



GOVERNMENT OF PUERTO RICO
Puerto Rico Public-Private Partnerships Authority



ADDENDUM NO. 7 TO REQUEST FOR PROPOSALS

Puerto Rico Electric Power
Transmission and Distribution System
RFP 2019-2

Issued by the Puerto Rico Public-Private Partnerships Authority

Date Initial RFP Issued: February 1, 2019

Date of Addendum: November 17, 2019



Addendum No. 7

This Addendum No. 7 shall be part of the Request for Proposals for Puerto Rico Electric Power Transmission and Distribution (the “**RFP**”) issued by the Puerto Rico Public-Private Partnerships Authority on February 1, 2019. Capitalized terms not defined herein shall have the meaning set forth in the RFP.

The purpose of this Addendum No. 7 is to replace the original RFP, as amended and supplemented, with an Amended and Restated RFP (the “**Amended and Restated RFP**”). The Amended and Restated RFP reflects the original RFP as amended and supplemented by:

- Addendum No. 1 to the RFP, issued on April 17, 2019;
- Addendum No. 2 to the RFP, issued on May 24, 2019;
- Addendum No. 3 to the RFP, issued on June 14, 2019;
- Addendum No. 4 to the RFP, issued on August 19, 2019;
- Addendum No. 5 to the RFP, issued on September 4, 2019; and
- Addendum No. 6 to the RFP, issued on November 1, 2019.

In addition, the Amended and Restated RFP includes a revised draft of the O&M Agreement incorporated as Annex D to the Amended and Restated RFP, changes to the Proposal Submission Deadline and bid submission instructions and forms, and certain other non-material revisions to the original RFP.

Other than as described above, there are no other material changes to the RFP and the remainder of Amended and Restated RFP should be construed in accordance with its terms, subject to publication of any additional addenda.

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AMENDED AND RESTATED REQUEST FOR PROPOSALS

Puerto Rico Electric Power
Transmission and Distribution System

RFP 2019-2

Issued by the Puerto Rico Public-Private Partnerships Authority

Date Initial RFP Issued: February 1, 2019

Date of Amended and Restated RFP Issued: November 15, 2019



GOVERNMENT OF PUERTO RICO
Puerto Rico Public-Private Partnerships Authority



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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	T&D System and Regulatory Framework	5
2.3	PREPA.....	5
2.4	Labor and Environmental Considerations	5
2.5	Federal Disaster Recovery Funding	6
2.6	Title III Process	6
2.7	O&M Agreement	6
3.	Description of RFP Process.....	8
3.1	Data Room and Due Diligence	8
3.2	Submission of RFCs	8
3.3	Management Presentation and Site Visits	9
3.4	Reserved	9
3.5	Final Form of O&M Agreement.....	9
3.6	Evaluation of Definitive Proposals	9
3.7	O&M Agreement Approval Process.....	10
3.8	Completion of RFP Process	10
4.	Submission and Evaluation of Definitive Proposals	12
4.1	Definitive Proposal Requirements	12
4.1.1	Transmittal Letter and Table of Contents	12
4.1.2	Executive Summary	13
4.1.3	Confirmation of Acceptance of O&M Agreement	13
4.1.4	Approach to O&M Services	13
4.1.5	Front-End Transition Plan.....	13
4.1.6	Operator Recruitment and Staffing Plan	14
4.1.7	Approach to Performance Metrics	14
4.1.8	Operational and Financial Proposals.....	15
4.1.9	Optional Debt-Financing Plan.....	15
4.1.10	Bid Security; Other Required Forms and Certifications.....	15
4.2	Evaluation Criteria	16
4.3	Submission Instructions.....	19
4.4	Addenda to RFP	20
4.5	Rejection and Withdrawal of Definitive Proposals	21



4.6	Ownership of a Definitive Proposal	21
4.7	Errors and Omissions in a Definitive Proposal	21
5.	Miscellaneous Legal	22
5.1	Legal Framework	22
5.2	Consortia	22
5.3	Restricted Parties	23
5.4	Confidentiality of Definitive Proposal	24
5.5	Use of Confidential Information	25
5.6	No Collusion or Lobbying	26
5.7	Conflicts of Interest and Ineligible Persons	27
5.8	Disclaimer	27
5.9	Reservation of Rights	28
5.10	Limitation of Damages	29
5.11	Judicial Review	30
5.12	Cost of Preparing Definitive Proposals	30
	Annex A: Reserved	31
	Annex B: Federal Funding Certifications and Conditions	33
	Annex C: Form of Respondent Certification	40
	Annex D: O&M Agreement	44
	Annex E: Financing Term Sheet	49
	Definitive Proposal Form 1.1 – Transmittal Letter	50
	Definitive Proposal Form 1.2 – Executive Summary	54
	Definitive Proposal Form 1.3 – Confirmation of Acceptance of O&M Agreement	55
	Definitive Proposal Form 1.4 – Approach to O&M Services	56
	Definitive Proposal Form 1.5 – Front-End Transition Plan	59
	Definitive Proposal Form 1.6 – Operator Recruitment and Staffing Plan	66
	Definitive Proposal Form 1.7 – Performance Metrics	69
	Definitive Proposal Form 1.8 – Operational and Financial Proposals	71
	Definitive Proposal Form 1.9 – Optional Debt Financing Plan	76
	Definitive Proposal Form 1.10 – Bid Security; Other Required Forms and Certifications	77



This confidential Request for Proposals (as defined below) is prepared for informational purposes only. It is being delivered to a limited number of Qualified Respondents (as defined below) who may be interested in pursuing a potential transaction as further described herein. This Request for Proposals does not purport to be all-inclusive or to contain all the information that a Qualified Respondent may desire in investigating the potential transaction. By accepting this Request for Proposals, 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 transmission and distribution (“**T&D**”) 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 consortium that (i) were selected to participate in the RFP stage by the Partnership Committee established by the Board of Directors of the Authority for this Project (as defined below) (the “**Partnership Committee**”) and (ii) have executed a confidentiality agreement with the Authority (the “**Confidentiality Agreement**”) (each such party, a “**Qualified Respondent**”).

The purpose of this RFP is to invite Qualified Respondents to prepare and submit proposals (“**Definitive Proposals**”) to manage, operate, maintain, rehabilitate, repair, refurbish, replace, improve, expand, as needed, and finance the T&D system (the “**Project**”) pursuant to a long-term public private partnership contract (the “**O&M Agreement**”). The Authority and PREPA expect that PREPA will enter into an O&M Agreement with a Qualified Respondent (the “**Private Party**”), and the Authority intends to award the O&M Agreement to the Qualified Respondent who submits a compliant Definitive Proposal and is selected in accordance with the process set forth in this RFP (such Qualified Respondent, the “**Selected Proponent**”). Qualified Respondents are expected to submit their Definitive Proposals based on the final form of the O&M Agreement included in **Annex D** of this RFP.

The Project is intended to achieve the following objectives for the T&D system:

- deliver low-cost electricity to ratepayers of Puerto Rico;
- increase T&D system resiliency, achieving performance in line with codes, specifications and standards consistent with mainland U.S. electric utilities;
- increase T&D system reliability;
- deploy new technologies; and
- exercise industry best practices and operational excellence.

The Authority intends that many of the capital improvements to be implemented as part of the Project will (i) be eligible for federal disaster assistance funding from many U.S. federal agencies, including, without limitation, the U.S. Federal Emergency Management Agency (“**FEMA**”) and the U.S. Department of Housing and Urban Development (“**HUD**”), and (ii) comply with all applicable federal and Puerto Rico law requirements, including those governing federal disaster assistance funding.

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**”) to which you 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 environmental considerations;
- a white paper on federal funding;
- a white paper on labor considerations; and
- a white paper on PREPA's voluntary bankruptcy process (the "**Title III Process**").

Qualified Respondents 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.

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
Distribution of final form of O&M Agreement	Monday, October 28, 2019
Distribution of definitive submission instructions under Section 4.3 of the RFP	Friday, November 1, 2019
Definitive Proposal submission deadline	12:00pm AST on Monday, November 25, 2019
Meetings with Qualified Respondents to address questions/clarifications to Definitive Proposals	Expected to be Tuesday, Wednesday and/or Thursday of the first week of December 2019
Qualified Respondents present Definitive Proposals to Partnership Committee in New York	Expected Friday, December 6, 2019
Notification of Selected Proponent to enter into O&M Agreement	Expected mid December 2019

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 necessary.

As indicated in Section 4.4 (*Addenda to RFP*) of this RFP, each Qualified Respondent is responsible for periodically reviewing the PowerAdvocate© website for regular updates to the RFP timeline and other important information.



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	PPP	1.5
Act 29	1.5	PREPA	1.1
Act 120	1.5	PREPA Organic Act	2.3
Authority	1.1	Private Party	1.1
CIM	1.2	Project	1.1
Claim	5.10	PROMESA	2.6
Committee Report	1.5	Qualified Respondent	1.1
Confidentiality Agreement	1.1	Regulation	1.5
Conflict of Interest	5.7	Related	5.2
Control	5.2	Restricted Parties	5.3
Data Room	1.2	RFC	3.2
Definitive Proposals	1.1	RFP	1.1
Energy Bureau	3.7	RFP Process	1.5
Energy Compliance Certificate	3.7	RFQ Process	1.5
Ethics Guidelines	5.3	Selected Proponent	1.1
FEMA	1.1	Submission Deadline	3.2
FOMB	2.6	T&D	1.1
Government	1.5	Team Member	4.4
HUD	1.1	Term Sheet	1.1
Management Presentation	3.3	Title III Court	2.6
Partnership Committee	1.1	Title III Process	1.2
O&M Agreement	1.1		

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 O&M Agreement 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 (for this Project, the “**RFP Process**”); and (iii) preparing a report on the procedures followed and the reasons for selecting a particular Definitive 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 (as will be adopted once approved, the “**Regulation**”).

Qualified Respondents 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 Qualified Respondent, subject to the approvals set forth in Section 3.7 (*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, reliable, efficient, cost-effective and resilient system. 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).

For more information on the transformation of Puerto Rico's electric system, see Section 2 (*Key Transformation Objectives*) and Section 4 (*Transformation Process Overview*) of the CIM.

2.2 T&D System and Regulatory Framework

The T&D system consists of 1,134 miles of transmission lines (230 kV and 115 kV), 1,549 miles of subtransmission lines (38kV) and 16,806 miles of primary voltage distribution lines (13 kV, 8 kV and 4 kV). The T&D system includes 178 transmission centers, 61 115 kV substations, 279 38 kV substations and 824 private substations. In Fiscal Year 2017, the T&D system served approximately 1.46 million customers, 91% of which were residential and 9% commercial. For more information on the T&D system, including technical specifications, see Section 5A (*T&D System Overview*) and Section 6 (*Demographics, Customers and Billing*) of the CIM.

Act 120 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. Proposed legislation to establish this new framework for Puerto Rico's energy sector is being debated before the Puerto Rico legislature. For more information on the regulatory framework for Puerto Rico's electric sector, see Section 11 (*Regulatory Overview*) of the CIM and the white paper on the electric sector regulatory framework.

2.3 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. For more information on PREPA, its governance structure and its financial results, see Section 5 (*PREPA Business Overview*), Section 10 (*Governance Overview*) and Section 14 (*Financial Summary*) of the CIM.

2.4 Labor and Environmental Considerations

PREPA employs a large workforce of key personnel with invaluable experience that can be leveraged by a potential Private Party. As of February 2018, there were approximately 6,000 PREPA employees. For more



information on the key labor considerations for the Project, see Section 7 (*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 Qualified Respondent is willing to establish with respect to hiring current PREPA personnel, among other things, in evaluating Definitive Proposals.

In executing the Project, the Private Party will be expected to comply with all applicable local and federal environmental laws and requirements and minimize any adverse environmental impact on the T&D system. For more information on the key environmental considerations for the Project, see Section 9 (*Environmental & Legal Overview*) of the CIM and, once available in the Data Room, the white paper on environmental considerations.

2.5 Federal Disaster Recovery Funding

FEMA, HUD and/or other federal disaster recovery funding will be available to help finance the restoration of the T&D system as a result of the damage from Hurricanes Maria and Irma. The Private Party will be required to cooperate with the Authority, PREPA and any applicable federal or other public entity partners and their representatives or assigns to the fullest extent possible with respect to such disaster recovery funding, including by assisting with management of any repair or construction work for the T&D system and the coordination of any necessary elements of the work or grant application process. For more information on federal disaster recovery funding for the Project, see Section 12 (*Federal Funding Update*) of the CIM and the white paper on federal funding.

Each Qualified Respondent is required to complete the Debarment and Lobbying Certifications included in **Annex B** (*Federal Funding Certifications and Conditions*) of this RFP. To the extent the Authority and PREPA determine to submit any of the costs incurred under the O&M Agreement for Federal reimbursement, the Qualified Respondent and the relevant contractors and subcontractors will be required to comply with all applicable Federal certifications, terms and conditions.

