



## PUERTO RICO STATE ELECTIONS COMMISSION

HON. FRANCISCO J. ROSADO COLOMER  
CHAIRMAN

April 29, 2022

The Honorable Rodney Davis  
Ranking Member (IL-13)  
Committee on House Administration

Dear Ranking Member Davis:

We acknowledge receipt of your letter dated February 10, 2022, to the Chairman of the Financial Oversight & Management Board for Puerto Rico ("FOMB"), David A. Skeel Jr. regarding the Puerto Rico's 2020 Primary Election. We appreciate your interest in knowing firsthand the details related to the process of allocation of funds by the FOMB to the Puerto Rico State Elections Commission ("CEE" for its Spanish acronym) for the execution of the 2020 local primary election and presidential primary election.

In your communication, you request that the FOMB explain its role in the process of authorizing the necessary funds to hold the 2020 local primary election; a timeline of the actions pertaining to the electoral event; as well as an explanation of the changes made since 2020 to prevent a delay in the future.

On March 11, 2022, the Chairman of the FOMB, David A. Skeel Jr., replied to your communication with a letter explaining their role in the fund allocation for the 2020 primary election and provided their timeline of actions related to the election. To clarify the content of the letter and to help you better understand and contrast the events that resulted in the extension of the 2020 primary election we include our timeline of such events.

It is important to highlight that Puerto Rico faced considerable challenges in 2020 due to the earthquakes that began at the end of 2019 and followed by the COVID-19 global pandemic that caused a total lockdown, from March 16 up until late in May, when the CEE was authorized to return to work in a limited capacity.

It is also essential to point out that the actions leading to the celebration of any election require an extensive planning and execution process that starts the year before the election is held. Therefore, a key element of this process is a timely and adequate funding to defray the costs of the election.

The budgetary process is subject to compliance with various legal provisions, including the Office of Management and Budget Organic Law, Act. No. 147 of June 18, 1980, which compels the Governor of Puerto Rico to submit before the Legislature an Annual Budget for Capital Improvements and Operating Expenses of the Government of Puerto Rico. In addition, it is subject to compliance with the provisions of the Puerto Rico Oversight, Management, and Economic Stability Act (known as PROMESA), Public Law 114-187, which requires the intervention and certification of the FOMB.

This process begins with the presentation of a budget request to the Office of Management and Budget ("OGP" for its Spanish acronym). The OGP is the office responsible for preparing the general budget of the Government of Puerto Rico. Once the budget request is submitted, the OGP carries out an evaluation process which culminates with the Recommended Annual Budget for Capital Improvements and Operating Expenses of the Government of Puerto Rico. The recommended budget is subject to FOMB evaluation and certification of compliance with the approved fiscal plan. Upon certification of compliance with the fiscal plan, the recommended budget is presented to the Legislature. If the recommended budget does not comply with the fiscal plan, the FOMB issues a notice of violation describing the corrective action required to achieve compliance and provides a term to correct the violations incurred. The Governor shall submit a revised budget within the term provided. If the Governor does not submit a revised budget, the FOMB will develop its own recommended budget and submits it to the Legislature for its approval.

Once it is approved by the Legislature, its compliance with the fiscal plan must be certified. If the approved budget complies with the fiscal plan, the FOMB issues the certification of compliance, then it is sent to the Governor for approval. In the case the FOMB determines noncompliance with the fiscal plan, the FOMB issues a notice of violation describing the corrective action required to achieve compliance and grants a term to correct the violations incurred. If such violations are not corrected, the FOMB develops its own budget in compliance with the fiscal plan and submits it to the Governor and the Legislature. If the Governor or Legislature fail to develop and approve a compliant budget by the end of the fiscal year (June 30), the FOMB shall submit a budget that will be deemed approved by the Governor and Legislature.

Funds not allocated in the approved budget must be requested through reallocation requests for additional funds, which require evaluation and approval by both the OGP and the FOMB.

To put the events that led to the extension of the local primary into perspective, it is important to establish the original dates of the elections against the dates they were held. The Democratic Party Presidential Primary was originally scheduled to be held on March 29, 2020. Through Joint Resolution No. 20 - 2020, this primary was postponed to April 26, 2020, because of the COVID-19 pandemic. The election was finally held on July 12, 2020.

