



GOVERNMENT OF PUERTO RICO
Puerto Rico Public-Private Partnerships Authority



REQUEST FOR PROPOSALS

Puerto Rico Electric Power
Thermal Generation Facilities

RFP 2020-1

Issued by the Puerto Rico Public-Private Partnerships Authority

Date Issued: November 10, 2020



GOVERNMENT OF PUERTO RICO
Puerto Rico Public-Private Partnerships Authority



This page has been intentionally left blank.





Table of Contents

1.	Overview of RFP and PPP Process.....	1
1.1	Introduction	1
1.2	Available Documents	1
1.3	Key Milestones.....	2
1.4	Definitions	3
1.5	Legal Authority	3
2.	Project Summary.....	5
2.1	Transformation of the Electric System	5
2.2	Legacy Generation Assets.....	5
2.3	Energy Regulatory Framework	10
2.4	PREPA.....	12
2.5	Labor Considerations.....	13
2.6	Environmental Considerations	13
2.7	Coordination with T&D Operator	13
2.8	Title III Process	14
2.9	O&M Agreement	14
3.	Description of RFP Process	17
3.1	Data Room and Due Diligence	17
3.2	Virtual Management Presentations and Site Tours Due Diligence	17
3.3	Submission of RFCs	17
3.4	O&M Agreement Process	18
3.5	Evaluation of Binding Proposals	19
3.6	O&M Agreement Approval Process	20
3.7	Completion of RFP Process.....	21
4.	Submission and Evaluation of Binding Proposals.....	22
4.1	Binding Proposal Requirements	22
4.1.1.	Transmittal Letter	22
4.1.2.	Executive Summary and Table of Contents	23
4.1.3.	Confirmation of Acceptance of O&M Agreement.....	23
4.1.4.	Approach to Mobilization.....	23
4.1.5.	Approach to O&M Services.....	24
4.1.6.	Approach to Decommissioning	24
4.1.7.	Approach to Demobilization	24



4.1.8. Operator Recruitment and Staffing Plan	25
4.1.9. Operational and Financial Proposals	25
4.1.10. Bid Security	25
4.1.11. Other Required Forms and Certifications	25
4.2 Indicative Evaluation Criteria	25
4.3 Submission Instructions	28
4.4 Addenda to RFP	28
4.5 Rejection and Withdrawal of Binding Proposals	29
4.6 Ownership of a Binding Proposal.....	29
4.7 Errors and Omissions in a Binding Proposal	29
5. Miscellaneous Legal	30
5.1 Legal Framework	30
5.2 Consortia and Team Members	30
5.3 Restricted Parties.....	32
5.4 Confidentiality of Binding Proposal	33
5.5 Use of Confidential Information.....	34
5.6 No Collusion or Lobbying.....	35
5.7 Conflicts of Interest and Ineligible Persons.....	35
5.8 Disclaimer	36
5.9 Reservation of Rights.....	37
5.10 Limitation of Damages	38
5.11 Judicial Review	39
5.12 Cost of Preparing Binding Proposals	39
Annex A: Form of Proponent and Team Member Certification	40
Binding Proposal Form 1.1	44
Binding Proposal Form 1.2	48
Binding Proposal Form 1.3	49
Binding Proposal Form 1.4	50
Binding Proposal Form 1.5	52
Binding Proposal Form 1.6	54
Binding Proposal Form 1.7	56
Binding Proposal Form 1.8	58
Binding Proposal Form 1.9	61
Binding Proposal Form 1.10	63
Binding Proposal Form 1.11	65



This confidential RFP (as defined below) is prepared for informational purposes only. It is being delivered to a limited number of Proponents (as defined below) who may be interested in pursuing a potential transaction as further described herein. This RFP does not purport to be all-inclusive or to contain all the information that a Proponent may desire in investigating the potential transaction. By accepting this RFP, the recipient agrees (i) to keep confidential the information contained herein or made available in connection with any further exploration of the potential transaction and (ii) that such information will only be used for the purposes set forth herein. No express or implied warranty is given by the Puerto Rico Public-Private Partnerships Authority or any other agency or instrumentality of the Government of Puerto Rico as to the accuracy or completeness of the information contained herein or otherwise made available in connection with the Project (as defined below).





1. Overview of RFP and PPP Process

1.1 Introduction

The Puerto Rico Public-Private Partnerships Authority (the “**Authority**”) and the Puerto Rico Electric Power Authority (“**PREPA**”) thank you for your interest in the transformation of Puerto Rico’s electric power generation system. The issuance of this confidential request for proposals (“**RFP**”) is an important milestone in this critical process for the people of Puerto Rico.

The Authority, in collaboration with PREPA, is issuing this RFP to the private sector companies and the consortia that (i) were selected to participate in the RFP stage by the Partnership Committee established for this Project (as defined below) by the board of directors of the Authority (the “**Partnership Committee**”) and (ii) have executed a confidentiality agreement with the Authority (the “**Confidentiality Agreement**”) (each such party, a “**Proponent**”).

The purpose of this RFP is to invite Proponents to prepare and submit proposals (“**Binding Proposals**”) to manage, operate, maintain, manage fuel supply for, and decommission, where applicable, certain base-load generation plants and gas turbine peaking plants (the “**Legacy Generation Assets**”) located throughout the island of Puerto Rico (the “**Project**”) pursuant to a long-term public-private partnership contract (the “**O&M Agreement**”) with a term tied to the remaining useful lives of the Legacy Generation Assets. The Authority intends to award the O&M Agreement to one (1) or more Proponents who submit compliant Binding Proposals and are selected in accordance with the process set forth in this RFP (each such Proponent, a “**Selected Proponent**” or a “**Generation Operator**”). An initial draft of the O&M Agreement will be made available for review and comment by Proponents in subsequent addenda to this RFP.

The Project is intended to achieve the following objectives for the Legacy Generation Assets:

- introduce private sector operational expertise;
- increase the safety, reliability, resiliency, power quality and efficiency of Puerto Rico’s Legacy Generation Asset operations;
- facilitate Puerto Rico’s transition to PREPA’s “Vision for the Future of Power in Puerto Rico”, as described in the 2019 IRP and the IRP Final Resolution and Order (each as defined herein);
- demonstrate operational excellence in electric generation facilities (some of which may be decommissioned in the future) consistent with good industry practices, including improved reliability and availability, safety and greater compliance with environmental and other applicable regulatory requirements; and
- increase cost efficiency while achieving the aforementioned operational objectives in coordination with the T&D Operator (as defined herein).

1.2 Available Documents

This RFP summarizes and refers to other documents, including those listed below, which are or will be available in the electronic data room managed by the Authority and its advisors (the “**Data Room**”) and to which Proponents will be granted access:

- a confidential information memorandum (the “**CIM**”);
- a financial model;



- a white paper on the electric sector regulatory framework;
- a white paper on labor considerations; and
- a white paper on PREPA’s voluntary bankruptcy process under PROMESA (as defined below) (the “**Title III Process**”).

Additional white papers and materials regarding environmental considerations and other relevant topics may be provided at a later date.

Proponents are expected to review the documents summarized and referred to in this RFP for further background on the Project and the legal framework pursuant to which it will be executed. The summaries and references in this RFP are intended for convenience only.

Each Proponent (and Team Member, if applicable) will be asked to certify that it has carefully reviewed the RFP and the documents listed above by completing and submitting the certifications included in Annex A (*Form of Proponent and Team Member Certification*), as part of its submission of Binding Proposal Form 1.11 (*Other Required Forms and Certifications*).

1.3 Key Milestones

The following timeline summarizes certain key milestones in the RFP Process (as defined below), which are described in more detail in Section 3 (*Description of RFP Process*) of this RFP:

Milestones	Target Dates
RFP issued and Data Room access granted	November 10, 2020
Distribution of initial draft of O&M Agreement	Mid-November, 2020
Period for due diligence and Q&A process	November, 2020 through April, 2021
Management presentations, site tours and preliminary discussion of O&M Agreement (all to be conducted virtually)	Early December, 2020
Proponents provide comments on initial draft of O&M Agreement	Mid-December, 2020
Meetings with Proponents to discuss comments to O&M Agreement (expected to be virtual)	Early January, 2021
Distribution of second draft of O&M Agreement	Early February, 2021
Binding Proposal Submission Deadline	Mid-March, 2021
Proponent presentation of Binding Proposal to P3 Partnership Committee	Early April, 2021
Notification of Selected Proponent	Early May

The timeline of RFP key milestones provided above is included for illustrative purposes only. Target dates and deadlines are subject to modification. Additional information regarding key dates and deadlines will be provided through the issuance of addenda to this RFP. As indicated in Section 4.4 (*Addenda to RFP*) of this RFP, each Proponent is responsible for periodically reviewing the PowerAdvocate© website’s Messaging Tab for regular updates to the RFP timeline and other important information.

In light of the timeline for the procurement process and the fact that Proponents are expected to provide comments to the initial draft of the O&M Agreement by mid-December, Proponents are strongly encouraged to engage advisors, including Puerto Rico counsel, as soon as possible.



1.4 Definitions

For purposes of this RFP, the following defined terms will have the meanings used in the sections indicated below.

Term	Section	Term	Section
AAFAF	1.5	Management Presentations	3.2
Act 17	2.3	MATS	2.2
Act 29	1.5	Mobilization Plan	4.1.4
Act 57	2.3	O&M Agreement	1.1
Act 120	1.5	Operator Recruitment and Staffing Plan	4.1
Authority	1.1	Partnership Committee	1.1
Bid Security	4.1	PPP	1.5
Binding Proposals	3.5	PREPA	1.1
Binding Proposal Forms	4.1	PREPA Organic Act	2.4
CIM	1.2	Project	1.1
Claim	5.10	PROMESA	2.8
Committee Report	1.5	Proponent	1.1
Confidentiality Agreement	1.1	Regulation	1.5
Conflict of Interest	5.7	Related	5.2
Control	5.2	Revenue Procedure	5.1
Data Room	1.2	Restricted Parties	5.3
Due Diligence Q&A Log	3.3	RFC	3.1
Energy Bureau	2.3	RFP	1.1
Energy Compliance Certificate	3.6	RFP Process	1.5
EPA	2.2	RFQ Process	1.5
Ethics Guidelines	5.3	San Juan Unit 5	2.2
FOMB	2.8	San Juan Unit 6	2.2
GenCo	2.4	Selected Proponent	1.1
Generation Operator	1.1	Submission Deadline	3.1
GridCo	2.4	T&D	1.1
GridCo-GenCo Operations Agreement	2.7	T&D Operator	2.1
Government	1.5	T&D Transformation	2.1
Government Fiscal Plan	5.1	T&D O&M Agreement	2.1
IRP	2.3	Team Member	5.2
IRP Final Resolution and Order	2.3	Title III Court	2.8
Legacy Generation Assets	1.1	Title III Process	1.2

1.5 Legal Authority

The Authority was created pursuant to the Public-Private Partnership Authority Act, Act No. 29-2009, as amended (“**Act 29**”), as a public corporation of the Government of Puerto Rico (the “**Government**”), affiliated with the Puerto Rico Fiscal Agency and Financial Advisory Authority (known by its Spanish acronym “**AAFAF**”). The Authority is designated as the sole government entity authorized and responsible for implementing the Government’s public policy on Public-Private Partnerships (each, a “**PPP**”) and for determining the functions, services or facilities for which PPPs are to be established.

For each proposed PPP project, the Authority must establish a Partnership Committee, as provided in Act 29, responsible for, among other things: (i) qualifying, evaluating and selecting each proposed PPP; (ii) establishing the terms and conditions of the contract to implement the PPP project as a result of the process described in the



Request for Qualifications for this Project (the “**RFQ Process**”) and the process described in this RFP (the “**RFP Process**”); and (iii) preparing a report on the procedures followed and the reasons for selecting a particular Binding Proposal (the “**Committee Report**”).

The transaction to be consummated pursuant to this RFP constitutes a "PREPA Transaction" (as defined in the Puerto Rico Electric System Transformation Act, Act No. 120-2018, as amended (“**Act 120**”)) subject to Act 120 and the proposed Regulation for the Procurement, Evaluation, Selection, Negotiation and Award of Partnership Contracts and Sale Contracts for the Transformation of the Electric System under Act No. 120-2018, as amended (the “**Regulation**”).

Proponents should note that the Partnership Committee has been vested with the authority to negotiate the terms of the O&M Agreement. PREPA has been vested with the authority to execute the O&M Agreement negotiated by the Partnership Committee with a Proponent, subject to the approvals set forth in Section 3.6 (O&M Agreement Approval Process) of this RFP.





2. Project Summary

2.1 Transformation of the Electric System

The Project is part of the Government's mission to transform Puerto Rico's electric system into a modern, sustainable, affordable, resilient and reliable system, pursuant to Act 120. In particular, the Government seeks to transform Puerto Rico's electric system by implementing solutions that:

- are cost-effective and forward-looking;
- are resilient and built in accordance with codes, specifications and standards consistent with mainland U.S. electric utilities;
- harness innovative thinking and best practices from around the world; and
- contribute to greater economic development, revitalization and growth of Puerto Rico (in alignment with broader Government efforts to achieve fiscal and economic stability).

On January 22, 2018, the Government announced its intent to transform and modernize the electric system through private ownership, management or operation of PREPA's assets. PREPA had suffered years of underinvestment and substandard management, resulting in a dated and fragile electric system facing significant operational, reliability and financial challenges that were exacerbated by Hurricane Irma and Hurricane Maria in September 2017 and by the earthquakes in December 2019, January 2020 and May 2020.

On June 20, 2018, Act 120 was signed into law, with the stated goal of transforming Puerto Rico's energy system into a modern, sustainable, reliable, efficient, cost-effective and resilient system. Act 120 provides the legal framework through which the Authority will determine the PREPA services and facilities that will be subject to PPPs and the PREPA generation assets that may be sold, transferred, or newly constructed subject to a PPP as "PREPA Transactions" (as defined in Act 120).

PREPA's transformation process began with the Authority's issuance of a Request for Qualifications for the management and operation of Puerto Rico's electric power transmission and distribution ("T&D") system pursuant to a long-term contract (the "**T&D Transformation**"). The Authority undertook a robust, competitive and transparent RFP Process to select a proponent, finalize a PPP contract and obtain all of the required regulatory approvals for the T&D Transformation. On June 22, 2020, the Authority announced that PREPA had entered into a 15-year operation and maintenance agreement (the "**T&D O&M Agreement**") with LUMA Energy, LLC (the "**T&D Operator**"), a Puerto Rico company formed by Canadian Utilities Limited, ATCO Ltd.'s energy company, and Quanta Services, Inc. Under the T&D O&M Agreement, the T&D Operator will operate, maintain, and modernize the T&D system. Additional information on the T&D Transformation, including relevant documentation and the Committee Report summarizing the T&D RFP process, can be found on the Authority's website: <https://aafaf.pr.gov/p3/projects/>. The procurement process related to the Legacy Generation Assets that is the subject of this RFP represents the next phase in PREPA's transformation process.

For more information on the transformation of Puerto Rico's electric system, see Section 2 (*Puerto Rico Energy Sector Transformation*) of the CIM.

