Congress finally passes $19 billion in recovery aid

Headline Story

Puerto Rico Mayors sign agreement with the Puerto Rico Department of Housing and COR3 for the repair, reconstruction or relocation of permanent housing on the island

A bill to amend the Small Business Act to give small businesses contracting credit for subcontractors that are Puerto Rico businesses was introduced in Congress

Judge Laura Taylor Swain raises doubts about adequacy of PREPA's $8.5 billion Restructuring Support Agreement

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Congress passes disaster recovery aid with additional $1.4 billion

On June 3, 2019, Congress finally passed a $19.1 billion disaster recovery aid package, the Supplemental Appropriations for Disaster Relief Act, which includes $1.4 billion for the U.S. territory of Puerto Rico. The final package, which was finally approved in the House of Representatives in early June by a vote of 354 to 58 after being overwhelmingly approved by the Senate in May 23 by a vote of 85 to 8, includes $600 million in nutrition assistance as part of the $1.4 billion package approved for Puerto Rico.

The funding took almost six months to approve after President Trump requested $4.5 billion for border aid, of which $1.1 billion in additional funds for the border would have gone to other operational costs like detention beds. Democrats opposed the funding for border aid and had pushed for additional disaster recovery aid funding for Puerto Rico but the White House sought to limit that aid and actively railed against it. The final package did not include the funding for border aid requested by President Trump, but included the additional $1.4 billion in disaster recovery aid for Puerto Rico.

The disaster recovery aid package will provide funding to millions of people recovering from hurricanes, tropical storms, tornadoes, earthquakes, wildfires and flooding around the country, in Florida, Iowa, California, Georgia and Puerto Rico. The bill includes specific provisions to speed money to communities in these areas of the country recovering from natural disasters. It earmarks $3 billion for farms, places that were hit by flooding in the South and Midwest, nearly $800 million for the Army Corps of Engineers for rebuilding and investigations, and more than $500 million for the Coast Guard.

The $1.4 billion aid package allocated for Puerto Rico includes more than $900 million for Puerto Rico recovery, an additional $300 million in Community Development Block Grants ("CDBG") funds to rebuild infrastructure, $5 million for an independent study, including a survey of participants, on the impact of the additional benefits provided through disaster nutrition assistance, as well as $600 million in nutrition assistance to supplement disaster nutrition assistance for Puerto Rico stemming for 2017 hurricanes.

There are $2.431 billion in CDBG funding, which when combined with $1.68 billion of CDBG funding in the FAA reauthorization, there will be a total of $3.89 billion in resources for 2018 and 2019 disasters, of which more than $1 billion is available for resiliency and mitigation activities, including $331 million for Puerto Rico.

The bill also clarifies the intent of public law 115-123, which waived the prior condition limitation for Public Assistance grants for certain disasters affecting Puerto Rico, in order to expedite reconstruction and strengthen the resiliency of critical services against future disasters. This provision will provide approximately $500 million in assistance for Puerto Rico. The bill was signed by President Trump on June 6.

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A group of Mayors signs agreement with Housing and COR3 for R3 Program

On June 17, 2019, 48 mayors signed an agreement between the Puerto Rico Department of Housing and the Central Office of Recovery, Reconstruction and Resilience (”COR3”) to aid with the relocation, repair or reconstruction of single-family homes affected by hurricanes Irma and María with Community Development Grant Program for Disaster Recovery (“CDBG-DR”) funds.

The funding comes from an allocation of approximately the $2.0 billion from DCBG-DR assigned by the U.S. Department of Housing (“HUD”) on February of 2018, as part of the Repair, Reconstruction or Relocation (“R3”) Program. Puerto Rico Governor, Ricardo Rosselló, also announced that the R3 Program aid will even be available to applicants that have been denied assistance by the Federal Emergency Management Agency (“FEMA”).

Homeowners in the all of the municipalities in Puerto Rico that meet HUD’s low-to-moderate-income levels and who owned or occupied the unit as their primary residence at the time of the hurricanes, may be eligible with assistance that includes up to $60,000 for home repairs, and up to $150,000 for the reconstruction of significantly affected home in non-hazard locations, as part of the R3 Program. Puerto Rico’s Housing Department Secretary, Fernando Gil-Enseñat, stated that eligible owners that sustained substantial damages and are in flood zones, or whose homes are at risk of collapse, may be offered relocation assistance to a safer home but any relocation effort will be voluntary.

