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CASE NO.: NEPR-MI-2024-0005

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

IN RE: ELECTRIC SYSTEM PRIORITY STABILIZATION
PLAN

SUBJECT: Reporting Directives and
Information Requirement regarding
PREPA's Proposed Contract Resulting
from Temporary Emergency Power
Generation.

MOTION TO VACATE RESOLUTION AND ORDER OF DECEMBER 11, 2025

TO THE PUERTO RICO ENERGY BUREAU

COMES NOW Javelin Global Commodities US Holdings Inc. ("Javelin"), through the undersigned counsel, and respectfully moves this Honorable Board to vacate its Resolution and Order of December 11, 2025 ("December 11 Resolution"), which conditionally approved Puerto Rico Power Authority's ("PREPA") proposed contract to procure up to 400 MW of temporary emergency generation at the Aguirre power plant and 201 MW of supplemental capacity at the Costa Sur site, for the reasons set forth below:

I. INTRODUCTION

PREPA's procurement process, conducted before the Public-Private Partnerships Authority ("P3A") through the Independent Third-Party Procurement Office ("3PPO"), has been mired by a series of compounding irregularities that calls into question these entities' independence and the legitimacy of the process. These irregularities first came to light in July 2025, when the contract was originally awarded to Power Expectations LLC ("Power Expectations"), a proponent that failed to meet the mandatory requirements set forth in the original Request for Proposal ("RFP") and applicable law, as it did not satisfy the financial, technical, and operational criteria required for the critical emergency generation capacity that it was being contracted to provide.

However, rather than authorizing the proposed contract that had been presented, the Energy Bureau ordered PREPA to renegotiate that contract. Specifically, the Energy Bureau, via a Resolution and Order dated July 4, 2025 and relying on documentation submitted by PREPA, was led to believe that Power Expectations had supposedly offered a version of the contract with: (a) a ten year term, (b) an all-inclusive fixed energy rate of \$0.189 per kWh for the Aguirre site and \$0.203 per kWh for the Costa Sur site, (c) no take-or-pay commitments, guaranteed minimum generation hours, or fixed volume purchase obligations, and (d) no payment obligations on PREPA other than payment for the energy delivered by Power Expectations. Thus, understanding that the ten-year contract allegedly proposed by Power Expectations offered more favorable pricing conditions, and was therefore in the ratepayer's best interests, the Energy Bureau approved the contract conditioned on PREPA and Power Expectations modifying the same to include the terms summarized above.

Javelin and another proponent of the RFP process, Gothams Energy LLC ("Gothams Energy"), filed, in the captioned proceeding and the Puerto Rico Court of Appeals, respectively, separate challenges to the validity of the award. Afterwards, 3PPO, on behalf of PREPA, announced the cancellation of the original RFP and decided to re-run a new process rather than modify Power Expectation's original contract. The new RFP, like its predecessor, enumerated a set list of criteria that each proponent needed to satisfy to be considered for an award. In line with the Energy Bureau's prior determination, the new RFP also required that the resulting contract have a term of up to ten years, with an all-inclusive fixed energy rate for the full duration of the agreement. Nevertheless, rather than correct the irregularities presented in the previous RFP process, what ensued was a highly aberrant procurement process in which 3PPO, for unknown reasons, modified supposedly non-negotiable terms that were nowhere mentioned in the RFP document itself.

The procurement process culminated, as is pertinent here, in the December 11 Resolution, through which the Energy Bureau conditionally approved PREPA's proposed contract to procure

up to 400 MW of temporary emergency generation at the Aguirre power plant and 201 MW of supplemental capacity at the Costa Sur site. The December 11 Resolution does not discuss *any* of the criteria set forth in the RFP. Moreover, the December 11 Resolution contains language indicating that the contract in question includes several terms and conditions which will not only result in much higher energy rates but are also incompatible with the terms that 3PPO represented to Javelin as being non-negotiable. The December 11 Resolution does not identify *who* was awarded the proposed contract or *what* are the exact agreed upon pricing terms. However, the newspaper *El Nuevo Día* published, on December 15, 2025, an article revealing that the “proponent” mentioned in the December 11 Resolution is none other than Power Expectations, and that the conditionally approved contract has a fixed-energy rate of **\$0.22 per kWh** when liquefied natural gas (“LNG”) is used, and **\$0.32 per kWh** when diesel is used. See *El Nuevo Día*, June 9, 2025, *Government Contracts Power Expectations and Expects to Have 800 Megawatts of Temporary Power by August or September* (“**Exhibit 1**”).

In other words, the conditionally approved contract was not only granted, once again, to an entity that does not satisfy the RFP criteria, it also contemplates prices that **are higher** than those that were conditionally approved after the first RFP. In other words, not only has PREPA, P3A and/or 3PPO unilaterally modified the RFP criteria without following the proper procedures, they appear to have also misled the Energy Bureau when they represented that Power Expectations was willing to contract for ten years under an all-inclusive fixed energy rate of \$0.189 per kWh for the Aguirre site and \$0.203 per kWh for the Costa Sur site with no take-or-pay commitments, when that was never the case.

As this motion will show, the material noncompliance with the RFP’s qualifying conditions, including the advancement of a proposal that lacks the capacity to deliver the project as required, is sufficient to vacate the December 11 Resolution. After all, under Puerto Rico law, any agency action taken in violation of its own regulations is *ultra vires* and is therefore null and void. See Com. Vec. Pro-Mel, Inc. v. J.P., 147 D.P.R. 750, 764 (1999); T-JAC, Inc. v. Caguas Centrum

Limited, 148 D.P.R. 70, 81 (1999); García Troncoso v. Adm. del Derecho al Trabajo, 108 D.P.R. 53 (1978). However, the irregularities and inconsistencies in the RFP process and December 11 Resolution, which appear to favor Power Expectations to the detriment of the ratepayers and the public interest, go far beyond mere legal technicalities. They call into serious question the legitimacy and validity of this procurement process as a whole and warrant that closer scrutiny be given to Power Expectations and its relationship with PREPA, 3PA and/or 3PPO.

Accordingly, Javelin is once again forced to respectfully request that this Honorable Bureau recognize that the award to Power Expectations is legally null, vacate the December 11 Resolution, and remand the matter so that PREPA may proceed in accordance with the governing regulatory and statutory framework. In addition, considering that PREPA, P3A and 3PPO have twice failed to conduct a fair and balanced procurement process, and it came to light that they have made false or, at a minimum, misleading representations to the Energy Bureau, Javelin respectfully requests that this Bureau conduct an investigation on Power Expectations and this entity's relationship with PREPA, P3A and/or 3PPO. This Honorable Bureau's inquiry into the matter should include, at a minimum, that the Energy Bureau request copies of any recordings and/or transcripts of meetings between Power Expectations and 3PPO, P3A and PREPA including site visits, in person meetings, presentations offered and virtual conference calls.

Lastly, please note that, in accordance with Section 6.15 of Act No. 57-2014 and the Honorable Bureau's Policy on Management of Confidential Information (CEPR-MI-2016-009), Javelin will submit, under a separate cover, a Memorandum of Law requesting that confidential treatment be afforded to Exhibits 7 through 9 of this *Motion to Vacate Resolution and Order of December 11, 2025* and certain information in pages 10 through 14 of the same. Javelin respectfully requests that the Honorable Bureau take notice of the Memorandum of Law, to be filed on this same date.

I. BACKGROUND

A. The March RFP, the July 4 Resolution, and the ensuing backlash.

On March 19, 2025, the Energy Bureau ordered PREPA to procure up to 800 MW of temporary emergency generation to address critical capacity shortfalls highlighted by recurring blackouts and the catastrophic failure of Aguirre Unit # 1. On March 25, 2025, 3PPO, acting on behalf of PREPA, issued a first RFP, which was identified in 3PPO’s “Power Advocate” system as RFP 3PPO-0314-20-TPG (the “March RFP”). The March RFP contemplated a contract with “an initial period of one (1) year from the effective date of the contract, with two (2) extension option terms of one (1) year each if mutually agreed upon in writing by both parties ...” See March RFP (“**Exhibit 2**”) at p. 10.

The March RFP established a comprehensive, multi-factor evaluation framework intended to ensure a fair and balanced assessment of all proposals. Awards were to be determined based on a combination of criteria including technical merit, readiness for implementation, financial feasibility, and each proponent’s demonstrated ability to deliver reliable emergency generation in a timely manner. This methodology, which 3PPO was required to follow, aligns with the industry’s best practices, particularly in emergency procurement scenarios, where speed, reliability, and regulatory compliance are all critical considerations.

However, following 3PPO’s notice that both Javelin and Power Expectations had been selected to enter negotiations pursuant to Section 14 of the RFP, but before those negotiations had concluded and prior to any formal announcement of the RFP award, Puerto Rico’s Energy Policy Advisor and Executive Director of P3A, Engineer Josué Colón (“Eng. Colón”) made a series of statements that were published by the newspaper *El Nuevo Día* on June 9, 2025, indicating that (a) Power Expectations had been selected to provide 800 megawatts of temporary generation capacity to cover peak demand during the summer, and (b) although Javelin’s proposal “complied with everything else” it was not selected because its proposal was, supposedly, “not within the

cost expectation set forth in the RFP ... which had to be under 25 cents." See *El Nuevo Día*, June 9, 2025, *Government Contracts Power Expectations and Expects to Have 800 Megawatts of Temporary Power by August or September* ("**Exhibit 3**"). These public statements, as published by *El Nuevo Día* on June 9, 2025, indicate that the final award decision was driven primarily – if not exclusively – by cost considerations. This approach ran counter to the evaluation framework explicitly set forth in the RFP and risked undermining the integrity and transparency of the procurement process.

Later, on June 16, 2025, 3PPO served the formal notice of award under the RFP via a letter that confirmed the conclusion of the evaluation process and announced the award of the RFP to Power Expectations for the provision of up to 800 MW of temporary emergency generation. The award was substantively defective and legally unenforceable for the reasons discussed, *in extenso*, in the *Motion for Reconsideration* that Javelin filed on June 18, 2025. Therein, Javelin explained, *inter alia*, that Power Expectations lacks the capacity to meet the March RFP's requirements and it failed to comply with the March RFP's rules and legal disclosure obligations. Moreover, Javelin pointed out that serious procedural flaws compromised the integrity of the procurement process, as the 3PPO did not retain qualified independent technical and financial experts to rigorously vet the complex proposals that were submitted for its consideration, despite the significant technical, logistical, and financial risks involved. To make matters worse, the final award deviated arbitrarily from the RFP's stated evaluation framework. Although the RFP required a balanced review of technical merit, readiness, feasibility, and cost, the decision appears to have been based mainly on an unofficial cost ceiling not disclosed in the RFP, ignoring critical readiness and feasibility factors.

Even though Javelin's Motion for Reconsideration and multiple requests to access the administrative record related to the March RFP were still pending, the Energy Bureau issued a Resolution and Order on July 4, 2025 (the "July 4 Resolution" or "**Exhibit 4**"), conditionally approving PREPA's proposed contract with Power Expectations. The Bureau found that the

contract, which established “an all-inclusive energy fixed rate per project site of \$0.2450 per kWh for the initial to (2) year term and the first optional one (1) year extension, and \$0.2435 per kWh for the second optional one (1) year extension,” (Exhibit 4 at p. 2) was consistent with the approved integrated resource plan (“IRP”) and Puerto Rico’s updated energy policy given the emergency need.

Nevertheless, the Bureau “identified, based on the documentation submitted by PREPA, that the proponent offered a version of the Proposed Contract with a ten (10) year term, which included an all-inclusive fixed energy rate of \$0.189 per KWh for the Aguirre site and \$0.203 per kWh for the Costa Sur site.” Exhibit 4 at p. 7. The Board thus found “that entering into a longer-term contract based on this proposal is likely to result in greater benefits for ratepayers. This option is particularly advantageous given that the Proposed Contract does not include take-or-pay commitments, guaranteed minimum generation hours, or fixed volume purchase obligations.” *Id.* Consequently, the Bureau required PREPA to renegotiate the contract’s term and price to secure a ten-year term at the lower fixed rates of \$0.189-\$0.203 per KWh. The Bureau further required that PREPA must bear **no costs beyond paying for delivered energy**. Therefore, the “Provider,” in that case Power Expectations, was to be solely responsible for, *inter alia*, “procuring and arranging the delivery of the fuel, as well as for all costs related to the fuel used in the operation of the units.” Exhibit 4 at p. 8. PREPA was required to report back by July 9, 2025, confirming whether the better terms were secured or explaining why not, under penalty of significant daily fines for noncompliance.

Considering the serious irregularities in the March RFP process, Javelin filed, on July 9, 2025, a Motion to Vacate the July 4 Resolution. In its Motion to Vacate the July 4 Resolution, Javelin argued that the procurement process violated key provisions of the *Joint Regulation for the Procurement, Evaluation, Selection, Negotiation, and Award of Contracts for the Purchase of Energy and for the Procurement, Evaluation, Selection, Negotiation, and Award Process for the Modernization of the Generation Fleet*, Regulation No. 8815, dated October 11, 2016 (“Regulation

8815"). Specifically, Javelin asserted that its pending Motion for Reconsideration in the RFP process was not properly notified by PREPA to the Bureau when it sought approval of the contract with Power Expectations; a complete administrative record was not maintained; confidential information was disclosed during the blackout period; and that a bidder was permitted to participate despite failing to meet minimum technical, financial, and ethical requirements, including possible undisclosed criminal backgrounds and potentially not complying with the bid bond requirements for the initial RFP. Javelin further contended that there was no diligent verification of Power Expectations' operational capacity or the legality of its proposal. Moreover, extending the contract term to ten years represented a material deviation from the original one-year term contemplated in the RFP, which would effectively result in an entirely new agreement that departs from its original terms and conditions. Based on these failures, Javelin maintained that the award was void as a matter of law and requested that the Bureau order the RFP process to resume with the previously qualified proponents in a transparent, competitive manner and in full compliance with applicable law.

Likewise, on July 7, 2025, Gothams Energy LLC ("Gothams Energy") filed, with the Puerto Rico Court of Appeals, a request for review of the July 4 Resolution, which was accompanied by a motion in aid of jurisdiction. On July 9, 2025, the Court of Appeals granted Gothams Energy's motion in aid of jurisdiction, thereby staying the contracting process until the challenge to the July 4 Resolution could be adjudicated on the merits, and ordered the other parties, including 3PPO, to file a response by July 21st. On July 12, 2025, 3PPO filed a special appearance, informing the Court of Appeals that it would reopen the RFP process upon recognizing that the July 4 Resolution ordered that the contract be executed for a fixed-term of ten years, under a tariff that was different than the one used when the original bids were evaluated. See Gothams Energy LLC v. Autoridad de Energía Eléctrica, 2025 WL 2451261 at *1 (Court of Appeals, July 17, 2025).

Accordingly, 3PPO served on the bidders to the March RFP a *Notice of Opportunity to Submit Revised Proposal* and opened a new RFP process, titled RFP 3PPO-0314-20-TPG2.

B. The July RFP, its requirements and 3PPO's interpretation of the same.

3PPO issued a new RFP on July 15, 2025 (the “July RFP” or “**Exhibit 5**”). Some of the July RFP’s key requirements are outlined below:

- Sections 2 and 7 require all proponents to comply with the July 4 Resolution, including that proposals reflect up to a 10-year term with an all-inclusive fixed energy rate.
- Section 6 of the July RFP requires that all proposals include: (i) a complete interconnection plan, detailing solutions for integrating the power generation system into the existing transmission infrastructure, including a detailed list of equipment and associated costs; (ii) a pricing proposal based on a per-kWh rate, with a separate breakdown of mobilization, demobilization, and interconnection costs; (iii) a comprehensive work schedule ensuring commercial operation no later than 60 to 90 days from contract signature; (iv) documentation regarding climate resilience and the viability of the proposed site, including environmental considerations and proximity to existing infrastructure; (v) a main step-up transformer and necessary protection systems to safeguard both the generation equipment and the integrity of the grid; and (vi) a fuel supply and cost structure consistent with a turnkey pricing model.
- As is pertinent here, Section 11 of the July RFP provides that proposals meeting the requirements would be independently reviewed and evaluated by an evaluation panel formed of a cross-functional team of subject matter experts. Each evaluator would independently score the proposals according to predefined criteria. Final scores would be calculated by multiplying each evaluator’s score by the weight assigned to each criterion:

Experience and Capacity – 20%

Approach to Service Fulfillment – 10%

Approach to Power Generation Solutions – 10%

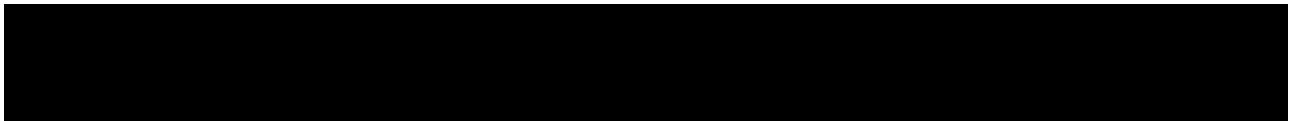
Pricing – 30%

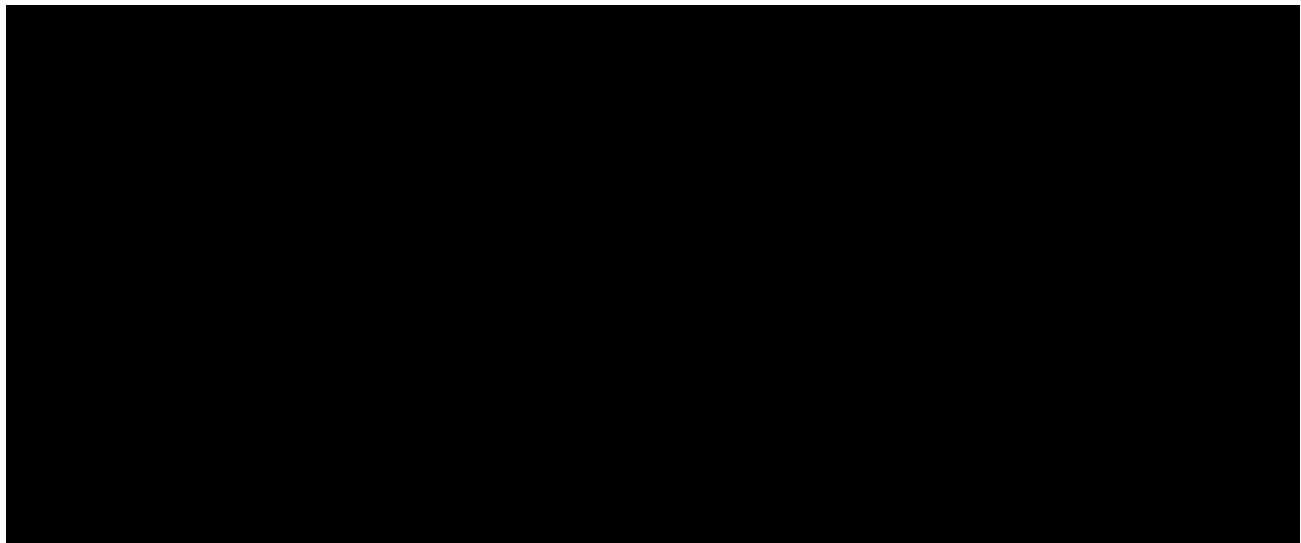
Schedule – 30%

- In addition, Section 17 of the July RFP provides that the resulting contracts shall be public records and that the documents shall be made available to the public or to relevant state or federal agencies. To protect confidential or sensitive commercial information, each proponent was required to submit a redacted version of its proposal, accompanied by an explanation of why specific information should not be disclosed. Failure to submit a redacted version would be deemed an acknowledgment that the entire proposal may be made public. Notwithstanding any confidentiality markings, information may still be disclosed if allowed by law or by conditions tied to the availability of federal funding. Moreover, the contract and its pricing terms are deemed public in nature. Internal information related to the evaluation of proposals may also be disclosed to any party demonstrating a legitimate need to know.
- Lastly, Section 19, provides a “no lobbying” clause, providing that “[n]either the Proponent nor any member of their team, including their respective directors, officers, employees, consultants, agents, advisers, or representatives (as it relates to the project or RFP), is allowed to participate in any way or in any type of political or other lobbying ...”