The Local Primary was originally scheduled for June 7, 2020, and postponed to August 9, 2020, because of the pandemic, through Joint Resolution No. 37 - 2020. On August 9,

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2020, the CEE attempted to hold the local primary but was partially suspended until August 16, 2020, because the ballots did not reach certain voting precincts

Our timeline, consists of the following:

1. The CEE budget request process for fiscal year 2019-2020 began as early as December 2018, as determined by OGP memorandum MG-478-18. The budget request presented to OGP totaled \$70,124,000 [doc. 1], **including a global allocation of funds of \$21,938,000 for Pre-Election Expenses, Local Primary Election and Presidential Primary Election.** After evaluation by the OGP, a budget for the CEE amounting to \$64,490,000 was recommended, **including the requested allocation of \$21,938,000 for Pre-Election Expenses, Local Primary Election and Presidential Primary Election,** on March 29, 2019.
2. On May 11, 2019, the FOMB issued a notice of violation to the Governor of Puerto Rico, Hon. Ricardo Rosselló Nevares, for the noncompliance of the recommended budget with the 2019 certified fiscal plan [doc. 2].
3. On June 3, 2019 [doc. 3] the FOMB issued a response to a letter sent by the President of the Senate, Hon. Thomas Rivera Schatz, related to the presentation by the Board of its budget in compliance with the certified fiscal plan pursuant to Sec. 202(c)(2) of PROMESA. In its letter, the FOMB indicated that the budget submitted by the Governor of Puerto Rico overspent the target required in the certified fiscal plan by \$573,000,000. The FOMB specifically states that the budget recommended by the Governor overspent \$25,000,000 on the CEE, this being demonstrative that FOMB did not take into consideration the funds requested to hold the 2020 primary election. The FOMB established a budget of \$28,096,000 for the CEE during fiscal year 2019-2020 in its compliant 2020 General Fund Territory Budget.
4. Due to the budget baseline determined as compliant by the FOMB (\$28,096,000), on June 4, 2019, the CEE submitted budget request 2019-35735 [doc. 4] for \$34,037,000 to correct the funds deficiency determined for payroll and the \$25,000,000 for pre-election expenses, local primary, and presidential primary. This request was referred by the OGP to the FOMB on July 15, 2019 [doc. 5], after the General Fund Territory Budget for fiscal year 2019-2020 was approved. On August 20, 2019 [doc. 6], the process of approval of the request was stopped and subsequently canceled by OGP in compliance with a communication from the FOMB that required the identification of the funding source.
5. During the budget evaluation by the Legislature, a budget of \$53,096,000 was recommended by the CEE, which included \$25,000,000 for pre-election expenses, local primary, and presidential primary. [doc. 7] However, **the budget certified by the FOMB and subsequently approved, on June 30, 2019, assigned the CEE the amount of \$28,096,000. No funds were allocated for the 2020 pre-election expenses, local primary, and presidential primary as requested.** The \$3 million allocated for voting equipment spending, mentioned on the FOMB's

response to your letter, is part of the scheduled payments under the contract between CEE and Dominion Voting Systems.

6. After approval of the budget for FY2020 which did not include the necessary funds to cover pre-election expenses, local primary, and presidential primary, and after cancellation of request 2019-35735, the CEE presented the budget reapportionment request 2020-14022 [doc. 8] for \$25,000,000, on October 9, 2019. This request was returned to the agency by OGP to be amended. Subsequently, the request was amended and resubmitted for \$17,664,826 on January 9, 2020 [doc. 9]. On January 15, 2020, the request was referred by the OGP to the FOMB for its evaluation and approval. After several information requests, including a February 4, 2020 letter from FOMB [doc. 10], the amount was finally adjusted to \$13,400,000.
7. On February 7, 2020 [doc. 11] the CEE responded to the aforementioned February 4, 2020 letter from FOMB. On February 11, 2020, the FOMB required the following information [doc. 12]: breakdown of changes between the \$17.8M request and the \$13.4M request; confirmation from CEE that a procurement process was held or was going to be held for all items in updated request; assumptions used to determine the amounts requested; and quotations.
8. On February 12, 2020 [doc. 13] the FOMB approved \$2,195,000 of the reapportionment request 2020-14022 for the presidential primary. In terms of this assignment, the FOMB didn't grant the funds on a global allocation, instead it restricted its use to specific cost objects categories under the agency's operational budget. The fund allocation was distributed as follows: \$104,000 for Payroll & Related Items \$104,000; \$267,000 for Facilities and Payments for Public Services; \$54,000 for Purchased Services; \$726,000 for Transportation and Subsistence Expenses; \$264,000 for Professional Services and Consultants; \$38,000 for Other Expenses; and \$742,000 for Materials & Supplies. This situation represented another layer of bureaucracy in the process of allocating funds for the electoral events, causing the CEE had to submit transfer requests to FOMB through OGP to move funds from one cost object to another.

