

REQUEST FOR PROPOSALS

seeking

Renewable Energy Finance Facility Lead Arrangers and Structuring Services

For

The Puerto Rico Fiscal Agency and Financial Advisory Authority

On behalf of

The Puerto Rico Public-Private Partnerships Authority

RFP Deadline: Wednesday, October 14th, 2020 (AST)

www.aafaf.pr.gov

September 17th, 2020



GOVERNMENT OF PUERTO RICO
Puerto Rico Fiscal Agency and Financial
Advisory Authority

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REQUEST FOR PROPOSALS

The Puerto Rico Fiscal Agency and Financial Advisory Authority (“**AAFAF**”) is seeking proposals, on behalf of the Puerto Rico Public Partnerships Authority (“**AAPP**”; together with **AAFAF**, the “**Government Parties**”), from duly qualified financial institutions to assist the **Government Parties** in arranging, structuring and providing funding in connection with the Government of Puerto Rico’s (“**Government**”) efforts to promote the **Renewable Energy Transformation** (a defined term under **Section 1.3** and **Section 1.4** below), as per **Section 2.1** of this request for proposals (“**RFP**”).

This **RFP** seeks responses from firms (“**Proponent**” or “**Proponents**”) capable of arranging, structuring and providing financing, as defined in **Section 2.1** of this **RFP**. **Proponents** should demonstrate their capacity to complete the required tasks and develop a productive relationship with the **Government Parties** and potential developers of renewable energy pursuant to applicable law and the **Initial IRP** (a defined term under **Section 1.3** and **Section 1.4** below).

This **RFP** does not commit nor obligate the **Government Parties** to award a contract nor to pay any costs incurred in the preparation of a proposal in response to this request. The **Government Parties** reserve the right to award contracts to more than one qualified firm, accept or reject any or all proposals received because of this **RFP**, negotiate with any qualified firm, or modify or cancel the **RFP** in part or in its entirety. See **Section 4.1** for further disclaimers and reservation of rights by the **Government Parties**.

The **Proponent** selected under this **RFP** (the “**Selected Proponent**”) will be required to be free of any real or perceived conflict of interest.

RFP Due Date: Wednesday, October 14th, 2020 (Atlantic Standard Time)

Please submit one (1) electronic copy to:

Electronic copies via email only
rfp@aafaf.pr.gov

Please refrain from submitting general marketing materials that do not explicitly respond to the content and questions contained in this RFP



INTRODUCTION

1.1 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**. Pursuant to Act No. 2 - 2017 (“**Act No.2**”), **AAFAF** was created, among other things, to act as fiscal agent, financial advisor and reporting agent of the **Government**, its agencies, instrumentalities, subdivisions, public corporations and/or municipalities, with particular emphasis on *Covered Entities* as defined by the Financial Oversight and Management Board for Puerto Rico (“**FOMB**”) under the purviews of the Puerto Rico Oversight, Management and Economic Stability Act of 2016, Public Law No. 114-187 (“**PROMESA**”), and to assist said entities in confronting the grave fiscal and economic emergency that Puerto Rico is currently experiencing. Consequently, **AAFAF** assumed the majority of the fiscal agency and financial advisory responsibilities previously performed by the Government Development Bank for Puerto Rico.

In light of **Act No. 2**, **AAFAF** is the agency responsible to coordinate the **Government’s** sustainable use of resources, while presenting a global and coordinated view of the **Government’s** capital needs. As such, **AAFAF** has authority to monitor compliance with the budget certifications approved under **PROMESA** and to review matters such as, but not limited to, contracts, transactions and regulations of agencies and instrumentalities of the **Government**. **Act No. 2** authorizes **AAFAF** to enter into professional services agreements that are necessary or convenient to assist in the proper execution of its ministerial duties.

1.2 Puerto Rico Public-Private Partnerships Authority

AAPP is a **Government** owned corporation created pursuant to Act No. 29 - 2019 (“**Act No. 29**”) mainly to regulate public private partnerships in Puerto Rico, and duties incidental to such. As set out in **Act No. 29**, **AAPP** is tasked with implementing the **Government’s** public policy of promoting public-private partnerships directed towards priority projects that have a high public interest. **Act No. 29** authorizes **AAPP** to enter into the professional services agreements that are necessary or convenient to assist in the proper execution of its ministerial duties.

