

COMMONWEALTH OF PUERTO RICO
PUBLIC SERVICE COMMISSION
FINANCIAL STATEMENT
FISCAL YEAR ENDED JUNE 30, 2009
(WITH THE ADDITIONAL REPORTS REQUIRED BY
THE GOVERNMENT AUDITING STANDARDS AND OMB CIRCULAR A-133)

COMMONWEALTH OF PUERTO RICO
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PART I
FINANCIAL



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INDEPENDENT AUDITORS' REPORT

To the President
Public Service Commission
of the Commonwealth of Puerto Rico
San Juan, Puerto Rico

We have audited the accompanying Statement of Cash Receipts, Disbursements, and Net Changes – Governmental Funds of the **Public Service Commission of the Commonwealth of Puerto Rico (PSC)** for the fiscal year ended June 30, 2009. This statement is the responsibility of the **PSC's** management. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the USA, and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinions.

As discussed in Note 1 to the financial statement, the **PSC** prepares its Statement of Cash Receipts, Disbursements, and Net Changes – Governmental Funds on the cash basis, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

Also, as discussed in Note 1, the financial statement of the **PSC** is intended to present the cash receipts, disbursements, and net changes of the governmental funds of only that portion of the financial reporting entity of the Commonwealth of Puerto Rico that is attributable to the transactions of the **PSC**. They do not purport to, and do not, present fairly the financial position of the Commonwealth of Puerto Rico as of June 30, 2009, the changes in its financial position, or, where applicable, its cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In our opinion, the financial statement referred to above present fairly, in all material respects, the cash receipts and disbursements of the **PSC** governmental funds, and the respective cash basis net changes thereof for the year then ended in conformity with the basis of accounting described in Note 1.



INDEPENDENT AUDITORS' REPORT

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In accordance with *Government Auditing Standards*, we have also issued our report dated December 21, 2009 on our consideration of the **PSC's** internal control over financial reporting on our test of its compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

Our audit was conducted for the purpose of forming an opinion on the Statement of Cash Receipts, Disbursements, and Net Changes – Governmental Funds of the **PSC** taken as a whole. The accompanying Schedule of Expenditures of Federal Awards is presented for purposes of additional analysis as required by U.S. Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, and is not a required part of the financial statement. Such information has been subjected to the auditing procedures applied in the audit of the financial statement and, in our opinion, is fairly stated, in all material respects in relation to the Statement of Cash Receipts, Disbursements, and Net Changes – Governmental Funds taken as a whole.

CPA Diaz-Martinez, PSC
CPA DIAZ-MARTINEZ, PSC
Certified Public Accountants & Consultants
License Number 12, expires on December 1, 2010

Caguas, Puerto Rico
December 21, 2009



COMMONWEALTH OF PUERTO RICO
PUBLIC SERVICE COMMISSION

STATEMENT OF CASH RECEIPTS, DISBURSEMENTS, AND NET CHANGES – GOVERNMENTAL FUNDS

FOR THE FISCAL YEAR ENDED JUNE 30, 2009

	<u>General Fund</u>	<u>General Royalties Fund</u>	<u>Excavations and Demolitions Fund</u>	<u>Federal Grants Fund</u>	<u>Total Governmental Funds</u>
CASH RECEIPTS:					
Appropriations from the Commonwealth of Puerto Rico.....	\$12,150,000	\$ -	\$ -	\$ -	\$12,150,000
Federal Grants	-	-	-	692,839	692,839
Charge for Services.....	-	1,246,404	612,967	-	1,859,371
Total Cash Receipts	<u>12,150,000</u>	<u>1,246,404</u>	<u>612,967</u>	<u>692,839</u>	<u>14,702,210</u>
CASH DISBURSEMENTS:					
Motor Carrier Safety Assistance Program	-	-	-	688,715	688,715
Pipeline Safety Grant Program – 2008 One Call.....	-	-	-	4,124	4,124
General Royalties	-	1,389,258	-	-	1,389,258
Excavations and Demolitions	-	-	547,968	-	547,968
General Administration and Direction.....	11,110,334	-	-	-	11,110,334
Total Disbursements	<u>11,110,334</u>	<u>1,389,258</u>	<u>547,968</u>	<u>692,839</u>	<u>13,740,399</u>
NET CHANGES	<u>\$ 1,039,666</u>	<u>(\$ 142,854)</u>	<u>\$ 64,999</u>	<u>\$ -</u>	<u>\$ 961,811</u>

See accompanying Notes to this Statement.

