

April 10th, 2018

The Honorable Rodney Frelinghuysen  
Chair  
House Appropriations Committee  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Nita Lowey  
Ranking Member  
House Appropriations Committee  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Richard Shelby  
Chair  
Senate Appropriations Committee  
U.S. Senate  
Washington, DC 20510

The Honorable Patrick Leahy  
Ranking Member  
Senate Appropriations Committee  
U.S. Senate  
Washington, DC 20510

Dear Chairmen Frelinghuysen & Shelby and Ranking Members Lowey & Leahy,

We write to express grave concerns about the misuse of federal disaster aid meant for hurricane survivors in Puerto Rico. Prompted by reports of mismanagement at every stage of the disaster recovery process, we have joined together to request that you improve accountability and transparency by putting disaster recovery experts and impacted communities in charge of Puerto Rico's rebuilding. As you continue to oversee the federal response to Hurricane María, we ask that you consider and implement the *Power 4 Puerto Rico* coalition's roadmap for Community-Driven Rebuilding,<sup>1</sup> which specifically calls for community involvement in key decisions moving forward.

As part of the Bipartisan Budget Act of 2018, Congress appropriated critically needed funds and reforms to improve the recovery process in Texas, Florida, California, Puerto Rico, and the U.S. Virgin Islands. Unfortunately, that legislation also created new barriers to Puerto Rico's recovery. Congress decided to put the Financial Oversight and Management Board (FOMB), an entity designed to reassure investors by slashing Puerto Rico's budget, in charge of disbursing all disaster aid in the U.S. territory.<sup>2</sup> To make matters worse, Congress did not direct the FOMB to avoid the use of disaster and recovery funds to repay Puerto Rico's creditors. Despite bipartisan objections to that possibility, and even though hundreds of thousands of Puerto Ricans remain

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<sup>1</sup> Community-Driven Rebuilding: An Alternative to Wall Street Control Over Puerto Rico's Rebuilding, *Power4PuertoRico*, available at:

<https://power4puertorico.com/files/2018/03/Power4PuertoRico-Community-Driven-Rebuilding.pdf>

<sup>2</sup> Bipartisan Budget Act of 2018, Sec. 21210; available at:

<https://www.congress.gov/115/bills/hr1892/BILLS-115hr1892enr.pdf>

displaced, without power or safe drinking water, Puerto Rico's investors are emboldened by the possibility that some amount of aid will be used to repay Puerto Rico's debt.<sup>3 4</sup>

We urge you to rescind the authority extended to the FOMB to manage virtually all disaster aid that is provided to Puerto Rico. As you consider budget requests throughout the appropriations process for Fiscal Year 2019, we ask that you adopt an alternative to the FOMB that relies on existing structures, precedent, and the leadership of disaster recovery and reconstruction experts working hand-in-hand with affected communities. Specifically, Puerto Rico's residents need the ability to report irregularities and inquire about the status of infrastructure in their communities. Emergency management experts, community leaders, and local organizations should inform how these funds are spent—not the FOMB.

Last week, a series of investigative reports revealed that the federal response to Hurricane María has consistently shortchanged residents of Puerto Rico applying for aid. Just days after, the American Federation of Teachers decried similar discriminatory patterns in the application and disbursement of post-disaster funds meant for higher education institutions in Puerto Rico.<sup>5</sup> We are grateful for the work of investigative journalists and researchers across the country, but know that these findings only confirm what residents of Puerto Rico have known since Hurricane María made landfall: even though they are American citizens, the people of Puerto Rico are not treated with the same urgency or care as their fellow Americans in Texas and other states.

An investigation by Politico found that 9 days after Hurricane Harvey made landfall, Hurricane Harvey victims had received \$141.8 million in individual assistance, versus just \$6.2 million for Maria victims in the same amount of time.<sup>6</sup> That investigation found similar disparities in humanitarian aid: Houston received 5.1 million meals 9 days after Harvey, whereas Puerto Rico received just 1.6 million meals 9 days after María. Hurricane victims in Puerto Rico were also shortchanged on tarps, potable water, and approvals for permanent disaster work compared to the response in Houston, even though Hurricane María was far more devastating to the territory.

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<sup>3</sup> Bicameral, Bipartisan Letter regarding Federal Funds and Debt Service, <https://velazquez.house.gov/sites/velazquez.house.gov/files/21618%20Letter%20to%20FOMB%20re%20disaster%20supplemental%20funds%20to%20be%20used%20only%20for%20relief.pdf>, (February 16, 2018)

<sup>4</sup> Why Puerto Rico Is Proving to Be 2018's Top Bond, *The Wall Street Journal*, available at: <https://www.wsj.com/articles/puerto-rico-bonds-are-a-surprise-star-performer-as-economy-starts-to-mend-1521115200>, (March 15, 2018)

<sup>5</sup> American Federation of Teachers comments on disaster relief funds. Docket # 2018-06028: Higher Education Hurricane and Wildfire Relief Program Application Docket. *U.S. Department of Education*. <https://www.regulations.gov/document?D=ED-2018-ICCD-0028-0007>

<sup>6</sup> How Trump Favored Texas over Puerto Rico, *POLITICO*, available at: <https://www.politico.com/story/2018/03/27/donald-trump-fema-hurricane-maria-response-480557> (March 27, 2018).

Puerto Rico's disaster aid is at risk of corruption and mismanagement. Unless you explore alternatives to FOMB control of the rebuilding process and listen to those communities hit hardest, that risk will grow to endanger Puerto Rico's economic prospects. The body your committees entrusted with handling disaster aid has drawn scrutiny for self-dealing<sup>7</sup> and massively wasteful spending.<sup>8</sup> On behalf of families displaced by Hurricane María and the organizations who have stood by them: please fix this.

Attached to this letter you will find the *Power 4 Puerto Rico* blueprint for community-driven rebuilding. Our movement will continue to hold Congress and the Administration accountable to a just and equitable rebuilding process in Puerto Rico. We look forward to your response and to working with you to right the course, so that one day soon Puerto Rico can become a home for its residents to thrive and displaced families to return.

Sincerely,

Power4PuertoRico

BoricuActívate

Sociedad Puertorriqueña de Planificación

Hispanic Federation

Taller Salud

Vamos4PR

Coalición de Coaliciones

LatinoJustice PRLDEF

El Departamento de la Comida

LittleSis

Center for Popular Democracy

Make the Road NJ

Make the Road CT

Make the Road NY

Action Center on Race and the Economy

Make the Road PA

Alianza for Puerto Rico Boston

Mi Familia Vota

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<sup>7</sup> See Levantan dudas éticas sobre Matosantos, *El Vocero de Puerto Rico*, available at: [https://www.elvocero.com/gobierno/levantan-dudas-ticas-sobre-ana-matosantos/article\\_513271da-308e-11e8-97d8-0bbcf051fc86.html](https://www.elvocero.com/gobierno/levantan-dudas-ticas-sobre-ana-matosantos/article_513271da-308e-11e8-97d8-0bbcf051fc86.html) (March 26, 2018); see also Accusations of Conflicts in the Board, *El Nuevo Día*, available at: <https://www.elnuevodia.com/english/english/nota/accusationsofconflictsintheboard-2272841/> (December 16, 2016).

<sup>8</sup> Shock: 230% spending increase for Puerto Rico 'oversight' board, *The Washington Examiner*, available at: <https://www.washingtonexaminer.com/washington-secrets/shock-230-spending-increase-for-puerto-rico-oversight-board> (March 14, 2018)

Alliance for Puerto Rico - Massachusetts

Alliance for Quality Education

American Family Voices

Americas for Conservation

Americas for Conservation + the Arts 501c3  
(AFC+A)

CASA

Citizen Action of NY

CT Puerto Rican Agenda

CT Working Families Org

Diáspora en Resistencia

DiasporaXPuertoRico

DiaspoRicans

Flint Rising

GreenLatinos

National Puerto Rican Agenda

New York Communities for Change

Organize Florida

Progressive Caucus Action Fund

ReFund America Project

Strong Economy For All Coalition

Vermont-Puerto Rico Solidarity Group

Women's March Florida

Women's March FL- PBC chapter

Attachments:

Power4PuertoRico Community-Driven  
Rebuilding roadmap

Puerto Rico received less aid after María  
than other US territories (El Nuevo Dia)

How Trump Favored Texas over Puerto Rico  
(POLITICO)

Puerto Rico 6 Month Report (Oxfam)

The Looting of Puerto Rico's Infrastructure  
Fund (Hedge Clippers)

CC:

Paul Ryan, Speaker of the House

Nancy Pelosi, House Minority Leader

Mitch McConnell, Senate Majority Leader

Chuck Schumer, Senate Minority Leader



## COMMUNITY-DRIVEN REBUILDING

### An Alternative to Wall Street Control over Puerto Rico's Recovery

Power4PuertoRico was formed in late 2017 to hold Congress and the Administration accountable to the people of Puerto Rico after Hurricanes Irma and María. Our coalition has strived to keep Puerto Rico in the headlines; to harness the political power of the Island's diaspora; and to remind the nation that the people of Puerto Rico are fellow Americans in need.

We agreed to certain guiding principles. Puerto Rico must be strengthened and upgraded, not merely restored. We agreed to pursue comprehensive investments to touch every aspect of the local economy, not just what these two hurricanes took. We agreed to oppose an expanded role for the unelected Financial Oversight and Management Board (FOMB) in disaster recovery.

#### I. Puerto Rico's disaster aid is at risk of corruption and mismanagement

Six months after Hurricane María made landfall, Power4PuertoRico condemns Congress' decision to place the unelected FOMB between the people of Puerto Rico and badly needed federal aid. As an alternative, Power4PuertoRico proposes a mechanism for accountable and transparent rebuilding. Such a mechanism will embody our coalition's principles of community-led transparency and accountability and will ensure that not a single dime of federal aid goes toward servicing Puerto Rico's debt.

We urge Congress to rescind the authority extended to the FOMB to manage virtually all disaster aid that is provided to Puerto Rico. Instead, Congress and federal agencies should explore alternatives to the FOMB that rely on existing structures, precedent, and the leadership of disaster recovery and reconstruction experts working hand-in-hand with affected communities.

#### II. Congress should explore alternatives to the FOMB

The FOMB was established for the specific purpose of restoring Puerto Rico's access to capital markets by authorizing debt restructuring in certain cases and cutting the local government's budget. Those efforts will conflict with the need to rebuild Puerto Rico stronger than before. In addition to its competing mandates, the FOMB is too far removed from Puerto Rico's communities to properly identify needs and allocate resources. Power4PuertoRico supports community-led transparency that gives a voice to community leaders, local governments, and community-based organizations. Residents should be able to inquire about specific reconstruction projects and report irregularities.

Power4PuertoRico is actively analyzing structures based on models such as the Lower Manhattan Development Corporation (LMDC) and the Louisiana Recovery Authority (LRA), both of which were designed to reconcile competing interests in a transparent recovery planning process. Any

proposal must have at its core strong community oversight to address the most immediate needs of families in Puerto Rico. Such models are preferable to empowering the ill-equipped FOMB under the current scheme. Puerto Rico and its people will be best served by a structure that is accountable and responsive to voices from the communities hit hardest, NGOs, community-based organizations, the diaspora, and other stakeholders.

### III. Disaster aid for disaster victims, not bondholders

Power4PuertoRico expects ironclad assurances that disaster aid will go only to where it is most needed. As Puerto Rico prepares to receive up to \$11 billion in federal disaster aid, as well as funding to repair schools and other structures destroyed by Hurricane María, Power4PuertoRico will stand vigilant against the predatory behaviors of Wall Street banks and investors looking to profit from the recovery process. We believe that as long as the FOMB remains in charge of disaster aid spending plans, these funds will be used to repay Puerto Rico's lenders. Only an alternative structure with ironclad safeguards can guarantee that disaster funds are used for their intended purpose.

We also note that, as part of the recent budget deal, Congress allocated over \$70 million across federal agencies for "technical assistance" meant to assist the Government of Puerto Rico in the management of emergency aid. These types of funds have helped state and local governments across the United States manage billions of disaster aid responsibly and prudently throughout the years. In Puerto Rico, such funds would be most effective in the hands of a central structure with community oversight rather than spread across agencies at the whim of financiers at the FOMB, a body, we might add, that has not a scintilla of the expertise required to handle a humanitarian disaster of this magnitude.

### IV. Our values in action

Our coalition partners have organized in Florida, Pennsylvania, Connecticut, New York, California, Massachusetts and across the country, to demand as much recovery aid as necessary for Puerto Rico, beyond merely rebuilding and toward prosperity. We will not stand idly by as those funds are at risk of mismanagement and corruption. To put our values into action, Power4PuertoRico will continue to open the doors of Congress to advocates, experts, and families from Puerto Rico so that they are heard. We will work with congressional champions on legislation and proper oversight of federal agencies.

Power4PuertoRico knows that it will take many years to rebuild Puerto Rico into a home for its residents to thrive and displaced families to return. We stand with the people of Puerto Rico, wherever they live, to uplift their voices and bring accountability to the recovery process.

# Puerto Rico received less aid after María than other US territories

Data from FEMA reveals that, on average, it provided lower assistance to the island than to other states

Monday, March 26, 2018 - 5:41 AM

By Benjamín Torres Gotay



(David Villafañe)

According to FEMA data analyzed by El Nuevo Día, those affected by Hurricane María in Puerto Rico have received, on average, less economic assistance -in some cases, up to three times less- than the assistance granted by the Federal Emergency Management Agency (FEMA) to those affected by eight of the eleven major and small hurricanes in other United States jurisdictions since 2005.

Until Friday, FEMA had granted \$ 1,328 billion to 443,753 affected by María in Puerto Rico, which is an average of \$ 2,992.63 per person or family.

This amount is lower than that received by those affected by hurricanes Katrina in Louisiana; Harvey, Ike, Alex and Rita in Texas; Sandy, which affected New York, New Jersey, Pennsylvania and Maryland; Irene in North Carolina; and Matthew in Florida. The only victims affected by hurricanes that received less help than Puerto Rico during the period revised were the victims of Hurricanes Wilma and Irma in Florida.

El Nuevo Día concentrated its analysis on the most damaging hurricanes since Katrina, in 2005. With an estimated loss of \$ 95 billion, Maria – with winds up to 155 miles, that affected the entire island, left Puerto Rico completely in the dark and totally or partially damaged nearly 250,000 residences - is the third most expensive hurricane among the eleven analyzed for this report.

The \$ 1,328 billion granted until Friday represent the third highest amount granted by FEMA, after Katrina, when aid to individuals and families totalled \$ 5,252 billion, and \$ 1,582 billion for those by Harvey.

But, when analyzing the average that each affected person or family received, Puerto Rico is in the ninth position with \$ 2,992.63.

For purposes of this article, we analyze the assistance received by individuals and families to repair their homes or compensate for what they have lost. Other aid granted by FEMA, such as rent assistance, accommodation in hotels or money for medical equipment, are not included in this analysis.

FEMA assistance to state and municipal governments is also excluded. Alejandro de la Campa, FEMA's director in Puerto Rico and the Caribbean, said last week that FEMA will invest about \$ 30 billion in Puerto Rico, in the next few years.

#### Substantial difference

Those affected by Hurricane Sandy, which affected the northeast coast areas of the United States in October 2012, received on average \$ 8,608.20, which, adjusted for inflation to February 2018, equals \$ 9,265.92, more than triple of what Puerto Rico received.

On the other hand, the 738,318 Katrina victims received on average \$ 7,113.93 per family or individual. Adjusted for inflation, that amount would be \$ 9,018.86 today, three times more than what was granted to Puerto Rican victims.

Those affected by Rita in Texas in 2005 received \$ 2,453, which adjusted for inflation would be \$ 3,073.47 today; in 2008, victims of Ike, also in Texas, received \$ 4,375.18 or \$ 4,979.27, with inflation adjustment, and victims of Alex in 2010 in Texas received \$ 3,920.22, adjusted for inflation it makes \$ 4,473.

