



GOVERNMENT OF PUERTO RICO
PUERTO RICO FISCAL AGENCY AND FINANCIAL ADVISORY AUTHORITY

REQUEST FOR PROPOSAL

For Services as Bond and Disclosure Counsel in Connection with Bonds that may be Issued in Accordance with a Title III Plan of Adjustment for the Puerto Rico Electric Power Authority (“PREPA”)

Issue Date: April 19, 2022

**Documents will only be received electronically.
Hand delivery and postal mailed documents will not be accepted.**

Submission Time:

Responses to be received at the submission email addresses on or prior to:
April 29, 2022, 11:59 pm (AST)

No Telephone Queries Will Be Accepted

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REQUEST FOR PROPOSAL FOR BOND AND DISCLOSURE COUNSEL SERVICES

Introduction

The Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF”) is an independent public corporation and governmental instrumentality with separate legal existence, fiscal and administrative autonomy, and independence from the Government of Puerto Rico. AAFAF was created for the purpose of acting as fiscal agent, financial advisor and reporting agent of the Government of Puerto Rico, its agencies, instrumentalities, subdivisions, public corporations and/or municipalities (hereinafter collectively referred to as the “Government”), and to assist such entities in confronting the grave fiscal and economic emergency that Puerto Rico is currently experiencing. AAFAF has assumed most of the fiscal agency and financial advisory responsibilities that were previously held by the Government Development Bank for Puerto Rico.

AAFAF’s powers include, among other things, sole responsibility to renegotiate, to restructure and/or to reach an agreement with creditors on all or part of the public debt or any other debt issued by any government entity. AAFAF also has authority to monitor compliance with the fiscal plans and budgets certified by the Financial Oversight and Management Board for Puerto Rico (“FOMB” or the “Oversight Board”) created pursuant to the Puerto Rico Oversight, Management and Economic Stability Act of 2016 (“PROMESA” or the “Act”) and to review matters such as, but not limited to, contracts, transactions and regulations of agencies and instrumentalities of the Government. In addition, Act 2 empowers AAFAF to negotiate and execute any type of contract, including all those instruments and agreements necessary or convenient to exercise the powers and functions conferred to AAFAF by its enabling act.

The activities and responsibilities of AAFAF are separate and distinct from those of the Oversight Board.

a. Purpose of the Request for Proposal (“RFP”)

AAFAF is seeking proposals on behalf of the Puerto Rico Electric Power Authority (“PREPA” or the “Issuer”) for bond counsel and disclosure counsel services in connection with bonds {the “Title III PREPA Bonds”) to be issued in accordance with a PROMESA Title III Plan of Adjustment for PREPA (the “PREPA POA”) that is expected to be filed by the Oversight Board with the US District Court for the District of Puerto Rico.

Firms may submit proposals relating to either bond counsel, disclosure counsel or both, to be selected through this RFP process.

The Title III PREPA Bonds are likely to be issued in accordance with the existing PREPA statute without any new legislation adopted in connection with any such issuance. Issuance of the Title III PREPA Bonds would be approved by the Court overseeing PREPA’s Title III case in connection with confirmation of a plan of adjustment for PREPA. The other terms of the PREPA Title III Bonds have yet to be determined.

b. Scope of RFP

AAFAF will only consider proposals that are responsive to the scope included below and any deviation from the requested scope may result in disqualification at AAFAF’s sole discretion. Responses must

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address the following:

- a. **Bond Counsel Services.** Please provide a description of your firm's capabilities to serve as bond counsel in connection with the issuance of the Title III PREPA Bonds including but not limited to, the following:
 - i. Drafting and negotiating customary bond documents, including trust agreements and other agreements and documentation relating to the Title III PREPA Bonds;
 - ii. Delivering the required legal opinions concerning the validity and tax status of the Title III PREPA Bonds;
 - iii. Providing tax analysis and advice in connection with the treatment on interest of the Title III PREPA Bonds;
 - iv. Providing advice about rules and regulations relating to tax-exempt financings;
 - v. Coordinating with the Issuer, AAFAF, the Oversight Board, underwriters and their counsel in connection with the preparation of disclosure documents needed to comply with applicable federal securities laws;
 - vi. Participating in rating agency and investor presentations, as needed;
 - vii. Coordinating all closing certificates of various parties, preparing, and coordinating all opinions expected to be provided by or on behalf of the Issuer, and providing all other assistance in connection with issuance and delivery of the new Title III PREPA Bonds.

- b. **Disclosure Counsel Services:** Please provide a description of your firm's capabilities to serve as disclosure counsel in connection with the issuance of the Title III PREPA Bonds, including but not limited to, the following:
 - i. Preparing disclosure documents required to complete the issuance of the Title III PREPA Bonds;
 - ii. Conducting and managing all necessary due diligence activities with respect to preparation of the Issuer's disclosure documents and rendering an opinion with respect to such disclosure.
 - iii. Assisting PREPA in complying with applicable federal securities laws and PROMESA requirements.



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- c. **Fees and Expenses:** Provide a fee proposal for each of the requested services, including an estimate of reasonable out-of-pocket expenses.
- d. **Relevant Experience:** Provide a description of your firm's experience in serving as bond and/or disclosure counsel for Puerto Rico issuers.

3. Preparation of Proposals

Proposals shall be clear and concise, avoiding the use of promotional materials and focused on completeness and responsiveness. For ease of review, the proposals must be limited to 15 pages or less (inclusive of appendices, and exclusive of disclaimers, conflicts of interest and cover pages) with a minimum font size of 11 pts. Excess pages and extraneous materials or appendices will detract from the overall evaluation of the proposal.

