

**PROMESA IMPLEMENTATION DURING THE  
CORONAVIRUS PANDEMIC**

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**OVERSIGHT HEARING**

BEFORE THE

COMMITTEE ON NATURAL RESOURCES  
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTEENTH CONGRESS

SECOND SESSION

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Thursday, June 11, 2020

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## CONTENTS

---

	Page
Hearing held on Thursday, June 11, 2020 .....	1
Statement of Members:	
González-Colón, Hon. Jenniffer, a Resident Commissioner in Congress from the Territory of Puerto Rico .....	3
Prepared statement of .....	4
Grijalva, Hon. Raúl M., a Representative in Congress from the State of Arizona .....	2
Statement of Witnesses:	
Jaresko, Natalie, Executive Director, Financial Oversight and Manage- ment Board for Puerto Rico .....	9
Prepared statement of .....	12
Supplemental testimony submitted for the record .....	22
Questions submitted for the record .....	27
Marrero, Omar, Executive Director, Puerto Rico Fiscal Agency and Financial Advisory Authority .....	49
Prepared statement of .....	51
Questions submitted for the record .....	58
Additional Materials Submitted for the Record:	
Hispanic Federation, Letter dated June 15, 2020 to Chair Grijalva .....	101



# OVERSIGHT HEARING ON PROMESA IMPLEMENTATION DURING THE CORONAVIRUS PANDEMIC

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Thursday, June 11, 2020  
U.S. House of Representatives  
Committee on Natural Resources  
Washington, DC

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The Committee met, pursuant to notice, at 3:31 p.m., via Webex, Hon. Raúl M. Grijalva (Chairman of the Committee) presiding.

Present: Representatives Grijalva, Napolitano, Sablan, Huffman, Lowenthal, Gallego, Cox, Haaland, Cunningham, Velázquez, DeGette, Soto, San Nicolas, Cartwright, Tonko, García; Bishop, Gohmert, McClintock, Gosar, Westerman, Graves, Hice, Radewagen, Webster, González-Colón, and Hern.

The CHAIRMAN. Thank you very much. The Committee on Natural Resources will come to order. The Committee is meeting today to hear testimony on PROMESA Implementation During the Coronavirus Pandemic.

Under Committee Rule 4(f), any oral opening statements at this hearing are limited to the Chair and the Ranking Minority Member or their designee. This will allow us to hear from our witnesses sooner and help Members keep to their schedules.

Therefore, I ask unanimous consent that all other Members' opening statements be made part of the hearing record if they are submitted to the Clerk by 5 p.m. today or at the close of the hearing, whichever comes first.

Hearing no objection, so ordered.

Without objection, the Chair may also declare a recess subject to the call of the Chair. As described in the notice, statements, documents, or motions must be submitted to the electronic repository at [hnrdocs@mail.house.gov](mailto:hnrdocs@mail.house.gov). Additionally, please note that, as in-person meetings, Members are responsible for their microphones and Members can be muted by staff only to avoid inadvertent background noise.

Finally, Members or witnesses who experience technical problems should inform Committee staff immediately. At this point, I will read my opening statement. Then I will recognize the designee for the Ranking Member for her opening statement.

I want to thank my colleagues for taking time to join us in this remote Natural Resources Committee oversight hearing on how the coronavirus pandemic is impacting the implementation of the Puerto Rico Oversight Management and Economic Stability Act, also known as PROMESA. I want to welcome our witnesses, Ms. Natalie Jaresko, Executive Director of PROMESA Financial Oversight and Management Board, and Mr. Omar Marrero, representing the Governor of Puerto Rico. Thank you so much, both of you, for joining us.

**STATEMENT OF THE HON. RAÚL M. GRIJALVA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA**

The CHAIRMAN. Some could say that the people of Puerto Rico can't seem to catch a break. First the island's residents had to deal with a debt burden that their governor declared in 2015 could not be repaid, which led to the enactment of PROMESA in 2016 and the imposition of the Oversight Board. While PROMESA was designed to allow the island to restructure its debts, many Puerto Ricans view it and the Oversight Board as an undemocratic colonial takeover of the island's government.

In 2017, Puerto Rico was hit not by one but two Category 5 hurricanes. Hurricanes Irma and Maria devastated the island, leaving billions of dollars in damage and island-wide loss of electricity lasting months and nearly 4,000 deaths.

Then in 2019 and 2020, as the residents of the island were recovering from the hurricanes, they were hit with a series of earthquakes that caused widespread damage in the south of the island. And they are still experiencing aftershocks even as we speak today. Puerto Ricans and the government of Puerto Rico have been recovering from these natural disasters without adequate Federal assistance, since the Trump administration has delayed the disbursements and opposed that the appropriation of much-needed disaster relief aid to Puerto Rico was included.

Finally, if that devastation was not enough, the island, like the rest of the planet, was hit with COVID-19 pandemic, which put a significant strain on the island's already fragile healthcare infrastructure and public services. Moreover, the coronavirus pandemic is projected to severely affect Puerto Rico's financial and economic recovery for years to come.

Puerto Rico is in an extremely vulnerable financial and economic position. It is against this backdrop that we scheduled today's hearing to better understand how the government of Puerto Rico has been responding to the COVID-19 outbreak.

We also expect to discuss the recently certified 2020 Fiscal Plan and discuss strategies to reduce the island's debt burden, what plans are there to grow the economy and create new jobs, how to provide clean, affordable, and reliable electricity and an efficient public sector. It is also important for us to hear which of the oversight and government of Puerto Rico's policy and budget priorities will include the quality of life for the residents of the island.

Has having to function under the supervision of the Oversight Board led to delays and other complications in the Puerto Rican government's response to the pandemic? It is a question. Were issues involving contracting and not being able to acquire sufficient coronavirus testing equipment the result of having to jump through too many hoops imposed by the Board, or were these simply the result of poor performance on the part of the central government? Question. I firmly believe that we will receive answers to these and other questions from the witnesses today. We cannot condemn the people of Puerto Rico in the wake of a debt crisis, devastating storms, earthquakes to an inadequate response to the coronavirus pandemic because they are ruled by an oversight board.

And now it is my pleasure to yield to the Ranking Member designee, the Resident Commissioner of Puerto Rico, Ms. González-Colón.

Madam Commissioner, the time is yours.

**STATEMENT OF THE HON. JENNIFFER GONZÁLEZ-COLÓN, A  
RESIDENT COMMISSIONER IN CONGRESS FROM THE  
TERRITORY OF PUERTO RICO**

Miss GONZÁLEZ-COLÓN. Thank you, Chairman. I am the Ranking Member for the Republicans for this Committee, so it is not just, obviously, me for today. Puerto Rico today shares with many other parts of the Nation the challenge of facing COVID-19. In our case, we have added complications and limitations: (1) First, rebuilding from the 2017 hurricanes; (2) this year's earthquakes; and (3) PROMESA's debt restructuring and other fiscal challenges.

The way Puerto Rico accesses and uses all its resources, both emergency as well as regular obligations, everything is controlled by PROMESA. Congress imposed PROMESA even though many, like me, were opposed. Many of the Members who voted for it in 2016 are still in the Committee. After different legal challenges ever since, it is here and it is what we have to build with.

That is why I think we need to focus on what the people I represent expect from Congress, Federal agencies, and local government: (1) First, that the many tens of billions of dollars in Federal aid that we have secured in Congress, including those recently passed in response to the pandemic, but also those passed over the last 3 years for disaster recovery, are disbursed and finally reach those in need; (2) how to get rid of the unnecessary red tape and bureaucracy in the disbursement of these funds; (3) concrete proposals to create a government and business environment favorable to growing our economy, creating well-paying jobs, and reducing poverty levels on the island; (4) a true picture of the management of both locally raised and federally allocated funds; (5) how the pandemic has affected the plans for the territory's budget, public services and economy; and (6) last but also of course not least, the efforts to improve Puerto Rico's less than equal treatment in Federal programs.

We should work in a bipartisan way and a pragmatic manner to help Puerto Rico. Some people should resist the temptation to cater to those who would rather use the island as a political talking point, a weapon against an opponent or a platform for impractical solutions that would never happen. We must focus on proposals and legislation that could pass and get enacted into law, such as the bipartisan Puerto Rico Recovery Accuracy in Disclosures Act, which addresses the need for increased transparency in PROMESA proceedings and between those employed by the Oversight Board, among others.

Let's become informed about what is happening on the ground, on what challenges are pressing upon Puerto Rico's fiscal resources so we can address them in a bipartisan way, in a bicameral manner, and with the input from the people of Puerto Rico. Targeting supposed villains and announcing utopian proposals may get us good retweets and engagement on social media but won't help the

people of Puerto Rico. The people that I am honored to represent in Congress do not have the luxury of those political gains.

I must point out that in June of this year, the Supreme Court of the United States validated an appointment process of the Oversight Board, reaffirming that we are a possession, a colony of the United States, without any political power. And as long as this is the case, we will continue to be treated as a second-class state. The citizens I represent will only be able to have equal treatment and opportunity by becoming a state. Today, actually, 65 percent of all Puerto Ricans are living in a state. And Puerto Rico is obtaining that equality individual by individual, family by family.

The island can never really prosper without equality and democracy within the United States. This is the fundamental problem ignored by Congress, ignored by PROMESA, with the exception of its recognition that the people of the territory have the right to determine its future political status otherwise.

That is the reason we are here today in this hearing, and I look forward for the testimony and questions of our witnesses, and saying that with me today are Representative McClintock and Representative Westerman. The three of us are here in Washington in the Natural Resources Committee. With that, I yield back.

[The prepared statement of Miss González-Colón follows:]

PREPARED STATEMENT OF THE HON. JENNIFFER GONZÁLEZ-COLÓN, A  
REPRESENTATIVE IN CONGRESS FROM THE TERRITORY OF PUERTO RICO

Thank you, Mr. Chairman.

Puerto Rico today shares with many other parts of the Nation the challenge of facing CoVid-19. But, in our case, we have added complications and limitations: (1) Rebuilding from the 2017 hurricanes, (2) this year's earthquakes, and (3) PROMESA's debt restructuring and other fiscal challenges.

The way Puerto Rico accesses and uses ALL its resources, both emergency as well as regular obligations, is controlled by PROMESA. Congress imposed PROMESA even though many like me were opposed. Many of the members that voted for it in 2016 are still here. After different legal challenges ever since, it's here and it is what we have to deal with.

That is why we need to focus on what the people I represent expect from their Federal and local governments:

1. First, that the many tens of billions in Federal aid we've secured in Congress, including those recently passed in response to the pandemic, but also those passed over the last 3 years for disaster recovery, are disbursed and finally reach those in need;
2. Second, how we get rid of unnecessary red tape and bureaucracy in the disbursement of these funds;
3. Third, concrete proposals to create a government and business environment favorable to growing our economy, creating well-paying jobs, and reducing poverty levels on the Island;
4. Fourth, a true picture of the management of both locally raised and federally allocated funds.
5. Fifth, how the pandemic has affected the plans for the territory's budget, public services, and economy; and
6. Last but not least, efforts to improve Puerto Rico's less than equal treatment in Federal programs.

We should work in a bipartisan and pragmatic manner, to help Puerto Rico.

Some people should resist the temptation to cater to those who would rather use the Island as a political talking point, a weapon against an opponent or a platform for impractical solutions that will never happen; we must focus on proposals and legislation that could pass and get enacted into law—such as the bipartisan Puerto Rico Recovery Accuracy in Disclosures Act, which addresses the need for increased



transparency in PROMESA proceedings and between those employed by the Oversight Board, among others.

Let's become informed about what is happening on the ground, on what challenges are pressing upon Puerto Rico's fiscal resources, so we can address them in a bipartisan, bicameral manner and with input from the people of Puerto Rico. Targeting supposed villains or announcing utopian proposals may get us good retweets and engagement on social media but won't help the people of Puerto Rico. The people that I am honored to represent do not have the luxury of these political games.

I must point out that, on June 1, the Supreme Court validated the appointment process for the Oversight Board, reaffirming that we are a "possession", a colony without political power. As long as this is the case, we will continue to be treated as a second-class state and the citizens I represent will only be able to obtain equal treatment and opportunity by becoming a State. Today, 65 percent of all Puerto Rican now live in a State. Puerto Rico is obtaining equality individual by individual and family by family. The Island can never really prosper without equality and democracy within the United States. This is the fundamental problem ignored by Congress and PROMESA, with the exception of its recognition that the people of the territory have the right to determine its future political status otherwise.

I look forward to the testimony and questioning of our witnesses.

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Dr. GOSAR. Mr. Chairman, this is Gosar.

The CHAIRMAN. Thank you, Mr. Gosar. The gentleman seeks recognition for what purpose, Mr. Gosar?

Dr. GOSAR. I have filed a motion to adjourn, and I move that we adjourn this Committee.

The CHAIRMAN. The gentleman is recognized, and the Clerk has confirmed that that motion has been circulated to the Members?

Ms. LOCKE. We will be circulating shortly.

The CHAIRMAN. If we could pause for a second to allow Members to have that motion, it is important for the record and it is important for what follows—

[Pause.]

The CHAIRMAN. We are presently waiting for confirmation from the Clerk and Counsel assuring that the motion has been circulated as per the rules for online as adopted by the House of Representatives. And as soon as we do that, then we will turn to Mr. Gosar to reaffirm his motion and any comments he might have at that point. So, we are waiting.

[Pause.]

Ms. LOCKE. The motion should have been distributed via e-mail.

The CHAIRMAN. Thank you, and the motion to adjourn is not debatable. The gentleman from Arizona, Mr. Gosar, has motioned, and the motion has been circulated and confirmed by the Clerk and Counsel. Move that the Committee do now adjourn. The question is on the gentleman from Arizona's motion, Mr. Gosar.

All those in favor, indicate by saying aye. All those opposed, say no. In the opinion of the Chair, the noes have it. The motion is not—

Dr. GOSAR. I ask for a recorded vote.

The CHAIRMAN. A recorded vote has been requested on the question on the motion to adjourn this hearing. The Clerk shall call the roll.

Ms. LOCKE. Mr. Grijalva?

The CHAIRMAN. No.

Ms. LOCKE. Mr. Grijalva votes no.

Mr. Bishop?

Mrs. Napolitano?  
Mr. Young?  
Mr. Costa?  
Mr. Gohmert?  
Mr. Sablan?  
Mr. Lamborn?  
Mr. Huffman?  
Mr. HUFFMAN. No.  
Ms. LOCKE. Mr. Huffman votes no.  
Mr. Wittman?  
Mr. Lowenthal?  
Mr. McClintock?  
Mr. McCLINTOCK. Aye.  
Ms. LOCKE. Mr. McClintock votes aye.  
Mr. Gallego?  
Mr. Gosar?  
Dr. GOSAR. Aye.  
Ms. LOCKE. Mr. Gosar votes aye.  
Mr. Cox?  
Mr. COX. No.  
Ms. LOCKE. Mr. Cox votes no.  
Mr. Cook?  
Mr. Neguse?  
Mr. Westerman?  
Mr. Levin?  
Mr. Graves?  
Ms. Haaland?  
Ms. HAALAND. No.  
Ms. LOCKE. Ms. Haaland votes no.  
Mr. Hice?  
Mr. Cunningham?  
Mrs. Radewagen?  
Ms. Velázquez?  
Mr. Webster?  
Ms. DeGette?  
Ms. DEGETTE. No.  
Ms. LOCKE. Ms. DeGette votes no.  
Ms. Cheney?  
Mr. Clay?  
Mr. Johnson?  
Mrs. Dingell?  
Miss González-Colón?  
Miss GONZÁLEZ-COLÓN. Aye.  
Ms. LOCKE. Ms. González-Colón votes aye.  
Mr. Brown?  
Mr. Curtis?  
Mr. McEachin?  
Mr. Hern?  
Mr. HERN. Aye.  
Ms. LOCKE. Mr. Hern votes aye.  
Mr. Soto?  
Mr. Fulcher?  
Mr. Case?  
Mr. Horsford?

Mr. San Nicolas?

Mr. Cartwright?

Mr. CARTWRIGHT. No.

Ms. LOCKE. Mr. Cartwright votes no.

Mr. Tonko?

Mr. García?

The CHAIRMAN. If the Clerk will read the names of any Members that are not recorded.

Ms. LOCKE. Mr. Bishop?

Mrs. Napolitano?

Mr. Young?

Mr. Costa?

Mr. Gohmert?

Mr. Sablan?

Ms. DEGETTE. I believe Mr. Sablan needs to unmute.

Ms. LOCKE. Mr. Sablan, your—

Mr. SABLAN. Sablan is present. Hello?

Ms. LOCKE. How do you vote, Mr. Sablan?

Mr. SABLAN. No.

Ms. LOCKE. Mr. Sablan votes no.

Mr. Lamborn?

Mr. Wittman?

Mr. Lowenthal?

Mr. Gallego?

Mr. Cook?

Mr. Neguse?

Mr. Westerman? Mr. Westerman, how do you vote?

Mr. MCCLINTOCK. He has voted aye. A point of order, Mr. Chairman. Mr. Westerman has repeatedly tried to vote. I am witness to it right here in the hearing room, and you are not recording it.

The CHAIRMAN. Mr. Westerman would you indicate your vote?

Mr. WESTERMAN. I vote aye.

Ms. LOCKE. Mr. Westerman votes aye.

The CHAIRMAN. Thank you.

Ms. LOCKE. Mr. Levin?

Mr. Graves?

Mr. Hice?

Mr. Cunningham?

Mrs. Radewagen?

Ms. Velázquez? Ms. Velázquez, your mute button is on. Ms. Velázquez, how do you vote?

Ms. VELÁZQUEZ. Yes.

Ms. LOCKE. Ms. Velázquez votes aye.

Mr. Webster?

Ms. Cheney?

Mr. Clay?

Mr. Johnson?

Mrs. Dingell?

Mr. Brown?

Mr. Curtis?

Mr. McEachin?

Mr. Soto?

Mr. Fulcher?

Mr. Case?

Mr. Horsford?

Mr. San Nicolas?

Mr. Tonko?

Mr. García?

The CHAIRMAN. Yes. Are all—

Miss GONZÁLEZ-COLÓN. Mr. Chairman?

The CHAIRMAN. Yes?

Miss GONZÁLEZ-COLÓN. Point of order. Amata Radewagen is connected, and she is saying that she is voting aye but it is not recorded.

Ms. LOCKE. I do not visually see Mrs. Radewagen.

The CHAIRMAN. If she would just indicate that she was voting aye, according to the rules, that is sufficient. Where is she?

Ms. VELÁZQUEZ. Is she connected? She has to be connected either by phone or by video.

Ms. LOCKE. I don't have an audio or a video.

Miss GONZÁLEZ-COLÓN. Mr. Chairman, she was connected, but now it looks like she is disconnected.

The CHAIRMAN. The situation, Miss González-Colón, is that we need to verify that. It can be by hand signal, yes, thumbs up, or it can be verbally, but the requirement that it be, at the minimum, that visual confirmation. We don't have that at this point.

Mrs. RADEWAGEN. Hello. This is Amata Radewagen.

The CHAIRMAN. Yes.

Mrs. RADEWAGEN. Can you hear me?

The CHAIRMAN. Yes.

Mrs. RADEWAGEN. Yes.

Ms. LOCKE. Yes.

The CHAIRMAN. Ms. Radewagen votes yes.

Ms. LOCKE. Ms. Radewagen votes yes.

The CHAIRMAN. Are there any Members who wish to vote that have not voted or other Members who wish to change their vote? Hearing no request for recognition, let me now turn to the Clerk, and the Clerk will report the vote.

Ms. LOCKE. Mr. Chair, on this vote, the yeas are seven and nays are seven.

Ms. VELÁZQUEZ. Mr. Chairman? Mr. Chairman?

The CHAIRMAN. Ms. Velázquez, you are recognized.

Ms. VELÁZQUEZ. Did I make a mistake?

The CHAIRMAN. Ms. Velázquez's vote was what, Clerk?

Ms. LOCKE. Ms. Velázquez's vote was a yea.

Ms. VELÁZQUEZ. And that was supposed to be yes.

Ms. LOCKE. Correct.

The CHAIRMAN. And the Clerk will report.

Ms. LOCKE. Mr. Chair, on this vote, they yeas are seven and the nays are seven.

Mr. SABLAN. Point of inquiry. This is Sablan.

The CHAIRMAN. Mr. Sablan?

Mr. SABLAN. Yes. Is my vote consistent with the Chairman's vote?

The CHAIRMAN. Yes, the Chair voted no so that the hearing could proceed.

Ms. VELÁZQUEZ. Mr. Chairman?

The CHAIRMAN. Yes?

Ms. VELÁZQUEZ. This is Ms. Velázquez.

The CHAIRMAN. Thank you, Ms. Velázquez.

Ms. VELÁZQUEZ. I am supposed to vote no, and I want to clarify that.

The CHAIRMAN. Ms. Velázquez is recognized, and she has changed her vote to a no vote. Clerk will report.

Ms. LOCKE. Mr. Chair, on this vote, the yeas are six and the nays are eight.

The CHAIRMAN. The nays have it. The motion fails, and I will now introduce our witnesses. Let me remind the witnesses that under our Committee Rules, they must limit their oral statements to 5 minutes, but their entire statement will appear in the hearing record. When you begin, the timer will begin, and it will turn to 5 minutes and count down from there.

When you have 1 minute remaining, I recommend that Members and witnesses joining remotely use grid view so that they may pin the timer at that point. After your testimony is complete, please remember to mute yourself to avoid any inadvertent background noise. I will also allow the entire panel to testify before questioning. The Chair now recognizes Ms. Natalie Jaresko, who was designated Executive Director of the Financial Oversight and Management Board for Puerto Rico in March 2017. She is responsible for approving and certifying the fiscal plans for the government of Puerto Rico and representing the government during debt restructuring negotiations.

As Executive Director, is an American-born Ukrainian investment banker who served as Ukraine's Minister of Finance from December 2014 until April 2016. She also held several economic-related positions at the U.S. Department of State.

Ms. Jaresko, the floor is yours for your time.

**STATEMENT OF NATALIE JARESKO, EXECUTIVE DIRECTOR,  
FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR  
PUERTO RICO**

Ms. JARESKO. Thank you, Mr. Chairman. As you said, I am Natalie Jaresko, Executive Director of the Oversight Board. Thank you for this opportunity to update the Committee. As you said and as we all know, when the Board began its work, Puerto Rico faced unsustainable debt of more than \$70 billion and more than \$50 billion in unfunded pension liabilities, a decade of economic decline, and significant outmigration. Shortly after the Board got underway, Hurricanes Irma and Maria struck. And most recently, we have endured major earthquakes.

Only 2 months later, Puerto Rico was confronted with a pandemic. And overnight, the economy shut down except for the most critical activities as the government took prudent steps to mitigate the risk of a catastrophic public health crisis. The government acted promptly and decisively. The board's efforts over the past 4 years ensured that the government was not forced to make drastic cuts to its expenditures as revenues dropped.

Budgeting practices enabled setting aside emergency funds at the onset and prior to the adoption of the CARES Act by Congress. The board and the government mobilized to deliver immediate support

to residents and businesses. This included a \$787 million package and temporary tax relief. However, there have also been several setbacks. The situation caused by the purchase of test kits shows poor procurement practices despite best intentions. Additionally, complications in distributing school lunches, payments to frontline and employed workers illustrate the challenges to efficiency.

The shock of the pandemic on Puerto Rico is severe. Unemployment has skyrocketed. Our analysis shows that the economy will contract by 4 percent in the current 2020 fiscal year, just as it did after Hurricane Maria, a sharp decline in real GNP, the very mild projected recovery in the next fiscal year, further declines in 2022, 2023 and close to zero growth in 2024 and 2025. Simply put, the economy will contract over the next 5 years. So, reforms are more important than ever because the economic decline is even more severe.

In that spirit, the 2020 Fiscal Plan reflects a 1-year delay in most budgetary reductions to allow the government to focus on implementation. This includes maintaining the subsidies to the University of Puerto Rico and the municipalities at current fiscal year levels. At UPR specifically, tomorrow, the Board will—

Mr. MCCLINTOCK. Mr. Chairman, point of order.

The CHAIRMAN. Mr. McClintock?

Mr. MCCLINTOCK. Mr. Chairman, I am informed that Garret Graves, a member of this Committee, has been trying to get on this hearing and has not been able to. Is it the ruling of the Chair that Members can be excluded from the deliberations of this Committee because of this new process?

The CHAIRMAN. No. That is not the ruling of the Chair. Let's not grab at straws right now, Mr. McClintock. This is a difficult process.

Mr. MCCLINTOCK. Well, I am trying to grab Garret Graves, who has been thwarted in his attempts to join this Zoom call.

The CHAIRMAN. Mr. McClintock, every Member was given, including Mr. Graves, the process to call the technical staff on the Committee immediately if there were problems dealing with the technology and being able to go online. I will—

Mr. MCCLINTOCK. Then, Mr. Chairman, I would suggest that we suspend this until Mr. Graves can join the Committee to which he is duly appointed as an elected Member of the House of Representatives.

The CHAIRMAN. Mr. McClintock, I would more than happily pause and see if he has talked to our technical staff or his staff has talked to our technical staff. And pending that short pause, we will proceed. If he is able to be put online, that is wonderful. And if there is some other technical issue that there is no resolution to, we will know that as well. But at this point, let me just pause for a second in the spirit of fairness and make sure that he has communicated with our technical staff. And I will also try to communicate with the staff as well. So, let's just recess for a second.

[A brief recess was taken.]

The CHAIRMAN. Now that we have the pleasure of Mr. Graves' company, we can proceed. The witness will continue her testimony.

Ms. JARESKO. I think I lost a little bit of time. So, I will try to—

The CHAIRMAN. We will accommodate that. Thank you.

Ms. JARESKO. Thank you. As I was saying, in that spirit, the 2020 Fiscal Plan reflects a 1-year delay and most budgetary reductions to allow the government to focus on implementation. This includes maintaining the subsidies to the University of Puerto Rico and municipalities at the current fiscal year levels. At the University of Puerto Rico specifically, tomorrow the Board will be certifying an updated fiscal plan that will halt tuition increases by a year. Without the need to achieve incremental budget savings, the government should re-double its efforts to assure better delivery of services. The board has also articulated a comprehensive roadmap of the actions that must be taken to restore growth through economic development. However, the Board must rely upon the political will of the island's elected leadership in order to truly transform the government of Puerto Rico and the economic landscape.

Even with implementation of far-reaching growth-inducing structural reforms, the 2020 Fiscal Plan projects that the government cannot afford to pay the public debt as originally contracted. Recognizing the importance of the ongoing Title III cases but taking into account these realities, on March 23, the Board presented a motion requesting the Title III court to adjourn consideration until further notice.

The board also continues to work with the government on the transformation of PREPA to ensure reliable and low-cost energy. The board and the government are in full agreement that private generation and private management of the transmission and distribution system are key to these improvements, and we look forward to a positive announcement in the near future. Regarding the recently introduced amendments to the PROMESA Act, the Board supports several of the provisions on the proposed changes but is very concerned that other provisions, while well-intended, will compromise the Board's ability to fulfill its mandate under PROMESA.

The board has a collaborative working relationship with the Governor. However, change is hard. And as PROMESA states—and I quote, “a comprehensive approach to fiscal management and structural problems and adjustments that exempts no part of the government of Puerto Rico is necessary involving independent oversight.”

While we will always collaborate in the best interest of the people of Puerto Rico, it is in this same interest that sometimes the Board must disagree with the government. In conclusion, PROMESA is not perfect, but it has provided the government with a stay on its debt payments while continuing to fund essential services. And this compromise provided the island with a way to restructure its debt under a bipartisan board, preventing chaos in 2016 when its debts became unpayable. The board's fiscal planning and budgeting discipline have helped the island be more resilient and responsive to crises. Unlike other states and local governments, Puerto Rico has not been forced to cut essential services.

All said and done, however, debt restructuring and balanced budgets are unfortunately not enough to return prosperity to the people of Puerto Rico. Paramount is implementing the reforms that the people of Puerto Rico need and deserve. Thank you, Mr. Chairman.

[The prepared statement of Ms. Jaresko follows:]

PREPARED STATEMENT OF NATALIE JARESKO, EXECUTIVE DIRECTOR, FINANCIAL  
OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO

Chairman Grijalva, Ranking Member Bishop, and members of the Committee, I am Natalie Jaresko, Executive Director of the Financial Oversight and Management Board for Puerto Rico (the “Board”). Thank you for this opportunity to update the Committee on the challenges and the work of the Board during the COVID-19 pandemic. As soon as the pandemic hit the Island, the Board began working closely with the Commonwealth to provide the people of Puerto Rico critical support for public health and financial assistance during the crisis. In addition, the Board recently certified an updated 2020 Fiscal Plan which further addresses the needs of residents and the Puerto Rican Government. I would also like to take the opportunity to comment on the “Amendments to PROMESA Act” recently introduced by Chair Grijalva and members of the Committee.

**I. Introduction**

To put the Board’s work during the pandemic in context, please allow me to start by recounting some of the early work of the Board, as well as our work leading up to the pandemic.

As you know, when the Board began its work, Puerto Rico faced an unsustainable burden of more than \$70 billion in debt and more than \$50 billion in unfunded pension liabilities, a decade of economic decline, and significant outmigration. In PROMESA, Congress charged us with guiding and overseeing the restoration of the Island’s fiscal health via long-term fiscal planning and annual balanced budgeting, the restoration of its ability to access private capital via both debt restructuring and economic development and, as part of that, the Island’s transition to a sustainable economic model that provides opportunities for our citizens.

*A. The Board’s Work in the Aftermath of Hurricanes Irma and María and the Resignation of Governor Rosselló*

The pandemic afflicting the Island is not the first disaster Puerto Rico has faced since the adoption of PROMESA. Shortly after the Board got underway, Hurricanes Irma and María inflicted the most horrific natural disaster devastation to strike the U.S. in 100 years, compounding the financial and emotional distress of the Island and its people. As detailed in my testimony before this Committee on November 17, 2017, the Board worked extensively with the Government in post-hurricane efforts. On the day after Hurricane María hit, the Board immediately provided Governor Rosselló authority to reallocate up to \$1 billion of the Commonwealth’s budget to give the Government flexibility to respond during the first weeks of the crisis. The Board also worked closely with the Governor to help estimate the cash-flow shortfall and need for emergency liquidity assistance caused by the sudden drop in revenues and increase in expenditures. In the 2½ years since, the Board continues to do everything in its power to support the efforts of the Commonwealth and the U.S. Government to provide critical disaster relief funding to the Island and its residents.

The subsequent political upheaval around the resignation of Governor Rosselló was unfortunate and very disruptive to the Government and the people of Puerto Rico. The Oversight Board watched the protests with admiration for the fortitude of the people of Puerto Rico and with sadness for the crisis that made the protests necessary. For far too long the Island’s residents have not been treated with the respect that they deserve. However, it did not deter the Board from carrying out its obligations under PROMESA. The Board continued to work with the leaders of Puerto Rico to provide its people with the stability needed by all stakeholders. Since Governor Wanda Vázquez Garced took office last August, the Board has engaged in a collaborative working relationship with the Governor and her team. In many respects, the increase in collaboration and engagement is a night and day difference as compared with previous Governors and their respective staffs.



*B. Board's Work Leading up to COVID-19*

I think it is helpful to recap next the Board's progress leading up to the pandemic, which represents the culmination of our work from the start. In furtherance of PROMESA's mandates, the Board had taken the following steps:

- **Section 201(b)(1) Budgetary controls and fiscal discipline:** Implemented best practices budgetary controls and constraints on Government spending to avoid previous overspending practices. Given the absence of audited financial statements and previous spending practices, prior multi-year appropriations are suspended with few exceptions. Total Government spending must now be reviewed and certified. All tax initiatives must have a neutral or positive budgetary impact, and all expenses and revenue must be conservatively estimated.
- **Section 201(b)(1) PayGo Pension System:** Moved to a PayGo pension system allowing retirees to receive their pensions without interruption, despite the insolvency of Puerto Rico's pension funds, and enrolled police officers in Social Security to increase their security and retirement benefits.
- **Section 202(e) Ensuring critical services:** The Board-certified budgets carefully balance the need to maintain funding for critical services commensurate with the size of the population and prioritize critical services such as education, public safety, and healthcare. These include (1) funding of \$200 million a year to support increased labor participation; (2) funding for safe kits to insure proper forensic analysis and long-await justice for victims and the accused; (3) pay increases for teachers and police to ensure more competitive compensation; (4) funding new positions for Forensics to rebuild capacity; (5) funding to repay 10 years of back pay to police officers; (6) creating a reserve account to ensure the ability to act to protect the population immediately in case of future emergencies; (7) budgeted funds to cover any cost-share required for Federal disaster funding; (8) funding to enable compliance with certain consent decrees; (9) budgeting \$400 million annually in Commonwealth capital expenditures to improve significantly underfunded infrastructure; and (10) over \$300 million in needs-based scholarships for University of Puerto Rico students.

Without the Board and associated fiscal plans, projections show that Government spending would have ballooned from \$19 billion in fiscal year 2018 to \$22 billion in fiscal year 2025 (an increase of 16 percent). The Board, meanwhile, has contained expenditures to a 2 percent increase between fiscal year 2018 to fiscal year 2025, or up 12 percent on a per-capita basis (given the decline in population), while providing valuable investments in frontline services (in the wake of multiple crises).

- **Section 204(b) Transparency and accountability in government spending:** Fostered more transparency and visibility into Puerto Rico's government finances, including Puerto Rico's liquidity, budgets, and other intergovernmental spending—notwithstanding the Government's continued delays in completing its overdue audited financial statements. Moreover, the people of Puerto Rico now have access to public reports, including: bank balances, quarterly budget to actuals, payroll and attendance, and tax expenditures.
- **Section 204(b) Contract Review:** The Board reviews major contracts before they can be ratified to ensure both consistency with the certified fiscal plans and budgets, as well as to ensure they promote market competition. This process has brought much-needed transparency, with all responses and analyses posted in the Board's website.

Since the inception of PROMESA, the Board has played a critical role in helping Puerto Rico respond to crises. Moreover, it has worked with the Government to institute much more effective fiscal management after decades of mismanagement. The fiscal plans that the Board has certified have walked a very prudent balance between driving more effective and sustainable Government, while investing in critical needs on the Island. Last, the Board has articulated a detailed and comprehensive roadmap of the actions that must be taken to restore growth through economic development, with structural reforms being particularly critical. However, given the constraints of PROMESA, the Board must rely upon the political will of the Island's elected leadership in order to truly transform the Government of Puerto Rico and the economic landscape into what the people and businesses of Puerto Rico deserve.

## II. COVID-19 and the Preceding Earthquakes

Before I address the Board's work with the Government during the public health pandemic, I would like to update you on the earthquakes that shook Puerto Rico about 6 months ago. Beginning in late December, these were the most intense earthquakes on the Island in recent memory, causing structural damage to buildings across southwestern Puerto Rico. Residents of these communities were subjected to hundreds of aftershocks over several months, some approaching the strength of the first earthquakes. Communities face concerns over public safety as infrastructure was affected, businesses suffered further disruption, and the Government suffered damage to schools, prisons and other crucial infrastructure. The full extent of the damage is still unknown, and rebuilding efforts in some places have yet to begin.

Only 2 months later, Puerto Rico—along with the rest of the world—was confronted with the COVID-19 pandemic. Overnight, the economy shut down except for the most critical activities, as the Government took prudent steps to mitigate the risk of a catastrophic public health crisis. The Government acted promptly and decisively by implementing a curfew, limiting entry to points to the Island monitored by the National Guard, and shutting down virtually the entire economy to enforce social distancing.

At the onset of the COVID-19 crisis and prior to the adoption of the CARES Act, the Board in close partnership with the Government, mobilized to deliver immediate support and relief to residents. This included providing a \$787 million package of measures including, among other things, (1) hazard pay for front-line workers of \$213 million; (2) direct payments to residents of \$160 million including a \$500 one-time cash payment to 20,000 self-employed individuals and a \$1,500 one-time cash payment to 40,000 small businesses; (3) essential supplies and equipment of \$50 million; (4) distance learning equipment in the public education system of \$255 million; (5) assistance in the face of lost revenues for municipalities of \$100 million; and (6) funding of research and development of \$2 million at UPR's Medical Sciences Department.

The Board also supported Government executive actions to provide temporary relief on tax payment deadlines, as well as to authorize more than \$50 million in sales and use taxes exemptions for prepared foods and first-necessity items. The Board further approved and supported a \$400 million advance on Federal funding for economic rebate payments administered by the local Treasury Department, as well as a liquidity facility of up to \$185 million for municipalities suffering from revenue collection deferrals.

The Board also provided the Government with recommendations on how to effectively disburse the \$2.2 billion allocated to Puerto Rico through the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) to finance eligible unbudgeted expenses related to the pandemic in a way that is targeted to the most critical pandemic-related needs.

Since certifying its first Fiscal Plan in 2017, notwithstanding the intervening emergencies, the Board has been able to drive meaningful progress in creating a more affordable Government. This has resulted in the ability of the Government to increase expenditures at a time of crisis, while ensuring that total expenditure levels remain within total available revenues. Puerto Rico was not forced to make urgent and drastic cuts to its expenditures and essential services as revenues dropped, as other states had to do. Moreover, budgeting practices introduced by the Board enabled setting aside an Emergency Reserve Fund to mitigate and contain COVID-19, as well as provide immediate support after the earthquakes.

However, it cannot be denied that there have also been several setbacks. The situation caused by the Commonwealth's procurement of COVID-19 test kits shows that the Government gets easily trapped in its own poor procurement practices despite best intentions. Additionally, complications in ensuring the distribution of school lunches and the slow distribution of payments to front-line workers and unemployed workers illustrates the challenges to efficient implementation. The good news is the economy is slowly reopening, and hospital capacity remains ample, suggesting that the virus might be contained.

Nonetheless, the shock of the COVID-19 pandemic on Puerto Rico is severe. Unemployment has skyrocketed, as many businesses have been forced to shut down, and local and federal governments have quickly mobilized to provide support. Many projections indicate the economic shock due to COVID-19 will be worse than that of the Great Recession. The pathway to economic recovery remains highly dependent on the overall public health response and the Federal Government's ability to provide economic support for those whose livelihoods are at risk.

The Board's analysis shows that the Puerto Rico economy will contract by 4.0 percent in the current 2020 fiscal year. Financially, the impact to the Puerto Rican economy is as devastating as the impact of Hurricane Maria. There is a sharp decline in real GNP with a very mild projected recovery of 0.5 percent in the 2021 fiscal year, with the help of COVID-19-related Federal funds from the CARES Act, CDBG-DR, and other Federal programs. To illustrate, we estimate a revenue reduction of \$1.3 billion in current fiscal year 2020, \$1.2 billion in fiscal year 2021, and \$774 million in fiscal year 2022, relative to the 2019 Certified Fiscal Plan.

Our projections show further declines in real GNP in fiscal years 2022 and 2023, and close to zero growth in 2024 and 2025. Simply put, the Puerto Rico economy will contract over the next 5 years, and Puerto Rico can only recover if the Government implements the necessary structural reforms. These reforms are more important than ever because the economic decline is even more severe.

### **III. 2020 Commonwealth Fiscal Plan**

The Board spent the last months analyzing the effects of the COVID-19 pandemic on the Puerto Rican economy and the path to recovery in times of uncertainty. Based on careful study of the data, in particular, Congressional Budget Office data, the Board believes its certified 2020 Fiscal Plan is the best possible forecast under the current circumstances.

The 2020 Fiscal Plan is a road map for Puerto Rico's recovery and prosperity. It outlines necessary Government action to improve fiscal responsibility and foster economic growth. The effect of the destructive hurricanes, political upheaval, earthquakes and COVID-19 on the economy is severe and is exacerbated by the lack of structural reform implementation necessary to improve economic growth in Puerto Rico. With the ongoing support of the U.S. Government, this crisis presents an opportunity to redouble all efforts to reform the economy for the benefit of the people of Puerto Rico.