2.2 Legacy Generation Assets

PREPA's Legacy Generation Assets consist of base-load generation plants and peaking plants. In addition, there are black start combustion turbines at the large generation complexes that also, in some cases, serve as



peaking plants. The Legacy Generation Assets are dependent on natural gas, diesel (number 2 fuel oil) and number 6 fuel oil. Although these plants have a total installed capacity of approximately 4,785 MW, the current dependable capacity is approximately 3,600 MW as a result of certain units being indefinitely out of service or in need of significant repair for various reasons. Because of (i) the age and the inefficient heat rates of the Legacy Generation Assets and (ii) Environmental Protection Agency (“EPA”) Mercury and Air Toxics Standards (“MATS”) requirements, and in accordance with the 2019 IRP and the IRP Final Resolution and Order, PREPA intends to retire and decommission most of the legacy units. Some of the Legacy Generation Assets may be needed for interim operating periods, as determined by the needs of the electric grid and the timing of new, modern replacement generation resources which will be developed through PPPs and in accordance with the parameters set forth in the IRP Final Resolution and Order.

Although the Legacy Generation Assets suffered only minimal damage from Hurricanes Irma and Maria, the Costa Sur base-load generation plant and two (2) of the four (4) Mayaguez peaking units sustained significant damage as a result of the January 7, 2020 earthquake. Costa Sur Unit 5 came back online in August 2020. Costa Sur Unit 6 is expected to be online at the end of 2020. The San Juan base-load generation plant has recently completed a conversion of combustion turbine units 5 & 6 (Mitsubishi Heavy Industry) (“**San Juan Unit 5**” and “**San Juan Unit 6**”) from oil to dual fuel capability. As a result, both units are now capable and commissioned to burn natural gas or diesel (number 2 fuel oil). This conversion was implemented in conjunction with the adjacent development of a privately-owned and operated liquefied natural gas import facility and other gas infrastructure that supply San Juan Unit 5 and San Juan Unit 6.

At the Palo Seco complex, three (3) new PW (Pratt & Whitney) Power Systems FT8® MOBILEPAC® units were installed and commissioned in 2019, although operations are still limited due to the need to install, and permit with the EPA, water injection systems for NOX control. The units are intended for peaking use and may be relocated in the future, but for purposes of this RFP, the operation of these units should be considered part of the Project.

The T&D Operator, as system operator, will be responsible for the scheduling and economic/reliability dispatch of all generating units—including those not owned by PREPA—in order to provide safe and reliable power to PREPA’s customers.

The figures below list and provide a technical overview of the Legacy Generation Assets prepared with information available to the Authority as of October 31, 2020. Each Proponent is responsible for periodically reviewing the Data Room for revised and updated information concerning PREPA and the Legacy Generation Assets, including the figures described below.



Figure 1. Legacy Generation Assets – Current Fleet Operational Status

Plant	Nameplate Capacity (MW)	Available Capacity (MW)	Short Term Outage (MW)	Short Term Outage + Available Capacity (MW)	Status	Fuel	Initial Operation	FY 2020 Capacity Factor	Operational Classification	Additional Notes on Plant Condition
<i>Aguirre Steam Unit 1</i>	450	122	328	450	✓	Heavy Fuel Oil (No. 6)	1971	57%	Base-load	Derated due to rotor / starter issues, expected return to full service in November 2020.
<i>Aguirre Steam Unit 2</i>	450	180	270	450	✓	Heavy Fuel Oil (No. 6)	1972	8%	Base-load	Derated due to boiler feed pump turbine issue that requires full unit shut down for repair, expected return to full service in November 2020.
<i>Aguirre GT Units</i>	42		21	21	✓	Diesel (No. 2)	1972	3%	Peaker	Unit 2 short term out of service due to start motor. Unit 1 out of service since Q1 2019.
<i>Aguirre CC 1 – Steam</i>	96		96	96	✓	Diesel (No. 2)	1977	28%	Base-load	Recent outage in October 2020. Currently only able to combine with unit 1-1.
<i>Aguirre CC 1 – Gas</i>	200	200		200	✓✓	Diesel (No. 2)	1977	36%	Base-load	All units fully operational.
<i>Aguirre CC 2 – Steam</i>	96				✗	Diesel (No. 2)	1977	0%	Base-load	Out of service since Q2 2017, undergoing maintenance to correct various deficiencies.
<i>Aguirre CC 2 – Gas</i>	200	150		150	✓	Diesel (No. 2)	1977	18%	Base-load	Unit 2-2 out of service since Q3 2017, requires major maintenance.
<i>Cambalache Units 1-3</i>	247.5	82.5	82.5	165	✓	Diesel (No. 2)	1997	13%	Peaker	Unit 2 fully operational. Unit 1 out of service since Q3 2011. Unit 3 on short term outage for major maintenance.
<i>Costa Sur Units 3-4</i>	170				✗	Heavy Fuel Oil (No. 6)	1962	0%	Base-load	Unit 3 and 4 out of service since Q3 2016, decommissioning pending.
<i>Costa Sur Unit 5</i>	410	285	125	410	✓	LNG / Heavy	1972	29%	Base-load	Unit 5 derated due to hydrogen cooler issue, expected repair by January 2021.



Plant	Nameplate Capacity (MW)	Available Capacity (MW)	Short Term Outage (MW)	Short Term Outage + Available Capacity (MW)	Status	Fuel	Initial Operation	FY 2020 Capacity Factor	Operational Classification	Additional Notes on Plant Condition
						Fuel Oil				
<i>Costa Sur Unit 6</i>	410		410	410	✓	Diesel (No. 2)	1972	0%	Base-load	Expected back online during December 2020.
<i>Costa Sur GT Units</i>	42				✗	Diesel (No. 2)	1972	11%	Peaker	Unit 1 out of service since Q3 2017, currently undergoing repairs. Unit 2 long term outage since Q4 2015.
<i>Mayaguez Units 1-4</i>	220	138	83	220	✓	Diesel (No. 2)	2009	11%	Peaker	2020 earthquake repairs on units 2 and 4 complete.
<i>Palo Seco Units 1-2</i>	170		85	85	✓	Heavy Fuel Oil (No. 6)	1959	18%	Base-load	Unit 1 outage due to exciter & ground fault issues; Unit 2 out of service since 2016 due to water pump failure.
<i>Palo Seco Units 3-4</i>	432	140	292	432	✓	Heavy Fuel Oil (No. 6)	1967	45%	Base-load	Unit 3 undergoing environmental & condenser maintenance. Unit 4 limited due to boiler feed pump.
<i>Palo Seco GT Units</i>	126	42	21	63	✓	Diesel (No. 2)	1972	23%	Peaker	Units 1-1 and 2-1 fully operational. Unit 1-2 chimney repair underway. Units 2-2, 3-1, and 3-2 EPA emissions limited.
<i>Palo Seco MobilePacs</i>	81		81	81	✓	LNG / Diesel	2019	33%	Peaker	Units limited due to a lack of water injection.
<i>San Juan CC Gas 5-6</i>	320	320		320	✓✓	LNG / Diesel	2008	55%	Base-load	Units fully operational. Dual fuel commissioning complete.
<i>San Juan CC Steam 5-6</i>	120	120		120	✓✓	LNG / Diesel	2008	41%	Base-load	Units fully operational. Dual fuel commissioning complete.
<i>San Juan Steam 7-10</i>	400	155	145	300	✓	Heavy Fuel Oil (No. 6)	1964	22%	Base-load	Unit 7 & 8 limited use due to MATS; Unit 10 long term out of service since 2016.
<i>Daguao GTs 1-2</i>	42	42		42	✓✓	Diesel (No. 2)	1972	11%	Peaker	Both units operational.



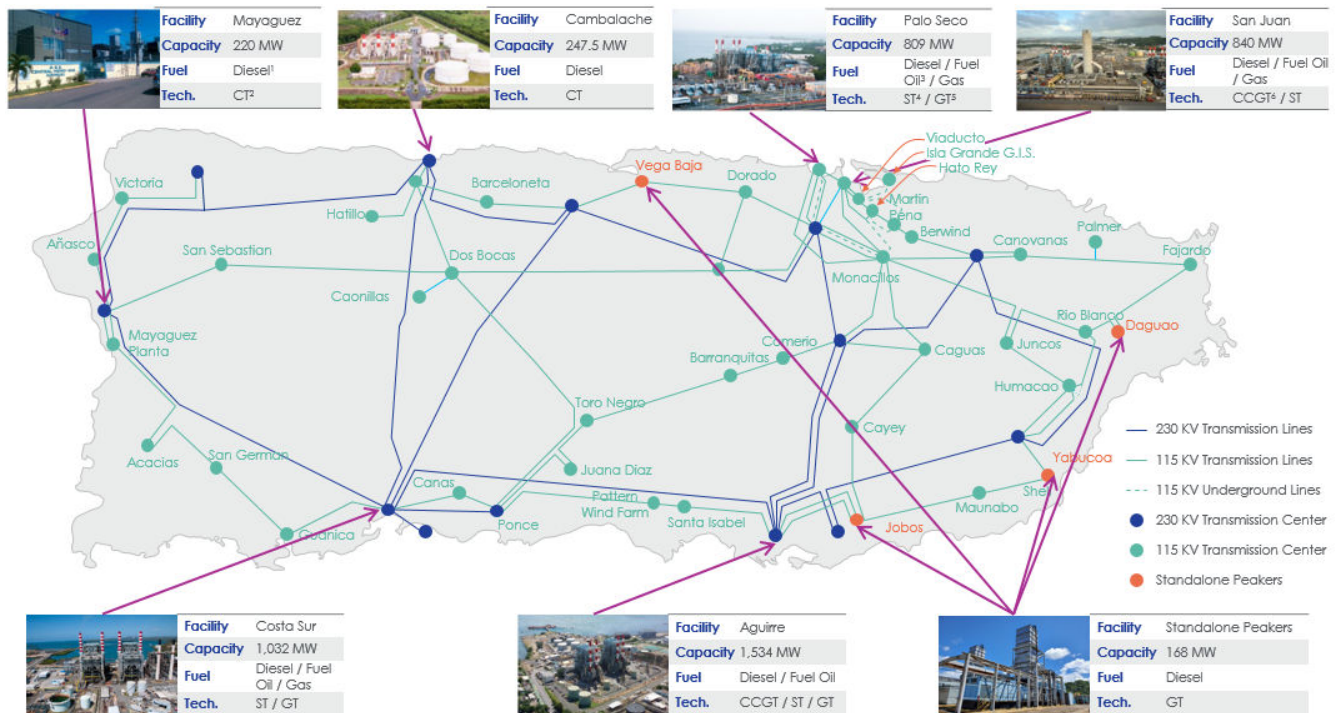
Plant	Nameplate Capacity (MW)	Available Capacity (MW)	Short Term Outage (MW)	Short Term Outage + Available Capacity (MW)	Status	Fuel	Initial Operation	FY 2020 Capacity Factor	Operational Classification	Additional Notes on Plant Condition
<i>Yabucoa GTs 1-2</i>	42	21	21	42	✓	Diesel (No. 2)	1971	7%	Peaker	Unit 2 on short term outage due to high temperatures.
<i>Jobos GTs 1-2</i>	42	42		42	✓✓	Diesel (No. 2)	1971	9%	Peaker	Both units operational.
<i>Vega Baja GTs 1-2</i>	42	21	21	42	✓	Diesel (No. 2)	1971	4%	Peaker	Unit 2 on short term outage due to second stage turbine failure.

✗ Completely out of service
 ✓ Temporarily out of service / partially operating
 ✓✓ Operational

Note: Plant available capacity and status information are as of October 31, 2020. Short term outage capacity is expected to return to service within 3 months of status date (October 31, 2020). Additional details on return to service dates and operational status to be provided during diligence Q&A period.



Figure 2. Map of Legacy Generation Assets



Source: PREPA

Note: Generation facilities listed do not include hydro facilities and third-party owned assets (i.e. EcoElectrica, AES and renewables). Capacity represents nameplate rating.

1. Diesel is also referred to as light distillate No. 2 fuel oil.
2. Combustion turbine ("CT").
3. Fuel oil is also referred to as residual No. 6 fuel oil or bunker fuel.
4. Steam turbine ("ST").
5. Gas Turbine ("GT").
6. Combined-Cycle Power Plant ("CCGT").

For more information on the Legacy Generation Assets, including technical specifications, see Section 5 (*Legacy Generation Asset Descriptions*) of the CIM and the independent engineer reports located in folder 1.5 of the Data Room.

2.3 Energy Regulatory Framework

Act 120 and the Regulation provide the framework for the transformation of the energy sector through private sector participation and provide guidelines and procedures for, among other things:

- identifying the PREPA functions, services, or facilities for which PPPs will be established;
- identifying which PREPA assets related to energy generation will be sold or transferred through sale contracts or delegated to private operators through long-term operation and maintenance agreements;
- soliciting, obtaining, and evaluating proposals for PREPA Transactions;
- selecting the entities or individuals that will enter into transformation contracts with PREPA; and
- negotiating and awarding PPP contracts for PREPA Transactions.



Act 120 also set in motion the development of a new regulatory framework for the electric sector. A working group was created under Act 120 to develop a new energy public policy and regulatory framework, in consultation with the Southern States Energy Board and the U.S. Department of Energy, among others. The Puerto Rico Energy Public Policy Act, Act No. 17-2019 (“**Act 17**”), legislation to establish this new framework for Puerto Rico’s energy sector, was signed into law on April 11, 2019. Act 17 formulates Puerto Rico’s energy policy through 2050 and aims to set the parameters for a resilient, reliable, and robust energy system. In particular, Act 17 requires planning for greater resilience through the establishment of micro-grids, distributed and renewable generation, and underground distribution lines.

Section 1.7 of Act 17 sets forth the following with regards to the operation of the electric sector:

Electrical System planning, regulation, and operation as well as electric power generation, transmission, and distribution are the strategic functions in which the State has a legitimate interest. Therefore, the Government of Puerto Rico, by itself or through the Authority or another public corporation affiliated to the Authority, shall maintain ownership of the transmission and distribution assets and may maintain ownership of the legacy power generation assets. The Authority shall delegate or transfer the operating, administrative, and/or maintenance functions for the electric power generation, transmission and distribution, commercialization, and operation of the Electrical System through contracts awarded and executed pursuant to the provisions of this Act, Act No. 120-2018, and Act No. 29-2009. The Electrical System planning and regulatory function shall be entrusted to the Government of Puerto Rico by means of the Energy Bureau and the Energy Public Policy Program, within the scope of their jurisdictions, and consistent with the Integrated Resource Plan.

In addition, as part of the Government’s public policy to achieve diversification of electricity sources and energy technology infrastructure by reducing the dependence on fossil fuel-based energy sources, Act 17 (i) requires that at least 20% of PREPA’s energy come from renewable sources by 2022, increasing to 40% by 2025 and 60% by 2040, and reaching 100% by 2050, and (ii) prohibits the production of energy through the combustion of coal and its derivatives as a source of generation beginning in 2028.

The Puerto Rico Energy Bureau, which was created by the Puerto Rico Energy Transformation and RELIEF Act, Act No. 57-2014, as amended (“**Act 57**”), to regulate, monitor and enforce the energy public policy of the Government (the “**Energy Bureau**”), was confirmed by Act 17 to be the independent entity in charge of (A) regulating Puerto Rico’s energy system with powers and duties to ensure fair, affordable, and reasonable costs through oversight and review of rates, and (B) supervising and enforcing Puerto Rico’s energy policy.

