



July 17, 2020

BY ELECTRONIC MAIL

Natalie Jaresko
Executive Director
Financial Oversight and Management Board for Puerto Rico
PO Box 192018
San Juan, PR 00919-2018

RE: Uniform Rules for the Purchase and Bidding of Non-Professional Goods, Works and Services of the General Services Administration (GSA)

Dear Ms. Jaresko:

We acknowledge receipt of your letter of July 17, 2020 regarding the matter of reference.

In the first instance, we take exception to any suggestion that the Puerto Rico General Services Administration (“GSA”) failed to comply with the Financial Oversight and Management Board’s (“FOMB”) review policy in enacting Regulation 9183. We must point out that on June 8, 2020, the GSA submitted the Regulation for review to the FOMB, prior to their promulgation, pursuant to Section 204(b)(4) of PROMESA and the FOMB Policy which establishes a term of five (5) days, counted from the day of submittal, for said review. Subsequently, on June 15th, GSA received FOMB’s comments to the proposed regulations. As a result, those comments or suggestions that were legally viable and compatible with the *General Services Administration Act for the Centralization of Purchases of the Government of Puerto Rico of 2019*, Act No. 73 of July 19, 2019, as amended (“Act 73-2019”) were incorporated. Others, such as appointing a member of FOMB to the Bid Board would require amendments to the act and could not be addressed in the Regulation. The Regulation was then promulgated as mandated by Act 73-2019¹ and the Government’s Fiscal Plan. The variations in the enacted regulation respond to those FOMB’s comments that were permissible under Act 73-2019. Any other changes are minimal and relate to clerical

¹ Art. 25, Act 73-2019.



corrections. To this end, the Regulation was submitted to the Department of State on June 30, 2020, in accordance with the *Uniform Administrative Procedure Act*, Act No. 38 of June 30, 2017 (“Act 38-2017”).

It should be noted that Article 78 of Act 73-2019 requires that the Regulation be promulgated and put into effect within 90 days of the entry into force of the Act. Due to lack of sufficient budgetary resources and the states of emergency affecting the Government in recent months, the GSA has not been able to implement the promulgation of this Regulation in the time required by law. Nevertheless, we reiterate that its enactment is urgent, in order to fully comply with the public policy promoted by Act 73-2019, as well as to promote uniformity and transparency in the acquisition, evaluation and purchasing processes carried out by the instrumentalities of the Government of Puerto Rico as required in the Certified Fiscal Plan.

However, in the event that FOMB has any comments, suggestions or additional requirements to those already incorporated in the version submitted to the Department of State on June 30 2020, we request that they be forwarded to us at the earliest opportunity, since we are in the best position to address and incorporate them, in accordance with applicable laws. Furthermore, we clarify that, according to Section 2.8 of Act 38-2017, the Regulations become effective 30 days after they are filed with the Department of State and may be amended. Accordingly, we propose a meeting, or conference call, for next Monday, July 20, 2020 between GSA, FAFAA and FOMB officials to discuss this matter and achieve an effective resolution.

We appreciate the opportunity to express ourselves on this matter and reiterate our willingness to collaborate on any doubt that may arise in the consideration of this notice.

Sincerely,

/S/ Karla G. Mercado Rivera, Esq.
Administrator and Chief Procurement Officer

c: Omar Marrero Díaz, Esq.