

THE WHITE HOUSE
WASHINGTON

December 27, 1979

To Stu
J.

MEMORANDUM FOR:

The President
RICK HUTCHESON

FROM:

STU EIZENSTAT *Stu*

XC: Best
David
Stu

SUBJECT:

Domestic Policy Review, U.S. Territories
and the Trust Territory

Attached is a decision memorandum on territorial policy which should be read as soon as possible, due to potential budget impacts for FY '81. Although the DPR memo, report, and comments consist of two volumes, the President need only read our cover memo and Tabs A and B.

Thanks.

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December 27, 1979

MEMORANDUM FOR THE PRESIDENT

FROM: STU EIZENSTAT *Stu*
AL STERN
JEFFREY FARROW *JF*

SUBJECT: Domestic Policy Review, U.S. Territories and
the Trust Territory

At your direction, a sub-cabinet level interagency task force was established in February to review Federal policies toward the territories of Guam, Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, under the Domestic Policy Review system. It was charged with answering six questions (Tab C) on Federal policies for these areas (and, in one respect, for Puerto Rico as well.)

The report of the task force, which was ably headed by Interior Under Secretary James Joseph, is attached. It has been reviewed by us and does not require your perusal. (An executive summary is found at Tab D and the full responses to the questions are at Tab E.)

Background

A number of developments precipitated this examination of U.S. territorial policy:

- Individuals in some of the territories have lately displayed a new interest in modifying their political relationship to the United States;
- Administration officials and Congressional leaders have been increasingly concerned about inadequate economic development in the territories;
- Increased deficits have arisen. Both Guam and the Virgin Islands are close to financial crisis despite very high levels of Federal assistance;
- Territorial income tax revenues, as a percentage of gross territorial product, have dropped substantially;

- Some territories have had increasing difficulty in providing essential public services, prompting requests for extraordinary Federal assistance;
- Policies promulgated by agencies or through unrelated legislative acts are inconsistent and often work at cross-purposes, confusing the territories and frustrating well-intentioned programs;
- The territories have recently been confronted with social problems such as crime that have reached, in some instances, a crisis level; and,
- The government and administration of the territories have changed considerably in recent years prompting the need for a reconsideration of organizational arrangements within the Executive Branch.

Your concerns were expressed November, 1978 in vetoing legislation authorizing special appropriations for Guam and the Virgin Islands, compensating their treasuries for the impact of changes in the U.S. Tax Code. In that message you said that the practice of ad hoc funding of territorial deficits "does not sufficiently encourage responsible financial management" and directed a study of the fiscal relationship between the United States and Guam and the Virgin Islands. That study was incorporated into this policy review.

Decisions

As a result of the Domestic Policy Review, the task force proposed solutions for many of the deficiencies inherent in current Federal policy toward these off-shore areas. On issues of political development, financial assistance, improving territorial tax systems, reforming the Federal grant process and Federal organization, there was consensus among the agencies as to a preferred course of action. (These decisions are conceptual, however, and will require translation into proposed legislation or administrative actions before final agency clearances are given.) We concur with the consensus recommendations and suggest that you approve these policy decisions itemized at Tab A.

On a few major issues, however, there was substantial disagreement within the task force and a consequent need for a choice by you among options. These issues relate to mechanisms to foster territorial economic development and the Federal presence in the territories. Domestic Policy Staff recommendations ~~on those~~ issues are included along with those of the ~~task force~~ agency and EOP participants. Those ~~decisions~~ are to be found at Tab B.

The decisions contained herein are intended to serve as the framework for a comprehensive Administration policy toward the

insular possessions. The lack of such a policy is exhibited by unrelated, often contradictory budgetary and other administrative actions and policy determinations. Combined with Congress' jealous guarding of its Constitutionally-mandated plenary power over the territories, it has inspired sharp criticism of the Administration's record in this area...some of it justified.

Jack, Frank, Anne, and Sarah concur in these recommendations.

Territorial Views and Participation

In the preparation of responses to the six questions addressed to it, the task force consulted extensively with territorial elected officials. Their comments were solicited on draft papers and incorporated, where it was felt useful and appropriate, in revised papers. (Territorial comments on draft papers are attached.)

Not all territorial aspirations would be met by the recommended policy. The task force believes, however, and we agree, that the territorial aspirations to which we would be responding would resolve many of the most pressing irritants in the Federal-Territorial relationship.

Congressional Interest and Consultation

Because the realization of many of the policy objectives contained in this memorandum would require legislative action and because of Congress' responsibility for the territories, the task force also worked closely with those congressmen who regularly devote much attention to these issues. Although the number of this group is small, it includes such key individuals as Senator Bennett Johnston and Congressman Phil Burton, whose interest in these areas is strong and continuing.

Implementation

The decisions to be made below are intended to be reflected in our FY '81 budget request and through a legislative package to be submitted early next year as well as through a series of executive orders. A public statement outlining the major elements of our territorial policy would be issued subsequent to your decisions.