COMMONWEALTH OF PUERTO RICO
PUBLIC SERVICE COMMISSION

NOTES TO STATEMENT OF CASH RECEIPTS, DISBURSEMENTS,
AND NET CHANGES – GOVERNMENTAL FUNDS

FOR THE FISCAL YEAR ENDED JUNE 30, 2009

NOTE 1 Summary of Significant Accounting Policies

Organization

The **Public Service Commission of the Commonwealth of Puerto Rico (PSC)** was established under Law Number 109 of June 1962, as amended. The **PSC** is responsible for the regulation of all public service operating under a private entity management which is not regulated directly by any other government entity. Further more the **PSC** is entitled to request information and impose administrative fines when applicable compliance with laws and regulations.

The **PSC** consists of one Commissioner President and six Public Service Commissioners named by the Governor and approved by the Senate of Puerto Rico. The organizational structure is headed by the Office of the President, Office of the Secretary and the Office of the Legal Advisory.

The Commonwealth of Puerto Rico was constituted on July 25, 1952, under provisions of its Constitution as approved by the people of Puerto Rico and the Congress of the United States of America. The Commonwealth's Constitution provides for the separation of powers of the executive, legislative and judicial branches of the government. The Commonwealth assumes responsibility for public safety, public health, public housing, welfare, education, and economic development.

Financial Reporting Entity

The **PSC** is for financial reporting purposes a part of the Commonwealth of Puerto Rico. Because **PSC** is part, for financial reporting purposes, of the Commonwealth of Puerto Rico, its financial data is included as part of the Commonwealth of Puerto Rico financial statements. The **PSC** accompanying financial statement is issued solely to comply with the Single Audit Act Amendments of 1996 (P.L. 104-156) and for the information and used of the **PSC's** management, and federal awarding agencies and pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.

The **PSC's** accompanying financial statement have been prepared in accordance with the cash basis of accounting, which is not in accordance with accounting principles generally accepted in the United States of America. Revenue is recognized when cash is received and disbursement are recorded when the related cash payment is made. Capital assets resulting from cash transactions are reported as cash disbursements in the acquiring governmental fund upon cash acquisition. No capital assets are recorded in the **PSC's** financial statement. No long-term debt is reported in the **PSC's** financial statement. No accrued compensated absences are reported in the **PSC's** financial statement. Compensated absences resulting from cash transactions are reported as cash disbursements in the governmental fund column upon cash payment.

Basis of Presentation

The Statement of Cash Receipts, Disbursements, and Net Changes – Governmental Funds of the **PSC** is intended to present the cash receipts and cash disbursements of only that portion of the financial reporting entity of the Commonwealth of Puerto Rico that is attributable to the transactions of the **PSC**. They do not purport to, and do not, present fairly the financial position of the Commonwealth of Puerto Rico as of June 30, 2009, the changes in its financial position, or, where applicable, its cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.

continue

COMMONWEALTH OF PUERTO RICO
PUBLIC SERVICE COMMISSION

NOTES TO STATEMENT OF CASH RECEIPTS, DISBURSEMENTS,
AND NET CHANGES – GOVERNMENTAL FUNDS

FOR THE FISCAL YEAR ENDED JUNE 30, 2009

NOTE 1 Summary of Significant Accounting Policies (continuation)

The accounts of **PSC** are organized on the basis of one fund type, which is responsible for the coordination, receipt, and management of funds. This fund is composed for four programs which are described below. The accounts of the **PSC** are accounted for with a set of accounts which only include cash receipts and cash disbursements. No balance sheet accounts are maintained or reported. The following individual programs account for the governmental resources allocated to them for the purpose of carrying on specified activities in accordance with laws, regulations, and other restrictions:

- **General Fund** – The general fund is the main operating fund of the **PSC**. It is used to account for all financial resources except those required to be accounted for separately.
- **General Royalties Fund** – Accounts for cash receipts from authorizations conceded to transport people and to operate as a carrier, gas distributor, moving business and vehicle leasing.
- **Excavations and Demolitions Fund** – Accounts for the cash receipts derived to give permits to make excavations and demolitions
- **Federal Grants Fund** – Accounts for the financial resources related to the Federal Grant Awards administered by the **PSC**.

Basis of Accounting

The **PSC** utilizes the cash basis of accounting to account for all programs administered. Under this method, revenue is recognized when cash is received or funds are transferred-in, and disbursement is recognized when funds are disbursed or transferred-out. Therefore, the financial statement is not intended to present the **PSC**'s results of operations in accordance with accounting principles generally accepted in the United States of America.

Budgetary Accounting

Formal budgetary accounting is employed as a management control for all programs of the **PSC**. Annual operating budgets are adopted each fiscal year through passage of an annual budget which is approved by the Commonwealth of Puerto Rico Legislature and amended as required through the year. All unencumbered budget appropriations of local funds lapse three years after the end of each fiscal year. Federal grant funds can be carried over a specified amount of time, upon request to, and approval by the United States *Department of Transportation*.

