# Withdrawal/Redaction Sheet
## Clinton Library

| DOCUMENT NO. AND TYPE | SUBJECT/TITLE | DATE | RESTRICTION |
|---|---|---|---|
| 001. list | DOBs (Partial) (1 page) | 10/29/1993 | P6/b(6) |
| 002. fax | DOB (Partial) (1 page) | 10/29/1993 | P6/b(6) |
| 003. fax | DOBs (Partial) (1 page) | 10/28/1993 | P6/b(6) |
| 004. fax | DOB (Partial) (1 page) | 10/28/1993 | P6/b(6) |

**COLLECTION:**

Clinton Presidential Records
Domestic Policy Council
Kathryn Way
OA/Box Number: 7356

**FOLDER TITLE:**

Territories [3]

2013-0854-S
ms680

## RESTRICTION CODES

**Presidential Records Act - [44 U.S.C. 2204(a)]**

**P1** National Security Classified Information [(a)(1) of the PRA]
**P2** Relating to the appointment to Federal office [(a)(2) of the PRA]
**P3** Release would violate a Federal statute [(a)(3) of the PRA]
**P4** Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
**P5** Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
**P6** Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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**PRM.** Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
**RR.** Document will be reviewed upon request.

**Freedom of Information Act - [5 U.S.C. 552(b)]**

**b(1)** National security classified information [(b)(1) of the FOIA]
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DATE: December 14, 1993
TO: Carol Rasco
FROM: Mike Schmidt
RE: December 13 Insular Territories Meeting

On Monday, December 13, I attended a meeting of Congressional Delegates from Insular Territories, House and Senate Committee Staff, and officials from the Department of Interior. The meeting was headed by Marcia Hale, and was intended to allow the Congressional representatives to air their differences with the proposed DPC Working Group on Insular Territories. This memorandum summarizes the important issues brought up at this meeting. I have also attached a copy of a letter the Delegates sent yesterday to Secretary Babbitt.

## IMPORTANT ISSUES

### Opposition to an Interior-Led DPC Sub-Group

It seems clear that, judging from comments at the meeting and the attached letter, this group has some serious problems with the Department of Interior heading up a sub-group of the DPC (or a sub group of any kind). I believe there are two primary reasons for this resistance:

- First, there is a basic misunderstanding of how the Domestic Policy Council (and Intergovernmental Affairs as well) works. The Delegates and Committee staff seem to think that because the Department of Interior would chair the sub-group meetings, they would somehow centralize their authority over Insular issues. I tried to explain to them that this would not be the case -- that any decisions of the sub-group would filter up to you and other White House Principals for approval -- but I am afraid I was not successful.

- Second, there is a tremendous amount of emotion and resentment that exists from OTIA's (and Interior's) past relationship with the Insular Territories. OTIA is seen as representing the old colonial attitudes that used to permeate US/Territorial relations. This strong emotion virtually guarantees that any arrangement that places OTIA/Interior at the head of a sub-group will be viewed as unacceptable.

### Appropriateness of DPC as Home for Sub-Group

There were some questions raised about the appropriateness of DPC as the home for an Insular Territories sub-group. Congressional participants at the meeting seem feel that most of the issues that they are concerned about fall under NEC and NSC's realm of influence. The attached letter echoes this sentiment, stating on p. 2 that "many of the most important issues are actually within the purview of the other two Presidential policy councils (NEC and NSC)."

**Inclusion of Puerto Rico**

I believe that the Congressional participants were arguing for inclusion of Puerto Rico in any policy council mechanism that we create, although this was not very clear. Some argued that it made no sense to exclude Puerto Rico given its importance, yet at the same time others pointed out that inclusion of Puerto Rican issues would likely overwhelm the other Territories' issues and concerns. You may want to check with Marcia Hale for a better reading on this point.

**Intergovernmental Affairs Involvement**

Another misunderstanding arose over the role that Intergovernmental Affairs plays in the White House policymaking process. Strong appeals were made for Marcia and Intergovernmental Affairs to take the lead role in the interagency policymaking process. Marcia did a good job of explaining that her role is one of liaison, not of policymaking, and that DPC was the place for any policy-related body to reside. Hopefully, this point was made clear.

**NEXT STEPS**

Marcia told the group that she would meet with you and Donsia in the near future to discuss the concerns that were raised at the meeting.

cc: Donsia Strong

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515-6201

December 13, 1993

The Honorable Bruce Babbitt
Secretary
U.S. Department of the Interior
Washington, D.C. 20240

Dear Mr. Secretary:

Thank you again for meeting to discuss our objections to the Office of Territorial and International Affairs plan to obtain a role regarding the programs of other agencies as they relate to some of the insular areas and other concerns involving OTIA. We appreciate your commitment to work with us to reach a consensus on the way that matters affecting insular areas are handled and on the appropriate insular functions for Interior now that the insular areas have developed to the extent that they have.

Since our meeting, our staffs have had preliminary conversations about the critical issues involved. Also, Assistant Secretary Turner helpfully provided us with a draft proposal; explained that it was intended to address some of the major problems we had found in the plan; and sought support for the proposal.

The draft, however, confirmed the reasons for strong reservations about the plan. Its flaws include some of its basic elements and its underlying concept as well as provisions that can be modified. These fundamental defects cannot be rectified by minor revisions or interpretations. They require a different approach.

The most serious deficiency is that the proposal would allow OTIA to assume a lead and paternal role in all federal activities applying to the U.S. insular areas other than Puerto Rico.

OTIA currently has no statutory authority regarding other agencies' programs as they relate to Guam, the Northern Mariana Islands, and Virgin Islands and should not have such authority relating to American Samoa. Giving it a coordinating role regarding policies within the jurisdiction of other agencies would inevitably centralize power...even if that is not what is intended. No language providing assurances to the contrary could prevent other agencies from deferring to it, if only unofficially. This could add a bureaucratic hurdle to decisions.

OTIA once had extensive power over federal and local policies in all of the areas. Almost all of this authority has been replaced as islands have developed. Now that it is about to lose its last responsibility for administering a territory (Palau) it is time to plan Ms. Turner's supportable goal of being the last assistant secretary; not to give OTIA new power or a new lease on life.

Another concern is that the proposal would inexplicably establish a policy coordination mechanism for only four of the five U.S. insular areas. The fifth area, Puerto Rico, raises many of the same issues that the others do. The similarities between it and the Virgin Islands, for example, are often greater than between the Caribbean and the Pacific areas. At the same time, the distinctions among the Pacific areas are substantial. We point out the illogical nature of this aspect of the proposal to challenge lumping in together the areas that are included as much as to question including all but one of the insular areas.

We also have doubts about permitting OTIA to head a part of the Domestic Policy Council. This would exacerbate the problem of OTIA being in a lead role because it would effectively enable OTIA to lead a presidential office in addition to line agencies. Further, many of the most important issues are actually within the purview of the other two presidential policy councils.

After the plan's weaknesses were outlined to your staff, they suggested that we try to jointly identify the essential components of an acceptable structure for Executive Branch handling of matters concerning the insular areas. We agreed and, to keep faith with this understanding, the Committee deferred action on a proposal to essentially terminate OTIA. We, therefore, remain ready to collaborate with you in developing supportable federal policy procedures.

A requirement is that any new arrangement not represent a regression in the treatment of the areas. Hopefully, instead, it will be a promotion in insular political development. What we seek is a way to compensate for the areas' lack of power in the regular federal process. Additionally, while it should enable them to get attention at the level states do, any new system should also provide for individual consideration of the different situations and needs of various insular areas.

To be adequate, a proposal should accomplish the following.

o It should provide a primary contact point on special problems for the other U.S. insular areas within the Administration at the same level and as central as that for Puerto Rico since all of the areas are now as locally self-governing as Puerto Rico and since the issues involve those handled by the Economic, National Security, and Domestic Policy Councils. (Special questions regarding Puerto Rico are handled by the White House under a decision made by President Kennedy at Secretary Udall's recommendation and, within the White House, by the Office of Intergovernmental Affairs under a decision by Mr. McLarty.)

- It should provide for direct handling of day-to-day program matters by agencies and coordination, if necessary, by the appropriate entity in the Executive Office of the President, consistent with the Guam and Virgin Islands Organic Acts.

- It should provide presidential support for your office's Guam commonwealth bill talks, to facilitate cooperation from other departments, consistent with the President's pledge to have them handled by a presidential representative.

- It should provide for Northern Mariana Islands relations issues to be negotiated by a Representative of the President, as required by the Covenant with those islands and the law that approved it. The official should be a real representative of the President (as opposed to Interior) and report to the White House. It should also provide for other matters to be handled directly by agencies with the Commonwealth's Resident Representative, as also intended by the Covenant.

In closing, we want to express our hope that you will work with us to establish progressive measures to ensure that the officials really responsible for matters affecting insular areas address insular circumstances as seriously as they would those of the states. We also want to note that because this matter is a vital one in federal-insular relations and because the Constitution assigns Congress primary authority regarding insular policy, we regard it as being of the highest importance to this Committee.

Sincerely,

Eni Faleomavaega

ENI F. H. FALEOMAVAEGA
Delegate, American Samoa

Ron de Lugo

RON DE LUGO
Chairman
Subcommittee on Insular and International Affairs
Delegate, Virgin Islands

Robert A Underwood

ROBERT A. UNDERWOOD
Delegate, Guam

cc: The Honorable George Miller
The Honorable Thomas F. (Mack) McLarty
The Honorable Marcia Hale
The Honorable Carol Rasco
The Honorable Leon Panetta
The Honorable Juan Babauta
The Honorable Leslie M. Turner

## U.S. Insular Areas Relations/Policy Arrangement Criteria

o No increase in OTIA's role. (OTIA now has no role in the programs of other agencies in Guam, the Virgin Islands, or the Northern Mariana Islands.) Plan a phase-out of OTIA, consistent with an objective to which Asst. Sec. Turner has agreed.

o An Administration contact point for Guam, the V.I., the N.M.I. and American Samoa as central as that for Puerto Rico (since all are now as self-governing as P.R.) A White House staff member central enough to provide equal and authoritative access to all EOP policy councils and offices and all agencies.

o No OTIA-led committee to centrally oversee or coordinate any matter relating to the four smaller areas together, consistent with the distinctions among them and the reality that they raise many of the same issues that Puerto Rico does. Individual attention to all areas from the appropriate agency or EOP entity.

o No functions for OTIA not authorized by law consistent with the Constitution's specific assignment that Congress lead on territories matters. Agreement on any new insular intergovernmental relations/ policy attention arrangement consistent with the role of the Delegates under law.

o Presidential support for the Interior Secretary's Office's Guam commonwealth bill talks to ensure attention by other agencies, consistent with the President's pledge to have them handled by a presidential representative.

o Handling of Northern Mariana Islands relations issues by a Representative of the President, as required by the Covenant and the Covenant law. (A real representative reporting to the White House as intended rather than an Interior official.)

o Agency handling of other N.M.I. issues with the Commonwealth's Resident Representative, as also provided for by the Covenant.

o Direct agency handling of program issues with Guam and the Virgin Islands, consistent with the Guam and V.I. Organic Acts.

# United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

December 10, 1993

Ms. Marcia Hale
Assistant to the President
for Intergovernmental Affairs
West Wing, Second Floor
The White House
Washington, D.C. 20500

Dear Ms. Hale:

Enclosed is a briefing paper on the proposals for interagency coordination of issues relating to the insular areas of American Samoa, Guam, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

I understand that a prepartory meeting is scheduled for 1:30 p.m. December 13, 1993, in advance of the 2 p.m. meeting with members and staff from the House Committee on Natural Resources. I look forward to additional discussion of the issue at that time.

Sincerely,

Leslie M. Turner
Leslie M. Turner
Assistant Secretary
Territorial and International Affairs

Enclosure

cc: Carol Rasco
Donsia Strong
Paul Richard

# INSULAR AREAS

## COORDINATION AND CONSULTATION

**Background**

(1) Executive Branch Coordination & Consultation / Policy-making Involving the Offshore Areas.

