

FEDERAL EMERGENCY MANAGEMENT AGENCY
FINDING OF NO SIGNIFICANT IMPACT
PROGRAMMATIC ENVIRONMENTAL ASSESSMENT
SCHOOL INFRASTRUCTURE RECOVERY AND RESILIENCY
PUERTO RICO

BACKGROUND

Since 2017, the President signed multiple disaster declarations for Puerto Rico in response to various disaster events. These disaster events included Hurricane Irma and Hurricane Maria, both of which affected Puerto Rico in September 2017, and the increased seismic activity Puerto Rico experienced between 2019 and 2020. The declarations authorized federal public assistance to affected communities and certain non-profit organizations per the Federal Emergency Management Agency (FEMA), and in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S. Code [U.S.C.] 5172) as amended; the Sandy Recovery Improvement Act of 2013; and the Bipartisan Budget Act of 2018 (Public Law 115-123). The Puerto Rico Central Office of Recovery, Reconstruction and Resiliency (COR3) is the recipient for FEMA grants, and multiple entities within Puerto Rico may be subrecipient for specific projects.

FEMA prepared a Programmatic Environmental Assessment (PEA) in accordance with Section 102 of the National Environmental Policy Act (NEPA) of 1969, *as amended*; and the Council on Environmental Quality (CEQ) *Regulations for Implementation of the National Environmental Policy Act* (40 Code of Federal Regulations [CFR] Parts 1500 to 1508); FEMA Directive 108-1-1; and the Department of Homeland Security Instruction Manual 023-1-1. The PEA analyzed the potential environmental impacts of the proposed action and alternatives.

The hurricanes and seismic activity caused widespread damage to Puerto Rico's Pre-Kindergarten through 12th grade schools (PreK-12). The purpose of the programmatic actions considered herein is to restore the capacity of Puerto Rico's PreK-12 schools to meet the post-disaster needs of the subrecipients and increase the resiliency of their facilities in response to future disaster events. The need for action is to equitably re-establish and restore disaster-impacted schools to current codes and standards, reopen facilities closed as a result of disaster events, and provide hazard mitigation to increase resiliency in response to future disaster events.

ALTERNATIVES

FEMA evaluated the following alternatives:

- Under the no action alternative, FEMA will not provide grant funding for permanent work including reconstruction, relocation, and/or hazard mitigation of schools in Puerto Rico.

- Alternative 2 involves repairing schools to their pre-disaster function, as well as, improving their resiliency in response to future disaster events. Under Alternative 2, schools would remain in their same location; however, this Alternative allows for expansion of schools up to 20% of the existing location, capacity, or density, except for those in the floodway or coastal high-hazard area.
- Alternative 3 allows for moving the function of a school to a new property which could include consolidation of one or more schools into an existing one, physical relocation of an entire facility to a new site, or selection of a new site for new construction. Consolidation of schools to an existing site is subject to the 20% expansion of the existing location, capacity, or density, except for those in the floodway or coastal high-hazard area. Relocation of school functions could be to an existing school or to an existing developed site not currently used as a school and would include associated build-out of the site.
- Alternative 4 is inclusive of Scopes of Work presented for both Alternatives 2 and 3 allowing the subrecipient the ability to select actions that are applicable to addressing the wide range of school facilities within Puerto Rico. Additionally, it provides the subrecipients the greatest flexibility in how they increase the resiliency of Puerto Rico's PreK-12 schools.

SUMMARY OF IMPACTS

FEMA determined that the Preferred Alternative, *Alternative 4 – A Combination of Alternatives 2 and 3*, would have no impacts to minor impacts on geology, soil resources, seismicity, air quality, water quality, water resources, wetlands, threatened and endangered species, land use planning, and transportation. By applying the conditions discussed in the PEA, FEMA expects adverse impacts to Farmland Protection Policy Act, coastal resources, cultural resources, socioeconomics and environmental justice, noise, and public services and utilities to be no more than moderate.

FEMA also anticipates long-term beneficial impacts to seismicity, air quality, water quality, water resources, wetlands, floodplains, coastal resources, socioeconomics and environmental justice, public services and utilities, and hazardous materials.

