

**GOVERNMENT OF PUERTO RICO
PUERTO RICO PUBLIC SERVICE REGULATORY BOARD
PUERTO RICO ENERGY BUREAU**

NEPR

Received:

Jul 14, 2023

9:11 AM

IN RE: 10-YEAR PLAN FEDERALLY
FUNDED COMPETITIVE PROCESS

CASE NO.: NEPR-MI-2022-0005

Subject: Procurement of Black-Start and
Emergency Peaking Resources

**PREPA'S RESPONSE TO MOTION REQUESTING ORDER TO AFFIRM GENERA
PR'S EXCLUSIVE RESPONSIBILITY IN MANAGING AND DECISION-MAKING FOR
ONGOING PUBLIC PROCUREMENT PROCESSES AND FACILITATION OF
RELATED DOCUMENTATION TRANSFER**

TO THE HONORABLE PUERTO RICO ENERGY BUREAU:

COMES NOW the Puerto Rico Electric Power Authority (PREPA) through the undersigned legal representation and respectfully submits and requests as follows:

1. The IRP Order issued by the Puerto Rico Energy Bureau (hereinafter "PREB") in the current matter on August 24th, 2020, approved a Modified Action Plan that included an allowance for replacing a part of PREPA's older gas turbine peaking resources up to 81 MW, subject to competitive procurement. The Modified Action Plan further indicated that PREPA should place such peaking resources at locations with zero or only one remaining older peaking unit (i.e., Costa Sur, Aguirre, and Yabucoa); and that the design of such procurement should define services to be provided such as black start, rather than specific technologies.

2. As of said date, PREPA has been filing all the specifications and other information requested by the PREB regarding the new black star Units for Yabucoa and Costa Sur Power Stations and the new peaker units for the Daguao, Jobos, and Palo Seco Power Stations.

3. After a long discussion regarding these projects, on January 23rd, 2023, the PREB approved the RFP's. PREPA initiated the procurement process of RFPs 3784 and 3800 pursuant to the orders issued by the PREB.

4. On January 24th, 2023, PREPA, Genera PR, LLC (hereinafter "Genera"), and Puerto Rico Public-Private Partnerships Authority signed the Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement (hereinafter "GOMA"). In this contract, and among other things, Genera was required to operate, maintain, and manage all PREPA assets concerning power generation.

5. On July 1st, 2023, Genera began operating PREPA's assets under the GOMA.

6. On July 6th, 2023, Genera filed a motion requesting PREB to issue an order to establish that under the GOMA, Genera has the exclusive authority and responsibility in the administration and decisional power regarding RFPs 3784 and 3800. Genera further requested that PREPA transfer to Genera all documentation related to those RFPs.

7. PREPA disagrees with the expansive interpretation Genera is attributing to the terms and conditions of GOMA. Notwithstanding, PREPA is in agreement with allowing Genera to conclude the RFP process, since the RFPs are currently in the adjudication stage. More so, considering Genera's guarantee that the units will be purchased at a lower cost and be commissioned earlier than expected. See Genera's *Memorandum in Compliance with May 8 Order*.

8. Genera's contention in its July 6th request to the PREB hinges on Section 5.1 of the GOMA, where it interprets that it is entitled to manage all matters related to the

RFPs. PREPA disagrees with this interpretation, since RFPs 3784 and 3800 represent *new* generation units not included in the GOMA. As such, these units cannot be considered part of the Legacy Generation Assets, which are defined in the GOMA as the “the base-load generation plants and combustion turbine peaking units” *owned* by PREPA. Those assets are listed in Annex I of the GOMA.

9. It is only over these Legacy Generation Assets that PREPA operated until June 30th, 2023, but still owns, as of today, that Genera is obligated to provide operation and maintenance. This does not include *new* generation which are the subject of RFPs 3784 and 3800. Although PREPA recognizes that Genera will eventually be responsible for the operation and maintenance of those new units, as of today is not Genera’s responsibility.