The financial statement is presented at the programmatic level. However, budgetary control and accounting is exercised at a lower level providing management with detailed control over expenditures at an appropriated budget level.

NOTE 2 Cash with Financial Institutions and with Fiscal Agents (Department of the Treasury of the Commonwealth of Puerto Rico)

The funds of the **PSC** are under the custody and control of the Secretary of the Treasury Department of Puerto Rico pursuant to Act No. 230 of July 23, 1974, as amended, known as "Commonwealth of Puerto Rico Accounting Law". The Treasury Department follows the practice of pooling cash equivalents under the custody and control of the Secretary of the Treasury. The funds of the **PSC** in such pooled cash accounts are available to meet its current operating requirements.

continue

COMMONWEALTH OF PUERTO RICO
PUBLIC SERVICE COMMISSION

NOTES TO STATEMENT OF CASH RECEIPTS, DISBURSEMENTS,
AND NET CHANGES – GOVERNMENTAL FUNDS

FOR THE FISCAL YEAR ENDED JUNE 30, 2009

NOTE 3 Lease Commitments

The **PSC** rent its facilities and equipment through operating lease agreements with private entities. Rent disbursed under such lease agreements for the year ended June 30, 2009 amounted to \$1,083,287 and \$74,228, respectively.

NOTE 4 Pension Plan

Description of the Plan

Employees of the **PSC** participate in the Employee's Retirement System of the Government of Puerto Rico and its Instrumentalities (ERS). The ERS is cost-sharing multiple-employer defined benefit pension plan sponsored by the Government under the Act No. 447, approved on May 15, 1951, as amended. ERS covers all regular employees of the Government and its instrumentalities and of certain municipalities and components units not covered by their own retirement systems.

Participation is mandatory except for members of the Legislature, Government Secretaries, Head of Agencies and Public Instrumentalities, Assistants to the Governor, the Comptroller of the Puerto Rico, Gubernatorial Board and Committee appointees and Experimental Service Station employees. ERS provides retirement, death and disability benefits. Disability retirement benefits are available to members for occupational and non-occupational disabilities. Retirement benefits depend upon age at retirement and number of years of credited service. Benefits vest after ten years of plan participation.

Members who have attained at least 55 years of age and have completed at least 25 years of creditable service or members who have attained at least 58 years of age and have completed at least 10 years of creditable service are entitled to an annual benefit, payable monthly for life. The amount of the annuity shall be 1.5% of the average salary, as defined, multiplied by the number of years of creditable service up to 20 years, plus 2% of the average salary, as defined, multiplied by the number of years of creditable service in excess of 20 years. In no case will the annuity be less than \$200 per month.

Participants who have completed at least 30 years of creditable service are entitled to receive the Merit Annuity. Participants who have not attained 55 years of age will receive up to a maximum of 65% of the average salary, as defined, or if they have attained 55 years of age will receive up to a maximum of 75% of the average salary, as defined. Disability retirement benefits are available to members for occupational disability up to a maximum benefit of 50% of the average salary, as defined. However, for non-occupational disability, a member must have at least 10 years of creditable services.

The contribution requirements for both employees and employers are established by law and are not actuarially determined. Employees are required to contribute 5.775% for the first \$550 of monthly salary plus 8.275% for the excess of this amount, or on the alternative, 8.275% of their monthly gross salary. The **PSC** is required by Act No. 447 to contribute 9.275% of its employees' gross salaries.

Act No. 1 of 1990 made certain amendments applicable to new participants joining the ERS effective April 1, 1990. These changes consist principally of the establishment of contributions at 8.275% of their monthly gross salary, an increase in the retirement age to 65, a decrease in the annuity benefit to 1.5% of the average salary, as defined, for all years of creditable services, a decrease in the maximum disability, and death benefits annuities from 50% to 40% of average salary, as defined, and the elimination of the Merit Annuity for participants who have completed 30 years of creditable services.

continue

COMMONWEALTH OF PUERTO RICO
PUBLIC SERVICE COMMISSION

NOTES TO STATEMENT OF CASH RECEIPTS, DISBURSEMENTS,
AND NET CHANGES – GOVERNMENTAL FUNDS

FOR THE FISCAL YEAR ENDED JUNE 30, 2009

NOTE 4 Pension Plan (continuation)

Law Number 305 was enacted on September 24, 1999, amended the Act Number 447 for the purpose of establishing a new program (System 2000). System 2000 became effective on January 1, 2000. Employees participating in the current system (ERS) as of December 31, 1999, may elect either to stay in the defined-benefit plan or transfer to the new program. Persons joining the government on or after January 1, 2000, will only be allowed to become members of System 2000.