In that spirit, the 2020 Fiscal Plan requires commitment to swift implementation of an agenda that will transform government services. The 2020 Fiscal Plan reflects a one-year delay in most categories of budgetary reductions to allow the Government to focus on implementation. This pause in rightsizing includes maintaining the subsidies to the University of Puerto Rico and the municipalities at current fiscal year levels. Most agencies will maintain their fiscal year 2020 budgets in fiscal year 2021.

#### *A. Investments*

The 2020 Fiscal Plan includes substantial investments in the Government's response to the COVID-19 public health and economic crisis, as well as critical investment in the Island's human capital and telecommunications infrastructure to spur recovery and growth. It continues several investments outlined in the 2019 Fiscal Plan and provides new substantial investments of about \$6 billion in fiscal years 2020 through 2025. Some examples include investments in: (1) healthcare, including capital expenditures for public hospitals, hiring public school nurses, funding for opioid treatment, and increased reimbursement rates for primary care and outpatient specialty providers; (2) public education, including to improve English language teaching, to incentivize schools to achieve better educational outcomes, and payment of disputed salary increases to transitory teachers; (3) public safety, including the third and final year of back pay for police, the second half of their 30 percent salary increase, funding for recruitment and training of cadets, and equipment for firefighters; (4) technology, to improve access to broadband in rural areas and increase business training; (5) a study for the private sector and the Government to define a comprehensive and actionable plan to reactivate the manufacturing sector; and (6) hurricane reconstruction to expedite efforts by providing \$750 million in working capital to kick-off project work.

#### *B. Financial Projections*

As mentioned, the 2020 Fiscal Plan is based on the Board's projection that the Puerto Rico economy will contract by 4.0 percent in the 2020 fiscal year, with a mild 0.5 percent recovery in the 2021 fiscal year, dependent upon the support of Federal funds related to COVID-19, and recent hurricanes and earthquakes. However, even with complete and timely implementation of all structural reforms outlined in the 2020 Fiscal Plan, the Board projects that the economy of Puerto Rico will contract over the next 5 years, with meager economic growth in some years.

The 2020 Fiscal Plan projects a Government deficit from fiscal year 2032 onward, 6 years sooner than the Board's 2019 Fiscal Plan projected, and a total primary surplus of about \$8 billion between fiscal years 2020 and 2032, compared with an

approximate \$23 billion surplus projected in the 2019 Fiscal Plan. That amounts to a 65 percent decline in projected surplus.

Estimates of Federal funding in the 2020 Fiscal Plan include: (1) hurricane-related funds amounting to \$83 billion of disaster relief funding to be disbursed over 15 years, of which \$48 billion is estimated to come from FEMA, \$8 billion to come from private and business insurance pay outs, \$7 billion to come from other sources of Federal funding, and \$20 billion to come from CDBG-DR; (2) earthquake-related funds amounting to \$595 million from FEMA; and (3) COVID-19 related funds amounting to \$14 billion based on U.S. Government sources, Federal agency announcements, and past allocations under ARRA of 2009.

Given the Board's projections, we consider it imperative that the Government use the next year to implement critical, overdue structural reforms. The 2020 Fiscal Plan continues to require an agenda of Government transformation to efficiency, and outlines the minimal reforms needed to change the structural nature of the Puerto Rican economy. It requires commitment to swift implementation of an agenda that will transform the Government and the economic landscape.

### *C. Structural Reforms*

Since 2017, the Board has worked with the Government to implement numerous structural reforms, but there has been little meaningful progress in most areas. The structural reforms in the 2020 Fiscal Plan are those where the Government has aligned with the need to pursue change. Nonetheless, each year, as a result of disasters and poor implementation, the reforms have been delayed. As such, the 2020 Fiscal Plan provides an updated forecast reflecting such delays but also outlining the potential positive impact looking forward, specifically:

- **Human capital and welfare reform:** Promoting participation in the formal labor force by creating incentives to work through Earned Income Tax Credit (EITC) benefits and Nutritional Assistance Program (NAP) reform, as well as providing comprehensive workforce development opportunities.
- **K-12 education reform:** Transforming the K-12 education system to dramatically improve student outcomes and contribute to an effective workforce long-term.
- **Ease of doing business reform:** Improving the competitiveness and attractiveness of Puerto Rico's economy in order to attract a greater amount of investment and job creation. Promoting economic activity and reducing the obstacles to starting and sustaining a business in Puerto Rico. This includes comprehensive reform to permitting, registering property, and tax administration. Establishing best-in-class entities that can attract investment and increase tourism.
- **Power sector reform:** Providing lower cost and more reliable energy through: (1) the transformation of PREPA; (2) the establishment of an independent, expert, and well-funded energy regulator; and (3) the development of cleaner and lower cost power generation.
- **Infrastructure reform:** Prioritizing economically transformative capital investments with Federal funds available as a result of recent disasters and on a regular basis from annual obligations, for example from the Federal Highway Administration.
- **Strengthening Puerto Rico's technology sector:** Addressing the digital divide is critical to ensuring that all residents of Puerto Rico can take advantage of the well-documented socioeconomic benefits afforded by Internet connections (e.g., telehealth, distance learning, remote work). Important infrastructure gaps remain, particularly across rural areas of the Island. The 2020 Fiscal Plan includes \$400 million to expand access to broadband for the residents of Puerto Rico, thereby improving economic opportunities for those in rural areas. The 2020 Fiscal Plan also recognizes that technology skills are critical for the future of the workforce; it thus includes \$50 million in funding to invest in workforce development, specifically focused on business- and technology-related disciplines.

### *D. Government Efficiency*

Finally, the main measures in the 2020 Fiscal Plan aimed at efficiency and cost reduction, some of which have not been implemented since the 2018 Fiscal Plan, include: (1) agency efficiencies; (2) creation of the Office of the CFO; (3) Medicaid reform; (4) enhanced tax compliance and optimized taxes and fees; (5) reduction of appropriations; and (6) comprehensive pension reform.

Without the need to achieve incremental budget savings, the Government should focus all its efforts in fiscal year 2021 on real changes across the Government that assure better delivery of essential services. In that light, the 2020 Fiscal Plan outlines key reforms for the Department of Education, Department of Health, Department of Public Safety, Department of Corrections and Rehabilitation, and Department of Economic Development. These reforms focus on improving implementation, increasing efficiency, and consolidating regional and similar offices.

To drive implementation of key reforms and outcomes, the 2020 Fiscal Plan introduces milestone budgeting, which will allow for investments in certain areas once key milestones are met. Milestone budgeting is introduced because urgent action is necessary to support the broader reform journey for particular agencies. Crucial milestones and incentives include for the: (1) Employee Retirement System to finalize establishment of defined contribution accounts for public retirees and employees; (2) Department of Treasury to issue the 2017 Comprehensive Audited Financial Report, draft the 2018 Comprehensive Audited Financial report, and develop an ERP system; (3) Department of Education to implement attendance reporting, school scorecards, and digitalization of Special Education Individualized Education Programs; and (4) Department of Economic Development and Commerce to publish regularly in a transparent manner economic incentives provided to businesses and associated returns.

#### *E. Implementation is Key to Puerto Rico's Success*

Unfortunately, Governments have failed to achieve meaningful economic growth through structural reforms or drive operational change that would deliver greater responsiveness and efficiency of government services. Efforts at private sector labor market reforms have stalled and the impact of human capital and welfare reform is not expected for several years. The Government's efforts to improve the ease of doing business have not changed the burden on businesses in any meaningful way.

To date, Government agencies have reduced expenditures but generally not in an effective fashion, as included in the certified fiscal plans. Rather than achieving budget savings by improving the way services are delivered or discontinuing duplicative or unimportant services, the Government has enacted broad-based early retirement programs to reduce headcount, creating major gaps in capabilities and functionality and potentially putting services at risk. Agencies should rethink their business processes and priorities, instead of relying on attrition and voluntary transition programs.

Across many areas, the Government has struggled to implement changes, with even new investments often not driving the intended use. For example, salary raises provided for teachers were improperly implemented, bringing new litigation costs, while police officers' enrollment in Social Security was delayed by 6 months. Despite efforts by members of the Government, the Board, and the Federal Government—which has increased oversight over Federal funds, installed Federal monitors in certain agencies, and managed expectations via consent decrees—the Government has been unable to meet the increasingly urgent need for real change.

The 2020 Fiscal Plan includes dozens of practical actions that the Government must take to create a more accountable, affordable, and transparent government, with resources focused on improving the front-line services that matter. Given the global COVID-19 pandemic, the 2020 Fiscal Plan pauses most government right-sizing measures for a year, so that the full focus of Government may focus on recovery and implementation.

Implementing the structural reforms and fiscal measures included in the 2020 Fiscal Plan fully on a timely basis will enable the Island to achieve low-cost and reliable energy, robust infrastructure, greater labor participation, an improved regulatory and permitting environment, and a more effective and efficient public sector. That said, these reforms are insufficient to return the Island to prosperity, nor do they allow Puerto Rico to avoid future deficits, which begin again in fiscal year 2032. Thus, in the near future, the Government will be required to take incremental measures, such as improving labor market flexibility through repealing restrictive laws and pursuing meaningful tax reform to broaden the base of collection and lower rates. These incremental structural reforms go beyond the 5-year framework of this 2020 Fiscal Plan and are required to return the Island to prosperity. Many of these reforms—which would reduce deficits and therefore make funds available for a variety of potential uses, most importantly to invest in the people of Puerto Rico—have been proposed by the Board, but the Board cannot implement them without the support of Puerto Rico's elected Government.

#### **IV. Debt Restructuring**

To date, the Board has: (1) developed and the District Court has confirmed a Title III Plan of Adjustment for COFINA; (2) authorized and the District Court has confirmed a Title VI Plan of Adjustment for GDB; and (3) supported a nearly \$1 billion loan restructuring agreement for PRASA with EPA and USDA.

The Board proposed an amended Plan of Adjustment (the “Plan”) in February 2020 to restructure \$35 billion of debt and other claims against the Commonwealth of Puerto Rico, the Public Building Authority, and the Employee Retirement System, and more than \$50 billion of pension liabilities. The Plan significantly reduces \$35 billion in debt liabilities to \$11 billion, or about 70 percent, and ensures that almost 75 percent of current and future pensioners are not cut. The Plan also provides predictability to public employees via updated collective bargaining agreements and restores over \$1.3 billion of withheld employee contributions to Sistema 2000.

The Plan has been supported by the Official Committee of Retirees representing retired government employees, current government employees represented by the Public Service Union as the Puerto Rico chapter of AFSCME, and the Lawful Constitutional Debt Coalition, a group of investors and funds holding Puerto Rico’s general obligation bonds and PBA bonds. The Board also has been seeking broader active public employee support and feedback, including from teachers represented by the Puerto Rico chapter of AFT.

The Board’s Special Investigations Committee hired the law firm Kobre & Kim to provide a complete, independent review of the Government’s debt, ultimately receiving a comprehensive investigative report. Following on Kobre & Kim’s findings, the Board undertook review of potential infirmities of debt issued by Puerto Rico and its various agencies and instrumentalities. Through its Special Claims Committee, the Board objected to the validity of over \$11 billion of general obligations bonds and filed several hundred complaints against entities to recover their payment related to issuance of that debt. That committee also filed complaints against over 20 banks, law firms and other parties to recover fees earned in issuance of nearly \$9 billion in bonds.

Given the considerable uncertainty about the effect of COVID-19 on Puerto Rico, however, the Board continues to believe that the primary focus of the Government and the Board should be to minimize and contain the pandemic. Furthermore, even with implementation of far reaching growth-inducing structural reforms, the 2020 Fiscal Plan projects that the Government cannot afford to pay the public debt as originally contracted.

Recognizing the importance of the ongoing Title III cases, but taking into account these realities, on March 23 the Board presented a motion requesting the Title III court to adjourn consideration of the proposed Plan of Adjustment’s disclosure statement hearing until further notice. The amended proposed Plan of Adjustment, presented to the Court on February 28, 2020, is now on hold and the next status report is due on July 15. As to PREPA, the Board and the Government filed a motion seeking to adjourn the hearing and all deadlines related to the PREPA restructuring support agreement Rule 9019 motion. On May 15, the Board and the Government provided a required update, stating that all briefing and hearing deadlines relating to the 9019 motion should continue to be adjourned.

#### **V. Municipalities**

On April 15, 2020, the District Court held invalid and unenforceable Puerto Rico Act 29–2019, which had eliminated the municipalities’ obligation to reimburse the Commonwealth for hundreds of millions of dollars in pension and health care cost for their own retirees. Contrary to what some mayors have said, the reversal of Act 29–2019 is not expected to have a significant impact on municipalities’ finances in the near term. The repeal of Act 29–2019 represents a deficit of 3 percent of the total municipalities’ budgets for fiscal year 2020, and the Board outlined a process for municipalities to repay these fiscal year 2020 obligations from incremental unbudgeted revenues, thus not affecting municipalities’ operating budgets.

Better budgetary practices, reduction of expenses through consolidation or shared-services arrangements and increased own-revenue streams should help municipalities remain sustainable for the benefit of the people of Puerto Rico. Moreover, a new partnership model between the Government and municipalities needs to be developed in order to deliver important services. That is why the Board is working with Mayors to develop potential solutions, as well as with the Municipal Revenue Collection Center (“CRIM” by its acronym in Spanish) on initiatives aimed at modernizing and improving the management of the property tax system and increasing the collection rate of such taxes. In addition, the Board is directly working with 10 municipalities to assist them with cost reduction and economic development

measures. Further, and as explained earlier, the Commonwealth's 2020 Fiscal Plan maintains the level of support to the municipalities for the next fiscal year at the same amount as in fiscal year 2020. Moreover, the 2020 Fiscal Plan provides an annual fund of \$22 million during the next 5 fiscal years (for a total of \$110 million) to incentivize municipalities that achieve cost savings through cost sharing or consolidation of services.

As a result of the extension of time granted to taxpayers for filing their personal property tax returns from May to August 2020, CRIM is facing a cash shortfall that has affected its ability to make the monthly remittances of May through August to the municipalities. To assist with this situation, the Board approved a Commonwealth liquidity facility for CRIM of up to \$185 million to help with monthly remittances through July 2020. To date, CRIM has not accepted the terms of the liquidity facility.

## **VI. Transformation of PREPA**

The Board continues to work with Government on the transformation of PREPA to ensure reliable energy for the residents, more effective and efficient management, and lower fuel costs.

This transformation is important to every individual, every business, and every potential investor. The people of Puerto Rico deserve a power system that can withstand hurricanes to ensure they are safe in their homes, and Puerto Rico's businesses deserve to open every day without relying on back-up generators to ensure they can serve their customers. Puerto Rico deserves manufacturing and service industry jobs created by investors who don't turn away because its electric power system is unreliable and antiquated.

The Board and the Government are in full agreement that private generation and private management of the transmission and distribution system are key to these improvements. The Board is working with the Government on the pending public private partnership process for selection of a private transmission and distribution operator and strongly supports the Government's efforts to secure FEMA funding to help with the cost of restoration and reconstruction of an affordable, resilient, and reliable power system that is environmentally compliant and that serves as a driver of economic growth. Selection of this operator and securing this Federal funding are critical next steps in the modernization of PREPA and increased economic development on the Island.

## **VII. U.S. Government Matters**

### *A. Supreme Court Decision*

On June 1, 2020, the U.S. Supreme Court issued a unanimous decision that will allow the Members of the Board and the Board to continue their work under PROMESA. The Supreme Court confirmed that PROMESA established the Board as an entity within the Government of Puerto Rico and that the process for selecting and approving members of the Oversight Board without Senate confirmation does not violate the Constitution's Appointments Clause.

### *B. Amendments to PROMESA Act*

I appreciate the opportunity to now comment on the Amendments to PROMESA Act recently introduced by Chair Grijalva and members of the Committee.

As mentioned in my October 22, 2019 testimony on an earlier version of this proposed legislation, the Board has serious concerns that several of these provisions, while well-intended, will substantially hamper its ability to effectively negotiate settlement of claims at this very critical juncture in implementation of PROMESA. Moreover,

- The Board supports the legislative proposal of Rep. Velázquez in the bill to extend the disclosure requirements of the Federal Rules of Bankruptcy Procedure to professionals employed by the Board, court, or debtor to avoid conflicts of interest and its goal of greater transparency and disclosure. The proposal, however, needs to be interpreted or altered in a manner allowing its practical implementation. It currently requires disclosures of each professional's connections with all creditors, and in the Puerto Rico Title III cases over 165,000 creditors filed proofs of claim.
- The provision for a GAO report on expenditures and operation of the Board is understandable, and the Board looks forward to working with Congress on the details.
- The provision allowing the Legislature of Puerto Rico to cancel some of its unsecured financial debt will lead existing Puerto Rico bondholders to demand

secured debt during ongoing negotiations, which is more expensive and restrictive than the unsecured debt. Moreover, this provision could render the issuance of future municipal debt in Puerto Rico and throughout the United States more expensive, and will cause purchasers of new debt to require that it be secured debt in all instances. The new discharge provision is also likely not to inspire creditor trust and confidence because no court is involved in the discharge accomplished by the Legislature and Governor. The Board's legal advisors also believe the criteria for the application of this new discharge may only allow Puerto Rico to qualify, in which case the statute will be subject to constitutional challenge as not being a uniform bankruptcy law. Additionally, the constitutionality of discharging the unsecured financial debt for nothing, while other debt is paid, will be challenged. It may well be that these new provisions will be upheld because they are being enacted under the Territories Clause, and not expressly the Bankruptcy Clause, but that too will be litigated.

- The proposed definition of essential public services specifies that public education, public safety, healthcare, and pensions are “essential public services”, with the ostensible purpose to ensure their funding in the certified Fiscal Plan to the maximum extent possible. The Board believes that this provision could have the exact opposite effect, as it provides ammunition to those who have been arguing that the Board cannot fund services above and beyond their own highly restrictive interpretation as to what services are truly essential. The Board is facing this claim in Title III cases filed by creditors, who would welcome congressional support for an essential service definition that could be used to advance their argument. The result could be substantially reduced funding for services that the Board and the Government consider essential but that other parties strongly believe otherwise.
- The prescribed funding for operation of UPR significantly expanding and locking in an \$800 million annual allocation to UPR makes efficient and effective operation of the Commonwealth substantially more difficult and delays any strengthening or diversification of UPR's revenue base. To put it in context, an \$800 allocation represents 70–80 percent of UPR's total budget, versus a 20–30 percent average for U.S. public universities. It is also diverts resources away from the critical services funded by the Commonwealth budget.
- The provision expanding the definition of investments for economic growth is consistent with the Certified Fiscal Plan and Budget. The plan and budget already include specific investments both in structural reform implementation and in the economic development tools necessary to reduce poverty, increase labor participation, attract quality jobs to the Island, expand workforce development programs—all leading to increased economic growth.
- The Board agrees with the importance of avoiding conflicts of interest. The proposed language on prevention of conflicts of interest as to the Board, however, significantly reduces the number and quality of people who can be Board members or Executive Director, which makes the Board far less effective at performing its critically important role and congressional mandate to help improve Puerto Rico. The section further severely reduces the amount on which the Board can rely for legal, financial, economic, and operations external advisors, which strongly impairs the Board's ability to effectively defend Puerto Rico in court against creditors.
- The initiation of Federal funding for operation of the Board and Title III could well lead to a new constitutional challenge to the Board's appointment without Senate consent. Moreover, it significantly limits the ability of the Board to determine how much money it needs to invest, research, and implement the critically important Title III work. It also makes the process harder, riskier for the Board, Puerto Rico, and the U.S. Government. Currently, the Title III fees are reviewed by the Title III Court and a fee examiner it appointed. That part of the system has worked well. If the Federal funding is insufficient, then the Board would not have the financial resources to defend against the attempts of secured and unsecured creditors to obtain judgments awarding them Puerto Rico's various revenue streams. To date, the Board has been sued over 100 times by creditors, and cannot afford to run short of funds to defend.
- The bill provides that any document, record, or information relating to the public debt of the Commonwealth of Puerto Rico is a public document and accessible to any interested party. Making public any document relating to the negotiations or restructuring of the public debt would be prejudicial and



detrimental to the Board's effort to effectively and expeditiously secure the best debt deal possible for Puerto Rico and its people.

- In connection with the new disclosure obligations, the new provision for assessing attorneys' fees is problematic because it may deter highly qualified individuals from serving as Board members. Furthermore, it contradicts PROMESA's insulation of the Board and its staff from liabilities and obligations for acts undertaken in carrying out PROMESA.
- The section creating a Puerto Rico Public Credit Comprehensive Audit Commission disregards and duplicates the work of the Board almost 2 years ago based on the over 600-page Investigative Report prepared by Kobre & Kim. That independent report effectively served the purpose of a debt audit. The Board's Special Claims Committee is pursuing valid claims arising out of that report (subject to a stay on some of the proceedings), and the Debt Management Policy in the 2019 Fiscal Plan is designed to make sure these issues do not arise again.

The Board remains committed to working with the Chairman, the Ranking Member, and other members of the Committee and the Congress as you continue oversight over implementation of PROMESA and consider any changes to the law.

#### *C. Legislation Expanding Manufacturing*

The Board was established by law to create the conditions for fiscal responsibility in Puerto Rico and restore access to capital markets. One element of this mandate has been to take opportunities to support the Government of Puerto Rico in its efforts to pursue prudent actions to promote economic stability and create the conditions for growth.

In this context, the Board wrote to the U.S. President and Congressional leadership on March 18 stating that if Federal policymakers consider actions to require increased manufacturing within the U.S., the Board strongly believes that Puerto Rico is a center of excellence within the Nation and can play a leading role in the national portfolio of locations where this manufacturing re-locates. The physical infrastructure, human capital, and regulatory processes are already established and well positioned. Moreover, this is a valuable opportunity to expand investment, jobs, and ultimately prosperity on the Island.

We acknowledge there are a number of policy considerations that would need to be discussed. Should policymakers pursue actions to require additional manufacturing in the United States, we respectfully encourage proactive dialogue between the Government of Puerto Rico and Federal policymakers to find mutually acceptable solutions to these issues. It is in this spirit that the Board will conduct a comprehensive study to update the facts and acquire the knowledge necessary for the private sector and the Government to define a comprehensive and actionable plan to reactivate the manufacturing sector in Puerto Rico. The Board would be proud for Puerto Rico to play a leading role in bolstering our national security and stand ready to assist however we can.

#### *D. Legislation Supporting Puerto Rico*

Finally, the Board continues to support legislative efforts of Chairman Grijalva, Ranking Member Bishop, Puerto Rico Resident Commissioner González-Colón, Representative Velázquez, Representative Soto, and many members of this Committee and Congress to provide equitable distribution of Federal funding and other Federal programs for Puerto Rico.

For example, the Board continues to support the Government's request to receive equitable treatment in Medicaid and Medicare. Residents of Puerto Rico pay the same level of Medicare taxes as mainland residents, but the Island receives substantially lower payments. Moreover, the Board is supportive of congressional action to provide enable Puerto Rico to participate in the Federal Earned Income Tax Credit program, which would bolster Puerto Rico's own local Earned Income Tax Credit and create an even more powerful incentive to bring more workers into the Commonwealth's formal labor market. Likewise, the Board supports legislation that provides funding to extend the Federal Child Tax Credit to more families with children in the Commonwealth. The Board also supports Governor Vázquez Garced's request to authorize Puerto Rico to participate in the Pandemic Electronic Benefits Transfer program created by the Families First Coronavirus Response Act, to ensure children on the Island have access to critically needed nutritional assistance benefits.

### **VIII. Conclusion**

PROMESA is not perfect, but it has provided Puerto Rico with the protection of a stay on its debt payments while continuing to fund essential services. The compromise between both sides of the aisle to provide the Island with a novel mechanism to restructure its debt under a bipartisan Board allowed the Government to prevent complete chaos in 2016 when the debts became unpayable.

The fiscal planning and budgeting discipline spearheaded by the Board since its first certified fiscal plan has in fact allowed Puerto Rico to be resilient and strong, with the ability to respond with concrete actions to extraordinary natural disasters and the COVID-19 pandemic. The savings measures have been successful in driving some meaningful progress in rightsizing the Government and enabled it to immediately provide fiscal stimulus and economic support to those affected by the COVID-19 measures. Unlike other local governments in the United States, Puerto Rico was not forced to respond to lost revenues with urgent and drastic cuts to its expenditures and essential services. In fact, next year's budget will be higher than the current budget, unlike most U.S. states, in part to respond to the need for fiscal stimulus and economic growth drivers.

Since we began working with Governor Vázquez Garced, we have engaged in a collaborative working relationship. We must clarify, however, change can be hard. In accordance Section 405(m)(4) Congress' own finding states: "a comprehensive approach to fiscal, management and structural problems and adjustments that exempts no part of the Government of Puerto Rico is necessary, involving independent oversight." While we will always collaborate in the best interest of the people of Puerto Rico, it is in this same interest that sometimes the Board must disagree with the Government and utilize the tools in PROMESA to further its mandate. Simply stated, all efforts should be on implementing the reforms that the people of Puerto Rico need and deserve.

Since 2016, the Board has been carefully executing its mandate in law. The fact that both sides—creditors and politicians—have material disagreements with the Board means something. The Board is doing its job and PROMESA is working. As stated earlier, the Board has serious concerns that several of the proposed amendments to PROMESA, while well-intended, will substantially hamper its ability to effectively negotiate settlement of claims at this very critical juncture in implementation of the law. These amendments should not become a distraction from the real work we all have to do.

The Board appreciates this Committee's invitation to provide an update on the status of the implementation of PROMESA and will continue to follow the path outlined in law to ensure Puerto Rico returns to fiscal responsibility and the capital markets.

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### **Supplemental Testimony**

**Natalie Jaresko**  
**Executive Director**

**Financial Oversight and Management Board for Puerto Rico**

**Submitted on July 2, 2020**

Chairman Grijalva, Ranking Member Bishop, and all members of the House Committee on Natural Resources, I humbly submit this supplemental testimony in addition to my written and oral testimony from June 11, 2020. I reviewed the transcript from the hearing and have compiled the information below to clarify some of the issues that were discussed.

#### **NEW FORTRESS ENERGY AGREEMENT FOR THE CONVERSION OF PREPA**

FOMB approved the agreement, even though the pricing structure was higher than the industry benchmark; the price was cheaper than the oil in use at that time. FOMB uses industry benchmarks and other pertinent data to evaluate proposed contracts, but the industry benchmark is not always available in Puerto Rico. In addition, since PREPA remains in bankruptcy, bidders tend to factor that financial risk in the cost of their bids. FOMB also approved the agreement because it would result in moving to LNG as a cleaner fuel than the bunker fuel it replaced. FOMB has seen recent media reports that San Juan 5 and 6 are still using diesel because New Fortress Energy has failed in its LNG safety tests, and FOMB is looking into that issue.

THE ABILITY OF THE DEPARTMENT OF HEALTH TO DEAL WITH THE PANDEMIC AFTER  
RIGHTSIZING

The Department of Health's capacity to provide timely and reliable data and administer diagnostic tests was not affected by previous actions of FOMB as to the funding or administration of the Department. The Fiscal Plans certified by FOMB have required a transformation of the Island's health system into a more efficient one that provides better services to the people of Puerto Rico. The Government had several health-related agencies that were highly fragmented, driving up costs and inefficiency as well as impairing the level of care. The Fiscal Plan required that the Department of Health consolidate six of the healthcare agencies with centralized support functions, and so far, the Government has made limited progress. For example, the Department of Health has struggled to establish an effective, centralized process for managing COVID-19 testing results and municipalities outside San Juan have found it hard to get access to tests.

THE WORKING CAPITAL OF UPR FOR FISCAL YEAR 2021 AND BEYOND

FOMB's goal is to put the university—Puerto Rico's most important engine for economic mobility—on a path to sustainability while also ensuring the tools it needs to manage the current COVID-19 pandemic. The FY2021 Budget for UPR tracks the 2020 UPR Fiscal Plan with modest adjustments based on updated projections related to COVID-19 interruptions. The details are below:

- Total revenues in this year's budget come to \$1.2 billion:
  - Includes the delay in reduction of the Commonwealth subsidy to UPR by 1 year, along with a corresponding delay in scheduled tuition and fee increases to relieve burden on students and families.
  - Revenues also decline this year due to decrease in enrollment (4.6 percent for undergraduates); COVID-19 related interruptions to self-generated revenues, such as hospital income; and, macroeconomic declines that affect UPR-directed funding streams (e.g., slot machine revenue).
  - Another major cause of the significant decline in revenues versus FY2021 Budget is the fact that FY2020 included significant federal and private insurance disaster relief.
- This year's budget provides for \$1.2 billion in expenditures:
  - FOMB is expecting UPR to make marked progress in implementing the administrative transformation this year.
  - Nonetheless, the Budget continues to invest in academic excellence, including a 3 percent increase in faculty payroll, continued growth in the university's pool of need-based scholarships (beyond those provided through the Commonwealth scholarship fund), and over \$10 million to support implementation of the system's much needed transformation.
  - The Budget also enables UPR to spend \$30 million in Capital Expenditures (\$42 million including equipment expenditures); this is significant as UPR has routinely underinvested capex to cover its operating overruns.
  - FY2021 also assumes that roughly 50 percent of the CARES Act funds not directly distributed to students will be expended during the academic year to help the system adjust to a "new normal", including expanded distanced learning, physical reconfigurations of campus spaces, and student counseling.
- On pensions, specifically, this year's budget contemplates freezing the defined benefit plan, moving to a defined contribution plan, and reducing accrued benefits to bring annual pension contributions to a sustainable level:
  - As a result of the pension measures, the total contribution required falls this year by ~\$40 million to \$121 million in annual expenditures.
  - The FY2021 Budget also creates a \$41 million emergency reserve. This reserve is funded through the projected reduction in procured and non-personnel services expected from the COVID shutdown, and can be used, for example, to maintain pension funding levels should UPR fail to implement the required pension reforms.

- The net deficit in this year's budget (post-debt service) is about \$33 million:
  - The Budget does imply an operating surplus (pre-debt service) is ~\$15 million.
  - FOMB has consistently said that even after measures are implemented, UPR will not have enough operating surplus to cover its ~\$48 million in annual debt service (legacy debt of \$542 million outstanding).

FOMB believes this level of operating surplus provides the right balance of allowing UPR to maintain its important function as an engine of economic development while also requiring adequate transformation efforts to right-size its administration and reinvest in academic excellence.

#### FOMB'S AUTHORITY

The recommendation that Mr. Marrero makes on FOMB's authority is based on a false construct. There have been four issues, four situations where there have been disputes between the Government and FOMB regarding FOMB's authority. In all four of those cases since 2018, the Court has agreed on the clarity and the authority that has been provided by PROMESA to FOMB. If amendments were made as Mr. Marrero suggested, then the definition of fiscal sustainability and balancing budget might need to be changed. If FOMB is no longer responsible for fiscal sustainability, then it will be difficult, if not impossible, to ever restructure the debt without clarity and confidence that the debt is sustainable.

#### TITLE V

The demand for expedited permitting pursuant to Title V of PROMESA has not been overwhelming. The demand that came into the pipeline established was primarily PREPA related; however, all the PREPA contracts needed to first either be approved or rejected in the Title III court. It was only in early June of this year that PREPA announced next steps for the PPOA contracts. Now, we expect that the demand for Title V will grow as those contracts are in place. Moreover, we've also started to see some other private sector investment. We are hopeful that as the business environment improves, there will be more private sector investment seeking to take advantage of Title V. To ensure FOMB is prepared to manage the renewed demand, we are currently in the process of hiring a full time Revitalization Coordinator.

#### FISCAL PLANS AND BUDGETS

The reforms included in the fiscal plans and budgets have not caused delays in the receipt of federal funds. It is true that the fiscal plans and the budgets have reduced payroll spending over the past 3 years. However, none of those payroll reductions should have been implemented through frontline employees. The intention and the agreement reached with the previous governor was that the bulk of the right-sizing would happen through back office consolidation, consolidation of bureaus into single departments, and those actions actually haven't happened for the most part. What has happened instead is the Government has used a very blunt tool for early retirement or voluntary transition, which has been offered across practically all front and back offices. Since that happened, it is has been difficult to direct who stays and who leaves because people have a voluntary choice to early retire. By implementing the reductions and in that fashion, FOMB believes that these programs have caused a problem in terms of capacity.

#### DELAY OF FEDERAL FUNDING

It is important to note that FEMA funding involves a very long and complex process. The COR3 department is funded by the Federal Government, not by the Commonwealth. So, it is a matter for COR3 and FEMA to clarify. Similarly, for CDBG-DR, there is an entirely new group of individuals hired with federal funds to implement the CDBG-DR program. That CDBG-DR program is very complex, so having to learn federal procurement rules and do what is required by the CDBG-DR program is complex.

#### THE EFFECTIVENESS OF PROMESA

PROMESA is not perfect, but it has provided Puerto Rico with the protection of a stay on its debt payments while continuing to fund essential services. The compromise between both sides of the aisle to provide the Island with a novel mechanism to restructure its debt under a bipartisan Board, allowed the Government to prevent complete chaos in 2016 when the debts became unpayable. The

fiscal planning and budgeting discipline spearheaded by FOMB since its first certified fiscal plan has in fact allowed Puerto Rico to be resilient and strong, with the ability to respond with concrete actions to extraordinary natural disasters and the COVID-19 pandemic. The savings measures have been successful in driving some meaningful progress in rightsizing the Government and enabled it to immediately provide fiscal stimulus and economic support to those affected by the COVID-19 measures. Unlike other local governments in the United States, Puerto Rico was not forced to respond to lost revenues with urgent and drastic cuts to its expenditures and essential services. In fact, next year's budget will be higher than the current budget, unlike most U.S. states, in part to respond to the need for fiscal stimulus and economic growth drivers.

Since 2016, FOMB has been carefully executing its mandate in law. The fact that both sides—creditors and politicians—have material disagreements with FOMB means something. FOMB is doing its job, and PROMESA is working. In furtherance of PROMESA's mandates, FOMB had taken the following steps:

- **Section 201(b)(1) Budgetary controls and fiscal discipline:** Implemented best practices budgetary controls and constraints on Government spending to avoid previous overspending practices. Given the absence of audited financial statements and previous spending practices, prior multi-year appropriations are suspended with few exceptions. Total Government spending must now be reviewed and certified. All tax initiatives must have a neutral or positive budgetary impact, and all expenses and revenue must be conservatively estimated.
- **Section 201(b)(1) PayGo Pension System:** Moved to a PayGo pension system allowing retirees to receive their pensions without interruption, despite the insolvency of Puerto Rico's pension funds, and enrolled police officers in Social Security to increase their security and retirement benefits.
- **Section 202(e) Ensuring critical services:** FOMB-certified budgets carefully balance the need to maintain funding for critical services commensurate with the size of the population and prioritize critical services such as education, public safety, and healthcare. These include (1) funding of \$200 million a year to support increased labor participation; (2) funding for safe kits to insure proper forensic analysis and long-await justice for victims and the accused; (3) pay increases for teachers and police to ensure more competitive compensation; (4) funding new positions for Forensics to rebuild capacity; (5) funding to repay 10 years of back pay to police officers; (6) creating a reserve account to ensure the ability to act to protect the population immediately in case of future emergencies; (7) budgeted funds to cover any cost-share required for federal disaster funding; (8) funding to enable compliance with certain consent decrees; (9) budgeting \$400 million annually in Commonwealth capital expenditures to improve significantly underfunded infrastructure; and (10) over \$300 million in needs-based scholarships for UPR students.

Without FOMB and associated fiscal plans, projections show that Government spending would have ballooned from \$19 billion in fiscal year 2018 to \$22 billion in fiscal year 2025 (an increase of 16 percent). FOMB, meanwhile, has contained expenditures to a 2 percent increase between fiscal year 2018 to fiscal year 2025, or up 12 percent on a per-capita basis (given the decline in population), while providing valuable investments in frontline services.

- **Section 204(b) Transparency and accountability in government spending:** Fostered more transparency and visibility into Puerto Rico's government finances, including Puerto Rico's liquidity, budgets, and other intergovernmental spending—notwithstanding the Government's continued delays in completing its overdue audited financial statements. Moreover, the people of Puerto Rico now have access to public reports, including bank balances, quarterly budget to actuals, payroll and attendance, and tax expenditures.
- **Section 204(b) Contract Review:** FOMB reviews major contracts before they can be ratified to ensure both consistency with the certified fiscal plans and budgets, as well as to ensure they promote market competition. This process has brought much-needed transparency, with all responses and analyses posted in FOMB's website.

Since the inception of PROMESA, FOMB has played a critical role in helping Puerto Rico respond to crises. Moreover, it has worked with the Government to institute much more effective fiscal management after decades of mismanagement.

The fiscal plans that FOMB has certified have walked a very prudent balance between driving more effective and sustainable Government, while investing in critical needs on the Island. Last, FOMB has articulated a detailed and comprehensive roadmap of the actions that must be taken to restore growth through economic development, with structural reforms being particularly critical. However, given the constraints of PROMESA, FOMB must rely upon the political will of the Island's elected leadership in order to truly transform the Government of Puerto Rico and the economic landscape into what the people and businesses of Puerto Rico deserve.

#### AUDITED FINANCIAL STATEMENTS

Completion of the Commonwealth of Puerto Rico's audited financial statements is a top priority to FOMB and at the core of PROMESA's objectives for the benefit of the people of Puerto Rico. FOMB is committed to assist the Government in completing such an important milestone, which will ultimately enable the Government to achieve financial sustainability and access to the capital market at reasonable rates.

For years, the issuance of the Commonwealth of Puerto Rico's audited financial statements, better known as the Comprehensive Annual Financial Reports or "CAFRs", has been delayed. Most notably the FY2015 and FY2016 CAFRs were both issued and published over 1,000 days after each fiscal year ended. The FY2017, FY2018, and FY2019 CAFRs have yet to be issued as of this date. Despite best practices calling for audited financial statements to be published no later than 180 days after the end of each fiscal year, today is day 1097 for the FY17, day 732 for the FY18 and day 367 for the FY19.

To that effect, FOMB in its oversight role, has been actively collaborating in an attempt (i) to identify the challenges to issuance (ii) to ensure that audits are completed as quickly as possible; (ii) for the Government to institutionalize best practices; and (iii) for the Government to have the appropriate resources for the preparation of the CAFRs. During this fiscal year, FOMB has been conducting recurring meetings, in some cases on a weekly basis, with the Department of the Treasury, the Government's external auditors, and key component entities within the Government to help expedite the overdue delivery of the FY2017 CAFRs and assess the timing of the FY2018 audit. In this spirit, FOMB has provided recommendations on relevant administrative orders submitted for FOMB's consideration pursuant to the Rules, Regulations and Orders Review Policy; and requested the Government provide:

- weekly updates from the Department of Treasury on progress and risks to the completion of the FY2017 CAFRs;
- progress reports on the FY2018 audit preparation;
- submission of the FY2018 proposed external auditor contract pursuant to FOMB's Contract Review Policy; and
- any and all other information requested in an effort to lend a hand, evaluate key constraints, and facilitate the prompt delivery of current and future audits.

Furthermore, the latest 2020 Certified Fiscal Plan and Fiscal Year 2021 Certified Budget include incentive milestones and additional resources to promote and assist with timely completion of the pending audits. Some of these incentives and investments include:

- a \$1.6 million appropriation to hire staff accountants in the Department of Treasury's Central Accounting Division so that critical skills and capabilities can be retained in-house while reducing the reliance on costly professional services;
- a one-time \$1,500 bonus to Central Accounting employees, estimated at total cost of \$100,000, if both the official 2017 CAFR is published and a draft of the 2018 CAFR is provided to the FOMB by November 2020; and
- \$36 million in capital expenditure appropriations for the implementation of a new Government ERP system—broken down into \$14 million for Wave 1 once a dedicated project team is in place by August 2020, and \$22 million for Wave 2 after Wave 1 is completed between September 2020 and February 2021.

