



THE UNITED STATES VIRGIN ISLANDS

OFFICE OF THE GOVERNOR
GOVERNMENT HOUSE

Charlotte Amalie, V.I. 00802
340-774-0001

February 18, 2014

The Honorable Lorraine ("Lori") Faeth
Assistant Secretary for Insular Areas (Acting)
U.S. Department of the Interior
1849 C Street, NW – Room 3152
Washington, DC 20240

Dear Acting Assistant Secretary Faeth:

Thank you for the opportunity to propose agenda items for discussion at the upcoming meeting of the Interagency Group on Insular Areas (IGIA) and Territorial governors. We have identified the following issues, which are of critical importance to the economic development and fiscal independence of the Virgin Islands, for the IGIA agenda:

Tax Issues

1. Rum Tax Cover-Over Rate Extension
2. Rockefeller Amendment/Treasury Regulations (amending possessions residency and sourcing rules)
3. Treatment of Capital Gains
4. Earned Income Credit Cost Sharing

Healthcare

5. Extension of Medicaid "j" waiver authority to all U.S. Territories
6. Extension of state-like FMAP to all U.S. Territories
7. Medicare Reimbursement for V.I. Hospitals (TEFRA)

Homeland Security

8. Proposed Special Visa Waiver Program
9. CBP support for full funding of customs services in the Virgin Islands
10. Expansion of the Caribbean Basin Security Initiative to include the U.S. Territories in the Caribbean (or establishment of a comparable program)

Early Education

11. Inclusion of U.S. Territories in President Obama's Plan for Early Education for all Americans.

The Honorable Lorraine ("Lori") Faeth
February 18, 2014
Page 2

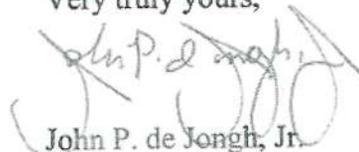
Transportation

12. Restore Funding Cuts to Territorial Highway Program

I have attached a memorandum that provides background information on these issues, along with a summary of requested administrative or legislative action.

Thank you for your, and the IGIA's consideration of these critical issues.

Very truly yours,



John P. de Jongh, Jr.
Governor

Attachment: as stated



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MEMORANDUM

To: The Honorable Lorraine ("Lori") Faeth
Acting Assistant Secretary for Insular Areas

From: Governor John P. de Jongh, Jr.

Date: February 18, 2014

Re: 2014 Meeting of Interagency Group on Insular Areas ("IGIA") and Territorial Governors

Thank you for the opportunity to outline the key priorities for the United States Virgin Islands that we would like to highlight for the Interagency Group on Insular Areas ("IGIA") and Territorial governors. This memorandum provides background information on each item which are of critical importance to the economic development and fiscal independence of the United States Virgin Islands, along with a summary of requested administrative or legislative actions.

Taxes

1. Rum Tax Legislation

As part of its long-standing tax relationship with the Virgin Islands, Congress has historically provided that all federal taxes on all products — including rum — manufactured in the Virgin Islands be returned, or "covered-over," to the local treasury. Rum tax revenues covered-over to the Government of the Virgin Islands ("GVI") constitute a major source of funding for the GVI, and are used to finance essential public services and to securitize the GVI's bonds and thus ensure the Territory's access to the capital markets. In 1984, Congress increased the excise tax of rum from \$10.50 per proof gallon to \$12.50, but provided that the proceeds of the \$2.00 increase in the tax would — for the first time in the history of the Territorial relationship — be retained by the U.S. Treasury rather than be covered over to the Virgin Islands. In 1993, Congress increased the excise tax on rum (and other distilled spirits) to \$13.50 per proof gallon, and in 1999 Congress raised the amount subject to cover-over to \$13.25 per proof gallon for a temporary two-year period. Congress has regularly extended the "temporary"

cover-over rate ever since, but the timing of extension legislation often causes budget planning problems and uncertainties for the GVI that can be avoided by making the temporary cover-over rate permanent.

a. Extension of the Temporary Cover-Over Rate

The most recent extension of the temporary cover-over rate expired on December 31, 2013. The Senate Finance Committee is expected to begin consideration of legislation to extend the rum tax cover-over provision and other expired tax provisions on a retroactive basis in the next several weeks.

b. Legislation to make Cover-Over Rate Permanent

The GVI has also submitted detailed briefing memoranda to the Senate Finance Committee and House Ways and Means Committee Working Groups on Tax Reform urging that the temporary cover-over rate be made permanent. The Virgin Islands requests the IGIA to support the GVI efforts to extend the temporary rate and to make it permanent.