Task Force Recommendations

The task force recommended (OMB disagreed with points two and three below but did not think Presidential decisions on the issues were warranted), that the Administration do the following:

- (1) Issue a Presidential statement reaffirming the United States commitment to the fundamental policy of encouraging the self-determined political, economic, and social development of the territories. It should indicate that all political status options are available as they become economically feasible and that the President would support any decision with respect to status freely reached by the people of the territories that is implemented in a manner that does not compromise the national security of the United States.
- (2) Announce that any territory whose people aspire to modify significantly their current political status should, through their elected political leaders, express those aspirations to the Secretary of the Interior. He will in turn, conduct talks with pertinent territorial leaders along with representatives from other Federal agencies. Following such talks, a full report would be submitted to the Congress, along with any proposals needed to effect changes recommended by the Secretary.
- (3) Propose a Constitutional amendment to permit citizen residents of the territories to participate in Presidential elections. The task force recommended no initiative with respect to an amendment providing voting representation in the Congress for the territories, but suggested that the President should be willing to support such an amendment if one is advanced in the Congress, so long as the territories are not accorded the level of participation as they would receive if they were States of the Union.
- (4) Encourage Guam and the Virgin Islands to continue in the constitution drafting process under existing enabling legislation, so that in due course such local instruments can replace the organic acts of the U.S. Congress which now constitute the framework for these territorial governments.
- (5) Establish a single commission to examine the application of Federal laws, on a statute-by-statute basis, to ea

Why announce this? - Just state it as continuing an established policy -

Prefer no Presidential position

of the territories (other than the Northern Marianas, for which a Federal Laws Commission will shortly be appointed.) Representatives of each territory would join Federal representatives in recommending proposed legislation which flows from this examination to the President for submission to the Congress.

- Permit*
- (6) ~~Direct~~ the Secretary of the Interior to consider and make further recommendations ^{to the President} on:
- a) Senate representation for the territories;
 - b) Representation in the Congress for the Northern Marianas; and
 - c) Court reform in Guam and the Virgin Islands.
- (7) Direct the agency with lead responsibility for economic development in the territories to undertake an analysis of Federal constraints on economic development in the territories. Financial resources and employment authority would be made available. Other Federal agencies with programs affecting economic growth in the territories would be directed to assist the lead agency in these efforts.
- (8) In order to improve the effectiveness of Federal grant programs in the territories:
- a) Issue Presidential Memorandum to encourage territorial chief executives to strengthen territorial grant coordinating units and develop comprehensive multi-year development plans and annual investment plans as a basis for grant coordination for the evaluation of requests for project or program assistance.
 - b) Issue an Executive Order directing Federal grant agencies to keep Interior currently informed of grant applications, approvals, and disapprovals, and with financial data related to the grants.
 - c) Draft legislation, authorizing joint-Federal/territorial multi-year planning with Federal planning grants.
 - d) Develop a test proposal to provide block grants on a pilot basis in lieu of categorical grants-in-aid.

(9) To improve the organization of the Executive Branch for dealing with territorial issues:

- a) Announce that the Secretary of Interior will retain lead responsibility for U.S. territories with increased support from other agencies and the White House staff.
- b) Propose legislation to establish an Assistant Secretary within Interior to coordinate Federal activities.
- c) Commit that staff assistance for territorial matters will be among the major responsibilities of a senior assistant on the Domestic Policy Staff.
- d) Continue the existing policy of assigning no agency responsibility for special liaison, advocacy, and assistance for Puerto Rico until there is an expression from that island's government to the contrary.
- e) Assign the Interior Department responsibility for Northern Mariana Islands.
- f) Assign post-trusteeship administrative responsibility for the freely associated states of Micronesia to the Department of State, perhaps through an interagency arrangement.

does Andrews agree? →

(10) Propose legislation to extend the Internal Revenue Code with IRS administration to the territories, replacing their so-called "mirror system" of taxation.

(11) To improve the mechanism by which the Federal Government assists territorial governments financially:

- a) Issue a Presidential statement indicating a focus on capital improvement projects, economic development and greater territorial contributions over time toward the funding of local programs and capital development, and an unwillingness to fund territorial budget deficits.
- b) Incorporate 90/10 Federal-territorial cost-sharing ratio for capital projects funded by Interior in the FY '81 budget. (Currently projects that are approved are generally funded 100% by the Federal Government.)
- c) Selectively waive territorial matching requirements only for those Federal categorical programs which

the Federal Government wants to promote in the territories. (Current law allows for waiver of matching requirements for all categorical programs.)

- d) Propose legislation to be included in the FY '81 budget that would authorize a Federal match of increased territorial tax collections over a given base. (Estimated cost in FY '81 is \$22 million using a 50% match over a FY '76 to '78 base. This additional assistance would be structured to decrease over time.)
- e) Increase Federal oversight over territorial budgets.
- f) Set a specific ceiling on operational funding provided by Interior to territories at the previous year's base plus a five percent inflation adjustment.

