

REQUEST FOR PROPOSALS

Renewable Energy Generation Resources and Energy Storage Systems

Tranche 1

Puerto Rico Electric Power Authority

DATE ISSUED: [INSERT DATE]

RESPONSES DUE DATE: [INSERT DATE]



**Puerto Rico
Electric Power
Authority**

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DISCLAIMER

The Puerto Rico Electric Power Authority has prepared this Request for Proposals for informational purposes only and delivery to parties who may have an interest 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 Proponent (as defined herein) may desire in investigating a potential transaction. The Puerto Rico Electric Power Authority does not make any express or implied warranty as to the accuracy or completeness of the information contained herein or otherwise made available in connection with further investigations by the recipient.

1. INTRODUCTION

1.1 Glossary

Unless the context otherwise requires:

“**Act 17**” has the meaning given in Section 1.5 (*Relevant Information and Regulations*);

“**Act 82-2010**” has the meaning given in Section 1.5 (*Relevant Information and Regulations*);

“**Act 120**” has the meaning given in Section 1.5 (*Relevant Information and Regulations*);

“**Affiliate**” means with respect to a specified entity, an entity that directly or indirectly, through one or more intermediaries, Controls (e.g., is a parent or grandparent company), is Controlled by (e.g., is a subsidiary) or is under common Control (e.g., is a sister company) with the specified entity;

“**Applicable Law**” means any law (including statutory and common law), statute, constitution, decree, judgment, treaty, regulation, rule, by-law, order, other legislative measure, directive, requirement or guideline of, or made by, any Authority;

“**Authority**” means any national, regional or local government or governmental, administrative, fiscal, judicial, or government-owned body, department, commission, authority, tribunal, agency or entity;

“**Bid Expiration Date**” has the meaning given in Section 5.5 (*Proposal Security*);

“**Clarification Submittal Deadline**” means the date that corresponds to the same term set forth in Table 2-1 (*Milestone Schedule*);

“**COD**” means commercial operation date;

“**Contract**” means either a PPOA or an ESSA (as applicable);

“**Contract Exceptions**” has the meaning given in Section 2.5 (*Contract Exceptions*);

“**Contract Exceptions Deadline**” means the date that corresponds to the same term set forth in Table 2-1 (*Milestone Schedule*);

“**Control**” means (i) the ownership (whether directly or indirectly) of more than fifty percent (50%) of the total issued voting share capital or other voting interest of that company or corporation, or (ii) the ability to unilaterally appoint a majority of the board directors or equivalent body of that company or corporation through the ownership of securities with voting power or otherwise, without the need of the vote or approval of another, or (iii) the ability to otherwise unilaterally direct the business affairs and/or operations of that company or corporation, without the need of the vote or approval of another and the terms “*Controls*”, “*Controlled*” and “*Controlling*” shall have correlative meanings. For the avoidance of doubt, a corporation owned

by two (2) shareholders each holding exactly fifty percent (50%) of the total issued and outstanding shares shall not be considered under the control of each shareholder;

“**Energy Resource**” means a Renewable Energy Resource, an Energy Storage Resource or a VPP, as applicable;

“**Energy Storage Resource**” means battery energy storage system or any other form of energy storage system that satisfy the requirements of the applicable MTR;

“**ESSA**” means an Energy Storage Services Agreement;

“**Feasibility Study**” means, for each proposal selected by PREPA for Contract negotiation under this RFP, a study of the feasibility of such proposal, including the interconnection of the proposed project with the T&D System;

“**Final Proposal Version of Contract**” has the meaning given in Section 2.6 (*Final Proposal Version of Contracts*);

“**Final Resolution**” has the meaning given in Section 1.2 (*Purpose of RFP*);

“**FOMB**” means the Financial Oversight and Management Board for Puerto Rico;

“**Irma**” has the meaning given in Section 1.4 (*Historical Context*);

“**IRP**” has the meaning given in Section 1.2 (*Purpose of RFP*);

“**kV**” means kilovolts;

“**LCOE**” means, for Renewable Energy Resources, the levelized cost of energy, which equals the present value of the estimated annual payments, or payment component, to be made in respect of a Renewable Energy Resource over the supply period arising out of a Contract, divided by the volume of energy which such Resource will produce over the same period, based on the P50 Energy Yield, for such supply period and expressed in US Dollars per MWh;

“**LCOS**” means, for Energy Storage Resources, the levelized cost of energy storage capacity, which equals the present value of the estimated annual payments, or payment component, to be made in respect of an Energy Storage Resource over the supply period arising out of a Contract, divided by the power rating capacity, which such Resource will likely make available over the same period, expressed in US Dollars per MWh;

“**Lead Member**” means, for any Proponent consortium, the lead member of such consortium, which has the power to act for and on behalf, and legally bind each of the Other Members, of such consortium on all matters related to this RFP, including the execution and delivery of a Contract;

“**LUMA**” has the meaning given in Section 1.3 (*PREPA and the Transformation of the Electric System*);

“**Maria**” has the meaning given in Section 1.4 (*Historical Context*);

“**MER**” has the meaning given in Section 3.2 (*Minimum Eligibility Requirements*);

“**Milestone Schedule**” has the meaning given in Section 2.2 (*Milestone Schedule*);

“**MTR**” has the meaning given in Section 1.2 (*Purpose of RFP*);

“**MW**” means megawatts;

“**MWh**” means megawatt-hours;

“**Net Capacity**” means the contracted capacity measured at the point of interconnection;

“**No Disbarment Certification**” has the meaning given in Table 3-1 (*Minimum Eligibility Requirements*);

“**Notice of Intent to Respond**” means the form set forth in Appendix A (*Form of Notice of Intent to Respond*);

“**Operating Procedures**” means the procedures to be followed in order to integrate the Energy Resource into the T&D System;

“**Other Members**” means, for any Proponent consortium, all of the members of such consortium other than the Lead Member;

“**P50 Energy Yield**” means, for any period of time, an estimate of the net electrical output, expressed as kWh, that the proposed facility can deliver to the T&D System with a probability of occurrence of fifty percent (50%) for such period, other than during any period of scheduled outages, based on the forecasted ambient conditions at the site during such period;

“**Performance Security**” has the meaning given in the relevant Final Proposal Version of Contract;

“**Person**” means an individual, a corporation, a partnership, a limited liability company, a joint venture or other legal entity capable under the laws of Puerto Rico of suing and being sued;

“**PPOA**” means a power purchase and operating agreement;

“**PPP Act**” has the meaning given in Section 1.5 (*Relevant Information and Regulations*);

“**PPP Regulation**” has the meaning given in Section 1.5 (*Relevant Information and Regulations*);

“**PREB**” means the Puerto Rico Energy Bureau;

“**PREPA**” means the Puerto Rico Electric Power Authority, a public corporation and governmental instrumentality of the Commonwealth of Puerto Rico, created pursuant to Act 83 of May 2, 1941, as amended;

“**Proponent’s Estimated Interconnection Costs**” has the meaning given in Section 6.2.c (*Tariff Proposal*);

“Proponent” means a (i) Person or (ii) a consortium of individuals, and/or partnerships, and/or companies or other entities that submit a proposal in response to this RFP;

“Proposal Completeness Checklist” means the form set forth in Appendix B (*Form of Proposal Completeness Checklist*);

“Proposal Submission Deadline” means the date that corresponds to the same term set forth in Table 2-1 (*Milestone Schedule*);

“Proposal Security” has the meaning given in Section 5.5 (*Proposal Security*);

“Qualified Bank” means a commercial bank or other financial institution having a branch located within Puerto Rico acceptable to PREPA, which has, as of the date of issuance of a Proposal Security, a long term counterparty credit rating of at least “A-” by Standard & Poor’s and a long term senior debt and deposits (including financial strength) rating of at least “A3” by Moody’s;

“Reference Project” has the meaning given in Section 3.2 (*Minimum Eligibility Requirements*);

“Renewable Energy Resource” means any renewable energy resource as defined under Act 82-2010.

“Request For Proposals” or **“RFP”** means this Request for Proposals, Renewable Energy Generation Resources and Energy Storage Systems – Tranche 1 and all addenda and amendments issued by PREPA to obtain a proposal from Proponents pursuant to this RFP;

“Resource and Technology Group” has the meaning given in Section 5.2 (*Phase II: Qualitative Evaluation*);

“SOQ” has the meaning given in Section 1.8 (*General Requirements*);

“T&D System” means PREPA’s transmission and distribution system;

“Team Member” has the meaning given in Section 4.3.k (*Section Two: Corporate Structure*);

“Testing Protocols” means PREPA’s standard protocols for testing and commissioning the applicable Energy Resource, comprising steps for establishing (i) an indication of the date, time and duration of the tests; (ii) the procedure for specific tests, including tests related to the applicable MTR compliance and reliable operation; (iii) the success or failure criteria for the tests; and (iv) the system for documenting the results of the tests;

“Unrestricted Net Worth” means, for any Person, the sum of (i) the subscribed and paid-up equity (including additional paid-in capital), and (ii) the Unrestricted Retained Earnings, in each case of such Person;

“Unrestricted Retained Earnings” means, for any Person, the amount of accumulated profits and gains realized out of the normal and continuous operations of such Person after deducting distributions to stockholders and transfers to capital stock or other accounts, and which is: (i) not appropriated by its board of such Person for corporate expansion projects or programs; (ii) not

covered by a restriction for dividend declaration under a loan agreement; (iii) not required to be retained under special circumstances obtaining in such Person such as when there is a need for a special reserve for probable contingences, and (iv) not otherwise covered by any other legal restriction (which refers to any injunction, judgement, or order issued by any judicial authority) on the ability of such Person to distribute or otherwise apply its equity;

“**Unsatisfactory Performance**” means (i) for each Energy Resource, designated as a Reference Project for which a Proponent or its Affiliate has commenced the development or commercial operation, and (ii) for each VPP designated as a Reference Project for which a Proponent or its Affiliate has commenced performance under its power or grid services agreement, in each case within the past three (3) years, a failure by such Proponent or Affiliate to (A) perform a material obligation arising out of a contract, or (B) satisfy a material condition of an authorization or license, in each case relating to such Reference Project; and

“**VPP**” or “**virtual power plant**” means network of aggregated Energy Resources which the Proponent dispatches through a software-based central control system.

1.2 Purpose of RFP

PREPA hereby issues this RFP to developers to solicit proposals for the design, construction, installation, ownership, operation and maintenance of Energy Resources for installation at sites across the island of Puerto Rico. Energy Resources will comply with the applicable minimum technical requirements set forth Appendix H (*Minimum Technical Requirements*) (the “**MTR**”), as adjusted for site-level MTRs as the grid evolves.

Renewable Energy Resources may include solar PV generating facilities, wind generating facilities, Energy Storage Resources co-located with solar PV or wind facilities, stand-alone Energy Storage Resources, hydroelectric generating facilities, VPPs or any combination of these technologies, subject in the case of VPP to the additional conditions described below. Through this RFP, PREPA desires to procure approximately 1,000 MW of Renewable Energy Resource capacity and 500 MW (2,000 MWh) of Energy Storage Resource capacity with an effective duration of four (4) hours, including at least 150 MW of distributed Energy Storage Resources to be operated as VPPs, as well as the associated environmental credits from renewable energy resources.

This RFP will help PREPA achieve the following objectives:

- a. increasing the availability of Renewable Energy Resources as part of PREPA’s generation system;
- b. reducing electricity prices to levels consistent with the 2020 Certified Fiscal Plan projections; and
- c. achieving PREPA’s goal, as set forth in the recently approved Puerto Rico Electric Power Authority Integrated Resource Plan (the “**IRP**”), of increasing PREPA’s grid resiliency and reliability.

Act 82-2010, as amended by Act 17, directs PREPA to procure Renewable Energy Resources in accordance with the following milestones relative to the aggregate percentage of generation supplying its system: twenty percent (20%) by 2022, forty percent (40%) by 2025, sixty percent (60%) by 2040, and one hundred percent (100%) by 2050. In order to achieve the established targets, PREPA seeks proposals for the design, construction, installation, ownership, operation and maintenance of Energy Resources that can achieve commercial operation in no more than twenty-four (24) months from the date on which a selected Proponent executes a Contract, with preference given to those proposals that can achieve commercial operation within a shorter timeframe.

