THE UNITED STATES VIRGIN ISLANDS
OFFICE OF THE GOVERNOR
GOVERNMENT HOUSE
Charlotte Amalie, V.I. 00802
340-774-0001

EXECUTIVE ORDER NO. 469-2014

TO ADVANCE EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES WITHIN THE GOVERNMENT OF THE UNITED STATES VIRGIN ISLANDS

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By the authority vested in me as Governor by the Revised Organic Act of 1954, as amended, and the laws for the United States Virgin Islands, it is hereby ordered as follows:

Section 1. Policy

a. An estimated twenty percent (20%) of residents of the United States Virgin Islands are living with a disability.

b. Research indicates that level of employment, quality of jobs, and degree of access to those jobs are crucial determinants of poverty reduction.

c. Residents of the United States Virgin Islands living with a disability have a higher rate of employment discrimination and far higher rate of poverty than residents living without disabilities.

d. The Territory has a vested interest in reducing discrimination against people living with a disability, eliminating barriers to meaningful employment and attracting the highest quality candidates into employment opportunities.

e. The Government of the United States Virgin Islands has a responsibility to lead in promoting diversity among its own workforce by recruiting, hiring, retaining and promoting workers with disabilities.

f. It is the policy of the Government of the United States Virgin Islands to increase employment opportunities for individuals with disabilities and strive to decrease the stigma associated with disabilities.

g. Individuals with disabilities currently represent less than one percent (1%) of the workforce of the Government of the United States Virgin Islands.

h. As the Territory's largest employer, the Government of the United States Virgin Islands has established itself as the role model for equal employment for its residents with disabilities by promoting diversity among its own workforce, by recruiting, hiring, retaining and promoting workers with disabilities and by the establishment of policies and procedures for all entities of the Government to enhance employment for this segment of the population.

i. When the workforce that directs and provides essential services to residents of the Territory reflects the diversity of the population, those services are more likely to be responsive to and respectful of that diversity.

j. Progress towards serving and employing individuals with disabilities requires both the commitment and participation of executive leaders throughout the Government of the United States Virgin Islands.

k. The appointment of the Territory's first American with Disabilities Act Coordinator in 2010, followed by the re-forming of the Virgin Islands Developmental Disabilities Council in 2011 pursuant to the Federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, and the invaluable work of the Virgin Islands University Center for Excellence in Developmental Disabilities, has combined to further the overall commitment of the Government of the Virgin Islands towards advancing the interests of individuals with disabilities.

l. It is of interest to the Government to create a workforce environment which invites qualified applicants with disabilities and encourages a supportive and flexible workplace.

m. The Government of the United States Virgin Islands' Department of Property and Procurement shall adapt policies and procedures and will incorporate into every Government lease agreement the requirements of Title II of the Americans with Disabilities Act (ADA) when entering into lease agreements with private entities, and shall conduct physical surveys for compliance with the ADA prior to contractual lease agreements.

n. The Territory of the United States Virgin Islands has committed to a long-term plan of economic development that aims to grow a vibrant Territory-wide economy based on the pillars of opportunity, innovation, hard work and collaboration.

o. The development of a skilled and qualified workforce is one of the strategies that the United States Virgin Islands has adopted to realize this aim.

p. To be successful in this endeavor, it is critical to include all Virgin Islanders in workforce development activities and provide opportunities to participate in the Territory's economic growth.

q. The Government of the United States Virgin Islands shall include persons with disabilities into the preliminary and final group of candidates considered for each appropriate opening with an agency, with a goal of hiring persons with disabilities being no less than two percent of the openings within the agency.

r. The Division of Personnel shall consult with appropriate sister agencies and departments, specifically the Department of Labor, to oversee the successful implementation of this Executive Order.

Section 2. Recruitment and Hiring of Individuals with Disabilities

a. The Division of Personnel shall:

i. Within sixty (60) days of the effective date of this Order, establish a system to collect, store, and report voluntary information from employees in the Territory and applicants for government employment who have disabilities;

ii. Within sixty (60) days of the effective date of this Order and in consultation with the Commissioner of Labor and a panel of stakeholders appointed by the Governor, design a specific plan for the recruitment and hiring for entities of the Government as a model for increasing employment opportunities for targeted qualified individuals with disabilities;

iii. Enhance the Territory's strategies to effectively target the recruitment, hiring, retention, promotion and reasonable accommodation of individuals with disabilities;

iv. Develop policies, standards and guides for the purpose of furthering Territory-wide training for supervisors, managers and employees regarding equal employment opportunity, etiquette, inclusion and reasonable accommodation of individuals with disabilities in the workforce; and

b. The Department of Property & Procurement shall survey all government owned and leased buildings to ascertain if each property is in compliance with the Americans with Disabilities Act of 1990, as amended, to assure access to employees with mobility disabilities.