2.6 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.

2.7 O&M Agreement

The Project contemplates PREPA entering into an O&M Agreement with the Private Party. Throughout the term of the O&M Agreement, the Government will retain ownership of and title to all T&D assets, and the Private Party will be granted all other rights and responsibilities associated with the T&D system, including but not limited to managing, operating, maintaining, rehabilitating, repairing, refurbishing, replacing, improving, expanding and financing, as needed, the T&D system.



A final form of the O&M Agreement is included in **Annex D** to this RFP, such final form reflects the comments and feedback received from the Qualified Respondents that the Authority has accepted. Qualified Respondents are expected to submit their Definitive Proposals based on the final form of 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 T&D system. The Authority, PREPA and their advisors may add further information as considered necessary or as requested by Qualified Respondents.

Access to the Data Room is controlled. Subject to the prior execution of a Confidentiality Agreement, a Qualified Respondent will be authorized to access the Data Room using the link, which will be separately provided to each Qualified Respondent. Each Qualified Respondent is responsible for periodically reviewing the Data Room for further information.

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.

As indicated in Section 1.3 (*Key Milestones*) of this RFP, each Qualified Respondent 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.

3.2 Submission of RFCs

If a Qualified Respondent has any questions with respect to the contents of this RFP, the information available in the Data Room, the T&D system and other matters related to the Project, such Qualified Respondent may submit a request for clarification ("**RFC**") at any time prior to the RFC submission deadline to be announced by the Authority (the "**Submission Deadline**"). Qualified Respondents must submit any RFCs in writing using the Messaging Tab in PowerAdvocate©. Verbal RFCs will not be accepted.

RFCs in General

RFCs will generally be answered in writing using the Messaging Tab in PowerAdvocate©. RFCs will be made available to all Qualified Respondents together with the answers thereto, unless the Qualified Respondent requests that an RFC be treated in confidence and the Authority agrees (as described below). The Authority does not guarantee that all RFCs received will be answered. The Authority may, in its sole and absolute discretion, make available all submitted RFCs, together with the Authority's answers thereto, without expressly identifying the originator.

In Confidence RFCs

Qualified Respondents may request that an RFC be treated in confidence and that the RFC and answer not be circulated to all Qualified Respondents. Qualified Respondents 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 whether, in its sole and absolute discretion, the RFC is confidential in nature. The Authority does not guarantee that all such RFCs received will be answered.

If the Authority agrees that the RFC should be treated in confidence, a confidential answer will be provided to that Qualified Respondent only. Examples of RFCs that would be confidential include questions that relate to proprietary information, a Qualified Respondent's proposed financing structure or other unique information that relates to the competitive strategy of a Qualified Respondent.



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 Qualified Respondent, in writing, and the Qualified Respondent 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 Qualified Respondent 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 Qualified Respondents.

3.3 Management Presentation and Site Visits

Key managers of PREPA, together with representatives of the Authority and other relevant Government entities, will make a presentation regarding the Project (the "**Management Presentation**") to Qualified Respondents. The Management Presentation will be held in Puerto Rico. Detailed dates and logistics will be provided in due course. The Authority expects these presentations to last a full day.

Attendees for the Management Presentation will be restricted to a maximum of twenty members of a Qualified Respondent's team. During the presentation, Qualified Respondents will be able to ask questions on the materials presented. At the end of the presentation, there will be a dedicated questions and answers session that will also give Qualified Respondents an opportunity to ask questions on various topics. Qualified Respondents will be asked to supply the Authority's procurement representatives designated as points of contacts for this RFP with the names and titles of all attendees, and, in the case of advisors, who they represent, as well as a list of the key questions to be addressed, at least five days prior to the Management Presentation.

Qualified Respondents will have the opportunity to visit various PREPA facilities. The Authority will contact Qualified Respondents separately to inform them of the exact schedule for such visits.

3.4 Reserved

Reserved.

3.5 Final Form of O&M Agreement

A final form of the O&M Agreement is included in **Annex D** to this RFP, such final form reflects the comments and feedback received from the Qualified Respondents that the Authority has accepted. Qualified Respondents are expected to submit their Definitive Proposals based on the final form of the O&M Agreement.

3.6 Evaluation of Definitive Proposals

The Partnership Committee will evaluate a Qualified Respondent based on the Definitive Proposal it submits. The requirements for the Definitive Proposals are described in more detail in Section 4.1 (*Definitive Proposal Requirements*) to the RFP.

Definitive Proposals will be evaluated pursuant to Act 120, Act 29 and the evaluation criteria described in more detail in Section 4.2 (*Evaluation Criteria*) to the RFP. The Partnership Committee and the Authority reserve the right to request clarifications or information from and conduct evaluation interviews with Qualified Respondents in the event the Definitive 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.

Following the completion of the evaluation of Definitive Proposals, the Partnership Committee will determine which Qualified Respondent is the Selected Proponent and notify the Selected Proponent of its decision.



3.7 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 Puerto Rico Energy Bureau created by Act 57-2014, as amended, to regulate, monitor and enforce the energy public policy of the Government (the “**Energy Bureau**”), (ii) the board of directors of each of the Authority and PREPA, (iii) the FOMB and (iv) the Governor or his delegate. The mere fact that a required approval is obtained does not confer the right to claim indemnity, refund or any payment whatsoever on account of expectations arisen in any of its stages, or for expenses incurred during the RFP Process or the RFQ Process.

Approval by Energy Bureau

To obtain the Energy Bureau's approval, the Energy Bureau must find that the O&M Agreement complies with the energy public policy and the regulatory framework and issue a certificate certifying that the O&M Agreement complies with the regulatory framework, the energy public policy and applicable law (the “**Energy Compliance Certificate**”) within the period specified under applicable law. If the Energy Bureau does not issue the Energy Compliance Certificate, it will be deemed to have approved the O&M Agreement if it does not issue a negative decision regarding the Energy Compliance Certificate within the period specified under applicable law. Once the Energy Compliance Certificate has been issued, any amendment to the O&M Agreement will require the issuance of a new Energy Compliance Certificate.

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

After the issuance of the Energy Compliance Certificate and no later than thirty (30) days after the completion of the negotiation of the O&M Agreement, the Board of Directors of the Authority and the Board of Directors of PREPA will evaluate the Committee Report and approve or reject the O&M Agreement by means of a resolution. A resolution approving the Committee Report by the Board of Directors of the Authority requires the affirmative vote of both representatives of the public interest on the Board of Directors of the Authority.

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. The O&M Agreement will require the approval of the FOMB pursuant to, among other things, the FOMB's Contract Review Policy 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.

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 delegate. The Governor or his 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 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.

3.8 Completion of RFP Process

Upon completion of the RFP process and execution of the O&M Agreement, the Authority will make public its report regarding the procurement and selection process, which shall contain certain information related to the RFP Process, except trade secrets and proprietary or privileged information of the Qualified Respondents. Information considered trade secrets or non-published financial data may be classified as proprietary by the Qualified



Respondents. News or public announcements regarding any award resulting from this RFP (or any portion of the RFP Process) shall not be made by any Qualified Respondent 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 and the Selected Proponent, without recourse to or liability by the Authority, PREPA, the FOMB, the Partnership Committee or any of their agents and advisors.





4. Submission and Evaluation of Definitive Proposals

4.1 Definitive Proposal Requirements

Each Definitive Proposal, including the submittal forms set forth in this RFP (the “**Definitive Proposal Forms**”), must be submitted in English, comply with the specifications set forth herein and include the following components and sections:

- Transmittal Letter
- Executive Summary and Table of Contents
- Confirmation of Acceptance of O&M Agreement
- Approach to O&M Services
- Front-End Transition Plan
- Operator Recruitment and Staffing Plan
- Approach to Performance Metrics
- Operational and Financial Proposals
- Optional Debt Financing Plan
- Bid Security; Other Required Forms and Certifications

Qualified Respondents should not submit promotional materials as part of their Definitive Proposals and are strongly encouraged not to submit information that is not required by this RFP. The Partnership Committee invites Qualified Respondents to provide as much relevant and responsive information as possible and as indicated throughout this RFP. In doing so, the Partnership Committee will appreciate a Qualified Respondent’s efforts to submit a responsive Definitive Proposal that is as succinct and clear as possible, without impacting the amount of details and information relevant to each required component, and demonstrative of the Qualified Respondent’s knowledge, approach and strategy. Non-written, audiovisual materials will not be accepted.

Definitive Proposal submissions are to be received no later than 12:00pm (AST) on Monday, November 25, 2019 (“**Proposal Submission Deadline**”).

4.1.1 Transmittal Letter

Each Definitive Proposal must include a transmittal letter in the form included in Definitive 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 Qualified Respondent.



4.1.2 Executive Summary and Table of Contents

Each Definitive Proposal must include an executive summary that outlines, at a minimum, the key qualifications and distinguishing features of the Qualified Respondent and a summary of the Operational and Financial Proposals.

Each Definitive 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 the Definitive Proposal Form 1.2 (*Executive Summary*), with any related documentation attached thereto.

4.1.3 Confirmation of Acceptance of O&M Agreement

Each Definitive Proposal must include a written statement confirming that (i) the Qualified Respondent either (x) accepts the final form of the O&M Agreement, save for the terms and conditions contemplated for the Qualified Respondent's Definitive Proposal described in Section 4.1.8 (*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, save for the terms and conditions contemplated for the Qualified Respondent's Definitive Proposal described in Section 4.1.8 (*Operational and Financial Proposals*) of the RFP, immaterial amendments to incorporate party names, details and execution mechanics, and subject to further discussion on a limited number of material comments, and (ii) there are no further approvals required or conditions precedent to Qualified Respondent's execution of the O&M Agreement.

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

4.1.4 Approach to O&M Services

Each Definitive Proposal must include a detailed plan describing the Qualified Respondent's approach to performing the O&M Services (as defined in the O&M Agreement) 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 Definitive Proposal should highlight which approaches would distinguish the Qualified Respondent in achieving such performance requirements and Project objectives.

In satisfying this requirement, each Qualified Respondent is encouraged to provide details with respect to any topics that it views as relevant to its approach to performing the O&M Services. However, Qualified Respondents should, at a minimum, provide details with respect to the items set forth in Definitive Proposal Form 1.4 (*Approach to O&M Services*).

This requirement is to be satisfied by completing and submitting Definitive Proposal Form 1.4 (*Approach to O&M Services*), with any related documentation attached thereto.

4.1.5 Front-End Transition Plan

Each Definitive Proposal must include a detailed plan describing the Qualified Respondent'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 T&D System by the Selected Proponent (the "**Front-End Transition Plan**"). The Front-End Transition Plan should cover the period commencing immediately upon the execution of the O&M Agreement and ending no later than the Target Service Commencement Date (as defined in the O&M Agreement).

This component of each Definitive 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 Front-End Transition Plan;
- 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;
- timeline to achieve the identified key milestones leading up to the Target Service Commencement Date;
- estimate of cost to complete the Front-End Transition Plan, by scope of work and key milestones;
- conditions necessary to begin operational services, including a Handover Checklist (as defined in the O&M Agreement) of items to be completed in order to assume operational control; and
- plan to handle Spanish-speaking employees.

In satisfying this requirement, each Qualified Respondent is encouraged to provide details with respect to any topics that it views as relevant to its Front-End Transition Plan. However, Qualified Respondents should, at a minimum, provide details with respect to the topics outlined in Definitive Proposal Form 1.5 (*Front-End Transition Plan*).

This requirement is to be satisfied by completing and submitting to Definitive Proposal Form 1.5 (*Front-End Transition Plan*), with any related documentation attached thereto.

4.1.6 Operator Recruitment and Staffing Plan

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

In satisfying this requirement, each Qualified Respondent is encouraged to provide details with respect to any topics that it views as relevant to its Operator Recruitment and Staffing Plan. However, Qualified Respondent should, at a minimum, provide details with respect to the items set forth in Definitive Proposal Form 1.6 (*Operator Recruitment and Staffing Plan*).

This requirement is to be satisfied by completing and submitting Definitive Proposal Form 1.6 (*Operator Recruitment and Staffing Plan*), with any related documentation attached thereto.

4.1.7 Approach to Performance Metrics

Each Definitive Proposal must include a detailed description of the Qualified Respondent's approach to the development of customer service, technical and operational, and financial performance metrics to be identified and proposed by the Qualified Respondent during the Front-End Transition Period (the "**Performance Metrics**"), views and proposed approach to the Incentive Fee (as defined in the O&M Agreement) and its ability and commitment to meet the Performance Metrics.

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



4.1.8 Operational and Financial Proposals

Each Definitive 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 Definitive Proposal Form 1.8 (*Operational and Financial Proposals*), with any related documentation attached thereto.

4.1.9 Optional Debt Financing Plan

Each Definitive Proposal may, at the option of each Qualified Respondent, include a final markup of the revised draft of the Financing Term Sheet included in **Annex E** to this RFP or a term sheet summarizing the indicative terms and conditions of an alternative financing arrangement proposed by the Qualified Respondent.