The remaining balance of request 2020-14022 remained pending evaluation until the information, that was requested on January 29, 2020, was provided. This was the first allocation of funds for the electoral events, just six (6) weeks before the Democratic Party Presidential Primary which was originally scheduled for March 29, 2020. This timeframe was not enough for the necessary planification to execute the event. For example, the required paper for ballot printing takes at least eight (8) weeks to arrive to Puerto Rico.

In addition, the FOMB approved inter-agency transfer request 2020-12673 in the amount of \$2,602,000 to cover an outstanding debt to Dominion Voting Systems from a previous fiscal year.

9. On February 14, 2020 [doc. 14], the CEE issued its response to the February 11 and 12 information requests.

10. On February 20, 2020, reapportionment request 2020-18885 [doc. 15] was submitted for the redistribution of \$110,000 from operational budget to cover campaign expenses for the Democratic Party Presidential Primary. This redistribution request was approved on March 10, 2020 [doc. 16], nineteen (19) days before the original scheduled date for the Democratic Presidential Primary.
11. On March 6, 2020, the FOMB notified its decision [doc. 17] regarding request 2020-14022, by partially approving \$5,400,000 incremental funding and authorized the reallocation of \$1,000,000 from the CEE's FY20 operational expense budget. On March 16, 2020, the FOMB issued its final determination [doc. 18] on this matter.

As in the February 12, 2020 partial approval, the funds were assigned under the agency's operating expense budget for their limited use in specific cost objects categories. The fund allocation was distributed as follows: \$3,009,000 for Purchased Services; \$379,000 for Transportation and Subsistence Expenses; \$1,500,000 for Professional Services and Consultants; \$38,000 for Other Expenses; \$174,00 for Materials and Supplies; \$50,000 for Equipment Purchases; and \$250,000 for Ads and Media Guidelines. Once again, this allocation was assigned under the agency's operational budget which limits the use of funds to specific costs objects categories. For example, the ballot printing is covered under the Purchased Services category which also includes the voting centers lease, electoral forms printing, voters lists, and the other services needed for the election.

This was the second allocation of funds for the 2020 Primary, approved just twelve (12) weeks before the original date for the Local Primary, which was scheduled for June 7, 2020.

12. On March 6, 2020, reapportionment request 2020-20614 [doc. 19] was submitted for the redistribution of \$530,000 from Materials and Supplies, Facilities and Payments for Public Services and Transportation and Subsistence Expenses to Purchased Services to cover the cost of ballots for the Presidential Primary; lease of voting centers; and lease of other equipment such as portable restrooms and tents. This request was cancelled by the CEE after the partial approval of request 2020-14022 where \$3.9 M were assigned to Purchased Services.
13. On May 20, 2020, request 2020-22701 [doc. 20] was submitted for the extension of the use of funds approved in request 2020-14022 until September 30, 2020. On May 28, 2020, the request was referred by the OGP to the FOMB for its evaluation and approval. On June 4, 2020, the Legislature approved Joint Resolution No. 37-2020, that postponed the local primary to August 9, 2020. On June 19, 2020, the FOMB [doc. 21] approved the extension of the use of funds assigned under request 2020-14022 until September 30, 2020. The distribution of the fund extension consisted of the following: \$267,000 for Facilities and Payment for Public Services; \$2,968,000 for Purchased Services; \$1,105,000 for Transportation and Subsistence Expenses; \$1,523,000 for Professional Services and Consultants; \$76,000 for Other Expenses; \$843,000 for Materials and Supplies; \$50,000 for Equipment Purchases; and \$250,000 for Ads and Media Guidelines.

The amount reflected on PRIFAS system for the extension of funds in the Purchased Services category was \$2,767,143 instead of the \$2,968,000 authorized by the FOMB. This responded to a purchase order cancellation of the presidential primary that occurred after the extension was approved. FOMB requested OGP to transfer the difference of \$200,857, on July 15, 2020.