System 2000 is a hybrid defined contribution plan, also known as a cash balance plan. Under this new plan there will be a pool of pension assets, which will be invested by the System, together with those of the current defined-benefit plan. Benefits at retirement age will not be guaranteed by the Government. The annuity will be based on a formula which assumes that each year the employees' contribution (with a minimum of 8.275% up to a maximum of 10%) of their monthly salary, and will be invested in an account which will either: (a) earn a fixed rate based on the two-year Constant Maturity Treasury Note or, (b) earn a rate equal to 75% of the return of the System's investment portfolio (net of management fees), or (c) earn a combination of both alternatives. Participants receive periodic account statements similar to those of defined contribution plans showing their accrued balances. Disability pensions are not being granted under System 2000. The employers' contributions (9.275% of the employees' salary) will be used to fund the current plan.

If at time of retirement accumulated benefits amount to \$10,000 or less may elect to receive a lump sum distribution up to the accumulated benefits. Under the new program the retirement age is reduced from 65 to 60 for those employees who joined the current plan on or after April 1, 1990.

Funding Policy

The authority under which the funding policy and the obligations to contribute to the ERS and System 2000 by the plans' members, employers and other contributing entities (state of municipal contributions), are established or may be amended by law.

Contribution requirements are established by law and are as follows:

PSC	9.275% of gross salary
Employees:	
Hired on or before March 31, 1990	5.775% of gross salary up to \$6,600
	8.275% of gross salary over \$6,600
Hired on or after April 1, 1990	8.275% of gross salary

Annual Contribution

The PSC's contributions during those years are recognized as total pension expenditures/expenses in the category of administration.

The amount contributed represented the 100% of the required contribution for the corresponding year. Additionally, changes made in the types and amounts of benefits offered by special laws and costs of living adjustments, led to a one-time recommended contribution to fund the retroactive adjustment related to the changes.

COMMONWEALTH OF PUERTO RICO
PUBLIC SERVICE COMMISSION

NOTES TO STATEMENT OF CASH RECEIPTS, DISBURSEMENTS,
AND NET CHANGES – GOVERNMENTAL FUNDS

FOR THE FISCAL YEAR ENDED JUNE 30, 2009

NOTE 4 Pension Plan (continuation)

The Employee's Retirement System of the Government of Puerto Rico provides additional information of the ERS and System 2000. They issue a publicly available financial report that includes financial statements and required supplementary information for ERS, as a component unit of the Government. That report may be obtained by writing to the Administration at PO Box 42003, Minillas Station, San Juan, PR 00940-2003.

NOTE 5 Contingencies

A. Claims and Judgments

The **PSC** is, at present, a defendant in a number of legal matters that arise from alleged improper application of policies and negligence in the ordinary course of the **PSC's** activities. The legal counsel of the **PSC** has advised that at this stage in the proceedings of lawsuits he cannot offer an opinion as to the probable outcome.

In addition, the **PSC** is a defendant or co-defendant in several legal proceedings, which are in discovery stage. Certain of these claims are covered by insurance. Legal counsel with the information currently available can not determine the final outcome of these claims. Accordingly, the financial statements do not include adjustment, if any, that could result from the resolution of this legal proceeding. However, it has been the **PSC's** experience that such actions are settled for amounts substantially less than the claimed amounts.

B. Federal Grants

In the normal course of operations, the **PSC** receives grants from various Federal agencies. The grant programs are subject to audit by agents of the granting authority, the purpose of which is to ensure compliance with conditions precedent to the granting of funds. Any liability for reimbursement which may arise as the result of these audits is not believed to be material.

The **PSC** is also subject to audits performed by the Office of the Comptroller of Puerto Rico.

END OF NOTES

**COMMONWEALTH OF PUERTO RICO
PUBLIC SERVICE COMMISSION**

SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS

FOR THE FISCAL YEAR ENDED JUNE 30, 2009

FEDERAL GRANTOR / PASS THROUGH GRANTOR / PROGRAM TITLE	FEDERAL CFDA NUMBER	PASS-THROUGH ENTITY IDENTIFYING NUMBER	TOTAL EXPENDITURES
U.S. Department of Transportation:			
Motor Carrier Safety Assistance Program	20.218		\$ 688,715
Pipeline Safety Grant Program – 2008 One Call	20.700		<u>4,124</u>
Total U.S. Department of Transportation			<u>692,839</u>
TOTAL EXPENDITURES OF FEDERAL AWARDS			<u>\$ 692,839</u>

See the accompanying Notes to Schedule of Expenditures of Federal Awards.

**COMMONWEALTH OF PUERTO RICO
PUBLIC SERVICE COMMISSION**

NOTES TO SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS

FOR THE FISCAL YEAR ENDED JUNE 30, 2009

NOTE 1 GENERAL

The accompanying Schedule of Expenditures of Federal Awards presents the federal financial assistance programs administered by the **Public Service Commission of the Commonwealth of Puerto Rico (PSC)** for the year ended June 30, 2009. The information in this schedule is presented in accordance with the requirements of OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*. The reporting entity is defined in Note (1) to the financial statements.

