

The Virgin Islands Consortium

Op-Ed | Governor's Repeated Extensions Of State Of Emergency Further Tramples On VI Laws Requiring Financial Accountability And Transparency

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Virgin Islands law authorizes a governor to declare a state of emergency for emergencies and major disasters. No declaration can last longer than thirty days, however, unless a governor renews it and explains the basis for the renewal. We are currently yet again under another state of emergency – the 7th one. The first declaration was on September 5, 2017, just before Hurricane Irma hit the Virgin Islands. It has been renewed every 30 days since, with the most recent extension on March 2, 2018, continuing through April 3, 2018. What most people do not know is the extensive and extremely broad powers a governor has during a state of emergency and the abuse of power that can result.

Section 1005 of Title 23 of the Virgin Islands Code establishes the powers of a governor to declare a state of emergency. Of course, a governor must have certain powers to protect the people and properties of the Virgin Islands. The list of powers given to a governor is understandable, if those powers are being utilized for a short period of time. These powers include such things as transferring personnel, directing evacuations, controlling egress and ingress to and from different areas, and making emergency housing available.

One category of powers, however, is shocking because it is unlimited: a governor may “take any other action he deems necessary.” Again, if the state of emergency is for 30 days or so, one does not question the need for this all inclusive power. But, when the state of emergency extends for 7 months, one has to question the true reasons for the extensions.

The justification given by the Governor in the Renewal Orders and Proclamations for the repeated extensions is nonspecific: “to continue to protect the lives and property of the residents of the Territory”. We can all agree that before March 2, 2018, we are under no



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In the meantime, there has been no financial accountability or transparency as to exactly how much federal aid dollars have come in and been subject to this administration's use. The public has been told a varying range of numbers, but the total amounts that have actually been allotted to the Government of the Virgin Islands and that have been expended and for what reasons continue to remain a mystery.

One series of expenditures that were made public and are questionable involve the Governor's authorizing of over \$100 million worth of contracts through the Public Finance Authority (PFA). Valdamier Collens, as executive director of the PFA, testified on February 6, 2018 before the Committee of Finance of the 32nd Legislature that the board of the PFA had “duly ratified” 3 contracts, totaling over \$100 million, one of which was to hire a lobbying firm. Based on his testimony, these funds did not come out of the federal Community Disaster Loan (CDL). Why were funds being used out of the PFA? According

to V.I. law, the PFA was created primarily to raise and manage capital for public projects. Additionally, the word “ratify” means to give formal approval in order to make an action officially valid. What happened that the board was now required to “ratify” these contracts? Is it true that the Governor can sign and issue a PFA check himself – there is no requirement of a second signatory? Were these contracts publicly put out for competitive bid and if so, when?

In the most recent audit report of the PFA by the U. S. Department of Interior’s Inspector General and the V.I. Inspector General issued in September, 2017, the auditors concluded: “Our audit findings cover a range of improper activities and serious management deficiencies that raise significant questions about PFA’s stewardship and expenditures of billions of dollars in public funds. PFA has operated haphazardly without any formal operating policies and procedures or an accurate accounting system.”

Moreover, what has the Legislature been doing as this and similar evidence is provided to it? Act 8016, enacted on December 28, 2017, pertains to the disbursement of CDL funds. It has a specific provision that mandates compliance with the V.I. Transparency Act: the Commissioner of Finance must ensure that all draw-downs and expenditures from the CDL are uploaded to a website that is accessible to the public no later than 30 days after each draw-down and expenditure. Almost 2 ½ months later, no such information has been provided to the public. When the news media inquired about this website, they were told that the Legislature is “working on it”.

The V.I. Transparency Act was passed in 2012 and has yet to be complied with. How much longer will the Legislature allow this administration to keep expenditures of monies hidden away from the public? The fundamental basis of a democracy is the government’s financial accountability to the people and transparency. What we have been experiencing is the repeated flaunting of the people’s right to know. The inner workings of our government must be transformed, ensuring that it is fully accountable to the people.

Submitted by: Soraya Diase-Coffelt, gubernatorial candidate, on March 13.