



SESA SOLAR AND ENERGY STORAGE
ASSOCIATION
OF PUERTO RICO

December 3rd, 2021

Hon. Edison Avilés-Deliz
Chairman
Puerto Rico Energy Bureau
World Plaza Building
268 Ave. Muñoz Rivera
Nivel Plaza Suite 202
Hato Rey, PR 00918

RE: SESA Comments and Requests Regarding Tranche 1 and Tranche 2 Renewable Generation and Energy Storage Resource Procurement; NEPR-MI-2020-0012

Dear Chairman Avilés-Deliz and Honorable Commissioners:

The Puerto Rico Solar Energy Industries Association Corp., d/b/a/ Solar and Energy Storage Association of Puerto Rico (hereinafter, “SESA”) is an association that represents Puerto Rico’s solar and energy storage industries. It advocates for solar and storage technologies as a central solution to the energy needs of Puerto Rico and promotes public policy that results in the acceleration of deployment of these important, life-saving technologies. It brings awareness and understanding of these technologies to both government policymakers, the public, and other stakeholders, and facilitates collectively beneficial collaboration.

SESA-PR is a nonprofit organization focused on advancing solar and battery storage at all scales in Puerto Rico. Our interest in this proceeding is the same as it is for Law 17-2019, and for the IRP published in 2020: to see the letter and spirit of public policy implemented so that Puerto Rico transitions as rapidly as possible to 100% renewable energy, focusing on the first milestone required of moving from approximately 3% renewable energy, to at least 40% renewable energy by 2025.

This public docket (NEPR-MI-2020-0012) reflects a number of recent discrepancies between orders given by this Honorable Energy Bureau to PREPA regarding the timeline and certain details of the RFP process. Multiple orders from this Honorable Energy Bureau have not been followed by PREPA, and multiple requests for clarification or changes to the process from PREPA have gone unanswered by this Honorable Energy Bureau.

The result is a lack of public clarity regarding what steps will occur, and when, in the completion Tranche 1, and of future tranches.

Our request today to this Honorable Energy Bureau is to set the record straight regarding what bidders should expect, regarding the specific steps and timeline ranges that will be required by this Honorable Energy Bureau and other agencies between now and the “steel in the ground” construction phase of these important renewable energy and battery storage project developments.

Recent Timeline

- At the PREPA Board of Directors meeting¹ of September 2021, the PREPA Board of Directors voted to approve contract extensions through the end of March 2022 for both primary consultants engaged by PREPA to assist in the management of the RFP process – specifically, the firms Sargent & Lundy and King & Spalding.
- The contracts apparently expired on October 30th 2021 for the firm Sargent & Lundy, according to information available from the Puerto Rico Comptroller’s Office², as well as for King & Spalding³.
- At the November 17th PREPA Board of Directors meeting⁴, it appeared that PREPA had still not formally re-engaged with either Sargent & Lundy or King & Spalding, as PREPA stated at that meeting, in reference to these contract delays:

“The timeline itself had suffered some delays due to certain resources of the committee that were not - their contract had expired and they are being renewed. They're being re-contracted this week as we speak, so once we have the team back on back together, we will present to you an updated timeline.”

- According to the website of the Puerto Rico Comptroller, the subsequent contract for Sargent & Lundy was apparently begun on November 24th 2021 (last week)⁵, whereas the subsequent contract for King & Spalding was apparently begun on November 22nd 2021.⁶

¹ https://www.youtube.com/watch?v=mfHirdxdX_k

² <https://consultacontratos.ocpr.gov.pr/contract/details?contractid=5179781>

³ <https://consultacontratos.ocpr.gov.pr/contract/details?contractid=5179769>

⁴ <https://www.youtube.com/watch?v=DrciDR3tEHQ>

⁵ <https://consultacontratos.ocpr.gov.pr/contract/details?contractid=5220325>

⁶ <https://consultacontratos.ocpr.gov.pr/contract/details?contractid=5220136>

- The February 5th draft of the Procurement Plan proposed by PREPA for the Tranche 1 RFP shows a timeline involving a 5-week period for the Fiscal Oversight & Management Board (FOMB) to review and approve projects after they are approved by PREPA, and before they are presented to the Energy Bureau⁷.

Table 2-1 - Milestone Schedule

No	Milestone	Date
1	RFP Released to Public	D
2	Kick-Off Presentation Made Available	D + 1 week
3	Notice of Intent to Respond Deadline	D + 2 weeks
4	Contract Exceptions Deadline	D + 5 weeks
5	Release of Final Proposal Version of Contracts	D + 7 weeks
6	Clarification Submittal Deadline	D + 8 weeks
7	Proposal Submission Deadline & Commencement of Phase I Evaluation	D + 9 weeks
8	Selection of Proposals for Phase II Evaluation	D + 12 weeks
9	Selection of Proposals for Phase III Evaluation	D + 19.7 weeks
10	FOMB Approval of Execution Version of Contract	D + 25 weeks
11	Execution of Contracts with Proponent(s) selected for Phase III Evaluation	D + 26 weeks
12	Energy Bureau Approval of Contracts executed in Milestone No. 11	D + 32.5 weeks