Likewise, those affected by Irene in 2011 in North Carolina received 3,645.22 (that is, \$ 4,006.39 today); after Matthew in Florida, in 2016, they received \$ 3,095.22 (that is, \$ 3,118.25 today) and victims of Harvey, which swept over Houston just a few weeks before Maria, received \$ 4,249.50 on average, more than \$ 1,200 than the average here. Those who received less than Puerto Rico were those affected by Wilma Florida in 2005, with an average of \$ 1,505.61, and Irma last year, with \$ 1,285.

#### 39 percent of approvals

In Puerto Rico, there are a lot of stories from individuals and families who say that FEMA inexplicably denied them help, that they were given insufficient assistance to repair their homes or that they do not understand the criteria used to decide the amount they were granted.

Until Friday, FEMA had only approved 39 percent of the requests for assistance made from Puerto Rico. The proportion of refusals varies enormously in the cases of the hurricanes analyzed by El Nuevo Día, from 63 percent of approvals to those affected by Katrina, to 17 percent of those who requested assistance due to Hurricane Ike in Texas. The period to request help to deal with the effects of Maria, which was to end on March 20, six months after the hurricane, was extended until June 19.

FEMA explained that the aid is denied mostly because the agency inspectors do not consider the residences to have damage that make them uninhabitable, because the applicants lack documentation to prove that they own their houses or because they have other insurance protections.

FEMA spokesperson, Daniel Llargues, said it is wrong to compare the assistance that families and individuals received in Puerto Rico to that granted in other United States jurisdictions because they are jurisdictions with different socioeconomic characteristics. He said that the cost of living and income per capita in Texas and New York, for example, is much higher than in Puerto Rico and, therefore, the cost of repairing homes in these states is higher than here.

Before Maria, the average family income in Puerto Rico was \$ 19,606, versus Texas, which is \$ 54,727 and New York, which is \$ 60,741. In North Carolina it is \$ 50,584; in Louisiana, \$ 45,146, and in Florida, \$ 50,309.

"The cost of living is different from state to state and from city to city. Labor costs are different from city to city and from state to state and much more if compared with a city like New York, which is one of the most expensive cities to live in", said Llargues.

"We refuse to accept any type of allegation, any type of comment, that indicates that we are discriminating Puerto Rico. We are helping, we are providing all the assistance available to Hurricane Maria survivors", said the spokesperson.

"Treatment to Puerto Rico's US citizens has been more than fair and, even in some cases, it exceeds the federal assistance provided to other disasters declared by FEMA", he added.

There is no official cost of living index in the United States, but the president of the Puerto Rico Economists Association, José Caraballo Cueto, says that, despite the disparity in salaries, the cost of living in Puerto Rico is similar to most cities in the United States, except the largest cities such as New York, Miami or Chicago.

"Unequal treatment"

In addition, he said, the cost of the main construction materials, including wood and copper, are international price level and, therefore, would be similar in the United States and Puerto Rico. He said, there is an increase in the United States labor cost in relation to Puerto Rico, but it is not double or triple, which would lead to understand the disparity in the aid granted.

For Caraballo Cueto, what the data analyzed by El Nuevo Día means is that "poor people, who are the most affected by hurricanes, as they live in Puerto Rico and not in the United States, are suffering unequal treatment".

"That seems quite alarming to me", said Caraballo Cueto, professor at the University of Puerto Rico (UPR) in Cayey. "The reality is that, if the devastation in Puerto Rico is higher, because the houses are more fragile and there (in the United States) the houses are more solid, more assistance should be provided here because you have to build more", he added.

Attorney Adi Martínez Román, who as director of the Access to Justice Fund has participated in dozens of interviews with victims who are dissatisfied with the aid they received from FEMA, said the assistance disparity is due to the fact that the agency has applied the same criteria in Puerto Rico than in the United States, despite the economic and cultural differences between them.

She said that has affected the level of assistance for Maria victims in Puerto Rico, who are, in general, much poorer, live in much more fragile homes and often lack the documentation to prove that the house they claim for, belongs to them.

"From what we have seen, they are using the same standards and criteria they have used in other states", said Martínez Román.

"FEMA has not been effective in incorporating Puerto Rico's challenges into their processes and protocols", added the lawyer, whose organization assists people in the appeals to FEMA's decisions.

POLITICO



POLITICO



POLITICO INVESTIGATION

## How Trump favored Texas over Puerto Rico

A POLITICO investigation shows a persistent double standard in the president's handling of relief efforts for Hurricane Harvey and Hurricane Maria.

By **DANNY VINIK** | 03/27/2018 05:00 AM EDT



President Donald Trump arrives at the Muniz Air National Guard Base in Carolina, Puerto Rico, on Oct. 3, 2017, for a visit after Hurricane Maria hit the island. Trump visited Houston twice during the first eight days after the hurricane, but didn't visit Puerto Rico for 13 days. | Joe Raedle/Getty Images

SAN JUAN, Puerto Rico — As Hurricane Maria unleashed its fury on Puerto Rico in mid-September, knocking out the island's electrical system and damaging hundreds of thousands of homes, disaster recovery experts expected that only one man could handle the enormity of the task ahead: Mike Byrne.

But Byrne, a widely acknowledged star of the Federal Emergency Management Agency, remained in Houston, which had been ravaged by Hurricane Harvey less than a month earlier.

Today, disaster recovery experts still express shock that FEMA kept Byrne in an already-stabilizing Texas and didn't send him to Puerto Rico for three more weeks. But now, the decision strikes many as emblematic of a double standard within the Trump administration. A POLITICO review of public documents, newly obtained FEMA records and interviews with more than 50 people involved with disaster response indicates that the Trump administration — and the president himself — responded far more aggressively to Texas than to Puerto Rico.

“We have the U.S. Army and Marine Corps. We go anywhere, anytime we want in the world,” bemoaned retired Army Lt. Gen. Russel Honoré, who led the military's relief efforts after Hurricane Katrina. “And [in Puerto Rico] we didn't use those assets the way they should have been used.”

No two hurricanes are alike, and Harvey and Maria were vastly different storms that struck areas with vastly different financial, geographic and political situations. But a comparison of government statistics relating to the two recovery efforts strongly supports the views of disaster-recovery experts that FEMA and the Trump administration exerted a faster, and initially greater, effort in Texas, even though the damage in Puerto Rico exceeded that in Houston.

Within six days of Hurricane Harvey, U.S. Northern Command had deployed 73 helicopters over Houston, which are critical for saving victims and delivering emergency supplies. It took at least three weeks after Maria before it had more than 70 helicopters flying above Puerto Rico.

Nine days after the respective hurricanes, FEMA had approved \$141.8 million in individual assistance to Harvey victims, versus just \$6.2 million for Maria victims.

During the first nine days after Harvey, FEMA provided 5.1 million meals, 4.5 million liters of water and over 20,000 tarps to Houston; but in the same period, it delivered just 1.6 million meals, 2.8 million liters of water and roughly 5,000 tarps to Puerto Rico.

Nine days after Harvey, the federal government had 30,000 personnel in the Houston region, compared with 10,000 at the same point after Maria.

It took just 10 days for FEMA to approve permanent disaster work for Texas, compared with 43 days for Puerto Rico.

Seventy-eight days after each hurricane, FEMA had approved 39 percent of federal applications for relief from victims of Harvey, versus 28 percent for Maria.

Those imbalances track with another one: the attention of President Donald Trump. In public, Trump appeared much more concerned with the victims of Harvey than Maria. He visited Houston twice during the first eight days after the hurricane, but didn't visit Puerto Rico for 13 days. In the first week after the disasters, Trump sent three times as many tweets about Harvey as Maria — 24 about the plight of Texas and eight about Puerto Rico, including a series of comments about Puerto Rico's debt level and quality of infrastructure that local officials considered insulting and enraging while lives were still in jeopardy.

“Wow – Now experts are calling #Harvey a once in 500 year flood! We have an all out effort going, and going well!” he crowed about Texas on Aug. 27, two days after the storm made landfall.

On Sept. 30, 10 days after Maria, and while fielding criticism from Puerto Rican officials, Trump testily tweeted: “[They] want everything to be done for them and it should be a community effort. 10,000 Federal workers now on island doing a fantastic job.”

Behind the scenes, according to people with direct knowledge of his comments, Trump was focused less on the details of the relief effort than on public appearances, repeatedly using conference calls and meetings designed to update him on the relief effort to direct FEMA Administrator Brock Long to spend more time on television touting his agency's progress.

In addition, Trump spent the first weekend after the Puerto Rico crisis tweeting repeatedly about NFL players kneeling for the national anthem. Those messages, experts said, send a subtle, yet important signal to the federal bureaucracy.

“On Texas and Florida [during Hurricane Irma], the president was very vocal and engaged in the run-up to the storm. His messaging was frankly pretty good,” said Jeremy Konyndyk, the former top disaster response official at USAID under former President Barack Obama. “If you look at his public messaging on a comparable timeline around Puerto Rico, there's virtually nothing. ... That sends a signal to the whole federal bureaucracy about how they should prioritize.”

FEMA and administration officials defend the response to the storm, saying it posed unprecedented logistical challenges as the agency faced perhaps the most demanding

stretch in its 39-year history. Hurricane Maria was the third major hurricane to strike the United States in less than a month. Combine that with an overwhelmed local government and nonexistent communications and it created a fog-of-war atmosphere that made it difficult to determine what resources were needed when and how to get them to an island whose ports and airports were heavily damaged.

In a statement to POLITICO, Long defended FEMA's efforts, arguing that, unlike in Texas, the agency was forced to take on a greater role in the post-disaster response. "We provided Puerto Rico the same, if not more support, as we have for all presidentially declared disasters across the nation," he said, "but an optimal response cannot rely on FEMA's efforts alone."

A spokesperson for the National Security Council said Trump was "personally engaged" on the response and his "primary directive" to Long was to oversee a unified and effective federal response.

But in that situation, former FEMA officials say, extra political pressure and impetus can make a difference. Puerto Rico, as a U.S. territory rather than a state, has just a single, nonvoting delegate in Congress, compared with the 36 representatives and two senators from Texas who loudly demanded proper resources for their state. Likewise, victims of Superstorm Sandy had six senators and dozens of U.S. representatives in the states of New York, New Jersey and Connecticut to demand extra disaster relief, including powerful lawmakers like Chuck Schumer, then the No. 3 Democrat in the Senate.

"After Sandy, [Rep.] Peter King was all over FEMA continuously. So was Schumer," said Michael Balboni, a former New York state legislator and an expert on disaster response. That constant pressure on senior federal officials, he added, is critical to getting the proper resources after a disaster.

In that vacuum, presidential leadership plays a larger role. But as the administration moves to rebuild Texas and Puerto Rico, the contrast in the Trump administration's responses to Harvey and Maria is taking on new dimensions. The federal government has already begun funding projects to help make permanent repairs to Texas infrastructure. But in Puerto Rico, that funding has yet to start, as local officials continue to negotiate the details of an experimental funding system that the island agreed to adopt after a long, contentious discussion with Trump's Office of Management and Budget.

Multiple congressional staffers and people with direct knowledge of the arrangement said White House officials told Puerto Rico's governor, Ricardo Rosselló, that if he didn't agree

to the experimental formula, the island wouldn't get the money, effectively forcing the island to take a huge gamble since it would be responsible for any cost overruns, a requirement that doesn't exist for Texas. The White House denies making that demand.

“There is no doubt that Puerto Rico gets treated differently to a state. And there is no doubt that it has been true for the disaster response as well,” Rosselló said in an interview at the governor's mansion in Old San Juan. He added, “Our objective is to eradicate this notion of second-class citizenship in the United States, so that whenever a disaster hits — whether it's Texas, Florida, New York or Puerto Rico — the federal government responds equally in all cases.”

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After Hurricane Harvey hit the Houston region on Aug. 25, dropping over 50 inches of rain and flooding whole swaths of the metropolitan region, FEMA quickly mobilized, sending out mission assignments to a long list of federal agencies. In less than a week, U.S. Northern Command deployed 73 helicopters and the Coast Guard sent an additional 18. Within nine days, a whopping 30,000 federal personnel were helping an army of state and local authorities with the response, conducting search-and-rescue missions, removing debris and helping victims apply for disaster assistance, among many other assignments.

The response was effective enough that by Sept. 14, Texas Gov. Greg Abbott reported that “The risk to lives has now been reduced, if not completely eliminated.”

On Sept. 20, after four days of increasingly dire forecasts, Hurricane Maria made landfall in a Puerto Rico already reeling from Hurricane Irma two weeks earlier.

POLITICO's analysis of data on Harvey and Maria, pieced together through news releases, internal FEMA documents, revealed for the first time, and numbers supplied by the agency, indicates that FEMA's response to Maria was much slower than it was to Harvey.

Helicopters, which are crucial to rescue people from remote, flooded areas, were slow to arrive. In the initial days, Northern Command had, at most, just a few dozen helicopters on the island and the U.S. Virgin Islands while the Coast Guard deployed just six. By Day 9, just 10,000 federal personnel were on the island, about a third as many as were dealing with Harvey at the same point. Those figures increased over time — Northern Command eventually supplied over 70 helicopters and the government deployed more than 20,000 personnel — but the ramp-up took more than three weeks.

The increase in personnel coincided with the arrival of Byrne. A former New York City firefighter, Byrne has spent his career working in emergency management, serving as a senior regional FEMA officer after 9/11 and as a private sector consultant, helping manage a \$10 billion recovery program after hurricanes Katrina and Rita. After Superstorm Sandy in 2013, he led FEMA's recovery operations, a position known as the federal coordinating officer, or FCO. Last September, he was promoted to assistant administrator for field operations, overseeing the entire disaster workforce.

Despite his promotion, Byrne still often goes out into the field to oversee the most important assignments. So it came as no surprise to disaster-recovery experts when Long, the FEMA administrator, announced on Sept. 1, a week after Harvey hit Houston, that Byrne was heading down to Houston to help with the recovery efforts.

The surprise came on Sept. 20, the day that Hurricane Maria hit Puerto Rico, when FEMA named Alejandro De La Campa the FCO, while it kept Byrne in Texas.

De La Campa, a Puerto Rican native who runs FEMA's local office on the island, has strong relationships with Puerto Rican officials but is not considered one of FEMA's top disaster response leaders, much less the best person for one of the most complicated and challenging disasters in FEMA's history. Even at the time, the decision shocked former FEMA officials, many of whom thought well of De La Campa, who goes by Alex, but were expecting Long to deploy a much more experienced official for such a critical job.

"When I started hearing things, I was thinking there are a lot of heavy hitters sitting on the bench," said Craig Fugate, the head of FEMA during the Obama administration. Fugate acknowledged that it's difficult to second guess the decision-making without being in the meetings at the time. But he said, "I would have put my heavy hitters in there."

The storm impacted every part of the island, wiping out the electricity system and leaving even the local first responders as victims, many of whom lost power and first had to protect their families. Even today, more than 5 percent of the island remains without power. While the Houston region has about twice as many people as Puerto Rico, the severity and nature of the damage caused by Maria overshadowed that of Harvey. As such, FEMA eventually both received and approved more applications for individual assistance from victims of Hurricane Maria than of Hurricane Harvey.

"You had almost a perfect storm," said Jeff Parks, who worked for Honoré on the Katrina recovery effort and traveled to Puerto Rico in a private capacity soon after Maria.

Byrne said he wasn't involved in the FCO decision for Puerto Rico but that he wasn't surprised with the selection of De La Campa, explaining that he has a "stellar reputation." FEMA declined to make De La Campa available for an interview. Asked for further information on why De La Campa was initially selected to serve as the FCO, a FEMA spokesperson said the "question has been answered and addressed."

FEMA also deployed Justo "Tito" Hernandez, an experienced first responder who previously had served as an FCO on the island, as De La Campa's deputy. Hernandez, also a Puerto Rico native, did not comment directly on the selection, instead stressing that FEMA's personnel in Puerto Rico were a team.

Still, he added, "Mike [Byrne] is the best person for the job."

The best person for the job, though, was nearly 2,000 miles away during the first three weeks after Hurricane Maria made landfall, and he was quickly missed. On Oct. 10, in a five-sentence news release, billed as an expansion of the leadership team, FEMA announced it was replacing De La Campa with Byrne.

