

# Committee on Natural Resources

Rob Bishop, Chairman  
Hearing Memorandum

November 13, 2017

To: All Natural Resources Committee Members

From: Majority Committee Staff—Marc Alberts, Chris Fluhr, Andrew Vecera (x5-2761)

Hearing: Oversight hearing on *“The Need for Transparent Financial Accountability in Territories’ Disaster Recovery Efforts”*

---

The Committee on Natural Resources will hold an oversight hearing to receive testimony on **November 14, 2017, at 2:00 PM in 1324 Longworth House Office Building**. The hearing will focus on the immediate financial need of both Puerto Rico and the U.S. Virgin Islands in response to the devastation of Hurricanes Irma and Maria, and the corresponding need for independent oversight of the expenditure of Federal funds.

## Policy Overview

- In order for the territories to recover, Federal funding will be required, as will oversight of the expenditure of such funds to ensure they are used for recovery efforts rather than debt service or other ancillary purposes.
- Puerto Rico continues to face both humanitarian and financial challenges due to the devastation of Hurricane Maria. However, a few of Puerto Rico’s responses to these challenges have been controversial and often without the consultation of the Oversight Board.
- The Oversight Board provides a potential oversight structure to ensure proper expenditure of Federal funds, but for Federal funding to achieve recovery success, collaboration between the Government of Puerto Rico and the Oversight Board must occur.
- The United States Virgin Islands (USVI) faces many similar humanitarian and financial crises as Puerto Rico, and will require substantial Federal investment. However, independent accountability of the Federal funds is needed, as the USVI is in the midst of an overwhelming debt crisis, and has demonstrated an inability to exercise necessary financial control.
- What type of controls are needed to ensure accountable use of Federal funding in the case of the USVI is unknown; for unlike its neighbor Puerto Rico, the USVI does not currently have an Oversight Board providing a nexus between Congress and the territory itself.

## **Witnesses Invited**

*The Honorable Ricardo Rosselló*  
Governor of Puerto Rico  
San Juan, Puerto Rico

*The Honorable Kenneth Mapp*  
Governor of the United States Virgin Islands  
Charlotte Amalie, St. Thomas

## **Background**

Hurricanes Irma and Maria struck the Caribbean on September 5 and September 19, 2017 respectively. The devastation caused by both was widely felt in the American territories of the U.S. Virgin Islands (“USVI”) and Puerto Rico. Two months later, both islands are still in the recovery process, with the majority of Puerto Rico without power, and the USVI struggling to reopen roads.<sup>1</sup> In order for these territories to recover, Federal funding will be required. What is unknown, however, is the extent to which the islands will receive aid, and whether such aid will include an avenue for critical Federal oversight to ensure the funds are used for recovery efforts rather than debt service or other ancillary purposes. Therefore, the purpose of this hearing is to 1) analyze the financial needs of both territories, and 2) determine the need and form of appropriate Federal oversight.

### **Puerto Rico**

A month ago, Governor Rosselló sent a letter to Congressional leaders assessing the hurricane damage at a staggering \$95 billion, and noting both the humanitarian and liquidity crises the territory faced.<sup>2</sup> Today, Puerto Rico still faces overwhelming challenges, both humanitarian and financial.

Last year, the Committee on Natural Resources (“Committee”) drafted the Puerto Rico Oversight, Management, and Economic Stability Act (“PROMESA”) to address the financial crisis faced by Puerto Rico. PROMESA established a Financial Oversight and Management Board for Puerto Rico (“Oversight Board”) tasked with guiding Puerto Rico’s government to achieve fiscal responsibility and a return to the capital markets.<sup>3</sup> However, as the Committee’s November 7, 2017 hearing last week demonstrated, the Oversight Board believes the hurricanes substantively transformed their mission to include reconstruction and recovery efforts. Therefore, with the devastation wrought by the hurricanes, both the Oversight Board and the Governor have been vying to assert control over the situation on the island.

---

<sup>1</sup> Ernice Gilbert, Week of Lobbying: Delegation of VI Government Officials Descends on Washington with \$7.5 Billion Request, VI Consortium, Nov. 12 2017, available at <http://viconsortium.com/virgin-islands-2/usvi-lobbys-in-washington-for-federal-aid-following-2017-hurricanes/>.

<sup>2</sup> Letter from Governor Ricardo Rossello to Congressional Leaders, Oct. 7, 2017, available at <https://twitter.com/ricardorossello/status/917429931205898242>.

<sup>3</sup> 48 U.S.C. 2121(a).