1.3 Puerto Rico Electric Power Authority

Pursuant to Act No. 83-1941, as amended (“**PREPA Enabling Act**”), the Puerto Rico Electric Power Authority (“**PREPA**”) is a **Government** instrumentality subject to the control of its Governing Board, which exercises **PREPA’s** legislatively defined powers, determines, and guides its general policy and strategic management. Throughout its history, **PREPA** has operated as a vertically integrated monopoly and since 1981 has been the sole energy distribution service provider in Puerto Rico. **FOMB** has declared **PREPA** as a *Covered Entity* under the purviews of **PROMESA**; accordingly, on June 29, 2020, **FOMB** certified **PREPA’s** fiscal plan (“**Certified Fiscal Plan**”) and the corresponding budget (“**Certified Budget**”) for Fiscal Year 2020-2021.

Act No. 57-2014 (“**Puerto Rico Energy Transformation and Relief Act**”) established the Puerto Rico Energy Bureau (“**PREB**”) as an independent and specialized regulatory body to promote and enable transparent implementation of the Puerto Rico’s energy reform. Among other things, the **Puerto Rico Energy Transformation and Relief Act** established standards and procedures in order for **PREB** to assess and approve electric rates, requiring that rates be “*just and reasonable and*



consistent with sound fiscal and operational practices which result in a reliable service at the lowest reasonable cost”, Id.

Subsequently, Act No. 120-2018 (“**Puerto Rico Electrical Transformation Act**”), established the legal framework for **PREPA’s** transformation, and granted **PREB** the authority to approve any transformation related agreements, among other things. Further f Act No. 17-2019 (“**Puerto Rico Energy Policy Act**”) established a comprehensive energy policy intended to codify aspirations for the transformation of Puerto Rico’s electric sector and specified regulatory guidelines for the realization of these goals. Key tenets and requirements of the **Puerto Rico Energy Policy Act** include:

- **Unbundling**: unbundling of the electric system via sales of **PREPA** generation assets and transfer of control of the T&D system by concession or O&M agreement, thereby prohibiting vertical integration and limiting concentration.
- **System modernization and renewable energy**: promotion of grid resiliency through the development of micro grids, as well as promotion of renewable energy and distributed generation; updates to renewable energy portfolio standards (e.g., 40% by 2025, up from 20%), faster permitting and interconnection for renewable projects, and a mandate to eliminate coal-fired generation by January 1, 2028.
- **Expanded PREB authority**: ratification of **PREB’s** role as an independent, apolitical regulator and expansion of its authority to (i) establish mechanisms for imposing incentives/penalties, (ii) exercise a high degree of scrutiny over maintenance of the electric network, (iii) require enhanced reporting, and (iv) use alternative mechanisms to tariff regulation based on service costs.

1.4 Renewable Energy Transformation

The **Government’s** vision to transform the energy sector is based on the following objectives, which were developed by a special working group organized by **PREPA’s** Board of Directors: (i) customer-centricity, (ii) affordability, (iii) reliability, (iv) resiliency, and (v) sustainability. In order to achieve these objectives, the **Government** continues to execute on various transformation initiatives. These include leveraging private sector capital and expertise for the development of a new modern, flexible and efficient generation system to enable Puerto Rico to revamp its current generation and fuel mix leading to reductions in fuel costs and volatility, and enhanced environmental compliance.

These efforts will expedite compliance with the **Puerto Rico Energy Policy Act** and, among other objectives, put Puerto Rico on a path to 100% renewable power by 2050, thereby addressing both issues of affordability and sustainability (“**Renewable Energy Transformation**”). This **Renewable Energy Transformation** is also contemplated in the **Certified Fiscal Plan**.

Under **PREPA Enabling Act**, the **Puerto Rico Energy Transformation and Relief Act**, and the **Puerto Rico Energy Policy Act**, **PREPA** is required to adopt an Integrated Resource Plan (“**IRP**”) for a 20-year planning period, which shall be revised every three (3) years. **PREPA** filed its first **IRP** in 2015, which was approved by **PREB** in September 2016. In light of the massive impact of hurricanes Irma and Maria in 2017, Puerto Rico faced an unprecedented challenge to not only rebuild the electric power system, but also rethink how power supply and delivery infrastructure should be transformed to make it more resilient to future natural catastrophes.



