

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



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BY ELECTRONIC MAIL

February 21, 2020

Mr. Omar Marrero Díaz
Chief Financial Officer
Government of Puerto Rico

Mr. Luis Collazo Rodríguez
Administrator & Executive Director
Retirement Board & Employees Retirement System
Government of Puerto Rico

Dear Mr. Marrero Díaz and Mr. Collazo Rodríguez,

I write to you in reference to the monthly “PayGo and Individual Contribution Debt by Entity” report received on February 18, 2020 and prepared by AAFAF (“PayGo Report”). The PayGo Report presents, among other things, employees’s payroll contributions toward their retirement accounts withheld by public corporations and municipalities.¹ These amounts have not been remitted by the public corporations and municipalities to the appropriate retirement accounts, potentially in violation of the law. We first wrote to your offices on April 30, 2019 to raise this matter with you and subsequently made referrals to the Puerto Rico Department of Justice and the United States Attorney for those offices to investigate this serious matter.²

The Oversight Board is deeply concerned about the \$21.1 million in employee payroll contributions currently being withheld by various public corporations and municipalities. Some of these amounts pre-date the enactment of Act 106-2017 and date back as far as 2017.³ By

¹ See Attachment A for a copy of the full PayGo Report.

² See Attachment B for the communication to the Government of Puerto Rico on April 30, 2019. On May 31, 2019, at the request of the Oversight Board, an attorney from Proskauer Rose contacted by phone and followed up by letter to Ms. Rosa E. Rodríguez-Velez, United States Attorney.

³ The 2017 values were identified in separate reporting data made available from ERS to the Oversight Board. The 2017 values represent employee contributions to legacy defined benefit plans currently being withheld by certain public corporations and municipalities.

withholding the transfer of these amounts, the employers identified in the table below could be in violation of law, specifically Article 3.6(a)(1) of Act 106-2017, which states “The individual contributions made by a Participant of the New Defined Contribution Plan, as required in this Act, shall be credited once they are remitted by the employer.”

A list of the public corporations and municipalities that have accumulated overdue balances as of December 31, 2019, the latest reporting data provided by AAFAF, is shown below:

Public corporations and municipalities that have unremitted employee withholdings

(\$ thousands)

Public Corporations						Municipalities**				
Entity	FY17*	FY18	FY19	FY20	Total	Entity	FY17*	FY18	FY20	Total
PR Med. Services Administration	15,792	-	-	-	15,792	Ponce	-	-	294	294
Metropolitan Bus Authority	3,834	-	130	796	4,761	Arecibo	123	-	65	188
Environmental Quality Board	310	-	-	68	378	Yauco	-	-	135	135
HTA	-	-	-	191	191	Río Grande	-	-	62	62
Ponce Muelle	-	-	4	3	7	Ciales	-	-	38	38
Agricultural Insurance Corp.	-	-	-	7	7	Florida	-	-	33	33
Total	\$19,935	\$0	\$134	\$1,066	\$21,136	Patillas	-	-	23	23
						Loiza	-	-	19	19
						Arroyo	-	-	19	19
						Sabana Grande	-	-	16	16
						Maricao	-	-	16	16
						San Lorenzo	-	-	15	15
						Maunabo	-	-	14	14
						Guanica	-	-	11	11
						Total	\$123	\$0	\$761	\$884

* Fiscal year 2017 balance relate to employee withholdings to fund contributions to defined benefit plans (as of November 2019)

** AAFAF reported no no unremitted municipal withheld contributions from fiscal year 2019

Fiscal responsibility goes hand-in-hand with trust in government. Mishandling the hard-earned employee contributions from the paychecks of government workers is unethical, immoral, and potentially illegal. Failure to remedy this grievous treatment of its public sector workers impairs government credibility with employees and the restoration of fiscal stability. Accordingly, the Oversight Board requires the government to swiftly take the following actions:

1. No later than February 28, 2020, confirm that the balances in the table above, as reported by AAFAF and ERS to the Oversight Board, are employee retirement funds that have been withheld by the respective public corporation and municipality above. If there was an error in the data provided by the government to the Oversight Board, and the balance listed above is incorrect, a clear explanation of the reason for the error must be provided.
2. Confirm that all overdue balances will be collected, in full, and credited to an account in the respective employees’ name no later than March 6, 2020. Daily updates on the progress of payments between the date of this letter and March 6 must be provided from the Retirement Board to the Oversight Board.
3. No later than March 6, 2020, an explanation from the Retirement Board of steps being taken to prevent the continued non-payment of withheld employee contributions going forward.

Mr. Omar Marrero Díaz
Mr. Luis Collazo Rodríguez
February 21, 2020
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Attachment A

PayGo and Individual Contribution Debt by Entity Report
As of December 31, 2019 (Submitted February 18, 2020)