



An Urgent Rescue Plan for Puerto Rico

By Federico de Jesús and Laura Rodríguez | April 28, 2020

Puerto Rico stands at a crossroads—and acting boldly and with urgency, the Biden administration can provide the island with the relief it needs. While Puerto Rico’s economic crisis has been at the forefront of recent public policy discourse, hurricanes Irma and Maria, subsequent natural disasters, and controversies involving the Puerto Rican central government have made it clear that Puerto Rico’s problems will continue to grow worse every day without an intervention of stimulus and support from the federal government. In addition to these hurdles, the Trump administration spent the past four years impeding Puerto Rico’s recovery¹ at every opportunity,² treating the island and its people unfairly and with callous disrespect. The Biden administration, however, has the power to implement immediate policy changes to help give Puerto Rico the chance to rebuild and recover. The administration should also work with Congress to craft legislation to address long-standing inequities in federal funding and change how certain laws are applied. The following recommendations will provide Puerto Rico with much-needed assistance and send a message of serious commitment to resolve long-standing, systemic issues. The time to act is now.

8 actions the executive branch should take to aid Puerto Rico

The Biden administration should urgently take the following eight actions that would immediately deliver relief to Puerto Rico—including reestablishing the President’s Task Force on Puerto Rico’s Status and undertaking other economic policies that would help the island recover and prosper.

Reestablish the President’s Task Force on Puerto Rico

President Bill Clinton established the White House interagency working group on Puerto Rico in 2000, formally known as the President’s Task Force on Puerto Rico’s Status.³ Its focus was to examine proposals for Puerto Rico’s future political status and for a process by which Puerto Ricans could choose a status option—deciding for themselves the island’s future relationship with the United States (statehood, more autonomy for the commonwealth, free association, or independence). This debate

has been ongoing since the United States acquired Puerto Rico in 1898 after the Spanish American War. Puerto Ricans have been U.S. citizens since 1917 and have been officially a commonwealth since 1952. The status debate and the political limbo in which Puerto Rico continues to find itself is the central issue the task force was originally intended to address.⁴ The Bush administration continued this tradition by issuing two reports in 2005⁵ and 2007.⁶ The Obama administration expanded the task force's range of recommendations to include suggestions on policies that promote job creation, education, health care, and clean energy and the environment in the island municipalities of Vieques and Culebra, as well as overall economic development on the island.⁷ Currently, as Puerto Rico faces multiple crises, reestablishing the President's Task Force on Puerto Rico with additional resources and authority would be an important step toward providing the island with much-needed relief. To do so, the administration should:

- Provide the task force with more resources and authority than before. It should also mandate higher-level participation—at the deputy secretary level at a minimum—and Cabinet-level chairs and co-chairs with senior staff in the Executive Office of the President, including in the vice president's office.
- Set a hard deadline for an initial framework of action for all federal agencies through benchmarks and step-by-step deadlines.
- Ensure that budget authority is made available to the maximum extent practicable to spend money on work related to the task force.
- Centralize all oversight of federal reconstruction efforts in Puerto Rico under the task force.
- Give the task force full oversight of federal reconstruction efforts, such as coordination of the Community Development Block Grant Disaster Recovery Program (CDBG-DR) and Federal Emergency Management Agency (FEMA) assistance.
- Commit to addressing corruption on the island—which should include the involvement of the U.S. Department of Justice (DOJ) when appropriate—and lay out transparency requirements.
- Commit to fostering better relationships among the Puerto Rican central government and federal agencies. Additionally, the administration should:
 - Have bilingual federal agency staff designated to train workers to better manage federal grants and programs.
 - Have federal agency staff provide more meaningful technical assistance to move any grants off high-risk status or any other barriers preventing funding from being obligated and released, such as those imposed by the Trump administration.

- Acknowledge potential changes in Puerto Rico’s central government administrations and help create systems for continuity of grant and program operations.
- Make a plan to address ongoing language barriers.
- Commit to studying the Puerto Rican civil service.
- Explore a memorandum of understanding between the Puerto Rican government, the U.S. Office of Personnel Management, and the U.S. Department of Labor for technical assistance. For example, the U.S. government can help establish a Puerto Rico civil service commission and examine public worker unions and how to expand workers’ rights and opportunities for collective bargaining in the private sector.
- An economic subgroup should examine Puerto Rico’s debt and complete a full audit⁸ of the \$123 billion in public debt and pension liabilities currently being restructured by the Financial Oversight and Management Board (FOMB) for Puerto Rico. The White House could use its convening power and bully pulpit to encourage private sector creditors to make more meaningful concessions in the debt restructuring process that is already underway and encourage the Federal Reserve in its independent decision-making capacity to purchase Puerto Rico’s debt.
- President Joe Biden should order the U.S. Department of the Treasury to perform a comprehensive audit of the island’s debt to be conducted by the Inspector General for Tax Administration. The president should also support S. 1312, the United States Territorial Relief Act of 2019, which includes mechanisms for debt relief as well as the creation of an audit commission.⁹
- In addition, the Treasury Department should use its convening power to encourage creditors to negotiate better terms for the commonwealth of Puerto Rico during restructuring negotiations, similarly to how the Treasury and the Fed pushed Wall Street banks and firms to consolidate and take other extraordinary action during the 2008 financial crisis.