To the extent the Qualified Respondent opts to submit a final markup of the revised draft of the Financing Term Sheet, said Qualified Respondent's Definitive Proposal be in the form of a markup using black-lining to indicate the proposed modification with explanatory footnotes where appropriate.

This optional component can be satisfied by completing and submitting Definitive Proposal Form 1.9 (*Optional Debt Financing Plan*), with the Qualified Respondent's markup of the revised Financing Term Sheet or a term sheet summarizing the indicative terms and conditions of an alternative financing arrangement proposed by the Qualified Respondent attached thereto.

4.1.10 Bid Security; Other Required Forms and Certifications

Each Definitive Proposal must include the Bid Security (as defined below) and required certifications described in more detail below. This requirement is to be satisfied by completing and submitting Definitive Proposal Form 1.10 (*Bid Security; Other Required Forms and Certifications*), with any related documentation attached thereto.

Bid Security Requirement

Each Definitive Proposal must include a security to secure the Qualified Respondent's commitment to execute the O&M Agreement if it is the Selected Proponent (the "**Bid Security**").

Form, Expiration and Amount

The Bid Security must be issued by a non-affiliated financial institution chartered by the United States of America federal government, a State government or a foreign bank with a branch in the United States of America. The non-affiliated financial institution must also be subject to the regulations of either the Board of Governors of the Federal Reserve or the Federal Deposit Insurance Corporation. A Definitive Proposal that includes modifications to Definitive Proposal Form 1.10 (*Bid Security; Other Required Forms and Certifications*) that have not been pre-approved by the Partnership Committee may be considered non-responsive.

The Bid Security must be in the form of one or more letters of credit, with an initial term effective for one hundred and twenty (120) days from and after the Proposal Submission Deadline and must be renewed periodically for additional sixty (60) day periods through the date that is the first anniversary of the Proposal Submission Deadline, which date shall be its final expiration date.

The Bid Security must be in an aggregate amount equal to US\$30 million (Thirty Million US Dollars) and be substantially in the form set out in Definitive Proposal Form 1.10 (*Bid Security; Other Required Forms and Certifications*) (or otherwise in form and content reasonably acceptable to the Partnership Committee prior to submission of such letter(s) of credit).



Terms and Conditions for Draws

The Authority shall be entitled to (A) draw immediately, without notice to the Selected Proponent, the full amount of the Bid Security upon presentation of a sight draft and a certificate confirming that the Authority has the right to draw under the Bid Security in the amount of such sight draft and (B) retain all of the proceeds of the Bid Security as the sole remedy or right of the Authority against such Selected Proponent hereunder if, after receipt of Definitive Proposals from the Qualified Respondents, (i) the Partnership Committee accepts a Definitive Proposal and notifies the Selected Proponent of its decision, (ii) the conditions precedent to the Effective Date (as defined in the O&M Agreement) are satisfied, and the Administrator (as defined in the O&M Agreement) gives written notice to the Selected Proponent to execute the O&M Agreement, and (iii) the Selected Proponent does not execute the O&M Agreement within three (3) Business Days of receiving such notice.

Return of Bid Security

The Effective Date (as defined in the O&M) shall take place on a business day not later than one hundred and twenty (120) days after the Partnership Committee accepts a Definitive Proposal and notifies the Selected Proponent of its decision (or such later date mutually agreed in writing by the Authority and the Selected Proponent) (the “**Outside Date**”); provided that the Outside Date shall, upon request of the Authority, be subject to extension for an additional period not to exceed one hundred and twenty (120) days if the satisfaction of any of the conditions to execution set forth in Section 2.2 of the O&M Agreement is delayed by any action or omission of the Authority or the Government, or any agency or instrumentality thereof, occurring prior to the Outside Date.

The Bid Security shall be returned to all Qualified Respondents on the date that is the earlier of (i) the Effective Date or (ii) the Outside Date.

The Qualified Respondent should upload a copy of the Bid Security to the PowerAdvocate® website on or before the Proposal Submission Deadline and mail the original bid guarantee to the following address:

Puerto Rico Public-Private Partnerships Authority
Attn: Fermín Fontanes, Esq. — Executive Director
Puerto Rico Fiscal Agency and Financial Advisory Authority Building
(former GDB Building), 3rd Floor Roberto Sánchez Vilella Government Center, De Diego Avenue
San Juan, PR 00940-2001

The Authority must receive the original Bid Security by the next Business Day following the Proposal Submission Deadline.

Certification Requirements

Each Definitive 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, any federal funding requirements and PROMESA. In addition to the Bid Security requirement and as described in more detail in Definitive Proposal Form 1.10 (*Bid Security; Other Required Forms and Certifications*), this component of each Definitive Proposal is to include the certifications included in **Annex B** (*Federal Funding Certifications and Conditions*) and **Annex C** (*Form of Respondent Certification*) of the RFP).

4.2 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 Definitive Proposals based on the evaluation criteria set forth below, which have been 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.



#	Component	Score / Weighing
A.	QUALIFICATIONS/COMPLIANCE COMPONENTS	
1.	<i>Transmittal Letter</i> <ul style="list-style-type: none">To be submitted in accordance with the requirements described in Section 4.1.1 of the RFP.	<i>Not scored</i>
2.	<i>Executive Summary and Table of Contents</i> <ul style="list-style-type: none">To be submitted in accordance with the requirements described in Section 4.1.2 of the RFP.	<i>Not scored</i>
3.	<i>Confirmation of Acceptance of O&M Agreement</i> <ul style="list-style-type: none">To be submitted in accordance with the requirements described in Section 4.1.8 (<i>Operational and Financial Proposals</i>) of the RFP.	<i>Pass/Fail</i>
4.	<i>Bid Security; Other Required Forms and Certifications</i> <ul style="list-style-type: none">To be submitted in accordance with the requirements described in Section 4.1.10 of the RFP.	<i>Pass/Fail</i>
B.	TECHNICAL COMPONENTS	50% Total
5.	<i>Approach to O&M Services</i> <ul style="list-style-type: none">Component must, at a minimum, address the topics set forth in Definitive Proposal Form 1.4 (<i>Approach to O&M Services</i>).Score to be based on the thoroughness and viability of the Qualified Respondent's proposed approach to providing the O&M Services, the experience and credentials of its proposed management team, its experience in procuring and utilizing federal funding and its ability to optimize the availability of federal funds for capital investments, among other things.	5%
6.	<i>Front-End Transition Plan</i> <ul style="list-style-type: none">Component must, at a minimum, address the topics set forth in Definitive Proposal Form 1.5 (<i>Front-End Transition Plan</i>).Score to be based on the thoroughness of the Front-End Transition Plan (including the proposed System Remediation Plan) and the timeline to achieve the identified key milestones, including the Qualified Respondent's proposed Target Service Commencement Date, proposed budget, among other things.	25%
7.	<i>Operator Recruitment and Staffing Plan</i> <ul style="list-style-type: none">Component must, at a minimum, address the topics set forth in Definitive Proposal Form 1.6 (<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.	10%



#	Component	Score / Weighing
8.	Approach to Performance Metrics <ul style="list-style-type: none">Component must, at a minimum, address the topics set forth in Definitive Proposal Form 1.7 (<i>Approach to Performance Metrics</i>).Score to be based on (i) the thoroughness and viability of the Qualified Respondent's approach to identifying and prioritizing performance metrics with the goals and objectives of the Government as stated in the RFP, (ii) the Qualified Respondent's views and proposed approach to the related calculation methodology of Incentive Fee, and (iii) the Qualified Respondent's proposed approach to engaging with PREB and other applicable regulatory bodies in revision and finalization of the Performance Metrics, among other things.Component should also include (i) a maximum proposed Incentive Fee amount per Contract Year based on the indicative Performance Metrics included in Annex VIII of the O&M Agreement; (ii) a maximum proposed Incentive Fee amount per Contract Year based on the Qualified Respondent's proposed changes to the indicative Performance Metrics included in Annex VIII of the O&M Agreement; and (iii) a detailed explanation of the Qualified Respondent's views on how the agreed-upon maximum annual Incentive Fee should reduce or otherwise change the proposed Fixed Fee.	5%
9.	Presentation of Definitive Proposals to the Partnership Committee <ul style="list-style-type: none">Scope of this component to be based on the oral presentation of the Qualified Respondent's Definitive Proposal to the Partnership Committee. The presentation will allow Qualified Respondents to support the contents of their Definitive Proposal, explaining and/or clarifying any particular or significant elements related thereto. The Authority reserves the right to provide additional requirements related to the oral presentations at a later date.	5%
C.	OPERATIONAL AND FINANCIAL COMPONENTS	50% Total plus 5% Bonus
10.	Operational and Financial Proposals <ul style="list-style-type: none">To be submitted in accordance with the requirements described in Section 4.1.8 of the RFP.Score to be based on (i) the net present value of the financial elements of the financial proposals described under Item B of Form 1.8 (<i>Operational and Financial Proposals</i>), (ii) the indicated amounts of the relevant operational proposals described under Item A of Form 1.8 (<i>Operational and Financial Proposals</i>), (iii) the Qualified Respondent's proposed caps on liability (i.e., higher points to be awarded for higher Operator liability caps and lower Owner liability caps) and (iv) the proposed Target Service Commencement Date.	50%
11.	Optional Debt Financing Plan <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 amount, tenor, terms and conditions precedent of the Qualified Respondent's proposed debt financing.	5% bonus



Each Qualified Respondent is required to inform the Authority of the occurrence of any material changes to the information submitted with respect to the Qualified Respondent 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 Qualified Respondent must provide details of such changes in accordance with any requirements the Authority may impose at that time.

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.

4.3 Submission Instructions

Each Definitive Proposal must be submitted via PowerAdvocate© on or before the Proposal Submission Deadline. The date and time on which a Definitive Proposal is submitted via PowerAdvocate©, including all document uploads and data sheet entries under each applicable tab, shall be deemed to be the Qualified Respondent's proposal submittal date.

All communications with the Authority or its designated representative(s) in connection with this RFP must be submitted via PowerAdvocate©. Communications submitted to the Authority or its designated representative(s) in connection with this RFP in any other manner (including via the P3TDProject@p3.pr.gov email address) will not be accepted.

Internet Bidding Platform

Throughout this bid event, documents have been and will continue to be exchanged using the PowerAdvocate© Sourcing Intelligence Platform. Qualified Respondents must submit Definitive Proposals comprised of a combination of uploaded documents and completed data sheets. The data sheets will enable the Authority to quickly perform a comparative analysis of the Qualified Respondents' responses to this RFP and serve as a checklist to ensure that all required documents have been successfully uploaded.

In order to submit its Definitive Proposal, each Qualified Respondent should comply with the following instructions:

- Definitive Proposals must be submitted using the PowerAdvocate© platform, located at <http://www.PowerAdvocate.com>.
- **Tab 2 – “Upload Proposals”:** Qualified Respondents must upload completed Definitive Proposals under Tab 2 – “Upload Proposals”, including any supporting documents and alternative offerings. All additional attachments required as part of the response to this RFP must be uploaded here.
- **Tab 3 – “Commercial Data”:** Qualified Respondents must complete the “Commercial Data” datasheets located under Tab 3. All required datasheets will be located under Tab 3, including the following:
 - **Tab – “Articles”:** Includes questions that align to the Articles of the O&M Agreement that require the Qualified Respondent to provide confirmation or fill in responses.
 - **Tab – “Annex”:** Includes questions that align to the information required by the Annexes to the O&M Agreement. Qualified Respondents must complete the dashboard questions and indicate the names of files uploaded (as needed) to Tab 2.
 - **Tab – “Exhibit”:** Includes questions that align to the information required by the Exhibits to the O&M Agreement. Qualified Respondents must complete the dashboard questions and indicate the names of files uploaded (as needed) to Tab 2.



- **Tab – “Definitive Forms”:** Includes questions that align to the information required by the Definitive Forms section of this Addendum. Qualified Respondents must complete the dashboard questions and indicate the names of the files uploaded (as needed) to Tab 2. **If there is overlap between the Definitive Forms in this Addendum No. 6 and/or the Annexes or Exhibits to the O&M Agreement, each datasheet will specify where the Qualified Respondent should complete and submit the data. All requests will be cross-referenced to avoid confusion and ensure consistency of the Qualified Respondent’s responses.**
- It is the responsibility of the Qualified Respondent to ensure that its information is received by the Authority (that is, uploaded and/or saved to the PowerAdvocate© platform) by the Proposal Submission Deadline. A Definitive Proposal received after the Proposal Submission Deadline may be rejected.
- All fields on the Bid Tab Datasheets must be completed. The Authority reserves the right to reject proposals that do not comply with these submission instructions.

Qualified Respondents should be aware that information will be lost if the Qualified Respondent does not click the “Save Data” button when completing online datasheets.