PREB issued its final Resolution and Order on PREPA's IRP in Case No. CEPR-AP-2018-0001 on August 24, 2020 (the "**Final Resolution**"). In the Final Resolution, the Energy Bureau approved a modified preferred resource plan and a modified action plan, which PREPA will follow over the next five (5) years in procuring new Energy Resources and in retiring many of its fossil-fueled generating units. In addition, on December 8, 2020, PREB issued a Resolution and Order in Case No. NEPR-MI-2020-0012 (the "**Procurement Plan Resolution**") in which it directed PREPA to use every effort to comply with the IRP, modified preferred resource plan and modified action plan approved in the Final Resolution and to achieve the 40% renewable energy generation target for 2025 as required by Act 82-2010, as amended by Act 17. PREB also ordered PREPA to implement a Procurement Plan and develop a RFP in accordance with the Procurement Plan Resolution. This RFP represents the first of six (6) RFPs, which PREPA intends to issue for purposes of complying with the requirements of the IRP, the Final Resolution and the Procurement Plan Resolution in procuring Energy Resources.

1.3 PREPA and the Transformation of the Electric System

PREPA, which will serve as the initial contracting party in connection with this RFP, has the duty of providing electric power in a reliable manner, contributing to the general welfare and the sustainable future of Puerto Rico, maximizing the benefits and minimizing the social, environmental, and economic impacts. PREPA provides electricity to approximately 1.5 million customers, making it one of the largest U.S. public utilities by customers served. With nearly 6,000 employees, PREPA generates approximately \$ 3.5 billion in annual revenues.

On January 22, 2018, the Governor of Puerto Rico announced his intent to transform and modernize PREPA's electric system through private ownership or operation of PREPA's assets. On June 20, 2018, the Governor of Puerto Rico signed into the law Act 120, with the stated goal of transforming Puerto Rico's energy system into a modern, sustainable, reliable, efficient, cost-effective, and resilient one. On June 22, 2020, the Puerto Rico Public Private Partnerships Authority announced the selection of LUMA Energy, LLC ("**LUMA**") to operate, maintain and modernize PREPA's electricity transmission and distribution system for fifteen (15) years through a public-private partnership. Following the effectiveness of this transaction with LUMA and the related restructuring of PREPA, PREPA will assign all Contracts awarded pursuant to this RFP to an Affiliate of PREPA.

1.4 Historical Context

In September 2017, Hurricane Irma ("**Irma**") and Hurricane Maria ("**Maria**") made landfall in Puerto Rico. Irma made landfall as a Category 5 storm followed two (2) weeks later by Maria

which made landfall as a Category 4 storm. The hurricanes caused massive infrastructure damage, private property damage and loss of life.

On September 5 and 17, 2017, the Governor of Puerto Rico requested separate federal declarations of emergency and disaster for Puerto Rico, which were approved by the President of the United States. On October 26, 2017, the President of the United States signed the Additional Supplemental Appropriations for Disaster Relief Requirements Act 2017, which provided \$36.5 billion in FY 2018 of emergency supplemental appropriations for Puerto Rico in connection to Irma and Maria disaster recovery efforts.

Prior to the impact of Irma and Maria, Puerto Rico already had an inherently deficient energy infrastructure. In particular, the planning, design, and operation of an isolated island-based electricity system imposes on PREPA significant challenges with respect to system stability and reliability. Puerto Rico's sensitivity to system load variations and significant system frequency fluctuations can trigger under frequency load shedding within seconds of generation outages or the activation of transmission system contingencies.

1.5 Relevant Information and Regulations

PREPA encourages interested Proponents to review the following documents which provide further technical background:

a. IRP:

<https://aepr.com/es-pr/QuienesSomos/Paqinas/ley57/Plan-Integrado-de-Recursos.aspx>

b. PREB Final Resolution on the IRP:

<https://energia.pr.gov/wp-content/uploads/2020/08/AP20180001-IRP-Final-Resolution-and-Order.pdf>

c. PREB Procurement Plan Resolution:

<https://energia.pr.gov/wp-content/uploads/sites/7/2020/12/Resolution-and-Order-NEPR-MI-2020-0012.pdf>

PREPA also encourages Proponents to review the following documents, which are available for download at <http://www.p3.pr.gov> or <https://energia.pr.gov/en/laws>, for further background and the legal framework:

a. PREPA Organic Act, Act No. 83-1941, as amended;

b. Public-Private Partnership Authority Act, Act No. 29-2009, as amended (the “**PPP Act**”);

c. Regulation for the Procurement, Evaluation, Selection, Negotiation and Award of Participatory Public- Private Partnerships Contracts under Act No. 29-2009, as amended (the “**PPP Regulation**”);

- d. Puerto Rico Energy Transformation and RELIEF Act, Act No. 57-2014, as amended;
- e. PREPA Revitalization Act, Act No. 4-2016, as amended;
- f. Law for Diversification through Sustainable and Alternative Energy in Puerto Rico, Act No. 82-2010, as amended (“**Act 82-2010**”);
- g. Puerto Rico Green Energy Incentives Act, Act 83-2010, as amended (“**Act 83**”);
- h. Puerto Rico Electric System Transformation Act, Act No. 120-2018, as amended (“**Act 120**”); and
- i. Puerto Rico Energy Public Policy Act, Act No. 17-2019 (“**Act 17**”).

Proponents should carefully review Act 120, the PPP Act and the PPP Regulation (each available at: <http://www.p3.pr.gov> or <https://energia.pr.gov/en/laws>), as well as Act 17 (available at: <https://energia.pr.gov/wp-content/uploads/sites/7/2019/05/Act-17-2019.pdf>), and should ensure that, in addition to the terms and conditions of this RFP, they comply with all applicable provisions set out therein.

1.6 Contract Terms and Conditions

Each Proponent of a proposal for the development of a Renewable Energy Resource, if selected by PREPA, will enter into a PPOA with PREPA, which will govern the terms and conditions under which such Proponent shall sell, and PREPA shall purchase, energy for the term of the Contract. Each Proponent of a proposal for the development of an Energy Storage Resource, selected by PREPA, will enter into an ESSA with PREPA, which will govern the terms and conditions under which such Proponent shall sell, and PREPA shall purchase, Energy Storage Resource capacity and related attributes for the supply period of the Contract. Appendix E (*Form of Solar PPOA*) sets forth a preliminary template version of a PPOA, designed for solar PV generation resource proposals. To the extent that a Proponent intends to submit a proposal for a Renewable Energy Resource other than solar PV technology and such proposal advances beyond the first review phase, PREPA will develop and issue a PPOA template that accommodates such other resource as part of the package of documents representing the Final Proposal Version of Contracts. Appendix F (*Form of Energy Storage Service Agreement*) sets forth a preliminary template version of an ESSA.

1.7 RFP Scope of Supply

PREPA desires to procure approximately 1,000 MW of Renewable Energy Resource capacity, 500 MW (2,000 MWh) of Energy Storage Resource capacity with an effective duration of four (4) hours, including at least 150 MW of distributed Energy Storage Resources operated as VPPs, and associated environmental credits from Renewable Energy Resources under the terms and conditions set forth in the Contract. PREPA will accept proposals for all, or a portion, of such capacity. Proponents may propose Contract durations of up to twenty-five (25) years.

Proponents may propose either new or existing Energy Resources, provided, however, that any existing Energy Resource so proposed may not be covered by an existing PPOA with PREPA.

Distributed Energy Storage Resources operated as VPPs can include existing or new battery storage installations that are or may eventually be part of a microgrid or part of a single-site distributed resiliency solution. In accordance with the Procurement Resolution, PREPA will separately attempt to secure commitments from VPP resources via a demand response program under the Regulation on Demand Response which the PREB will likely promulgate in 2021.

PREPA issues this RFP for all types of Renewable Energy Resources qualifying as such under Act 82-2010. Renewable Energy Resources may include solar PV generating facilities, wind generating facilities, Energy Storage Resources co-located with solar PV or wind facilities, stand-alone Energy Storage Resources, hydroelectric generating facilities, VPPs, or any combination of these technologies. Renewable Energy Resources, excluding VPPs, shall have a minimum capacity of 20 MW. VPPs shall have a minimum aggregated net capacity of 5 MW, which may be spread across multiple sites for installations to meet the minimum capacity requirement. Energy Storage Resources with 4-hour discharge durations are preferred, but other storage discharge durations will be considered. PREPA will also consider alternatives for two (2) hours and six (6) hours of discharge. Energy Storage Resources, at a minimum, must be able to provide delivered energy during PREPA's evening peak periods but may also provide ancillary service capability such as frequency response, regulating capacity or operating reserves.

All proposed Energy Resources shall comply with the relevant part(s) of the corresponding MTR for the specific technology, as adjusted for site-level MTRs as the grid evolves.

1.8 General Requirements

Each Proponent shall (i) submit a duly-completed version of a statement of qualifications in the form set forth in Section 4 (*SOQ Submission Requirements*) (the "SOQ"), (ii) submit its proposal(s) in the format required by Section 6 (*Proposal Submission*) and in accordance with the other requirements of this RFP, (iii) clearly label and organize all attachments, documents, schedules, etc. submitted as a part of a proposal in a fashion that facilitates easy location and review, and (iv) submit a certification confirming that the proposal complies with, and the proposed Energy Resource, if selected and constructed, would fully comply with, Applicable Law.

Each Proponent may submit more than one (1) proposal if each proposal separately complies with Section 5 (*Proposed Project Evaluation*) on a standalone basis. The price submission set forth in each proposal to develop and construct an Energy Resource shall cover all of the Proponent's costs to (i) install, test and commission the transmission infrastructure required to connect such resource to the T&D System and (ii) ensure that such resource complies with all Applicable Law currently in effect. PREPA reserves the right to estimate the expected impacts of Applicable Law relating to future environmental matters on Proponents' proposals. PREPA will not be responsible for any environmental remediation costs or expenses associated with development of any project proposed by any Proponent. Similarly, PREPA will not be responsible for any costs or expenses incurred by or on behalf of any Proponent because of any change in law or regulation applicable to such Proponent or to the resource or the sale of capacity and associated energy from the resource. Prior to the date on which PREPA will sign a Contract, each Proponent shall provide evidence of its ability to provide equity funding at least equal to thirty percent (30%) of the forecasted costs to develop the proposed project by the forecasted date on which the Proponent will first draw down on loan facilities made available by lenders to the project.

Proposals should demonstrate an ability to achieve commercial operation in a timeframe not to exceed twenty-four (24 months) from the signing of the Contract. Consideration may be given to proposals with commercial operation commencement dates not to exceed thirty (30) months from signing of the Contract, but such proposals will be disfavored relative to those proposing shorter development times, which will be given a higher score in the RFP evaluation process.

Proponents shall report project capacity and P50 Energy Yield for Renewable Energy Resources during the 25-year supply period.

1.9 VPP Specific Requirements

VPP Proponents shall specifically identify / submit as part of their proposal:

- a. the contractual framework under which a VPP aggregator would supply capacity and energy, as well as other grid services, to PREPA from Energy Resources owned by third parties;
- b. the responsibilities of the VPP aggregator relating to the assembly, registration and confirmation of the status of resources to be provided by third parties;
- c. certified true and correct copies of each agreement that would govern the relationship between the aggregator and individual third parties committing their resources for aggregation into the VPP;
- d. the manner in which the VPP aggregator would coordinate and dispatch resources;
- e. the nature of the assets, including software, servers, network communications equipment, resource control equipment, sensors and monitoring equipment required to support the dispatch of resources committed to the VPP;
- f. the geographical location of each Energy Resource forming part of the VPP proposal;
- g. a description of the aggregation of the program participants, and expected generating capacity and load drop values, equipment, and technology;
- h. a description of the Proponents' plans for recruiting, engaging, and maintaining program participants;
- i. the experience, qualifications, and financial strength of each third party that owns and operates an Energy Resource, which forms part of the VPP proposal;
- j. for each Energy Resource forming part of a VPP, each performance penalty imposed on either the third party which owns such resource or the Proponent in association with such resource within the past five (5) years; and
- k. Any material actions, suits, claims, or proceedings (threatened or pending) against the Proponent, relating to the Energy Resources forming part of the proposed VPP.