After discussions with a diverse group of stakeholders, on February 13, 2019, **PREPA** filed its initial updated **IRP** (the “**Initial IRP**”) for **PREB**’s approval, together with supporting attachments and appendices, work papers and direct testimony of **PREPA**’s witnesses. After reviewing the **Initial IRP**, **PREB** issued a motion determining the **Initial IRP** to be “*non-compliant*” and requested that **PREPA** re-file the **IRP** after addressing a series of items detailed in a resolution issued by **PREB** on March 14, 2019. On June 7, 2019, **PREPA** filed the currently proposed **IRP**, which is presently before **PREB** for approval (the “**Proposed IRP**”).

The **Proposed IRP** offers a comprehensive and robust analysis of the challenges and opportunities **PREPA** faces in planning and executing on a fundamental transformation of Puerto Rico’s electric power system. The preferred resource plan, which has emerged from this analysis (“**IRP Action Plan**”), is a balanced approach to the near- and long-term reconstruction and renewal of Puerto Rico’s electric grid. The **IRP Action Plan** will guide Puerto Rico as it moves forward in implementing the **Renewable Energy Transformation** and developing the foundation for long-term increased reliance on renewable sources of energy and improved energy efficiency. This shift to renewables and efficiency will allow **PREPA** and other electric sector participants to hedge against multiple uncertainties, including the future trajectory of electric demand, and the pace at which renewables and storage can actually be developed, financed, acquired and integrated. If approved and implemented, the **IRP Action Plan** will enable **PREPA** to pursue the most rapid uptake of renewable and energy storage systems ever attempted while preserving options that permit procurement of natural gas-fired generating resources as needed given the pace of other resource development efforts, thus assuring that **PREPA** is able to meet electrical demand at all times in an efficient and environmentally responsible manner.

However, development of renewables in Puerto Rico is not without its challenges. By virtue of its being an island, Puerto Rico offers limited sites that are suitable for the construction of certain renewable infrastructure. In addition, renewable projects are often smaller in scale, and more varied in nature, than conventional generating resources, thereby making it more difficult to raise funding for such projects. Finally, **PREPA** is currently undergoing an in-court debt restructuring under Title III of **PROMESA** to address **PREPA**’s significant debt obligations and operational challenges. In light of these challenges, **AAFAF** is seeking to have one or more financial institutions provide structuring support and actual funding that could be offered to renewable energy counterparties at the lowest possible cost.

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2.0 DESCRIPTION OF THE ENGAGEMENT

2.1 Purpose of RFP; Scope of Work; Consortia

Pursuant to the faculties levied by **Act No. 2** and **Act No. 29**, the **Government Parties** are seeking proposals from financial institutions (*i.e.* entities engaged in the business of dealing with financial and monetary transactions) to help identify, structure and provide funding (including from other financing sources) facilities and/or opportunities for projects that relate to the **Renewable Energy Transformation** (“**Services**” or “**Renewable Energy Finance Facility**”), as detailed herein:

Scope of the Work:

- Identify, structure and provide funding (from internal and external financing sources), facilities and/or opportunities for projects that relate to the **Renewable Energy Transformation**;
- Perform financial analysis in order to assess **Renewable Energy Finance Facility** viability;
- Perform **Renewable Energy Finance Facility** affordability analyses;
- Assist in the structuring of **Renewable Energy Finance Facility** and the deployment of capital in connection therewith, including to prospective developers of the **Renewable Energy Transformation**;
- Assist the **Government Parties** and/or **PREPA’s** advisors with respect to the **Renewable Energy Finance Facility**, to the extent it relates to the **Certified Fiscal Plan** and **Certified Budget**;
- Assess suggested **Renewable Energy Finance Facility** implementation timeline (taking into consideration the corresponding approvals from the **Government**, the **Government Parties**, the **FOMB**, and other relevant parties);
- Provide detailed proposed fees and costs related to the **Renewable Energy Finance Facility** (the **Government Parties** reserve the right to negotiate fees with responding firms as they deem to be in the best interest for the **Renewable Energy Transformation** implementation); and
- Incidental or related matters to the **Renewable Energy Transformation** and/or the **Renewable Energy Finance Facility**.

2.2 Consortia

To the extent that financial institutions wish to form a consortium to provide the **Services**, this shall be permitted under this **RFP**, at the sole discretion of the **Government Parties**. For Government Parties to consider consortia proposals, proponent(s) must (i) indicate in their proposal the identity, role, capabilities of each member of the consortium, (ii) provide both the information requested in Sections 3.2 and 3.3 and the certification required by this **RFP** for each consortium member, and (iii) provide the information requested in Sections 3.4 and 3.6 on behalf of the consortium.