- The basic purposes of an insular areas council (or committee) are twofold: (1) coordinate federal agency actions involving the islands, and (2) consult with island leaders. The net result of this coordination and consultation would be the development or review of federal policy regarding the islands.

- All, including Senate and House, advocated the establishment of an executive branch council on insular affairs.

  - During confirmation hearings, both Secretary Bruce Babbitt, and Assistant Secretary Leslie Turner committed to implementing a structure to insure Executive branch coordination of offshore issues.

(2) Early Initiatives.

- In 1992, Senator Johnston proposed legislation (reprinted as S. 447 in 1993) to establish an Insular Areas Policy Council, chaired by the Secretary of the Interior, with most department and agency heads as members. The council would provide interagency coordination of federal policy and consultation with the insular areas of American Samoa, Guam, the Virgin Islands and the Northern Mariana Islands.

- In 1992, Congressman Ron de Lugo also proposed a council, but it would have been co-chaired by the President's principal assistants for National Security Affairs and Domestic Policy, and be staffed with White House personnel.

- o In February and March 1993, informal proposals circulated from the House Natural Resources Committee would have placed the council chair in the Secretary of the Interior.

(3) <u>Current Proposals</u>.

(a) The current **Administration approach** (determined by the White House in a meeting in advance of a Senate hearing) is for the administrative creation of an Insular Areas Committee of the Domestic Policy Council.

- o Purpose: development and coordination of federal policy, and consultation with insular leaders
- o Chair: Secretary of the Interior.
- o Staff support: Each member of the Insular Areas Committee will staff issues as appropriate.

<u>House Comment</u>: Not prevailing with previous drafts, Miller and de Lugo staffs now say:

- o Interior involvement is "colonial."

  <u>Interior Reply</u>: Better balance is achieved with an Insular Areas Committee. Insular areas will have improved entre' to all Executive branch agencies. Interior will be one of many members of the Committee.

- o Changes in islands' status mean less need for coordination.

  <u>Interior Reply</u>: While Palau is changing its status, it accounts for only 1 or 2 FTEs. Last month, the Virgins Islands rejected any change in status. Guam has been advocating a status change for the past 10 years, with no agreement to date by the Congress or Executive branch. (Guam status is a tailor-made issue for the DPC Insular Areas Committee.) American Samoa is chary of any change.

- o White House Intergovernmental Affairs is better positioned to refer issues than the Domestic Policy Council (DPC).

  <u>Interior Reply</u>: An Insular Areas Committee under DPC is appropriate because "policy" is

the main function, and "liaison" is incidental.

Interior Position: If Interior's role is at issue, assign the Chair to DPC.

(b) The current House approach (Committee on Natural Resources) is for White House Intergovernmental Affairs to deal with island issues. No council or committee is included. The plan is sketchy but would likely involve:

- o Intergovernmental Affairs would handle all issues from all the territories, with referral to and follow-up with the Domestic Policy Council, National Security Council, and Departments.

- o Staffing: one Intergovernmental staff person

Comment: The purpose of the Insular committee is "policy," with "liaison" secondary.

While a House document seen by Interior shows one Intergovernmental staff person, the actual workload would require the White House to hire many more persons.

(4) Relevant Players.

(a) Offshore Governors. Among the primary missions of the Department of the Interior is the empowerment of the governors of the offshore areas by creating partnership alliances in economic, environmental, and government areas. These alliances can promote better and more efficient use of natural and human resources.

Equally important, these alliances can promote a better standard of living for the offshore populations.

- o Governor of Guam
  Governor of American Samoa
  Governor of the Northern Mariana Islands

  All, except the Governor of the Virgin Islands have expressed support for and interest in an Executive branch council for the insular areas.

- o The Governor of the Virgin Islands has expressed "concern" about the structure, but has essentially maintained a neutral position.

(b) Senate Committee on Energy and Natural Resources.

Senators Johnston
Craig
Wallop
Akaka

- o All of the above senators support the creation of an insular council.

- o They believe that the Administration should have the flexibility to organize the Executive branch as the Administration deems necessary.

- o The senators simply want the Administration to institutionalize a structure and take such action by the end of 1993.

Energy Committee Personnel with interest in the council:

Ben Cooper - Staff Director
Lisa Vehmas - Counsel
Jim Beirne - Minority Counsel

(c) House Committee on Natural Resources.

While Chairman George Miller has not personally expressed a particular view, full committee staff members agree with the following approach.

Chairman Ron de Lugo, Subcommittee on Insular and International Affairs, advocates the designation of a territorial contact in White House Intergovernmental Affairs to handle insular issues as they arise.

- o de Lugo strongly opposes the formation of a policy council - which is a reversal of his earlier strong advocacy of council legislation in the Congress.

House staff from de Lugo and Miller offices:

John Lawrence - Staff Director, Committee on Natural Resources
Richard Meltzer - Counsel
Lori Sonken - Professional Staff
Jeffrey Farrow - Staff Director, Subcommittee on Insular and Int'l Affairs

**Issue:** Should the White House insular areas coordinating body be placed in White House Intergovernmental Affairs, like Puerto Rico, as advocated by a number of persons associated with the House Committee on Natural Resources?

**Answer:**

(1) The Miller/de Lugo/House staff positions have continually evolved since February 1993 -- the response is always a different approach from ideas under consideration in the Senate, Interior or the White House.

- o Most recently, after Interior circulated a draft proposal reviewed by the White House for a "policy" committee attached to the Domestic Policy Council, Miller/de Lugo staff suggested a "liaison" function for White House Intergovernmental Affairs.

  - o This is a change in both location and purpose.

(2) Puerto Rico's location in Intergovernmental Affairs is cited by House staffers as a precedent.

- o Over many years, numerous Congressmen from the insular areas have argued that the islands should not be treated as if they were all alike.

- o Puerto Rico, being large with ample resources, handles most of its affairs on its own, like a state.

- o House staff members imply that a single staff member from White House Intergovernmental Affairs can handle "liaison" issues involving American Samoa, Guam, the Virgin Islands, and the Northern Mariana Islands, which now consume the time of a staff of 40 at Interior.

(3) There is good reason to continue to treat Puerto Rico separately from the remaining insular areas.

- o The insular leaders of American Samoa, Guam, the Virgin Islands and the Northern Mariana Islands have warmed to the "council" or "committee" idea specifically because they see access to high level "policy" makers for action on their issues.

  - o "Liaison" through Intergovernmental Affairs, like that for Puerto Rico, does not meet this criterion. The Domestic Policy Council would.

(4) The Committee is for the Executive branch, not the Congress.

- The proposed coordination and consultation is designed to develop rational and consistent Executive branch decisions, within a framework sanctioned by the Congress.
  - The resulting surefooted decision-making will enhance decision-making in the islands and economic development.
- The Congress is capable of asserting its views on specific issues at any time it desires.

(5) The other insular areas' issues are overwhelmed when Puerto Rico is involved.

DEPARTMENT OF THE TREASURY
WASHINGTON

GENERAL COUNSEL

The Honorable J. Bennett Johnston
Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This responds to your request for the views of the Department of the Treasury on S. 447, the "Insular Areas Policy Act." The bill is intended to facilitate the development of Federal policies with respect to those territories under the jurisdiction of the Secretary of the Interior.

The Department strongly objects to section 6 of the bill, which authorizes the Secretary of the Interior "to use the personnel and services of other Federal agencies in carrying out his responsibilities with respect to the insular areas" and directs agency heads "to make such personnel and services available" to the Secretary. Not only does this provision circumvent the normal budget/appropriations process because not all of the personnel costs and services would be furnished on a reimbursable basis, but it would interfere with the abilities of agencies providing personnel and services to perform their statutory missions irrespective of reimbursement. At a minimum, section 6 should be amended to make the provision of personnel and services to the Secretary of the Interior discretionary, and provide that any provision of personnel and services shall be on a fully reimbursable basis.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely,

Jean E. Hanson

# OTIA FAX

Territorial and International Affairs
U.S. Department of the Interior
1849 C St. N.W.
Washington, DC 20240

**Phone:** (202) 208-4822
**Fax :** (202) 208-3390

Number of pages (including cover sheet): 4
Message sent to fax Number: 456-7028

To: Cookie Walden
Agency:
Telephone number: 456-7777

Message from: Steve Sander
Telephone number: 208-4754

**COMMENTS:**
Attached are the draft invitation letter and address list for the Friday Oct 29 meeting. If I can do anything else to help out please let me know.

4
P.S. Please hold on sending to addressees 1-5 until get final decn

October 27, 1993

The Honorable______________

______________

______________

Dear___________:

The White House is sponsoring a meeting for principals on Friday, October 29, 1993, at 10 a.m., in room 472 of the Old Executive Office Building, to discuss establishment of an insular areas interagency council.

We value your ideas with regard to the insular areas and would appreciate your contributing to the discussion on Friday.

If you plan to attend the meeting, please inform Ms. Cookie Walden, Domestic Policy Council staff, at (202) 456-7777 or telecopier (202) 456-7028. She will need to know your birth date to arrange for admittance.

Sincerely,

Donsia Strong

______________

______________

Invitees
(Written Invitations)
Insular Areas Meeting
Friday, October 29, 1993, 10 a.m.

1. The Honorable J. Bennett Johnston (202) 224-5824
Chairman, Committee on Energy Fax (202) 224-2952
and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

2. The Honorable Daniel Akaka (202) 224-6361
Chairman, Subcommittee on Mineral Fax (202) 224-2126
Resources Development and Production
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

3. The Honorable Malcolm Wallop (202) 224-6441
Ranking Minority Member Fax (202) 224-3230
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Senator Wallop:

4. The Honorable Larry E. Craig (202) 224-2752
United States Senate Fax (202) 224-2573
Washington, D.C. 20510

Dear Senator Craig:

5. The Honorable George Miller (202) 225-2095
Chairman, Committee on Natural Fax (202) 225-5609
Resources
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

6. The Honorable Ron de Lugo (202) 225-1790
Chairman, Subcommittee on Insular Fax (202) 225-9392
and International Affairs
Committee on Natural Resources
House of Representatives
Washington, D.C. 20515

Lorraine Hill

Dear Mr. Chairman:

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[001]



7. The Honorable Robert Underwood — (202) 225-1188
House of Representatives — Fax (202) 226-0341
Washington, D.C. 20515

no

Dear Mr. Underwood:

8. The Honorable Eni F. H. Faleomavaega — (202) 225-8577
House of Representatives — Fax (202) 225-8757
Washington, D.C. 20515

Dear Mr. Faleomavaega:

9. The Honorable Joseph F. Ada — 9-011-671-472-8931
Governor of Guam — (Fax) 9-011-671-477-4826
Agana, Guam 96910

Dear Governor Ada:

10. The Honorable Alexander A. Farrelly — (809) 774-0001
Governor of the U.S. Virgin Islands — (Fax) (809) 774-1361
St. Thomas, Virgin Islands 00801

Dear Governor Farrelly:

11. The Honorable A. P. Lutali — 9-011-684-633-4116
Governor of American Samoa — (Fax) 9-011-684-633-2269
Pago Pago, American Samoa 96799

Dear Governor Lutali:

12. The Honorable Lorenzo I. De Leon Guerrero
Governor of the Commonwealth of — 9-011-670-322-5091
Northern Mariana Islands — (Fax) 9-011-670-322-5096
Saipan, MP 96950

Dear Governor Guerrero:

13 Carlos Romero-Barcelo — Ph 225-2615
House of Representatives — Fax 225-2154
Wash DC

no

Steve to notify

Mark Sicks [redacted] (b)(6)

Howard Hills 452-9250

293-9491 [redacted] (b)(6)

Barry

Just delegates not governors

& Ada's Danny Kaneshiro — 6670

Chairman not able to make it — move conf time

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**b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]**
**b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]**

# Commonwealth of the Northern Mariana Islands

## Office of the Governor

Capitol Hill, Saipan MP/USA 96950

U. S.

Phone: (670) 322-5091/2/3
Telefax: (670) 322-5096/99

28 OCT 1993

[002]

**VIA TELEFAX (202) 456-7028**

Ms. Donsia Strong
Senior Policy Analyst
Office of Domestic Policy
The White House
Washington, DC

Dear Ms. Strong:

Re: Insular Area Interagency Council - Your October 27, 1993 Letter

I am very sorry, but it is impossible for me to be at the White House on Friday, November 29th. We are in the homestretch of a general election. Until after November 6th, we will be unable to travel. Our schedule for November indicates we might be available after November 16, 1993.

