

Written Statement
Hon. Manuel Laboy
Authorized Representative of the Governor
Executive Director, Central Office for Recovery, Reconstruction, and Resilience
(COR3)
Government of Puerto Rico
House Committee on Transportation and Infrastructure – Subcommittee on
Economic Development, Public Buildings, and Emergency Management
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& U.S. Virgin Islands 5 Years After hurricanes Irma & María”
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Rayburn 2165 House Office Building

Chairman DeFazio, Ranking Member Graves, and Members of the Committee:

Thank you for the opportunity to appear before you today on behalf of the American Citizens of Puerto Rico to discuss our recovery from Hurricanes Irma and María. In the five years following the devastation of these two hurricanes, we have made significant progress towards building back our Island. This progress is, in part, the result of the tremendous and often bipartisan support we have received from this Committee and Congress more broadly.

[Puerto Rico’s Challenges Prior to Hurricanes Irma and María](#)

As has been well documented, before Hurricanes Irma and María made landfall on the Island, Puerto Rico was already in the middle of a financial crisis. In the decade prior, the Government of Puerto Rico had amassed unsustainable levels of debt, to a point where credit rating agencies implemented a series of downgrades for Puerto Rico-Related Bonds at various points between 2012 and 2014, with most of those bonds reaching “junk” status between February and June of 2014. This caused the Government of Puerto Rico and its entities to lose access to capital markets which strained Puerto Rico’s liquidity capabilities.

On June 30, 2016, President Barack Obama signed into law the Puerto Rico Oversight, Management, and Economic Stability Act (“PROMESA”), which established a process for restructuring debt and expedited procedures for approving critical infrastructure projects in order

to combat the debt crisis. Through PROMESA, the U.S. Congress also established the Financial Oversight and Management Board of Puerto Rico (“FOMB”) to help Puerto Rico achieve fiscal responsibility with pro-growth fiscal reforms and renew access to capital markets. Essentially, FOMB represented the Puerto Rico Government entities having debt in the debt restructuring process, but also presented an additional bureaucratic layer for execution of the Government’s responsibilities.

In addition to the financial crisis, Puerto Rico was suffering from an infrastructure crisis, which made the Island vulnerable to natural hazards. Puerto Rico’s energy grid, roads, bridges, dams, ports, hospitals, water treatment plants, and more had been decaying for years mainly due to deferred maintenance. Moreover, the Puerto Rico Electric Power Authority (“PREPA”) relied too heavily on expensive oil and was plagued by aging infrastructure dating back to the 1960s. Additionally, buildings and infrastructure, including residential septic tanks, were commonly constructed without permits and thus were not in compliance with building codes. Construction was allowed to occur in areas that are known to be hazardous, such as areas prone to flooding and landslides. Similarly, unmetered water connections and inconsistent electricity metering were common, and laws and regulations governing these activities were not rigorously enforced.

In the middle of this financial crisis, Puerto Rico also desperately needed to transform its energy grid; modernize the telecommunications system; rebuild its water system; and strengthen maritime, surface, and air transportations; as well as repair and rebuild residential housing, without any financial means to achieve any of these critical tasks.

[Impact of Hurricanes Irma and María 2017-2020](#)

Hurricanes Irma and María dealt a devastating blow to Puerto Rico, resulting in the largest and most complex disaster response and recovery effort in U.S. history. Hurricane Irma skirted the

northern coast of the Island from September 6-7, 2017 as a Category 5 storm, causing extreme flooding, regional power and water outages, and other significant impacts. Before response operations had even concluded, however, an even more devastating Hurricane María slammed into Puerto Rico on September 20, making a direct strike as a strong Category 4 storm and causing widespread devastation and destruction the likes of which the Island had never seen.

Hurricane María represented a “worst case scenario” for Puerto Rico, tracking east-to-west across the Island and leaving no one and no thing untouched. Within a matter of hours, 100% of Puerto Rico’s population, economy, critical infrastructure, social service network, healthcare system, and even the government became casualties of the storm. Damage to the electrical grid—including downed power lines, transmission lines, and poles—was catastrophic. All power was lost across the Island as a direct result of the near-total failure of PREPA’s transmission and distribution infrastructure. This produced a cascading effect that impacted critical infrastructure and services that relied on power to operate (such as airports, seaports, hospitals, water systems, communications networks, hotels, traffic and streetlights, etc.). With Puerto Rico’s power grid offline, wastewater treatment plants were out of service. Some sewage plants were upstream from the drinking water supply, so their failure could have increased the risk of contamination of drinking water. Water damaged structures were exposed to other potential environmental hazards, such as mold, an increase in rodents and pests, and chemicals and waste. This obviously caused a devastating blow to Puerto Rico’s already fragile economy.

The powerful winds, storm surge, and localized flooding from Hurricane María caused significant damage or complete destruction of over 472,000 housing units across Puerto Rico. This forced hundreds of thousands of Island residents to seek shelter in hotels, with friends and family, or in congregate shelters. The magnitude of housing losses produced a housing emergency

throughout the Island due to the insufficient remaining housing stock to shelter all of those who had lost or had been forced out of their homes. This reality, added to the power and water outages, forced tens of thousands of Puerto Rico residents to flee to the continental United States, further impacting the Island's ability to recovery and rebuild its communities and economy.

Emergency Response, Stabilization, and Transition to Disaster Recovery

Under the National Response Framework, the Department of Homeland Security (“DHS”) is the federal department with primary responsibility for coordinating disaster response, and within DHS, the Federal Emergency Management Agency (“FEMA”) has lead responsibility. The Administrator of FEMA serves as the principal adviser to the President and the Secretary of Homeland Security regarding emergency management. Due to Hurricane Irma's damages, on September 10, 2017, President Donald Trump issued a major disaster declaration for Puerto Rico (DR-4336) and FEMA designated nine of Puerto Rico's 78 municipalities as eligible for FEMA's Individual Assistance, which provides relief for immediate needs and housing restoration. Later, after Hurricane María left island-wide devastation, a second major disaster declaration was issued on September 20, 2017 (DR-4339), and FEMA extended eligibility for both Public Assistance and Individual Assistance to all 78 of Puerto Rico's municipalities. The major disaster declarations triggered a variety of federal response and recovery programs for Puerto Rico government and nongovernmental entities, households, and individuals.