On the same day the July RFP was issued, to wit, July 15, 2025, 3PPO issued a first addenda, requiring that proponents “demonstrate that they are prepared to immediately mobilize and perform the scope of work upon contract award.” See **Exhibit 6**. Accordingly, proponents were required to “submit evidence of fully executed and binding contracts or agreements with their key suppliers, Engineering, Procurement and Construction (EPC) partners, and any joint venture participants, as applicable.” Id.

C. 3PPO’s negotiations with Javelin prior to the December 11 Resolution and Order





D. The December 11 Resolution and Order

On December 11, 2025, the Bureau issued a new Resolution and Order (defined above as the “December 11 Resolution”) (“**Exhibit 10**”). Through the December 11 Resolution, the Energy Bureau conditionally approved PREPA’s proposed contract with an unnamed “Proponent” corresponding to 400 MW of temporary emergency generation at the Aguirre Power Plant and 201 MW at the Costa Sur site. In respect to Costa Sur, the Energy Bureau also held that, if the 3PPO determines that the remaining proponents do not submit pricing terms that are more favorable to ratepayers than the approved herein,” the 3PPO could also designate the unnamed “Proponent” to supply the additional capacity under the same terms and conditions approved in the December 11 Resolution, without “additional substantive approval from the Energy Bureau.” Even though the December 11 Resolution does not identify the “Proponent,” on December 15, 2025, the newspaper *El Nuevo Día* published an article identifying Power Expectations as the entity in question. See **Exhibit 1**. Moreover, the December 11 Resolution contains language indicating that several of the supposedly non-negotiable terms and conditions that 3PPO claimed all proponents needed to be aligned on are not satisfied by Power Expectation’s contract with PREPA.

First, the December 11 Resolution understandably omits mentioning the pricing terms of Power Expectation’s contract because such terms are “confidential”. See **Exhibit 10**, at p. 6.

However, the December 11 Resolution makes it clear that Power Expectation's contract *does not* satisfy the previously communicated requirement that all contracts include a fixed, all-inclusive energy rate of \$0.189/kWh for Aguirre and \$0.203/kWh for Costa Sur. Rather, El Nuevo Día reported that the approved contract authorizes Power Expectations to charge \$0.22/kWh when LNG is used, and \$0.32/kWh when diesel is used. See **Exhibit 1**. Therefore, the contract approved by the December 11 Resolution clearly fails to satisfy 3PPO's Fixed Price Condition, [REDACTED]

[REDACTED]

In the December 11 Resolution, the Bureau notes that 3PPO "clarified" that the pricing values referenced in the July 4 Resolution, to wit, \$0.189/kWh for Aguirre and \$0.203/KWh for Costa Sur, reflected an earlier proposal scenario structured under an 8,000 hour minimum annual dispatch assumption. Thus, "[b]ecause the proponents earlier lower pricing assumed a guaranteed 8,000 hours of annual dispatch, the removal of that guarantee necessarily increased the per-KWh price, since the seller must now recover fixed and operating costs over a smaller and uncertain volume of energy." **Exhibit 10** at p. 6. Consequently, it became clear that the Bureau's previous statement in the July 4 Resolution indicating that Power Expectations had offered, *inter alia*, "an all-inclusive fixed energy rate of \$0.189 per kWh for the Aguirre site and \$0.203 per KWh for the Costa Sur site" **without including** ""take-or-pay commitments, guaranteed minimum generation hours, or fixed volume purchase obligations" (**Exhibit 4** at p. 7) was incorrect. As such, the July 4 Resolution, and the decision to reopen the RFP process and issue the July RFP were premised on what appears to have been a misunderstanding or misreading of the record as to the terms offered by Power Expectations.

Second, it appears that Power Expectation's contract does not satisfy 3PPO's Exclusive Cost to PREPA Condition, either. Notably, the December 11 Resolution states that, under the approved contract, Power Expectations shall procure all LNG required to operate the Temporary Power Generation Units at the Aguirre Power Plant, and that Power Expectations shall be responsible for LNG delivery, storage, regasification, associated infrastructure, and environmental

and safety compliance. However, if PREPA “elects” to operate the TM2500 units using diesel fuel, then it is PREPA, not Power Expectations, who “shall supply the diesel fuel and its delivery infrastructure.” **Exhibit 10** at p. 3. The December 11 Resolution remains silent on whether PREPA or Power Expectations has the responsibility of paying for the diesel fuel to be used at Aguirre, but the clear implication is that PREPA, as the entity tasked with supplying and delivering diesel fuel, will also be tasked with covering the costs associated with said fuel.

This language in the December 11 Resolution is particularly problematic given that the Aguirre site does not have any LNG import, storage or regasification infrastructure. In addition, there are no permits or exemptions in place for any such infrastructure, nor for any pipeline which could connect – however implausibly, given Puerto Rico’s history with gas pipelines – the existing terminals in San Juan or Guayanilla with the Aguirre site. Further, upon information and belief and assuming another implausible scenario in which LNG is proposed to be supplied in tank trucks, no study has been conducted to confirm the availability of LNG using this delivery method, determine the size of the fleet of trucks required for this operation, its impact on roads, congestion and safety. As a result, it is highly likely, if not inevitable, that PREPA will be forced to “elect” to operate the power plant’s units using diesel fuel, in which case it will have to (1) pay for the energy generated by Power Expectations’ at the \$0.32/kWh rate **and** (2) pay for the supply of diesel fuel, to the detriment of ratepayers. Moreover, PREPA is bound to incur substantial infrastructure costs to modify existing fuel storage facilities to supply 400 MW of new diesel-fired temporary generation. Consequently, the conditionally approved contract is clearly incompatible with the July 4 Resolution’s requirement that any contract to be executed with PREPA provide that “the Provider shall be **solely responsible for procuring and arranging the delivery of the fuel, as well as for all costs related to the fuel** used in the operation of the units. In other words, **the only cost that PREPA shall incur under the Proposed Contract is the payment for the energy delivered by the Provider**, in accordance with the rates set forth in the Proposed Contract.” **Exhibit 4** at p. 8 (emphasis added).

Third, the December 11 Resolution provides Power Expectations with the option to connect its system at Aguirre's 115 kV and/or 230 kV (see **Exhibit 10** at p. 3), even though the first Addenda to the July RFP required all proponents to "submit evidence of fully executed and binding contracts or agreements with their key suppliers, Engineering, Procurement and Construction (EPC) partners, and any joint venture participants, as applicable." See **Exhibit 6**. The fact neither PREPA nor Power Expectations knows which switchyard Power Expectations will be connected to under the approved contract strongly implies that the project design has yet to be completed, and that Power Expectations thus failed to comply with an essential requirement of the July RFP.

In addition, the December 11 Resolution does not so much as mention any of the criteria that, pursuant to the July RFP, 3PPO was required to consider prior to selecting a proponent.

The inconsistencies between the December 11 Resolution, on the one hand, and the July 4 Resolution, the July RFP, and the notices issued by 3PPO throughout that process, on the other, call into serious question the legitimacy of the July RFP process, and whether 3PPO conducted any due diligence on Power Expectations at all.

II. APPLICABLE LAW

A. Shared Statutory Responsibilities of PREPA and the Energy Bureau under Regulation 8815.

Regulation 8815 was enacted under the authority jointly granted to PREPA and the Energy Bureau pursuant to Sections 6B(a)(ii) and 6B(a)(iii) of Act No. 83 of 1941, also known as the Puerto Rico Electric Power Authority Act, and Article 6.3 of Act No. 57-2014, also known as the Puerto Rico Energy Transformation and RELIEF Act, 22 L.P.R.A. § 1054b, as provided in Article 1.1 of the Regulation. Its stated purpose, described in Article 1.2, is to establish a clear, transparent, and uniform process for PREPA to plan, solicit, negotiate, award, and manage energy contracts. This framework is designed to guarantee that the procurement of energy resources and related infrastructure is conducted competitively, fairly, and in a manner that

supports modernizing Puerto Rico’s generation fleet while addressing the island’s urgent energy needs in alignment with the IRP.

To achieve these goals, Regulation 8815 imposes detailed, binding requirements for both the preparation and execution of every RFP. Under Article 4.2, before issuing any RFP, the Executive Director must notify the Energy Bureau of the Project Committee’s recommendation, supported by comprehensive documentation. The Energy Bureau then has a statutory 45-day period to review, request additional information, and either approve, reject, or require modifications to the proposed procurement. If the Bureau does not respond within that period, the proposal is deemed approved by default — but only if PREPA has fully complied with its submission obligations.

Equally critical, Article 4.3 requires that all prospective proponents meet strict minimum standards for technical qualifications, financial capacity, legal standing, and ethical compliance. To participate, proponents must be legally authorized to operate in Puerto Rico, demonstrate adequate financial strength and liquidity to complete the project, and — importantly — certify that they and their key officers have no prior criminal convictions for corruption, fraud, or related offenses, and that they are in full compliance with all applicable anti-corruption laws. These qualifications are normally verified through a Request for Qualifications (RFQ) that must be publicly advertised. If an RFQ is not issued, the same vetting must be conducted directly through the RFP process. Article 6 reinforces this safeguard by listing specific disqualifying events — including the discovery of criminal convictions after qualification, bankruptcy or insolvency, unresolved tax debts, collusion, misrepresentation, or material changes in a company’s financial or legal status — which require the Project Committee to declare a proponent ineligible, regardless of prior approval. To verify these minimum standards, the Committee may request certified statements from principal banks, audited financial statements for the last three fiscal years, official background certifications, and any other evidence necessary to confirm financial and legal integrity (Article 6.3).

Every RFP must also meet detailed content requirements under Article 4.5. At minimum, an RFP must include a clear and detailed description of the project that aligns with the IRP; a complete procurement timeline, including pre-proposal meetings and submission deadlines; precise instructions for submission methods and formats; eligibility conditions and the full scoring criteria; any permitted technical alternatives; requirements for proposal securities or bid bonds; funding contingency terms; a draft contract or outline of the principal contractual terms; and contact information for the designated Authorized Representative who will manage all official communications, among others. Any material changes to a project's core scope, pricing, or key terms must be resubmitted for prior Energy Bureau approval before implementation.

Proposals must then follow a three-phase process as set out in Articles 5 and 6: an initial quality-control review to ensure all mandatory conditions are satisfied; a substantive evaluation phase in which proposals are ranked based on a defined scoring system that considers price, technical feasibility, risk mitigation, experience, and conformity with standard contract terms; and a negotiation phase with one or more proponents shortlisted within the “Competitive Range” to refine technical details and financial terms in order to secure the best result for PREPA and Puerto Rico’s energy consumers. Throughout this process, all communications must remain strictly limited to the designated Authorized Representatives, and proponents are bound by non-collusion requirements to safeguard the integrity of the competitive process (Articles 4.13 and 4.14).

Once negotiations are completed, Article 7 requires the Project Committee to prepare a final report detailing the rationale for the award decision, comparing the selected proposal with other bids, and certifying that each step of the process met the standards of fairness and transparency required under Regulation 8815. This final report and the negotiated contract must be presented to the Board of Directors for approval. If the Board gives its approval, the contract is then subject to Energy Bureau review to confirm compliance with the IRP and the original procurement terms.

Under Article 7.4, the final contract must contain all critical terms, including a clear project definition; financing, design, construction, and operational requirements; the contract's term; pricing formulas and adjustment mechanisms within Commission-approved parameters; PREPA's rights to monitor performance and enforce quality standards; insurance, bonding, and audit requirements; dispute resolution procedures; strict conditions for amendments, scope changes, or contract assignments; and any other terms needed to protect PREPA, the public interest, and energy consumers.

B. Mandatory Criminal Background Requirements and Disqualification under Puerto Rico Law

To participate in the RFP, proponents must certify that they and their key officers have no prior criminal convictions for corruption, fraud, or related offenses, and that they are in full compliance with all applicable anti-corruption laws.

In this context Law Number 2 of January 4, 2018, known as the *Anti-Corruption Code for the New Puerto Rico*, establishes clear and binding grounds for disqualification from contracting with the Government of Puerto Rico. Article 3.4 of that statute provides that any natural or legal person who has been convicted of certain specified offenses — including crimes under Articles 4.2, 4.3, or 5.7 of Act 1–2012 (the Office of Government Ethics enabling Act); felonies involving misuse of public office or public funds as defined in Articles 250 to 266 of the Puerto Rico Penal Code; or any other felony involving the misuse or illegal appropriation of public property or funds, such as those listed in Section 6.8 of Act 8–2017, also known as the *Government of Puerto Rico Human Resources Administration and Transformation Act* — is automatically disqualified from bidding for or entering into contracts with any executive branch agency for a period that generally extends ten (10) years from the completion of the sentence, unless the law provides otherwise. See 3 L.P.R.A. § 1883c.

In addition, Section 6.8 of Act 8–2017 further expands the list of disqualifying offenses to include, among others, aggravated illegal appropriation, extortion, sabotage of essential public

services, forgery of documents, various forms of fraud (including computer and construction fraud), illicit enrichment, bribery, undue influence, embezzlement of public funds, and money laundering. Depending on the specific crime, the disqualification term can extend to twenty (20) years from the date of conviction, as is the case for aggravated damage, forgery of seals or licenses, falsification of accounting records, or the illegal possession of tax-related documents. For certain lesser offenses — such as omission in the performance of duty, breach of duty, usurpation of public office, or obstruction of official inspections — the period of ineligibility is generally eight (8) years from the date of conviction. See 3 L.P.R.A. § 1472h.

Pursuant to Section 3.5 of the Anti-Corruption Code, 3 L.P.R.A. § 1883d, “[e]very executive agency of the Government of Puerto Rico shall ensure compliance with the provisions of the Code of Ethics established herein.” Accordingly, executive agencies are expressly empowered to conduct investigations to determine whether any contractor, provider, or applicant for economic incentives has acted in violation of the Code of Ethics. This investigative authority is an essential safeguard to ensure that public contracts are awarded only to qualified and ethical parties, consistent with the public interest and the integrity of the procurement process.

Taken together, these statutory provisions make clear that the applicable disqualification rules under Puerto Rico law address criminal fraud and a wide range of serious corruption offenses.

If a proponent participating in the RFP fails to disclose the commission of crimes that may fall within the list of disqualifying offenses — and the agency later becomes aware of such offenses through any other means — this alone should constitute an independent ground for disqualification. The obligation to certify compliance and disclose any relevant criminal history is fundamental to the integrity of the procurement process, and any omission or misrepresentation undermines the very purpose of the Anti-Corruption Code and related statutes. Allowing a proponent to conceal disqualifying conduct and still benefit from a government contract would

directly contravene Puerto Rico’s clear public policy against corruption and fraud in public contracting.

C. Recognition of Proponents as Parties under Puerto Rico Law

Section 1.3(k) of the Uniform Administrative Procedure Act, 3 L.P.R.A. § 9603 (“APA”), provides that the term “party” means “any person or agency authorized by law against which an agency action is directed specifically, or that is a party to an action, or is permitted to intervene or participate therein, or has filed a petition for review or enforcement of an order, or is named as a party in said proceeding.” This statutory definition confirms that any person who has a direct stake in an agency’s action, or who participates formally in the proceeding, qualifies as a “party” for purposes of Puerto Rico administrative law.

In Constructora I. Meléndez, S.E. v. Junta de Subastas, 146 D.P.R. 743, 749–750 (1998), the Puerto Rico Supreme Court made this principle clear in the specific context of competitive bidding processes. The Court explained that “in a bid proceeding, the determination of who must be considered a party is relatively simple compared to other administrative proceedings that may pose greater difficulty in classifying whether someone has party status before an administrative agency.” (Our translation) The Court further emphasized that every bidder appears at the bid opening under equal conditions and with the same expectation of being awarded the contract, which makes their standing as a “party” in the administrative proceeding unquestionable.

This precedent demonstrates that the administrative framework governing public procurement in Puerto Rico consistently recognizes bidders — both successful and unsuccessful — as parties with vested rights and procedural standing to question, challenge, or seek review of an agency’s procurement decisions.

