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BY ELECTRONIC MAIL

October 1, 2026

The Honorable Cameron Hamilton
Administrator
Federal Emergency Management Agency
500 C Street SW
Washington, DC 20472

Dear Administrator Hamilton:

We write to request clarification and guidance on the matter of municipal construction excise taxes related to federally funded reconstruction and critical infrastructure improvements projects in Puerto Rico.

The Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”) has identified that several Puerto Rico municipalities assess excise taxes at higher rates on projects that receive government funding. This practice was largely implemented in recent years, creating a discrepancy in construction excise tax rates between privately funded projects and those receiving government funding, including U.S. Government funds.

Currently, 22 of Puerto Rico’s 78 municipalities impose higher construction excise tax rates on government-funded infrastructure projects than on privately funded projects.¹ Twenty of the 22 municipalities adopted differential tax rates for government-funded projects following Hurricane Maria in 2017, when Puerto Rico began receiving substantial federal disaster and recovery

¹ These 22 municipalities are, in alphabetical order: Adjuntas, Añasco, Cabo Rojo, Camuy, Ciales, Cidra, Guánica, Guaynabo, Lajas, Lares, Maunabo, Orocovis, Peñuelas, Ponce, San Germán, San Sebastián, Toa Alta, Trujillo Alto, Utuado, Vega Baja, Vieques, and Yauco. The accompanying table identifies an additional municipality, Patillas, that has adopted a specific provision addressing government contractors but applies the same rate to government-funded and private construction. Patillas is therefore not included in the 22 municipalities imposing a higher rate.

funding. Of those, 11 implemented higher tax rates between 2022 and 2025, underscoring the growing prevalence of this trend.²

Puerto Rico’s municipalities have had the authority to collect revenues from local and excise taxes for several decades and have been authorized to impose “construction excise taxes.” The Puerto Rico Municipal Code carries forward this taxing authority.³ However, since 2009 certain municipalities have enacted ordinances that establish higher tax rates for government-funded projects. Of those municipalities, 15 levy a 10 percent tax on government-funded projects – in most cases double, and in some cases more than double, the rate imposed on comparable private-sector projects.

Taxing construction projects is not unique to Puerto Rico. Several U.S. jurisdictions impose sales or excise taxes on construction projects, including those that receive government funding, by treating the contractor as the consumer of materials and taxing their purchases.⁴ Other jurisdictions exempt government-funded construction projects from such taxes altogether.⁵ We are unaware, however, of any jurisdiction that imposes a *different tax rate* on construction projects based on whether the source of funding is private or governmental. In the states and localities we have examined thus far, government-funded construction is either fully exempt or taxed at the same rate as private construction.

It is our understanding that, as a general matter, the Federal Emergency Management Agency (“FEMA”) has allowed construction-related taxes assessed at a municipality’s generally applicable rate as eligible expenses.

The Oversight Board is concerned about the possible effects of higher construction excise taxes on critical reconstruction projects in Puerto Rico and on the adequate stewardship of federal disaster aid funds. Under the federal cost principles, taxes that a governmental unit is legally

² Añasco, Camuy, Ciales, Guánica, Lajas, Lares, Maunabo, Peñuelas, Toa Alta, Trujillo Alto and Vieques.

³ Act 142-1960 was the first authorization to municipalities to impose excise taxes, including on construction projects. Act 81 of August 30, 1991, known as the “Autonomous Municipalities Act of 1991” (“Act 81-1991”), as amended by Act 199 of September 6, 1996 (“Act 199-1996”), in its Article 1.003, statutorily defined the term “construction excise tax.” Act 199-1996 clarified that municipalities are expressly authorized to impose “construction excise taxes” to the extent that they are compatible with other Commonwealth laws.