Concur (Recommended)

Do not concur

as amended
J

Disputed Issues

(1) Lead Agency for Economic Development

While there was no disagreement within the Task Force that the Federal Government should take additional steps to foster the growth of the private sector economy in the territories, there was disagreement regarding which Federal agency should have primary responsibility. The options are between:

- (A) Interior, coordinating the work of normal economic development agencies such as EDA and DoD's Office of Economic Adjustment, and
- (B) EDA, through a special unit responsible for territorial planning and funding, in close coordination with Interior which is being reaffirmed as the overall lead agency for territorial matters.

Arguments for Option A

Supporters oppose dividing the lead responsibility for territorial assistance. They argue that if economic development is to be integrated with other aspects of development assistance to these distant and different small islands, the lead agency for territories should perform a coordinating function, calling upon the resources of pertinent agencies such as EDA for strategy planning and implementation. They assert that the task force's recommendation of a substantial upgrading of territorial priorities within Interior and a budgetarily enhanced ability to foster economic development would produce a departure from Interior's poor record of promoting economic development. A lead assignment to the territories office would not be an incursion into the purview of single mission agencies such as EDA.

Arguments for Option B

Responsibility for program areas as they affect the territories should remain with the agencies with lead responsibility for them throughout the nation even though the territories face special problems. Supporters cite EDA's expertise in this field and point to Interior's admitted lack of success. They contend that it is unrealistic to expect an economic development unit within the territories office to ever match the expertise of the national economic development agency.

(DPS, Interior, State, Defense) Approve Option A ✓ J

(OMB, Commerce, Treasury) Approve Option B

(2) Territorial Development Bank

The task force debated whether Interior should develop legislation to establish a territorial development bank to encourage private sector development. The role of the bank would be to tailor financing and assistance packages to the particular needs and opportunities in each of the territories, promoting private sector growth and helping to coordinate development assistance from other agencies as well as the private non-profit sector.

The bank would be developed as a private non-profit corporation with the government providing the bank with the majority of an initial equity capitalization of between \$50 million and \$100 million. Operating costs would be funded through a mechanism suggested by Interior. The bank's major goal would be to develop effective ways to using risk-sharing and indirect funding techniques to stimulate the flow of private capital and credit into territorial ventures.

Arguments For

This option is perceived by some agencies as being directly tied to a decision above to charge Interior with the primary responsibility for economic development drawing upon its own resources and the programs of other agencies such as EDA. The proposal recognizes there is a need for both technical and financial assistance for private sector development in these islands. It would assure that projects are feasible and sufficiently capitalized.

Arguments Against

Under legislation which would expand the role of EDA, that agency would have all the development tools that would be the elements of a territorial bank. Consequently, there is no need for a new mechanism. EDA proposes as an alternative, (assuming Option B is selected immediately above and it becomes the lead agency for economic development in the territories) the establishment of annual development finance funding targets, contingent upon the formulation of realistic territorial development plans which specifically identify private sector financing opportunities.

(DPS, Interior, Treasury, Defense) Approve _____

(OMB, Commerce) Disapprove _____

*I do not favor bank - starting another an existing law
Assess ability of Ex-Im, for laws to accommodate needs -
to be modified territories*

(3) Federal Field Offices

There was agreement within the task force that a continuing Federal presence is needed in the territories over and above that provided by regular programs or services because the annual Federal financial contribution is such a substantial portion of territorial revenues and because of the need for technical assistance to developing territorial governments. Although there was much sentiment in the territories for replacement of the Federal Comptrollers by a local auditor, the task force uniformly supported retention of the Comptroller's auditing function. It was split, however, on the question of whether the Comptrollers should provide technical assistance in the field of financial management or whether that service should be part of the mandate of new Interior field offices in the territories. The options are:

- (A) The Federal presence will consist primarily of the offices of the Federal Comptrollers which should continue to provide not only auditing functions but technical assistance to territorial governments in financial management as well. (This would be a non-add to the budget since it represents the status quo); and
- (B) The Comptroller's functions will be limited to auditing functions only with new field offices of the lead agency for territories providing technical assistance in economic and social development, public administration as well as financial management. They would serve as a policy liaison to the recommended Assistant Secretary for territories in Interior and a coordinating mechanism for the myriad Federal activities in the territories. (Estimated cost in FY '81 is \$1.6 million plus 26 FTP.)

Arguments for Option (A)

The status quo would not require any additional full-time permanent personnel. There is at least some territorial support for the existing situation and dispute as to whether field offices could provide the coordinating functions contemplated. Further, it is conceivable that if the mission of the offices is not properly explained, their policy liaison assignments could be perceived as

an intrusion on local decision-making rather than as an effective channel of communication, as well as a duplication of the role of existing Federal regional personnel.

Arguments for Option (B)

This option would help ensure the provision of a range of technical assistance that is currently requested and vitally needed, but not always provided. It would ensure greater cognizance of territorial problems at the Federal level and enhance high level policy attention. It would meet the need for a coordination of Federal activities. It would enhance understanding of policy objectives between the Federal and territorial governments.

(OMB, Treasury)

Option A ✓

J

(DPS, Interior,
Defense, State)

Option B