2. Rockefeller Amendment

The Virgin Islands and other insular areas face unique economic challenges as a result of their geographic distance, lack of natural resources, and general small island limitations on scale and their related impact on economic development options. In the case of the Virgin Islands, these challenges have been exacerbated by harsh rules implementing the possessions provisions of the American Jobs Creation Act of 2004 ("Jobs Act") and perceived continuing attacks on the U.S. Virgin Islands Economic Development Program ("EDP") through unending audits of individual EDP participants for tax years far outside of the normal statute of limitations. As a result of these policies, the once-promising Virgin Islands EDP has dramatically slowed, and the Territorial government has been left with few tools to address its stagnant private sector economy and resulting fiscal problems.

The Jobs Act created onerous residency requirements for the Virgin Islands EDP program and income sourcing rules that forces legitimate V.I. businesses to look to foreign markets rather than the U.S. Senator John D. ("Jay") Rockefeller filed an amendment to the Jobs Act to address these discriminatory provisions in August 2012, and the GVI submitted detailed memoranda in support of the Rockefeller Amendment to the Senate Finance Committee and House Ways and Means Committee Working Groups on Tax Reform in 2013.

In the Jobs Act, Congress also provided Treasury authority to modify the rules for determining bona fide possessions residency and the rules for determining whether non-possession source income is income effectively connected with the conduct of a possession-based trade or business. The Virgin Islands has urged Treasury to exercise its authority to

review the existing rules, and to consider amendments where appropriate, that would give greater deference to Congressional goals of encouraging economic and private sector development in the Virgin Islands and the other U.S. possessions. The Virgin Islands requests that the IGIA (1) support the GVI efforts to address the inequities of the current Jobs Act rules, and (2) urge Treasury to address the Virgin Islands' requests as soon as possible.

In addition, the Virgin Islands continues to have concerns about reports of abusive audits of Virgin Islands residents who participated in the Congressionally-authorized EDP with respect to tax years far outside of the normal statute of limitations. The GVI has challenged these unlimited audits and IRS practices outside the statute of limitations in the federal courts.¹ The IRS practices have also been criticized by the IRS' own National Taxpayers Advocate. If the IRS does not conform its practices to the recommendations of the National Taxpayers Advocate, the Virgin Islands requests IGIA support for legislation that would ensure that all U.S. citizens, regardless of where they reside, are accorded due process and the protections afforded by the statute of limitations.

3. Treatment of Capital Gains

An anomaly in the U.S. Internal Revenue Code ("Code") allows Puerto Rico to provide more favorable tax treatment of capital gains derived from the sale of personal property held by a Puerto Rico taxpayer than the tax treatment by the small mirror code territories of capital gains derived from the sale of similar property by U.S. citizen (and resident) taxpayers in such mirror code jurisdictions. The Virgin Islands submits that the U.S. Treasury should exercise its regulatory authority to ensure parity of treatment among the Territories with respect to the treatment of capital gains.

Gains derived from the sale of personal property (other than inventory) by a U.S. citizen (and resident) is generally sourced in the United States. Similar income by a non-resident (including U.S. citizens) is generally treated as foreign source. A U.S. possession is treated as a foreign country under this general rule, and capital gains derived from the sale of personal property by a resident of the possessions would ordinarily be deemed to be possession-source income. A special rule (Section 865(a)(2) of the Code) was enacted in 1986 overriding the general sourcing rule which recharacterized the foreign-source capital gains of non-residents as

¹ The GVI moved to intervene in a number of U.S. Tax Court cases in which V.I. taxpayers challenged deficiency notices issued by the IRS years outside of the statute of limitations, including the seminal cases of *Appleton v. Comm'r* and *Coffey v. Comm'r*. After years of legal wrangling, the Tax Court ruled in favor of the taxpayer and the GVI in *Appleton* in May 2013. A decision by the Tax Court in *Coffey* is currently pending.

