

FINANCIAL OVERSIGHT & MANAGEMENT BOARD FOR PUERTO RICO



David A. Skeel, Jr.
Chair

Members
Andrew G. Biggs
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Antonio L. Medina
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BY ELECTRONIC MAIL

June 30, 2022

The Honorable Pedro Pierluisi Urrutia
Governor
Commonwealth of Puerto Rico

Dear Governor Pierluisi Urrutia:

Pursuant to a Resolution, a copy of which is attached hereto as **Exhibit A** (the “Resolution”), adopted by the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), and to Section 202(e)(4) of the Puerto Rico Oversight, Management, and Economic Stability Act (“PROMESA”), the Oversight Board hereby issues to the Governor this compliance certification that the fiscal year 2023 budget for the University of Puerto Rico (“UPR”), attached as **Exhibit 1** to the Resolution (the “Fiscal Year 2023 Budget for UPR”), is a compliant budget as set forth in the Resolution.

The Oversight Board looks forward to working with you and UPR to fully implement the Fiscal Year 2023 Budget for UPR for the benefit of the people of Puerto Rico.

Sincerely,

David Skeel
David A. Skeel, Jr.

CC: Hon. Omar Marrero Díaz
Mr. Juan C. Blanco Urrutia
Dr. Luis A. Ferrao
Members of UPR Board of Directors

**FINANCIAL OVERSIGHT AND MANAGEMENT OVERSIGHT BOARD FOR
PUERTO RICO**

June 30, 2022

RESOLUTION CERTIFYING 2023 BUDGET FOR UPR

WHEREAS, on June 30, 2016, the federal Puerto Rico Oversight, Management, and Economic Stability Act (“PROMESA”) was enacted; and

WHEREAS, Section 101 of PROMESA created the Financial Oversight and Management Board for Puerto Rico (the “Board”); and

WHEREAS, Section 202(c) of PROMESA establishes a multi-step procedure for the development, review, and approval of budgets for covered instrumentalities of the Commonwealth of Puerto Rico, such as the University of Puerto Rico (“UPR”), providing that (i) the Governor must submit a proposed budget to the Board; (ii) the Board must review the proposed budget and determine, in the Board’s sole discretion, either that the proposed budget complies with the applicable fiscal plan or that it does not, in which case the Board must issue a notice of violation and recommended revisions, giving the Governor an opportunity to correct the violations; (iii) the Governor may then submit a revised proposed budget; and (iv) if the Governor fails timely to submit a proposed budget that the Board determines in its sole discretion is a compliant budget, the Board shall develop and submit to the Governor its own compliant budget; and

WHEREAS, on May 12, 2022, the Governor submitted to the Board a proposed fiscal year 2023 budget for UPR; and

WHEREAS, after substantial deliberations, on June 8, 2022, the Board sent to the Governor a notice of violation pursuant to Section 202(c)(1)(B) of PROMESA with respect to the Governor’s proposed fiscal year 2023 budget for UPR as submitted on May 12, 2022, which established a deadline of June 15, 2022 for the submission of a revised proposed fiscal year 2023 budget for UPR; and

WHEREAS, subsequent to the notice of violation, the Governor submitted a revised proposed fiscal year 2023 budget for UPR; and

WHEREAS, after substantial deliberations, the Board determined that the Governor’s revised proposed fiscal year 2023 budget for UPR does not reflect a compliant budget as required by Section 202(c)(2) of PROMESA; and

WHEREAS, the Board has developed a revised, compliant fiscal year 2023 budget for UPR for submission to the Governor pursuant to Sections 202(c)(2) and 202(e)(4) of PROMESA, which budget is attached hereto as Exhibit 1 (the “Compliant 2023 UPR Budget”);

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT, pursuant to Sections 202(c) and 202(e)(4) of PROMESA, the Board shall submit to the Governor the Compliant 2023 UPR Budget, and such budget shall be (i) deemed to be approved by the Governor, (ii) the subject of a compliance certification to be issued by the Board to the Governor, and (iii) in full force and effect beginning on July 1, 2022.

EXHIBIT 1: UPR FISCAL YEAR 2023 CERTIFIED BUDGET

Section 1.- The following amounts are presented as the appropriations and the expenses of the University of Puerto Rico of Puerto Rico (“UPR”) set forth herein for the fiscal year ending June 30, 2023 (“FY2023”):

In \$ Thousands

Revenues

Central Government Appropriations

TSA General Fund Appropriations	
TSA General Fund Appropriations (Net Measures)	441,206
TSA General Fund Appropriations (Conditional upon achievement of milestones)	40,000
TSA General Fund Appropriations (Joint Resolutions)	30,097
TSA General Fund Appropriations	<u>511,303</u>
Other Special Appropriations	
Trainings & Technical Services to Government Agencies	10,000
Services to Department of Education	10,021
Legislative Scholarships	9,501
Additional Medical Science- Medical Residents (Custody of OMB)	5,000
Additional Medical Science- Attending Doctors (Medical Services Administration of Puerto Rico)	6,900
Other Special Appropriations	<u>41,422</u>
Total Central Government Appropriations	<u>552,725</u>

