



DEPARTMENT OF PROPERTY AND PROCUREMENT

**TESTIMONY OF
LISA MARIA ALEJANDRO, COMMISSIONER**

**BEFORE THE 36TH LEGISLATURE OF THE VIRGIN ISLANDS OF THE UNITED
STATES**

**COMMITTEE ON GOVERNMENT OPERATIONS, VETERANS AFFAIRS, AND
CONSUMER PROTECTION**

EARLE B. OTTLEY LEGISLATIVE HALL

ST. THOMAS, U.S. VIRGIN ISLANDS

SEPTEMBER 22, 2025

BILL NO. 36-0102

*Testimony
of
Lisa Maria Alejandro, Commissioner of the Department of Property and Procurement
Before
The Committee on Government Operations, Veterans Affairs and Consumer Protection
of the 36th Legislature of the Virgin Islands of the United States
on
September 22, 2025*

1 Good morning Honorable Avery L. Lewis, Chair of the Committee on Government
2 Operations, Veterans Affairs, and Consumer Protection, to Vice – Chair, the Honorable Novelle
3 E. Francis, Jr., members of the Committee on Government Operations, Veterans’ Affairs and
4 Consumer Protection, non-committee members of the 36th Legislature, to the Bill’s Sponsors, the
5 Honorable Marvin A. Blyden and the Honorable Angel L. Bolques, Jr., employees of the
6 Department of Property and Procurement, fellow testifiers, Legislative Staff, and the viewing
7 and listening audience.

8 I am Lisa Maria Alejandro, Commissioner of the Department of Property and
9 Procurement (“DPP”). With me today in Chambers is Chief Legal Counsel Magdalene A.
10 Morancie, Esq. We are here, pursuant to your invitation, to provide testimony on Bill No. 36-
11 0102, “an Act amending title 31 Virgin Islands Code, Chapter 23, by re-enacting section 236b
12 requiring the use of construction materials manufactured in the Virgin Islands, to the greatest
13 extent practicable, for locally or federally funded contracts with the Government of the Virgin
14 Islands.”

15 The Department understands that Bill No. 36-0102 intends to establish a mechanism to
16 stimulate economic growth and the availability of construction materials and local contractors
17 to support all Government construction projects to include emergency and recovery response.
18 While the Department understands the intent of Bill, given the limited nature of construction
19 materials produced in the Territory, and considering that concrete, by its very nature, meets the
20 definition of construction materials produced in the Virgin Islands, and must be sourced locally,
21 we contemplate the effectiveness of the proposed Bill in achieving the intent of the Bill.

22 As we proceed with today’s discussion, we offer the following recommendations:



23 **1. Ensuring Compliance with the Terms of Federal Grant Awards**

24 First, we recommend the addition of an exception in subsection (f), such that the
25 provisions of section 236b would not apply if they are not consistent with the terms and
26 conditions of the applicable grant funding the construction project. The Government of the
27 Virgin Islands receives grants from various Federal agencies, each of which may impose distinct
28 compliance requirements. As a result, it is necessary to ensure we recognize and preserve the
29 need to comply with the terms of those different grants to remain eligible for reimbursements
30 and drawdowns. The Department notes the reference in this Bill to the 1st Circuit Court of
31 Appeals' 2012 decision in *Antilles Cement Corp vs. Fortuno* that upheld the language of a Puerto
32 Rico statute similarly requiring the use of local construction materials in locally and federally
33 funded government contracts. It is important to distinguish and note that the questions answered
34 by *Antilles Cement Corp vs. Fortuno* were specific to whether Puerto Rico was exempt from the
35 Buy American Act ("BAA") and whether Puerto Rico's statute with a 15% price variance and
36 allowance for local construction materials was preempted by the BAA's 6% threshold. While the
37 Court determined Puerto Rico was not exempt from the application of the Buy American Act and
38 that the Buy American Act did not preempt Puerto Rico's local construction materials statute,
39 that decision was not a blanket decision concerning all federal domestic preference laws, nor did
40 it consider the application of the terms and conditions of specific grants.

41 The addition of an exemption from the requirements of this Bill, to ensure compliance
42 with the terms of the varying federal grants is a reasonable request considering the breadth and
43 scope of federal grants our Territory receives and the existence of other domestic preference laws
44 such as the Buy America Act (Transportation related infrastructure)(1982) and Buy America
45 Build America Act ("BABA") (2021), that were not contemplated in the analysis of the *Antilles*
46 *Cement Corp vs. Fortuno* decision.

