

**PENSION BENEFITS COUNCIL
BOARD MEETING MINUTES
February 15, 2023**

I. CALL TO ORDER

- A. Location: Bennazar, García & Milián C.S.P. & videoconference
- B. Time: The meeting began at 2:15 p.m.

II. ATTENDANCE

PENSION BENEFITS COUNCIL MEMBER	ATTENDANCE
Financial Oversight and Management Board for Puerto Rico	
Mr. Jason Fichtner	Present
Official Committee of Retirees of the Commonwealth of Puerto Rico	
Mrs. Carmen H. Núñez Rodríguez	Present
Mrs. Blanca E. Paniagua Adorno	Present
Mr. Juan Ortiz Curet	Present
Mrs. Wanda G. Santiago López	Present
Carlos A. Cabán García, Esq.	Present
American Federation of State, County and Municipal Employees	
Vacant	N/A
Mrs. Sandra Pacheco Santiago	Present
Commonwealth of Puerto Rico	
Rita González, Esq. in representation of Omar Marrero Díaz	Present

Guests: Héctor Mayol and Francisco del Castillo from Bennazar, García & Milián C.S.P.; Jorge Marchand, Male Noguera and Iris González from Marchand ICS Group; Enrique Pérez, Mariela González and Anaelia Pineda from Fulcro Insurance.

III. AGENDA

A. Quorum:

1. Wanda Santiago, Secretary, certified the quorum with the attendance of eight members of the Pension Benefits Council.

B. Budget for Fiscal Year 2022-2023:

1. Francisco del Castillo indicated that during the last meeting, the Pension Benefits Council requested that Bennazar, García & Milián C.S.P. (“Bennazar”) and Marchand ICS Group (“Marchand”) prepare an estimate of the costs and expenses to conduct the election for the current and next fiscal year. In addition, it was requested that a new line item be included in the budget as the “Establishment of the Benefits Council” where everything related to this concept would be invoiced and that it would be considered as a non-ordinary expense item. The professionals met on two occasions with Carmen H. Núñez, Wanda Santiago and Carlos Cabán and the result is the draft of the budget that was distributed to the members of the Pension Benefits Council.
2. Francisco del Castillo discussed the budget for fiscal year 2022-2023, item by item, and the expenses reported to date. Of the \$400,000 administrative budget, \$146,521.30 has been spent and \$253,478.70 remains available, equivalent to 63% of the funds.
3. Regarding the Election Expenses, in the current budget we have two-line items, one is "Election Administrator Fees" for \$100,000.00 and the other is "General Election Costs" for \$500,00.00, for a total of \$600,000.00 per that expense. In the budget that is being recommended, several new line items are included within the Election Expenses. We have the “Election Administrator’s Expenses”, “Communications Agent’s Fees”, “Communications Agent’s Expenses”, “Legal Advisor’s Fees” and “Others”.

As part of the analysis by the professionals, they reviewed their invoices to identify fees and expenses related to the elections and the establishment of the Benefits Council. At this point we have \$28,133.37 in fees related to Election Expenses and \$73,799.00 for the Establishment of the Benefits Council. However, these fees are currently invoiced within the Administrative Budget, so they are not being duplicated, but when the new line items are established, they will be assigned under Election Costs / Establishment of the Benefits Council and removed from the Administrative Budget.

The Administrative Budget and Election Expenditures is \$1,000,000.00 of which \$146,521.30 has been spent and \$853,478.70 remains available, equivalent to 85% of the funds for the 2022-2023 fiscal year.