In addition to providing funding, it is crucial that the Biden administration work hand in hand with the commonwealth and municipal governments to ensure a swift recovery for Puerto Rico. These are just some of the many steps that the administration can take to provide much-needed, tailored relief to Puerto Rico.

[Waive the Jones Act for Puerto Rico](#)

The Jones Act is a protectionist law dating back to the 1920s that requires that all interstate commerce within the United States be conducted on U.S.-owned, crewed, and manufactured ships. This restriction has made essential goods such as food less affordable for Puerto Rico’s residents. As a result of higher prices for goods, the law’s effect on competitiveness, and lost jobs, the Jones Act has been shown to cost Puerto Rican consumers \$1.5 billion per year.¹⁰ In addition, the

Jones Act could have delayed delivery of aid to Puerto Rico after Hurricane Maria. Correcting this situation would not only help consumers on the island, but it could also prevent loss of life in the event of natural disasters. The Biden administration should commit to waiving the Jones Act for two years as a pilot and then have the White House Task Force on Puerto Rico study the pilot waiver, put out a report on its widely documented deleterious effects on Puerto Rican consumers,¹¹ and consider next steps.

Waiving the Jones Act could prove to be an important tool for aiding Puerto Rico's economy as well as increasing accessibility to goods on the island, especially in times of emergencies.

Extend relief to Vieques and Culebra

Residents of the island municipalities of Vieques and Culebra continue to suffer due to long-existing abysmal health care access, which has been exacerbated by natural disasters. Vieques and Culebra also have disproportionately high cancer rates because of exposure to munitions-specific carcinogens directly attributable to the U.S. Navy's history of using the islands for military exercises. While there have been efforts to repair the damage since the military stopped using Culebra in 1975 and Vieques in 2003, cleanup is far from complete.¹² Federal funding could be directed toward building hospitals to withstand climate change effects, improving ferry systems, and continuing decontamination and cleanup efforts. Several U.S. administrations have sought to address problems on Vieques and Culebra, but they will not be solved without a substantial investment of resources and bandwidth. As such, the Biden administration should revive the Vieques¹³ subgroup in the President's Task Force on Puerto Rico with a higher-profile mission and representatives. Since the island municipality of Culebra¹⁴ faces similar issues, it should also be included in the subgroup.

Targeted relief for these islands can come through federal action, martialing resources in the Health Resources and Services Administration (HRSA), the U.S. Department of Transportation (DOT), and other federal agencies. President Biden also needs to ensure that HRSA addresses the dire health care situation facing the U.S. citizens of Vieques and Culebra. HRSA, as part of the U.S. Department of Health and Human Services (HHS), "is the primary Federal agency for improving access to health care services for people who are uninsured, isolated, or medically vulnerable."¹⁵ This mission is tailor-made for tackling the health crisis in the island municipality. FEMA should also step in and finally fully fund Vieques' only health care facility, locally known as the CDT, the Spanish acronym for Diagnostic and Treatment Center.¹⁶

The president should also order the U.S. Department of Defense (DOD) and the Environmental Protection Agency to accelerate the cleanup process in both Vieques and Culebra and appoint a senior interagency coordinator to ensure the

process is sped up and that the community's concerns are taken into account. DOT must also aggressively provide technical assistance and identify funding programs to finally fix the chronically deficient ferry system¹⁷ used to carry Vieques and Culebra residents to the main island for most of their medical needs. Other than by plane, this is the only way most Viequesens can receive critical care.¹⁸ The Biden administration should support legislation to create a victims compensation fund to settle health claims by individuals in Vieques who have suffered for decades with chronic diseases that are a direct result of the naval training exercises conducted in the former military training range there. President Biden should therefore support the Vieques Recovery and Redevelopment Act, a bipartisan bill that would accomplish this aim.¹⁹

For 60 years, the people of Vieques sacrificed for the U.S. national defense. It is time for these U.S. citizens to finally see this regrettable chapter closed once and for all. Through these proposed executive actions and legislation, the Biden administration has a historic opportunity to bring hope to the families in Vieques and its sister island of Culebra.