NOTE 2 BASIS OF ACCOUNTING

The Schedule was prepared using the cash basis of accounting to account for all funds administered. Under this method, expenditures are recognized when funds are disbursed or transferred-out. The **PSC's** reconciliations of their accounting systems provided primary information from which the Schedule is prepared.

NOTE 3 FEDERAL CFDA NUMBER

The CFDA numbers included in this Schedule are determined based on the program name, review of grant contract information and the Office of Management and Budget's Catalogue of Federal Domestic Assistance.

NOTE 4 MAJOR PROGRAMS

Major programs are identified in the Summary of Auditor's Results Section of the Schedule of Findings and Questioned Costs.

END OF NOTES



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INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS

To the President
Public Service Commission
of the Commonwealth of Puerto Rico
San Juan, Puerto Rico

We have audited the Statement of Cash Receipts, Disbursements, and Net Changes – Governmental Funds of the **Public Service Commission of the Commonwealth of Puerto Rico (PSC)**, as of and for the fiscal year ended June 30, 2009, which collectively comprise the **PSC's** basic financial statement and has issued our unqualified report thereon dated December 21, 2009. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the **PSC's** internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the **PSC's** internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the **PSC's** internal control over financial reporting.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses. However, as discussed below, we identified certain deficiency in internal control over financial reporting that we consider to be significant deficiency.

A *control deficiency* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A *significant deficiency* is a control deficiency, or combination of control deficiencies, that adversely affects the **PSC's** ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the **PSC's** financial statements that is more than inconsequential will not be prevented or detected by the **PSC's** internal control. We consider the deficiencies described in the accompanying Schedule of Findings and Questioned Costs as items 2009-II-1 and 2009-II-2 to be significant deficiencies in internal control over financial reporting.

A *material weakness* is a significant deficiency, or combination of significant deficiencies, that result in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the **PSC's** internal control.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. However, we believe that the significant deficiencies described above are material weaknesses.



INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS

Page 2

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the **PSC's** basic financial statement are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* and which are described in the accompanying Schedule of Findings and Questioned Costs as item 2009-II-1.

The **PSC's** response to the finding identified in our audit is described in the accompanying Schedule of Findings and Questioned Costs. We did not audit the **PSC's** response and, accordingly, we express no opinion on it.

We noted certain matters that we reported to management of **PSC** in a separate letter dated December 21, 2009.

This report is intended for the information and use of the **PSC's** management, the Commonwealth of Puerto Rico, the U.S. Department of Transportation, and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

CPA Diaz-Martinez, PSC
CPA DIAZ-MARTINEZ, PSC
Certified Public Accountants & Consultants
License Number 12, expires on December 1, 2010

Caguas, Puerto Rico
December 21, 2009





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INDEPENDENT AUDITORS' REPORT ON COMPLIANCE WITH REQUIREMENTS APPLICABLE TO EACH MAJOR PROGRAM AND INTERNAL CONTROL OVER COMPLIANCE IN ACCORDANCE WITH OMB CIRCULAR A-133

To the President
Public Service Commission
of the Commonwealth of Puerto Rico
San Juan, Puerto Rico

Compliance

We have audited the compliance of the **Public Service Commission of the Commonwealth of Puerto Rico (PSC)**, with the types of compliance requirements described in the *U. S. Office of Management and Budget (OMB) Circular A-133 Compliance Supplement* that are applicable to each of its major federal programs for the fiscal year ended June 30, 2009. The **PSC's** major federal programs are identified in the Summary of Auditors' Result Section of the accompanying Schedule of Findings and Questioned Costs. Compliance with the requirements of laws, regulations, contracts and grants applicable to each of its major federal programs is the responsibility of the **PSC's** management. Our responsibility is to express an opinion on the **PSC's** compliance based on our audit.

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*. Those standards and OMB Circular A-133 require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about the **PSC's** compliance with those requirements and performing such other procedures, as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination on the **PSC's** compliance with those requirements.

As described in items 2009-III-01 in the accompanying Schedules of Findings and Questioned Costs, the **PSC** did not comply with requirements regarding reporting that are applicable to Motor Carrier Safety Assistance Program. Compliance with such requirements is necessary, in our opinion, for the **PSC** to comply with the requirement applicable to this program.

In our opinion, except for the noncompliance described in the preceding paragraph, the **PSC** complied, in all material respects, with the requirements referred to above that are applicable to each of its major federal programs for the fiscal year ended June 30, 2009.