In addition, the GVI moved to intervene in seven other Tax Court cases which are in various procedural stages. These include *Huff v. Comm'r*, *Khoury v. Comm'r*, *Cooper v. Comm'r*, *McGrogan v. Comm'r*, *McHenry v. Comm'r*, *Teffeau v. Comm'r*, and *Estate of Sanders v. Comm'r*.

U.S. source income if such income was not subject to at least 10 percent tax. The purpose of the special rule was to prevent U.S. citizens (and residents) with foreign source income from manipulating the foreign tax credit limitation in order to reduce their U.S. income tax liability. In 1988, Congress amended the special rule to allow Treasury to override the special rule for non-mirror code possessions (such as Puerto Rico), effectively reinstating the general rule described above.

The Virgin Islands submits that there is no sound tax policy reason for treating mirror code possessions differently from non-mirror code possessions and that Treasury has ample regulatory authority under Section 937(b) of the Code to ensure parity of treatment among the U.S. Territories. The Virgin Islands requests the assistance of the IGIA in resolving this matter with the U.S. Treasury.

4. Earned Income Credit Cost Sharing

Congress enacted the Earned Income Credit ("EIC") as a refundable tax credit to assist low-income workers with little or no income tax liability. In particular, one of the principal purposes of the EIC is to offset the disproportionate burden of FICA (Social Security) taxes on such low-income persons. In the case of the Territorial "mirror code" jurisdictions, the cost of the EIC is a significant fiscal burden on local governments, a burden which has been exacerbated by recent increases in the value of the credit. To offset, in part, the burden of this unintended result, the Government of the Virgin Islands has proposed (with the support of the Government of Guam) an EIC cost-sharing arrangement based on existing Internal Revenue Code provisions.

Under this proposal, Insular Area governments with "mirror code" requirements would be authorized to make mandatory the employer "advance payment" program under section 3507 of the Code. Under this procedure, an employer would advance pay to qualifying employees an amount equal to 60 percent of such employee's estimated EIC, which amount would be credited against the employer's quarterly payments of FICA contributions pursuant to federal form 941 (relating to FICA payments for employees). The employer would thus be made whole on a quarterly basis, and the Federal Government would assume responsibility for approximately 60 percent of the Territory's EIC obligations, with the local "mirror code" jurisdiction retaining responsibility for the remaining 40 percent (which would be paid or credited to the taxpayer upon the processing of the taxpayer's income tax return by the local taxing authority). Alternatively, the taxing authority in each mirror code jurisdiction would be authorized to certify the total amount of EIC "paid" in any tax year and the Treasury would be required to reimburse such taxing authority 60 percent of such amount out of total FICA payments made to the Treasury from such jurisdiction.

The Virgin Islands submits that the IRS has adequate legal authority to execute a cost-sharing agreement between the United States and the mirror code jurisdictions, but understands that, as a practical matter, legislation may be necessary to clarify such authority and to facilitate

such cost-sharing arrangements. Accordingly, the Virgin Islands requests that the IGIA support that cost-sharing arrangement, either through administrative action or through legislation.

Healthcare

Notwithstanding the additional federal resources that the Affordable Care Act provides over the next several years, the task of implementing health care reform in the Virgin Islands has proven to be challenging, particularly in light of continued disparate treatment of the U.S. Territories under the Act. These challenges can be significantly ameliorated by two modest legislative changes to Medicaid provisions in the Social Security Act. (These changes were included in the House version of the healthcare reform bill passed in 2009 and enjoyed wide Congressional support.)