Each VPP shall satisfy the following requirements:

- a. The Proponent shall source energy and capacity for VPPs from existing facilities that do not currently sell such energy and capacity to PREPA;
- b. Proponents of a VPP shall install and maintain all metering, SCADA and other forms of telemetry to establish such VPP at its own cost and expense;
- c. VPPs shall comply with applicable MTRs and PREPA's standards for interconnection with the T&D System;
- d. VPPs shall have a minimum capacity requirement five (5) MW, which a Proponent may aggregate from multiple sites to meet such requirement;
- e. VPP shall use existing, proven technology;
- f. VPPs shall satisfy the same performance requirements as this RFP requires for utility-scale Energy Resources;
- g. The supply period for a VPP shall extend for a period of ten (10) to twenty-five (25) years from the commencement of commercial operation;
- h. A Proponent of a VPP project selected by PREPA shall fund the cost of all upgrades and new-installations to the T&D System required to accommodate such project;
- i. Each of the aggregated Energy Resource facilities forming part of the VPP shall have achieved commercial operation within a maximum of 24 months from the date of signing the Contract;
- j. Each VPP Proponent shall demonstrate that each Energy Resource forming part of such VPP can effect capacity responses / load reductions within the response time required when PREPA curtails generation load on the T&D System throughout the entire supply period. PREPA prefers Energy Resources that can provide a more rapid response and/or ramp up or down in response to specific control signals. VPP Proponents should detail the full, demonstrated capability of the proposed resource;
- k. The Proponent shall manage all capacity dispatch and load reductions, including all notices, resource participation registration and deregistration, communications, controls, equipment, or other processes required to satisfy PREPA's dispatch instructions.
- l. Contract prices for VPP proposals shall cover all property and local taxes and tax abatements related to such VPP.

During the evaluation stage, PREPA shall give preference to VPPs with Energy Resources located within a relatively close geographical area.

1.10 Interconnection Requirements

Proponents' T&D System interconnection plan will be a crucial factor in evaluating the delivery risk associated with any proposal. Proponents must consider the following factors in any proposal submitted pursuant to this RFP:

- a. The physical limitations on the delivery of energy to the T&D System:
 - i. Utility-scale projects can interconnect to either the PREPA 38 kV system or the 115 kV system.
 - ii. Individual projects connecting to the 38 kV system cannot exceed 25 MW.
 - iii. Distributed scale projects (such as distributed resources aggregated into VPPs and distributed battery energy storage resources) may interconnect to the PREPA distribution system at voltages below 38kV, with preference to be given to distributed resources that connect to 13.2kV feeders.
- b. Projected system upgrade costs required by the additional energy injected onto the grid by the proposed resource.
- c. Rights-of-way required to construct the transmission lines and interconnection facilities needed to connect the proposed resource to the T&D System, as the case may be.
- d. Substations where interconnection is considered most preferable for utility scale installations, as specified in Appendix I (Interconnection).

Proponents (other than Proponents proposing a VPP resource) shall (i) provide a detailed T&D System interconnection plan with their proposals, and (ii) ensure that the proposed transmission system or distribution system interconnection plan satisfies all applicable MTR requirements.

Each Proponent should exercise its best efforts to provide an accurate estimate of the Proponent's Estimated Interconnection Costs. Upon the selection by PREPA of project proposals, PREPA will perform a Feasibility Study on such projects to assess order-of-magnitude interconnection and required T&D System upgrade costs ("**PREPA's Estimated Costs**"). PREPA will cluster such proposals for interconnection studies. In such studies PREPA will analyze the impacts of integrating a group or cluster of Renewable Energy Resources projects at specific locations when ranking or selecting potential projects for further consideration, in particular with regard to assessing any required network upgrades or the potential to utilize shared interconnection facilities across multiple projects. The Feasibility Study results will influence the selection of a final short-list of projects and may be iterative. PREPA will require a System Impact Study followed by a Facilities Study for final short-listed projects.

While each Proponent shall have the responsibility to fund all of the T&D System interconnection and network upgrade costs under the Contract, PREPA will permit a Proponent to adjust its tariff proposal in the Contract to the extent that PREPA's Estimated Costs exceed the Proponent's Estimated Interconnection Costs for purposes of allowing a Proponent to recover such excess costs through the tariff mechanism. Where the Proponent's Estimated Interconnection Costs exceed

PREPA's Estimated Costs, PREPA will correspondingly require a downward adjustment of the proposed tariff to reflect a Proponent's need to recover the lower level of interconnection costs than the Proponent's Estimated Costs.

Projects that will form part of a VPP and will be interconnected at distribution voltage levels cannot exceed one (1) MW and shall comply with the corresponding interconnection regulations. Preference to projects interconnected at 13.2 kV feeders will be given, as this is the highest distribution voltage on the island and is better able to handle DG/DER resources. In addition to this, PREPA's plans call for the eventual conversion of most of the distribution circuits to this voltage level.

PREPA has identified, and set forth in Appendix J (*Preferred Locations for Energy Resources*), a list of the best technical locations to allow for reliable interconnection of Energy Resource capacity. This list also distinguishes, if technically applicable, between preferred interconnection locations for Renewable Energy Resources and Energy Storage Resources. In several instances, this list also sets forth particular conditions or caveats as required by technical uncertainties associated with a specific location. PREPA will give preference to those Proponents that propose to site their projects within these preferred locations, to the extent that such projects provide greater assurance of reliability of interconnection with an expected minimum of operational constraints.

1.11 Local Participation

PREPA will encourage Proponents to engage local subcontractors, professionals, relevant service providers and other local parties headquartered in Puerto Rico to the greatest extent possible and provide descriptions of their current and/or anticipated business arrangements with such local parties.

2. INSTRUCTIONS TO PROPONENTS

2.1 Communications

Except as otherwise expressly set forth in this RFP, each Proponent shall communicate with PREPA regarding all RFP matters via PowerAdvocate[®] through the following link prior to the selection or rejection by PREPA of such Proponent's proposal(s):



PREPA will not accept oral questions and will respond to all duly-submitted questions and requests for clarification in writing via the aforementioned link. Accordingly, each Proponent should ensure that no communications with PREPA contain proprietary information, as PREPA will make such communications publicly available together with all responses. Each Proponent shall monitor the aforementioned website for additional information, updates, amendments and addenda concerning this RFP that may be uploaded on an ongoing basis, without notice to Proponents.

Except as set forth above, Proponents shall not communicate, and shall ensure that each of their advisors and Affiliates do not communicate, with representatives of PREPA or any other instrumentality of the Government of Puerto Rico, or relevant entities of federal government

regarding any matter related to the contents of this RFP, during the submission and selection processes. Failure to comply with these communications restrictions will result in immediate disqualification of the Proponent initiating such communication from further participation in the RFP process.

Under no circumstance should Proponents attempt to contact any individual from PREPA or any other entities involved in the administration of the RFP process directly with any matters related to this RFP. Directly communicating with PREPA or any other entities involved in the administration of the RFP will result in immediate disqualification of the Proponent initiating such communication from further participation in the RFP process.

2.2 Milestone Schedule

Table 2-1 (*Milestone Schedule*) below summarizes the key timeline milestones of this RFP (as amended, the “**Milestone Schedule**”).

Table 2-1 - Milestone Schedule

No	Milestone	Date
1	RFP Released to Public	D
2	Notice of Intent to Respond Deadline	D + 2 weeks
3	Contract Exceptions Deadline	D + 5 weeks
4	Release of Final Proposal Version of Contracts	D + 6 weeks
5	Clarification Submittal Deadline	D + 7 weeks
6	Proposal Submission Deadline	D + 8 weeks
7	Selection of Proposals for Feasibility Study and Contract Negotiation Pending Results of Feasibility Study	D + 14.5 weeks
8	Execution of Contracts with Selected Proponent(s)	Upon completion of Feasibility Study
9	Guaranteed Commercial Operation Date	24 months from Contract signing

This RFP includes the Milestone Schedule for illustrative purposes only. Target dates and deadlines remain subject to modification, including with respect to additional requirements and approvals. Each Proponent shall periodically review the PowerAdvocate[®] website (as described in Section 2.1 (*Communications*)) for regular updates to the Milestone Schedule and other

important information (e.g., the Operating Procedures and Testing Protocols will be issued after the RFP Release to the Public at some point prior to the Contract Exceptions Deadline).

2.3 Notice of Intent to Respond

Proponents shall confirm their intent to submit a proposal in response to this RFP by submitting to PREPA a completed version of the form set forth in Appendix A (*Form of Notice of Intent to Respond*) and a signed version of the Non-Disclosure Agreement set forth in Appendix D (*Form of Non-Disclosure Agreement*) by no later than the deadline for submission set forth in the Milestone Schedule.

2.4 Questions and Interpretation of RFP / Contracts

Proponents shall submit all questions relating to, and requests for an interpretation of, the RFP and a Contract in accordance with Section 2.1 (*Communications*). PREPA will have no responsibility for answers to questions or responses to requests for interpretation of this RFP or a Contract other than those answers and responses submitted by PREPA in accordance with Section 2.1 (*Communications*). PREPA will only accept such questions and requests for interpretation up to the Clarification Submittal Deadline. Again, Proponents should check the PowerAdvocate[®] website periodically for updates and postings. PREPA will make available all such questions and requests as well as PREPA's responses thereto after redacting all information identifying the Proponent that originally submitted such question or request.

Each Proponent has the responsibility to inform PREPA of any conflicting statements, need for clarification, or omissions of pertinent data from this RFP prior to the Clarification Submittal Deadline. In the event that PREPA has not responded by the Proposal Submission Deadline to a question or request for interpretation submitted by a Proponent prior to the Clarification Submission Deadline, each Proponent may identify such question or request and make a statement regarding the same in its proposal(s).

2.5 Contract Exceptions

Following its delivery of a Notice of Intent to Respond and Non-Disclosure Agreement, each Proponent should (i) review the preliminary template version of the PPOA or the ESSA set forth in Appendix E (*Form of Solar PPOA*) and Appendix F (*Form of Energy Storage Services Agreement*), respectively, and (ii) submit to PREPA no later than the Contract Exceptions Deadline a revised version of such form of Contract that shows all of the material changes, requested by such Proponent to the relevant Contract template, in blackline form together with a brief explanation of the rationale for such change as a comment linked to the relevant provision containing such change (the "**Contract Exceptions**"). To the extent that a Proponent intends to submit a proposal for a non-solar PV Renewable Energy Source, such Proponent should propose alternative provisions that will replace the solar PV-specific provisions of the Contract. The Contract Exceptions need not include changes related to the contextualization of the Contract for such Proponent's specific project proposal(s), which PREPA will allow during the finalization of a Contract with the Proponents of selected proposals.

2.6 Final Proposal Version of Contracts

Upon the expiration of the Contract Exceptions Deadline, PREPA will review and assess all of the Contract Exceptions submitted by Proponents, and prepare and issue to all Proponents (i) a final form, revised PPOA for solar PV projects, (ii) to the extent that Proponents intend to submit proposals for a Renewable Energy Resource other than a solar PV facility, a final form PPOA for such resource, and (iii) a final form, revised ESSA, in each case that takes into account the Contract Exceptions but only to the extent that PREPA deems this necessary in its sole discretion (each, a “**Final Proposal Version of Contract**”). Each Proponent should submit their proposals to PREPA on the assumption that the relevant Final Proposal Version of Contract shall govern the terms and conditions under which it will design, construct, install, own, operate and maintain its proposed project as well as make available renewable energy and/or energy storage capacity (as applicable) for sale to PREPA.

2.7 Deadline and Method for Submitting Proposals

Proposals must be submitted in the complete name of the party expecting to execute any resulting definitive documentation with PREPA in accordance with Section 6 (*Proposal Submission*). Each proposal must be executed by a person who is duly authorized to bind each Proponent. All proposals submitted in response to this RFP must be received by PREPA no later than 11:59 pm Atlantic Standard Time on or prior to the Proposal Submission Deadline. PREPA will not accept proposals received after the specified date and time and such proposals will be disqualified from further evaluation. **Proponents shall submit all documentation via** the PowerAdvocate[®] website, and shall include with all such submissions a contact name, email address, and company name.

