Statement
of
Anthony M. Babauta
Assistant Secretary of the Interior for Insular Areas
before
The House Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs
regarding
H.R. 3706, a bill to create the Office of Chief Financial Officer of the Government of the Virgin Islands

May 17, 2012

Mr. Chairman and members of the House Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs, I am pleased to appear today to discuss H.R. 3706, a bill "to create the Office of Chief Financial Officer of the Government of the Virgin Islands."

At the outset, I wish to complement Delegate Donna Christensen for her effort to address a perennial problem: Virgin Islands' spending in excess of actual revenue. This deficit situation often arises due to disputes between the executive and legislative branches of government over revenue projections. Due to perennial, overly optimistic revenue projections and related appropriations, the Virgin Island's Office of Management and Budget is often forced to withhold or retract allotments of funds.

This estimation discrepancy, which leads to revenue management issues, is not unique to the Virgin Islands. It occurs in all the United States territories. It results in the accumulation of harmful debt over a period of years, and the carrying charges on such debt interfere with each territorial government's ability to solve current issues. Delegate Christensen's reference to a balanced budget is a step in the right direction toward transparency and regaining control of spending and enhancing the ability of the Government of the Virgin Islands to deal effectively with new issues that will arise.

For many decades, the Department of the Interior has continually sought to increase self-government for the United States territories, and respect for the decisions of their electorates in electing leaders for the legislative and executive branches of territorial governments. In 2004, the Department testified on similar legislation (H.R. 3589) and noted that the actions of the proposed Chief Financial Officer (CFO) would likely “conflict” with self-government provisions of the Virgin Islands Revised Organic Act. The 2004 legislation would have authorized an appointed CFO to countermand certain actions of the elected Governor and elected legislature of the Virgin Islands.

INTERIOR POSITION ON H.R. 3706

H.R. 3706 is a different approach to this important issue. The bill would have the Chief Financial Officer –

- report on the financial status of the Government of the Virgin Islands;
- certify spending limits of the annual budget annually, and whether or not the annual budget is balanced; and
- revise and update standards for financial management for each agency of the Government of the Virgin Islands.

In the view of the Department of the Interior, the duties contained in H.R. 3706 would constitute only *de minimus* interference with self-government in the Virgin Islands, while addressing other issues of mistrust between the executive and legislature and possibly the public. Thus, the Department of the Interior has no objection to the enactment of H.R. 3706.

RELATED ISSUES FOR CONSIDERATION

The legislation, however, raises a number of issues that the author and this subcommittee may wish to consider before enactment. The thrust of the bill is to shed light on the budget and appropriations processes of the Government of the Virgin Islands. Bringing transparency to the budget process, in itself, is a worthy goal. Despite references to annual spending limits and balanced budgets, however, the bill contains no provisions that guarantee specific spending limits or that guarantee balanced budgets.

Balanced Budget

Paragraph (2) of subsection (b) of section 1 of the bill would call on the CFO to certify, "whether or not the annual budget is balanced." The provision does not require that the annual budget actually be balanced. The CFO would merely certify whether or not the budget is balanced or the degree the budget is out of balance. The transparency and publicity surrounding an out-of-balance budget may be sufficient to reign in big spending, but the bill does not require revenue and spending balance.

Spending Limits

The same provision that requires the CFO to report on a balanced budget, calls for the certification of "spending limits." While the bill references "spending limits," it does not specify whether those limits should be low or high. It contains no standards for determining spending limits, and while the term "spending limits" is in the same clause as the reference to balanced budgets, the spending limits are not tied to a balanced budget.

Certification

This same provision calls on the CFO to "certify" spending limits for the annual budget of the Government of the Virgin Islands. The term "certify" implies that another entity would *establish* the spending limits, and the CFO would merely state that the spending limits do exist. As the provision now stands, no entity is specified in H.R. 3706 to act as an honest broker to *establish* spending limits.

If it is intended that the CFO is to *establish*, rather than merely *certify*, spending limits, the language of the bill should be modified.

Revision and Updating of Standards

The bill's third duty for the CFO calls on the CFO to revise and update standards of financial management for the Government of the Virgin Islands and its component agencies. This provision is the one duty of the CFO that, in a minor way, would impinge on the duties and prerogatives of the elected Governor and elected legislature and derogate from self-government in the Virgin Islands. One way to eliminate this self-government issue would be to have the CFO merely "recommend" revisions of government standards for financial management. Self-government would be preserved if the elected Governor or legislature consider the CFO's recommendations, rather than mandate that the appointed CFO implement the changes on the CFO's own volition.