Operating Revenues

PR Slot Machine Receipts (Ley 36-2005)	72,493
Undergraduate Tuition	132,286
Endowment Funds	10,000
Graduate Tuition	37,961
Campus-Generated Inflows	182,605
Other Revenues	2,000
Total Operating Revenues	<u>437,345</u>

Other Sources of Revenue

Intra-Government Receipts	
Pell & Other Student Aid Grants	55,778
Federal Research & Investigation Grants	114,235
Intra-Government Receipts	<u>170,013</u>
Total Other Sources of Revenues	<u>170,013</u>
Total Sources of Revenue	<u>1,160,083</u>

Expenditures

Operating Expenditures

Payroll & Related Costs

Salaries- Faculty	(330,314)
Salaries- Non-Faculty	(173,186)
Christmas Bonus	(5,700)
Overtime	(2,080)
Liquidations	(8,384)
Incentives	(400)
Medical Plan	(54,279)
Social Security Payment	(37,413)
State Insurance Fund	(7,349)
Unemployment Insurance	(580)

Total Payroll & Related Costs (619,685)

Materials & Supplies	(32,011)
Purchased Services	(22,721)
Federal Grants, Pell & Donations	(65,278)
Joint Resolutions	(30,097)
Facilities & Payments for Public Services	(47,525)
Professional Services	(3,346)
Transportation Expenditures	(5,500)
Other Operating Expenditures	(90,619)
Total Operating Expenditures	<u>(916,782)</u>

Other Expenditures:

Capital Expenditures	(3,000)
Equipment & Maintenance	(43,170)
Pensions Payment	(146,900)
Total Other Expenditures	<u>(193,070)</u>
Total Expenditures	<u>(1,109,852)</u>

Operating Surplus (before Debt Service)	<u>50,231</u>
Contract Debt Service	(48,252)
Operating Surplus (after Debt Service)	<u>1,979</u>

Section 2. - No later than 45 days after the closing of each quarter of FY2023, the President and the Chief Financial Officer of the UPR shall update the projected net revenues for FY2023 (the “Quarterly Revision”) and provide notice of the updates to the Governor and the Oversight Board. The Quarterly Revision shall project future revenues based on actual revenues and include revisions to the assumptions used to generate the net revenue projections.

Section 3.- All expenditures authorized in any prior fiscal year are eliminated and no carry over of such funds may be used, except: (1) expenditures authorized in FY2022 certified budget to carry out permanent expenditures that have been encumbered and accounted for and kept on the books, but not exceeding two fiscal years on the books; (2) expenditures in the certified budget for equipment with procurement cycles that extend beyond the end of the fiscal year, which were encumbered on or before June 30, 2022; and (3) the portion of expenditures authorized for FY2022 that have been encumbered on or before June 30 of such fiscal year, which shall be kept on the books for 60 days after the termination of that fiscal year, and after those 60 days no amount shall be drawn against such portion for any reason. This restriction on expenditures authorized in any prior fiscal year shall not apply to programs financed in whole or part with federal funds. In addition, the foregoing exceptions to the restrictions on expenditures authorized in any prior fiscal year are conditioned on the prior written approval of the Oversight Board.

Section 4.- On or before July 31, 2022, the President, and the Chief Financial Officer of UPR shall provide to the Oversight Board a certification indicating the amounts of unused appropriations for FY2022, for all items listed in Section 3. If the President and the Chief Financial Officer of UPR fail to submit the required certification, the amount of unused funds in section 3 above will not carry over from FY2022 to FY2023.

Section 5.- Authorized amounts of expenditures in this FY2023 budget may only be reprogrammed with the prior approval of the Oversight Board.

Section 6.- The President and the Chief Financial Officer of the UPR shall submit to the Oversight Board all reporting requirements set forth on Exhibit 40 of the 2021 UPR Certified Fiscal Plan (“Certified Fiscal Plan”) according to the reporting cadence described therein. In addition, if the Oversight Board approves a reprogramming pursuant to Section 6, the immediately subsequent report by the UPR must illustrate the specific implementation of such reprogramming.

Section 7.- The reports required pursuant to this Oversight Board Resolution are in addition to the reports that the UPR must submit to the Oversight Board in accordance with Section 203 of PROMESA.

Section 8.- In conjunction with the reports that the UPR must submit to the Oversight Board no later than 15 days after the last day of each quarter of FY2023 pursuant to Section 203 of PROMESA, the President and the Chief Financial Officer of the UPR shall each certify to the Oversight Board that no appropriation of any previous fiscal year (except for the appropriations covered by the exceptions in the Section 4 above) has been used to cover any expenditure in FY2023 unless authorized in advance by the Oversight Board.

Section 9.- The President and Chief Financial Officer of the UPR are responsible for not spending or encumbering during FY2023 any amount that exceeds the appropriations authorized for FY2023. This prohibition applies to every line item set forth in a budget certified by the

Oversight Board, including appropriations for payroll and related costs. The President and Chief Financial Officer of the UPR shall also certify to the Oversight Board by September 30, 2022, that no amount was spent or encumbered that exceeded the appropriations in the certified budget for FY2022.