The modernization of the regulatory framework has also taken a long-term view of the energy future of Puerto Rico. Pursuant to Act 57 requirements, PREPA prepared an integrated resource plan (the “**IRP**”) reflecting a detailed planning process considering all reasonable resources to satisfy the demand for electrical services over a twenty (20)-year planning horizon. PREPA’s 2019 IRP, initially submitted on February 12, 2019, was developed by PREPA, with support from Siemens Power Technology, Inc., using a rigorous analytical process. It provided analysis and recommendations for PREPA’s energy supply resources for the twenty (20)-year period from 2019 to 2038. The analyses set out in the 2019 IRP considered a large number of scenarios and incorporated input from PREPA and relevant stakeholders. Following a determination from the Energy Bureau that the original submission was not fully in compliance with certain Energy Bureau regulations and prior orders, PREPA submitted a revised IRP on June 7, 2019. On August 24, 2020, after a lengthy and thorough review process, the Energy Bureau filed a Final Resolution and Order (the “**IRP Final Resolution and Order**”) approving in part and rejecting in part the revised IRP. In the IRP Final Resolution and Order, the Energy Bureau ordered the adoption and implementation of a modified action plan (the “**MAP**”), providing a roadmap to realize PREPA’s modernization goals. The MAP is based on the IRP Scenario 3, Case 2, rejecting the IRP’s preferred resource plan (the Energy System Modernization Scenario or “**ESM**” scenario) following a determination that it did not demonstrate economic benefit relative to competing plans. Notwithstanding the foregoing, the Energy Bureau found that the following five (5) core elements of the Energy System Modernization Scenario should be retained as part of the MAP:

- timely conversion of older steam plant infrastructure into synchronous condensers;



- energy efficiency deployment to the maximum amount obtainable;
- maximum procurement of solar PV;¹
- procurement of battery energy storage to meet integration requirements for renewable energy generation;² and
- hardening of the T&D system.

The MAP also depends on a combination of transmission system hardening and distributed resource deployment to ensure a resilient power system.

The IRP Final Resolution and Order can be found on the Energy Bureau's website at <https://energia.pr.gov/en/integrated-resource-plan/>.

For more information on the regulatory framework for Puerto Rico's electric sector, see Section 4 (*IRP Summary*) of the CIM and the white paper on the electric sector regulatory framework.

2.4 PREPA

PREPA is a public corporation and instrumentality of the Government, created pursuant to Act No. 83-1941 of May 2, 1941, as amended (the "**PREPA Organic Act**"). Its purpose is to provide electric power in a reliable manner, contribute to the general welfare and the sustainable development of Puerto Rico and maximize the benefits – while minimizing the social, environmental and economic impacts – of electric energy generation and distribution. As the sole electric utility in Puerto Rico, PREPA provides electricity to approximately 1.5 million customers, making it one of the largest U.S. public utilities by customers served. PREPA's current priorities are focused on improving safe and reliable electric service, reducing energy costs, promoting smart energy consumption, and protecting the environment. Strategies to achieve these objectives include:

- reducing operating expenses;
- increasing efficiency;
- minimizing energy theft;
- diversifying energy sources;
- establishing smart grid technologies for energy control and consumption monitoring; and
- maximizing the use of advanced technology.

As part of the T&D Transformation, the intent is to reorganize PREPA so that the T&D assets and Legacy Generation Assets are owned by two separate entities. Specifically, PREPA would retain ownership of the T&D assets (PREPA, in its capacity as owner of the T&D assets, "**GridCo**"), and would transfer ownership of the Legacy Generation Assets to a newly-created subsidiary ("**GenCo**"). For more information on PREPA, its governance structure, the proposed reorganization and its financial results, see Section 2 (*PREPA Overview*) and Section 10 (*Financial Summary*) of the CIM.

¹ Dependent on realized competitive market pricing and consistent with a least cost resource plan.

² Dependent on realized competitive market pricing and consistent with a least cost resource plan.



2.5 Labor Considerations

PREPA employs a large workforce of key personnel with invaluable experience that can be leveraged by a Generation Operator. As of October 1st, 2020, there were approximately 5,500 PREPA employees, of which 1,100 are assigned to PREPA's Generation Directorate, Fuel office and dedicated generation support functions.

As part of the T&D Transformation, the T&D Operator is engaged in a process to interview current PREPA employees who apply for positions the T&D Operator wishes to fill, as required by the T&D O&M Agreement. Under the T&D O&M Agreement, the T&D Operator is contractually obligated to give priority in hiring to any current PREPA employee who meets certain stated requirements over other equally qualified and equally evaluated applicants.

This effort is aimed at meeting the requirements of Act 120. Section 15 of Act 120 protects the interests of employees and assures that no PREPA employee shall be left unemployed nor lose benefits as a result of a PREPA Transaction (as defined in Act 120), and requires that current PREPA employees who do not receive or do not accept an offer of employment from a private party as a result of a PREPA Transaction (as defined in Act 120) be transferred to other positions within the government. The effort to interview and hire current PREPA employees also recognizes the knowledge, experience and skills of such employees and the critical role they will play in PREPA's transformation.

For more information on the key labor considerations for the Project, see Section 7(A) (*Human Resources*) of the CIM and the white paper on labor considerations.

Act 29 requires the Partnership Committee to consider the commitments or priorities that each Proponent is willing to establish with respect to hiring current PREPA personnel, among other things, in evaluating Binding Proposals. As indicated in Section 4.2 (*Indicative Evaluation Criteria*) of this RFP, Proponents will be required to include in their Binding Proposal detailed descriptions of the Proponent's plans to manage the recruitment, staffing, hiring and training of employees for the Project.

2.6 Environmental Considerations

In executing the Project, the Selected Proponent(s) will be expected to comply with all applicable local and federal environmental laws and requirements and minimize any adverse environmental impact.

Phase I Environmental Site Assessment reports have been completed for selected sites. Updates to these existing reports and completion of an agreed upon environmental assessment for the remaining sites will be completed prior to the applicable service commencement date of the O&M Agreement to provide a baseline of the environmental conditions.

For more information on the key environmental considerations, including permitted requirements for the Project, see Section 7(C) (*Environmental Considerations*) of the CIM.³

2.7 Coordination with T&D Operator

As part of the T&D Transformation, the T&D Operator will be assuming PREPA's role in providing a number of generation-related services that will require a degree of coordination between the Generation Operator and the T&D Operator, including:

- dispatch, scheduling and coordination of power delivery from Legacy Generation Assets;

³ A white paper on environmental considerations may be made available at a later date in the Data Room.



- scheduling of load requirements with the Generation Operator;
- developing load and energy forecasts, scheduling requirements and capacity requirements; and
- providing shared services, including, without limitation, administrative, finance and accounting, information technology and legal services to the Generation Operator.

Following the proposed reorganization of PREPA, the T&D Operator would be responsible for the collection of revenues from PREPA's customers on behalf of GridCo. As currently envisioned, the relationship between GridCo and GenCo would be governed by an operations agreement (the "**GridCo-GenCo Operations Agreement**") under which GenCo would invoice GridCo for monthly operating and maintenance costs, irrespective of capacity and without markup for profit, and including costs and expenses related to this Project, and GenCo would deliver to GridCo the electric power that is requested by the T&D Operator and generated by the Legacy Generation Assets. The GridCo-GenCo Operations Agreement would thus establish the financing mechanism for the operation and maintenance of the Legacy Generation Assets following the proposed reorganization of PREPA.

The T&D Operator may also provide certain administrative services to GenCo, on behalf of GridCo, pursuant to a shared services agreement with a term not to exceed three (3) years (subject to extension with the consent of the T&D Operator). These services are expected to include human resources services, finance and accounting services, and information technology services, among others.

For more information on the envisioned interaction between PREPA, the T&D Operator, and the Generation Operator, see Section 3 (*Puerto Rico Energy Sector Transformation*), Section 8(A) (*GridCo-GenCo Operating Agreement*) and Section 8(B) (*Shared Services*) of the CIM.

2.8 Title III Process

In July 2017, a voluntary petition for bankruptcy relief was filed on behalf of PREPA, commencing a case under Title III of the Puerto Rico Oversight, Management and Economic Stability Act ("**PROMESA**") in the U.S. District Court for the District of Puerto Rico (the "**Title III Court**"). Upon the commencement of PREPA's Title III case, an automatic stay on litigation related to the financial indebtedness and other obligations of PREPA immediately went into effect.

The O&M Agreement will need to comply with the applicable requirements under PROMESA and be approved by the Financial Oversight and Management Board for Puerto Rico (the "**FOMB**") pursuant to the FOMB's Contract Review Policy (as modified July 3, 2018). The FOMB and its advisors are working closely with the Authority and PREPA throughout the RFP Process and are expected to be active participants in the process at all stages. Similar to Chapter 9 of the U.S. Bankruptcy Code, PROMESA does not include an express provision requiring post-petition contracts to be approved by the Title III Court. However, confirmation of a plan of adjustment in PREPA's Title III case may be required to release liens against PREPA's assets and help ensure that the Project is free and clear of all legacy liabilities. For more information on the Title III process and its interplay with the Project, see the white paper on the Title III Process.

2.9 O&M Agreement

The Project contemplates PREPA entering into an O&M Agreement with one (1) or more Generation Operators. In the event the Authority were to select multiple Selected Proponents, the Authority would enter into separate O&M Agreements with multiple Selected Proponents, and such agreements would exclusively govern the Legacy Generation Assets to be operated by each such Selected Proponent.

Throughout the term of the O&M Agreement, the Government will retain ownership of and title to all Legacy Generation Assets, and the Selected Proponent will be granted all other rights and responsibilities associated



with the electric power generation system (with certain limited exceptions). These rights and responsibilities are expected to include, among other things:

- day-to-day operation services, including start-up, load adjustments, active follow-up of operating parameters and alarms, shut-down of the plants or units thereof as directed by the T&D Operator and in accordance with the system operation principles;
- identifying, justifying and managing any required safety and maintenance capital expenditures;
- establishing a safety culture and improvement program;
- hiring, training (including training required by regulation), and supervising personnel;
- providing routine inspections and operating tests of the Legacy Generation Assets;
- preparing initial year and two (2)-year forecasts of budgets for generation costs, including fuel costs, capital costs, and all operation and maintenance costs expected to be incurred in order to run, operate and maintain the Legacy Generation Assets until decommissioned;
- provisioning, storing and maintaining the inventory of any necessary spare and consumable parts for the Legacy Generation Assets;
- establishing and maintaining a computerized maintenance management system for the Legacy Generation Assets;
- performing community outreach in order to maintain a good relationship with local communities;
- performing scheduled and emergency maintenance, repair and replacement of equipment, including any balance of plant equipment;
- managing scheduled, unscheduled and forced outages and restoring power;
- coordinating emergency planning and storm restoration and recovery;
- procuring and managing water or power supply, as applicable;
- maintaining and repairing fuel and water systems, including tanks, pumps, filters, and piping, as required;
- procuring, managing the delivery and quality testing of fuel, including natural gas, diesel (number 2 fuel oil) and number 6 fuel oil (including logistics, fuel testing and storage tank management), as applicable, as an agent for PREPA;
- liaising with PREPA, the T&D Operator or any of their assignees or successors regarding dispatch, dispatch planning and related T&D system matters and providing required information;
- interfacing with and providing reports to regulators including the Energy Bureau and with environmental compliance agencies such as the EPA, the Puerto Rico Department of Natural and Environmental Resources, the Occupational Safety and Health Administration and others, as may be required;
- obtaining, complying with and maintaining licenses, permits and consents, as necessary;
- providing periodic reports regarding programmed and non-programmed operations, maintenance, repairs, services, and modifications performed and to be performed in the units and the facilities;



- preparing for and assisting in, or subcontracting for and overseeing, the decommissioning of the relevant plants as outlined in the IRP Final Resolution and Order, in coordination with PREPA/the T&D Operator and the Energy Bureau;
- participating in emergency planning and drills led by the T&D Operator, as needed; and
- assisting with the transition of the plants to third parties or to new uses (synchronous condensers, etc.) to the extent certain of the plants are removed from the O&M Agreement.





3. Description of RFP Process

3.1 Data Room and Due Diligence

The Data Room has been established to facilitate access to additional technical, operational, financial and legal information regarding the Legacy Generation Assets. Access to the Data Room is controlled. Subject to the prior execution of a Confidentiality Agreement, a Proponent will be authorized to access the Data Room using a link, which will be separately provided to each Proponent via the PowerAdvocate Messaging tab.

The Authority, PREPA and their advisors may add further information as considered necessary or as requested by Proponents. As indicated in Section 1.3 (*Key Milestones*) of this RFP, each Proponent is responsible for periodically reviewing the PowerAdvocate® website for regular updates to this RFP and other important information, including information to be published after the issuance of this RFP.

Inclusion of any document or data in the Data Room relating to any other person does not imply the agreement of such person to the transaction contemplated in this RFP and does not constitute an express or implied representation or warranty by such person as to the accuracy, completeness, validity or status of such document or data.

3.2 Virtual Management Presentations and Site Tours Due Diligence

Key managers of PREPA, together with representatives of the Authority and other relevant Government entities, will make presentations regarding the Project (the “**Management Presentations**”) to Proponents. The Management Presentations are expected to be conducted virtually and may be pre-recorded. Detailed dates and logistics to be provided in due course. Proponents will be able to submit RFCs with questions regarding the materials presented during the Management Presentations in accordance with the RFC procedures set forth in Section 3.3.

Proponents will be given access to virtual tours of the PREPA facilities at a date on or around that of the Management Presentations. The Authority will provide further logistical details in due course.

3.3 Submission of RFCs

If a Proponent has any questions with respect to the contents of this RFP, the information available in the Data Room, the Legacy Generation Assets and other matters related to the Project, such Proponent may submit request for clarifications (each, an “**RFC**”) at any time prior to the Binding Proposal submission deadline to be announced by the Authority (the “**Submission Deadline**”). Proponents must submit any RFCs in writing via the Messaging Tab in PowerAdvocate®. Verbal RFCs will not be accepted.

General RFCs

Inquiries or requests for clarifications with respect to any aspect of the RFP process other than due diligence should be submitted via the Messaging Tab in PowerAdvocate®. Proponents should sequentially number such RFCs, with the first inquiry being labeled RFC #1. Such RFCs will be answered in writing using the Messaging Tab in PowerAdvocate®.

The Authority will make available to all Proponents all submitted RFCs together with the answers thereto (without expressly identifying the originator), unless the Proponent requests that an RFC be treated in



confidence and the Authority agrees to such confidential treatment (as described below). The Authority does not guarantee that all RFCs received will be answered.

Due Diligence RFCs

Any inquiries or requests for additional information with respect to due diligence, including the Management Presentations, virtual site tours, and the information available in the Data Room, should be submitted in writing via the Messaging Tab in PowerAdvocate© by inserting such inquiries into a Q&A log (the “**Due Diligence Q&A Log**”) to be provided by the Authority.

The Due Diligence Q&A Log will allow Proponents to indicate, among other things, the level of priority that should be given to a question, which Data Room folder or document it refers to, if applicable, and whether confidential treatment should be given to the question (as described below).

The Authority will make available to all Proponents a composite Due Diligence Q&A Log displaying all submitted RFCs together with the answers thereto (without expressly identifying the originator), unless the Proponent requests that a specific item within the Due Diligence Q&A Log be treated in confidence and the Authority agrees to such confidential treatment (as described below). The Authority does not guarantee that all RFCs received via the Due Diligence Q&A Log will be answered.

In Confidence RFCs

Proponents may request that an RFC, including an RFC submitted through the Due Diligence Q&A Log, be treated in confidence and that the RFC and answer not be circulated to all Proponents. Proponents must designate such an RFC as “confidentiality requested.” Upon receipt of such an RFC and supporting justification for the confidential treatment, the Authority will assess, in its sole and absolute discretion, whether the RFC is confidential in nature. If the Authority agrees that the RFC should be treated in confidence, a confidential answer will be provided to that Proponent only. Examples of RFCs that would be confidential include questions that relate to proprietary information or a Proponent’s unique information that relates to the competitive strategy of a Proponent.