Even if I'm unable to make it, we will try to send a representative. As you requested, my birthdate is [redacted] (b)(6)

Sincerely,

LORENZO I. DE LEON GUERRERO
Governor

CC: CNMI Lt. Governor
CNMI Resident Representative to the United States

**MEMORANDUM OF CALL**

Previous editions usable

TO:

☐ YOU WERE CALLED BY— ☐ YOU WERE VISITED BY—

Modesto

OF (Organization)

☐ PLEASE PHONE ▶ ☐ FTS ☐ AUTOVON

☐ WILL CALL AGAIN ☐ IS WAITING TO SEE YOU

☐ RETURNED YOUR CALL ☐ WISHES AN APPOINTMENT

MESSAGE

4 members of Congress Cannot attend. Would like outline of proposal first & perhaps you can meet next week.

RECEIVED BY

DATE 28 OCT 1993

TIME

63-110 NSN 7540-00-634-4018

☆ U.S.G.P.O. 1992 312-070-40024

STANDARD FORM 63 (Rev. 8-81)
Prescribed by GSA
FPMR (41 CFR) 101—11.6

**MEMORANDUM OF CALL**

Previous editions usable

TO:

☑ YOU WERE CALLED BY— ☐ YOU WERE VISITED BY—

Nancy

OF (Organization)

☐ PLEASE PHONE ▶ ☐ FTS ☐ AUTOVON

202-225-8577

☐ WILL CALL AGAIN ☐ IS WAITING TO SEE YOU

☐ RETURNED YOUR CALL ☐ WISHES AN APPOINTMENT

MESSAGE

Rep attend?

10:00

| RECEIVED BY | DATE | TIME |
|---|---|---|
| | 28 OCT 1993 | |

63-110 NSN 7540-00-634-4018

☆ U.S.G.P.O. 1992 312-070-40024

STANDARD FORM 63 (Rev. 8-81)
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# Withdrawal/Redaction Marker
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| DOCUMENT NO. AND TYPE | SUBJECT/TITLE | DATE | RESTRICTION |
|---|---|---|---|
| 003. fax | DOBs (Partial) (1 page) | 10/28/1993 | P6/b(6) |

**COLLECTION:**
Clinton Presidential Records
Domestic Policy Council
Kathryn Way
OA/Box Number: 7356

**FOLDER TITLE:**
Territories [3]

2013-0854-S
ms680

## RESTRICTION CODES

**Presidential Records Act - [44 U.S.C. 2204(a)]**

**P1 National Security Classified Information [(a)(1) of the PRA]**
**P2 Relating to the appointment to Federal office [(a)(2) of the PRA]**
**P3 Release would violate a Federal statute [(a)(3) of the PRA]**
**P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]**
**P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]**
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*STROOCK & STROOCK & LAVAN*
*1150 Seventeenth Street, N.W.*
*Washington, D.C. 20036-4652*
*Tel: (202) 452-9250*
*Fax: (202) 293-2293*

[003]

DATE: October 28, 1993 CLIENT/MATTER #: 812268-002

FROM: Jim Gillis FOR HOWARD L. HILLS

TOTAL NUMBER OF PAGES, INCLUDING THIS PAGE 1.

# FAX TRANSMISSION COVER SHEET

**PLEASE DELIVER THE FOLLOWING PAGES TO:**

NAME: Ms. Cookie Walden, Staff Assistant

FIRM: Office of Domestic Policy LOCATION: White House

FAX NO: 456-7028 PHONE NO: 456-7777



*MESSAGE:* ***The following will attend the meeting tomorrow as representatives of Guam:***

***Barry J. Israel,*** [redacted] (b)(6)
***Howard L. Hill*** [redacted]

***Your assistance is appreciated.***

# Withdrawal/Redaction Marker
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| DOCUMENT NO. AND TYPE | SUBJECT/TITLE | DATE | RESTRICTION |
|---|---|---|---|
| 004. fax | DOB (Partial) (1 page) | 10/28/1993 | P6/b(6) |

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THE VIRGIN ISLANDS OF THE UNITED STATES
OFFICE OF THE GOVERNOR
GOVERNMENT HOUSE
Charlotte Amalie, V.I. 00802
809-774-0001
Fax: 809-774-1361

[004]

# GOVERNMENT HOUSE

## FACSIMILE TRANSMITTAL SHEET

NUMBER OF PAGES INCLUDING COVER 1

DATE 10-28-93

TO Ms. Cookie Walden / Domestic Policy Staff

FAX NUMBER (202) 456-7028

COMMENTS Re: White House Meeting on October 29, 1993
Kindly note that the U.S. Virgin Islands will be represented by Dr. Carlyle Corbin, the Governor's Representative for External Affairs. His birth date is [redacted] (b)(6)

FROM A. J. Williams

INTERIOR

DRAFT

DRAFT

**STATEMENT OF LESLIE M. TURNER, ASSISTANT SECRETARY OF THE INTERIOR FOR TERRITORIAL AND INTERNATIONAL AFFAIRS, BEFORE THE SENATE SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION, REGARDING S. 447, A BILL FOR AN INSULAR AREAS POLICY ACT, OCTOBER 21, 1993.**

Good morning Mr. Chairman and members of the subcommittee on Mineral Resources Development and Production. It is significant that, in my first appearance before you as Assistant Secretary for Territorial and International Affairs, we are to discuss Chairman J. Bennett Johnston's bill, S. 447, and the establishment of an interagency policy council. ~~This is a subject that is central to my thinking about the islands.~~

insert

The Clinton Admin

Chairman Johnston and Congressman Ron de Lugo have long been associated with this idea for fundamental change in the way the federal government conducts its affairs with the insular areas. For continuity and commitment, Chairman Johnston, in S. 447, proposed an insular policy council to be chaired by the Secretary of the Interior. Congressman de Lugo, in H.R. 154, proposed that such a council be housed in the White House in order to give it more authority. A later House committee draft bill, which was not introduced, would have continued responsibility in the Secretary of the Interior.

During the confirmation process last spring, Secretary Bruce Babbitt and I reiterated the need for coordination and cooperation among the federal agencies ~~committed ourselves to the establishment of an interagency council for~~ especially as relates to the insular areas. The Secretary favored administrative action for establishing the process.

Island governors also back ~~the creation of an~~ increased coordination and cooperation insular policy ~~body~~. In consultations with the chief executives, they have offered a number of good ideas that would improve the functioning of an interagency ~~council~~ body.

[illegible] will be [illegible] informal interagency structure for [illegible]

## White House Action

The White House has taken note of the insular community's consensus regarding the need for executive level interagency coordination of policy. With such broad support from insular community, the President has decided to create, within the Domestic Policy Council, a panel for insular areas policy. While the President chairs the full Domestic Policy Council, the Secretary of the Interior will chair the insular areas panel, which will include all members of the full council and such other agencies as are deemed necessary. The ~~idea for an~~ concept of a more formalized structure for interagency coordination panel dovetails well with President Clinton's program for reinventing government -- insular policy would be better coordinated, island leaders better consulted, and the insular areas better served.

insert

The Clinton Administration strongly believes in coordination and cooperation in policy development. We believe it is time for a new customer service contract with all the American people. We strongly believe that government has a duty to be effective, efficient and responsive. As we learned from the National Performance Review, we must effectively utilize our exist structures and processes.

The Admin believes that the most effective and efficient manner of dealing w/ —

structure already exist

[illegible]

The Domestic Policy Council



~~This White House action~~ e Administration proposal draws from all of the major proposals for addressing island issues.

~~First,~~ this arrangement will address the concerns expressed by Chairman Johnston, Chairman deLugo, and Secretary Babbitt for an institutionalization of cooperative decision-making within the Executive Branch, based on appropriate consultations with island leaders.

Second, insular issues will not become lost among transcending national issues, because, as Chairman Johnston proposed and a House draft bill in March suggested, the Secretary of the Interior will chair the panel, which may decide issues on its own or, if necessary, refer them to the full Domestic Policy Council.

Subcommittee on

discuss and resolve

Third, housing the panel within the Domestic Policy Council provides access to the highest levels of government as Chairman de Lugo proposed in H.R. 154.

Fourth, administrative action allows for quick implementation, and if changes are needed to make the panel function better, they can be instituted expeditiously.

As a result of consultations regarding the insular panel, we received a number of suggestions for improving the process. We will continue this consultation process.

earlier this year

Recognizing the absolute necessity for better coordination and cooperation of Fed agencies, the President established by executive Order the Domestic Policy Council.

The DPC consists of:

DRAFT

STATEMENT OF LESLIE M. TURNER, ASSISTANT SECRETARY OF THE INTERIOR FOR TERRITORIAL AND INTERNATIONAL AFFAIRS, BEFORE THE SENATE SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION, REGARDING S. 447, A BILL FOR AN INSULAR AREAS POLICY ACT, OCTOBER 21, 1993.

Good morning Mr. Chairman and members of the Subcommittee on Mineral Resources Development and Production. It is significant that, in my first appearance before you as Assistant Secretary for Territorial and International Affairs, we are to discuss Chairman Johnston's bill, S. 447, and the establishment of an Insular Areas Policy Council. This is a subject that is central to my thinking about the islands, and fundamental to the new approach of this Administration toward the insular areas. We at the Department of the Interior strongly endorse the concept of the council contained in S. 447.

I appreciate this opportunity for us to explore together the details of a council, and to address several concerns that have recently appeared in the island press regarding the council's purposes and goals. For the Department of the Interior and indeed the Administration, an Insular Areas Policy Council is the primary vehicle for addressing federal insular policy and processes. The council dovetails well with President Clinton's program for reinventing government, because insular policy would be better coordinated, island leaders better consulted, and the insular areas better served.

## Changing Circumstances

This committee's leadership in proposing an Insular Areas Policy Council shows a recognition of Interior's changing role with respect to the islands -- a change from administrator to facilitator. Beginning with its establishment in 1849, the Department of the Interior managed programs in mining, grazing, and timber, and promoted economic development in continental territories. The territories were administered by the Department in a centralized fashion. Today's reality is markedly different from the past. The territories today are no longer governed by Interior. They have achieved increasing levels of self-government. (or simply self-governed)

In days gone by, Interior's ~~territorial~~ jurisdictional authority and programs were comprehensive. Interior dealt with issues and funding across the board. Today, however, many insular issues cannot be properly addressed without the involvement of other federal agencies that now have federal program and funding responsibilities. Interior, as a single department, cannot speak for other cognizant agencies. Federal responsibilities are widely dispersed, and federal decisions are too often made without the benefit of input from island leaders.

While the insular areas are virtually self-governing, there is no interagency institution to which they can go to resolve intractable issues involving the federal government. Insular leaders often face the daunting task of stitching together solutions involving several federal agencies.

A good example of this situation occurred with the Babeldaob road project in Palau. Trying to make good on his 1992 campaign promise, and the promises of others over the past 40 years, President Nakamura began a national effort to construct a network of roads on the island of Babeldaob. The road is essential to public safety and economic development in Palau. The project was stopped when environmental concerns were raised and President Nakamura was faced with issues involving six federal agencies. Under the leadership of my office, representatives of the six agencies were on the ground in Palau within two weeks, assessing the situation and devising a solution. This was an ad hoc success story. Without an institutional setting and institutional commitment, most interagency issues cannot be solved in such a resolute fashion.

