



United States Department of the Interior

OFFICE OF THE SECRETARY
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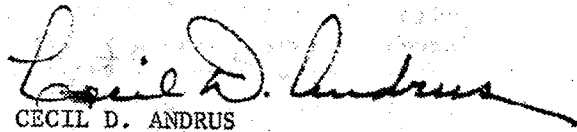
Memorandum

To: Stuart E. Eizenstat
Assistant to the President for Domestic Affairs and Policy

From: Secretary of the Interior

Subject: Priority Issues from the President's Message on the Territories

In the President's February message on the territories, the Domestic Policy Staff has identified 23 specific issues deserving priority attention. In this connection, I felt you would want to know the status of and the progress we are making in the implementation of the President's initiatives. The Assistant Secretary-Designate, Territorial and International Affairs and his staff are giving this matter close personal attention and will report periodically on the resolution of each of the issues.


CECIL D. ANDRUS

Status Report

Implementation of the President's Territorial Policy Statement

Set forth below are 23 points, as derived by the Domestic Policy Staff from the President's Policy Statement of February 14. The Department of the Interior, office of Territorial and International Affairs, has undertaken with respect to each of the points, first to quote the pertinent portion of the President's message, and second to describe the status of the matter as of September 8, 1980.

1. Reaffirm the U. S. commitment to self-determination.

"In keeping with our fundamental policy of self-determination, all options for political development should be open to the people of the insular territories so long as their choices are implemented when economically feasible and in a manner that does not compromise the national security of the United States."

Status: Further action is unnecessary, at least at this time because the President's statement constitutes the reaffirmation, and speaks for itself.

2. Political development talks policy.

"If the people of any of the territories wish to modify their current political status, they should express their aspirations to the Secretary of the Interior through their elected leaders, as is the case now. The Secretary, along with representatives of the appropriate Federal agencies, will, in turn, consult with territorial leaders on the issues raised. Following such discussions, a full report will be submitted to the Congress, along with the Secretary's proposals and recommendations."

Status: On August 26, 1980, Acting Secretary of the Interior James Joseph sent letters to all of the territorial governors, heads of legislative bodies, and representatives in Washington, inviting them to make known to the Interior Department the aspirations of the people of their areas for any modifications in their current political status. The letters make clear that "status negotiations", as such (of the sort well known in the Trust Territory context), will not occur, because the Executive Branch has no authority to "negotiate" changes in the territories' status.

On the basis of newspaper reports -- so far no official reports have reached Interior -- we understand that Guam has, by act of its Legislature, and approved by the Governor, created a local status commission, titled the

Commission on Self-Determination. We further understand that that commission will study alternative status possibilities for Guam. The Virgin Islands, local papers tell us, passed status commission legislation on August 7, 1980. We have not yet received details on the composition or mandate of the commission.

3. Encourage constitution adopting in Guam and the Virgin Islands.

"To maximize local self-determination...I want to encourage the people of Guam and the Virgin Islands to continue in the constitution-drafting process. By doing so, they will in due course replace the Federal laws under which their local governments now function with instruments of their own design."

Status: The Interior Department believes that no further "encouragement" is desirable at this time. The Virgin Islands has drafted a new constitution. It was presented to the President in late August and is now undergoing review within the Executive Branch.

There is no question that Guam is mindful of the comments of the President on constitution-drafting, and further importuning of Guam on this subject is unnecessary and could be counter-productive.

4. Commission on the applicability of Federal laws.

"So that we may make sense out of the somewhat confused pattern of Federal laws that now apply or fail to apply to the territories, I will propose legislation to establish a Presidential Commission to examine the application of Federal statutes on a case by case basis to Guam, the Virgin Islands and American Samoa. On this Commission, representatives of each of the territories would join Federal legislative and executive representatives in recommending legislation to the President for his submission to Congress."

Status: Legislation to create the commission is pending in the Congress, as Title III of the Administration bill, S. 2735. Recent hearings and follow-up meetings between TIA and committee staff suggest that the Administration's proposal will be accepted and perhaps expanded to include other insular areas.

5. Interior recommendations on Senate representation for the territories, Northern Mariana Islands Congressional representation, and Guam/Virgin Islands court reform.

"The Secretary of the Interior will also make recommendations to me on the other proposals for political development considered during the Administration's Domestic Policy Review, including: Federal court reform in Guam and the Virgin Islands, Congressional representation for the Northern Mariana Islands, and other changes in current law."

