



GOVERNMENT OF THE VIRGIN ISLANDS
PROTOCOLS FOR EFFECTIVE FINANCIAL MANAGEMENT

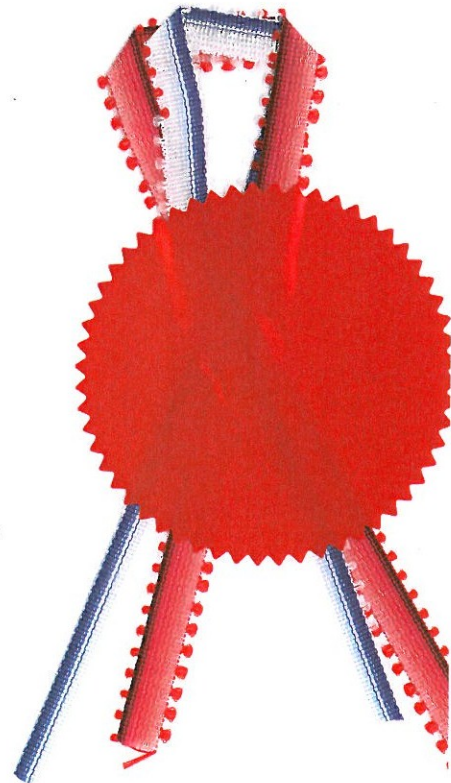
Signed on 23rd April, 2012

by

Dr. the Hon. D. Orlando Smith, OBE
Premier and Minister of Finance

His Excellency the Governor
Mr. Boyd McCleary, CMG, CVO

Mr. Henry Bellingham, MP
Parliamentary Under Secretary of State
and Minister for the Overseas Territories



**GOVERNMENT OF THE VIRGIN ISLANDS:
PROTOCOLS FOR EFFECTIVE FINANCIAL MANAGEMENT**

PREAMBLE

1. The Virgin Islands having financial services and tourism as its two main industries must be customer focused, efficient, relevant and responsive if its economy is to be vibrant and sustainable in the long term.
2. As a result of the requirement to be customer focused, its reputation as a jurisdiction of high repute is critical to its success. To achieve this, the Virgin Islands recognizes that its practices in regards to governance, transparency, and accountability of its leadership is of paramount importance. In addition and due to the fact that it is a territory that is involved in a global market, its social and infrastructural development and security must be to levels commensurate with what is required to facilitate the industries which drive its economy, in addition to providing a high and constantly improving standard of living for its people. This requires that it is able to plan responsibly in the medium to long term using information that accurately represents the state of play, using recognized methods and to internationally recognized standards.
3. The Virgin Islands government also recognizes and appreciates the context of its constitutional relationship with the United Kingdom, the consequential extended relationships with its allies and members states in the European Union, and thus commits itself to a pattern of governance that is consistent with global standards and best practice.
4. Bearing this in mind the Government of the Virgin Islands is committed to creating an environment in which people and businesses can plan for the future, and growth in income and employment can be sustained by:
 - a. delivering macroeconomic and fiscal sustainability, and financial stability; and
 - b. establishing a medium to long term strategy that sets out a comprehensive fiscal plan to deliver the most effective, efficient and sustainable allocation of resources.

5. Transparency in the management of the public finances is consistent with the highest standards of governance and democracy. The Government of the Virgin Islands recognizes that the Public Finance Management Act 2004 in its role to adhere to these standards is limited in its scope and mandated requirements, and hence will amend its provisions to ensure that it is fit for purpose, by mandating strong provisions (to be specified in an enhanced Public Finance Management Act) to provide for the following core principles as statutory requirements:
 - a. Medium Term Planning
 - b. Transparency through regular reporting in the House of Assembly on fiscal and economic matters
 - c. Measurements of fiscal and economic performance with timely and accurate statistical data.
 - d. Value for money through recognized and standardized procedures and the application of objective and credible assessments for project development, procurement and implementation.
 - e. Proactive and comprehensive management of risk, including but not exclusive to debt management
6. The Government of the Virgin Islands has therefore committed to ensure that the enhanced Public Finance Management Act is adhered to at all times. In the event that the Act's provisions are violated, action to correct these deficiencies will be taken immediately. Subject to the agreement of the House of Assembly and the assent of the Governor, the enhanced Public Finance Management Act will enter into force by August 2012.
7. The Government of the Virgin Islands and the Government of the United Kingdom reaffirm their commitment to work in partnership and to respect the rights and responsibilities specified in these Protocols and the enhanced Public Finance Management Act. References to the Public Finance Management Act henceforth in this agreement are to an enhanced Public Finance Management Act with at minimum the provisions specified in the Premier's letter of 21 March 2012.