<u>Solution - Interagency Policy Council</u>

Several benefits would flow from the establishment of an interagency policy council.

First, procedures for regular consultation with island leaders would be at the heart of the new interagency process. Such consultation can help avoid implementation of federal policies that may have unintended consequences in the islands. Consultation with insular leaders may result in improved island cooperation with a federal policy, or a modification of a policy that makes it more appropriate to the islands.

Second, an interagency policy council would be a mechanism to build consensus and a common approach among the islands regarding national issues. Current examples where a council would be helpful are health care reform, crime programs, and welfare reform. What makes them think the views are not being represented?

Third, an interagency council would be an institutional channel for taking intractable issues from lower executive branch levels to policy levels for resolution. Issues involving an island area and a single federal agency need not be referred to the council unless a solution cannot be devised by the federal agency involved. In the area of political status, where the federal government has a major stake, analysis is required at the policy level within several departments and the White House. If bona fide political status discussions are needed, White House leadership would be requested.

The existing Interagency Group on Micronesia, established in 1987 under Executive Order No. 12569, is a good example of how an insular council might function. It would be relatively inactive

a good reason for not establishing one.

until an issue is raised that requires the attention of several agencies.

S. 447

The great virtue of S. 447 is its simplicity. It establishes an Insular Areas Policy Council, which then would be free to address issues and recommend appropriate solutions. Included would be recommendations for congressional action.

In establishing the council, S. 447 concentrates on the essentials: (1) a listing of council members; (2) a "state of the islands" report that would summarize current conditions, and would serve as a basis for consultations and the establishment of a policy agenda; and (3) reliance on existing staffing, which avoids additional cost to the federal government. This is consistent with the President's program of reinventing government along slimmer lines.

Our only suggestion at this time is that you may wish to expand the council's membership to include the United States Trade Representative and the Director of the Office of Management and Budget. Both head key agencies in the development of policy affecting insular areas.

Interior Action

When Secretary Babbitt appeared before the House Committee on Natural Resources, he stated his preference for implementing the council concept through an executive order. An executive order can effectively address the concerns that prompted introduction of S. 447, more quickly implement the Council as an institution, and more expeditiously deal with any change that may be required to improve the council.

Accordingly, we at Interior have been working on a parallel track within the executive branch to establish an Insular Areas Policy Council. Our initial discussions within the Administration regarding executive action have emphasized the need for --

(1) meaningful consultation with island leaders, and

(2) coordination among federal executive branch agencies to eliminate inconsistencies in policy and encourage the prompt resolution of outstanding issues.

I wish to be very explicit. Interior does not seek "control" in the territories. Interior does not want to be a "czar." Consultation with the council would complement, not supplant, current insular access to individual federal agencies.

We at Interior have made a start at reversing a legacy of mistrust by island leaders. Just as Secretary Babbitt and I sought inclusion of insular officials on the Health Task Force, we now seek a permanent, institutional process for receiving input from island leaders. This input will result in better coordination of federal policy, and enhanced federal responsiveness to insular concerns.

care

Health care involves one agency

Mr. Chairman, the Administration endorses the concept of an Insular Areas Policy Council and will move an executive order as soon as possible with appropriate consultation. As we proceed with administrative implementation of the council idea, we will confer with island leaders and this committee regarding specific language.

Mr. Chairman, S. 447 is consistent with our effort within the Administration to establish an Insular Areas Policy Council. I want to reassure both you and representatives of the islands that we all share the goal of reinventing the delivery of federal services to reflect the realities of the 1990's. An Insular Areas Policy Council will not solve all the problems in insular-federal relations. Nor will it eliminate all mistrust and frustration. It will, however, be an important step in a new direction in federal relations with the islands. I look forward to working with you and the leaders of the islands as we take this step together.

7 PAGES FOLLOW

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

ROUTE SLIP

TO: Dousia Strong
Paul Richard

| | |
|---|---|
| Take necessary action | ☐ |
| Approval signature | ☐ |
| Comment | ☐ |
| Prepare reply | ☐ |
| Discuss with me | ☐ |
| For your information | ☐ |
| See remarks below | ☐ |

FROM: Jim Jukes x3458 DATE: 10-14-93

REMARKS

Per my conversation with Dousia, attached is draft testimony for a 10-21 hearing that Interior has submitted for OMB clearance.

I am advising Interior that I am not putting this testimony into the clearance process until after your meeting with Interior tomorrow.

I assume that the result of your meeting tomorrow will be that Interior will be instructed to redraft its testimony to announce/support a DPC subcommittee, and that we will circulate that revised version for clearance.

cc Irene James, OMB

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515-6201

Copy for John Podesta

October 8, 1993

The Honorable J. Bennett Johnston, Jr.
Chairman
Committee on Energy and Natural Resources
U.S. Senate
Washington, D.C. 20510

Dear Mr. Chairman:

We write concerning S. 447, a bill regarding the coordination of federal relations with insular areas for which the Interior Department has certain responsibilities, as the elected representatives in the Congress of the U.S. territories.

As you know, this bill, like a House bill on a similar subject, is a product of work that has been done by the Senate Committee on Energy and Natural Resources and House Committee on Natural Resources during the past several years. Because of this, we want to make sure that you are aware of our serious concerns about the matter in the hope that doing so will facilitate the federal consensus needed to make changes in the process of managing insular affairs issues.

While we want to see the Office of Territorial and International Affairs perform its responsibilities for providing special assistance to insular governments more effectively and efficiently and we have personal confidence in the current Secretary of the Interior, we strongly oppose expanding OTIA's authority vis-a-vis other federal agencies in their relations with the locally elected governments of the insular areas.

Our initial concerns in this area have been solidified by several actions that OTIA has taken this year. Putting OTIA in a leadership role that it does not have under law now regarding the programs and responsibilities of other agencies would contradict the development of self-government in the insular areas. It would give the Office a colonial authority that it lost years ago even if the purpose of such an assignment were a well-intentioned one of ensuring coordinated Executive Branch actions.

The Honorable J. Bennett Johnston
October 8, 1993
Page 2

We believe that there is a need for federal agencies to pay more attention at a policy level to the needs and circumstances of the insular areas. For this reason, we look forward to working with you as well as Secretary Babbitt and others representing President Clinton, to bring this about as well as to have OTIA better carry out its present responsibilities. But self government in the insular areas, the extension of most federal programs to them, their overall development, and the reduction of discretionary special assistance that has occurred in recent years has made it inappropriate to increase the role of OTIA.

Sincerely,

RON DE LUGO
Chairman
Subcommittee on Insular and
International Affairs

ENI F. H. FALEOMAVAEGA
Delegate, American Samoa

ROBERT A. UNDERWOOD
Delegate, Guam

cc: The Honorable Malcolm Wallop
The Honorable Daniel K. Akaka
The Honorable Bruce Babbitt

**United States Senate**

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
WASHINGTON, DC 20510-6150

October 6, 1993

ASST SECY - TIA
OCT 07 1993

The Honorable Bruce Babbitt
Secretary
Department of the Interior
Washington, D.C. 20240

Dear Mr. Secretary:

During your confirmation hearing, you expressed your commitment to work with Congress to improve the policy-making process for the United States insular areas. We later wrote to you requesting your views on reorganizing the way in which the Federal government develops and implements territorial policies.

Assistant Secretary for Territorial and International Affairs Leslie Turner stated during her confirmation hearing that there is a very clear need for a formalized interagency council for territorial policy. Ms. Turner also told the Committee that you are committed to working with the White House to create such a council through an executive order.

We are pleased with your commitment to create the council. As you know, many members of Congress have concluded that an interagency council is necessary to deal effectively with territorial issues, particularly since many of the problems facing the insular governments result from the implementation of programs and policies by agencies other than the Department of the Interior. Lack of coordination and conflicting federal actions are principal reasons for the frustration which has led some territories to initiate status discussions as their only perceived option to resolve what is at base a federal relations problem. On the other hand, the federal government ought to engage in status discussions through an interagency approach rather than relying solely on the Department cf the Interior.

The Committee on Energy and Natural Resources has deferred action on legislation to establish an interagency review process with the expectation that an executive order would be forthcoming.

We are concerned that five months have passed with little apparent progress towards issuance of the executive order. The

Committee will need to move forward with legislation in the absence of real headway in creating an interagency council administratively. With this in mind, we have scheduled a hearing on S. 447 for October 21, 1993.

However, since this is essentially a matter of Executive Branch coordination, we would hope that the Administration would resolve this problem administratively. That approach also provides greater flexibility to make adjustments in the future than would legislation. We would caution, however, that we will resist any effort to move territorial policy into the White House or limit the authority and responsibility of the Secretary of the Interior.

We would appreciate learning of the status of the proposed executive order, any known impediments to efforts to issue the order, and what you are proposing in the order.

Sincerely,

Malcolm Wallop
Malcolm Wallop
Ranking Member

J. Bennett Johnston
Chairman

Larry E. Craig
Larry E. Craig
Ranking Member
Subcommittee on Mineral Resources Development and Production

Daniel K. Akaka
Daniel K. Akaka
Chairman
Subcommittee on Mineral Resources Development and Production

Federal Register
Vol. 58, No. 159
Thursday, August 19, 1993

# Presidential Documents

Title 3—

The President

Executive Order 12859 of August 16, 1993

## Establishment of the Domestic Policy Council

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 105, 107, and 301 of title 3, United States Code, it is hereby ordered as follows:

**Section 1.** *Establishment.* There is established the Domestic Policy Council ("the Council").

**Sec. 2.** *Membership.* The Council shall comprise the:

(a) President, who shall serve as a Chairman of the Council;

(b) Vice President;

(c) Secretary of Health and Human Services;

(d) Attorney General;

(e) Secretary of Labor;

(f) Secretary of Veterans Affairs;

(g) Secretary of the Interior;

(h) Secretary of Education;

(i) Secretary of Housing and Urban Development;

(j) Secretary of Agriculture;

(k) Secretary of Transportation;

(l) Secretary of Commerce;

(m) Secretary of Energy;

(n) Secretary of the Treasury;

(o) Administrator of the Environmental Protection Agency;

(p) Chair of the Council of Economic Advisers;

(q) Director of the Office of Management and Budget;

(r) Assistant to the President for Economic Policy;

(s) Assistant to the President for Domestic Policy;

(t) Assistant to the President and Director of the Office of National Service;

(u) Senior Advisor to the President for Policy Development;

(v) Director, Office of National Drug Control Policy;

(w) AIDS Policy Coordinator; and

(x) Such other officials of Executive departments and agencies as the President may, from time to time, designate.

**Sec. 3.** *Meeting of the Council.* The President, or upon his direction, the Assistant to the President for Domestic Policy ("the Assistant"), may convene meetings of the Council. The President shall preside over the meetings of the Council, provided that in his absence the Vice President, and in his absence the Assistant, will preside.

**Sec. 4.** *Functions.* (a) The principal functions of the Council are: (1) to coordinate the domestic policy-making process; (2) to coordinate domestic policy advice to the President; (3) to ensure that domestic policy decisions and programs are consistent with the President's stated goals, and to ensure that those goals are being effectively pursued; and (4) to monitor implementation of the President's domestic policy agenda. The Assistant may take such actions, including drafting a Charter, as may be necessary or appropriate to implement such functions.

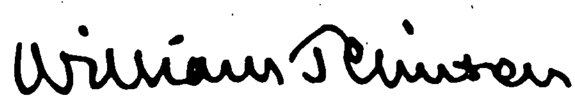
(b) All executive departments and agencies, whether or not represented on the Council, shall coordinate domestic policy through the Council.

(c) In performing the foregoing functions, the Assistant will, when appropriate, work with the Assistant to the President for National Security Affairs and the Assistant to the President for Economic Policy.

**Sec. 5.** *Administration.* (a) The Council may function through established or ad hoc committees, task forces or interagency groups.

(b) The Council shall have a staff to be headed by the Assistant to the President for Domestic Policy. The Council shall have such staff and other assistance as may be necessary to carry out the provisions of this order.