- Section 7.1 of Reglamento 8815⁸, referenced multiple times in recent filings by PREPA as the process they are using, describes a process different from what is in the February 5th 2021 draft of PREPA’s Procurement Plan. Section 7.1 spells out a potentially lengthy process whereby after the Executive Director of PREPA approves projects, they are then given to the PREPA Board of Directors for their approval or rejection; and if the PREPA Board of Directors rejects one or more projects, an additional time for PREPA staff to re-negotiate the terms and re-submit again to the PREPA Board of Directors; and only after PREPA Board of Directors formal approval are projects then submitted to this Honorable Energy Bureau.
- Recent filings in this docket referencing this Honorable Energy Bureau’s order for final Tranche 1 projects to be submitted by December 1st, and PREPA’s unanswered request to delay that date until December 8th, both appear to be potentially in conflict with

⁷ <https://energia.pr.gov/wp-content/uploads/sites/7/2021/02/Final-Motion-to-Submit-Renewables-RFP-with-FOMB-Comments-NEPR-MI-2020-0012.pdf>

⁸ <https://energia.pr.gov/wp-content/uploads/sites/7/2016/10/AJ-07795-REGLAMENTO-1.pdf>

Reglamento 8815 as well as the timeline detailed in the February 5th 2021 draft of the Procurement Plan.

These apparent contract lapses and lack of clarity regarding what regulation prevails in dictating the steps in the process, and the timeframe for those steps, are cause for great concern to stakeholders wishing to see this RFP process have a successful outcome.

List of pending issues that remain unclear to the public

To our knowledge, the following questions are pending regarding the RFP process for Tranche 1 and for future Tranches. We humbly request that this Honorable Energy Bureau consider whether it would be in the public interest for issuance of an Order, Technical Conferences, and/or other regulatory mechanisms to provide clarity to current and future potential bidders, other interested stakeholders, and the public on the following list of pending issues, and to consider doing so as soon as possible.

1. **PREPA pending request to move timeline to December 8th.**⁹
 - a. Unclear in this pending request is whether the timeline of December 8th is for all forms of bids, or only for certain types (solar + storage, storage only, and / or VPP), and if it's only for certain types, what specific timeline is required or forecasted for bids that are not anticipated to be submitted on December 8th.
2. **PREPA pending request from October 19th 2021 to make specific substantial changes to the terms of this RFP.**¹⁰
 - a. If this Honorable Energy Bureau is rejecting wholly, accepting in part and rejecting in part, or accepting wholly PREPA's request to make the changes listed in their filing to the RFP process for Tranche 1.
3. **Whether Reglamento 8815 is the guiding reglamento for Tranche 1, or not; and if not, what specific procurement process or rule is required to be followed.**
4. **The projected timeline and other details for issuance of Tranche 2 and Tranche 3 of the RFPs.**

⁹ <https://energia.pr.gov/wp-content/uploads/sites/7/2021/11/Motion-Requesting-Extension-of-Time-of-Seven-Days-to-Submit-Final-PPOAs-and-ESSAs-NEPR-MI-2020-0012-1.pdf>

¹⁰ <https://energia.pr.gov/wp-content/uploads/sites/7/2021/11/Motion-to-Supplement-Motion-for-Clarification-of-PREB-Order-of-10-12-2021-re-Tranche-2-RFP-Issuance-NEPR-MI-2020-0012.pdf>

- a. The IRP sets a target date of June 2021 for Tranche 2 issuance, and December 2021 for Tranche 3 issuance.
- b. Given that Tranche 2 has not been issued, and the process is approximately 6 months behind at this point, will Tranche 2 and Tranche 3 be combined?
- c. Will subsequent tranches be issued by PREPA, this Honorable Energy Bureau directly, the P3 Authority, or a 3rd party entity on behalf of one of these entities?
- d. For future tranches, will Reglamento 8815 be wholly, partially, or not at all required to be followed?

5. How lessons learned from Tranche 1 will be integrated into Tranche 2.

- a. We repeat our previous request that adequate time be given for input directly to this Honorable Energy Bureau from participants in Tranche 1 (those companies that submitted bids as well as those that did not), other energy stakeholders, and the public regarding lessons learned from Tranche 1, truly take the time to understand them, and craft Tranche 2 taking into consideration and correcting all lessons learned from Tranche 1.

Conclusion

We applaud the efforts of this Honorable Energy Bureau, of PREPA leadership, and of all energy stakeholders involved in Puerto Rico's energy transformation. At this critical moment in history, we urge and ask this Honorable Energy Bureau to be assertive in ensuring Tranche 1. But we also urge and ask this Honorable Energy Bureau to provide oversight to ensure that this process moves slowly enough to ensure bidders actually have all relevant information needed to submit bids, that the timelines are reasonable, that the personnel exist to work on finalizing bid negotiations, that the prevailing rules dictating steps in the process and timelines for those steps is clear to stakeholders and the public, and that any other steps are taken to help ensure all possible qualified bids are presented to this Honorable Energy Bureau for your approval.

Respectfully submitted,



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