On November 5, 2017, FEMA published Amendment No. 5 to the initial declaration notice for Hurricane María. Amendment 5 expanded FEMA's funding authority, including the confirmation of availability of funding for hazard mitigation measures under Section 404 of the Stafford Act, but conditioned this funding on three things, including the establishment of a “grant oversight authority, supported by third-party experts, to perform as the grant recipient for Public

Assistance and Hazard Mitigation funding to ensure sound project management and enhanced, centralized control and oversight over the distribution of FEMA grant funds.” In order to establish a centralized entity to lead the coordination of the long-term recovery, reconstruction planning, and administration of the federal programs for the Government of Puerto Rico, the Governor of Puerto Rico, Hon. Ricardo Rosselló, issued Executive Order 2017-65 (as amended by Executive Order 2017-69). These Executive Orders created the Central Recovery & Reconstruction Office (“COR3”), to act as the lead agency within the Government of Puerto Rico in the coordination, development, and execution of long-term recovery and reconstruction efforts.

As mentioned, Puerto Rico was already going through its share of challenges before the storms and the unprecedented devastation presented a new set of challenges that would muddle an already complicated process under the Public Assistance program. Federal grant award regulations allow FEMA to impose additional specific grant award conditions under certain circumstances, such as to mitigate risk and ensure fiscal accountability of the recipient or subrecipient. In normal circumstances under the Public Assistance program, once FEMA obligates funds, the recipient can disburse funds according to its own management processes, as long as doing so is compliant with federal requirements. However, in November 2017, FEMA instituted a manual reimbursement process for subrecipients in Puerto Rico for federal funds, including Public Assistance funds, to mitigate fiduciary risk and decrease the risk of misuse of funds, commonly known as the “270 Process.” This added a significant administrative step to the process and required Puerto Rico to submit funding drawdown requests on behalf of municipalities and state agencies to FEMA for approval. Additionally, the drawdown requests had to include supporting documentation to certify the amount being requested for drawdown was eligible, allowable, reasonable, and in compliance with federal procurement regulations. In 2019, the 270 Process ended, transferring the

disbursement responsibility to COR3 via a FEMA-State Agreement, but imposing additional restrictions, terms and conditions related to the disbursements process to be managed by COR3.

In addition, the Public Assistance program is generally a reimbursement program which requires the recipient and subrecipients to have enough liquidity to expend funds first, i.e. the ability to procure and pay for contractors and then submit proof of the incurred expenses for reimbursement, something Puerto Rico completely lacked. In past large recovery efforts, including those managed by recipients in the States of Louisiana, Mississippi, Texas, and Florida following major hurricanes in 2004, 2005, and 2008, there was greater flexibility with respect to recipients' authority to provide advance funding to subrecipients. During these older events, the applicable financial management regulations contained in 44 C.F.R. Part 13 allowed "advances to Subrecipients in the amount of 50 percent of the funds obligated by FEMA under Public Assistance subgrants."

However, 2 C.F.R. Part 200 superseded 44 C.F.R. Part 13 and applies to disasters declared after December 26, 2014, so including Puerto Rico's recovery from Hurricanes Irma and María. The newly issued regulations made it more difficult to provide the fiscal support that subrecipients in Puerto Rico needed in order to begin the substantial recovery effort. Specifically, 2 C.F.R. 200.305(b)(1) provides that, "Advance payments to a non-Federal entity must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the non-Federal entity in carrying out the purpose of the approved program or project." The Cash Management Improvement Act of 1990, 31 U.S.C. §§ 6501 – 6508, and its implementing regulations at 31 C.F.R. Part 205 also alludes to a minimum amount to meet immediate cash needs.

To make matters worse, Puerto Rico insurance companies received \$8.5 billion in insurance claims. On average, customers received about 60 percent of the amounts they submitted on their claims. Nearly 18 months after the hurricane, there were still about 11,000 unpaid claims. As part of its Public Assistance program, FEMA must ensure that the assistance provided does not duplicate assistance from another source, including insurance. This uncertainty as to whether benefits would be duplicated exacerbated Puerto Rico's ability to quicken its recovery efforts. Further, FEMA requires that subrecipients pursue all available resources, which put subrecipients in Puerto Rico in a position to make difficult decisions regarding whether to accept insurance settlement offers to cover necessary critical expenses, or continue fighting with insurance companies who had far greater resources at their disposal and none of the time constraints.

Moreover, in 2019 FEMA introduced a new Public Assistance delivery model (the "National Delivery Model"). While, in the broadest sense, Puerto Rico supported the implementation of the National Delivery Model, there were concerns that the model had never before been used on a disaster where Section 428 alternative procedures¹ governed nearly all of the disaster grant funding. Additionally, because it was different from the delivery model Puerto Rico had been using since September 2017, it was yet another change in procedures, which raised concerns over impacts to the already glacial pace of recovery on the Island. However, we adapted and continued the recovery as directed.