PROPOSAL SUBMISSION

3.1 Submission Requirements

All proposals must meet the requirements stated in this **RFP** and be submitted no later than **Wednesday, October 14th, 2020, AST (“Proposal Due Date”)**. Proposals may be delivered at any time, provided that the proposal is delivered no later than the **Proposal Due Date**. The time of delivery shall be the time set forth in the electronic communication of the proposal.

Any proposal that is delivered after the **Proposal Due Date** shall be considered late, rejected and returned unopened to the proponent. The **Government Parties** assume no responsibility for deliveries made or attempted outside of the times specified above, late deliveries or the method of delivery chosen by the proponent.

PROPOSALS SHALL BE VALID FOR A PERIOD OF ONE HUNDRED TWENTY (120) DAYS AFTER THE PROPOSAL DUE DATE.

Proposals shall be prepared in English. All prices shall be quoted in United States dollars. **AAFAF** shall not accept any proposal or modification of a proposal delivered by telephonic, electronic or facsimile means, except as provided herein.

Proposals shall be submitted electronically via e-mail to the addresses set forth on the first page of this **RFP**.

3.1.1 Proposals shall be organized in the following order:

- Cover Letter. The Cover Letter must be no more than one page and must be signed by the authorized contact representative. The Cover Letter must reference this **RFP** and confirm that all elements of the RFP have been read and understood and that the proponent takes no exception to the materials provided.
- Specific responses to Items addressed in Sections 2.1, 3.2, 3.3, and 3.4 of this **RFP**.
- Non-Collusive Affidavit (Included as *Appendix I* of this **RFP**)
- Eligibility Affidavit (Included as *Appendix II* of this **RFP**)
- Price Proposal

The proposal from any proponent that fails to pass the Government Parties’ determination regarding no conflict of interest shall be deemed unacceptable and unresponsive, and shall be disqualified without further evaluation.



3.2 Key Personnel for Required Services and Availability of Resources

3.2.1 Key Personnel

Indicate key personnel who will be assigned to this project and provide a brief description of the experience of each (including language skills) and their specific roles under the prospective **Services**. Key personnel are defined as those who will be assigned and performing the actual services or a portion of them. Also indicate the location of the office where work will be performed and specifically whether certain personnel will be used on an *as needed basis*. Proponents will not be permitted to subcontract any part of the **Services** without the prior written express consent of the **Government Parties**.

3.2.2 Availability of Resources

Indicate available resources to be dedicated to the engagement. Available resources are the resources to be allocated to provide the **Services**. Such support includes qualified person(s) to cover the areas of expertise necessary to perform the services or such other support anticipated to be required during the term of the engagement.

3.3 Qualifications and Experience

Proponents are required to demonstrate that they possess all technical and technological capabilities that allow the proper and successful execution of the **Services**. The proponent must show effective and substantive experience (relative to proposed **Scope of Work**) in the provision of similar services under consideration under this **RFP**. Proponents must have the skillset to apply the requirements and standards as outlined by the Office of Management and Budget, 2 CFR Chapter II, Parts 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, to the extent applicable. Proponents should indicate their experience (and the experience of the team that they are proposing to provide the Services) with providing debt funding for renewable energy projects, including details regarding such transactions and the role and amount of funding committed in connection with such transactions.

3.4 Approach to Scope of Work and Timeliness

Include a brief and specific description addressing the following topics (you may use tabular format if it facilitates the organization of the information):

- How would you approach the **Services** included in the Scope of Work set forth in this **RFP**? What particular approach sets your firm/team apart?
- Explain how you would go about structuring and then providing the lowest cost financing available to developers engaged in the Renewable Energy Transformation and what alternative sources of such funding may be.
- Provide information that will indicate the firm's/team's ability to respond quickly to task assignments, be able to handle multiple tasks concurrently and be able to complete tasks on accelerated schedules.



- Submit a preliminary work plan for an efficient start with the **Services**.
- Why is your firm/team best positioned for this engagement?

3.5 Interviews

Oral interviews may be conducted with proponents to aid in the short-listing of candidates to be selected or to clarify or expand upon specific items included in the proposals.

3.6 Rates / Fee Structure

Provide a full explanation of your pricing structure. Proponents should try, to the extent possible, to provide one overall fixed quote or estimate for performing the entire scope contemplated in this letter (assuming a certain overall time period of engagement, no less than one year).