Alternatively, if the Authority determines, in its sole and absolute discretion, that an RFC for which confidentiality has been requested is not confidential and is of general application or would provide a significant clarification to this RFP or any process or other matter outlined hereunder, the Authority will inform the Proponent, in writing, and the Proponent will have the opportunity to indicate that it either (i) concurs that the RFC and answer will not be treated confidentially or (ii) wishes to withdraw the RFC. If the Proponent concurs with the Authority’s determination that the RFC and answer should not be treated in confidence, the Authority may issue a clarification to all Proponents. The Authority does not guarantee that all RFCs for which confidentiality has been requested will be answered.

3.4 O&M Agreement Process

O&M Agreement

An initial draft of the O&M Agreement will be made available for review and comment by Proponents in subsequent addenda to this RFP. Proponents will have the opportunity to submit written comments to the O&M Agreement and to discuss such comments with the Authority and its advisors.

Written comments to the draft of the O&M Agreement are to be submitted via PowerAdvocate© in electronic (Microsoft Word) form by the date to be specified by the Authority. In the case of consortia, comments from all members of the Proponent’s team and its advisors should be included in one single markup. Markups should be prepared using black-lining to indicate the proposed modification with explanatory footnotes where appropriate. Proponents are strongly encouraged to limit comments to the draft O&M Agreement to those that will materially



enhance the Project and its ability to achieve the parties’ objectives. Proponents are encouraged to identify comments in order of priority, thus allowing for an efficient review process.

With a view towards an efficient review process, each Proponent should also summarize the comments reflected in its markup of the draft O&M Agreement in order of priority in a separate summary document using the following chart format:

Item number (in order of priority)	Document and section reference	Summary of proposed modification	Reasons for proposed modification

A single revised draft of the O&M Agreement will be circulated to all Proponents following the Partnership Committee’s review of comments to the initial draft of the O&M Agreement and discussions with Proponents. This revised draft will reflect any comments from Proponents that the Partnership Committee has accepted. Additional details relating to the initial and any revised draft of the O&M Agreement will be provided in subsequent addenda to this RFP.

Discussions with Proponents

The Authority intends to schedule initial discussions with Proponents in early December, around the same time as virtual management presentations and site tours, to discuss any preliminary questions and comments with regards to the first draft of the O&M Agreement. These discussions will be held virtually and are intended to provide Proponents with an opportunity to clarify any provisions of the contract prior to submitting their written comments, which will be due after these initial discussions.

Following Proponents’ formal submission of written comments, the Authority intends to schedule discussions with Proponents in early January 2021 to walk through the comments received. These discussions will provide each Proponent and its advisors with an opportunity to present and explain its comments on the draft O&M Agreement and for the Authority to seek any clarification on these comments.

All Proponents will have equal opportunity for dialogue, and fair consideration will be given to all perspectives. However, Proponents should not rely on discussions with the Authority and its advisors to modify the terms and conditions of the RFP; only changes formalized through an addendum to the RFP may be relied upon. All discussions will be subject to the terms of the Confidentiality Agreement entered into between the Authority and each Proponent.

3.5 Evaluation of Binding Proposals

The Partnership Committee will evaluate a Proponent based on the Binding Proposal it submits. The requirements for the Binding Proposals are described in more detail in Section 4.1 (*Binding Proposal Requirements*) of the RFP. Binding Proposals will be evaluated pursuant to Act 120, Act 29 and the evaluation criteria to be set forth in subsequent addenda to this RFP.

Following the completion of the evaluation of Binding Proposals, the Partnership Committee will determine which Proponent(s) will become the Selected Proponent(s) and notify the Selected Proponent(s) of its decision. The Partnership Committee and the Authority reserve the right to request clarifications or information from and conduct evaluation interviews with Proponents in the event the Binding Proposals require additional clarifications or explanations. The Partnership Committee reserves the right, in its sole and absolute discretion, to disregard or waive minor informalities, irregularities, omissions, nonconformities, discrepancies and apparent clerical mistakes.



3.6 O&M Agreement Approval Process

Once the Partnership Committee and the Selected Proponent have finalized the negotiation of the O&M Agreement, the Partnership Committee will prepare the Committee Report to be circulated with the O&M Agreement for approval. Pursuant to applicable law, the O&M Agreement to be executed by PREPA and the Selected Proponent as a result of the RFP Process is subject to the approval of (i) the Energy Bureau, (ii) the board of directors of each of the Authority and PREPA, (iii) the FOMB and (iv) the Governor or his/her delegate. The mere fact that a required approval is obtained does not confer on any Proponent or any other person the right to claim indemnity, refund or any payment whatsoever on account of expectations arisen in any of its stages, or for expenses incurred for any stages of the RFQ or RFP Process, or for any expenses incurred in connection therewith.

Approval by Energy Bureau

To obtain the Energy Bureau's approval, the Energy Bureau must find that the O&M Agreement complies with Puerto Rico's energy public policy and the regulatory framework and issue a certificate (the "**Energy Compliance Certificate**"), within thirty (30) days as required by Section 5(g) of Act 120, certifying that the O&M Agreement complies with the regulatory framework, the energy public policy and applicable law. If the Energy Bureau does not issue either the Energy Compliance Certificate or a negative decision regarding such certificate within thirty (30) days, it will be deemed to have approved the O&M Agreement and it will be understood that the transaction has received an Energy Compliance Certificate. Once the Energy Compliance Certificate has been either issued or deemed issued pursuant to the above process, any amendment to the O&M Agreement will require the issuance of a new Energy Compliance Certificate. The Authority intends to keep the Energy Bureau abreast of any developments in the RFP process and the negotiation of the O&M Agreement at each stage of the process in an effort to facilitate the Energy Bureau's review and approval process.

Approval by Board of Directors of the Authority and Board of Directors of PREPA

Following the issuance of the Energy Compliance Certificate, the board of directors of the Authority and the board of directors of PREPA will each evaluate the O&M Agreement and approve or reject the contract by means of a resolution.

Approval by FOMB

Once the O&M Agreement have been approved by the Energy Bureau, the board of directors of the Authority and the board of directors of PREPA, the Committee Report and the O&M Agreement will be submitted to the FOMB for their consent. The O&M Agreement will require the consent of the FOMB pursuant to the FOMB's contract review policy, established pursuant to Section 204(b)(2) of PROMESA, as modified July 3, 2018, which states that any contract with an aggregate expected value of \$10 million or more must be submitted to the FOMB for approval before its execution. Given the importance of obtaining FOMB consent, aligning the RFP process with the efforts to address PREPA's financial challenges, and aligning the Project with the Government Fiscal Plan (as defined below), the RFP Process is expected to be carried out in coordination with the FOMB and its advisors at every stage.

Approval by Governor

Following the FOMB's approval, the Committee Report and the O&M Agreement must be delivered to and approved by the Governor or his/her delegate. The Governor or his/her delegate must approve or deny the O&M Agreement in writing within thirty (30) days of receiving the Committee Report and the O&M Agreement. If the Governor or his/her delegate does not approve the O&M Agreement within thirty (30) days, the O&M Agreement will be treated as if it had been denied by the Governor.



3.7 Completion of RFP Process

Upon completion of the RFP process and execution of the O&M Agreement, the Authority will make public the Committee Report regarding the procurement and selection process, as required by the Regulation. The Committee Report shall contain certain information related to the RFP Process, except trade secrets and proprietary or privileged information of the Proponents. Information considered trade secrets or non-published financial data may be classified as proprietary by the Proponents. News or public announcements regarding any award resulting from this RFP (or any portion of the RFP Process) shall not be made by any Proponent without the Authority's written consent.

The Authority may cancel the award of an O&M Agreement at any time before the O&M Agreement is signed by PREPA, the Selected Proponent and any other party thereto, and none of the Selected Proponent, any other Proponent or any other person shall have any recourse to the Authority, PREPA, the FOMB, the Partnership Committee or any of their respective agents and advisors.





4. Submission and Evaluation of Binding Proposals

4.1 Binding Proposal Requirements

Each Binding Proposal, including the submittal forms set forth in this RFP (the “**Binding Proposal Forms**”), must be submitted in English and must include the following components, divided into sections as follows:

- Transmittal Letter
- Executive Summary
- Confirmation of Acceptance of O&M Agreement
- Approach to Mobilization
- Approach to O&M Services
- Approach to Decommissioning
- Approach to Demobilization
- Operator Recruitment and Staffing Plan
- Operational and Financial Proposals
- Bid Security; Other Required Forms and Certifications

Proponents should not submit promotional materials as part of their Binding Proposals and are strongly encouraged not to submit information that is not required by this RFP. The Partnership Committee invites Proponents to provide as much relevant and responsive information as possible, as indicated throughout this RFP. The Partnership Committee appreciates a Proponent’s efforts to submit a responsive Binding Proposal that is as succinct and clear as possible, but includes the level of detail and information relevant to each required component and is demonstrative of the Proponent’s knowledge, approach and strategy. Non-written, audiovisual materials will not be accepted.

The aforementioned requirements are subject to modification through addenda to this RFP, pursuant to the terms set forth in Section 4.4 of this RFP. The Binding Proposal Forms included in this version of the RFP are provided solely for the convenience of Proponents to illustrate the expected format and requirements governing the submission of Binding Proposals. Revised Binding Proposal Forms will be shared with Proponents in subsequent addenda to this RFP.

4.1.1. Transmittal Letter

Each Binding Proposal must include a transmittal letter, substantially in the form included in Binding Proposal Form 1.1 (*Transmittal Letter*), with any related documentation attached thereto. This transmittal letter must be signed in blue ink by an authorized representative of the Proponent.



4.1.2. Executive Summary and Table of Contents

Each Binding Proposal must include an executive summary that outlines, at a minimum, the key qualifications and distinguishing features of the Proponent and a summary of the operational and financial proposals required under Section 4.1.9 of this RFP. Each Binding Proposal must also provide a table of contents that clearly identifies the location of all material within the proposal by section and page number. The table of contents should include lists of figures and tables.

This requirement is to be satisfied by completing and submitting Binding Proposal Form 1.2 (*Executive Summary*), with any related documentation attached thereto.

4.1.3. Confirmation of Acceptance of O&M Agreement

Each Binding Proposal must include a written statement confirming that:

(i) the Proponent either:

(x) accepts the final form of the O&M Agreement, save for the terms and conditions contemplated for the Proponent's Binding Proposal described in Section 4.1.9 (*Operational and Financial Proposals*) of the RFP, immaterial amendments to incorporate party names, details and execution mechanics, or

(y) accepts the final form of the O&M Agreement as described in clause (x) above, subject to further discussion on a limited number of material comments; and

(ii) there are no further approvals required or conditions precedent to Proponent's execution of the O&M Agreement.

This requirement is to be satisfied by completing and submitting Binding Proposal Form 1.3 (*Confirmation and Acceptance of O&M Agreement*), with any related documentation attached thereto.

4.1.4. Approach to Mobilization

Each Binding Proposal must include a detailed plan describing the Proponent's approach to the transition and handover of services and other rights and responsibilities with respect to the Project during the period prior to the assumption of operational control of the Legacy Generation Assets by the Selected Proponent (the "**Mobilization Plan**"). The Mobilization Plan should cover the period commencing immediately upon the execution of the O&M Agreement and ending no later than the estimated service commencement date.

This component of each Binding Proposal is to include, at a minimum, and without limitation, the following:

- key milestones to be achieved during the transition period for each component of the Mobilization Plan, including a schedule of the care-custody-control milestones for each plant complex;
- scope of work required to achieve the identified key milestones;
- number of full-time employees and general job description classifications planned for scope of work in order to achieve the key milestones of the Mobilization Plan;
- timeline to achieve the identified key milestones leading up to the estimated service commencement date;
- estimate of cost to complete the Mobilization Plan, by scope of work and key milestones;



- conditions necessary to begin operational services, including a list of items to be completed in order to assume operational control; and
- approach to working with Spanish-speaking employees.

In satisfying this requirement, each Proponent is encouraged to provide details with respect to any topics that it views as relevant to its Mobilization Plan. However, Proponents should, at a minimum, provide details with respect to the topics outlined in Binding Proposal Form 1.4 (*Mobilization Plan*).

This requirement is to be satisfied by completing and submitting to Binding Proposal Form 1.4 (*Mobilization Plan*), with any related documentation attached thereto.

4.1.5. Approach to O&M Services

Each Binding Proposal must include a detailed plan describing the Proponent's approach to performing the operation and maintenance services required by the Project in a manner that results in the performance requirements and Project objectives set forth in the O&M Agreement and this RFP being met or exceeded. This component of each Binding Proposal should highlight which approaches would distinguish the Proponent in achieving such performance requirements and Project objectives.

In satisfying this requirement, each Proponent is encouraged to provide details with respect to any topics that it views as relevant to its approach to performing the operation and maintenance services. However, Proponents should, at a minimum, provide details with respect to the items set forth in Binding Proposal Form 1.5 (*Approach to O&M Services*), as supplemented in subsequent addenda to this RFP.

This requirement is to be satisfied by completing and submitting Binding Proposal Form 1.5 (*Approach to O&M Services*), with any related documentation attached thereto.

4.1.6. Approach to Decommissioning

Each Binding Proposal must include a detailed plan describing the Proponent's approach to performing the decommissioning of the Legacy Generation Assets in a manner that results in the performance requirements and Project objectives set forth in the O&M Agreement and this RFP being met or exceeded. This component of each Binding Proposal should highlight which approaches would distinguish the Proponent in achieving such performance requirements and Project objectives.

In satisfying this requirement, each Proponent is encouraged to provide details with respect to any topics that it views as relevant to its approach to performing the decommissioning services. However, Proponents should, at a minimum, provide details with respect to the items set forth in Binding Proposal Form 1.6 (*Approach to Decommissioning*), as supplemented in subsequent addenda to this RFP.

This requirement is to be satisfied by completing and submitting Binding Proposal Form 1.6 (*Approach to Decommissioning*), with any related documentation attached thereto.

4.1.7. Approach to Demobilization

Each Binding Proposal must include a detailed plan describing the Proponent's approach to the transition and handover of services and other rights and responsibilities with respect to the Project at the conclusion of the term of the O&M Agreement. This component of each Binding Proposal should highlight which approaches would distinguish the Proponent in achieving such performance requirements and Project objectives.

In satisfying this requirement, each Proponent is encouraged to provide details with respect to any topics that it views as relevant to its approach to performing the demobilization services. However, Proponents should, at a



minimum, provide details with respect to the items set forth in Binding Proposal Form 1.7 (*Approach to Demobilization*), as supplemented in subsequent addenda to this RFP.

This requirement is to be satisfied by completing and submitting Binding Proposal Form 1.7 (*Approach to Demobilization*), with any related documentation attached thereto.

4.1.8. Operator Recruitment and Staffing Plan

Each Binding Proposal must include a detailed description of the Proponent's approach to, among other things, staffing, training employees and subcontracting (the "**Operator Recruitment and Staffing Plan**"). This component of each Binding Proposal should include an organizational chart generally outlining the Proponent's proposed organizational structure.

In satisfying this requirement, each Proponent is encouraged to provide details with respect to any topics that it views as relevant to its Operator Recruitment and Staffing Plan. However, Proponent should, at a minimum, provide details with respect to the items set forth in Binding Proposal Form 1.8 (*Operator Recruitment and Staffing Plan*), as may be supplemented in subsequent addenda to this RFP.