Former FEMA officials and disaster response experts said the slow ramp-up in force — from the delay in deploying Byrne to the limited number of helicopters — in Puerto Rico and the U.S. Virgin Islands is evidence that the agency underestimated the ferocity of the storm and failed to properly pre-position assets.

"That says that they didn't have the right footprint in place," said Konyndyk. "It's one thing if that's happening over a week or two. It's very different if that's taking a month."

Federal officials caution against comparing Harvey and Maria, arguing that Texas' and Puerto Rico's very different geographic, financial and political situations make comparisons misleading. After POLITICO requested data from U.S. Northern Command on helicopters deployed on certain dates after Maria and Harvey, a spokesperson declined to provide any figures, saying that the only overlap between Florida, Texas and Puerto Rico was that all three experienced hurricanes.

"That's where the comparison stops for us," he said.

Byrne and Hernandez offered two main explanations for the limited number of military assets, particularly helicopters, in the first week after Hurricane Maria. They said it was much easier to deploy helicopters to Houston than to Puerto Rico and the U.S. Virgin Islands, which were 1,000 miles from the United States and had no working ports or

airports immediately after the disaster. And even if FEMA could get more responders to Puerto Rico, they said, it had no place to house them.

But it still took weeks for FEMA and the Department of Defense to increase their forces in Puerto Rico and the U.S. Virgin Islands, even though the main airports and ports were opened within a few days. Disaster-recovery experts also faulted the government for failing to direct the aircraft carrier USS Abraham Lincoln and other ships, which have their own fleets of helicopters and were deployed off the coast for Florida to help with Hurricane Irma in early September, to help with the response efforts to Hurricane Maria. The Lincoln began to position itself to help with Irma two days before the storm hit Florida. FEMA never requested that the Department of Defense send the Lincoln to Puerto Rico and the U.S. Virgin Islands.

The USNS Comfort, a hospital ship, didn't even embark from Norfolk, Virginia, to reach Puerto Rico and the U.S. Virgin Islands until nine days after the storm, despite the fact that few hospitals in the region had consistent power, leaving thousands of patients in dire medical condition.

FEMA directed questions about the Comfort and Lincoln to the Department of Defense, which said that during Irma, the Lincoln was also not requested by FEMA for help with civil authorities but instead helped secure military installations in Florida. A spokesperson for NORTHCOM also said that an agreement between DOD and FEMA to send the Comfort was reached "on/about Sept. 25," five days after the storm. It then takes the ship roughly four days to assemble its crew, add necessary supplies and start the ship's engine before it can embark, the spokesperson said.

Other data raise questions about FEMA's claim that a lack of housing prevented a quicker ramp-up in federal personnel on the island.

According to internal FEMA documents given to POLITICO by a person involved in the response efforts, a week after Hurricane Maria, FEMA had filled only 150 of 250 beds that were set aside for first responders at the Puerto Rico Convention Center. Two weeks after Maria, FEMA had filled only 1,258 of 2,250 beds allotted for its first responders at the convention center and aboard two training vessels from the U.S. Maritime Service.

A FEMA spokesperson did not say why the beds weren't used but explained that the numbers were fluid during those days as FEMA staff frequently moved to different parts of the island. "During an emergency, deployed staff comes in and out and depending on

where they are needed, they are moved around to support federal and state partners,” the spokesperson said.

Nonetheless, Byrne and Hernandez said in separate interviews that FEMA had enough resources to complete its missions, whether conducting search-and-rescue operations or providing food and water to the victims.

“The fact that we ramped up to about 20,000 people in the first month, month-and-a-half, that's impressive to me,” said Hernandez. “Whoever says it was slow, I ask them where were you. Where were you when we were moving as fast as we could with the resources that we had?”

Byrne added: “We didn’t have any deaths from starving on this. We didn’t have any deaths from dehydration. We got plenty of water and food out to people.”

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People on the ground, however, describe a different scene, one defined by mass confusion and little coordination among the dozens of different nonprofit groups and federal, state and local officials involved in the response, most of whom had little ability to communicate with one another. They said FEMA was mostly absent during the initial days after the storm.

“For the first couple weeks, right after the hurricane, we were the only thing moving out there,” said Mike Soto, a founder of a Puerto Rican think tank who became a leader in the response effort after the storm hit Puerto Rico. “The government was definitely catatonic. FEMA wasn’t around and when they were finally here, it took them awhile.”

Bernardo Márquez, the mayor of Toa Baja, a municipality of less than 100,000 people in northern Puerto Rico, said just two pallets of water and one pallet of food arrived from FEMA in the first week, forcing local officials to rely on donations from local supermarkets and nonprofits like the Red Cross. “It was slow,” he said.

FEMA did deliver some supplies during the first few weeks: In the first nine days after Hurricane Maria, the agency provided 1.6 million meals, 2.8 million liters of water and roughly 5,000 tarps to the island. But that was only a third as many meals and half as much water as it provided to Texas in the same time period after Harvey. Within three days of Harvey’s landfall, FEMA had delivered over 20,000 tarps to Texas.

The agency argued that any comparison of the delivery of assistance between Puerto Rico and Texas is effectively impossible. Texas is accessible by roads, making it easy for FEMA to truck food, water and other emergency supplies into Houston while Puerto Rico is 1,000 miles away from the mainland U.S. “We moved stuff. We moved stuff pretty efficiently,” said Byrne. “And the challenge here was getting it by ship.”

According to a document obtained by POLITICO through the person involved in the response efforts, federal officials were also slow to begin installing “blue roofs” on the island, the hard, plastic covering that allows victims to return and live in their homes before permanent repairs begin.

Twenty-five days after the storm, the Army Corps of Engineers, the federal agency responsible for installing the roofs, had completed just 260 installations in Puerto Rico out of an estimated 60,000 that were needed, equal to 0.4 percent.

There’s no similar data for Harvey because Texas didn’t request any blue roofs and instead handled temporary housing relief in the first weeks after the storm by itself. But 25 days after Hurricane Irma struck Florida, the Army Corps had installed 1,600 blue roofs, out of 15,000 estimated, or 10.7 percent. A week later, the Army Corps had completed more than a third of the installations in Florida, compared with just 2.8 percent during the same period in Puerto Rico.

Jacqueline Tate, a spokeswoman for the Army Corps, wrote in an email that the agency faced multiple challenges with its blue roof program in Puerto Rico, including locating where victims lived based on their provided address and road closures resulting from landslides and debris.

Experts said it’s difficult to pinpoint the exact costs of all these delays.

The official death toll as a result of Hurricane Maria currently stands at 64, compared with 103 from Hurricane Harvey, but a New York Times report in December, using a statistical analysis to compare deaths in the weeks after the storm with a similar period in 2015 and 2016, put the number as high as 1,052. According to the report, deaths from sepsis, pneumonia and breathing disorders jumped considerably. Local officials and experts are suspicious of FEMA’s official death count and also said the delays, if not causing deaths, significantly aggravated the pain and stress felt by many Puerto Ricans.

Eventually, officials agree, FEMA’s distribution of food and water accelerated; since the storm, FEMA has distributed more than 64 million meals and 72 million liters of water,

both records for the agency. But the initial delays represented lost time that can never be recovered.

For FEMA, the response to Hurricane Maria put the agency in an unfamiliar position, forcing it to take on the lead role in the response when it typically acts as a support agency, fulfilling requests from state and local officials. In Puerto Rico, the state and local governments didn't always know what they needed or what they could even request. But after FEMA struggled under similar conditions after Hurricane Katrina, Congress gave the agency additional authorities to send commodities and help with the emergency response even before it receives official requests from local officials. Many disaster response experts suggested that FEMA failed to use those authorities effectively after Hurricane Maria.

"My big mantra is I never get time back," said Fugate, the former FEMA administrator from the Obama administration, adding that he always erred on the side of sending relief supplies rather than waiting for an official request.

As hurricane victims look to start rebuilding their lives in the aftermath of a storm, many first turn to FEMA to apply for federal assistance. Applicants can receive a quick infusion of cash — up to \$34,000, depending on their needs and the severity of the damage — to start fixing their homes, money that also helps jump-start the local economy. But that money was slow to arrive in Puerto Rico.

According to FEMA data on its individual assistance program, the agency processed applications more slowly for victims of Hurricane Maria than victims of Hurricane Harvey. Nine days after Harvey, FEMA had already approved more than \$141.8 million in federal assistance, compared with just \$6 million during the same period after Maria. In fact, from Oct. 2 to Oct. 9, FEMA approved just \$6,008 in individual assistance for Puerto Rico.

A FEMA spokesperson explained that communications were a challenge in the first days after the storm, preventing Puerto Ricans from using the online application and making it difficult for federal officials to follow up with survivors. Many victims also had trouble proving their residency with a deed or title, the spokesperson said.

Still, Puerto Ricans found a way to register in the first two weeks. By Oct. 5, the agency had received 248,281 registrations for individual assistance, rising to 496,418 by Oct. 13.

Seventy-eight days after the two hurricanes, FEMA had received 18 percent more applications from victims of Maria than from victims of Harvey but had approved 13 percent more applicants from Harvey than from Maria. At the time, 39 percent of

applicants from Harvey had been approved compared with just 28 percent of applicants from Maria.

“People are grateful for what FEMA was done. Mayors won’t openly say we hate FEMA,” said Sen. Eduardo Bhatia, the minority leader of the Puerto Rico Senate. “But if you talk to them enough, they will say it was totally frustrating. It was an absolute mess. No communication, no coordination, no chain of command and certainly no reasonable plans given the magnitude of the problem.”

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A little before noon on Oct. 3, Air Force One landed at the Luis Muñiz Air National Guard Base in Carolina, Puerto Rico, where Trump was scheduled to get a first-hand look at the devastation wrought by Hurricane Maria, his first trip to the island since the storm hit 13 days earlier. He visited Texas twice in the first eight days after Harvey but was slower to visit Puerto Rico, the NSC spokesperson said, so that his trip “didn’t have a negative impact on ongoing response operations.”

Nonetheless, Puerto Ricans were grateful for the chance for national attention, given what they considered the still-daunting magnitude of the crisis.

Quickly, however, they realized that Trump’s visit wasn’t going to include the worst-hit areas, and that Trump didn’t have patience for any complaints.

Instead, the carefully scripted trip appeared to be something of a victory tour, as Trump praised FEMA’s response and gave an “A+” to Long, the FEMA administrator, and touted the fact that the death count at the time stood at 16, compared with nearly 2,000 after Hurricane Katrina.

At a briefing on the base, he indirectly alluded to Puerto Rico’s financial woes, suggesting that the federal response to the storm was creating new challenges for Mick Mulvaney, the White House budget director. “Now, I hate to tell you, Puerto Rico,” Trump said, “but you’ve thrown our budget a little out of whack because we’ve spent a lot of money on Puerto Rico, and that’s fine.”

On a walking tour during the afternoon, Trump visited a neighborhood in nearby Guaynabo, an effort to show the president the damage on the ground. But the area had been one of the least-affected neighborhoods in Puerto Rico, according to multiple Puerto Rican officials, because most of the houses were constructed with cement.

“Nothing happened. Everything was perfect,” said Sandra Rodriguez, a communications consultant who lives eight minutes away from the neighborhood. “The only thing was, it didn’t have any electric power.”

At a church, Trump handed out bags of rice to local residents before taking paper towels and impersonating a basketball player as he shot them into the crowd, whose members scrambled to grab the free supplies. To many Puerto Rican residents, that image — Trump’s arms arched as if shooting a three-pointer — illustrated the president’s cavalier attitude toward the island.

“The president’s visit made it very clear that he did not think this was a big deal,” said Bhatia, the Senate minority leader. “The whole paper towel incident was silly. He was making a joke out of it.”

The NSC spokesperson defended the location chosen for Trump’s walking tour, saying the president was fully aware of the challenges facing Puerto Rico. “Had the president visited areas that were severely impacted by the Hurricane, security measures would have required that rescue and relief efforts be temporarily redirected, which is not what the president wanted,” the spokesperson said.

James Norton, a senior official in the Department of Homeland Security under former President George W. Bush, said public appearances and visits to storm-wrecked regions play an important role in establishing priorities within the federal government — as Bush learned the hard way when he was criticized for not getting more personally involved in the Katrina recovery effort.

“Bush made every effort to correct [the mistakes made after Hurricane Katrina] given how many visits he made to the region,” he said. “Compare that to Trump: He made one visit. That type of executive attention drives the bureaucracy. While there might be people working behind the scenes, not having that constant attention and trips to region does have an impact on the level of effort.”

To some aides, Trump didn’t seem to approach Hurricane Maria any differently than Hurricane Harvey. In both cases, he lauded the efforts of FEMA and the military, heaping praise on officials who he believed were reflecting positively on his administration. “He came across as a coach, like Mickey in those Rocky movies,” one person familiar with his comments said. “You’re killing them, go get ’em.”

But in Trump’s Twitter feed, a proxy for his daily attention, he didn’t seem particularly concerned with the fate of Puerto Rico after Hurricane Maria. According to a POLITICO

tally, he tweeted just eight times about the island in the week after the storm, often to criticize Puerto Rico. In a three-part tweet on Sept. 25, he said Puerto Rico “is in deep trouble,” due to its debt and infrastructure; during that same week, he tweeted 18 times about NFL players not standing for the national anthem. In comparison, in the week after Harvey, he was laser focused on the storm, tweeting 24 times about the relief efforts in Texas and repeatedly praising the first responders.

Trump also got into verbal disputes with local Puerto Rican officials, including the mayor of San Juan, Carmen Yulín Cruz, who criticized the federal response at a Sept. 29 news conference, saying that “We are dying and you are killing us with the inefficiency.”

A day later, Trump struck back, slamming Cruz for her “poor leadership” and tweeting that she and “others in Puerto Rico ... want everything to be done for them.”

“It was a little disheartening to see the exchange between the president and the mayor,” said Michael Coen, former chief of staff of FEMA during the Obama administration. “It doesn’t help morale at FEMA and the staff who are working hard.”

On Oct. 12, more than three weeks after Hurricane Maria hit Puerto Rico, the president suggested that the federal government wasn’t prepared to help the island indefinitely. “We cannot keep FEMA, the Military & the First Responders, who have been amazing (under the most difficult circumstances) in P.R. forever!” The next day, he walked back that tweet in another tweet, saying about Puerto Ricans, “I will always be with them!”

To many Puerto Rican officials and disaster experts, Trump’s public comments about Puerto Rico, a territory with no voting representation in Congress, exacerbated the challenges it faces with the federal bureaucracy due to its political status. “There is certainly a different treatment and many of these things, in order to get some reaction, there has to be some pushing,” said Rosselló.

The NSC spokesperson said in a statement that the idea that Trump’s public comments negatively affected the federal response was a “ridiculous insinuation” and “an insult to the thousands of FEMA and other federal employees who were in Puerto Rico before, during and after the storms.” The official added that such criticisms were “partisan political shots.”

But there is a lot of evidence that political pressure can lead to a stepped-up disaster response.

In Texas, Senate Majority Whip John Cornyn (R-Texas) held up the nomination of the deputy director of the White House budget office for months over concerns about

inadequate support for his state in the wake of Harvey. He finally allowed the nomination to move forward in February after Congress passed a bill with \$90 billion of disaster relief funding and Trump signed it.

Rep. Dan Donovan (R-N.Y.), who leads the House Homeland Security subcommittee on emergency preparedness, told POLITICO that even today, more than five years after Superstorm Sandy, he still has to keep lobbying FEMA to support his constituents on different issues resulting from the storm, such as flood insurance mitigation measures. “We are always putting pressure on them,” he said.

Puerto Rico, with a single, nonvoting delegate in the House, can’t hold up White House nominations. The territory doesn’t have a full delegation of lawmakers — or congressional staffers — to put pressure on FEMA. “Unless you are God, you can’t do the job of six people just yourself and without a vote,” said Kenneth McClintock, the former secretary of state of Puerto Rico.

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As of March 20, six months after Hurricane Harvey, Texas was already receiving federal dollars from FEMA for more than a dozen permanent projects to repair schools, roads and other public infrastructure that were damaged by the storm.

But for Puerto Rico, FEMA has so far not funded a single dollar for similar permanent work projects.

