

GOVERNMENT OF PUERTO RICO  
LA FORTALEZA  
SAN JUAN, PUERTO RICO

Administrative Bulletin: OE-2019-062

**EXECUTIVE ORDER OF THE GOVERNOR OF PUERTO RICO HON. WANDA VÁZQUEZ GARCED TO EXERCISE THE POWERS PROVIDED IN ACT 5-2017 IN ORDER TO AFFIRM AND EXPAND THE PUBLIC POLICY ON THE EFFECTIVE AND TRANSPARENT MANAGEMENT OF FEDERAL FUNDS FOR THE RECONSTRUCTION OF PUERTO RICO**

WHEREAS: In order to address the fiscal crisis Puerto Rico is experiencing, the Legislative Assembly of Puerto Rico passed Act 5-2017, as amended, known as the *Puerto Rico Financial Emergency and Fiscal Responsibility Act*, which declared an “Emergency Period” as defined in said statute.

WHEREAS: Under Section 102 of Act 5-2017, the Governor of Puerto Rico is authorized to exercise the responsibility to provide for the health, safety and welfare of the residents of Puerto Rico and has emergency police powers, that include, but are not limited to powers related to ensuring services essential to the welfare of Puerto Rico and the efficient and effective administration of the Government of Puerto Rico and its instrumentalities, and related to the oversight and management of the fiscal affairs of the Government of Puerto Rico and its instrumentalities.

WHEREAS: Section 104 of said act also provides that it is the public policy of the Government of Puerto Rico to take all actions required to establish fiscal responsibility within the Government and its instrumentalities to ensure, among others, the provision of those governmental services related to the health, safety and welfare of the residents of Puerto Rico.

WHEREAS: In addition, Section 207 (a) of the aforementioned statute provides that “During the Emergency Period [...] the Governor shall exercise general supervisory control over the functions and activities of all government entities within the Executive Branch.” The term “government entities” is broadly defined to cover the Territory, public corporations or instrumentalities of the Territory designated by the Fiscal Oversight Board as a covered entity.

WHEREAS: Section 208 (a) of Act 5-2017 also provides that “each government entity within the Executive Branch shall be under

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the supervision of the Governor unless otherwise provided by the Constitution of Puerto Rico." Section 208 (d) of said act authorizes the Governor to issue executive orders "binding officials, employees, agents, and contractors of a government entity within the Executive Branch." Furthermore, said section also states that the "officials of a government entity within the Executive Branch shall take and direct the actions necessary and advisable to comply with an executive order issued under this Section [208] applicable to the government entity."

WHEREAS: Under Section 209 of Act 5-2017, the Governor is also empowered to delegate to the Puerto Rico Fiscal Agency and Financial Advisory Authority (AAFAF, Spanish acronym), by Executive Order, any power or responsibility contained in said Act.

WHEREAS: Pursuant to Act 2-2017, known as *the Enabling Act of the Fiscal Agency and Financial Advisory Authority*, AAFAF has been designated as fiscal agent of Puerto Rico. Under its enabling act, AAFAF is fully empowered to achieve the purpose of: (i) ensuring compliance with the certified fiscal plans, (ii) ensuring collaboration, communication and cooperation between the relevant parties, (iii) exercising oversight, execution and managerial aspects deemed relevant to ensure compliance with fiscal plans, and (iv) developing operational, managerial and/or administrative audit programs aimed at overseeing compliance by the Government entities. AAFAF is also authorized to take any action or measure necessary or convenient to exercise the powers conferred by Act 2-2017 or by any other law of Puerto Rico.

WHEREAS: On September 19 and 20, 2017, Hurricane María passed over Puerto Rico and became the most devastating atmospheric phenomenon in the past eighty (80) years, causing catastrophic damages to housing, commercial structures, local infrastructure, and to the economy.

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WHEREAS: There still are great risks to the safety, health and welfare of the citizens of Puerto Rico as a result of the effects of Hurricane María.

WHEREAS: The reconstruction of the island after María requires an investment of billions of dollars and will take years to be completed. These works are and will be done, in coordination and with the support of the Central Recovery, Reconstruction and Resiliency Office (COR3), the Federal Emergency Management Agency (FEMA), the U.S. Housing and Urban Development (HUD) and other state and federal agencies.

WHEREAS: Recent actions addressed at improving transparency and competitive procurement processes have revealed that the scale and complexity of the reconstruction works and their economic cost (in federal funds) require an operational and governing structure that provides radical transparency and achieves a project management and execution that strictly follows applicable local and federal laws. The government of Puerto Rico, with the help and assistance of our federal counterparts, must establish a rigorous oversight structure, along with compliance mechanisms, that ensures the appropriate and efficient use of federal funds, and their prompt appropriation in order to achieve the prompt reconstruction of Puerto Rico's critical infrastructure.