All datasheets must be fully completed for a Definitive Proposal to be compliant with this RFP.

By submitting a Definitive Proposal, the Qualified Respondent 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 Definitive Proposal, and to seek clarification from the Qualified Respondent’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 Qualified Respondents. 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 Definitive Proposal. The Authority reserves the right to accept or reject, in whole or in part, and without further explanation, any or all Definitive 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 Qualified Respondent 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, issued addenda will prevail over the original wording in this RFP and any wording in prior addenda. Each Qualified Respondent will acknowledge receipt of each addendum in its Definitive Proposal. Each Qualified Respondent is solely responsible for ensuring that it has received all communications issued by the Authority and PREPA. To the extent that a Qualified Respondent has formed a consortium to participate in the RFP for this Project, such Qualified Respondent is also solely responsible for ensuring that each consortium member and each individual person, partnership, company or legal entity that is formally or informally reviewing the Project and intends to participate as a potential equity investor in the Private Party that will execute the O&M Agreement for this Project (each, a “**Team Member**”) have received all communications issued by the Authority and PREPA. Failure to obtain any such communication is at the sole and absolute risk of the Qualified Respondent and its Team Members, and the Authority and PREPA accept no responsibility for the failure of any Qualified Respondent or Team Member to



receive or obtain all RFP information (including addenda). Each Definitive Proposal is deemed to be made on the basis of the complete RFP, as amended by any addenda.

4.5 Rejection and Withdrawal of Definitive 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 Definitive Proposals submitted and/or cancel this solicitation and reissue this RFP, or another version of it.

A Qualified Respondent may withdraw a Definitive 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 Qualified Respondent to submit another Definitive Proposal prior to the Submission Deadline.

4.6 Ownership of a Definitive Proposal

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

4.7 Errors and Omissions in a Definitive Proposal

The Authority reserves the right to reject a Definitive 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 Qualified Respondent without seeking clarifications from all Qualified Respondents.



5. Miscellaneous Legal

5.1 Legal Framework

Qualified Respondents 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;
- PROMESA;
- the Puerto Rico Energy Transformation and RELIEF Act, Act No. 57-2014, as amended; and
- the PREPA Revitalization Act, Act No. 4-2016, as amended.

In addition, the PREPA Fiscal Plan, certified on June 27, 2019 by the FOMB, is available at <http://www.oversightboard.pr.gov/documents>. The Financial Information and Operating Data Report for Puerto Rico, dated December 18, 2016, and the New Fiscal Plan for Puerto Rico, certified on May 9, 2019 by the FOMB, are available at <http://www.aafaf.pr.gov>.

5.2 Consortia

To the extent that any Qualified Respondent has formed or proposes to form a consortium to participate in this RFP, such Qualified Respondent should include in its Definitive Proposal the identity, role and capabilities of each consortium member and each Team Member. Team Members will include, without limitation, the ultimate owner or holding company of any such investor or, in the case of a managed fund or pension plan, the manager of the fund or pension plan. Each Team Member and its role must be identified in a Qualified Respondent's Definitive 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 Qualified Respondent 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 below) to it joins or participates, directly or indirectly, as a Team Member in any other Qualified Respondent. Unless otherwise provided herein, any violation of this provision by a Qualified Respondent will disqualify such Qualified Respondent 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 below) over the other; or
- each is under the direct or indirect Control (as defined below) 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 50% 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); and 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 Definitive Proposal will not limit a Qualified Respondent’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 Qualified Respondent wishes or is required to: (i) change any Team Members listed in the Qualified Respondent’s Definitive 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 Qualified Respondent or a Team Member or (iii) change the legal relationship between the Qualified Respondent 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 Qualified Respondent, then, in each case, the Qualified Respondent 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.

Without limiting the foregoing, the Partnership Committee may refuse to consent to a change to a Qualified Respondent or its Team Members and/or may disqualify the Qualified Respondent from further participation in the procurement process if, in its sole and absolute discretion, (a) the change would result in (i) a less desirable Qualified Respondent or less desirable Team Members than that originally proposed in the Qualified Respondent’s Definitive Proposal or (ii) the Qualified Respondent or its Team Members being materially different from the Qualified Respondent that submitted the Definitive 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 Qualified Respondent 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 Qualified Respondent. Each Qualified Respondent 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
- Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
- Cancio, Nadal, Rivera & Díaz, PSC
- Citigroup Global Markets Inc.
- Cleary Gottlieb Steen & Hamilton LLP
- CPM P.R. LLC
- Ernst & Young LLP
- Filsinger Energy Partners



- Greenberg Traurig LLP
- Hogan Lovells US LLP
- ICF International, Inc.
- King & Spalding LLP
- McKinsey & Company, Inc.
- Navigant Consulting, Inc.
- Norton Rose Fulbright US LLP
- O'Melveny & Myers LLP
- O'Neill & Borges LLC
- Pietrantonio Méndez & Alvarez LLC
- Proskauer Rose LLP
- Rooney Rippie & Ratnaswamy LLP
- Rothschild Inc.

At all times during the procurement process, Qualified Respondents 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>.

Qualified Respondents 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 Qualified Respondent should consult with the Authority.

5.4 Confidentiality of Definitive Proposal

All Definitive Proposals will become the property of the Authority and may become public in accordance with applicable law, except for documents or information submitted by Qualified Respondents that are trade secrets, proprietary information or privileged or confidential information of the Qualified Respondents. Qualified Respondents 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 Qualified Respondents as "confidential" or "proprietary" will not be subject to disclosure under Act 29, Qualified Respondents 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 Qualified Respondent has special concerns about confidential or proprietary information that it desires to make available to the Partnership Committee prior to its Definitive Proposal, such Qualified Respondent 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 Definitive 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 Qualified Respondent 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 Qualified Respondent of its intent to disclose, in which case the Qualified Respondent may request the immediate return of such materials prior to disclosure by the Partnership Committee and they will thereafter form no part of the Qualified Respondent's submission. In no event will the Government, the Authority, the Partnership Committee or PREPA be liable to a Qualified Respondent for any disclosure required by law or a court order of all or a portion of a Definitive 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 Definitive Proposal, except information that qualifies as trade secrets, confidential, proprietary or privileged information of the Qualified Respondents or its Team Members clearly identified as such by the Qualified Respondents, 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 Qualified Respondent 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 Qualified Respondent and its Team Members will treat it as confidential;
- may not be used by the Qualified Respondent or its Team Members for any other purpose other than submitting a Definitive 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 Qualified Respondent or any Team Member to any person who is not involved in the Qualified Respondent's preparation of its Definitive 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 Qualified Respondent 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 Qualified Respondent 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 Qualified Respondent's Definitive 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

Qualified Respondents and Team Members will not discuss or communicate, directly or indirectly, with any other Qualified Respondent(s) or any director, officer, employee, advisor, counsel, accountant, other consultant or representative or Team Member of any other Qualified Respondent regarding the preparation, content or representation of their Definitive Proposals. Definitive 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 Qualified Respondent or Team Member), knowledge, comparison of information or arrangement, with any other Qualified Respondent or any director, officer, employee, advisor, counsel, accountant or other consultant or representative or Team Member of any other Qualified Respondent.

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

No Lobbying

Qualified Respondents, 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 of the Authority, PREPA, the Partnership Committee or any of its members, AAFAF, 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 Qualified Respondent that does not comply with this provision.

Qualified Respondents, 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 completing the Federal Funding Certifications and Conditions included as **Annex B** of this RFP and the Form of Respondent Certification included as **Annex C** of this RFP.



5.7 Conflicts of Interest and Ineligible Persons

Each Qualified Respondent submitting a Definitive Proposal on behalf of such Qualified Respondent and the Team Members of such Qualified Respondent 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 Qualified Respondent submitting a Definitive Proposal or any Team Member of such Qualified Respondent 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 Definitive Proposal, each Qualified Respondent 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 Qualified Respondent 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 Qualified Respondent 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 Qualified Respondent or any of its Team Members from further consideration or remove the Qualified Respondent or any Team Member from the RFP Process if:

- (a) the Qualified Respondent knew, or reasonably should have known, and fails to disclose an actual or potential Conflict of Interest;
- (b) the Qualified Respondent submitting a Definitive Proposal or a Team Member of such Qualified Respondent fails to comply with any requirements prescribed by the Authority or PREPA to resolve a Conflict of Interest; or
- (c) the Qualified Respondent’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 Qualified Respondent 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 Qualified Respondents only. Qualified Respondents 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 Qualified Respondent and each Team Member of such Qualified Respondent. 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 Definitive Proposals, to waive technical defects, irregularities or any informality in Definitive Proposals, and to accept or reject any Definitive Proposals in its sole and absolute discretion. The Partnership Committee also reserves the right to postpone the date on which Definitive 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 Qualified Respondent, 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 Definitive Proposals after withdrawal of this RFP;
- (f) reject or disqualify any and all Definitive Proposals and responses received at any time for any reason without any obligation, compensation or reimbursement to any existing Qualified Respondent 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 Qualified Respondent 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 Qualified Respondent, additional information from a Qualified Respondent concerning its response or additional evidence of qualifications to perform the work described in this RFP;



- (l) consider, in the evaluation of any Definitive Proposal, any instances of poor performance by a Qualified Respondent, Team Member or individuals who will play an important role in the Project on behalf of a Qualified Respondent 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 Qualified Respondent 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 Qualified Respondent.

5.10 Limitation of Damages

Each Qualified Respondent, by submitting a Definitive 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 Qualified Respondent, 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 Definitive 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 Qualified Respondent and Team Member of such Qualified Respondent 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 Qualified Respondents;
- 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 Qualified Respondent(s);
- under the terms of this RFP, permits or does not permit a Restricted Party to advise, assist or participate as part of a Qualified Respondent 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 Qualified



Respondent and each Team Member waives any and all Claims whatsoever, including Claims for loss of profits or loss of opportunity, if the Qualified Respondent 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 Definitive Proposals must be pursued in accordance with Article 20 (Judicial Review Procedures) of Act 29. Only those Qualified Respondents 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 be 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 Definitive 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 defray the expenses incurred by the other parties involved in judicial review proceedings under Article 20 of Act 29. The Qualified Respondent 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 Qualified Respondents should review and understand all such judicial review provisions.

5.12 Cost of Preparing Definitive Proposals

Qualified Respondents who participate in the RFP Process and submit a Definitive 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 Definitive Proposals in connection with this RFP. No Qualified Respondent will be reimbursed for any cost or expense (including travel expenses) incurred as a result of preparing or submitting their Definitive Proposals.



ANNEX A: RESERVED





Reserved.





ANNEX B: FEDERAL FUNDING CERTIFICATIONS AND CONDITIONS



FEDERAL FUNDING CERTIFICATIONS AND CONDITIONS

To the extent the Authority and PREPA determine to submit any of the costs incurred under the O&M Agreement for Federal reimbursement, the Qualified Respondent and the relevant contractors and subcontractors will be required to comply with all applicable Federal certifications, terms and conditions.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this Proposal, the QUALIFIED RESPONDENT (referred to herein as the “prospective lower tier participant”) is providing the certification set out below.
2. The certification in this Annex is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this Proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, Proposal, and voluntarily excluded, as used in this Annex, have the respective meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this Proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this Proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this Proposal that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and

frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND
VOLUNTARY EXCLUSION LOWER TIER COVERED TRANSACTIONS**

- (1) The prospective lower tier participant certifies, by submission of this Proposal, that neither it, nor its principals, is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this Proposal.

QUALIFIED RESPONDENT
Company Name

Contract Number

Name of Qualified Respondent's
Authorized Official

Title

Signature of Qualified Respondent's
Authorized Official

Date

**CERTIFICATION REGARDING LOBBYING FOR
CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS**

The undersigned Qualified Respondent certifies, to the best of its knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Qualified Respondent or any Team Member, to any person for influencing or attempting to influence an officer or employee of an agency, a member of the United States Congress, an officer or employee of the United States Congress, or an employee of a member of the United States Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of the United States Congress, an officer or employee of the United States Congress, or an employee of a Member of the United States Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

QUALIFIED RESPONDENT certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, QUALIFIED RESPONDENT understands and agrees that the provisions of 31U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

QUALIFIED RESPONDENT Name

Signature of Qualified Respondent's
Authorized Official

Name and Title of Qualified Respondent's
Authorized Official

Date

FEDERAL FUNDING CONDITIONS

To the extent the Authority and PREPA determine that any costs under the O&M Agreement will be submitted for HUD reimbursement, the O&M Agreement will require that the Private Party comply with all applicable HUD requirements, including the following:

1. Section 3 Covered Assistance

HUD's "Section 3" program requires that recipients of certain HUD financial assistance, to the greatest extent possible, provide training, employment, contracting and other economic opportunities to low- and very low-income persons, especially recipients of government assistance for housing, and to businesses that provide economic opportunities to low- and very low-income persons. "Section 3 covered assistance" includes assistance provided under any HUD community development program that is expended for work arising in connection with public construction projects.