3. PROPONENT QUALIFICATION REQUIREMENTS

As part of a proposal, each Proponent must submit a detailed Statement of Qualifications (“**SOQ**”) by the Proposal Submission Deadline. The SOQ will help PREPA identify those Proponents that meet the minimum requirements necessary to carry out the development, construction, commissioning and operation of an Energy Resource in compliance with Act 82-2010, Act 120 and the Act 17. PREPA expects to select proposals advanced only by Proponents that demonstrate:

- a. capability and experience developing, constructing, installing, testing, and operating Energy Resources (or, in the case of Proponents proposing a VPP as a resource, experience in aggregating, contracting for and managing resources aggregated into and dispatched as a VPP);
- b. capability and experience managing renewable energy and energy storage technology (or, if applicable) VPP aggregation arrangements;
- c. financial strength and capital resources adequate to support required project funding;
- d. strong technical expertise, with a track record of high-quality operations; and
- e. experience complying with regulatory and permitting requirements in Puerto Rico.

In evaluating Proponents, PREPA may disqualify a Proponent for any of the reasons stated in Section 6.3 (*Disqualification of Proposal*) and the PPP Regulation, or if a Proponent:

- a. is ineligible to submit a proposal on one or more grounds specified in Act 120, the PPP Act, or the PPP Regulation;
- b. fails to satisfy the standards established by PREPA with respect to the Proponent's required technical / professional ability and experience or financial condition set forth in Section 4.4 (*Section Three: Technical and Operational Capability*) and Section 4.5 (*Section Four: Financial Capability*), respectively; or
- c. fails to comply with the requirements of Sections 9(a) (*Applicable Requirements and Conditions for those who wish to be considered as Proponents*) and/or 9(d) (*Consortia*) of the PPP Act, as applicable.

3.1 Qualification Requirements

Each Proponent (or, for a Proponent consortium, each consortium member) must be a business organization existing and duly registered in good standing under the laws of its jurisdiction of incorporation. A consortium shall not contain a member that is a member or has an Affiliate which has registered as a member of more than one Proponent consortium responding to this RFP or as another Proponent. Proponents should note that this provision shall not restrict suppliers of equipment and services from supporting more than one Proponent. Proponents should describe their industry experience in detail, providing at a minimum the following:

- a. overview of the Proponent's company (or, in the case of a Proponent which is a consortium, each consortium company), including the company's or consortium members' financial condition, and the products/services offered;
- b. specific instances in which the Proponent or members of the Proponent's consortium has performed industry-specific work similar in nature to the work required to develop, construct and operate the resources sought through the RFP; and
- c. a detailed list of the portfolio of projects the Proponent or members of the Proponent's consortium has developed including, but not limited to, energy resource projects, including the year each such project achieved COD (or if they have not achieved COD, the estimated COD), the location, technology type and installed capacity.

3.2 Minimum Eligibility Requirements

PREPA will evaluate the SOQ submitted by each Proponent based on the minimum eligibility requirements set forth in Table 3-1 (*Minimum Eligibility Requirements*) (the "**MER**"). Each Proponent (i) should indicate its technical and operational capabilities, and (ii) must demonstrate that it satisfies each of the financial and no disbarment criteria (the "**Financial and No Disbarment Criteria**"), to develop the relevant Energy Resource.

Table 3-1 - Minimum Eligibility Requirements

Type	Description
<p>Technical and Operational Capabilities Criteria</p>	<ol style="list-style-type: none"> 1. Ownership / establishment by Proponent (or, for a Proponent consortium, at least one member of such consortium) of one or more existing Energy Resource projects, including VPPs, (each, a “Reference Project”), with each Reference Project satisfying the following requirements: <ol style="list-style-type: none"> a. For Energy Resources other than VPPs: <ul style="list-style-type: none"> • experience developing, financing, constructing and operating such project; • compliance with the initial development timeline for such project; • utilization of cost-effective technology; • installed capacity of at least 20 MW; • utilization of technology similar to that which the Proponent intends to submit in its proposal under this RFP; and • direct or indirect ownership by the Proponent or its Affiliate of at least thirty-five percent (35%) of the legal entity which directly owns such Reference Project. b. For Energy Storage Resources, experience developing and assembling the proposed system for such resource in at least one (1) commercial (non-demonstration) grid-connected installation; c. For VPPs: <ul style="list-style-type: none"> • experience aggregating multiple generation and/or storage resources; and • installed VPP capacity either (i) currently in commercial operation, supplying capacity and energy to one (1) or more purchasers, or (ii) contractually committed to supply capacity and energy prior to the second anniversary of the issuance of this RFP. 2. For each existing Energy Resource designated as a Reference Project, a certification confirming no material or sustained violation of Applicable Law, relating to any environmental matter involving the development, construction or operation of such project during the past three (3) years;

Type	Description
	<p>3. For each Reference Project, a certification confirming such project’s compliance with energy-related policies, practices, and regulations and all other Applicable Law during the past three (3) years; and</p> <p>4. For each Reference Project, a certification confirming no record of Unsatisfactory Performance.</p>
Financial Criteria	Evidence that a Proponent (or, for a Proponent consortium, at least one (1) member of such consortium) satisfies the requirements set forth in Section 4.5 (<i>Section Four: Financial Capability</i>).
No Disbarment Criteria	<p>Certification by a Proponent (or, for a Proponent consortium, the Lead Member and each of the Other Members) that neither it, nor any of its Affiliates nor any executive officer or member of the board of any of the foregoing parties has been the subject of any of the following adverse findings within the past five (5) years:</p> <ol style="list-style-type: none"> 1. pending litigation with the Government of Puerto Rico or any state; 2. arson conviction or pending case; 3. harassment conviction or pending case; 4. sale tax lien or substantial tax arrears; 5. fair Housing violations or current litigation; 6. a record of substantial building code violations or litigation against properties owned and/or managed by the Proponent or by any entity or individual that comprises the Proponent; 7. past or pending voluntary or involuntary bankruptcy proceeding; and 8. conviction for fraud, bribery, or grand larceny, <p>(the “No Disbarment Certification”).</p>

4. SOQ SUBMISSION REQUIREMENTS

4.1 Introduction

Together with its proposal(s), each Proponent shall prepare and submit an SOQ in English and in the format outlined in Table 4-1 (*SOQ Format*).

Table 4-1 - SOQ Format

Sections	Content
Section One	Executive Summary
Section Two	Corporate Structure
Section Three	Technical Capability
Section Four	Financial Capability
Section Five	Other Criteria & Additional Capability
Section Six	Timeline
Section Seven	Safety Performance
Section Eight	Project Development Summary

4.2 Section One: Executive Summary

The Executive Summary section of the SOQ should include a brief description of:

- a. the Proponent's qualifications for the implementation of the project, which it intends to propose in its response to this RFP, as described in Section 3 (*Proponent Qualification Requirements*); and
- b. envisaged use (if any) of any contractors and sub-contractors.

4.3 Section Two: Corporate Structure

The Corporate Structure section of the SOQ shall include the information mentioned below:

- a. For the Proponent (or, for a Proponent consortium, each member of such consortium) (i) contact person, (ii) registered address, (iii) telephone number, and (iv) email address.
- b. The Proponent's corporate structure and history, or, for a Proponent consortium, the identification of all members of such consortium, levels of participation therein and the identity of the Lead Member and Other Members, together with summaries of their corporate structures and histories; and
- c. For the Proponent's (or, for a Proponent consortium, each member of such consortium's) ultimate parent company, the following information: contact person; registered address; telephone number; and e-mail address.

- d. The following information should be provided for the Proponent (or, for a Proponent consortium, each member of such consortium):
 - i. year established; and
 - ii. company profile (summary description) along with role of the company, i.e., Lead Member or Other Member.
- e. To the extent that a parent company or other Affiliate will guarantee the financial obligations of a Proponent or a Proponent consortium member, the Proponent shall provide the following key financial information:
 - i. current market capitalization (if listed);
 - ii. current long-term unsecured credit rating (S&P, Moody's, and Fitch) of such parent company; and
 - iii. identity of company auditor(s).
- f. A description and/or organizational chart depicting the organizational and corporate structure(s) of the Proponent (e.g., identity of intermediate shareholders, levels of shareholding and ultimate parent company) and, in the case of a Proponent consortium, each member of such consortium (including, for example, distribution of shareholdings, apportionment of roles and responsibilities within the consortium, envisaged intra-member agreements and the degree to which a formal relationship exists among the entities within the consortium as of the date of the submission of the Proponent's proposal(s) in response to this RFP).
- g. A description of the technical, operational and managerial resources available to the Proponent in the relevant organizational chart in the period up to the date on which the Proponent intends achieve COD for the proposed project.
- h. A description of the level of commitment by envisaged O&M contractors and/or EPC contractors and/or equipment suppliers.
- i. Key individuals participating in the Proponent's team and their roles.
- j. A list of technical, financial, legal, accounting, or other advisors that the Proponent has engaged or intends to engage in connection with the proposed project.
- k. Resumes (indicating overall experience and any specific relevant experience) of each of the key individuals participating in the Proponent's team that will manage the development, construction, financing, ownership and operation of the proposed project with each such individual having at least ten (10) years of relevant experience for all executive-level positions (each, a "**Team Member**").

4.4 Section Three: Technical and Operational Capability

The Technical Capability section of the SOQ shall present all of the documentation and other evidence relating to the Reference Projects set forth in the technical and operational capabilities section of Table 3-1 (*Minimum Eligibility Requirements*).

4.5 Section Four: Financial Capability

The Financial Capability section of the SOQ shall present evidence that the Proponent has the financial capability to fulfill its obligations arising out of a Contract for the proposed project.

- a. **(Unrestricted Net Worth)** Each Proponent shall produce copies of audited financial statements, Form 10-Ks or similar types of audited annual reports for the last three (3) financial years evidencing that either (i) the Proponent (or, for a Proponent consortium, the Lead Member), or (ii) to the extent that an Affiliate will guarantee the financial obligations of the Proponent / Lead Member arising out of a Contract, such Affiliate, in each case has an Unrestricted Net Worth that exceeds the greater of (A) thirty percent (30%) of the costs of the proposed project during each year, and (B) \$75 million.
- b. **(Ability to Raise Debt Financing)** Each Proponent shall provide specific evidence demonstrating its ability to raise debt financing. PREPA will give preference to proposals which include a detailed proposed financing plan for the proposed project, supported as appropriate by letters confirming plan specifics from anticipated providers of debt in support of the project proposal. Specific factors that will be assessed include:
 - i. capability of raising significant quantities of debt in the current project finance markets;
 - ii. evidence of experience raising project debt to support the development of Energy Resources, in particular in Puerto Rico;
 - iii. the number and size of past relevant transactions;
 - iv. specific experience in managing past relevant transactions;
 - v. experience with Investment Tax Credits (ITC) or Production Tax Credits (PTC) for utility-scale renewable energy projects; and
 - vi. letters from prospective lenders confirming their commitment to support and fund the project.

Each Proponents shall present the foregoing financial information in the form sheets attached in Appendix C (*Proposal Data Forms*).

4.6 Section Five: Other Criteria

Proponents shall submit the following certifications and additional information relating to other criteria for the Proponent's eligibility:

- a. No Disbarment Certification;

- b. Certification confirming that the Proponent (or, for a Proponent consortium, the Lead Member) (i) has the legal authority to participate in the RFP process and enter into a Contract following the selection of the Proponent by PREPA, (ii) validly exists, and for a Proponent consortium only, has the legal authority to bind all of the Other Members of such consortium for purposes of the RFP process and the finalization, execution, delivery and performance of such Contract, and (iii) has no conflict of interest with PREPA and, for a Proponent consortium only, the Other Members have no conflict of interest with PREPA, as of the date of such certification; and
- c. Any other information which the Proponent believes would be useful for PREPA in respect of its evaluation of its corporate structure, organizational technical or financial capability and experience.