In mid-2019, in an effort to expedite the permanent work funding obligation process, FEMA implemented its FEMA Accelerated Award Strategy ("FAASt"), a novel approach never applied in any prior disaster recovery managed by FEMA, under which it uses a Statistical

¹ Under Stafford Act § 428, Public Assistance Alternative Procedures, FEMA may award fixed cost grants for large permanent work projects, rather than on an actual cost basis. See Public Assistance Alternative Procedures (Section 428) Guide for Permanent Work, FEMA-4339-DR-PR (Feb. 10, 2020),

Sampling Methodology to arrive at fixed cost estimates for groups of critical infrastructure projects (energy, sewer and aqueduct, and public schools), rather than requiring inspections and cost estimating for each individual project. While this allowed FEMA to expedite obligation and amounted to a master recovery budget for each FAASSt subrecipient, it did not authorize any related construction, and required that all projects needed to be formulated through FEMA's National Delivery Model by submitting detailed scopes of work for environmental and historic preservation compliance, and to request additional funding on a project-base for hazard mitigation measures.

Compounding Puerto Rico's challenges, the Island suffered two additional major disasters while in the throws of recovery from Hurricanes Irma and María—major earthquakes that shocked the Island beginning in late 2019 and lasting over six months and the COVID-19 Pandemic.

Despite these challenges, with the help of the Federal Government, Puerto Rico worked diligently to pull itself out of the literal and figurative darkness that the 2017 Hurricanes had cast over the Island. By the end of 2020, 1,416 emergency work projects (Categories A & B) had been obligated for \$4.95 billion, of which \$3.9 billion had been disbursed. During this time, permanent work projects (FEMA Categories C through G) were slow to develop. Through 2020, 4,649 projects were obligated, the majority of which over 80% were small projects, and only \$153.3 million had been disbursed (See Figure 1 in Appendix). The Puerto Rico Energy Power Authority ("PREPA") and the Puerto Rico Department of Education ("PRDE") funds under FAASSt were obligated in September 2020 (followed by the Puerto Rico Aqueduct and Sewer Authority ("PRASA") in January 2021). But, 2020 would be a turning point, as the Island moved out of response and into recovery.

COR3's Strategic Plan for Recovery 2021-2022

With the majority of emergency work complete, Puerto Rico's disaster response transitioned to disaster recovery, with its primary focus on the formulation and execution of permanent work projects (which are captured under FEMA Categories C through G). By its nature, long-term infrastructure recovery is a slower process, as it requires the development of scopes of work, the design and engineering of projects, procurement of construction contracts, and ultimately construction. All indications, however, show significant momentum since 2021. For example, from 2017 to 2020, COR3 disbursed \$3.9 million in FEMA Public Assistance for emergency work (Categories A & B) and just \$153.3 million in for permanent work (Categories C through G). But, from 2021 through the present, COR3 has disbursed an additional \$386.8 million for emergency work (Categories A & B) and another \$543.4 million for permanent work (Categories C through G). These numbers demonstrate the marked shift from response to recovery. (See Figures 2 and 3 in Appendix).

Our relationship with FEMA and other Federal partners has strengthened tremendously as we have worked together to resolve early obstacles and lift restrictions that previously hindered progress. For example, the Government of Puerto Rico requested, and FEMA agreed, to release a 2019 agreement that imposed significant conditions on the Island before requests for reimbursements could be granted. FEMA also approved the provision of working capital advances, which have been immensely helpful in providing subrecipients the liquidity necessary to begin permanent work projects.

Puerto Rico has now submitted all close out packages for the Hurricane Irma disaster and 638 closeout packages for Hurricane María, including three for permanent work. Puerto Rico continues to undergo FEMA's Validate-as-You-Go ("VAYGo") process and is passing with flying

colors. Just two weeks ago, FEMA Administrator Deanne Criswell came to visit Puerto Rico and expressed how pleased she was with the collaboration taking place and the work getting done on the Island, noting:

Puerto Rico has a unique opportunity to not only rebuild, but to build back better. The historic assistance provided by FEMA presents Puerto Ricans with the opportunity to meet their goal of a strong infrastructure prepared to mitigate future damage. As an agency, we remain committed to advancing equity and combating climate change, while increasing preparedness and resilience in the face of future natural and man-made disasters.²

Summary of Recent Progress and Updates to Administration of Programs

As of June 2022, 1,700 permanent work projects (damaged elements) related to Hurricane María were in the engineering/design and permitting stage (\$2 billion), and 2,144 were in full construction mode across the island (\$1.3 billion), including the reconstruction of the power grid and generation plants, water and aqueduct installations, roads and bridges, schools and hospitals, and recreational and sport facilities, adding resilience to hundreds of communities. Additionally, 1,176 projects have been completed at a cost of \$200,563,062 compared to 370 in 2021 and very few in 2020. (See Figure 5). We still have much to do, the estimate of repairs needed is over \$30 billion to support the execution of over 8,000 Project Worksheets (PW's) and 14,000 damaged elements for Hurricane María alone for permanent work, but as noted above, funding disbursed in 2022 doubled amounts disbursed in 2021—Puerto Rico is on the right track. Additionally, COR3 has disbursed approximately \$326 million in funding for the earthquake disaster and approximately \$117 million for emergency measures to combat the COVID-19 pandemic.

² FEMA Release NR-544, “FEMA Administrator Reaffirms Collaboration with Local Government in Reconstruction Efforts,” (Aug. 31, 2022), available as of Sept. 12, 2022 at <https://www.fema.gov/press-release/20220831/fema-administrator-reaffirms-collaboration-local-government-reconstruction>

In addition, under FAASSt, FEMA has obligated a federal share of \$9.5 billion for PREPA, \$3.7 billion for PRASA, and \$2.1 billion for the Department of Education. These subrecipients have collectively submitted 90 scopes of work for validation by FEMA and \$222.8 million has been disbursed. Notably, the projects that will be executed under FAASSt by PREPA will be critical for renewable energy integration to ensure sustainability and resiliency in future disasters. (See Figure 4 in Appendix).

COR3 has also worked to educate and support our subrecipients, to build capacity through training events over the last year, and will continue these efforts. The training provided is based on a customized approach focused on project execution, grants management, procurement, maximization of eligible scope of work, project management, and compliance from project formulation to closeout.

