

**GOVERNMENT OF PUERTO RICO  
PUERTO RICO PLANNING BOARD  
SAN JUAN, PUERTO RICO**

May 23, 2023

**Resolution No. JP-2023-341**

**GUIDELINES FOR THE EVALUATION PROCESS PROVIDED FOR IN SECTION  
503 OF PUBLIC LAW NO. 114-187, REFERRED TO AS THE "PUERTO RICO  
OVERSIGHT, MANAGEMENT AND ECONOMIC STABILITY ACT" OR "PROMESA"**

I. Legal Basis

Section 503 of PROMESA describes the process by which the Puerto Rico Fiscal Oversight and Management Board ("FOMB") evaluates certain project proposals requesting "critical project" designation. Section 503(b)(1) requires the JSAF Revitalization Coordinator to develop a Critical Project Report no later than 60 days after the submission of the project. Section 503(b)(1)(C) states that:

"(C) In the case of a project that may affect the implementation of a Land Use Plan, as defined in Act No. 550-2004, a determination by the Planning Board shall be required within 60 days. If the Planning Board determines that such a project would be inconsistent with the relevant Land Use Plans, then the project shall be deemed ineligible for designation as a Critical Project."

In summary, Section 503 requires the Board to make two determinations: first, whether the project affects the implementation of a Land Use Plan and, if so, whether it would be inconsistent with such Land Use Plan. For the Planning Board to determine that a project is not eligible for critical project designation, the project must affect implementation and be inconsistent with the relevant Land Use Plan.

These guidelines are issued pursuant to the provisions of Title V of PROMESA; Act No. 75 of June 24, 1975, as amended; Act No. 550-2004, as amended; Act No. 76-2000, as amended; and Act No. 161-2009, as amended.

II. General Provisions

A. Authority of the Planning Board

Act No. 75 of June 24, 1975, better known as the Puerto Rico Planning Board Enabling Act, created the Planning Board for the purpose of guiding the comprehensive development of Puerto Rico in a coordinated manner and thus promote the health, safety, order, coexistence, and welfare of the present and future inhabitants of our island. To this effect, it authorizes the Board to control territorial use and development in Puerto Rico, both in urban and rural areas.

On May 3, 2023, the Planning Board received a communication from the FOMB requesting the procedure to comply with the provisions of Title V of PROMESA.

B. Definitions

For purposes of these Guidelines, the following terms and phrases shall be interpreted as follows:

1. Affects the Implementation of Land Use Plans - the phrase "affects the implementation of land use plans" refers to the Board's determination that a proposed activity would not adjust or be in conformity with the provisions and purposes of the Puerto Rico Land Use Plan.
2. Critical Project - the term "critical project" means a project identified in accordance with the provisions of Title V of PROMESA and intimately related to the attention of an emergency whose approval, consideration, permitting, and implementation shall be expedited and expeditiously addressed in accordance with the process provided by Act No. 76-2000, or the one adopted pursuant to said statute.
3. Emergency - The term "emergency" means any serious event or problem of deterioration of the physical infrastructure for the provision of essential services to the people, or that endangers the life, public health, or safety of the population or of a sensitive ecosystem, or as defined by Section 1 of Act 76-2000.
4. Inconsistent/Inconsistency with Land Use Plans - the phrase "inconsistent/inconsistency with Land Use Plans" refers to a determination by the Board that a proposed activity affects the implementation of Land Use Plans and is not in accordance with the provisions and purposes of such plans.
5. Land Use Plans - As described in Section 503(b)(1)(C) of PROMESA, which refers to Act No. 550-2004, known as the Land Use Plan Act of the Commonwealth of Puerto Rico.

Said Plan was approved and adopted by the Government of Puerto Rico and became effective as of November 19, 2015.

6. Project Sponsor - the term "Project Sponsor" means the proponent of the existing, ongoing, or new project.

III. Evaluation process for the determination of consistency with land use plans for projects seeking critical project designation.

A. Introduction of the Project Sponsor

The FOMB shall refer the project sponsor through the Planning Board Secretary Office, who shall pay the corresponding fee, as determined by the Board by administrative order and published on its official website.

The project sponsor shall submit to the Planning Board Secretary Office the certifications detailed below, a copy of the proof of payment of the fee and support its application with the submission of clear and detailed information and documents establishing the following:

1. Certify the nature of the project, the context in which it is proposed, applicable legal provisions, regulations, public policies, land use and/or zoning plans, susceptibility to flooding of the parcel, proposed infrastructure, environmental impact and any other aspect deemed necessary;

2. Certify the impact the project will have on any emergency declared by the President of the United States or the Governor of Puerto Rico;
3. Certify the cost of the project;
4. Certify the environmental and economic benefits provided by the project, including the number of jobs to be created that will be filled by Puerto Rico residents and the expected economic impact, including the impact on taxpayers, if applicable;
5. Certify the status of the project, whether it is existing or already underway;
6. Certify in the case of Energy Projects, a description of how the project:
  - i. reduce dependence on petroleum for electricity generation in Puerto Rico;
  - ii. improve the performance of the energy infrastructure and energy efficiency in general;
  - iii. accelerate the diversification and conversion of fuel sources for electric generation from oil to natural gas and renewable energies in Puerto Rico, as defined in applicable laws;
  - iv. promote the development and utilization of energy sources found in Puerto Rico;
  - v. contribute to Puerto Rico's transition to private generation capacity; and
  - vi. support the Puerto Rico Energy Commission in achieving its goal of reducing energy costs and ensuring affordable rates for consumers and businesses.