⁴ Derdenger, Pat. *Overview of Southwestern States Construction Sales Tax Structure: Prepared for the Construction Municipal Financial Management Association* (Steptoe & Johnson, LLP, April 21, 2021) available at <https://www.steptoe.com/a/web/156/4257.pdf>; and U.S. Department of Energy. *State Sales Tax Exemptions* (Clause G-12.1, Aug. 2, 2023), Kansas City National Security Campus Supplier Portal, available at https://supplier.kcns.coe.gov/ptl/search?_com_liferay_document_library_web_portlet_DLPortlet_INSTANCE_S5c5D6rFZkEe_folderId=236625&q=State+Sales+Tax+Exemptions

⁵ For example, under New York Tax Law § 1115, tangible personal property that becomes an integral component of a structure owned by the State or any political subdivision is exempt from state and local sales and compensating use tax, and contractors may purchase materials tax-free using Form ST-120.1. N.Y. Tax Law § 1115 (exempting from sales and use tax tangible personal property becoming an integral component of a structure owned by the State or its political subdivisions).

required to pay are allowable, except for “self-assessed taxes that disproportionately affect Federal programs or changes in tax policies that disproportionately affect Federal programs.”⁶ A rate increase adopted after 2017 that applies only to government-funded projects raises the question whether it constitutes such a change in tax policy. The same provision preserves the authority of the federal awarding agency “to identify taxes where Federal participation is inappropriate.”

Separately, the U.S. Office of Management and Budget’s Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards define costs as reasonable if they do “not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.”⁷ Therefore, a tax rate applied to a project because it is funded by the U.S. Government and set above the rate the same municipality applies to comparable private construction invites the question whether the incremental amount meets that standard.

Further, the Oversight Board is aware that the U.S. House Committee on Appropriations included language in its report accompanying the 2027 U.S. Department of Homeland Security appropriations bill that would require FEMA to provide to the Committee within 180 days a report detailing, among other matters, “the rationale for withholding payment to contractors or subcontractors and whether local government construction excise taxes or charges levied, imposed, or collected are delaying disbursement of federal funding, including such taxes or charges that have been applied retroactively.”⁸

The Oversight Board has also recently received questions around municipal excise taxes from Resident Commissioner Pablo José Hernández,⁹ Puerto Rico’s representative in Congress; and Congressman Paul A. Gosar, Chairman of the House Natural Resources Subcommittee on Oversight and Investigations.¹⁰

⁶ 2 C.F.R. § 200.470(a)(1), (a)(3) (2024); see also 2 C.F.R. § 200.404 (2024).

⁷ 2 C.F.R. § 200.404 (2024).

⁸ U.S. Congress, House Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2027*, H. Rep. No. 119-697, 119th Cong., 2d sess. (Washington, DC: U.S. Government Publishing Office, 2026), <https://www.congress.gov/committee-report/119thcongress/house-report/697/1>:

“Within 180 days of the date of enactment of this Act, FEMA shall provide to the Committee a report detailing any funding distributed to States and the Commonwealth of Puerto Rico from fiscal years 2017 to 2026 intended to support electrical grid repairs following a major disaster that has yet to be fully obligated or expended by the applicable emergency management agency or power authority for work performed. The report shall include the rationale for withholding payment to contractors or subcontractors and whether local government construction excise taxes or charges levied, imposed, or collected are delaying disbursement of federal funding, including such taxes or charges that have been applied retroactively.”

⁹ See letter to Resident Commissioner Hernández: [FOMB - Letter - Response to Resident Commissioner Inquiry Concerning Construction Excise Taxes - August 8, 2026.pdf](#) - Google Drive.

¹⁰ See letter to Chair Gosar: <https://drive.google.com/file/d/12inutJvV3F0d4chNE9MvZo26OLaEs7Pr/view>.

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Puerto Rico's municipalities are seemingly operating in an uncharted policy space that has not been tested against federal cost principles. The Oversight Board understands that the determination of whether the construction excise costs arising from Puerto Rico's municipal tax regime are allowable charges to a federal award rests with FEMA.