Despite the Government's efforts to comply with issuance deadlines and FOMB's willingness to assist the Government in any way possible, there are still high risks in producing timely audits. Disaggregated accounting systems, manual procedures, numerous circular letters, and a decentralized OCFO function have contributed to

consistent delays in the production of audited reports. And that's the real question: what will the Department do differently to change processes and procedures to ensure we can fix this moving forward on a permanent basis and on the basis of best practices?

FOMB is committed to transparency, accountability, and to the sound administration that ultimately results in better services for the people on the Island. In light of these goals, it is in the people's best interest to conduct this public hearing on the status of the overdue audited financial statements of the Commonwealth of Puerto Rico. As always, FOMB is in the best position to collaborate with the Government, accomplish the objectives of PROMESA, and ensure responsible fiscal practices are institutionalized to achieve financial sustainability and a return to capital market access at reasonable rates.

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QUESTIONS SUBMITTED FOR THE RECORD TO NATALIE JARESKO, EXECUTIVE  
DIRECTOR, FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO

**Questions Submitted by Rep. Grijalva**

*Question 1. Please provide a status of the debt restructuring negotiations and proceedings of the central government and its instrumentalities in light of the economic impact of the COVID-19 pandemic.*

Answer. Given the considerable uncertainty about the effect of COVID-19 on Puerto Rico, FOMB believes that the primary focus of the Government and FOMB should be to minimize and contain the pandemic.

As to debt restructuring, even with implementation of far reaching growth-inducing structural reforms, the 2020 Fiscal Plan projects that the Government cannot afford to pay the public debt as originally contracted. Recognizing the importance of the ongoing Title III cases, but taking into account these realities, on March 23 FOMB presented a motion requesting to adjourn consideration of the proposed Plan of Adjustment's disclosure statement hearing until further notice. The amended proposed Plan of Adjustment is now on hold and the next status report is due on July 15. Similarly, the Government and FOMB filed a motion seeking to adjourn the hearing and all deadlines related to the PREPA restructuring support agreement proceedings. On May 15, the Government and FOMB provided an update stating that all briefing and hearing deadlines relating to the restructuring support agreement should continue to be adjourned.

*Question 2. In April, the G20 announced a year-long moratorium for low income countries on debt-payments and interest accumulation in response to the global COVID-19 pandemic and economic crisis that is going to hit vulnerable economies hardest. Will the Oversight Board adopt a similar position given the already high levels of debt, unemployment, and poverty in Puerto Rico, which will only be exacerbated by the pandemic? What is your target for a principal haircut on the debt that remains to be restructured?*

Answer. A court approved stay is in effect for most of Puerto Rico's debt payments, which has aided Puerto Rico in stabilizing its finances and developing restructurings for its debt in a sustainable manner. In effect, as a result of PROMESA, Puerto Rico has had some 3 years of relief already.

As for a target on restructuring of debt, we need to take one step at a time. The first step was certifying the 2020 Fiscal Plan, which reflects the new reality. The second step is to produce a certified Budget consistent with this certified Fiscal Plan ensuring the funding of essential services. Thereafter, we will determine how to most effectively implement our mandate and restructure Puerto Rico's debts. FOMB continues to believe that exiting from Title III is critically important for Puerto Rico and we are dedicated to reevaluating our existing developments.

*Question 3. After the COVID-19 pandemic started, you made statements saying that you would postpone austerity measures for a year and acknowledged that the plan of adjustment and fiscal plan need to be redrawn. Even the International Monetary Fund has stated that austerity is not the answer in these times. Why not shelve austerity altogether and focus on growth? How does it benefit the economy of the island to continue gutting higher education, municipal budgets, retirees' pensions, and other drastic cuts to government spending at a time of world economic slowdown and recession?*

Answer. The 2020 Fiscal Plan reflects a 1-year delay in most categories of budgetary reductions to allow the Government to focus on implementation. This pause in rightsizing includes maintaining the subsidies to the University of Puerto Rico (“UPR”) and the municipalities at current fiscal year levels. Most agencies will maintain their fiscal year 2020 budgets in fiscal year 2021.

That said, the Fiscal Plans never “gutted higher education, municipal budgets, retirees’ pensions or other.” The Fiscal Plans aimed only at achieving fiscal sustainability, 4 years of balanced budgets per PROMESA, in light of the economic and population decline. Two elements were required to achieve that balance: (1) structural reforms that enabled a growing economy and increased budgetary revenues as a result; and (2) efficiency measures to decrease expenditures while improving government services.

During the 1-year delay in rightsizing, the fiscal plans will press for major structural reforms to restore competitiveness and spur a return to prosperity.

To further promote growth, the fiscal plans will accompany these reforms with targeted investments in and support for those on the front lines of service delivery.

Given FOMB’s financial projections outlined in my written testimony, we consider imperative the Government’s implementation of the critical, overdue structural reforms in the fiscal plans over the next year.

*Question 4. Please provide the projections for tax revenue shortfalls this fiscal year FY2020, as well as FY2021.*

Answer. We estimate a revenue reduction of \$1.3 billion in the current fiscal year 2020, \$1.2 billion in fiscal year 2021, and \$774 million in fiscal year 2022, relative to the revenue projections in the 2019 Fiscal Plan.

*Question 5. The certified 2020 Fiscal Plan estimates that the economy of Puerto Rico will receive an infusion of approximately \$83 billion of disaster relief funding, from federal and private sources. The expected funding from the Federal Government has been slow in reaching the Island. The greatest share of that projected federal funding is from FEMA (\$48 billion) and HUD (\$20 billion).*

*5a. How much of the federal funding has been received to date?*

Answer. The \$83 billion of disaster relief funding from federal and private sources will be disbursed in the hurricane reconstruction effort over a period of 15 years. It will be used for a mix of funding for individuals, funding for the public, and to cover part of the Commonwealth’s share of the cost of disaster relief funding. In addition, FOMB estimates earthquake-related funds amounting to \$595 million from FEMA to cover the damage caused by the earthquakes at the beginning of 2020. To date, the Commonwealth has received \$16.2 billion from FEMA and other federal agencies, \$3.2 billion in CDBG-DR funds from HUD, and over \$6 billion from private insurance payments.

*5b. Does the projected amount in FEMA funds for things like Individual Assistance (IA) take into account FEMA’s history of denying over 60 percent of IA claims after Maria and the recent earthquakes?*

Answer. The data we use is provided directly by FEMA regarding approved IA only.

*Question 6. The CARES Act made Puerto Rico eligible for low-interest loans from the Federal Reserve needed due to the COVID-19 pandemic’s impacts on the economy and local budget. A former PROMESA Oversight Board contractor is handling this program at the Fed. Did he consult with the Oversight Board before the Fed decided to exclude Puerto Rico (and the other territories) from eligibility? Did the Oversight Board or any of its contractors discuss Puerto Rico’s eligibility with anyone at the Fed or the U.S. Treasury Department?*

Answer. FOMB has not engaged in any conversations with the Fed or the U.S. Treasury Department as to the low-interest loans from the Federal Reserve. We understand these are meant to help states and municipalities with liquidity shortfalls, which is not the case of Puerto Rico.

*Question 7. \$4.9 billion was appropriated after Hurricane Maria for low-cost forgivable Community Disaster Loans for Puerto Rico and the U.S. Virgin Islands based on projections of revenue losses that, in Puerto Rico’s case, were vastly overestimated. The White House suggested Puerto Rico could expect about \$4.65 billion of the total, but only a few hundred million were disbursed to Puerto Rico’s municipalities because the territorial government did not have a liquidity problem as projected. Since Puerto Rico was excluded from the Federal Reserve program—contrary to Congress’ intent—should a reprogramming of the \$4 billion in*



*Community Disaster Loans that were appropriated but have not been used be disbursed to Puerto Rico?*

Answer. The intent of both the Community Disaster Loans and the recent Federal Reserve program appear to be providing liquidity support to local governments as needed when revenue losses are substantial. At this time, the territorial government has not experienced liquidity and revenue losses that would cause budgetary reductions. As a result of the budgeting practices in place since PROMESA was adopted, the territorial government was able to increase spending by some \$500 million during the pandemic to support front line public health and public safety workers, as well as those most affected by the economic consequences of social distancing measures. Moreover, the FY2021 General Fund budget also is higher than the previous year budget, notwithstanding revenue declines.

*Question 8. Ms. Jaresko, in one of your previous congressional testimonies before the House Natural Resources Committee, you said that the Oversight Board concluded that at least \$6 billion of Puerto Rico's debt was illegal. Yet, instead of pursuing that claim you settled with bondholders out of court. What message does it send during debt restructuring negotiations that the Oversight Board is willing to allow Wall Street and other investors to keep charging the people of Puerto Rico for debts accrued in an illegal fashion?*

Answer. A Special Investigation Committee of FOMB hired Kobre & Kim to conduct a comprehensive study of Puerto Rico's debt and its relationship to the financial crisis and to determine whether any of Puerto Rico's debt should be challenged. As a result of this review, FOMB with the Official Committee of Unsecured Creditors ("UCC") objected to the validity of over \$6 billion of general obligation ("GO") bonds issued in 2012 and 2014. In early 2020, during the negotiation over the Commonwealth Plan of Adjustment, FOMB through the court-ordered mediation process reached a settlement on both the validity of the 2012 and 2014 GO bonds. A settlement avoids the costly and risky litigation that would be necessary to conclude the validity claims. As noted, the Court proceedings as to the Plan of Adjustment remain adjourned at this time.

*Question 9. Serious concerns have been raised after it became public that the Oversight Board has contracts with McKinsey, which has a subsidiary that owns Puerto Rico bonds. What measures are you taking to prevent this conflict of interest from happening again?*

Answer. Transparency is critically important, and we are committed to making sure our disclosure rules are fair and comprehensive. We carefully looked into the disclosures of our consultants and hired an independent law firm to do an independent investigation. The report<sup>1</sup> did not find any violation of the disclosure rules governing our vendors or those required by law. Nonetheless, we did implement additional disclosure rules, as suggested in the report, to make more explicit the intolerability of conflicts of interest.

*Question 10. In October 2019, you testified before this Committee that you supported Rep. Velazquez's H.R. 683—Puerto Rico Recovery Accuracy in Disclosures Act of 2019 (PRRADA) bill to require all PROMESA consultants, advisors, and law firms to disclose their conflicts of interest. Do you still support Congress passing the PRRADA bill and have PROMESA advisors like McKinsey increased their transparency or at least ceased trading in Puerto Rico debt while they also serve as a bankruptcy advisor?*

Answer. FOMB continues to support the legislative proposal of Rep. Velázquez in the bill to extend the disclosure requirements of the Federal Rules of Bankruptcy Procedure to professionals employed by FOMB, Court, or debtor to avoid conflicts of interest and advance greater transparency and disclosure. The proposal, however, needs to be modified to assure its practical implementation. It currently requires disclosures of each professional's connections with all creditors, and in the Puerto Rico Title III cases over 165,000 creditors filed proofs of claim. We look forward to working with Congress on technical amendments to further the bill's objectives.

*Question 11. The Oversight Board wrote a letter supporting the establishment of new incentives to reshore U.S. manufacturing (specifically pharmaceutical and medical devices plants currently located in China) to return to Puerto Rico. There are two bills that have similar objectives, one by Rep. Plaskett, H.R. 6648—Territorial*

<sup>1</sup>Final Investigative Report—McKinsey & Company, Inc. prepared by Luskin, Stern & Eisler LLP, special counsel to FOMB, available at <https://drive.google.com/file/d/1avv872k0XNonEiN9x0UzNUCUDtYkqOd/view>.

*Economic Recovery Act, to cut the GILTI tax for companies that create jobs in the territories. The other is from Resident Commissioner González-Colón, H.R. 6443—Securing the National Supply Chain Act, that would apply to the states and territories establishing depressed zones for manufacturing investment. Which of these does the Oversight Board support?*

Answer. FOMB has not taken a position with regard to either bill. We support the reshoring of U.S. manufacturing to Puerto Rico and recognize the certain economic growth, jobs, and development that would result.

One element of our mandate under PROMESA is to take opportunities to support the Government in its efforts to pursue prudent actions to promote economic stability and create the conditions for growth. Puerto Rico is a center of excellence within the Nation and should play a leading role in supporting pharmaceutical or medical device manufacturing. It is in this spirit that FOMB is conducting a comprehensive study for the private sector and the Government to define a comprehensive, actionable plan to reactivate manufacturing.

*Question 12. During recent natural disasters and the COVID-19 pandemic, the University of Puerto Rico (UPR) has been essential for recovery efforts. As an example, we can see the work done by the Puerto Rico Seismic Network, which is part of the UPR, and has been essential during the earthquake emergency to evaluate, inform and educate in protection of civil society. Also, health professionals of the Medical Sciences Campus have been key to the COVID-19 medical task force created by the Government of Puerto Rico to guide them in the decision-making process to control the spread of the pandemic. In that sense, the UPR can be distinguished from other Universities in the country, because it provides essential public services and plays an important socioeconomic role that otherwise would not exist for the residents of Puerto Rico. As the fiscal plans for the next years keep reducing the budget of the UPR, and thus the possibilities for it to operate and develop such essential programs, has the Oversight Board identified other ways that such essential public services would be provided to the residents of Puerto Rico?*

Answer. UPR has played and undoubtedly will continue to play an essential role in Puerto Rico's recovery and its future. In light of COVID-19, the 2020 UPR Fiscal Plan provides a 1-year delay in the reduction of the annual appropriation from the Government and the previously scheduled tuition, fees, and dues increases. In the longer term and more fundamentally, FOMB believes that the greatest challenges to UPR are falling enrollment, an aging infrastructure, and a pension system that is at serious risk of insolvency soon.

In the coming fiscal year, UPR needs to focus on increasing revenues, attracting more students, implementing scholarship funds to help those students who need financial assistance, preserving its faculty, securing the pensions of its staff, and cutting administrative costs. The UPR Fiscal Plan does not foresee any campus closures, any decreases in teaching staff, any decreases in student services, yet does require efficiency in administration of the 11 campuses. Furthermore, to address future tuition increases and students in need of assistance, the Commonwealth Fiscal Plan establishes an over \$200 million scholarship fund that will be administered by the non-profit Fundación Comunitaria. In addition, a special \$30 million tuition-remission fund is established for UPR medical students.

*Question 13. The Oversight Board insists that budget cuts to the University of Puerto Rico do not risk the accreditation of the educational institution and will not result in it losing its U.S. Department of Education certification. In several instances, the Oversight Board cites an opinion provided by the U.S. Department of Education to that effect. Can you confirm that this is the position of the Oversight Board and that it is sustained in a written opinion of the U.S. Department of Education? If so, can the Oversight Board provide this Committee with a copy of the written opinion it refers to?*

Answer. FOMB is not authorized to speak on behalf of the U.S. Department of Education. A clean reading of Title IV of the Higher Education Act makes it clear that a restructuring under Title III or Title VI of PROMESA does not trigger the Title IV "bankruptcy" rules.

*Question 14. In the 2020 Fiscal Plan, the Oversight Board completely defunded the public broadcasting system and, according to Director Marrero, attempted to micromanage the Government of Puerto Rico through such measures as specifying what agencies should perform promotional activities for the new earned income tax credit and imposing requirements on street parking. Can you explain why the Oversight Board needs to tell elected government officials what agencies should be involved in*

*promoting its earned income tax credit and impose requirements on street parking? Or do you dispute his testimony?*

Answer. FOMB disputes Director Marrero's testimony mischaracterizing FOMB's actions as micromanaging. In each of these alleged instances, FOMB acted in accordance with its mandates under PROMESA. For almost 4 years, the Government has been slow in implementing the reforms needed to grow the economy.

On the two examples of "micromanaging," we would like to correct the record.

- On "promotional activities for the earned income tax credit:"

The earned income tax credit (EITC) is key to promoting labor force participation and reducing poverty. Implementation of across mainland states and have resulted in meaningful gains in formal labor force participation, especially among low- to moderate-income workers. The of the EITC is impactful when the targeted population's appreciation of its value affects their decision whether to stay in the formal economy or seek employment in Puerto Rico or elsewhere.

Although the Government implemented an EITC for tax year 2019, it did not include a robust promotional campaign as required by the Certified Fiscal Plan. Hacienda's EITC outreach centered on sending circular letters to tax preparers and establishing a few outreach centers to discuss EITC with potential filers. The centers opened in late February and closed on March 15th due to the pandemic. By relying on an in-person outreach campaign after the tax year was over and failing to establish a more robust promotional strategy (e.g. via digital channels, targeted marketing) throughout 2019, the benefit of the EITC has been muted. To maximize the EITC's impact, the Government must urgently assure that individuals are aware of its benefits.

- On "imposing requirements on street parking:"

As part of the Fiscal Plan development process, FOMB has required from the Government "initiatives to create an integrated multimodal transport system across the Island, including a plan to execute on the initiatives and reflect any Government expenditures to implement these initiatives." When the Government failed to provide such detail, FOMB included the following in the Fiscal Plan:

"Public transit agencies should work with the Government and local municipal authorities to promote the adoption of innovative curb management practices (e.g., dynamic pricing for on-street parking, replacing on-street parking with drop-off zones). These practices would raise the cost of car usage and would incentivize commuters to use public transit. They would also generate funds that could improve service quality in the communities they service (e.g., construct more and better bus shelters)."

Dynamic pricing for on-street parking and replacing on-street parking with drop-off zones are examples of initiatives the Government should undertake to improve the Island's transit system, especially in the San Juan metropolitan area, which is the 25th most congested city in the United States.

In both cases, if the Government had implemented best practices on its own, there would be no need to describe the actions in the Certified Fiscal Plan. However, to maximize the benefit of the EITC and to increase the availability and convenience of public transport to residents, which reduces congestion, pollution, and increases mobility, we identified the best practices.

As to WIPR, in January 2019 FOMB recommended that the Government transfer ownership of WIPR's assets to a private nonprofit entity. In April 2019, the Government accepted the recommendation and began implementing the change. However, to date, there has been no progress.

*Question 15. The Oversight Board decided that a major way to attract job-creating investments in Puerto Rico would be to repeal the law that requires employers to provide severance pay if they fire employees without being able to show cause, "Law 80." The Oversight Board convinced then Governor Ricardo Rosselló and represented this as an agreement with the entire Government. However, the Puerto Rico Senate passed a bill that would have repealed Law 80 for new hires. The Oversight Board rejected this proposal. Since the purpose of the repeal was to create new jobs and the branch of government that writes the laws in Puerto Rico was willing to repeal the law for new hires, why didn't the Oversight Board accept the legislation?*

Answer. FOMB believes that unless Puerto Rico substantially increases its labor force participation and employment, incomes will fall even farther below U.S. states and outmigration will continue to grow. Pre-COVID labor participation in Puerto Rico was around 40 percent, while it was 60 percent on the mainland, and 60 percent in nearby island economies such as Dominican Republic. Increasing labor force participation may be the single most important objective for long-term economic well-being in Puerto Rico.

FOMB believes that labor reform, especially including transforming Puerto Rico into an “employment-at-will” jurisdiction, will improve the vibrancy of the local labor market, make Puerto Rico more competitive and attractive for job-creating investments, promote more hiring within the formal economy, and produce more revenue to the government.

The bill that you describe would have repealed Law 80 only for new hires and provided that individuals formerly covered by Law 80 would remain protected. Because that law failed to repeal Law 80, did not change Puerto Rico to an at-will employment jurisdiction, and potentially would have created greater administrative/regulatory burden in recordkeeping for business, FOMB did not accept the legislation.

*Question 16. Ms. Jaresko, you have sued the Government of Puerto Rico for not turning over documents related to the controversial purchase of rapid COVID-19 test kits for \$38 million, that never arrived. What are the systemic contracting issues you have identified that should be addressed in order to prevent this kind of situation from happening again?*

Answer. FOMB asked the Government on April 6 and several times thereafter for the documents that should precede any contract or purchase order, such as emails, text messages and memos showing the procurement and decision-making process. Given the numerous examples of failure in emergency procurement in the past 3 years, we requested this information to determine what procurement processes were indeed executed, what lessons could be learned, so that a more transparent and accountable emergency procurement process could be put in place to avoid similar crises in the future. Unfortunately, the Government did not send these documents despite multiple requests from FOMB. Therefore, FOMB was forced to file a complaint in federal court to compel the Government to provide the requested required documents. This litigation is still pending.

*Question 17. Senate Finance Committee Chairman Charles Grassley wrote a letter to Governor Wanda Vázquez outlining a series of well-documented incidents of corruption and mismanagement that have been widely reported by the media in Puerto Rico. What specific measures is the Oversight Board implementing to address each of his concerns and what steps are you taking to ensure these incidents never happen again?*

Answer. FOMB has taken the following actions:

**Budgeting practices:** FOMB-certified budgets include four sets of major improvements in budgeting practices. First, FOMB worked with the Government to provide a deeper level of detail in the budget, detail that had not previously been available to the Legislature or public, enabling a better understanding of how funds are being spent. Second, the consolidated budget is more comprehensive and captures items not budgeted previously, including all cash subsidies. Moreover, the Fiscal Plan calls for the Government to consider limiting tax credits issued each year by capping the notional amount authorized, and including sunset provisions that eliminate the ability to claim unused credits previously issued. The Government also now has the capacity to make decisions around limiting and more selectively targeting tax expenditures based on the recent publication of the first-ever tax expenditures report. Third, the published budget resolution includes more detailed specific concepts of spending within the personnel and non-personnel categories for each agency to provide a more detailed look at how the Government uses its funds. Finally, a series of budget controls are established within the budget to improve fiscal responsibility and discipline.

**Transparency:** Fostered more transparency and visibility into Puerto Rico’s government finances, including Puerto Rico’s liquidity, budgets, and other intergovernmental spending—notwithstanding the Government’s continued delays in completing its overdue audited financial statements. Moreover, the people of Puerto Rico now have access to public reports, including: bank balances, quarterly budget to actuals, payroll and attendance, and tax expenditures.

**Contract review:** FOMB is reviewing contracts for approval pursuant to Section 204(b)(2) of PROMESA to assure that they “promote market competition” and “are not inconsistent with the approved fiscal plan”. Further, in an effort to comply with Section 204(b)(3) of PROMESA, FOMB is currently enhancing its Contract Review & Procurement Office with seasoned procurement, contract management and quality resources with the sole purpose of bridging collaboration with the government toward providing an end-to-end support in their procurement process, from the identification of the need(s) to the award of the service/product, the contract development itself and the subsequent follow up on critical essential services deliverables/milestones. The new office, which is expected to start in July 2020, is also working on reviewing and approving Government procurement regulations on purchases and contract registration to make the procurement and contracting process more transparent. By promoting market competition, the Contract Review & Procurement Office seeks to aid the Government in becoming more transparent and accountable to the people of Puerto Rico.

**Document requests for COVID-19 related issues:** FOMB seeks to understand the processes under which these contracts were negotiated, procured, and approved to, among other things, increase the public’s faith in the Government contracting process and improve the emergency procurement process. FOMB has requested all this information to the Government. Unfortunately, much of it has not been provided after months of requests in writing. For such reason, FOMB filed a complaint in the U.S. District Court for the District of Puerto Rico to compel the Government to provide the missing documents.

*Question 18. Due to a lack of government revenue, municipalities in Puerto Rico are highly concerned with liquidity. Although the Oversight Board approved a \$185 million line of credit for the Municipal Revenue Collection Center, known as CRIM, the Government of Puerto Rico rejected the loan. Shortly after, the Puerto Rican legislature tried to push for a bill that would grant access to the Oversight Board’s emergency funds to obtain this \$185 million line of credit. The Oversight Board rejected this proposal. What steps will the Board be taking to address the liquidity of municipalities given these challenges?*

Answer. FOMB is working with CRIM and the Government on how to reimburse the Commonwealth for amounts paid to the municipalities under the now invalid Law 29. FOMB has developed a plan to reimburse the Commonwealth, with several options which only incrementally affects the budgets of the municipalities in Fiscal Year 2020.

The Government and FOMB were aligned in offering CRIM a \$185 million line of credit, to help with its decision to defer property tax revenue in light of the pandemic, and CRIM rejected it. FOMB has asked CRIM, repeatedly, for an amount works to structure a line of credit facility. The Puerto Rico legislature was considering legislation in the Senate enabling the \$185 million line of credit and legislation in the House providing unbudgeted funds to the municipalities.

Moreover, FOMB has also adopted a number of measures to address these liquidity situation, such as authorizing use of funds from the Emergency Reserve Fund for municipalities, \$15 million for 18 municipalities impacted by the January 2020 earthquakes, \$100 million as part of the COVID Emergency Measures Support Package, and over \$30 million to cover the demolition and debris removal in 11 municipalities. In addition, the territorial government has allocated an additional \$100 million to municipalities for eligible COVID-19 related expenses from its CARES Act funding.

#### Questions Submitted by Rep. Sablan

*Question 1. The Oversight Board wrote in support of the establishment of new incentives to restore U.S. manufacturing—specifically pharmaceutical factories and medical device plants currently located in China—to return to Puerto Rico. There are two bills that have similar objectives. One by Rep. Stacey Plaskett to cut the Global Intangible Low-taxed Income (GILTI) tax for companies that create jobs in the territories. The other bill by Resident Commissioner Jenniffer González-Colón would provide federal tax incentives to economically depressed areas, also known as distressed zones, for the manufacturing of vital medical supplies. Which, if any, of these bills does the Oversight Board support?*

Answer. As stated in reply to the same question from Chair Grijalva, FOMB has not taken a position on either bill. However, as elaborated above, FOMB is conducting a comprehensive study for the private sector and the Government to define a comprehensive, actionable plan to reactivate manufacturing in Puerto Rico.

#### Questions Submitted by Rep. Costa

*Question 1. In order to help Puerto Rico achieve fiscal responsibility and sustainability, PROMESA required that Puerto Rico's audited financials be made current yet Puerto Rico remains behind in its audited financials even though PROMESA is now almost 5 years old. Are there factors attributing to the delay of the financial auditing process? If so, could you please elaborate on which factors?*

Answer. FOMB has received the FY2016 audited financial statements from the Government, but the FY2017 financial statements remain incomplete. The latest date targeted by the Secretary of Hacienda to provide those statements is July 30, 2020. For a significant period of time, FOMB has been urging the Government to update its audited financial statements and pressing the auditors to meet with those elements that are delayed. The factors that have led to historic delays in the issuance of audited financial statements include the numerous and disaggregated accounting systems, manual procedures, numerous circular letters, and a decentralized Chief Financial Officer function.

*Question 2. The Financial Oversight & Management Board in an early fiscal plan was projected to spend \$1.5 billion on advisory fees. However, since then, this number has increased and there are growing concerns over where such fees are going. Could you please provide the amount the Commonwealth and the Board has spent on aggregate financial and legal advisory fees per year? Could please elaborate on why the fees have increased?*

Answer. FOMB's budget for this fiscal year is \$58M, which we decreased by 11 percent from last year by hiring more staff and reducing our reliance on outside consultants. FOMB is working with the Government to fix a decades-long problem. To do so, FOMB has recruited the best firms that provide expertise in the many areas that FOMB needs to work to achieve lasting, sustainable solutions to fiscal management and practices.

FOMB's operating budget per year is included below:

FY17	FY18	FY19	FY20
\$31M	\$60M	\$64M	\$58M

The Title III process includes many professional and advisor fees from FOMB as well as the Government, the Unsecured Creditor Committee, and the Committee of Retirees, among others. The growing cost for the Title III process is largely due to the large number of lawsuits pending and challenges in reaching consensual agreements for debt restructuring.

In total, for the period from FY2018 to FY2024, the Title III restructuring-related expenditures projection in the 2020 Fiscal Plan continues to be ~\$1.1 billion (same as the 2019 Fiscal Plan), however, uncertainty stemming from the series of recent natural disasters and ongoing COVID-19 pandemic have drawn out the restructuring process longer than anticipated. When adding FOMB's operating costs for this same period, the total cost adds up to around ~\$1.5B. Thus, it is not correct that the number has increased.

#### Questions Submitted by Rep. Cartwright

*Question 1. The 2020 Fiscal Plan includes various projections of the GNP shortfalls due to the pandemic. However, I'd like more clarity on the impact on tax revenue for this year and upcoming years. How severely were tax revenue projections impacted this fiscal year? What do the projected tax revenue projections look like for the upcoming years?*

Answer. We estimate a revenue reduction of \$1.3 billion in the current fiscal year 2020, \$1.2 billion in fiscal year 2021, and \$774 million in fiscal year 2022, relative to the revenue projections in the 2019 Fiscal Plan.

*Question 2. In the hearing before this Committee in May 2019, you called the University of Puerto Rico “the island’s crown jewel” and stated that “in many ways the future of Puerto Rico depends on a vibrant and sustainable UPR”. What steps has the Financial Oversight and Management Board taken to protect this crown jewel? How can the Board ensure that there is sufficient funding for the institution to fulfill its role?*

Answer. In response to the same question from Chair Grijalva, I have elaborated on FOMB’s substantial commitment to the protection of UPR and financial support for UPR, as well as the fundamental financial challenges which UPR must address and the structural reforms it must implement in the coming years.

To reiterate, in the coming fiscal year, UPR needs to focus on increasing revenues, attracting more students, implementing its scholarship funds, preserving its faculty, securing the pensions of its staff, and cutting administrative costs.

#### **Questions Submitted by Rep. García**

*Question 1. During last week’s hearing you stated that the allegations of insider trading during the mediation process are not the FOMB’s responsibility and that the bankruptcy court, the mediation team and law enforcement were responsible for evaluating these claims and determining whether wrongdoing occurred. If participants in the mediation process are found to have engaged in insider trading during the private negotiations, could that revelation undermine the legitimacy of the bankruptcy process? What will FOMB do to ensure confidence in the process moving forward?*

Answer. This question raises issues extremely important to FOMB. The mediation process was introduced early in the Title III cases by the presiding judge, U.S. District Judge Laura Taylor Swain. Judge Swain appointed several sitting federal judges to serve as mediators. The mediation process is governed by a mediation agreement approved by Judge Swain. Among other things, it requires strict confidentiality. The mediation process has had several huge successes that led to the successful Title III restructuring of COFINA involving approximately \$18 billion of debt, and Title VI restructuring of Government Development Bank involving more than \$4 billion of debt. Just prior to COVID-19, the mediation process led to the proposal of a Title III plan of adjustment for the Commonwealth and PBA supported by the statutory retiree committee and holders of many billions of the General Obligation bonds.

From the beginning, the mediation process embodied several practices designed to instill fairness and to deter or prevent wrongful insider trading. These practices included (a) enforcement of Bankruptcy Rule 2019 requiring groups of holders to disclose, among other things, their debt holdings and changes in their debt holdings, (b) limiting some mediation sessions to creditors’ advisors so the creditors themselves would not receive inside information about the negotiations, and (c) ‘blowout dates,’ under which the creditors themselves would engage in mediation sessions knowing that the offers and counteroffers would be publicly disclosed by a date certain (the blowout date) after which creditors could trade because the information would no longer be inside information.

Significantly, insider trading provides unfair profits to the entity trading on material inside information and simultaneously causes prices to move in the direction of fair value. Therefore, while such insider trading is wrongful and its perpetrators should be punished, it does not affect the legitimacy of the Title III process which benefits from securities prices adjusting to fair value. FOMB is adamantly opposed to allowing anyone in the Title III process to abuse it for any purpose, especially for wrongful personal gain. Therefore, if changes in price levels are shown to precede the blowouts of material inside information, FOMB would support actions by the Title III court to require creditors and anyone else privy to the information to disclose their trading records. Any entities proven to have traded on material inside information should be compelled to disgorge all wrongful profits and to pay penalties.

#### **Questions Submitted by Rep. Bishop**

*Question 1. PROMESA required that Puerto Rico’s audited financials be made current, yet Puerto Rico is further behind in its audited financials today than it was when PROMESA was passed. Is this a failure of the FOMB or the Commonwealth or both?*

Answer. FOMB has helped foster more transparency and visibility into Puerto Rico's government finances, including Puerto Rico's liquidity, budgets, and other intergovernmental spending. The issue of audited financials, however, is squarely within the authority and responsibility of the Government. Disaggregated accounting systems, manual procedures, numerous circular letters, and a decentralized Chief Financial Officer function have contributed to consistent delays in the production of audited reports.

FOMB, in its oversight role, has been actively collaborating in an attempt (i) to identify the challenges to issuance (ii) to ensure that audits are completed as quickly as possible; (ii) to institutionalize best practices within the Government; and (iii) to enable the Government to have appropriate resources for the preparation of the CAFRs. During this fiscal year, FOMB has been conducting recurring meetings, in some cases on a weekly basis, with the Department of the Treasury, the Government's external auditors, and key component entities within the Government to help expedite the overdue delivery of the FY2017 CAFRs and assess the timing of the FY2018 audit. In this spirit, FOMB has provided recommendations on relevant administrative orders submitted FOMB's consideration pursuant to the Rules, Regulations and Orders Review Policy; and requested the Government provide:

- weekly updates from the Department of Treasury on progress and risks to the completion of the FY2017 CAFRs;
- progress reports on the FY2018 audit preparation;
- submission of the FY2018 proposed external auditor contract pursuant to FOMB's Contract Review Policy; and
- any and all other information requested in an effort to lend a hand, evaluate key constraints, and facilitate the prompt delivery of current and future audits.

On July 1, 2020, FOMB held a follow up hearing on the status of the issuance of the audited financials, during which it required the Government to submit a 30-day plan to urgently speed up the issuance of the audited financials. This plan will be presented to FOMB at the end of this month.

*Question 2. With aggregate balances now totaling more than \$19 billion sitting in Commonwealth accounts (and virtually half of that being unrestricted in use), why have the Commonwealth and FOMB not been able to make more development progress, and also bring bankruptcy proceedings to a conclusion? Why haven't these funds been utilized to help Puerto Rico develop, and to honor what obligations could be honored in a timely fashion?*

Answer.

*(a) Answer Regarding Development*

FOMB's fiscal plans have pressed for major structural reforms to restore competitiveness, enable growth, and spur a return to prosperity. These include human capital, welfare, and education reforms to advance successful participation in the formal labor market, reforms to streamline core business processes to improve the ease of doing business and enable job creation, and proposals to enable reliable power and stable infrastructure for businesses and households. In addition to these structural reforms, the fiscal plans have focused on improving the responsiveness and efficiency of the Government, while reducing unnecessary administrative expenses.

Since 2017, and notwithstanding the environmental and public health emergencies, FOMB has been able to drive meaningful progress in creating a leaner, more affordable government. This has resulted in the ability of the Government to increase expenditures at a time of crisis, while ensuring total expenditure levels remain within total available revenues.

Unfortunately, despite this real progress in the face of ongoing crises, the Government has still failed to achieve meaningful economic growth through structural reforms or drive operational change that would deliver greater responsiveness and efficiency. Efforts at private sector labor market reforms have stalled, the progress from human capital and welfare reform is not expected for several years, and the recent efforts to improve the ease of doing business have not changed the burden on businesses in any meaningful way.

Rather than achieving budget savings by improving the way services are delivered or discontinuing duplicative or unimportant services, the Government has enacted broad-based early retirement programs to reduce headcount, creating major gaps in capabilities and functionality and potentially putting services at risk. Across many areas, the Government has struggled to implement changes, with even new investments often not driving the intended use. Absent real reform, Puerto Rico may not



ever fully recover from all its recent crises. The 2020 fiscal plan lays out the meaningful changes needed to lead to an effective, responsive government and growing economy.

*(b) Answer Regarding Bankruptcy Proceedings*

To date, FOMB has successfully: (1) developed and the District Court has confirmed a Title III Plan of Adjustment for COFINA; (2) authorized and the District Court has confirmed a Title VI Plan of Adjustment for GDB; and (3) supported a nearly \$1 billion loan restructuring agreement for PRASA with EPA and USDA.

FOMB proposed an amended Plan of Adjustment in February 2020 to restructure \$35 billion of debt and other claims against the Commonwealth of Puerto Rico, the Public Building Authority, and the Employee Retirement System, and more than \$50 billion of pension liabilities. The Plan of Adjustment significantly reduces \$35 billion in debt liabilities to \$11 billion, or about 70 percent, and ensures that almost 75 percent of current and future pensioners are not cut. The Plan of Adjustment also provides predictability to public employees via updated collective bargaining agreements and restores over \$1.3 billion of withheld employee contributions to Sistema 2000. The Plan of Adjustment has been supported by the Official Committee of Retirees representing retired government employees, current government employees represented by the Public Service Union as the Puerto Rico chapter of AFSCME, and the Lawful Constitutional Debt Coalition, a group of investors and funds holding Puerto Rico's general obligation bonds and PBA bonds.

FOMB also has been seeking broader active public employee support and feedback, including from teachers represented by the Puerto Rico chapter of AFT. The Special Investigations Committee hired the law firm Kobre & Kim to provide a complete, independent review of the Government's debt, ultimately receiving a comprehensive investigative report. Following on Kobre & Kim's findings, FOMB undertook review of potential infirmities of debt issued by Puerto Rico and its various agencies and instrumentalities. Through its Special Claims Committee, FOMB objected to the validity of over \$11 billion of general obligations bonds and filed several hundred complaints against entities to recover their payment related to issuance of that debt.

That committee also filed complaints against over 20 banks, law firms, and other parties to recover fees earned in issuance of nearly \$9 billion in bonds. Given the considerable uncertainty about the effect of COVID-19 on Puerto Rico, however, FOMB continues to believe that the primary focus of the Government and FOMB should be to minimize and contain the pandemic. Furthermore, even with implementation of far reaching growth-inducing structural reforms, the 2020 Fiscal Plan projects that the Government cannot afford to pay the public debt as originally contracted.

Recognizing the importance of the ongoing Title III cases, but taking into account these realities, on March 23 FOMB presented a motion requesting the Title III court to adjourn consideration of the proposed Plan of Adjustment's disclosure statement hearing until further notice. The proposed Plan of Adjustment is now on hold and the next status report is due on July 15.

As to PREPA, FOMB and the Government filed a motion seeking to adjourn the hearing and all deadlines related to the PREPA restructuring support agreement. On May 15, FOMB and the Government provided a required update, stating that all briefing and hearing deadlines relating to the restructuring support agreement should continue to be adjourned.

*(c) Answer Regarding Use of Funds to Help Puerto Rico Develop and Honor Obligations*

FOMB is dedicated to the development of the Island and honoring its commitments to all stakeholders, including residents, retirees, and creditors.

It is important to clarify that Puerto Rico's cash balances are not all unrestricted. The major categories of restrictions that reduce the cash available include monies with federal and state legal restrictions, including federal funds, working capital requirements, and cash set aside to replenish emergency reserves. Moreover, part of the cash was contemplated to be used as part of the proposed Commonwealth Plan of Adjustment, including union and retiree settlements, a pension trust, and reinstatement of pensions contributions.

Fiscal Plans certified by FOMB have pressed for major structural reforms to restore competitiveness, enable growth, and spur a return to prosperity. These include human capital, welfare, and education reforms to advance successful participation in the formal labor market, reforms to streamline core business processes (e.g., paying taxes, registering property and obtaining permits) to improve the ease of doing business and enable job creation, and proposals to enable reliable power

and stable infrastructure for businesses and households. In addition to these structural reforms, the Fiscal Plans have focused on improving the responsiveness and efficiency of the Government, while reducing unnecessary administrative expenses and mitigating the escalating growth of healthcare and pension costs, which could otherwise cripple future governments.