In the context of this matter, the same principle applies: all proponents who submit a timely, responsive proposal in accordance with an RFP governed by Puerto Rico law must be recognized as “parties” within the meaning of 3 L.P.R.A. § 9603. They retain the right to participate fully in any relevant proceedings, to challenge irregularities, and to seek judicial review if

necessary — rights which cannot be curtailed by the agency's unilateral classification or a restrictive interpretation of "party" status.

III. ARGUMENT

A. *The regulatory violations identified herein render the award in favor of Power Expectations unenforceable.*

PREPA's procurement process in this RFP violated multiple binding safeguards imposed by Regulation 8815, severely undermining the validity of the award and the enforceability of the resulting contract. In this case, PREPA and 3PPO failed by (i) refusing to conduct adequate due diligence on Power Expectations, (ii) making misleading and/or incorrect representations to the Energy Bureau regarding the pricing terms that Power Expectations offered in case the scope of the contract were to be extended to 10 years, (iii) unilaterally modifying the terms of the July RFP without following proper procedure, and awarding Power Expectations with a contract that ultimately fails to comply with the criteria set forth in the July RFP.

First, the critical facts about Power Expectations that were outlined by Javelin in its Motion to Vacate the July 4 Resolution remain just as relevant to the December 11 Resolution, yet they were completely ignored by 3PPO. Notably, public records suggest that Power Expectations' controlling shareholder may have a disqualifying criminal record that should have been disclosed under Puerto Rico's Anti-Corruption Code for government contractors – yet no such disclosure was made during the March RFP process, thereby violating statutory ethics rules and calling into question the company's legal eligibility to receive any government award. Moreover, both 3PPO and PREPA, having been made aware of the aforementioned criminal record, had a duty under Section 3.5 of the Anti-Corruption Code to investigate and verify whether this information rendered Power Expectations ineligible. On information and belief, 3PPO and/or PREPA never conducted the required investigation or any due diligence on Power Expectations.

Second, when this Honorable Energy Bureau issued the July 4 Resolution and ordered that the contract originally awarded to Power Expectations be renegotiated, it relied on documents

submitted by PREPA which, allegedly, indicated that Power Expectations had offered a ten-year contract with an all-inclusive fixed energy rate of \$0.189 per kWh for the Aguirre site and \$0.203 per kWh for the Costa Sur site, which did not include take-or-pay commitments, guaranteed minimum generation hours, or fixed volume purchase obligations, and provided that the only cost that PREPA shall incur is for the payment for the energy delivered by Power Expectations. See **Exhibit 4** at p. 7-8. In turn, the decision to restart the RFP process by issuing the July RFP was taken, in large part, in response to the July 4 Resolution.

However, the December 11 Resolution revealed that virtually all of these representations were incorrect. Specifically, and as stated in the December 11 Resolution, Power Expectation's proposal in the March RFP *did* contain a take-or-pay commitment in the form of a guaranteed 8,000 hours of annual dispatch. See **Exhibit 10** at p. 6. Further, the contract that the Bureau approved via the December 11 Resolution contemplates rates that are far higher than what was promised by Power Expectations during the March RFP, and, apparently, requires PREPA to assume the cost of supplying and transporting diesel fuel to be used in Aguirre. See *id.*; **Exhibit 1**. Consequently, the entire July RFP process was premised on, at best, a misunderstanding, or, at worst, on misleading information provided by PREPA and/or 3PPO as to the terms that Power Expectations was capable of satisfying. In either scenario, the July RFP procurement process was tainted from the outset, and it must be revisited.

Third, the Addenda to the July RFP requires all proponents to submit evidence of fully executed and binding contracts or agreements with key suppliers, EPC partners and any joint venture participants, as applicable. See **Exhibit 6**. Moreover, the July RFP expressly requires that 3PPO only approve projects that will "achieve full commercial operation no later than 60-90 days from contract signature." **Exhibit 5** at Section 6, p. 7. On information and belief, Power Expectations did not supply any signed or binding documents with vendors or with financing parties. The mere fact that the December 11 Resolution states that the approved contract grants Power Expectations the option to connect its system to Aguirre's 115 kV or 230 kV switchyards

strongly suggests that Power Expectation's power design has yet to be completed, even though it has already been awarded the contract. And, if Power Expectation's power design has yet to be completed, it is highly unlikely that it will be able to achieve full commercial operation by the 60 to 90-day deadline.

The inference that Power Expectations will not be able to achieve full commercial operation by the required 60 to 90-day deadline is further bolstered by the fact that the Aguirre site does not have any LNG import, storage or regasification infrastructure, nor existing diesel fuel storage capacity to supply an additional 400 MW of energy generation, which would have to be funded by PREPA. Consequently, it is practically impossible for Power Expectations to satisfy its assumed contractual responsibility for "LNG delivery, storage, regasification, associated infrastructure, and environmental and safety compliance" (**Exhibit 10** at p. 3), nor for PREPA to supply diesel in the required amounts, within the July RFP's required 60 to 90-day deadline.

Fourth, Exhibit H to the July RFP required all proponents to submit a bid bond with an acceptable surety company for 5% of the contract value. On information and belief, Power Expectations failed to post a conforming bid bond by the bidding deadlines established in the March and July RFP processes.

Fifth, the July RFP clearly and unambiguously provides that each proposal must be scored using certain pre-determined criteria, to be weighed in the following manner:

Experience and Capacity – 20%

Approach to Service Fulfillment – 10%

Approach to Power Generation Solutions – 10%

Pricing – 30%

Schedule – 30%

Nevertheless, the December 11 Resolution does not mention, much less discuss, any of these criteria. Had the criteria been considered, then 3PPO would have necessarily rejected Power Expectation's proposal, considering, *inter alia*, its lack of experience, financial net worth and

capacity to provide the contracted for services, as well as the fact that its proposed rates, which the Bureau approved, are significantly higher than both the pricing offered by Javelin and the prices that the Bureau understood should be renegotiated, as per the July 4 Resolution. Consequently, the contract approved via the December 11 Resolution fails to satisfy most, if not all, of the essential criteria of the July RFP. As such, the Energy Bureau and the Puerto Rico public have no way of knowing what criteria were *actually* taken into consideration by PREPA and/or 3PPO when they decided to recommend that the contract be awarded to Power Expectations.

Lastly, in the December 11 Resolution, the Energy Bureau “notes” that Power Expectations “represented its ability to provide approximately 201 MW of supplemental capacity at the Costa Sur site, in addition to the 400 MW proposed for Aguirre.” **Exhibit 10** at p. 8. The Energy Bureau thus held that “if upon conclusion of the procurement process, the 3PPO determines that the remaining proponents do not submit pricing terms that are more favorable to ratepayers than the approved ...” in the December 11 Resolution, “the 3PPO may designate [Power Expectations] to supply the additional capacity under the same terms and conditions approved in this Resolution ...” Id. However, on information and belief, Power Expectations did not submit a business plan for the Costa Sur site and therefore did not satisfy the July RFP’s requirements to be awarded a contract for emergency power generation at Costa Sur’s facility.

It is a well-established doctrine that administrative agencies are strictly bound to comply with the rules they themselves have promulgated, as a means of limiting their discretion. The granting of rights recognized therein is not left to their arbitrary discretion. See Com. Vec. Pro-Mel, Inc. v. J.P., 147 D.P.R. 750 (1999). Agencies are further obligated to ensure that their officials adhere to the requirements set forth in their own regulations. T-JAC, Inc. v. Caguas Centrum Limited, 148 D.P.R. 70 (1999); García Troncoso v. Adm. del Derecho al Trabajo, 108 D.P.R. 53 (1978). When an agency acts in violation of its own regulations, such action is *ultra vires* and therefore null and void.

Moreover, the declaration of nullity invalidates any action taken under the authority of the annulled act. Brown III v. J.D. Cond. Playa Grande, 154 D.P.R. 225 (2001). That is, “a void act is legally non-existent and therefore produces no legal consequences.” Id.; see also Ortiz Cruz v. Junta Hípica de Puerto Rico, 101 D.P.R. 791, 796 (1973).

In sum, where an agency so fundamentally disregards the binding safeguards that ensure transparency, equal treatment, and lawful competition, the resulting award is not merely defective — it is void as a matter of law. Under well-settled Puerto Rico jurisprudence, the Energy Bureau must therefore vacate the December 11 Resolution approving this flawed procurement and remand the matter for a process that fully complies with Regulation 8815 and the basic principles of fair and lawful government contracting.

Taken together, these multiple breaches of Regulation 8815, particularly the clear failures to enforce minimum qualification and integrity standards and PREPA and/or 3PPO’s failure to follow the July RFP’s requirements, coupled with the misleading and/or incorrect representations that were made to this Energy Bureau, render the award to Power Expectations fundamentally flawed. These defects demand full review and corrective action to protect the integrity of the process, ensure compliance with the IRP, and safeguard the public interest.

B. *The Energy Bureau cannot abdicate its duty to thoroughly investigate the proposed contract and 3PPO and PREPA’s refusal to conduct a fair and transparent procurement process.*

In the December 11 Resolution, the Bureau “underscores” that “the responsibility for negotiating a contract that reflects sound governmental judgment and advances the objectives and interests entrusted to P3A lies exclusively with the governmental negotiator,” that the Bureau’s “role is not to second-guess or replicate the bargaining process, nor to substitute its discretion for that of the governmental entity that negotiated the agreement (P3A),” and that P3A’s “scope of evaluation encompasses various operational, financial, policy, and strategic considerations outside the jurisdiction of the Energy Bureau.” See **Exhibit 10** at p. 7.

Nevertheless, the Bureau, and not P3A, is the government entity tasked with overseeing and ensuring the execution and implementation of the public policy on the electric power service in Puerto Rico. See 22 L.P.R.A. § 1054b. Further, the Bureau has the duty to (1) establish and implement regulations and the necessary regulatory actions to guarantee the capacity, reliability, safety, efficiency, and reasonability of the rates of Puerto Rico's electrical system, (2) review, approve and, if necessary, modify the rates or fees charged by electric power service companies in Puerto Rico in connection with any matter directly or indirectly related to the provision of electric power services, (3) hold public hearings, require and gather any pertinent or necessary information to properly carry out its powers and duties, and (4) conduct inspections, investigations, and audits, if necessary, to achieve the purposes of the Puerto Rico Energy Transformation and RELIEF Act. Id. In addition, the Energy Bureau has a statutory mandate not to "approve any contract when there is technical evidence demonstrating that the project in question or the contractual conditions of a project would jeopardize the reliability and security of Puerto Rico's electrical grid." Act 57-2014, Art. 6.32(f), 22 L.P.R.A § 1054ff(f). Lastly, the Bureau has general regulatory, investigative, and adjudicative jurisdiction over PREPA and any other certified electric power company providing services within the Government of Puerto Rico, as well as general jurisdiction over any natural or juridical person that carries out any activity for which a certification, authorization or permit issued by the Energy Bureau is needed. See 22 L.P.R.A. § 1054c(b).

As the Energy Bureau itself recognizes elsewhere in its December 11 Resolution, it has authority to determine "whether the submitted contract complies with applicable regulatory requirements, supports just and reasonable rates, and aligns with the statutory mandate to ensure that utility services remain reliable, affordable, and consistent with the public interest." **Exhibit 10** at p. 7. When it issued the July 4 Resolution, the Bureau exercised its statutory authority and discarded the original, two to four year contract with rates of \$0.2435 per kWh to \$0.2450 per kWh, because it was incorrectly and/or misleadingly represented by PREPA and/or 3PPO that

Power Expectations was willing to execute a contract with a ten (10) year term, which included an all-inclusive fixed energy rate of \$0.189 per kWh for the Aguirre site and \$0.203 per kWh for the Costa Sur site. Thus, the Bureau understood “that entering into a longer-term contract based on this proposal is likely to result in greater benefits for ratepayers.” **Exhibit 4** at p. 7.

The contract approved via the December 11 Resolution **does not provide greater benefits for ratepayers**. On the contrary, the new contract with Power Expectations, as reported by El Nuevo Día, authorizes Power Expectations to charge \$0.22/kWh when LNG is used, and \$0.32/kWh when diesel is used. See **Exhibit 1**. That is, the rates approved by the December 11 Resolution are worse for PREPA and the ratepayers when compared to **both** (i) those that were contemplated in the contract that the Bureau discarded via the July 4 Resolution and (ii) the contract that the Bureau believed Power Expectations was willing to offer when it ordered that the contract be renegotiated. The negative effect that the December 11 Resolution and the contract approved therein will have on ratepayers is compounded by the fact that Power Expectation’s new contract is for **ten years**, as opposed to the contract subject to the March RFP process, which was for two years with two optional one-year extensions, and the provision that appears to impose on PREPA the obligation to cover the costs of purchasing and transporting diesel for Aguirre. The Bureau, having exercised its jurisdiction to modify the contracts terms on July 4 to secure greater benefits for ratepayers, cannot take the position now that it lacks the authority to act now in order to stop Power Expectations and PREPA from executing a contract that contains terms that are even less favorable to the public interest than those that the Bureau ordered be renegotiated via the July 4 Resolution.

By attempting to distance itself from the July RFP process, the December 11 Resolution violates the substantive mandate imposed on the Energy Bureau by Articles 6.3 and 6.32 of Act 57-2014. See 22 L.P.R.A. §§ 1054b; 1054ff. Specifically, the Energy Bureau holds a non-delegable duty to approve only contracts that result in fair, reasonable and prudent rates. See 22 L.P.R.A. § 1054b(f) (“In exercising its powers and authorities, the Energy Bureau shall require

that the prices included in any power purchase agreement, any wheeling rate, and interconnection charge are just and reasonable, consistent with the public interest, and compliant with the parameters established by the Bureau through regulations"); ("The Energy Bureau shall ensure that the rates, fees, rents, or charges paid to independent power producers are just and reasonable, and protect the public interest and the treasury"). The Energy Bureau is effectively seeking to abdicate this duty by giving complete deference to the negotiation criterion of PREPA, P3A and/or 3PPO, despite the fact that the approved contract directly affects the tariff structure and the allocation of risks that, by law, the Energy Bureau is obliged to regulate and control.

Through this Motion to Vacate, Javelin is not requesting that the Bureau directly negotiate a contract with any of the proponents of the July RFP. Rather, Javelin is requesting that the Bureau apply its expertise, as well as the powers granted under the Puerto Rico Energy Transformation and RELIEF Act and Regulation 8815, to thoroughly evaluate the proposed contract, the procurement process that preceded it, Power Expectations' qualifications and this entity's relationship with PREPA, P3A and/or 3PPO. To facilitate this review, the Bureau should consider the following due diligence requests and questions:

1. Attendees:

- a. Provide a list of all the people that attended meetings between PE (including any of its representatives, agents, consultants or any other party associated with the PE project) and 3PPO, P3A and PREPA including site visits, in person meetings and virtual conference calls.
- b. Provide any **recordings and/or transcripts** you have of such meetings (including recordings of virtual conference calls) and presentations offered therein.

2. Know Your Client ("KYC") review of Proponent:

- a. Provide ownership structure up to Ultimate Beneficial Owners ("UBO");
- b. Provide background checks on UBOs including criminal records for last 20 years;
- c. Provide 3 corporate references and 3 banking reference checks;
- d. Provide summary of Proponents' net worth including assets, liabilities and equity;
- e. Provide Audited financial statements for last 3 years

3. Proponent Qualifications:

- a. Provide summary of Proponents' experience and qualifications
- b. Provide summary of comparable projects (MW, fuel type, geography)
- c. Provide construction and operational track record
- d. Provide staff plan for key members of project team and biographies
- e. Provide 3 reference checks to determine experience and qualifications

4. Project Overview:

- a. Provide overview of project including LNG regasification, power generation and all related activities and logistics (the "Project"):
 - i. General overview of project – LNG supply to power generation
 - ii. Installed capacity (MW), technology, configuration
 - iii. LNG to power logistics chain (origin to regasification to delivery to site)
 - iv. LNG storage locations both onshore and offshore
 - v. Onshore and offshore infrastructure requirements
- b. Provide end-to-end engineering plan and layout for the Project including:
 - i. LNG supply chain
 - ii. Regasification and fuel handling
 - iii. Onshore and offshore storage
 - iv. Power generation
 - v. All other related activities
- c. Provide capital budget for the Project
 - i. LNG infrastructure including regasification
 - ii. Onshore and offshore infrastructure / storage
 - iii. Power generation equipment
- d. Provide overview of LNG management plan for the Project including:
 - i. Sourcing of LNG
 - ii. Offshore logistics management (ship to ship transfer or other strategy)
 - iii. Sourcing FSU and or FSRU (if applicable)
 - iv. Onshore regasification and logistics management including regasification, storage, and transportation
 - v. Review how offshore and onshore LNG management are impacted during time of emergency (e.g. hurricanes)
- e. Provide overview of strategy for trucking and its impact on traffic / roads
 - i. Overview of trucking requirements assuming 400 MW around the clock
 - ii. Review route from LNG supply to Aguirre site
 - iii. Review impact on roads and congestion and mitigation measures
- f. Provide overview of inventory management plan including:

- i. Location, size and certification of onshore tanks for LNG
- ii. Number of days of LNG in storage required to produce 400 MW baseload and provide supporting calculations
- iii. Strategy for supplying just-in-time inventory in event of emergency
- iv. Review how trucking LNG during time of emergency (e.g. hurricane) may impact just-in-time requirement to supply power

g. Provide a description of the turbines and related activities including:

- i. Provide a description of the generating units – including make, model and serial number
- ii. Provide a description of the emissions control systems required for the generating units
- iii. Describe the amount of DEMI water required for the operation and the size / capacity of the tanks required to support a 400 MW project
- iv. Provide the electrical protection diagram and its settings
- v. Do the turbine units have the capacity to regulate frequency, and within what range
- vi. How quickly do the turbine units enter service at full load
- vii. How quickly do the turbine units respond to changes in frequency
- viii. Do the generating units have the capacity to supply reactive power and what is their limit
- ix. Does the project have Black Start potential

h. A description of the interconnection plan for the Project, including:

- i. Interconnection point and system
- ii. Confirmation of takeaway capability
- iii. Size and make of transformer
- iv. What is the output voltage of the units to be installed?
- v. Will the generation output be connected to 230 kV or 115 kV
- vi. Are these transformers available? If not, what capacity are needed and when will they arrive?
- vii. Status of securing binding contracts for procurement of transformer
- viii. Voltage compatibility (low side / high side)
- ix. Is the single line diagram compatible with the electrical interconnections and the available load capacity on the 115 kV and 230 kV lines in Aguirre
- x. Is there a full single line diagram reviewed and approved by LUMA
- xi. How will synchronization of the units with the grid be managed

i. Provide timetable and permits for the Project including:

- i. Detailed timetable for the Project including:
 - 1. Constructing the LNG supply chain including regasification, rehandling, storage and related activities
 - 2. Installing the power generation units, including all related activities
- ii. Provide detailed list of permits required for all activities of the Project

- iii. Provide confirmation that all activities for the Project can be completed within 60-90 days
- j. Provide reports prepared by Luma and Genera on the Project feasibility (including power, regasification and related onshore and offshore activities):
 - i. Provide report of Luma and Genera technical feasibility of the Project.
 - ii. Provide core findings of the report
 - iii. Provide list of key risks identified in the report
 - iv. Do Luma / Genera believe that the project can be delivered on time?