PROJECT CONDITIONS

The subrecipient is responsible for obtaining all applicable federal, Government of Puerto Rico, and local permits and other authorizations for project implementation prior to construction and must adhere to all permit conditions. Any substantive change to the approved scope of work will require re-evaluation by FEMA for compliance with all federal laws and EOs. Failure to comply with grant conditions may jeopardize federal funds.

PUBLIC ENGAGEMENT

The PEA was available for agency and public review and comment for a period of 30 calendar days. The public information process included a public notice published in both English and Spanish with information about the proposed action in the *Primer Hora* and *El Nuevo Dia* newspapers. Additionally, physical copies of the PEA in English and Spanish were made available for the public to review at the following locations:

- Puerto Rico Department of Education (PRDE) Central Office in San Juan
- PRDE Regional Offices in Arecibo, Bayamon, Caguas, Humacao, Mayaguez, Ponce, and San Juan
- Municipality of Aibonito,
- Municipality of Caguas,
- Municipality of Carolina,
- Municipality of Luquillo,
- Municipality of Toa Baja,
- Municipality of Vieques, and
- the offices of the Institute of Puerto Rican Culture Offices in the Antiguo Asilo de Beneficencia in San Juan, the Casa Urrutia in Mayaguez, and the Museo de la Música Puertorriqueña Ponce.

FEMA and the COR3 posted English and Spanish translations of the PEA, Executive Summary, and Public Notice on their respective websites. FEMA posted the website link for the PEA on the FEMA Puerto Rico Facebook, Inc. page <https://www.facebook.com/FEMAPuertoRico/>. COR3 also notified the sub-recipient in writing that the PEA was available for review.

FEMA received comments on the PEA during the thirty-day public comment period that ended on February 21, 2023. Attachment A summarizes the Commenter, the Comment(s) made, and FEMA's response.

FINDINGS

In accordance with NEPA and its implementing regulations at 40 CFR Parts 1500-1508, FEMA Directive 108-1 and FEMA Instruction 108-1-1, FEMA has determined that the evaluated potential actions will have no significant adverse impact on the quality of the human environment. As a result of this Finding of No Significant Impact (FONSI), an Environmental Impact Statement (EIS) will not be prepared, and the proposed project as described in the PEA may proceed. This FONSI serves as the final public notice for the proposed actions.

APPROVED BY:

JOHN J MCKEE

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John J. McKee

Date

Regional Environmental Officer, FEMA Region 2

PROGRAM ENDORSEMENT:

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Hazard Mitigation Division Director, Joint Recovery Office

APPENDIX A: COMMENT AND RESPONSE SUMMARY

Commenter	Comment	FEMA Response
National Oceanic and Aeronautic Administration – National Marine Fisheries Service	The agency had no objections or recommendations for the PEA.	Comment noted.
U.S. Environmental Protection Agency (EPA)	EPA encouraged including visual aids in the Executive Summary.	Suggestion noted.
EPA	EPA asked how the acreage thresholds in the PEA were determined.	Under the principle of Unified Federal Review, FEMA considered the categorical exclusions (CATEX) of more than 50 federal agencies and the thresholds those CATEXs include. Using this research, FEMA further considered approximate thresholds related to Federal permits and past FEMA precedent to establish the upper limit considered in this and several recent PEAs. FEMA sampled the scale of actions likely outside of urban areas to define the smaller threshold to evaluate potential projects that exceed U.S. Department of Homeland Security (DHS) and FEMA’s existing CATEXs, but that remain within a scale that FEMA could reasonably evaluate within the PEA.
EPA	EPA concurred with FEMA’s approach to identifying historic properties that may be impacted by the Preferred Alternative.	Comment noted.
EPA	EPA asked if there are indigenous groups in Puerto Rico and if FEMA consulted with them during the preparation of this PEA.	There are no Federally recognized Tribal Nations or Tribal Entities in Puerto Rico and no known non-resident Tribal Nations or Tribal Entities with an interest in Puerto Rico.
EPA	EPA encouraged FEMA to prioritize schools located within communities with Environmental Justice concerns to equitably conduct work across the island.	FEMA is predominantly a grant reimbursement agency and the responsibility for selecting, prioritizing, and submitting project proposals to FEMA resides with the Commonwealth of Puerto Rico, through COR3 as FEMA’s grant recipient. FEMA is working with COR3 and the PRDE as they develop and submit project proposals to be transparent to the public under PRDE policies and local laws noted in Section 5.9.2 and Section 6. All project proposals will also have project-specific evaluations for Environmental Justice and other laws and executive orders as noted in Section 1 of the PEA.