The Fiscal Plans have accompanied these reforms with targeted investments in and support for those on the front lines of service delivery. Over the years, the Fiscal Plans have provided for salary raises for teachers, school principals, firefighters, and police officers to ensure salaries for these critical frontline roles are more competitive. Strategic capital investments have been made in hospitals, correctional institutions, public safety equipment, and other infrastructure. Moreover, the Fiscal Plans have included increased spending in areas that are important for the people of Puerto Rico: funds for an Earned Income Tax Credit to encourage more formal labor market participation, needs-based scholarships for UPR to ensure every student on the Island can access higher education, funds for the Puerto Rico Clean Water and Drinking Water State Revolving Fund, and an emergency reserve to enable immediate Government action in times of crisis, among others. A specific list categories of investments is included herein:

- **Immediate support for COVID-19 response:** Recognizing the imperative for the public health system to focus its efforts on slowing the spread of COVID-19 and healing those affected, as part of the Emergency Measures Support Package certified on March 28, 2020, the FOMB approved \$787 million in additional expenditures solely focused on COVID-19 response. These funds are intended to provide “hazard pay” for frontline workers (including public and private nurses and technicians, police, certain correctional staff, and professionals managing taxes and financial operations), medical and public safety supplies and capital expenditures, distance learning in the public education system, and \$100 million in support for municipalities facing reductions in revenue due to the pandemic.
- **Investing in critical healthcare infrastructure:** FOMB proposed the Government to use remaining FY2020 funds to invest in near-term improvements to the Island’s healthcare infrastructure. These opportunities represent \$313 million of investment in areas that include addressing critical infrastructure gaps in public hospitals (e.g., the renovation of functionally obsolete facilities, purchase of power generators), instituting and expanding the use of Electronic Health Record programs, expanding access to care through development of telehealth infrastructure, enhancing access to opioid medication and treatment programs, and providing scholarships to healthcare students who are committed to working in underserved areas of Puerto Rico.
- **Enhancing healthcare services:** The 2020 Fiscal Plan builds on the strategic healthcare investments from prior Fiscal Plans to stabilize and improve the healthcare system. It directs \$586 million to improve the availability and quality of care under the Medicaid system, maintain nurse and health professional staffing levels, increase hospital capacity through major capital projects, operationalize the Comprehensive Cancer Center, and enable operational efficiencies.
- **Safeguarding public safety:** The 2020 Fiscal Plan adds to prior investments, enabling almost \$1.3 billion in public safety funding. This includes continuing significant investments made in the May 2019 Fiscal Plan to provide sworn police officers with more competitive salaries and benefits (including, life and disability insurance, Social Security coverage), as well as the final of three installments to cover back pay for police, which represents ~\$122 million in FY2021. These investments are meant to ensure that more sworn officers can remain on Island and serve in the field. Given the emergencies that Puerto Rico has recently experienced, FOMB also believes it is ever more important to ensure that there are enough emergency response personnel available to help residents. The 2020 Fiscal Plan provides funds to recruit paramedics and dispatchers, hire additional specialists at the Forensic Sciences Institute, support salary increases for firefighters, and provide public safety equipment, materials, and vehicles.
- **Driving education outcomes:** FOMB has long recognized that significant and thoughtful investment in the educational system is key to a stronger economic future for Puerto Rico. The 2020 Fiscal Plan includes over \$760 million for strengthening English Language Learning training for teachers, bringing psychologists on staff to provide evidence-based therapies for Special Education students, hiring additional public-school nurses, driving

digitization to improve management and reporting, and compensating transitory teachers and directors, who PRDE mistakenly excluded from the FY2019 and FY2020 salary raises previously funded by FOMB.

- **Strengthening the technology sector:** Addressing the digital divide is critical to ensuring that all residents of Puerto Rico can take advantage of the well-documented socioeconomic benefits afforded by Internet connections (e.g., telehealth, distance learning, remote work). Important infrastructure gaps remain, particularly across rural areas of the Island. The 2020 Fiscal Plan includes \$400 million to expand access to broadband for the residents of Puerto Rico, thereby improving economic opportunities for those in rural areas. The 2020 Fiscal Plan also recognizes that technology skills are critical for the future of the workforce; it thus includes \$50 million in funding to invest in workforce development, specifically focused on business- and technology-related disciplines.
- **Reactivating the manufacturing sector:** The COVID-19 pandemic has made it apparent that most raw materials and medical products necessary to ensure national security are manufactured in China, India, and other countries outside the United States. This represents a unique opportunity for Puerto Rico as a capable and reliable venue for manufacturing under the U.S. flag. As part of implementation of the 2020 Fiscal Plan, FOMB will conduct a comprehensive study to update the facts and acquire the knowledge necessary for the private sector and the Government to define a comprehensive and actionable plan to reactivate the manufacturing sector in Puerto Rico.
- **University of Puerto Rico:** The 2020 Fiscal Plan provides \$43 million in FY2021 for the UPR scholarship fund and a total of \$179 million over FY2020–FY2025 to meet the needs of the most financially vulnerable students. The 2020 Fiscal Plan also provides \$30 million for an independently managed scholarship fund for healthcare (e.g., medical, dental, nursing) students and residents who commit to serving in rural and underserved areas.
- **Supporting the needs of municipalities:** In addition to the \$100 million in support post-COVID-19, the Fiscal Plan includes several investments to support municipalities. These include: \$185 million available through July 31, 2020, for a short-term liquidity facility to ensure that monthly property tax remittances can continue to be advanced to municipalities (given major delays in tax payments), thereby supporting the viability of municipal operations, \$110 million (\$22 million per year through FY2025) as an incentive for voluntary service consolidation, and up to \$92 million to fund demolition and debris removal projects for municipalities in the southwest region of the Island.
- **Transforming government services:** The 2020 Fiscal Plan includes \$94 million to support hiring of additional staff in core programs (e.g., NAP, GSA procurement initiative) as well as incentives to drive change in government, including to publish the 2017 CAFR, conduct an analysis of the correctional system footprint to enable consolidation, implement a common ERP system, and publish private sector incentives.
- **Expediting reconstruction efforts:** The 2020 Fiscal Plan provides for \$750 million in working capital to be made available to facilitate FEMA-approved reconstruction efforts. These funds will accelerate rebuilding efforts by providing the necessary capital upfront, with repayment via reimbursement from the Federal Government.<sup>2</sup>

*Question 3. The FOMB in an early fiscal plan projected an astonishing \$1.5 billion to be spent on advisory fees. Several years hence, how much money have the Commonwealth and FOMB in fact spent on aggregate financial and legal advisory fees so far since Puerto Rico began defaulting on its debt? Has this process created a class of people that benefit financially from the prolonged continuation of bankruptcy?*

Answer. In total, for the period from FY2018 to FY2024, the restructuring-related expenditures projection in the 2020 Fiscal Plan continues to be ~\$1.1 billion (without change from the 2019 Fiscal Plan), however, uncertainty stemming from the series of recent natural disasters and ongoing COVID-19 pandemic have drawn out the restructuring process longer than anticipated. When adding FOMB's

<sup>2</sup>The working capital facility is considered a use of the Commonwealth balance sheet, not a Fiscal Plan expense.

operating costs for this same period, the total cost adds up to around ~\$1.5B. Thus, there it is not correct that the number has increased.

Professionals for FOMB, the Government, the Unsecured Creditors' Committee, the Retiree Committee, and the mediation team have requested about \$704 million in fees and expenses through the Title III compensation process through June 8, 2020. The breakdown is as follows:

The \$704 million figure includes:

- FOMB: \$326,706,771.01 (This includes the Special Claims Committee firms)
- Government: \$234,687,347.34
- COR/UCC: \$118,997,235.43
- The total of those three categories is \$680,391,353.78.
- COFINA Agent and professionals: \$20,700,188.03
- Mediation Team: \$2,621,178.21

Fees were developed in conjunction with the Government and were benchmarked versus comparable restructuring situations that yield an average professional-fee-to-funded-debt ratio of 2.08 percent relative to 1.68 percent projected for the Commonwealth. See Exhibit 20 from the Fiscal Plan below:

**Professional fees for restructuring  
(Excludes pensions and other retirement liabilities)**

	Date filed	Outstanding debt, \$	Total fees and expenses, \$	Fees to funded debt, %
City of Detroit, Michigan	Jul. 2013	6,400,000,000 <sup>1</sup>	177,910,000	2.8
Residential Capital, LLC	May. 2012	15,000,000,000	409,321,308	2.7
Sabine Oil & Gas Corp.	Jul. 2015	2,800,000,000	78,553,223	2.8
Caesars Entertainment Operating Company	Jan. 2015	18,000,000,000	258,278,005	1.4
Lehman Brothers Holdings Inc.	Sep. 2008	613,000,000,000	956,957,469	0.2
Lyondell Chemical Company	Jan. 2009	22,000,000,000	205,932,292	0.9
American Airlines	Nov. 2011	11,000,000,000	391,637,858	3.6
Washington Mutual, Inc.	Sep. 2008	8,000,000,000	271,085,213	3.4
Edison Mission Energy	Dec. 2012	5,000,000,000	96,244,628	1.9
Energy Future Holdings Corp.	Apr. 2014	40,000,000,000	450,110,233	1.1
Puerto Rico	2017	64,000,000,000	1,075,000,000	1.7

Summary Statistics

Avg.	2.08%
Max	3.56%
Min	0.16%
Med	2.33%

Puerto Rico involves added complexity as the largest public sector restructuring in the history of the United States

Moreover, expenses specifically related to the Title III process under PROMESA are reviewed by a Court-appointed fee examiner. For FOMB's operating expenses, FOMB has retained its own fee examiner.

*Question 4. Even before the COVID-19 pandemic began, the FOMB and Commonwealth had not abided by their own agreement under the 2019 PREPA Restructuring Support agreement to raise a 1 cent interim rate increase case to the PREB, why?*

Answer. Under the PREPA restructuring support agreement, PREPA was only obligated to implement the 1 cent "settlement charge" and commence settlement payments to participating bondholders upon entry of the order approving the RSA settlement. The hearing on the settlement motion has been continued for various reasons and, as indicated in our May 15, 2020 status report, we do not yet have sufficient visibility to determine whether the RSA settlements are feasible in light of the impact of the pandemic on the island economy. PREPA has therefore held off on adding this charge and increasing rates near term until this determination is made.

*Question 5. We have entered into the 4th year of bankruptcy proceedings, what has the FOMB accomplished to restore access to the capital markets for Puerto Rico, one of the only two explicit objectives of PROMESA?*

Answer. Please see answer 2(b) above.

*Question 6. The latest fiscal plan certified by the FOMB shows Puerto Rico returning to long-term deficits after 2032 and beyond, even before paying contractual debt service. How is it possible that there are no reforms or potential recovery that can put Puerto Rico on the right track in the long term?*

Answer. There are indeed reforms that could put Puerto Rico on the right track in the long term. However, only a portion of them are agreed to in substance with the Government of Puerto Rico, and thus, reflected in the 2020 Fiscal Plan. The 2020 Fiscal Plan financial forecasts include:

- Energy and ease of doing business reforms are projected to increase GNP by 0.60% by FY2025;
- Human Capital and welfare reform is expected to add another 0.15% in FY2026; and
- K-12 education reforms add an additional 0.01% annual impact beginning in FY2037,

These sets of reforms result in total GNP increase from structural reforms of 0.75 percent by FY2026 and 0.88 percent by FY2049. The anticipated timing of the incremental positive impact of these reforms has been delayed in this Fiscal Plan given the delay in the Government's implementation efforts.

Yet even with full implementation of these, the 2020 Fiscal Plan suggests that the current financial trajectory is not sustainable in the long term. Perhaps more importantly, the 2020 Fiscal Plan, even if implemented in full, will not raise Puerto Rico and its residents to a level of prosperity comparable to even the poorest states on the U.S. mainland. There continues to be insufficient political appetite to drive the types of structural reforms that are needed to create sustainable economic growth, and an inability to implement even reforms that have been nominally agreed-upon.

While the 2020 Fiscal Plan projects deficits from FY2032 onward, the Government will be required to take additional measures that go beyond this 2020 Fiscal Plan. Accordingly, what follows are a set of options that future governments can consider in order to obtain fiscal balance in the out-years. Some of these reforms, which would reduce deficits and therefore make funds available for a variety of potential uses, have been proposed by FOMB but have not been adopted.

- Private sector labor reform, generating an additional 0.50 percent GNP growth over 2 years, by repealing Law 80, reducing paid leave, and eliminating the Christmas Bonus. Key reforms could require incentives, such as wage subsidies for low-income workers and training programs to address identifiable skills gaps. The reform is projected to increase the 30-year surplus by ~\$10 billion if implemented after 10 years (FY2030) and by ~\$3 billion if implemented within 20 years (FY2040).
- Ease of Doing Business reform, generating an additional 0.15 percent GNP growth, based on instituting Trading Across Borders reform to improve customs processes and congestion and repealing restrictive laws (e.g., Laws 21 and 75 dictating terms for terminating commercial supplier relationships). The 30-year surplus is projected to increase by ~\$3 billion if implemented after 10 years (FY2030) and by ~\$850 million if implementation lags by 20 years (FY2040).
- Overhaul of the tax system of Puerto Rico to stimulate growth, requiring short-term investment (lower revenues in short-term) for long-term growth benefits up to 0.5 percent spread over 5 years. The reform is projected to increase the 30-year surplus by ~\$9 billion if implemented after 10 years (FY2030) and by ~\$2 billion if implementation lags by 20 years (FY2040).
- Imposing a cap on total healthcare expenditure growth at 2 percent above standard inflation is projected to result in savings of ~\$14 billion by FY2049 if implemented in FY2030 and ~\$3 billion if implemented in FY2040.
- Securing additional permanent Federal funding for Medicaid of ~\$1 billion per year (and growing with inflation) is projected to increase the 30-year surplus by ~\$27 billion if begun in FY2030 and ~\$11 billion if begun in FY2040.
- Risks to the long-term projections in the 2020 Fiscal Plan. While the 2020 Fiscal Plan projects that ~\$8 billion surplus will be generated through FY2020–2031, there are several variables that have a material impact on the long-term financial projections in the 2020 Fiscal Plan. The impacts of COVID-19 remain highly uncertain at this stage and could prove to be longer-lasting and greater than anticipated. Moreover, revenues could be

compromised through lower growth generated by delayed or not implemented structural reforms, lower than expected federal funding, and/or less efficient spending on capital than projected. Both revenues and expenditures could be impacted by demographic shifts not yet seen on the Island, and in the areas of government expenditures.

- Lack of implementation of healthcare reform measures could affect the long-term projections of the 2020 Fiscal Plan. If healthcare reform measures are not implemented starting in FY2021, the surplus would decrease by \$14 billion.
- Implementation risk of agency efficiency measures also exists. For example, if only 50 percent of the projected run rate agency efficiency measures are achieved, the 30-year surplus would decrease by \$21 billion. Similarly, if only 75 percent of the projected run rate agency efficiency measures are achieved, the 30-year surplus would decrease by \$11 billion.

*Question 7. PROMESA requires that any Certified Fiscal Plan respect the Constitutional Priorities and lawful liens. How does this new certified plan meet that requirement?*

Answer. PROMESA section 201(b)(1)(N) provides the fiscal plan shall “respect the relative lawful priorities or lawful liens, as may be applicable, in the constitution, other laws, or agreements of . . .” Puerto Rico. As you know, the fiscal plan is composed of FOMB’s methods for carrying out the congressional policies and requirements in section 201(b)(1). Notably, the fiscal plan is not a plan of adjustment. Plans of adjustment discharge claims, extinguish liens, and determine how each claim and lien is treated, and are governed by Title III of PROMESA. PROMESA section 106(e) provides the court lacks subject matter jurisdiction over challenges to FOMB’s certifications of fiscal plans, while the court can and must review plans of adjustment before they can become effective. Therefore, the fiscal plans do not discharge any debt, extinguish any lien, or determine the treatment of any claim, all of which are done in Title III plans of adjustment.

*Question 8. Why were all fiscal quarters before the COVID-19 lockdown producing revenues well in excess of FOMB near term projections? What does this say about new projections that are even more draconianly conservative than ever before? What about longer term projections that are more difficult to make accurate predictions over than short term ones?*

Answer. The Fiscal Plan projects revenues based on underlying economic and/or demographic indicators such as GNP growth and population. Those projections are tracked against actual receipts, as reported by Hacienda. In the first 6 months of the fiscal year (pre-COVID), revenue receipts were largely in line with projections with the exception of corporate income tax, which was significantly higher than projected in large part due to a one-time payment of approximately \$0.5 billion related to a large multinational M&A transaction. Some revenue lines were ahead of forecast (individual income tax, motor vehicle excise tax, rum tax, Act 154, and other general fund revenue), while others were below forecast (non-resident withholdings, alcoholic beverages, cigarette taxes, and sales and use tax). As explained in the Fiscal Plan, long-term revenue projections depend directly on projections of future economic growth and other demographic factors.

*Question 9. Given that the FOMB is the debtor representative before the bankruptcy courts, is it necessary to gain Commonwealth support for every deal?*

Answer. Support from the Commonwealth strongly helps the process to move along more efficiently and effectively. Government support is required to the extent that legislation is required to affect the proposed transaction. Moreover, especially in the current complex political environment, building support across the Government and maintaining public goodwill is an important part of working within the cultural and financial context of Puerto Rico.

*Question 10. How and why does the FOMB project decreasing population on the island ad infinitum, yet at the same time show rapidly rising gross healthcare costs despite the declining population?*

Answer. Even before Hurricanes Maria and Irma hit the Island in 2017, Puerto Rico’s population had been trending downward by 1–2 percent every year as residents have left to seek opportunities elsewhere and birth rates declined. In 2016, the U.S. Census Bureau’s official forecast, projected a worsening population outlook due in large part to Puerto Rico’s rapidly aging population. This high average age range results from extremely low age-adjusted birth rates and outmigration of younger people. Indeed, in 2016, Puerto Rico began to experience negative natural

population change (a higher number of deaths than births). This negative natural change has continued unabated into 2020.

Hurricanes Irma and Maria served to compound the problem, spurring an additional outflow of people just as natural population decline has set in, as many residents lost houses, jobs, and loved ones. While some of these people have returned, the population is still projected to decline over the course of the 2020 Fiscal Plan period and beyond. Further disasters, such as the series of earthquakes experienced in 2020, have not made a swift return to balanced migration any more likely. But while net migration is a larger driver of population change in the short term, this factor is volatile; in the long run, net migration is projected to return to more balanced trends. Meanwhile, natural population change is not guaranteed to rebalance at any point, and births are likely to continue declining, while deaths are projected to rise or stay stable.

The COVID-19 pandemic has been less severe in Puerto Rico than in many other areas thus far, and therefore no large epidemic-driven mortality rate increase is anticipated. COVID-19 is expected to suppress air traffic between Puerto Rico and the mainland, and thus impact migration, but this effect will be transitory.

The 2020 Fiscal Plan projects that by FY2025, there will be 9 percent fewer people living on the Island than in FY2019, and that by FY2049, the drop will grow to 30 percent.

Notwithstanding the population decline, the Commonwealth's healthcare costs grow faster than inflation. Medicaid premiums grow at a faster pace than standard inflation and are instead grown by a per member per month (PMPM) growth rate and population change. On average, costs per demographic group will increase consistent with historical Puerto Rico healthcare costs, and in line with external data. However, the latest projections suggest the magnitude of this trend will not be as significant as reflected previous Fiscal Plans. From FY2026–FY2049, the age-mix-adjusted PMPM growth rate is expected to decline from 5.30 percent in FY2026 to 4.75 percent in FY2049. This projection is driven by two factors. First, current demographic projections suggest that the population is not aging as fast as previously projected, which causes declines in overall healthcare utilization. Second, general cost efficiency spillovers from the U.S. mainland are expected to exert downward pressure on PMPMs. In the near-term, PMPM growth is expected to be muted in FY2020 due to lower utilization driven by the COVID-19 pandemic. Social distancing and stay-at-home guidance have lowered utilization of the healthcare system. Between FY2020 and FY2022, the PMPM growth rate is expected to increase from 4.5 percent to 5.5 percent as utilization recovers from both the COVID-19 pandemic and persistent impact from Hurricane Maria.

Important to note is that in 2019, 37 percent of Puerto Ricans received their health coverage through the Commonwealth's state-run Medicaid program. This was a higher share of Medicaid/CHIP-funded health insurance coverage than any U.S. state. In addition to its large covered population, Puerto Rico has lagged U.S. states in both health outcomes and access. Puerto Ricans face higher rates of chronic conditions like hypertension, diabetes, and asthma than national averages. Puerto Rico also has higher premature birth and infant mortality rates, and higher rates of adults reporting fair or poor health. At the same time, 72 of Puerto Rico's 78 municipalities are deemed "medically underserved areas," with 500 doctors leaving per year. As a result, Puerto Rico has half the rate of specialists as compared to U.S. states in critical fields.

Puerto Rico's Government-funded health plan, Vital, covers individuals through three primary funding sources: federally matched Medicaid funds, the Children's Health Insurance Program, and the Commonwealth's self-funded insurance program for low-income adults. An additional 8 percent of the Puerto Rican population receives some benefits from the Government as part of the Platino program, which supports Medicare Advantage recipients who also qualify for Medicaid.

*Question 11. Puerto Rico has received near 80 percent Medicaid FMAP since well before the fiscal crisis began. The funding has been extended regularly. The Commonwealth draft fiscal plan projected 55 percent long-term funding. PROMESA explicitly allows for projections based not just on approved legislation, but also on draft or introduced legislation that has not yet been passed. Why does the FOMB choose to assume that there will be virtually no Medicaid funding?*

Answer. FOMB has chosen to reflect current legislation, rather than draft or introduced legislation given the uncertainty of adoption. Moreover, because Medicaid is such an important element of essential services, it is important for the Government to budget and be able to fund costs that are not known to be reimbursed with Federal funds.

Because Federal Medicaid funding for U.S. territories is subject to an annual cap, Medicaid expenditures eligible for federal matching often exceed available funding without supplemental legislated sources. This makes Puerto Rico's Medicaid program very sensitive to rising healthcare costs. Since 2011, Puerto Rico has received temporary relief from rising healthcare costs through increased levels of federal reimbursement made available through the passage of the Affordable Care Act and the Bipartisan Budget Act of 2018. In December 2019, the Further Consolidated Appropriations Act was passed, which provided supplemental federal funding (up to \$5.7B total) to Puerto Rico's Medicaid program through September 30, 2021.

In addition, the law raised the FMAP—the portion of Medicaid expenditures that federal funds can cover—from the standard level of 55 percent to 76 percent for most populations. In response to the COVID-19 pandemic, the Families First Coronavirus Response Act was passed in March 2020, further increasing both the available federal funds and the FMAP.

The available supplemental federal funds and higher FMAP will both return to standard levels in October 2021 without new federal legislation. Accordingly, the Commonwealth will hit a “Medicaid fiscal cliff,” whereby it will be responsible for multi-billion-dollar annual healthcare expenditures that had been covered by federal funding since 2011.

It is crucial, therefore, that ASES take advantage of the additional runway provided by recent federal legislation to put in place reforms that reduce the long-term growth rate of healthcare expenditures. Given the uncertainty as to future federal reimbursement levels, the 2020 Fiscal Plan assumes that no further supplemental funding will be provided beyond current programs, and thus, the Commonwealth must be prepared to cover growing Medicaid costs as if federal reimbursement rates reverts to steady-state levels.

*Question 12. Why has the FOMB not made more utility out of PROMESA Title VI mechanisms for consensual deals?*

Answer. Actually, Title VI was the first provision used by the Government and FOMB in a consensual debt restructuring, which was late 2018 Title VI consensual restructuring of the Government Development Bank's debts. In addition, where possible FOMB and the Government have successfully used PROMESA Section 207, rather than either Title III or Title VI, in cases where unanimous consent could be obtained from affected creditors to the consensual restructuring of their bonds. This Section 207 approach was used to consensually restructure over \$1 Billion of Federal EPA and USDA loans to PRASA, saving PRASA nearly \$400 million in the first 10 years and re-starting New Money Federal lending from those agencies, while also avoiding putting PRASA through either Title III or Title VI.

That said, both Section 207 and Title VI are narrower than Title III in terms of the categories of claims and liabilities that can be resolved through those procedures and the scope of relief available from those approaches. Accordingly, Title VI and Section 207 are not necessarily viable or effective approaches for Puerto Rico's other government operating entities and public corporations.

*Question 13. If the FOMB and creditors disagree over Commonwealth revenue projections, could contingent notes be a partial answer to debt restructurings so that creditors take the risk if revenues fail to exceed projections?*

Answer. At this point in time, as noted in the May 2020 Certified Fiscal Plan for the Commonwealth, FOMB has put a pause on the existing February 28, 2020 Plan of Adjustment and will be exploring a variety of debt restructuring topics as it considers how to move forward in an affordable, sustainable way.

#### **Questions Submitted by Rep. Gohmert**

*Question 1. Ms. Jaresko, during your time as Ukrainian finance minister, did you have a relationship with Alexandra Chalupa? If yes, were you aware of any efforts to extract information from NABU (the National Anti-Corruption Bureau of Ukraine)?*

Answer. No, Ms. Jaresko had no relationship with Ms. Chalupa during her time as Ukraine's finance minister. Ms. Jaresko knew her only as a member of the Ukrainian-American community.



*Question 2. You were the chief executive officer of the Western NIS Enterprise Fund (WNISEF), correct?*

Answer. Yes, Ms. Jaresko served as CEO of WNISEF from 2001–2014, previously having served as Executive Vice President and Chief Investment Officer from 1998–2001, and Country Manager from 1995–1998.

*2a. Is it true that you shifted management of WNISEF to Horizon Capital, a private company? What is your relationship with Horizon Capital?*

Answer. Yes, the goal of the Enterprise Funds, established initially by President George H. Bush in eastern and central Europe, was to act as a catalyst to private sector investment in the region of their mandate. The goal was to move from USAID funding to attracting private sector capital investment in the region, based on the track record and team experience of the Enterprise Fund. The Polish American Enterprise Fund was the first to succeed, having spun out their team into Enterprise Investors, one of the most successful East European private equity firms. The Hungarian fund, and others were also successful in achieving the mandate. Western NIS Enterprise Fund was successful in attracting over \$100 million in private capital and spinning off its investment team into Horizon Capital, a private company, in 2006.

Ms. Jaresko was one of the Founders and the CEO of Horizon Capital from 2006 through November 2014, when she left to take the position of Minister of Finance in the Ukrainian Government. Since then, she has had no role or relationship with Horizon Capital.

*2b. Did you receive bonuses during your time as head of WNISEF? And you received these bonuses while the fund was losing money, correct?*

Answer. Yes, USAID approved a bonus program in the Enterprise Funds, including, but not only WNISEF, that provided the investment teams financial incentives (bonuses) to liquidate the investments made with USAID funding at a profit. Incentives were only paid based on profitable transactions. Given the Enterprise Funds initially were all expected to return some portion of their capital to the U.S. Government (which is a unique feature given almost all USAID programs are grants and do not return funds to the USG), liquidation of the portfolio at a profit was an important element of the Enterprise Funds.

*2c. Was WNISEF audited for accounting irregularities that arose during your time as head of the fund?*

Answer. No, Ms. Jaresko does not recall any audit for accounting irregularities during her leadership of WNISEF. All the audited financial statements from inception are publicly available for the record.

### **Questions Submitted by Rep. Gosar**

*Question 1. Can you please elaborate on current weaknesses of the Government's contract procurement process and how this affected the government's response to the needs presented by the pandemic crisis?*

Answer. Despite some improvement, the Government still fails to provide an adequate level of transparency when it comes to contract procurement. In fact, when FOMB attempts to obtain information about pending and executed contracts, it is often a very long and tedious process. Currently, the Government is required to get approval from FOMB for contracts that cost \$10 million and over. Specifically, when it comes to the pandemic, the Government failed to secure approval from FOMB for a \$38 million contract to purchase COVID-19 testing kits. FOMB immediately requested the required information but unfortunately the Government failed to provide the relevant procurement information. Ultimately, FOMB had to file litigation in order to obtain the needed information.

*Question 2. Is the Board doing anything to provide accountability in the government's contract procurement process?*

Answer. In addition to instituting budgets and evaluating requests by the Government for reapportionments, FOMB is reviewing contracts for approval pursuant to Section 204(b)(2) of PROMESA to assure that they “promote market competition” and “are not inconsistent with the approved fiscal plan”.

*Question 3. Based on your testimony, it sounds like it is difficult to do business in Puerto Rico. How does Puerto Rico's business environment compare to the mainland business environment? And how does Puerto Rico get to the point where it is operating more like mainland businesses?*

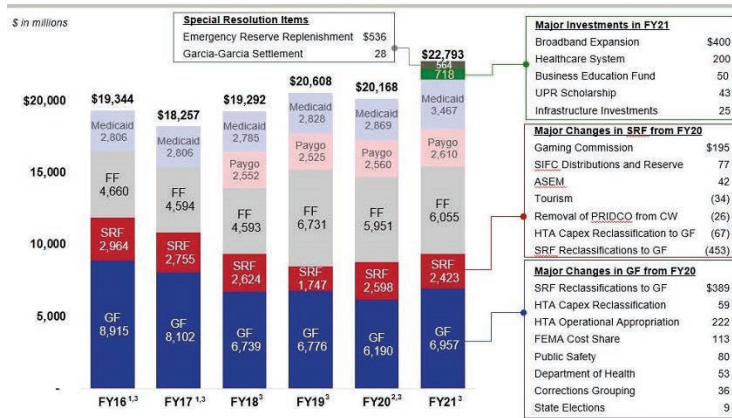
Answer. In Puerto Rico, there are several barriers to entry for businesses. Perhaps the largest barrier is the fact that there is no at-will employment in the territory. Christmas bonuses of \$600 are mandated for employers regardless of employee performance. Moreover, the licensing, permitting, and registration process is expensive and difficult. The Island's energy supply is expensive and not reliable. Construction permits are difficult and expensive, and the payment of taxes is extremely complicated. Finally, transportation costs are higher due, in part, to strict local regulations and federal laws, such as the Jones Act.

*Question 4. Can you elaborate on the spending trends for the Government of Puerto Rico since the inception of the Board? Has the Government of Puerto Rico spent most of its appropriated funds for key agencies in this fiscal year?*

Answer. FOMB used its mandate under PROMESA to break the Government of Puerto Rico's cycle of deficit spending. The rightsizing measures in the Certified Fiscal Plan have already reduced the Government's payroll and overall operating expenses while securing essential government services, as mandated under PROMESA. The General Fund budget, looking only at operational costs, declined from \$8.9 billion in fiscal year 2016 to \$6.2 billion in fiscal year 2020, a more than 30 percent reduction. The General Fund budget operational costs for the coming fiscal year 2021 are projected to increase to \$7 billion because of COVID-19 and the reclassification of certain expenses (about \$600,000) from the Special Revenue budget.

Separately and in addition, since fiscal year 2018, the Government's budget also includes Paygo pension costs, which did not exist in General Fund budgets before. That cost fluctuates between \$2.5 billion and \$2.6 billion per year, prior to any pension reform proposed in the Plan of Adjustment. Ensuring pensions is mandated under PROMESA. Further, the Government must budget for Puerto Rico's expenditures on Medicaid, which fluctuate dramatically based on Federal funding. Medicaid costs not included in the above General Fund budget numbers have fluctuated from about \$400 million to over \$1.5 billion. FOMB has always ensured that the Certified Fiscal Plan projects costs of Medicaid based on current Federal legislation.

**The FY21 certified budget maintains funding for critical services, provides incentives and investments, and improves the capacity of the Government**



*Question 5. PROMESA outlines a process for the development of the annual budgets. Describe collaboration between the Board and the Government in developing these budgets.*

Answer. Since November 2019, FOMB has been working hand-in-hand with the Government to develop the budgets for the Commonwealth and instrumentalities. This includes the Commonwealth (across General Fund and Special Revenue

Funds), COFINA, CRIM, PREPA, PRASA, HTA, UPR, COSSEC, PRIDCO, and 10 municipalities in our pilot program.

Per PROMESA, the certified budgets need to be consistent with the certified fiscal plans. The fiscal plans, which are updated annually to incorporate the latest revenue and expenditure information and to reflect macroeconomic conditions (namely, the impact of COVID-19), are the 5-year blueprint to return prosperity to Puerto Rico and fiscal sustainability to the government and its different instrumentalities. In the last month, FOMB certified updated (or in some cases new) fiscal plans for the 19 aforementioned entities. Since then, FOMB has worked with the Government to develop budgets that are consistent with those fiscal plans.

The budget process is not a simple one. FOMB requests a lot of information to validate agency requests, understand how agencies spend their taxpayer dollars, and make better management decisions that allow prioritization of much-needed funds. FOMB also ensures that, in addition to ensuring transparency and efficient use of public funds, the budget also serves as a tool to ensure efficient implementation of key priorities as outlined in the fiscal plans.

Unfortunately, for the fourth year in a row, the Government and the Legislature were unable to submit a budget compliant with the Commonwealth Fiscal Plan. In fact, the Legislature never submitted an official budget to FOMB for its review. Notwithstanding several meetings to try to find a consensus among FOMB, the Governor, the Senate, and the House, FOMB was unable to do so.

*Question 6. Many keep insisting that Puerto Rico is in trouble because it does not have enough money and that the Federal Government needs to throw more funds and resources at the territory. Is this an accurate portrayal of why Puerto Rico is suffering?*

Answer. It cannot be denied that Puerto Rico has been through horrible disasters, including hurricanes, earthquakes, and a health pandemic, all within the last 3 years. However, Puerto Rico has received substantial funding for these disasters when it comes to Medicaid, NAP, FEMA reimbursements, CDBG-DR, unemployment, and other areas as well. These federal funds have been extremely helpful during these difficult times. However, more federal funds alone will not solve the problems in Puerto Rico. In order to be economically healthy, the highest priority is for the Government to implement structural reform related to labor, welfare reform, ease of doing business, rightsizing of the government, pensions, healthcare, the power sector, infrastructure, and education. In doing so, Puerto Rico needs to give its residents confidence in future economic growth and opportunity to stem, and even to reverse, the outmigration to the mainland United States.

*Question 7. Do you agree that the Board is forcing the privatization of the Public Broadcasting Corporation without taking into consideration the value of the FCC licenses?*

Answer. No. In January 2019, FOMB recommended that the Government transfer ownership of the Public Broadcasting Corporation's assets to a private nonprofit entity. In April 2019, the Government accepted the recommendation and said it would begin implementing the change. To date, the Government has not acted on this reform and is extremely delayed in doing so. The FCC licenses should be protected and a transfer to a private nonprofit entity should not jeopardize the value of the FCC licenses. There would need to be an appropriate transition period in the process.

*Question 8. The Board made the decision in the latest Certified Fiscal Plan to freeze all budget cuts for the next year in order to encourage the implementation of it is recommended reforms. Can you please explain how you expect this to work? What is different this time?*

Answer. The 1-year delay of many budget reductions will give the Government more bandwidth to handle effectively difficult policy and implementation issues related to structural reform. In light of the health pandemic and so many unknown factors, FOMB reinforces in its fiscal plans that structural reforms are even more important.

Most of the initiatives in the Fiscal Plan do not require legislation, just leadership from the executive branch and agency heads. Government institutions and processes must continue operating regardless of whether there is an election. These initiatives that are necessary for our economy and people to recover from the pandemic.

The Government should focus all of its efforts in fiscal year 2021 on making real changes across the Government to ensure better delivery of essential services. These reforms are designed to promote the focus of finite Government resources on

frontline service delivery that matters to residents. Real changes include, but are not limited to:

- For the **Department of Education** to implement a back to school plan, a time and attendance reporting policy for all employees, record daily student attendance, efficiently manage its student-teacher ratio by observing its own staffing policies, and generate savings through improved procurement and more transparent accounting.
- For the **Department of Health** to focus on core health care services by saving money through centralized procurement of supplies across agencies and public hospitals, develop an action plan for telehealth, consolidate regional Medicaid offices, improve hospital management, and merge the Administración de Seguros de Salud (ASES) into the department.
- For the **Department of Public Safety** to move more officers from administrative positions to the field so they can better serve residents, and reduce overtime with better time management, fully consolidate the back office.
- For the **Department of Corrections and Rehabilitation** to, analyze the utilization of facilities given the decline in the prison population, and generate savings through improved procurement.
- For the **Department of Economic Development** to finalize the consolidation of the Puerto Rico Tourism Company into the department, complete the ascription of the Planning Board, renegotiate procurement contracts, and publish quarterly reports of economic incentives.

*Question 9. There are no work requirement for NAP in Puerto Rico. In fact, the way that NAP is currently structured, it discourages recipients from finding employment. What should Puerto Rico do to change that? And if Puerto Rico does not do anything to change it, is there anything the Federal Government could do to help in that arena?*

Answer. The 2020 Fiscal Plan required the Government to adhere to a set of parameters when implementing a NAP work/volunteer requirement. Specifically, the Government should: (1) apply the requirement year-round to all able-bodied NAP beneficiaries aged 18–59; (2) grant all eligible recipients up to a 3-month transition period to secure employment, begin volunteering, or enroll in qualified education or training programs; (3) mandate that all eligible recipients complete 80 hours of qualifying activities per month; (4) redesign NAP eligibility guidelines and benefit calculations to ensure that eligible recipients are not penalized for seeking formal sector work; (5) redistribute savings realized through the work/volunteer requirement to boost working eligible recipients' take-home pay through an expansion of the Earned Income Disregard; and (6) continue to extend NAP benefits to children even if their parents are eligible recipients who do not comply with the work/volunteer requirement.

NAP is a capped block grant, through which the food and nutrition assistance program for Puerto Rico is funded at a fixed level. Since it is a block grant, Puerto Rico must make its own decisions regarding eligibility and work requirements and must also enforce those policy decisions. The only way this could be changed is through federal legislation.

*Question 10. What growth has Puerto Rico foregone because of little to no implementation of structural reform since the creation of the Board?*

Answer. Structural reforms were expected to cumulatively increase nominal GNP by approximately \$2.65 billion between FY20–25 if they were to have been implemented as stated in the 2018 Certified Fiscal Plan. This represented an incremental cumulative uptick of 1.8 percent in Real GNP growth rates during this period. Due to the delay in implementation, structural reforms, if fully implemented going forward per the Certified Fiscal Plan, are now expected to increase nominal GNP by only \$242 million (an incremental cumulative uptick of 0.6 percent in Real GNP growth rates). In other words, the economy has lost in potential nominal growth approximately \$2.4 billion dollars between FY20–25 due to this delay.

In the long run the loss is even greater. Structural reforms were expected to cumulatively increase nominal GNP by approximately \$90.28 billion between FY20–49 if they were to have been implemented as stated in the 2018 Certified Fiscal Plan. This represented an incremental cumulative uptick of 1.97 percent in Real GNP growth rates. Due to the delay in implementation, structural reforms are now expected to increase nominal GNP by only \$24.67 billion (an incremental cumulative uptick of 0.88 percent in Real GNP growth rates).

*Question 11. What is the status of the HUD GDBR funds for Puerto Rico? Puerto Rico has received them, correct? Have the funds been utilized yet?*

Answer. To date, about \$86 million have been disbursed of the \$3.2 billion obligated by U.S. HUD. Most disbursements to date are related to the flagship R3 Housing Program (repair, reconstruction, and relocation), which is expected to impact a significant number of families/homes in the following 6 months.

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The Chairman. Thank you very much. Let me now recognize our next witness, Mr. Omar Marrero, who is the Executive Director of the Puerto Rican Fiscal Agency and Financial Advisory Authority. In this role, he is responsible for leading the preparation of fiscal plans for the government of Puerto Rico, which are considered by the Oversight Board. Governor Wanda Vázquez appointed Mr. Marrero to be the Puerto Rican government's representative before the Oversight Board, and we welcome you here, sir, and look forward to your testimony.

**STATEMENT OF OMAR MARRERO, EXECUTIVE DIRECTOR,  
PUERTO RICO FISCAL AGENCY AND FINANCIAL ADVISORY  
AUTHORITY**

Mr. MARRERO. Thank you, sir. Good afternoon, Chairman Grijalva, Ranking Member González-Colón and members of the Committee. I am Omar Marrero, Executive Director of the Puerto Rico Fiscal Agency and Financial Advisory Authority. I am honored to appear here before you again on behalf of Governor Wanda Vázquez and thank you for the opportunity.