Section 10.- For the avoidance of doubt, the Oversight Board has an active policy that includes review contracts of \$2 million or more. The objective of these reviews is, among other things, to determine the extent to which the contracts are complaint with the applicable fiscal plan(s).

Section 11.- If any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this document is annulled by an order of a court of competent jurisdiction, such order will not affect, harm, or invalidate the remainder of this document. The effect of any such order judgment will be limited to the clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part thereof that has been annulled. If the application to a person or circumstance of any clause, paragraph, subparagraph, sentence, word, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Resolution is invalidated by an order of a court of competent jurisdiction, such order will not affect or invalidate the application of the remainder of this Resolution to those persons or circumstances in which it can validly apply. It is the express and unequivocal will of UPR that the courts enforce the provisions and the application of this Oversight Board Resolution to the greatest extent possible, even if any part is set aside, annulled, invalidated, or impaired by an order of a court of competent jurisdiction, or even if its application to any person or circumstance is so annulled, invalidated, or impaired.

Section 12. – Pension Contribution for FY2023 includes a reform in which the defined benefit plan is frozen, and a defined contribution plan is implemented. If UPR does not implement the freeze, UPR must find an additional \$11.9M in savings for FY23. A reapportionment request must be submitted to the Oversight Board, which must include notable savings in other budgetary lines items to fund the necessary amount while maintaining budget compliance.

Section 13.- This Resolution will be known as “Budget for Fiscal Year 2023 for the UPR.” This budget assumes all measures in the Certified Fiscal Plan will be implemented. Please be advised that any measures not implemented will increase expenditures and non-compliance with the Certified Fiscal Plan.

Section 14.- Pursuant to conversations with UPR, the Oversight Board amended the following line-items to align with UPR projections:

- Central Government Appropriations (increasing revenue by \$50.9M),
- Campus-Generated inflows (increasing revenue by \$3.3M),
- Christmas Bonus (increasing expenditures by \$5.7M),

- Payroll and Related Costs (increasing expenditures by \$37.1M)
- Operating Expenditures (increasing expenditures by \$23M)
- Other Expenditures (increasing expenditures by \$3.7M)

Other minor revenue adjustments that total \$2M are reflected in the UPR Certified Budget as proposed by UPR. These adjustments produce nominal variations in the projected numbers presented in the Certified Fiscal Plan.

Section 15. – The Certified Budget considers that UPR will use Institutional Prior Year Funds of \$55M¹ to cover the Capital Expenditures needs of UPR in FY23. The Certified Budget considers an additional \$3M to compensate increase in project costs due to inflation increase.

Section 16. – The Oversight Board believes that to ensure fiscal responsibility and the long-term sustainability of the institution, the UPR administration and UPR Governing Board must decide to implement revenue and expenditure measures, such as the increase of graduate tuition and the pension plan freeze.

Section 17. – The Certified Budget includes \$40M under TSA General Fund Appropriations (Conditional upon achievement of milestones) that will be conditional to UPR completing the following milestones:

1. \$20 million subject to the following Pension Reform milestones:
 - a. Execute contract of Defined Contribution plan with service providers.
 - b. Closing the Defined Benefit plan and implementation of a new Defined Contribution plan.
2. \$20 million subject to the following Administrative Transformation milestones, regarding the Pilot Program (Aguadilla, Arecibo, and Utuado campuses):
 - a. UPR Central Administration’s Budget Office to certify the budgetary transfers between campuses, based on transferred, permanent-shared services participants and consolidated offices.
 - b. Certify and execute the required transfers to achieve objectives defined in the “Exhibit I - UPR - Pilot Program - Master Summary - Unit Visit 021622” from 2022 104 data submission.
 - c. Certify and execute permanent shared-services participants to achieve objectives defined in the “Exhibit I - UPR - Pilot Program - Master Summary - Unit Visit 021622” from 2022 104 data submission.
 - d. Certify and execute consolidation of offices to achieve objectives defined in the “Exhibit I - UPR - Pilot Program - Master Summary - Unit Visit 021622” from 2022 104 data submission.
 - e. Submit a monthly implementation report with detailed progress on KPIs by campus: transfers, shared-services participants, and consolidation of offices.

¹ Information from UPR’s submitted response during May 5, 2022 to FOMB – Letter – UPR- 104 Information Request – April 22, 2022.

After milestones are completed, the funds held under the custody of the Office of Management and Budget (“OMB”) will be released after a formal reapportionment is submitted by the University of Puerto Rico, reviewed, and approved by OMB, and submitted to the Oversight Board for review; once approving, the Oversight Board provides its authorization to release such funding. The Oversight Board reinforces that the \$40M appropriation might not be used to cover expenses that are non-compliant with the Certified Budget. Additionally, the funding related to first milestone achieved must be dedicated towards the accreditation needs.