4.7 Section Six: Timeline

Each Proponent shall provide (i) a detailed plan to achieve COD by the Guaranteed Commercial Operation Date, and (ii) a monthly milestone schedule showing the most important tasks to be completed from Contract execution to COD along with a development plan description. As described in Section 1.8 (*General Requirements*), PREPA seeks project proposals that can achieve COD within twenty-four (24) months from the Contract's execution date. PREPA may consider proposals with forecasted COD not to exceed thirty (30) months from the Contract's execution date, but to a lesser extent. PREPA will attribute a higher score in the RFP evaluation process to shorter project development period.

4.8 Section Seven: Safety Performance

Each Proponent and its Team Member(s) must demonstrate (i) their ability to address and resolve safety issues, and (ii) their knowledge of safety strategies and methodologies. Any Proponent and its Team Member(s) claiming experience in utility or power project development and management must submit copies of Occupational Safety and Health Administration (OSHA) 300 forms for the past three (3) years, only as related to electric utility operations or project development and construction activities. If not applicable, a Proponent and its Team Member(s) must present a document explaining the reasons for not submitting such form.

4.9 Section Eight: Project Development Summary

If a Proponent has begun developing an Energy Resource in Puerto Rico, then such Proponent should provide a high-level description and summary of such project in the form set forth in Schedule A (*Project Description*) of Appendix C (*Proposed Data Forms*) data form. PREPA shall consider any submission provided in response to this requirement as non-binding on such Proponent and for information purposes only.

5. PROPOSED PROJECT EVALUATION

PREPA shall evaluate a Proponent's proposal(s) in the following two (2) phases:

Phase I: Quality Control Review

Phase II: Project Committee Review and Recommendation

Qualitative Evaluation

Pricing Evaluation

The following sections further describe the proposal evaluation process.

5.1 Phase I: Quality Control Review

PREPA's Quality Control Review will use the information supplied by the Proponents in the SOQ and each proposal. Each Proponent shall provide the information listed in the Proposal Completeness Checklist by the Proposal Submission Deadline to be included in the evaluation.

During the quality control review, PREPA will determine which proposals satisfy the minimum requirements outlined in Section 3 (*Proponent Qualification Requirements*) and Section 4 (*SOQ Submission Requirements*) of the RFP. PREPA (i) will reject any proposal that fails to comply with the Financial and No Disbarment Criteria, and (ii) reserves the right to reject any proposal for any reason whatsoever regardless of whether such proposal complies with such requirements in accordance with Section 6.3 (*Disqualification of Proposals*), in each case without scoring, and any such proposal will not advance to the next Phase. PREPA will notify each Proponent whether its proposal(s) passed the quality control review and whether such Proponent will advance to Phase II.

5.2 Phase II: Project Committee Review and Recommendation

PREPA will divide Phase II into a qualitative and pricing evaluation. PREPA will assign weights for each qualitative-related criteria and price criteria as follows:

- a. **(Qualitative Evaluation)** In connection with its Qualitative Evaluation, PREPA will independently model interconnection and system upgrade costs, where possible analyzing clusters of potential projects, based on an initial selection of RFP responses that PREPA ranks high on its list of projects eligible for contracting. In addition, PREPA will evaluate the extent to which multiple projects have proposed or can be made to share the same interconnecting facility, if reasonable and applicable for any given set of proposals. PREPA shall give priority to those proposals that provide resource installations at or technically close to the indicated priority locations. PREPA will evaluate the impact of each proposed resource on the T&D System and will endeavor to notify Proponents whose proposals will require additional network upgrades. The Proponents' proposal should include the Proponent's Estimated Interconnection Costs.
 - i. **(Qualitative Evaluation Process)** PREPA and its advisors shall perform the initial screening and shortlisting of proposals in Phase II, according to a qualitative evaluation. This evaluation will consist of the following steps:
 - verification that a Proponent has provided all information listed in the Proposal Completeness Checklist;

- organization of the proposals into groups according to (i) the proposed technology, and (ii) groups that will allow for distributed generation benefits to be recognized, for resiliency and for avoided T&D System cost purposes (each, a “**Resource and Technology Group**”);
 - review of information supplied by the Proponents in the forms set forth in Schedules A - H of Appendix C (*Proposal Data Forms*);
 - development of a qualitative score according to the information supplied by each Proponent in Schedule B (*Qualitative Assessment*) of Appendix C (*Proposal Data Forms*) for the proposed type of Energy Resource and technology, based on the qualitative evaluation criteria specified below;
 - development of an initial qualitative score according to the information supplied by the Proponent for the proposed technology. The qualitative score will be based on technical viability, development status, developer experience, and financing plan and qualifications. PREPA will prefer projects with faster installation timelines, and those with better technical locations for interconnection purposes;
 - calculation of the composite Phase II score from the weighted qualitative score; and
 - development of a list of preferred proposals from the highest scoring proposals within each technology category.
- ii. **(Qualitative Evaluation Criteria)** The Phase II qualitative evaluation will use the information supplied by the Proponent in the proposal data forms and term sheets contained in the RFP Appendices. The qualitative evaluation will consider the following criteria and weight system:
- **Technical Viability:** The evaluation team will review each proposal for conformance to the applicable MTR.
 - **Development and Schedule Risk:** The evaluation team will assess the completeness and feasibility of the proposed project implementation and evaluate the likelihood of meeting the milestone dates and expected performance.
 - **Permitting Risk:** The evaluation team will examine each Proponent’s permitting plan and schedule and the likelihood that such Proponent can obtain the required permits. This examination will include an assessment as to whether Proponents have identified the relevant permits and approvals necessary for construction and operation of the proposed project.
 - **Environmental Impacts:** The evaluation team will assess the proposed project’s overall impact on the environment, whether the project will likely

result in potentially significant environmental impacts, and the degree to which potential impacts can be satisfactorily mitigated. This will include an examination of any known sensitive environmental features on or adjacent to the site such as waterways, wetlands, floodplains, archaeological and architectural resources, historic properties, degraded ambient air quality, contamination, ongoing hazardous materials remediation, threatened and endangered species, airports, residences or other sensitive noise receptors, and a discussion of storm-resistant features and other reliability features to determine the suitability of the project at the proposed site location.

- **Experience:** The evaluation team will evaluate the Proponent's experience and success in developing projects of a similar design and size to the proposed project.
- **Debt Financing Plan and Qualifications:** The evaluation team will evaluate the Proponent's proposed debt financing plan and experience in successfully financing projects of a similar size and complexity. The evaluation team will also assess whether a Proponent has obtained debt financing commitments for the project from one or more creditworthy lenders, reasonably acceptable to PREPA.
- **T&D System Integration:** The evaluation team will assess each project's technical characteristics and identify those projects that address the T&D System's needs as defined in the RFP and IRP. The evaluation team will evaluate risk associated with the interconnection of the proposed project to grid reliability (voltage control, reactive capability, protection coordination, frequency response, etc.) and deliverability to the T&D System.
- **Site Control:** The evaluation team will assess whether a Proponent owns or leases the project site (and, in the case of a lease, the term of such lease) or, if not, whether such Proponent has entered into an option to lease/purchase, a memorandum of understanding or a letter of intent for such site; and whether any significant issues could prevent such Proponent from obtaining timely site control or beginning construction on the proposed site. This requirement is not applicable to proposals involving VPP.
- **Community Impacts and Acceptance:** The evaluation team will review a Proponent's proposal(s) for potential socioeconomic benefits and harm to the community. The evaluation team will assess known community support for or opposition to a proposed project, as well as such Proponent's plan to manage community relations.
- **Operations and Maintenance Plan:** The evaluation team will assess information about a Proponent's operations and maintenance plan for the proposed project set forth in Schedule A (*Project Description*) of Appendix C (*Proposal Data Forms*), including contract term, scope, experience, and pricing. Proponents proposing a VPP as a resource should provide detailed

information concerning their plans to identify, aggregate and contract for individual generation and storage resources that will be dedicated to such resource.

- **Additional Benefit of VPPs:** The evaluation team will consider and evaluate the additional benefits that distributed resources procured as part of a VPP provide, including (i) the potential to avoid transmission and distribution costs (including T&D System losses), (ii) enhancement of local resiliency by serving critical or priority loads, and (iii) potential for completion of any required installation in shorter periods, or more immediate availability as a capacity resource based on an existing installation, than would be true of a new-build project.

PREPA will evaluate the impact of the following categories on a Proponent’s ability to deliver the proposed project on a timely basis:

Table 5-1 - Qualitative Evaluation

Item	Category / Criteria
A	Technical Viability
B	Development and Schedule Risk
C	Permitting Risk
D	Environmental Impacts
E	Contractor Experience
F	Financing Plan and Qualifications
G	T&D System Integration
H	Site Control
I	Community Impacts and Acceptance
J	Operations and Maintenance Plan
K	Additional Benefit of VPP
L	Contract Exceptions (if applicable)

As it performs its Qualitative Evaluation, PREPA may request additional information or clarifications from Proponents. These requests, and any communications with a

Proponent during the evaluation process, shall not be construed as contract negotiations. Requests made by PREPA for additional information or clarifications will be in writing via email and a Proponent shall have five (5) business days from the transmission of each request to respond. Proposals with outstanding requests beyond the response period may be removed from consideration and further evaluation.

- b. **(Pricing Evaluation)** The Phase II pricing evaluation will determine the cost effectiveness of the shortlisted proposals. This detailed pricing evaluation will include and reflect information received in response to any clarifying questions, interviews, site visits, and other due diligence, and will consider the all-in costs that each proposal will likely impose on ratepayers, to the extent that the evaluation team can quantify such costs. Such all-in costs include:
- i. contract charges, including pass through costs;
 - ii. costs for required transmission reinforcements;
 - iii. costs for required distribution reinforcement;
 - iv. system impacts including, but not limited to, impact on transmission transfer capability, and PREPA capacity requirements and deliverability; and
 - v. LCOE or, in the case of Energy Storage Resources, LCOS.

The lowest LCOE / LCOS (as applicable) within each Resource and Technology Group will receive one hundred percent (100%) of the LCOE / LCOS points available (450 points). Each of the remaining proposals within such Resource and Technology Group will receive a fraction of such points available with such fraction determined by dividing the lowest LCOE / LCOS (as applicable) by the LCOE / LCOS of each remaining proposal.

PREPA will also give preference in its evaluation to Proponents whose proposals consider the future emergence of PREPA from protection under PROMESA and contain a price adjustment mechanism that would reflect PREPA’s improved credit quality at such time

The pricing evaluation will consider the following criteria:

Table 5-2 - Pricing Evaluation Scoring

Category	Points Available
LCOE / LCOS	450
Technical Viability	130
Development Status	180

Category	Points Available
Proponent's Experience	130
Financing Plan and Qualifications	110
Total	1,000

Following completion of the pricing evaluation, the evaluation team will recommend proposals to proceed to Contract negotiation. Proponents shall not construe the selection of a proposal for Contract negotiation as a commitment by PREPA to execute a Contract. During the period between PREPA's selection of proposals for contract negotiation and the date of execution of any Contract, PREPA will complete its Feasibility Study to confirm that the Proponent's proposed project may be interconnected with the T&D System at acceptable cost and with acceptable impacts on the system, and will conduct additional due diligence on the proposals. This additional diligence may include, but not be limited to, onsite visits, management interviews, environmental legal and regulatory due diligence, detailed engineering assessments, and facility dispatch modeling. In addition, Proponent will have to comply with all of the requirements and the provision of all of deliverables included in the signing conditions and conditions precedent included in the Final Proposal Version of Contract.

5.3 Proposal Data Forms

The evaluation will use the information supplied by the Proponents in the proposal data forms and template Contracts contained in the RFP Appendices:

Appendix A – Form of Notice of Intent to Respond

Appendix B – Form of Proposal Completeness Checklist

Appendix C – Proposal Data Forms

Schedule A – Project Description

Schedule B – Qualitative Assessment

Schedule C – Tariff Proposal

Schedule D – Energy Production Forecast

Schedule E – Guaranteed Performance

Schedule F – Suppliers for Major Plant Equipment

Schedule G – Financial Data Form

Appendix D – Form of Non-Disclosure Agreement

Appendix E – Form of Solar PPOA

Appendix F – Form of Energy Storage Services Agreement

Appendix G – Form of Proposal Security

5.4 Proposal Evaluation Fee

Proponents may submit up to three (3) proposals at no cost in response to this RFP. Proponents submitting more than three (3) responses will incur a proposal evaluation fee for each additional proposal submitted. PREPA will have sole discretion to determine whether a Proponent has submitted single or multiple proposals. Proponents advancing more than three (3) project proposals shall contact PREPA for proposal fee payment instructions.