During the last 2½ months, our Governor's top priority has been COVID-19. Today, I will share some of the measures we have implemented in order to manage the crisis. I will also discuss the implementation of PROMESA during this period and some areas of the law that need to be modified in order to make them more effective. Based on our experience with the Board, we believe that the best way PROMESA will be able to clarify the unique power-sharing relationships between the government and the Board is by limiting each to their respective public policy and fiscal accountability roles, especially now as we continue to respond to COVID-19 and as the Chairman said, rebuilding from past and ongoing natural disaster.

Let's discuss the measure our administration has implemented against COVID-19. First, on March 15, Governor Vázquez imposed the first mandatory lockdown in the Nation, the executive order that included the closure of non-essential businesses, an island-wide curfew, and social distancing measures.

On March 18, the Governor, who was the first in the Nation as well, requested the FAA to limit the air traffic into Puerto Rico, including suspending all domestic and international flights. And the FAA agreed that all commercial flights must land at the San Juan International Airport. Then we started conducting COVID-19 testing for all passengers arriving at the airport. That strategy has been praised by both our businesses and residents.

On March 23, Governor Vázquez announced a local relief package of approximately \$787 million to provide immediate emergency assistance. Some of the initiatives were aimed at the self-employed, small and medium businesses, municipalities, public hospitals, and

some dedicated emergency response personnel. We appreciate the help of the Oversight Board to make it happen.

On March 27, the CARES Act was signed into law. And of the \$150 billion Congress appropriated to state and local governments through the CRF, Puerto Rico was awarded roughly \$2.2 billion.

On May 15, Governor Vázquez announced our strategic disbursement plan for the CRF funds. Under the plan, the CRF funds are mainly prioritized for economic stimulus or health-related expenses and for government-related expenses incurred due to COVID-19.

The government's goal is to distribute funds as quickly as possible while ensuring transparency, compliance, and accountability. To ensure appropriate oversight, review panels comprised of representatives from each lead agency are providing input and recommendations on a newly created CRF Disbursement Oversight Committee that serves as the centralized oversight authority of all programs and disbursement. To date, we have distributed from the CRF approximately \$150 million to self-employed individuals, approximately \$100 million to small and medium businesses and transferred around \$150 million to the State Unemployment Insurance Trust Fund.

In addition, we have allocated \$150 million to private hospitals and \$100 million to the municipalities. All this information is publicly available through our transparency portal at the above COVID-19 website. Certainly, like any other government, our response to this unprecedented crisis has not been free of challenges and obstacles.

Similar situations have occurred stateside. However, our governor remains committed to the principle of transparency and accountability and that is what we have implemented for the funds available for COVID-19. As to the implementation of PROMESA during COVID-19, as this Committee knows, the government and Board have had a long history marked with uneven periods of cooperation and disagreement, some of which has become the subject of litigation.

But despite some important disagreements, the Board and the government have actually collaborated on successful infrastructure, about \$25 billion over the last few years. Since taking office in August 2019, Governor Vázquez has consistently sought to improve the relationship between the government and the work by facilitating periodic meetings and supporting the infrastructure and proceedings.

In addition, Governor Vázquez has worked with the Federal administration, which Coast Guard Rear Admiral Brown, the Trump administration's liaison to the government, acknowledged earlier this year when he said that Puerto Rico's reputation seems to lag the reality because the government has implemented very strong internal control mechanisms to counter any attempts at corruption or diversion of Federal funds. These measures establish a new atmosphere of cooperation and trust that did not exist with prior administrations and is a development that we hope will continue to improve and expand.

Despite our best effort to minimize disagreements, PROMESA allows the Board to blur the line between the government and the Board. Over the last several years, the Board has taken the

advantage of such unclear separation of powers to gain more control over the day-to-day operations, particularly by using PROMESA certification processes to micromanage the public governance in Puerto Rico.

The government believes that any attempt to actively impede our public policy initiatives is counterproductive and undermines the recent progress to work together. Therefore, due to the lessons learned during the last 4 years, the government recommends that if this Committee were to consider amendments to PROMESA, this must be to clarify where the Board stands, as I fully explained in my written statement.

Finally, as Justice Breyer advised in his book, *Making Our Democracy Work*, a workable government requires trust among government institutions and between those institutions and the people. In order to achieve a long-term workable government for the people of Puerto Rico, the government on the Board must trust each other in their respective roles, respecting, thereby, our democratic system which not only is fundamental to our Puerto Rican community but also is intrinsically aligned with the long-standing American principle that government of the people, by the people, and for the people shall not perish from the Earth. Thank you, Chairman.

[The prepared statement of Mr. Marrero follows:]

PREPARED STATEMENT OF OMAR J. MARRERO, ESQ., CHIEF FINANCIAL OFFICER OF THE GOVERNMENT OF PUERTO RICO AND EXECUTIVE DIRECTOR OF THE PUERTO RICO FISCAL AGENCY AND FINANCIAL ADVISORY AUTHORITY (AAFAP) (ON BEHALF OF HON. WANDA VÁZQUEZ GARCED, GOVERNOR OF PUERTO RICO)

Chairman Grijalva, Ranking Member Bishop, and members of the Committee: Thank you once again for the opportunity to appear before you to discuss ways to evaluate and improve the implementation of the Puerto Rico Oversight, Management and Economic Stability Act (PROMESA). Over the last 4 years, PROMESA attempted to provide Puerto Rico with vital tools to restructure its debts, achieve fiscal stability, and spur economic growth. While some of these tools have produced meaningful results, there remain certain aspects of the law that need to be reformulated to make these tools more effective, which will allow Puerto Rico to finish the job of restructuring its debts, achieving fiscal responsibility and exiting from the bankruptcy process. However, in several respects, the amendments that have been proposed in the past do not adequately address critical implementation issues that will allow Puerto Rico to finish the job that PROMESA started. For instance, none of the amendments that have been considered address the flawed fiscal plan and budgeting process under PROMESA sections 201 and 202, which continues to be the subject of ongoing friction between the elected Government of Puerto Rico (the "Government") and the Financial Oversight and Management Board (the "Oversight Board" or the "Board"). The best way for Congress to improve the efficiency and effectiveness of PROMESA would be to clarify the unique power-sharing relationship between the Government and Board by limiting each to their respective public policy and financial accountability roles. Especially now as Puerto Rico continues to respond to the COVID-19 pandemic and rebuild from past and ongoing natural disasters, clarifying the roles of the Board and the Government would substantially improve the collaboration and cooperation that we have cultivated to date.

My testimony today will focus on five topics: (i) how Puerto Rico has responded to the COVID-19 crisis; (ii) how PROMESA has facilitated substantial progress in Puerto Rico; (iii) how PROMESA's unclear delineation of power has led to unnecessary and wasteful conflict between the Board and Government regarding the implementation of public policy; (iv) how PROMESA has been implemented during the current COVID-19 crisis; and (v) recommended changes to PROMESA that Governor Vázquez's administration believes will facilitate a better long-term future for Puerto Rico. While the administration believes the framework and implementation of PROMESA can be improved, changing the law or the way the law is implemented will not be sufficient alone to unlock the full potential of Puerto Rico unless the

federal government, including Congress, demonstrates its commitment to Puerto Rico and works with us to end the current unequal and undemocratic territory status and places Puerto Rico on the definitive path to full equality through statehood.

### **I. Puerto Rico's Response to the COVID-19 Crisis**

Since China first alerted the World Health Organization of flu-like cases in Wuhan on December 31, 2019, the COVID-19 virus has spread to 188 countries in every continent except Antarctica with over 7,100,000 reported cases. Addressing this humanitarian challenge continues to be the Government's top priority at this moment. As of June 9, 2020, Puerto Rico had 5,185 cases that tested positive for COVID-19 and 142 deaths. The Government continues to take actions to combat the spread of the virus, and today I would like to share with the Committee part of the efforts we have implemented during this time.

On March 15, Governor Wanda Vázquez signed Executive Order OE-2020-023, which mandated a lockdown, the closure of business, an island-wide curfew and social distancing procedures. This was the first such measure taken by any jurisdiction in the United States of America. On March 18, the Governor requested the Federal Aviation Administration (the "FAA") to take a series of steps to limit air traffic into Puerto Rico, including suspending all domestic and international flights to and from Puerto Rico. In response, the FAA agreed that all commercial flights must land at Luis Muñoz Marín International Airport, located in San Juan, thereby making Puerto Rico the first jurisdiction to receive tools from the FAA to control air traffic amid the COVID-19 threat. In addition, testing for COVID-19 is being carried out for passengers arriving at the Luis Muñoz Marín International Airport, a strategy that has been welcomed by both our visitors as well as our residents.

Since the COVID-19 crisis started, the Governor has issued several executive orders to address, among other things, caring for the homeless, school and private sector closures, the creation of a Medical Task Force to provide counsel and recommendations to the Governor, acquisition of goods and services, use of the National Guard, prompt diagnosis of COVID-19, and the general state of emergency due to the pandemic. Taken together, these measures help protect the physical, mental, and economic health of the people of Puerto Rico, while preserving the social fabric of the Island's diverse communities.

On March 23, Governor Vázquez, with the support of the Oversight Board, announced a local emergency relief package of approximately \$787 million, which was intended to provide short-term stimulus and emergency assistance. On March 25, the Oversight Board issued a letter to the Governor and Legislature outlining the stimulus measures and necessary steps to secure the budgetary allocation. On March 28, the Puerto Rico Legislature approved a Joint Resolution to provide the allocation of \$500 million from the General Fund to cover the initial phase of the Government's stimulus package. On March 30, the Board approved a reprogramming request to transfer \$157 million under the custody of the Puerto Rico Office of Management and Budget to various agencies according to the Government's stimulus package.

I would like to provide some details on some of the specific measures approved as part of the local economic stimulus package:

Under the Self-Employed incentive, approximately 200,000 self-employed workers are eligible to receive a \$500 one-time payment. The estimated total cost of this measure is \$100 million.

Under the Small Business Incentive, businesses with 50 employees or less and with business volume of \$10 million or less are eligible to receive a \$1,500 one-time cash payment. The estimated total cost of this measure is \$60 million.

Some workers are eligible to receive bonuses. These include dedicated emergency response personnel including state police and firefighters, medical emergency technicians, and staff of COVID-19 emergency response management agencies. Amounts awarded per worker range between \$2,000-\$4,000.

On March 27, the Coronavirus Aid, Relief, and Economic Stability Act (known as the "CARES" Act) was signed into law. Of the roughly \$2.3 trillion of approved funding under the CARES Act, Congress appropriated about \$150 billion to state and local governments through the Coronavirus Relief Fund (CRF) under section 5001. Puerto Rico's population of 3.2 million people accounts for 74.7 percent of the entire pool for territories, thus awarding us roughly \$2.2 billion dollars.

On May 15, Governor Vázquez signed Executive Order EO-2020-040, establishing a Strategic Disbursement Plan for CRF funds. Under the Strategic Plan approved by the Governor, these funds have been allocated in the following way: \$965 million for economic stimulus, \$500 million for health related expenses, \$290 million for



government related expenses and \$485 million as a reserve for future programs. The Government's goal is to distribute funds as quickly as possible to put them into the hands of organizations and individuals that need them the most, while ensuring transparency, compliance, and proper use of those funds. To that end, the Government developed a Strategic Disbursement Plan that, at the time of its publication, was more comprehensive and detailed than any other state. To ensure appropriate allocation of funds and oversight, review panels comprised of representatives from each lead agency for individual Programs are providing input and recommendations regarding Program guidelines and disbursement allocations, and a newly constituted Coronavirus Relief Fund Committee for the Oversight of Disbursements will maintain overall oversight and governance of all Programs and authorize all disbursements.

On May 15, the Government began distributing the CRF funds. To date, the Puerto Rico Treasury Department has distributed approximately \$150 million of the allocated \$200 million for the Assistance Program to Self-Employed Individuals Program, impacting over 149,000 individuals. This information is publicly available through our Strategic Disbursement Plan Funding Report, hosted through the AAFAF COVID-19 webpage.

On May 18, we opened the application period for the Assistance Program to Private Hospitals and Assistance Program to Municipalities. As of June 9, all applications for the Assistance Program to Private Hospitals have been reviewed by the Program Grant Office, Compliance Office and the Lead Agencies. In total, 47 applicants representing 51 hospitals were awarded almost \$140 million of the \$150 million allocated to the program. These funds have begun to be disbursed, and we anticipate all awarded funds will be disbursed in the next week.

On June 4, the assistance programs to Small and Medium Businesses were launched. In the first 48 hours, over 21,000 small and medium businesses applied for assistance through the program, and more than \$101 million was identified for disbursement. In the coming week, we expect to continue to make progress on launching the remaining programs as well as solidifying the process for fund recipients to document and report their use of funds to ensure the strictest compliance with CARES Act guidelines and the mitigation of fraud, waste, and abuse.

Like any other crisis, the Government's response has not been free of errors and controversies. Similar situations have occurred in other states and jurisdictions of the Nation. However, the Government remains committed to the principles of transparency and accountability, and will continue to work with our Federal counterparts in order to ensure that the recovery funds available to combat the COVID-19 crisis go directly to the people and entities that need it most.

## **II. PROMESA Has Facilitated Substantial Progress in Puerto Rico**

I would now like to discuss how PROMESA has been implemented during this current crisis. As this Committee knows, the Government and Board have had a long history—across three different administrations in nearly 4 years—marked with uneven periods of cooperation on the one hand and disagreement on the other, some of which has become the subject of litigation. Notwithstanding some important disagreements, the Government and Board have actually collaborated and achieved several restructurings over the last few years. For example, in November 2018, the Government Development Bank of Puerto Rico (GDB) completed a first-of-its-kind consensual restructuring of about \$4 billion of debt under Title VI of PROMESA. In February 2019, COFINA consummated its Title III plan of adjustment to restructure approximately \$18 billion of bond debt. And in July 2019, PRASA entered into definitive agreements to restructure almost \$1 billion in debt under Federal programs administered by the EPA and USDA under section 207 of PROMESA, providing significant annual debt service relief, among other benefits for PRASA. All of these efforts garnered the full support of the Oversight Board and the Government, including both the legislative and executive branches.

In the past, the Government and the Board have also had disagreements over fiscal plans and budgets. But we have generally agreed on many of the fiscal plan provisions. Any remaining disagreements have been primarily based on public policy decisions, such as civil service reform and the treatment of Government employee compensation and pension benefits, among other things.

After Puerto Rico experienced an unexpected political upheaval in July and August 2019, the relationship between the Government and Board adjusted to a new administration under Governor Vázquez. Since taking office, Governor Vázquez has consistently sought to mend the historically fractious relationship between the Government and the Oversight Board by facilitating informal discussions to achieve meaningful solutions for the people of Puerto Rico including supporting the restructuring proceedings. From the outset, Governor Vázquez's administration has been,

and will continue to be, fully committed to (1) transparency, (2) accountability, and (3) fiscal responsibility. To achieve these objectives, this administration has issued a series of executive orders in the last year designed to combat corruption in government contracting and restore Puerto Rico's credibility with the Board and the Federal Government. In fact, after reviewing the Government's recovery operations in February 2020, Coast Guard Admiral Peter J. Brown—the Trump administration's liaison to the Government for natural disaster recovery efforts—reported that Puerto Rico's "reputation seems to lag the reality" because the Government has implemented "very strong internal control mechanisms to counter any attempts at corruption or diversion of funds." These measures have helped to establish a new atmosphere of cooperation and trust between the Government of Puerto Rico, the Oversight Board, and the Federal Government that did not exist with prior administrations—a development that we hope will continue to improve and expand.

In particular, this recent collaboration between the Government and the Board has been vital to achieving a swift response to the negative health and economic impacts of COVID-19 in Puerto Rico. On March 13, 2020, the Government sent a request to the Oversight Board seeking authorization to use \$160 million from an Emergency Reserve fund established under the Commonwealth's fiscal plan for preparedness and response to the COVID-19 emergency. That same day, the Oversight Board authorized the use of these funds on the condition that the Puerto Rico Office of Management and Budget (OMB) provide weekly reports to the Board on its uses and the disbursements of emergency expenses. The OMB has been providing these weekly reports to the Board. A few weeks later—on March 23, 2020—Governor Vázquez, with the support of the Oversight Board, announced a \$787 million local emergency relief package to address local issues. This relief package was among the most complete and ambitious packages awarded at the state/territory level to face this unprecedented crisis, and required substantial coordination between the Government and the Board to make available the necessary funds.

This level of unprecedented collaboration between the Government and the Board demonstrates how meaningful achievements are possible under PROMESA when we work together. However, on June 8, 2020 the Board commenced a new adversary proceeding against the Government over a disagreement that, frankly, could have been resolved out of court. The Government believes that this and other disagreements we still have are reconcilable and we remain committed to working with the Board to achieve consensus wherever possible to build upon these prior successes.

### **III. Due to PROMESA's Unclear Delineation of Power, the Oversight Board Has Engaged in Efforts to Impede the Government's Public Policy Objectives**

Despite our best efforts to minimize disagreements, the language and structure of PROMESA as currently adopted by Congress, allows the Board to blur the delineation of power between the Government and the Oversight Board. Because the respective roles of the Government and Oversight Board often overlap, the lack of clarity in the statute creates too many opportunities to waste time jockeying for power rather than creating and implementing meaningful solutions for the people of Puerto Rico.

Over the last several years, the Board has attempted to take advantage of this unclear separation of powers to gain control over day-to-day operations of the Government. For instance, on October 26, 2017, the Oversight Board brought a motion in the Title III cases seeking the appointment of a chief transformation officer (CTO) for PREPA, the Island-wide public electric company. In its motion, the Board argued that the broad powers granted to it under PROMESA obligated the Board to act as a "chief executive officer" over both long-term strategic planning and day-to-day management of PREPA, such that it could unilaterally displace a statutorily created management structure and direct the executive functions of PREPA (or any other Puerto Rico public corporation). Fortunately, the Title III Court denied the Board's request, noting that, unlike the establishment of the D.C. control board, "Congress did not grant the [Oversight Board] the power to supplant, bypass, or replace the Commonwealth's elected leaders and their appointees in the exercise of their managerial duties whenever the Oversight Board might deem such a change expedient." *In re The Fin. Oversight & Mgmt. Bd. for Puerto Rico*, 583 B.R. 626, 634 (D.P.R. 2017).

After failing to be acknowledged as the CEO of PREPA, the Oversight Board pivoted its strategy to subvert the duly elected Government's policy objectives through significant lobbying efforts, which have cost a disturbingly considerable amount of Puerto Rico taxpayer dollars to do it. The Board's use of such anti-democratic tactics to undermine the elected Government's policy preferences should be a primary concern of this Committee.

The Oversight Board has also seized the fiscal plan and budget certification processes under PROMESA sections 201 and 202 to micro-manage virtually all aspects of public governance in Puerto Rico, including attempts to exercise managerial duties that the Title III Court has already denied. For example, in 2018, the Oversight Board refused to provide appropriations for public-sector employee Christmas bonuses, and economic development initiatives for municipalities (among other things) and insisted on a draconian cut to public pensions unless the Government agreed to become an “at will” employment jurisdiction by repealing Act 80. Act 80 requires employers to have “just cause” before terminating the employment of an employee hired for an indefinite period of time. Although then-Governor Rosselló agreed to the Board’s request in exchange for vital funding necessary to support the Government’s public policy objectives, the Puerto Rico Legislature did not repeal Act 80. In retaliation, the Oversight Board re-certified a new version of its fiscal plan and budget for fiscal year 2019 imposing severe austerity measures designed to punish the Government for failing to adopt the Board’s preferred public policy on employment.

In its latest Commonwealth-wide fiscal plan certified on May 27, 2020, the Board did it again when it completely defunded the State Public Broadcast Corporation (“WIPR”, by its Spanish acronym) to force the Government to comply with an unreasonable and unrealistic timeframe that could jeopardize the crown jewel of WIPR: its licenses issued by the Federal Communications Commission and their renewals. The Board also included in the new Fiscal Plan a detailed K-12 education reform plan that requires the Puerto Rico Department of Education to implement non-financial reforms such as: (i) segmenting schools based on performance outcomes; (ii) launching evidence-based curriculum reforms; (iii) creating post-COVID-19 back-to-school plans and improving distance learning capabilities; (iv) improving professional development opportunities for directors and teachers; and (v) implementing initiatives to boost family engagements. While the Government does not necessarily disagree with these measures, the Government believes that these types of detailed public policy initiatives—which have nothing to do with fiscal responsibility, ensuring sustainable debt levels, exiting the Title III bankruptcy, or maintaining balanced annual budgets—go far beyond the intent of PROMESA’s fiscal plan and budget processes. These are matters for the people of Puerto Rico to decide.

There is no doubt that an improved education system will help propel Puerto Rico’s economy forward by developing a more competitive workforce and providing better opportunities for Island residents. In fact, improving education in Puerto Rico is one of Governor Vázquez’s top priorities. But fiscal plans and budgets should not be a masquerade for the Board to implement its own vision for the future of education in Puerto Rico (or any other public policy for that matter). Puerto Ricans have elected their own government to do that. If the Board can use the fiscal plan and budget process to impose its own public policies on the Government of Puerto Rico, then the Board can tie the hands of elected officials (as it has done historically) and effectively strip the people of Puerto Rico of their voice in an elected government of their own choosing. Although we are cognizant of the fact that territories are subject to the plenary powers of Congress under Article IV of the U.S. Constitution, certainly, this is not what Congress adopted or intended under PROMESA when it installed an oversight board for Puerto Rico rather than a control board.

The May 27 Fiscal Plan includes many other policy initiatives that have nothing to do with fiscal responsibility and financial management, but instead impose directives on day-to-day governmental operations, such as which agencies should perform promotional activities for the earned income tax credit. These measures include the micromanagement of government functions related to, among other things:

- Business permitting and occupational licensing;
- Workforce development programs;
- Public safety programs;
- Freight regulations;
- Tourism marketing;
- Broadband access programs; and
- Street parking.

To be clear: the Government does not necessarily disagree with these policies. The problem is that the Board should not be able to use its fiscal plan and budgetary powers to dictate the specifics of every policy the Government pursues. A proper division of power would allow the Government to construct its own policies freely to meet the needs of the people, and the Board’s oversight role would be to intervene

only if the costs of Government policies significantly undermine the financial framework of the certified fiscal plan. If the Government acts within the broad revenue and expense targets in the fiscal plan, then the Board's powers should end and the democratic will of the people should prevail.

In addition to imposing its own policy preferences, the Board has also used its fiscal plan and budgetary authority to impede the Government's own public policies by seeking to nullify new laws. Over the last several months, the Board has sent an excessive amount of correspondence to the Government asserting rights and powers that the Government believes exceeds the Oversight Board's capacities under PROMESA and which the Government has spent considerable time and energy responding to. A list of these efforts, including samples of the related correspondence, is attached hereto as **Appendix A**. Some of these letters touch upon aspects far removed from regular Oversight Board work, including suggesting when and how the Puerto Rico Electric Power Authority's (PREPA) vegetation management program should occur. But the most troubling of these communications from the Government's perspective include:

- Directives to provide substantial unwarranted information in support of the Government's fiscal plan compliance certifications related to new laws designed to (i) better regulate the healthcare industry in Puerto Rico (Act 82-2019, Act 90-2019, and Act 138-2019); (ii) change employee vacation and sick day accrual rates (Act 176-2019); (iii) provide the Fire Department of Puerto Rico a pay increase paid for with a new 3 percent tax on fire and allied lines insurance policies (Act 181-2019); and (iv) provide tax relief to health professionals in light of their personal and professional sacrifices related to COVID-19 (Act 47-2020); and
- Assertions that the Board can unilaterally nullify these new laws pursuant to PROMESA sections 204(a) and 108(a) if the Government fails to comply with the foregoing directives.

Furthermore, on June 8, 2020 the Oversight Board commenced yet another adversary proceeding over certain information requests the Board has sent to various Government agencies. Even though the Government has cooperated with such requests by producing over 1,000 pages of documents, the Board still alleges some information is missing. Rather than engaging with the Government and meeting with public officials to discuss the alleged missing information, as the Government has suggested, the Board decided to go through the courts, once again antagonizing the Government in expensive judicial proceedings that unnecessarily wastes public funds.

In contrast to the Board's interference with Government public policies, the Board has not made efficient use of the economic development tools provided by PROMESA. As of today, the position of Revitalization Coordinator provided for in section 502, has been vacant for over a year. And as far as the Government is aware, only one critical project under section 503 of PROMESA has been approved by the Board. Almost 4 years since the enactment of PROMESA, the economic development tools provided to the Board by PROMESA are stalled. As with the Board's imposition of public policies in the fiscal plan, the Government believes that actively impeding the Government's own public policy initiatives is counterproductive and undermines our recent progress to work collaboratively with the Board to implement meaningful fiscal and economic solutions for the people of Puerto Rico. It is particularly disconcerting that the Board has used these letters to make unwarranted threats to nullify the duly elected Government's recently enacted laws. The Government believes that a more carefully delineated division of power would avoid these wasteful and time-consuming endeavors, while preserving effective governance in Puerto Rico.

#### **IV. Any PROMESA Amendments Should Clarify Where the Board's Powers End**

As with prior proposed PROMESA amendments that this Committee has considered, any further PROMESA amendments must address the most important obstacle to effectively implementing the statute: Clarifying where the Board's powers end. As such, the Government recommends that Congress consider the following amendments to PROMESA:

- **Clarify the Roles of the Government and the Oversight Board:** It is critical to the legitimacy of this process that the Government of Puerto Rico always retain its democratically derived powers. Congress should make clear that appropriate, important roles exist for each of the Government of Puerto Rico and the Oversight Board. As previously discussed, the Oversight Board

has used its fiscal plan and budgetary powers to impose detailed spending restrictions that have the effect of dictating public policy—an approach that undermines the Government’s powers and turns the Oversight Board into something more akin to a control board. To address this issue, we submit that sections 201 and 202 of PROMESA should be amended to make clear that the Oversight Board’s fiscal plan and budgetary powers do not extend to determining day-to-day operating level expenditures or the imposition of detailed public policy (such as education reforms). The Government of Puerto Rico should be responsible for setting public policy, operating the government and implementing solutions. The Oversight Board should provide financial oversight and monitor the budget and fiscal health of the Commonwealth to assure that appropriate controls are in place and financial metrics are being met. While the Government and the Oversight Board would still be required to work diligently together to make their respective roles work as a cohesive whole, a more careful delineation of PROMESA’s power-sharing arrangement would make for a much more effective process.

- **Eliminate the Role of the Oversight Board as Title III Representative:** The insertion of the Oversight Board as the Title III representative creates confusion and results in litigation within the Title III process. The Title III debtor is already subject to the scrutiny of the court process. While the Oversight Board has a critical role to play, it is not necessary to create conflicting roles by giving the Board both the debtor role and the oversight function in the Title III process.
- **Revise Fiscal Planning Process:** The fiscal plan and budgeting process should be revamped to provide a focus on one-year budgets to make sure that Puerto Rico is not spending more than it is taking in and that an objective and reliable assessment is made each year to determine how much the Government needs to pay for essential services. The fiscal plan and budgeting process should not be used as a public policy tool or turned into an endless modeling exercise.

### Conclusion

As Justice Breyer advised in his book “Making Our Democracy Work,” a “workable government” requires trust among government institutions and between those institutions and the people. In order to achieve a long-term “workable government” for Puerto Rico, the Government and the Board must trust each other in their respective roles. But the people of Puerto Rico will not trust the dynamic between the Board and their Government if the Board is able to impose its public policy preferences at will over elected officials. Hence, failing to amend PROMESA to more clearly delineate the respective roles of the Board and the Government will result in only one thing: an “unworkable government.” Moreover, the Board may be tempted to continue in their attempts to interfere with local governmental powers, acting like a judicial branch by unilaterally enjoining the implementation of local laws, like a legislative branch by illegally incorporating and mandating public policy issues in certified fiscal plans, and like an executive branch, by dictating when and how their own public policy determinations are executed. Surely this is not the type of entity Congress had in mind when PROMESA was approved. The Government believes that, notwithstanding the substantial restructuring progress we have made to date, further and faster progress could be made, and the job of exiting Title III bankruptcy can be achieved, if the Government and Board’s powers were more clearly delineated in PROMESA. By doing so, we will fully respect thereby both the democratic system of the People of Puerto Rico, which the Preamble of our Constitution acknowledges as fundamental to the life of our community, as well as the long-standing tradition of our American democracy “that government of the people, by the people, for the people, shall not perish from the earth.” Thank you.

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The following documents were submitted as attachments to Mr. Marrero's testimony. These documents are part of the hearing record and are being retained in the Committee's official files:

**Appendix A: Board Actions Interfering With Government Operations**

- Exhibit 1: U.S. District Court, District of Puerto Rico, Case 17-04780-LTS
- Exhibit 2: FOMB, Letter to Governor Wanda Vázquez Garced, dated November 15, 2019.
- Exhibit 3: AAFAF's Response Letter to FOMB, dated November 22, 2019.
- Exhibit 4: FOMB, Letter to Omar Marrero, dated December 18, 2019.
- Exhibit 5: FOMB, Letter to Omar Marrero, dated April 27, 2020.
- Exhibit 6: AAFAF's Response Letter to FOMB dated May 8, 2020.
- Exhibit 7: FOMB, Letter to Ortiz Vázquez, PREPA, dated April 30, 2020.
- Exhibit 8: FOMB, Letter to Governor Vázquez, Senate President Thomas Rivera Schatz, and House Speaker Carlos J. Méndez Núñez, dated May 11, 2020.
- Exhibit 9: AAFAF's Response Letter to FOMB, dated May 19, 2020
- Exhibit 10: FOMB, Letter to Governor Vázquez, Senate President Thomas Rivera Schatz, and House Speaker Carlos J. Méndez Núñez, dated May 11, 2020.
- Exhibit 11: FOMB, Letter to Governor Vázquez, Senate President Thomas Rivera Schatz, and House Speaker Carlos J. Méndez Núñez, dated May 21, 2020.
- Exhibit 12: AAFAF's Response Letter dated May 28, 2020.
- Exhibit 13: FOMB, Letter to Omar Marrero, dated June 5, 2020.

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QUESTIONS SUBMITTED FOR THE RECORD TO OMAR MARRERO, EXECUTIVE DIRECTOR,  
PUERTO RICO FISCAL AGENCY & FINANCIAL ADVISORY AUTHORITY

**Questions Submitted by Rep. Grijalva**

*Question 1. How does the 2020 Fiscal Plan certified by the Oversight Board differ from the proposed Fiscal Plan presented by the Government of Puerto Rico?*

Answer. While there are many overlapping assumptions and measures in the Government's fiscal plan proposal dated May 3, 2020 (the "Government 2020 Fiscal Plan") and the Oversight Board's fiscal plan as certified on May 27, 2020 (the "Certified 2020 Fiscal Plan"), there are also areas where the Government and the Oversight Board differ. Below please find a summary of certain provisions that are fundamentally different.

- *Term of the Financial Forecast:* The Government 2020 Fiscal Plan includes a 20-year forecast through fiscal year 2039, consistent with the life of the bonds as proposed in the Board's as-filed plan of adjustment proposal dated February 28, 2020. The Certified 2020 Fiscal Plan includes a 30-year forecast through fiscal year 2049.
- *Macro-Economic Forecast:* The Government 2020 Fiscal Plan reflects a slightly more pessimistic macroeconomic forecast in fiscal year 2020 and fiscal year 2021 relative to the Certified 2020 Fiscal Plan. This is a result of assumptions related to United States economic growth, the COVID-19 shock, and the offsetting COVID-19 stimulus.
- *Long Term Medicaid Federal Funding:* The Government 2020 Fiscal Plan includes an assumption that the Commonwealth will receive long-term Medicaid federal funding of 55 percent after the current Medicaid Bill expires. Conversely, the Certified 2020 Fiscal Plan does not assume that there will be long-term Medicaid funding.
- *Pension Reform:* The Government 2020 Fiscal Plan excludes pension reform, such as pension cuts and a pension freeze. Conversely, the Certified 2020 Fiscal Plan includes pension reform measures such as the pension cuts and pension freeze.

- *General Fund Expenses:* The general fund expenses in the Government 2020 Fiscal Plan are based on the Puerto Rico Office of Management and Budget (“OMB”) proposed budget for fiscal year 2021. Additionally, the Government 2020 Fiscal Plan includes several reinvestment initiatives such as Uniform Remuneration, Police Retirement, Parametric Insurance, and the payment of the “Christmas Bonus,” an integral part of government employees’ compensation for over 40 years. The Certified 2020 Fiscal Plan is based on the Oversight Board’s target budget for fiscal year 2021. Moreover, the Certified 2020 Fiscal Plan includes approximately \$5.5 billion in re-investment in Puerto Rico on account of the COVID-19 crisis.
- *Measures and Appropriations:* The Government 2020 Fiscal Plan calls for a 2-year delay in rightsizing measures and appropriations as a result of the COVID-19 pandemic. Additionally, the Government 2020 Fiscal Plan excludes go-forward measures related to education, health, and public safety given their critical nature. The Certified 2020 Fiscal Plan includes a 1-year delay in rightsizing measures and appropriations on account of COVID-19.

*Question 2. Are austerity measures requested by the Oversight Board impacting the Government’s ability to provide essential public services and/or respond to the current COVID-19 public health and economic crises? For example, are austerity measures causing delays in processing stimulus checks, unemployment applications, NAP expansion, and/or local programs to respond to the pandemic?*

Answer. The Oversight Board’s austerity measures have affected the Government’s ability to provide services to the people of Puerto Rico in some instances. Specifically, the Labor grouping in the Certified 2020 Fiscal Plan has already had its budget reduced by \$8.9 million from fiscal year 2018 through fiscal year 2020. Over the same time period, headcount declined from 2,318 to 2,084, a 10 percent reduction.

*Question 3. \$4.9 billion was appropriated after Hurricane Maria for low-cost forgivable Community Disaster Loans for Puerto Rico and the U.S. Virgin Islands based on projections of revenue losses that, in Puerto Rico’s case, were vastly overestimated. The White House suggested Puerto Rico could expect about \$4.65 billion of the total, but only a few hundred million were disbursed to Puerto Rico’s municipalities because the Government of Puerto Rico did not have a liquidity problem as projected. Since Puerto Rico was excluded from the Federal Reserve program—contrary to Congress’ intent—should a reprogramming of the \$4 billion in Community Disaster Loans that were appropriated but have not been used be disbursed to Puerto Rico?*

Answer. The Government supports any initiative that allows it to cope with the revenue losses caused by the substantial economic and health impacts of the COVID-19 pandemic, including Puerto Rico’s participation in the Federal Reserve program or the revenues loss provisions being contemplated in the HEROES Act currently under evaluation in Congress.

*Question 4. Through the CARES Act, the Federal Government assigned \$2.2 billion to Puerto Rico to address the COVID-19 pandemic. The 2020 Fiscal Plan outlines how the funds will be allocated by the government. Mr. Marrero, how much of these funds has the Government already used? Are you confident the government will be able to make use of the available funds before the December 31, 2020 deadline established by the CARES Act?*

Answer. On May 15, 2020, Governor Wanda Vázquez Garced issued Executive Order OE-2020-040 establishing Puerto Rico’s Strategic Disbursement Plan for the Coronavirus Relief Fund (the “Strategic Disbursement Plan”) under the Coronavirus Aid, Relief, and Economic Security Act of 2020, Pub. L. 116-136 (the “CARES Act”). A copy of the Strategic Disbursement Plan is available at <http://www.aafaf.pr.gov/assets/strategic-disbursement-plan-crf.pdf>.

The Strategic Disbursement Plan lays out 16 distinct programs that address both government needs (mainly associated with attending to the public health emergency and continuing government operations) and those of the private sector, which has been severely affected by interruption of operations. In addition, the Strategic Disbursement Plan established a reserve of \$486 million to be allocated at a later date. The Government is currently considering options to deploy that reserve based on a necessity standard as well as data gathered from the applications received for the other Coronavirus Relief Fund (“CRF”) programs.

As of June 17, 2020, 12 of the Strategic Disbursement Plan programs are live and accepting applications, with the remaining programs expected to go live in the next few weeks. \$557 million in CRF funds have been disbursed or transferred to entities

who were deemed eligible after completing the Strategic Disbursement Plan's CRF application process. Based on the pace of disbursements to date as well as additional eligible needs that have been identified, we expect the Government will be able to make use of the available funds before the deadline established by the CARES Act. Further information on CRF disbursements can be found at <http://www.aafaf.pr.gov/covid-19-resource-center.html>.

*Question 5. Mr. Marrero, like most places around the world, Puerto Rico is facing higher unemployment rates due to the COVID-19 pandemic. However, Puerto Ricans trying to obtain unemployment benefits have faced hours-long lines, faulty technology, and miscommunication from the local Department of Labor. What steps will the Puerto Rico Department of Labor take to immediately correct the current missteps in disbursing local unemployment funds?*

Answer. The State Unemployment Insurance Program ("UI") and the temporary unemployment benefits programs created under the CARES Act (e.g., Pandemic Unemployment Assistance ("PUA"), Federal Pandemic Unemployment Compensation ("FPUC") and Pandemic Emergency Unemployment Compensation ("PEUC")) require compliance with Federal law, which mandates that claimants should meet all eligibility requirements. At present, there are more than 320,000 workers receiving UI and PUA benefits. However, a portion of applicants have issues of eligibility on their claims that must be solved through investigation before a payment is issued. These issues arise from the information provided by claimants in their benefits application.

Federal law requires the adjudication of eligibility issues to be solved on a case-by-case basis before the issuance of a payment. Sometimes, the adjudication of an issue may require interviewing not only a claimant, but also his or her employer. Therefore, the payment of unemployment funds cannot always be as fast as expected. See U.S. Department of Labor, *Unemployment Insurance Program Letter No. 23-20*, at p.4 ("*Eligibility for [Unemployment Compensation ("UC")] is based on claimants demonstrating that they meet certain eligibility requirements on a weekly basis . . . a state's failure to administer its UI program in conformity and substantial compliance with federal law can result in loss of the state's certification and loss of its administrative grant to operate the UC program and/or its employers' tax credits under [Federal Unemployment Tax Act] FUTA*") (emphasis added).

Hence, issues on a claimant's eligibility can delay the receipt of unemployment benefits. In order to speed up the issues-solving process, the Puerto Rico Department of Labor ("PRDOL") has contracted with a company that provides software and virtual platform for employees to solve claimant's issues by phone. Under this new software, claimants will receive texts and e-mails informing the date and hour in which PRDOL will call to solve their eligibility issues.

Claimants with issues of eligibility with an older date will be called before claimants with recent eligibility issues. Therefore, the software provides an efficient way to solve claims chronologically, so that people that have been waiting longer for the resolution of their claim can obtain their unemployment benefits payment first. PRDOL will promote this phone-appointment system, so that claimants do not have to visit their local PRDOL office. PRDOL will also promote the use of its virtual document uploader so that claimants will be aware that they do not have to hand in person the documentation required to solve their eligibility issues. Moreover, new mailboxes were installed at the PRDOL regional offices.

Regarding the acquisition of new technology to speed up the payment of claims, PRDOL issued a request for proposal to analyze PRDOL's processing of unemployment claims and issue an opinion with recommendations. Currently there is a bill before the Puerto Rico Legislature that will allow a collaboration between the PR Treasury Department and PRDOL. Once the aforementioned bill becomes a law, the PR Treasury Department will be allowed to provide data and its updated technology to the PRDOL with the purpose of speeding up the processing of unemployment claims. Furthermore, PRDOL is currently analyzing various software proposals for a fastest processing of PUA and "Disaster Unemployment Assistance" ("DUA") claims. Finally, it must be pointed out that PRDOL expects to add approximately 200 temporary employees (or more if needed) to its current workforce to help with the resolutions of claims.