2. Section 3 Clause

If the Authority and PREPA determine to submit any of the costs incurred under the O&M Agreement for HUD reimbursement, and the O&M Agreement is determined to be a Section 3 covered contract, pursuant to 24 C.F.R. § 135.38, it shall include the following clause (referred to as the "Section 3 Clause"):

THE WORK TO BE PERFORMED UNDER THIS CONTRACT IS SUBJECT TO THE REQUIREMENTS OF SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968, AS AMENDED, 12 U.S.C. 1701U (SECTION 3). THE PURPOSE OF SECTION 3 IS TO ENSURE THAT EMPLOYMENT AND OTHER ECONOMIC OPPORTUNITIES GENERATED BY HUD ASSISTANCE OR HUD-ASSISTED PROJECTS COVERED BY SECTION 3, SHALL, TO THE GREATEST EXTENT FEASIBLE, BE DIRECTED TO LOW- AND VERY LOW-INCOME PERSONS, PARTICULARLY PERSONS WHO ARE RECIPIENTS OF HUD ASSISTANCE FOR HOUSING.

THE PARTIES TO THIS CONTRACT AGREE TO COMPLY WITH HUD'S REGULATIONS IN 24 CFR PART 135, WHICH IMPLEMENT SECTION 3. AS EVIDENCED BY THEIR EXECUTION OF THIS CONTRACT, THE PARTIES TO THIS CONTRACT CERTIFY THAT THEY ARE UNDER NO CONTRACTUAL OR OTHER IMPEDIMENT THAT WOULD PREVENT THEM FROM COMPLYING WITH THE PART 135 REGULATIONS.

THE CONTRACTOR AGREES TO SEND TO EACH LABOR ORGANIZATION OR REPRESENTATIVE OF WORKERS WITH WHICH THE CONTRACTOR HAS A COLLECTIVE BARGAINING AGREEMENT OR OTHER UNDERSTANDING, IF ANY, A NOTICE ADVISING THE LABOR ORGANIZATION OR WORKERS' REPRESENTATIVE OF THE CONTRACTOR'S COMMITMENTS UNDER THIS SECTION 3 CLAUSE, AND WILL POST COPIES OF THE NOTICE IN CONSPICUOUS PLACES AT THE

WORK SITE WHERE BOTH EMPLOYEES AND APPLICANTS FOR TRAINING AND EMPLOYMENT POSITIONS CAN SEE THE NOTICE. THE NOTICE SHALL DESCRIBE THE SECTION 3 PREFERENCE, SHALL SET FORTH MINIMUM NUMBER AND JOB TITLES SUBJECT TO HIRE, AVAILABILITY OF APPRENTICESHIP AND TRAINING POSITIONS, THE QUALIFICATIONS FOR EACH; AND THE NAME AND LOCATION OF THE PERSON(S) TAKING APPLICATIONS FOR EACH OF THE POSITIONS; AND THE ANTICIPATED DATE THE WORK SHALL BEGIN.

THE CONTRACTOR AGREES TO INCLUDE THIS SECTION 3 CLAUSE IN EVERY SUBCONTRACT SUBJECT TO COMPLIANCE WITH REGULATIONS IN 24 CFR PART 135, AND AGREES TO TAKE APPROPRIATE ACTION, AS PROVIDED IN AN APPLICABLE PROVISION OF THE SUBCONTRACT OR IN THIS SECTION 3 CLAUSE, UPON A FINDING THAT THE SUBCONTRACTOR IS IN VIOLATION OF THE REGULATIONS IN 24 CFR PART 135. THE CONTRACTOR WILL NOT SUBCONTRACT WITH ANY SUBCONTRACTOR WHERE THE CONTRACTOR HAS NOTICE OR KNOWLEDGE THAT THE SUBCONTRACTOR HAS BEEN FOUND IN VIOLATION OF THE REGULATIONS IN 24 CFR PART 135.

THE CONTRACTOR WILL CERTIFY THAT ANY VACANT EMPLOYMENT POSITIONS, INCLUDING TRAINING POSITIONS, THAT ARE FILLED (1) AFTER THE CONTRACTOR IS SELECTED BUT BEFORE THE CONTRACT IS EXECUTED, AND (2) WITH PERSONS OTHER THAN THOSE TO WHOM THE REGULATIONS OF 24 CFR PART 135 REQUIRE EMPLOYMENT OPPORTUNITIES TO BE DIRECTED, WERE NOT FILLED TO CIRCUMVENT THE CONTRACTOR'S OBLIGATIONS UNDER 24 CFR PART 135.

NONCOMPLIANCE WITH HUD'S REGULATIONS IN 24 CFR PART 135 MAY RESULT IN SANCTIONS, TERMINATION OF THIS CONTRACT FOR DEFAULT, AND DEBARMENT OR SUSPENSION FROM FUTURE HUD ASSISTED CONTRACTS.

WITH RESPECT TO WORK PERFORMED IN CONNECTION WITH SECTION 3 COVERED INDIAN HOUSING ASSISTANCE, SECTION 7(B) OF THE INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT (25 U.S.C. 450E) ALSO APPLIES TO THE WORK TO BE PERFORMED UNDER THIS CONTRACT. SECTION 7(B) REQUIRES THAT TO THE GREATEST EXTENT FEASIBLE (I) PREFERENCE AND OPPORTUNITIES FOR TRAINING AND EMPLOYMENT SHALL BE GIVEN TO INDIANS, AND (II) PREFERENCE IN THE AWARD OF CONTRACTS AND SUBCONTRACTS SHALL BE GIVEN TO INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES. PARTIES TO THIS CONTRACT THAT ARE SUBJECT TO THE PROVISIONS OF SECTION 3

AND SECTION 7(B) AGREE TO COMPLY WITH SECTION 3 TO THE MAXIMUM EXTENT FEASIBLE, BUT NOT IN DEROGATION OF COMPLIANCE WITH SECTION 7(B).

3. Davis-Bacon Act and Copeland Anti-Kickback Act

Additionally, HUD-funded contracts are subject to the Davis-Bacon Act and the Copeland Anti-Kickback Act. The regulations promulgated under this legislation require contracts in excess of \$2,000 which are entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds, including grants, to contain the provisions at 24 C.F.R. § 5.5. These “Fair Labor Standards” provisions are provided in HUD Form 4010, a copy of which is available in the Data Room. In accordance with the Davis-Bacon Act, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor and must be required to pay wages not less than once a week. The applicable prevailing wage determination is available here: <https://www.wdol.gov/wdol/scafiles/davisbacon/pr.html> and in the Data Room. The decision to award a contract to a contractor must be conditioned upon acceptance of the wage determination.



ANNEX C: FORM OF RESPONDENT CERTIFICATION



[Letterhead of each Qualified Respondent or Team Member, as applicable]

Mr. Omar J. Marrero, Esq. — 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 T&D System PPP - Request for Proposals

Ladies and Gentlemen:

We have carefully reviewed the Request for Proposals dated February 1, 2019, 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. 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 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 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 Proposal on behalf of the Qualified Respondent or Team Member, as applicable, as its acts and deed and that the Qualified Respondent 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 Qualified Respondent 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 Qualified Respondent 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 Qualified Respondent and Team Members are in compliance with all federal, state, local and foreign laws applicable to the Qualified Respondent 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 Qualified Respondent 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 *[Qualified Respondent 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 *[Qualified Respondent or Team Member, as applicable]* in the preparation of its 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 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 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 Qualified Respondent 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 Qualified Respondent 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 Qualified Respondent's and Team Members' Proposal, or in relation to their 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 Proposals or the selection of the Qualified Respondents; (c) promoting the Qualified Respondent and Team Members or their interests in the Project, including in preference to that of other Qualified Respondents 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 Qualified Respondent or its Team Members a competitive or other advantage over other Qualified Respondents or their respective Team Members; and (e) criticizing the Proposals of other Qualified Respondents.

The undersigned Qualified Respondent 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 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 Qualified Respondent or Team Member]



ANNEX D: O&M AGREEMENT



ANNEX E: FINANCING TERM SHEET

**TERM SHEET FOR
PROSPECTIVE OPERATOR FINANCING PROPOSAL**

*This term sheet (the “**Financing Term Sheet**”) is provided for discussion purposes only and is not a commitment by the Puerto Rico Electric Power Authority (“**PREPA**”) or any affiliate to enter into any financing transaction contemplated thereby (the “**Financing Transaction**”). The terms and conditions below summarize the material terms and conditions that the Puerto Rico Public-Private Partnerships Authority (the “**Authority**”) and PREPA believe should be included in any financing provided by the Selected Proponent in connection with the contract (the “**O&M Contract**”) resulting from the Request for Proposals 2019-2 (the “**RFP**”) issued by the Authority. It is the intention to use the terms and conditions below as the basis for further discussion and negotiation. Capitalized terms not defined herein shall have the meaning set forth in the RFP.*

This Financing Term Sheet is subject to the terms and conditions set forth in the RFP, and neither this Financing Term Sheet nor any of its contents may be used for any other purpose without the prior written consent of the Authority. No legal obligation or liability shall arise between the parties with respect to the subject matter hereof unless and until the definitive documentation regarding the Financing Transaction shall have been finalized in mutually acceptable form, approved by the parties’ respective governing bodies and by the relevant Puerto Rico governmental authorities and executed by each party, and then only in accordance with the terms and conditions thereof. The terms of each of the O&M Contract and the Financing Transaction are intended to meet the requirements of the safe harbor set forth in Revenue Procedure 2017-13 issued by the U.S. Internal Revenue Service, and thereby preserve the tax exempt status of certain of PREPAs indebtedness.

1. Borrower	PREPA, as legal owner of the electric power transmission and distribution system and related facilities (the “ T&D System ”), and any successor thereof.
2. Facility	Multi-draw senior secured term loan facility (the “ Facility ”) for a principal amount of not less than \$[•] in the aggregate, may be comprised of two or three separate facilities: <ol style="list-style-type: none">1. Tranche A – in the aggregate maximum amount not exceeding \$[•];2. Tranche B – in the aggregate maximum amount not exceeding \$[•]; and3. Tranche C – in the aggregate maximum amount not exceeding \$[•].
3. Security and Ranking	<p>Loans disbursed under <u>Tranche A</u>, to the extent permitted by applicable law, will be secured by a pledge of the funds committed by any U.S. federal agency for the restoration of the T&D System.¹</p> <p>Loans disbursed under <u>Tranche B</u> will be secured by a contractual first lien on the net revenues of PREPA (i.e., the excess of all moneys received by PREPA in connection with its ownership of the T&D system over current expenses during a particular period); <u>provided</u> that, for the avoidance of doubt, the lien shall not include any money or other property received or to be received on account of the transition charge imposed to support legacy debt or pension obligations established under or in connection with PREPA’s Title III Plan or any other money or other property that are the result of any other dedicated charges in connection therewith.</p> <p>Loans disbursed under <u>Tranche C</u> will be secured by an Issuer Funding Charge (as defined in the “Securitization Term Sheet” relating to PREPA’s Title III Plan, as may be amended and finalized in definitive documentation for PREPA’s Title III Plan).²</p>

¹ Form and structure of security interest subject to further discussions. For the avoidance of doubt, the federal government will not be a party to the Facility.

² The Securitization Term Sheet, attached to PREPA’s Recovery Plan Term Sheet as Annex A, is subject to approval by the Title III Court.

4. Draws	Minimum draws of not less than US\$5M (or, if less, in the unused amount of the multi-draw term loan commitment).
5. Term	Minimum five years from closing date (or such greater term to maturity as specified in the bidder's proposal).
6. Availability Period	Draws can be made on the Facility at any time and from time to time, subject to certain conditions precedent, for a period commencing on the closing date and terminating [●] months from the closing date.
7. Use of Proceeds from Tranche A	Proceeds from any disbursement under <u>Tranche A</u> may only be used to fund capital expenditures related to the T&D System solely to the extent such capital expenditures qualify for coverage or reimbursement from funds anticipated from any agency of the U.S. federal government.
8. Use of Proceeds from Tranche B and Tranche C	Proceeds from any disbursement under <u>Tranche B</u> and <u>Tranche C</u> may only be used to fund (i) specified capital expenditures related to the T&D System, (ii) any other capital requirements permitted by the terms of the "Securitization Term Sheet" relating to PREPA's Title III Plan and (iii) fees and expenses under the Facility, in each case included in the budget or long-term plan approved by the operator (and, to the extent required, any other governmental authority) for the T&D System.
9. Interest Rate³	For Tranche A loans, [●]% per annum. For Tranche B loans, [●]% per annum. For Tranche C loans, [●] % per annum.
10. Amortization	None, bullet repayment on maturity of all outstanding amounts. Tranches may be structured with a "turbo" feature providing for mandatory prepayment from available pledged revenues, such as may be available to secure Tranche C loans financed by Issuer Funding Charges.
11. Optional Prepayment	Upon notice, amounts outstanding under the Facility may be voluntarily repaid by the Borrower at any time and from time to time without premium or penalty.
12. Mandatory Prepayment for Tranche A	Loans disbursed under Tranche A shall be repaid prior to maturity by PREPA promptly following the receipt of funds previously committed by the relevant U.S. federal government agency related to the purpose of which such loans were disbursed.
13. Additional Prepayments for Tranche B and Tranche C	Additional customary prepayment events for a facility of similar nature and duration, plus: <ul style="list-style-type: none"> (i) Mandatory, upon early termination of O&M Contract; and (ii) Optional, at the Borrower's sole discretion, from proceeds of incurrence of other financial debt by PREPA other than working capital and other financial indebtedness to be agreed and permitted by the terms of the securitization bonds issued as part of PREPA's Title III Plan. <p>For any early termination of the O&M Contract due to an Operator default, PREPA will have [●] years from the effective date of such termination to repay the debt under the Facility, which will continue to accrue interest at the contract rate until payment is made; <u>provided</u> that PREPA will have set-off rights for amounts owed by Operator under the O&M Contract.</p>

³ For purposes of complying with QMA provisions, interest rate needs to be a market rate of return and comparable to similar instruments.

