



GOVERNMENT OF
THE UNITED STATES VIRGIN ISLANDS



THE OFFICE OF MANAGEMENT AND BUDGET

No. 5041 Norre Gade
Emancipation Gardens Station, 2nd Floor
Charlotte Amalie, St. Thomas, V.I. 00802

Tel: 340-774-0750
Fax: 340-776-0069

September 20, 2013

Honorable Eileen Sobeck
Deputy Assistant Secretary for Insular Affairs
United States Department of the Interior
1849 C Street NW
Washington, D.C. 20240

Re: Reconsideration of GVI's Fiscal Year 2014 Advance of Internal Revenue Matching Funds

Dear Ms. Sobeck:

We have received notification that the Internal Revenue Matching Funds ("IRMF") Advance Payment for Fiscal Year 2014 to the Government of the Virgin Islands ("Government" or "GVI") would be \$193,166,475 instead of \$263,928,448, as requested by the Government, based on (1) the projected expiration of the \$13.25 temporary Cover-Over Rate on December 31, 2013; and (2) the requirement that final calculation of Fiscal Year 2013 adjustments be completed in order to finalize the Fiscal Year 2012 adjustments.

The purpose of this letter is to request that the Department of Interior, Office of Insular Affairs ("DOI-OIA") reconsider its decision to apply a split rate calculation for purposes of determining the Fiscal Year 2014 Advance Payment. The Government estimated, and incorporated into its Fiscal Year 2014 budget, receipt of IRMF monies at the \$13.25 Cover-Over Rate for the full fiscal year based on historical precedents. Non-receipt of those funds will result in severe financial hardship, along with the corresponding and far-reaching economic repercussions, to the Territory.

As you know, the Secretary of the Treasury, through the Secretary of the Interior, is *required* under the Internal Revenue Code to provide to the Government of the Virgin Islands an advance payment of the estimated amount of Matching Funds Revenues based on the estimate of the Governor of the Virgin Islands of the amount of rum excise taxes that will be collected in any fiscal year prior to the commencement of such fiscal year. Indeed, the relevant law provides that it is the *Governor of the Virgin Islands*, not the Secretary of the Treasury, who is responsible for the making the estimate of the total "duties, taxes and fees" which will be collected in or derived from the Virgin Islands during "the next fiscal year" pursuant to the provisions of the cover-over statute. In particular, Section 4(c)(2) of the Insular Areas Appropriations Act cited above (Pub. L. No. 95-348) provides in relevant part:

. . . the Secretary of the Treasury, prior to the commencement of any fiscal year, *shall* remit to the government of the Virgin Islands the amount of duties, taxes, and fees *which the Governor of the Virgin Islands . . . has estimated* will be collected in or derived from the Virgin Islands . . . during the next fiscal year, except for those sums covered directly upon collection into the treasury of the Virgin Islands. . .

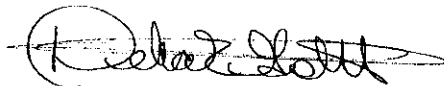
Such advance payments are, of course, subject to adjustment by the Secretary in the Advance Payment in the following fiscal year to ensure that the amounts covered-over to the Government ultimately correspond to actual collections.

The U.S. Congress has regularly and seamlessly extended the temporary \$13.25 Cover-Over Rate since it was first adopted in 1999, even extending it retroactively on occasion when Congressional scheduling allowed its temporary expiration. Therefore, if the temporary \$13.25 Cover-Over Rate does expire on December 31, 2013, it remains a very real possibility that the Congress will act to extend the rate prior to the end of the fiscal year on September 30, 2014; and would do so retroactive to December 31, 2013. And if the unlikely prevails and the Congress does not extend the rate, the Secretary has the authority to make an adjustment from the fiscal year 2015 advance.

As you know, the Government is currently working with the tax-writing committees of the Congress to make the temporary rate permanent, or in the alternative, to secure its regular extension. As noted above, the Secretary has ample discretion to calculate the Fiscal Year 2014 Advance Payment based on the current, and anticipated extension, of the temporary Cover-Over Rate.

For the reasons set forth above, the Government respectfully urges the DOI-OIA to recalculate the Government's Fiscal Year 2014 Advance Payment based on the current \$13.25 Cover-Over Rate for the full fiscal year.

Very truly yours,



Debra E. Gottlieb,
Director, Office of Management and Budget

pc: John de Jongh, Jr., Governor, U.S. Virgin Islands
Mr. Nathan Simmonds, Deputy Chief of Staff, Office of the Governor – GVI
Commissioner Angel Dawson, Department of Finance – GVI
Mr. Nikolao I. Pula, Director, Office of Insular Affairs, OIA
Ms. Charlene Leizear, Director, Technical Assistance Division - OIA