The gap is a result of Puerto Rico’s decision to use an experimental formula for calculating the federal funds allocated to rebuild its public infrastructure. The new formula gives Puerto Rico significant flexibility during the rebuilding process, but it also requires the island to pay for any cost overruns, a burden that doesn’t apply to Texas, where FEMA will pay for any excess costs. For a cash-strapped territory like Puerto Rico, which is more than \$70 billion in debt, the potential for cost overruns is a huge risk, making the decision to use the new formula across all rebuilding projects a somewhat surprising gamble.

But according to multiple congressional officials and people with direct knowledge of the arrangement, the island was forced to take that gamble. According to those people, White House officials, led by Mulvaney and Homeland Security Adviser Tom Bossert, told Puerto Rico that in order to receive money for permanent work projects, it had to adopt the experimental funding formula for all its projects.

That formula, which dates to Hurricane Katrina and was used on a major housing project after Superstorm Sandy, has never been tried on this scale and Puerto Rican officials weren't interested in being the guinea pig. But in a series of contentious meetings and conversations in late October, White House officials told Puerto Rico it had no choice, according to the congressional staffers and people with direct knowledge of the meetings.

On Nov. 2, with almost no media attention, FEMA published an amendment to its disaster declaration for Puerto Rico that required the use of the experimental funding formula across all projects. It had never been included in a disaster declaration before.

"This is unusual and when it came out, I had lots of phone calls from people," said Elizabeth Zimmerman, a former senior FEMA official who helped create the program when she was in the Obama administration.

Byrne defended the process, arguing that the administration did not force Puerto Rico to adopt the new formula.

"We made a strong case. We showed them all the pluses to it because of the flexibility you'd have, the increased use of mitigation," he said. "It speaks for itself. And at the end of the day, the governor put it in writing that that's how he wanted it done."

A senior administration official said it was "absolutely false" that FEMA forced Puerto Rico's hand.

Rosselló said the administration was "not explicit" in ordering Puerto Rico to adopt the experimental formula, which is known as 428 for its section in the Stafford Act, but he added that "they were very adamant about 428."

Rosselló also argued that the process has slowed down Puerto Rico's ability to rebuild its infrastructure. The process for authorizing permanent funding for Puerto Rico took 43 days, compared with 10 days for Texas. The U.S. Virgin Islands received that authorization within 15 days.

The senior administration official acknowledged that projects might get rebuilt quicker under the traditional payment method but said the delay reflects the time necessary to build back the island's infrastructure in a smarter, more effective way. "It does take a little more time to plan that out," the official said, adding that many emergency projects, including some road repairs and electricity generation, are ongoing. FEMA has already spent more than \$1.3 billion on such emergency projects.

Still, today, more than six months after Hurricane Maria, FEMA still hasn't funded any permanent work projects on the island as Puerto Rico and federal officials negotiate an agreement under 428. The most important piece of those negotiations is the cost estimate. Puerto Rico is on the hook for any overruns, so state officials are very concerned about who is conducting the estimate. According to Rosselló, FEMA agreed in November that Puerto Rico and FEMA would jointly be in charge of the estimate. "We had this explicitly written down in order for us to agree to 428," he said.

Byrne, however, suggested that FEMA would ultimately determine the estimate. "We're more than happy to have Puerto Rico engineers and engineering firms be part of this, and they can help us with the estimates," he said, citing an inspector general's report after Sandy that faulted FEMA for weaknesses in its financial controls in using the new formula. "At the end of the day, we're going to do the estimate." Any disagreements would go to a third-party panel for review, he added. "This is going to be fair."

Bryan Koon, who served as the director for Florida's emergency management agency from 2011 to last October, said he supports 428 and thinks it could help Puerto Rico. But if he were in charge, he said, he would object to FEMA conducting the cost estimate itself. "As a state guy, I would be opposed to that."

The senior administration official conceded that there is "tension" around the cost estimate but said it should reflect a collaborative approach. "We recognize that you don't want to take the number we're giving you and you have to recognize that we're not going to just take the number you give us," the official said. "That's the way this works."

The official also argued that the Trump administration has put Puerto Rico in a better position to use 428 by requesting and receiving from Congress an exemption from the requirement that the cost estimate be based upon the pre-disaster conditions of Puerto Rico's infrastructure. "That's a big deal," the official said. The exemption could prove lucrative to Puerto Rico, since FEMA now can now fund permanent work projects without deducting for any pre-existing damage that was not caused by Maria.

Experts on the formula said it could have additional benefits. It is, effectively, a block grant, allowing the island to more efficiently allocate resources to rebuild its roads, bridges and power system. Under the formula, FEMA also distributes the money up front, instead of reimbursing the island for individual projects, an important benefit for the cash-strapped territory that also cuts down on burdensome paperwork.

Rosselló said he was examining the formula before the White House approached him, realizing that it would be a mistake to rebuild Puerto Rico's outdated infrastructure to its previous condition. "Puerto Rico is in hurricane alley," he said. "It's going to come again."

But Rosselló and other Puerto Rican officials worry that the administration's position on 428 is representative of a broader White House strategy to limit funding toward Puerto Rico. The governor particularly pointed to the Treasury Department's decision to withhold more than half of a \$4.7 billion loan that Congress authorized for Puerto Rico in an October spending bill. Treasury said Puerto Rico didn't need the money, which was earmarked to help the island pay for essential services, since it had a cash balance of \$1.7 billion at the end of 2017. The two sides reached an agreement over the loan last week.

Rosselló believes the president is committed to funding Puerto Rico's recovery, but he's worried that it will not be a priority as the administration moves on to other issues. "When we asked for him a certain set of things ... [Trump] has responded," he said. "My concern is that somewhere along the way, it has sort of fizzled."

"I don't know who it is, but there certainly is evidence that they are trying to penny-pinch," the governor added.

The senior administration official rejected that accusation, saying, "I'm not sure where he is getting that impression" and noting that the federal government has already committed more than \$10 billion in funding to Puerto Rico. "Our No. 1 concern is to make sure we deliver for the people of Puerto Rico," the official said, adding, "Things take longer than anyone would like them to."

Puerto Rico's recovery will take many years and will continue to put pressure on the federal budget. The historic 2017 hurricane season and California wildfires have already forced Congress to pass three disaster spending bills, totaling more than \$140 billion, and another disaster spending bill could be needed later this year. The Trump administration, led by Mulvaney, has attempted to keep costs down, sending a funding request to Congress in November that Democrats and Republicans both derided as too low. The White House budget office included in that request a list of spending cuts that Congress could use to offset the extra hurricane-related costs, which lawmakers also ignored in February's disaster spending bill.

Many Puerto Rican officials and disaster-recovery experts fear that the contentious battles over 428 and the Treasury Department loan are just the first of many future fights between

Puerto Rico and the federal government. It's a fear shared by many in Puerto Rico, who, now more than ever, feel like second-class citizens.

“There is a lingering lack of knowledge about Puerto Rico and a lingering tendency to want to treat Puerto Rico differently,” said McClintock, the former Puerto Rico secretary of state, “and always for the worst.”

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**OXFAM RESEARCH REPORT**

# **FAR FROM RECOVERY**

**PUERTO RICO SIX MONTHS AFTER  
HURRICANE MARIA**



**OXFAM**

COVER: View from Palmarejo, in Villalba, Puerto Rico, where Oxfam distributed water filters to families. *Coco McCabe / Oxfam America*

## INTRODUCTION

Hurricane Maria caused widespread devastation across Puerto Rico, killing as many as 1,052 people, destroying hundreds of thousands of homes, causing an island-wide blackout that for many continues to this day, and blocking over half of the 3.4 million residents from access to potable water. Six months into the crisis, the situation remains critical, particularly for those displaced from their homes, vulnerable populations, and rural communities. With hundreds of thousands of Puerto Ricans still living without access to the electric grid, and tens of thousands displaced from the island and living in the United States, recovery for a great many is a distant dream, and basic needs are still not met.

Oxfam teams in Puerto Rico partner with local responders who are working tirelessly to build back their communities. From existing civil society organizations to local churches to university students to local governments, Puerto Ricans organized to clear roads, to provide food and water to vulnerable neighbors, and to restart businesses and services. But the magnitude of the hurricane requires a robust federal government effort. This report seeks to briefly assess the current situation in Puerto Rico at the six-month mark and to identify urgent areas for attention that will allow Puerto Ricans to finally rebuild their lives and prevent a similar humanitarian crisis in the future. It makes the following points:

- The humanitarian disaster in Puerto Rico continues to this day. Six months after Hurricane Maria hit the island, hundreds of thousands of Puerto Ricans are still without access to power.<sup>1</sup> The lack of electricity prevents people from rebuilding their lives, accessing health services, ensuring education for children, and easily accessing potable water.
- The federal government showed delays and inaction in a number of urgent and even lifesaving areas, such as a timely investment of resources, staffing the response, and executive actions to address the crisis. Delays and inaction continue, displacing people, stifling the economy, and bankrupting the most vulnerable.
- Dedicated federal funding for recovery and development in Puerto Rico under the most recent budget was \$11 billion; this sum represents a fraction of the \$94 billion that the governor of Puerto Rico has requested for rebuilding.<sup>2</sup> An absence of funding for programs will not only stifle the recovery process, but also increases the already high level of vulnerability to natural hazards in Puerto Rico, thereby allowing for a similar humanitarian crisis to occur again.
- The Individuals and Households Program (IHP) of the Federal Emergency Management Agency (FEMA) can provide essential support

to Puerto Ricans who have lost their homes and belongings, but the system for applying for IHP support currently faces numerous challenges, with recent analyses showing a high rate of rejection of applications.

Moving forward, Oxfam calls for the following:

1. The federal government must provide serious and dedicated funding to rebuild Puerto Rico. This means an urgent investment of dedicated dollars toward making victims and communities whole again after the disaster, and longer-term commitments for disaster mitigation, climate resiliency, and economic recovery to stave off another humanitarian crisis.
2. The federal government must operate on a “people over process” principle. Success should be measured, first and foremost, by how many disaster survivors are helped. Reaching those most vulnerable will likely require adapting procedures and processes to Puerto Rico’s unique context and waiving laws or rules that impede the recovery.
3. Federal agencies must maintain a basic level of transparency for aid recipients and for the public at large. Puerto Ricans require greater transparency from FEMA regarding its process of selecting recipients of disaster assistance and the amounts provided. For the general public, the federal and local governments must do more to provide prompt, accurate, and publicly available information on response efforts.

### A note on the methodology and the lack of available data

One of the challenges following Hurricane Maria in Puerto Rico is the scarcity of reliable information on such basic questions as the number of people killed by the hurricane and the number of homes destroyed, as well as the precise actions taken by the government to address the crisis. The lack of information prevents a full accounting of the needs of the victims of the hurricane, of the adequacy of government actions, and of progress to date. This report uses the data available, supplementing it with information from interviews with several key organizations in Puerto Rico in February of 2018.

# THE STRENGTH AND IMPACT OF HURRICANE MARIA

Hurricane Maria was one of the strongest and most devastating hurricanes to ever hit the United States. While Hurricanes Harvey, Irma, and Maria were all classified as Category 4 hurricanes at landfall in Texas, Florida, and Puerto Rico, respectively, Hurricane Maria had the highest maximum wind speeds at 155 miles per hour (mph), just 1 mile per hour less than a Category 5 hurricane. Maria neither weakened nor shifted course, but rather punished the island for almost 30 hours nonstop. Moreover, Maria was the second of the one-two punch of hurricanes hitting Puerto Rico. Just two weeks before Maria made landfall, Hurricane Irma passed by Puerto Rico’s highly populated northern coast—including the capital city of San Juan, resulting in 63 percent of the population losing power and 34 percent losing access to potable water.<sup>3</sup>

Hurricane characteristics of Harvey, Irma, and Maria			
	Harvey—TX	Irma—FL	Maria—PR
<b>Hurricane strength (at landfall)</b>	Category 4	Category 4	Category 4
<b>Maximum sustained wind speed (at landfall)</b>	130 mph	130 mph	155 mph
<b>Estimated damage</b>	\$125 billion	\$50 billion	\$90 billion
<b>Estimated deaths</b>	88	72	64 to 1,052

Sources: National Hurricane Center (NHC) of the National Oceanic and Atmospheric Administration (NOAA)<sup>4</sup> Office for Coastal Management of the NOAA;<sup>5</sup> Texas Department of State Health Services;<sup>6</sup> Florida Division of Emergency Management;<sup>7</sup> Puerto Rico Department of Public Security;<sup>8</sup> and The New York Times.<sup>9</sup>

Estimates of the death toll show the fatal impact of the hurricane and its aftermath. Although the official death toll is just 64, other estimates that take into account the breakdown of the health care system immediately following the hurricane put the death toll much higher, at 1,052 or even 1,085.<sup>10</sup> According to this larger estimate, the majority of the deaths were caused by illnesses (such as pneumonia, Alzheimer’s, kidney disease, diabetes, and hypertension). While the circumstances contributing to these deaths are still unclear, the breakdown in health services following the hurricane was a primary cause. Only on February 22, 2018, did the governor of Puerto Rico announce an independent commission to estimate the number of casualties from the hurricanes.<sup>11</sup>

## THE CONTINUING HUMANITARIAN CRISIS IN PUERTO RICO

Hurricane Maria has led to an ongoing humanitarian disaster in Puerto Rico. Despite the large-scale mobilization of support from government and civil society, further well-coordinated efforts are needed to restore the power supply, rebuild housing, and address the long-term needs of Puerto Rico.

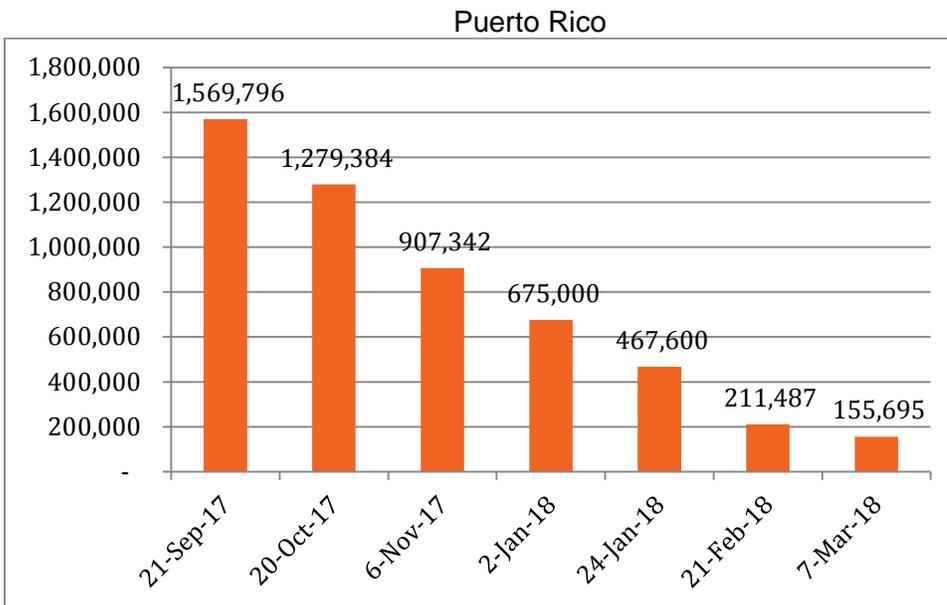
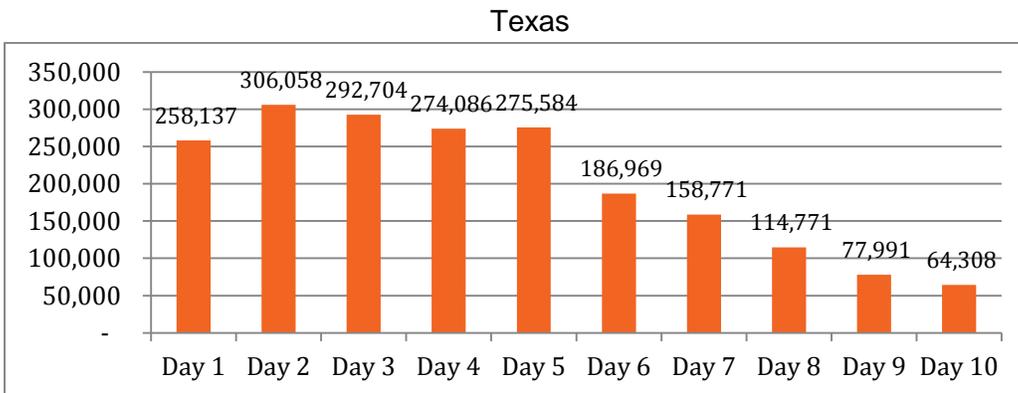
**Electricity:** Most critical for relieving the humanitarian crisis is the restoration of electricity to Puerto Rico. Four months after Hurricane Maria hit, there were more subscribers without power in Puerto Rico than there were at any point in Texas after Hurricane Harvey (as of January 24, 2018, 467,600 subscribers were without power in Puerto Rico; the highest number of subscribers without power in the aftermath of Harvey in Texas was 306,058).<sup>12</sup>

The ongoing power outage in Puerto Rico is one of the largest and longest power outages in US history.<sup>13</sup> As of March 7, 2018, the Department of Energy (DOE) reports that roughly 11 percent of subscribers (155,695) remain unconnected to the grid.<sup>14</sup> Given that the US Census Bureau reports that the average number of people per household in Puerto Rico is 2.82, this translates to roughly 440,000 people who lack power in their homes.<sup>15</sup> Many are located in vulnerable areas and particularly in rural areas.<sup>16</sup>

In reality, the situation may even be worse, as mayors and the public at large have questioned the accuracy of the number of subscribers reconnected to the grid, claiming that the number is exaggerated.<sup>17</sup> Moreover, large-scale blackouts occur. For example, on March 1, 2018, two power plants shut down, causing approximately 970,000 Puerto Ricans to lose power.<sup>18</sup>

It remains unclear when power will be fully restored in Puerto Rico.

