

The Virgin Islands Consortium

2020 \$1 Million Dollar Balance Not Paid To GERS Due to O.M.B Litigation; Told \$ 10 Million Not Appropriated in 2021

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Kyle Murphy **March 25, 2021**



During a GERS Board Meeting on Thursday, two financial issues arose as the GERS has not received funding from the Internal Revenue Matching Fund and they have not received information in accordance to Act 8383.

On March 2, Austin Nibbs, GERS Administrator, wrote to Jenifer O'Neal the Office of Management and Budget Director and Acting Commissioner of Finance, Clarina

Modeste-Elliot in regards to outstanding payments from October 2019-September 2020 and Act 8244. Out of the \$10 million that GERS was supposed to receive they have only received \$9 million leaving an outstanding balance of \$1 million according to Mr. Nibbs .

Mr. Nibbs said in the Director's response she stated that she was advised by the Attorney General that the funds would not be released due to ongoing litigation of [\\$63 Million owed by the government of the Virgin Islands to GERS](#). There has been a hearing but GERS has not received a ruling as of yet.

On March 10, Mr. Nibbs sent a bill to the government of the Virgin Islands attention the OMB Director with the amounts of the total revenue matching fund, 10 million dollars plus the additional million, meaning the employer matching contribution due according to Mr. Nibbs is 11 million dollars.

Mr. Nibbs said in an email response from Ms. O'Neal that there was no apportion in 2021 from the Internal Revenue Matching Fund. Mr Nibbs said he is presently investigating this and is trying to get as much information as he can on the 2021 from his contacts at the legislature.

"There's more research that has to be done on that." said Mr. Nibbs in regards to the 2021 allocation and budget.

On March 1, Mr. Nibbs also wrote to Ms. Modeste-Elliot, in regards to Act No. 8383 that discusses 50 percent of any revenues in excess of funds appropriated by the Legislature. The response to the letter was that she would be looking into it and he has not received any further response in detail.

GERS received an immediate release from Senator Dwayne Degraff about this issue that stated their was about \$10.8 million in excessive revenues meaning GERS was supposed to received about \$5.4 million.

When discussing possible action GERS can take Andre Dorsey, board member, suggested that they look into further legal action they could take.

Since the Attorney General was the person that suggested the funds be held Mr. Dorsey brought up the possibility of involving the Inspector General or the U.S Attorney office. "We have to trump what's going on at this point."

Mr. Nibbs' recommendation was to sit down with a sub-committee and legal counsel before that process begins and he doesn't believe that the inspector general will be involved and that they go to the governor first.

Nellon Bowry, board member, agreed with Mr. Nibbs, that they should go to the Governor first.

Mr. Dorsey said that if they go to the Governor it is wasting time at this point because it's clear where this directives came from. "These directives didn't come from one person he appointed, it came from two." he said

Legal Counsel Pedro Williams said he doesn't believe the Inspector General or the U.S Attorney office would have any jurisdiction over that.

During the Chairperson's Report Mr. Bowry read a letter he wrote to Mr. Bryan that addresses the need to appoint more board members as there are four members serving on the board whose terms have expired. There are three current trustees on the board whose term has not expired, which would not be enough for a voting quorum without the members who are serving passed their term in line with the local statue until their replacement is found according the Mr. Bowry.

He also reached out to Senator Kurt Violet regarding a status update of GERS sub-committee that Mr. Violet will chair. He confirmed that he is the chair and will schedule a working session that he will invite participation from GERS.

It was also discussed that the public would be invited to the next zoom meeting to participate and provide feedback but the Board hasn't finalized the details of how that will happen and it will be released at a later time.