This requirement is to be satisfied by completing and submitting Binding Proposal Form 1.8 (*Operator Recruitment and Staffing Plan*), with any related documentation attached thereto.

4.1.9. Operational and Financial Proposals

Each Binding Proposal must include the proposed amounts of the operational and financial proposals required to be provided under the O&M Agreement.

This requirement is to be satisfied by completing and submitting Binding Proposal Form 1.9 (*Operational and Financial Proposals*), which will contain specific criteria to be provided in subsequent addenda to this RFP, with any related documentation attached thereto.

4.1.10. Bid Security

Each Binding Proposal must include a security to secure the Proponent's commitment to execute the O&M Agreement if it is a Selected Proponent (the "**Bid Security**"). Details on the form, required terms and amount of the Bid Security will be provided in subsequent addenda to this RFP. This requirement is to be satisfied by completing and submitting Binding Proposal Form 1.10 (*Bid Security*), with any related documentation attached thereto.

4.1.11. Other Required Forms and Certifications

Each Binding Proposal must include any certifications required by applicable law, including, without limitation, those required by Act 29, Act 120, any regulations issued under Act 120 and PROMESA. This requirement is to be satisfied by completing and submitting Binding Proposal Form 1.11 (*Other Required Forms and Certifications*), which will include the certifications included in **Annex A** (*Form of Proponent and Team Member Certification*) of the RFP.

4.2 Indicative Evaluation Criteria

Act 29 and Act 120 require the Partnership Committee to take into account certain factors in evaluating responses to the RFP. The Partnership Committee will review and evaluate Binding Proposals based on the definitive evaluation criteria to be developed by the Authority and the Partnership Committee to meet the



objectives of the Project, including those objectives set forth in Act 120, Act 29 and Section 2 (*Key Transformation Objectives*) of the CIM, and provided to Proponents in subsequent addenda to this RFP. Proponents will be given sufficient time to respond to the definitive evaluation criteria.

The definitive evaluation criteria are expected to be based on the indicative evaluation criteria set forth below. The following indicative evaluation criteria and related forms may be supplemented through subsequent addenda to this RFP:

#	Component	Score / Weighing
A.	QUALIFICATIONS/COMPLIANCE COMPONENTS	
1.	Transmittal Letter <ul style="list-style-type: none"> ○ To be submitted in accordance with the requirements described in Section 4.1.1 of the RFP. 	Not scored
2.	Executive Summary and Table of Contents <ul style="list-style-type: none"> ○ To be submitted in accordance with the requirements described in Section 4.1.2 of the RFP. 	Not scored
3.	Confirmation of Acceptance of O&M Agreement <ul style="list-style-type: none"> ○ To be submitted in accordance with the requirements described in Section 4.1.3 of the RFP. 	Pass/Fail
4.	Bid Security <ul style="list-style-type: none"> ○ To be submitted in accordance with the requirements described in Section 4.1.10 of the RFP. 	Pass/Fail
5.	Other Required Forms and Certifications <ul style="list-style-type: none"> ○ To be submitted in accordance with the requirements described in Section 4.1.11 of the RFP. 	Pass/Fail
B.	TECHNICAL COMPONENTS	
1.	Approach to Mobilization <ul style="list-style-type: none"> ○ Component must, at a minimum, address the topics set forth in Binding Proposal Form 1.4 (<i>Approach to Mobilization</i>), as supplemented by subsequent addenda to this RFP. ○ Score to be based on the thoroughness and viability of the Proponent's approach to the mobilization services required by the Project and the experience and credentials of its proposed management team with respect to such services. 	Scored
2.	Approach to O&M Services <ul style="list-style-type: none"> ○ Component must, at a minimum, address the topics set forth in Binding Proposal Form 1.5 (<i>Approach to O&M Services</i>), as supplemented by subsequent addenda to this RFP. ○ Score to be based on the thoroughness and viability of the Proponent's approach to the operation and maintenance services required by the Project and the experience and credentials of its proposed management team with respect to such services. 	Scored



#	Component	Score / Weighing
3.	<p><i>Approach to Decommissioning</i></p> <ul style="list-style-type: none"> ○ Component must, at a minimum, address the topics set forth in Binding Proposal Form 1.6 (<i>Approach to Decommissioning</i>), as supplemented by subsequent addenda to this RFP. ○ Score to be based on the thoroughness and viability of the Proponent's proposed approach to performing the decommissioning of the Legacy Generation Assets and the experience and credentials of its proposed management team with respect to such work. 	Scored
4.	<p><i>Approach to Demobilization</i></p> <ul style="list-style-type: none"> ○ Component must, at a minimum, address the topics set forth in Binding Proposal Form 1.7 (<i>Approach to Demobilization</i>), as supplemented by subsequent addenda to this RFP. ○ Score to be based on the thoroughness and viability of the Proponent's proposed approach to performing the demobilization services required by the Project at the conclusion of the term of the O&M Agreement, and the experience and credentials of its proposed management team with respect to such work. 	Scored
5.	<p><i>Operator Recruitment and Staffing Plan</i></p> <ul style="list-style-type: none"> ○ Component must, at a minimum, address the topics set forth in Binding Proposal Form 1.8 (<i>Operator Recruitment and Staffing Plan</i>). ○ Score to be based on the training to be provided to employees, optimization of workforce management and consistency with the objectives of the Project and the policy underlying Act 120, among other things. 	Scored
6.	<p><i>Presentation of Binding Proposals to the Partnership Committee</i></p> <ul style="list-style-type: none"> ○ Score to be based on the oral presentation of the Proponent's Binding Proposal to the Partnership Committee. The presentation will allow Proponents to present the contents of their Binding Proposal and explain and/or clarify any particular or significant elements thereof. The Authority reserves the right to provide additional requirements related to the oral presentations at a later date. 	Scored
C. OPERATIONAL AND FINANCIAL COMPONENTS		
1.	<p><i>Operational Proposal</i></p> <ul style="list-style-type: none"> ○ To be submitted in accordance with the requirements described in Section 4.1.9 of the RFP. ○ Score to be based on the value of Proponent's operational proposal, calculated in accordance with guidelines that will be provided in subsequent addenda to this RFP. 	Scored



#	Component	Score / Weighing
2.	<p>Financial Proposal</p> <ul style="list-style-type: none"> ○ To be submitted in accordance with the requirements described in Section 4.1.9 of the RFP. ○ Score is expected to be based on the net present value of the proposed fees, calculated in accordance with guidelines that will be provided in subsequent addenda to this RFP. 	Scored

These indicative evaluation criteria are subject in all respects to the definitive evaluation criteria to be provided in subsequent addenda to this RFP. The Authority and the Partnership Committee may consider any other criterion that, in their sole and absolute discretion, they determine to be appropriate or necessary to award the O&M Agreement pursuant to Act 29 and Act 120.

Each Proponent is required to inform the Authority of the occurrence of any material changes to the information submitted with respect to the Proponent and/or any Team Member in connection with the RFQ Process or the RFP Process, as applicable. If there have been any material changes to the submitted information, the Proponent must provide details of such changes in accordance with any requirements the Authority may impose at that time.

4.3 Submission Instructions

All Binding Proposals are to be submitted via PowerAdvocate© on or before the Submission Deadline. PowerAdvocate© submission instructions will be provided to Proponents in a subsequent addendum to this RFP.

All communications with the Authority or its designated representative(s) in connection with this RFP or the Project must be submitted in writing via PowerAdvocate©. Communications submitted to the Authority or its designated representative(s) in connection with this RFP in any other manner, including via the P3GenProject@p3.pr.gov email address, will not be accepted.

By submitting a Binding Proposal, the Proponent specifically authorizes the Authority, PREPA, the Partnership Committee and their respective officers, employees, advisors, counsel, accountants and other consultants and representatives to make any inquiry or investigation to verify the statements, documents and information submitted in connection with such Binding Proposal, and to seek clarification from the Proponent’s directors, officers, employees, advisors, counsel, accountants and other consultants and representatives related thereto.

The Authority also reserves the right to make such investigations as it deems necessary as to the qualifications or perceived conflicts of interest of any and all Proponents. Any appearance of a Conflict of Interest (as defined in Section 5.7 (*Conflicts of Interest and Ineligible Persons*) of this RFP) will constitute sufficient cause for the outright rejection of a Binding Proposal. The Authority reserves the right to accept or reject, in whole or in part, and without further explanation, any or all Binding Proposals submitted and/or cancel this solicitation and reissue this RFP, or another version of it.

4.4 Addenda to RFP

As indicated in Section 1.3 (*Key Milestones*) of this RFP, each Proponent is responsible for periodically reviewing the PowerAdvocate© website for regular updates, amendments and addenda concerning the RFP and other important information.



The Authority reserves the right to amend this RFP at any time. All addenda will become part of this RFP. Each addendum will be available via PowerAdvocate®. In the event of any conflict in wording or issue of interpretation, subsequently issued addenda will prevail over the original wording in this RFP and any wording in prior addenda. Each Proponent will acknowledge receipt of each addendum in its Binding Proposal. Each Proponent is solely responsible for ensuring that it has received all communications issued by the Authority and PREPA. To the extent that a Proponent has formed a consortium to participate in the RFP for this Project, such Proponent is also solely responsible for ensuring that each Team Member (as defined below) has received all communications issued by the Authority and PREPA. Failure to obtain any such communication is at the sole and absolute risk of the Proponent and its Team Members, and the Authority and PREPA accept no responsibility for the failure of any Proponent or Team Member to receive or obtain all RFP information (including addenda). Each Binding Proposal is deemed to be made on the basis of the complete RFP, as amended by any addenda.

4.5 Rejection and Withdrawal of Binding Proposals

Issuance of this RFP does not constitute a commitment by the Authority to award an O&M Agreement. The Authority reserves the right to accept or reject, in whole or part, and without further explanation, any or all Binding Proposals submitted and/or cancel this solicitation and reissue this RFP, or another version of it.

A Proponent may withdraw a Binding Proposal by delivering to the Authority a written request for withdrawal prior to the Submission Deadline via PowerAdvocate®. Any such withdrawal does not prejudice the right of a Proponent to submit another Binding Proposal prior to the Submission Deadline.

4.6 Ownership of a Binding Proposal

All materials submitted in response to this RFP shall become the property of the Authority, irrespective of the selection or rejection of a Binding Proposal.

4.7 Errors and Omissions in a Binding Proposal

The Authority reserves the right to reject a Binding Proposal that contains an error or omission. The Authority also reserves the right to request correction of any errors or omissions and/or to request any clarification or additional information from any particular Proponent without seeking clarifications from all Proponents.



5. Miscellaneous Legal

5.1 Legal Framework

Proponents are encouraged to review the following documents, which are or will be available for download on the Authority's website at <http://www.p3.pr.gov>, for further background on the Project and the legal framework within which it will be executed:

- the PREPA Organic Act;
- Act 29;
- Act 120;
- the Regulation;
- Act 17;
- PROMESA;
- Act 57; and
- the PREPA Revitalization Act, Act No. 4-2016, as amended.

In addition, the PREPA Fiscal Plan, certified on June 29, 2020 by the FOMB, and the 2020 Fiscal Plan for Puerto Rico, certified by the FOMB on May 27, 2020 (the "**Government Fiscal Plan**"), are available at <https://oversightboard.pr.gov/fiscal-plans-2/>. On September 30, 2020, the FOMB issued a Fiscal Plan Macroeconomic Overview and Revised Plan of Adjustment Proposal, containing the latest data points available regarding the economy of Puerto Rico, which is available at <https://oversightboard.pr.gov/documents/>.

PREPA's Legacy Generation Assets were financed and will continue to be financed in whole or in part with tax-exempt bonds. As a result, it will be necessary for the O&M Agreement to satisfy the requirements of IRS Revenue Procedure 2017-13 (the "**Revenue Procedure**") in order for that agreement to be treated as a "qualified management agreement." The Revenue Procedure contains various requirements that will have to be satisfied, in the opinion of tax counsel to PREPA, including limitations on the term of the O&M Agreement that relate to the remaining useful life of the Legacy Generation Assets, requirements related to the manner in which the Generation Operator is compensated, and certain rights related to the Legacy Generation Assets, which must be retained by the Government. Proponents are encouraged to review the Revenue Procedure for further background on the requirements as they will apply to the O&M Agreement.

5.2 Consortia and Team Members

To the extent that any Proponent has formed or proposes to form a consortium to participate in this RFP, such Proponent should include in its Binding Proposal the identity, role, capabilities and proposed percentage ownership of each Team Member in the consortium.

"**Team Member**" shall include, without limitation, each of the following with respect to a Proponent:

- consortium member, whether or not that member has an ownership interest; and



- individual person, partnership, company or legal entity that is formally or informally reviewing the Project, as well as any such entity expected to execute, or provide a performance guarantee in respect of, the O&M Agreement. This will include, without limitation:
 - with respect to Proponents who are not public companies, managed funds or pension plans, any entity that directly or indirectly owns any percentage of the equity interests of such Proponent;
 - with respect to Proponents who are public companies, the ultimate owner(s) (the natural person(s), if any, who, directly or indirectly owns twenty-five percent (25%) or more of the equity interests of such Proponent, and if no natural person fits that description, the legal entity who directly or indirectly owns twenty-five percent (25%) or more of the equity interests of such Proponent) or holding company of any such investor; and
 - in the case of a managed fund or pension plan, the manager of the fund or pension plan.

The Proponent should provide an organizational chart illustrating the relationships among the Proponent and each of the Team Members. The Proponent should indicate whether it intends to form a special purpose vehicle or other legal entity for the Project. Each Team Member and its role must be identified in a Proponent's Binding Proposal and may not be changed without the prior written consent of the Partnership Committee.

Except as specifically provided to the contrary in this RFP, no Team Member may join or participate, directly or indirectly, as a Team Member with more than one Proponent for the Project. Each person or legal entity that participates as a Team Member is responsible for ensuring that no other person or legal entity that is Related (as defined herein) to it joins or participates, directly or indirectly, as a Team Member in any other Proponent. Unless otherwise provided herein, any violation of this provision by a Proponent will disqualify such Proponent and each of its Team Members.

A person or company is "**Related**" to another person or legal entity if:

- one may exercise Control (as defined herein) over the other; or
- each is under the direct or indirect Control of the same ultimate person or legal entity.

For purposes of this RFP, a person or legal entity exercises "**Control**" of another if (a) it is the owner of any legal, beneficial or equitable interest in 25% or more of the voting securities in a corporation, partnership, joint venture, other person or entity or (b) it has the capacity to (i) control the composition of the majority of the board of directors (or equivalent governing body) of any such person or entity, (ii) control the decisions made by or on behalf of any such person or entity or (iii) otherwise direct or cause the direction of the management, actions or policies of any such person or entity (whether formally or informally); the terms "**Controlling**" and "**Controlled**" have corresponding meanings.

Each of the Team Members will ensure compliance with all licensing and other requirements under applicable laws with respect to the services to be provided by such Team Member.

Subject to the requirements and entitlements of the Authority set forth below, submission of a Binding Proposal will not limit a Proponent's ability to add to, substitute or subtract from its Team Members during the procurement process.