10. Notwithstanding, and for the reasons stated in paragraph seven (7), PREPA concedes that in the best use of public resources, Genera should be the one to complete the RFPs process. However, it is important to point out that because the procurement process is federally funded, Genera must comply with the applicable law and be advised that any violation of the terms and conditions of the federal grants could result in the loss of those funds.

11. It is further important that Genera take into consideration that the requirements to be considered for awarding and adjudicating a contract must be listed in the RFP, including the value assigned to them, the itinerary to receive and evaluate the proposals and award the good pro, and the contract terms. R&B Power v. E.L.A., 170 DPR 606, 623 (2007). Likewise, the RFPs 3784 and 3800 were conducted under *Joint Regulation for the Procurement, Evaluation, Selection, Negotiation and Award of*

Contracts for the Purchase of Energy and the Procurement, Evaluation, Selection, Negotiation and Award Process for the Modernization of the Generation Fleet (hereinafter “Joint Regulation”) adopted by PREB and PREPA; and are ready to be adjudicated. Any change in the requirements and rules of adjudication would cause the procedure to be invalidated, which could undoubtedly represent a delay in the procurement process, which is something that the PREB has previously repudiated.

12. PREPA’s Executive Director, Eng. Josué Colón prioritized all the reconstruction projects and improvements to the energy system that were delayed for different reasons prior to his appointment. Upon his arrival at PREPA, the amount of federal funds for the repair of the generation units was nonexistent. As of his incumbency, Mr. Colón’s approach was able to stabilize an otherwise frail and archaic power generation system, as well as exponentially accelerate an unprecedented influx of federal funds for the development and reconstruction of the energy system of Puerto Rico. See the *Federal Funds Project List – Reimbursement to date* attached. Continuing with this approach, PREPA agrees that Genera award the RFPs 3784 and 3800, subject to compliance with the current RFP documents, and representations of its cost saving measures that would result in savings for the people of Puerto Rico.

13. According to the Joint Regulation, PREPA is responsible for finishing the procurement process. However, PREPA is committed to working with Genera, which will undoubtedly take care of the requested assets in the RFPs, to achieve the purchase without major inconvenience.

14. Consequently, following the GOMA and looking after the best interests of the people of Puerto Rico, PREPA agrees that Genera complete the process of RFPs

3784 and 3800. PREPA will hand over to Genera all the documentation regarding RFPs 3784 and 3800, so Genera can continue the procurement process.

15. Genera assured, agreed, and represented that it could acquire the units at a lower cost, obtaining other benefits and having the units commissioned earlier than expected. PREPA will work with Genera, so the people of Puerto Rico benefit from Genera's approach and can have the energy system that deserves it in a more expeditated way.

WHEREFORE, for the reasons stated above, PREPA respectfully requests the Energy Bureau to take notice of the arguments outlined above.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 13th day of July 2023.

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CERTIFICATE OF SERVICE

It is hereby certified that, on this same date, I have filed the above motion with the Office of the Clerk of the Energy Bureau using its Electronic Filing System at <https://radicacion.energia.pr.gov/login>.

In San Juan, Puerto Rico, this 13th day of July 2023.

s/Juan R. González Galarza
Juan R. González Galarza

Puerto Rico Electric Power Authority
 Federal Funds Project List- Reimbursement to date
 January 2021 - 2023