3.7 Selection

Proposals will be evaluated by the **Government Parties** taking into consideration the following factors:

- Expertise and general qualifications (members of the team, experience with similar projects, proven track record);
- Technological and technical capabilities;
- Previous experience in similar engagements;
- Approach to the engagement;
- Timeliness and resources; and
- Proposed fee and fee structure.

The **Government Parties** have appointed an evaluation committee (“**Evaluation Committee**”) to review and evaluate all of the proposals submitted in accordance with the **RFP**. The **Evaluation Committee** will first review and determine if each proposal complies with all requirements as to format and content. The **Government Parties** will only consider proposals from firms that are duly registered to conduct business in Puerto Rico. Proposals that are not disqualified will be evaluated as to the substantive material, *provided however that*, in addition to the rights reserved in Section 4.1 below, the **Government Parties** reserve the right to waive any defect or technicality in any proposals received, and modify or postpone or terminate the **RFP** process in its entirety or with respect to any proponent, at any time, for any reason or no reason.

The **Government Parties**, by means of the **Evaluation Committee**, may request a proponent to clarify a proposal in the event that ambiguities or uncertainties are presented in the proposal or to obtain more information necessary for the **Evaluation Committee** to make a comprehensive evaluation. The **Evaluation Committee** will report its findings and make its recommendations to the **Government Parties**. The **Government Parties**, however, may accept the recommendation of the **Evaluation Committee**, award the contract to another proponent or proponents, or exercise any of



the rights reserved by the **Government Parties**. The **Government Parties'** acceptance of a particular proposal does not imply that every element of that proposal has been accepted.

Cost of the service is only one of the criteria to be considered and the **Government Parties** are not legally bound to award to the lowest priced proposal. The **Government Parties** may enter into simultaneous or subsequent negotiations with proponents to determine the final selection of the awardee. The **Government Parties** reserve the right to interview key personnel of the proponent before the award of the contract. The **Government Parties** reserve the right to conduct discussions with each and every proponent and to request that proponents submit a revised experience and technical proposal and/or price proposal. The **Government Parties** will award the contract to the proponent that submits the most advantageous proposal found to be technically sufficient and acceptable.

3.8 Further Contract Conditions

The contents of the proposal prepared by the Selected Proponent, with any amendment approved by the **Government Parties**, will become part of the agreement that will be executed with such proponent as a result of this RFP process.

The contract will include those clauses required when contracting services similar to those procured under this **RFP** and those included in contracts with the **Government**, such as contractual provisions requiring:

- Original certifications evidencing that the proponent has complied with its responsibility in the filing of tax returns and payment of its taxes, including sale and use tax as applicable, to the Commonwealth of Puerto Rico, to the Federal Government, and to the state or jurisdiction where its base of operations resides.
- Commercial Registration Certification, issued by the Department of Treasury.
- Certification of Compliance issued by the Child Support Administration (ASUME). Corporations must file their request for said certification with the Employer Unit of ASUME. The same indicates that the employer complies with the orders issued in his name as employer to retain the salary of employees as a result of amounts owed for child support.
- Sworn statement, signed by the President or chief executive authorized to represent the proponent, indicating that the proponent, its subsidiaries, affiliates and/or parent companies, and their respective shareholders, directors, partners, officers, executives, or principals have neither been convicted nor has probable cause for their arrest been found against any of them, nor are they being investigated under any administrative, judicial or legislative procedure, whether within or outside of Puerto Rico, or any other legal provision penalizing crimes against the treasury and the public trust, and that the person signing the statement has not been investigated, arrested, convicted, or found guilty or sentenced as a result of said criminal conduct.
- Certification of Employer Registration and of Debt in Respect of Unemployment Insurance and Disability Insurance issued by the Workplace Safety Bureau, Tax Division, Collection Unit of the Department of Labor and Human Resources. The same shall indicate that the contractor does not have a debt with the Disability Insurance and Unemployment Insurance Programs. If the



person is not an employer, it shall indicate that the person is not registered as an Employer and therefore does not have any debt.