5. Amend the Social Security Act to extend the “j” waiver to all U.S. Territories

Section 1902(j) of the Social Security Act provides the Secretary of Health and Human Services with authority to waive or modify, for American Samoa and the Commonwealth of the Northern Mariana Islands, any Medicaid requirements otherwise applicable to a State (except for the FMAP, Medicaid cap, and/or the scope of allowable Medicaid services). This authority, known as “j” waiver authority, provides important flexibility for these Territories in meeting the myriad legal and administrative requirements of the federal Medicaid law. The House-passed bill (Section 1771(d)) extended “j” waiver authority to the Virgin Islands, Guam, and Puerto Rico. The Senate bill did not include such a provision, although the Senate leadership agreed to include it in the final conference bill (which never materialized as a result of the Massachusetts election). Precisely because “j” waiver authority would have no impact on the federal budget, the House provision could not, for procedural reasons, be added to the reconciliation bill which followed enactment of the Senate bill and, thus, is not part of the Act.

Because it would have no budget impact and because House, Senate, and Administration negotiators had earlier agreed to its inclusion in the final healthcare bill, the Government of the Virgin Islands urges the IGIA to seek inclusion of a “j” waiver authority extension in legislation during the current session of Congress.

6. Amend the Social Security Act to provide a fair and equitable (State-like) Medicaid FMAP for all U.S. Territories, and exercise discretion and flexibility in reviewing a Territory’s demonstration that it qualifies as an “expansion state” for an increased FMAP for certain non-pregnant childless adults

The House-passed healthcare bill (Section 1771(c)) provided that (until a formal census study was completed) the U.S. Territories would be eligible for an FMAP equal to the highest FMAP (unadjusted by ARRA) accorded to any State (currently 78 percent). The Senate bill (Section 2205(c)) authorized a modest increase in the current statutory rate from 50 percent to 55

percent. Here, too, the Senate leadership and Administration negotiators agreed to accept the House language prior to the Massachusetts election for the open Senate. But because the FMAP provision would also have no budget impact (Medicaid is still a capped program for the U.S. Territories; the federal contribution is fixed by statute), the House language could not, for procedural reasons, be included in the reconciliation bill.

Because it would have no budget impact for CBO purposes, the Virgin Islands urges IGIA to support an amendment to Social Security Act § 1905(b), 42 U.S.C. § 1396d(b), that would provide a fair and equitable (State-like) Medicaid FMAP for the Virgin Islands and other Territories. This amendment would ensure that the U.S. Territories are able to utilize all of their available Federal funds and to fully fund their Medicaid programs. For example, if the Virgin Islands’ FMAP were calculated according to the same formula used for States, its FMAP would be approximately 92% (subject to a statutory maximum of 83%).

Coupling this amendment with a maintenance-of-effort (“MOE”) requirement—which could be added to Social Security Act § 1108, 42 U.S.C. § 1308—would ensure that the Territories will not be able to use Federal funds to reduce their commitment of local funds.

In addition, on January 13, 2014, CMS notified the Virgin Islands that the Territory (and other Territories) may qualify for enhanced federal matching rates for CYs 2014–2019 under the Affordable Care Act. The Act provides for an increased FMAP for certain Medicaid expenditures if the Territory qualifies as an “expansion state,” *i.e.* if the Territory had expanded its Medicaid program, prior to enactment of the Act (March 23, 2010), to provide “specified coverage” for certain non-pregnant childless adults. The Virgin Islands intends to demonstrate by CMS’ March 15 deadline that the Territory qualifies as an “expansion state” and is therefore entitled to (1) a gradually increasing FMAP increase for such adults starting in 2014, as well as (2) a temporary (two-year) 2.2 percentage point increase for all Medicaid expenditures in CYs 2014–2015 (an increase from 55% to 57.2%).² Although an “expansion state” FMAP increase would fall far short of providing state-like treatment for the Virgin Islands or of otherwise addressing the Territory’s unique circumstances, the limited increase in funding nonetheless would be critical to the Virgin Islands’ efforts to provide and expand Medicaid coverage in the Territory pending enactment of legislation guaranteeing State-like treatment referenced above. CMS should therefore utilize its broad discretion and exercise flexibility in reviewing a Territory’s demonstration that it qualifies as an “expansion state” for an enhanced FMAP. The National Association of Insurance Commissioners supports the Territorial governments in achieving this objective and has been lobbying the Department of Health and Human Services to this end. The Virgin Islands requests the active support of the IGIA as well.