As Governor Rosselló noted in his letter to Congress, Puerto Rico continues to face a humanitarian disaster. To date, less than half of the island's power has been restored,<sup>4</sup> and mudslides frequently cover roads.<sup>5</sup> These challenges are seemingly prolonged by the lack of centralized control on the island, and, in the terms of electric restoration, questionable managerial decisions that have potentially prolonged the island's recovery.<sup>6</sup>

For instance, the decision by the Executive Director of the Puerto Rico Electric Power Authority ("PREPA"), Ricardo Ramos, to contract with Whitefish Energy for \$300 million raises serious concerns about the utility's ability to effectively enter into and manage large contracts.<sup>7</sup> At the time the contract was signed, observers questioned the failure of Puerto Rico to implement mutual aid agreements under the American Public Power Association. Despite near universal criticism, the Executive Director continued to defend the contract for weeks, until the Governor ordered the contract cancelled and sought to exercise the mutual aid agreements.<sup>8</sup> This lack of institutional control within Puerto Rico's largest municipal debtor raises grave concerns about PREPA's, and by association, the government of Puerto Rico's ability to competently negotiate, manage, and implement infrastructure projects without significant independent oversight.

Secondly, Governor Rosselló highlighted the liquidity crisis Puerto Rico will face in the immediate term, arguing the financial damages "will subject Puerto Rico's central government, its instrumentalities, and municipal governments to unsustainable cash shortfalls."<sup>9</sup> These liquidity concerns were echoed by the Oversight Board in communications with Congressional leaders, but the extent of such needs have been recently downsized.<sup>10</sup> However, last week, Governor Rosselló signed an executive order exempting small and medium businesses from the sales and use tax – a major facet of Puerto Rico's existing revenue stream.<sup>11</sup> Although this measure was likely executed to stem emigration and encourage the local economy, it will more immediately bring about the realization of a liquidity shortfall. Furthermore, this action was taken without consultation with the Oversight Board – a controversial decision highlighting the growing rifts between the Governor and the congressionally created entity.<sup>12</sup>

---

<sup>4</sup> Puerto Rico Information Technology Services, statusPR, <http://status.pr/>.

<sup>5</sup> Dianna Cahn, In the Mountains of Puerto Rico Hurricane Maria still Rules, Stars and Stripes, Nov. 10 2017, <https://www.stripes.com/news/in-the-mountains-of-puerto-rico-hurricane-maria-still-rules-1.497261>.

<sup>6</sup> See Steven Mufson, Arelis R. Hernández and Aaron C. Davis, Puerto Rico Governor Says Contract to Whitefish Company should be Cancelled, Washington Post, Oct. 29, 2017, *available at* [https://www.washingtonpost.com/business/economy/puerto-rico-governor-says-contract-to-whitefish-company-should-be-canceled/2017/10/29/e5336cda-bcb8-11e7-97d9-bdab5a0ab381\\_story.html?utm\\_term=.28d529301535](https://www.washingtonpost.com/business/economy/puerto-rico-governor-says-contract-to-whitefish-company-should-be-canceled/2017/10/29/e5336cda-bcb8-11e7-97d9-bdab5a0ab381_story.html?utm_term=.28d529301535).

<sup>7</sup> See Sandra Lilley, Puerto Rico Suffers Another Major Power Outage After Transmission Line Failure, NBC News, Nov. 09, 2017, <https://www.nbcnews.com/news/latino/puerto-rico-suffers-another-major-power-outage-after-transmission-line-n819396>.

<sup>8</sup> See note 6.

<sup>9</sup> Letter from Governor Ricardo Rosselló to Congressional Leaders, Oct. 7, 2017.

<sup>10</sup> Puerto Rico Fiscal Agency and Financial Advisory Authority, Liquidity Update to the Financial Oversight and Management Board for Puerto Rico, Oct. 31, 2017, *available at* <https://juntasupervision.pr.gov/wp-content/uploads/wpfd/50/59f882282f987.pdf>.

<sup>11</sup> Governor Ricardo Rosselló, Executive Order OE-2017-068, Nov. 8, 2017, *available at* [https://estado.pr.gov/apex/apex\\_util.get\\_blob?s=4643649293492&a=118&c=8703109913745663&p=14&k1=3285&k2=&ck=819AA787C966F856F86867F8DCCF2BF0&rt=IR](https://estado.pr.gov/apex/apex_util.get_blob?s=4643649293492&a=118&c=8703109913745663&p=14&k1=3285&k2=&ck=819AA787C966F856F86867F8DCCF2BF0&rt=IR).

<sup>12</sup> Governor Suspends Sales-and-Use Tax for Small, Midsize Businesses, Reorg-Research, Nov. 08, 2017.

In its responses to both the humanitarian and financial challenges, the government of Puerto Rico has effected controversial decisions that may have exacerbated the crises on the island. Furthermore, these decisions have been executed without the independent analysis the Oversight Board is intended to provide. The Oversight Board provides a nexus to Congress and the Administration facilitating greater transparency and accountability in the management of territorial affairs. Therefore, this structure provides a source of independent oversight – intended to be removed from the political affairs of the territory – that can be utilized to enforce proper oversight of Federal resources, and the successful reconstruction of Puerto Rico. Despite this intent, the government of Puerto Rico is challenging the Oversight Board’s appointment of a Chief Transformation Officer, and circumventing the Oversight Board’s review authority.