- Certification of Employer Registration and of Debt in Respect of Driver's Insurance issued by the Persons with Non-Occupational Disabilities and Driver's Insurance Bureau of the Department of Labor and Human Resources. The same shall indicate that the contractor does not have a debt with the Non-Occupational Disability Insurance and Driver's Insurance Programs. If the person is not an employer, it shall indicate that the person is not registered as an Employer and therefore does not have any debt.
- No debt Certification and copy of current policy issued by the State Insurance Fund.
- Certification of Existence or Certification of Authorization to do business in Puerto Rico. The Certification of Existence indicates that the applicant is incorporated under the laws of Puerto Rico and is issued by Puerto Rico's State Department. The Certification of authorization to do business in Puerto Rico applies to foreign companies. It indicates that the applicant is authorized to do business in Puerto Rico and is issued by the Puerto Rico State Department. The certification indicates the date of issuance and authorization to do business in Puerto Rico.

All certifications must be issued within thirty (30) days from the date the Selected Proponent executes the contract with the Government Parties.

The Selected Proponent will be contractually required to abide by the laws of Puerto Rico as governing laws under the agreement. Any disputes must be resolved accordingly. Exclusive venue shall be the courts of Puerto Rico.

The Government Parties shall reserve the right to terminate any contract entered into as a result of this RFP at any time, provided that written notice has been given at least thirty (30) days prior to such proposed termination date.

Furthermore, Selected Proponent shall:

1. Work with the Government Parties and any other personnel on all matters that may arise in connection with the engagement as per the terms of this RFP and the contract to be executed between the parties;
2. Assume sole responsibility for the complete effort required to provide the services;
3. Refrain from assigning, transferring, conveying, or otherwise disposing of the contract, or its rights, titles or interest therein, or its power to execute such agreement, to any other person, firm, partnership, company or corporation without the prior consent and approval in writing of the Government Parties; and
4. Comply with applicable federal, state, Commonwealth and foreign laws and regulations governing projects initiated or supported by the Government of Puerto Rico.



3.9 Schedule

A summary schedule of the major activities associated with the procurement process is presented below, through the completion of this RFP process. The post-proposal schedule may vary from the schedule indicated below. In such case, proponents shall be notified to their email of record.

Date	Activity
October 14 th , 2020	Last date for submission of questions or requests for clarifications to the RFP
October 14 th , 2020	Proposals due date
October 20 th , 2020**	Evaluation of Proposals and notices to Selected Respondent(s)

**This date might be subject to change.

3.10 Communications Protocol

The **Government Parties** are committed to a fair, open process for interested parties to receive information about the competitive solicitation process. As such, communications shall be conducted in accordance with this **RFP**.

No interpretation or clarification of the meaning of any part of the **RFP** will be made orally to any potential proponent. All questions and communications concerning this procurement process must be directed in writing, via email (contact person and email address shown below), no later than the date specified in the RFP schedule.

All questions concerning this RFP should be directed **IN WRITING** to:

Attention:
Manuel J. González
AAFAF
Fiscal Agency Director

manuel.gonzalez@aafaf.pr.gov

Where appropriate, responses to formal questions will be distributed by email to all proponents on our record as having received a copy of this **RFP**. In each case, the **Government Parties** will determine whether a response is appropriate or necessary.

4.0 DISCLOSURES

4.1 General Disclosures, Rights, Options and Disclaimers

The issuance of this **RFP**, submission of a response by any firm/team, and the acceptance of such response by the **Government Parties** does not obligate the **Government Parties**. Proponent shall only be bound by its proposal for the period of 120 days required in this **RFP**. Legal obligations will only arise upon the execution of a formal agreement between the **Government Parties** and the selected firm/team.



By responding to this **RFP**, proponents acknowledge and consent to the following conditions relative to the procurement process. The **Government Parties** are not bound to accept any proposals if proponents do not meet the **Government Parties'** requirements. Without limitation and in addition to other rights reserved by the **Government Parties** in this **RFP**, the **Government Parties** reserve and hold, at their sole discretion, the following rights and options:

- To accept or reject any and all submittals, in whole or in part.
- To discuss, with any or all proponents, different or additional terms to those included in this **RFP** or received in any response.
- To 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 **Government Parties**.
- To supplement, amend, or otherwise modify this **RFP** prior to the date of submission of the proposals.
- To receive written questions concerning this **RFP** from Proponents and to provide such questions, and **Government Parties** responses, to all **Proponents** that received a copy of the **RFP**.
- To require additional information from one or more Respondents to supplement or clarify the proposals submitted.
- To conduct further investigations with respect to the qualifications and experience of each Respondent.
- To visit and contact the proponent's client in any of the projects or engagements referenced in the proposals to obtain direct information regarding proponent's performance in such engagements.
- To waive any defect or technicality in any proposals received.
- To eliminate any proponents that submits a nonconforming, non-responsive, incomplete, inadequate or conditional proposal.
- To investigate the technical and financial qualifications of proponents using sources in addition to what was included in the proposals.