POLICY PRINCIPLES

8. The Government of the Virgin Islands is committed to the following principles:

- a. Effective **medium-term planning**, to ensure that the full impact of fiscal decisions is understood;
- b. Putting **value for money** considerations at the heart of the decision making process;
- c. Effective **management of risk**; and
- d. Delivering improved **accountability** in all public sector operations.

IMPROVING MEDIUM TERM PLANNING

Medium term fiscal plan

9. The Government of the Virgin Islands will assess the impact of all proposals and decisions on expenditure, revenues, and borrowing in the context of a medium term fiscal plan (MTFP) covering a period of at least three fiscal years. This MTFP will be used as the primary guide for fiscal and economic management by the Government of the Virgin Islands. The MTFP will include as a minimum the information defined in the Public Finance Management Act.

DELIVERING VALUE FOR MONEY

10. The Government of the Virgin Islands recognizes that achieving value for money is central to the appropriate use of public funds. Central government and other public sector bodies will therefore ensure that when utilizing public funds effective processes are in place to ensure: project suitability, effectiveness and quality; and prudent management of funds.

Projects

11. There are four key stages that will be undertaken by the Government of the Virgin Islands in the planning, development and execution of a capital project:
 - a. **Appraisal and Business Case:** The Government of the Virgin Islands will ensure that all projects, however funded, are suitably appraised before the procurement stage to ensure value for money and that a robust cost-benefit analysis has been carried out. This appraisal must be used by Cabinet to

determine whether or not the project should be initiated and if so on what terms.

For capital projects with a lifetime value above five per cent (5%) of forecast annual recurrent revenue, and funded from the recurrent surplus or conventional borrowing, independent expert advice such as (but not limited to) accounting, legal, financial, economic and environmental advice will be sought from parties outside the public sector. The Minister of Finance, subject to the Public Finance Management Act and after consultation with the Financial Secretary, may determine that such external advice is not required.

- b. **Tendering and Procurement:** All projects must be subjected to a Tendering and procurement process that guarantees the highest levels of transparency and fairness practicable, and must at all times comply with the provisions of the Public Finance Management Act. For projects with a lifetime value of above five per cent (5%) of annual forecast revenue and funded from the recurrent surplus or conventional borrowing, the external advice provision set out in paragraph 11.a. applies.
 - c. **Contract Management:** Contracts shall be administered in all instances, by individuals who have the required technical background and experience to do so.
 - d. **Evaluation:** In-depth evaluations pursuant to Clause 11.a, shall be done on all projects that exceed five percent (5%) of the forecast annual recurrent revenue budget of the year in which it was commenced, or in the case of a capital project that spanned over several years, five percent (5%) of the average of the annual budgets over the period in which it was implemented. This evaluation will be made publicly available to ensure that the lessons learned are fed back into the decision-making processes.
12. Any references in these Protocols to projects with a lifetime value more than five per cent (5%) of forecast annual recurrent revenue are subject to the provisions of paragraph 3 of Annex D.

PPP financing of projects

13. Where Public Private Partnerships (PPPs) or any other form PPP financing is being considered for a project the Government of the Virgin Islands will ensure that the same four key stages are followed as for any other capital project. This includes an appropriate appraisal process before the procurement stage to ensure value for money. The appraisal process should include as a minimum a capital investment analysis and a cost-benefit analysis. This will ensure that an informed decision can be made on whether or not to proceed to the procurement stage.
14. Public Private Partnerships (PPPs) or any other form of PPP financing will only be considered:
 - a. where there is a sound appraisal underpinning the proposed project before financing means have been determined;
 - b. where a financial appraisal demonstrates improved value for money against a conventionally financed alternative;
 - c. where the long term affordability case has been assessed by the Government of the Virgin Islands;
 - d. where the correct accounting treatment of the public accounts has been utilized and agreed upon by an independent qualified accountant; and
 - e. where the Government of the Virgin Islands commissions external and independent technical advice on the project, such as in terms of accounting, legal, financial, economic and environmental implications.
15. PPPs or any other form of PPP financing will not be considered by the Government of the Virgin Islands for:
 - a. projects with a lifetime value of less than twenty million dollars (US\$20m) and therefore too small to justify the transaction costs; or
 - b. projects where the fast pace of change in the sector makes it difficult to effectively define the outputs it requires in a long term contract (such as Information Communication Technology projects).
16. All proposed capital projects will be incorporated in the published MTFP.