5. Project and vendor diligence for the LNG supply to power generation project including but not limited to the below:

- a. Engineering, Procurement and Construction (“EPC”) for the LNG supply and power generation:
 - i. Who is the vendor
 - ii. Provide detailed list of service being provided by Vendor
 - iii. What is vendor experience generally and in Puerto Rico
 - iv. What is vendor net worth
 - v. Is your vendor agreement signed and binding
 - vi. What is the committed timetable for completion of service
 - vii. What are key risks of vendor not performing
- b. Equipment Supplier Vendors for the LNG regasification, power generation and related activities (e.g. Regasification, Truck Unloading, Trucks, Storage Tanks, Generators, Transformers, Balance of Plant):
 - i. Who is the vendor supplying the equipment
 - ii. Provide detailed list of services being provided by Vendor
 - iii. Provide list of equipment including make, model and serial number
 - iv. What is vendor experience generally and in Puerto Rico
 - v. What is vendor net worth
 - vi. Is your vendor agreement signed and binding
 - vii. What is the committed timetable for completion of service
 - viii. What are key risks of vendor not performing
- c. Offshore LNG Supply Chain (e.g. vendors for supplying offshore FSU and or FSRU):
 - i. Who are the vendors supplying the FSU and or FSRU
 - ii. Provide detailed list of service / leases being provided by Vendor
 - iii. What is vendor experience generally and in Puerto Rico
 - iv. What is vendor net worth
 - v. Is your vendor / lease agreement signed and binding
 - vi. What is the committed timetable for completion of service
 - vii. What are key risks of vendor not performing

- d. Fuel Supply Vendor:
 - i. Who are the vendors supplying the fuel
 - ii. Provide detailed list of services being provided by Vendor
 - iii. What is the pricing formula agreed with the vendor?
 - iv. How will Power Expectations pay for the fuel if the variable price of LNG is greater than the guaranteed fixed price under the 10 year PPOA
 - v. What is vendor experience generally and in Puerto Rico
 - vi. What is vendor net worth
 - vii. Is your vendor agreement signed and binding
 - viii. What is the committed timetable for completion of service
 - ix. What are key risks of vendor not performing
- e. Onshore LNG Supply Chain (e.g., assuming trucking, ISO containers)
 - i. Who are the vendors providing the trucking and iso containers
 - ii. Provide detailed list of services being provided by Vendor
 - iii. What is vendor experience generally and in Puerto Rico
 - iv. What is vendor net worth
 - v. Is your vendor agreement signed and binding
 - vi. What is the committed timetable for completion of service
 - vii. What are key risks of vendor not performing
- f. Operations and Management:
 - i. Who are the operators of the equipment of the LNG regassification, LNG supply chain and power generation
 - ii. What is their respective experience
 - iii. What is their staffing plan for the project
 - iv. What is their staff experience with units of this type
 - v. What is their safety plan of the project
 - vi. What is the quality assurance plan
 - vii. What is the environmental permitting and compliance plan
 - viii. How is this incorporated into the project schedule

6. Financing:

- a. Funding sources and commitment
 - i. Provide sources and uses of funds to construct the Project including all regassification and power generation and related activities
 - ii. Provide detailed explanation on how the Project will be funded including debt and equity contributions
 - iii. Provide explanation of how much money Proponent and other 3rd party investors and lenders will be contributing to the Project and in what form
 - iv. Provide contact details for all investors and lenders

- v. Describe key conditions precedent for financing from any 3rd party investor and lender
- vi. Do 3rd parties investors or lenders require any form of take or pay, minimum dispatch or other similar mechanism that guarantees a cash flow (e.g. the “TOP”) in order to repay financing?
 - 1. If not, then how do the 3rd party investor and lenders expect to be repaid
- vii. Provide signed and binding commitment letters with clear list of conditions precedent from 3rd party investors and lenders.

7. Diesel Fuel Supply Agreement between PREPA and Power Expectations (“PE”):

- a. Provide an overview on how the contract works
- b. Does PREPA charge PE for the cost of Diesel? If so, what is the formula
- c. Does PREPA charge PE for the cost of logistics and storage including:
 - i. fees associated with import, storage and barging from CORCO
 - ii. barging costs from CORCO to Aguirre
 - iii. storage and handling costs at Aguirre
 - iv. working capital financing and insurance cost for inventory in transit
- d. If PREPA is not charging PE for any or all of these costs – then are these additional costs being factored into the all in cost for the ratepayer
- e. What are the payment terms that PE is receiving from PREPA
- f. What is the credit exposure that PREPA is taking with respect to PE
- g. How will PE pay for diesel from PREPA if the variable price of diesel exceeds the fixed price that PE is supposedly guaranteeing for 10 years pursuant to the PPOA
- h. Provide the documents memorializing the agreement between PREPA and PE

8. Diligence on Surety Provider:

- a. Did the Proponent post a Bid Bond and on what date.
- b. What is the amount of the Bid Bond and how was this amount determined
- c. Is the insurance carrier providing the Bid Bond compliant with the RFP
- d. Provide the Bid Bond documentation

These questions and requests reflect the comprehensive and rigorous review the Energy Bureau is mandated to conduct under the enabling legislation and Regulation 8815. Javelin respectfully urges the Bureau to exercise its full regulatory authority and expertise to ensure that the procurement and award process meets the highest standards of transparency, fairness, technical feasibility, and public interest protection. At a minimum, the Energy Bureau should

review all of the information provided by each of the July RFP's proponents, and address the serious deficiencies identified in this motion and the basic due diligence questions listed above.

IV. CONCLUSION

In sum, the inconsistencies and irregularities that have characterized the July RFP process and the December 11 Resolution, including (i) the incorrect and/or misleading representations that were made to the Energy Bureau regarding Power Expectation's proposed terms for a 10-year contract, (ii) 3PPO's constant changing of criteria without following proper procedures, and (iii) the ultimate decision to award a contract to Power Expectations, even though this company failed to satisfy the majority of the July RFP's requirements, requires that the Energy Bureau vacate the December 11 Resolution. A procurement process so compromised cannot continue, and the award granted to Power Expectations as a result of the same cannot stand. Therefore, Javelin respectfully urges this Honorable Bureau to grant this motion, vacate the conditional approval of Power Expectations' contract, and order PREPA to resume the RFP process with the remaining qualified proponents. In addition, to ensure that history does not repeat itself, the Energy Bureau should initiate an investigation on Power Expectations and its relationship with PREPA, P3A and/or 3PPO and request recordings and/or transcripts of any meetings between these entities, in addition to the other documents mentioned above. By doing so, this Honorable Bureau can ensure true competition in the procurement process and that PREPA issues contracts based solely on merit and who is best situated to serve the public interest by delivering reliable emergency generation for Puerto Rico.

V. PRAYER FOR RELIEF

WHEREFORE, in light of the foregoing, Javelin respectfully requests that this Honorable Bureau: (i) GRANT this Motion to Vacate Resolution and Order of December 11, 2025; (ii) vacate the conditional approval of the contract, (iii) direct PREPA to resume this procurement process in a manner that is consistent with the applicable law and the basic principles of fair, lawful, and

transparent public contracting; and (iv) conduct an investigation into Power Expectations' qualifications and its relationship with PREPA, P3A and/or 3PPO.

RESPECTFULLY SUBMITTED.

WE HEREBY CERTIFY that Javelin has filed this motion using the electronic filing system of the Energy Bureau, and notified courtesy copies of this motion to the following parties:

(1) **Public-Private Partnership Authority**, PO Box 42001, San Juan, Puerto

Rico 00940-2001, josue.colon@p3.pr.gov, Administrador@p3.pr.gov;

(2) **Puerto Rico Power Authority**, PO Box 364267, San Juan, Puerto Rico

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(11) **Gotham Energy LLC** 48 Wall St Fl 5 New York, NY 10005;

(12) **LUMA Energy, LLC** and **LUMA Energy Servco, LLC**, laura.rozas@us.dlapiper.com,
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San Juan, Puerto Rico, this 29th day of December, 2025.

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EXHIBIT 1

LUNES

15 de diciembre de 2025

MANUEL GUILLAMA CAPELLA

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La aprobación que el Negociado de Energía de Puerto Rico (NEPR) otorgó al contrato de Power Expectations para la producción de energía por los siguientes 10 años contempla unos precios más elevados que lo que el propio organismo había autorizado en julio, cuando dispuso que el costo de venta del kilovatio hora (kWh) no debía exceder los 20.3 centavos.

En cambio, el NEPR acogió la propuesta que dispone que la empresa podrá aportar hasta 400 megavatios (MW) a un costo cercano a los 22 centavos por kWh cuando utilice gas natural licuado (LNG, en inglés), y 32 centavos cuando LUMA Energy le instruya a recurrir al diésel.

Según la resolución que el NEPR emitió tarde el viernes, el ajuste respondió a que, cuando en julio dispuso que el procedimiento de adquisición de energía "temporal" no podía resultar en precios de energía mayores de 20.3 centavos para la producción desde los predios de la central Costa Sur (Guayanilla) y de 18.9 centavos desde la central Aguirre (Salinas), Power Expectations proponía generar, al menos, 8,000 horas anuales, o el equivalente al 90% del tiempo. El contrato pactado en última instancia con la Oficina Independiente de Adquisiciones (3PPO, en inglés) de la Autoridad para las Alianzas Público Privadas (AAPP) no estipula un mínimo de compra de energía, por lo que Power Expectations solo podrá cobrar por la energía que LUMA, como operador de la red, le requiera producir.

"Toda vez que el precio más bajo de los proponentes suponía un despacho mínimo garantizado de 8,000 horas anuales, la remoción de esa garantía necesariamente incrementó el precio por kWh, dado que el vendedor debe ahora recuperar los costos fijos y operacionales sobre un volumen más pequeño e incierto de energía. Al eliminar la garantía mínima de 8,000 horas de despacho, los consumidores evitan cualquier obligación de pagar por energía que no necesiten, asegurando que paguen solo por la energía entregada", justificó el NEPR.

Power Expectations, según el acuerdo –cuya copia permanece bajo un manto de confidencialidad y aún requiere el aval de la Junta de Supervisión Fiscal (JSF)–, generará 400 MW con unidades terrestres instaladas en la central Aguirre, aunque el contrato provee la posibilidad para que agregue otros 201 MW desde Costa Sur, dependiendo del resultado de las discusiones con otros proponentes. El 3PPO se mantiene negociando otros dos acuerdos con las empresas Gothams Energy y Javelin Global



Power Expectations utilizará gas natural o diésel para la generación que aporte desde la central Aguirre, en Salinas.

ACUERDO CON POWER EXPECTATIONS

Aumenta el costo de la energía temporal

El NEPR afirmó que los parámetros que había aprobado se basaban en unas garantías de compra que fueron excluidas

Commodities, dirigidos a completar la adquisición de 800 MW en recursos temporales que suplementen la debilitada flota de generación permanente.

En entrevista con **El Nuevo Día**, el director ejecutivo de la AAPP y zar de Energía, Josué Colón, recalcó que los precios acordados finalmente siguen estando por debajo de los costos habituales de las unidades de respuesta

rápida existentes, que pueden superar los 30 centavos por kWh. Las llamadas unidades "peakers" que administra Genera PR utilizan diésel, el combustible más caro de la flota.

"De inicio, lo que pide el proceso es que la generación temporal esté por debajo de la generación pico", señaló Colón.

El funcionario también defendió que

Archivo / Ramón "Tonito" Zayas

"Al eliminar la garantía mínima de 8,000 horas de despacho, los consumidores evitan cualquier obligación de pagar por energía que no necesiten, asegurando que paguen solo por la energía entregada"

NEGOCIADO DE ENERGÍA DE PUERTO RICO

el acuerdo con Power Expectations dejó abierta la posibilidad a que, en determinadas instancias, se utilice diésel en lugar de LNG, y que sea la Autoridad de Energía Eléctrica (AEE), por medio de Genera PR, el responsable de suplir el combustible alterno.

"Si ocurre una emergencia y no llegó el barco con el gas, tienes que tener un plan B", dijo Colón, al recordar que, en Aguirre, donde se instalarán los megageneradores, hay abastos de diésel que, de ordinario, se queman en las unidades de los ciclos combinados de la central.

De acuerdo con la resolución del NEPR, Power Expectations también ofreció generar parte de la energía desde Yabucoa, pero el regulador determinó que esa alternativa requeriría evaluación y aprobación posterior.

Con relación a las negociaciones con Gothams y Javelin para el resto de los 800 MW, Colón se expresó confiado en que, próximamente, se suscribirá el contrato con la primera empresa, de forma que avance a la fase de aprobaciones del NEPR y la JSF.

Javelin, sin embargo, ha exigido modificaciones a los términos de la solicitud de propuestas (RFP, en inglés), particularmente –según ha reportado previamente este diario– en lo relacionado con la prohibición de estipular volúmenes mínimos de compra de energía. Aunque los contratos de compra de energía en Puerto Rico típicamente han incluido este tipo de cláusula, la AAPP y el 3PPO optaron por excluirla del procedimiento de generación temporal.

"Mientras no quiten eso que no formaba parte de las especificaciones del RFP, y que no estaba sujeto a negociación ulterior, eventualmente se quedarán fuera. Obviamente, el 3PPO continúa las negociaciones con ellos a ver si entran en razón, pero es una decisión de la compañía", sostuvo el zar de Energía.

EXHIBIT 2



REQUEST FOR PROPOSAL

3PPO-0314-20-TPG Emergency Temporary Power Generation

Issued by the Third-Party Procurement Office (3PPO)

Date Initial RFP Issued: March 25, 2025

Proposal Submissions Due: April 25, 2025

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Attachments

The RFP consists of the following attachments to be used for reference purposes or as part of the pre-bidding process.

- 1 Attachment A.1 – Scope of Supply
- 2 Attachment A – PowerAdvocate® Guide
- 3 Attachment B – Non-Disclosure Agreement
- 4 Attachment C – Notice of Intent to Bid
- 5 Attachment D – Question and Answer Form
- 6 Attachment E – Vendor Registry Requirements
- 7 Attachment F – Purchase Agreement
- 8 Attachment G - Genera Procurement Manual
- 9 Attachment H – Restricted Parties List
- 10 Attachment I.1 – Specifications Aguirre Power Plant 230kV Switchyard
- 11 Attachment I.2 – Specifications Costa Sur Power Plant 230kV Switchyard
- 12 Attachment J - Health, Safety and Environmental Certifications

Exhibits

The RFP consists of the following exhibits that are to be completed by the Proponent and submitted as part of the proposal.

- 1 Exhibit A – Proposal Mandatory Requirements Checklist
- 2 Exhibit B – Statement of Qualifications
- 3 Exhibit C – Authorization for Background and/or Financial Information
- 4 Exhibit D – Certifications Affidavit Non-Conflict of Interest
- 5 Exhibit E – Price Proposal
- 6 Exhibit F – Comparable Projects
- 7 Exhibit G – References
- 8 Exhibit H - Bid Guarantee
- 9 Exhibit I – S/M/WB/LS Forms
- 10 Exhibit J – Supplier General Information
- 11 Exhibit K – Proposal Submission Instructions

1. INTRODUCTION

1.1. Designation of Genera as PREPA's Agent

On January 24, 2023, the Puerto Rico Public-Private Partnerships Authority, a public corporation of the Commonwealth of Puerto Rico, created by Act of June 8, 2009, No. 29 (“P3A”), Genera PR LLC, a limited liability company organized under the laws of Puerto Rico (“Genera”) and the Puerto Rico Electric Power Authority, created by Act of May 2, 1941, No. 83 (“PREPA”) entered into the Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement (the “**Generation O&M Agreement**”), whereby P3A, Genera and PREPA agreed that as of the Service Commencement Date (as defined therein), which occurred on or about July 1, 2023, Genera would become the operator of the Legacy Generation Assets (as defined therein), as an agent of PREPA.

Pursuant to section 5.2(b) (Agent Designation) of the Generation O&M Agreement, PREPA designated and appointed Genera as its agent, and Genera accepted such designation and appointment, for the purpose of entering into Facility Contracts (as defined therein) on behalf of and for the account of PREPA, as may be necessary or appropriate to operate and maintain the Legacy Generation Assets.

In accordance with the Generation O&M Agreement and Genera’s Procurement Manual, Genera PR LLC (“Genera”), acting as the agent of PREPA, is soliciting proposals from qualified entities to design, deploy, operate, and maintain temporary emergency power generation units in Puerto Rico.

1.2. Designation of the THIRD -PARTY PROCUREMENT OFFICE (“3PPO”)

To avoid or mitigate against the risk of organizational conflicts of interest in PREPA procurements, P3A established the 3PPO to perform and oversee certain PREPA procurement activities, which include the drafting and posting of this RFP and the collection and review of Proponent responses. Regulatory Compliance Services, Corp. (“**Recoms**”), contracted by P3A, operates the 3PPO.