4. Key Dates

1. RFP Due Date April 29, 2022 @ 11:59 pm AST
2. RFP Award Date: At the discretion of the Authority

5. Submission of Proposals

Proposals must be emailed to rfp@aafaf.pr.gov. Proponents authorized to do business in Puerto Rico must include with their submission the Certification of Eligibility of the Unique Registry of Professional Services Providers (known in Spanish as "Certificado de Elegibilidad del Registro Único de Proveedores de Servicios Profesionales"), issued by the General Services Administration.

6. Conflicts of Interest

To allow AAFAF to assess potential conflicts of interest, please identify any existing or potential conflict of interest, or any relationships that might be considered a conflict of interest, that may affect or involve transaction(s) for or with the Oversight Board, AAFAF, PREPA or the Commonwealth, including but not limited to conflicts with financial advisors or law firms providing services to the Oversight Board, AAFAF, PREPA or the Commonwealth. Please include description of any work you have performed for the Government, any of its entities or instrumentalities or any creditors thereof or any guarantors of indebtedness in relation to their activities with PREPA or the Commonwealth. Indicate whether this activity is ongoing, and if not, when the prior assignment was concluded.

7. Inquiries/Questions

Any inquiries or requests for clarification shall be submitted by email to the addresses indicated in Section 5 above. No telephone queries will be accepted.

8. Confidential or Proprietary Information

All proposals, evaluations and the content of any discussions shall be kept strictly confidential throughout the evaluation and award process. Only the Authority's evaluation committee shall have access to the proposals and the evaluation results. The Authority and/or the Government may request and use, at their discretion, assistance from outside consultants during the evaluation process of the proposals. A copy of each proposal will be retained for the Authority's files. If a proponent considers that its proposal contains material that is confidential and/or proprietary, the proponent must clearly note or mark each section of

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material as confidential and/or proprietary. The Authority will determine whether such material meets the requirements for an exemption from disclosure. If so, that information will not be disclosed pursuant to a request for public documents. If the Authority does not consider such material to meet the requirements for exemption from disclosure, the material will be made available to the public, regardless of the notation or markings. It is the responsibility of proponents to be thoroughly informed and familiar with the requirements of disclosure of public documents. Furthermore, by responding to this RFP, proponents acknowledge and agree that the Authority will not be responsible or liable in any way for any losses that the proponent may suffer from the disclosure of information or materials to third parties. It is the responsibility of the proponent, as the real party in interest, to object any disclosure and defend any action that may be necessary to protect its confidential information.

9. Other matters and additional disclosures

- a. This RFP process is intended to provide all prospective Counsels with sufficient information to enable them to prepare and submit offers for consideration by AAFAF. This RFP process does not obligate any prospective Counsel to procure or contract for services or supplies, and it shall not be construed as authorization to proceed with or be reimbursed for any of the costs of the work specified herein. Each prospective Counsel is responsible for all of its costs and expenses for preparation and submission of the proposal and all related activities.
- b. The issuance of this RFP, submission of a proposal, and the acceptance of such proposal by the Authority does not obligate any Government entity. Legal obligations will only arise upon the execution of a formal contract with the selected proponent. This RFP does not constitute a promise or guarantee of engagement by AAFAF, PREPA and/or the Commonwealth, and in no way limits AAFAF, PREPA and/or the Commonwealth's authority to engage any other organization or firm, as needed.
- c. The Authority reserves the right to amend, modify or cancel this RFP in whole or in part, at any time, with or without substitution of another RFP if such cancellation is determined to be in the best interest of the Authority, PREPA and/or the Commonwealth. All costs and expenses incurred by the proponents in the preparation and delivery of a proposal will be the sole responsibility of the proponents. The Authority, PREPA and/or the Commonwealth will not be liable for any amounts to any proponent in any manner, under any circumstances, including without limitation, as a result of a cancellation of the RFP process. The proponents cannot make any claims whatsoever for reimbursement from the Authority or from any Government entity for the costs and expenses associated with the process.
- d. To be eligible for award, the proponent shall comply with the requirements stated under this RFP. Failure to comply with such requirements may result in disqualification and removal from further consideration. The Authority is not bound to accept any proposals if proponents do not meet the requirements set forth in this RFP. Specifically, to be responsive, the proposal shall include all information identified, organized and in the form specified under the RFP. A nonresponsive proposal may be disqualified and removed from further consideration.

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- e. Any prospective Counsel who submits or attempts to submit a proposal is solely responsible for the method of submission and assumes the risk that the proposal may be delayed or not received by AAFAF, whether by reason of equipment malfunction, human error or any other cause whatsoever.
- f. Upon receipt of responses to this RFP, AAFAF, together with any other corresponding Government entity, shall discuss the merits of such responses. Acceptance of proposals shall give rise to no liability or obligation on the part of the Commonwealth, AAFAF, PREPA and/or the Government, as well as the Oversight Board, and no prospective Counsel will have any cause of action against such arising out of a failure to award a contract to that prospective Counsel, or failure to consider any proposal or any expenses incurred by a prospective Counsel in the course of the preparation of the proposal. AAFAF, on behalf of the Commonwealth, reserves the right, in its sole discretion, to request other proposals in the future. AAFAF and/or any other corresponding Government entity, hereby reserve the right to consider any and all factors relating to a determination of the ability and suitability of the prospective Counsel.
- g. The prospective Counsel will secure the prior written approval of AAFAF before any specifications, records, drawings, data and other information relating to this RFP are released to anyone other than such prospective Counsel's agents or representatives.

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