**Number of subscribers without access to electricity in Texas (by day) and Puerto Rico (by month)**



Source: DOE Situation Reports, 2017–2018.<sup>19</sup>

Note: The DOE could not accurately report on the number of subscribers without power in Puerto Rico during some of the months after the hurricane. As a result, there are inconsistencies in the time between these figures.

Blackouts prevent any hope of stabilizing home life. Even for households that have access to the energy grid, persistent power outages make electricity erratic for many people, preventing reliable access to water, refrigeration, food preparation, and light. Families cannot access water, because water pumps are powered by the electric grid. Perishable food cannot be kept at home, because refrigerators are useless. For those who have access to generators and fuel, the exorbitant costs of fuel stress already financially strapped families, and pollution from generators exacerbates respiratory problems. A lack of access to electricity also affects the provision of other basic services, such as schools, hospitals and clinics, and potable water services.

**Housing:** Another aspect of the continuing humanitarian crisis is the destruction of hundreds of thousands of homes. Even now, no official count of the number of homes that have been destroyed or otherwise structurally damaged has been publicly released. However, the governor of Puerto Rico has provided a rough estimate that 472,000 housing units have been seriously affected by the storm: 87,094 destroyed completely and 385,703 sustaining major damage.<sup>20</sup>

**Water:** Although water systems have been restored in much of Puerto Rico, some communities still do not have easy access to drinking water. The hurricane reduced access to potable water by an estimated 70 percent in the days after the event.<sup>21</sup> At present, the governor of Puerto Rico estimates that nearly 97 percent<sup>22</sup> of water subscribers have been reconnected to the water system, although the precise number of Puerto Ricans with access to potable water is not clear. A central problem in the provision of water is the lack of electricity to power the water pumps, which require electricity to operate.

The Puerto Rico Aqueduct and Sewers Authority (PRASA) reported in late February 2018 that of the 877 potable water pumps that serve the island, 111 do not operate at all because of a lack of power, while hundreds of them work using emergency generators that have high fuel costs.<sup>23</sup> The communities whose pumps currently do not function are found in every region of the country, including the San Juan metropolitan area. Moreover, there are an estimated 237 small water systems that fall outside of the PRASA system, and several dozen of them are currently in need of repair.<sup>24</sup> Unsurprisingly, many Puerto Ricans have been compelled to consume untreated water; at least two deaths have been attributed to leptospirosis (a waterborne illness), and as of November 2017, a total of 76 cases of the disease had been reported.<sup>25</sup>

The Oxfam team in a number of communities observes increased burdens for women as a consequence of a lack of access to water. They report increased complaints from women about the negative physical impacts to their health from hauling water, about the challenges to hygiene from lack of water, and for elderly women, about the physical inability to haul water and use buckets to flush toilets. Women must expend additional labor because washing machines do not work and because they are burdened with caring for the elderly and bedridden without the support of electricity for cooking, food preservation, and washing clothes.

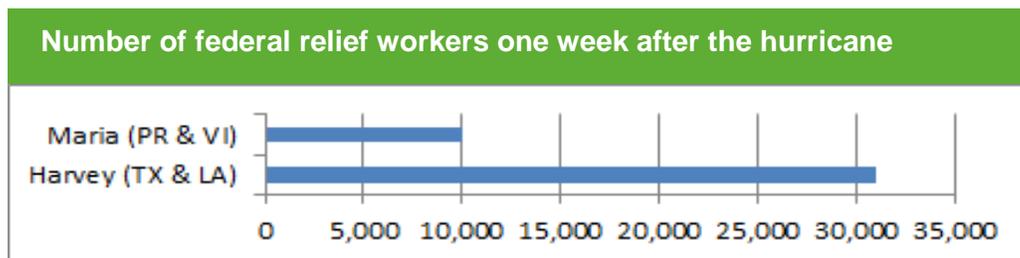
**Health services:** Some areas of Puerto Rico still do not receive adequate medical attention. To this day, many private health clinics continue to operate on generator power, which forces them to reduce the hours of service due to the fuel costs of running the generator for long periods of time. Moreover, data provided by the College of Physicians and Surgeons of Puerto Rico show that hundreds of doctors have left the country since Hurricane Maria, leading to staff shortages.<sup>26</sup> Oxfam found that the communities most affected by the shortened hours and

staff shortages are located in the mountains or on the east coast, where the hurricane hit the hardest and the need is the greatest.<sup>27</sup>

**Schools:** Throughout Puerto Rico, most classes are back in session, but some schools face serious limitations. At least 70 schools were severely damaged or destroyed.<sup>28</sup> The Asociación de Maestros de Puerto Rico has conducted an informal count of schools and identified dozens that have not been connected to the electric grid; these schools often run on generators, which results in teachers holding classes for only four hours in the morning due to fuel costs, instead of the usual seven hours per school day.<sup>29</sup>

## THE INADEQUATE ACTIONS OF THE FEDERAL GOVERNMENT AFTER THE HURRICANE

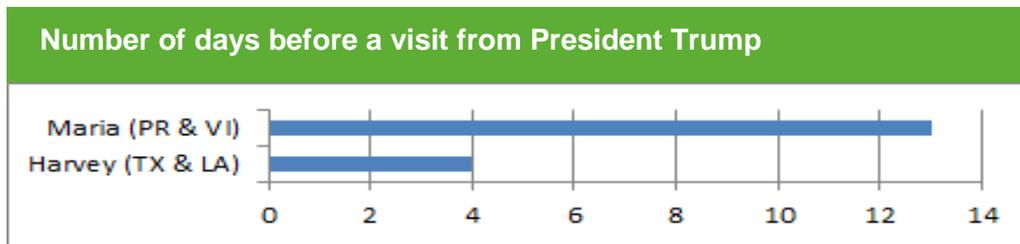
Despite the enormous resources spent to date and large number of personnel mobilized, the response to Hurricane Maria in Puerto Rico was slow, with key aspects of relief mishandled. A lack of publicly available performance data prevents a comprehensive analysis of the federal response, including whether tax dollars were well spent. FEMA states that in Puerto Rico it conducted “the longest sustained air mission of food and water in FEMA history.”<sup>30</sup> However, the federal government response to Hurricane Maria was delayed and inadequate in key areas, such as the amount and timing of federal funds for hurricane relief; the size and speed of the distribution of tarps and food; and the timing of the waiving of the Jones Act.



Sources: FEMA and the New York Times.<sup>31</sup>

Note: VI is Virgin Islands.

Despite the devastating impact of Hurricane Maria on the citizens of Puerto Rico, the presence of federal relief workers soon after impact was relatively scant on the island. As a point of comparison, at the one-week mark after each storm, the number of FEMA, National Guard, or other federal relief personnel on the ground in Texas was triple the number in Puerto Rico, despite the greater need and level of devastation on the island.<sup>32</sup> The weak staffing presence served to undermine the immediate relief efforts in the aftermath of the hurricane.



President Trump showed a slow reaction to Hurricane Maria. As a point of comparison, while the president visited Texas just four days after Hurricane Harvey, he did not visit Puerto Rico until 13 days after Hurricane Maria. The Jones Act, which only allows US-flag ships from the United States to transport goods and passengers from one US port to the next,<sup>33</sup> remained in place for eight days after the hurricane, thus inhibiting the shipment of much-needed relief supplies to Puerto Rico.<sup>34</sup> Moreover, the suspension of the Jones Act only lasted for 10 days, meaning that it had nearly no impact.

Funding from the federal government was delayed as well. Two weeks after Hurricane Harvey hit Texas, Congress passed \$15.25 billion in relief funding as part of the Supplemental Appropriations for Disaster Relief Requirements Act of 2017.<sup>35</sup> In contrast, Congress took more than a month to approve a \$36.5 billion bill as part of the Additional Supplemental Appropriations for Disaster Relief Requirements Act of 2017, which included \$16 billion for the National Flood Insurance Program that primarily benefited Texas and Florida (approximately 2 percent of Puerto Rican homeowners hold flood insurance that allows access to these funds).<sup>36</sup> The delays in properly funding federal programs can impede their ability to respond to the needs of hurricane victims, especially in the case of such programs as the Community Development Block Grant program of the Department of Housing and Urban Development (HUD).

The distribution of tarps is another process that has experienced delays to this day. A critical program to install tarps, Operation Blue Roof of the US Army Corps of Engineers (USACE), is one of the few publicly available performance indicators from the federal government that showed the target number and the progress. Two weeks after Hurricane Irma in Florida, USACE had offered blue roofs—tarps that serve as temporary roofs—in 17 counties of Florida; meanwhile, two weeks after Hurricane Maria, USACE still had not installed its first blue roof in Puerto Rico.<sup>37</sup> Then, as of December 11, 2017, USACE had only hit 28 percent of its target of a total of 71,680 requested blue roofs.<sup>38</sup> According to the latest information in February 2018, the program still had not hit its target, having distributed just over 50,000 blue roofs.<sup>39</sup> FEMA also managed the distribution of over 100,000 tarps;<sup>40</sup> however, a \$30 million tarp contract was mishandled by FEMA when it awarded it to a newly established Florida company called Bronze Star LLC, which had no track record of supplying tarps or fulfilling government contracts.<sup>41</sup> Oxfam staff, local officials, and other NGOs observed that people

desperately needed tarps in the months following the hurricane, but reported that very few were available from FEMA.<sup>42</sup>

While FEMA has stated that it completed the largest airlift of food and water in its history, news stories of the mishandling of contracts raise serious questions as to the number of Puerto Ricans that went hungry when meals were not delivered. A FEMA contract for 30 million meals was subcontracted to a wedding caterer in Atlanta; when the first set of 18.5 million meals was due in October of 2017, the contractor provided just 50,000.<sup>43</sup> Overall, however, it is unclear what the target number for delivery was, and whether FEMA achieved those targets, especially among the Puerto Ricans most affected by the hurricane.

## **THE NEED TO FUND EFFORTS TO REDUCE VULNERABILITY TO FUTURE DISASTERS**

The severe human impact and the catastrophic nature of the hurricanes in Puerto Rico were not just due to the size and strength of the hurricanes, but also to the vulnerability found in Puerto Rico. If adequate funding to reduce vulnerability is not provided, the increasing frequency of future natural hazards owing to climate change will continue to cause widespread damage and suffering in Puerto Rico.<sup>44</sup>

Vulnerability is a key concept in explaining the impact of natural hazards. The basic idea is that people have varying levels of vulnerability to even the same natural hazard based on a variety of characteristics. A rich, scholarly literature has sought to identify the precise characteristics of vulnerability, ranging from factors such as socioeconomic indicators to political voice.<sup>45</sup> This brief analysis includes only a handful of readily available vulnerability characteristics.

## Forms of vulnerability in Puerto Rico, Florida, and affected counties in Texas

	Affected counties in Texas	Florida	Puerto Rico
<b>Poverty rate (2016)</b>	15.1%	14.7%	43.5%
<b>Median household income (2012–2016)</b>	\$57,186	\$48,900	\$19,606
<b>Unemployment (August 2017)</b>	4.2% (all Texas)	4.0%	10.1%
<b>Population with a disability and under 65 (2016)</b>	7.6%	8.6%	15.3%
<b>Population older than 65 (2016)</b>	11.4%	19.9%	18.9%
<b>State/island government debt (per capita) (FY 2017)</b>	\$1,722 (all Texas)	\$1,624	\$21,108
<b>Political voice</b>	Full	Full	No voting representation in US Congress <sup>46</sup>

Sources: US Census Bureau, *New York Times*.<sup>47</sup>

Note: Puerto Rico debt includes debt in the form of bonds only, not pensions. The population with a disability is for people under 65 years of age, averaged from 2012–2016.

Even before the hurricane, Puerto Rico had a number of characteristics that made its citizens vulnerable to hurricanes and other natural hazards. The poverty rate was 43.5 percent in 2016, compared with 12.7 percent in the United States as a whole. Before the hurricanes, general economic activity in Puerto Rico was slower, as well, with a median household income in Puerto Rico from 2012 to 2016 at just \$19,606. The government of Puerto Rico before the hurricanes found itself in a debt crisis, with more than \$73 billion in bond debt as well as over \$50 billion in pension obligations. Puerto Rico was relatively vulnerable due to the poor quality of its infrastructure, particularly its electricity generation and distribution networks. At the national level, Puerto Rico has very limited political voice. Puerto Rico has no voting rights in the federal government; instead, the island’s citizens select a resident commissioner, who is a nonvoting representative in the US Congress. As a point of comparison, the above table refers to similar vulnerability characteristics in Texas and Florida, sites of recent hurricanes.

In order to address the challenges facing the island and to “Build Back Better,”<sup>48</sup> the governor of Puerto Rico has requested \$94 billion to finance the rebuilding of Puerto Rico.<sup>49</sup> Meanwhile, Congressional funding for recovery earmarked for Puerto Rico under the Bipartisan Budget Act of 2018 is \$11 billion, including \$2 billion for the rehabilitation of the electrical grid of Puerto Rico, with another \$4.9

billion for Medicaid in Puerto Rico and the US Virgin Islands. Given the fiscal weakness of the Puerto Rican government, including a bond debt of over \$73 billion, the probability of the island government raising sufficient funds to invest in critical programs is very low.

The lack of federal funding puts Puerto Rico at risk of the same humanitarian disaster recurring. The concept of “building back better,” which includes disaster risk reduction,<sup>50</sup> indicates that now is the time to make investments that reduce the vulnerability of Puerto Rico to future natural hazards. The current lack of funding means that Puerto Rico will at best build back to the standard from before the hurricane, a standard that lacked climate resiliency. For example, Puerto Rico will likely repair its outdated electric grid to its former standard without substantive upgrades, meaning that the next hurricane will likely cause the same disastrous blackouts.<sup>51</sup> Widespread blackouts, such as the one on March 1, 2018, when an estimated 970,000 Puerto Ricans lost power,<sup>52</sup> appear to confirm this danger.

## MOVING FORWARD WITH HOUSING ASSISTANCE FOR PUERTO RICANS

Assistance from FEMA, particularly through the Individuals and Households Program (IHP), is critical for Puerto Ricans to recover from the devastation of Hurricane Maria. While there are a variety of mechanisms by which FEMA provides support to hurricane victims, the most important in the current phase of recovery are Housing Assistance and Other Needs Assistance, which form part of the IHP.