47 **2. Refine Application to Instrumentalities:**

48 The Bill defines Government as the Government of the Virgin Islands, its departments,
49 agencies, and instrumentalities, and further provides that the provisions will apply to the defined
50 term. If the "instrumentalities" are meant to include the autonomous and semi-autonomous
51 instrumentalities of Government to include, the Water and Power Authority, Virgin Islands Port



Authority, Virgin Islands Housing Finance and Housing Authorities, and the Waste Management Authority, it is imperative that (1) they also be included in the discussion on a Bill that would impact their operations and (2), in all instances throughout the proposed Bill, where the Commissioner of DPP is referenced to carry out a particular function, the contracting officer for the instrumentalities also be empowered and/or required to do the same, as DPP does not procure goods and services for the instrumentalities based on the provisions of Virgin Islands law. This recommendation is in line with the structure in title 31, chapter 23, section 236a, the Preferred Bidders' Statute, which applies to both the central Government and the instrumentalities.

3. Balancing Costs, Responsibilities, and Operations

As we consider the re-enactment of section 236b, we must ensure we are balancing costs throughout the life cycle of a construction project. Construction projects are typically line-item projects issued pursuant to an Invitation for Bids, which are awarded to the lowest, responsive, and responsible bidder, making price a critical factor in the award process. Under the Preferred Bidders' Statute, a preferred bidder is already afforded a 15% price variance on locally funded construction contracts, allowing that bidder's bid to be 15% higher than a non-preferred bidder and still be awarded, provided that the bidder is also responsive and responsible. In balancing costs, the Department recommends the addition of language to cap the variance at 15%, in total, such that a bidder cannot be awarded under both Sections 236a and 236b, as that has the potential for 30% price variance.

Secondly, as drafted Bill No. 36-0102, would allow a bidder to receive a 15% price variance on locally sourced construction materials which will be factored in at the time of bidding and award. However, at least two of the proposed exceptions, (1) the materials not being available in sufficient quantities or (2) satisfactory quality, may not be known until after the contract has been awarded and the project is underway. At this point, if the contractor sources non-locally produced construction materials at lower costs, the contractor should be required to bill those services while factoring in the cost savings, if any.

Third, because construction projects are typically awarded to the lowest, responsive, reasonable bidder, and cost reasonableness is determined against an engineer's estimate, the



Government would need to complete estimates for materials based on whether they are locally produced or imported.

Fourth, the Department of Licensing and Consumer Affairs' license database is already searchable; therefore, the Department posits that agencies and contractors can use that existing tool to find companies in the Virgin Islands for locally sourced construction materials. Thus, with that existing functionality, the Department recommends the deletion of subsection (e) and the distribution of the availability list.

Lastly, with the preeminent need to address the housing shortage in our Territory, the Governor is actively pursuing alternative methods of construction to include the use of prefabricated materials produced outside of the Virgin Islands. Since we are at a point where housing needs to be constructed rapidly, it is important for us to maintain avenues for sourcing materials in the most efficient and cost-effective manner to meet the needs of our community. This also underscores the need for input from the authorities responsible for housing development.

4. Editorial Changes

(a) Subsection (a)(1)(7) – delete “and those funds provided by federal laws for the purpose of revitalizing the economy” from the definition of “Public funds” as the text immediately before it already captures funds from the Federal Government.

(b) Subsection (b) Call for bids – Change reference from section 235 to 236, as the requirements for the invitation for bids are outlined in title 31, chapter 23, 236. Additionally, for purposes of the instrumentalities, add a general reference to the procurement requirement, as applicable to the instrumentalities.

(c) Subsection (g) – change factory to “supplier or manufacturer”.

Conclusion

In conclusion, Mr. Chair, we understand the intent of the Bill is to provide a pool of local contractors and readily available construction materials to support our Virgin Islands infrastructure projects. We remain in the throes of our recovery, modernization, and transition to a more resilient landscape; therefore, we applaud the Bill's sponsors for putting forth this



109 measure aimed at facilitating that continued growth. We appreciate the opportunity to contribute
110 to this important conversation, and we would welcome an additional opportunity to engage with
111 all relevant stakeholders to refine the language of this Bill so that it can meet our collective needs.
112 Thus, DPP respectfully requests that the Bill be held for further development and discussion. In
113 closing, as we chart forward, we encourage all vendors to register with GVIBUY, the Territory's
114 e-procurement platform, for ready access to information on all GVI solicitations, maintaining
115 current corporate documents, and the ability to submit bids and proposals.

116 Mr. Chair, this concludes my prepared testimony. Thank you again for the invitation and
117 the opportunity to be a part of today's discussion. We remain available to answer any questions
118 the Committee may have.

