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Executive Director

BY ELECTRONIC MAIL

February 13, 2026

The Honorable Ángel Pantoja Rodríguez
Secretary
Puerto Rico Department of Treasury

Dear Mr. Pantoja Rodríguez:

The Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”) writes in connection with the proposed Earned Income Tax Credit (“EITC”) inflation adjustment for taxable year 2025 pursuant to Section 1052.01 of the Puerto Rico Internal Revenue Code of 2011, as amended.

Through letter dated October 29, 2025, the Oversight Board informed the Puerto Rico Department of Treasury (“Treasury”) that, in accordance with the Oversight Board’s Rules, Regulations and Orders Review Policy, established pursuant to Section 204(b)(4) of PROMESA, we rejected the Internal Revenue Informative Bulletin No. 25-XX that would announce the EITC inflation adjustment for taxable year 2025 (the “Proposed Regulation”) .

Since then, the Oversight Board became aware of the Earned Income Tax Credit Plan (the “Agreement”) between the U.S. Department of the Treasury (the “US Treasury”) and the Puerto Rico Government, which defines the parameters by which the federal government would transfer the federal share of funding to Puerto Rico for the EITC Program (the “Program”) each year. Because the Agreement was not previously shared with us, the Oversight Board was unaware its decision could potentially affect the Agreement.

Therefore, upon reconsideration, the Oversight Board designates the Proposed Regulation as **“Approved with Observations.”**

The EITC is one of the most effective tools for increasing formal sector labor force participation and reducing poverty. In 2021, the federal government included a provision in the American Rescue Plan Act (“ARPA”) to provide \$3 of federal funding for every \$1 of local funding, up to \$600 million in federal funding, to incentivize the expansion of the Program in Puerto Rico. Accordingly, the Government approved the expansion of the Program by enacting Act 41 of August 29, 2021 (“Act 41-2021”).

Since the approval of the EITC for tax year 2022, the total cost of the Program has more than tripled, far exceeding the original projections. Moreover, participation has expanded to approximately 60% of Puerto Rico tax filers. The average benefit is now more than \$2,000 per filer, ranging to nearly \$8,000. Original estimates assumed fewer than 515,000 filers would qualify, rather than the 725,000 who will likely claim an EITC benefit for tax year 2025. Unlike in the rest of the country, those with no earned income under the Federal definition are also eligible for the Program.

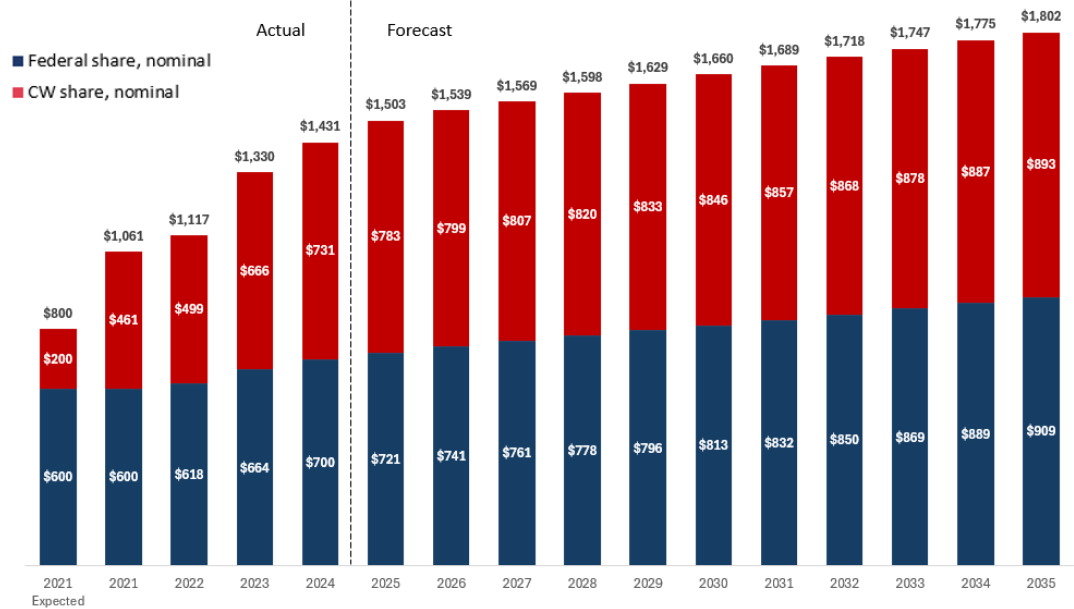
The cost of the Program was originally intended to total \$800 million, shared between the federal government (\$600 million) and the Puerto Rico general fund (\$200 million). The actual cost in the first year, however, exceeded \$1.0 billion, and the Program has continued to grow dramatically since then. Total costs for the Program in 2025 will exceed \$1.5 billion, with the local government funding more than half the total cost or nearly \$800 million.