4. The recommended budget for the 2022-2023 fiscal year was presented and discussed:
 - i. Personal Services: no change in the line items is recommended and the budget remains at \$46,000.00.
 - ii. Consultants and Professional Services: by moving part of the costs for the elections and establishment of the Benefits Council, certain line items will be reduced:
 - a. Legal Counsel: from \$130,000.00 will be reduced to \$72,000.00.
 - b. Communications Agent: from \$50,000.00 it will be reduced to \$25,000.00.
 - c. Financial Advisor and Auditors: remain the same at \$85,000.00 and \$15,000.00 respectively.
 - d. The budget under Consultants and Professional Services is reduced from \$280,000.00 to \$197,000.00.00.
 - iii. Other Operating Expenses: to adjust certain increases in the expenses under accounting and to reassign expenses under the creation of the web page to the establishment of the Benefit Council, we have the following changes:
 - a. Accounting: increased from \$10,000.00 to \$17,000.00.
 - b. Web Page Expenses: reduced from \$20,000.00 to \$15,000.00.
 - c. Translators: remains the same at \$12,600.00.
 - d. Other General Expenses: they are reduced from \$31,400.00 to \$24,400.00 and the \$7,000.00 difference is moved to the Accounting line item.
 - e. The Other Operating Expenses item is reduced from \$74,000.00 to \$69,000.00.
 - iv. The Administrative Budget had a reduction of \$400,000.00 to \$312,000.00, equivalent to \$88,000.00 (22%).

5. Regarding the budget for the Election Costs, changes to and the creation of line items were recommended:
 - i. Fees Election Administrator: Under Kroll LLC's proposal, the line item is being reduced from \$400,000.00 to \$37,500.00, because the majority of the fees will be incurred in the next fiscal year.
 - ii. Expenses Election Administrator (new item): \$0 per Kroll LLC proposal. The expenses are to be incurred in the next fiscal year.
 - iii. Fees Communications Agent (new item): for \$85,000.00.
 - iv. Expenses Communications Agent (new item): \$0. The expenses are to be incurred in the next fiscal year.
 - v. Fees Legal Advisor (new item): \$72,000.00.
 - vi. Others (new item): \$5,000.00.
 - vii. General Election Expenses: reduce the line item from \$500,000.00 to \$0, because the expenses have been distributed in other concepts.
 - viii. The Election Cost Budget had a reduction from \$600,000.00 to \$199,500.00, equivalent to \$400,500.00 (67%) because the majority of the election costs will be incurred in the next fiscal year.
6. A new category would be created in the budget for fiscal year 2022-2023 under the title of "Establishment of the Benefits Council". It would be considered as a non-ordinary expense and would be outside the limit of \$400,000.00 of the category of "Administrative Expenses". It would be comprised of the following items:
 - i. Legal Costs: \$84,000.00.
 - ii. Communications Costs: \$55,000.00.
 - iii. Accounting: \$7,760.00.
 - iv. The total budget for the Establishment of the Benefits Council is \$146,760.00.
7. The new budget with all the categories would be: (a) Administrative Budget for \$312,000.00; (b) the Election Costs for \$199,500.00 and (c) the Establishment of the Council of Benefits for \$146,760.00, for a total of \$658,260.00. However, it is recommended to add two additional items, one is the payment of taxes made by the Pension Benefits Council on certain professional services, for the amount of \$8,000.00 and the establishment of a restricted reserve that can fluctuate between \$250,000.00 to \$300,000.00.

This reserve will receive the remaining funds from the initial contribution of \$550,000.00 to the Pension Benefits Council and would be used in cases where there is a delay or the funds from the Pension Reserve Trust are not received to operate the entity.

8. Francisco del Castillo and Jorge Marchand presented to the Pension Benefits Council the draft of the election budget for fiscal years 2022-2023 and 2023-2024. They also discussed the current budget for elections, the recommended budget and what is being projected for the next fiscal year.
 - i. Current Election Budget 2022-2023: \$600,000.00.
 - ii. Recommended Election Budget 2022-2023: \$199,500.00.
 - iii. Election Budget Projection 2023-2024: \$802,065.42.
 - iv. At this time, the total cost of the elections for two fiscal years is projected to be \$1,001,565.42, however, there are certain expenses about which there is still no certainty, such as the call center, among others. A very important point is that the Election Administrator's fees are based on a 5% participation of the universe of voters. If more people vote, the fees are going to increase, and we are discussing with Kroll to clearly identify the cost per additional vote.
9. On the other hand, under the restructuring of the budget with the changes in the costs of elections and taking into account the new category for the establishment of the Benefits Council, it will be necessary to amend the contracts of Bennazar and Marchand. To that effect, the professionals carried out an analysis by category of expenses. In the case of Marchand, the recommendation is that the contract be amended from \$85,000.00 to \$180,000.00 and in the case of Bennazar the amendment would be from \$130,000 to \$240,000.00.
10. Francisco del Castillo explained that, regarding the approval process of the amendments to the budget, under the Guidelines, the Administration Budget or ordinary expenses has a limit of \$400,000.00. However, it is established that non-ordinary expenses such as election, litigation, and others, do not have the cap of \$400,000.00. As part of the conversations with the attorneys of the Fiscal Oversight Board and the Pension Reserve Board, it was determined that the expenses related to the establishment of the entities is a non-ordinary expense.