² The availability of these increased matching rates will not change the overall amount of federal Medicaid funding available because of the statutory cap on Medicaid funding for each Territory.

7. Medicare Reimbursement for Hospitals (TEFRA)

The two hospitals in the Virgin Islands, Governor Juan F. Luis Hospital on St. Croix and Schneider Regional Medical Center on St. Thomas, are reimbursed for Medicare expenditures based on an outdated methodology established under the Tax Equity and Fiscal Responsibility Act of 1982 (Pub.L. 97-248) ("TEFRA"). In 2011, the hospitals each submitted to the Centers for Medicare and Medicaid Services ("CMS") a request for assignment of a new TEFRA base year. Those requests are still pending. The Virgin Islands requests the support of the IGIA for prompt approval of the hospitals' rebasing requests.

Homeland Security

8. Proposed Virgin Islands Special Visa Waiver Program

On January 19, 2012, President Obama signed an Executive Order entitled "Establishing Visa and Foreign Visitor Processing Goals and the Task Force on Travel and Competitiveness." The Executive Order, among other things, provides for: (1) the Secretaries of Commerce and Interior to co-lead an inter-agency task force to develop recommendations for a "National Travel & Tourism Strategy"; (2) increasing non-immigrant visa processing capacity in China and Brazil by 40% this year; and (3) increasing efforts to expand the national Visa Waiver Program ("VWP").

The Virgin Islands is a highly desirable tourist and sporting event destination that would benefit both from the tourism promotion strategies and the visa waiver expansions outlined in the President's Executive Order. Consistent with efforts to expand the VWP, the Government of the Virgin Islands respectfully requests that the President seek authority from Congress to establish a special visa waiver program for the Virgin Islands that mirrors programs currently authorized for, and utilized successfully by, Guam and the Commonwealth of the Northern Mariana Islands ("CNMI").

A special visa waiver program for the Virgin Islands would permit visa-less entry for citizens of certain Caribbean Community ("CARICOM") countries. While these countries maybe too small to receive serious or expedited consideration for inclusion in the VWP, their citizens do have substantial ties to the Virgin Islands and a targeted visa waiver program for such countries would create substantial economic benefits and opportunities for the Virgin Islands. For example, the Virgin Islands annually hosts special international events such as yacht shows and regattas, track and field, swimming, volleyball and basketball events. While certain visitors may qualify under the VWP to enter on a passport alone, others must go through a visa application and approval process before being permitted to enter the Territory for such events. That visa application process does not always serve the particular interests of the Virgin Islands, resulting in fewer visitors and economic benefits for the Territory. Further, where other Caribbean islands do not have similar visa application procedures and timelines, the Virgin

Islands is placed at a comparative disadvantage in the region, including the ability to attract tourists and serve as host to large international special events.

A special visa waiver program for the Virgin Islands would lead to increased tourism and greater opportunities to host international special events of economic importance. For events such as the Rolex Regatta, the program would result in a greater number of guest charter brokers, charter vessels, foreign press, industry supporters, and other related individuals entering the Virgin Islands without having to apply, in advance, for a visa. Additionally, the VWP would help create a broader market for the Virgin Islands by appealing to regional travelers who wish to use our medical facilities and shop at our retail establishments. While extending visa waiver authority to citizens of countries not currently eligible for the VWP, the proposed special V.I.-only program would remain reasonably limited in scope to CARICOM and other neighboring countries that do not pose a security threat and that have close ties to the V.I. tourist economy. Additionally, as with the Guam and CNMI programs, the proposed V.I. program would include safeguards to protect the mainland United States.