If for any reason, after the Submission Deadline, a Proponent wishes or is required to: (i) change any Team Members listed in the Proponent's Binding Proposal (either by adding new members, removing listed members or substituting new members for listed members), (ii) materially change the ownership or Control of a Proponent or a Team Member or (iii) change the legal relationship between the Proponent and/or its Team Members, such as the creation of a new joint venture, partnership or legal entity that will take the place of the Proponent, then, in each case, the Proponent must submit a written application (with such information as the Partnership Committee may require) to the Partnership Committee seeking its consent to the proposed change, which consent may be withheld, delayed or conditioned in the sole and absolute discretion of the Partnership Committee. The



Partnership Committee may request and require additional information from the Proponent to facilitate its decision of whether to consent to the proposed change.

Without limiting the foregoing, the Partnership Committee may refuse to consent to a change to a Proponent or its Team Members and/or may disqualify the Proponent from further participation in the procurement process if, in its sole and absolute discretion, (a) the change would result in (i) a less desirable Proponent or less desirable Team Members than that originally proposed in the Proponent's Binding Proposal or (ii) the Proponent or its Team Members being materially different from the Proponent that submitted the Binding Proposal, (b) evaluating the application for a change would delay the evaluation process or (c) the Partnership Committee deems the change detrimental to the process, the Project, PREPA or the Authority.

5.3 Restricted Parties

The following entities will be deemed "**Restricted Parties**" and neither they nor their respective directors, officers, partners, employees and persons or legal entities Related to them are eligible to participate as Team Members or to otherwise assist any Proponent or Team Member, directly or indirectly, or participate in any way as a director, officer, employee, advisor, counsel, accountant or other consultant or otherwise in connection with any Proponent. Each Proponent will ensure that each Team Member does not use, consult, include or seek advice from any Restricted Party. The following Restricted Parties have been identified:

- Ankura Consulting Group, LLC
- ATCO Ltd.
- Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
- Canadian Utilities Limited
- Citigroup Global Markets Inc.
- Cleary Gottlieb Steen & Hamilton LLP
- CPM P.R. LLC
- Díaz & Vázquez PSC
- Ernst & Young LLP
- Filsinger Energy Partners
- FTI Consulting, Inc.
- Greenberg Traurig LLP
- Hogan Lovells US LLP
- ICF International, Inc.
- Innovative Emergency Management, Inc.
- King & Spalding LLP
- LUMA Energy, LLC
- McKinsey & Company, Inc.



- Navigant Consulting, Inc.
- Nixon Peabody LLP
- O'Melveny & Myers LLP
- O'Neill & Borges LLC
- Pietrantonio Mendez & Alvarez LLC
- Proskauer Rose LLP
- Quanta Services, Inc.
- Sargent & Lundy

At all times during the procurement process, Proponents must comply, and must ensure that all persons engaged to provide any type of assistance in connection with the Project are in compliance, with the Authority's Guidelines for the Evaluation of Conflicts of Interest and Unfair Advantages in the Procurement of Public-Private Partnership Contracts (the "**Ethics Guidelines**"), which are available for download on the Authority's website: <http://www.p3.pr.gov>.

Proponents should be aware that the list of Restricted Parties is not exhaustive and that a person that is not included as a Restricted Party may still be prohibited from participating in the Project pursuant to the provisions of the Ethics Guidelines.

Finally, except as to any Restricted Party, the fact that a person provides or has provided services to the Authority, PREPA or AAFAF in matters not related to the Project may not automatically prohibit such person from participating in the Project. To the extent any question exists as to whether such a person is a Restricted Party, the Proponent should consult with the Authority.

5.4 Confidentiality of Binding Proposal

All Binding Proposals will become the property of the Authority and may become public in accordance with applicable law, except for documents or information submitted by Proponents that are trade secrets, proprietary information or privileged or confidential information of the Proponents. Proponents are advised to review the confidentiality and publication provisions contained in Articles 9(i) and 9(j) of Act 29, Act 120 and the corresponding sections of the Regulation. In order to ensure that documents identified by Proponents as "confidential" or "proprietary" will not be subject to disclosure under Act 29, Proponents must label such documents as "confidential" or "proprietary," provide a written explanation of why such labeled documents are "confidential" or "proprietary," including why the disclosure of the information would be commercially harmful, specifically refer to any legal protection currently enjoyed by such information and why the disclosure of such information would not be necessary for the protection of the public interest, and request that the documents so labeled be treated as confidential by the Partnership Committee according to the process described in the following paragraph.

If a Proponent has special concerns about confidential or proprietary information that it desires to make available to the Partnership Committee prior to its Binding Proposal, such Proponent may wish to:

- make a written request to the Partnership Committee for a meeting to specify and justify proposed confidential or proprietary documents;
- make an oral presentation to the Partnership Committee staff and legal counsel; and



- receive written notification from the Partnership Committee accepting or rejecting confidentiality requests.

Failure to take such precautions prior to filing a Binding Proposal may subject confidential or proprietary information to disclosure under Articles 9(i) and 9(j) of Act 29, Act 120 and/or the corresponding provisions of the Regulation.

The Partnership Committee will evaluate all confidentiality requests according to the criteria indicated in Act 29, Act 120 and the Regulation. The Partnership Committee will determine whether or not the requested materials are exempt from disclosure. Upon such determination, the Authority will endeavor to maintain the confidentiality of any information that a Proponent indicates to be proprietary or a trade secret, or that must otherwise be protected from publication according to law, except as required by law or by a court order. In the event that the Partnership Committee elects to disclose the requested materials, it will notify the Proponent of its intent to disclose, in which case the Proponent may request the immediate return of such materials prior to disclosure by the Partnership Committee and they will thereafter form no part of the Proponent's submission. In no event will the Government, the Authority, the Partnership Committee or PREPA be liable to a Proponent for any disclosure required by law or a court order of all or a portion of a Binding Proposal filed with the Authority.

Upon execution of the O&M Agreement, the Partnership Committee is required to make public its report regarding the procurement process, which report will contain information related to the qualification, procurement, selection and negotiation process, and the information contained in the Binding Proposal, except information that qualifies as trade secrets, confidential, proprietary or privileged information of the Proponents or its Team Members clearly identified as such by the Proponents, or information that must otherwise be protected from publication according to law, as may have been determined by the Partnership Committee, unless otherwise required by law or by a court order.

5.5 Use of Confidential Information

Each Proponent must declare, and agree to be under an obligation to declare, that it does not have knowledge of or the ability to avail itself of confidential information of the Government, PREPA or the Authority relevant to the Project, except to the extent it has been expressly authorized by the Government, PREPA or the Authority. Such confidential information:

- will remain the sole property of the Government, the Authority or PREPA, as applicable, and the Proponent and its Team Members will treat it as confidential;
- may not be used by the Proponent or its Team Members for any other purpose other than submitting a Binding Proposal or the performance of any subsequent agreement relating to the Project with the Government, the Authority or PREPA, as applicable;
- may not be disclosed by the Proponent or any Team Member to any person who is not involved in the Proponent's preparation of its Binding Proposal or the performance of any subsequent agreement relating to the Project with the Government, the Authority or PREPA, as applicable, without prior written authorization from the party in respect of whom the confidential information relates;
- if requested by the Government, the Authority or PREPA, will be returned or destroyed, as appropriate, no later than ten calendar days after such request; and
- may not be used in any way that is detrimental to the Government, the Authority or PREPA.

Each Proponent and its Team Members will be responsible for any breach of the provisions of this Section 5.5 by any person to whom any of them discloses the confidential information. Each Proponent and its Team Members acknowledge and agree that a breach of the provisions of this Section 5.5 would cause the Authority, PREPA, the Government and/or their related entities to suffer loss which could not be adequately compensated by damages, and that the Authority, PREPA, the Government and/or any related entity may, in addition to any



other remedy or relief, enforce any of the provisions of this Section 5.5 upon submission of the Proponent's Binding Proposal to a court of competent jurisdiction for injunctive relief without proof of actual damage to the Authority, PREPA, the Government or any related entity.

The provisions in this Section 5.5 will survive any cancellation of this RFP and the conclusion of the RFP Process.

5.6 No Collusion or Lobbying

The Authority and PREPA are committed to a fair, open and transparent selection process.

No Collusion

Proponents and Team Members will not discuss or communicate, directly or indirectly, with any other Proponent(s) or any director, officer, employee, advisor, counsel, accountant, other consultant or representative or Team Member of any other Proponent regarding the preparation, content or representation of their Binding Proposals. Binding Proposals will be submitted without any connection (*i.e.*, arising through an equity interest (other than an equity interest that does not represent a Controlling interest in an entity, as determined by the Authority from time to time) in or of a Proponent or Team Member), knowledge, comparison of information or arrangement, with any other Proponent or any director, officer, employee, advisor, counsel, accountant or other consultant or representative or Team Member of any other Proponent.

By submitting a Binding Proposal, a Proponent, on its own behalf and as authorized agent of each firm, corporation or individual Team Member of the Proponent, represents and confirms to the Authority, with the knowledge and intention that the Authority may rely on such representation and confirmation, that its Binding Proposal has been prepared without collusion with other Proponents, fraud or unfair advantages. The Authority reserves the right to disqualify any Proponent that does not comply with this provision.

No Lobbying

Proponents, their Team Members and their respective directors, officers, employees, advisors, counsel, accountants and other consultants and representatives will not, except as expressly contemplated by this RFP or as expressly directed or permitted by the Authority, attempt to communicate, directly or indirectly, with any representative or advisor of the Authority, PREPA, the Partnership Committee or any of its members, AAFAP, the Energy Bureau, the Government, the FOMB or the federal government (other than as provided for in this RFP) in relation to the Project or the RFP Process, at any stage of the RFP Process, including during the evaluation process. The Authority reserves the right to disqualify a Proponent that does not comply with this provision.

Proponents, their Team Members and their respective directors, officers, employees, advisors, counsel, accountants and other consultants and representatives must certify that they have complied with the requirements of the Regulation by having a duly authorized representative of each Proponent and Team Member complete the Form of Proponent and Team Member Certification included as **Annex A** of this RFP.

5.7 Conflicts of Interest and Ineligible Persons

Each Proponent submitting a Binding Proposal on behalf of such Proponent and the Team Members of such Proponent must declare and continue to be under an obligation to declare all Conflicts of Interest or any situation that may be reasonably perceived as a Conflict of Interest that exists now or may exist in the future. A "**Conflict of Interest**" includes any situation or circumstance where, in relation to the Project, the Proponent submitting a Binding Proposal or any Team Member of such Proponent has other commitments, relationships or financial interests that:



- (a) could or could be seen to exercise an improper influence over the objective, unbiased and impartial exercise of the Authority's or PREPA's independent judgment; or
- (b) could or could be seen to compromise, impair or be incompatible with the effective performance of its obligations under the O&M Agreement.

In connection with its Binding Proposal, each Proponent and each Team Member will:

- (a) avoid any Conflict of Interest in relation to the Project;
- (b) disclose to the Authority and to PREPA without delay any actual or potential Conflict of Interest that arises during the RFP Process or at any point in the procurement process; and
- (c) comply with any requirements prescribed by the Authority and PREPA to resolve any Conflict of Interest.

Each Proponent is responsible for ensuring that all persons engaged to provide any type of assistance in connection with the Project are in compliance with the provisions of the Ethics Guidelines and, to the extent any question exists as to compliance with the Ethics Guidelines, the Proponent should consult with the Authority.

In addition to all contractual or other rights or rights available at law or in equity or legislation, the Authority and PREPA may immediately exclude a Proponent or any of its Team Members from further consideration or remove the Proponent or any Team Member from the RFP Process if:

- (a) the Proponent knew, or reasonably should have known, and fails to disclose an actual or potential Conflict of Interest;
- (b) the Proponent submitting a Binding Proposal or a Team Member of such Proponent fails to comply with any requirements prescribed by the Authority or PREPA to resolve a Conflict of Interest; or
- (c) the Proponent's Conflict of Interest issue cannot be resolved.

Pursuant to the Regulation, any person, by virtue of its participation in the RFP Process, authorizes the Authority to apply to the relevant competent governmental authority to obtain further information regarding a Proponent and, in particular, details of convictions of the offenses listed in Article 9(c)(ii) of Act 29 if the Partnership Committee considers it necessary for its selection or evaluation process.

5.8 Disclaimer

The information provided in this RFP, or any other written or oral information provided by the Authority, PREPA, the Partnership Committee, AAFAF, the FOMB, the Government or their respective officers, employees, advisors, counsel, consultants or other representatives in connection with the Project or the selection process is provided for the convenience of the Proponents only. Proponents and their Team Members will make their own conclusions as to such information. Oral explanations or instructions from officials, employees, advisors, counsel, consultants or other representatives of the Authority, PREPA, the Partnership Committee or any Puerto Rico public agency will not be considered binding on the Authority, PREPA, the Partnership Committee, AAFAF, the FOMB or the Government. The Authority, PREPA, the Partnership Committee, the Government and their respective officers, employees, advisors, counsel, consultants and other representatives make no representation or warranty as to any information provided in connection with the RFP Process or the RFQ Process. The accuracy and completeness of such information is not warranted by any of them and none of them will have any liability in connection with such information or the selection process, all of which liability is expressly waived by each Proponent and each Team Member of such Proponent. This RFP is not an offer to enter into any contract of any kind whatsoever.



5.9 Reservation of Rights

In furtherance of the Authority's mission, the Partnership Committee reserves the right to reject any and all Binding Proposals, to waive technical defects, irregularities or any informality in Binding Proposals, and to accept or reject any Binding Proposals in its sole and absolute discretion. The Partnership Committee also reserves the right to postpone the date on which Binding Proposals are required to be submitted, or to take any other action it may deem in the best interests of the Authority, PREPA and the Government.

In addition, the Authority and PREPA reserve all rights (which rights will be exercisable by the Authority and PREPA in their sole and absolute discretion) available to them under applicable laws and regulations, including, without limitation, with or without cause and with or without notice, the right to:

- (a) modify the procurement process to address applicable law and/or the best interests of the Authority, PREPA and the Government;
- (b) develop the Project in any manner that they deem necessary and change the limits, scope and details of the Project;
- (c) if the Authority and PREPA are unable to negotiate an O&M Agreement to their satisfaction with a Proponent, terminate the process or pursue other alternatives relating to the Project, or exercise such other rights as they deem appropriate;
- (d) cancel the procurement process, as applicable, in whole or in part, at any time prior to the execution by PREPA of the O&M Agreement, without incurring any cost, obligation or liability whatsoever;
- (e) issue a new request for proposals after withdrawal of this RFP;
- (f) reject or disqualify any and all Binding Proposals and responses received at any time for any reason without any obligation, compensation or reimbursement to any existing Proponent or Team Member;
- (g) modify all dates, deadlines, processes, schedules and other requirements set out, described or projected in this RFP;
- (h) terminate evaluations of responses received at any time;
- (i) exclude any Proponent from submitting any response to this RFP based on the failure to comply with any requirements;
- (j) issue addenda, supplements and modifications to this RFP;
- (k) require direct confirmation of information furnished by a Proponent, additional information from a Proponent concerning its response or additional evidence of qualifications to perform the work described in this RFP;
- (l) consider, in the evaluation of any Binding Proposal, any instances of poor performance by a Proponent, Team Member or individuals who will play an important role in the Project on behalf of a Proponent and Team Member that any of the Authority, PREPA or the Government may have experienced or experienced by a third party, whether one of the included references or otherwise;
- (m) seek or obtain data from any source that has the potential to improve the understanding and evaluation of the responses to this RFP;



- (n) add or delete Proponent responsibilities from the information contained in this RFP or any subsequent process instruments;
- (o) negotiate with any party without being bound by any provision in its response;
- (p) waive any deficiency, defect, irregularity, non-conformity or non-compliance in any response to this RFP or permit clarifications or supplements to any response to this RFP, and accept such response even if such deficiency, defect, irregularity, non-conformity or non-compliance would otherwise render the response null and void or inadmissible;
- (q) add or eliminate facility expansion to or from the Project; and
- (r) exercise any other right reserved or afforded to the Authority and PREPA under Act 29, Act 120, the Regulation, this RFP or applicable law.