	For any early termination of the O&M Contract due to an Owner default, PREPA will have [•] years (which shall be shorter than the period provided for an Operator default) from the effective date of such termination to repay the debt under the Facility, which will continue to accrue interest at the contract rate until payment is made.
14. Conditions Precedent to Closing	Customary closing conditions for a facility of similar nature and duration, plus: <ul style="list-style-type: none"> (i) the entry into the O&M Contract; (ii) the Title III Plan having become effective after the issuance of a final, confirmation order by the Title III Court approving, among other things, the O&M Contract, the terms and conditions of the Facility and the validity of the security interest granted under the Facility; (iii) the issuance of securitization bonds under PREPA’s Restructuring Support Agreement; (iv) the delivery of a legal opinion from qualified tax counsel that the Facility does not affect QMA-compliance of the O&M Contract; (v) the receipt of confirmation that the net revenues from the T&D System are projected to be sufficient to cover all costs associated with Tranche B and Tranche C, including debt service; and (vi) the receipt of confirmation from PREPA that the incurrence of debt under the Facility is in compliance with any requirement under the securitization bonds issued in connection with PREPA’s Title III Plan.
15. Specific Conditions Precedent to Draws under Tranche A	Customary conditions precedents for the disbursement of funds under similar facilities, plus: <ul style="list-style-type: none"> (i) evidence that funds anticipated to be received from any agency of the U.S. federal government have been validly committed by such agency; and (ii) the designated recipient of the funds has agreed, to the extent permitted by applicable law, to turn over (and if permissible, pledge) such funds to the repayment of the loans incurred under Tranche A.
16. Reps and Warranties	Customary reps and warranties for a facility of similar nature and duration, including specific reps and warranties regarding approvals from all relevant governmental authorities under applicable law (including the FOMB) and compliance with the then-applicable PREPA Fiscal Plan. ⁴
17. Covenants	Customary covenants for a facility of similar nature and duration, plus any covenants required to comply with the “Securitization Term Sheet” relating to PREPA’s Title III Plan.
18. Events of Default	Customary events of default for a facility of similar nature and duration (with thresholds and grace periods to be agreed in the definitive Facility documentation).
19. Governing Law	Puerto Rico.
20. Jurisdiction	Commonwealth Court of First Instance, San Juan Part.
21. Fees	No upfront or arranging fees. Commitment fee of [•]% of any undrawn amount.

⁴ The “Fiscal Plan” refers to the Puerto Rico Electric Power Authority Fiscal Plan, as certified by the FOMB on August 1, 2018, as it may be amended, supplemented or modified from time to time.

22. Assignment	The Facility may be assigned by the lender in whole or in part only with the prior consent of PREPA and/or the Government of Puerto Rico (which consent shall not be unreasonably delayed or withheld).
23. Other Provisions	Customary provisions relating to indemnity, reimbursement of certain costs and expenses, among other provisions reasonably satisfactory to PREPA and the Operator.



DEFINITIVE PROPOSAL FORM 1.1

TRANSMITTAL LETTER

(To be typed on Qualified Respondent's Letterhead)

[Date]

Partnership Committee Representative
Request for Proposals –
Puerto Rico Electric Power
Transmission and Distribution System

Dear Partnership Committee Representative:

_____ (the “**Qualified Respondent**”) hereby submits its Definitive Proposal in response to the Request for Proposals for the Puerto Rico Electric Power Transmission and Distribution System (as amended, the “**RFP**”) issued in final form by the Puerto Rico Public-Private Partnership Authority on February 1, 2019, 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 Transmission and Distribution System 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.

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

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

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

1. The submittal of the Definitive Proposal has been duly authorized by, and in all respects is binding upon, the Qualified Respondent. **ATTACHMENT 1** (*Certificate of Authorization*) to this Transmittal Letter is a certificate of authorization that evidences my authority to submit the Definitive Proposal and bind the Qualified Respondent.
2. All information and statements contained in the Definitive 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.
3. The Qualified Respondent certifies under penalties of perjury that the Definitive 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.

4. Neither the Qualified Respondent nor any Qualified Respondent team member is currently suspended or debarred from doing business with any entity of the Government of Puerto Rico.
5. The Qualified Respondent has reviewed all of the engagements and pending engagements of the Qualified Respondent, and no potential exists for any conflict of interest or unfair advantage.
6. 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 Qualified Respondent. The Qualified Respondent 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 Definitive Proposal.

[Signature page follows]

QUALIFIED RESPONDENT

Company Name _____

Name of Qualified Respondent's
Authorized Official

Title

Signature of Qualified Respondent's
Authorized Official

Date

(Notary Public)

[State/Province] of _____

County of _____

On this _____ day of _____, 2019, 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 DEFINITIVE 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 Definitive Proposal submitted by the
corporation in response to the Request for Proposals for the Puerto Rico Electric Power Transmission and
Distribution System issued in final form by the Puerto Rico Public-Private Partnership Authority on
February 1, 2019, 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 _____, 2019.

(Affix Seal Here)

Clerk/Secretary

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



DEFINITIVE PROPOSAL FORM 1.2

EXECUTIVE SUMMARY AND TABLE OF CONTENTS

_____ (the Qualified Respondent) hereby acknowledges and affirms that the attached documentation (i) constitutes its full and complete submission for Definitive 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 Transmission and Distribution System issued by the Puerto Rico Public-Private Partnerships Authority on February 1, 2019 (as amended and supplemented, the "**RFP**") or the final form of the Puerto Rico Transmission and Distribution System 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.

QUALIFIED RESPONDENT

Company Name

Name of Qualified Respondent's
Authorized Official

Title

Signature of Qualified Respondent's
Authorized Official

Date



DEFINITIVE PROPOSAL FORM 1.3

CONFIRMATION OF ACCEPTANCE OF O&M AGREEMENT

_____ (the Qualified Respondent) hereby acknowledges and affirms the following:

1. The Qualified Respondent's Definitive 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 Proposal submission Deadline.
2. [The Qualified Respondent accepts and agrees to execute the final form of the O&M Agreement, save for the terms and conditions contemplated for the Qualified Respondent's Definitive Proposal described in Section 4.1.8 (*Operational and Financial Proposals*) of the RFP, immaterial amendments to incorporate party names, details and execution mechanics] OR [The Qualified Respondent accepts and agrees to execute the final form of the O&M Agreement, save for the terms and conditions contemplated for the Qualified Respondent's Definitive Proposal described in Section 4.1.8 (*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: [Qualified Respondent 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 Transmission and Distribution System issued by the Puerto Rico Public-Private Partnerships Authority on February 1, 2019 (as amended and supplemented, the "**RFP**") or the final form of the Puerto Rico Transmission and Distribution System 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.

QUALIFIED RESPONDENT

Company Name

Name of Qualified Respondent's
Authorized Official

Title

Signature of Qualified Respondent's
Authorized Official

Date



DEFINITIVE PROPOSAL FORM 1.4

APPROACH TO O&M SERVICES

_____ (the Qualified Respondent) hereby acknowledges and affirms that the attached documentation (i) constitutes its full and complete submission for Definitive Proposal Form 1.4, (ii) meets the requirements described in Section 4.1.4 (*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 Transmission and Distribution System issued by the Puerto Rico Public-Private Partnerships Authority on February 1, 2019 (as amended, the “**RFP**”) or the final form of the Puerto Rico Transmission and Distribution System 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 O&M Services (Annex I (*Scope of Services*) of the O&M Agreement) including, at minimum, the following:
 - a. T&D System Operations
 - b. Capital and Operational Improvements to the T&D System
 - c. Government, Public & Media Relations
 - d. Testing, Reporting and Records
 - e. Customer Service
 - f. Human Resources
 - g. Information Technology
 - h. Supply Procurement
 - i. Financial Management and Accounting
 - j. Emergency Response
 - k. Development of Integrated Resource Plan
 - l. Asset Management & Maintenance
 - m. Safety Management
 - n. Administration of System Contracts
 - o. Environmental Management
2. Detailed description of the experience and credentials of the Qualified Respondent's proposed management team.
3. Federal funding experience and plan for management and procurement of federal funds.
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. Organizational Structure of ManagementCo and ServCo.

7. Commitment to the social welfare of the people and communities of Puerto Rico.
8. Commitment to use of local resources and approach to involve local Puerto Rican entities.

[Signature page follows]

QUALIFIED RESPONDENT

Company Name

Name of Qualified Respondent's
Authorized Official

Title

Signature of Qualified Respondent's
Authorized Official

Date



DEFINITIVE PROPOSAL FORM 1.5

FRONT-END TRANSITION PLAN

_____ (the Qualified Respondent) hereby acknowledges and affirms that the attached documentation (i) constitutes its full and complete submission for Definitive Proposal Form 1.5, (ii) meets the requirements described in Section 4.1.5 (*Front-End Transition 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 Transmission and Distribution System issued by the Puerto Rico Public-Private Partnerships Authority on February 1, 2019 (as amended, the “RFP”) or the final form of the Puerto Rico Transmission and Distribution System 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 and Transition Management

- a. Proposed text of plan to provide Front-End Transition Services to be incorporated into the O&M Agreement as Annex II (*Front-End Transition Services*).
- b. The proposed hourly fully allocated cost rate for each category of employee, affiliate personnel or front-end subcontractor providing Front-End Transition Services, to be included in the O&M Agreement as Annex V (*Front-End Transition Hourly Fully Allocated Rates*).
- c. Detailed description of the contemplated transition team, including plans and timeline for mobilizing transition team members and details on the role to be played by each member of the consortium (as applicable), including the number of transition team members and their general job description/classifications.
- d. Proposed detailed timeline and key milestones for each scope of work including required resources and clear identification of steps to complete each scope of work, leading up to the Qualified Respondent's proposed Target Service Commencement Date. Include a description of the Qualified Respondent's views on the feasibility of the Government of Puerto Rico's strong desire for the Target Service Commencement Date to occur in 2020.
- e. A detailed cost estimate to complete the Front-End Transition Plan, including associated man-hours reflected by such estimate.
- f. Detailed description of the Qualified Respondent's approach to the development of a communications plan and management transition plan, including of the Qualified Respondent's proposed approach to dealing with a predominantly Spanish-speaking workforce and an operational interface predominantly in Spanish (i.e., computer and data entry systems).
- g. Development of criteria for commencement of operations.
- h. Description of approach to complying with required and periodic reporting obligations.
- i. Detailed description of the plan for coordinating the obtainment of Governmental Approvals required for the Service Commencement Date.

- j. Description of the plan for coordinating the identification, review and analysis of System Contracts and Generation Supply Contracts.
- k. Identification and analysis of gaps (assets, technology, processes, etc.) and a detailed description of the plan to address each identified gap as well as an estimate of costs.
- l. Development of a Handover Checklist that the Administrator will use to determine when the transition (i.e., the takeover of operations by the Operator) may occur.
- m. Description of approach and plan for filings and interactions with PREB with respect to any required rate increase.
- n. Description of the Qualified Respondent's approach to identifying the proposed profit margin for the Operator on the Front-End Transition Service Fee and the rationale underlying such proposal.

2. T&D Services Milestones

- a. Development and implementation of an operation take-over plan for transmission and sub transmission assets outside and inside of legacy PREPA power plants and substations.
- b. Development and implementation of an operation take-over plan for the electric distribution system.
- c. Operational take-over plans should include but are not limited to the development and implementation of the following:
 - i. Transition plan for respective control center(s)
 - ii. Transition plan for operations and maintenance (O&M) activities
 - iii. Emergency response / disaster recovery / business continuity plans
 - iv. Fleet management plan
 - v. Asset management plan
 - vi. Workforce management and training plan (can be included in the human resources management plan)
 - vii. Safety management plan
 - viii. Engineering and asset management plan
 - ix. Identification of real estate
 - x. Materials management and warehouse plan
 - xi. System operations plan
 - xii. Vegetation management plan
- d. Updating operations manual and business continuity / disaster recovery plan.