In 2013, Senator Wyden, Chairman of the Energy and Natural Resources Committee, submitted an amendment (SA 1308) to the Senate immigration bill, the "Border Security, Economic Opportunity, and Immigration Modernization Act (S.744), that would authorize the V.I. Special Visa Waiver Program language (copy attached). The Department of Homeland Security ("DHS") has favorably reviewed that language, and we urge the IGIA to support inclusion of similar language in the House immigration bill(s) and in any conference report.

9. Support for full funding of CBP Activities in the Virgin Islands

U.S. Customs and Border Protection ("CBP") has insufficient federal funds to pay for its Virgin Islands ("USVI") operations and has been increasingly using GVI funds to subsidize its growing field operations deficit. The current situation is a culmination of unintended consequences stemming, in large part, from the unique customs import duty provisions in effect in the Virgin Islands, in concert with the dramatic expansion of CBP's mission and costs following the 2003 consolidation of CBP into DHS.

The Virgin Islands is a designated Port of Entry into the United States. CBP's Port of Entry activities include traditional customs services, as well as post-consolidation immigration, agricultural inspections and enhanced interdiction and enforcement. Although the Virgin Islands is a Customs Port of Entry, the GVI is authorized by Congress to set its own customs import duties (limited by federal law to not more than six percent ad valorem and subject to exceptions and exclusions, e.g., generally excluding duties on imports from the continental U.S.). Federal law authorizes CBP to collect the Virgin Islands' customs duties and remit the collections to the V.I. treasury, less only CBP's cost of collecting the duties. 48 U.S.C. § 1642-1642a.

The intent of the law is for the Virgin Islands to receive net revenue from its customs duties, but unfortunately that is no longer happening. CBP has been increasingly retaining

CBP’s customs duty revenue to pay for rising—and apparently underfunded—costs of its other federal activities. These include costs for immigration and agricultural inspection activities that by law should be funded only by dedicated user fee funds, or if inadequate, federal appropriations. In fact, FY 2013 was the first fiscal year CBP allocated any meaningful appropriated funds to its Virgin Islands operations. CBP should set sufficient user fee funding levels and/or allocate appropriated funds every year for any user fee funding deficits, as is the case in other CBP field operations districts.

In addition, CBP is charging the Virgin Islands for the full cost of U.S. inbound customs clearance services in the Virgin Islands (including pre-clearance of passengers traveling from the V.I. to the continental U.S.), while other foreign Caribbean islands, e.g. Bahamas, Bermuda, and Aruba, receive virtually the same services from CBP for free, funded largely by Customs/COBRA user fee funds. It is the GVI’s position that CBP’s U.S. inbound clearance/pre-clearance activities in the Virgin Islands should also be funded with Customs/COBRA user fee funds, and in all events, CBP should not charge the Virgin Islands for equivalent services that CBP provides for free in foreign Caribbean islands. We request the assistance of the DOI in our negotiations with DHS and any Congressional action that may be required to ensure parity with these foreign jurisdictions.

10. Expand the Caribbean Basin Security Initiative to include the U.S. Territories in the Caribbean, or establish a comparable program for the U.S. Virgin Islands and Puerto Rico with similar financial resources and programs

The Caribbean Basin Security Initiative (“CBSI”) is a pillar of the federal government’s security strategy focused on citizen safety in the Caribbean. CBSI brings together all members of CARICOM and the Dominican Republic—but not the U.S. Territories in the Caribbean—to jointly collaborate with the federal government on regional security. The federal government and Caribbean countries have identified three core objectives to deal with the threats facing the Caribbean: (1) reducing illicit trafficking in narcotics and weapons, (2) increasing public safety and security by reducing crime and violence and improving border security, and (3) promoting social justice by, for example, assisting vulnerable populations at risk of recruitment into criminal organizations.