14. On June 22, 2020, the Electoral Operations Office of the CEE submitted the requisition of ballot printing for the 2020 local primary to the Administration Office. On that same date, the requisition was sent to the Purchase Office to start the quotation process with the supplier.
15. On June 26, 2020, reapportionment request 2020-24062 [doc. 22] was submitted for the redistribution of \$980,593 from Professional Services to Materials and Supplies, for materials such as indelible ink, ballot briefcases, ballot urns and voting booths. On June 30, 2020, the FOMB approved the reallocation request.
16. On June 27, 2020, reapportionment request 2020-24063 [doc. 23] was submitted to allocate an additional \$5,770,424 to cover the increment in costs compared to the 2016 local primary and to address the projected deficit for the lease of voting centers, purchased services, travel expenses, materials, and ads & media. FOMB returned this reapportionment request since it was submitted after the deadline of May 29, 2020, for reapportionment requests of FY2020.
17. On July 1, 2020, the Purchase Office sent the ballot requisition of \$2,713,140.95 to the Budget Office for the funds availability assessment necessary to submit the purchase order. The Budget Office certified the availability of \$2,632,143.46 which represented a deficit of \$80,997.49. Due to this fund insufficiency the CEE had to authorize funds from its operational expense budget for FY21 to cover the purchase order of the local primary ballots. On July 3, 2020, the availability of funds certification was granted, and the purchase order was generated.
18. On July 3, 2020, reapportionment request 2021-02239 [doc. 24] was submitted to allocate an additional \$5,800,000 to cover the incremental costs compared to the 2016 local primary. The request was returned to CEE for re-evaluation and justification.
19. On July 8, 2020, reapportionment request 2021-07150 [doc. 25] was submitted for the redistribution of \$529,119 approved under request 2020-14022 and later extended by request 2020-22701 to cover the costs of electoral forms, electoral regulation handbooks and voting centers leases for the local primary. This request was presented after the cancellation to redistribute \$342,119 from a presidential ballot order cancellation and a reallocation of \$187,000 from Professional services to Purchased Services. On July 23, 2020, the FOMB partially approved the redistribution of the \$187,000 from Professional Services to Purchased Services and \$141,000 from the order cancellation.
20. On July 21, 2020, reapportionment request 2021-02239 [doc. 26] was resubmitted for an additional \$1,658,337 to cover expenses of pending acquisitions, such as rental of voting centers, forms, rental of vehicles and trucks, and electoral materials

among others, due to a lack of funds. On that date, the request was referred to the FOMB [doc. 27] for evaluation. On July 22, 2020, the CEE sent a letter [doc. 28] to the FOMB requesting the review of the budget and permission for the OGP and the Treasury to disburse the necessary funds to complete the acquisition of materials and services to conduct the Local Primary on August 9, 2020. On August 1, 2020, just eight (8) days before the election, the request was partially approved by FOMB for \$1,103,000. This was the last allocation of funds approved before the August 9, 2020, local primary.

21. On July 27, 2020, reapportionment request 2021-08406 [doc. 29] was submitted for an additional \$826,955.62 under Covid Relief Fund (CRF) to cover cost of materials & services needed to safeguard the health of CEE employees, voting centers volunteers and voters. These funds were approved on August 3, 2020, six (6) days before the local primary.
22. On August 9, 2020, the 2020 Local Primary was suspended until August 16, 2020, due to the lack of the electoral material in the voting centers.
23. On August 10, 2020, reapportionment request 2021-14455 [doc. 30] was submitted to allocate \$1,277,000 for the completion of the local primary. On August 11, 2020, the FOMB approved the fund request that allowed the CEE to finish the primary elections on August 16, 2020.

These facts demonstrate how the unnecessarily complicated bureaucratic process to receive the necessary funding to celebrate the electoral events, in combination with external factors, such as the Covid-19 pandemic, affected the execution of the 2020 local and presidential primaries. The CEE capability to plan and adequately execute the local and presidential primaries was limited due to untimely approval of funds which resulted in the delay of processes that affected the election. If the funds had been made available at the beginning of FY 2020 (July 1, 2019), the CEE would have been able to execute the necessary processes in a timely manner avoiding the disruption that occurred.

We hope this information is useful to put into context the difficulties the CEE went through to conduct the presidential and local primary in 2020. It should be clear that time is of the essence for the approval of funds to organize electoral events. It becomes more relevant within the 90 days prior to an event. In this regard, the timely and expeditious approval of such funds is of the utmost importance and necessity. Adding unnecessary bureaucratic layers to the approval process results in multiple delays, no matter how expedited it is attended. We look forward to work together in finding solutions to avoid this situation from happening ever again.

Sincerely,



Francisco J. Rosado Colomer  
Chairman

CC: David A. Skeel, Jr.  
Hon. Pedro R. Pierluisi Urrutia  
Hon. Jenniffer González-Colón



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