(c) All executive departments and agencies shall cooperate with the Council and provide such assistance, information, and advice to the Council as the Council may request, to the extent permitted by law.



THE WHITE HOUSE,
*August 16, 1993.*

[ Doc. 93-20237
ed 8-17-93; 3:48 pm]
ling code 3195-01-M

6 pages
total

**EXECUTIVE OFFICE OF THE PRESIDENT**
**OFFICE OF MANAGEMENT AND BUDGET**
**Washington, D.C. 20503**

**June 2, 1993**

**LEGISLATIVE REFERRAL MEMORANDUM**

**LRM #I-569**

TO: Legislative Liaison Officer -

JUSTICE - Faith Burton - (202)514-2141 - 217
TREASURY - Richard S. Carro - (202)622-1146 - 228
NSC - William H. Itoh - (202)395-3723 - 249
STATE - Bill Keppler - (202)647-2137 - 225
LABOR - Robert A. Shapiro - (202)219-8201 - 330
NEC - Sonia Mathews - (202)456-6722 - 429

FROM: JAMES J. JUKES (for) Ji
Assistant Director for Legislative Reference

OMB CONTACT: **GERRI RATLIFF (395-3883)**
**Secretary's line (for simple responses): 395-3454**

SUBJECT: INTERIOR Qs and As RE: HR 1092, Financial Assistance for the Northern Mariana Islands

**DEADLINE: 12:00 NOON FRIDAY June 4, 1993**

**COMMENTS: Interior testified before the House Subcommittee on Insular and International Affairs on H.R. 1092 on March 18th.**

OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

**Please advise us if this item will affect direct spending or receipts for purposes of the the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

CC:
Irene James
Roz Rettman
Art Stigile
Palmer Marcantonio
Larry Matlock
Vince Foster
Donsia Strong
Sue Murrin (qstn. 1)
Randy Lyon

LRM #I-569

# RESPONSE TO LEGISLATIVE REFERRAL MEMORANDUM

If your response to this request for views is **simple** (e.g., concur/no comment) we prefer that you respond by **faxing** us this response sheet. If the response is **simple** and you prefer to call, please **call the branch-wide line** shown below (NOT the analyst's line) to leave a message with a secretary.

You may **also respond** by (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); (2) sending us a memo or letter; or (3) if you are an OASIS user in the Executive Office of the President, sending an E-mail message. Please **include** the LRM number shown above, and the **subject** shown below.

TO: GERRI RATLIFF
Office of Management and Budget
Fax Number: (202) 395-3109
Analyst/Attorney's Direct Number: (202) 395-3883
Branch-Wide Line (to reach secretary): (202) 395-3454

FROM: ______________________ (Date)

______________________ (Name)

______________________ (Agency)

______________________ (Telephone)

SUBJECT: INTERIOR Qs and As RE: HR 1092, Financial Assistance for the Northern Mariana Islands

The following is the response of our agency to your request for views on the above-captioned subject:

_______ Concur

_______ No objection

_______ No comment

_______ See proposed edits on pages ______________

_______ Other: ______________________

_______ FAX RETURN of _____ pages, attached to this response sheet

# United States Department of the Interior

TAKE PRIDE IN AMERICA

OFFICE OF THE SECRETARY
Washington, D.C. 20240

Draft

Honorable Ron de Lugo
Chairman
Subcommittee on Insular and
International Affairs
Committee on Natural Resources
U.S. House of Representatives
Washington, D.C. 20515-6201

Dear Mr. Chairman:

On March 18, 1993, the Subcommittee on Insular and International Affairs held hearings on H.R. 1092, a bill to provide further financial assistance to the Northern Mariana Islands.

You requested answers to follow-up questions regarding H.R. 1092. The answers are enclosed.

Sincerely

Leslie M. Turner
Assistant Secretary
Territorial and International Affairs

Draft

QUESTIONS FOR THE INTERIOR DEPARTMENT OF TERRITORIAL AND INTERNATIONAL AFFAIRS BY THE SUBCOMMITTEE ON INSULAR AND INTERNATIONAL AFFAIRS - MARCH 18TH LEGISLATIVE HEARING ON H.R. 1092, A BILL TO PROVIDE FURTHER ASSISTANCE TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

OTIA OVERSIGHT

1. The Inspector General said last year that the lack of adequate oversight by your office over Covenant grants "contributed to the extensive questionable use of funds." The IG recommended that assistance be withheld until the CUC set adequate rates and collected fees adequately.

QUESTION: Does the agreement condition the $120 million on adequate utility rates and collections?

ANSWER: There is no direct condition requiring adequate utility rates and collections before the $120 million may be spent. There is, however, potent indirect incentive for implementing full cost recovery by the end of fiscal year 1995. The second seven-year agreement required full cost recovery by 1989, which remains unfulfilled today. Also, on orders from the Interior, the Bank of New York is holding $27 million in interest and other earnings related to the second agreement. The third agreement, now under consideration, states that the "interest earnings on funds contributed under the Second Financing Agreement may be applied to the total of the Commonwealth Government matching requirements for fiscal years 1993 through 1995. These earnings will be made available when the terms of the grant pledge agreements entered into under the Second Financing Agreement are met."

The primary condition under the grant pledge agreements that is being referenced above is the requirement for full cost recovery rates. Under the third agreement, the $27 million can be applied as the CNMI match only in fiscal years 1993 through 1995. If the full cost recovery plan is not implemented in any one of these three years, the CNMI must raise its matching requirement from other locally derived revenue, imposing an additional, substantial burden on the Commonwealth. While this is not a condition precedent to receiving the $120 million, the ability to use the $27 million as a match is a powerful incentive for implementing full cost recovery.

While the CNMI is not in full compliance with the full cost recovery requirement, steps taken have been substantial and very positive. Since the Second Financing Agreement went into effect, the Commonwealth Utility Corporation (CUC) was created, power rates were increased from less than 6 cents per kwh to 16 cents, and total annual collections rose from approximately $5 million to nearly $30 million.

SAVINGS OR NEW SPENDING?

2. Both the present and past administrations have suggested that the agreement would save some $74 million over the next seven years. This assumes, however, that the current commitment would not otherwise be replaced. If it were repealed, for example, the agreement would represent an additional $120 million in spending.

**QUESTION:** Did the new administration consider replacing the current commitment with anything other than the agreement negotiated by the last administration?

**ANSWER:** Yes, the Administration considered rejecting the agreement, as is allowed by its terms, and it considered starting over with new negotiations. After consideration, it was determined that supporting the existing agreement was the best option.

3. O.M.B.'s explanation of the President's economic plan stated that the agreement was with the government of the N.M.I. although, of course, it is only joint recommendations made by representatives of the past President and the Governor.

a. **QUESTION:** Did the new administration believe that the agreement was with the government of the N.M.I., as they stated, or did they understand that the government of the N.M.I. had not approved it and that our government was not obligated to?

**ANSWER:** This Administration knew that it did not have to support the agreement. There is a provision in the agreement to that effect. However, the Administration does not take lightly the fact that this agreement was reached in good faith between Special Representatives of the Governor and the President. On that basis, we would not reject the agreement for purely partisan reasons.

b. **QUESTION:** Did the new administration have full knowledge of all of its options on this matter? Did it know, for example, that it could have proposed conditions on funding?

**ANSWER:** The agreement does contain conditions on the funding. It does not allow the money to be used for operations; it requires matching contributions from the Commonwealth (which implies no Federal payment on a project until the Commonwealth contribution is made); it requires a project-specific plan before funds are expended; it requires a plan to meet the full cost recovery rate condition in the last agreement; it requires the imposition of grant regulations, even though grant regulations normally do not apply to direct appropriations; and it requires the two parties to reach an agreement on audit resolution before funds can be expended.

Since the agreement was the result of "good faith" discussions, we believe additional conditions should be imposed only if there is mutual agreement between the parties. Of course, the Congress is free to legislate additional conditions as it deems appropriate.

4. An O.M.B. official told us that the Interior Department had suggested that the agreement was not controversial. Your office, however, has known that we were concerned about the N.M.I.'s tax and alien labor policies and their connection to federal assistance, that we were concerned about projects not being identified when the last agreement was proposed, and that these have been problems with the use of the past assistance.

**QUESTION:** Were policy-makers fully apprised of our concerns? Would you please submit copies of any such advice you gave them?

**ANSWER:** The Assistant Secretary for Territorial and International Affairs was not yet nominated when many of the decisions on the budget had to be made. In the budget process and in the process of briefing the new administration on significant policy issues, the agreement and related congressional concerns were raised with policy officials at Interior, both orally and in various internal documents.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503

June 2, 1993

LEGISLATIVE REFERRAL MEMORANDUM

LRM #I-567

TO: Legislative Liaison Officer -

JUSTICE - Faith Burton - (202)514-2141 - 217
TREASURY - Richard S. Carro - (202)622-1146 - 228
NSC - William H. Itoh - (202)395-3723 - 249
STATE - Bill Keppler - (202)647-2137 - 225
LABOR - Robert A. Shapiro - (202)219-8201 - 330
NEC - Sonia Mathews - (202)456-6722 - 429

FROM: JAMES J. JUKES (for)
Assistant Director for Legislative Reference

**OMB CONTACT: GERRI RATLIFF (395-3883)**
**Secretary's line (for simple responses): 395-3454**

SUBJECT: INTERIOR Qs and As RE: S 558, Financial Assistance for the Northern Mariana Islands

**DEADLINE: 12:00 NOON FRIDAY June 4, 1993**

**COMMENTS: Interior testified before the Senate Subcommittee on Mineral Resources Development and Production on S. 558 on March 18th.**

OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

**Please advise us if this item will affect direct spending or receipts for purposes of the the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

CC:
Irene James
Roz Rettman
Art Stigile
Palmer Marcantonio
Larry Matlock
Lin Liu (see qstn. 9)
Randy Lyon
Vince Foster
Donsia Strong
Rodney Bent (see qstn. 10)

LRM #I-567

## RESPONSE TO LEGISLATIVE REFERRAL MEMORANDUM

If your response to this request for views is **simple** (e.g., concur/no comment) we prefer that you respond by **faxing** us this response sheet. If the response is **simple** and you prefer to call, please **call the branch-wide line** shown below (NOT the analyst's line) to leave a message with a secretary.

You may **also respond** by (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); (2) sending us a memo or letter; or (3) if you are an OASIS user in the Executive Office of the President, sending an E-mail message. Please **include** the LRM number shown above, and the **subject** shown below.

TO: GERRI RATLIFF
Office of Management and Budget
Fax Number: (202) 395-3109
Analyst/Attorney's Direct Number: (202) 395-3883
Branch-Wide Line (to reach secretary): (202) 395-3454

FROM: ______________________ (Date)

______________________ (Name)

______________________ (Agency)

______________________ (Telephone)

SUBJECT: INTERIOR Qs and As RE: S 558, Financial Assistance for the Northern Mariana Islands

The following is the response of our agency to your request for views on the above-captioned subject:

________ Concur

________ No objection

________ No comment

________ See proposed edits on pages ______________

________ Other: ______________________

________ FAX RETURN of _____ pages, attached to this response sheet

United States Department of the Interior

TAKE PRIDE IN AMERICA

OFFICE OF THE SECRETARY
Washington, D.C. 20240

Draft

Honorable Daniel K. Akaka
Chairman
Subcommittee on Mineral Resources
Development and Production
Committee on Energy and
Natural Resources
United States Senate
Washington, D.C. 20510-6150

Dear Mr. Chairman:

On March 18, 1993, the Subcommittee on Mineral Resources Development and Production held hearings on S. 558, a bill to provide further financial assistance to the Northern Mariana Islands.

You requested answers to follow-up questions regarding S. 558. The answers are enclosed.