5.5 Proposal Security

Each Proponent shall submit with its proposal, and maintain in full force and effect through the Bid Expiration Date, an on-first-demand bank guarantee issued by a Qualified Bank, with a face amount equal to [●] percent ([●]%) of the forecasted cost to implement the proposed project in the form set out in Appendix G (*Form of Proposal Security*) (the “**Proposal Security**”). To the extent that the Proponent desires to submit the Proposal Security in a form that departs in any material way from the form set forth in Appendix G (*Form of Proposal Security*), it must obtain PREPA’s approval for such departure prior to the Proposal Submission Deadline. To the extent that a Proponent’s proposes to deliver more than one Energy Resource in the same proposal, Proponent shall submit one Proposal Security for each proposed Project. In the event that a Proponent proposes to deliver just one Energy Resource from a number of alternative project options, the Proponent should submit one Proposal Security. PREPA shall reject as non-responsive any proposal not accompanied by an acceptable Proposal Security. PREPA will return the Proposal Security of a Proponent as promptly as possible upon that the earlier to occur of the date (the “**Bid Expiration Date**”) of (i) PREPA’s determination such Proponent’s proposal failed the quality control review under Section 5.1 (*Phase I: Quality Control Review*), (ii) PREPA’s determination not to shortlist such Proponent’s proposal under Section 5.2.1 (*Phase II: Qualitative Evaluation*), (iii) PREPA’s determination not to select such Proponent’s proposal for Contract negotiation under Section 5.2.2 (*Phase II: Pricing Evaluation*), and (iv) the delivery by such Proponent of the Performance Security following the execution and delivery of a Contract. For each Proposal Security submitted by a Proponent, PREPA shall have the right to draw down on the entire face amount of such security upon the occurrence of any of the following events:

- a. such Proponent withdraws (or carries out any act or omission that evidences its intent to withdraw) any part, or all, of its proposal prior to the Bid Expiration Date;
- b. PREPA determines, in its sole discretion, that the proposal submitted by such Proponent contains a false statement or material misrepresentation; and
- c. in the event that PREPA selects the proposal of such Proponent for Contract negotiation under Sections 5.2 (*Phase II: Project Committee Review and Recommendation*), such

Proponent fails to execute a Contract with PREPA in respect of such proposal within a time period notified by PREPA after PREPA notifies such Proponent of such selection for any reason whatsoever.

5.6 Reservation of Rights

Nothing contained in this RFP shall be construed to require or obligate PREPA to select any proposals or limit PREPA's ability to reject all proposals in its sole and exclusive discretion. PREPA further reserves the right to amend, or withdraw and terminate, this RFP at any time prior to the Proposal Submission Deadline, selection of proposals or execution of any Contract. PREPA also reserves the right to solicit additional proposals it deems necessary and the right to submit additional information requests to Proponents during the proposal evaluation process. The effectiveness of each Contract signed by a Proponent will be contingent on regulatory approvals, including the approval of PREB and the FOMB.

All proposals submitted to PREPA pursuant to this RFP shall become the exclusive property of PREPA and may be used by PREPA for any reasonable purpose. PREPA shall consider materials provided by Proponents in response to this RFP to be confidential only if such materials are clearly designated as *confidential*. Proponents should be aware that their proposal, even if marked confidential, may be subject to discovery and disclosure in regulatory or judicial proceedings that may or may not be initiated by PREPA. A Proponent may be required to justify the requested confidential treatment under the provisions of a protective order issued in such proceedings. If required by an order of an agency or court of competent jurisdiction, PREPA may produce the material in response to such order without prior consultation with the relevant Proponent.

This RFP shall not, by itself, give any right to any party for any claim against PREPA. Furthermore, by submitting a proposal, each Proponent shall be deemed to have acknowledged that PREPA assumes no liability with respect to this RFP or any matters related thereto. Each Proponent acknowledges and agrees that PREPA may terminate this RFP at any time and for its convenience without liability to such Proponent, its advisors, consultants, and agents. By submission of a proposal, each Proponent, for itself as well as for its successors and assignees (if any), agrees that, as between such Proponent and PREPA, such Proponent shall have sole responsibility for all claims, demands, accounts, damages, costs, losses, and expenses of whatsoever kind in law or equity, known or unknown, foreseeable or unforeseeable, arising from or out of this RFP or its proposal(s).

PREPA reserves the right to modify this RFP for any reason and at any time prior to the Proposal Submission Deadline. PREPA will notify Proponents who submit a valid Notice of Intent to Respond of any such modifications.

5.7 Disclosure of Proposals

As part of the process of obtaining regulatory approval, PREPA may disclose proposals submitted by Proponents to third parties for the purpose of obtaining such approval.

6. PROPOSAL SUBMISSION

PREPA shall not reimburse a Proponent, and each Proponent shall remain responsible, for any cost incurred as part of the preparation or submission of a proposal, the finalization, execution and delivery of any Contract and/or any other activity contemplated by a proposal or this RFP. PREPA has provided the information in this RFP or on PREPA's RFP website to assist Proponents in evaluating this RFP. This RFP does not contain all the information that may be relevant to Proponents in satisfying its due diligence efforts.

6.1 Proposal Organization

By submitting a proposal pursuant to this RFP, each Proponent acknowledges and agrees that (i) PREPA will rely on the representations contained in such proposal during its evaluation and consideration of such proposal, and (ii) such Proponent's inability to substantiate and verify any such representations may result in the termination of further consideration and/or evaluation of its proposal(s) and the right of PREPA to claim the entire face amount of the Proposal Security. Each Proponent shall ensure the truth, accuracy and completeness of all such representations to the best of such Proponent's knowledge and belief.

All proposals shall include the following minimum components in the order provided:

- a. Proposal Completeness Checklist (see Appendix B (*Form of Proposal Completeness Checklist*));
- b. Project Description (see Schedule A (*Project Description*) of Appendix C (*Proposal Data Forms*));
- c. Qualitative Assessment (see Schedule B (*Qualitative Assessment*) of Appendix C (*Proposal Data Forms*));
- d. Pricing Proposal (see Schedule C (*Tariff Proposal*) of Appendix C (*Proposal Data Forms*));
- e. Energy Production Forecast (see Schedule D (*Energy Production Forecast*) of Appendix C (*Proposal Data Forms*));
- f. Guaranteed Performance (see Schedule E (*Guaranteed Performance*) of Appendix C (*Proposal Data Forms*));
- g. Suppliers for Major Plant Equipment (see Schedule F (*Supplier for Major Plant Equipment*) of Appendix C (*Proposal Data Forms*));
- h. Financial Data Form (see Schedule G (*Financial Data Form*) of Appendix C (*Proposal Data Forms*));
- i. For ESSA proposals only, ESSA Monthly Fixed Payments (see Schedule H (*ESSA -- Monthly Fixed Payments*) of Appendix C (*Proposal Data Forms*));
- j. Non-Disclosure Agreement (see Appendix D (*Form of Non-Disclosure Agreement*); and

- k. Proposal Security (see Appendix G (*Form of Proposal Security*)).

6.2 Proposal Content

For consideration in the evaluation process, proposals must contain the information outlined in the following sections, as applicable.

- a. **(Project Description)** Proponents shall provide a description of their proposed project, using the forms in Schedule A (*Project Description*) of Appendix C (*Proposal Data Forms*), covering the following categories to the extent applicable to such project:
- i. Basic project description, including (a) project name; (b) site location (including map and site layout); (c) technology; (d) generating or storage capacity; (e) MTR compliance strategy; (f) grid connection point and electrical one-line diagrams; (g) ancillary service capabilities; (h) commercial operation date; and (i) ownership structure;
 - ii. Site ownership, usage, and development status;
 - iii. Current status of issuance of all permits, licenses and other authorizations required for the implementation of the project;
 - iv. Operation and maintenance plan;
 - v. Environmental permitting plan addressing all potentially applicable environmental permits (federal and local) including the following, as applicable:
 - list of potentially applicable permits evaluated or to be *evaluated*;
 - result of applicability analysis for each potentially applicable permit or status of evaluation; and
 - planned approach to obtain applicable permits including the following:
 - A. list of key activities necessary to obtain each applicable permit(s) and associated timing;
 - B. identification of key individuals or consultants; and
 - C. experience of those individuals in specific jurisdictions of project; and
 - vi. Transmission upgrade plans, status of interconnection or transmission service requests, and status of related agreements and approvals;
 - vii. A detailed description and drawings of transmission and substation facilities associated with the proposed project, and descriptions of any special protection schemes associated with the resource and their use. PREPA requires Energy

Resources that offer operational flexibility. Proponents must provide a detailed description of the scheduling or dispatch process, ramp rates, automatic generation control, existing or planned Inter-Control Center Protocol ties to PREPA and any energy magnitude and duration limitations. Describe the capability, if any, of the resource to provide reactive support ancillary service and dynamic reactive reserve;

- viii. Proponent's design and development experience with the proposed technology;
- ix. Proponent's operating experience with the proposed technology;
- x. Financing plan, including (a) sources of debt and equity; (b) equity percentage by sponsor; (c) financing rates and other terms; (d) level of commitment by potential lenders for construction financing and permanent financing; and (e) tax credit qualifications;
- xi. Proponent's management team and key individuals responsible for permitting, financing, design, construction, and operation;
- xii. Major milestone schedule, including provisions for (a) site acquisition, control, and development; (b) permitting and licensing; (c) transmission upgrades and interconnection, if applicable and as relevant to the project location; (d) financing; (e) engineering, procurement, and construction; and (f) testing;
- xiii. Pricing terms which convey the essence of the proposed Energy Resource cost;

For each of the above categories, each Proponent shall provide references to any supporting documents or attachments. Proponent's design and development experience and operating experience with the proposed technology shall include a list with the following information:

- A. facility or project name;
- B. facility or project location;
- C. technology configuration and capacity;
- D. major equipment manufacturers;
- E. engineering, procurement, and construction contractor; and
- F. commercial operation year.

- b. **(Initial Scoring Criteria)** Proponents shall complete the initial scoring criteria form in Schedule B (*Qualitative Assessment*) of Appendix C (*Proposal Data Forms*).
- c. **(Tariff Proposal)** Proponents shall complete the forms in Schedule C (*Tariff Proposal*) of Appendix C (*Proposal Data Forms*). Each Proponent shall submit tariff proposals for (i) either component 1 or 2 (as applicable), and (ii) component 3 below:

- i. For MTR-compliant Renewable Energy Resource proposals, the “Base Rate” as defined in the relevant Final Proposal Version of Contract, representing the unit price of electricity, expressed in US Dollars per kWh:
 - ii. For Energy Storage Resource proposals, the “Monthly Fixed Payment” as defined in the relevant Final Proposal Version of Contract, representing the hourly price of energy storage capacity, expressed in US Dollars per MW.
 - iii. The sum of the estimated all-in cost (the “**Proponent’s Estimated Interconnection Costs**”) to (i) design, supply, install, test and commission the interconnection infrastructure required for the delivery of the project’s energy or energy storage capacity (as applicable) to the T&D System, and (ii) upgrade the T&D System for project integration.
- d. **(Performance)** Proponents shall specify performance for the project using the forms in Schedule D (*Energy Production Forecast*) and Schedule E (*Guaranteed Performance*) of Appendix C (*Proposal Data Forms*), as applicable.
- i. **(Renewable Energy Resources)** For Renewable Energy Resources, the Energy Production Forecast in Schedule D (*Energy Production Forecast*) of Appendix C (*Proposal Data Forms*), shall indicate, as applicable given the nature of the proposed resource (i.e., solar PV, wind or hydro) the forecasted P10, P50, and P90 annual energy forecast in MWh for each day and hour (8,760 entries). The forecasted values shall account for long-term performance degradation where applicable.
 - ii. **(Energy Storage Resources)** For Energy Storage Resource proposals, the guaranteed performance in Schedule E (*Guaranteed Performance*) of Appendix C (*Proposal Data Forms*) shall indicate:
 - Guaranteed Capacity (MW/ MWh)
 - Peak Charging Time (hours)
 - Peak Discharging Time (hours)
 - AC-AC Round Trip Efficiency (%)
 - Equivalent Availability Factor (%)The guaranteed values shall account for long-term performance degradation.
 - iii. **(Suppliers of Major Plant Equipment)** Proponents shall indicate the anticipated suppliers, models, and countries of manufacture for major plant equipment using the forms in Schedule F (*Supplier for Major Plant Equipment*) of Appendix C (*Proposal Data Forms*).