Commenter	Comment	FEMA Response
EPA	EPA encouraged FEMA to ensure that schools determined as “low-performing” don’t automatically disqualify the school being relocated under the preferred alternative.	See response to previous comment. As noted in Section 3, the governor approved PRDE’s Consolidated School Plan in 2018 under the Every Student Succeeds Act of 2015. The subrecipients and COR3 select what project proposals are submitted to FEMA for consideration.
EPA	EPA asked FEMA to consider the cumulative impact of Puerto Rico’s commitment to transition to 100% renewable energy sources (PR100) especially when conducting renovation or new construction of schools.	Transition to renewable energy is beyond the scope of this PEA, however renewable energy options are included in the actions FEMA considered in this PEA. When COR3 submits projects including renewable energy options, FEMA will evaluate them as with any other project submitted for funding.
EPA	EPA suggests that site-specific NEPA compliance be met based on proposed actions throughout different regions of Puerto Rico.	Section 1 notes that all project-specific proposals will go through FEMA’s normal review process and how the PEA may be tiered for actions that exceed the PEA, FEMA’s statutory exclusion authority, and DHS Categorical Exclusions.
COR3	COR3’s environmental team submitted a letter during the comment period for this PEA requesting information related to specific project proposals and about division of responsibilities between COR3, subrecipients, and FEMA.	FEMA recommends that the COR3 environmental team direct such questions to COR3 leadership for internal project selection discussions. Roles and responsibilities for PRDE projects follow standard FEMA and Puerto Rico process established between FEMA and the Governor’s Authorized Representative subject to federal, Commonwealth, and local laws, executive orders, and policies.
Center for Biological Diversity/ Comité Dialogo Ambiental (CBD)	Requested the deadline for submitting comments.	The 30 calendar days for the public commenting period started on January 23, 2023 and ended on February 23, 2023.
CBD/ Comité Dialogo Ambiental (CDA)	Two non-governmental organizations (NGOs) submitted a letter referring to comments made by them and several other NGOs on recent programmatic environmental assessments including the Puerto Rico Public Facilities PEA (comments dated 9/30/2022), request to reconsider the FONSI for the Utility Repair, Replacement, and Realignment PEA (10/29/2021), and objection to the Utilities PEA (12/21/2020).	FEMA is not revisiting comments received on past PEAs; comments received during prior public comment periods for past PEAs have been addressed and are included in the comment and response table in the respective FONSI documents. The theme of most NGO comments appears to be advocating for solar and renewable energies in Puerto Rico; FEMA recognizes and supports the value for the Commonwealth to develop such alternatives but is limited in its authority to require specific outcomes. The government of Puerto Rico, represented by COR3, selects which projects, submitted by applicants from across the commonwealth, are submitted to FEMA for consideration, evaluation, and possible funding.

Commenter	Comment	FEMA Response
CBD/CDA	The comments submitted by the NGOs reference PR100 and the need for energy transformation.	The Department of Energy, DHS, U.S. Department of Housing and Urban Development, and the Government of Puerto Rico entered into a Memorandum of Understanding leading to the PR100 initiative in February 2022. This initiative is intended to provide the studies and a forum to explore paths to meet the goals of the Puerto Rico Energy Public Policy Act of 2019 (Act 17-2019). Restoring a fragile electrical grid system so that it can function now is a public health and safety concern and necessary while the Commonwealth explores longer term solutions to energy resiliency. Making no long-term repairs on the damaged power grid while conducting the studies and evaluation for renewable power has not been an option FEMA or DOE leadership will accept. More information on the PR100 study and link to the Memorandum of Understanding can be found at https://www.energy.gov/articles/doe-dhs-hud-launch-joint-effort-puerto-rico-modernize-energy-grid .
CBD/CDA	The NGOs allege that FEMA is not following NEPA, calling for a single EIS for all energy infrastructure in Puerto Rico.	See prior two responses. FEMA is using PEAs pursuant to 40 CFR 1501, among others, by grouping similar types of related activities to streamline the review process in conjunction with existing categorical exclusions; to provide subrecipients and the funding programs predictability in the review process requirements; and to focus on substantive issues in advance of project-specific submissions in order to minimize potential impacts.
CBD/CDA	The NGOs allege that FEMA is violating NEPA by not evaluating renewable energies as a primary source of power.	This PEA allows a for a range of power sources, but the purpose of this PEA is for restoring the function of school facilities as noted in Section 2, not for power generation. Section 4 supports requests from subrecipients to include rooftop solar, microgrids, and other forms of back-up power in their project proposals. FEMA is primarily a grant reimbursement agency and alone does not have the authority to require one outcome over another. Subrecipients submit project proposals to COR3 who determines what proposals are submitted to FEMA for evaluation and potential funding.
CBD/CDA	The NGOs allege that individual school actions warrant an EIS on their own.	FEMA uses PEAs to help streamline considerations and help decision-makers choose courses of action; Section 1 explains the process for further evaluation for proposals that exceed the thresholds evaluated in the PEA. FEMA has not yet received a proposal for a school project that exceeds the thresholds considered in this PEA or existing categorical exclusions. Controversy and distrust in PREPA or LUMA do not meet a DHS extraordinary circumstance. FEMA has not yet received data or other substantive information to show specific impacts that significantly affects the human environment, through coordination with regulatory partners, public comments, or during scoping this PEA.