Sincerely

Leslie M. Turner
Assistant Secretary
Territorial and International Affairs

Draft

## ADDITIONAL QUESTIONS OF THE SUBCOMMITTEE REGARDING S. 550

1. Part II(3)(a) of the second multi-year financial assistance agreement required that infrastructure projects be included in a 7-year strategic development plan and that such plan be "mutually agreed upon" by the government of the CNMI and the Secretary of the Interior, or a designee.

a. **QUESTION:** Does this development plan still provide a basis for the selection of infrastructure projects?

**ANSWER:** Yes, it does. The plan was intended primarily to cover the seven-year period from 1986 through 1992. However, it went well beyond identifying uses of funds for the $128 million provided under the second multi-year assistance agreement. The only area in which the plan is no longer viable is improvements to the power utility. Improvements to power now exceed those projected in the plan.

b. **QUESTION:** Why shouldn't the grant of additional Federal assistance continue to require a long-term plan and the approval of such a plan or even a list of projects by the Secretary of the Interior?

**ANSWER:** There are numerous capital needs in the CNMI. The issue is primarily one of determining priorities, which we see as a responsibility of self-government. The agreement requires the CNMI to develop a plan or list of projects before any work begins and to share the list with us. We would still impose Federal grant requirements that each project have a detailed budget and financial plan, approved by us, before work begins and any cash is transferred.

2. **QUESTION:** What is the status of the Government Operations performance standards set forth under Part II(4)(a) through (i) of the second multi-year financial assistance agreement?

**ANSWER:** Part II(4)(a) required the CNMI to develop an annual payment schedule for the operations funding. This was accomplished through the grant process. Each year, the Finance Director submitted a drawdown (payment) schedule in accordance with Federal grant regulations. Normally, the schedule was a simple one-twelfth share paid each month.

Part II(4)(b) committed the Department to provide technical assistance in six different areas at the request of the CNMI and subject to the availability of funds. Technical assistance was provided in all six areas including improvements to the financial management system, development of a privatization plan, improving government efficiency, improving and promoting business development, and bonding and financing techniques.

Part II(4)(c) required biennial meetings to discuss progress under the agreements. Such meetings were conducted in Washington in the summer of 1987 and in Saipan in 1988. Meetings were held again in Washington in 1989. In 1991 meetings were held in Washington, Saipan, and other sites as part of the discussions to consider a new agreement. Compliance under the old agreement was a major topic at those meetings of the Special Representatives.

Part II(4)(d) required the CNMI to demonstrate a decreasing reliance on Federal assistance over the period of the agreement. This was achieved to a much greater extent over the period of the second agreement as evidenced by the decrease in the ratio of Federal funding to total general revenue, which was 40 percent at the beginning of the period and less than 7 percent at the end of the period. In addition, the CNMI general fund decreased as a percentage of the gross domestic product over the period.

Part II(4)(e) required the CNMI to establish and maintain an independent public utility and for the utility to charge sufficient user fees by the end of the third year to fully fund operating costs and long-term debt. This was the condition where we had the greatest problem of non-compliance. The utility was established by local law and was maintained throughout the seven-year period. Full cost recovery rates were formulated and implemented on January 1, 1989, also in accordance with the agreement and continuous dialogue between the utility and OTIA. However, after January 1, 1989, the utility stopped maintaining full cost recovery rates and deteriorated financially to its current point of near insolvency. We are working with the CNMI to develop a plan for full cost recovery and have provided technical expertise and financial assistance to help them.

Part II(4)(f) required the CNMI to establish and maintain an autonomous agency to oversee capital and economic development activities. The Commonwealth Development Authority is now more than seven years old and has become an integral part of the CNMI government.

Part II(4)(g) required capital development funds to be expended in accordance with a "brick and mortar" definition, which was adopted in CNMI law, and which was based on guidelines established by an association of municipal governments. To the best of our knowledge, the CNMI has adhered to this requirement.

Part II(4)(h) required the CNMI to conduct a study and implement a plan to make their pension system actuarially sound. A major effort was completed by the CNMI, supported by more than $300,000 in technical assistance funding, to implement a new pension system. The technical assistance funding was used for actuarial expertise to ensure the financial viability of their pension proposal before it was enacted into law.

Part II(4)(i) required the development of a privatization plan. The plan, with technical assistance provided by Interior, was developed, but virtually no implementation has occurred.

3. The performance standard, under Part II(4)(e) of the second agreement, which requires full cost recovery for public utility costs has not yet been achieved.

**QUESTION:** Is achievement of that standard an appropriate condition for the approval of this third multi-year financial assistance agreement?

**ANSWER:** Achievement of full cost recovery is appropriate, but since the date "1989" is past, the original timing cannot be achieved. The Commonwealth Utility Corporation (CUC) is in financial disarray due to a lack of proper management by CUC officials. Additional time will be needed to achieve full cost recovery.

4. **QUESTION:** Would you please provide joint CNMI-OTIA estimates of the per capita income in the CNMI for alien residents, non-alien residents, and the combined population?

**ANSWER:** There are no joint CNMI-OTIA estimates of per capita income or other statistical data. While OTIA has provided the CNMI with technical assistance to improve their statistical gathering and reporting, we do not have staff to develop our own statistical data nor do we have easy access to all data maintained by the CNMI government. The data given us by the CNMI does not include per capita income in the form you have requested. The CNMI has provided us with 1989 data on mean income for workers of various nationalities. It shows that 910 workers in the CNMI from the 50 states had a mean income of $37,568; 662 workers in the CNMI from Japan had a mean income of $32,048; 2,324 workers from Korea had a mean income of $24,920, 8,738 indigenous Northern Mariana workers had a mean income of $16,693, 13,317 workers from the Philippines had a mean income of $5,328; and 2,698 workers from China had a mean income of $4,180. The average mean income for all workers was $11,917.

We also have 1990 census mean income and per capita income figures for different categories of the population for the year 1989. The per capita income figure was $7,199 for 1989. Per capita income for United States citizens was $8,067 and for non-citizens $6,450. We believe the figure for United States citizens is understated due to exclusion of certain non-recurring income. For people born in China and the Philippines, the source of most non-resident workers, the income figures are $4,056 and $4,679 respectively, but these are probably understated due to exclusion of non-monetary income such as lodging and meals.

The attached tables are based on the 1990 census using 1989 data. (See Attachment A) Note that mean income applies to wage earners only, while per capita income applies to all individuals including unemployed and non-working family members. Thus mean income and per capita income figures are similar for alien populations represented by unaccompanied individual workers.

The CNMI Tax Reform Initiative document contains the following average wages and salaries for 1991 according to W-2 forms filed:

| | |
|---|---|
| Non-residents: | $5,812 |
| Local residents: | $9,404 |
| Average wage: | $7,182 |

These are not total income figures but reported wages only. Estimates of per capita income are to be included in analyses of the labor force which we will perform with the CNMI Government over the next few months.

5. **QUESTION:** (For Governor Guerrero only): Would you please provide any documents demonstrating the commitment or lack of commitment by the legislature of the CNMI to enact tax reform, immigration reform, and wage reform legislation.

**ANSWER:** (For Governor Guerrero only)

6. **QUESTION:** Given the CNMI's continued interest in Federal financial assistance, and the difficulties OTIA has had in obtaining reliable economic data, what assistance could Federal agencies provide to improve the statistical capabilities of the CNMI, and do you believe that requiring a tax information agreement with the CNMI is an appropriate condition for approval of additional Federal assistance?

**ANSWER:** We are working with the CNMI to improve its statistical capabilities. Other Federal agencies do not have a mandate to assist insular areas in amassing statistics. OTIA has obtained the part-time services of a staff member of the Census Bureau to work with the insular areas. With his help, we have assisted in a CNMI labor force survey and will soon analyze and publish the data. We are planning to assist in preparing a monograph of the 1990 census by the end of this year.

Perhaps the biggest problem with obtaining good statistical data from the territories is that the Federal government has not defined what data it would like to see and how this data should be collected so as to be consistent, for comparative purposes, with other insular areas. We believe additional assistance could be provided by other agencies such as the Bureau of Economic Analysis of the Department of Commerce and the Bureau of Labor Statistics of the Department of Labor. At present, few statistics on the insular areas are prepared by these agencies.

The CNMI and the Treasury Department have had discussions over the last several years looking toward an agreement to exchange tax information. Both parties want such an agreement, but they have differed over its scope and terms. We believe an agreement should be reached but that it would not be an appropriate condition for assistance without renegotiating the basic 702 agreement with the CNMI.

7. **QUESTION:** What arrangements or legal requirements does the CNMI have for developers to provide development impact assistance?

**ANSWER:** It is our understanding the CNMI has no legal requirement for an impact fee. Instead they rely on voluntary contributions from developers, who are approached by various interests within the CNMI government. Attempts to enact an impact fee (usually expressed as a percentage of the total cost of the development) have been unsuccessful for several years now.

8. **QUESTION:** Would you please provide the Subcommittee with a summary of the mirror tax rebate information as required to be available to the public pursuant to Federal law.

**ANSWER:** We have attached a copy of rebates from 1986 to 1990. (See Attachment B.) The total of rebates for 1991 was $49.5 million. We understand that the CNMI has provided information on rebate recipients to the House Subcommittee on Insular and International Affairs.

9. **QUESTION:** Would you please provide the initial results from your joint CNMI-OTIA review of labor and alien issues, and tax issues, including a discussion of: the tax burden in the States, and the identification of opportunities where the CNMI could increase local revenues; the costs and benefits of different segments of the alien labor population, such as alien labor dependents, domestic workers, textile workers, tourist industry workers and construction workers; and a discussion of the social problems and costs associated with alien workers.

**ANSWER:** Tax Issues:

The Tax Reform Initiative prepared by the CNMI Department of Finance and dated March 10, 1993 is a major step toward completion of our joint review of tax issues. We understand that a thorough review of that document is being undertaken by the Congressional Research Service. We have also asked the Treasury Department to review and analyze the document. We believe this document deals with most of the questions raised by the Committee.

The document proposes tax increases totalling $43.3 million. It contains a comparison of (1) personal income taxes under current law, (2) the Federal "mirror" income tax, and (3) the proposed CNMI taxes including the increases contained in the policy option as follows:

Projected 1993 taxes on personal income:

| | |
|---|---|
| Current law: (mirror tax with 95% rebate, wage and salary tax, and gross receipts tax): | $20.2 million |
| mirror tax without rebate: | $49.7 million |
| Proposed CNMI policy option: | $33.2 million |

The paper does not have a comparison of the tax burden in the CNMI and the fifty states, including state and local taxes, but we expect to add this analysis.

Labor and Alien Issues:

Our joint reviews of labor and alien issues have not progressed as far as the review of tax issues. The CNMI has made a good start in drafting and introducing a minimum wage bill that would apply to aliens as well as local workers. Our proposed review would cover the issues raised in the question. A copy of the proposed scope of work for the review is attached. (See Attachment C.) The scope is extensive and the analysis will be complex. We hope to complete the review by the end of this year.

10. The CNMI presently has a trade incentive under Headnote 3(a).

**QUESTION:** Would you provide an estimate of the effect of the North American Free Trade Agreement (NAFTA) on your exports to the mainland?

**ANSWER:** Although this question is directed at the CNMI, we have attached an analysis by Richard Miller of the effect of the NAFTA on all insular areas. (See Attachment D.) Our conclusion is that there will be very little effect on CNMI exports, at least in the first few years of the agreement.

