Our team is available to answer the questions of this Committee.