*Question 6. Senate Finance Committee Chairman Charles Grassley wrote a letter to Governor Wanda Vázquez outlining a series of well-documented incidents of corruption and mismanagement that have been widely reported by the media in Puerto Rico. What specific measures is the Government of Puerto Rico implementing to address each of his concerns and what steps are you taking to ensure these incidents never happen again?*



Answer. As the Government's response to Chairman Grassley made clear, the allegations in his letter appear to be unsupported and many originated from unreliable sources or parties with partisan agendas. Governor Vázquez's administration has fought to ensure that government agencies take responsible measures to fairly and transparently implement their procurement and contracting policies. This administration has addressed issues related to irregularities in the use of federal funds and ensured that relief is used to benefit the people of Puerto Rico. Since assuming office in August 2019, Governor Vázquez has issued a series of executive orders designed to combat corruption in government contracting and restore Puerto Rico's credibility with the Federal Government. In fact, after reviewing the Government's recovery operations in February 2020, Coast Guard Admiral Peter J. Brown—the Trump administration's liaison to the Government for natural disaster recovery efforts—reported that Puerto Rico's "reputation seems to lag the reality" because the Government has implemented "very strong internal control mechanisms to counter any attempts at corruption or diversion of funds."

*Question 7. Since the COVID-19 pandemic reached Puerto Rico, and the shelter in place and lockdown restrictions were put in place, many non-profits entities, community leaders and community-based organizations have been working together in several groups to find solutions to the social problems created by this new emergency. Some of those groups include "La Mesa Social" and "Task Force Social del Pueblo", comprising more than 150 organizations. These groups have been working with vulnerable populations facing the new challenges imposed by COVID-19, and also asking the Government for information and specific actions that would help the residents of Puerto Rico. Why hasn't the Government of Puerto created a social task force, similar to the medical or economic task forces, to address the problems faced by the most vulnerable populations of the island?*

Answer. The Government continues to take all measures necessary to combat the effects of the COVID-19 pandemic. The Governor has created a medical task force and an economic task force to advise on matters on how to handle the pandemic. The vulnerable population of the Island is of the utmost importance to the Government. In fact, one of the first Executive Orders signed by the Governor during the COVID-19 crisis was geared toward protecting a sector of the most vulnerable population of Puerto Rico; the homeless. Executive Order 202-25 ordered the PR Department of the Family, the Department of Housing and the Health Department to establish assistance centers to provide medical attention, among others, to this vulnerable sector of the population. In addition, as further explained in our answer to Question 8, under the Strategic Plan for the Disbursement of CRF funds, non-governmental organization that work closely with these vulnerable communities are eligible and encouraged to participate in many of the programs outlined in the Strategic Plan. The Government will continue analyzing further ways in which to address the problems of this important sector of our population.

*Question 8. After advocacy efforts from a group of Puerto Rican NGOs, the Oversight Board wrote a letter to Governor Wanda Vázquez supporting a petition that a portion of the discretionary funds under federal stimulus packages be assigned to the social services NGOs in Puerto Rico. However, the Government of Puerto Rico has not answered this petition. What are the reservations to the petition made by the NGO community and supported by the Oversight Board? Is the Government of Puerto Rico going to act on this request any time soon?*

Answer. On May 15, 2020, Governor Wanda Vázquez Garced issued Executive Order OE-2020-040 establishing Puerto Rico's Strategic Disbursement Plan for the use of CRF funds under the CARES Act. The plan lays out 16 distinct programs that address both government needs (mainly associated with attending to the public health emergency and continuing government operations) and those of the private sector, which has been severely affected by interruption of operations. Non-governmental organizations ("NGOs") are eligible for and have been encouraged to participate in many of these programs.

Additionally, communication among representatives of the Puerto Rico Fiscal Agency and Financial Advisory Authority ("AAFAP") and representatives of the NGO sector has been constant throughout the process of developing these CRF programs. Representatives of AAFAP have met with a group of representatives of the NGO sector three times and continue to discuss with them ways to achieve their goals that are in line with the CRF guidance provided by the U.S. Department of Treasury. AAFAP remains available to continue discussions with representatives from the NGO sector.

*Question 9. Puerto Rico's power grid is particularly fragile after Hurricane María and the earthquakes in southern Puerto Rico. After the earthquakes this January, the Costa Sur power plant has been out of service due to the significant damages made. The 2020 Hurricane season began 2 weeks ago. Mr. Marrero, have you or Governor Wanda Vázquez been in contact with FEMA to discuss the upcoming hurricane season? What steps are being taken to plan and prepare for these upcoming months? How are these being impacted by the upcoming privatization of the power utility?*

Answer. As a result of the multiple lessons learned following Hurricanes Irma and Maria, PREPA has undertaken and implemented various System Planning and Response Planning measures.

**(a) System Planning—**

- *Vegetation Management:* PREPA commenced a pilot and a comprehensive vegetation management program, consistent with industry best practices, to protect the integrity of PREPA's T&D infrastructure. The pilot program was supported by a \$7 million budget for two contractors (fiscal year 2019–2020), 1,098 areas assigned across six regions on 38 kV lines. The full T&D vegetation management program (fiscal year 2020 and 2021) includes a \$33 million budget for three contractors, with 595 miles assigned across six regions.
- *Enhanced Communications:* PREPA also now has 68 satellite phones and agreements with KP4 for radio communication in a natural disaster event. This includes an installed teleconference system island-wide that improves communication reliability and redundancy.

**(b) Response Planning—**PREPA has aligned the following support in the event response is needed to another natural disaster.

- *American Public Power Association (APPA) Agreement:* The Mutual Aid Program includes a variety of partners and networks for the provision of external resources for power restoration; This also contemplates coordination with APPA within 72 hours.
- *Master Service Agreement (MSA) for Emergency Restoration:* PREPA issued an RFP during early May. Selected proponents are expected to be announced in early July 2020.
- *Memorandum of Understanding (MOU) with Municipalities:* PREPA has made available an MOU agreement to those municipalities that wish to provide restoration services at a very local level.
- *Inventory:* PREPA's inventory positions is currently at \$138 million versus \$37 million prior to Hurricane Maria. The \$138 million amount includes \$82 million of PREPA inventory and \$56 million of USACE inventory.
- *Additional Logistics in Place:* Four functioning helicopters; 160 call center resources at three different locations throughout the island.

The above are only some of the preparedness measures undertaken by PREPA. In addition thereto, PREPA has undertaken multiple and specific initiatives that have been included within the FEMA claims process that are designed to improve the island's ability to respond to hurricanes and other atmospheric events/natural disasters. Initiatives include recommendations made by the Department of Energy ("DOE"), FEMA, and other stakeholders. These include peaking units, substation hardening, upgraded codes and standards, underground critical feeders, substation relocations for flooding prevention, and new buildings for storm hardening, among others.

The Operation and Maintenance services management contract for the Transmission and Distribution infrastructure will not negatively impact any of the preparatory actions and strategies. To the contrary, the selected operator and the underlying public-private partnership agreement are contemplated to expressly augment the island's capacity—from a financial, human resource, and practical expertise standpoint—to improve, professionalize and react to any future event.

**Questions Submitted by Rep. Sablan**

*Question 1. Like Puerto Rico, my district, the Northern Mariana Islands, was recently devastated by multiple natural disasters. And, like Puerto Rico, we are currently dealing with considerable fiscal, economic, and social challenges during this pandemic. I imagine all the territories are. What are some lessons learned*

during this crisis that you believe might be useful for the territories and the rest of the United States?

Answer. If the last 3 years has taught us anything it is that we must be prepared for the unknown. Over this time period, Puerto Rico has been struck with two devastating hurricanes, Irma and Maria, countless earthquakes and is now facing the COVID-19 pandemic. Territories must be financially and operationally equipped to respond to events such as these. This includes budgeting for rainy-day funds, ensuring adequate funding for emergency response and healthcare related agencies and having action planes developed in advance of future catastrophic events to ensure Government continuity and continuation of essential services.

*Question 2. The 2020 Hurricane season began just a few weeks ago, while Puerto Rico is still recovering from several natural disasters. Have you or the Puerto Rico government been in contact with FEMA to discuss the upcoming hurricane season? What steps are being taken to plan and prepare for these upcoming months?*

Answer. The Government has regular communications with the Federal Emergency Management Agency regarding both the continued work to rebuild after Hurricanes Irma and Maria, the recent Earthquakes and COVID-19. The Government anticipates a significant amount of monies to be obligated this year for the rebuilding of the islands electric grid, water infrastructure and schools.

The Government is also keenly aware of the hurricane season ahead and the fact that certain experts are anticipating an extremely active season. The Government continues to fund a rainy-day fund that will grow over time to \$1.3 billion by funding \$130 million annually. The monies in the rainy-day fund will be used, where needed, to respond to external shocks including hurricanes and other natural disasters, among other possibilities. In addition to the rainy-day fund, the Oversight Board has finally acknowledged the need for a Disaster Relief Funds (“DRF”) working capital facility. The Government has consistently articulated the need of a DRF working capital facility to the Oversight Board but the Oversight Board had objected to this concept until the Certified 2020 Fiscal Plan, which includes a DRF working capital facility in the amount of \$750 million. The intent of the facility is to accelerate the rebuilding process funded with Federal monies on a spend and reimburse basis. The acceleration of permanent projects will put the Island in a better position to withstand future hurricanes.

#### **Questions Submitted by Rep. Cartwright**

*Question 1. Like most places around the world, Puerto Rico is facing higher unemployment rates due to the coronavirus pandemic. However, Puerto Ricans trying to obtain unemployment benefits have faced hours-long lines, faulty technology, and miscommunication from the local Department of Labor. Mr. Marrero, what steps is the Puerto Rico Department of Labor taking to remedy this situation?*

Answer. See response to Question 5 from Chair Grijalva above.

#### **Questions Submitted by Rep. Bishop**

*Question 1. PROMESA required that Puerto Rico’s audited financials be made current, yet PR is further behind in its audited financials today than it was when PROMESA was passed. Is this a failure of the FOMB or the Commonwealth or both?*

Answer. The expected issuance of audited financial statement for fiscal year 2017 is no later than July 31. The Government is targeting to have a draft of fiscal year 2018 financial statements for review by external auditors by November 2018.

*Question 2. With aggregate balances now totaling more than \$19 billion sitting in Commonwealth accounts (and virtually half of that being unrestricted in use), why have the Commonwealth and FOMB not been able to make more development progress, and also bring bankruptcy proceedings to a conclusion? Why haven’t these funds been utilized to help Puerto Rico develop, and to honor what obligations could be honored in a timely fashion?*

Answer. Respectfully, the premise of the question is misleading. For example, the headline number of \$19 billion (which was as of April 30, 2020 and does not reflect drops in revenue since then) includes nearly \$2 billion in CARES Act funding, \$650 million in employee retirement contributions, \$660 million in unemployment trust funds, and nearly a billion in funds belonging to Puerto Rico’s water and sewer authority (PRASA), which is current in its bond obligations. Funds available to address creditor claims in each individual Title III case are much lower.

Moreover, over the last several years, the Government has worked with the Oversight Board to develop several strategies to emerge from the Commonwealth's Title III cases. Many of these strategies have been successful. For example, in November 2018, the Government Development Bank of Puerto Rico completed a first-of-its-kind consensual restructuring of about \$4 billion of debt under Title VI of PROMESA. And in February 2019, the Puerto Rico Sales Tax Financing Corporation (known as COFINA) consummated its Title III plan of adjustment to restructure approximately \$18 billion of bond debt. Both of these efforts garnered the full support of the Oversight Board and the Government, including both the legislative and executive branches.

In addition, substantial progress has been made regarding the Government's other Title III debtors. However, any consensual resolution of the Title III cases must involve creditors recognizing weaknesses in their legal positions as well as a realistic evaluation of what the Title III debtors can provide for recoveries. The unwillingness to this point of major creditor constituencies to face these realities is a roadblock to progress.

In addition, the COVID-19 pandemic has materially impacted the economic and cash-flow projections for the Island, consistent with what all U.S. states are experiencing. As a result, the Government and Oversight Board will need to re-assess all restructuring agreements to determine which approaches remain viable in the post-COVID-19 economic reality. Before the COVID-19 pandemic, the Government and Oversight Board made the following progress in the Title III process:

- **Commonwealth:** The Government worked closely with the Oversight Board in the development of a Plan Support Agreement (“PSA”) and Plan of Adjustment (“POA”) for the Commonwealth. Although the Government and Oversight Board did not agree on all aspects of the POA proposal, they were working together to resolve them. The PSA and POA contemplated the use of approximately \$5.1 billion of cash as part of settling various claims against the Commonwealth. This disproves the assertion that the Government is not willing to use cash to satisfy creditor obligations.
- **Puerto Rico Electric Power Authority (“PREPA”):** In the case of PREPA, the Government supported, and was party to, the Restructuring Support Agreement entered between the PREPA Revenue Bond holders, the Oversight Board and AAFAF.
- **Employees Retirement System (“ERS”):** The validity of the Pension Obligation Bonds (“POBs”) and rights of the Pension Obligation Bondholders are subject to various complex litigation that has not yet been resolved. Resolution of the legal issues surrounding the POBs will facilitate and accelerate the Title III for ERS.
- **Highway & Transportation Authority (“HTA”):** The Government and Oversight Board have participated in mediation sessions with the creditors of HTA, but they have not yet reached an agreement with them.

Although the aggregate balances of the Commonwealth's funds is currently approximately \$19 billion, some of these funds are restricted and cannot be used. Many of the accounts holding these funds are (i) restricted by court order, (ii) earmarked for emergency use only by the Oversight Board, (iii) federal funds limited to specific uses, (iv) restricted by various federal laws or regulations, (v) held in custodial or other segregated accounts for third parties, (vi) proceeds of tax-exempt bonds with restrictions under the Internal Revenue Code, or (vii) restricted due to third-party contracts (such as debt service reserve funds held by a trustee). And many of the funds that are not otherwise restricted are being fought over by hundreds of different creditor constituencies involving complex legal issues that remain subject to pending litigation. Although the Government is trying to minimize the duration of litigation and reach consensual resolution with creditors where possible, the vast number of competing parties and interests has made global resolution difficult to achieve.

Before the COVID-19 pandemic, the Government also repeatedly advocated for reserving excess cash and additional resources so that Puerto Rico could adequately address future natural disasters or other uncontrollable events that might negatively affect the economy. Recent events have vindicated this position. In March 2020 alone, the Oversight Board authorized the use of nearly \$1 billion of Puerto Rico funds, which included an increase and reallocation of \$800 million for the Government's fiscal year 2020 budget and \$160 million of the remaining balance available from the Government's Emergency Reserve Fund to combat COVID-19. Earlier this year, the Oversight Board authorized the use of \$100 million from the Emergency Reserve Fund to respond to Puerto Rico's recent earthquake emergency

in January 2020. Without the availability of these cash reserves, the Government would not have been able to quickly and effectively address these emergency situations. In order to successfully emerge from its Title III process and minimize the risk of having to seek Title III relief again, the Government continues to believe it should retain sufficient cash reserves not only for emergency purposes but also to utilize any excess available resources to reinvest in areas earmarked as the most critical to Puerto Rico's future economic growth.

Thus, the Government is not simply sitting on a pile of cash and doing nothing with it. To the contrary: the Government is trying to preserve its available resources so that it can properly allocate and utilize them in a potential global resolution of the Title III cases that is both fair to creditors and protects the health, welfare, and safety of the people of Puerto Rico.

*Question 3. The FOMB in an early fiscal plan projected an astonishing \$1.5 billion to be spent on advisory fees. Several years hence, how much money have the Commonwealth and FOMB in fact spent on aggregate financial and legal advisory fees so far since PR began defaulting on its debt? Has this process created a class of people that benefit financially from the prolonged continuation of bankruptcy?*

Answer. Perhaps the largest driver of professional fees has been that creditors have engaged in failed litigation strategies, including their challenge to PROMESA's appointment process, which was rejected by a 9–0 vote in the U.S. Supreme Court. The scorched earth tactics of creditors—who started the bankruptcy process filing fruitless lawsuits rejected by the District Court, the Court of Appeals and the Supreme Court and have continued a steady pace of motions and lawsuits since then—forces the Oversight Board, the Government and the statutory committees Congress required be appointed to spend resources. As described above, the fastest way to stop professional fee expenditures is for creditors to be willing to reach reasonable compromises instead of seeking overreaching recoveries.

We also refer you to section 5.2.8 of the Certified 2020 Fiscal Plan for a description of the professional fee forecast and Oversight Board operating expense forecast. Additionally, Exhibit 20 of the Fiscal Plan provides an analysis of professional fees as a percentage of funded debt relative to other mega bankruptcy cases. As can be seen in that analysis, the projected professional fees are in line with other large, complex cases. The Title III cases in Puerto Rico are arguably the most complex bankruptcy cases ever and involve many legal and financial issues that have never been addressed before. Restructuring over \$100 billion in liabilities (funded debt and unfunded pensions) with a wide array of creditors is a costly and timely endeavor but a necessary one to put Puerto Rico on a path of sustainability.

*Question 4. Even before the COVID-19 pandemic began, the FOMB and Commonwealth had not abided by their own agreement under the 2019 PREPA Restructuring Support agreement to raise a 1 cent interim rate increase case to the PREB, why?*

Answer. PREPA filed a request before Puerto Rico Energy Bureau (“PREB”) on July 3, 2019, to implement the settlement charge contemplated by the PREPA Restructuring Support Agreement (the “PREPA RSA”). See *In re: the Puerto Rico Electric Power Authority Initial Rate Review* No. CEPR-AP-2015-0001. On November 22, 2019, PREB denied the motion on procedural grounds. The PREPA RSA provides that PREPA's obligation to implement the one-cent settlement charge is subject to entry of an order of the Title III Court approving the settlements embodied in the PREPA RSA (the “9019 Order”). The hearing on the 9019 Order has not yet occurred so no order has been entered.

*Question 5. Where is PREPA today in its transformation and privatization process? Have delays in this process directly and negatively impacted its ability to provide stable electricity to residents and hospitals on the island?*

Answer. On June 22, 2020 the Government announced an agreement between the Puerto Rico Public-Private Partnerships Authority (“P3A”) and LUMA Energy to manage and operate the transmission and distribution system of PREPA. PREB approved the contract last week. Under the agreement, LUMA Energy will operate, manage, maintain, repair, and restore PREPA's transmission and distribution system to help the transformation of PREPA into a modern power company able to deliver reliable, clean, and more affordable electricity to Puerto Rico's households and businesses.

*Question 6. What creditability will PREPA and the Commonwealth have with potential new transformation partners, or in future attempts to access the capital markets, if it is now on the verge of pulling out of yet a third consensually agreed PREPA Restructuring Support Agreement?*

Answer. The COVID-19 pandemic has materially impacted the economic and cash-flow projections for the Island, consistent with what all U.S. states are experiencing. As a result, the Government and Oversight Board will need to re-assess all restructuring agreements to determine which approaches remain viable in the post-COVID-19 economic reality.

*Question 7. What has the Commonwealth government done to take advantage of low oil prices to lock in future contracts for PREPA, and to offset the increase in charges that are mandated by law to cover all costs including those under the Commonwealth and FOMB agreements with creditors?*

Answer. During fiscal year 2020, PREPA has renegotiated its existing Fuel Purchase Contract for the supply of bunker fuel to the San Juan, Palo Seco, Aguirre, and Costa Sur steam plants. After conducting an RFI process directed to different potential bunker fuel suppliers, PREPA formally requested from the Oversight Board approval of an amendment to an existing fuel provider with more favorable terms. On June 2020, the Oversight Board approved the amended Fuel Purchase Contract.

The contract amendment extended the term of the agreement until October 31, 2020, with an automatic extension until October 31, 2021. With this amendment, PREPA also secured a reduction in price adders of just over 20 percent. Given PREPA's bunker fuel purchases from August 2019 through April 2020, the amended contract has resulted in cumulative savings of \$9.2 million in adder fees. Based on projected bunker fuel purchases for May and June 2020, the amended contract is expected to save PREPA an additional \$3 million.

The Amendment generally seeks to stipulate that (i) the contract shall be in effect until October 31, 2021, extendable by an additional year and (ii) PREPA will pay a fixed price for bunker fuel oil, regardless of the market price, for purchases between a minimum volume of 250,000 barrels per month, up to a maximum of 400,000 barrels per month. As such, the fuel provider guarantees the price and is responsible for delivering the product at such price, regardless of the actual price at which it can secure inventory. The FOMB approval confirms that the renegotiated agreement is consistent with PREPA's fiscal plan and that funds for the relevant fuel payments are included in budget. Furthermore, the FOMB's analysis shows that these generally align with typical hedging facilities and, while some costs may be above typical benchmarks (i.e. hedging costs), the amended contract is expected to produce savings to PREPA, if current projections for the price of oil are realized.

Any increases in rates are regulated and subject to the Puerto Rico Energy Bureau and the regulatory approval process thereunder. Furthermore, PREPA has achieved certain efficiencies and operational improvements that are contained in its current fiscal plan, which will be further detailed and reported on in the new fiscal year 2021 fiscal plan for PREPA that is expected to be certified by the Oversight Board on or before June 30, 2020. In addition, the announcement made on June 22, 2020 by the Government regarding the selection of a Transmission and Distribution ("T&D") private operator will also leverage additional and new operational and infrastructure efficiencies that will be incorporated into the T&D system over the next few years.

*Question 8. In the 2019 PREPA restructuring agreement the risk of a declining population was borne by creditors with no true up to rates, and if the B note in the transaction remained unpaid at maturity, it simply disappeared. Isn't that deal even better for the Commonwealth today than when it was struck given the greater uncertainty on economic projections and collections?*

Answer. Those are certainly good attributes of the PREPA restructuring agreement. Unfortunately, the COVID-19 pandemic has materially impacted the economic and cash-flow projections for the Island, consistent with what all U.S. states are experiencing. As a result, the Government and Oversight Board will need to re-assess all restructuring agreements to determine which approaches remain viable in the post-COVID-19 economic reality.

#### **Questions Submitted by Rep. Gosar**

*Question 1. What does the law require of the Puerto Rico government for procuring contracts? Did the law require the government to get approval from the Financial Oversight Management Board for Puerto Rico before the government entered a contract with Promedical for \$38 million worth of COVID-19 testing kits? If so, why did the government not follow the appropriate protocols?*

Answer. On March 16, 2020, Governor Vázquez Garced signed executive order EO-2020-024, which authorized the Government's agencies to acquire the medical supplies necessary to prevent the contagion of COVID-19 in Puerto Rico. As of the date of the executive order and given the COVID-19 emergency, the Government's agencies were given a 60-day period to execute COVID-19 related contracts—effective for only 60 days—without the need to comply with any requirements established by law, regulation, administrative order, or other applicable guidelines. Governor Vázquez Garced implemented this aggressive measure to acquire the medical equipment necessary to combat the virus as expeditiously as possible.

The executive order also required that any contract executed within the 60-day emergency period be remitted to the Oversight Board. This provision was designed to minimize any disruptions to emergency contracting related to the Board's contract review policy under PROMESA section 204(b)(2), which authorizes the Oversight Board to require prior approval of "certain contracts" in order "to ensure such proposed contracts promote market competition and are not inconsistent with the approved Fiscal Plan." Section 204(b)(3) explains that any Oversight Board contract review policy should be designed to: (1) make the government contracting process more effective; (2) increase the public's faith in the contracting process; (3) make appropriate use of the Oversight Board's time and resources; (4) make the Commonwealth government a facilitator and not a competitor to private enterprise; and (5) avoid creating any additional bureaucratic obstacles to efficient contracting. The Oversight Board's current contract review policy provides that "any contract or series of related contracts with an aggregate expected value of \$10 million or more" must receive prior Oversight Board review and approval. The Oversight Board believes this policy applies to all contracts in which the Commonwealth or a covered instrumentality is a counterparty. However, because (i) section 204(b)(2) on its face states that the purpose of any Oversight Board review is to promote market competition and is limited to contracts between the Commonwealth and another Puerto Rico Government entity, and (ii) section 204(b)(3) suggests that the purpose of the law is to promote private enterprise, the Government believes that the Oversight Board's policy requiring its approval of all contracts valued at more than \$10 million is overbroad and at odds with section 204(b)(3).

In a collaborative effort to expedite the execution of the emergency contracts, the Government and Oversight Board agreed to temporarily relax the Oversight Board's contract review policy, even though the Government still believes the contract review policy is beyond the Oversight Board's authority under PROMESA section 204(b)(2).

As to the Promedical COVID-19 test kits, on April 6, 2020, the Oversight Board sent the Governor a letter asserting that such agreements should be canceled, and recommending the Government seek reimbursements for any amounts disbursed in connection to these agreements. AAFAF replied to the Oversight Board's letter confirming that: (i) the purchase order for Promedical COVID-19 test kits was canceled on April 2, 2020; and (ii) the Government was fully reimbursed on April 6, 2020. AAFAF provided evidence of both the cancellation and reimbursement of the \$19 million deposit. As noted, the Promedical COVID-19 test kits were requested through a purchase order. In its April 9, 2020 letter to the Oversight Board, AAFAF explained that the Promedical purchase order was not previously provided to the Oversight Board because the Government's agencies understood that, as written, the Oversight Board's contract review policy covered only formal contracts, and not purchase orders.

*Question 2. Puerto Rico is authorized to receive substantial funds from the Federal Government for the distribution of needed school breakfasts and lunches during this epidemic. However, I heard that Puerto Rico had difficulties distributing the school meals. Can you please explain why that is so? Can you please also elaborate on the lawsuit that was brought against the government on this matter? And please update the Committee on the current process and procedure being utilized by the government to distribute the meals to qualifying students.*

Answer. The Government has made significant efforts to support its most vulnerable citizens and to mitigate their health risks during the COVID-19 outbreak. These efforts have been generally successful as Puerto Rico continues to be on the lower end of COVID-19 cases per capita in the United States. In mitigating these risks, the Government has made many difficult choices that factor in public health, government support, and economic impacts. In determining the best way to feed children and their families, the Government has determined that the best course of action is to rely on existing food banks located throughout Puerto Rico. At the time of this decision, Puerto Rico's food banks had measures in place to ensure the safe distribution of food to reduce the likelihood of COVID-19 exposure. Unlike the

Government's School Food Authority, the Puerto Rico food banks were already able to provide pre-packaged meals, which reduces the risk of contamination. In addition, funding from other government programs would support the transportation of these meals to areas where they are most needed. While the Family First Coronavirus Response Act and CARES Act provided additional funding to support school food programs, at the time, much of the costs associated with meal delivery would not have been covered. The time and cost for retrofitting School Food Authority facilities to provide the same public health protections that already existed within the Puerto Rico food bank program seemed inefficient. Though these are difficult decisions, the Government's ability to slow the spread of COVID-19 while maintaining food support programs, indicates that the Government made the best choice under the circumstances. It is our understanding that all of the above is being explained to the Court as part of the pending lawsuit.

*Question 3. Why are there no work requirements in Puerto Rico for participants of NAP?*

Answer. NAP (or "PAN" for its Spanish acronym) is Puerto Rico's largest welfare program. It is similar to the mainland SNAP, but it is funded and administered separately and does not include a work requirement nor specific budget allocations to administer such requirements. As part of the human capital and welfare reform package, the Government will institute work requirements for able-bodied adults without dependents in order to qualify for PAN benefits. Puerto Rico has already submitted a work requirement language in its fiscal year 2019 Annual State Plan to the Food and Nutrition Service Agency. During fiscal year 2019, the Government will develop, alongside the Food and Nutrition Service Agency, the work requirement program policies, parameters, operational guidelines and compliance oversight that will be included in its fiscal year 2020 Annual State Plan submission. The annual state plan may be amended at any point throughout the fiscal year with the proper request, review, and approval by the Food and Nutrition Service Agency.

The Government has maintained its stand in a phase-in of the work requirement for NAP. Including a phase-in of the work requirement over a 4-year period (Government proposal) versus launching a full work requirement (with a 3-month transition time). The main reason for the phase-in instead of 1-year full deployment has been high unemployment (lack of supply of jobs) and high volume of training and re-training (lack of skilled professionals), which represent a stumbling blocks that could endanger the current benefits provided by NAP. Unlike U.S. states, Puerto Rico receives the NAP benefits as a block grant and cannot redistribute funds immediately in order to mitigate this potential economic impact to over 150,000 citizens that would potentially qualify for work requirements.

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The Chairman. Thank you very much, and I appreciate both witnesses and your indulgence as we go through this process. Let me now turn to Mr. Sablan for any questions or comments he might have for the witnesses. And then we will alternate, as we do with in-person meetings, to the Minority side. But first let me recognize Mr. Sablan. Sir.

Mr. SABLAN. Yes. Thank you very much, Mr. Chairman, for holding today's hearing. Thank you also to Ms. Jaresko and Mr. Marrero for their presentations. I have a question. I am going to make this short for Ms. Jaresko, if I may. Ms. Jaresko, if Congress were to amend PROMESA, as Mr. Marrero advised, to limit the Board's oversight over funding issues affecting policy, how would that change the role of the Board going forward and affect your ability to achieve the goals of PROMESA?

Ms. JARESKO. Thank you, Representative Sablan. The recommendation that Mr. Marrero makes is based on a false construct. There have been four issues, four situations, where there have been disputes between the government and the Board with regard to our authority. Of those four cases, three were litigated, were brought to the court by the government or the legislature of Puerto Rico and won by the Board. In all four of those cases since



2018, the court has agreed on the clarity and the authority that has been provided by PROMESA to the Board. If the amendment were made as Mr. Marrero suggested, then I think you'd have to change the definition of "fiscal sustainability" and "balancing budgets." If you change fiscal sustainability and the Board is no longer responsible for fiscal sustainability, then it will be difficult, if not impossible, to ever restructure the debts without clarity and confidence that the debt is sustainable.

Mr. SABLAN. All right. Thank you very much. I have other questions, but I will submit them for the record and could potentially probably get a response from you. Thank you very much, Mr. Chairman. I yield back.

The CHAIRMAN. Thank you, Mr. Sablan. Let me recognize the Ranking Member, Ms. González-Colón. Madam Commissioner, the floor is yours.

Miss GONZÁLEZ-COLÓN. Thank you, Chairman. My first question will be to Ms. Jaresko. As you are aware, there is a lot of frustration on the island in terms of how long it is going to take for the Federal and local government for a lot of the disbursement of many of those Federal funds. And I share that frustration. And that was the reason a few weeks ago we met with the Governor, directly with the Governor's cabinet as well to see why it is taking so long. And you have many, many reasons for that, some of them, Federal agencies with a lot of red tape. But other ones are at the state level.

One of the concerns that hit me most—and this was from all cabinet members—was that they do not have the personnel with the experience and the expertise to manage and comply with the new requirements of Federal grants due to PROMESA board cuts. I mean, that those reforms that were imposed by PROMESA are limiting the budget to actually train and recruit employees in different Federal and local agencies to comply with Federal grants and actually make that happen. How do you respond to this, and how does the 2020 Fiscal Plan address this issue?

Ms. JARESKO. Thank you for the question, Representative González. It is true that the fiscal plans and the budgets have reduced payroll spending over the past 3 years. However, none of those payroll reductions should have been implemented through frontline employees. The intention and the agreement reached with the previous governor was that the bulk of the rightsizing would happen through back-office consolidation, consolidation of bureaus into single departments. And those actions actually haven't happened for the most part.

So, what has happened instead is the government has used a very blunt tool, early retirement or voluntary transition, which has been offered across practically all front and back office. And when that has happened, it is very hard to direct who stays and who leaves because people have a voluntary choice to early retire. And indeed, by implementing the reductions in payroll in that fashion, I believe that they have caused a problem in terms of capacity. But that said, I don't think you can allay the disbursement all at the feet of the civil servants or payroll reductions. I think that in, for example, the case of implementation of FEMA funding, it is just a very long and complex process.

The COR3 Department is funded by the Federal Government, not by the budget that is part of the fiscal plan. So, it is not a matter for COR3 and FEMA programming and FEMA disbursement that has anything to do with the budget because their budget is not part of the general fund that we are certifying. Similarly, for CDBG-DR, there is an entirely new group of individuals, about 100, the last I recall, hired with Federal funds to implement the CDBG-DR program.

That CDBG-DR program is very complex, and having to learn Federal procurement rules and do what is required by the CDBG-DR program is complex. But again, that capacity is not a capacity funded by the general fund or part of the certified fiscal plan or budgets. It is a separate Federal funding for that personnel.

Miss GONZÁLEZ-COLÓN. Ms. Jaresko, we also heard the complaint that the Oversight Board takes too long to review some documents and plans submitted by the government of Puerto Rico. And it goes for the delays. So, I have two questions on this. How do you see this, and how long does it typically take the Board to review that documentation provided by the government? And if you can actually submit to the Committee a log of such requests and responses as well as—you understand it is useful to require a fixed time frame to the Board to either reject or approve, especially in the case of expenditures that are already gone through the territory of Federal regulatory agencies.

Ms. JARESKO. Thank you, Representative González. I am more than happy to submit a log of our responses along with response times. It varies depending on what the issue is. For contract review, we typically take 7 working days. The issue with a review is whether or not the submission is complete. That is probably the most basic issue that we have. When a submission is complete, it can take 1 day to 7 days. With regard to budget reapportionments, similarly, documents, if they are complete, take up to a week, sometimes a bit more. And again, I will get you that log. However, the longer delays have to do with incomplete documentation, lack of bids that go with the cost or other.

Miss GONZÁLEZ-COLÓN. Thank you. I don't know how much time I have left—I don't see the timer here—but I will make a question of Mr. Marrero.

The CHAIRMAN. Thank you. Let me now turn to Mr. Huffman.

Miss GONZÁLEZ-COLÓN. Mr. Chairman, is my time expired?

The CHAIRMAN. Yes.

Miss GONZÁLEZ-COLÓN. I can't see the timer in my—

The CHAIRMAN. There is a timer—if your staff will call our technical staff, it will appear on a screen that will ping you when you have 1 minute left.

Miss GONZÁLEZ-COLÓN. OK.

The CHAIRMAN. Mr. Cox, if you have any questions or comments, sir.

Mr. COX. Thank you for the witnesses being here today. As chairman of the Oversight Subcommittee, I have observed that the post-hurricane response to claims by first responding agency seem unreasonably delayed by FEMA. And my question to both of you is I understand your agencies have regular interactions with PREPA. Can you tell me how much Puerto Rico requested for

emergency power restoration work performed following Hurricanes Irma and Maria? What is the current status of FEMA reimbursement for this work, and how much of the request is still pending FEMA review? As you know, these storms occurred in September 2017, almost 3 years ago. And there just seems to be an undue delay with FEMA's processing these requests for a reimbursement to some of the utility companies, particularly the utility companies there in Florida that did a lot of this important work.

Ms. JARESKO. I don't know if Mr. Marrero wants to go first. I can speak generally to FEMA as a whole. And then maybe, Omar, you can talk to PREPA.

Mr. COX. OK.

Ms. JARESKO. We have estimated in the Fiscal Plan, total, in terms of FEMA funding we expect. And the government is generally in agreement—it is \$48 billion over a period of 15 years. Of that \$48 billion, \$17.4 billion has been obligated. And of the \$17.4 billion obligated, \$13 billion or so has been disbursed to date. It is a long process. I won't speak again to the specifics of the emergency generators.

But in general for PREPA, I understand that great progress has been made and we are expecting an agreement to be reached hopefully by the end of the summer, all else being equal. But the damage assessment process has been very long, tedious, and requiring incredible civil engineering work and a lot of incomplete work. Omar?

Mr. MARRERO. Sure. Thank you, Natalie. Thank you, Congressman, for the question. I am trying to log into our transparency portal. I don't know if you are familiar, but Congressman, if you go to [recovery.pr](http://recovery.pr), that is our transparency portal. It is updated on a weekly basis. And it has all the information concerning FEMA funding, not only how much money has been obligated, disbursed, how much has been waiting and also by subrecipient and by project.

I am having some technical glitches to getting information. But if you go to [recovery.pr](http://recovery.pr)—it is in English and in Spanish, and it has all the information concerning FEMA funding for both Irma and Maria. And it has graphics. You can download the information. But if the Committee wants, I can submit it for the record as well. But it is all publicly available through our recovery portal.

Mr. COX. Thanks so much. And I understand that the Administration has assigned a reconstruction coordinator, Rear Admiral Peter Brown, to oversee the disbursement of recovery funds in Puerto Rico after Hurricane Maria. How is that relationship with the government of Puerto Rico, with the coordinator—what support has it received, and how can we be of assistance?

Mr. MARRERO. Well, Congressman, I am going to be honest. The relationship with the rear admiral, Peter Brown, has been phenomenal. I think that he has been instrumental to help to convey the message to the Administration on what we are doing and what we need in order to expedite the recovery process in Puerto Rico. So, everything that I have is just to congratulate him for not only his commitment to work but also his real involvement with the government of Puerto Rico, his meeting with us on a regular basis as well as the Governor.

Mr. COX. Right.

Mr. MARRERO. Next week, we are going to have a 1-week visit from him. So, we are going to be working with him. And, again, he has been great, has been phenomenal. And hopefully he is going to be the chief operating officer that we have been waiting on.

Mr. COX. Great. That is super to hear. And finally, Ms. Jaresko, given the obligations that have been incurred for this emergency restoration work following the hurricanes, how does—really, I am worried about the delay in receiving FEMA funding. How does that impact Puerto Rico and other debtors in the payment of these obligations which have to be paid. My fear is that if contractors don't get paid when they do the work after the disaster, they are going to be less likely to step up the next time a disaster hits Puerto Rico. So, if you could comment on that very briefly—

Ms. JARESKO. I agree with you that that type of practice, not being paid, creates consternation on the part of bidders and private sector players. At this point, though, again, I have to say that I don't see any reason why, if the monies have been obligated, why they haven't been disbursed. So, if there are those who have bills outstanding or invoices outstanding that have not been approved by FEMA, I think that is a separate category and COR3 and the government need to look into that. But I have to remind you that we are outside of the Federal funding. We don't have oversight over that level of detail in the Federal funding, so I'd have to turn to my colleague.

Mr. COX. OK. Well, we can follow up. We're out of time here so thank you so much.

The CHAIRMAN. Thank you. The gentleman yields. Mr. Gohmert? Mr. McClintock? Mr. McClintock, you are recognized.

Mr. MCCLINTOCK. Thank you, Mr. Chair. Welcome. I am deeply disappointed that this Committee hearing is conducted in a manner that makes a mockery of the constitutional process of government that is set forth in our Constitution. You know, the founders might not have had Zoom and the internet, but they had a very effective mail system. And there was nothing to stop them from mailing their speeches and questions and votes to each other. But that is not the system they created. In those days, getting to Washington was dangerous, arduous, and time-consuming, and yet through world wars, pandemics, epidemics, a civil war and sleet and snow, they all managed to get here to do their jobs until this Congress.

Congress, the very word means the act of getting together and meeting. The Constitution calls for representatives to attend, assemble, and meet. Congress is a deliberative body and by its very nature, that requires the people's representatives to interact with each other both through formal proceedings as well as through the countless informal conversations that are the unique product of coming together and meeting. That can't be done on a Zoom call. We can't do our jobs in the manner our responsibility demands by phoning it in from our living rooms and our bathrobes.

Nobody is lounging around the pool today with a mai tai. I say just give it time. There is nothing in these bizarre new rules to stop it. Mr. Chairman, I hope you will take a step back and consider the damage that you're doing to this institution by conducting

our affairs this way. I know it is much easier to sit at home and phone it in. It is not what our constituents have a right to expect of us. There are a few of us here present in the Committee room today, and yet we're staring at laptops.

If you persist in this farce, I am sure, one by one, we're all going to conclude it is a lot easier to sit in our homes too. I am certainly tempted. I could be home with my family today too. And at some point soon, I will probably take you up on this slovenly, sloppy, and extraconstitutional process. But at that point, we might as well rent out the capitol for weddings and banquets because there is no other use for it. So, shame on this Committee.