c. The policy established herein shall apply to all employment practices including, but not limited to, upgrading, demotion for transfer, layoff or termination, rates of pay or other forms of compensation, and section for training.

d. Each department, agency, and instrumentality of the Government of the United States Virgin Islands will designate a senior level staff member to be accountable for the respective department, agency or instrumentality's enhancement of employment opportunities for individuals with disabilities, consistent with all applicable laws governing the rights of individuals with disabilities, who shall be responsible for establishing recruitment and training programs and meeting established goals for developing and implementing employment opportunities for individuals with disabilities within the department.

e. Each department, agency, and instrumentality shall ensure that the procuring of services of recruitment agencies shall have adequate and appropriate arrangements in place to support and encourage applications of individuals with disabilities.

f. Each department, agency, and instrumentality shall ensure that their recruitment process is accessible to applicants with disabilities. The policy should include the acceptance of applications in various formats, allowing for reasonable time for completion of test and application submission, and ensuring the benchmarks of the requirements of the position do not exclude applicants with disabilities.

g. The Division of Personnel and the Department of Labor shall establish and implement a system for reporting regularly to the Governor, the heads of agencies and the general public the Government's annual progress and the Governor's objectives of this Executive Order ensuring that the Government has identified a range of better practice strategies in the non-discrimination in employment against people with disabilities.

h. The Division of Personnel, the Department of Labor and the Office of the Governor shall utilize their websites for posting of this Executive Order and shall keep the general public abreast of the Government's progress on training, recruiting, hiring, and promotion of equal employment opportunities for individuals with disabilities.

i. People with disabilities have a lower rate of on-the-job training, a higher rate of dismissal, a lower rate of on the job engagement and promotion, a lower rate of transfer from other agencies and temporary higher duties and responsibilities on the job. The culture change in the matter in which the Government provides reasonable accommodations for individuals with disabilities must be a collective leadership commitment by all agency heads and departmental managers.

Section 3. **Increasing Government's Entities Retention and Promotion of Individuals with Disabilities**

a. A component of establishing retention and promotion of individuals with disabilities will be to dispel the misconceptions regarding the capabilities of people with disabilities by establishing training policies and providing agency and department staff with annual disability employment and sensitivity training with the goal that this training becomes an integral part of the day-to-day operation and are embedded into the agency and department policies, training materials and staff personnel handbooks.

b. Agencies must ensure they are making reasonable accommodations for employees when requested and that the departments have adequate resources to fund the reasonable adjustments required by individuals with disabilities. Reasonable accommodations policy must include but is not limited to increasing accommodations such as reducing the demands of job responsibilities which will not affect the outcomes of the specifications of the position for individuals with disabilities.

c. Department heads must establish resource information and take other appropriate measures to ensure the retention of individuals with disabilities and work toward achieving a higher percentage of employers who are returned to work after a period of furlough or illnesses and injuries sustained while on the job.

Section 4. **Definition of Disability shall be defined as set forth by the Americans with Disabilities Act of 2008**

a. *Disability* means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

(1) Physical or mental impairment:

(i) The phrase *physical or mental impairment* means—

(A) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine;

(B) Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(ii) The phrase *physical or mental impairment* includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopaedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

(iii) The phrase *physical or mental impairment* does not include homosexuality or bisexuality.

(2) The phrase *major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) The phrase *has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) The phrase *is regarded as having an impairment* means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a public entity as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by a public entity as having such an impairment.

b. Self-identification shall be defined as "targeted disability" and applicants and employees must meet the standard definitions as specified in the ADA Amendments of 2008.

Section 5. Effective Date, Duration and General Provisions

a. This Executive Order shall become effective immediately and shall remain in effect until terminated by further Order.

b. This Executive Order does not affect the authority granted by law to departments and agencies nor the head of those departments.

c. This Executive Order shall be implemented in alignment with all applicable laws and subject to the availability of appropriation of funds where applicable.

d. This Executive Order shall not require any applicant, candidate for employment or employee to involuntarily disclose their disability.

e. This Executive Order is not intended to and does not create benefits or rights, substantive or procedural, enforceable at law or in equity by any party against the Government of the United States United States Virgin Islands, its departments, agencies, entities or officers.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the Government of the United States Virgin Islands to be affixed at Charlotte Amalie, St. Thomas, United States Virgin Islands, this 25th day of July 2014, A.D.

John P. de Jongh Jr.
Governor

Attest:

Gregory Francis
Lieutenant Governor