Processes

17. The Government of the Virgin Islands will adhere to the robust process of financial management and reporting as laid out in the Public Finance Management Act.

RISK MANAGEMENT

18. The Government of the Virgin Islands will adopt risk management protocols in order to minimize the liabilities of the Government of the Virgin Islands. These protocols and strategies will be supported by the MTFP, and assessments done according to the timetables set out in the Public Finance Management Act to identify and quantify the risks to the Government of the Virgin Islands. These risks are to include all financial risks and contingent liabilities.

Debt

19. Unless in exceptional circumstances different arrangements are agreed in writing by the Government of the Virgin Islands and the Secretary of State, the Government of the Virgin Islands will borrow only to fund capital expenditure where:
 - a. the proposed project is forecast to yield sufficient revenues to fund the additional debt service costs; or
 - b. the Government has sufficient surplus operating cash flows to fund the additional debt service costs which arise from borrowing to finance such capital expenditure.
20. To ensure that the level of debt is affordable and consistent with the delivery of macroeconomic and fiscal sustainability and financial stability in the short, medium and long term as outlined in the MTFP, the Government of the Virgin Islands will comply with the borrowing limits defined in Annex B no later than the date specified in paragraph 2 of Annex D;

ACCOUNTABILITY and TRANSPARENCY

21. Reports will be published as per the schedule and in the format stipulated by the Public Finance Management Act.

PARTNERSHIP with the UNITED KINGDOM

22. In support of the commitments to deliver fiscal responsibility made by the Government of the Virgin Islands, the Government of the United Kingdom will:
- a. undertake an annual assessment of the economy of the Virgin Islands, including the state of the public finances;
 - b. monitor compliance with the protocols and subsequently the Public Finance Management Act;
 - c. provide support in identifying and procuring sources of expertise at the request of the Government of the Virgin Islands.

Exchange of information

23. Consistent with the partnership between the Government of the Virgin Islands and the Government of the United Kingdom, the Government of the Virgin Islands commits to supply the Government of the United Kingdom with available information on fiscal, economic or project appraisal matters, prepared for the purpose of compliance with the Public Finance Management Act including but not limited to the information specified in Annex C and the Public Finance Management Act.

Consideration of representations

24. The Government of the Virgin Islands will consider fully any representations made by the Secretary of State on the information provided.
25. The Government of the Virgin Islands will not proceed with any capital project on which the Secretary of State has made representations until fifteen (15) working days after a full written response has been received by the Secretary of State to those representations.

Compliance with the Protocols


26. Without prejudice to the transitional provision in Annex D, where the Government of the Virgin Islands is not in compliance with the Protocols, the Government of the

Virgin Islands will present, for the approval of the Secretary of State, a plan and modified MTFP (if necessary) to remedy the breach. The Secretary of State may require modifications to this plan which the Government of the Virgin Islands must consider, and if a disagreement exists, present for consideration to the Secretary of State alternatives to remedy the breach in full and visible consideration of the representations made by the Secretary of State. The Government of the Virgin Islands shall remedy a breach in these protocols within three fiscal years from the point at which the breach occurred, unless the Secretary of State gives express written permission for a longer period.

27. In the event of any substantive non-compliance by the Government of the Virgin Islands in the respect of the Protocols and until the breach has been rectified, the Government of the Virgin Islands will obtain, on an annual basis, written approval from the Secretary of State before:

- a. the MTFP is finalised; or
- b. any new public borrowing is undertaken;
- c. proceeding with any new project with a lifetime value of more than five (5%) of forecast recurrent revenue;
- d. using public assets as collateral as part of any new arrangement with a party external to Government of the Virgin Islands;
- e. the hypothecation of any revenue stream; or
- f. the divestment of public assets.


28. For the avoidance of doubt, a breach of the borrowing limits in Annex B will constitute a breach of this protocol agreement.