Financial Challenges

As many members of the committee know, the Virgin Islands' largest private employer, HOVENSA, has shuttered its oil refinery operation on St. Croix. This move is making an already adverse economic environment worse. Unemployment is expected to rise from the current 9 percent to 21 percent on St. Croix. The removal of HOVENSA-subsidized fuel is expected to push electricity costs from 43 cents to 50 cents per kilowatt hour. HOVENSA payments of private school tuition for children of employees will cease, causing students to transfer to public schools. The result is likely to be financial stress for both private and public schools. In addition to these societal stresses, the Government of the Virgin Islands is expected to suffer a $92 million, or 14 percent, reduction in anticipated 2012 revenue due to the HOVENSA closing. Prior to HOVENSA's shutdown, the Government undertook austerity measures that include an 8 percent cut in government salaries for those making more than $25,000 and an increase in the gross receipts tax from 4 percent to 5 percent just as the slow tourism season begins. The financial blow resulting from HOVENSA's shutdown will necessitate a further scaling-back of Virgin Islands government programs and personnel. In an effort to ameliorate some of the burden on the Virgin Islands due to the HOVENSA closure, just this week the Department of Labor awarded the Virgin Islands a $7.8 million National Emergency Grant to provide employment and training services to workers affected by layoffs resulting from the closure of

HOVENSA and layoffs at 17 of its subcontractors. However, this grant alone will not secure the Virgin Island's financial footing.

--- Unfunded Federal Mandate

H.R. 3706 does not provide funding for the activities of the CFO. While the bill specifies the salary of the CFO at a "rate not . . . less than the highest rate of pay for a cabinet officer or a chief financial officer serving in any government or semiautonomous agency," the bill does not provide an authorization or appropriation of Federal funds for the purpose. This is an unfunded Federal mandate.

Additionally, it is not clear if the CFO will be a one-person operation or if additional personnel will be required. The legislative language of the bill refers only to the "Chief Financial Officer". The title of the bill, however, includes the language "to create the *Office* of Chief Financial Officer", which would imply that there would be personnel in addition to the individual who is designated as CFO. Moreover, the three specified duties of the CFO that appear in the bill may be too extensive for one person, the CFO, to accomplish. Additional personnel may be necessary.

The added expenses of this unfunded Federal mandate would fall to the Government of the Virgin Islands. While such expenses would be an added burden at any time, they would come now, just as Government of the Virgin Islands suffers severe revenue decreases due to the departure of HOVENSA.

--- Palau Plan – Low Cost

In the early 1990s, prior to free association, Palau was put on a balanced budget plan. There was –

- a determination that expenditures would not exceed revenue, i.e. balanced budget;

- a spreadsheet listing each source of government revenue for the three years prior to the proposed year of expenditure, which was prepared any time there was to be an appropriation of funds;
- a revenue projection based on the three-year trend line and other circumstances that could be independently determined to affect revenue;
- if there was a surplus of projected revenue over projected expenses, the new appropriation was considered viable; and
- if for some reason, the year of projected revenue and expenses resulted in an unforeseen over-expenditure, that amount came off the top of the projections for the following appropriation or following year.

A fail-safe balanced budget was achieved and this process involved very little cost. The goals of both the Palau example and the proposed legislation are similar. If CFO costs become an issue and appear to be prohibitive, consideration might be given to understanding in greater detail the Palau model so as to fit Virgin Islands' circumstances.

CONCLUSION

Delegate Christensen is to be complemented for addressing the highly important issue of governmental budgets and over-spending. Her efforts, in the end, will give Virgin Islands officials a tool to promote public understanding of critical issues and enhance public confidence during these stressful times.

I wish to reiterate that the Department of the Interior has no objection to the enactment of H.R. 3706 as drafted. I only raise the above related issues for consideration should they prove to be an obstacle to enactment. The Department of the Interior believes that the fiscal discipline that will result from the enactment of H.R. 3706 or related concepts will strengthen the Government of the Virgin Islands, making it a more effective and viable institution. If enacted, the Virgin Islands could become the incubator of similar responsible budgeting in all the United States territories.