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Undercurrents: EDC Balances Benefits and Compliance Issues

BY BERNETIA AKIN — APRIL 29, 2014

A regular Source feature, Undercurrents *explores issues, ideas and events as they develop beneath the surface in the Virgin Islands community.*

Olympic gymnasts have nothing on the V.I. Economic Development Authority and the commission that manages it. Commission members and staff concentrate hard to keep their footing on a tricky balance beam, maneuvering between generous tax incentives and genuine compliance monitoring.

By any measure, the effort is worth it. In 2012, the most recent year for which figures were available, EDC certified companies in the territory were directly responsible for 2,291 jobs, a substantial number in an area with a total population of approximately 100,000. A hefty portion of those positions are well-paying office jobs and, according to EDC officials, include attractive benefit packages; most EDC companies pay 100 percent of benefits.

Additionally EDC beneficiaries boosted business at other V.I. companies, spending more than $184 million in 2012 for procurement purchases from local companies, according to Jennifer Nugent-Hill, assistant chief executive officer.

And they donated a combined $1.3 million to V.I. charities and not-for-profit organizations.

The EDC website lists 77 beneficiaries as of April of this year. Nugent-Hill said that number should increase shortly as the commission is poised to grant benefits to two or three applicants.

Tax incentives range as high as 90 percent reductions in corporate and personal income tax, 100 percent exemption from excise, business property and gross receipts taxes, and a reduction in Customs duties from the standard 6 percent to as low as 1 percent.

Employment is the main goal of the program. Even to be considered eligible for EDC benefits, a company must employ at least 10 people (five, if it’s a financial management business) and invest a minimum of $100,000. Technically, contributions to local charity are discretionary.

However, each agreement is negotiated on an individual basis, so different companies are committed to various levels of employment, investment and contributions. As director of compliance at EDA, Stephanie Berry's job is to ensure beneficiaries keep up their end of the deal.

A strong compliance arm is actually a selling point to potential beneficiaries, Nugent-Hill said. It draws a distinction between the territory's federally sanctioned tax incentive program and a non-U.S. tax shelter.

"We don't ever, ever want to give the impression that this is a place to hide money," she explained.

But Nugent-Hill and Berry both stressed her role is not adversarial. The approach is more one of working with the beneficiary to come into compliance than punishing a company for any failure.

"We want to retain our beneficiaries," said Nugent- Hill. "We don't play the gotcha game."

Once a company is certified, Berry's unit meets with key company personnel to discuss in detail what they need to do to stay in good standing. She also gives them tips on the easiest ways of doing so. For instance, it's handy to create an EDC binder where all program-related records are kept in one place. Those include such things as documentation of job listings with the V.I. Labor Department, local advertising for goods and services, and records of donations.

Each beneficiary is assigned a compliance officer; there are two on St. Croix and three on St. Thomas – a number that Berry and Nugent-Hill agreed is adequate. Berry said she urges beneficiaries to communicate regularly with their compliance officer and with the EDC in general.

EDC staff can be helpful in providing names of Virgin Islands organizations that are recognized nonprofits – and with local companies that are duly licensed and in good standing with the V.I. government – to make it easier for a beneficiary to comply with charitable giving and local procurement regulations.

Berry said the compliance officer monitors reports from EDC beneficiaries and makes periodic visits to the companies, both formal and informal.

Occasionally her office receives complaints against a beneficiary and those are investigated. It could be from a local vendor who feels he was unfairly overlooked, or someone who believes the employment levels are too low, or a nonprofit whose promised donation didn’t materialize. Complaints must be in writing, and the EDC talks both with the complainant and the company.

Berry indicated there are few complaints and relatively few compliance issues. Those that do come to light are generally discovered by staff; the commission rules on whether a discrepancy will cause a beneficiary to be termed out of compliance with its certificate.

In 2013, Berry reported that 24 certificates were deemed “out of compliance.” No one lost their certificate, but penalties – generally fines – were assessed against 12 beneficiaries.

Such actions and outcomes are the exception, according to Berry and Nugent-Hill; the more common watchword between the EDC Compliance Office and EDC beneficiaries is “cooperation.”