INDEPENDENT AUDITORS' REPORT ON COMPLIANCE WITH REQUIREMENTS APPLICABLE TO EACH MAJOR PROGRAM AND INTERNAL CONTROL OVER COMPLIANCE IN ACCORDANCE WITH OMB CIRCULAR A-133

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Internal Control Over Compliance

The management of the **PSC** is responsible for establishing and maintaining effective internal control over compliance with requirements of laws, regulations, contracts and grants applicable to federal programs. In planning and performing our audit, we considered the **PSC's** internal control over compliance with requirements that could have a direct and material effect on a major federal program in order to determine our auditing procedures for the purpose of expressing our opinion on compliance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the **PSC's** internal control over compliance.

Our consideration of internal control over compliance was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in the **PSC's** internal control that might be significant deficiencies or material weaknesses as defined below. However, as discussed below, we identified certain deficiency in internal control over compliance that we consider to be material weakness.

A *control deficiency* is the **PSC's** internal control over compliance exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect noncompliance with a type of compliance requirement of a federal program on a timely basis. A *significant deficiency* is a control deficiency, or combination of control deficiencies, that adversely affects the **PSC's** ability to administer a federal program such that there is more than a remote likelihood that a noncompliance with a type of compliance requirement of a federal program that is more than inconsequential will not be prevented or detected by the **PSC's** internal control. We consider the deficiency in internal control over compliance described in the accompanying Schedule of Findings and Questioned Costs as item 2009-III-01 to be significant deficiency.

A *material weakness* is a significant deficiency, or combination of significant deficiencies that result in more than a remote likelihood that material noncompliance with the type of compliance requirement of a federal program will not be prevented or detected by the **PSC's** internal control. We consider the significant deficiency in internal control over compliance described in the accompanying Schedule of Findings and Questioned Costs, to be material weakness.

The **PSC's** responses to the finding identified in our audit are described in the accompanying Schedule of Findings and Questioned Costs. We did not audit the **PSC's** response and, accordingly, we express no opinion on it.

This report is intended for the information and use of the **PSC's** management, the Commonwealth of Puerto Rico, the U.S. Department of Transportation, and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

CPA Diaz-Martinez, PSC
CPA DIAZ-MARTINEZ, PSC
Certified Public Accountants & Consultants
License Number 12, expires on December 1, 2010

Caguas, Puerto Rico
December 21, 2009



PART III

FINDINGS AND QUESTIONED COSTS

**COMMONWEALTH OF PUERTO RICO
PUBLIC SERVICE COMMISSION**

SCHEDULE OF FINDINGS AND QUESTIONED COSTS

FOR THE FISCAL YEAR ENDED JUNE 30, 2009

SECTION I – SUMMARY OF AUDITORS' RESULTS

Financial Statements

Type of auditors' report issued: Unqualified Opinion Qualified Opinion
 Adverse Opinion Disclaimer Opinion

Internal control over financial reporting:

- Significant deficiency (ies) identified that are not considered to be material weaknesses? Yes None Reported
- Material weakness (es) identified? Yes No
- Noncompliance material to financial statements noted? Yes No

Federal Awards

Internal control over major programs:

- Significant deficiency (ies) identified that are not considered to be material weaknesses? Yes None Reported
- Material weakness (es) identified? Yes No

Type of auditors' report issued on compliance for Major Programs: Unqualified Opinion Qualified Opinion
 Adverse Opinion Disclaimer Opinion

Any audit finding disclosed that are required to be reported in accordance with Section 510 (a) of Circular A-133? Yes No

Identification of Major Programs:

CFDA NUMBER	NAME OF FEDERAL PROGRAM OR CLUSTER
20.218	Motor Carrier Safety Assistance Program

Dollar threshold used to distinguish between Type A and Type B Programs: \$300,000

Auditee qualified as low-risk auditee? Yes No

COMMONWEALTH OF PUERTO RICO
PUBLIC SERVICE COMMISSION

SCHEDULE OF FINDINGS AND QUESTIONED COSTS

FOR THE FISCAL YEAR ENDED JUNE 30, 2009

SECTION II – FINANCIAL STATEMENT FINDINGS

FINDING REFERENCE NUMBER 2009-II-01 (See FINDING REFERENCE NUMBER 2009-III-01)

TYPE OF FINDING MATERIAL NONCOMPLIANCE AND MATERIAL WEAKNESS

CRITERIA

The Circular A-102 (Common Rule), Section .23 establishes that the Financial Status Report should be submitted to the Federal government 90 days after the funding period. The Circular A-102, Subpart C, Section .20 establishes the following:

- (1) A State must expand and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its sub-grantees and cost-type contractors, must be sufficient to (1) Permit preparation of reports required by this part and the statutes authorizing the grant, and (2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restriction and prohibitions of applicable statutes. The Financial management systems of other grantees and sub-grantees must meet the following standards: (1) Financial Reporting – Accurate, current, and complete disclosure of the Financial results of financially assisted activities must be made in accordance with the Financial Reporting requirements of the grant or sub-grant. In addition, in the Grant Agreement Formalized between the **PSC** and the Department of Transportation, it is established that the **PSC** should prepare and send to the Department of Transportation the Quarterly Reports covering the progress of the project and describing the results and the impact of the project in reducing the commercial motor carrier accident rate. According to 49 CFR 18.41 (b)(4) when reports are required on a quarterly basis, they will be due 30 days after the reporting period. Also, the Agreement requires that the **PSC** submit the final claim within 90 days after the project is completed.