Boost federal agricultural support

Puerto Rico is dangerously dependent on imports for more than 80 percent of food consumed on the island.²⁰ Delayed shipments and deliveries after hurricanes Irma and Maria demonstrated the need to have more robust local food sources. Federal support for the island's agricultural sector is an important step toward promoting local agriculture. The administration should:

- Provide federal support for the island's agricultural sector.
- Support a legislative fix to include territories in U.S. Department of Agriculture (USDA) programs currently only available to states—including Farm to School Grants, the Regional Food System Partnerships program, the Community Food Projects Competitive Grant Program, and others.²¹
- Ensure that all USDA farm program applications and materials are available in Spanish. Currently, these are only available in English.²²

Federal support for Puerto Rico's agricultural sector is an essential step in the island's reconstruction process to build a more stable and less dependent economy.

Address ongoing public safety issues

Given the outsized role the federal government plays in public safety and security in Puerto Rico and the U.S. Virgin Islands, the Biden administration needs to play a key role in addressing ongoing public safety issues such as narcotrafficking and civil rights protections within the Puerto Rico Police Department (PRPD). Administration policy toward Puerto Rico on public safety issues should include the following:

- Since Puerto Rico is used as a bridge for narcotics trafficking from Latin America to the continental United States,²³ the White House, in conjunction with the Office of National Drug Control Policy (ONDCP), should lead an interagency effort to update and subsequently implement the ONDCP’s Caribbean Border Strategy of 2020.²⁴
- The DOJ should work with the PRPD to ensure the PRPD and the U.S. DOJ enforce civil rights protections and redouble efforts to implement the consent decree under which the PRPD has operated for almost a decade.²⁵

In order for Puerto Rico to prosper, it is essential to address the ongoing public safety concerns that affect communities all over the island—and that affect the security of communities stateside as well.

Create a task force subgroup to recommend targeted changes to federal regulations that do not comport to realities on the island

Puerto Rico is an island with unique circumstances that greatly differ from those of the continental United States. However, there are currently several federal regulations that do not conform with the unique circumstances of the island. Several examples are discussed above—such as cabotage regulations (including the Jones Act), USDA restrictions, language issues, and food importation. Continuing to apply a cookie-cutter approach to a unique situation is clearly not the right course. A subgroup of the task force could be created to identify other areas where targeted changes to existing federal regulations—or waivers, where practicable—could be crafted to address unique conditions in Puerto Rico.

Targeted programs for Puerto Ricans with mental health disabilities post-disaster should be a priority for HHS and other agencies

Mental health disabilities are common after traumatizing events, which include natural disasters such as hurricanes Irma and Maria as well as continuous seismic activity. However, these mental health disabilities are often unaddressed. Creating targeted programs for Puerto Ricans with mental health disabilities is an important step toward helping the population of the island. By making this a priority for HHS and other agencies, the Biden administration can ensure that this vulnerable population receives the proper services it needs.

Opportunities for the Biden administration to work with Congress on delivering aid to Puerto Rico

Beyond executive action, the Biden administration has the opportunity to work with congressional leaders to swiftly deliver needed assistance to Puerto Rico. The administration should particularly focus on working with Congress on legislation related to Puerto Rico's debt, the powers of the FOMB, Puerto Rico's political status, and other economic and social policies.

Reducing Puerto Rico's debt

Puerto Rico is currently undergoing a process of restructuring the island's more than \$70 billion in public debt.²⁶ This debt has burdened Puerto Rico's economy and has led to the implementation of austerity measures that negatively affect public services. Canceling some of Puerto Rico's debt would bring much-needed relief amid the ongoing debt restructuring process. The administration should support congressional cramdown legislation to make possible significant reductions in privately held Puerto Rican debt, using the Territorial Relief Act as a starting point. Introduced in the Senate by Sen. Elizabeth Warren (D-MA), the act includes provisions that would terminate certain debts if they meet eligibility criteria.²⁷

Reexamine PROMESA to review the powers of the FOMB

In 2016, Congress passed the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA) into law.²⁸ In addition to establishing a process for restructuring Puerto Rico's debt, PROMESA also created a Financial Oversight and Management Board with considerable power over Puerto Rico to oversee the debt restructuring process, the extent of which has been a subject of controversy since its inception. In response, House Natural Resources Committee Chairman Raúl Grijalva (D-AZ) introduced the Amendments to PROMESA Act of 2020 to establish provisions ensuring transparency in all matters related to the FOMB and its members and reduce the austerity measures that have hampered the delivery of essential services.²⁹ Chairman Grijalva's bill is a first step toward mitigating concerns of the unchecked and opaque power of the FOMB.