This RFP does not commit either the Authority or PREPA to enter into a contract or proceed with the Project as described herein. The Authority, PREPA, AAFAF, the FOMB and the Government assume no obligations, responsibilities or liabilities, fiscal or otherwise, to reimburse all or part of the costs incurred or alleged to have been incurred by parties considering a response to and/or responding to this RFP, or in considering or making any submission. All of such costs will be borne solely by each Proponent.

5.10 Limitation of Damages

Each Proponent, by submitting a Binding Proposal, agrees that in no event will the Authority, PREPA, the Partnership Committee, AAFAF, the FOMB and the Government or any of their respective directors, officers, employees, advisors, counsel or representatives be liable, under any circumstances, for any claim, demand, liability, damage, loss, suit, action or cause of action, whether arising in contract, tort or otherwise, and all costs and expenses relating thereto (each, a “**Claim**”), or to reimburse or compensate the Proponent, any Team Member or their respective directors, officers, employees, advisors, counsel, accountants and other consultants and representatives, in any manner whatsoever, including, without limitation, any costs of preparation of the Binding Proposal or the response to the RFP, loss of anticipated profits, loss of opportunity or for any other matter. Without in any way limiting the above, each Proponent and Team Member of such Proponent specifically agrees that it will have absolutely no Claim against the Authority, PREPA, the Partnership Committee, AAFAF, the FOMB or the Government or any of their respective directors, officers, employees, advisors, counsel or representatives if any such party for any reason whatsoever:

- does not select a list of Proponents;
- suspends, cancels or in any way modifies the Project or the solicitation process (including modification of the scope of the Project or modification of this RFP or both);
- accepts any compliant or non-compliant response or selects a list of one or more Proponent(s);
- under the terms of this RFP, permits or does not permit a Restricted Party to advise, assist or participate as part of a Proponent or its Team Members; or
- breaches or fundamentally breaches a contract or legal duty of the Authority, PREPA, the Partnership Committee, AAFAF, the FOMB or the Government, whether express or implied, and each Proponent and each Team Member waives any and all Claims whatsoever, including Claims for loss of profits or loss of opportunity, if the Proponent is not selected as the Selected Proponent for any other reason whatsoever.



5.11 Judicial Review

Judicial review of the selection and award process for Binding Proposals must be pursued in accordance with Article 20 (Judicial Review Procedures) of Act 29. Only those Proponents who comply with the applicable requirements set forth in Article 20 of Act 29 may request judicial review of a final determination by the Partnership Committee. Mechanisms for requesting reconsideration before the Authority or PREPA are not available.

Article 20 establishes the period within which to seek judicial review, for the Puerto Rico Court of Appeals to address the writ of review, and to seek a writ of certiorari before the Puerto Rico Supreme Court. Article 20 also prescribes the notification requirements and the consequences of seeking such judicial remedies, including that if either the Puerto Rico Court of Appeals or the Puerto Rico Supreme Court grants a writ of review or writ of certiorari, as applicable, the procedures for the qualification of respondents, or for the evaluation or selection of Binding Proposals or negotiation of the O&M Agreement by the Partnership Committee will not be stayed.

The qualification determinations of the Partnership Committee and the approval of the O&M Agreement by the Governor or the official onto whom he/she delegates, as provided under Article 9(g)(ii)-(v) of Act 29 will only be overturned upon a finding of manifest error, fraud or arbitrariness. The non-prevailing party will be responsible for and pay the expenses incurred by the other parties involved in judicial review proceedings under Article 20 of Act 29. The Proponent that seeks judicial review may not, under any circumstance, as part of its remedies, claim the right to be redressed for indirect, special or foreseeable damages, including lost profits.

The above is only a summary of Article 20 of Act 29, and Proponents should review and understand all such judicial review provisions.

5.12 Cost of Preparing Binding Proposals

Proponents who participate in the RFP Process and submit a Binding Proposal do so on a voluntary basis, and therefore will not be entitled to compensation of any kind. None of the Authority, PREPA or any other instrumentality of the Government will be responsible for any expenses in the preparation and/or presentation of the Binding Proposals in connection with this RFP. No Proponent will be reimbursed for any cost or expense (including travel expenses) incurred as a result of preparing or submitting their Binding Proposals.



GOVERNMENT OF PUERTO RICO
Puerto Rico Public-Private Partnerships Authority



ANNEX A: FORM OF PROPONENT AND TEAM MEMBER CERTIFICATION



[Letterhead of each Proponent or Team Member, as applicable]

Mr. Fermin Fontanes — Executive Director
Puerto Rico Public-Private Partnerships Authority
Roberto Sánchez Vilella Government Center
De Diego Avenue, Parada 22
San Juan, PR 00940-2001 USA

Re: Puerto Rico Electric Power Legacy Generation Assets PPP - Request for Proposals

Ladies and Gentlemen:

We certify that we have carefully reviewed the Request for Proposals dated November 10, 2020, including all annexes thereto (“**RFP**”), issued by the Puerto Rico Public-Private Partnerships Authority and all other documents accompanying or made a part of the RFP, including the CIM, financial model and white papers that have been made available in the Data Room. Capitalized terms used in this certificate have the meanings given to them in the RFP.

We acknowledge and agree to comply with all terms and conditions of the RFP, the attached Binding Proposal and all enclosures thereto. Without limitation, we specifically acknowledge the disclaimer contained in Section 5.7 of the RFP and the limitation of damages contained in Section 5.10 of the RFP.

We certify that the information contained in the attached Binding Proposal is true and correct. We further certify that the individual who has signed and delivered this certification is duly authorized to submit the attached Binding Proposal on behalf of the Proponent or Team Member, as applicable, as its acts and deed and that the Proponent or Team Member, as applicable, is ready, willing and able to participate in the RFP Process and perform if awarded the O&M Agreement.

We further certify that we are *[describe the type of entity or entities (corporation, partnership, LLC, etc.)]* organized in *[indicate the jurisdiction of organization]* and that the entity contemplated by Proponent and Team Members to be the one that shall execute the O&M Agreement shall (i) be authorized to do business in Puerto Rico and (ii) have no impediment to enter into a contractual relationship with government entities in Puerto Rico, as well as to comply with any other applicable Puerto Rico or U.S. laws and/or requirements.

We further certify that our directors, officers, controlling shareholders or subsidiaries, parent company and, in the case of a partnership, our partners, and any person or entity that may be considered an alter ego or the passive economic agent of the Proponent or Team Member, as applicable (each, a “**Covered Party**”), have not been convicted, have not entered a guilty plea and have not been indicted, and probable cause has not been found for their arrest, in any criminal proceeding in Puerto Rico, the rest of the U.S. or any foreign jurisdiction, for (i) any of the crimes referenced in Articles 4.2, 4.3 or 5.7 of Act No. 1-2012, as amended, known as the Organic Act of the Office of Government Ethics of Puerto Rico, (ii) any of the crimes typified in Articles 250 through 266 of Act No. 146-2012, as amended, known as the Puerto Rico Penal Code or (iii) any of the crimes listed in Act No. 2-2018, as amended, known as the Anti-

Corruption Code for a New Puerto Rico or any other felony that involves misuse of public funds or property, including but not limited to the crimes mentioned in Article 6.8 of Act No. 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government, or under the U.S. Foreign Corrupt Practices Act; and no Covered Party is under investigation in any legislative, judicial or administrative proceedings, in Puerto Rico, the rest of the U.S. or any other jurisdiction. The Proponent and Team Members are in compliance with all federal, state, local and foreign laws applicable to the Proponent or Team Member(s) that prohibit corruption or regulate crimes against public functions or public funds, including the U.S. Foreign Corrupt Practices Act.

We further certify that we shall continue to comply at all times with laws which prohibit corruption or regulate crimes against public functions or funds, as may apply to the Proponent or any Team Member, as applicable, whether federal, state or Government statutes, including the U.S. Foreign Corrupt Practices Act. In addition, we further certify that we shall continue to conduct our business in compliance in all material respects with all applicable federal, state, local and foreign laws and regulations.

We further certify that no officer or employee of the Authority, PREPA, the Partnership Committee, AAFAF, the Energy Bureau, the Government, the FOMB or any public agency of Puerto Rico that participates in the selection process described in, or negotiations or approval in connection with, the RFP (nor any member of their families) has an economic interest in or is connected with the *[Proponent or Team Member, as applicable]*, and no officer or employee of the Authority, PREPA, the Partnership Committee, AAFAF, the Energy Bureau, the Government, the FOMB or any public agency of Puerto Rico (nor any member of their families) has directly or indirectly participated with the *[Proponent or Team Member, as applicable]* in the preparation of its Binding Proposal.

We further certify that we are in compliance with the provisions of Act No. 2 of 2018, also known as the Anti-Corruption Act 2018.

We further certify that we have reviewed the provisions of the Authority's Guidelines for the Evaluation of Conflicts of Interest and Unfair Advantages in the Procurement of Public-Private Partnership Contracts, available on the Authority's website: <http://www.p3.pr.gov>, and that we are in compliance therewith.

We further certify that this Binding Proposal is made without prior understanding, agreement, connection, discussion or collusion with any other person, firm or corporation submitting or participating in the submission of a separate Binding Proposal or any officer, employee or agent of the Authority, PREPA, the Partnership Committee, AAFAF, the Energy Bureau, the Government, the FOMB or any public agency of Puerto Rico; and that the undersigned executed this Proponent and Team Members Certificate with full knowledge and understanding of the matters herein contained and was duly authorized to do so.

We further certify that Proponent and Team Members shall not, other than as permitted in the RFP, attempt to communicate in relation to the RFP, directly or indirectly, with any representative of the Authority, PREPA, the Partnership Committee, AAFAF, the Energy Bureau, the Government, the FOMB or any public agency of Puerto Rico, including any

Restricted Parties, or any director, officer, employee, agent, advisor, staff member, counsel, consultant or representative of any of the foregoing, as applicable, for any purpose whatsoever, including for purposes of: (a) commenting on or attempting to influence views on the merits of the Proponent's and Team Members' Binding Proposal, or in relation to their Binding Proposal; (b) influencing, or attempting to influence, the outcome of the RFP Process, or of the competitive selection process, including the review and evaluation of Binding Proposals or the selection of the Proponents; (c) promoting the Proponent and Team Members or their interests in the Project, including in preference to that of other Proponents or Team Members; (d) commenting on or criticizing aspects of the RFP, the competitive selection process, or the Project, including in a manner which may give the Proponent or its Team Members a competitive or other advantage over other Proponents or their respective Team Members; and (e) criticizing the Binding Proposals of other Proponents.

The undersigned Proponent and Team Members acknowledge that any violation or misrepresentation with respect to the above will prohibit their participation in any procurement process under Act 29 and other applicable laws of Puerto Rico and, therefore, will disqualify them from participating hereunder.

Except as provided above with respect to certain federal laws and regulations, the attached Binding Proposal shall be governed by and construed in all respects according to the laws of Puerto Rico and the terms of the RFP.

Our business address is:

[Insert business address]

Yours faithfully,

[Insert appropriate signature block for signature by a person duly authorized to bind the Proponent or Team Member]



BINDING PROPOSAL FORM 1.1

TRANSMITTAL LETTER

(To be typed on Proponent’s Letterhead)

[Date]

Partnership Committee Representative
Request for Proposals –
Puerto Rico Electric Power
Legacy Generation Assets

Dear Partnership Committee Representative:

_____ (the “**Proponent**”) hereby submits its Binding Proposal in response to the Request for Proposals for the Puerto Rico Electric Power Thermal Generation Facilities (as amended, the “**RFP**”) issued in final form by the Puerto Rico Public-Private Partnership Authority on November 10, 2020, as amended and supplemented.

Capitalized terms not defined herein shall have the meaning set forth in the RFP or the final form of the Puerto Rico Operation and Maintenance Agreement for the Legacy Generation Assets (the “**O&M Agreement**”). If there is a term defined in both, and their definitions conflict, the definition in the O&M Agreement shall prevail.

As a duly authorized representative of the Proponent, I hereby certify, represent and warrant, on behalf of the Proponent team, as follows in connection with the Binding Proposal:

1. The Proponent acknowledges receipt of the RFP and the following addenda:

<u>No.</u>	<u>Date</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

2. The submittal of the Binding Proposal has been duly authorized by, and in all respects is binding upon, the Proponent. Attachment 1 (Certificate of Authorization) to this Transmittal Letter is a certificate of authorization that evidences my authority to submit the Binding Proposal and bind the Proponent.
3. All information and statements contained in the Binding Proposal are current, correct and complete and are made with full knowledge that the Partnership Committee will rely on such information and statements in selecting the Selected Proponent and executing the O&M Agreement.
4. The Proponent certifies under penalties of perjury that the Binding Proposal has been prepared and is submitted in good faith without collusion, fraud or any other action with any other person taken in

restraint of free and open competition for the services contemplated by the RFP. As used in this Transmittal Letter, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club or other organization, entity or group of individuals.

5. Neither the Proponent nor any Proponent team member is currently suspended or debarred from doing business with any entity of the Government of Puerto Rico.
6. The Proponent has reviewed all of the engagements and pending engagements of the Proponent, and no potential exists for any conflict of interest or unfair advantage.
7. No person or selling agency has been employed or retained to solicit the award of the O&M Agreement under an arrangement for a commission, percentage, brokerage or contingency fee or on any other success fee basis, except bona fide employees of the Proponent. The Proponent has inspected the facilities (i.e., commercial offices, central office, energy center(s), transmission centers, substations, etc.) and carefully examined all documents constituting the RFP and the addenda thereto and, being familiar with the work and the conditions affecting the work contemplated by the RFP and such addenda, offers to furnish all labor, materials, supplies, equipment, facilities and services which are necessary, proper or incidental to carry out such work as required by and in strict accordance with the RFP and the Binding Proposal.

[Signature page follows]

PROPONENT
Company Name

Name of Proponent's
Authorized Official

Title

Signature of Proponent's
Authorized Official

Date

(Notary Public)

[State/Province] of _____

County of _____

On this _____ day of _____, 20[•], before me appeared _____,
personally known to me to be the person described in and who executed this _____ and
acknowledged that [she/he] signed the same freely and voluntarily for the uses and purposes therein
described.

In witness, thereof, I have hereunto set my hand and affixed my official seal the day and year last written
above.

Notary Public in and for the [State/Province] of _____

(seal)

(Name printed)

Residing at _____

My commission expires _____

ATTACHMENT 1 TO BINDING PROPOSAL TRANSMITTAL LETTER

CERTIFICATE OF AUTHORIZATION*

I, _____, a resident of _____ in _____, DO HEREBY CERTIFY that I am the Clerk/Secretary of _____, a corporation duly organized and existing under and by virtue of the laws of _____; that I have custody of the records of the corporation; and that as of the date of this certification, _____ holds the title of _____ of the corporation, and is authorized to execute and deliver in the name and on behalf of the corporation the Binding Proposal submitted by the corporation in response to the Request for Proposals for the Puerto Rico Electric Power Thermal Generation Facilities issued in final form by the Puerto Rico Public-Private Partnership Authority on November 10, 2020, as amended and supplemented; and all documents, letters, certificates and other instruments which have been executed by such officer on behalf of the corporation in connection therewith.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the corporation this _____ day of _____, 20[•].