Pursuant to Section 3.5 of the Guidelines, the Oversight Board may review and adjust the ongoing expenses of the Benefits Council. To the extent that the Administrative Budget or ordinary expenses are being reduced, we understand that it is not necessary to submit it to the consideration of the Oversight Board. On the other hand, the expenses of election, litigation, and now the establishment of the Benefits Council, are non-ordinary expenses

that do not require review and adjustment by the Oversight Board. However, under Section 4.5 of the Guidelines, the Oversight Board's approval of the Election Administrator contract and the amendment to the Bennazar contract would be required.

11. Rita González asked if the approval of the Oversight Board is required for the movement of funds between line items of the budget of the Pension Benefits Council. Francisco del Castillo discussed the language of Section 3.5 of the Guidelines and indicated that the Oversight Board's review of the Pension Benefits Council's budget and its adjustment is about actual expenses but does not establish that they have to authorize the movement of funds between line items.
12. On the other hand, Rita González asked about the use tax that certain providers are charging the Pension Benefits Council. Francisco del Castillo explained that the accounting firm has already been hired and the matter will be consulted with them.
13. The Pension Benefits Council unanimously approved the amendments presented to the budget for fiscal year 2022-2023. The only pending item is to determine the final amount of the restricted reserve once the process for the Pension Reserve Trust to send funds to the Pension Benefits Council is established.

C. Presentation on the status of communications and elections:

1. Jorge Marchand indicated that they are working on the reach out campaign for groups of retirees. Iris González provided a summary of the presentation they made with the participation of Carmen H. Núñez to a group of retired police officers.
2. Francisco del Castillo explained that the contract with Kroll is being negotiated and that there are certain points of difference. The first is that they did not want to establish a cap on the amount of contract payment, they included language about payment of expenses that created some confusion, they requested a retainer of \$25,000.00, they requested a release of responsibility and an indemnification clause for claims from third parties, unless they incurred in gross negligence or negligent acts and that in the event that they incur in acts of this nature, that the Pension Benefits Council could claim damages only for the amount of the deliverable where there was negligence or willful misconduct.

The parties held a conference call in which legal counsel explained that the contract must have a cap under government regulations, that advance payments cannot be made for services not received, it was clarified that the expenses are those established in the proposal, but that in case of expenses of more than \$10,000.00 the Pension Benefits Council could make the

payment and that in terms of responsibility, it can be tied to the insurance coverage that the provider has.

Legal counsel recommended and obtained authorization from the Pension Benefits Council to negotiate regarding liability up to gross negligence, negligent acts, criminal acts and there is an exception for disclosure of confidential information. The retainer is not acceptable and as for the liability limit, they are authorized to negotiate between one to three times the contractor's fees.