Recent academic and media analyses have scrutinized FEMA data on registrations for assistance via the IHP. According to one report, whose data has not yet been publicly released, Puerto Ricans have submitted approximately 1.1 million registrations for assistance from the IHP.<sup>53</sup> Of these, only a few thousand have received the maximum grant of individual assistance of \$33,300.<sup>54</sup> Also, 434,000 grants of Housing Assistance or Other Needs Assistance have been provided (with some households receiving both), a ratio of 0.39 to the total number of registrations, with just under 6,000 under review.<sup>55</sup> Although a certain percentage of rejections are due to applicants’ errors (such as duplicate or multiple applications) or fraud, this ratio of grants to total registrations appears lower than for other hurricanes in the United States. For example, records state that of the total number of registrations, the number of grants under IHP (composed of Housing Assistance and Other Needs Assistance) for Hurricanes Katrina and Rita was 1.89 million from 2.4 million applications, a ratio of 0.77.<sup>56</sup>

Potential recipients of assistance from FEMA in Puerto Rico face a number of challenges when applying, which may partly explain the relatively low approval rate for applications. Oxfam partners in Puerto Rico, along with other reports,

describe a complex and frustrating process of applying for assistance that often denies support for people who lost nearly everything they own. Puerto Ricans were instructed to apply for assistance via phone or internet, but with the power grid and phone networks down in much of the island, they were unable to do so.<sup>57</sup> Oxfam also heard anecdotes of telephone applicants who, after finally communicating with FEMA, found the person answering unable to speak Spanish, a problem for many applicants because 80 percent of Puerto Ricans report that they speak English “less than very well.”<sup>58</sup> During home inspections by FEMA, a critical step in receiving housing assistance, Puerto Ricans were unable to communicate with the inspectors and, therefore, did not understand the various documents required for the inspection.

The precise eligibility criteria for the various forms of assistance—and the factors that determine the precise amount provided—are not presented in an accessible manner, nor were they communicated to the people of Puerto Rico clearly. Oxfam has observed cases in which applicants were afraid of eliminating eligibility for aid if they installed repairs to their homes such as fixing their roofs, which led to unnecessarily destroyed belongings. Moreover, a commonly cited problem is the lack of documentation of home ownership, which has led to the denial of support for an unknown number of homeowners in Puerto Rico, many of whom inherited their property without a deed.<sup>59</sup>

### Civil society helps citizens face bureaucracy

The local organization ENLACE G8, which supports eight communities surrounding the Martin Peña Channel, known as “el caño,” coordinates lawyers to help people fill out FEMA forms. The center has Wi-Fi, volunteers who can help people understand the requirements of the forms, and lawyers who can help with any legal issues. Since the hurricane, ENLACE has been running clinics in two locations across the eight Martin Peña Channel communities. In just a few days, its lawyers and volunteers helped more than 200 families fill out the FEMA forms, and provided many more, like Daisy Ruperto Padilla, with additional legal support.

Daisy Ruperto Padilla had already filled out a FEMA form for her two-story home whose roof had been torn off by the hurricane, but she hadn’t heard anything back because she was living with her sister in Caguas. Caguas used to be a quick trip from San Juan, but now the journey can take two hours by car. Daisy also did not have a working phone. She needed FEMA to inspect her home, provide support to repair the damage, and let her return. Many Puerto Ricans are living with other family members, but despite the kindness of their relatives, they can’t stay forever.

To make things even more complicated, Daisy Ruperto Padilla didn’t have proof of ownership of her home. She inherited it from her mother, but under

Puerto Rican law, houses are split evenly among all of a parent's children, so she needed an affidavit from a notary to prove the house is hers. Without such proof, FEMA won't provide her the help she needs to repair it. She tried to keep a smile on her face and thanked everyone at the center who helped, but after her long drive, she was anxious to resolve the issue.

*Source: <https://firstperson.oxfamamerica.org/2017/10/without-electricity-or-the-internet-how-can-puerto-ricans-get-fema-help-by-a-looming-deadline>*

## A NOTE ON LACK OF TRANSPARENCY ON FEDERAL GOVERNMENT RESPONSE

As part of this analysis, our team discovered sparse information on the activities of the federal government and particularly FEMA in their responses to the humanitarian crisis following Hurricane Maria in Puerto Rico.

Most importantly, nearly no performance data is available that includes targets and actual achievements. Only one federal entity, USACE, has supplied both pieces of information.<sup>60</sup> Even this information was provided comprehensively only once, and has not been regularly updated. Based on our search, publicly available data on targets and achievements is not available for FEMA operations (USACE is not a part of FEMA). Because of this lack of basic performance information, it is difficult to determine the achievements of FEMA following extreme weather events such as Hurricane Maria, and also whether taxpayer dollars were well spent.

Second, FEMA does not regularly release disaggregated data on spending and activities. The primary updated information provided by FEMA is general data in terms of approved spending and a select few outputs, including individual assistance applications approved, total IHP dollars approved, and total public assistance grants dollars obligated.<sup>61</sup> Basic details on this spending or the outputs—such as the number of applications, applications under review, and even the types of assistance under these general categories—are not regularly updated and released on publicly available websites. Moreover, FEMA has publicly released only the most general descriptions of staffing and activities in Puerto Rico, such as the number of federal staff deployed, the total amount of food and water distributed, the number of generators distributed by USACE, and the amount of medical relief provided by a Department of Defense hospital ship.<sup>62</sup> These updates do not capture the full scope of federal activities, and particularly not of actions taken by FEMA. In contrast, updates on disaster assistance from the US Agency for International Development (USAID) often provide greater detail regarding the scope of its activities.<sup>63</sup>

Critical details on FEMA operations, such as the support provided to the most vulnerable areas and populations of Puerto Rico, including support for single mothers, the elderly, women, girls, and others, are not indicated. The absence of specifics in the plans, implementation, and execution of FEMA programs means that it is difficult to evaluate the gender sensitivity of each. Similarly, given the lack of information on planned activities of the government, especially in vulnerable communities, coordination with interventions of the variety of actors supporting hurricane victims is difficult.

## CONCLUSION AND RECOMMENDATIONS

Puerto Rico is far from recovering from the impact of Hurricane Maria. The humanitarian crisis continues to this day; hundreds of thousands of people are still struggling to get by without access to power. Additionally, hundreds of thousands have suffered damage to their homes, and tens of thousands are displaced.

Despite the humanitarian crisis, from the moment the hurricane struck through today, the federal government, in which Puerto Rico has no voting representation, has shown delays and lackluster work, thus preventing hundreds of thousands of Puerto Ricans from returning to their lives. Dedicated federal funding for recovery and development in Puerto Rico under the most recent budget was \$11 billion, a fraction of the \$94 billion that the governor of Puerto Rico estimates is needed for substantive recovery. And a principal source of relief for Puerto Ricans—the Individuals and Households Program of FEMA—faces numerous challenges, with preliminary data showing a relatively low ratio of grants provided compared with the total number of applicants, as well as few households receiving maximum grants of aid.

Oxfam, therefore, recommends the following:

1. **The federal government must provide serious and urgent funding to rebuild Puerto Rico.** Given the underlying systemic poverty and crumbling infrastructure, the current funding is simply inadequate to address the estimated \$94 billion cost of social and economic recovery and development in Puerto Rico. Serious and urgent federal funding means a bold investment of dedicated dollars toward disaster mitigation, climate resiliency, and economic recovery in order to stave off another humanitarian crisis. More federal dollars are needed to rebuild the devastated infrastructure, to reinstate social and municipal services, and to lay the groundwork for a vibrant economy.
2. **The federal government must adopt a “people over process” principle, especially when determining eligibility for assistance and when determining the amount of individual assistance.** Success must be measured, first and foremost, by how many disaster survivors are helped. As

currently implemented, FEMA has delayed or even denied the provision of benefits to those most in need. To the extent possible, FEMA and other agencies should operate on an outcomes-based strategy that prioritizes the timely disbursement of additional dollars for those most affected over strict adherence to bureaucratic standards. This recommendation likely requires adapting procedures and processes to meet the island's unique cultural, geographic, and political context. At times, the government must waive regulations that act as impediments to recovery, especially for those most vulnerable.

3. **Federal agencies must operate with basic transparency, both for Puerto Ricans requiring assistance and for the public at large.** Puerto Ricans require greater transparency from FEMA regarding its process of selecting recipients of disaster assistance and the amounts of disaster assistance provided, including:
  - a. The denial rate for aid (including which types) and the reasons for denial
  - b. The criteria and processes used to assess damages
  - c. The criteria and processes used to assign amounts of assistance

For the general public, the federal government must do more to provide prompt, accurate, and publicly available information, particularly on:

- a. Performance information, including targets and actual achievements
- b. A full accounting of the scope of activities
- c. Disaggregated information, including the geographic distribution of aid, and aid targeting vulnerable populations

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## NOTES

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<sup>1</sup> Figures on electricity outages in this report are based on reports from the US Department of Energy (DOE) and the Puerto Rico Electric Power Authority (PREPA). As of this writing, the most recent report is from March 7, 2018. “On March 7, PREPA reported that 89.43% of customers (1,317,293) have power, which leaves 10.57% of customers (155,695) remaining without power.” Since the US Census Bureau reports average persons per household in Puerto Rico is 2.82, that means that, at a minimum, roughly 440,000 people lack power in their homes.

It must be noted that these agencies report only on official “subscribers.” People in Puerto Rico report that many communities do not fall under that description, so the actual number of individuals without access to power is almost certainly much higher than indicated here.

“Hurricanes Maria & Irma: March 7 Event Summary (Report #94),” DOE, March 7, 2018, <https://www.energy.gov/sites/prod/files/2018/03/f49/Hurricanes%20Maria%20%20Irma%20Event%20Summary%20March%207%2C%202018.pdf>.

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<sup>2</sup> Ricardo Roselló, *Build Back Better: Request for Federal Assistance for Disaster Recovery*, Office of the Governor of Puerto Rico, November 2017, [https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Build\\_Back\\_Better\\_PR.pdf](https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/Build_Back_Better_PR.pdf).

<sup>3</sup> Jim Wyss, “Puerto Rico assessing Hurricane Irma damage amid widespread power outage,” *Miami Herald*, September 8, 2017, <http://www.miamiherald.com/news/weather/hurricane/article172023172.html>.

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<sup>5</sup> “U.S. Billion-Dollar Weather and Climate Disasters,” NOAA National Centers for Environmental Information (NCEI), 2018, <https://www.ncdc.noaa.gov/billions/events/US/1980-2017>.

<sup>6</sup> Giulia Afiune, “State says Harvey’s death toll has reached 88,” *Texas Tribune*, October 13, 2017, <https://www.texastribune.org/2017/10/13/harveys-death-toll-reaches-93-people/>.

<sup>7</sup> Lisa J. Huriash, “Florida death toll from Hurricane Irma keeps rising,” *Sun Sentinel*, November 22, 2017, <http://www.sun-sentinel.com/news/weather/hurricane/fl-reg-hurricane-irma-deaths-20171120-story.html>.

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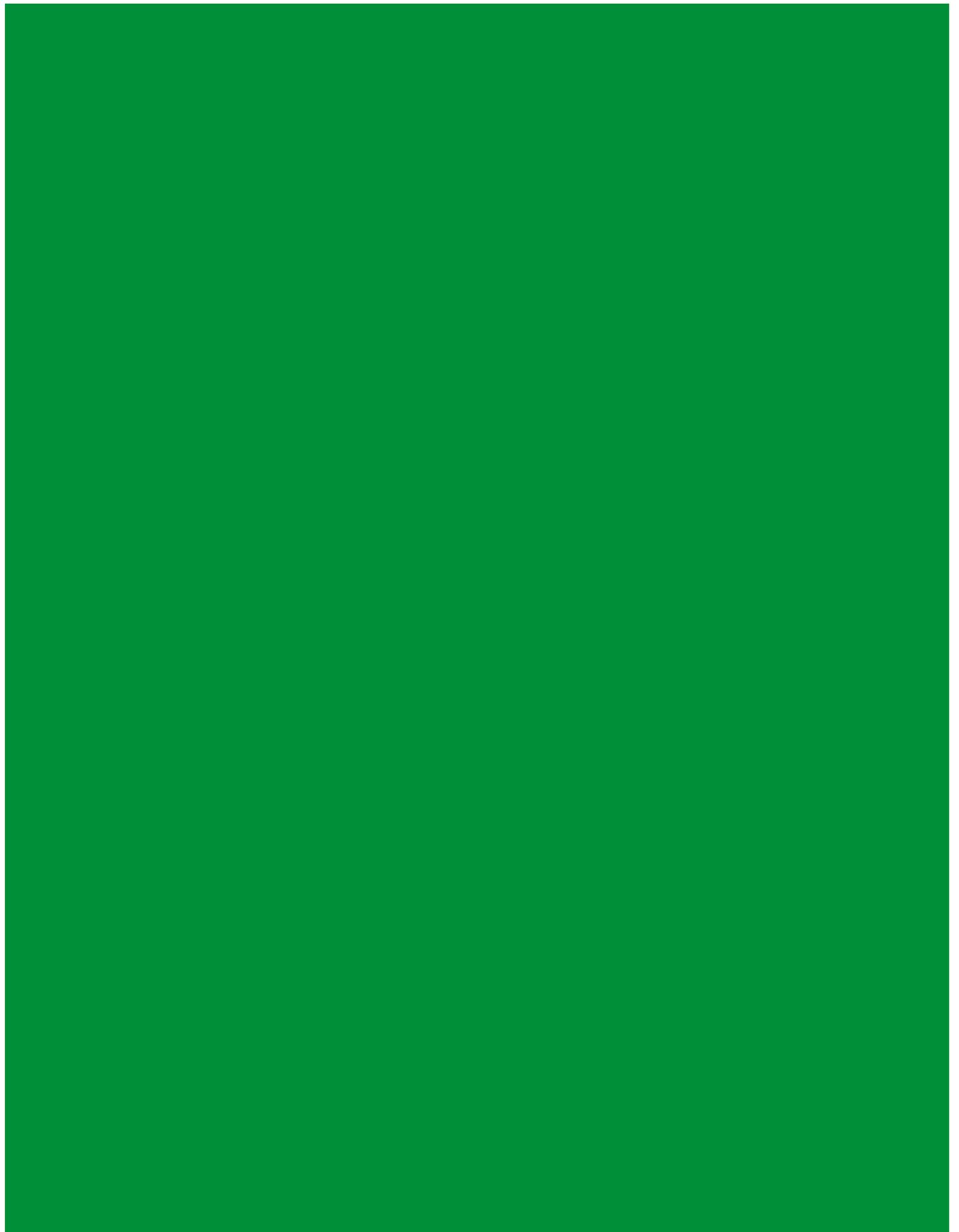
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# THE LOOTING OF PUERTO RICO'S INFRASTRUCTURE FUND

## CARLOS M. GARCIA'S DESTRUCTIVE FISCAL POLICIES HURT PUERTO RICO ONCE. COULD IT HAPPEN AGAIN?

### EXECUTIVE SUMMARY

Carlos M. Garcia is profoundly conflicted as a former Santander<sup>1</sup> banking executive in his current role on the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA) control board, or the Junta. In the years preceding Gov. Luis Fortuño's election in 2008, Garcia built Santander Securities—the bank's municipal bond business—while Jose Ramon Gonzalez, another Junta member, headed the bank.<sup>2</sup> With Fortuño's election, Garcia was given vast powers over fiscal policy as president of the Government Development Bank (GDB), chair of the local control board (a special board composed of five cabinet-level officials with ministerial responsibility for Puerto Rico's fiscal matters and restructuring powers conferred by the Puerto Rico Legislature) and head of Puerto Rico's Public Private Partnerships Authority (PPPA).<sup>3</sup>

A previous report, Pirates of the Caribbean, documented the role Garcia and Santander played in Puerto Rico's public finance disaster and the virtual revolving door former bank executives had with the GDB from 2009 to 2012. This report details how one of Garcia's first steps at the GDB was to liquidate Puerto Rico's infrastructure fund, called the Corpus Account, and leave it with only an expensive IOU payable in the distant future.