Next, to the business at hand, I have been an opponent of PROMESA since it was first introduced. And after 4 years of watching this fiasco, I am more convinced than ever that it was a terrible idea. I hold to the old-fashioned belief that a government debt secured by a constitutional guarantee is sacrosanct and the governments that created their own problems must deal with their own problems without seeking a bailout from others who have responsibly managed their affairs.

PROMESA's unelected management board is an affront to, little D, democratic values and, little R, republican institutions. And its repudiation of constitutionally protected debt threatens to undermine the full faith and credit of every state and territory in this Nation. It was enacted with the promise that it would set the fiscal affairs of Puerto Rico in order. And yet here we are 4 years later, as far as I can tell, no better off. Self-government means not only electing our representatives, but it also means dealing with the consequences of their decisions.

In a democracy, we are always guaranteed to get the government we vote for or, as Lincoln put it, the voters get their backsides too close to the fire, they will just have to sit on the blisters a while. It is a painful experience, but it is a learning experience from which voters may go away sadder but wiser. So, I will ask both of our witnesses, wherever they are, what would be wrong with repealing PROMESA, disbanding its management board and then handing the whole mess back to the people who created it, Puerto Rico's elected government and the voters who elected it? And I will wait for an answer.

Ms. JARESKO. Congressman McClintock, I will attempt to answer. I understand your frustration. And I believe that the people of Puerto Rico are equally frustrated that we are not through this bankruptcy yet and on the road to prosperity and sustainability. We need to work harder. We need to do more. The elected government needs to do more in terms of structural reforms to build a revenue base from which we couldn't possibly pay back any/all of that debt.

Mr. MCCLINTOCK. And our other witness wherever he is—

Mr. MARRERO. Thank you, Congressman McClintock. Thank you for your statement. I do, sir, think that we all have to share, we all have to assume the responsibility. And I believe also the Congress has to share the responsibility in making sure that the people of Puerto Rico have the tools not only to exit bankruptcy but also to pave the way for economic recovery. So, definitely, I agree

with you. I think that we will have to assume our responsibility. That is the second—

Mr. McCLINTOCK. Thank you. Mr. Chairman, since I don't have a timer, I don't know how much time I have left. But any that I do have left, I will yield to Ms. González-Colón.

The CHAIRMAN. You went over 11 seconds, Mr. McClintock. And I am going to turn to—

Mr. McCLINTOCK. Show me.

The CHAIRMAN [continuing]. Mr. Huffman. Sir, the floor is yours.

Mr. HUFFMAN. Thank you, Mr. Chairman. We are hearing some pretty rich stuff from the usual high tower of partisan sanctimony. But let me say I am grateful that you are forging ahead, getting this Committee back on the field so we can do our work. We are trying to weather a deadly pandemic that has killed over 110,000 Americans. This is no time to put the interests of partisan politics above common sense and basic public health protection. And I think in prior congresses, if it had some of the tools during previous periods of difficulty, some of the tools we are using right now, they would have used them too. So, I wish that we were all pulling in the same direction and trying constructively to make this work. But when you hear these arguments that you have to use words like "attend," "assemble," and "meet" in the exact meaning that someone thinks they had in 1787, I just have to say why can't we apply that same standard to the Second Amendment right to bear arms, which apparently you see very differently. There is no modern weapon of war that you're not willing to interpret back into that word from 1787.

This is disingenuous stuff, Mr. Chairman. I am so sorry that on a subject that should be of great interest and importance to all of us regardless of party lines that we see these games and this obstructionism. But I want to apologize to our panelists that they had to suffer through too much of it as they gave us their very important feedback on how we are recovering from these disasters and whether we're keeping faith with our fellow American brother and sisters in Puerto Rico. With that, Mr. Chairman, I will yield the balance of my time to yourself or to Ms. Velázquez if you'd like to ask any more questions.

The CHAIRMAN. Ms. Velázquez, the time is yours. The gentleman has yielded to you.

Ms. VELÁZQUEZ. Yes, sir. This will not count against my 5 minutes, right?

The CHAIRMAN. Absolutely not.

Ms. VELÁZQUEZ. OK. Very good. Thank you. And thank you, Mr. Huffman. You know, it is really sad. And I am sorry for the people of Puerto Rico that in an issue that is so important and that is not only the public debt restructuring but everything that is happening regarding the rebuilding of Puerto Rico, the earthquakes, the hurricanes, and the public policies enacted by the U.S. Congress, Congress gives something to Puerto Rico and then takes it away. And we have a responsibility with the people of Puerto Rico because they are our colony.

When it comes to the unequal treatment, yes, that is right. But some people in Puerto Rico feel that resolving the political limbo where Puerto Rico is today or unequal treatment doesn't mean

statehood for Puerto Rico. Some other people in Puerto Rico feel that it might be enhanced Commonwealth. Some other people might think that that might be statehood. But for anyone to come here and say that to respect the civil rights of the people of Puerto Rico, you have to give them statehood, well, that is for the people of Puerto Rico to decide.

And, by the way, PROMESA was written by the Republican Majority. And thank God that some of the Democratic members were there. You tried to water down the impact of that legislation toward the people of Puerto Rico. Ms. Jaresko, according to the government of Puerto Rico, the consequences of COVID-19 will significantly impact UPR's available cash before debt service. This amount is expected to decrease from \$198 million to \$98 million by June 30. So, my question to you is what is the Board going to do to ensure that the University of Puerto Rico system has enough working capital for Fiscal Year 2021 and beyond?

Ms. JARESKO. Thank you, Representative Velázquez. The numbers that you state are never heard. I don't believe UPR is actually utilizing its cash. Most of the cash has been set aside for capital expenditures. So, that is news to me. That said, what we have done is, as I described earlier, we have left the subsidy from the Commonwealth to UPR at the same level.

Ms. VELÁZQUEZ. You are telling me that the government of Puerto Rico is not providing real data? Those numbers are not correct?

Ms. JARESKO. I don't know what those numbers are. I know that UPR should not have to use its cash right now, that its budget is sufficient for its operations this fiscal year. So, if it is using its cash, I am unaware. And they have not let me know that or I might be behind. But I am unaware of them utilizing their cash.

Ms. VELÁZQUEZ. OK. My time is up, and then, Mr. Chairman, you will recognize me a second time.

The CHAIRMAN. Mr. Gosar, you are recognized, sir.

Dr. GOSAR. Thank you, Mr. Chairman. And I yield to the gentlewoman from Puerto Rico, Ms. Colón.

Miss GONZÁLEZ-COLÓN. Thank you.

The CHAIRMAN. The floor is yours.

Miss GONZÁLEZ-COLÓN. I am sorry. Thank you, Gosar, for yielding. One of the questions I do have now is to Mr. Marrero. And yes, I can see you. In the past, we heard that the governor of Puerto Rico only participates in or competes in just 214 out of 841 Federal competitive programs, failing to receive over \$1 billion in Federal programs just because we are not even competing or submitting in proposals or even matching the funds for a lot of the programs that need to have at least a state chair. What actions will the government of Puerto Rico need to pursue to increase this participation in Federal programs? What do you need from the fiscal board to make that happen? And how does the Fiscal Plan build these capabilities?

Mr. MARRERO. Excellent question, Congresswoman. Thank you for it.

Miss GONZÁLEZ-COLÓN. You are in mute. I can't hear you.

Mr. MARRERO. Hello. Can you hear me?

Miss GONZÁLEZ-COLÓN. Now, yes.

Mr. MARRERO. OK. Thank you for your question, Congresswoman. As you recall, one of the initiatives that we were trying to achieve in order to optimize Federal funding, was to create a Federal opportunities OGP or the local—what we need is to fulfill the commitment of the Oversight Board with the OMB in order to increase the staff which the Oversight Board has said that it will support OGP not only to optimize their system but also to increase the staff necessary in order to make that work. So, one of the principle initiatives at OGP is essentially to create this structure that will not only advise but also support the different government agency that does not have Federal funds to—local expertise in order to provide that expertise to make sure that we participate.

Not only that, but in addition to that, as soon as I was appointed to AAFAF, we also created an internal Federal funds division in order to support not only the different receiverships that we have been supporting through AAFAF but also the different agency that may need support in order to access Federal funding. So, not only the OGP has the intent and the initiatives in order to pursue it but also AAFAF will be supporting in that regard. And that is why, in one of the best examples that we have been doing that is with the CRF fund.

Miss GONZÁLEZ-COLÓN. Mr. Marrero, my second question will be I do know that Congress approved some funds through the CARES Act directly to the Governor's Fund. And I am aware that there are some provisions regarding the Department of Education that they are not allowing the government of Puerto Rico to actually use those funds. And those funds are going to be subject to third-party monitoring for the Oversight Board. What is the reality behind that? And is that happening in any other territory or state?

Mr. MARRERO. Well, the quick answer, it is not happening in any other state or territory. As you know, those funds that were available not only for the Governor but also for the education agencies from the states are funding for emergency assistance. Unfortunately, the Department of Education at the Federal level informed the local Department of Education that in order to access that emergency aid, they needed to finalize the engagement of the third-party fiduciary. We have been back and forth.

The Committee—actually, the staff of this Committee—has been helping the Puerto Rico government in order to make sure that the Federal Education Department understands that the third-party fiduciary engagement should not be a condition in order to access emergency aid. That message has been conveyed not only by us but also by different government agencies, the Governor, as well as the staff. So, we will appreciate if you could also help in that regard because we have been waiting for the Department of Education. And unfortunately, the information is not totally accurate, what we received from their end.

Miss GONZÁLEZ-COLÓN. Thank you. Ms. Jaresko, I have another question. You say you were expecting \$48 billion in disaster aid over the next 15 years. But the past fiscal plans have \$72 billion. So, why the lower estimate and why do we need to speak about 15 years? Have you done that in five?

Ms. JARESKO. The number has not decreased—\$48 billion is the FEMA portion of the hurricane funds. The number remains



approximately the same, but it is made up of multiple components. So, there is approximately \$20 billion you could add to that for CDBG-DR. There are private-sector insurance funds that are added to that. And in total, it is the same as it was previously—\$83 billion. In terms of the 15 years, frankly speaking, that is not unknown. After Hurricane Katrina, the 15-year process, given the level of destruction on the island, it would not—in the best-case scenarios and how FEMA has implemented reconstruction and other major areas of devastation—it was very similar. So, it is not a testament to anything out of the—

Miss GONZÁLEZ-COLÓN. My time has expired, Chairman.

The CHAIRMAN. If the gentlelady, Commissioner, would yield to me for a second, I wanted to ask you a question, if I may, Ms. González-Colón. Given the specificity of your questions and your comments and the details that you know from representing the island and from being involved in these issues, I have a question that is puzzling me from the time you took the initial vote to adjourn. Why would you vote to adjourn if this issue is of critical importance to the people of Puerto Rico and the people you represent? I am just curious.

Miss GONZÁLEZ-COLÓN. So, Chairman, you are questioning me as a member of the Committee on my decisions on how to vote?

The CHAIRMAN. No. That is not—

Miss GONZÁLEZ-COLÓN. The Chairman of the Committee is questioning one of the Members. How much time do I have to answer? Do I have 5 minutes?

The CHAIRMAN. I just wanted to know. I think a lot of people want to know because I think this discussion that we planned from this was to talk about what the response to the pandemic was. And my assumption is that this is of keen interest. But having said that, I yield back.

Miss GONZÁLEZ-COLÓN. Yes, I am willing to answer. My question is do I have 5 minutes?

The CHAIRMAN. I am sure.

Miss GONZÁLEZ-COLÓN. OK. I will answer my question. First of all, I never expected this Committee to be so partisan that the Chairman of the Committee needs to have time to question one of the Members but I will do it. I am here in Washington, DC—

The CHAIRMAN. I am constantly questioned myself by you Members.

Miss GONZÁLEZ-COLÓN. I am answering the question. If I am here in DC willing to work and represent the people of the island, why can't the rest of Congress do that? The Senate is having hearings. The Senate are meeting. People in the airlines, people in the hospitals, everybody is working, and we are not doing that in Congress. I do believe that we should be present doing the people's job in the Capitol, as many other Members. That is the main reason I voted to adjourn for this. And why the Committee has to have a different procedure to do that? I am always meeting with Jaresko. I am always meeting with Marrero. I am always meeting with the cabinet members on the island. I am always doing my job in Puerto Rico. What is a shame is that you use this Committee to have informal forums without even inviting the members of this

Committee like me and Amata Radewagen when you are discussing territory issues.

So, if you want to talk about why you are using this Committee and having this hearing, this one that we were invited to, but not in the rest of the informal Zooms, that is one of the reasons that if we have present meetings, hearings like we used to have, like they have in the Senate, like they are doing actually in Puerto Rico—the House and the Senate, they are meeting and they are having session as we speak. Why can't Congress do the same thing we are asking for all Americans and all businesses among the nation? And that is why I voted to actually adjourn the Committee and have a formal meeting.

The CHAIRMAN. I appreciate your response and thank you. Not really an answer but, nevertheless, an attempt. Let me now recognize Ms. Velázquez. The time is yours.

Ms. VELÁZQUEZ. Well—

The CHAIRMAN. Oh, Ms. Haaland. I am—

Ms. VELÁZQUEZ. Oh, OK.

The CHAIRMAN. I am sorry. I didn't look at the list. Ms. Haaland, the gentlelady from New Mexico, the time is yours. Thank you.

Ms. HAALAND. Thank you, Chairman, and I'd like to thank the witnesses for being here today and would like to thank every single one of my colleagues as well. I appreciate having all of you here. I would like to yield my time to Ms. Velázquez if she would like my time.

Ms. VELÁZQUEZ. Thank you so much. Sure. And thank you for yielding your time to me. You know, I was stricken by COVID-19, and I self-quarantined here in my apartment in New York. It was quite an experience when you have to be by yourself and you are not allowed to bring anybody else to take care of yourself. So, the fact of the matter is that there is a lockdown here in New York. And there is a lockdown in many states in the country. And if you look at the market today, the Dow Jones is 1,400 points down. You know why? Because the spike of coronavirus in other states.

So, the fact that we are not conducting business in Washington is related to the lack of strategy, a national strategy, to deal with the coronavirus pandemic. It is quite simple. Yesterday, I held a hearing in my committee. And one member of the Republican Party was using my committee. And he was just chastising off because we were not in Washington. And I said to him, "Well, now when you leave, we are going to have to send a crew to disinfect the hearing room because that is the guidance by the physician in the Capitol."

So, until we have a national strategy to deal with the pandemic, until we have testing, until we have PPE, I can assure you that I am not going to put the lives of my staff at risk and that is the issue here.

Ms. Jaresko, this past month San Juan Power Station 5 and 6 were converted to LNG under a \$1.5 billion contract awarded to New Fortress Energy.

Back in March 2019, the Oversight Board expressed concerns that the New Fortress Energy agreement for the conversion of San Juan 5 and 6 had a pricing structure 30 to 40 percent higher than

industry benchmark. Why did the Oversight Board decide to approve this agreement notwithstanding the pricing structure?

Ms. JARESKO. Thank you, Congresswoman Velázquez. We take the situation at hand when we are provided those contracts. And we try to move forward to the extent possible. Moving to LNG was a critical part of reducing the cost of electricity on this island and moving to cleaner fuel on the island from the bunker fuel, bunker oil that is used currently in the—

Ms. VELÁZQUEZ. Yes, I hear you but then—

Ms. JARESKO. We reviewed the contracts the best that we could.

Ms. VELÁZQUEZ [continuing]. You opposed the agreement or you criticized the agreement because you said that the pricing structure, 30, 40 percent higher than the industry benchmark. How is that going to reduce the cost of energy in Puerto Rico?

Ms. JARESKO. Because it was still cheaper than oil, cheaper than the fuel that they were using at the time. The RFP process did not bring in other players. So, those industry benchmarks are what we use and what we know. But that doesn't mean that the industry benchmark necessarily is available to Puerto Rico. In particular, available to PREPA, which remains in bankruptcy so that every bidder sees that there is financial and fiscal risk in bidding.

Ms. VELÁZQUEZ. Ms. Jaresko, Mr. Jaramillo reported that San Juan 5 and 6 are still using diesel because New Fortress Energy has failed in the LNG safety tests. Are you aware of this situation, and how does that impact PREPA's fiscal plan?

Ms. JARESKO. I saw this in the news as you did this morning, and I do not know whether it is true or not that New Fortress has failed in turning on the LNG.

Ms. VELÁZQUEZ. And were you going to investigate whether or not that is true?

Ms. JARESKO. Of course.

Ms. VELÁZQUEZ. Mr. Marrero, the *Washington Post*—well, my time is up.

The CHAIRMAN. Thank you, Ms. Velázquez. Let me now turn to Mr. Westerman. Mr. Westerman, the floor is yours. Am I muted? Would the staff indicate to Mr. Westerman's staff that he is still muted.

Miss GONZÁLEZ-COLÓN. He is unmuted, Mr. Chairman. I don't know why we couldn't hear him.

The CHAIRMAN. Thank you.

Mr. WESTERMAN. OK. I am using another computer now. Can you hear me, Mr. Chairman?

The CHAIRMAN. Absolutely. Thank you, Mr. Westerman.

Mr. WESTERMAN. OK. And before my time starts, can I make an inquiry?

The CHAIRMAN. Please.

Mr. WESTERMAN. OK. I don't know what the problem was with the sound on my computer. We checked it out beforehand. I logged on last week. Everything worked. But when we voted the first time, my computer would not unmute even though it unmuted on the screen. Ms. Radewagen couldn't be recognized, and Mr. Graves couldn't get into the system. So, I don't know what the problem is there, but it is ironic that it is just happening to Republican members or to Minority side members.

And also, I have an inquiry as to who controls the mute button because I don't think Members' microphones should be muted unless they mute them. And an unelected staff member shouldn't be controlling when a Member of Congress gets to make a point of order or interject in a meeting.

The CHAIRMAN. It is my understanding from all the specific guidelines that were sent to all the Members that the only time that the staff is involved in any muting is if there is inadvertent background noise. Other than that, that responsibility is wholly the Members'. We are not gagging anybody. There is no conspiracy to make sure you don't get on but Ms. Haaland does get on. Those are technical issues above my pay grade. And I would suggest that your staff work with the technical staff of the Committee about any of these glitches. They are—

Mr. WESTERMAN. Well, we had a committee hearing in Transportation and Infrastructure earlier this week. We met in the committee room. They used the equipment. There was no problem with Members being muted or not being able to be recognized. So, I mean, if we're going to use this system, let's at least try to get something that works and have it so that Members can speak up when it is time for them to speak up or when they wish to speak up. I was trying to notify you that Mr. Garret couldn't get logged on, and he missed the vote because—finally Mr. McClintock on his machine was able to make a point of order.

The CHAIRMAN. Yes. I should note for the record that Mr. Gallego on the Majority side has had technical problems, hasn't been able to join us and is still attempting to do that. Like I said, this is the first hearing that we have had for the Natural Resources Committee as a full committee. And the difficulties that you have encountered are purely of a technical nature, not of a conspiratorial nature. And as such, those can be worked out. The conspiracy thoughts that anybody might have, I can't help you with that.

Mr. WESTERMAN. Well, I am not raising a conspiracy. I am just stating the facts of what happened. And I know that in the T&I Committee there weren't any problems.

The CHAIRMAN. And I was just giving a disclaimer. That is all.

Mr. WESTERMAN. I will move on to questions now. And since the rules seem to be changing here, if you want to put a suggestion box in, my first suggestion would be to let Members have control of their own mics.

Mr. Marrero, in the interest of transparency, did the government of Puerto Rico submit agreements to purchase medical products from 313 LLC, Apex General Contractors and perhaps other vendors for review by the Oversight Board established in PROMESA that is required under Section 204(b)(2) of PROMESA?

Mr. MARRERO. Congressman, thank you for your question. Unfortunately, those purchase orders that you are referring to were not submitted to PROMESA with the contract review policy.

Mr. WESTERMAN. I am sorry. Could you repeat that, please?

Mr. MARRERO. Yes, sir. The purchase orders that you are referring to, they were not submitted to the Oversight Board. However, other contracts that had been executed during the crisis have been submitted to the Oversight Board according to the contract review policy.

Mr. WESTERMAN. And why were those contracts not submitted?

Mr. MARRERO. Unfortunately, sir, it was an interpretation at a local government agency that because it was a purchase order, which is a mechanism that some agencies use to purchase goods and services during emergency that they thought they were not required to submit those purchase orders under the contract review policy.

Mr. WESTERMAN. There was a May 19 article in *El Nuevo Dia* which states that one of the lawyers for Apex General was quoted as saying the deal would, “make millions of dollars.” Why was this contract not recorded through PROMESA, and what is the government doing about it to ensure transparency going forward?

Mr. MARRERO. Excellent, excellent question. Well, first of all, after we have been collaborating with the investigation and the review that has been conducted by the Oversight Board, the Department of Justice, the local Department of Justice, has also conducted an investigation of those contracts. However, as to the Federal funds for COVID-19, I will invite you to go to the AAFAF COVID-19 website, which is a transfer in the portal similar to what we did at the FEMA level as well as in the CDBG. And you are going to be able to see information related to the funds and the programs that we are implementing with those Federal funds.

Mr. WESTERMAN. Mr. Chairman, I would like to give Mr. McClintock his machine back and yield the remainder of my time to the gentlewoman from Puerto Rico, Ms. González.

The CHAIRMAN. Ms. González-Colón. The time is yours.

Miss GONZÁLEZ-COLÓN. Thank you, Mr. Westerman. Thank you, Mr. Chairman. I just want to clarify some of the issues that were said a few minutes ago—I think the Republican Minority never wrote PROMESA. Actually, PROMESA was brought by a Democratic governor, García Padilla, at the time when he contracted John Ravitch—Richard Ravitch, actually, from New York. And then it was pushed by the Treasury Department at that time supporting that legislation.

And actually it was President Obama’s Treasury Department. And it passed because of the Democrats and the Republicans. That is true, and actually the gentlelady from New York helped out with that time the Minority leader, today, Speaker of the House because the Republicans were divided in the House. That is the reality behind it. Republicans and Democrats voted for it. And President Obama signed it.

So, saying that this was just a Republican bill, that is incorrect. But I do have another question to Mr. Marrero. And I want you to tell me what are the recent developments on Title V.

Mr. MARRERO. On the Title V of PROMESA, Congresswoman, unfortunately, the Title V of PROMESA has been stalled. The process—I believe that the executive director could shed some light on it. But the recovery coordinator position has been vacant for over a year. And I believe that only one project was being worked through that process. However, I would avail my time of this opportunity to say that we believe that the Title V could be more productive. However, it should be amended, particularly for the Federal permitting processes. But I will allow Ms. Jaresko to answer.

Ms. JARESKO. Representative Colón, the demand for the Title V permitting has not been very great. The demand that came into the pipeline when established was primarily PREPA-related. And all the PREPA contracts needed to first be either approved or rejected in the Title III court. PREPA only last week announced what they were going to do with the bulk of those contracts. And that process is ongoing.

I expect that the demand for Title V will grow now that those contracts are in place. We have also started to see some other private sector investment. Remember Title V is the only private sector investment coming in. We have a new project that has been put into the pipeline. So, as we encourage and as the business environment gets better, hopefully, you will see more private sector investment. And I believe they will take advantage of Title V. We have a candidate that we are prepared to hire. We have already discussed preliminary fashion with the Governor's representative, Mr. Marrero.

Miss GONZÁLEZ-COLÓN. Mr. Chairman—

The CHAIRMAN. Thank you. The time is up on the time yield.

Miss GONZÁLEZ-COLÓN. I would like the—

The CHAIRMAN. Let me now turn to Ms. Velázquez for her 5 minutes. Ms. Velázquez.

Ms. VELÁZQUEZ. Yes. The Chairman at the time was Mr. Bishop, and we worked with him. But basically he carried the bill, and we worked to make it more feasible for the people of Puerto Rico to confront the public debt. Mr. Marrero, previous press reports have indicated numerous problems with the department's capability to process unemployment insurance claims. How many pending claims currently exist?

Mr. MARRERO. Thank you for the question, Ms. Velázquez. As you know, Puerto Rico, as any other jurisdiction, has faced a struggle a lot with the pandemic insurance benefits. Right now, of the 300,000, approximately, applicants, 180,000 are already receiving the benefits. And the remaining 100,000 are being worked as we speak.

Ms. VELÁZQUEZ. How many pandemic unemployment assistance claims for the self-employed are still pending?

Mr. MARRERO. I will submit that information in a reasonable time frame, Ms. Congresswoman, because I don't want to inform any, or provide any incorrect or inaccurate information.

Ms. VELÁZQUEZ. What safeguards have you employed to address the issues in unemployment insurance processing as reported by the press? Has the Puerto Rico government designed a transition plan at the Department of Labor considering the recent change in leadership?

Mr. MARRERO. Yes, ma'am. Not only do we have our recently appointed or our newly appointed Secretary of Labor but also he is already partnering up with the Secretary of Hacienda to see how we can avail ourselves of the technology that has been deployed at the Department of Hacienda. The provider of the technology that we have been using at Hacienda in order to expedite the disbursement to taxpayers—the same provider has a solution that has been able to implement it stateside for the pandemic unemployment benefits. So, right now, part of the transition plan not only is to have

several distribution channels, several lines in order to serve the people, but also to implement new technologies that have been successful stateside in order to expedite those—

Ms. VELÁZQUEZ. Well, we hope so. We all know how the people of Puerto Rico are suffering. Particularly, 65 percent of the children in Puerto Rico live in poverty. And every week, it is promised that the money is going to get there. And then 5 months later, 3 months later, still people are waiting for their unemployment insurance claims to be processed. So—

Mr. MARRERO. We will not rest until that happens, ma'am.

Ms. VELÁZQUEZ. Ms. Jaresko, at the start of the lockdown, you claimed in the Puerto Rican press that the measures taken by the Oversight Board have led to the successful response by the Puerto Rico government. But just this week, the *Washington Post* included Puerto Rico and seven other states that are, right now, dealing with a spike in coronavirus.

As we all know, the local Department of Health has been incapable of providing timely and reliable data and administering the required diagnostic tests. This is partly due to consistent personnel cuts and efforts to privatize key functions to the local health system, a position that the Oversight Board advocates. Are you willing to accept that many of the shortcomings in the local Department of Health have been caused by the rightsizing and austerity measures that the Board has implemented since Day 1? In other words, do you also claim responsibility for this debacle?

Ms. JARESKO. With all due respect, Representative Velázquez, we do not. The Board has made it possible in a very difficult environment for the Department of Health and for the government of Puerto Rico to have funds available even prior to the President's declaration of a disaster. So, with \$160 million in an emergency reserve, the capacity to spend those funds to purchase test kits was there from Day 1.

Ms. VELÁZQUEZ. Ms. Jaresko, the problem is not the money that you are giving them now. The problem is the money that was taken away and the lack of infrastructure that they needed to have in place in order to tackle the pandemic. That is the issue, an infrastructure that basically has been destroyed by the austerity measures taken by the Board at the expense of the people of Puerto Rico. I yield back my time. My time has expired, Mr. Chairman.

The CHAIRMAN. Thank you. The gentlelady yields back. Mr. Graves, the time is yours.

Mr. GRAVES. Thank you, Mr. Chairman. Mr. Chairman, I actually want to first thank Mr. McClintock for watching my back earlier. But I also want to associate some of my concerns with the gentleman from Arkansas, Mr. Westerman. Mr. Chairman, we had three different people in the office, myself included, trying to log on during the vote. Couldn't get in. Finally sometime after the vote, using the exact same credentials, we were able to get in. So, you can call me a conspiracy theorist if you want, but I want to reiterate it was the exact same credentials.

No. 2, in regard to the dialogue previously with Ms. González-Colón, I want to make note, Mr. Chairman, I have sat here and listened to speakers virtually raising a concern about Puerto Rico, about the Oversight Board, about FEMA, about Federal agencies,

yet grocery stores, barbershops that I need to visit, tattoo parlors and other entities have opened right now, yet the U.S. Congress as we sit here and beat the heck out of what's going on in Puerto Rico, we can't meet and actually devise solutions.

I don't believe that our role is less important than a grocery store in a global pandemic, a civil rights crisis, and many other challenges that are facing our Nation today. With that being said, I actually do have some questions. No. 1, in the 2020 certified fiscal plan for Puerto Rico, the plan indicates a contracted or a shrinking of the economy of Puerto Rico. It indicates a 65 percent reduction in savings or funds available. I am struggling—and it appears to blame largely on coronavirus. While I fully appreciate the devastating economic consequences of the virus and, in some cases, exacerbated by government response, I don't think that I fully understand how in the world we could have that type of contracting projected over that period of time with the extraordinary influx of Federal funds. Could I get an understanding there, please?

Ms. JARESKO. Of course. Representative Graves, the 65 percent decline that you referred to is a 65 percent reduction in the surplus over a period of time, not in revenues. Revenues are not—

Mr. GRAVES. Availability of funds or savings, yes.

Ms. JARESKO. No. It is the excess of spending. So, it has to do with the level of spending as much as it has to do with the revenues. The decline in revenues is only about 12 percent this year. We are in about the median of the U.S. states. And it is about the same, about 10 percent next year. So, the surplus declining is primarily for that reason but the issue in terms of overall also has to do with the second element, which is structural reforms that have been delayed.

The second change that is critical to the fiscal plan from 2019 to 2020 is the delay in the structural reforms. And by delaying them, they don't start to provide growth, and the growth doesn't start to generate revenues. So, revenues are down as well because of the delay in full implementation of the structural reforms. But that has a larger impact farther out, not in the next 2, 3, 4 years because that accumulated growth is later.

Mr. GRAVES. I am probably going to have some follow-up questions because I don't want to belabor the question. But I had a little bit different understanding of the out-year projections and will submit some questions for the record. But I do have another question on the Oversight Board. After President Obama appointed members of the Oversight Board, the audited financial statements went from being submitted within approximately 1 year—and that was for about a 5-year period. It was fairly consistent to now here we are in 2020, and we still don't have certified statements from 2017. Can you help me understand why that is happening?

Ms. JARESKO. During the time of PROMESA, we saw the 2016 fiscal year financial statements be completed. But, yes, the 2017 remained incomplete. The targeted date by the Secretary of Hacienda, the Secretary of the Treasury, is July 30 for those financial statements. But it has been a long slog. And we have been doing everything we can to urge, to press the auditors, to press the government, to meet with those elements of government that are delayed. In this case, the government is waiting for PREPA, the



electricity utility, to complete its 2017 to be able to consolidate. So, I can't explain. Perhaps Mr. Marrero can.

Mr. GRAVES. I apologize for interrupting but I am out of time. I just want to ask. Could you please submit something to the Committee in writing? I believe we are approaching 1,500 days after the end of the appropriate 2017 period to actually have these documents available. We are talking tens of billions of dollars in Federal funds. And it is difficult for us to have an understanding of the financial situation without audited statements. Thank you and I yield back. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, sir.

Ms. JARESKO. Representative Graves, but the question also needs to be answered by the government because I am not in control of the financial statements.

The CHAIRMAN. Ms. DeGette.

Ms. DEGETTE. Thank you so much, Mr. Chairman. And I want to thank you for having this hearing. I went to Puerto Rico in 2017 with Representative González-Colón and others on a trip. And what you said in your opening statement, Mr. Chairman, really resonated with me. Puerto Rico has had one, two, three, four punches. They had the two hurricanes. Then they had the earthquake. And now they have COVID. And I frankly think that the residents of Puerto Rico and everybody in this country concerned about COVID are a lot more concerned about having these facts get out into the open than to hear Republicans griping about the process and having trouble using their technology. So, thank you for doing this. And I know we're all going to get better and better at it as it goes along.

I want to ask the witnesses today about something that I have been amazed hasn't been asked before. And that is what's going on in Puerto Rico with how they are dealing with the COVID-19 pandemic. Currently, as you may know, as our witnesses may know, Puerto Rico has one of the lowest testing rates in the United States.

And we don't see much in the way of contact tracing protocol. So, I'd like to ask you, Mr. Marrero, through the CARES Act, the Federal Government assigned \$2.2 billion to Puerto Rico to address the coronavirus pandemic. And these funds were then factored into the 2020 Fiscal Plan, which outlines how the funds will be allocated by the government. As of today, Mr. Marrero, how much of the CARES Act funds have been distributed to Puerto Rico? How much have they gotten?

Mr. MARRERO. Of the coronavirus relief fund? \$2.2 billion, ma'am.

Ms. DEGETTE. So, they got the whole \$2.2 billion amount, right?

Mr. MARRERO. Of the coronavirus relief fund.

Ms. DEGETTE. OK. And how much of the funding has already been used by the government?

Mr. MARRERO. We are talking about—well, right now you have to factor in also the—

Ms. DEGETTE. OK. How much has actually been used by the government?

Mr. MARRERO. Of the \$2.2 billion, we are talking about \$300 million that has been disbursed through the different programs.

Ms. DEGETTE. OK. So, a tiny fraction of it, really. Are you confident that the government is going to be able to make use of the available funds before the December 31, 2020, deadline that has been established by the CARES Act?

Mr. MARRERO. Yes, ma'am. As opposed to any other jurisdiction, we unveil a very comprehensive plan, which is publicly available—

Ms. DEGETTE. So, you're going to have to do that all between now and the end of the year and you think you can do that?

Mr. MARRERO. Oh, yes.

Ms. DEGETTE. OK. Now, also you mentioned in your testimony that \$500 million is being allocated to health-related expenses. Is the government prioritizing rapid deployment of testing capability as part of these funds?

Mr. MARRERO. Yes, ma'am.

Ms. DEGETTE. Thank you. Is the government using the funds to also support better data collection?

Mr. MARRERO. Yes, ma'am.

Ms. DEGETTE. And is the government using the funds to develop and deploy a contact tracing system for the island?

Mr. MARRERO. Yes, ma'am.

Ms. DEGETTE. OK. Now, I know we don't have time in this hearing, but I would appreciate it if you could supplement your testimony to give us a detailed written breakdown of the \$500 million for healthcare-related expenses and where it is going to go. Can you do that for us and when?

Mr. MARRERO. I will provide you the detailed response for the entire \$2.2 billion.

Ms. DEGETTE. Thank you, sir. That would be fantastic. Now, Ms. Jaresko, I'd like to talk about the role that the Oversight Board is playing in Puerto Rico's coronavirus pandemic response. The Oversight Board recently sued the government of Puerto Rico for not turning over documents related to the controversial purchase of rapid test kits for \$38 million that never arrived. What are the systemic issues that you have identified that led to the decision to enter into the contract with the Australian company, Promedical Equipment, for the testing kits?

Ms. JARESKO. Thank you, Congresswoman. Unfortunately, I can't answer that question because to answer that question, we need to get the documents that come before any contracted purchase order. The documents that show the procurement process, the e-mails, the memos.

Ms. DEGETTE. And have you requested those documents?

Ms. JARESKO. We have requested them seven times but have not received them from any contract.

Ms. DEGETTE. Well, Mr. Chairman, maybe we can get those documents. And then we can have Ms. Jaresko answer that question. And let me just ask one more question of you, Ms. Jaresko. As we continue to address the challenges of the COVID-19 pandemic, you recently said that you would postpone austerity measures for a year and acknowledged the austerity plan needs to be redrawn. If you're forecasting economic contractions, why not shelve the austerity altogether and focus on economic growth?

Ms. JARESKO. Economic growth is something that is primarily in the government's hands. We have included economic growth efforts in terms of structural reforms, but they have to be implemented by the government, by the elected government of the island. So, the only portion of this that is within PROMESA's mandates to manage is the expenditure side of the budget. I can't grow the revenues. I can't change the tax incentive structure that is on the island.

In that light, to the extent that the economy continues to become smaller, unfortunately, if we don't take these measures, we will have to cut even more later. So, the combination of non-action on the structural reforms to increase revenues and not cutting costs, not making the government more affordable, more efficient, more limber, will actually put us in a worse position as the economy gets smaller.

Ms. DEGETTE. Thank you. Thank you very much, Mr. Chairman. Thank you for your commenting.

The CHAIRMAN. Thank you.

Mr. Fulcher, the time is yours. Is he there? Mr. Fulcher? Mr. Hern?

Mr. HERN. Thank you, Mr. Chairman. It is good to see everyone today. These are long calls, doing it this way. But it is good to be able to talk to our friends here. I thank the witnesses for being here as well. It is always troubling to see—we have had so many of these conversations about Puerto Rico and about the economy there and what's going on. And somebody that has been in business my entire life prior to getting into Congress this term, I am shocked to see that Puerto Rico has amassed about \$72 billion in debt, bonded debt, \$40 billion—\$49 billion in unfunded pension liabilities and has effectively lost all access to the capital markets.

With that said, Ms. Jaresko, in your testimony, you touched on this. And you state that the Oversight Board has worked with the Puerto Rican government to implement numerous structural reforms, but there has been little meaningful progress. You state that this is a result of disasters, poor implementation of the Board's recommendations. Could you explain how the lack of structural reforms has hurt Puerto Rico's growth and how implementation of the recommended structural reforms for the last fiscal plan would improve Puerto Rico's economy on both a short-term and a long-term basis?

Ms. JARESKO. Thank you, Congressman. The structural reforms are meant to do a couple things in terms of changing the nature of the economy: (1) to increase labor participation; (2) to improve the environment for attracting investment, Puerto Rican investment, national investment, international investment; and (3) to improve the quality of electricity and resiliency of electricity and the infrastructure of the island, all taken together to make Puerto Rico a more competitive place for businesses to invest and for jobs to be created.

In terms of the human welfare and human capital reforms that would improve labor participation, the government did implement an earned income tax credit. We did agree and put money in the budget. However, they haven't made it well-known throughout the island such that individuals could make time-sensitive decisions

about whether or not to stay in the formal economy and get that credit or leave and go into the informal economy or, worse yet, leave the island.

So, that EITC has to be developed further in terms of getting people to understand it. On the welfare to work plan, we asked for it to be implemented in a 1-year so that it could be quick, so that people could actually understand and start moving slowly, not necessarily to work but education, to volunteer, along with the plan. And that has only been implemented—or they agreed to implement it over 4 years.

Those delays mean our labor participation rate remains low. It also means that the labor market is going to be more difficult. We have a massive unemployment level right now, close to 40 percent. And for those folks to re-enter the market is going to be harder because labor participation rates are low, and the environment for labor is complex. Not having those structural reforms in the short-term has a \$200 million effect on the surplus, over the long-term, over 30 years, almost \$25 billion.

Mr. HERN. Thank you. And you also talked about what is equivalent to the SNAP in the United States. And you talked about reform. And I was very happy back earlier in my first time in Congress here to sign on with 64 other Members about some reforms to SNAP. I noticed that there are no work requirements whatsoever for your nutritional assistance program. And in your opinion, what should we do to change that in the last few seconds that I have here?

Ms. JARESKO. It is up to the government to file the plan with the FNS, with USA FNS and commit to making it possible. There is not a great deal more that is required.

Mr. HERN. So, there is really no encouragement to go back to work, then, but to get assistance from the government? Is that what you're saying? That is what you're alluding to?

Ms. JARESKO. No. I am not saying that. I am saying that it would be better to have that work/volunteer/education requirement such that people can start to make the move toward work and we don't have that requirement at this time. The government is committed to do it but only in the course of 4 years.

Mr. HERN. Well, I appreciate your details of what we need to do. There is a lot of work to do. And as we're following this on the Oversight Board's recommendation in helping to incentivize people to join the workforce, as you just mentioned, just unfortunately doesn't seem to be happening right now. If we are going to help, we have to get people back to work. As we know, Ronald Reagan once said, "The greatest social program in the world is a job," and we need to get people back to work. Mr. Chairman, I yield back. Thank you.

The CHAIRMAN. Thank you, Mr. Hern.