Efforts to Increase Support of Recovery by Providing Access to Necessary Capital

As discussed earlier, a major obstacle to recovery in Puerto Rico is access to working capital, especially for large infrastructure and construction projects. As we transition to the recovery phase where these projects are an even greater focus, a successful plan to address these issues is of the utmost importance. Puerto Rico has therefore developed and is now working to implement several strategies to provide the necessary support for these projects.

To address liquidity constraints, on June 15, 2022, COR3 released a new funding support program available to its subrecipients, implemented specifically to provide a mechanism to advance the federal share of funds for approved permanent work projects under FEMA's Public Assistance related to Hurricane María and the earthquake disaster. The program was introduced officially through revision to COR3's guidance document, the Disaster Recovery Federal Funds Management Guide ("DRFFMG"), in the form of a new Chapter 7, Payment and Cash

Management Policy. This new and improved advance program is officially known as the Working Capital Advance (“WCA”) Program and is already demonstrating significant support for the recovery effort.

The WCA Program is available for all Puerto Rico municipalities, PRASA, and PREPA for large permanent work projects. Subrecipients who request a WCA in compliance with the policy requirements are eligible to receive a one-time payment equal to 25% of the obligated federal share of the associated project. To date, COR3 has approved WCAs for 238 total projects which includes support for projects being administered by 38 different municipalities, PREPA, and PRASA. The WCAs account for \$325 million in advanced funding that will be critical in these subrecipients’ ability to move forward with the projects. COR3 is in the process of expanding the WCA Program to PRDE and to the Puerto Rico Public Housing Administration, as well as to the Hazard Mitigation Grants Program (“HMGP”).

Greater Flexibilities for Cash Management and Reimbursement Processes

COR3 is also encouraged by the continuing close collaboration with FEMA regarding COR3’s administration of the Public Assistance program and implementation of payment processes for subrecipients. When the manual drawdown process was lifted for Puerto Rico in 2019, FEMA imposed multiple new conditions and requirements on Puerto Rico’s recovery efforts and specifically regarding the payment process implemented by COR3 (the “2019 Agreement”). In April 2021, Puerto Rico sought termination of the 2019 Agreement, as COR3 had successfully met all the federal terms and conditions for two years. Puerto Rico believed it was time to end these special restrictions and allow Puerto Rico to receive equal treatment to the other jurisdictions serving as recipients across the CONUS. Puerto Rico’s request was approved on September 22, 2021. The elimination of these additional restrictions allowed Puerto Rico the necessary flexibility

eto expedite the processing of reimbursement requests and the disbursements of federal funds to subrecipients.

The elimination of the 2019 Agreement has also created flexibilities that have been incorporated into the COR3 Cash Management Policies, transforming the processes around reimbursements and advances. Under the new reimbursement policy, disbursements for reconstruction projects under development by municipalities, government agencies, and non-profit organizations are being expedited, significantly reducing the average number of days from 240 to 60 days. Similarly, new processes around requests for advances for immediate expenses are currently being processed in an average of 21 days rather than 150 days, as was before. These changes, coupled with the WCA Program, enable much greater support of permanent work projects and help provide the resources necessary for all projects to progress more efficiently.

Another positive step in our recovery is the significant progress toward usage of Community Development Block Grant-Disaster Recovery ("CDBG-DR") grant funds for the non-federal cost share on approved FEMA projects. On January 3, 2020, a Memorandum of Understanding ("MOU") was signed by FEMA and HUD to work together to facilitate Puerto Rico's recovery and mitigation activities. This collaboration includes joint-guidance on the flexible application of CDBG-DR grants as resources for the cost share for FEMA-funded projects. Since then, the Puerto Rico Department of Housing ("PRDOH"), the administrators of CDBG-DR funds allocated to Puerto Rico, and COR3 have continued to coordinate on the design, development, and implementation of the FEMA PA Flexible Match Methodology Guidelines ("Guidelines") as published on October 14, 2020.

COR3 and PRDOH have also submitted a joint petition to FEMA discussing the implementation procedure of the Disaster Flexible Match ("DFM") approach. The DFM proposes

a funding strategy for the FEMA Public Assistance program that eliminates the need for eligible applicants to comply with CDBG-DR requirements under each individual project to receive its non-federal share, but rather applying for match payments based on the total cost share corresponding to selected FEMA projects for a specific disaster, thereby reducing additional administrative burdens to the recipient and the participating subrecipients/applicants. Leveraged together, COR3's FEMA Public Assistance and PRDOH's CDBG-DR programs ensure that subrecipients receive the greatest, and most efficient benefit from federal recovery funding while rebuilding in smarter, more resilient ways.

Significant Progress and Status of Closeout of Disasters

Puerto Rico's commitment to effective and efficient recovery efforts is demonstrated by the rate at which it has been able to reconcile and close FEMA Public Assistance projects prepared for Hurricane Irma. Beginning in 2021, COR3 made a commitment to prioritize closeout of projects. In 2022, COR3 achieved the submission of all closeout packages for all Hurricane Irma projects. Puerto Rico is very proud of this achievement. Although many project closeouts remain for other disasters, more progress has been made during the past 12 months than in the previous four years combined, another testament to the administrative efficiency achieved using the greater flexibilities and control that FEMA is now allowing for COR3.

Regarding Hurricane María, FEMA has approved a time extension to submit all closeout packages related to Emergency Work Categories (A & B) project worksheets to December 31, 2022. As of September 9, 2022, COR3 has submitted to FEMA 184 large projects, and 454 small projects for closeout, representing a project funding amount of \$360.7 million. COR3 is working diligently to submit the remaining Category A & B projects by the approved deadline.

COR3 established a work plan to close all permanent work projects that have been completed. We have submitted to FEMA the first three projects and have currently assigned an additional 31 projects for a total amount of \$24.7 million. We will keep submitting these projects to FEMA in the coming months.