The United States is making a significant contribution to CBSI, committing \$203 million in funding for the first three years of the initiative in the following areas: Maritime and Aerial Security Cooperation (e.g., supporting regional maritime and aerial coordination by improving radar coverage in strategic locations and sharing radar information, and providing equipment and training, and sustaining those capabilities), Law Enforcement Capacity Building (e.g., enhancing law enforcement effectiveness through equipment and training, and implementing anti-gang initiatives), Border/Port Security and Firearms Interdiction (e.g., providing technical support, technology upgrades, and training), Justice Sector Reform (e.g., rehabilitation services, and prison assessments and training to alleviate overcrowding and improving prison conditions), and

Crime Prevention and At-risk Youth (increasing educational opportunities and providing workforce development and entrepreneurship training for at-risk youth as an alternative to crime and other harmful behavior, and funding to support drug demand reduction through the training of treatment and rehabilitation professionals). The U.S. Virgin Islands and Puerto Rico would greatly benefit from participation in the CBSI, and should be included. Alternatively, the federal government should establish a comparable program for the U.S. Virgin Islands and Puerto Rico with similar financial resources and programs. We request the assistance with DOI in our discussions with the White House and State Department to achieve parity.

Early Education

11. Inclusion of the Small Territories in President Obama’s Plan for Early Education for all Americans

In his February 12, 2013 State of the Union address, President Obama called on Congress to expand access to high-quality preschool to every child in America. As part of that effort, the President indicated that he would propose a series of new investments, including a new federal-state partnership to provide all low- and moderate-income four-year old children with high-quality preschool, incentives for full-day kindergarten, new competitive grants for Early Head Start and Child Care, and extending and expanding voluntary home visiting to connect families to services and educational support. Within the last year, the Virgin Islands has issued new early childhood learning guidelines, is implementing a quality rating improvement system for its development centers, and is actively working to improve its curriculum.

The children in the Virgin Islands and the other small U.S. Territories would greatly benefit from these early childhood initiatives, and the programs should be designed and implemented to include these children. However, the funding provided in the Consolidated Appropriations Act of 2014 for these programs is made available under sections 14006 (State Incentive Grants) and 14007 (Innovation Fund) of Division A of the American Recovery and Reinvestment Act of 2009 (“ARRA”), which do not apply to the small Territories. (Under ARRA, the small Territories and other “outlying areas” received a set-aside under ARRA section 14001 and for that reason were not included in sections 14006 and 14007.) As a result, children in the small Territories are being denied access to the high-quality preschool that has been promised to every child in America. The funding formulas should be changed to include the small Territories in the President’s program.

Transportation

12. Restore Cuts to Highway Funding

In the final years of the “Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users” (“SAFETEA-LU”) and the numerous extensions thereof through June 30, 2012, Congress allocated \$50 million annually to the four small Territories under the

The Honorable Lorraine (“Lori”) Faeth
February 18, 2014
Page 11

Territorial Highway Program. The Virgin Islands received approximately 40 percent of that amount (approximately \$20 million of the \$50 million per year).

Moving Ahead for Progress in the 21st Century (“MAP-21”), enacted into law on July 6, 2012, reauthorized surface transportation programs for fiscal years 2013 and 2014. MAP-21 maintained highway funding levels for all states, as well as DC and Puerto Rico, but cut highway funding for the four small Territories by 20%. Singling out the four small Territories for funding cuts was unfair and discriminatory and ignores the substantial pressing transportation funding needs of the Territories. To correct this inequity, funding levels for the Territorial Highway Program should be restored in new surface transportation legislation now being developed by the House and Senate transportation committees. The Virgin Islands requests the support of the IGIA in this effort.

MAP-21 also re-authorized the Secretary of Transportation to provide technical assistance to the small Territories to enable the Territories to engage in highway planning, conduct environmental evaluations, administer right-of-way and relocation assistance programs, and design, construct, operate, and maintain a system of “arterial and collector highways, including necessary inter-island connectors.” To ameliorate the impacts of the funding cuts to date, Congress should provide technical assistance funding to the Virgin Islands and the other small Territories under 23 U.S.C. § 165(c) for “arterial and collector highways, including necessary inter-island connectors” through the appropriations process.

* * *

Please let me know if you have any questions.