Pursuant to the requirements of the Generation O&M Agreement and the Procurement Manual, Genera shall employ multiple means to avoid, mitigate and neutralize any actual or apparent Organizational Conflict of Interest. Therefore, to ensure a fair, just and competitive process, with complete independence and autonomy from Genera’s judgment or decision making, including parameters for evaluation, selection and contract administration of the Selected Proponent(s), the Third-Party Procurement Office (“**3PPO**”) will manage this RFP. All procurement activities, including contract administration, related to this RFP will be conducted, monitored, and executed by the 3PPO; the third party who was independently selected by P3A through a formal procurement process.

1.3 AUTHORITY AND RESPONSIBILITIES

With respect to this RFP, in accordance with Act 120 and Act 29, the 3PPO will independently and ethically manage PREPA procurement activities consistent with the GENERA Procurement Manual and all relevant federal and state laws and regulations. A contract resulting from this RFP will be a contract with PREPA executed by its agent, GENERA. The 3PPO is acting as servicing agent. As an independent third party, the 3PPO drafted and published this RFP, will evaluate responses, will submit its selection recommendation to P3A,

and will negotiate and draft resulting contracts, and share post-award contract administration responsibilities with GENERA, when applicable.

1.4 PROPONENT'S ACKNOWLEDGEMENT

By submitting a proposal in response to this RFP, the Proponent acknowledges the authority and role of the 3PPO as outlined herein and agrees to cooperate fully with the 3PPO in all matters related to the procurement process.

To avoid or mitigate an organizational conflict of interest or apparent organizational conflict of interest in this procurement action, Genera has opted to invoke the 3PPO process. In the event that no entity with an organizational conflict of interest submits a proposal in response to this RFP, the 3PPO may revert the procurement action to Genera to independently manage and administer the procurement process, including evaluation of proposals, contract award, and post-award contract administration.

To facilitate the identification of organizational conflicts of interest, Proponents must identify if they, or a member of their bid team (as contractor, partner, or otherwise) have an organizational conflict of interest with Genera, PREPA, P3A, or Recoms. Restricted Parties The following entities will be deemed "Restricted Parties" and neither they nor their respective directors, officers, partners, employees and persons or legal entities Related to them are eligible to participate as Team Members or to otherwise assist any Respondent or Team Member, directly or indirectly, or participate in any way as a director, officer, employee, advisor, counsel, accountant or other consultant or otherwise in connection with any Respondent. Each Respondent will ensure that each Team Member does not use, consult, include or seek advice from any Restricted Party. **(See Attachment H for details)**

This approach is intended to safeguard against organizational conflict of interest impacts, and grants GENERA the flexibility to resume control if no organizational conflicts arise during the competitive procurement process.

1.5 GENERA Procurement Manual

This RFP process will be governed by and subject to the provisions of Genera's Procurement Manual (the **"Procurement Manual"**), which is attached hereto as **Attachment G (Genera's Procurement Manual)**. The selected solution must comply with all regulatory requirements, including those set by the EPA, PREB, the Puerto Rico Environmental Quality Board, the Clean Water Act, the Clean Air Act, and all applicable federal and local environmental laws. Additionally, proposals must comply with the competitive procurement conditions established by the Puerto Rico Energy Bureau (PREB) Resolution and Order (Case No.: NEPR-MI-2024-0004), which mandates that all energy solutions ensure competitive pricing and approval by PREB. The proponent must submit transparent and cost-effective pricing structures that align with market competitiveness and regulatory standards. The units must connect to existing transmission infrastructure with the necessary grid stabilization equipment.

2 STATEMENT OF CONFIDENTIALITY

The Parties acknowledge that the existence and the terms of this Agreement and any oral or written information exchanged between the Parties in connection with the preparation and performance of this Agreement are regarded as confidential information. Each Party shall maintain confidentiality of all such confidential information, and without obtaining the written

consent of the other Party, it shall not disclose any relevant confidential information to any third parties, except for the information that is under the obligation to be disclosed pursuant to the applicable laws or regulations, or orders of the court or other government authorities.

This document can only be used to prepare the Proposal for this RFP.

This RFP contains PREPA/GENERA's confidential and proprietary information, which is provided solely to allow the Proponent to respond to this RFP. The Proponent agreed to maintain the confidentiality of the information and to not disclose this information to any person outside the Proponent's team directly responsible for preparing the Proposal for this RFP by signing the Non-Disclosure Agreement ("NDA"). This document can only be used to prepare the Proposal for this RFP.

Proponents must submit a signed Non-Disclosure Agreement ("NDA") on or before the due date, as stated in RFP Timeline. The NDA is included as **Attachment B – (Non-Disclosure Agreement)**. Proponents will submit the signed NDA via PowerAdvocate® through the Messaging tab of the RFP event. The NDA will not be accepted if sent via any other method not specified herein.

3. RFP BACKGROUND

In the last decade, Puerto Rico has suffered from massive infrastructure damage, private property damage and loss of life due to natural disasters, including hurricanes Irma, María and Fiona, as well as the 2020 earthquakes. Hurricane María made landfall in Puerto Rico on September 20, 2017, as a Category 4 hurricane, shortly after Category 5 Hurricane Irma impacted the island. María's sustained winds of up to 155 mph destroyed the island's power grid and left 3.4 million residents without electricity. 5.8 and 6.4 magnitude earthquakes and related aftershocks in January 2020 caused island-wide blackouts and damaged critical power plants and electrical infrastructure on the island. Hurricane Fiona then made landfall on September 18, 2022, with winds of 103 mph and 30 inches of rain, exceeding the 2017 hurricanes. The heavy rainfall caused flash flooding, mudslides and left the island without electricity once again.

In response to the severity of the hurricanes and earthquakes' impacts, the federal government issued several major disaster declarations for Puerto Rico, mandating federal assistance to supplement local recovery efforts in the affected areas, pursuant to Federal Emergency Management Agency ("FEMA") Disaster Declarations DR-4339-PR and FEMA-DR-4473-PR. Other federal agencies, including the U.S. Department of Housing and Urban Development ("HUD"), have also allocated funds for disaster recovery efforts. These efforts have included support for temporary generation units around the island, which have been transferred to PREPA and have been approved to be used until December 2027.

As the Puerto Rico Government continues the implementation of the recovery response, PREPA and Genera, as PREPA's agent, continue working with the Central Office for Recovery, Reconstruction and Resiliency ("COR3") to support the disaster recovery efforts with efficiency and transparency to develop a more efficient and reliable generation system, and in turn, facilitate the economic development of Puerto Rico. Fuel supply diversity (i.e., in type of fuel and delivery mode) is one of the initiatives that Genera is pursuing to create a more efficient and reliable generation system.

Genera currently maintains a series of generation units that are out of service due to repairs and breakdowns, which limit the available system capacity. The deadline for commissioning the emergency generation units is **June 1, 2025**, a critical period as Puerto Rico enters its peak demand season in summer due to rising temperatures. Additionally, the Atlantic hurricane season begins in June and extends until November, with peak energy demand typically occurring in August and September. Several base units are undergoing repairs including San Juan #6 (220 MW), San Juan #7 (100 MW), Palo Seco #4 (216 MW), Costa Sur #5 (410 MW), Aguirre #1 (450 MW), and Aguirre #2 (450 MW). The total generation deficit currently stands at 1,846 MW. However, preliminary inspections indicate that Aguirre #1 will not be available for the remainder of 2025. Aguirre #2's availability by mid-2025 is uncertain, pending an inspection by the manufacturer at their facility outside Puerto Rico. This situation leaves the system with an estimated available capacity of 2,800 MW, while summer peak demand is projected to reach or exceed 3,200 MW. If the base units are not restored in time, Puerto Rico's energy grid will lack the necessary capacity and reserves to meet peak demand.

The 3PPO is committed to ensuring that all Work performed pursuant to this RFP is eligible for FEMA PA grant funding and conducted in full compliance with all applicable Federal and Government of Puerto Rico (GPR) regulations, policies, and guidance. Qualified firms must possess all required Federal and Government licensing necessary for the execution of this project. This includes, but is not limited to, programs such as the FEMA Public Assistance (PA) Program, Hazard Mitigation Grant Program (HMGP), and Private Property Debris Removal (PPDR). Additionally, compliance with the HUD Community Development Block Grant (CDBG) and CDBG-Disaster Recovery (CDBG-DR) Programs, U.S. Department of Energy (DOE) Grid Resilience and Weatherization Assistance Programs, and the U.S. Department of Transportation (DOT) Federal Highway Administration (FHWA) Emergency Relief and Federal Transit Administration (FTA) Emergency Response Grants is required. Other applicable federal programs include the FAA Airport Improvement Program (AIP), DOI National Park Service Disaster Recovery Grants, USDA Emergency Watershed Protection and Rural Utilities Service Programs, and HHS Social Services Block Grant (SSBG) for Disaster Relief. Furthermore, firms must adhere to OSHA worker safety regulations for electric power infrastructure, EPA Diesel Emissions Reduction Act (DERA) standards, Jones Act (46 U.S.C. § 55102) and all other relevant federal, state, and local guidelines to ensure compliance and eligibility for federal reimbursement.

The RFP must be construed and interpreted in accordance with the laws in force in the Commonwealth of Puerto Rico and the federal laws of the United States of America, applicable therein.

Because the contract may be funded in whole or in part with federal funds, it must comply with applicable federal terms and conditions governing the use of such funds. This includes adherence to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards as set forth in 2 C.F.R. Part 200, as well as any other applicable federal regulations and guidelines.

4. PURPOSE OF THE RFP

The purpose of this RFP is to identify one or more eligible proponents capable of delivering a turnkey emergency power generation solution through a temporary interconnection. The proposed solution must be resilient to adverse weather conditions and extreme climate events. Therefore, proponents must present in their proposal a clear demonstration of the expected

downtime, if any, in the event of a hurricane or other critical incident. This will allow us to assess how quickly power generation can be restored.

The solution may include floating power generation units (barges) or any other land-based solution with individual capacities of up to 400 MW, ensuring a total combined capacity of up to 800 MW. The required total generation capacity is up to 800 MW, with Aguirre supporting up to 400 MW at 230 kV at 60 Hz and Costa Sur supporting up to 400 MW at 230 kV or/and 115kV at 60 Hz.

Alternatively, proponents may propose mobile gas turbine solutions, provided that they specify the exact location for installation and conduct site visits to verify available space.

Proponents must also present a complete interconnection plan, detailing solutions for integrating the power generation system into the existing transmission infrastructure. **(Refer to Attachment I.1 & I.2)**

Proponents should submit pricing based on a price per kWh. However, all associated costs related to interconnection, mobilization, and demobilization must be clearly itemized. Interconnection costs, mobilization costs, and demobilization costs should be presented separately and not included in the per kilowatts-hours, as these costs will be negotiated separately. The interconnection process will be executed in coordination with Luma and Genera.

As part of the interconnection plan, proponents must submit a detailed list of equipment and materials to be used for interconnection with their cost. This list should specify the components required to ensure proper integration with the existing transmission system.

For evaluation and negotiation purposes, proponents must prepare their price proposal by separately itemizing costs for Costa Sur and Aguirre following Exhibit E-Price Proposal.

A detailed schedule must be provided, ensuring that the project achieves full commercial operation no later than June 1, 2025.

Proposal must include the following:

a. Temporary Grid Integration:

- Project must ensure that interconnection solutions are tailored to existing grid capabilities.
- Coordination with system operators is crucial to facilitate a seamless connection.

b. Weather Resilience:

- Land-based power solutions must be designed to withstand hurricane-force winds, storm surges, and severe weather conditions. The proposal must clearly specify the engineered resilience of the proposed solution.

Location Feasibility:

- Proposed land-based power generation solutions, including those that may incorporate battery energy storage systems, must undergo a site assessment.
- The assessment should evaluate the physical space required for all equipment, including generators, transformers, batteries (if applicable), fuel storage, and access roads.
- Proponents must also consider the proximity to existing electrical infrastructure for interconnection purposes.
- In addition, the assessment must include an initial review of potential environmental impacts, such as emissions, noise, land use restrictions, and risks to nearby water sources or protected areas.
- The findings of the site assessment must be included in the proposal to demonstrate the suitability and readiness of the proposed location for temporary power deployment.

c. Fuel Supply and Cost Structuring:

The cost must be presented as a turnkey solution, with all costs related to power generation, including fuel, established on a price-per-kWh basis. However, mobilization and interconnection costs must be presented separately and independently. A clear separation of these costs (interconnection, mobilization, etc.) ensures transparent financial planning and prevents the misallocation of expenses within the hourly rate.

Electrical Infrastructure – Step-Up Transformer and Protection Systems:

- The proposal must include a main step-up power transformer to match generation output with the interconnection voltage level.
- Appropriate protection and control systems must be provided to safeguard both generating equipment and the utility grid, including relays, breakers, and surge arrestors.
- Design must comply with relevant utility standards and accommodate temporary grid configurations.

d. Schedule:

- Time is a critical factor in the successful execution of this project. The proposal must include a detailed and realistic project schedule that demonstrates the proponent's ability to complete the scope of work within the timeline established in this RFP.

5. The proposal must include a detailed mobilization and power generation supply schedule. This schedule should detail all activities leading to full operational readiness by **June 1, 2025**, as required by this RFP. This includes, but is not limited to, logistics planning, transportation and delivery timelines, on-site setup, equipment testing, and commissioning.

CONTRACT TERM

The Purchaser intends to award one or more Contract(s) as a result of this RFP. PREPA/GENERA has anticipated the award of the resulting contract for an initial period of **One (1) year** from the effective date of the contract, with **two (2) extension option** terms of **one (1) year each** if mutually agreed upon in writing by both parties, prior to the conclusion of each fiscal year, subject to Proponent's satisfactory performance, availability of funds, and required authorizations according to GENERA's policies and regulations; and the approval of the FOMB.

A model of the contract, excluding service descriptions and associated pricing details that will be determined during the contracting phase, will be included with this RFP as **Attachment F-Purchase Agreement**, which provides details on submission requirements related to the Model Contract. The Proponent must comply with the Terms & Conditions of GENERA's Contract. PREPA/GENERA reserves the right to replace or modify the Model Contract included with this RFP at any time.

6. FUNDING SOURCE

Funding for this contract shall be sourced from the Puerto Rico Electric Power Authority (PREPA)'s self-generated revenues as a public corporation and may be supplemented by available or future Federal emergency funds designated for energy infrastructure resilience and recovery. The disbursement of funds is subject to applicable local and federal laws, regulations, and RFP conditions.

7. PROPOSAL SUBMISSION INSTRUCTIONS

Proponents must submit their proposals through the PowerAdvocate® platform. Proposals submitted after the deadline, via the Messaging tab, or that are incomplete will be disqualified. No extensions will be given to individual Proponents, although time extensions may be granted to all if necessary. All document submissions must follow the guidelines detailed in **Exhibit K-PROPOSAL SUBMISSION INSTRUCTIONS**, and Proponents are responsible for ensuring that documents are fully uploaded before the closing date and make sure all the Mandatory Required Documents have been uploaded as per **Exhibit A – Proposal Mandatory Requirements Checklist**. The RFP process does not create any legal relationship until a final agreement is negotiated and signed, and proposals must remain valid for 180 days from the submission date. All costs related to the RFP are the Proponent's responsibility. Technical support is available through PowerAdvocate®.

The **PowerAdvocate® guide** is included as **Attachment A** of this RFP. For technical assistance with the sourcing platform application please contact PowerAdvocate®'s technical support at (857) 453-5800, or by email at: support@poweradvocate.com.

8. RFP TIMELINE

The following schedule provides the key dates of the RFP process. **Please note that the RFP Timeline includes target dates that are subject to change.** It is the sole responsibility of Proponent to monitor PowerAdvocate® for updates to the RFP Timeline.

No.	Milestone	Targeted Date
1	RFP Released to Public	Tuesday, March 25, 2025
2	Initial Mandatory Meeting*	Tuesday, April 1, 2025
3	Mandatory Site Visits (two for each site) *	Week of April 7-11, 2025
4	Q&A Period Deadline, & Signed Confidentiality Submission Due Date	Thursday, April 14, 2025
5	Q&A Answers Period Deadline to question(s) submitted	Monday, April 18, 2025
6	Notice of Intent to Bid	Wednesday April 23, 2025
7	Proposal Submission Due Date	Friday, April 25, 2025
8	Genera and/or 3PPO to issue Notice of Intent of Award to Selected Proponent	Wednesday, April 30, 2025
9	Genera and/or 3PPO to sign contract with Selected Proponent	Friday, May 2, 2025

* Attendance at the mandatory site visit and Initial meeting is required. Proponents who fail to attend will be automatically disqualified from the RFP process. Site visits will be coordinated in an initial Mandatory meeting.

3PPO and Genera will not consider Proposal submissions that Proponents fail to completely upload by the time and date corresponding to the **“Proposal Submission Due Date”** in the column captioned “Targeted Date” of the table above, as applicable. Proponents are encouraged to allow enough time to upload their documents and to confirm that the files are available for Genera’s review.

****This date is an estimate, and the 3PPO will communicate the award decision at its earliest convenience.***

Proposal submissions that have not been completely uploaded by the Proposal Submission Date, will not be considered. Proponents are encouraged to allow enough time to upload their Proposals and to confirm that the files are available for the 3PPO and/or GENERA’s review.

- **Question & Answer Period**

Note that a Proponent may submit question(s) to the 3PPO for explanation or interpretation of any matter contained in this RFP through the **Question and Answer (“Q&A”)** period. Proponents should submit each question in the Q&A form included in **Attachment D** via PowerAdvocate® through the Messaging tab.

Proponents must submit their questions in the Q&A form included in **Attachment D – (Questions and Answers Form)**. This document must be submitted in Microsoft Excel format and each question must reference the RFP page number, section of the RFP document, RFP

Attachment, or section of the model contract. No questions will be accepted after the deadline provided in the above schedule or in any form not specified herein.

The responses to the questions will be provided to all potential proponents through PowerAdvocate® on the timeline specified in the RFP Timeline. Questions from Proponents must not contain proprietary information because the questions and answers may be published in the public domain. Please note that the 3PPO and GENERA do not guarantee answers to all questions or comments received. Be advised that improperly submitted questions may be rejected.