Hazard Mitigation Grants Program (“HMGP”)

One of COR3’s priorities since 2021 has been to maximize mitigation efforts, for which FEMA made available \$3.999 billion to Puerto Rico under HMGP, which includes \$999 million for the non-federal share portion, implemented under the Global Match Strategy with Community Development Block Grant Mitigation (“CDBG-MIT”) funds. The program's primary purpose is to ensure that critical mitigation measures are adapted to reduce the risk of loss of life and property from future disasters are taken during the reconstruction process following a disaster. To ensure this, Puerto Rico’s main focus under this program is to promote resilience and climate change adaptation via projects such as localized flood control, coastal erosion, soil stabilization, coral reef protection, ocean energy and structural/wind retrofits.

Furthermore, since 2021 COR3 has made substantial internal investments including staffing up significantly from a staff of 5 to 30, as well as engaged the services of two experienced contracting firms, following a competitive procurement, to support in the process of reviewing and formulating HMGP proposals.

Currently, COR3 has made huge strides in the project formulation phase, as it has 74 projects approved for a total investment of \$2.3 billion. Among these projects that provide resiliency measures are the Department of Health’s CDT Generators, to ensure critical health facilities’ services remain uninterrupted in the case of a power outage. Another project, the Planning Board’s Code Enforcement Project (\$144 million, approved project, 80% completed), is

creating stricter and more uniform enforcement of code construction compliance, which will result in a more resilient construction industry that in turn allows for quicker disaster reconstruction activities. (See excel table for additional details.) COR3 has also submitted an additional 225 projects under evaluation by FEMA, which will have a total cost of \$1.7 billion, such as such as the Ocean Thermal Energy Conversion Facility, which will provide the Southeast of Puerto Rico a source of renewable energy that is generated 24/7 by converting ocean water into energy, as well as combat climate change.

In addition, COR3 will soon launch its Road to Resilience dashboard in its Transparency Portal mapping all HMGP projects and continue its full transparency campaign. (See Appendix.)

The Government of Puerto Rico would like to appreciate FEMA's collaboration with COR3 in approving an extension for the 2021 deadline to October 2022.

[Lessons Learned and Opportunities to Support Recovery](#)

It has been a difficult journey, but Puerto Rico is on the road to recovery and resilience. As we reflect on the last five years, there have been many lessons learned. We know that complicated bureaucratic processes and repeated rule changes slow the process, and that sometimes new ideas intended to move things forward cannot realize those goals when they are required to be implemented under existing rules. We appreciate FEMA's recent efforts to simplify its Public Assistance process and look forward to additional steps it may take to reduce the burden on applicants going forward. Although 2022 appears to be a major milestone in Puerto Rico's recovery, there is much ground to be made up after years of delays. Even so, we remain exceptionally hopeful for the future and we look forward to continuing to build and nurture the collaborative relationship that we now have with our federal partners.

Additional Support of, and Flexibilities for, Capped Grants

One of the lessons learned is that attempts to expedite funding and simplify processes are only as effective as the framework in which they are implemented. Two examples of this are FEMA's Public Assistance Alternative Procedures ("PAAP") Program under Stafford Act § 428 and FAASSt.

The DHS-Office of Inspector General ("OIG") released a Report in July 2022 outlining its assessment of FEMA's PAAP.³ In comparing obligation times for over fifteen thousand large projects, the OIG determined that FEMA took, on average, more than twice as long to obligate funds for the PAAP projects (845 days) as compared to standard Section 406 projects (411 days). The OIG further found that FEMA's funding obligation times increased significantly for projects in Puerto Rico and the U.S. Virgin Islands, when compared to projects for mainland events.

Similarly, while significant funds have been obligated for Puerto Rico's critical infrastructure under FAASSt, this obligation has effectively established master recovery budgets but without expedited project execution. Each project must still work its way through FEMA's lengthy Public Assistance process before obligated funding can be disbursed.

While the PAAP Program and FAASSt were well intended, their effectiveness is limited by the complicated framework under which they must be implemented. Moreover, because this was the first time FEMA implemented FAASSt, the guidelines to develop individual projects to capture the recovery scopes of work to be implemented has changed multiple times.

³ OIG Audit Report OIG-22-51, *Assessment of FEMA's Public Assistance Alternative Procedures Program* (July 13, 2022), available as of Sept. 12, 2022 at <https://www.oig.dhs.gov/sites/default/files/assets/2022-07/OIG-22-51-July22.pdf>

Limitations of a Reimbursement Program

Additionally, although authorization and support for the WCA has been helpful and effective, unfortunately it came late in the process. There is no doubt that Puerto Rico would have been in a much better place if advances for permanent projects and more flexible means of supporting distressed subrecipients were allowed similar to the State of Louisiana's recovery when it experienced two successive extreme events, Hurricanes Rita and Katrina, in 2005. Deficiencies under this disaster affected Puerto Rico as we were denied these benefits which would have accelerated the commencement of reconstruction of bridges, roads, schools, hospitals, electric grid, wastewater treatment plants, among many others.

As has been the case following prior large events that have impacted other locations, when a catastrophic event impacts an already distressed recipient or subrecipient, the solution is to develop proactive and innovative strategies to provide better support, not impose even greater restrictions. **Puerto Rico has proven that it can emerge and thrive even when faced with great adversity, and we hope we can now move forward as a most-trusted partner in recovery.**

Support for Additional Time Extension Requests

Due to the limitations of wide-scale construction on an island, time extensions are required for the remaining permanent recovery work to be completed. Currently, Puerto Rico has 9,186 time extension requests pending with FEMA. Historically, FEMA has set relatively short time extensions that are unrealistic and can lead to heightened frustrations on the part of our subrecipients. Often, by the time a response is received from FEMA, the requested extension date has passed and additional extension is often needed; it's a circle of aggravation that is unnecessary at this stage in the recovery effort when so many permanent work projects are facing "extenuating

circumstances”⁴ and eligible for additional extension. **We ask that you** support and encourage FEMA to grant these time extensions, recognizing that although the road to recovery has been long, it has been a collaborative process that has moved forward at a remarkable pace despite major unprecedented storms, earthquakes, and a global pandemic.