(Affix Seal Here)

Clerk/Secretary

* Note: Separate certifications shall be submitted if more than one corporate officer has executed documents as part of the Binding Proposal. Proponents shall make appropriate conforming modifications to this Certificate in the event that the signatory's address is outside of the United States.



BINDING PROPOSAL FORM 1.2

EXECUTIVE SUMMARY AND TABLE OF CONTENTS

_____ (the Proponent) hereby acknowledges and affirms that the attached documentation (i) constitutes its full and complete submission for Binding Proposal Form 1.2 and (ii) meets the requirements described in Section 4.1.2 (*Executive Summary*) of the RFP.

Capitalized terms not defined herein shall have the meaning set forth in the Request for Proposals for Puerto Rico Electric Power Thermal Generation Facilities issued by the Puerto Rico Public-Private Partnerships Authority on November 10, 2020 (as amended and supplemented, the “**RFP**”) or the final form of the Legacy Generation Assets Operation and Maintenance Agreement for (the “**O&M Agreement**”). If there is a term defined in both, and their definitions conflict, the definition in the O&M Agreement shall prevail.

PROPONENT
Company Name

Name of Proponent’s
Authorized Official

Title

Signature of Proponent’s
Authorized Official

Date



BINDING PROPOSAL FORM 1.3

CONFIRMATION OF ACCEPTANCE OF O&M AGREEMENT

_____ (the Proponent) hereby acknowledges and affirms the following:

1. The Proponent's Binding Proposal is based on the final form of the O&M Agreement and the information contained in the Data Room as of the date of the Submission Deadline.
2. [The Proponent accepts and agrees to execute the final form of the O&M Agreement, save for the terms and conditions contemplated for the Proponent's Binding Proposal described in Section 4.1.9 (*Operational and Financial Proposals*) of the RFP, immaterial amendments to incorporate party names, details and execution mechanics] OR [The Proponent accepts and agrees to execute the final form of the O&M Agreement, save for the terms and conditions contemplated for the Proponent's Binding Proposal described in Section 4.1.9 (*Operational and Financial Proposals*) of the RFP, immaterial amendments to incorporate party names, details and execution mechanics, and subject to further discussion on the following material comments: [*Proponent to indicate only a limited number of material, substantive comments*]].

Capitalized terms not defined herein shall have the meaning set forth in the Request for Proposals for Puerto Rico Electric Power Thermal Generation Facilities issued by the Puerto Rico Public-Private Partnerships Authority on November 10, 2020 (as amended and supplemented, the "**RFP**") or the final form of the Puerto Rico Legacy Generation Assets Operation and Maintenance Agreement (the "**O&M Agreement**"). If there is a term defined in both, and their definitions conflict, the definition in the O&M Agreement shall prevail.

PROONENT
Company Name

Name of Proponent's
Authorized Official

Title

Signature of Proponent's
Authorized Official

Date



BINDING PROPOSAL FORM 1.4

APPROACH TO MOBILIZATION

_____ (the Proponent) hereby acknowledges and affirms that the attached documentation (i) constitutes its full and complete submission for Binding Proposal Form 1.4, (ii) meets the requirements described in Section 4.1.4 (*Approach to Mobilization*) of the RFP and (iii) addresses the topics below, at a minimum.

Capitalized terms not defined herein shall have the meaning set forth in the Request for Proposals for Puerto Rico Electric Power Thermal Generation Facilities issued by the Puerto Rico Public-Private Partnerships Authority on November 10, 2020 (as amended, the “**RFP**”) or the final form of the Puerto Rico Legacy Generation Assets Operation and Maintenance Agreement (the “**O&M Agreement**”). If there is a term defined in both, and their definitions conflict, the definition in the O&M Agreement shall prevail.

1. General & Mobilization Management
 - a. [Criteria to be provided in subsequent addenda to this RFP]
2. O&M Services Milestones
 - a. [Criteria to be provided in subsequent addenda to this RFP]

[Signature page follows]



PROPONENT

Company Name

Name of Proponent's
Authorized Official

Title

Signature of Proponent's
Authorized Official

Date





BINDING PROPOSAL FORM 1.5

APPROACH TO O&M SERVICES

_____ (the Proponent) hereby acknowledges and affirms that the attached documentation (i) constitutes its full and complete submission for Binding Proposal Form 1.5, (ii) meets the requirements described in Section 4.1.5 (*Approach to O&M Services*) of the RFP and (iii) addresses the topics below, at a minimum.

Capitalized terms not defined herein shall have the meaning set forth in the Request for Proposals for Puerto Rico Electric Power Thermal Generation Facilities issued by the Puerto Rico Public-Private Partnerships Authority on November 10, 2020 (as amended, the “**RFP**”) or the final form of the Puerto Rico Legacy Generation Assets Operation and Maintenance Agreement (the “**O&M Agreement**”). If there is a term defined in both, and their definitions conflict, the definition in the O&M Agreement shall prevail.

1. Detailed description of the proposed approach to the operation and maintenance services (Annex I (*Scope of Services*) of the O&M Agreement) including, at minimum, the following:
 - a. [To be provided in subsequent addenda to this RFP]
2. Detailed description of its environmental compliance strategy, including permitting and environmental emergencies response.
3. Detailed description of the experience and credentials of the Proponent’s proposed management team.
4. Corporate culture and description of alignment of the same with the Project’s objectives.
5. Role and responsibilities of each member of the consortia, as applicable.
6. Commitment to the social welfare of the people and communities of Puerto Rico.
7. Commitment to use of local resources and approach to involve local Puerto Rican entities.

[Signature page follows]



PROPONENT

Company Name

Name of Proponent's

Authorized Official

Title

Signature of Proponent's
Authorized Official

Date





BINDING PROPOSAL FORM 1.6

APPROACH TO DECOMMISSIONING

_____ (the Proponent) hereby acknowledges and affirms that the attached documentation (i) constitutes its full and complete submission for Binding Proposal Form 1.6, (ii) meets the requirements described in Section 4.1.6 (*Approach to Decommissioning*) of the RFP and (iii) addresses the topics below, at a minimum.

Capitalized terms not defined herein shall have the meaning set forth in the Request for Proposals for Puerto Rico Electric Power Thermal Generation Facilities issued by the Puerto Rico Public-Private Partnerships Authority on November 10, 2020 (as amended, the “**RFP**”) or the final form of the Puerto Rico Legacy Generation Assets Operation and Maintenance Agreement (the “**O&M Agreement**”). If there is a term defined in both, and their definitions conflict, the definition in the O&M Agreement shall prevail.

1. Detailed description of the proposed approach to decommissioning including, at minimum, the following:
 - a. [To be provided in subsequent addenda to this RFP]

[Signature page follows]



PROPONENT

Company Name

Name of Proponent's

Authorized Official

Title

Signature of Proponent's
Authorized Official

Date





BINDING PROPOSAL FORM 1.7

APPROACH TO DEMOBILIZATION

_____ (the Proponent) hereby acknowledges and affirms that the attached documentation (i) constitutes its full and complete submission for Binding Proposal Form 1.7, (ii) meets the requirements described in Section 4.1.7 (*Approach to Demobilization*) of the RFP and (iii) addresses the topics below, at a minimum.

Capitalized terms not defined herein shall have the meaning set forth in the Request for Proposals for Puerto Rico Electric Power Thermal Generation Facilities issued by the Puerto Rico Public-Private Partnerships Authority on November 10, 2020 (as amended, the “**RFP**”) or the final form of the Puerto Rico Legacy Generation Assets Operation and Maintenance Agreement (the “**O&M Agreement**”). If there is a term defined in both, and their definitions conflict, the definition in the O&M Agreement shall prevail.

2. Detailed description of the proposed approach to demobilization including, at minimum, the following:
 - b. [To be provided in subsequent addenda to this RFP]

[Signature page follows]



PROPONENT

Company Name

Name of Proponent's

Authorized Official

Title

Signature of Proponent's
Authorized Official

Date





BINDING PROPOSAL FORM 1.8

OPERATOR RECRUITMENT AND STAFFING PLAN

_____ (the Proponent) hereby acknowledges and affirms that the attached documentation (i) constitutes its full and complete submission for Binding Proposal Form 1.8, (ii) meets the requirements described in Section 4.1.8 (*Operator Recruitment and Staffing Plan*) of the RFP and (iii) addresses the topics below, at a minimum.

Capitalized terms not defined herein shall have the meaning set forth in the Request for Proposals for Puerto Rico Electric Power Thermal Generation Facilities issued by the Puerto Rico Public-Private Partnerships Authority on November 10, 2020 (as amended, the “**RFP**”) or the final form of the Puerto Rico Legacy Generation Assets Operation and Maintenance Agreement (the “**O&M Agreement**”). If there is a term defined in both, and their definitions conflict, the definition in the O&M Agreement shall prevail.

1. General

- a. Organizational chart outlining general organizational structure proposed and clearly identifying the Proponent’s key personnel to be involved in the proposed structure (identifying their relevant qualifications and experience)
- b. Description of any portions of the work that will be subcontracted, identifying categories that the Proponent expects to be locally subcontracted.
- c. List of subcontractors, descriptions of activities each subcontractor will perform and a detailed description of the strategy for managing subcontractors.
- d. Detailed description of the Proponent’s proposed approach to using local entities and the activities they will perform.

2. Recruitment and Staffing Plan

- a. Detailed description of the proposed recruitment and staffing plan, including:
 - (i). Job classifications, descriptions (including documentation of responsibilities and duties), and necessary qualifications (i.e., education, licenses, skills, etc.).
 - (ii). Proponent’s proposed approach to dealing with a predominantly Spanish-speaking workforce and managing inter-cultural interactions.
- b. Hiring plan to fill all personnel positions, including proposed timelines for recruitment and training, strategies for outreach, recruitment, screening and enrollment of personnel.
- c. Estimated number of PREPA employees that the Proponent expects to employ, the expected benefits for such employees and descriptions of the proposed selection criteria regarding such employees.
- d. Detailed description of the proposed review of employee pension and benefit plans, including transfer plans or credit, if any, of existing employees and their accrued benefits and seniority.



- e. Detailed description of the proposed approach to the development of a labor relations plan, including:
 - (i). Existing work rules that the Proponent would propose be removed from collective bargaining arrangements currently in place.
 - (ii). Changes and/or amendments to existing collective bargaining arrangements.
- f. Detailed description of the proposed approach to the development of employee retention program.
- g. Detailed description of the proposed approach to the development of employment policies, procedures and handbooks.
- h. Detailed description of the proposed approach to reviewing employment applications, conducting interviews and hiring staff.
- i. Description of how the Proponent would manage staffing and personnel during emergencies, including organization and communication strategies during the duration of an emergency.
- j. Description of the roles and responsibilities of off-site staff, if any, that will support in the performance of the services and a qualitative (expertise and experience) description of that assistance.

3. Training Plan

- a. Detailed description of the Proponent's proposed approach to training and development of employees, including:
 - (i). a description of the proposed curriculum of initial and ongoing training program for each major staff category, including the Proponent's approach to identifying industry-informed curriculums and how it would develop and update training curriculums;
 - (ii). a description of key training tools and deliverables (i.e., electronic platforms, delivery of manuals and materials to trainee);
 - (iii). information on relevant health and safety training programs; and
 - (iv). information on who will provide the training (include instructors, additional technical staff and non-technical staff) and the number of hours of training per year.

[Signature page follows]



PROPONENT

Company Name

Name of Proponent's
Authorized Official

Title

Signature of Proponent's
Authorized Official

Date





BINDING PROPOSAL FORM 1.9

OPERATIONAL AND FINANCIAL PROPOSALS

_____ (the Proponent) hereby acknowledges and affirms that the information included in the following table (i) constitutes its full and complete submission for Binding Proposal Form 1.9 and (ii) meets the requirements described in Section 4.1.9 (*Operational and Financial Proposals*) of the RFP and (iii) addresses the topics below, at a minimum.

Capitalized terms not defined herein shall have the meaning set forth in the Request for Proposals for Puerto Rico Electric Power Thermal Generation Facilities issued by the Puerto Rico Public-Private Partnerships Authority on November 10, 2020 (as amended and supplemented, the “**RFP**”) or the final form of the Puerto Rico Legacy Generation Assets Operation and Maintenance Agreement (the “**O&M Agreement**”). If there is a term defined in both, and their definitions conflict, the definition in the O&M Agreement shall prevail.

A. OPERATIONAL PROPOSALS

1. [Criteria to be provided in subsequent addenda to this RFP]

B. FINANCIAL PROPOSALS

1. [Criteria to be provided in subsequent addenda to this RFP]

Proposed amounts should be provided by the Proponent in nominal 2020 US dollar terms.

The Proponent may supplement each answer provided under this form with brief explanations on the rationale behind each answer (written in concise form).

[Signature page follows]



PROPONENT

Company Name

Name of Proponent's

Authorized Official

Title

Signature of Proponent's
Authorized Official

Date





BINDING PROPOSAL FORM 1.10

BID SECURITY

_____ (the Proponent) hereby acknowledges and affirms that the attached documentation (i) constitutes its full and complete submission for Binding Proposal Form 1.10, (ii) meets the requirements described in Section 4.1.10 (*Bid Security*) of the RFP and (iii) includes the following:

1. The form included as **Attachment 1** (*Letter of Credit Requirement*) to this Binding Proposal Form 1.10.

By submitting this form, the Proponent hereby acknowledges, accepts and agrees to the terms and conditions regarding the Bid Security as described in Section 4.1.10 (*Bid Security*) of the RFP.

Capitalized terms not defined herein shall have the meaning set forth in the Request for Proposals for Puerto Rico Electric Power Thermal Generation Facilities issued by the Puerto Rico Public-Private Partnerships Authority on November 10, 2020 (as amended and supplemented, the “**RFP**”) or the final form of the Puerto Rico Legacy Generation Assets Operation and Maintenance Agreement (the “**O&M Agreement**”). If there is a term defined in both, and their definitions conflict, the definition in the O&M Agreement shall prevail.

PROONENT
Company Name

Name of Proponent’s
Authorized Official

Title

Signature of Proponent’s
Authorized Official

Date



ATTACHMENT 1 TO BID SECURITY; OTHER REQUIRED FORMS AND CERTIFICATIONS

LETTER OF CREDIT REQUIREMENT

[TO BE PROVIDED]





BINDING PROPOSAL FORM 1.11

OTHER REQUIRED FORMS AND CERTIFICATIONS

_____ (the Proponent) hereby acknowledges and affirms that the attached documentation (i) constitutes its full and complete submission for Binding Proposal Form 1.11, (ii) meets the requirements described in Section 4.1.11 (*Other Required Forms and Certifications*) of the RFP and (iii) includes the following:

1. The certifications included in Annex A (*Form of Proponent and Team Member Certification*) of the RFP, for each Proponent and Team Member.

Capitalized terms not defined herein shall have the meaning set forth in the Request for Proposals for Puerto Rico Electric Power Thermal Generation Facilities issued by the Puerto Rico Public-Private Partnerships Authority on November 10, 2020 (as amended and supplemented, the “**RFP**”) or the final form of the Puerto Rico Legacy Generation Assets Operation and Maintenance Agreement (the “**O&M Agreement**”). If there is a term defined in both, and their definitions conflict, the definition in the O&M Agreement shall prevail.

PROPONENT
Company Name

Name of Proponent’s
Authorized Official

Title

Signature of Proponent’s
Authorized Official

Date