The Oversight Board has discussed this matter with FEMA Region 2 staff and therefore respectfully requests FEMA's guidance, based on the applicable facts and governing federal requirements, on the following questions:

- Whether construction excise taxes assessed on FEMA-funded work at a rate above the municipality's generally applicable rate are allowable costs under 2 C.F.R. §§ 200.404 and 200.470 and, if not, how FEMA will treat the increment above the generally applicable rate.
- Whether FEMA has issued, or intends to issue, guidance to the Central Office for Recovery, Reconstruction and Resiliency (known as COR3), the Puerto Rico Electric Power Authority, and other recipients and subrecipients in Puerto Rico on the treatment of these taxes.
- How FEMA treats construction excise taxes, penalties, and interest assessed retroactively on work completed in prior years.

We thank you for your attention to this important matter concerning Puerto Rico.

Sincerely,



Robert F. Mujica, Jr.
Executive Director

cc:

The Honorable Scott K. H. Bessent, Secretary, Treasury of the United States

The Honorable Scott Turner, Secretary, U.S. Department of Housing and Urban Development

The Honorable Jenniffer Gonzalez Colon, Governor, Commonwealth of Puerto Rico

The Honorable Paul A. Gosar, Chairman, Subcommittee on Oversight and Investigations, House Committee on Natural Resources

The Honorable Pablo José Hernández, Resident Commissioner of Puerto Rico

Ms. Maria Marin Colon, Executive Director, Central Office for Reconstruction, Recovery and Resiliency (COR3)

Ms. Vicky Gonzalez Vega, Interim Executive Director, Puerto Rico Fiscal Agency and Financial Advisory Authority

Mr. Andrés R. García Martinó, Director, Puerto Rico Recovery Office, Federal Emergency Management Agency

Mr. Christopher Hartnett, Regional Administrator, Region 2, Federal Emergency Management Agency

APPENDIX A

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Puerto Rico Municipal Construction Excise Tax Rates

	Municipality	General Rate	Specific Provision for Government Contractor	Government Contractor Rate	Mega or High Impact Project Rate	Date Higher Rate Certified
1	Adjuntas	5.00%	Yes	10.00%	7.00%	Jan 23, 2015
2	Aguada	5.00%	No	5.00%	N/A	
3	Aguadilla	Up to 10.0%	No	10.00%	N/A	
4	Aguas Buenas	4.00%	No	4.00%	N/A	
5	Aibonito	Up to 3.5%	No	3.50%	N/A	
6	Añasco	5.00%	Yes	10.00%	N/A	Mar 25, 2022
7	Arecibo	5.20%	No	5.20%	7.00%	
8	Arroyo	5.00%	No	5.00%	N/A	
9	Barceloneta	3.50%	No	3.50%	N/A	
10	Barranquitas	5.00%	No	5.00%	N/A	
11	Bayamón	Up to 4.0%	No	4.00%	N/A	
12	Cabo Rojo	5.00%	Yes	10.00%	N/A	Apr 28, 2021
13	Caguas	6.00%	No	5.00%	N/A	
14	Camuy	5.00%	Yes	10.00%	N/A	Jun 6, 2022
15	Canóvanas	6.00%	No	6.00%	N/A	
16	Carolina	6.00%	No	6.00%	N/A	
17	Cataño	5.00%	No	5.00%	7.00%	
18	Cayey	6.00%	No	6.00%	N/A	
19	Ceiba	5.00%	No	5.00%	N/A	
20	Ciales	5.00%	Yes	10.00%	7.00%	Sep 15, 2022
21	Cidra	3.50%	Yes	10.00%	6.00%	Aug 28, 2020
22	Coamo	5.50%	No	5.50%	N/A	
23	Comerio	4.00%	No	4.00%	N/A	
24	Corozal	6.00%	No	6.00%	N/A	
25	Culebra	6.00%	No	6.00%	N/A	
26	Dorado	5.00%	No	5.00%	N/A	
27	Fajardo	4.00%	No	4.00%	N/A	
28	Florida	5.00%	No	5.00%	N/A	
29	Guánica	5.00%	Yes	10.00%	10.00%	Jun 10, 2025
30	Guayama	3.00%	No	3.00%	N/A	
31	Guayanilla	5.00%	No	5.00%	N/A	
32	Guaynabo	5.00%	Yes	9.00%	7.00%	Feb 2, 2021
33	Gurabo	5.00%	No	5.00%	N/A	
34	Hatillo	2.75%	No	2.00%	N/A	
35	Hormigueros	Up to 5.0%	No	5.00%	7.00%	
36	Humacao	5.00%	No	5.00%	N/A	
37	Isabela	10.00%	No	10.00%	12.00%	
38	Jayuya	Up to 8.0%	No	8.00%	N/A	
39	Juana Díaz	Up to 5.0%	No	5.00%	7.00%	