Attachment A

Table 1. Per Capita Income in 1989 by Birthplace, CNMI: 1990

| Birthplace | With Income | Mean Income (Dollars) | Population | Per Capita Income (Dollars) |
|---|---|---|---|---|
| Total | 27,485 | 11,353 | 43,346 | 7,199 |
| Northern Mariana Islands | 6,447 | 16,693 | 16,752 | 6,424 |
| Guam | 311 | 24,943 | 1,122 | 6,914 |
| Palau | 876 | 10,192 | 1,407 | 6,346 |
| FSM | 945 | 8,906 | 1,817 | 4,633 |
| Chuuk | 483 | 5,099 | 969 | 2,542 |
| Kosrae | 14 | 15,334 | 29 | 7,403 |
| Pohnpei | 278 | 9,825 | 542 | 5,039 |
| Yap | 170 | 17,703 | 273 | 11,024 |
| Marshall Islands | 38 | 8,277 | 103 | 3,054 |
| Other Pacific Islands | 62 | 15,395 | 93 | 10,263 |
| Asia | 17,848 | 8,042 | 20,610 | 6,964 |
| Japan | 550 | 32,048 | 755 | 23,346 |
| Korea | 1,828 | 24,920 | 2,559 | 17,801 |
| China | 2,627 | 4,180 | 2,707 | 4,056 |
| Philippines | 11,911 | 5,328 | 13,563 | 4,679 |
| Taiwan | 16 | 19,519 | 38 | 8,219 |
| Vietnam | 1 | 5,600 | 1 | 5,600 |
| Other Asia | 915 | 6,112 | 987 | 5,666 |
| United States | 834 | 37,568 | 1,271 | 24,651 |
| California | 162 | 42,694 | 266 | 26,002 |
| Hawaii | 42 | 26,359 | 112 | 9,885 |
| Elsewhere | 124 | 25,552 | 170 | 18,638 |
| Females | 11,934 | 8,628 | 20,843 | 5,012 |
| Northern Mariana Islands | 2,865 | 11,895 | 8,211 | 4,150 |
| Guam | 148 | 15,064 | 576 | 3,871 |
| Palau | 437 | 10,408 | 741 | 6,138 |
| FSM | 420 | 5,978 | 942 | 2,665 |
| Chuuk | 230 | 4,427 | 525 | 1,939 |
| Kosrae | 4 | 6,849 | 14 | 1,957 |
| Pohnpei | 126 | 7,053 | 285 | 3,118 |
| Yap | 60 | 9,610 | 115 | 5,014 |
| Marshall Islands | 19 | 8,447 | 59 | 2,720 |
| Other Pacific Islands | 29 | 9,618 | 45 | 6,198 |
| Asia | 7,694 | 6,880 | 9,388 | 5,639 |
| Japan | 118 | 14,565 | 262 | 6,560 |
| Korea | 1,097 | 20,847 | 1,582 | 14,248 |
| China | 1,965 | 3,474 | 2,021 | 3,378 |
| Philippines | 3,891 | 4,914 | 4,842 | 3,949 |
| Taiwan | 6 | 11,847 | 17 | 4,181 |
| Vietnam | 1 | 5,600 | 1 | 5,600 |
| Other Asia | 616 | 4,309 | 663 | 4,004 |
| United States | 260 | 20,416 | 488 | 10,877 |
| California | 51 | 21,800 | 109 | 10,200 |
| Hawaii | 16 | 16,205 | 54 | 4,801 |
| Elsewhere | 62 | 14,714 | 93 | 9,809 |

Source: 1990 CPH-6-CNMI, Tables 36 and 90

Table 2. Per Capita Income in 1989 by Citizenship, CNMI: 1990

| Citizenship | With Income | Mean Income (Dollars) | Population | Per Capita Income (Dollars) |
|---|---|---|---|---|
| Total | 27,485 | 11,353 | 43,345 | 7,199 |
| Citizen | 8,262 | 19,607 | 20,082 | 8,067 |
| Born in CNMI | 6,447 | 16,693 | 16,752 | 6,424 |
| Born in US, Guam, etc. | 1,154 | 34,023 | 2,405 | 16,325 |
| Born abroad, US parents | 111 | 22,011 | 237 | 10,309 |
| Naturalized citizen | 550 | 23,025 | 688 | 18,407 |
| Not a citizen | 19,223 | 7,805 | 23,263 | 6,450 |
| Permanent residence | 1,443 | 10,958 | 2,188 | 7,227 |
| Temporary residence | 17,780 | 7,549 | 21,075 | 6,369 |
| Females | 11,934 | 8,628 | 20,543 | 5,012 |
| Citizen | 3,554 | 12,835 | 9,718 | 4,694 |
| Born in CNMI | 2,865 | 11,895 | 8,211 | 4,150 |
| Born in US, Guam, etc. | 413 | 18,389 | 1,071 | 7,091 |
| Born abroad, US parents | 58 | 9,327 | 123 | 4,398 |
| Naturalized citizen | 218 | 15,604 | 313 | 10,868 |
| Not a citizen | 8,380 | 6,843 | 10,825 | 5,297 |
| Permanent residence | 716 | 8,550 | 1,196 | 5,119 |
| Temporary residence | 7,664 | 6,684 | 9,629 | 5,320 |
| Males | 15,551 | 13,444 | 22,802 | 9,169 |
| Citizen | 4,708 | 24,719 | 10,364 | 11,229 |
| Born in CNMI | 3,582 | 20,531 | 8,541 | 8,610 |
| Born in US, Guam, etc. | 741 | 42,737 | 1,334 | 23,739 |
| Born abroad, US parents | 53 | 35,892 | 114 | 16,686 |
| Naturalized citizen | 332 | 27,898 | 375 | 24,699 |
| Not a citizen | 10,843 | 8,548 | 12,438 | 7,452 |
| Permanent residence | 727 | 13,330 | 992 | 9,769 |
| Temporary residence | 10,116 | 8,204 | 11,446 | 7,251 |

Source: 1990 CPH-6-CNMI, Tables 36 and 90

Attachment B

# COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
## DEPARTMENT OF FINANCE
## SUMMARY OF INCOME TAX REBATES
### Tax Years 1986 to 1990
### ($000)

I. Rebates Allowed:

| Category | 1986 | 1987 | 1988 | 1989 | 1990 | Total |
|---|---|---|---|---|---|---|
| A. Individuals | $4,571.5 | $8,021.2 | $8,747.6 | $13,901.6 | $20,045.9 | $55,287.8 |
| B. Corporations | 9,382.5 | 5,823.4 | 12,324.5 | 16,292.1 | 23,107.4 | 66,929.9 |
| Totals | $13,954.0 | $13,844.6 | $21,072.1 | $30,193.7 | $43,153.3 | $122,217.7 |

II. Number of Taxpayers Receiving Rebates:

| Category | 1986 | 1987 | 1988 | 1989 | 1990 |
|---|---|---|---|---|---|
| A. Individuals | 5,726 | 5,995 | 7,560 | 9,020 | 10,554 |
| B. Corporations | 71 | 89 | 123 | 159 | 164 |
| Totals | 5,797 | 6,084 | 7,683 | 9,179 | 10,718 |

ATTACHMENT C

May 4, 1993

# STATEMENT OF WORK

Cost/Benefit Study of the Impact of Non-Resident aliens on the Economy of the CNMI

## PROJECT DESCRIPTION

The purpose of the study is to determine the net benefit to the resident population of the CNMI of development industries dependent on the presence of non-residents. An underlying assumption behind the study is that economic development activities should provide a net benefit to the resident population. The benefit should be measurable in terms of net revenues to the Commonwealth Government, net increases in wage earnings of residents and/or increased availability of amenities such as public services, utilities and recreation opportunities.

The CNMI economy is based on tourism, apparel assembly, construction and government services. The private sector, which drives development, is highly dependent on the use of alien labor, primarily non-resident contract labor recruited abroad to fill specific jobs. In addition, aliens from Micronesia (Marshall Islands, Federated States, Palau) who migrate to the CNMI in search of jobs should be included as a separate category. The presence of alien tourists also imposes costs on the economy in addition to benefits. The question to be answered is whether, and to what extent, each category of aliens provides benefits in excess of the costs to the local economy.

The conclusions reached by the study will enable the people of the CNMI to choose development strategies that maximize benefits and to avoid those that may impose net costs on the economy.

The information developed will also help in choosing rational means of paying for infrastructure investment and government services. The study will quantify the impact of various industries and their employees on infrastructure and service needs and thus focus the debate on developer taxes and fees and user fees. In summary, the proposed study will show how development can pay its own way and provide a surplus to benefit the people of the CNMI.

# SCOPE OF WORK

This project will evaluate and quantify the costs and benefits to the Government and economy of the Commonwealth of the Northern Mariana Islands (CMNI) resulting from the presence of non-resident aliens. The primary costs and benefits to be measured are the fiscal expenditures and receipts of the CNMI Government related to aliens (including family members) and their employers. Included will be costs of providing public services and facilities, including capital costs. Benefits will include financial contributions to government in taxes and fees. (Costs and benefits of providing utility services may be stated on a net basis.)

Costs and benefits to the economy as a whole, other than to government, shall be summarized and estimated to the extent feasible. Social impacts shall also be listed. All information developed shall be organized so as to be of greatest use to CNMI planners in formulating growth and development strategies to maximize revenues and minimize costs.

## TASK 1 BIBLIOGRAPHY: ASSEMBLY AND REVIEW OF DATA

Task 1 shall consist of the identification and collection of all data needed to evaluate the costs and benefits of non-resident aliens to the CNMI economy. This shall include CNMI government reports, plans, studies and other publications detailing physical conditions and financing of public service and investments. All current, recent (past five years) and projected costs of services and all capital costs will be included.

The bibliography will include studies and data on how other governments in similar stages of development have dealt with the costs and benefits of alien labor.

Also included will be data on businesses that employ aliens (hotels, shops, garment factories, construction), and Census data regarding residents and non-residents.

Data identified shall be assembled by the consultants and CNMI staff for use during the project.

## TASK 2 REVIEW OF DATA AND WORK PLAN

The consultants shall hold a meeting with CNMI and the Office of Territorial and International Affairs (OTIA) staff to discuss the bibliography, resolve any data deficiencies and determine if any revisions to the work program are necessary. OTIA may also consult representatives of other Federal agencies, principally the Department of Labor. Any work program modifications shall be agreed to by the CNMI project manager and by OTIA.

**TASK 3A** SURVEYS OF PUBLIC FACILITY DEMAND

Because the activity patterns and living arrangements for many non-United States citizen residents are unique to the CNMI, the consultant may need to conduct some surveys in the CNMI to measure the impact this segment of the population has on public facilities. For example, survey information may be needed on trip generation rates for certain non-residential land use that provides employment.

The survey work that is completed shall be prepared in the form of a survey report. The consultant shall deliver a copy of the report to the project manager for review and distribution. The consultant shall revise the report based upon modifications recommended by the project manager.

**TASK 3B** ESTABLISHMENT OF EXISTING LEVEL OF DEVELOPMENT AND SERVICES IN THE CNMI

Task 3B shall consist of the consultant's analysis of existing conditions, including the number in each target group (non-resident alien workers, immigrants from the freely associated states, and tourists) present in the CNMI. They shall be identified by place of employment and domicile.

The consultant shall also establish the service standards and degree of use by each target alien group for each public facility or service to be reviewed, including electricity, water, sewage treatment, solid waste disposal, public safety, education, roads, airports, ports, health care and immigration.

The consultant shall prepare a report on existing conditions of development, employment and use of services in the CNMI to be reviewed and approved by the CNMI and OTIA.

**TASK 4** PUBLIC FACILITIES AND SERVICES COST/BENEFIT REPORT

Task 4 will be the preparation of a report on the public services provided by the CNMI Government and the costs and benefits to the government of providing them to the various target groups studied.

The analysis will include an examination of costs of operations and amortization of capital expenditures compared to revenues generated. In many cases, much of this analysis will have been done. For example, the CNMI Department of Public Health and Environment Services reported an expenditure of $10.5 million in 1991 for health costs for aliens; in this case, the consultant would need to verify that all costs are included, add in amortization of capital costs, then break down the information by target groups and obtain data on revenues from the same groups. In other cases, such as utility services, the degree of subsidy may already be available. In these cases, it will be necessary only to allocate the appropriate portion of the subsidy to each target group (non-resident workers, Micronesian immigrants, tourists).

Upon completion of the report, it shall be forwarded to the CNMI's project manager and the OTIA representative for review. After receiving comments from CNMI and OTIA, the consultant shall make any agreed revisions to the report.