Close-Out Concerns

Although Puerto Rico has much recovery ahead, successful closeout of projects begins now. While the Hurricane Irma closeout process has been successful, closeout efficiencies could be improved if there were clearer guidance on the documentation required for each category of work. We ask that Congress support this effort by ensuring FEMA has adequate staffing to take on the monumental task of closing this massive project.

Insurance Considerations

Looking forward to post-construction, subrecipients in Puerto Rico have struggled through delays caused by implementation of FEMA’s post-construction insurance requirements. As a condition of receiving FEMA Public Assistance, applicants must obtain and maintain insurance coverage for the facility receiving Federal assistance for the type of hazard. Coverage must, at a minimum, be equal to eligible project costs. This is often referred to as the “obtain and maintain” or “O&M” requirement. We have requested FEMA not to require O&M for “Canopy-style” structures, since these are roofed but not walled structures and therefore not identified as “buildings.” To meet the definition of building, a facility must have two or more outside rigid walls. This simple change in policy implementation would save Puerto Rico millions in unnecessary insurance and prevent unnecessary denials and confusion in a future disaster event.

⁴ Pursuant to 44 CFR § 206.204, the recipient is authorized to grant initial extension of projects, with additional extension under the authority of the applicable FEMA Regional Administrator and subject to justification including “extenuating circumstances” beyond the control of the subrecipient or recipient.

VAYGo

For purposes of adequately tracking compliance with applicable policies, laws, and regulations, FEMA implemented the Validate As You Go (“VAYGo”) pilot program to test Public Assistance and certain other disaster grant expenditures for Hurricanes Harvey, Irma, and María in response to appropriations act provisions and Office of Management and Budget guidance that agencies implement additional measures to identify and address improper payments for disaster programs expending more than \$10 million in any one fiscal year. As part of VAYGo, FEMA reviews project documentation for a sample of funds as they are drawn down by recipients and conducts testing to verify whether the project funding was appropriately expended by the subrecipient. One goal of VAYGo is to identify potential problems earlier, allowing FEMA and recipients—including PA recipients—to correct or mitigate issues earlier in the process instead of waiting until grant closeout. According to FEMA, the primary goal of VAYGo is to test for ineligible costs, which can serve as a gateway for the agency to be on notice of issues of fraud, waste, or abuse in the PA program. For FEMA’s VAYGo team to successfully report a recipient’s expenditure of Federal funding has been proper, all documentation associated with the expended amount must be available for review by the VAYGO team.

In 2019, FEMA implemented the VAYGo program in Puerto Rico. To date, we have participated in three VAYGo reviews for fiscal years 2018, 2019 and 2020 and have taken significant strides with subrecipients to validate most of the sampled disbursements. It should be noted that VAYGo reviews for fiscal year 2019 mostly correspond to disbursements done directly by FEMA (as per the manual drawdown process that was previously discussed), while the entirety of the 2020 VAYGo process took into account that COR3 manages the reimbursement process. FEMA has informed us that VAYGo has been indefinitely suspended, however, its previous

“findings” remain unresolved and could possibly present potential for major delay to an otherwise successful financial closeout.

COR3 and FEMA have agreed to go through a remediation phase to resolve the limited questioned costs. However, we were informed by FEMA that it intends on sending a final debt/collection letter to COR3 by the end of September. Upon COR3's request, remediation efforts are being coordinated with FEMA, as COR3 finalizes its submission of documents. Notably, the amount owed for Hurricane Irma is \$2 million and corresponds to projects that have been closed by COR3 and some also by FEMA. COR3 believes that a more collaborative process with FEMA will allow the avoidance of re-opening projects for which FEMA has completed closeout. Such a process would certainly defeat the closeout purpose if after closeout Puerto Rico has to perform an additional review due to VAYGo.

Expediting EHP

According to the Public Assistance Program and Policy Guide (PAPPG) (FP 104-009-02), the FEMA must review each Public Assistance project to ensure the work complies with applicable federal Environmental and Historic Preservation (EHP) laws and their implementing regulations, and applicable Executive Orders. At the same time, we should look for ways to expedite review process and obligate as many projects as possible in this fifth anniversary of 4339-DR-PR.

Conclusion

Our mission at COR3 as recipient of FEMA Public Assistance and HMGP funds, and our inherent responsibility over compliance and transparency of the federal funds flowing to subrecipients, is to provide all required technical assistance to the subrecipients of Puerto Rico in furtherance of the execution of the approved recovery and reconstruction projects, which will allow for a better, more resilient Puerto Rico. Effective completion of this work will support a

much more stable infrastructure system and create better economic opportunities for our citizens, all of which are goals that we are confident are shared by FEMA, this Congress, and the rest of the federal government.

On behalf of the entire COR3 team, we thank Congress and the U.S. Government, especially FEMA Leadership, for its continued support towards a better life for everyone in Puerto Rico. Puerto Rico appreciates the attention and focus Congress is bringing to these important issues, and we look forward to working with Congress to evaluate and address the lessons we have learned, and continue to learn, from these unprecedented events.

Figure 1

Compared to the first 3 years after Hurricanes Irma and Maria, since 2021 Puerto Rico has moved from emergency work projects to permanent work projects.

