



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

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Derek Gabriel

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Commissioner  
Department of Public Works

Good morning, Honorable Avery L. Lewis, Chairperson of the Committee on Government Operations, Veterans Affairs, and Consumer Protection; Committee members; other Senators in attendance; and the listening and viewing audience. My name is Derek Gabriel, and I am the Commissioner of the Department of Public Works. Thank you for this opportunity to provide testimony on Bill No. 36-0102.

The Department understands the importance of boosting our local economy by supporting Virgin Islands manufacturers, particularly in the construction industry. Encouraging the use of locally produced materials create jobs, stimulate growth, and ensure that projects are supported by materials that are easily accessible within our territories.

However, it is crucial to note several challenges. Local law is superseded by federal law when federal funds are involved. Unless permitted by federal law, local preferences are strictly prohibited by certain grant conditions and procurement regulations. For instance, local manufacturer preferences cannot be incorporated into Federal Highway Administration projects. As a result, the bill's requirements create a direct conflict with federal conditions which are attached to the funding we rely upon for critical infrastructure projects.

This is particularly important when talking about the idea of preferred bidders. The current preferred bidder law, outlined in Title 31, Section 236a of the Virgin Islands code already creates a structure that allows local businesses to have a 15% price preference. It also provides substantial benefits to local companies regarding government contracts. Federal law prohibits government agencies from awarding contracts in a way that favors one class of bidders, even though the bill aims to give local manufacturers an advantage. This puts both the project and its funds at risk, delaying the necessary construction projects' completion. By adding Bill No. 36-0102 to this framework, procurement officers may also face additional administrative burdens, especially when it comes to determining resource availability at bidding and construction, applying cost thresholds, and confirming eligibility.

Furthermore, the Disadvantaged Business Enterprise (DBE) program offers a chance for local, minority, and women-owned businesses to secure contracts. In practice, this program helps ensure that Virgin Islands manufacturers and contractors have meaningful opportunities to compete. Therefore, enacting this legislation requiring preferential treatment may result in duplication and compromise our projects' eligibility for federal reimbursement.

Lastly, although Puerto Rico has passed a similar law, their manufacturing base and legal system are very different from ours. The Virgin Islands has a much smaller number of active manufacturers of construction materials, making any comparison to Puerto Rico

irrelevant. Materials like concrete are nearly exhausted due to their high demand. Taking everything into account, this bill doesn't align with the realities of our unique market.

In closing, the Department supports the intent of Bill No. 36-0102 to encourage economic development using local materials. However, we suggest that the bill be amended to include explicit exceptions for federally funded projects, and that further discourse occur with agencies and industry stakeholders to ensure compliance with federal requirements and prevent unforeseen consequences.

Thank you for the opportunity to provide testimony. I stand ready for any questions or concerns you may have.