Regardless of the current political squabble between the Oversight Board and the Governor, the recovery process must be as efficient and transparent as possible. Through strong cooperation amongst all local, state, and federal agencies, the Governor, and ultimately the Oversight Board, the process of rebuilding Puerto Rico’s infrastructure in a more resilient and responsible manner may be achieved.

### United States Virgin Islands

Recently, Governor Mapp requested \$7.5 billion in Federal assistance to help recovery and reconstruction efforts in the USVI.<sup>13</sup> Although the amount of such request is likely merited, the USVI’s direct control of the funds should be scrutinized due to its overwhelming debt crisis, and inability to demonstrate necessary financial control.

The USVI’s public debt grew from fiscal years 2005 to 2015 by 84 percent (an increase of \$1.2 billion), with a total public debt per capita of \$25,739.<sup>14</sup> This debt burden, in addition to the \$3 billion in unfunded pension liabilities, has resulted in the USVI being unable to seek new bonded debt from the capital markets.<sup>15</sup> Although the USVI government has sought to control its spending through the adoption of austerity measures and the imposition of new sin taxes, the effect of such measures did not better the USVI’s financial image in the markets prior to the passage of the hurricanes.<sup>16</sup> Furthermore, Governor Mapp has taken a questionable position towards the credit rating agencies, severing his territory’s ties with the agencies and refusing to provide financial data. Notably, in its last rating of the USVI, Standard and Poor’s indicated the hurricanes would likely “weaken [the USVI’s] economy and finances both in the immediate term and over a longer horizon.”<sup>17</sup> It is therefore highly unlikely the USVI will have access to the financial markets in the immediate future.

In addition to the debt burden prohibiting access to financial markets, the USVI will be under immense scrutiny to properly expend Federal funds, as it has a history of using disaster

---

<sup>13</sup> Ernice Gilbert, Week of Lobbying: Delegation of VI Government Officials Descends on Washington with \$7.5 Billion Request, VI Consortium, Nov. 12 2017, available at <http://viconsortium.com/virgin-islands-2/usvi-lobbys-in-washington-for-federal-aid-following-2017-hurricanes/>.

<sup>14</sup> U.S. Government Accountability Office, U.S. TERRITORIES: Public Debt Outlook, GAO-18-160, Oct. 2, 2017.

<sup>15</sup> *Id.* at 55.

<sup>16</sup> *Id.*

<sup>17</sup> Ernice Gilbert, Citing Lack of Information, Ratings Agency S&P Withdraws USVI Ratings with ‘Negative Implications’, VI Consortium, Oct. 6, 2017, available at <http://viconsortium.com/featured/sp-withdraws-from-usvi/>.

relief moneys for other purposes, and limited mechanisms to control fraud, waste, and abuse. For instance, in a Reuters piece published concurrent to Hurricane Irma’s arrival, it was discovered the USVI had “redirected money intended to help pay insurance claims after large disasters for other needs, raising the vulnerability of residents.”<sup>18</sup> The piece notes the USVI has transferred over \$200 million from the fund since 2007, and highlights a governmental decision to decrease the amount in the fund from \$50 million to \$10 million.<sup>19</sup> Furthermore, a recent Department of the Interior Inspector General (“DOIIG”) report concluded the USVI’s Public Finance Authority (“PFA”) “did not maintain sufficient internal controls to safeguard assets and did not provide reasonable assurance that financial transactions and related reports were accurate.”<sup>20</sup> Evidencing this conclusion were the findings of “\$50 million in financial reporting discrepancies, conflicts of interest, and the \$101.1 million in questionable expenditures” the DOIIG found during its investigation.<sup>21</sup>

The historical mismanagement of the USVI’s finances demonstrates the need for independent oversight of Federal funding. The form of such oversight, however, is unknown; for unlike its neighbor Puerto Rico, the USVI does not currently have an Oversight Board providing a nexus between Congress and the territory itself.

---

<sup>18</sup> US Virgin Islands Spent Money Intended to Help After Hurricanes, Reuters, Sept. 7, 2017, *available at* <https://www.cnn.com/2017/09/07/us-virgin-islands-spent-money-intended-to-help-after-hurricanes.html>.

<sup>19</sup> *Id.*

<sup>20</sup> U.S. Department of the Interior, Office of Inspector General, Significant Flaws Revealed in the Financial Management and Procurement Practices of the U.S. Virgin Islands’ Public Finance Authority, Sept. 29, 2017, at 1, [https://www.doiig.gov/sites/doiig.gov/files/FinalAudit\\_VIPFA\\_Public.pdf](https://www.doiig.gov/sites/doiig.gov/files/FinalAudit_VIPFA_Public.pdf).

<sup>21</sup> *Id.*