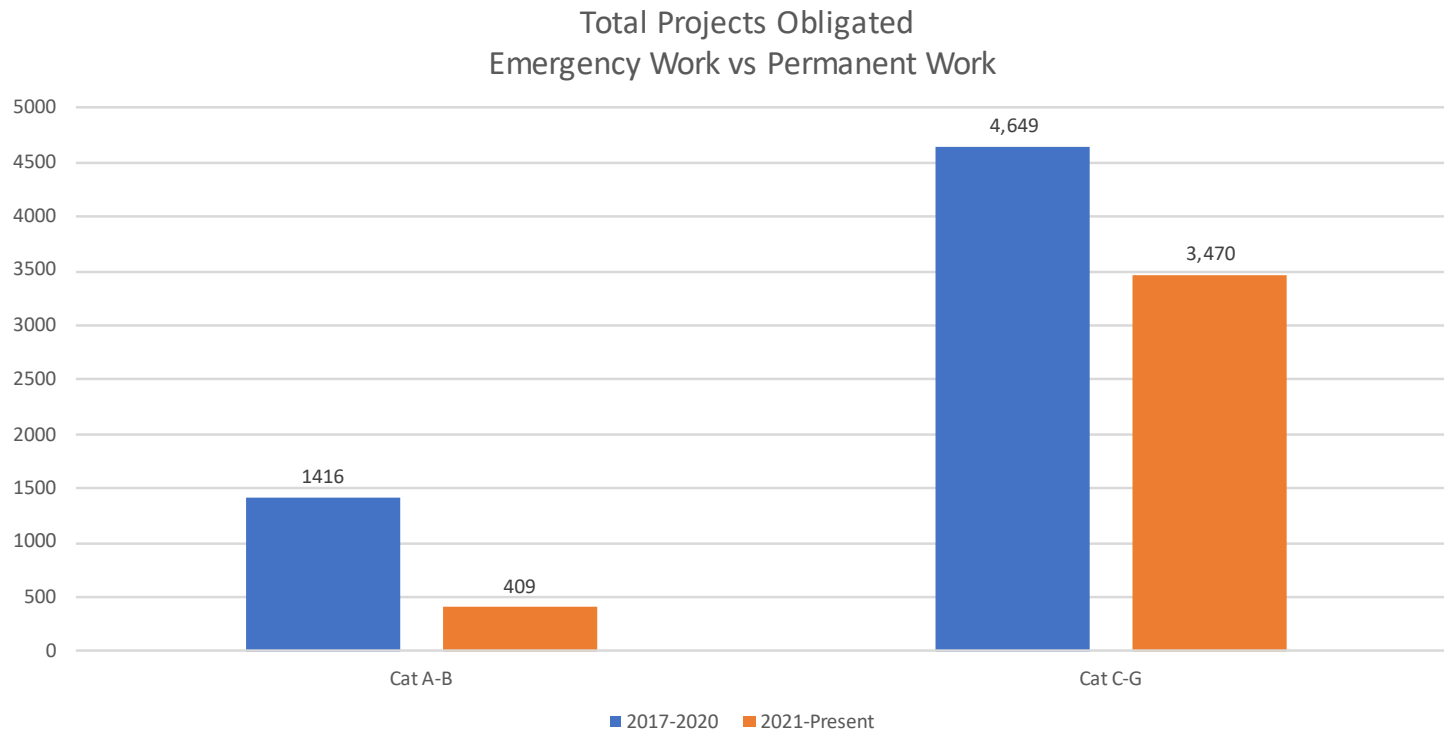


Figure 2

COR3 has worked diligently in increasing the speed of disbursements for emergency work. Since 2021, for the first time since the recovery began, disbursements have outnumbered obligations for Cat A-B projects.