The liquidation of the Corpus Account left Puerto Rico without capacity to modernize its water and sanitation systems.<sup>4</sup> These systems are vital to protecting the public's health against mosquito-borne virus epidemics and other diseases.<sup>5</sup> Garcia promoted public-private partnerships, which have failed to adequately meet Puerto Rico's infrastructure needs. While Garcia headed the PPPA, the only water infrastructure project launched sought private-sector investment to improve the revenue collections of the Puerto Rico Aqueduct and Sewer Authority (PRASA), to counter "water theft."<sup>6</sup>

The Corpus Account had more than \$1 billion dedicated to essential water and sewer projects, which under Garcia, the GDB diverted into a series of financial transactions that were intended to bolster the island's credit rating but that became tied up in the issuance of billions in new debt. This debt ultimately helped push the GDB into insolvency.



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The GDB borrowing was part of a larger fiscal restructuring carried out under Garcia that has saddled Puerto Rico with debt on unfavorable terms. For example, Puerto Rico's debt today includes billions in capital appreciation bonds secured by sales tax revenue (known by Spanish acronym COFINA CABs), which accrue and compound interest over decades. This means the amounts due when the bonds mature can be 10 or more times the amount originally borrowed.<sup>7</sup> Even partial repayment of this debt would redirect desperately needed funds to wealthy banks and Wall Street, and would represent a catastrophic burden for Puerto Rico's people and its economy.

While Garcia directed the issuance of billions in COFINA bonds as well as GDB notes from 2009 to 2011, his former employer, Santander, earned millions as a lead or participating underwriter in these transactions. Santander is a major COFINA bondholder and has publicly petitioned the Junta asking that Puerto Rico not be forgiven its toxic debts. Santander's revolving door with the GDB in the crucial years leading up to the island's bond defaults has created major conflicts of interest with the Puerto Rican government.

The conflicts of interest now extend to Carlos M. Garcia in his role on the PROMESA control board. Garcia's relationship with Santander and his role at the GDB under the Fortuño administration compromise his ability to implement a fair fiscal program that addresses the humanitarian needs of the Puerto Rican people. Sadly, Garcia has been given another opportunity to help address the debt crisis with the same failed formula he used to exacerbate it: divert Puerto Rico's public resources to Wall Street creditors, cut critical public spending and put private interests in control of infrastructure projects vital to the public's well-being. Garcia must step down from the Junta, and Puerto Rico must be forgiven of the toxic debt he helped to create.

## **PRIVATIZATION OF TELEPHONE COMPANY CREATES INFRASTRUCTURE FUND AND PAYS BIG FOR INVESTORS**

The Corpus Account was originally funded with \$1.2 billion from the proceeds of the GDB's 1999 privatization of Puerto Rico's telephone company.<sup>8</sup> An act passed by the Puerto Rican Legislature (Act No. 92) established the Corpus Account as a permanent investment vehicle for infrastructure projects. The Corpus Account's income was set aside solely for financing Puerto Rico Aqueduct and Sewer Authority (PRASA) projects and improvements necessary under the provisions of the Federal Clean Water Act and the Federal Drinking Water Act.<sup>9</sup>

When then-Gov. Pedro Rosselló<sup>10</sup> announced the plan to sell a controlling stake in the phone company to a consortium including GTE, Banco Popular of Puerto Rico and an employee stock ownership plan, 6,000 telephone company workers went on strike to protest in an attempt to stop the deal.<sup>11</sup> Ultimately, 50 unions representing 300,000 public employees and others joined the telephone workers and staged a two-day general strike to protest the sale. The acquiring consortium ultimately gained a 53% stake.<sup>12</sup>

Once the Corpus Account had been established, it was managed by Puerto Rico's Infrastructure Financing Authority (PRIFA), a wholly owned subsidiary of the GDB.<sup>13</sup> According to Act No. 92, the Corpus Account's principal was to be kept in a "segregated, permanent account" and should "never

be reduced for any reason.”<sup>14</sup> Moreover, the account’s \$1.2 billion was to be invested safely and “exclusively in U.S. government or U.S. government-backed obligations.”<sup>15</sup>

Having established the Corpus Account from the proceeds of the phone company sale, PRIFA issued \$1.093 billion in bonds in October 2000, secured by the interest earned on the Corpus Account. Santander helped underwrite these bonds through a cooperation agreement with Merrill Lynch, along with 10 other banks.<sup>16</sup> The bond issue’s official statement noted that the interest received from the Corpus Account’s investments would “be sufficient to pay when due the principal of, and interest on, the 2000 Series Bonds.”<sup>17</sup> Proceeds from the bond issue went to fund PRASA projects throughout Puerto Rico, consistent with the mission of the Corpus Account.

Over the next eight years, investment income from the Corpus Account was applied to pay principal and interest on the 2000 Series Bonds. Most of the bonds, which carried interest rates between 4.1% and 5.5%, were set to mature in 25 to 40 years with about 5% of the bond principal tied to variable interest rates. As these bonds were paid off, the \$1 billion in the Corpus Account was intended to secure borrowing for additional water and sewer projects.<sup>18</sup>

Meanwhile, the privatization of the phone company proved very profitable for the private investors. The lead investor, GTE, merged with Bell Atlantic to become Verizon, which sold its 52% stake in the Puerto Rican telephone company to Carlos Slim’s America Movil in 2007 for \$980 million, booking a pretax gain of \$120 million.<sup>19</sup>

## **GARCIA AND SANTANDER’S RISE IN PUBLIC FINANCE IN PUERTO RICO**

On Nov. 4, 2008, Luis Fortuño was elected governor of Puerto Rico as the New Progressive Party (NPP) was swept into power. Nine days later, Fortuño tapped Carlos M. Garcia, the president and COO of Banco Santander de Puerto Rico, to run the island’s GDB. At the same time, Fortuño tapped former Santander executive Jose Ramon Gonzalez to serve on his Economic Reconstruction and Fiscal Advisory Committee, which was tasked with creating a plan to resolve the island’s cash-flow problem and setting parameters for public-private partnerships (PPPs).<sup>20</sup>

Even before leaving his position at Santander, Garcia began to work for Fortuño’s transition government. Garcia accompanied Fortuño on a visit to Wall Street in December 2008 to meet with rating agencies and bond investors. There, Garcia and Fortuño tried to reassure the bond market that they had a plan to address the island’s fiscal situation.<sup>21</sup> Days later, Garcia received a \$1.25 million payment from Grupo Santander as part of a severance agreement.<sup>22</sup>

As they took power on Jan. 2, 2009, Gov. Fortuño and Garcia moved swiftly to implement dramatic changes to the island’s fiscal policy, which included liquidating the infrastructure fund. The new administration helped enact numerous laws that tied government cuts to questionable financial engineering techniques.<sup>23</sup> Law No. 3, passed less than two weeks after Fortuño took office and Garcia took control of the GDB, enabled one of the most important new policies. Law No. 3 overturned a previous statute that had established the \$1.2 billion Corpus Account. The new law authorized the sale of the infrastructure fund’s securities.<sup>24</sup>

## AUSTERITY AND PRIVATIZATION IN 2009

The liquidation of the infrastructure fund was part of a larger fiscal overhaul of Puerto Rico, driven by the local control board, the GDB and the Fortuño administration. Together they enacted policies that laid off tens of thousands of public employees and that privatized public assets. In March 2009, Law No. 7 created a local control board to execute a fiscal stabilization plan that included “measures to provide the liquidity required to guaranty the essential services to the people of Puerto Rico and to fund the extra-constitutional debt.”<sup>25</sup> To provide that liquidity, the administration took steps such as unilaterally suspending union contracts, overriding labor laws to dismiss public employees and denying job protections to union workers.<sup>26</sup>

Garcia’s GDB also began to aggressively promote public-private partnerships (PPPs) in lieu of the public fund for infrastructure development.<sup>27</sup> PPPs typically involve entering into long-term contracts with a private company to induce the company to finance, build or operate a public service. The private company gets paid through charges paid by users, payments from the public authority or a combination of both.<sup>28</sup> Vast arrays of experiences in infrastructure development projects through PPPs over decades have shown their potential risks and expense to governments. PPPs can expose the public to the possibility of incomplete contracts, the likelihood of renegotiations, and liability in cases of bankruptcy or default by the private company.<sup>29</sup>

Garcia was appointed head of Puerto Rico’s new Public-Private Partnerships Authority (PPPA) while at the GDB. The authority privatized the Luis Muñoz Marín International Airport, and launched school modernization, toll and many other initiatives.<sup>30</sup> According to his resume, Garcia chaired the implementation of five major infrastructure projects while at the PPPA. The only water-related infrastructure project he headed, called “Implementation of Advanced Technologies for the Reduction of Non-Revenue Water in Puerto Rico,” sought private-sector support to improve PRASA’s revenue collections, to counter “water theft.”<sup>31</sup>

## LOOTING THE INFRASTRUCTURE FUND

The infrastructure fund was liquidated after the enactment of Law No. 3, which allowed the GDB under Garcia to sell all the securities in the Corpus Account. According to a presentation Garcia gave to Puerto Rican creditors in 2010, the sale “took advantage of market dislocations and provided a significant one-time gain to the Government.”<sup>32</sup>

This gain from the sale of securities, however, was not used to fund water and sewer projects needed by Puerto Rico. Instead the amount raised was \$1.95 billion in cash, of which \$1.2 billion went to pay off the original PRIFA bondholders from 2000. After paying the bondholders, \$766 million remained, from which approximately \$310 million was siphoned off to cover Commonwealth budget deficits and \$155 million was used to recapitalize the GDB.<sup>33</sup> That left \$300 million for the original Corpus Account. This amount was deposited with the GDB, and the GDB in return provided the infrastructure fund with a “guaranteed investment contract,” which was supposed to have the GDB pay back the Corpus Account approximately \$1.2 billion by 2040.

This transaction was, as Law No. 3 stated without irony, “consistent with the original purpose of said Act No. 92, since they both share the objective of protecting the Corpus Fund so that in 2040, said Fund shall have \$1.2 billion for the benefit of the People of Puerto Rico.”<sup>34</sup> However, the remaining \$300 million could not be used for infrastructure development as it was tied up in a GDB contract, not unlike how a purchaser of a certificate of deposit account cannot spend their investment while it is deposited with the bank.

## **GARCIA GDB GOES ON BORROWING AND REFINANCING BINGE**

During Garcia’s tenure, the GDB moved from its previous role as an agent for infrastructure lending and economic development to taking a lead role in deficit financing among the Commonwealth and its related entities.<sup>35</sup> With the profits from the sale of the Corpus Account securities, Garcia’s GDB was able to recapitalize itself and go on a borrowing and refinancing binge. Between December 2008 and December 2009, the GDB sold \$2.8 billion in notes, and it sold another \$2.8 billion in the same period from 2009 to 2010.<sup>36</sup> In total, the GDB issued roughly \$11 billion in notes, mostly during Fortuño’s administration, and half of that remained outstanding by 2013.<sup>37</sup>

Santander Securities and other local banks took the lead in underwriting these notes, earning underwriting fees and profits by selling them to their customers and placing them elsewhere in the secondary market. For example, Santander acted as a lead underwriter of four GDB bond issues worth \$4.6 billion between December 2008 and 2011, sharing in over \$43 million in underwriter’s discount and fees.<sup>38</sup>

While these GDB notes were marketed all over the world, about half were sold in Puerto Rico by Santander and other banks to local investors.<sup>39</sup> Many Santander customers held and continue to hold the notes indirectly through their purchase of shares in the bank’s “First Puerto Rico” closed-end mutual funds. The investments are now worth a small fraction of their initial value, and local investors have lost millions as the GDB has declined into insolvency.<sup>40</sup>

## **THE INFRASTRUCTURE AND PENSION FUNDS GET STUCK WITH COFINA CAB IOUS**

Even the Corpus Account’s remaining \$300 million on deposit at the GDB proved too tempting for the financial engineers in the Fortuño administration. In 2011, the Legislature passed Law No. 96, which took \$162.5 million of money left in the Corpus Account and applied it to shore up the public employees’ pension plan,<sup>41</sup> which in turn, had been previously leveraged in 2008 through several bond issues that Santander and other banks had helped underwrite and profited from.<sup>42</sup>

The \$162.5 million was not actually made available to the pension fund to pay benefits. Instead, it was invested in a COFINA capital appreciation bond series<sup>43</sup> that would accrete interest at 7% but would not mature until 2043 through 2048.<sup>44</sup> The accreting interest on these bonds meant that at maturity they would be worth \$1.65 billion, representing a gain of more than 10 times their initial amount.<sup>45</sup>

Law No. 96 also obliged the remaining \$165 million in the Corpus Account to be invested in the same COFINA capital appreciation bonds, noting “it is projected that the maturity value of each one of these COFINA bonds shall be of approximately \$1.2 billion, thus achieving the purpose of protecting the Fund’s Corpus Account.”<sup>46</sup> In reality, Law No. 96 allowed the GDB to leave the Corpus Account with nothing but an expensive IOU payable in the distant future.

It is difficult to imagine that the GDB genuinely believed toxic COFINA CABs assigned to the Corpus Account and the pension fund would be repaid at maturity.<sup>47</sup> This should raise questions about why the GDB stuck the infrastructure and the public employees’ pension funds with these dubious IOUs. The GDB may have calculated that it would be able to refund these high-cost bonds as early as 2016,<sup>48</sup> but Puerto Rico has now defaulted on its debt and the GDB has become insolvent.

In summary, the bulk of proceeds from the privatization of a profitable, publicly owned telephone company, earmarked for crucial Puerto Rican water projects, has been turned into paper dust. The Corpus Account no longer funds infrastructure development, but consists of bond notes due in 2043 that are obligations of COFINA and, ultimately, the Puerto Rican sales and use taxpayers.

## **AUSTERITY AND PRIVATIZATION IN 2017, A CASE OF DÉJÀ VU**

Early in 2016, Garcia testified to Congress in favor of creating another control board to address Puerto Rico’s fiscal crisis. In his testimony, he asserted that the “continued service” of his previous local control board (2009-2011) would have averted the “re-enacted Puerto Rico crisis.” He said it had failed in two areas, to reform and overhaul Puerto Rico’s labor law and its government agencies, implying that he favored further attacks on collective bargaining, pensions and privatization of public assets.<sup>49</sup> Within months of this testimony, the Obama White House announced the appointment of seven individuals, including Garcia, to a new PROMESA control board that would supervise Puerto Rico’s fiscal affairs and restructure its debt.

Since the Junta has been established, Puerto Ricans have been subjected to new austerity measures, which have been designed in part to appease Wall Street creditors. Under current-Gov. Ricky Rosselló, Law No. 4, or the Labor Transformation and Flexibility Act, was enacted. This act dramatically weakens existing labor rules, including working time, compensation and benefits for Puerto Rican workers.<sup>50</sup> House Bill No. 938, signed into law April 29, 2017, nullifies collective bargaining agreements and permanently limits employee benefits in the public sector.<sup>51</sup>

The Junta has pushed harder for austerity than Gov. Rosselló, requesting \$3 billion in spending reductions over two years, half of which are aimed at essential services: \$1 billion in health care cuts, \$300 million in education cuts and \$200 million in cuts to the pension system.<sup>52</sup> The Junta has called for even deeper budget cuts by 2021 that include \$1.3 billion in personnel spending and gutting nearly half of the University of Puerto Rico’s budget: \$450 million. The Junta has all but ignored stimulus, with the exception of including spending on public-private partnerships in its fiscal plan.<sup>53</sup> This is more bad news for Puerto Ricans, who need higher wages and good jobs to deal with skyrocketing costs.

## **SANTANDER PRESSURES JUNTA TO ENSURE COFINA DEBT IS PAID**

Meanwhile, Santander has become an activist in pressuring the Junta to order repayment of the COFINA bondholders. In March 2017, Santander joined all major creditors of Puerto Rican debt in writing to the PROMESA control board, complaining that its fiscal plan did not take their concerns into account. Santander signed onto the letter as one of three major COFINA bondholders through its First Puerto Rico family of closed-end mutual funds, which held \$3.65 billion in bonds issued by COFINA and \$1.8 billion in general obligation bonds issued or guaranteed by the Commonwealth of Puerto Rico.<sup>54</sup>

As members of the Junta, former Santander executives Carlos Garcia and Jose Ramon Gonzalez will play a significant role in the negotiations that will determine whether and how these debts have to be repaid.<sup>55</sup> They should not be repaid—even in part. The Junta should ignore the pleas of conflicted creditors such as Santander. Instead, the COFINA bonds and GDB notes held and managed by Santander on behalf of its Puerto Rican customers should be canceled and the customers should be repaid in full, directly from Santander, which as a global concern earned \$1.8 billion euros in the first quarter of 2017 alone.