If responses to the questions require a modification or additions to the original RFP, the 3PPO will issue an Addendum posted on PowerAdvocate®. If Proponent has already submitted its Proposal, or any part thereof, to the 3PPO before the issuance of an Addendum, Proponent may submit a revised Proposal by the Proposal Submission Date and Time, and in appropriate cases the 3PPO may extend the Proposal Submission Date and Time.

9. EVALUATION METHODOLOGY AND SELECTION PROCESS

The Committee members will independently evaluate each response and assign a score for each criterion. The scores and criteria weight will be used to calculate Quality Points for each Proponent. The Quality Points will be calculated for each proposer by multiplying the Evaluator's rating for each evaluation criterion times the weight for the corresponding criteria.

Each Proposal that meets all submission criteria requirements will be independently reviewed and evaluated by an Evaluation Panel formed of a cross-functional team of Subject Matter Experts. The Evaluation Panel will consider the evaluation criteria specified under the table below to perform their evaluations.

Proponent must comply with all in Exhibit K – PROPOSAL SUBMISSION INSTRUCTIONS- WRITTEN CONTENT REQUIREMENTS.

Criteria Category	Overall Weighting %
Experience and Capacity	20%
Approach to Services Fulfillment	15%
Approach to Power Generation Solutions	5%
Pricing	30%
Schedule	30%

10. COMMUNICATIONS

All communications regarding this RFP must be made through the Messaging tab of PowerAdvocate®.

Neither Proponent nor any Proponent team members, nor any of their respective advisors, employees, or representatives may contact or attempt to contact, either directly or indirectly,

at any time during the RFP process, any of the following persons on matters related to this RFP process, the RFP documents, or the Proposals: (a) the 3PPO, or its employees, representatives, or advisors (other than the 3PPO Project Manager); and (b) GENERA, PREPA or P3A employees, representatives, or advisors.

- **Prohibited Communications During the Blackout Period**

The blackout period is a specified period during a competitive procurement process in which any Proponent, bidder, or its agent or representative, is prohibited from communicating with 3PPO, GENERA or P3A employee or GENERA contractor involved in any step of the procurement process about the solicitation. The blackout period applies not only to the P3A, 3PPO or GENERA employees but also to any current contractor of GENERA. “Involvement” in the procurement process includes but may not be limited to project management, design, development, implementation, procurement management, development of specifications, and evaluation of proposals for a particular period.

All communications to and from potential Contractors and/or their representatives during the blackout period must be in accordance with the RFP’s defined method of communication with the Designated Procurement Representative. The blackout period begins on the date that the 3PPO first publishes this RFP and will end after the dispute period has passed.

In the event a Proponent may also be a current 3PPO or GENERA Contractor, GENERA employees and said Proponent may contact each other with respect to their existing contract and duties only. Under no circumstances may any individual involved in the evaluation or review of proposals, other than the 3PPO’s designated Procurement Representatives discuss this RFP, the corresponding procurement process, or its status with potential Proponents.

Proposals must be submitted with no connection to, knowledge of, information comparison, or arrangement with other Proponents, including their directors, officials, employees, consultants, advisers, agents, or representatives.

Any Proponent who violates the blackout period may be excluded from the awarding contract and/or may be liable to the 3PPO or GENERA in damages and/or subject to any other remedy allowed under the law.

All communications must be in the English language.

- **Notice of Intent to Bid**

Proponents must confirm their intent to submit a proposal in response to this RFP by submitting to the PPO a completed version of the form set forth in **Attachment C – (Notice of Intent to Bid)**. The completed form must be submitted through the Messaging tab in PowerAdvocate® on or before the deadline for submission set forth in RFP Timeline. Proponent will not be considered after the submission date. Proposals from Proponents who fail to timely submit a Notice of Intent to Bid will be disqualified from evaluation. Please note that any notice to intend to bid not submitted via **Attachment C** will not be considered as such.

- **Proposal Errors, Omissions, and Modifications**

A Proponent may modify or withdraw its Proposal at any time before the due date (closing date in PowerAdvocate®) as established in the RFP Timeline. All modifications must be made in writing and will be submitted in the same manner as the original Proposal per the terms of this RFP. The Proponent must submit its modified Proposal along with a cover letter with the modified RFP and must include Proponent's name, contact information, mailing address, submission date, modification number, and the Project Title. Timely withdrawal of a Proposal does not preclude Proponent's right to submit another Proposal provided the new Proposal is submitted by the due date. Notice of withdrawal may be provided before the due date of RFP proposal submissions, in writing, through the Messaging tab, or by deleting the uploaded Proposal documents from the event before the closing date of the RFP.

3PPO and GENERA reserves the right to waive minor discrepancies in proposals. A "minor discrepancy" is a defect or error which does not materially affect the deadlines or process for submitting proposals, or the price, quality, quantity or delivery schedule of the goods or services being procured. Purchaser will not allow any one Proponent to clarify or submit additional information after the Submission Due Date of this RFP without providing equal opportunity to all Proponents to clarify or submit additional information.

- **Ownership of Proposals**

All materials submitted in response to this RFP must become the property of GENERA. Selection or rejection of a submittal does not affect this provision.

- **Non-Binding Nature and Validity of Proposal**

The procurement process is not intended to create and must not create a formal legally binding bidding process and must instead be governed by the laws applicable to direct commercial negotiations. For greater certainty and without limitation: (a) the RFP must not give rise to any legal obligations; and (b) neither the Proponent nor the 3PPO and GENERA must have the right to make any breach of contract, tort, or other claims against the other concerning the award of a contract, failure to award a contract or failure to honor a response to the RFP.

The RFP process is intended to identify prospective proponents to negotiate potential agreements. No legal relationship or obligation regarding the procurement of any good or service must be created between the Proponent and the 3PPO or GENERA by the RFP process until the successful negotiation and execution of a written agreement for the acquisition of such goods and/or services.

Proponent must submit a proposal that is valid for no less than one hundred and eighty (180) days.

11. RESERVATION OF RIGHTS

The 3PPO and GENERA reserves the right to withdraw or modify this RFP at any time. The decision to select a Proponent for further negotiation and discussion by the 3PPO and/or GENERA is contingent upon GENERA's sole determination, acting in its discretion, that it is in the best interests of GENERA to select such Proponent, in whole or in part, based upon any factors the 3PPO and/or GENERA determines are relevant, which include price and may

include but are not limited to compliance with specifications; ability to carry out the work; quality and adaptability of the materials, goods, equipment, or services offered; financial responsibility; expertise; experience; reputation of business integrity; safety; and the dates for the delivery or performance offered, etc. The 3PPO and/or GENERA will use all reasonable efforts to indicate to a Proponent in writing that it has been selected to enter into negotiations. If 3PPO and/or GENERA and the selected proponent(s) fail to agree on contract terms, the 3PPO and/or GENERA may conduct negotiations with the next most qualified proponent. The 3PPO and/or GENERA will use all reasonable efforts to communicate its award determination in writing to all Proponents that submitted Proposals.

Genera reserve the right to award the contract to other than the lowest-priced Proposal. The 3PPO and/or GENERA reserves the right, in its discretion, to disqualify any Proposal that does not comply with or meet the requirements set out in the RFP. Additionally, GENERA reserves the right to grant more than one Contract and/or select more than one qualified Proponent, to award all or any of the services required in the RFP.

The 3PPO and GENERA also reserve the right, without limitation to:

- Transfer responsibility for completing the procurement process begun by this RFP from the 3PPO to GENERA if no Covered Party submits a proposal.
- Waive minor discrepancies in a Proposal that do not materially affect the deadlines or process for submitting proposals, or the price, quality, quantity or delivery schedule of the goods or services being procured.
- Reject any proposal that does not meet the mandatory requirements of this RFP as per **Exhibit A- Proposal Mandatory Requirement Checklist**, including but not limited to incomplete proposals and/or proposals offering alternate or non-requested services.
- Cancel this solicitation and reissue the RFP or another version of it if it is considered that doing so is in the public's best interest.
- To reduce, adjust or increase contracted power generation and service without prejudice or liability, if:
 - Funding is not available.
 - Legal restrictions are placed upon the expenditure of monies for this category.
 - GENERA's requirements in good faith change after the award of the contract.
- Issue an award to more than one Proponent based on ratings.
- To require additional information from all Proponents to determine responsibility levels.
- To contact any individuals, entities, or organizations that have had a business relationship with the Proponent.
- To contract with one or more qualified Proponents as a result of the selection of qualified Proponents or the cancellation of this RFP.
- This RFP process does not constitute a commitment by the 3PPO nor GENERA to award

the RFP and execute a contract.

12. PROPOSAL CLARIFICATION REQUESTS

The 3PPO and GENERA reserves the right, at any time, whether prior to or after the preparation of the list of short-listed Proponents (if applicable), to request that any one or more Proponents clarify their Proposal in accordance with these RFP instructions. Without limiting the generality of the foregoing, the 3PPO or GENERA may request clarification where any one or more Proponent's intent is unclear (including where there is an irregularity or omission in the information or documents provided by Proponents in their Proposals). The 3PPO or GENERA may, at its discretion, choose to meet with one, some, or all Proponents to clarify any aspects of their Proposals. The 3PPO or GENERA may require Proponents to submit supplementary documents clarifying any matters contained in their Proposals, or the 3PPO or GENERA may prepare a written interpretation of any aspect of a Proposal (including meeting minutes) and seek the respective Proponent's acknowledgment of that interpretation.

13. RIGHT TO REJECT PROPOSAL

If a Covered Party is identified as a proponent, the 3PPO will retain responsibility for overseeing the procurement process to prevent the risk of unfair competition. If no such conflict is identified, the 3PPO may transfer the procurement process to GENERA, and GENERA may assume responsibility for managing and administering the procurement process, to include evaluation, contract award and post-award contract administration.

The entity with responsibility for overseeing the procurement process reserves the right, at its discretion, to reject and not review any Proposal which does not comply with or meet the requirements set out in the RFP.

The entity with responsibility for overseeing the procurement process will evaluate proposals consistent with the criteria and procedures established in this RFP and reserves the following rights, at its discretion to:

- reject or select a Proponent for negotiations or submission of a BAFO.
- request clarifications or enter into discussions or negotiations in respect of the services with one or more Proponents or their respective partners, consortium members, or joint venturers.
- enter into one or more agreements for the supply or performance of all or any part of the services with one or more Proponents or their respective partners, consortium members, or joint venturers, , for the purpose of obtaining the best agreement possible for all or any part of the services that The entity with responsibility for overseeing the procurement process, in its discretion, deems to be in PREPA's best interests;
- discuss the terms of a Proposal submitted by a Proponent for the purposes of clarification and negotiation, consistent with the terms and conditions of this RFP and any amendments thereto.
- cancel all or any portion of this Proposal process at any time, without prior notice to Proponent, and procure the services, or any portion of the services, by some other means;

and

- enter into a contract (including a contract that is substantially the same as the contract model) in respect of the services, or a portion or portions thereof, with any other third parties.

14. SELECTION OF PROPOSERS FOR NEGOTIATIONS

12.1 Selection Process for Negotiations:

- 14.1.1. The entity with responsibility for overseeing the procurement process 3PPO or GENERA will, acting at its discretion and following the submission deadline, select one or more Proponents to enter negotiations with the 3PPO or GENERA. The entity with responsibility for overseeing the procurement process 3PPO or GENERA will use all reasonable efforts to indicate to a Proponent in writing that it has been selected to enter into negotiations.
- 14.1.2. At the discretion of the entity with responsibility for overseeing the procurement process, the selection process may occur in multiple stages, and Proponents not initially selected may be invited to enter negotiations with the entity with responsibility for overseeing the procurement process following the commencement of negotiations with other Proponents.
- 14.1.3. The entity with responsibility for overseeing the procurement process may elect to award no contracts in response to this RFP, to award a single contract, or award multiple contracts for the same or similar supplies or services under this solicitation.

14.2. Negotiation of a Final Agreement

- 14.2.1. The entity with responsibility for overseeing the procurement process will enter into negotiations with one or more selected Proponents. In the event negotiations commence with more than one selected Proponent, such negotiations will be concurrent. The 3PPO or GENERA will provide each of the selected Proponents with any additional information and may seek further information and Proposal improvements from each of the selected Proponents.
- 14.2.2. Following the negotiations, each of the selected Proponents may be invited to revise its initial Proposal and submit its best and final offer ("BAFO") to the entity with responsibility for overseeing the procurement process.
- 14.2.3. The BAFO of each of the selected Proponents will be evaluated against the same criteria as the initial Proposals submitted by the selected Proponents. The top-ranked Proponent may then be selected to enter into a final round of non-binding discussions and negotiations to determine the possibility of GENERA and such Proponent entering into a final written agreement for the provision of all, or part of, the services. Any such final agreement will be based on the contract model **Attachment F- Purchase Agreement**. The terms of the contract model may be materially altered as a result of the above discussions,

negotiations, changes, amendments, or modifications with the successful Proponent.

- 14.2.4. The entity with responsibility for overseeing the procurement process reserves the right, at its discretion, to identify one or more successful Proponents who will enter into a final round of non-binding discussions and negotiations to determine the possibility of GENERA and such Proponent entering into a final written agreement for the provision of all, or part of, the services as a result of those negotiations.
- 14.2.5. GENERA, the 3PPO and P3A will incur no liabilities to any Proponent as a result of, or arising from, a failure to enter into a final written agreement in relation to the services.
- 14.2.6. The entity with responsibility for overseeing the procurement process reserves the right, in its discretion, to choose not to engage in the BAFO process and to proceed to enter into direct negotiations with the top Proponent.

14.3. Non-Selection of a Proponent

The entity with responsibility for overseeing the procurement process will use reasonable efforts to notify an unsuccessful Proponent if it has yet to be initially selected for negotiations. If Proponent is unsuccessful, it agrees that by submitting a Proposal, it will not have a claim for, and hereby irrevocably, absolutely and finally releases GENERA, P3A, and the 3PPO from any breach of procedural fairness, including where the terms of any final agreement differ from those in the contract model (whether materially or otherwise) that will be included in the RFP.

14.4. GENERA's Discretion to Select Proponents

The decision to select a Proponent for further negotiation and discussion is contingent upon the determination, acting in its discretion, by the entity with responsibility for overseeing the procurement process that it is in the best interests of PREPA to select such Proponent, in whole or in part, based upon the evaluation criteria in this RFP.

15. CONFIDENTIALITY OF RESPONSES & PROPRIETARY INFORMATION

Any contract(s) resulting from this RFP will be entered into between the Proponent(s) and GENERA as agent for PREPA – an instrumentality of the Commonwealth of Puerto Rico. As such, they are public contracts. Further, the costs incurred under any contract(s) resulting from this RFP are expected to be submitted to the Federal Government for reimbursement. Accordingly, upon completion of the RFP process, all documents regarding the procurement and selection process may be released publicly or to Commonwealth or Federal grant awarding agencies.

To facilitate compliance with information laws and federal oversight requirements, if a Proponent submits trade secrets or other confidential commercial information in its Proposal, Proponent must also submit a redacted copy of their Proposal. The redacted copy must include a written explanation of why any redacted information is confidential or proprietary, including why the disclosure of the information would be commercially harmful, specifically refer to any legal protection currently enjoyed by such information and why the disclosure of such

information would not be necessary for the protection of the public interest, and request that the documents so labeled be treated as confidential by GENERA.

GENERA reserves the right to make public the redacted copies of the Proposals at the conclusion of the RFP process. If a redacted copy is not submitted by a Proponent, GENERA will assume that the original copy of the Proposal can be made public. Proposals containing substantial content marked as confidential or proprietary may be rejected. Provision of any information marked as confidential or proprietary must not prevent GENERA from disclosing such information if required by law or the requirements of any Federal grant agreement applicable. The executed contract(s), if any, and all prices set forth therein must not be considered confidential or proprietary, and such information may be made publicly available.

- i. Proposals submitted in response to this RFP may contain proprietary information, and employees must maintain the confidentiality of such information, sharing it only on a need-to-know basis.
- ii. Employees with information about the weighting of evaluation criteria, the evaluation of Proponent proposals, and the selection of Proponents must maintain that information in confidence. That information may not be shared with anyone outside of the 3PPO or P3A, or if no Covered Party responds to the RFP and responsibility transfers to GENERA. That information may not be shared with other employees who do not have a bona fide need to know. Nothing in this RFP, including this section regarding confidentiality, is intended to restrict cooperation with audits or internal reviews by the Puerto Rico Comptroller's Office, P3A, or in the case of federal grants, the federal awarding agency, the Puerto Rico entity serving as a pass-through entity, or the Comptroller General of the United States.

16. CONFLICT(S) OF INTEREST

To avoid or mitigate the risk of a real or apparent Organizational Conflict of Interest, the 3PPO has issued this RFP. If a Covered Party is identified as a proponent, the 3PPO will retain responsibility for overseeing the procurement process to prevent the risk of unfair competition. If no such conflict is identified, the 3PPO may transfer the procurement process to GENERA, and GENERA may assume responsibility for managing and administering the procurement process, to include evaluation, contract award and post-award contract administration.

The selected Proponents, upon receiving a contract through this RFP, will be prohibited from representing any other Proponent before GENERA, except for those specifically assigned under the terms of this contract while it is in effect.

An apparent conflict of interest is an existing situation or relationship that would cause a reasonable person to think that a Covered Party's judgment is likely to be compromised because the Covered Party, their agent, any member of his or her immediate family, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or would derive a tangible benefit from a decision or action to be taken by GENERA or PREPA, including but not limited to contract awards. A Covered Party is a parent company, affiliate, or subsidiary organization of PREPA or GENERA.

Proponent certifies that:

- none of its representatives are employed by and receive payment or compensation for such employment from any governmental agency, body, public corporation, or municipality of Puerto Rico.
- no Puerto Rico government employee has any personal or economic interest in this Proposal.
- it may have service contracts with other governmental agencies, bodies, public corporations, or municipalities of Puerto Rico, but such contracts do not constitute a conflict of interest for Proponent; and
- to the best of its knowledge, at the time of this RFP publishing date, it does not have any other contractual relationship that could be deemed to constitute a conflict of interest with GENERA or with public policy.