Include federal tax incentives for Puerto Rico in the president's first budget

Puerto Rico is uniquely positioned to manufacture pharmaceuticals and medical equipment because of federal tax incentives that transformed it into a hub of pharmaceutical production. Unfortunately, in 1996, Congress decided to phase out tax incentives provided under Section 936 of the Internal Revenue Code (IRC).³⁰ It is no surprise that, as economists on the left and right have pointed out, Puerto Rico's recession and ongoing financial crisis started in 2006, the year that Section 936 benefits finally ended. Implementing new incentives—especially during the coronavirus pandemic—would make the United States less reliant on foreign countries such as China and others in the Asia-Pacific region for medical devices and drug manufacturing and would put many skilled Puerto Ricans back to work.

Given Puerto Rico's unique status as a domestic jurisdiction that, per Section 933 of the IRC,³¹ is considered foreign for tax purposes, creating specific tax incentives for U.S. manufacturing to relocate from Asia and other international jurisdictions to the commonwealth would allow Puerto Rico to help the United States as a whole in an area of considerable past success and expertise for the island. A potential starting point for such tax incentives could be legislation introduced by Sen. Bob Menéndez (D-NJ) and Rep. Thomas Suozzi (the Territory Economic Development Tax Credit Act³²) and Reps. Nydia Velázquez (D-NY) and Stacey Plaskett (D-NY) (the Territorial Economic Recovery Act).³³ Moreover, President Biden could propose such incentives in his first budget request.

Work with Congress to draft an immediate relief package for Puerto Rico

In order to provide relief for Puerto Rico, full equity in federal health programs is a much-needed step. Puerto Rico receives less funding than other jurisdictions, often faces fiscal cliffs, and is at constant risk of funding cuts due to the arbitrary, unequal funding formulas Congress has legislated, which have excluded Puerto Rico from full participation in crucial federal benefits. It is for this reason that the administration should work with Congress to draft an immediate relief package for Puerto Rico that addresses inequity in access to federal programs. This package should:

- Provide full equity in federal health care programs:
 - Achieve Medicaid parity by lifting the cap on Medicaid block grants and creating equity through changes to Puerto Rico's Federal Medical Assistance Percentage formula that put it on par with states' formulas.
 - Achieve Medicare Low Income Part D Subsidy parity for Puerto Rico. The Biden administration should also drop the appeal in *Peña Martínez v. U.S. Department of Health and Human Services*, which ruled that disparate treatment for Puerto Rico in this program,³⁴ as well as in SSI and SNAP, is unconstitutional. This needs a legislative fix as well.
 - Raise Medicare Advantage rates on the island. Use executive action through the Center for Medicare and Medicaid Innovation authority for a pilot program to raise relatively low Medicare Advantage rates in Puerto Rico—and use legislation to permanently fix the problem.
- Change the Nutrition Assistance Program, which is a capped block grant, and allow Puerto Ricans to fully access the Supplemental Nutrition Assistance Program (SNAP)
- Bring Puerto Rico to full parity with respect to the earned income tax credit, the child tax credit, and supplemental security income. The Biden administration should also drop the appeal to the U.S. Supreme Court in *United States v. Vaello-Madero*³⁵ and provide Temporary Assistance for Needy Families contingency funding.

Research solutions to health care deficiencies in Vieques and Culebra

As discussed above, the island municipalities of Vieques and Culebra have unique health care challenges that require the distribution of appropriate resources. Specifically, more research needs to be conducted about the lack of health services and best practices to address these issues. Therefore, the administration should work with Congress to create a congressionally directed medical research program within the DOD to help funnel resources to the islands. This would help provide relief that addresses the unique necessities of the islands.

Foster a congressional dialogue on Puerto Rico's status with a focus on a process for Congress to accept an eventual outcome

Puerto Rico has been under the U.S. flag since 1898, and Puerto Ricans were made U.S. citizens in 1917. Since it became a commonwealth in 1952, six nonbinding plebiscite votes—including the most recent vote in November 2020—have been held on the island without any concrete outcome from the federal government. The role of Congress in this process is crucial, and the Puerto Rico Self-Determination Act of 2021 is a starting point for this discussion.³⁶ The White House—either through the President's Task Force on Puerto Rico's Status or other senior administration officials—should also initiate talks with representatives of all status options toward a federally binding process, as President Biden promised during his campaign.³⁷

Conclusion

Puerto Rico needs an urgent, holistic rescue plan to address the many socioeconomic challenges the island faces. The more than 3 million U.S. citizens living in Puerto Rico have an equal right to the federal resources that the executive and legislative branches can but did not provide during the previous administration.³⁸ President Biden has a unique opportunity to deliver on his promise to provide needed relief, resources, and tools for the island to overcome daunting challenges and lead the longer-term efforts in Congress to ensure more equitable treatment of the island and its people. If properly executed, these recommendations could help Puerto Rico recover from recent natural disasters and put the island on more secure footing for years to come.

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