## **CONCLUSION**

Garcia's GDB directed the issuance of billions in notes and COFINA bonds, diverting funds originally intended for vital sewer and water treatment projects into unpayable high-cost debt. As a result, Puerto Rico's capacity to deal with Zika and other mosquito-borne virus epidemics has been diminished and it is being told to rely on the private sector.<sup>56</sup> Puerto Rico also has been prevented from funding other crucial public services by the diversion of sales taxes to secure and repay bad debt deals such as COFINA CABs. As stated earlier, even partial repayment of COFINA bonds amounts to a catastrophic burden for the people and the economy of Puerto Rico.

Santander must be held accountable for its role in promoting and profiting from Puerto Rico's troubled transactions. The bank served as lead underwriter of four GDB bond issues worth \$4.6 billion between December 2008 and 2011, earning over \$43 million in underwriter's discount and fees.<sup>57</sup> Garcia also has personally profited from his close relationship with Santander, where he worked immediately before and after his tenure at the GDB, receiving a \$1.25 million severance payment from the bank prior to joining the Fortuño administration.<sup>58</sup>

Like Santander, Garcia appears to strongly support the segregation of the COFINA bond obligations, much of which is held in costly capital appreciation bonds, and the continuing use of sales tax revenue to pay back the COFINA bonds, as noted in his PROMESA testimony on Capitol Hill in 2016.<sup>59</sup> Santander is a major COFINA bondholder petitioning the Junta to ensure that it recovers its investments. Garcia's conflicts of interest raise troubling questions about whether the very individuals involved in creating and profiting off of the debt should be allowed to insist that others must now pay it off.

The Junta has subjected Puerto Ricans to many controversial austerity measures but has been mostly silent on direct stimulus, with the exception of questionable public-private partnerships for infrastructure development.<sup>60</sup> The austerity approach will fail in Puerto Rico just as similar approaches have failed in Greece and Portugal.<sup>61</sup> To help Puerto Rico recover, there must be direct economic stimulus—which appears unlikely unless banks like Santander and private bank executives like Carlos Garcia are held accountable for their roles in helping drown Puerto Rico in unpayable public debt.

## ENDNOTES

- 1 We use Santander to mean Banco Santander, SA, and all its affiliates. In Puerto Rico, for much of the time covered in this report, Santander BanCorp was the parent bank holding company for Banco Santander Puerto Rico, which had several subsidiaries.
- 2 See [“Pirates of the Caribbean: How Santander’s Revolving Door with Puerto Rico’s Development Bank Exacerbated a Fiscal Catastrophe for the Puerto Rican People,”](#) Hedge Clippers and Committee for Better Banks.
- 3 See [GDB Presentation](#) dated June 10, 2010, about policies enacted in the previous 16 months, p. 7. The local control board had a two-year mandate. Members of the board included the chair, Carlos M. Garcia, chairman of the GDB, the secretary of the Treasury, the director of the Office of Management and Budget, the secretary of Labor, and the secretary of Economic Development and Commerce. See Carlos Garcia [testimony](#) on Feb. 2, 2016, before the Subcommittee on Indian, Insular and Alaska Native Affairs of the Committee on Natural Resources of the U.S. House of Representatives, “The Need for the Establishment of a Puerto Rico Financial Stability and Economic Growth Authority.” For Carlos Garcia heading PPPA, see [here](#).
- 4 See PROMESA control board’s [Fiscal Plan Targets](#), Jan. 28, 2017.
- 5 “We wish to highlight the absolute necessity of updating the water distribution and treatment system in Puerto Rico, especially under the prospect of the imposition of a control board like the one imposed on Flint, Michigan.” See Society for Medical Anthropology’s Zika Interest Group [Public Statement on Zika Virus in Puerto Rico](#).
- 6 See study for the project, [“Implementation of Advanced Technologies for the Reduction of Non-Revenue Water for Puerto Rico Aqueduct and Sewer Authority,”](#) RFQ.
- 7 For example, the COFINA CAB assigned to the Corpus Account in 2011 with \$165 million in principal is supposed to be worth \$1.2 billion on maturity in 2048.
- 8 See [PRIFA Special Obligation Bonds 2000 Series A&B](#), p. 3. See [“Plan to Sell Puerto Rico Phone Company Leads to Strike,”](#) The New York Times, Mireya Navarro, June 19, 1998. The money from the sale (\$1.8 billion) was to pay off the telephone company’s current debt, finance certain retirement and health care benefits for company employees, and establish a \$1 billion fund to invest in public works like sewerage and water distribution systems. “We have worked to maintain Puerto Rico Telephone at its present level and have shown ourselves to be productive workers, and the people of Puerto Rico know it,” said Olga Grajales, 43, a striker who works in the billing and collections department. “The people know that really what they’re doing is a theft.”
- 9 See [Act No. 92](#), p. 4.
- 10 Pedro Rosselló, who served as governor during this time, is the father of Puerto Rico’s current governor, Ricky Rosselló.
- 11 See [“Puerto Rico Paralyzed by Strike over Phone Company Sale,”](#) Washington Post, Guy Gugliotta, July 8, 1998.
- 12 Telecomunicaciones de Puerto Rico, Inc., [Form S-4/A](#) as filed with the SEC, Sept. 27, 1999, pp. 25-26.
- 13 See PRIFA issuance of [2000 Series A&B Special Obligation Bonds](#), p. 2.
- 14 See Commonwealth of Puerto Rico’s [Series 2004 Tax and Revenue Anticipation Notes](#), p. I-41, and [Puerto Rico Infrastructure Financing Authority Act](#), p. 31.
- 15 See Puerto Rico Public Financing Corporation [2004 Series B Bonds](#), Commonwealth Appropriation Bonds, p. I-38.
- 16 See [PRIFA Special Obligation Bonds 2000 Series A&B](#), p. 15
- 17 See [PRIFA Special Obligation Bonds 2000 Series A&B](#), p. 11.
- 18 See [PRIFA Special Obligation Bonds 2000 Series A&B](#), second page of filing. Also see [Act 92](#) for intent of the Corpus Fund.
- 19 See [Fitch: TELPRI Rating Unaffected by America Movil Acquisition and Verizon Communications, Inc. 10-Q for quarterly period ending March 31, 2007](#).
- 20 Carlos M. Garcia was appointed president and COO of Santander BanCorp on Aug. 28, 2008, at the same time Jose Ramon Gonzalez stepped down as president and CEO. On Nov. 13, 2008, it was announced that Garcia would head the GDB and Gonzalez would be part of the governor’s committee. See [“Jose Ramon Gonzalez resigns from his position at Banco Santander,”](#) PR Newswire, Aug. 29, 2008. See [“Four Bankers in Fortuno’s Economic Reconstruction & Fiscal Advisory Committee,”](#) Caribbean Business, Jose L. Carmona, Nov. 13, 2008. Gonzalez was also head of the GDB in the late ‘80s in Puerto Rico.
- 21 “Puerto Rico Panel Readies New Projections,” The Bond Buyer, Michelle Kaske, Dec. 19, 2008. See also [profile](#) at Revolvly.com.
- 22 See [Termination Agreement](#) between Banco Santander and Carlos Garcia at SEC.gov.

- 23 Changes in policy allowed the Commonwealth to issue more and increasingly risky debt deals that relied on controversial features such as capital appreciation bonds, capitalized interest and interest rate swaps. These generated more fee income for Santander's and other banks' underwriting business. See ["Pirates of the Caribbean: How Santander's Revolving Door with Puerto Rico's Development Bank Exacerbated a Fiscal Catastrophe for the Puerto Rican People,"](#) Hedge Clippers and Committee for Better Banks. See also Tom Sgouros, "Predatory Public Finance," *The Journal of Law in Society*, Vol. 17:1 (2014).
- 24 See [Law No. 3](#).
- 25 See Carlos Garcia testimony, ["The Need for the Establishment of a Puerto Rico Financial Stability and Economic Growth Authority,"](#) on Feb. 2, 2016, before the Subcommittee on Indian, Insular and Alaska Native Affairs of the Committee on Natural Resources of the U.S. House of Representatives.
- 26 See ["Puerto Rico in Crisis: Government Workers Battle Neoliberal Reform,"](#) NACLA, Yarimar Bonilla and Rafael A. Boglio Martínez.
- 27 See ["GDB locks up the 'piggy bank,'](#) Caribbean Business, Carlos Marquez, Jan. 29, 2009.
- 28 See ["WHY PUBLIC-PRIVATE PARTNERSHIPS DON'T WORK: The many advantages of the public alternative,"](#) David Hall, PSIRU, January 2014. See ["Government Objectives: Benefits and Risks of PPPs,"](#) World Bank Group.
- 29 See ["WHY PUBLIC-PRIVATE PARTNERSHIPS DON'T WORK: The many advantages of the public alternative,"](#) David Hall, PSIRU, January 2014, p.46.
- 30 See [FAA Approves PPP for Airport](#), Dec. 23, 2009, and other announcements on the PPPA website.
- 31 See Study for the Project, ["Implementation of Advanced Technologies for the Reduction of Non-Revenue Water for Puerto Rico Aqueduct and Sewer Authority,"](#) RFQ.
- 32 See [Carlos M. Garcia GDB presentation at Puerto Rico Credit Conference 2010](#), Feb. 25-26, 2010, p. 14.
- 33 See [Carlos M. Garcia GDB presentation at Puerto Rico Credit Conference 2010](#), Feb. 25-26, 2010, p. 14.
- 34 [Act No. 3 \(H.B. 600\)](#), approved Jan. 14, 2009, p. 2.
- 35 See ["The Sinking of the GDB,"](#) Caribbean Business, Philippe Schoene Roura & Luis. J. Valentin, June 13, 2016.
- 36 See GDB bond issuances on GDB website [here](#).
- 37 Note that when Carlos Garcia left the GDB at the end March 2011, he was replaced as president by Juan Carlos Batlle, another Santander executive.
- 38 See [\\$1.796B GDB 2011 Series H & I \(\\$16,580,422.10 in underwriting fees, Santander lead\)](#), see [\\$1.356B GDB 2009 Series C & D \(\\$14,279,323.76 in underwriting fees, Santander joint lead with UBS and Popular\)](#), see [\\$250M GDB 2009 Series A \(\\$2,390,000 in underwriting fees, Santander joint lead with UBS and Popular\)](#), and see [\\$1.230B GDB 2008 Series A & B \(\\$10,301,958.16 in underwriting fees, Santander joint lead with UBS and Popular\)](#).
- 39 See ["The Sinking of the GDB,"](#) Caribbean Business, Philippe Schoene Roura & Luis. J. Valentin, June 13, 2016.
- 40 See ["The Sinking of the GDB,"](#) Caribbean Business, Philippe Schoene Roura & Luis. J. Valentin, June 13, 2016.
- 41 [Act No. 96-2011 \(H.B. 3336\)](#).
- 42 See ["Pirates of the Caribbean: How Santander's Revolving Door with Puerto Rico's Development Bank Exacerbated a Fiscal Catastrophe for the Puerto Rican People,"](#) Hedge Clippers and Committee for Better Banks.
- 43 See for example [Refund America](#), "Puerto Rico's Payday Loans."
- 44 See [PRIFA Revenue Bonds \(Ports Authority Project\) Series 2011](#).
- 45 See Commonwealth of Puerto Rico [Comprehensive Annual Financial Report Year Ended June 30, 2011](#), Pension Reform section.
- 46 [Act No. 96-2011 \(H.B. 3336\)](#).
- 47 Puerto Rico created COFINA in 2006 when it was in desperate need of money but unable to issue debt because it had run up against its 15% constitutional debt limit. The sales tax revenue bond allowed the island to issue new bonds that would not count against the 15% limit. By 2011, an extraordinary amount of debt was being issued by Puerto Rico, including in COFINA capital appreciation bonds (CABs). Refund America estimates that Puerto Rico has \$37.8 billion in CAB debt, for which the underlying principal is just \$4.3 billion, an effective interest rate of 785%. Refund America also estimates that \$36.9 billion of Puerto Rico's debt is COFINA debt, and 63% of total CAB debt belongs to COFINA. Refund also states the investors (including hedge funds) that now own CAB debt bought the debt at steep discounts on the secondary market because the previous creditors had already written it down as bad debt, meaning the current owners (including hedge funds) never expected the island to be able to repay all of it. Moreover, the sheer magnitude of the size of this debt at maturity (in the distant future) and the effective interest rate raises the question about whether the GDB expected to be able to repay it at all, as well. See ["Opinion: COFINA deal is huge blow to dwindling appeal of Puerto Rico's bonds,"](#) Ivan Rivera, Fox News, May 2, 2016, and ["Puerto Rico's Payday Loans,"](#) Refund America.
- 48 The bond documents state that the issuer had option to redeem them as early as 2016.
- 49 See Carlos Garcia testimony, ["The Need for the Establishment of a Puerto Rico Financial Stability and Economic Growth Authority,"](#) on Feb. 2, 2016, before the Subcommittee on Indian, Insular and Alaska Native Affairs of the Committee on Natural Resources of the U.S. House of Representatives.
- 50 See ["Puerto Rico: Major labor law and benefit reforms aim for flexibility and competitiveness,"](#) Willis Towers Watson, March 27, 2017.
- 51 ["House Bill 938 Would Void Right to Collective Bargaining,"](#) Caribbean Business, Cindy Burgos Alvarado, April 26, 2017. The bill was signed into law on April 29, 2017. See footnote 10 of [Statement of Oversight Board in Connection with PROMESA Title III Petition](#).
- 52 See ["Puerto Rico Oversight Board Appears Doomed to Recycle Failed Austerity Schemes,"](#) Javier Balmaceda, Forbes Debtwire, March 22, 2017.

- 53 See [“AGC-Puerto Rico Sets Eyes on Infrastructure,”](#) Caribbean Business, Philippe Schoene Roura and Eva Lloréns Vélez, March 30, 2017.
- 54 See [Joint Creditor Letter to Oversight Board on Fiscal Plan for Puerto Rico](#), March 27, 2017. See also [“Bondholders Attack Fiscal Plan,”](#) El Nuevo Dia, Joanisabel Gonzalez, March 28, 2017. Also, in November 2016, Santander joined Franklin Advisers and OppenheimerFunds in asking a federal judge to enter them as defendants in a lawsuit brought by hedge funds holding general obligation bonds. Santander, Franklin and Oppenheimer are “cross-holders in \$3.6 billion in COFINA claims and \$1.1 billion in GO claims.”
- 55 The Junta will remain the lead negotiator with the creditors through the PROMESA debt refinancing process that was recently invoked. See [“Our Bankrupt Policy for Puerto Rico,”](#) David Dayen, The American Prospect, May 8, 2017.
- 56 “We wish to highlight the absolute necessity of updating the water distribution and treatment system in Puerto Rico, especially under the prospect of the imposition of a control board like the one imposed on Flint, Michigan.” See Society for Medical Anthropology’s Zika Interest Group [Public Statement on Zika Virus in Puerto Rico](#).
- 57 See footnote 17.
- 58 After leaving the GDB, Garcia became a director and senior executive vice president of Santander Bank in the United States. See resume [here](#). See [Termination Agreement](#) between Banco Santander and Carlos Garcia at SEC.gov.
- 59 See Carlos Garcia testimony, [“The Need for the Establishment of a Puerto Rico Financial Stability and Economic Growth Authority,”](#) on Feb. 2, 2016, before the Subcommittee on Indian, Insular and Alaska Native Affairs of the Committee on Natural Resources of the U.S. House of Representatives.
- 60 See PROMESA Control Board’s [Fiscal Plan for Puerto Rico](#), March 13, 2017.
- 61 See [“IMF admits: we failed to realise the damage austerity would do to Greece,”](#) The Guardian, Larry Elliott, Phillip Inman and Helena Smith, June 5, 2013.