Proponents acknowledge that it has a duty of ethical behavior towards PREPA. Such duty includes that Proponent must not have interests that conflict with PREPA's interest in this Proposal or the services performed pursuant to this Proposal. Those conflicting interests include:

- the representation of clients who have, or may have, interests opposed to those of PREPA in relation to the services (if applicable, based on the type of services to be performed by the Proponent).
- when Proponent's conduct is described as such in the canons of ethics that may be applicable to the Proponent and its personnel or in the laws or regulations applicable to the Proponent and its personnel assigned to the services; or
- when the Proponent, persons that control the Proponent, or Proponent's employees, directors, or officers directly or indirectly, for themselves or any other third party, obtain, request or give to the 3PPO or GENERA or an employee, officer, director or agent of the 3PPO or GENERA, any profit, utility, advantage or gain by way of improper acts or exercise of undue influence.

Proponents agree to avoid even the appearance of a conflict of interest. The mere appearance of a conflict of interest must constitute sufficient cause for the rejection of a Proposal(s). GENERA will cancel any contract executed pursuant to this RFP in the event of a conflict of interest or if the appearance of a conflict of interest is not cured immediately to GENERA's satisfaction.

The Proponent must have the continuous obligation to disclose to the 3PPO and GENERA if any relationship with third parties could represent a conflict of interest with GENERA in connection with this RFP or the services.

Organizational Conflict of Interest

Proponents, including Covered Affiliates, as defined in this RFP, are responsible for disclosing any actual or apparent Organizational Conflict of Interest ("OCI") at the earliest reasonable time before, during, and after the procurement process. In addition, contractors must notify the 3PPO and GENERA promptly if an actual or apparent OCI arises, including an interest in subcontracting with any Covered Affiliate. Not complying with any of the requirements could

result in penalties that may include disqualification, cancellation of an award, or termination of the contract.

GENERA prepared an OCI Avoidance and Mitigation Plan (“OCIAMP” or “Plan”) included on their Procurement Manual on APPENDIX D Genera OCI Mitigation Plan adopting best practices in order to identify, avoid, mitigate, report, neutralize and manage an actual or apparent OCI ensuring a fair and transparent procurement process to any proponent that may compete for a contract entered into with GENERA as PREPA’s agent. The objective of GENERA’s OCIAMP is to ensure that there is no preferential treatment for any Covered Affiliate, that contracts are awarded and administered using arms-length procedures as appropriate, and that the goods and services purchased from a Covered Affiliate provide the best value to PREPA at fair and reasonable prices.

17. NO LOBBYING, NO COLLUSION, & NO PROHIBITED ACTS

Neither the Proponent nor any member of their team, including their respective directors, officers, employees, consultants, agents, advisers, or representatives (as it relates to the project or RFP), is allowed to participate in any way or in any type of political or other lobbying; nor can they communicate in any way with any representative of the Evaluation Committee or any 3PPO or GENERA employee, including any Restricted Party such as any director, officer, employee, agent, advisor, staff member, consultant, or representative of any of the aforementioned parties, as applicable, for any purposes, including, but not limited to:

- to comment or try to influence the opinion on the merits of a Proposal or in relation to the Proposal of another Proponent.
- to influence, or to try to influence, the result of the RFP phase or the competitive selection process, including the review, evaluation, and classification of the Proposals, the selection of the selected Proponent, or any negotiation with the selected Proponent.
- to promote their interests or those of the Proponent in the project, including the interests of another Proponent.
- to criticize or comment on aspects of the RFP, the competitive selection process, or the project, in any way that can give a competitive advantage or any other advantage to the Proponent over other Proponent; and,
- to criticize the Proposal of another Proponent.

The Proponent or members of its team must not discuss or communicate, directly or indirectly, with any other Proponent, or any director, officer, employee, consultant, adviser, agent, or representative of any other Proponent, including any member of the team of any other Proponent, regarding the preparation, content, or representation of their Proposals. Proposals will be submitted without any connection (for example, arising from an interest in or from a Proponent or member of a Proponent’s team), knowledge, comparison of information, or arrangement, with any other Proponent or any director, officer, employee, consultant, advisor, agent, or representative of any other Proponent, including any member of the team of any other Proponent. To ensure this, all potential Proponents must sign and accept a Confidentiality Agreement prior to having access to any of the documents that have been selected to be protected through the Confidentiality Agreement. The violation of the

agreements and instructions included in this section will be enough cause for the rejection of the Proponent's participation in this RFP. The 3PPO and GENERA also reserve the right to separate and eliminate definitively the Proponent from GENERA's Registry of Suppliers; this, in addition to the legal and financial sanctions which may be imposed as a result of one or several of the violations previously mentioned.

18. HEALTH, SAFETY & ENVIRONMENTAL REGULATIONS

Proponent must comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, 42 USC 7401, and the Federal Water Pollution Control Act, 33 USC 1251, and other appropriate requirements of Environmental Protection Agency Regional Office. Also, the contractor must comply with the Safety and Health Regulations 29 CFR 1926 and 29 CFR 1910, and other appropriate requirements of the Occupational Safety and Health Regional Office (PROSHA) and Federal Office (OSHA). Refer to **Attachment J - Health, Safety, Environmental and Historical Requirements**

19. SUSPENSION, DEBARMENT, & INELIGIBILITY

Federal regulations restrict GENERA from contracting with parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities, where the contract is funded in whole or in part with federal funds. Proponents must submit a certification of Suspension or Debarment Status to this RFP by submitting to the 3PPO or GENERA a completed version of the form set forth in **Exhibit D – (Certifications Affidavit.)**

Accordingly, a contract or subcontract must not be made with any parties listed on the SAM Exclusions list. SAM Exclusions is the list maintained by the General Services Administration that contains the name of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under certain statutory or regulatory authority. Proponents can verify their status and the status of their principals, affiliates, and subcontractors at www.SAM.gov. A copy of their current status should be submitted with their Proposal.

20. RIGHT TO REQUEST REVIEW

If a Covered Party is identified as a proponent, the 3PPO will retain responsibility for overseeing the procurement process to prevent the risk of unfair competition. If no such conflict is identified, the 3PPO may transfer the procurement process to GENERA, and GENERA may assume responsibility for managing and administering the procurement process, to include evaluation, contract award and post-award contract administration.

Disputes prior to Contract Award

- i. Disputes regarding restrictive specifications or alleged improprieties in the competitive process must be submitted in writing five (5) business days prior to the closing date for receipt of Proposals. If the written dispute is not received by the time specified, the award may be made in the normal manner unless the 3PPO or GENERA, upon investigation at its discretion, finds that remedial action is required, in which event such action should be taken. Oral protests not followed by a written dispute will be disregarded.

- ii. The 3PPO shall consider the request for reconsideration within thirty (30) business days from filing, unless the 3PPO notifies the disputing party that additional time is needed to prepare a final decision.
- iii. All requests for reconsideration shall be made in writing, in a searchable Adobe Acrobat PDF document and shall include:
 1. The title and number of the solicitation under which the request reconsideration is made;
 2. Full name, electronic address and phone number of the disputing party, including contact information for a representative of the disputing party with whom the 3PPO/ GENERA may correspond regarding the dispute;
 3. A detailed description of the specific grounds for the request and all supporting documentation; and,
 4. The specific ruling or relief requested.
- iv. All requests for reconsideration shall be submitted electronically to:

3PPO Legal Department at: procurement@recomspr.net
- v. Notice of a dispute and the basis therefore, will be given to all Proponents who have a reasonable prospect of receiving an award. In addition, when a dispute against the making of an award is received, and the 3PPO or GENERA determines to withhold the award pending disposition of the dispute, the Proponents who are eligible for the award may be requested (prior to the expiration of the time for acceptance of their Proposals) to extend the time for acceptance (with the consent of sureties, if any) to avoid the need for re-advertising. The 3PPO or GENERA will provide a written response to each material issue raised in the written dispute.
- vi. Where a written dispute against the making of an award is received in the time specified, the award will be held until the resolution of the dispute. However, the 3PPO and GENERA reserve the right to proceed with appropriate action in the procurement process when:
 - The subject goods or services are urgently required;
 - The 3PPO or GENERA determines the dispute was vexatious or frivolous; or
 - Where the performance of the work will be unduly delayed, or other undue harm will occur by failure to make a prompt award.

When the award is made pursuant to Section 3 of the GENERA Consolidated Procurement Manual, the 3PPO or GENERA will document the file to explain the need for an award and will give written notice of the decision to proceed with the award to the disputing party and, as appropriate, to others concerned.

Disputes after Contract Award

- i. Any Proponent adversely affected by a contract award may submit a written request for reconsideration to the 3PPO no later than five (5) business days from the Notice of Award Date. Any dispute received after the applicable deadline will not be considered.
- ii. The mere submission of a request for reconsideration will not paralyze the adjudication of the contested contract award.
- iii. The 3PPO, shall consider the request for reconsideration within thirty (30) business days from filing, unless the 3PPO notifies the disputing party that additional time is needed to prepare a final decision.
- iv. All requests for reconsideration shall be made in writing, in a searchable Adobe Acrobat PDF document and shall include:
 - 1. The title and number of the solicitation under which the request reconsideration is made;
 - 2. Full name, electronic address and phone number of the disputing party, including contact information for a representative of the disputing party with whom the 3PPO may correspond regarding the dispute;
 - 3. A detailed description of the specific grounds for the request and all supporting documentation; and,
 - 4. The specific ruling or relief requested.
- v. All requests for reconsideration shall be submitted electronically to:

3PPO Legal Department at: procurement@recomspr.net

EXHIBIT 3

Gobierno contrata a Power Expectations y espera contar con los 800 megavatios de energía temporal en agosto o septiembre

El precio fijo, de menos de 25 centavos el kilovatio, no puede variar, de acuerdo a lo que dispondrá el acuerdo, según Josué Colón

9 de junio de 2025 - 7:28 PM

Archivo

Esta historia fue publicada hace más de 6 meses.



Pese a que previamente había manifestado su interés en contratar a las dos compañías proponentes, el zar de Energía, **Josué Colón**, afirmó este lunes que solo se seleccionó a la empresa **Power Expectations LLC** para la generación de 800 megavatios (MW) temporales de electricidad y así reforzar la producción ante la elevada demanda de los meses de verano.

Aclaró que, aunque inicialmente se consideró contratar también a Javelin Global Commodities, se desistió de formalizar el acuerdo porque no cumplió con el requerimiento del gobierno de mantener el costo por kilovatio hora por debajo de 25 centavos.

“Javelin cumplió con todo lo demás. Esa es la información que tengo, pero no con el de costo. Parece que estaban por encima, por allá, 30, 35 centavos, y no en lo que era la expectativa de costo del RFP (requerimiento de propuestas, en inglés)”, explicó Colón, en entrevista telefónica con **El Nuevo Día**.

“Pero ese RFP, la razón por la que es multianual es porque nosotros necesitamos, cuando digo nosotros, el sistema de energía necesita poder ofrecer mantenimiento y sacar unidades (de generación a mantenimiento)”, continuó el ingeniero y también director ejecutivo de la **Autoridad para las Alianzas Público Privadas**.

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La semana pasada, en una conferencia de prensa en La Fortaleza, Colón había dicho que se inclinaban por firmar contratos con los dos proponentes.

“En ese momento, la expectativa de nosotros siempre era que se pudiera adjudicar la subasta a más de una compañía. Eso es lo que entendíamos que podía pasar. Era como que lo más lógico. Pero, al no alcanzarse un costo razonable, y razonable tenía que ser por debajo de los 25 centavos, como licitador, pues simplemente quedó fuera”, argumentó.



Jenniffer González sobre cancelación de contrato a LUMA Energy: "Estamos viendo todas las opciones de generación"

Sin nombrar potenciales proveedores del servicio de energía eléctrica, la primera mandataria aseguró que el gobierno estudia varias opciones para sustituir a la compañía actual.

Precisó que Power Expectations suplirá 600 MW para la central Aguirre y 200 MW para Costa Sur.

Tras la selección de la empresa, ahora corresponde que la Junta de Gobierno de la **Autoridad de Energía Eléctrica** evalúe la propuesta de Power Expectations y, luego, tanto el **Negociado de Energía** como la **Junta de Supervisión Fiscal** hagan lo propio.

“Esperamos, y así se lo hemos dicho, que cuando se remitan los documentos para la evaluación y aprobación de ellos, que se van a someter simultáneamente, que no se tarden más de una semana, semana y pico. **No es un proceso para que estén allí dos meses y que se les pierda entre los papeles que tienen. O sea, es un asunto de extrema importancia**, así que esa es la expectativa que tenemos”, indicó el zar de Energía.

Por lo tanto, aún no se ha firmado el contrato, cuyo costo no se puede anticipar porque se le pagará por “energía entregada”.

Colón espera que, para principios de agosto o septiembre, estén en operaciones las unidades temporales de Power Expectations. Precisó que será un contrato de dos años y, al finalizar, puede extenderse un año adicional.

En cuanto al proceso, dijo que regasificar Costa Sur es más fácil, puesto que funciona con gas.

“En el caso de Aguirre, lo que ellos han dicho es que su logística va a ser la misma que está usando Palo Seco. Se va a hacer con camión. ¿Cuál es el proveedor?, pues yo no tengo el dato. En algún

momento lo sabremos”, sostuvo.



Gobernadora reafirma cancelación de contrato a Luma Energy, "pero no tenemos cómo sustituir 400 megavatios de energía de hoy para mañana"

La mandataria explicó el curso que sigue su principal promesa de campaña.

El costo fijo de 24 centavos, ¿es independiente del proveedor que se use o eso puede variar?, cuestionó este medio.

“No. De la manera que está contratado es el costo de la energía que se va a entregar”, respondió el ingeniero, recalando que se fijaría en el contrato que el monto no puede variar.

Agregó que la expectativa es que esta generación temporal abone a la cantidad de reserva energética para evitar apagones y suplir la demanda en el verano, cuando el consumo de luz aumenta a niveles pico.



Sin fecha de caducidad para el contrato de LUMA Energy, pero gobernadora asegura que "eso va a ocurrir"

“El sistema está tan frágil que dos ramitas tocan y se cae todo el sistema, lo hemos visto”, sostuvo Jeniffer González.

Actualmente, dijo Colón, “hay entre 3,200 a 3,300 megavatios de capacidad disponible”. En julio, deben entrar entre 500 a 600 megavatios adicionales al integrar la Unidad 2 de Aguirre y la Unidad 4 de Palo Seco, agregó Colón.

“Si le añadimos los 600 megavatios, estos adicionales, pues subirá la capacidad a 3,700, 3,800 megavatios. **Los 800 megavatios (de energía temporera), esa es la capacidad adicional que vamos a tener, que nos va a permitir poder seguir con los mantenimientos, además de tener una reserva adecuada.** Eso no significa que es imposible que haya alguna interrupción de servicio por alguna falla. Es que va a ser menos probable”, explicó.

Una vez concluya el contrato, existe la posibilidad de que las unidades de generación queden en manos del gobierno.

“Luego de que se cumpla el término del contrato, esas unidades que pudieran pasar por un dólar, si no me equivoco, al gobierno de Puerto Rico”, sostuvo el ingeniero.

EXHIBIT 4

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

IN RE: ELECTRIC SYSTEM PRIORITY
STABILIZATION PLAN

CASE NO.: NEPR-MI-2024-0005

SUBJECT: Reporting Directives and
Information Requirement regarding
PREPA's Proposed Contract Resulting from
Temporary Emergency Power Generation.

RESOLUTION AND ORDER

M
I. Relevant Background

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Given the critical condition of Puerto Rico's electric system, through a Resolution and Order issued on March 19, 2025 ("March 19 Resolution"), the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") ordered the Puerto Rico Electric Power Authority ("PREPA") to appear before the Public-Private Partnerships Authority ("P3") and initiate the process of the Independent Third-Party Procurement Office ("3PPO") to begin the expedited procedure for the acquisition of up to 800 MW of temporary generation for a period of eighteen (18) months.¹ Additionally, PREPA was directed to submit to the Energy Bureau, upon completion of the bidding process, the costs associated with each initiative so that the Energy Bureau could assess whether such costs are prudent and reasonable.²

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Prior to issuing the March 19 Resolution, the Energy Bureau had already initiated efforts to develop a plan to stabilize the electric system, in response to recurring major outages and grid instability events that took place in early June 2024.³ As part of this proceeding, the Energy Bureau ordered LUMA,⁴ PREPA, and Genera⁵ to each develop an "aggressive preliminary plan of improvements to the electric system" with a maximum implementation period of two (2) years.⁶ This proactive initiative required the identification and mitigation of all key factors contributing to the electric system's unreliability, including, but not limited to, outdated protection schemes, lack of system redundancy, inadequate vegetation management practices, insufficient reliable generation capacity, deficiencies in frequency and inertia control, and persistent triggers for load shedding. Each plan was to include a detailed description of the proposed corrective measures, the associated costs, and the identified funding sources.⁷ As part of the evaluation process of the plans submitted by LUMA, Genera, and PREPA, the Energy Bureau considered identified deficiencies in generation, as well as their effects on system operations and the proposed measures to address such deficiencies.

In determining the need to procure 800 MW of emergency generation, the Energy Bureau also considered the October 2024 Adequacy Report⁸, which identified a generation shortfall of that magnitude.⁹ In addition, a catastrophic failure at Aguirre Unit #1 occurred during the Energy

¹ See March 19 Resolution, p. 2.

² *Id.*

³ See Resolution and Order dated June 13, 2025.

⁴ LUMA Energy, LLC, and LUMA Energy ServCo, LLC, (collectively, "LUMA").

⁵ Genera PR, LLC ("Genera").

⁶ See Resolution and Order dated June 13, 2025, p. 2.

⁷ *Id.*

⁸ Puerto Rico Electrical System Resource Adequacy Analysis Report dated October 31, 2024 ("October 2024 Adequacy Report").

⁹ See October 2024 Adequacy Report, p. 13.



Bureau's evaluation process, further aggravating the shortfall.¹⁰ This event was also taken into account by the Energy Bureau as part of the supporting facts justifying the request for 800 MW of emergency generation made through the March 19 Resolution.

Through a March 24, 2025 filing, LUMA submitted an Updated Resources Adequacy Report.¹¹ This report reaffirmed the need for the installation of 800 MW of temporary emergency generation and analyzes the impact of the catastrophic failure of Aguirre Unit #1.¹² Finally, it is worth highlighting that, on that same date, the Energy Bureau issued the Priority Stabilization Plan,¹³ which also addresses the aforementioned matters.