**TASK 5** REPORT ON INDIRECT COSTS AND BENEFITS OF NON-RESIDENTS

This shall include an evaluation of all costs and benefits of non-residents to the economy other than those imposing direct costs and providing direct benefits to the CNMI Government. A major indirect cost or benefit is the effect of the employment of aliens on employment of local residents; does the growth of alien employment increase or diminish the number and quality of jobs for residents? Some other examples of costs might be crowding of beaches or other facilities and delays in receiving health care. Examples of benefits might include construction of recreational facilities available to residents and additional products available in the market.

Those indirect costs and benefits that do not lend themselves to quantifiable analysis should be listed with comment.

**TASK 6** IMPACT REPORT

This will include a compilation of the analyses of fiscal and other impacts of each target group (non-resident workers, Micronesian immigrants, tourists):

- Summary of the fiscal costs of non-residents to the CNMI Government

- Summary of the fiscal benefits of non-residents to the CNMI Government

- Identification of non-fiscal costs and benefits to the economy and community

- Recommendations on policies toward non-residents and industries employing non-residents that would most benefit the government and people of the CNMI. These recommendations would be designed to assist the CNMI in preparing growth strategies in its planning effort that would meet the objectives of providing adequate public facilities and services with economic growth and preservation of the environment and quality of life of residents.

After completion of the draft fiscal impact report, the consultant shall forward it to the CNMI project manager and OTIA representative for review and shall hold one meeting with CNMI and OTIA (with Department of Labor or other representatives, as appropriate) to identify any areas in need of revision. The consultant shall then make any agreed revisions to the final report.

PROJECT BUDGET: COST/BENEFIT STUDY OF ALIENS, CNMI

| | | | |
|---|---|---|---|
| Local facilities planner | $60/hr. | 120 hrs. | $7,200 |
| Mainland facilities planner/ economist | $75/hr. | 200 hrs. | 15,000 |
| Demographer/survey expert | $75/hr. | 160 hrs. | 12,000 |
| Attorney | 125/hr. | 100 hrs. | 12,500 |
| Senior economist | 100/hr. | 160 hrs. | 16,000 |
| Total personnel costs | | | 62,700 |
| Travel: 4 trips at $3,500 | | | 14,000 |
| Supplies and other | | | 3,300 |
| Total project costs | | | $80,000 |

Attachment D

# THE NAFTA AND THE UNITED STATES INSULAR AREAS

The North American Free Trade Agreement (NAFTA) promises to expand trade and investment in the three North American trading partners: Canada, the United States and Mexico. But the NAFTA is effective only in the area of each nation under its customs jurisdiction. What will be the effect of the NAFTA on the United States' insular areas outside its customs territory: the U. S. Virgin Islands, American Samoa, Guam and the Commonwealth of the Northern Mariana Islands?

The NAFTA applies in the territories of the Parties (defined to exclude insular areas). The exclusion of the insular areas is confirmed by an exchange of letters among the Parties dated January 19, 1993 stating:

1. The NAFTA shall not apply in respect of Guam, the Commonwealth of the Northern Mariana Islands, American Samoa and the U. S. Virgin Islands.

2. References in the NAFTA to a state of the United States shall be deemed to refer also to the District of Columbia and the Commonwealth of Puerto Rico.

Thus the insular areas appear to be treated in much the same way as foreign countries not Parties to the agreement, many of which are very concerned about the effect on their exports to the United States. An examination of the rules of origin incorporated into the NAFTA, however, reveals that the insular areas enjoy much better access to the United States market than do the other Parties to the NAFTA.

## NAFTA's Objectives:

The NAFTA establishes a free trade area by eliminating barriers to trade between the territories (in effect, customs territories) of the members. It abolishes tariffs on products of each party, without exception, over periods varying up to 15 years in the case of the most sensitive goods. It also abolishes most non-tariff barriers (quotas), leaving a mechanism for their reinstatement for some items (mainly garments) in emergency situations.

The agreement promotes fair competition in the free trade area, primarily through "national treatment": prohibiting discriminatory internal taxes and regulations (although with many exceptions in the case of Mexico). It contains provisions to increase investment opportunities and for protection and enforcement of intellectual property rights in each Party's territory.

## Effect on Exports of Insular Products to the United States

Exports of products of U. S. insular areas to the U. S. customs territory are free of customs duties under General Note 3(a)(iv) of the Harmonized Tariff Schedule. The NAFTA will eliminate U. S. customs duties on exports of products of Canada (not already duty-free under the U. S.-Canada Free Trade Agreement) and Mexico. Will Mexican products, enjoying low labor costs and proximity to the U. S. market, displace insular products in the United States? Will insular producers be tempted to move their operations to Mexico?

The answer to these questions is in most cases no, due to two major considerations. First, General Note 3(a)(iv) provides advantages not enjoyed by the Parties to the NAFTA. Duty-free treatment is extended to products of the insular possessions that may contain up to 70% of their value in foreign components. For sensitive products, such as garments, the foreign value is limited to 50% but even this limit is generous because it excludes profit and overhead. Products of Canada and Mexico, however, are defined by rules of origin of the NAFTA which convey origin in most cases through transformation of a good to another good covered by a separate tariff number in the HTS. In the case of garments, the rule is much more strict, requiring that the thread or yarn be of North American origin.

The second consideration is that products of insular areas benefit from concessions other than duty exemptions. The U. S. territories typically provide up to 75% income tax rebates and complete exemptions from other taxes. Moreover, "possessions corporations" incorporated in the United States are essentially exempt from U. S. income tax under section 936 of the Internal Revenue Code. Specific insular products receive other incentives enumerated below.

## Exports of Insular Products to Canada and Mexico

In being excluded from the NAFTA, the insular areas do not obtain any special access that their own products might have enjoyed to the Canadian and Mexican market. Should an effort be made to extend NAFTA trade benefits to the insular areas?

The inclusion of insular areas in the NAFTA would have complicated an already delicate negotiation because each insular area is a separate customs territory with a different import regime. Because the insular areas have largely open borders to foreign products, their inclusion would have raised concerns in the NAFTA partners about possible pass-through industries.

For the insular areas to benefit from inclusion in the NAFTA they would have to produce something competitive in the Canadian or Mexican market. Most products of insular areas that are imported into the United States under General Note 3(A)(iv) appear to be ineligible

## Guam

Guam is the only insular possession with no General Note 3(a)(iv) exports to the United States. A watch assembly company, Timewise, and a sweater assembler, Sigalo, both ceased operations late in 1992. Both were beneficiaries of special legislation providing benefits in addition to duty-free entry. The watch industry received a subsidy of up to 90 percent of its labor costs. The sweater industry enjoyed a legislative waiver from quotas that would otherwise apply because sweaters assembled in Guam did not qualify as local products under garment rules of origin.

Despite such special benefits these export industries succumbed to the severe shortage and high cost of labor on Guam. These continuing problems were exacerbated in 1992 by power rationing and the disruption caused by three major typhoons.

Guam has proposed, in draft legislation to become a commonwealth, the use of NAFTA rules of origin to define products of Guam eligible for duty free entry into the United States customs territory. Passage of both the NAFTA and the Guam Commonwealth bill would be necessary to put this rule of origin into effect. If the NAFTA should not be enacted into law, the U. S.-Canada Free Trade Agreement rules could be applied to products of Guam instead.

## American Samoa

Alone among the insular areas, American Samoa is more dependent on its manufacturing industry than on tourism. The tourist industry, in spite of spectacular natural surroundings and cultural attractions, has failed to develop commercially due to long distances from markets, frequent disruptions of air service, and a shortage of good hotel accommodations. The economy is dependent on two major tuna canneries, Van Camp and Star Kist, for the bulk of private sector employment and government tax receipts. Indirectly, the tuna canneries also account for a major portion of retail sales in local economy, including the majority of diesel fuel sales, which go to the tuna fishing fleet. The tuna canneries were attracted to American Samoa by the combined appeal of low wages, duty free access to the U.S. market, exemption from the Nicholson Act (which prohibits foreign fisherman from landing their catch in the United States) and an exemption from U.S. taxes under Section 936 of the Internal Revenue Code.

These benefits have eroded over time. Wages have increased under biennial industry committee reviews mandated by the Fair Labor Standards Act; the cannery wage now stands at $2.87 per hour and is subject to periodic attempts to raise it to the mainland level.

## United States Virgin Islands

After American Samoa, the Virgin Islands ranks next in its relative dependence on manufacturing. The island of St. Croix, whose struggling tourist industry was severely damaged by Hurricane Hugo in 1989, relies primarily on manufacturing. The biggest private employers are the Hess Oil Refinery and the alumina processing plant, which do not rely on duty free access to the U.S. market. Of those employers that do, the most important are the watch assembly industry and the rum distilling industry, both having evolved under special benefits not limited to duty-free access.

Watch assemblers receive a subsidy of up to 90% of wages paid in the form of certificates good for payment of import duties on foreign watches. In fact, the subsidy is somewhat reduced in value by a one year delay in payment and the transaction costs involved in transferring the certificates to importers for use in paying duties.

The NAFTA recognizes the importance of the Virgin Islands watch assembly industry by according mechanical watches the 15 year C+ staging category. These watches are also protected by very high specific duties. More important, watches imported from U. S. insular areas are not subjected to General Note 3(a)(iv) substantial transformation requirements but to special rules in Chapter 7 of the HTS. Thus, even after the 15 year phase out of U. S. duties under the NAFTA, Mexico (or Canada) will not be permitted to ship watches assembled from foreign components as the U.S. insular areas do.

The rum industry is also given some protection in the NAFTA, with a C staging category providing a 10 year phase of the duty elimination. The importance of the rum industry to the Virgin Islands is as a revenue producer rather than as an employer. The Federal excise tax on rum produced in the Virgin Islands is "covered over" to the Virgin Islands government under section 28(b) of the Virgin Islands Organic Act of 1954. Originally intended to encourage the raising of local revenue, this payment was limited to local revenue collections. Because local revenues have long since passed the level of taxes on Virgin Islands rum, the "matching" provision is no longer effective. However, the "cover over" is now limited by law to $10.50 per proof gallon of rum, although the current excise tax level is $12.50. The total payment has been running at about $30 million annually in recent years.

The matching fund is used by the Virgin Islands Government to guarantee and to repay bonds issued for essential infrastructure projects. It is not used directly to subsidize Virgin Islands rum production but the industry receives the maximum 90 percent income tax rebate and exemptions from other taxes under the local industrial incentive law. It also benefits from a subsidy that stabilizes the price of imported molasses and from promotion of Virgin Islands rum. (These efforts are small in comparison to Puerto Rico's massive rum promotions.)

in the best of times. A lasting solution would not tie special assistance to the NAFTA but would use the NAFTA as a reason to renew efforts to develop private investment in businesses in which the territory can have a comparative advantage. The most obvious, aside from fish products, is tourism - a growth industry throughout the American Pacific.

The insular areas' duty free access to the United States market depends on protection from foreign competition. To the extent that measures are taken to reduce that protection, insular area exports to the United States are threatened. But the insular areas' export industries have developed under a variety of incentives of which free entry to the United States is only one. As duties have been lowered, this incentive has become less valuable in relation to other considerations, making it difficult to quantify the effect that the NAFTA exemption will have on insular exports to the United States. Even more speculative is the NAFTA's effect on attracting future investments in manufacturing to the islands.

The NAFTA is unlikely to be modified to take account of insular area interests. Discussions are underway, however, which may lead to separate agreements regarding labor and the environment. These discussions and subsequent actions to implement the agreement and resolve disputes need to be sensitive to insular area interests. Because the trade effects of the NAFTA on the insular areas are so difficult to predict, any attempt to anticipate and offset economic disruption before it occurs would be inefficient and wasteful.

The insular areas all have small, isolated economies and are very vulnerable to external economic shocks. Their governments and the Federal government will have to be ready to deal with new problems and opportunities, whether they arise from international trade agreements or the trends and cycles of the world economy.

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