- e. Conducting environmental exposure assessment and establishing an environmental exposure management plan.
- f. Detailed budget forecast for expected transition expenditures by scope of work, number of full time equivalents, contractors, US employees and any other costs. Also include a detailed description of key assumptions.

3. System Remediation Plan Milestones

- a. Detailed description of the proposed team that the Qualified Respondent expects to designate to prepare the System Remediation Plan, including the individual names, background, prior experience and qualifications of each proposed team member.
- b. Detailed description of the proposed approach to the development of System Remediation Plan, including the Qualified Respondents views on the current state of the T&D System and control, monitoring and information equipment, systems, practices, services (including related hardware, Information Systems and software) and general operating and administrative practices used in connection therewith.
- c. Proposed timeline and key milestones to drafting, revising and finalizing the System Remediation Plan (including milestones involving applicable approvals and subsequent implementation), including estimated costs to be incurred in the development of the System Remediation Plan.
- d. Describe the methodology used to formulate the Qualified Respondent's views of the T&D system, including a description of (i) the information the Qualified Respondent has already analyzed to assess the needs of the T&D System and (ii) information that the Qualified Respondent believes it will need to fully develop the System Remediation Plan within the proposed timeline.

4. Customer Service Milestones

- a. Evaluating customer service facilities and assets
- b. Evaluating and updating customer service policies and procedures
- c. Development of a meter reading plan
- d. Identification and analysis of gaps
- e. Development of a customer service transition plan
- f. Approach to acquisition and replacement of customer service assets
- g. Development and implementation of a service start and shut-off plan
- h. Development of a meter asset management plan
- i. Development and implementation of customer service technology

5. Information Technology ("IT") / Operation Technology ("OT") Systems Milestones

- a. Development of an IT / OT communication plan and acceptance criteria

- b. Identification and analysis of gaps
- c. Evaluating IT / OT applications and infrastructure
- d. Development of a cyber security and business continuity plan
- e. Development of an IT asset management program
- f. Development of an IT / OT transition plan and schedule

6. Financial Management Milestones

- a. Detailed description of approach to budgeting and reporting over the transition period and samples of proposed budget and milestone reporting.
- b. Description of approach to complying with initial budget delivery obligations under the O&M Agreement.
- c. Approach to formalizing changes to control processes.
- d. Identifying and evaluating business processes.
- e. Establishing a financial accounting system and account structure.
- f. Preparing Initial Budgets and other financial forecasts.
- g. Establishing bank accounts.
- h. Evaluating and updating the payroll and labor cost reporting systems.
- i. Establishing a delegation of authority matrix and process.

7. FEMA Funds and Federal Funding Procurement Manual Milestones

- a. Detailed description of the proposed team that the Qualified Respondent expects to designate to assist in the preparation of a Federal Funding Procurement Manual, including the individual names, background, prior experience and qualifications of each proposed team member.
- b. Detailed description of the proposed approach to the development of the Federal Funding Procurement Manual and coordinating review by, and responses to comments from, COR3 and FEMA, as applicable.
- c. Views regarding the implementation of procurement processes and the management of government grants and similar types of funds, including a description of federal funds managed in the past and infrastructure programs or projects utilizing federal funds.
- d. Proposed timeline and key milestones to drafting, revising and finalizing the Federal Funding Procurement Manual (including milestones involving applicable approvals and subsequent implementation).

8. Staffing for Front-End Transition Period

- a. Organizational chart outlining general organizational structure proposed, and clearly identifying the Qualified Respondent's key personnel to be involved in various work streams related to the

Front-End Transition Period (including a list of subcontractors, descriptions of activities each subcontractor will perform and a detailed description of the strategy for selecting and managing subcontractors).

- b. Detailed description of the individuals that the Qualified Respondent expects to designate to oversee the transition team, including the individual names, background, prior experience and qualifications of each proposed team member.
- c. Number of employees and subcontractors the Qualified Respondent expects to deploy as part of the transition efforts, including detailed description of proposed team divisions and responsibilities.
- d. Detailed description of the proposed approach to providing the Operator's stated requirements for employment to be included in the O&M Agreement as Annex IV (*Operator Employment Requirements*).
- e. Proposed timeline and key milestones to drafting, revising and finalizing the Operator Employment Requirements.

9. Additional Front-End Transition Period Milestones

- a. Detailed description of the proposed team that the Qualified Respondent expects to designate to prepare, assist in the preparation or development and/or negotiate the terms and conditions, as applicable, of each of the following Front-End Transition Period milestones:
 - i. GenCo Shared Services and the related Shared Services Agreement.
 - ii. Emergency Response Plan.
 - iii. Non-Federal Funding Procurement Manual.
 - iv. Physical Security Plan.
 - v. Data Security Plan.
 - vi. Vegetation Management Plan.
 - vii. System Operation Principles.
- b. Detailed description of the Qualified Respondent's proposed approach to meet or otherwise develop each of the following Front-End Transition Period milestones:
 - i. Drafting and negotiation of the Shared Services Agreement, including views on the provisions set forth set forth in Annex VI (*GenCo Shared Services*) of the O&M Agreement.
 - ii. Emergency Response Plan, including the assumptions, procedures and actions provided therein, the Qualified Respondent's views on why the proposed plan is suited for Puerto Rico and federal requirements and a description of prior experience in developing similar emergency response or contingency plans.
 - iii. Non-Federal Funding Procurement Manual.
 - iv. Physical Security Plan.

- v. Data Security Plan.
 - vi. Vegetation Management Plan.
 - vii. System Operation Principles, including the Qualified Respondent's views on the indicative System Operation Principles as set forth in Annex I (*Scope of Services*) of the O&M Agreement, a description of any proposed changes to the contents thereto and a description of the Qualified Respondent's proposed approach to coordinating review and comments from PREB.
- c. Proposed timeline and key milestones to drafting, revising and finalizing (including obtaining the applicable regulatory approvals and coordinating subsequent implementation) each of the following items to be addressed during the Front-End Transition Period:
- i. GenCo Shared Services and the related Shared Services Agreement.
 - ii. Emergency Response Plan (including milestones involving applicable approvals and subsequent implementation).
 - iii. Non-Federal Funding Procurement Manual
 - iv. Physical Security Plan.
 - v. Data Security Plan.
 - vi. Vegetation Management Plan.
 - vii. System Operation Principles.

10. Asset Acquisition

- a. Evaluating existing procurement and subcontracting policies, procedures and systems.
- b. Assuming responsibility for securing use of assets, facilities, IT / OT, etc.
- c. Assuming existing subcontracts.
- d. Views on existing procurement policies and guidelines, including potential modifications thereto.

11. Back-End Transition Plan

- a. Detailed description of the Qualified Respondent's proposed members of the planning team designated to prepare the Back-End Transition Plan.
- b. Detailed description of the proposed approach to the development and implementation of the Back-End Transition Plan, including rights and responsibilities thereunder.
- c. Proposed outline of the Back-End Transition Plan to be included as Annex III (*Back-End Transition Plan*) of the O&M Agreement, which outline should address the treatment of ServCo employees upon the expiration or early termination of the O&M Agreement, among other things.

[Signature page follows].

QUALIFIED RESPONDENT

Company Name

Name of Qualified Respondent's
Authorized Official

Title

Signature of Qualified Respondent's
Authorized Official

Date



DEFINITIVE PROPOSAL FORM 1.6

OPERATOR RECRUITMENT AND STAFFING PLAN

_____ (the Qualified Respondent) hereby acknowledges and affirms that the attached documentation (i) constitutes its full and complete submission for Definitive Proposal Form 1.6, (ii) meets the requirements described in Section 4.1.6 (*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 Transmission and Distribution System issued by the Puerto Rico Public-Private Partnerships Authority on February 1, 2019 (as amended, the “RFP”) or the final form of the Puerto Rico Transmission and Distribution System 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 Qualified Respondent'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 Qualified Respondent 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 Qualified Respondent'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. Qualified Respondent'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 Qualified Respondent 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 Qualified Respondent 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 Qualified Respondent 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 Qualified Respondent'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 Qualified Respondent'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]

QUALIFIED RESPONDENT

Company Name

Name of Qualified Respondent's
Authorized Official

Title

Signature of Qualified Respondent's
Authorized Official

Date



DEFINITIVE PROPOSAL FORM 1.7

APPROACH TO PERFORMANCE METRICS

_____ (the Qualified Respondent) hereby acknowledges and affirms that the attached documentation (i) constitutes its full and complete submission for Definitive Proposal Form 1.7, (ii) meets the requirements described in Section 4.1.7 (*Approach to Performance Metrics*) 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 Transmission and Distribution System issued by the Puerto Rico Public-Private Partnerships Authority on February 1, 2019 (as amended, the “RFP”) or the final form of the Puerto Rico Transmission and Distribution System 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. Views on the indicative Performance Metrics described in Annex VIII (*Performance Metrics*) to the O&M Agreement.
2. Detailed description and background of the key personnel that the Qualified Respondent expects to be designated to become part of the planning team that will prepare a revised Annex VIII to the O&M Agreement during the Front-End Transition Period.
3. Description of how the Qualified Respondent would approach the suggestion of alternative Performance Metrics during the Front-End Transition Period and views regarding potential changes that the Qualified Respondent believes should be made to the indicative Performance Metrics described in Annex VIII (*Performance Metrics*).
4. Proposed timeline and key milestones for the development and finalization of the Performance Metrics, including a description of its proposed approach to coordinating review by, and responses to comments from, PREB.
5. Views and approach to the Incentive Fee, including:
 - a. a maximum proposed Incentive Fee amount per Contract Year based on the indicative Performance Metrics included in Annex VIII of the O&M Agreement;
 - b. a maximum proposed Incentive Fee amount per Contract Year assuming changes were made to the indicative Performance Metrics included in Annex VIII of the O&M Agreement; and
 - c. a detailed explanation of the Qualified Respondent's views on how the agreed-upon maximum annual Incentive Fee should reduce or otherwise change the proposed Fixed Fee.
6. Detailed description of the proposed approach to engaging with the relevant regulatory bodies, including PREB, in proceedings to amend, adjust and/or modify the Performance Metrics.
7. Views on the initial and subsequent optimal time periods for baseline, target and minimum performance levels, as well as the actual levels of achievement for those time periods, for the proposed Performance Metrics.
8. Detailed description of the Qualified Respondent's views on the form and scope of Major Outage Event Performance Metrics, Minimum Performance Thresholds and Key Performance Metrics.

9. Description of the assumptions or dependencies regarding the Project that impact Performance Metrics and any risk associated with Performance Metrics and proposed mitigation strategies.
10. Description of the methods, processes, tools and techniques that will be used for performance measurement and how they will integrate with the O&M Services (e.g., contract management, staffing management, communication management, cost management, subcontractor management, project monitoring and control, risk management, etc.).
11. The Qualified Respondent's ability and commitment to meet the Performance Metrics and earn the Incentive Fee.

QUALIFIED RESPONDENT

Company Name

Name of Qualified Respondent's
Authorized Official

Title

Signature of Qualified Respondent's
Authorized Official

Date



DEFINITIVE PROPOSAL FORM 1.8

OPERATIONAL AND FINANCIAL PROPOSALS

_____ (the Qualified Respondent) hereby acknowledges and affirms that the information included in the following table (i) constitutes its full and complete submission for Definitive Proposal Form 1.8 and (ii) meets the requirements described in Section 4.1.8 (*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 Transmission and Distribution System issued by the Puerto Rico Public-Private Partnerships Authority on February 1, 2019 (as amended, the “RFP”) or the final form of the Puerto Rico Transmission and Distribution System 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. The proposed Target Service Commencement Date pursuant to Section 1.1 of the O&M Agreement.
2. The proposed amount of Owner funding for the Outage Event Reserve Account pursuant to Section 7.5(d)(i) of the O&M Agreement.
3. The proposed weekly amount of Delay Liquidated Damages and related maximum cap, pursuant to Section 4.8(a) of the O&M Agreement.
4. The proposed amount of the Operator Damage Cap pursuant to Section 14.6(d) and Annex XIV of the O&M Agreement.
5. The proposed caps per Contract Year and in the aggregate for all Losses during the Term of the Operator's Liability to Owner Indemnitees under Section 18.1 of the O&M Agreement, including Disallowed Costs pursuant to Section 18.3(a)(i) of the O&M Agreement.