APPENDIX A

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40	Juncos	5.00%	No	5.00%	N/A	
41	Lajas	Up to 6.5%	Yes	10.00%	7.00%	May 9, 2025
42	Lares	4.00%	Yes	10.00%	N/A	Feb 13, 2023
43	Las Marías	8.00%	No	8.00%	N/A	
44	Las Piedras	5.00%	No	5.00%	N/A	
45	Loíza	5.00%	No	5.00%	N/A	
46	Luquillo	N/A	N/A	N/A	N/A	
47	Manatí	5.00%	No	5.00%	N/A	
48	Maricao	6.00%	No	6.00%	N/A	
49	Maunabo	5.00%	Yes	6.00%	5.50%	Mar 23, 2023
50	Mayagüez	5.00%	No	5.00%	6.50%	
51	Moca	3.75%	No	3.75%	4.50%	
52	Morovis	5.00%	No	5.00%	N/A	
53	Naguabo	5.00%	No	5.00%	N/A	
54	Naranjito	Up to 8.0%	No	8.00%	N/A	
55	Orocovis	3.00%	Yes	4.00%	N/A	Feb 10, 2010
56	Patillas	6.00%	Yes	6.00%	6.00%	
57	Peñuelas	5.00%	Yes	10.00%	N/A	Jul 9, 2025
58	Ponce	5.00%	Yes	9.00%	7.00%	Aug 17, 2020
59	Quebradillas	5.00%	No	5.00%	N/A	
60	Rincón	5.00%	No	5.00%	N/A	
61	Río Grande	5.25%	No	5.25%	N/A	
62	Sabana Grande	Up to 8.0%	No	8.00%	N/A	
63	Salinas	5.00%	No	5.00%	N/A	
64	San Germán	5.00%	Yes	10.00%	10.00%	Mar 8, 2021
65	San Juan	5.00%	No	5.00%	N/A	
66	San Lorenzo	8.00%	No	8.00%	N/A	
67	San Sebastián	3.40%	Yes	10.00%	7.00%	Nov 26, 2018
68	Santa Isabel	Up to 9.0%	No	9.00%	9.00%	
69	Toa Alta	Up to 10.0%	Yes	10.00%	10.00%	Sep 22, 2023
70	Toa Baja	5.00%	No	5.00%	7.00%	
71	Trujillo Alto	6.25%	Yes	9.00%	N/A	May 29, 2025
72	Utua	5.00%	Yes	8.00%	N/A	Aug 19, 2021
73	Vega Alta	Up to 5.0%	No	5.00%	N/A	
74	Vega Baja	5.00%	Yes	10.00%	N/A	Nov 11, 2021
75	Vieques	5.00%	Yes	9.00%	7.00%	Feb 6, 2025
76	Villalba	Up to 5.0%	No	5.00%	N/A	
77	Yabucoa	10.00%	No	10.00%	N/A	
78	Yauco	5.00%	Yes	10.00%	N/A	Jul 20, 2020

Note: Municipal excise tax rates presented in this table represent findings from a preliminary review of municipal ordinances and their amendments following the [Directory of Municipal Ordinances](#) as of July 23, 2026. Municipalities highlighted in grey impose higher specific rates for government contractors. For municipalities where no special provision for government contractors was identified, the general rate was assumed to apply to government contractors. For municipalities with an escalating schedule of rates, the highest rate is listed. In the case of escalated rates, the full rate applies. These should not be interpreted as marginal rates.