Status: Interior's recommendations on the first two items (Senate representation for the territories, and Congressional representation for the Northern Marianas) are expected to be sent forward to the President in about one month. The Interior Department is seeking the views of the Governors of Guam and the Virgin Islands about court reform, as contemplated in the report of Task Force I, and following receipt of their views, the Interior Department will report further. In the meantime, Delegate Antonio Won Pat on August 26, 1980, introduced H.R. 8030, "a bill to grant diversity jurisdiction to the District Court of Guam, and to grant such jurisdiction to such court regardless of the sum or value of the matter in controversy."

6. Interior study on Federal constraints to territorial economic development.

"I will also direct the Department of the Interior, with the assistance of Federal economic development agencies, to undertake an analysis of Federal constraints on territorial economic expansion. This study will provide information and policy guidelines for the Commissions on Federal laws and will propose concrete action to remove administratively-imposed constraints."

Status: By letters to the Governors of Samoa, the Northern Marianas, and the Virgin Islands, the Interior Department is seeking their views as to what constitute "Federal constraints on territorial economic expansion" in their respective areas. We have considerable information as to the views of the Governor of Guam on that subject, and are following up, as appropriate, with respect to the removal of restraints for Guam. We hope to achieve at least a mutual understanding of what those restraints are and how they should be eliminated, by the end of this calendar year.

7. Presidential memorandum to territories encouraging strengthening of grant coordination and development of comprehensive and investment plans.

"Several other initiatives will be undertaken by my Administration to enhance the effectiveness and usefulness of Federal grant programs, including:

--"encouragement to territorial governors to strengthen their grant coordinating units and to participate in other joint planning efforts..."

Status: No substantial implementing action has been taken. See status comment following Point No. 10.

8. Executive Order requiring agencies to inform Interior on grant.

The message states that the Administration will initiate "a directive to all Federal agencies to keep the Department of the

Interior informed of all grant applications and decisions affecting the territories and to provide it with data related to the applications and the programs to which they apply..."

Status: No substantial implementing action has been taken. See status comment following Point No. 10.

9. Legislation authorizing Federal/territorial planning financed by Federal grants.

"To plan and set priorities for territorial capital development, my Administration will propose a program for joint Federal-territorial, comprehensive, multi-year planning, financed by Federal grants. This planning will serve other purposes as well. It will help to improve the effectiveness of Federal grant programs in the territories and it will assist the territories to better manage their finances."

Status: Title II of the Administration bill, S. 2735, would authorize Interior to provide planning assistance to the territories, and would include financial assistance to support the effort. For further comment on this subject, see the status comment following Point No. 10.

10. Test proposal for block grants to replace categorical aid.

The message states that the Administration will initiate "development of a test proposal to provide the territories with block grants replacing the categorical grants-in-aid which the territories find increasingly difficult to administer effectively."

Status: No substantial implementing action has been taken, although the Interior Department has identified the Department of Transportation as a possible candidate for the test proposal.

In general Points No. 7-10 have not been the subject of substantial implementing action for want of personnel and funds with which to support these new program initiatives. Each requires at least some expansion of the limited forces of the office of Territorial and International Affairs, and most would require some additional Federal funds. We have drafts of most of the basic instruments, e.g., a Presidential memorandum encouraging grant coordination, an Executive Order requiring that Interior be advised of grants arranged by other Federal agencies. But until Interior is in a position effectively to use the information that would be forthcoming following the issuance of these documents, it seems unwise to take the initial steps. In sum, the important areas of grant coordination, grant consolidation, and multi-year planning have received little attention, pending the expansion of Interior's personnel to do those jobs.

11. Interior lead (including economic development).

"To implement the initiatives I announce today, I will continue to rely upon the Department of the Interior, which for some time has had principal responsibility within the Executive Branch for territorial matters. To help it perform this function, I propose the following reorganization steps:

"--the Secretary of the Interior will be given clear responsibility for all matters related to the territories and will be accorded increased support from other agencies and the White House staff..."

"Attainment of the political aspirations of the people of the territories, as well as the quality of their lives, is vitally dependent on the economic viability of these insular areas. Therefore, this policy framework places special emphasis on furthering the economic development of each of these areas. As with other aspects of this policy, the Department of the Interior, will be given new responsibilities to accomplish this end. Chief among these will be coordination of the work of the Federal government's economic development agencies with respect to the territories."