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 **Government Parties** 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 **Government Parties** for the costs and expenses associated with the process.

Proponents should submit their best proposals initially, since negotiations may not take place.

The laws of Puerto Rico shall govern this **RFP** process. Any disputes relating to this **RFP** must be resolved accordingly. Exclusive venue for a judicial challenge is the Appeals Court of Puerto Rico as provided for by the laws of Puerto Rico.

4.2 Accuracy of RFP and Related Documents

The **Government Parties** assume no responsibility for the completeness or the accuracy of specified technical and background information presented in this **RFP**, or otherwise distributed or made available during this **RFP** process. Without limiting the generality of the foregoing, the **Government Parties** will not be bound by or be responsible for any explanation or interpretation of the **RFP**



documents other than those given by it in writing. In no event may a proponent to this **RFP** rely on any oral statement by the **Government Parties'** agents, advisors, or consultants.

4.3 Confidential or Proprietary Information

One copy of each proposal will be retained for the **Government Parties'** files and will not be returned. 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 material as confidential and/or proprietary. The **Government Parties** 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 **Government Parties** do 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 **Government Parties** 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.

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APPENDIX I

NON-COLLUSION AFFIDAVIT

I, _____, of legal age and resident of _____, certify for myself and for my organization _____, under oath and subject to the consequences and penalties or perjury, that to the best of my knowledge and belief:

i. The prices presented in this proposal have been arrived at independently without collusion, consultation, communication, or agreement with any other proponent or with any competitor for the purpose of restricting competition.

ii. No attempt has been made or will be made by myself or any member of my organization or associates to induce any other person or organization to submit or not to submit a proposal for the Project, or otherwise take any action in restraint of free competitive proposals for the Project.

Proponent Contact Signature

Proponent Contact Name and Title

AFFIDAVIT NO.

Sworn and subscribed before me by _____, of the personal circumstances set forth above, personally known to me, in _____, Puerto Rico, on this ____ day of _____, 2020.

Notary Public

Note: Providing false information may result in immediate disqualification of proponent criminal prosecution or administrative sanctions.

APPENDIX II

ELIGIBILITY AFFIDAVIT

I, _____ (Proponent Contact), of legal age, civil status: _____, profession: _____ and a resident of _____ (City, State), in my capacity as _____ (officer) of _____ (the "Proponent"), do hereby certify under penalty of perjury, that, except as noted below, the Proponent and Proponent's owners, shareholders, partners, directors, officers, principals and managers ("Proponent's Related Parties"):

- a. are not currently under suspension, debarment, voluntary exclusion or determination of ineligibility by any state or federal court of agency;
- b. have not been suspended, debarred, voluntarily excluded or determined ineligible by any state or federal court or agency within the past three (3) years;
- c. do not have a proposed debarment pending;
- d. will not use any subcontractors who are so debarred;
- e. have not been convicted or plead guilty in federal or state court, for the commission of misappropriation; extortion; construction fraud; fraud in the delivery of goods; undue intervention in public procurement processes; bribery; offer to bribe; undue influence; crimes against public funds; or preparation, presentation, possession or transfer of forged documents. The prohibition set forth herein shall also apply to convictions for other crimes equivalent to those of the above stated crimes;
- f. are not under investigation in federal, state, foreign or local jurisdictions, at any legislative, judicial or administrative level for the alleged commission of the abovementioned crimes; and
- g. I am a duly authorized representative of the Proponent and the Proponent Related Parties, with knowledge and authority to execute this sworn statement.

Exceptions to the above are set forth in an attachment to this Appendix II, providing the name of the initiating agency, number of the complaint, names of all parties and dates of action.

Proponent Contact Signature

Proponent Contact Name and Title

AFFIDAVIT NO.

Sworn and subscribed before me by _____, of the personal circumstances set forth above, personally known to me, in _____, Puerto Rico, on this ___ day of _____, 2020.

Notary Public

Note: Providing false information may result in immediate disqualification of Proponent criminal prosecution or administrative sanctions.