Puerto Rico’s Resident Commissioner in Washington D.C., Jennifer González, mentioned that the priority of the federal funds will be the reconstruction of housing, infrastructure, transportation and essential services for the citizens of Puerto Rico. Ms. González further added that the municipalities are the first line of defense that every citizen has because the Mayors know their communities and their needs and also have the administrative infrastructure to handle projects of this level.

The Executive Director of the COR3, Omar Marrero, mentioned that the Government is working every day to maximize recovery opportunities for all those affected by the hurricanes and emphasized that programs such as the R3 Program are proof of the government’s effort to transform Puerto Rico into a more resilient island.

The program will provide housing needs for people with low-to-moderate incomes, as well as aid in the recovery of the communities served. The local Government mentioned that specific strategies will be identified to ensure aid that reaches priority sectors (very low, moderate and low income citizens), people over 65, and people with significant damages.

Bill to incentivize Puerto Rico small businesses introduced in Congress

On June 21, 2019, the U.S. House Small Business Committee Chairwoman, Nydia M. Velázquez, introduced H.R. 3372, the Small Business Contracting Act of 2019, a bill to amend the Small Business Act to give small businesses contracting credit for subcontractors that are Puerto Rico businesses.

The bill, which is cosponsored by Congressman Gilbert R. Cisneros, builds off a measure passed by Congresswoman Velázquez as incorporated into the John S. McCain National Defense Authorization Act of 2019, which grants federal agencies the ability to double the value of the contracts awarded to Puerto Rican small businesses for the purposes of obtaining credit towards the small business prime contracting goal of 23%. H.R. 3372 would extend the same opportunities to subcontractors.

When announcing the introduction of the bill with Congressman Cisneros, Congresswoman Velázquez said that “just like on the Mainland, small businesses in Puerto Rico deserve a leveled playing field to compete for and to win opportunities to do business with the federal government” and added that the Small Business Contracting Credit Act of 2019 “is a commonsense measure to build upon current law and offer more opportunities to the small firms that make up the backbone of Puerto Rico’s economy.” Ms. Velázquez urged the House to take up the bill quickly and thank Congressman Cisneros for joining me in this effort.”

According to both members of Congress, the bill will stimulate the economy and enhance opportunities for Puerto Rican businesses after the devastation of Hurricanes Irma and María.

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Judge Swain raises doubts about adequacy of PREPA's $8.5 billion RSA with creditors

The Judge on the bankruptcy-like Title III case under the Puerto Rico Oversight, Management and Economic Stability Act ("PROMESA"), Laura Taylor Swain, raised doubts about the adequacy and reasonableness of the Restructuring Support Agreement ("RSA") reached between the Puerto Rico Electric Power Authority ("PREPA") and its creditors to restructure the electric power utility's $8.5 billion debt. The RSA will require a bond exchange on two different tranches of bonds that will be paid through a transition charge to utility customers that will start at $0.01 cent in July of this year and increase over time to pay the new bonds.

As the parties were about to hold a pretrial status conference of a motion for a Section 9019 request to move forward the settlements embodied in the RSA in preparation for arguments to be heard in late July, Judge Swain said that while reviewing a request by the Unsecured Creditors Committee ("UCC"), which is seeking discovery of information on the adequacy of the RSA, she noticed that Puerto Rico's Financial Oversight and Management Board ("FOMB") had not filed a required initial declaration on the proposed RSA, and directed the government parties to file their opening factual declarations and supplemental memoranda of law key to those declarations by the end of June, subject to hearing responses from proposals of parties present at the hearing. The filings must provide detailed information and arguments sufficient to show the Government's entitlement to the release sought in the 9019 motion.

The Judge said that the Government needed a "record sufficient to establish the benchmark range of reasonableness for consensual recovery on the bondholders claim in order to determine whether the discount to the claims as a result of the settlement in the RSA falls within the range of reasonableness". Judge Swain added that "the scope and complexity of the deal demands significantly more to demonstrate that the deal reached by the parties is fair and equitable".

The UCC noted in a motion filed that the RSA would eventually lead to the transfer of more than $20 billion over a period of 47 years to PREPA's secured bondholders, and all but dictate the material terms of any future plan of adjustment in this case and argues that the RSA appears to commit all of PREPA's economic capacity to satisfying bondholder claims.

of their investment. In raising these doubts, Judge Swain might be looking to avoid what happened during the negotiations of the Debt Adjustment Plan of the Puerto Rico Sales & Taxes Use Tax Corp. ("COFINA", by its Spanish acronym), where several retail bondholders complained that they where kept in the dark and did not participate in the negotiations, leaving them with a small recovery

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