DFMO ID	Disaster	PW	PWXref	GM	CAT	Name	Jan-21	Jun-23	2021 Vs 2023
DFMO4339103	4339	5838	PA-02-PR-4339-PW-05838	120613	B	Green Plant	-	256,105	256,105
DFMO4339075	4339	5910	PA-02-PR-4339-PW-05910	103768	B	C. Principe Electrical Contractors	-	1,400,000	1,400,000
DFMO4339090	4339	6068	PA-02-PR-4339-PW-06068	101710	B	HOSEC Engineering	-	846,362	846,362
DFMO4339098	4339	6311	PA-02-PR-4339-PW-06311	138670	B	US Contractor Inspections (MEC) 90%	-	4,040,373	4,040,373
DFMO4339071	4339	6330	PA-02-PR-4339-PW-06330	79015	B	Reyes Electric	-	250,000	250,000
DFMO4339106	4339	6928	PA-02-PR-4339-PW-06928	96165	B	US Contractor Inspections (MEC) 100%	-	672,506	672,506
DFMO4339079	4339	7872	PA-02-PR-4339-PW-07872	122571	B	Power Crane	-	34,675	34,675
DFMO4339063	4339	7907	PA-02-PR-4339-PW-07907	101542	B	All Contractors	-	542,578	542,578
DFMO4339097	4339	8937	PA-02-PR-4339-PW-08937	102889	B	Whitefish	-	111,352,417	111,352,417
DFMO4339107	4339	11129	PA-02-PR-4339-PW-11129	243527	B	Force Account Labor (90/10)	-	-	-
DFMO4339066	4339	11211	PA-02-PR-4339-PW-11211	49831	B	COBRA 90/10	-	117,157,074	117,157,074
DFMO4339101	4339	9904	PA-02-PR-4339-PW-09904	91194	B	St. James Securities	-	70,119	70,119
DFMO4473004	4473	7	PA-02-PR-4473-PW-00007	137955	B	Earthquake Peaking Units	187,933,253	337,626,821	149,693,569
DFMO4473005	4473	638	PA-02-PR-4473-PW-00638	145903	B	Earthquake Force Account T&D	-	1,259,389	1,259,389
DFMO4473009	4473	591	PA-02-PR-4473-PW-00591	164458	B	Costa Sur Emergency Repairs	-	7,062,983	7,062,983
DFMO4493001	4493	4	PA-02-PR-4493-PW-00004	136441	B	PREPA Emergency Protective Measures COVID-19	-	1,875,438	1,875,438
DFMO4671001	4671	44	PA-02-PR-4671-PW-00044	686388	B	Peaking Units - Fiona	-	62,743,771	62,743,771
DFMO4671002	4671	119	PA-02-PR-4671-PW-00119	686436	B	Emergency Inventory Supply - LNG	-	-	-
DFMO4671003	4671	342	PA-02-PR-4671-PW-00342	710544	B	App. Cert. - Force account Palo Seco and Costa Sur Power Plant	-	377,032	377,032
DFMO4671005	4671	355	PA-02-PR-4671-PW-00355	710541	B	Force account San Juan Power Plant	-	125,333	125,333
DFMO4671015	4671				B	Force Account Aguirre	-	-	-
DFMO4671016	4671				B	Force Account Riego y Embalse	-	-	-
DFMO4671017	4671				B	Force Account COE	-	-	-
DFMO4671019	4671				B	Force Account Hydrogas	-	-	-
DFMO4671009	4671			687247	B	Central San Juan 100%	-	-	-
DFMO4671010	4671			708414	B	Central San Juan 90/10	-	-	-
DFMO4671011	4671			687249	B	Central Aguirre 100%	-	-	-
DFMO4671018	4671				B	Central Aguirre 90/10	-	-	-
DFMO4671004	4671	350	PA-02-PR-4671-PW-00350	702010	B	Central Aguirre Ciclo Combinado - Generator	-	20,864	20,864
DFMO4671012	4671			687250	B	Central Costa Sur	-	-	-
DFMO4671008	4671	517	PA-02-PR-4671-PW-00517	688781	B	Guamani Dam Repairs	-	-	-
DFMO4671013	4671			713639	B	Riego - Carite	-	-	-
DFMO4671014	4671			711142	B	Riego - Melania & Mondongo	-	-	-
DFMO4671019	4671				B	Hydrogas Emergency Repairs	-	-	-
DFMO4671006	4671	409	PA-02-PR-4671-PW-00409	713673	B	Oficina de Majejo de Emergencia y Administración de Desastres (EO)	-	-	-
Management Cost									
DFMO3384005	3384	138	PA-02-PR-3384-PW-00138	80518	Z	Subrecipient Management Cost	356,190	356,190	-
DFMO4336003	4336	134	PA-02-PR-4336-PW-00134	111292	Z	Subrecipient Management Cost	6,368	6,368	-
DFMO4339061	4339	1294	PA-02-PR-4339-PW-01294	83182	Z	Subrecipient Management Cost	7,750,763	41,501,075	33,750,312
DFMO4473050	4473	506	PA-02-PR-4473-PW-00506	437384	Z	Subrecipient Management Cost	-	767,954	767,954
DFMO4671200	4671	554	PA-02-PR-4671-PW-00554		Z	Subrecipient Management Cost	-	-	-
Permanent Work									
Shared PWs									
DFMO4339501A	4339	9510	PA-02-PR-4339-PW-09510	335168	F	FAASt A&E PREPA	-	4,794,593	4,794,593