CONDITION

Quarterly Reports:

- a. Federal Motor Carrier Safety Administration – The Financial Status Report of Grant No. 27XX72MC087215780 with a period of availability of federal funds from October 1, 2007 through September 30, 2009 was submitted late to the DOT.

continue

COMMONWEALTH OF PUERTO RICO
PUBLIC SERVICE COMMISSION

SCHEDULE OF FINDINGS AND QUESTIONED COSTS

FOR THE FISCAL YEAR ENDED JUNE 30, 2009

SECTION II – FINANCIAL STATEMENT FINDINGS

FINDING REFERENCE NUMBER	2009-II-02
TYPE OF FINDING	DEFICIENCY IN PROCUREMENT PROCESS
CRITERIA	General Services Administration Acquisition Regulation, Article 51.1, approved on November 24, 1986, amended, establishes that all acquisition by purchase or lease should be acquired by formal bid. In the Article 61.1, indicates that a formal bid is the procedure that the Government takes to acquire any good or service that exceeds the four thousand dollars (\$4,000) or any construction that exceeds twenty five thousand dollars (\$25,000) or attached service that which exceeds ten thousand dollars (\$10,000).
CONDITION	The PSC made material payments to a contract that did not comply with adequate procurement process, relying on the assumption that the contractor was registered and approved by the General Services Administration as a registered bidder.
CAUSE	Internal controls established were not followed in order to make sure that the contractor was in fact a registered bidder with the General Services Administration. Furthermore, the PSC did not perform a formal bid to obtain the service or goods, in the event that the contractor did not qualify as a registered bidder.
EFFECT OR POSSIBLE EFFECT	The PSC entered into a contract with a provider that was not qualified as a registered bidder, and thus the procurement process was not correctly followed rendering such contract invalid as were any payments made to it.
RECOMMENDATION	We recommend management to implement procedures to verify that all contractors are registered bidders with the General Services Administration or perform formal bids, before entering into any contract for goods or services.
RESPONSIBLE OFFICIAL'S RESPONSE AND CORRECTIVE ACTION PLANNED	On regards with this finding, on November 24, 2009, the Director of the Internal Audit Office was submitted a Special Internal Audit Report to the President of the Public Service Commission.
IMPLEMENTATION DATE	During December 2009.
RESPONSIBLE PERSON	Mrs. Ana I. Delgado Santiago Director of Internal Audit Office

continue

COMMONWEALTH OF PUERTO RICO
PUBLIC SERVICE COMMISSION

SCHEDULE OF FINDINGS AND QUESTIONED COSTS

FOR THE FISCAL YEAR ENDED JUNE 30, 2009

SECTION III – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

FINDING REFERENCE NUMBER	2009-III-01
FEDERAL PROGRAM	MOTOR CARRIER SAFETY ASSISTANCE PROGRAM (CFDA NO. 20.218) U.S. DEPARTMENT OF TRANSPORTATION
AWARD NUMBER	27XX72MC087215780
COMPLIANCE REQUIREMENT	REPORTING
TYPE OF FINDING	MATERIAL NONCOMPLIANCE AND MATERIAL WEAKNESS
CRITERIA	<p>The Circular A-102 (Common Rule), Section .23 establishes that the Financial Status Report should be submitted to the Federal government 90 days after the funding period. The Circular A-102, Subpart C, Section .20 establishes the following:</p> <p>(1) A State must expand and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its sub-grantees and cost-type contractors, must be sufficient to (1) Permit preparation of reports required by this part and the statutes authorizing the grant, and (2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restriction and prohibitions of applicable statutes. The Financial Management Systems of other grantees and sub-grantees must meet the following standards: (1) Financial Reporting – accurate, current, and complete disclosure of the financial results of financially assisted activities must be made in accordance with the Financial Reporting requirements of the grant or sub-grant. In addition, in the Grant Agreement formalized between the PSC and the U.S. Department of Transportation (DOT), established that the PSC should prepare and send to the DOT the Quarterly Reports covering the progress of the project and describing the results and the impact of the project in reducing the commercial motor carrier accident rate. According to 49 CFR 18.41 (b) (4) when reports are required on a quarterly basis, they will be due 30 days after the reporting period. Also, the Agreement requires that the PSC submit the final claim within 90 days after the project is completed.</p>
CONDITION	<p>Quarterly Reports:</p> <p>(a) Federal Motor Carrier Safety Administration – The Financial Status Report of Grant No. 27XX72MC087215780 with a period of availability of federal funds from October 1, 2007 through September 30, 2009 was submitted late to the DOT. <i>(This is a prior year audit finding.)</i></p>
CAUSE	Information needed to prepare the reports was not available.
EFFECT OR POSSIBLE EFFECT	The Federal awarding agency do not received on timely basis the reports required by the agreement and accordingly, do not have the information needed to monitoring the financial reporting status of the program.