B. FINANCIAL PROPOSALS

1. The anticipated total amount associated with the proposed Front-End Transition Service Fee pursuant to Section 4.6(b) of the O&M Agreement, based on the Qualified Proponent's proposed Target Service Commencement Date (as provided in response to Item A(1) above) and including an indicative calculation using a format similar to the chart provided below:

1. Front-End Transition Hourly Fully Allocated Rates per ManagementCo or Affiliate Employee Category (to be included as <u>Annex V</u> to the O&M Agreement)	\$[•]
2. Anticipated Number of Hours (per Employee in each category identified in <u>Annex V</u> to the O&M Agreement)	[•]hrs
3. ANTICIPATED TOTAL MAN-HOUR COSTS (product of #1 and #2 above)	\$[•]
4. Proposed Profit Margin Percentage	[•]%
5. ANTICIPATED TOTAL PROFIT MARGIN AMOUNT (based on percentage proposed on #4 above)	\$[•]
6. Estimated reasonable and documented costs and expenses incurred by ManagementCo (without markup for profit)	\$[•]

7. ANTICIPATED FRONT-END TRANSITION FEE (the sum of #3, #5 and #6 above)	\$[•]
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2. The proposed amounts per Contract Year of the Fixed Fee pursuant to Section 7.1(b)(i) and Annex VIII of the O&M Agreement:

Contract Year	Fixed Fee
1	\$[•]
2	\$[•]
3	\$[•]
4	\$[•]
5	\$[•]
6	\$[•]
7	\$[•]
8	\$[•]
9	\$[•]
10	\$[•]
11	\$[•]
12	\$[•]
13	\$[•]
14	\$[•]
15	\$[•]

3. The proposed maximum amounts per Contract Year of the Incentive Fee pursuant to Section 7.1(c)(i) and Annex VIII of the O&M Agreement, including related assumptions and rationales:

Contract Year	Proposed Maximum Incentive Fee (based on the indicative Performance Metrics included in <u>Annex VIII</u> of the O&M Agreement)	Proposed Maximum Incentive Fee (assuming changes are made to the indicative Performance Metrics included in <u>Annex VIII</u> of the O&M Agreement)
1	\$[•]	\$[•]
2	\$[•]	\$[•]
3	\$[•]	\$[•]
4	\$[•]	\$[•]
5	\$[•]	\$[•]
6	\$[•]	\$[•]
7	\$[•]	\$[•]
8	\$[•]	\$[•]
9	\$[•]	\$[•]
10	\$[•]	\$[•]
11	\$[•]	\$[•]
12	\$[•]	\$[•]
13	\$[•]	\$[•]
14	\$[•]	\$[•]
15	\$[•]	\$[•]

4. The anticipated total amount associated with the proposed Back-End Transition Service Fee pursuant to Section 16.4(b) of the O&M Agreement and including an indicative calculation using a format similar to the chart provided below:

1. Anticipated Back-End Transition Hourly Fully Allocated Rates per Operator or Affiliate Employee Category	\$[•]
2. Anticipated Number of Hours (per Employee in each category)	[•]hrs
3. ANTICIPATED TOTAL MAN-HOUR COSTS (product of #1 and #2 above)	\$[•]
4. Proposed Profit Margin Percentage (should match the profit margin for the Front-End Transition Period)	[•]%
5. ANTICIPATED TOTAL PROFIT MARGIN AMOUNT (based on percentage proposed on #4 above)	\$[•]
6. Estimated reasonable and documented costs and expenses incurred by the Operator (without markup for profit)	\$[•]
7. ANTICIPATED BACK-END TRANSITION FEE (the sum of #3, #5 and #6 above)	\$[•]

5. The proposed amounts per contract year of the Operator Termination Fee pursuant to Section 14.6(c)(i) and Annex XII of the O&M Agreement:

Contract Year	Operator Termination Fee
1	\$[•]
2	\$[•]
3	\$[•]
4	\$[•]
5	\$[•]
6	\$[•]
7	\$[•]
8	\$[•]
9	\$[•]
10	\$[•]
11	\$[•]
12	\$[•]
13	\$[•]
14	\$[•]
15	\$[•]

6. The proposed amounts per contract year of the Owner Termination Fee pursuant to Section 14.6(c)(ii) and Annex XIII of the O&M Agreement:

Contract Year	Owner Termination Fee
1	\$[•]
2	\$[•]
3	\$[•]
4	\$[•]
5	\$[•]
6	\$[•]
7	\$[•]
8	\$[•]
9	\$[•]
10	\$[•]
11	\$[•]
12	\$[•]

13	\$[•]
14	\$[•]
15	\$[•]

* * *

Proposed amounts should be provided by the Qualified Respondent in nominal US dollar terms.

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

[Signature page follows]

QUALIFIED RESPONDENT

Company Name

Name of Qualified Respondent's
Authorized Official

Title

Signature of Qualified Respondent's
Authorized Official

Date



DEFINITIVE PROPOSAL FORM 1.9

OPTIONAL DEBT FINANCING PLAN

_____ (the Qualified Respondent) hereby acknowledges and affirms that the attached documentation (i) constitutes a final markup of the revised draft of the Financing Term Sheet included in Annex E to this RFP or a term sheet summarizing the indicative terms and conditions of an alternative financing arrangement proposed by the Qualified Respondent and (ii) meets the requirements described in Section 4.1.9 (*Optional Debt Financing Plan*) of the RFP.

Capitalized terms not defined herein shall have the meaning set forth in the Request for Proposals for Puerto Rico Electric Power Transmission and Distribution System issued by the Puerto Rico Public-Private Partnerships Authority on February 1, 2019 (as amended, the "RFP") or the final form of the Puerto Rico Transmission and Distribution System 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.

QUALIFIED RESPONDENT

Company Name

Name of Qualified Respondent's
Authorized Official

Title

Signature of Qualified Respondent's
Authorized Official

Date



DEFINITIVE PROPOSAL FORM 1.10

BID SECURITY; OTHER REQUIRED FORMS AND CERTIFICATIONS

_____ (the Qualified Respondent) hereby acknowledges and affirms that the attached documentation (i) constitutes its full and complete submission for Definitive Proposal Form 1.10, (ii) meets the requirements described in Section 4.1.10 (*Bid Security; Other Required Forms and Certifications*) of the RFP and (iii) includes the following:

1. The certifications included in **Annex B** (Federal Funding Certifications and Conditions) and **Annex C** (Form of Respondent Certification) of the RFP.
2. The form included as **Attachment 1** (*Letter of Credit Requirement*) to this Definitive Proposal Form 1.10.

By submitting this form, the Qualified Respondent hereby acknowledges, accepts and agrees to the terms and conditions regarding the Bid Security as described in Section 4.1.10 (*Bid Security; Other Required Forms and Certifications*) of the RFP.

Capitalized terms not defined herein shall have the meaning set forth in the Request for Proposals for Puerto Rico Electric Power Transmission and Distribution System issued by the Puerto Rico Public-Private Partnerships Authority on February 1, 2019 (as amended, the "**RFP**") or the final form of the Puerto Rico Transmission and Distribution System 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.

QUALIFIED RESPONDENT

Company Name

Name of Qualified Respondent's
Authorized Official

Title

Signature of Qualified Respondent's
Authorized Official

Date

ATTACHMENT 1 TO BID SECURITY; OTHER REQUIRED FORMS AND CERTIFICATIONS

LETTER OF CREDIT REQUIREMENT

(To be typed on Financial Institution's Letterhead)

FORM OF LETTER OF CREDIT

ISSUER: [•] *[Must be Member of the New York Clearing House Association]*

PLACE FOR PRESENTATION OF DRAFT IN PROGRESS: *[Name and Address of Bank/Branch—MUST be NEW YORK, NEW YORK Bank/Branch or SAN JUAN, PUERTO RICO Bank/Branch]*

APPLICANT: [•]

APPLICANT NOTICE ADDRESS: [•]

BENEFICIARY: PUERTO RICO ELECTRIC POWER AUTHORITY

BENEFICIARY NOTICE ADDRESS: [•]

LETTER OF CREDIT NUMBER: [•]

PLACE AND DATE OF ISSUE: [•]

AMOUNT: [•]

EXPIRATION DATE: *[One hundred and twenty (120) days from and after the Proposal Submission Deadline]*

Issuer hereby issues this Irrevocable Standby Letter of Credit (this "**Letter of Credit**") in favor of Beneficiary in the amount of [words] United States Dollars (US\$[numbers]) (the "**Stated Amount**"). Funds under this Letter of Credit are available to Beneficiary upon Beneficiary's presentation to Issuer of one or more sight drafts drawn on Issuer for a sum or sums in an aggregate amount not exceeding the Stated Amount. Any sight draft under this Letter of Credit shall identify this Letter of Credit by the name of Issuer and the Letter of Credit number, amount and place and date of issue. Such sight draft shall be signed by [an officer of Beneficiary] or his designee and shall contain a statement that Beneficiary is entitled to make such draw or shall be accompanied by a signed statement of [an officer of Beneficiary] to the same effect.

This Letter of Credit shall be honored by Issuer if presented at [NEW YORK, NEW YORK Bank/Branch or SAN JUAN, PUERTO RICO Bank/Branch—Name & Address] on or before [date] (the "**Expiration Date**"). The obligations of Issuer hereunder are primary obligations to Beneficiary and shall not be affected by the performance or non-performance by [Name of Applicant] under any agreement with Beneficiary or by any bankruptcy, insolvency or other similar proceeding initiated by or against [Name of Applicant]. [Name of Applicant] is not the beneficiary under this Letter of Credit and possesses no interest whatsoever in proceeds of any draw hereon. This Letter of Credit shall terminate on the earlier of (i) the close of business on the Expiration Date and (ii) the date on which Issuer has honored one or more draws in the full amount of the Stated Amount. This Letter of Credit may not be transferred by Beneficiary to any other person. Drawings by facsimile to facsimile number [number] are acceptable (each such drawing, a "**Fax Drawing**").

provided, however, that a Fax Drawing will not be effectively presented until Beneficiary confirms, by telephone, Issuer's receipt of such Fax Drawing by calling Issuer at telephone number [number]. Issuer will acknowledge Beneficiary's presentment by electronic mail to the electronic mail address provided to Issuer in the Fax Drawing.

This Letter of Credit shall expire at 5:00 p.m. AST on the Expiration Date, subject to automatic extension as hereinafter provided. Notwithstanding anything to the contrary contained herein, it shall be a condition to this Letter of Credit that it shall be deemed automatically extended, without amendment, for successive periods of sixty (60) days each from its current or any future expiration dates, but in any event not beyond [the first anniversary of the Proposal Submission Deadline], which shall be the final expiration date of this Letter of Credit, unless, at least forty five (45) days prior to the then current expiration date of this Letter of Credit, Issuer notifies each of Beneficiary and [Name of Applicant] in writing by certified mail, return receipt requested, at the applicable address provided above (or at such other address as Beneficiary or [Name of Applicant], as applicable, may specify by written notice to Issuer), that this Letter of Credit will not be extended beyond the current expiration date hereof; provided that Issuer's obligation to make any payment hereunder in respect of a drawing request made prior to the expiry hereof shall continue until payment is made.

To the extent not inconsistent with the express provisions hereof, this Letter of Credit is subject to the rules of the *International Standby Practices ISP98* ("**ISP98**"), as interpreted under the laws of the State of New York, and shall, as to matters not governed by the ISP98, be governed and construed in accordance with the laws of the State of New York, without regard to principles of conflicts of law.⁵

With respect to any suit, action or proceedings relating to this Letter of Credit ("**Proceedings**"), Issuer irrevocably: (i) submits to the exclusive jurisdiction of the United States District Court for the Southern District of New York and (ii) waives any objection which it may have at any time to the laying of venue of any Proceedings brought in such court, waives any claim that such Proceedings have been brought in an inconvenient forum and further waives the right to object, with respect to such Proceedings, that such court does not have any jurisdiction over Issuer.⁶

ISSUER

Company Name

Name of Issuer's
Authorized Official

⁵ **NOTE TO QUALIFIED RESPONDENTS:** If the Qualified Respondent sources this Letter of Credit from a bank incorporated in the Commonwealth of Puerto Rico, then the Qualified Respondent may replace this paragraph with the following: "To the extent not inconsistent with the express provisions hereof, (i) this Letter of Credit is subject to the rules of the *International Standby Practices ISP98* ("ISP98"), as interpreted under the laws of the Commonwealth of Puerto Rico and (ii) as to matters not governed by the ISP98, this Letter of Credit shall be governed and construed in accordance with the laws of the Commonwealth of Puerto Rico, without regard to principles of conflicts of law."

⁶ **NOTE TO QUALIFIED RESPONDENTS:** If the Qualified Respondent has elected pursuant to the immediately preceding footnote to include in this Letter of Credit the language set forth therein, then this paragraph shall be replaced by the following: "Issuer irrevocably: (i) submits to the exclusive jurisdiction of the Commonwealth Court of First Instance, San Juan Part, in the Commonwealth of Puerto Rico; and (ii) waives any objection which Issuer may have at any time to the laying of venue of any Proceedings brought in any such court, waives any claim that such Proceedings have been brought in an inconvenient forum and further waives the right to object, with respect to such Proceedings, that such court does not have any jurisdiction over Issuer."

Title

Signature of Issuer's
Authorized Official

Date