Status: The memorandum of Stuart Eizenstat, dated July 14, 1980, to all Federal agencies (copy attached) effectively accomplished the designation of Interior as the lead agency. As for economic development in particular, a memorandum of understanding has been negotiated between Interior and the Economic Development Administration of the U. S. Department of Commerce and it was executed on August 29, 1980, by Interior acting through the Assistant Secretary Designate for Territorial and International Affairs, and by Commerce acting through the Assistant Secretary for Economic Development. (A copy is attached.)

12. Assistant Secretary for territories.

The message states that the President proposes that "the office charged with territorial liaison and assistance responsibility will be enhanced organizationally to help it deliver the services expected of it and will be headed by a new Assistant Secretary of the Interior for Territorial and International Affairs..."

Status: The position of Assistant Secretary of the Interior for Territorial and International Affairs has been established, and the President's nomination has been sent forward to the Senate. A hearing is expected in late September. As to organizational enhancement, a revised structure has been approved and the Department is currently supporting a request to the Office of Management and Budget for budget and staff additions for fiscal '81.

13. DPS Staff.

The message states that the President proposes that "to further ensure a coordinated Federal effort, territorial matters will be among the major responsibilities of a senior assistant on my Domestic Policy Staff."

Status: Territorial matters have been assigned to a senior assistant on the Domestic Policy Staff.

14. Assign Interior responsibility for the Northern Mariana Islands.

The message proposes to "make explicit Interior's responsibilities for the Northern Mariana Islands..."

Status: A draft Executive order has been prepared and is expected to be sent forward by Interior to the Office of Management and Budget during September.

15. Assign State the post-trusteeship freely associated states of Micronesia.

"The organizational arrangements for handling United States relations with the freely associated States of Micronesia after termination of the Trusteeship...will not be determined until the final character of our responsibilities with regard to those island States is fully defined through the agreements now being negotiated."

Status: Inasmuch as the "character of our responsibilities" to the foreseen freely associated states has undergone modification in recent months, since the Task Force report of late 1979 to the President, the Interior Department is undertaking an analysis of the Compact of Free Association as it currently stands, with a view to assessing the question of what agency or instrumentality might most effectively be responsible for the post-trusteeship entities.

16. Legislation to extend the Internal Revenue System to the territories.

"To increase territorial revenues, I propose that we fully extend the Internal Revenue Code, now limited to the States and the District of Columbia, to the territories. I will submit legislation similar to S. 2017, sponsored by Senator Johnston, that will replace the so-called 'mirror' systems of income taxation imposed by Federal laws and eliminate restrictions on the local imposition of a local income tax.

"This measure would provide the territories with many advantages in addition to according them State-like Federal income tax treatment. Collections by the Internal Revenue Service would be covered over to

territorial treasuries for an anticipated significant net gain. Anomalies in current tax laws would be eliminated, encouraging business activity and increasing collections. Employees of territorial tax agencies would be given preference in hiring for Internal Revenue Service positions in their territories. And the legislation would create new incentives for business investment."

Status: The key Executive branch agencies (Treasury, Interior, and Office of Management and Budget) have not yet come into agreement as to certain key elements of the proposed legislation. The territorial governors have been given until October 1, 1980, to comment on the June 27 Treasury draft. It should be pointed out that there are strong and opposing views held by Treasury and Interior regarding policy and technical sections of the draft bill. Interior's expectation is that after October 1, taking into account territorial comments and the need to resolve differences within the Administration, a position on the legislation will be established and a bill will be sent forward to the current Congress.

17. Financial assistance policy.

"Thus, while my Administration will continue to oppose measures that provide a discentive to prudent budget practices -- such as the financing of deficit spending -- I will submit legislation designed to enable Guam and the Virgin Islands to alleviate immediate and near-term budgetary pressures while improving their financial management practices.

"This proposal is expected to provide an additional \$25 million in financial aid to the two territories in Fiscal Year 1981, as well as to provide an incentive toward greater local tax effort. It will be accompanied by assistance designed to improve budget-making and planning in the territories. It will make continued additional Federal support contingent on sound budgeting and accounting practices, including a plan to eliminate accumulated deficits."

Status: The financial formula, adopted as the Administration's implementation of these paragraphs, is contained in Title I of S. 2735. See Point No. 21 below. That formula was reportedly viewed as "too complicated" on the House side and accordingly not introduced there. While the Administration measure was introduced in the Senate by request, at a recent hearing on territorial matters, Senator Bennett Johnston also signaled resistance to the formula. Interior is currently working with Administration officials and the Senate Committee in an attempt to preserve the intent of the policy objective.

18. 90/10 cost-sharing for capital improvement projects.