continue

**COMMONWEALTH OF PUERTO RICO
PUBLIC SERVICE COMMISSION**

SCHEDULE OF FINDINGS AND QUESTIONED COSTS

FOR THE FISCAL YEAR ENDED JUNE 30, 2009

SECTION III – FEDERAL AWARD FINDINGS AND QUESTIONED COSTS

FINDING REFERENCE NUMBER	2009-III-01 (continuation)
RECOMMENDATION	We recommend management to verify the accounting records and record the necessary adjustments in order to reconcile the expenditures reported in the quarterly reports and the general ledger.
QUESTIONED COSTS	None noted.
RESPONSIBLE OFFICIAL'S RESPONSE AND CORRECTIVE ACTION PLANNED	On December 2009, the Special Assistant Supervising Finance & Budget of our Agency submitted the Final Report and the Financial Report Status for the audit period. Our personnel will continue working to fill the corresponding form and to follow the federal regulation to collect financial data and send the form to following the corresponding process. We coordinated efforts to improve our accounting records and to comply with grants and federal regulations.
IMPLEMENTATION DATE	During December 2009.
RESPONSIBLE PERSON	Mr. José R. Fernández Rodríguez Special Assistant Supervising Finance & Budget

END OF SCHEDULE

**COMMONWEALTH OF PUERTO RICO
PUBLIC SERVICE COMMISSION**

SUMMARY SCHEDULE OF PRIOR AUDITS' FINDINGS

FOR THE FISCAL YEAR ENDED JUNE 30, 2009

(1) Audit Findings that have been Fully Corrected:

FISCAL YEAR 2007-2008

Finding Number	08-06	Reporting The PSC did not maintain an adequate set of accounting records for the Motor Carrier Safety Assistance Program that present the financial position of the program and the results of its operations.
CFDA Number	20.218	
Questioned Cost	None	
Auditee Comments		System and procedures were corrected.

FISCAL YEAR 2006-2007

Finding Number	07-05	Reporting The PSC did not maintain an adequate set of accounting records for the Motor Carrier Safety Assistance Program that present the financial position of the program and the results of its operations.
CFDA Number	20.218	
Questioned Cost	None	
Auditee Comments		System and procedures were corrected.

FISCAL YEAR 2005-2006

Finding Number	06-04	Equipment and Real Property Management The PSC did not maintain adequate controls for the property and equipment management. We did not obtain evidence of an annual physical inventory, neither evidence supporting that property records maintained by the agency are duly reconciliated with the Fixed Assets Monthly Reconciliation required by the Treasury Department (Model SC-795)
CFDA Number	20.218	
Questioned Cost	None	
Auditee Comments		System and procedures were corrected.

Finding Number	06-07	Reporting The PSC did not maintain an adequate set of accounting records for the Motor Carrier Safety Assistance Program that present the financial position of the program and the results of its operations.
CFDA Number	20.218	
Questioned Cost	None	
Auditee Comments		System and procedures were corrected.

**COMMONWEALTH OF PUERTO RICO
PUBLIC SERVICE COMMISSION**

SUMMARY SCHEDULE OF PRIOR AUDITS' FINDINGS

FOR THE FISCAL YEAR ENDED JUNE 30, 2009

(2) Audit Findings not Corrected or Partially Corrected:

FISCAL YEAR 2007-2008

Finding Number	08-07	Reporting The PSC did not prepare a quarterly activity report during fiscal year 2007-08 using the Standard Form 269 (Financial Status Report).
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CFDA Number	20.218
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Questioned Cost	None
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Auditee Comments	On January 2010, the Special Assistant Supervising Finance & Budget of our Agency was submitted the Final Report and the Financial Report Status for the audit period. Our personnel will continue working to fill the corresponding form and to follow the federal regulation to collect financial data and send the form to following the corresponding process. We coordinated efforts to improve our accounting records and to comply with grants and federal regulations.
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(3) Corrective action taken is significantly different from corrective action previously reported:

NONE

(4) Audit findings is no longer valid:

NONE

END OF SCHEDULE