DFMO4339501B	4339	10710	PA-02-PR-4339-PW-10710	673691	F	FAASt Equipment and Materials	-	-	-
PREPA PWs									
DFMO4339502	4339	9312	PA-02-PR-4339-PW-09312	180692	F	FAASt Mobile Generation Units Purchases	-	53,766,423	53,766,423
DFMO4339503	4339	10080	PA-02-PR-4339-PW-10080	334509	F	FAASt Palo Seco Demin Water Tank 4	-	2,595,017	2,595,017
DFMO4339504	4339	10455	PA-02-PR-4339-PW-10455	663385	F	FAASt Mayaguez Hydro-Gas Power Plant Permanent	-	15,987,670	15,987,670
DFMO4339505	4339	10571	PA-02-PR-4339-PW-10571	669498	F	FAASt Aguirre Power Plant 001 Infrastructure	-	889,146	889,146
DFMO4339506	4339	10568	PA-02-PR-4339-PW-10568	669233	F	FAASt Aguirre Power Plant 002 Units 1 & 2	-	13,602,765	13,602,765
DFMO4339507	4339	10622	PA-02-PR-4339-PW-10622	669815	F	FAASt Aguirre Power Plant 003 Combined Cycle	-	1,373,412	1,373,412
DFMO4339508	4339			670036	F	FAASt Fire Pump for Aguirre Power Complex (AG-004)	-	-	-
DFMO4339509	4339			Pending	F	FAASt Hydro Gas Permanent Repairs	-	-	-
DFMO4339510	4339	10607	PA-02-PR-4339-PW-10607	663383	F	FAASt Cambalache Power Plant Permanent Repair	-	794,160	794,160
DFMO4339511	4339	10606	PA-02-PR-4339-PW-10606	662957	F	FAASt Palo Seco Power Plant 001 Units 3 & 4	-	2,160,000	2,160,000
DFMO4339512	4339	10609	PA-02-PR-4339-PW-10609	671481	F	FAASt Palo Seco 002- Auxiliary Infrastructure	-	260,414	260,414
DFMO4339513	4339	10615	PA-02-PR-4339-PW-10615	662947	F	FAASt San Juan 001 Units 5 & 6 (Generation	-	21,282,701	21,282,701
DFMO4339514	4339	11085	PA-02-PR-4339-PW-11085	687480	F	FAASt San Juan Power Plant 002 Units 7 & 8	-	-	-
DFMO4339515	4339			Pending	F	FAASt San Juan Plant - Unit 10 (SJ-003)	-	-	-
DFMO4339516	4339	10608	PA-02-PR-4339-PW-10608	667744	F	FAASt San Juan Power Plant - Auxiliary Infrast	-	1,242,408	1,242,408
DFMO4339517	4339	10702	PA-02-PR-4339-PW-10702	672950	F	FAASt Costa Sur Power Plant Permanent	-	4,033,687	4,033,687
DFMO4339518	4339	10694	PA-02-PR-4339-PW-10694	673006	F	FAASt Costa Sur 002 -Infrastructure projects (-	110,520	110,520
DFMO4339519	4339			435769	F	FAASt South Coast Irrigation District - Canals	-	-	-
DFMO4339520	4339			334803	F	FAASt Loco Reservoir Dredging	-	-	-
DFMO4339521	4339			436462	F	FAASt Lajas Irrigation Canals	-	-	-
DFMO4339522	4339			335207	F	FAASt Guineo Reservoir - Dredging	-	-	-
DFMO4339523	4339			334798	F	FAASt Guerrero Reservoir - Dredging	-	-	-
DFMO4339524	4339			334813	F	FAASt Guayo Reservoir Dredging	-	-	-
DFMO4339525	4339			334811	F	FAASt Dos Bocas Reservoir Dredging	-	-	-
DFMO4339526	4339			178722	F	FAASt Caonillas Hydroelectric System (Dredging and Dam Repairs)	-	-	-
DFMO4339527	4339			436468	F	FAASt Toro Negro Hydroelectric System Connection	-	-	-
DFMO4339528	4339			335206	F	FAASt Matrullas Reservoir-Dredging	-	-	-
DFMO4339529	4339			334773	F	FAASt Lucchetti Reservoir - Dredging	-	-	-
DFMO4339530	4339			436467	F	FAASt Isabela Irrigation District - Canals	-	-	-
DFMO4339531	4339			334772	F	FAASt Guayabal Reservoir - Dredging	-	-	-
DFMO4339532	4339			334771	F	FAASt Guajataca Reservoir - Dredging	-	-	-
DFMO4339533	4339			334770	F	FAASt Guajataca Dam - Permanent Repairs	-	-	-
DFMO4339534	4339			334769	F	FAASt Garzas Reservoir - Dredging	-	-	-
DFMO4339535	4339			436621	F	FAASt Dams Minor Repairs	-	-	-
DFMO4339536	4339			180723	F	FAASt - Rio Blanco Hydroelectric System	-	-	-
DFMO4339538	4339			169340	F	FAASt Cambalache Power Plant - Flood Protection Barrier	-	-	-
DFMO4473017	4473	682	PA-02-PR-4473-PW-00682	171512	F	Costa Sur Tanks	-	3,882,636	3,882,636
DFMO4473016	4473	615	PA-02-PR-4473-PW-00615	171513	F	Costa Sur Work Completed	-	3,055,106	3,055,106
DFMO4473011	4473	495	PA-02-PR-4473-PW-00495	171515	F	Costa Sur Buildings	-	-	-