- iv. **(Financing)** Proponents must provide specific evidence demonstrating their ability to raise financing using the forms in Schedule G (*Financial Data Form*) of Appendix C (*Proposal Data Forms*).

6.3 Disqualification of Proposals

Notwithstanding any other provision of this RFP, PREPA reserves the right without qualification and in its sole discretion, to reject any and/or all proposals for any reason whatsoever and to consider alternatives outside of this RFP process. PREPA may disqualify or reject a Proponent's proposal(s) for any reason, at PREPA's sole discretion, including but not limited to the following:

- a. Failure to comply with any of the requirements of the RFP, including timelines, form sheets or any other requirements.
- b. Any misrepresentation, intentional non-disclosure or withholding of information in the SOQ.
- c. Any effort towards influencing the process of qualification or in relation to decision concerning the qualifications of a Proponent.
- d. Failure to disclose additional information relating to the Proponent's experience, even upon reasonable request and such information being deemed necessary to properly evaluate the Proponent's qualifications.
- e. Failure in reporting any material changes in information provided in the SOQ following submission thereof.
- f. If PREPA determines that a Proponent is prohibited from doing business on grounds which may include, but are not limited to, public policy or national interest.
- g. If the Proponent has overdue debts (in a material amount) or significant contingent liabilities.
- h. If the Proponent has gone bankrupt or is being wound up or its affairs are being administered by the court or it has entered into an arrangement with creditors or has suspended business activities.
- i. If the Proponent is the subject of proceedings for a declaration of bankruptcy, for an order for compulsory winding up or administration by the court, or an arrangement with creditors or has suffered any other analogous event.
- j. If the Proponent has been convicted of an offence that concerns its professional misconduct in the course of its business or profession.
- k. If the Proponent has a stake in any member of the advisors or consultants supporting PREPA, or the FOMB.

1. Non-declaration of a conflict of interest or potential conflict of interest resulting from previous or existing contracts or relationships, which affects, or may affect, its potential participation.

Where shareholders have established a Proponent as a new company specifically incorporated for participating in the RFP process, the basis for disqualification shall be applicable to such shareholders rather than to the Proponent itself. A proposal may be disqualified at any point in the evaluation process if PREPA determines, at its discretion, that the Proponent has attempted to gain an advantage through conduct deemed as unethical, a conflict of interest, by interference, or any such means. By submitting a proposal in response to this RFP, each Proponent certifies that it has not divulged, discussed, or compared its proposal with other Proponent and has not colluded whatsoever with any other Proponent or parties with respect to this or other proposals. PREPA may reject any proposal if it is perceived that this criterion has been violated.

Appendix A. Form of Notice of Intent to Respond

Company Name	
Company Mailing Address	
Primary Contact Information	
Name	
Title	
Phone	
Email	

Proponent's Signature Date

Appendix B. Form of Proposal Completeness Checklist

Please check the following boxes to indicate that your proposal is complete and meets the minimum requirements for the RFP. This completed checklist should be submitted with your proposal.

- Appendix C
 - Appendix C, Schedule A – Project Description
 - Appendix C, Schedule B – Qualitative Assessment
 - Appendix C, Schedule C – Pricing Proposal
 - Appendix C, Schedule D – Energy Production Forecast
 - Appendix C, Schedule E – Guaranteed Performance
 - Appendix C, Schedule F – Suppliers for Major Equipment
 - Appendix C, Schedule G – Financial Data Form
- Appendix D, Non-Disclosure Agreement
- Appendix E, Form of Solar PPOA
- Appendix F, Form of Energy Storage Agreement
- Summary of all legal proceedings, claims, actions, or suits against the Proponent, the guarantor, or involving the facility or site
- Proposal Evaluation Fee (if required in accordance with Section 5.4 (*Proposal Evaluation Fee*))

Appendix C. Proposal Data Forms

(see technology specific file *Appendix C. Proposal Data Forms.xlsx*)

- Schedule A – Project Description
- Schedule B – Qualitative Assessment
- Schedule C – Tariff Proposal
- Schedule D – Energy Production Forecast
- Schedule E – Guaranteed Performance
- Schedule F – Suppliers for Major Plant Equipment
- Schedule G – Financial Data Form

Appendix D. Form of Non-Disclosure Agreement

This Non-Disclosure Agreement (“**Agreement**”) is made this [●] day of [●] 20[●], by and between [●], a [●], hereinafter referred to as “**Proponent**”, and the Puerto Rico Electric Power Authority, hereinafter referred to as “**PREPA**”, a public corporation and government instrumentality of the Commonwealth of Puerto Rico, created by Act 83 of May 2, 1941, as amended. Proponent and PREPA jointly referred to as the “**Parties**”.

1. In connection with discussions between Proponent and PREPA in the context of the first tranche of the Request For Proposals for Renewable Energy Generation Resources and Energy Storage Systems (“**RFP**”) issued by PREPA and with respect to a potential transaction relating to the [●] project (the “**Transaction**”), each party (as to information disclosed by it, “**Disclosing Party**” intends to furnish the other party (as to information received by it, “**Receiving Party**”) with certain confidential and proprietary information concerning the Transaction. “**Confidential Information**”, as used in this Agreement, shall mean (a) the proposed or final terms of the Transaction, (b) all information that is disclosed in writing or by e-mail or other tangible electronic storage medium and is clearly marked “Confidential” or “Proprietary”, or (c) all information identified by the Disclosing Party as confidential, initially disclosed orally or visually and at the time of disclosure. All other information shall be deemed non-confidential, in each case subject to paragraph (9) below.
2. The Receiving Party shall, except as required by law, (a) protect the confidentiality of the Disclosing Party’s Confidential Information; (b) use the Confidential Information only for the purposes of evaluating a possible Transaction and the terms thereof; (c) use the same degree of care as with its own confidential information to prevent disclosure of the Confidential Information; and (d) not disclose to persons that the Confidential Information has been made available, that the Receiving Party is considering a possible Transaction, that the Parties have had or are having discussions or negotiations with respect thereto, or the terms and conditions thereof except to its affiliates, advisors, potential financing sources, representatives, key personnel, and any legal, financial, or technical advisors, whose duties justify their need to review and know such material (collectively, “**Representatives**”), to the extent necessary to permit them to assist the Receiving Party in the evaluation of the Transaction.
3. Notwithstanding anything to the contrary in this Agreement, PREPA shall have the right to disclose Confidential Information to: (a) the Financial Management and Oversight Board, the Puerto Rico Energy Bureau, the PROMESA Court, and any governmental authority for the purposes of obtaining the consents and approvals of the Transaction, together with such additional information as may be required to obtain such consents and approvals, (b) the Puerto Rico Public Private Partnerships Authority and any owner or operator, or potential owner or operator, of the transmission and distribution system, and their respective advisors and lenders, and (c) the Puerto Rico Comptroller’s Office through the filings required by applicable law.
4. The Receiving Party shall be responsible at all times for enforcing the confidentiality of the information and shall take any commercially reasonable action, of a legal nature or otherwise, to the extent necessary, to prevent any disclosure of the Confidential Information by any of its Representatives, other than as permitted hereby. To the extent known, the Receiving Party agrees to exercise reasonable efforts to notify the Disclosing Party immediately of the date and circumstances of any loss or unauthorized use or disclosure of the Confidential Information of which it receives notice.

5. Except as otherwise provided herein, the Receiving Party or its Representatives shall not disclose any Confidential Information to any third party whatsoever without the prior written consent of the Disclosing Party and subject to such terms and conditions as may be required by the Disclosing Party, such consent not be unreasonably withheld. If the Disclosing Party issues a written consent for the disclosure of information to a third party in accordance with this paragraph, the Receiving Party shall:
 - a. Inform to such third party of the provisions of this Agreement;
 - b. ensure that such third party first undertakes in writing to comply with the provisions of this Agreement, before any disclosure; and
 - c. take all reasonable steps to ensure that such third party complies with the provisions thereof.
6. The Receiving Party shall, at the written request of the Disclosing Party, use commercially reasonable efforts to ensure that the third parties mentioned in the preceding paragraph to whom the Confidential Information is disclosed immediately return any such Confidential Information which is then in existence and provided to that Receiving Party in a written or other permanent form together with any copies thereof.
7. Only those representations and warranties that are made in a final written definitive agreement in connection with a Transaction, when, as and if executed by the Parties (or one or more affiliates thereof), and subject to such limitations and restrictions as may be specified therein, will have any legal effect with respect to the Disclosing Party or its Representatives.
8. Each party acknowledges that money damages would not be a sufficient remedy for any breach of this Agreement. Accordingly, in the event of any such breach, in addition to any other remedies at law or in equity that a party may have, it shall be entitled to equitable relief, including injunctive relief or specific performance, or both (although neither party shall be entitled to any special, consequential, indirect, punitive or exemplary damages as a result of a breach of this Agreement, whether a claim is asserted in contract, tort, or otherwise). No failure or delay on the part of either party in exercising any right, power or remedy hereunder shall be construed as a waiver by either party of any such right, power or remedy; nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy.
9. This Agreement shall be inoperative as to particular portions of the Confidential Information disclosed by the Disclosing Party if such information: (a) is or becomes generally available to the public other than as a result of disclosure by the Receiving Party or its Representatives in breach of this Agreement; (b) was available on a non-confidential basis prior to its disclosure to the Receiving Party; (c) is or becomes available to the Receiving Party or its Representatives on a non-confidential basis from a source other than the Disclosing Party when such source is not, to the best of the Receiving Party's knowledge, breaching a confidentiality obligation to the Disclosing Party, or (d) was independently developed by the Receiving Party or its Representatives, without reference to the Confidential Information.
10. The Disclosing Party may elect at any time by notice to the Receiving Party to terminate further access to and such party's review of the Confidential Information. In any such case, or upon the expiration of this Agreement, the Receiving Party will promptly return or destroy all Confidential Information disclosed to it. The Receiving Party may nevertheless maintain a single confidential copy in the office of its general counsel of the Confidential Information as a record of the material

provided hereunder (provided that such material shall remain subject to the terms of this Agreement), and the Receiving Party shall not be deemed to have retained or failed to destroy any Confidential Information which is in electronic form if such information is deleted from local hard drives so long as no attempt is made to recover such information from servers or back-up sources.