"In many of the islands, meaningful economic growth -- as well as a decent standard of living -- will be an unattainable dream unless elementary facilities are constructed.

"My 1981 Budget recognizes this fact. In it I have proposed substantial Federal support for several essential capital improvement projects. The funding level proposed would have the Federal government finance 90 percent of the cost of these projects. This method of cost-sharing of capital improvement projects in the territories is a major element of the territorial assistance proposals I announce today. I urge that it be standardized until the territories become sound enough financially to assume a greater portion of the cost of needed projects."

Status: The 90/10 formula was adopted administratively for purposes of the 1981 budget, and has met with House Appropriations Committee favor. We are currently formulating a policy statement to clarify the forms of matching by the territories that will be acceptable. The 90/10 formula would be required as a matter of law if Title IV of the Administration bill, S. 2735, were enacted. That Title requires that in the case of any grant funded through Interior appropriations for a capital improvement in one of the territories, the territory must contribute at least 10 percent of the total cost of the project. The Senate Committee staff, however, views the provision as more appropriate for an appropriations bill than for an authorization bill.

19. Legislation for the selective waiver of territorial matching requirements.

The message proposes "a waiver of matching requirements for programs or projects the Federal government wants to encourage in the territories..."

Status: The Interior Department is nearing the end of a months-long study of grants from all Federal agencies to the territories, to permit it to design (in cooperation with OMB, which has asked to be consulted) a policy for the waiver of matching requirements in connection only with those programs or projects "the Federal government wants to encourage". It is expected that this policy will be achieved administratively. Any legislative effort might result in the Congress' waiving of all matching requirements. The House recently so provided in the case of Samoa and the Northern Marianas, in H.R. 7330. Interior, speaking for the Administration, opposed that provision during Senate hearings, arguing that selective waiver (in accordance with the President's statement) is preferable and can be achieved under existing law.

20. Legislation for increased Federal oversight of territorial budgets.

The President's message states that the legislation referred to in Point No. 17 "will make continued additional Federal support contingent on sound budgeting and accounting practices, including a plan to eliminate accumulated deficits."

Status: The Administration bill, S. 2735, so provides in sections 102 and 103. Those Sections require that each territory adopt a plan providing for the implementation of an effective budget and accounting system, realistic revenue and expenditure projections that will reduce deficits and result in a balanced budget by 1985, financing of accumulated deficits, and quarterly goals and timetables. If the Secretary is not satisfied that the goals and timetables are being met, he can withhold the matching payments otherwise due. The fate of these provisions is uncertain in view of the Congressional resistance to the matching formula, discussed under Point No. 17 and 21.

21. Legislation for a Federal match of increased territorial tax collections.

The President's message states that the legislation referred to in Point No. 17 would "provide an incentive toward greater local tax effort."

Status: Title I of the Administration bill, S. 2735, provides tax matching grants for Guam and the Virgin Islands. The formula involves (1) dividing total net local tax collections by local per capita income, (2) multiplying the resulting figure by \$3000, and then (3) deducting from that figure 50 percent of the amounts currently received by Guam and the Virgin Islands by operation of law, i.e., money paid to Guam under section 30 of the Organic Act, and money paid to the Virgin Islands measured by internal revenue collections on Virgin Islands products that are transported to the United States.

22. Ceiling on operational funding provided by Interior.

"My 1981 Budget proposes a continuance of significant Federal support for American Samoa and budgetary support for the Northern Mariana Islands as required by the Covenant. Both will also be able to participate in our program of budget planning assistance. As an incentive to self-reliance in American Samoa, I propose that in the future our operational assistance to that territory be limited to the previous year's base plus a five percent inflation adjustment."

Status: The President's 1982 budget request will be limited in the manner stated for American Samoa.

23. Assess ability of Federal entity to finance private sector development.

"I have, further, directed the Secretary of the Interior to devise methods of encouraging private sector development in the territories by providing technical training and public and private financing assistance. Again, in this effort the Secretary of the Interior will coordinate the involvement of all relevant agencies, particularly the Economic Development Administration of the Department of Commerce, which I expect to play a major role in fostering the growth of the private sector in the territories."

Status: The senior economist in the office of Territorial and International Affairs has explored the availability of financial assistance from other Federal agencies. In addition, the Special Assistant to the Secretary of the Interior for Economic Development has recently traveled in the territories and developed a proposal, now under review, for assisting private enterprise in the territories by means of Federal loan guarantees. Coordination with the Economic Development Administration will take place under the Memorandum of Understanding described in Point No. 11 above.