Mr. Soto. Sir, the time is yours.

Mr. SOTO. Thank you, Mr. Chairman. And it is important to start by getting the record straight. We saw recession hit Puerto Rico well before the Great Recession even hit the United States, in part, by the loss of the 936 exemption and, unfortunately, pharmaceutical companies and others leaving the island. Then we saw PROMESA because bankruptcy was taken away from them for

absolutely no reason. So, PROMESA represented a compromise, an imperfect one.

The we saw Hurricane Maria and Hurricane Irma leading to the largest death toll of Americans in modern history, over 3,000 people dying because of the terrible response by the Trump administration. Then we saw earthquakes hit where this House has passed \$5 billion with some bipartisan support while the Senate sits there and does nothing.

Now add COVID-19 on top of it, and it is just one after other after another. And it is important to get the record straight because it is very difficult to be able to speak up accurately, particularly for many elected officials back on the island who have to work with the Trump administration and are concerned about President Trump's well-known vengeful nature. So, they have to tiptoe around. But we need to keep the record straight so this Committee knows what actually is happening. We know that Americans in Puerto Rico continue to be treated like second-class citizens.

The territorial status is part of this problem. There are 3.2 million Americans living in Puerto Rico. It is 20 times the second-largest territory. It is also more populous than 20 states—so it just doesn't work for them. So, having two U.S. senators, four Members of Congress, and a vote for president would go a long way to helping fix a lot of these things. I do agree the people of Puerto Rico have to determine this future, and they will have a vote on a simple statehood yes-or-no question this November, a simple question in a high-turnout election. And we need to respect the results and act upon them, regardless of what they are.

And I do want to talk a little bit about the PROMESA reforms that this Committee has already filed. Mr. Marrero, you had talked about legitimate concerns about there is not a good dividing line of what essential services are in protecting Puerto Rico's sovereignty. So, the new definition of essential services, including public education, public safety, health care, pensions, and the University of Puerto Rico, does that better protect—does that get the dividing line right on protecting Puerto Rico's sovereignty to handle its day-to-day affairs?

Mr. MARRERO. Thank you, Congressman Soto, for your support with the people of Puerto Rico. I am going to be completely honest. Since the beginning, we have been reluctant to support this additional language because current interpretation of essential public services has been very beneficial for the people of Puerto Rico. Even though the including word can be interpreted as expansively and not necessarily limited essential public services—however, we believe that in order to make that workable, we will also need to amend other sections of PROMESA to make sure that the Oversight Board does not use other provisions of PROMESA to circumvent what you are trying to achieve there.

Mr. SOTO. OK. So, there are additional suggestions you have of potentially improving the legislation. We appreciate it. If you wouldn't mind sending those to the Committee, that would be helpful. Do you think us going to define this better—let's say we adopt the recommendations you just stated. Would this help ensure better response to COVID-19? I know it has been difficult to get tests there. And would this help improve the healthcare system to

improve your COVID-19 response? Would this be a help to you on that?

Mr. MARRERO. Being honest, Congressman, I don't see one as a significant requirement for the other. I believe that the challenges that we have faced in Puerto Rico during the COVID-19 are very similar to what other states and other jurisdictions in the world have been facing. I think that the most important amendment that PROMESA needs right now is to delineate the powers of the work, to make sure that the public policy of the government—the elected government at the time because this is not only for the present or the current government of Puerto Rico but also for any other government of Puerto Rico—is to make sure that the public policy, that it has been elected at the ballot with the power of the vote. It is totally respected.

Mr. SOTO. Well, that is the intent that we are seeking in this legislation, to define essential services in a way that protects the day-to-day responsibility and the duty and powers of the duly elected central government. So, please continue to work with us on that because we want to get that definition right. We have the same goal in mind, which is to protect services and the sovereignty of the island. It also includes relief for unsecured debt, an audit, which I know a lot of folks have asked about.

I want to first thank you, Ms. Jaresko, for mentioning in your past testimony that you would be happy to cooperate to supply documents for any independent audit. That certainly would be helpful. Let's assume for a moment this became law. How would you be able to implement the conflict of interest provisions of it that are in the pending legislation?

Ms. JARESKO. Very supportive, Mr. Congressman, of the conflicts of interest provisions in general. We have been very supportive of Congresswoman Velázquez's approach to that amendment. I think that the current version, frankly, is over-expansive. To be very clear, the conflict of interest as written currently would force everyone to clarify whether there was a conflict with over 165,000 creditors that have made claims in the courts against the government of Puerto Rico. For anyone, whether it is Mr. Marrero or whether it is a Board member, or whether it is an advisor, to clarify 165,000 conflicts of interest at every level would be an impossible exercise. So, we are in favor of and we are supportive of improving conflict of interest disclosure. But I believe that the current language is overly expansive.

Mr. SOTO. Well, we look forward to your additional guidance on that so that we could get it right. And certainly having Federal funding for the Board will allow you to be a little more independent of having to utilize the current revenue from the island, which certainly makes it more—

The CHAIRMAN. Thank you, Mr. Soto.

Mr. SOTO. Thank you, Chairman.

The CHAIRMAN. The gentleman yields back. Ms. Radewagen? Is she still with us? I had called her before.

Mrs. RADEWAGEN. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Mrs. RADEWAGEN. Can you hear me?

The CHAIRMAN. Yes. The floor is yours.

Mrs. RADEWAGEN. I yield my time to the gentlelady from Puerto Rico.

The CHAIRMAN. The gentlelady yields. Ms. González-Colón.

Miss GONZÁLEZ-COLON. Thank you. Thank you, Amata, for yielding and Chairman for recognizing. I have a question to Mr. Marrero. In terms of—we have been losing a lot of money and a lot of revenue during the last 3 months with the situation of COVID-19. Many people may not be aware. But the first lockdown in the Nation actually was in Puerto Rico since March 15. There was a curfew. There was a lockdown. I think at that time, there were proper decisions. The Governor just announced a few minutes ago that they are getting rid of the lockdown and moving the curfew to 10 p.m., which is good. I do understand that we should open and be prepared for living with this kind of pandemic. Today, it is COVID. It will be another in a few months, sadly.

But my concern is there is a projection that we are going to be losing between \$1.5 billion to \$3 billion during the next 3 years because of the revenue that we lost. What is the plan of the government of Puerto Rico to close the budget due to the loss of revenue and the measures that need to be taken in order to comply with the fiscal plan?

Mr. MARRERO. Excellent question, Congresswoman. Thank you for it. As you mentioned for Fiscal Year 2020, the government, as well as the Oversight Board, anticipates a decrease in revenue of around 18.9 percent—but a small increase the next fiscal year of 1.7. However, we have to stress the timing difference that we have because there are several tax returns that has been postponed or delayed for the next fiscal year. So, that takes into account also that percentage or that high percentage of decreasing revenues. However, as any other government in the Nation, we will use reserved funds to manage some of the shortfall as provided in the fiscal plan and the budget. However, I think that this brings the question, more importantly, that we would like to support and we would like to ask Congress to act and pass legislation to provide support to state and local governments across the Nation as well as territories that we are dealing with lost revenue because, as you know, the funds that have been available through the coronavirus relief fund under the CARES Act are not allowed to be used for lost revenue, only expenses.

Miss GONZÁLEZ-COLON. I know, and actually, my second question will be—and this is for you and for Ms. Jaresko. There are many in Congress discussing even another phase of recovery process for COVID-19 through the Nation. What specifically will we need in Puerto Rico—like in Florida, the tourism industry has been impacted, the hospital industry as well. What specifically should be included in the case of Puerto Rico, Mr. Marrero, Ms. Jaresko?

Mr. MARRERO. Obviously lost revenue for state and local governments, as well as public corporations, which have been hit by COVID-19. And also, I would say that, in addition—the government, hospitals, and the tourism industry definitely should be a priority in Puerto Rico because of the lockdown, how they affected not only the revenues and the visitors but also the elective operations and elective procedures the hospital used to be making before COVID-19.

Miss GONZÁLEZ-COLÓN. Ms. Jaresko?

Ms. JARESKO. I would just add that I would hope, in addition to what Mr. Marrero has said, that you would consider the Governor's request and ours to support including Puerto Rico in the pandemic EBT program such that in case—God forbid—we're back in this situation again in the autumn when the children are back in school that we can more easily get the breakfast and lunch to them on the EBT cards, as is allowed under the SNAP program.

Miss GONZÁLEZ-COLÓN. We are pushing for that as well, sending letters and dealing with that with the USDA since the beginning. So, once we're in that, I think the poverty level on the island is more than 60 percent. It is actually among children, women. But if we do have specifics—because we have been having meetings with the hospital industry and medical industry. And we are facing at the same time the new hurricane season. My third question, Mr. Marrero, will be specifically do we have enough—

The CHAIRMAN. I am going to have to go to another—Miss González-Colón, your time has already passed.

Miss GONZÁLEZ-COLÓN. I do have 13 seconds, sir, so I am not finished.

The CHAIRMAN. When it turns that color, that means you went over.

Miss GONZÁLEZ-COLÓN. No. Actually, it is saying 4, 5. When it is over, it is going red.

The CHAIRMAN. OK. Thirteen seconds. Start counting.

Miss GONZÁLEZ-COLÓN. Thank you, and stop chasing me, sir.

The CHAIRMAN. I am just asking the question.

Miss GONZÁLEZ-COLÓN. Mr. Marrero, you should be giving us a complete number of what specifically you understand the industry is requesting in terms of power. Do we have enough resource for back-up for the industry on the island?

Mr. MARRERO. I will provide that information in more detail but definitely. We will need more back-up in order to make sure that we are as resilient—

Miss GONZÁLEZ-COLÓN. Thank you. I am waiting.

The CHAIRMAN. Mr. Tonko, you are recognized, sir.

Mr. TONKO. Can you hear me, sir?

The CHAIRMAN. Absolutely.

Mr. TONKO. OK. Thank you, Mr. Chair, for hosting this important discussion. And let me just state that I regret that this hearing has been so contentious. It breaks my heart that the people of Puerto Rico have to deal with this. We shouldn't have this kind of partisan trouble to talk about aid to peoples who are desperately in need. Like many of my colleagues, I am concerned about the speed at which aid has been delivered, Mr. Chair, to our Puerto Rican brothers and sisters.

I have heard that up to \$3.1 billion in community development block grant dollars under the disaster recovery have been approved for Puerto Rico. Only \$47.3 million has been disbursed. Can someone tell me what the hold up is, and how can the government or the Board help solve that concern?

Mr. MARRERO. Well, definitely. Thank you for that question, Congressman Tonko. The reality is the CDBG-DR program, it is not as straightforward as we would like. Since the beginning of the



allocation by Congress, we have been working very actively to make sure that we have the action plan in place, the structure, the policies, and procedure. Everything has been done at the Department of Housing locally. However, once the grant agreement included additional requirements for the second tranche or the second allocation of the CDBG funds, additional structure, additional policies needed to be put in place. However, the government, the governors and myself, it is a priority to make sure that we expedite the CDBG funding. Right now, obviously, the COVID-19 and the earthquakes prior to the COVID-19 delayed the launch date for several of the 26 programs included in the action plan. However, the Secretary of Housing has already launched the R3, which is the most important housing program.

However, I am going to be honest. It is not up to the speed that we would like to see it. The Governor, nor myself, nor anyone within the team is satisfied with the speed of those fundings. So, again, we are looking for ways within the four corners of the law to make sure that we can expedite the funding to make sure that who needs it the most have them, obviously, as soon as possible.

Mr. TONKO. OK. I appreciate that. Any other response?

Ms. JARESKO. I would just add that our only role in that program is the certification that was included in the grant agreement and in the Federal Register. We did do that very expeditiously, in less than 45 days, so that there would be no hold-up in that second approval. But other than that, we don't have any visual entry into what's going on in the disbursement.

Mr. TONKO. Well, it seems to me that there should be some effort to coordinate so that the people can rightfully get the dollars that they so desperately need. Puerto Rico is poor. Their power grid is particularly fragile after Hurricane Maria and the earthquakes in Southern Puerto Rico. And after the earthquakes this January, the Costa Sur Power Plant has been out of service. What are some of the preparations that the Puerto Rico Power Electric Authority is taking for the upcoming hurricane season?

Mr. MARRERO. Thank you, Congressman. As opposed to what happened when we got into office in 2017 when Maria hit, this hurricane season, we have several warehouses across the island. Not only do we have several warehouses, but we also have around \$150 million in materials and equipment across the island to make sure that, if something happens, PREPA, the electric utility, is able to respond in a swift manner. Not only that—we have made sure that also PREPA has entered into initial aid agreements with the utilities stateside to make sure that if there is any help that we may need when a disaster strikes that we can, again, go through those initial aids and be able to get that help from our counterparts on the mainland.

So, as opposed to Maria and Irma, we believe that we are in a situation better prepared because we have the materials, equipment, the initial aid, and obviously the lessons learned from it.

Mr. TONKO. And how will that all be impacted by the upcoming privatization of the power utility?

Mr. MARRERO. Excellent question, Congressman. When we designed the old operation and maintenance agreement, when we designed the structure of this agreement for PREPA, we made sure

that only we preserve the access to current and future disaster funding. But also we made sure that doesn't derail or affect the tax-exempt financing. This is quite technical, but, again, we made sure that any agreement that we enter will not affect the requirements of the Stafford Act under FEMA as well as the health regulation for the CDBG funding. And that is because we are retaining the ownership of the title for the people of Puerto Rico.

Mr. TONKO. OK, thank you so much. Mr. Chair, do I have any time remaining?

The CHAIRMAN. No.

Mr. TONKO. Oh. Well, I yield back then, Chair.

The CHAIRMAN. Thank you, sir. Ranking Member Bishop, sir, you are recognized. Mr. Bishop.

Mr. BISHOP. Yes. All right. Am I on here? Have all the other Republicans already gone? Am I the last one? You can't hear me, can you?

The CHAIRMAN. As far as I can tell, you are the last member of the Minority to speak.

Mr. BISHOP. All right. Well, fine. Mr. Chairman, a couple of complaints, obviously, as we go forward with this. The voting that took place earlier on was a huge kerfuffle. We will be asking some specific questions of how we can avoid those kinds of problems in the future and avoid staff telling how Members should or should not be voting.

Mr. Grijalva, I also wanted to take issue with you on some of the conversations you have had with the Ranking Chairwoman of this particular portion. It is better than that. You are a better person than that. I also realize that this is unique in some situations. You have had a whole lot of these kinds of hearings going on. This is probably the first time you have had more than one point of view that has been presented with it. And that presents some difficult situations.

And some of those in the past have been on issues that I think are somewhat extreme. However, I just want this Committee to realize, despite this vehicle that we are using which is so inappropriate, that any discussions on solutions or changes of what will take place in Puerto Rico without the discussions or the commitment and inclusion of the Resident Commissioner from Puerto Rico are futile. She is the Representative and the spokesman for the island, and her point of view must be considered at all times. And because of that, Ms. González-Colón, if you have another question, I would like to yield the remainder of my time to you.

Miss GONZÁLEZ-COLÓN. Thank you. Thank you, Mr. Chairman, for always allowing us to represent the people of Puerto Rico. And that is what I am doing here in Congress. The people voted for me for 4 years even when some people want to represent the island in their own views. I am the one elected to do the job. And I appreciate my delegation for always being available and allowing me to do my job as every other member of this Committee do represent their districts.

And this is the same thing we are all doing, representing our people. So, in that sense, we have been always available to work in a bipartisan way. Actually, all my bills in this Committee and in the rest of the committees are bipartisan, all of them. And the

reason for that is that not having the power of vote in the Floor, not having a formal Delegation of four or five members, not having a Senate representative of Puerto Rico, that is the way to do things in a bipartisan way. And I am so sorry that some folks would try to do politicking or trying to do this in a partisan way. I think that if you really want to help Puerto Rico, that is not the way to do it. It is sitting. It is having discussions. It is having a reflection and actually working to that end.

And I want to say thank you to all the members of this Committee that actually—every time I reach to them asking for their help, they have been doing that. Many of them here today are being sponsors or leading sponsors in many of those legislation so thank you for all the people that have voted for Puerto Rico not once, but many times. And I am not going to aim at all of you, but you all know who you are.

Ms. Jaresko, I do have other questions. I want you to provide the Committee a list or log of the issues that you understand may be helpful if we amend the PROMESA law. What can be expedited? How can we cut red tape and bureaucracy, not just at the Federal level but what should be done at the government of Puerto Rico level to access, enhance a clear way to move the Federal funds.

In terms of Mr. Marrero, my question will be how to make that happen. How the people of Puerto Rico can access—honestly, if it were not for the Federal funds, how bad would the situation on the island be right now?

Ms. JARESKO. Of course, Congresswoman, we will get that to you.

Miss GONZÁLEZ-COLÓN. Thank you. Mr. Marrero, how bad would the situation in terms of the fiscal plan, in terms of the budget, be right now for the people of Puerto Rico if not for the Federal funds that were approved in the last 3 years?

Mr. MARRERO. Definitely, without the Federal funds, with the Federal support that we have gathered from Congress and the Administration, Puerto Rico will not have the resources to recover from Irma, Maria, earthquake, COVID-19 and everything that we have been suffering since 2006 of the fiscal economic crisis.

Miss GONZÁLEZ-COLÓN. What is your understanding of what should be the first priority right now if you got the access to make a change in the law?

Mr. MARRERO. On the PROMESA, to make sure that the public policy in Puerto Rico is fully respected. Again, I think that the best idea to describe this, Congresswoman, is PROMESA, the Board, should be able to set the size of the room. But the government, the elected government of Puerto Rico, this current government as any other future government, should have the ability to decide how to arrange the furniture to the extent that you are within the size of the room. As simple as that.

Miss GONZÁLEZ-COLÓN. Thank you. My time is expired, Chairman. I yield back.

The CHAIRMAN. Mrs. Napolitano. The time is yours. You are recognized.

Mrs. NAPOLITANO. Thank you. And I won't tell Bruce and Garret that I have been trying to get on for an hour and a half. So, don't feel like you go arrange your swords—it is bipartisan. Mr. Marrero, on the task force, the Governor created a medical task force. Can

you go into detail on the role of the task force and address the impact during the last four events that you have had that are horrible and give statistics or how much funding is addressed to mental health? Nobody has addressed the issue of mental health, and it is a critical thing for the people who are facing unemployment, who are facing just everything else that you can think of.

Mr. MARRERO. Thank you, ma'am, for the question. First of all, as to the mental health area, I really want to make sure that you know this. Not only were we able to identify or earmark \$150 million for private hospitals, but we were also able to for mental health institutions, private hospitals that are aimed to treat those important patients that are participating. And then we are able to assign money in order to cover those expenses—

Mrs. NAPOLITANO. How much money? And is it sufficient personnel?

Mr. MARRERO. I will provide every detail to you, ma'am. We are making sure that all this information is publicly available on your website. But I will provide it with the detail that you requested.

Mrs. NAPOLITANO. I would really like to know any information you may be able to provide on it because it is an important issue for the people of Puerto Rico. Another question has to deal with the Army Corps of Engineers and the power grid. Have they done everything they are supposed to, and what status do you have on that?

Mr. MARRERO. On the power grid, ma'am, the Corps of Engineers, their main responsibility was during the emergency response phase. Now, as we are transitioned into the reconstruction work and as FEMA obligates the permanent work funding, the Army Corps does not have that leading role that they used to have during the emergency response phase, ma'am.

Mrs. NAPOLITANO. Are they done with their part of it?

Mr. MARRERO. Yes, ma'am.

Mrs. NAPOLITANO. OK. I yield my extra time to Nydia Velázquez.

The CHAIRMAN. The gentlelady yields. Ms. Velázquez.

Mrs. NAPOLITANO. Has she left?

The CHAIRMAN. I think she has left.

Mrs. NAPOLITANO. Well, I would appreciate if those questions were answered for the whole Committee, not just for us. Thank you, and I yield back.

The CHAIRMAN. Thank you very much, Mrs. Napolitano. Mr. García, you are recognized.

Mr. GARCÍA. Thank you, Mr. Chairman. Can you hear me?

The CHAIRMAN. Yes, sir.

Mr. GARCÍA. And I apologize. Just to show fairness, I was not able to get on via my computer, so it is a bipartisan effect. Thank you, Chairman and Ranking Member, for convening this hearing. And thank you, Ms. Jaresko, from the FOMB and Mr. Marrero from the government of Puerto Rico. Natural disasters and crises are not new to Puerto Rico and neither is a poor government response. In the last few years, the people of Puerto Rico have faced hurricanes, earthquakes, and now a pandemic. This comes after decades of disinvestments, ineffective economic policies, and a broken, shortchanged healthcare system due to its status.

The U.S. citizens of Puerto Rico have suffered too much for too long. While much-needed funds from the CARES Act and other relief packages reach the island, we know that it falls short. And despite the worsening fiscal crisis, Puerto Rico was excluded from the Federal Reserve's emergency loan program during this public health crisis.

The Puerto Rican government is already anticipating a \$1.6 billion deficit by the end of this month due to the virus. Congress approved trillions of dollars worth of relief to help fix our economy. It still isn't enough. What has been clear throughout this process, however, is that communities need stimulus and investment to come back strong, not austerity and cuts. That is not how economics works.

And even Mitch McConnell and President Trump recognize that in working to pass the CARES Act that was the case. So, why are we acting like cuts and austerity will work for Puerto Rico if it doesn't work for the 50 states? I appreciate that the FOMB delayed the implementation of its plan of adjustment, but I still hear talk about leaner government, rightsizing, and pension cuts.

These words mean the same thing for the people in Guayanilla and San Juan that they mean for my constituents in Chicago. And they mean less money for communities and longer, harder economic recovery. The sacrifices are made by working-class people and investors take profits. Question No. 1, in February, Researcher Cate Long from the Puerto Rico Clearinghouse wrote a letter to Bankruptcy Judge Laura Swain and mediator Barbara Houser with some alarming allegations.

She provided data indicating that people involved in this winter's mediation negotiations have traded bonds based on information that was not available to the public. In other words, bondholders may have conducted insider trading. Ms. Jaresko, are you aware of these allegations of insider trading? And is the Board investigating them?

Ms. JARESKO. Thank you, Congressman. Yes, I am aware that allegations have been made. But, no, we are not investigating them. They are in the hands of the court and the mediator.

Mr. GARCÍA. Do you think that there is a role for investigation by you?

Ms. JARESKO. It wasn't delivered to me. We weren't asked to do so. And I don't have the means to do so, in fact. It really is a law enforcement issue. And we would expect law enforcement to be engaged.

Mr. GARCÍA. OK. Do you know what the consequences would be if a bondholder in the mediation process was found to be insider trading?

Ms. JARESKO. I am not a securities lawyer, but I can imagine what the securities law would require.

Mr. GARCÍA. OK. On bankruptcy. Sometimes these plans look like they are constructed backward, starting with payments to creditors and then filling in the rest of the economy after that. The fiscal plan certified by the FOMB last month admits that Puerto Rico has not achieved significant growth after years of austerity. The plan predicts more tough times ahead, projecting GNP growth

of .5 percent next year followed by a contraction when Federal funds for fighting COVID wind down.

It looks like Federal funds are the only concrete positive input to the Puerto Rican economy in the next few years. Other growth factors seem much more vague. And the government of Puerto Rico is blocked from spending its billions in reserves. Mr. Marrero, if Puerto Rico's economy fails to grow over the next 2 years, are you concerned that the island will face another bankruptcy?

Mr. MARRERO. Definitely, sir. And more importantly than that, I think that in the end, more than the bankruptcy, the more important part is the people. The people will continue to leave the island, and we will end up with less folks, not only to pay our debts but also to maintain a government that needs to provide essential services to the people.

Mr. GARCÍA. Thank you. I find it disgraceful that nearly 3 years after Maria, our sisters and brothers on the island remain without roofs. Children don't have schools, and people continue to die as a result of inadequate access to health care. This pandemic has only exacerbated the situation on the island. One thing is clear. We can't continue squeezing the people, and we can't go back to normal. Normal is what got us here in the first place. We must do everything we can to put the people of Puerto Rico on the path to long-term recovery and economic stability. Thank you, Mr. Chairman and Members. I yield back.

The CHAIRMAN. Thank you very much, Mr. García. I appreciate it. And I believe that that is the end of the questions by Members. I will be submitting some questions in writing to both our witnesses and thank you very much. But just a couple of quick notes before adjourning the hearing. Ms. Jaresko, the 2020 Fiscal Plan relies on approximately \$83 billion of disaster relief funding in total to be disbursed from Federal and private sources, part of Maria and Irma reconstruction effort. And of this amount, how much has been disbursed so far by the Federal Government, and how confident are you that the remaining balance would be disbursed to the government of Puerto Rico?

Ms. JARESKO. Yes. Thank you, Chairman. Let's take different pieces of the numbers. And I will go through them individually. The private sector funding, the private sector insurance, has, for the most part, all been received to date. The FEMA funding, which I described to you, is estimated to be \$48 billion—\$17.4 has been obligated, and \$13 billion of that has been disbursed.

If you ask me what my expectation is, my expectation is that Puerto Rico will receive everything it is estimated to cover the full \$48 billion. The third large piece is the \$20 billion that you have all appropriated already for CDBG-DR. Of that, \$3.1 has been obligated. And actually, the current disbursement level is about \$70 million. I think someone used something lower. But now that the economy is starting to open, the disbursements are starting to flow, in particular, in the construction area.

And I would expect all of the \$20 billion appropriated to indeed be received as it has already been appropriated. The last category is a combination of various Federal programs, some of which has been received—I don't have that list in front of me right now—and others which are still being received over time. Those are things

like Job Corps, like the USDA funding, incremental funding for supplemental food assistance, and so on.

But the general answer to your question, I would expect all of this funding to be received because all of it is necessary, needed, and appropriate for the disaster. Chairman, I can't hear you. You are on mute.

The CHAIRMAN. Thank you because Congress does appropriate. But the implementation on disbursement and the guidelines that follow those kinds of appropriations have not always expedited the money to get to the targets that it was intended for. We have many examples of that. But Mr. Marrero, does the government of Puerto Rico project it will receive the Federal aid that Ms. Jaresko just talked to from the present Administration to rebuild? And if we continue at this percentage that we are talking about, what would be the impact if the funds aren't received?

Mr. MARRERO. Well, sir, I am very hopeful that that promise will be fulfilled and that Puerto Rico will receive the funding that has been promised. However, if we don't get that funding, definitely all the entire fiscal plan, entire fiscal roadmap that we are trying to lay out for the next couple years will not be attainable. Puerto Rico will not only not be able to pay their debt as contracted, but it will not be able to provide essential services. And the economy will not grow.

The CHAIRMAN. Yes. And like I said, I have specific questions on PREPA and specific questions on some things that haven't been requested by the government of Puerto Rico and the status of those requests. I will send those forward. But Mr. Marrero, just one question that was brought to my attention by a resident of the island, a teacher, that as of 2 weeks ago, 141 of 834 school cafeterias in Puerto Rico were providing children with hot meals. And the Puerto Rican Department of Education has argued in court the department does not have the duty to provide meals. Could you elaborate on why the department has taken this stance and how will we deal with this, and have Federal funds already been authorized for the ability to provide nutrition to children?

Mr. MARRERO. Definitely, sir. Well, first of all, the Governor and myself have been committed to make sure that we can expedite the opening of the school cafeteria to provide that food that is needed, obviously, as the Resident Commissioner, Congresswoman González-Colón, said. Sixty percent of our children live below poverty levels, so we have to make sure that we can fulfill that duty, particularly during COVID-19. The initial reluctance of the secretary was because, at that time, the personnel of the school cafeteria were the vulnerable population that could be affected by COVID-19. However, we have already opened several cafeterias, several places around the island. Right now, it is making sure that can be fulfilled through NGOs and through other organizations to make sure that we can provide that food.

The CHAIRMAN. Thank you. And I want to thank the panel for the testimony. And like I said, all of the full testimony was in writing. Members will follow up in writing. We will distribute it to the rest of the Committee in terms of your responses before adjourning. Let me thank you again. Well, I did want to say that I appreciate the fact that we are trying to work through some of the newness

to say the least of the process that we're going through to have these hearings. I think it is important.

To sit on our hands for the next 45 days, 35 days, 60 days without having hearings, oversight, without having markups and moving legislation along, I think is a detriment to the people that elected us to office. And that is No. 1. You know, discretion being the better part of valor, some people choose to be there in face versus the person right next door doing business. God bless you. I personally think that some of the other Members that are indicating their willingness to be part of an online process that has been approved by Congress, by the House of Representatives, as part of the rules, that we do so with discretion in the sense that not only for self-preservation but also the preservation of others, the staffs, the public that we come in contact. And as we see some surges and some spiking going on in terms of the pandemic—and Puerto Rico is not alone. Unfortunately, the state of Arizona is right up there.

I think No. 1 on the hit parade list of least testing and the surge coming back with a lot of ferocity and a lot of strength here in the state of Arizona—so I mention those things. This isn't about not who was more macho, about being able to sit on the dais. This is about getting business done. This is a vehicle to do it. I prefer the in-person. I always have. The format is not the favorite thing that I like to do. But we will be there at that other point as well.

I also want to say that this is not a partisan issue. I struggled through this issue of Puerto Rico and what's happened. And we already went through the accumulation, the cumulative effect of what has occurred in Puerto Rico from nature to the virus and to the economic collapse. And I think we struggled on how to balance the sovereignty and the self-determination of the Puerto Rican people and the need for the Federal Government to intervene and provide supplemental support to Puerto Rico, for it to be able to not only survive but develop and become sustainable. That is the goal. It is not a partisan issue. It is not partisan when we want to do reform for PROMESA to make the process more defined and provide the people of Puerto Rico a forum and transparency, making sure that either government, whether it is the Federal Government or the central government, are being transparent, clean, and free of conflict.

H.R. 5687, that the House of Representatives passed, that the Senate has killed, and the President has indicated he wouldn't sign, provides earned income tax credit for the people of Puerto Rico, child tax credit, and additional support after the hurricanes that was badly needed and is since in the abyss on the other chamber. There are steps to go forward. And as we go forward to look at markups for reforms to PROMESA, as we look at other pieces of legislation in other oversight hearings, I am taking the advice and the suggestions of my colleagues on both sides of the aisle on how to technologically make ourselves better, not necessarily make us more comfortable, but it should make us better. With that, let me adjourn the meeting. Thank you for your attendance and—

Miss GONZÁLEZ-COLÓN. Mr. Chairman, just one point.

The CHAIRMAN. The meeting is adjourned.

[Whereupon, at 6:15 p.m., the Committee was adjourned.]



[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

HISPANIC FEDERATION  
SAN JUAN, PUERTO RICO

June 25, 2020

Hon. RAÚL M. GRIJALVA, *Chairman,*  
*House Committee on Natural Resources,*  
*1324 Longworth House Office Building,*  
*Washington, DC 20515.*

Re: June 11, 2020 HNR Committee Hearing: PROMESA Implementation during the  
Coronavirus Pandemic

Dear Chairman Grijalva:

Hispanic Federation (HF) is a leading social service and advocacy member organization with a national network of hundreds of Latino community-based health and human service agencies working to promote the social, political, and economic well-being of Latino communities. Founded in 1990 to support Latino institutions in New York City, today the Federation works in twenty-two states, Puerto Rico, and the District of Columbia.

On June 11, 2020, the House Committee on Natural Resources held a hearing titled “PROMESA implementation during the Coronavirus Pandemic in Puerto Rico.” We thank you and the Committee for holding this important hearing to ascertain the impact of the PROMESA law on the island’s ability to respond effectively to the current health crisis combined with the preexisting crises created by the previous economic and natural disasters.

In our opinion, the following five areas are especially important for Puerto Rico’s economic and social recovery, self-determination, and wellbeing:

1. A moratorium on debt payments and suspension of austerity policies until the economy has fully recovered and the needs of the people struggling to recover from years of economic and natural disasters have been met.
2. A commitment to investing in the development of human capital and expertise instead of restricting the local government’s capacity to respond effectively to the ongoing crises, as opposed to so-called “right-sizing” (Jaresko, p. 15) to save money and hinder provision of government services and essential services—especially in times of emergencies.
3. Compliance with provisions outlined in the Amendment to PROMESA Act (H.R. 6975) that require full disclosure of conflicts of interest of all FOMB members, employees, contractors, and advisors as well as public disclosure of every document, record, or information relating to the public debt of the Commonwealth of Puerto Rico.
4. Compliance with provisions outlined in the Amendment to PROMESA ACT (H.R. 6075) requirement for full funding of essential services such as public education, public safety, health care, and pensions, and any other essential service, before prioritizing payments to bondholders.
5. A full and public evaluation of the FOMB’s effectiveness, utility, and success achieving the goals set out in PROMESA to determine if the Board has failed in its mission (which we believe), and, if so, to proceed with its disbanding and respect Puerto Rico’s sovereignty and self-determination by providing the mechanisms available to other U.S. states and municipalities to address its ongoing debt and economic crisis.

In written testimony, the Executive Director of the FOMB, Ms. Natalie Jaresko, states:

*“The 2020 Fiscal Plan reflects a one-year delay in most categories of budgetary reductions to allow the Government to focus on implementation”.*<sup>1</sup>

This is a necessary but insufficient step. U.S. Congress and the FOMB must understand that austerity measures, such as budgetary reductions, and continued prioritizing of debt payments over the needs of the people of Puerto Rico will inhibit economic growth in the island. In April, the G20 announced a year-long moratorium on debt-payments and interest accumulation for low income countries in response to the global pandemic and economic crisis that is going to hit vulnerable economies hardest. Why didn't the FOMB adopt a similar position given the already high levels of debt, unemployment, and poverty in Puerto Rico which will only be exacerbated by the Covid-19 crisis?

During the hearing, Ms. Jaresko argued that the FOMB can only reduce spending and does not have the power to increase revenues, and therefore can only limit budgets to ensure debt payment. This demonstrates a lack of creativity and willingness to use the power of the FOMB budgetary oversight to increase revenues in other ways. For example, it could authorize a budget that will increase Puerto Rico's capacity to spend money on instead of cutting spending on essential services and needed human resources to promote sustainable economic growth in the island. It has become widely apparent that austerity measures imposed by the FOMB have only hurt the people of Puerto Rico while not increasing the island's ability to create a sustainable debt repayment plan. Therefore, harmful austerity measures and policies must be ended, especially while the island is reeling from disaster after disaster, and experiencing record high levels of poverty, food insecurity, and unemployment.

Basic essential services must be defined, able to adapt to changing needs, prioritized, and sustainably funded to ensure long term results. For example, the FOMB keeps pushing for the University of Puerto Rico's budget reduction and has already promoted the closure of hundreds of schools across the island. These closures in the name of “austerity” have promoted unemployment, displacement of students, and inhibited the fulfillment of the right to education. Limited access to higher education eliminates the best opportunity of poor, vulnerable, or disadvantaged populations to attain a college education and contribute to the island's professional force and long-term economic sustainability.

Last year, Hispanic Federation's Puerto Rico team members visited a community in the municipality of Carolina, Puerto Rico, and heard from local leaders how the closing of their elementary school by the government as part of island-wide austerity and cost-saving measures negatively impacted their lives. Every day, their children struggle to get to other schools without adequate public transportation or safety measures. Other community leaders shared their frustration with the bureaucratic hurdles to adapt the closed local school building into a center for community development. This is only one example on how austerity measures that prioritize the debt over basic services such as access to education negatively impact peoples' lives and abilities to access adequate public education—an essential public service.

The FOMB does not seem to understand that prioritizing the financial bottom line can have long-term negative effects on the lives and futures of real people. Payment of the debt should not hinder the ability of Puerto Rico's essential services' institutions to pursue their prime objectives or sustain themselves as solvent institutions. There will be no economic growth if education, physical and mental, food, energy, water, employment, among other critical needs, are not adequately addressed.

Previous austerity measures imposed by the FOMB have caused the significant reduction of human resources in Puerto Rico's agencies. As Hon. Nydia Velázquez mentioned in the hearing, these measures have significantly reduced the resiliency and capacity of agencies to respond adequately to major disasters, such as hurricanes, earthquakes and/or pandemics. The U.S. government constantly asks Puerto Rico to lead a successful recovery from repeated disasters yet, on the other hand, imposed an FOMB with the power to limit the tools Puerto Rico needs to succeed. This is a set up for failure and must end. The FOMB must stop prioritizing the payment of an unaudited debt over investments in sound governmental human

<sup>1</sup> Written Testimony of Natalie Jaresko, Executive Director, Financial Oversight and Management Board for Puerto Rico, at page 5 of 15, [https://naturalresources.house.gov/imo/media/doc/Written%20Testimony%20-%20Ms.%20Natalie%20Jaresko%20-%20Remote%20FC%20v%20Hrg%2006.11.20%20\(PROMESA%20COVID%20Response\).pdf](https://naturalresources.house.gov/imo/media/doc/Written%20Testimony%20-%20Ms.%20Natalie%20Jaresko%20-%20Remote%20FC%20v%20Hrg%2006.11.20%20(PROMESA%20COVID%20Response).pdf).

resources, adequate provision of essential services, and measures to reduce poverty and stimulate the economy such as investments in education.

Hispanic Federation strongly refutes the following statement by Ms. Jaresko in her written testimony (page 13) regarding the provision related to transparency and accountability in the Amendment to PROMESA ACT (H.R. 6075):

*“Making public any document relating to the negotiations or restructuring of the public debt would be prejudicial and detrimental to the Board’s effort to effectively and expeditiously secure the best debt deal possible for Puerto Rico and its people.”*<sup>2</sup>

The FOMB was created to protect the interests of the people of Puerto Rico and the Board’s role is not to first protect the interests of Wall Street. The interests of the people of Puerto Rico are best served with transparency and accountability. The members of the FOMB are not negotiating personal debts. In fact, every document, record, or information relating to the public debt of the Commonwealth of Puerto Rico is a public document and must be accessible to any interested party. Congress is correct in requesting full transparency and accountability from the FOMB.

Finally, Hispanic Federation believes that following its oversight duties, the ultimate goal of the U.S. Congress should be the elimination of the FOMB which has not accomplished the intended to help the people of Puerto Rico by renegotiating its debt in ways that resolve its debt crisis and help move the island forward and begin the long road of financial recovery. After 122 years of colonial oversight, the United States of America has the obligation to respect Puerto Rico’s self-determination. Instead of imposing a colonial FOMB, Congress should respect Puerto Rico’s sovereignty and support its democratic institutions and right to self-governance. Puerto Ricans were able to peacefully achieve the resignation of former governor Ricardo Roselló, and keep standing up with dignity, pride, unity, and hard work even after one of its worst natural disasters, Hurricane Maria in 2017. Only through self-determination and democracy will Puerto Rico overcome its economic crisis.

Thank you for your attention to these concerns. Hispanic Federation is committed to remain on the front lines to ensure that rights of Latino communities across the Nation are upheld.

Feel free to contact Laura M. Esquivel at [lesquivel@hispanicfederation.org](mailto:lesquivel@hispanicfederation.org) or Charlotte Gossett-Navarro at [cgossett@hispanicfederation.org](mailto:cgossett@hispanicfederation.org) should you have any questions.

Cordially,

*Charlotte Gossett Navarro,*  
Puerto Rico Chief Director

*Laura Esquivel,*  
VP for Federal Policy and Advocacy



<sup>2</sup>Written Testimony of Natalie Jaresko, Executive Director, Financial Oversight and Management Board for Puerto Rico, at page 13 of 15, [https://naturalresources.house.gov/imo/media/doc/Written%20Testimony%20-%20Ms.%20Natalie%20Jaresko%20-%20Remote%20FC%20v%20Hrg%2006.11.20%20\(PROMESA%20COVID%20Response\).pdf](https://naturalresources.house.gov/imo/media/doc/Written%20Testimony%20-%20Ms.%20Natalie%20Jaresko%20-%20Remote%20FC%20v%20Hrg%2006.11.20%20(PROMESA%20COVID%20Response).pdf).