The variance between the original cost estimates of the Program and its actual costs underscores the importance of accurate projections and proper scoring of legislation for fiscal planning and government budgeting. The Oversight Board initially rejected the Proposed Regulation because the substantial cost increase of the Program was inconsistent with the Certified Revised 2024 Fiscal Plan for Puerto Rico (the “Fiscal Plan”) and the Certified Fiscal Year 2026 Commonwealth Budget.

In addition to increased utilization, much of the increase in annual costs occur because of legislative provisions in both ARPA and Act 41-2021 that require an inflation adjustment to the Program on an annual basis. Act 41-2021 also mandates the Secretary of Treasury to issue a regulation notifying the inflation adjustment to earned income and maximum credit limits each year after the U.S. Internal Revenue Service announces a cost-of-living adjustment.

According to the Oversight Board’s estimates, the inflation adjustment for taxable year 2025 in the Proposed Regulation would increase the cost of the Program by an additional \$72 million above 2024 totals. Consequently, the inflation adjustment of the Proposed Regulation, together with the increased number of claimants, will likely increase the total Puerto Rico General Fund cost of the Program to \$783 million for taxable year 2025 (*see* Table 1). This represents a cost share of 52% for the Commonwealth and is more than three times the initial \$200 million allocated to the Program.

EITC spending over time with inflation adjustment, in millions of nominal dollars, TY 2021-2035



Note: US inflation assumed to be 2.8% for TY2025, 2.7% for TY2026, and 2.2% thereafter. The PR working age and elderly population growth is sourced from the FY24 Fiscal Plan. The estimate does not consider changes in the EITC take-up rate over time.

EITC costs are a combination of policy administrative and enforcement decisions, and the continued trend of cost increases must be addressed. The Program is now one of the costliest EITC offerings in the country, both in terms of total cost and on a per capita basis. The Program also represents one of the Government’s most significant expenditures, costing more than General Fund appropriations to the Department of Health and the University of Puerto Rico, and nearly as much as the entire Medicaid program. Resources allocated to the Program are not available for other governmental priorities. To stem the costs, the Government could also develop additional protocols for paid preparers, including enforcement mechanisms used by other jurisdictions such as due diligence visits (DDVs) and knock and talk visits (KTVs), which have been shown to reduce preparer misconduct.

Further, initiatives like this must be addressed within the formal budget development process to ensure that spending decisions are fully aligned with Puerto Rico’s long-term fiscal objectives, statutory requirements, and policy priorities.

The Oversight Board recommends continuous engagement with the US Treasury to: (i) confirm that the Government has continued to meet its obligations under the Agreement as demonstrated by its ongoing assignment of funds in excess of its stipulated share of 25% of the total Program

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cost; and (ii) stress the need for ongoing support from the US Treasury for the conservation of the Program pursuant to Section 6.3 of the Agreement.

Please note the Oversight Board's review is solely limited to the Proposed Regulation's compliance with the applicable Fiscal Plan and no other matters. For the avoidance of doubt, the review performed by the Oversight Board does not constitute a legal review under applicable laws, rules, and regulations, both federal and local, including without limitation, compliance with any applicable labor laws, rules and regulations. Any material changes to the Proposed Regulation must be submitted to the Oversight Board for its review and approval prior to adoption and publication.

This review was conducted based on information submitted by the Puerto Rico Department of Treasury. The Oversight Board has not independently verified the information included in the submission. Should the Oversight Board become aware of any inaccuracies or misrepresentations – whether intentional or not – it would re-evaluate its assessment.

This letter is delivered as of the date hereof and we reserve the right to provide additional observations and modify this letter based on information the Oversight Board was not directed to when the review was conducted. In addition, during the course of our review, we may receive information that we may determine to refer to the relevant authorities.

This letter is issued only to the Puerto Rico Department of Treasury and solely with respect to the Proposed Regulation.

We look forward to continuing to work with you for the benefit of the people of Puerto Rico.

Sincerely,



Robert F. Mujica, Jr.
Executive Director