In the case of public works on public land, the project sponsor must prove that it is duly authorized to carry out the project. In the case of public works on private land, the project sponsor must present reliable proof that it is duly authorized to develop the project or that the owner of the property has been notified by letter sent by postal mail, direct notification or public notice in a newspaper of general circulation that includes the land registry number(cadaster number), physical address and name of the owner, if any.

#### B. Evaluation by the Board

##### 1. Initial Evaluation Period (IEP)

The Board shall have fifteen (15) business days from the date of filing, in accordance with Section IV.A of these Guidelines, to review the application and any additional required information for completeness as submitted. If the Board finds that it has sufficient information to carry out the required analysis and findings, the Board shall have thirty (30) working days from the date of submission to provide notice of any findings and its determination.

## 2. Request for Information (RFI)

If the Board finds that the information submitted by the project sponsor is not sufficient to perform the analysis required to make findings and its determination, the Board will identify in writing any deficiencies and request additional information and/or clarification from the project sponsor within five (5) calendar days of the last day of the IEP.

## 3. Response to SDI

If the Board requests additional information from the project sponsor, the information must be submitted within ten (10) calendar days from the date of the RFI.

## 4. Determination and Notification Period

The Board shall notify its findings, recommendations and/or determination within sixty (60) days from the date of submission of the application.

# IV. Consistency Determination

## A. Requirements for Analysis

1. In conducting a review of the proposed project pursuant to these Guidelines, the Board shall make an initial finding as to whether the proposed project does not affect the implementation of land use plans. Therefore, it shall be eligible for critical project designation without the need for any further consistency determination, to the extent that the proposed activity may be authorized by its ministerial character, or permissible through the mechanisms of exception, variance, consultation, or direct zoning change.
2. The Board need not address all of the policies, goals and objectives of the Land Use Plans nor all of the above criteria and factors but should address those most relevant to the proposed project.
3. The Board shall be empowered to use all available data and resources during the evaluation process.

## B. Determination of consistency with land use plans

1. If the Board determines that the proposed project is consistent with the applicable land use plans, then the proposed project will be considered eligible for designation as a Critical Project by the FOMB. The determination will be effective for two (2) years for private projects and four (4) years for public works projects. The Board may include alternate terms as part of its determination, at its sole discretion and on the sole basis of the public interest. The Board may also extend such periods at the request of the sponsor, within the effective period.

## C. Determination of inconsistency with land use plans

1. If the Board determines that the proposed project is inconsistent with applicable land use plans, then the project will not be considered eligible for designation as a Critical Project by the FOMB.

D. Notification

The Planning Board shall give notice of its determination by Certification.

V. Other provisions

A. Limitations

1. Any determination under these Guidelines is limited to the exercise of this Board's functions pursuant to Title V of PROMESA. As such, it does not create any right and/or title in favor of the project sponsor to obtain approvals, endorsements, authorizations and/or permits, nor the issuance of favorable comments and/or recommendations from this Board and/or relevant authorities.
2. Any determination under these Guidelines does not constitute a waiver of the project sponsor's duty to comply with all requirements established by any and all relevant Puerto Rico agencies with respect to any regular or expedited permitting process.

Taking into consideration the foregoing, this Planning Board hereby agrees to **ADOPT** the Guidelines for the evaluation process set forth in Section 503 of Public Law No. 114-187, referred to as the "Puerto Rico Oversight, Management and Economic Stability Act" or "PROMESA".

A true and accurate copy of this Resolution is hereby notified to the Puerto Rico Oversight and Fiscal Management Board ("FOMB"). It is further provided that a copy of this Resolution shall be posted on the website of the Puerto Rico Planning Board. ([jp.pr.gov](http://jp.pr.gov)).

**ADOPTED** in San Juan, Puerto Rico today, May 23, 2023.



**JULIO LASSÚS RUIZ, LLM, MP, PPL**  
President



**REBECCA RIVERA TORRES, MRP, PPL**  
Vice President



**JOSÉ DÍAZ-DÍAZ, MEM, BSIE**  
Associate Member




**LEMUEL RIVERA RIVERA, BSEE, CAPM**  
Associate Member

**I CERTIFY:** That the foregoing is a true and exact copy of the Resolution adopted by the Planning Board of Puerto Rico at its meeting held on May 23, 2023, and for general knowledge and use, I hereby issue this copy under my signature and official seal of this Board.

In San Juan, Puerto Rico today

**MAY 23 2023**

  
**GEORGINA GONZALEZ OLLER**  
Secretary