Signed: 
Premier, British Virgin Islands

Date: 27. 4. 2012

Signed: 
Governor, British Virgin Islands

Date: 23. 4. 12

Signed: 
Minister for Overseas Territories, Foreign and Commonwealth Office

Date: 21/4/12

ANNEX A

DEFINITIONS

1. **Expenditure**, unless otherwise specified, refers to all public expenditure (inclusive of subventions, capital and recurrent expenditure).
2. **Public accounts** include all the accounts of the Government of the British Virgin Islands and of all parastatals.
3. **Public borrowing** includes:
 - conventional borrowing from commercial and concessional institutions;
 - the capitalised value of all novel financing transactions (including PFI/PPP arrangements) that will place future financial obligations (in terms of increased expenditure or reduced revenue) on the Government of the Virgin Islands;
 - the risk weighted debts and PPP/PFI arrangements of statutory authorities, government corporations and companies;
 - borrowing that is contracted by the Government of the Virgin Islands, but then on-lent; and
 - any other debt guaranteed by the Government of the Virgin Islands.
4. Public borrowing taken out to clear informal debt (including arrears) will be treated as new debt.
5. The risk weighting attached to debts and PPP/PFI arrangements of parastatals will be agreed with the Secretary of State according to the following criteria:

Risk-weighting	Description
100%	Outstanding contractual commitments to PFI or PPP arrangements of any form, agencies with a consistent demand for subventions
80%	Unstable and unpredictable level of subventions required

50%	Moderate but unpredictable level of subventions required
20%	No subventions required in the last three years

6. A list of parastatals with assigned risk-weights is attached at Annex B. Risk-weights can be updated to reflect recent financial performance at the request of either the Government of the Virgin Islands or the Secretary of State.
7. The Government of the Virgin Islands and the Secretary of State will agree risk-weights for new parastatals before any such parastatal can take on debt.
8. **Past fiscal performance**, unless otherwise specified, should be assessed on the basis of audited financial statements for the previous financial year, where available.
9. **Capital Project** includes state acquisition of capital assets or improvements and additions to these, construction and initial equipment, reconstruction, significant demolition, major alteration of any capital asset and major maintenance projects on assets that are state owned or used for state government purposes.
10. **Lifetime value** is defined as the discounted net present value of financing obligations calculated using a discount rate of 3.5%.

ANNEX B

The Government of the Virgin Islands shall ensure that on an annual basis its remains within the borrowing limits stated below.

Schedule 1:

<u>Net Debt</u>	80% maximum of recurrent revenue	<u>Debt</u> <u>Service</u>	10% maximum of recurrent revenue	<u>Liquid</u> <u>Assets</u>	At least 25% of recurrent expenditure
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11. **Net Debt** is defined as the total outstanding value of public borrowing minus liquid assets.
12. **Debt service** is defined as annual payments resulting from public borrowing commitments and finance leases.
13. **Liquid Assets** are defined as the lowest total balance of unallocated liquid funds at the disposal of the Government of the Virgin Islands during the fiscal year. These funds should not be held against budgeted expenditure or liabilities of any form.

PARASTATAL RISK-WEIGHTS

<i>Statutory Authority/Government Company</i>	<i>Risk Weight</i>
<i>Tourist Board</i>	<i>100%</i>
<i>BVI Health Authority</i>	<i>80%</i>
<i>H L Stoutt Community College</i>	<i>80%</i>
<i>Prospect Reef Management Company</i>	<i>80%</i>
<i>BVI Airport Authority</i>	<i>50%</i>
<i>National Bank of the Virgin Islands</i>	<i>20%</i>
<i>BVI Electricity Corporation</i>	<i>20%</i>
<i>Financial Services Commission</i>	<i>20%</i>
<i>Port Authority</i>	<i>20%</i>
<i>Social Security Board</i>	<i>20%</i>

MONITORING

The Government of the Virgin Islands will provide the following information to the Government of the United Kingdom:

Annually

(i) The Government of the Virgin Islands MTFP, accompanied by a written request for any approvals that may be necessary over the course of the next fiscal year owing to the Government of the Virgin Islands non-compliance with the Protocols. Both should be submitted to the United Kingdom Government no later than two months before the MTFP is due to be published.

Monthly: Requests for information that is mandated by the Public Finance Management Act.

On request: (i) Details of the composition of debt, currency, date and origin of issue, maturity, and interest rate structure.

(ii) Updates on capital project progress.

(iii) Details of proposed capital investments, PFI, PPP and alternative forms of private finance, an independent accounting opinion on the IFRS accounting treatment and the capitalised value of the arrangement, and implications for public expenditure.

(iv) Completed investment appraisals.

(v) Such other information as may reasonably be requested.

TRANSITIONAL PROVISIONS

1. The unprecedented global financial crisis has forced the Government of the Virgin Islands to operate beyond the liquid assets ratio defined in Annex B.
2. The Government of the Virgin Islands will return to full compliance with all the borrowing limits by the no later than the end of the 2015 financial year.
3. During the transitional period or a period of non-compliance with the Protocols all references to the threshold of five (5%) percent of forecast recurrent revenue are reduced to four (4%) percent.