WHEREAS: The logistics, project-management, procurement, planning, reporting, recordkeeping and oversight components and operations required for this kind of effort are of a scale not seen or experienced before by the government entities involved in the reconstruction. Said government entities and public corporations have the continuous duty and responsibility to continue providing our citizens with the basic services described in their enabling acts and to comply with public policy and the pertinent fiscal plans.

WHEREAS: Our government is committed to utmost transparency, strict compliance of the laws and the effective use of federal funds assigned to Puerto Rico for the reconstruction. This commitment also includes achieving the highest efficiency in

  
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the use of these funds and the greatest benefit possible for our people.

WHEREAS: The safest way to attain these objectives, so that the residents, businesses, industries, municipalities and the government of Puerto Rico can obtain all the benefits and opportunities arising from an appropriate recovery and reconstruction, is for AAFAF, with all its powers, to double its efforts and refocus certain objectives in order to discharge all its responsibilities and actions, and those of its affiliated structures, relative to permanent reconstruction efforts in the areas of critical infrastructure.

WHEREAS: AAFAF will exercise the faculties bestowed upon it by law, and particularly those delegated under other Executive Orders and expanded under this Bulletin, in order to carry out its objectives, consistent with the rights and powers bestowed upon it.

WHEREFORE: I, WANDA VÁZQUEZ GARCED, Governor of Puerto Rico, by virtue of the powers vested in me by the Constitution and the Laws of Puerto Rico, hereby declare and order the following:

SECTION 1: Pursuant to Act 5-2017, and to guarantee the effective and transparent management of federal funds related to the recovery and reconstruction of Puerto Rico, the Executive Director of AAFAF is hereby authorized to take all the actions necessary to establish, modify, eliminate or expand the organizational and managerial structures of any Government Entity, as said term is defined by Act 5-2017, in compliance with the mandates of this Administrative Bulletin, Administrative Bulletin No. OE 2017-065, and the aforementioned laws, in order for AAFAF to implement the public policy on recovery and reconstruction, particularly in areas of critical infrastructure, including, energy, ports, water, education, housing and health.

SECTION 2: AAFAF will begin to establish and implement changes to the mentioned organizational and managerial structures as soon as possible, in keeping with the terms and schedules established by FEMA, HUD and other relevant federal

  


agencies. Said organizational and managerial structures shall be financed pursuant to the applicable budgetary rules, as indicated by AAFAF.

SECTION 3: AAFAF may issue any administrative order necessary to enforce the delegations established in this Administrative Bulletin and in Act 2-2017, provided that said administrative orders shall be binding for all the Government Entities, as said term is defined in Act 5-2017.

SECTION 4: Every head of agency, executive director, or president of a public corporation of any Government Entity, as said term is defined in Act 5-2017, and their respective boards of directors, shall comply with, and implement the directives issued by AAFAF, and shall also collaborate, support and guide their respective managements and external advisors to further, with the utmost urgency, the objectives established here and those that the Executive Director of AAFAF may establish in greater detail.

SECTION 5: AAFAF, the Puerto Rico Public-Private Partnerships, COR3 and any government entity, including public corporations, shall treat this Bulletin and its provisions with the utmost urgency and priority in support of the administrative orders or bulletins issued by the Executive Director of AAFAF in connection with this Bulletin.

SECTION 6. NON-CREATION OF ENFORCEABLE RIGHTS. This Executive Order is not issued in order to create substantive or procedural rights enforceable before any judicial administrative or other forum in favor of third parties against the Government of Puerto Rico, government agencies, instrumentalities, public corporations or any of its officials, employees or other persons.

SECTION 7: DEFINITION OF THE TERM AGENCY. The term "Agency", as used in this Executive Order, refers to any agency, instrumentality, office or dependency of the Executive Branch of the Government of Puerto Rico, including public corporations, regardless of their name.



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SECTION 8: SEVERABILITY. The provisions of this Executive Order are independent and apart ones from the others, and if any part, section, provision or sentence of this Executive Order were to be declared unconstitutional, null or void by a court of competent jurisdiction, the decision to that effect will not affect the validity of the remaining provisions, which shall remain in full force and effect.

SECTION 9: EFFECTIVENESS. This Executive Order shall enter into effect immediately.

SECTION 10: PUBLICATION. This Executive Order shall be filed immediately with the Department of State and its broadest possible publication is hereby ordered.

IN WITNESS WHEREOF, I ISSUE THIS Executive Order under my signature and cause the Great Seal of the Government of Puerto Rico to be stamped hereunto in San Juan, Puerto Rico, this 7 day of the December 2019.



  
WANDA VÁZQUEZ GARCED  
GOVERNOR

Enacted pursuant to the Law, this 7 day of December 2019.

  
MARÍA MARCANO DE LEÓN  
SECRETARY OF STATE