D. Presentation from the Insurance Agent:

1. Enrique Pérez from Fulcro Insurance provided the background of the company and explained that they requested the insurance coverage as established in the Guidelines. He explained the proposals they received from Axis Surpluss Insurance Company on "Fiduciary Liability" and "Directors & Officers" with coverage limits of \$1,000,000.00 and withholding of \$50,000 for each claim in the case that the defendant is the Pension Benefits Council. But in the case of claims against members, there is no retention and the insurance company covers the costs from the beginning of the case.
2. On the other hand, he explained the coverage for "Crime" and "Cyber" of up to \$1,000,000.00 proposed by Axis & Lloyd's - CFC and Ambridge. Also, it presented coverage with caps of \$2,000,000.00 from "General Liability" and "Umbrella" from Optima Seguros, One Alliance Insurance Corp and Mapfre Praico Insurance Co., which are not established in the Guidelines, but may be considered by the Benefits Council as additional protections.
3. Regarding the cost of the premiums, for Management and Entity Fiduciary, Liability and Crime from Axis & Lloyd's - CFC it is \$132,108.00, while from Axis & Lloyd's - Ambridge it would be \$124,750.50. The costs of the "General Liability" and "Umbrella" of Optima Seguros is \$2,643.00, One Alliance Insurance Corp. is \$2,155.00 and Mapfre Praico Insurance Co. is \$2,238.00.
4. Héctor Mayol indicated that the Pension Reserve Board obtained coverage for \$89,000.00. Therefore, it was agreed to have a conversation with representatives of the Pension Reserve Board to identify the differences in costs and also try to obtain that the policy covers prior acts.

E. Resignation of Genoveva Valentín:

1. Francisco del Castillo explained that under the Guidelines, AFSCME has the authority to appoint the person who will replace Genoveva Valentín in the Transitional Pension Benefits Council. It was agreed that Francisco del Castillo will request a meeting with Iram Ramírez, Executive Director of

Servidores Públicos Unidos, to explain the process and requirements for appointing members to the Pension Benefits Council. Sandra Pacheco and Blanca Paniagua will attend the meeting as well.

2. In addition, Genoveva Valentín was the Vice President and with her resignation the position is vacant. The members agreed to appoint Blanca Paniagua as the new Vice President of the Pension Benefits Council.
3. Francisco del Castillo explained that the quorum is established in the Transitory Administrative Resolution under Section 2.6.1 and that currently is 7 out of 9 members. With the resignation of Genoveva Valentín, it would be necessary for 7 out of 8 members to attend to have a quorum. The recommendation is to reduce the quorum to 6 members. The Pension Benefits Council agreed to amend Section 2.6.1 of the Transitory Administrative Resolution to establish that the quorum is 6 of its 9 members.

“Section 2.6.1: Quorum - The necessary quorum to hold meetings of the Benefits Council shall be ~~seven (7)~~ **six (6)** of its nine (9) members. Once a meeting has started with the required quorum, the subsequent absence of one or more of its Members will not leave the meeting without a quorum.”

Legal counsel clarified that the quorum amendment does not affect the required number of votes established in the Guidelines to approve certain decisions.

F. Reading and Approval of the Previous Minutes:

1. The Pension Benefits Council approved the minutes of the meetings held on January 18 and 24, 2023.

G. Completed and Pending Items:

1. Regarding the completed matters, Francisco del Castillo indicated that the Elections Administrator has already been selected, we received the legal opinion on the payment of federal taxes and we had a conversation with the Oversight Board on that regard, the contract with the accounting firm was signed, the website of the Pension Benefits Council was published and there is a PO box and address for the corporation.
2. Regarding the pending items, Francisco del Castillo explained:
 - i. Bylaws: The Temporary Administrative Resolution expires on March 31, 2023. The Regulations Committee is waiting to receive the comments from Rita González. The Pension Benefits Council agreed to include the matter in the agenda of the next meeting.

- ii. Trust Fund Withdrawal Process: the issue will be discussed with María López to establish the necessary steps.
- iii. On the other hand, the report on PayGo Charge, the election procedure, the annual report of the Benefits Council, the 2022 annual audit, quarterly reports of the Pension Reserve Board and the report to the State Department were discussed.

H. Invoices from Providers: After evaluating the invoices, the Pension Benefits Council agreed to approve the payment of the following providers:

- 1. Interpreters: Rita Inc. – invoice #9544 for services rendered on January 24, 2023 for the amount of \$200.00.
- 2. Bennazar, García & Milián C.S.P. – invoice #221202 for services rendered during December 2022, for the amount of \$15,214.83.

IV. CLOSING

A. The meeting adjourned at 4:35 p.m.

In San Juan, Puerto Rico, on April 12, 2023.


Carmen Núñez Rodríguez
President


Wanda Santiago López
Secretary