11. Each party shall retain ownership of all Confidential Information and intellectual property it had prior to commencement of the discussions and RFP process referred to in this Agreement. Nothing in this Agreement shall be deemed to grant a license directly or by implication, estoppel, or otherwise, although the Parties may provide for such a license in an express written agreement.
12. If either party or any of their respective Representatives is requested or required (by interrogatories, subpoena, or similar legal process, binding on the Receiving Party or a binding request of any governmental entity or regulatory agency) to disclose any Confidential Information, such party agrees to provide the Disclosing Party with prompt notice of each such request, to the extent practicable prior to disclosure, so that the Disclosing Party may seek an appropriate protective order or waive compliance by the Receiving Party with the provisions of this Agreement, or both. If, absent the entry of a protective order or receipt of a waiver, the Receiving Party is, in the opinion of its counsel, legally compelled to disclose such Confidential Information or otherwise permitted to disclose such information under this Agreement, the Receiving Party may disclose such Confidential Information to the persons and to the extent required without liability under this Agreement.
13. Notwithstanding any provision of this Agreement to the contrary, the legal obligations of confidentiality hereunder do not extend to the U.S. federal or state tax structure or the U.S. federal or state tax treatment of the Transaction. If any U.S. federal or state tax analyses or materials are provided to any party, such party is free to disclose any such analyses or materials without limitation.
14. This Agreement and the rights and obligations of the parties hereunder shall be governed by and construed in accordance with the laws of the Commonwealth of Puerto Rico.
15. This Agreement is not intended to be, nor shall it be construed as constituting an offer by or creating any obligation on either party to enter into any other agreement. No provision herein included shall be interpreted as to create an agency or partnership relationship between the Parties to this Agreement.
16. PREPA reserves the right, in its sole discretion, to reject any and all proposals and nothing in this Agreement prohibits PREPA from negotiating, discussing or entering into any transaction with any third party. Except with respect to this Agreement and the Proposal Security provided in accordance with Section 5.5 of the RFP, no party shall have any obligation of any kind whatsoever with respect to a Transaction or to any matters discussed or negotiated unless and until a formal written definitive agreement with respect thereto has been executed and delivered by each party, and no party shall have any liability to the other party in the event of or as a result of the failure of the Parties to execute such a formal written agreement, except with respect to any breach of this Agreement or a call on the Proposal Security.
17. Neither party shall assign, in whole nor in part, any of its rights or obligations hereunder, except to an affiliate or successor in interest, without the prior written consent of the other party, which consent shall not be unreasonably withheld. The benefits arising under this Agreement shall inure to the benefit of each of the Parties hereto and their respective successors and permitted assigns. The obligations arising under this Agreement shall be enforceable against each of the Parties hereto

and its successors and permitted assigns.

18. Unless otherwise specified herein, the rights and obligations of the Parties hereunder shall terminate three (3) years from the date of this Agreement. Notwithstanding anything to the contrary contained herein, if the Parties enter into a substantive written agreement relating to the Transaction that contains confidentiality obligations, the confidentiality provisions in such definitive agreement shall govern the Confidential Information exchanged by the Parties under this Agreement and this Agreement shall have no further force and effect as of the effective date of such substantive agreement.

19. All notices and other communications given under this Agreement shall be given in writing and shall be effective upon receipt by the addressee as provided below, as provided below:

To PREPA: Puerto Rico Electric Power Authority
[PO Box 364267
San Juan, Puerto Rico 00936-4267]
Attention: [_____]]
[Chief Executive Officer]

To Proponent: [_____]]
[_____]]
[_____]]
Attention: [_____]]

20. This Agreement sets forth the entire agreement and understanding between the Parties hereto as to the subject matter hereof and merges all prior discussions and negotiations between them. This Agreement may not be modified except in writing executed by duly authorized representatives of both Parties.

IN WITNESS WHEREOF, the Parties hereto have executed and delivered this Agreement as of the date first above written.

[_____]

By:
Title: Authorized Representative

PUERTO RICO ELECTRIC POWER AUTHORITY

By:
Title: Chief Executive Officer

Appendix E. Form of Solar PPOA

[pending]

Appendix F. Form of Energy Storage Services Agreement

[pending]

Appendix G. Form of Proposal Security

UNCONDITIONAL, ON-DEMAND BANK GUARANTEE

[Bank's Name, and Address of Issuing Branch or Office]

Beneficiary: PUERTO RICO ELECTRIC POWER AUTHORITY

Address: [●]

Attn:[●]

Date: [●]

[PREPA-/PROPONENT Name] Power Purchase and Operating Agreement] – Proposal

Security No. [●]

We (as Guarantor) understand that *[insert name of PROPONENT]* (the “*Applicant*”) has submitted a proposal to you, the Beneficiary, dated [●] (as amended, the “*Proposal*”) in the context of the Request For Proposals for Renewable Energy Generation Resources and Energy Storage Systems – Tranche 1 (“*RFP-T1*”) issued by the Beneficiary on [date], which requires a Proposal Security in the form and amount of this on-demand [bank guarantee / letter of credit] (“*Guarantee*”).

At the request of the Applicant, we *[name of Bank]*, hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [●] United States Dollars (USD [●]) in each case upon receipt by us of your first demand in writing at the Place of Presentation listed below in person, by registered or certified mail, by facsimile or by international overnight courier service, in the form attached as Annex A hereto (signed by your authorized representative) (“*Demand*”), without your needing to prove or to show grounds for your Demand or the sum specified therein. We shall remit all payment(s) under this Guarantee into a bank account of your choice and discretion as specified in your Demand. You may make one or more Demands under this Guarantee.

Any Demand made by the Beneficiary in accordance herewith shall be conclusive evidence that the sum stated in such Demand is properly due and payable to the Beneficiary under this Guarantee. The Guarantor shall have no right and shall not be under any duty or responsibility to enquire into the reason or circumstances of any Demand made by the Beneficiary or the respective rights and/or obligations and/or liabilities of the Beneficiary and the Applicant in respect to the Proposal. Any discrepancy between the explicit terms hereof and the Rules (defined below) shall be read in favor of the terms set forth in this Guarantee.

Place of Presentation:

For paper presentation, at *[Bank to insert address of branch where a paper presentation is to be made in]*.

For electronic presentation by [facsimile], at *[Bank to insert facsimile information of branch where facsimile transmission is to be made]*.

The Guarantor shall, within three (3) business days after receipt of any Demand served from time to time by the Beneficiary, pay to the Beneficiary in immediately available funds the lesser of: (a) the amount specified in the Demand; and (b) the then applicable amount remaining on the Guarantee. If a Demand made by the Beneficiary hereunder does not, in any instance, conform to the terms and conditions of this Guarantee, then the Guarantor shall give the Beneficiary, within two (2) business days after receipt of such Demand, notice that such Demand was not effected in accordance with the terms and conditions of this Guarantee, stating the reason therefore. Upon being notified that a Demand was not made in conformity with this Guarantee, the Beneficiary may attempt to correct such non-conforming Demand. The obligations of the Guarantor under this Guarantee are primary and not by way of surety or guarantee. The Guarantor shall not be entitled as against the Beneficiary to make any withholding or deduction on account of any set-off or counterclaim whatsoever and howsoever arising.

The Guarantor will promptly notify the Beneficiary of any notice received or action filed alleging the insolvency or bankruptcy of the Guarantor or alleging any violations of regulatory requirements which could result in suspension or revocation of the Guarantor's charter or license to do business. In the event the Guarantor is unable to fulfil its obligations under this Guarantee for any reason, the Guarantor shall provide notice thereof immediately to the Beneficiary.

[This Guarantee shall enter into force and effect upon expiry of Proposal Security No. [●], dated [●] and issued by [●].] [NTD: *Insert this language if this is a replacement Guarantee.*]

This Guarantee shall expire on the earlier to occur of (i) the date that you deliver a certificate to us, confirming that the Applicant has delivered to you a new Guarantee that replaces this Guarantee, and (ii) [date] ("**Expiry Date**"). Consequently, we must receive any Demand for payment under this Guarantee at this office on or before such Expiry Date. Upon its expiry, you shall return the present Guarantee to us. It will, however, become null and void, irrespective of whether you have returned it.

The Beneficiary may assign and transfer its rights under this Guarantee to its lenders pursuant to its financing agreements or to any permitted assignee by presentation to the Guarantor (at the above-stated Place for Presentation) of a demand for transfer, substantially in the form of Annex B attached hereto, appropriately completed. The Guarantor shall have no obligation to make any kind of payment to any assignee and/or transferee unless the Beneficiary has notified the Guarantor in writing of such assignment and/or transfer. For the avoidance of doubt, the Guarantor hereunder shall have no obligation to make any kind of payment to any other party, transferee and/or assignee if such payment is prohibited or blocked under any U.S. executive order, law or any rule or regulation of the office of foreign assets control of the U.S. treasury department or the U.S. commerce department, and any attempted transfer which violates this provision shall be null and void. The Guarantor may not assign, charge or transfer this Guarantee.

This Guarantee is subject to (i) the Uniform Rules for Demand Guarantees, ICC Publication No. 758 (the "**Rules**"), provided that no documentation other than that specified in this Guarantee is required for the Beneficiary to receive payment under this Guarantee, and the supporting statement under Article 15(a) of the Rules is specifically excluded, as is the application of Articles 21b, 21c, 23 and 33 of the Rules, and (ii) to the extent not inconsistent therewith, the laws of [*jurisdiction of the Qualified Bank*]. In the event of a conflict between the terms of this

Guarantee and the Uniform Rules for Demand Guarantees, ICC Publication No. 758, the terms of this Guarantee shall prevail.

The courts of the [*United States federal courts in the Commonwealth of Puerto Rico*] shall have exclusive jurisdiction in respect of all disputes arising out of this Guarantee (including, without limitation, the enforceability of this Guarantee).

By:
Authorized Signatory

ANNEX A - FORM OF DEMAND LETTER

[Letterhead of Beneficiary]

[Name of Guarantor]

Date: [●]

RFP-T1 – Proposal Security No. [●]

We refer to the above-captioned Unconditional On-Demand Bank Guarantee (the “*Guarantee*”). Unless the context otherwise requires, capitalized terms used herein shall have the meanings ascribed to them in the Guarantee. We hereby inform you that:

1. the RFP-T1 provides that the Beneficiary may draw on the Guarantee, entitling us to call upon the Guarantee; or
2. you no longer meet the requirements of a Qualified Bank (as defined below) and twenty-one (21) calendar days or more have elapsed since the date on which you no longer met such requirements, and the Applicant has not delivered to Beneficiary a replacement guarantee that is substantially identical to the Guarantee, meeting the requirements of the Agreement. “Qualified Bank” means, for any Guarantee, a commercial bank or other financial institution licensed to do business within Puerto Rico, which has, as of the date of issuance or renewal of such guarantee, a long-term counterparty credit rating of at least “A” by Standard & Poor’s Ratings Services, a long-term foreign currency deposit rating of “A2” by Moody’s Investors Services Inc., or, if either such rating agency ceases to engage in business or rate the obligations in question, an equivalent rating from another internationally recognized rating agency selected by Applicant with the written consent of PREPA; provided that, if such financial institution’s ratings satisfy such minimum ratings, no other credit rating agency shall have placed such financial institution on credit watch with negative implications; or
3. twenty-one (21) or less calendar days remain before the current Expiry Date, the Applicant’s obligation to maintain the Guarantee under the Proposal extends beyond such Expiry Date, and the Applicant has not delivered to Beneficiary a replacement Guarantee substantially identical to the Guarantee and meeting the requirements of the Agreement.

This letter serves as our demand for payment under the Guarantee. We request that you immediately pay the sum of [●] into the bank account below:

Account Name: [●]

Account Number: [●]

Bank Name: [●]

Bank Address: [●]

Swift Code: [●]

Yours very truly,

[The Puerto Rico Electric Power Authority]

By:
Authorized Signatory

ANNEX B - FORM OF TRANSFER

[Letterhead of Beneficiary]

[Name of Guarantor]

Date: [●]

***[Insert Work Description]* – Proposal Security No. [●]**

Gentlemen:

The undersigned Beneficiary hereby irrevocably transfers to:

Name of Transferee

Address

All rights of the undersigned Beneficiary to draw under the above Guarantee in its entirety.

By this transfer, all rights of the undersigned Beneficiary in such Guarantee are transferred to the transferee and the transferee shall have the sole rights as Beneficiary thereof, including all drawing rights, all rights to transfer the Guarantee and sole rights relating to any amendments whether increases or extensions or other amendments and whether now existing or hereafter made. All amendments are to be directed to the transferee without necessity of any consent of or notice to the undersigned Beneficiary.

The original of such Guarantee along with all amendments, if any, is returned herewith, and we ask you to endorse the transfer on the reverse thereof and forward it directly to the transferee with your customary notice of transfer.

Sincerely,

Name of Beneficiary

Authorized Name & Title

Authorized Signature

Telephone Number

Accepted and Agreed:
Name & Address of Bank _____

Authorized Name & Title

Authorized Signature

Telephone No.

This Form Must Be Executed in Duplicate.

Appendix H. Minimum Technical Requirements (MTR)

[pending]

Appendix I. Interconnection

[pending]

Appendix J. Preferred Location of Energy Resources
