



DIVISION OF PERSONNEL

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Kenneth L. Hermon, Jr. PHR
Director

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60th Anniversary

November 30, 2009

The Honorable Carlton "Ital" Dowe
Senator
28th Legislator of the Virgin Islands
St. Thomas, VI 00802

Dear Senator Dowe:

This letter responds to your inquiry dated November 18, 2009 wherein you requested an update on the progress being made to identify the retroactive wages owed to former and current unionized workers of the Government of the Virgin Islands. Since August, the consultants have made great progress in moving ever closer to bringing closure to this longstanding issue. Below you will find the most updated information on the Commission's activity since the last report.

PHASE 1

As you are aware, a cadre of retirees with extensive GVI Personnel/NOPA experience was hired to complete the herculean task of reviewing each and every Official Personnel Record (OPR) for employees that worked for the government and made contributions to the Government Employee Retirement System (GERS) between October 1989 and September 2002. As indicated in my last report, we had completed the review of 20,600 OPR files for Active and retirees. As of this report, the consultants have now completed the review of more than 38,275 Official Personnel Records (OPR) or physically touched more than 1,531,000 pieces of paper. The final group which we are reviewing is the Inactive population. Inactive is defined as those employees that worked during the retroactive period but may have separated from Government Service.

The following chart illustrates the updated findings of the Retro Commission thus far.

Class of OPR's	Total individuals deemed eligible for Retroactive wages	Status	Comments
Retirees	4,554	All records have been transmitted to DOF for the insertion of actual hours worked (Phase 2)	97% of the retiree OPR files have been reviewed. We are working with the departments to identify the remaining 3%
Actives	4,557	Same as above	98% of the active files have been reviewed. We are working with agencies to identify the remaining 2%.
Inactive	1,265	Same as above (11-14-09)	The Retro Consultants are currently working on letter "T" and should be finished with this group by early December 2009.
Sub Total	10,376		

PHASE 2

As indicated in the August report, phase 2 of the retro project is going to be spearheaded by the Department of Finance. In phase 2, DOF has the responsibility of taking the raw data collected by the consultants and inserting the actual hours worked for that period of time for each employee entitled to a retroactive payment. This insertion of the actual hours worked will allow us to truly identify the amount owed to the individual employee and enable the government to finally have ascertain a true cost of this obligation.

Based on this exercise, the Division has been able for the first time to begin to identify the true cost of this obligation. As of this report, DOF has completed the review of more than 6,942 records of the current 10,376 which have been deemed eligible. DOF has about 4,000 more records to review. As requested, we have been developed the following chart which provides you with the break down on payment amount thus far by the brackets you identified and the high/low/average retro payments

Payment Bracket	# eligible	Payments	
		Lowest	Highest
\$ 0 - \$1,000	163	\$ 20.31	
\$ 1,001 - \$ 10,000	1,755	\$ 184,490	
\$ 10,001 - \$ 50,000	4,369	\$ 23,277	
\$ 50,001 – and above	639		

- ❖ These payment amounts are before applicable taxes and deductions.
- ❖ As a control, DOP will review retro amounts below \$ 1,000 and above \$ 75,000 prior to issuing payment

The actual Retro Commission which has the responsibility of recommending a rational will also need to be established so that they may develop a schedule of distribution and formula for payment. The Commission will host a series of public forums in both districts to provide opportunities for all concerned to offer guidance and suggestions. Also, the commission will develop a series of public service announcements as a means of providing transparency with regards to the retroactive commission’s activities and final decisions. To ensure that the commission operates as efficiently as possible, I have decided that a seven member commission is more than sufficient to address the critical questions. The Commission will be a cross section of citizens of the Virgin Islands and each island will be represented. To begin the process of vetting members for the commission, I have submitted the names of five citizens of the Virgin Islands and four Cabinet members to the Governor for his approval. An Assistant Attorney General from the DOJ will also serve as the legal counsel to the Commission. It is my desire to activate the Commission in early January 2010, and have a formula for payment submitted to the Governor by early March 2010. While it was my desire to establish the commission sooner, the manual process required at DOF didn’t permit for my initial timeline to hold true.

PHASE 3

Phase three of the project is the phase everyone is most interested in. During this phase, the Commission will disseminate by mail to retirees, active, and inactive employees, official notice of their eligibility to receive a retroactive lump sum payment. The notification document will outline the period they are being compensated for, the cumulative amount associated with those periods and the payment schedule. (Attached is a copy of the sample notification letter and calculation sheet.)

Senator, as I have said in my last two update letters, it goes without saying that I fully understand the importance of this project to the former and present employees who are impacted. However, I must state for the record that the deJongh/Francis administration is much closer to resolving this issue than any other administration has ever been. It is equally important to note that while we are attempting to address these retroactive wages, we still must address the Executive Branch's obligation to cover the employer/employee portions for contributions for the period in question. Further, we must be forever mindful of the Executive Branch's obligation to cover the unfunded liability attributed to the Government Employees Retirement System (GERS) issuing retroactive annuity adjustments dating as far back as 1989. It must be noted that while the commission will be successful in developing a formula for payment of retroactive obligations, any payment of this obligation must be weighed against the current financial ability of the GVI to meet its current fiscal year operation expenses.

As we move ever closer to understanding the full financial burden to be placed on the citizens of this Territory, I have to ask all with an interest in this process to be patient. I anticipate that my response addresses each of your concerns and better equips you and your staff with the information needed to relay back to those constituents that contact your office. If you have a need for further clarification please do not hesitate to contact me.

Respectfully,



Kenneth L. Hermon, Jr. PHR, IPMA-CP
Director

cc: The Honorable Governor, John P. deJongh, Jr.
The Honorable Lt. Governor, Gregory R. Francis
All Members of the 28th Legislature of the Virgin Islands
Angel A. Dawson, Commissioner, DOF
Deborah Gottlieb, Director - OMB
Jultio Francis, Executive Director-PFA