Puerto Rico Electric Power Authority

Federal Funds Project List- Reimbursement to date

January 2021 - 2023

DFMO ID	Disaster	PW	PWXref	GM	CAT	Name	Jan-21	Jun-23	2021 Vs 2023
DFMO4473018	4473	697	PA-02-PR-4473-PW-00697	171517	F	Costa Sur Discharge Channel	-	-	-
DFMO4671101	4671	425	PA-02-PR-4671-PW-00425	707331	F	FIONA/MARIA/EQ: Guamani Permanent Repairs	-	-	-
DFMO4671102	4671			710612	F	Hydrogas - Jobos	-	-	-
HMGP43390001	HMGP	8	HMGP-02-PR-4339-PW-0008	HMGP	F	North Generation	-	631,889	631,889
HMGP43390002	HMGP	10	HMGP-02-PR-4339-PW-0010	HMGP	F	Simple Cycle Gas Turbines	-	2,540,000	2,540,000
HMGP43390003	HMGP	11	HMGP-02-PR-4339-PW-0011	HMGP	F	Patillas Dams Retrofit	-	-	-
HMGP43390004	HMGP	12	HMGP-02-PR-4339-PW-0012	HMGP	F	Early Warning System	-	1,110,000	1,110,000
							1,618,629,180	2,336,027,335	717,398,155