Committer	Comment	FEMA Response
CBD/CDA	The NGOs allege that the Schools PEA fails to comply with NEPA by not properly defining the Purpose and Need, reasonable alternatives, greenhouse gas emissions, or environmental justice. The NGOs suggested that FEMA should include rooftop solar and storage as an alternative.	<p>FEMA used information from COR3, meetings with subrecipients, and many site visits to determine the range of likely projects and approximate scale likely when defining the scope of this PEA. That information was used to define the Purpose and Need noted in Section 2.</p> <p>The alternatives were developed through this Purpose and Need and the types of damages FEMA staff saw on site visits, various reports, local law and planning, and based on past agency experience for similar types of projects; alternatives are defined in Section 4. So far, no additional alternatives have been brought forward that are within FEMA’s authority and meeting the Purpose and Need of this PEA. Section 4.2, page 7 of this PEA, includes microgrids and other renewable energy options that COR3 and the subrecipients may incorporate into their project proposals. However, this PEA is not intended for the electrical grid.</p> <p>FEMA typically defers to the regulatory agencies for guidance on air quality requirements which includes EPA and Puerto Rico Department of Natural Resources/Puerto Rico Environmental Quality Board permitting processes as discussed in Sections 5.2, 5.15, and 6. FEMA Region 2 is pending actionable guidance from FEMA headquarters and DHS for evaluating greenhouse gasses in NEPA reviews. FEMA is aware of emerging tools and interim guidance, such as CEQ’s docket number CEQ-2022-0005 but does not have sufficient data for broad classifications of actions.</p> <p>Section 5.9 discusses environmental justice as it pertains to projects and potential mitigation aspects required by federal, state, and local regulations. As noted in Section 1, project specific reviews will incorporate more detailed analysis related to scopes of work once COR3 and subrecipients select and propose projects to FEMA for evaluation. As of the drafting of this PEA, FEMA is working with PRDE to develop a Community Engagement Plan to guide outreach and engagement in their selection of what projects they choose to advance to FEMA for evaluation.</p>
CBD/CDA	The NGOs suggested that FEMA develop a categorical exclusion for rooftop solar.	FEMA, as a component of the DHS, has a wide suite of categorical exclusions available for use; multiple would support rooftop solar actions.

Commenter	Comment	FEMA Response
CBD/CDA	The NGOs allege that FEMA does not intend to conduct programmatic consultation with the Fish and Wildlife Service (USFWS) or National Marine Fisheries Service.	FEMA coordinates frequently with the USFWS in Puerto Rico and partnered with them to prepare informal consultation and conservation measures at the beginning of the disaster to streamline project consultations. Project-specific proposals are reviewed in consultation with these measures and through project-specific consultation. FEMA uses USFWS's recommended tool, Information, Planning, and Conservation to evaluate projects for the presence of threatened or endangered species or their critical habitat for project-specific reviews as noted in Section 5.7.1 of this PEA. FEMA consults with the National Marine Fisheries Service when required by project-specific reviews. FEMA has and continues to engage with both agencies through regular working groups and technical assistance. Section 1 of this PEA notes the process for evaluation of project specific reviews.