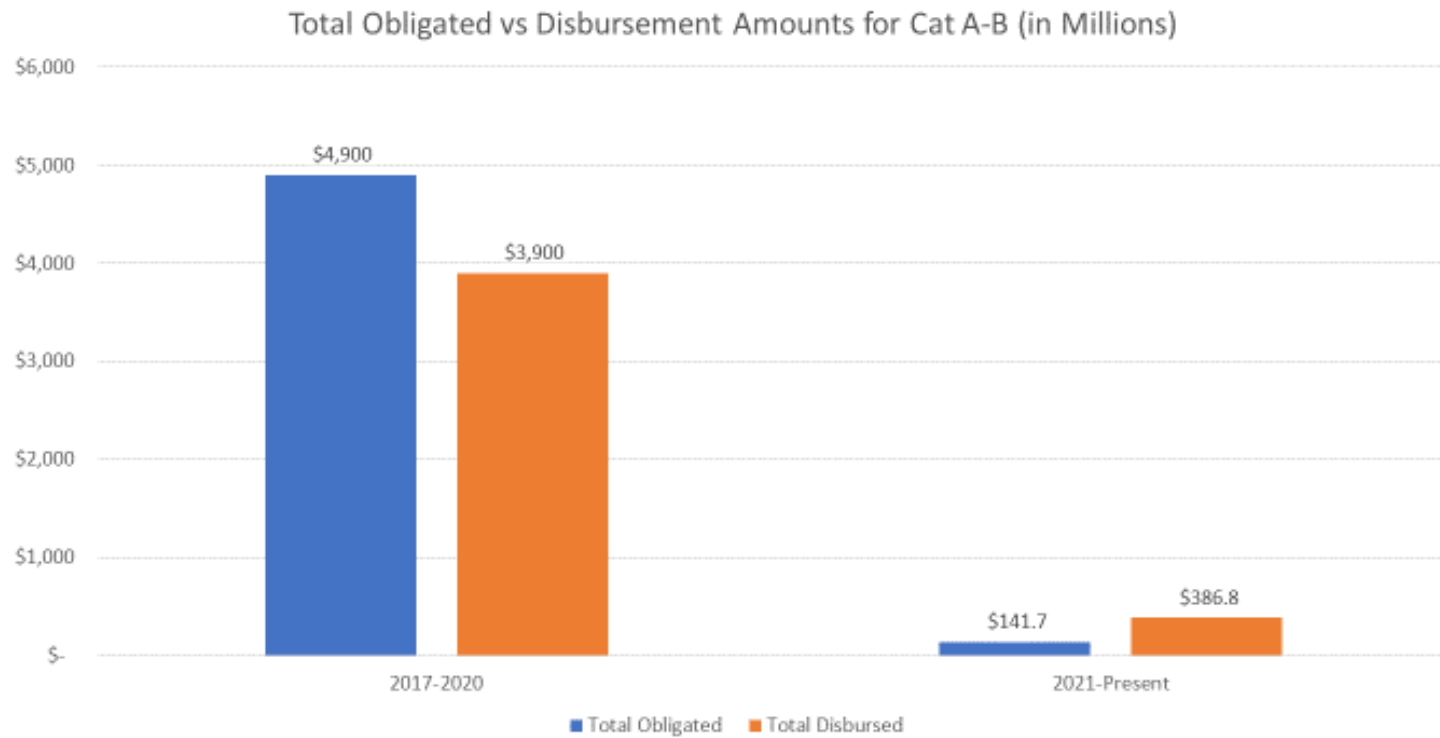
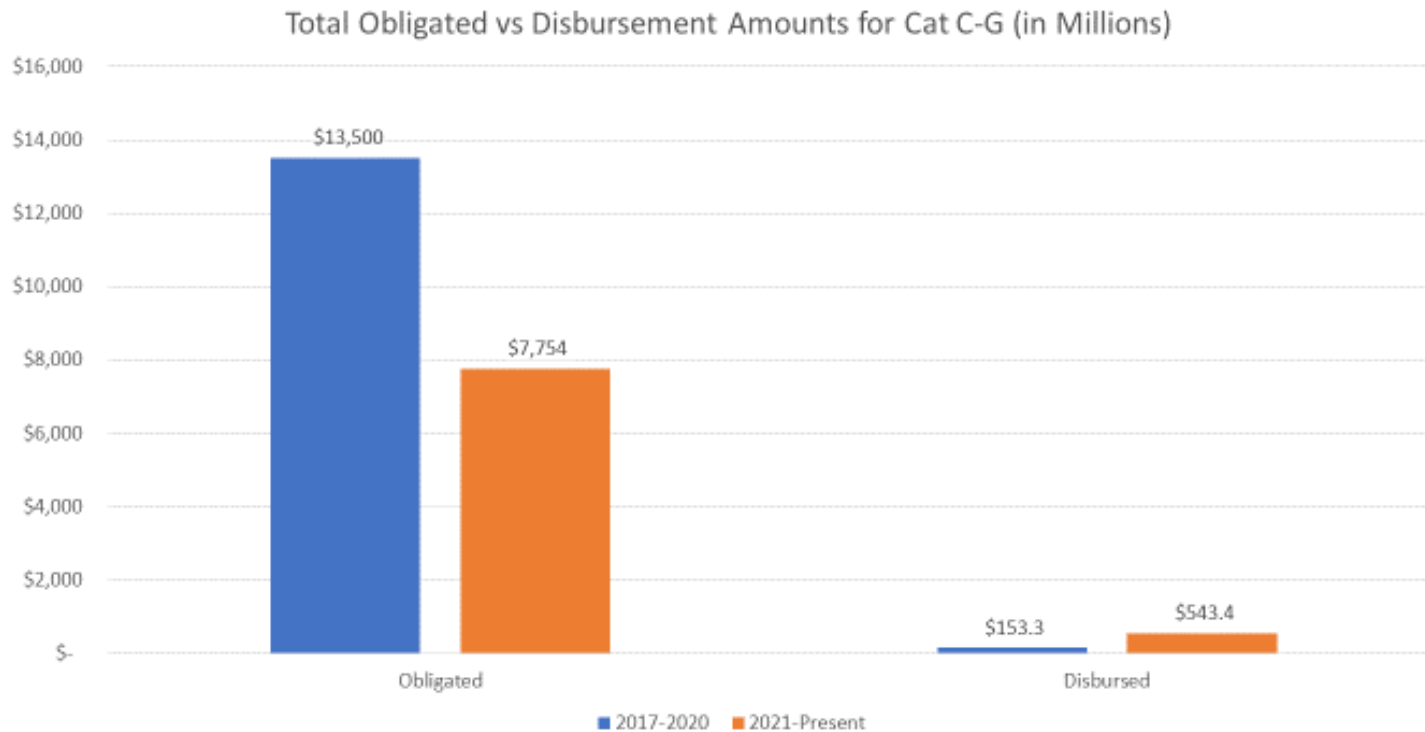


Figure 3

As we move toward permanent work projects, we have seen a significant increase in obligated permanent work projects as well as disbursements. Since 2021 disbursements have increased by over 70%.



*In 2020 the FAAsT obligations paved way to \$13,500M in C-G projects. This amount should be considered a construction budget rather than an obligation.

Figure 4

Prior to 2021 Puerto Rico had no permanent work projects underway for PREPA, PRASA and Department of Education, since 2021 and the inception of FAAsT, Puerto Rico now has 29 approved permanent projects for PREPA, 9 for PRASA and are awaiting validation from FEMA to commence school repairs. This has been a significant step toward the island’s recovery.

FAAsT PROJECTS

2017-2020 vs 2021-Present

	2017-2020			2021- Present		
	SOW	Approved	Disbursed	SOW	Approved	Disbursed
PREPA (\$9.5B*)	0	0	0	40	29	\$183.0M
PRASA (\$3.7B*)	0	0	0	23	9	\$38.5M
DE (\$2.1B*)	0	0	0	27	0	\$1.3M

* Federal Share Obligated Amount

Figure 5
Road to Recovery