The 3PPO conducted the procurement process for the acquisition of 800 MW of generation resources. It should be noted that, prior to the commencement of the procurement process, neither PREPA nor the P3 Authority (3PPO) submitted to the Energy Bureau, for its review and evaluation, a draft of the Request for Proposals ("RFP") or any proposed contracts that may have been included as part of said process.

On June 20, 2025, PREPA filed a document titled *Motion Submitting Proposed Contract Resulting from Temporary Emergency Power Generation RFP for the Energy Bureau's Review and Approval* ("June 20 Motion"), including as *Exhibit A* a proposed contract resulting from the competitive procurement process for temporary emergency power generation, and as *Exhibit B* a 3PPO report summarizing the procurement process and providing the rationale for the selection of the preferred proponent.

On June 27, 2025, the Energy Bureau issued a Resolution and Order requiring information and clarifications from PREPA regarding the June 20 Motion ("June 27 Resolution"). On July 1, 2025, PREPA filed a document titled Motion in Partial Compliance with the June 27th Order ("July 1 Motion"). Through this motion, PREPA submitted certain documents and information required by the June 27 Resolution.

II. Analysis and Evaluation

A. Summary of Principal Terms of the Proposed Contract

Through the June 20 Motion, PREPA submitted the proposed Performance Service Agreement Contract ("Proposed Contract"), resulting from the competitive procurement process, for the Energy Bureau's review and approval. The Proposed Contract provides for the supply and operation of temporary power generation facilities with a total capacity of 800 MW, distributed across two sites: 200 MW at PREPA's Costa Sur Facility and 600 MW at PREPA's Aguirre Facility.¹⁴ The initial term of the Proposed Contract is two (2) years, commencing on the Commercial Operation Date ("COD"), with the possibility of two (2) additional one (1) year extensions, subject to the written agreement of the parties.¹⁵

The Proposed Contract establishes an all-inclusive energy fixed rate per project site of \$0.2450 per kWh for the initial two (2) year term and the first optional one (1) year extension, and \$0.2435 per kWh for the second optional one (1) year extension.¹⁶ The all-inclusive energy

¹⁰ See Motion Submitting LUMA's Position Regarding Genera's Request for Expedited Approval of Emergency Generation Capacity Solutions filed by LUMA on March 6, 2025 ("March 6 Motion").

¹¹ *In re: LUMA Resource Adequacy Study*, Case No. NEPR-MI-2022-0002, *Motion to Submit Interim Update for Summer 2025 of LUMA's Fiscal Year 2025 Resource Adequacy Resource*, filed by LUMA on March 24, 2025 ("Updated Resources Adequacy Report").

¹² *Id.*, p. 16.

¹³ See Resolution and Order Establishment of the Electric System Priority Stabilization Two-Year Plan dated March 28, 2025 ("Priority Stabilization Plan").

¹⁴ See Proposed Contract, p. 5.

¹⁵ *Id.*, Article 3.1, p. 13.

¹⁶ See Proposed Contract, p. 26.



rate covers all costs associated with the project, including, without limitation: the design, procurement, installation, commissioning, and operation of the power generation units and all associated infrastructure and ancillary equipment; the design, procurement, installation, commissioning, and operation of the fuel handling and delivery systems and their related infrastructure and ancillary equipment; the design, installation, and integration of all interconnection facilities and ancillary equipment necessary to connect the generation units to the electrical grid at the designated points at the Costa Sur and Aguirre facilities; the cost of fuel, including any applicable taxes and fees; all operations and maintenance (O&M) expenses associated with the supply of energy; and all administrative and management costs.

M Additionally, as reported, the intention is to utilize the existing interconnection infrastructure at each site, which would result in minimal interconnection work and costs.¹⁷ Furthermore, as provided in the Proposed Contract, the design and construction of all infrastructure-related components shall comply with all applicable industry standards, as well as any technical requirements reasonably established by LUMA, based on the applicable regulatory and technical framework. Such compliance shall be required to ensure that the interconnection and operation of the generation assets meet the reliability, safety, and performance standards necessary for integration into the electric system.

JM **B. Evaluation Framework**

AM **i. Article 6.32 of Act 57-2014¹⁸ and Regulation 8815¹⁹**

AM Section 6.32 of Act 57-2014, as amended by Act 17-2019,²⁰ provides for the evaluation and approval of all agreements between electric power service companies, including independent power producers, prior to the execution thereof. Paragraph (d) of Section 6.32 provides that in evaluating every proposal for an agreement between electric power service companies, the Energy Bureau shall take into account the provisions of the IRP. The Energy Bureau shall not approve an agreement that is inconsistent with the IRP, particularly in all that pertains to renewable energy, distributed generation, conservation and efficiency goals established in the integrated resource plan as well as in the Energy Public Policy.²¹ In addition, Paragraph (e) of Section 6.32 provides a timeframe for the review and evaluation of PREPA's agreements.

AM On the other hand, pursuant to Act 57-2014, the Energy Bureau has the power to adopt regulations governing the processes for the purchase of energy from other electric service companies and/or modernize electric generation facilities.²² On September 1, 2016, the Energy Bureau and PREPA adopted Regulation 8815.²³ The purpose of Regulation 8815 is to establish a procurement, evaluation, selection, negotiation and award process for contracting with third parties for the purchase of energy and for the procurement, evaluation, selection, negotiation and award process for the modernization and upgrade of PREPA's generation fleet and other PREPA resources. These processes shall be consistent and transparent, such that

¹⁷ See June 20 Motion, Exhibit B, p. 4.

¹⁸ Transformation and Energetic RELIEF Act of Puerto Rico, as amended ("Act 57-2014")

¹⁹ Joint Regulation for the Procurement, Evaluation, Selection, Negotiation and Award of Contracts for the Purchase of Energy and for the Procurement, Evaluation, Selection, Negotiation and Award Process for the Modernization of the Generation Fleet, November 9, 2016 ("Regulation No. 8815").

²⁰ The Puerto Rico Energy Public Policy Act ("Act 17-2019").

²¹ See in general, Section 1.5 of Act 17-2019, where the general statements of "Energy Public Policy 2050" of Puerto Rico are enunciated.

²² See Article 6.3(c) of Act 57-2014 [the Energy Bureau shall have the following powers and duties: ... (c) [e]stablish and implement regulations and the necessary regulatory actions to guarantee the capacity, reliability, safety, efficiency, and reasonability of the rates of Puerto Rico's electrical system, and establish the guidelines, standards, practices, and processes to be followed to purchase power, modernize power plants or electric power generation facilities; provided, that every power purchase agreement shall meet the standards, terms, and conditions established by PREB in accordance with the provisions of the Energy Public Policy Act and this Act...].

²³ Joint Regulation for the Procurement Evaluation, Selection, Negotiation and Award of Contracts for the Purchase of Energy and for the Procurement, Evaluation, Selection, Negotiation and Award Process for the Modernization of the Generation Fleet, September 1, 2016 ("Regulation 8815").



they encourage and support a climate of private sector innovation and investment in Puerto Rico to address PREPA's specific power generation needs.²⁴

Regulation 8815 requires that, before the issuance of an RFP, PREPA notifies in writing to the Energy Bureau the recommendation regarding the proposed project, including all related documents that explain the project and a detail narrative regarding how the proposed project and the terms of the contract, as described in the proposed RFP, complies with the Integrated Resource Plan ("IRP"). The Energy Bureau must request any additional information it deems necessary, within ten (10) days from receiving the notification. Upon receipt of such additional information the Energy Bureau has forty-five (45) days to approve, reject or propose modifications to the proposed project.²⁵ If the Energy Bureau does not act within the specified term, the proposed RFP and its parameters shall be deemed approved.

Under Article 7.1 of Regulation 8815, upon completion of the negotiation of a contract, the Project Committee shall prepare a report, which shall include: (i) the reasons for signing the Contract, the reasons for selecting the chosen proponent; (ii) a description of the procedure followed, including comparisons between the chosen proponent and other proposals presented; (iii) an explanation of how the pricing terms included in the contract comply with the parameters established in the RFP, as approved by the Energy Bureau, and all other information pertinent to the RFP procedure and the evaluation conducted.²⁶

Once PREPA's Board of Directors approves a contract, PREPA must submit the foregoing report and the proposed contract evaluation to the Energy Bureau, with the required profitability and pricing information analysis. The Energy Bureau must review the contract's terms and conditions to ensure compliance with those approved under the RFP and the contract form included as part of the RFP. The Energy Bureau shall complete its review within thirty (30) days from the date of the receipt of any additional information timely requested by the Energy Bureau or the submittal date of the contract and the report, as applicable. The Energy Bureau may approve or reject the proposed contract.²⁷ Note that once approved by the Energy Bureau, and before its execution, the terms and conditions of an approved contract or project cannot be modified without prior approval from the Energy Bureau.²⁸

Although Regulation 8815 doesn't contain all provisions of Article 6.32 of Act 57-2014, as amended by Act 17-2019, Regulation 8815 is aligned with the referenced Article 6.32 regarding the requirement that the proposed RFP and approved contract must be consistent with the Approved IRP. Moreover, Regulation 8815 provides an expedited and thorough evaluation process for both the proposed RFP and the negotiated contract resulting from the selection process, that is also aligned with Article 6.32 and the general energy public policy promulgated by Act 17-2019.

As discussed above, PREPA is currently facing a critical situation resulting from a shortage of generation resources. There remains significant uncertainty regarding the availability of sufficient capacity in the coming months. Absent immediate action by the Energy Bureau, this emergency is likely to worsen during the peak demand season, which has already begun. At that time, PREPA anticipates a base load generation shortfall exceeding 800 MW if the generation resources contemplated under the Proposed Contract are not available and no mitigating measures are implemented.

²⁴ See Article 1.2 of Regulation No. 8815.

²⁵ *Id.* at Article 4.2.

²⁶ *Id.* at Article 7.1(a). This report shall detail the evaluation by the Project Committee of each of the steps in the competitive solicitation process, including bidder qualification, bid evaluation, and selection of a final shortlist, as well as, its assessment regarding whether the process was conducted fairly and transparently.

²⁷ *Id.* at Article 7.1(d).

²⁸ *Id.* at Article 7.2(c). It is important to note that, Regulation 8815 is intended to provide flexible procedures and, accordingly, it shall be interpreted liberally so as to effectuate that intent and its purposes. *Id.* at Article 10.3.



Under these circumstances, and in light of the alignment between Regulation 8815 and Article 6.32 of Act 57-2014 with respect to ensuring that the Proposed Contract is consistent with the Approved IRP and subject to an expedited evaluation process, the Energy Bureau **DETERMINES** that an expedited evaluation is warranted. Such evaluation, conducted pursuant to the principles set forth in Regulation 8815 and Article 6.32 of Act 57-2014, is justified given the emergency circumstances surrounding this matter.

ii. *Compliance with Approved IRP²⁹*

An Integrated Resources Plan ("IRP") considers all reasonable resources needed to supply demand over the planning horizon, which in our case is twenty (20) years. Therefore, the use of temporary emergency generation due to unexpected or emergency situations is not normally considered a resource planning action in an IRP. Due to its temporary nature, actions that may result from unexpected situations or emergencies, such as the one contemplated by PREPA in the Proposed Contract and validated by the Energy Bureau through the March 19 Resolution, were not specifically identified as a resource planning action during the evaluation of the Approved IRP. The purpose of the IRP is to identify the permanent resources needed to supply demand over the planning horizon, at least cost. All permanent resources are assumed to be available to provide service.

If certain assets are not available due to a prolonged emergency, the effect this loss can have on the system could be detrimental to the point of compromising service reliability. As such, under certain circumstances, the acquisition or development of a temporary resource to supply a need that arises as the result of an emergency not contemplated in the IRP analysis, could be considered as consistent with such IRP. For example, the temporary acquisition of a generation asset (e.g., by purchase or lease) to make up for the temporary loss of permanent assets due to unforeseen circumstances could be considered one such situation. In these circumstances, the analysis regarding consistency should include, at least, (1) if the permanent assets are part of the identified resources on the IRP, (2) the effect the loss of the assets have on the system, (3) the length of time the temporary asset would be in service (i.e. the temporary nature of such asset), and (4) the purpose of the acquisition of the temporary asset is to temporary replace, in total or in part, the permanent asset.

iii. *Act 1-2025*³⁰

As required by Act 57-2014, on July 12, 2023, the Energy Bureau initiated a new Integrated Resource Plan (IRP) process to update the previously approved IRP. This update is mandated by law to account for changes in available resources and to reflect updated circumstances and conditions affecting the electric system, thereby ensuring that Puerto Rico's long-term energy planning remains aligned with current realities and future needs. As part of this process, LUMA submitted the First Interim 2025 IRP Filing before the Energy Bureau on November 25, 2024. The IRP process is ongoing, with further evaluations and stakeholder engagements planned to ensure a sustainable and reliable energy future for the island.

Pending the evaluation of the updated IRP, House Bill 267 has been enacted into law ("Act 1-2025"), amending Puerto Rico's Public Energy Policy Act ("Act 17-2019") and the Energy Diversification Act, as amended ("Act 82- 2010"). Act No. 1-2025 extends the lawful use of coal-based power generation through the year 2032, which may permit the continued operation of the AES³¹ power plant in Guayama beyond its previously anticipated retirement date of December 2027. Additionally, Act No. 1-2025 eliminated the interim renewable energy

²⁹ Final Resolution and Order on the Puerto Rico Electric Power Authority's Integrated Resource Plan, In re. Review of the Puerto Rico Electric Power Authority Integrated Resource Plan, Case No. CEPR-AP-2018-0001, August 24, 2020 ("Approved IRP"). Minor modifications and/or clarifications to the Approved IRP were introduced through a Resolution and Order on Reconsiderations issued by the Energy Bureau on December 2, 2020, in case: In re. Review of the Puerto Rico Electric Power Authority Integrated Resource Plan, Case No. CEPR-AP-2018-0001.

³⁰ Act No. 1 of March 12, 2025 ("Act 1-2025").

³¹ AES Puerto Rico, Inc. ("AES").



targets of 40% by 2025 and 60% by 2040, while retaining the statutory objective of achieving 100% renewable energy generation by 2050.

These legislative amendments have the effect of modifying the energy transition goals to better align with current energy system conditions and to ensure continued system reliability. They allow, during a transitional period, the integration of other generation resources into the system, not necessarily based on renewable energy sources, provided that such integration supports the achievement of the 100% renewable energy goal by the year 2050, and that such resources are procured at competitive prices that can compete with renewable energy alternatives. Act 1-2025 also includes provisions to enhance energy efficiency and promote the integration of renewable energy sources into the grid.

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Consistent with the provisions of Act 1-2025, on March 19, 2025 the Energy Bureau issued a Resolution and Order³² in which it determined that: (i) given the pattern of forced outages of PREPA's existing, aging, thermal generation fleet, the available generation capacity is extremely limited and may complicate needed maintenance and repairs to the existing fleet; (ii) there is a need to explore the costs and timeframe of availability of new, modern, generation sources that will allow Puerto Rico to reach the goals set in the new energy public policy and serve the electricity customers' best interests; and (iii) this procurement effort shall explore 2,500 to 3,000MW of new capacity. While it could be argued that the Energy Bureau's directive for the procurement of new generation, as set forth in the March 19 Resolution – New Capacity, is not entirely consistent with the Approved IRP, such directive falls within the Energy Bureau's delegated authority to establish energy public policy and to issue determinations in furtherance thereof. This is particularly true given that the decision is aligned with the provisions and policy objectives established under Act No. 1-2025, which directly affects and bear upon the mandates set forth in the Approved IRP. The Energy Bureau has the power and duty to oversee and ensure the execution and implementation of the public policy on the electric power service in Puerto Rico,³³ to establish and implement regulations and the regulatory actions to guarantee the capacity, reliability, safety, efficiency, and reasonability of the rates of Puerto Rico's electrical system, and to establish the guidelines, standards, practices, and processes to be followed to purchase power, modernize power plants or electric power generation facilities.³⁴ It has the power to formulate and implement strategies to achieve the energy public policy goals, including, but not limited to, attaining the goals established in the Renewable Portfolio Standard and promoting the storage of energy.³⁵ The Energy Bureau has broad authority under Act 57-2014, Act 82-2010³⁶ and Act 17-2019 to oversee the acquisition of energy resources by PREPA to help ensure that the Energy Public Policy goals are met and that PREPA's ratepayers' interests are protected.

C. Proposed Contract Evaluation

(i) Consistency with Approved IRP

The emergency generation resources contemplated in the Proposed Contract are not included in the Approved IRP, as temporary resources of this nature are not typically identified through the IRP resource planning process. However, given the temporary and emergency nature of the proposed generation and considering that its purpose is to address an unforeseen and urgent shortfall resulting from the unavailability of permanent assets, the Energy Bureau **CONCLUDES** that the Proposed Contract is consistent with the Approved IRP.³⁷

³² See Resolution and Order issued on March 19, 2025 in case *In re: Competitive Procurement for New Generation Sources*, Case No. NEPR-MI-2025-0001 ("March 19 Resolution-New Capacity").

³³ Act 57 2014 Article 6.3(a).

³⁴ *Id.*, Article 6.3(c).

³⁵ *Id.*, Article 6.3(f).

³⁶ Puerto Rico Energy Diversification Policy through Sustainable and Alternative Renewable Energy Act, as amended, ("Act 82-2010").

³⁷ As discussed further below, even under circumstances in which the use of the assets proposed in the Proposed Contract may extend beyond what is typically expected for a temporary or emergency situation, under the provisions of the Energy Public Policy adopted through Act 1-2025, the Proposed Contract is still considered consistent and does not result in an insurmountable incompatibility with the Approved IRP.



(ii) Pricing Terms

The prices established in the Proposed Contract arise from a procurement process conducted by the 3PPO under an RFP, which was not reviewed by the Energy Bureau prior to its execution. However, based on the report submitted and the proposals received -as evaluated by the Energy Bureau through PREPA's responses to the Energy Bureau's requests for information- it appears that, in general, the 3PPO followed standard procedures typical of this type of procurement process, with the objective of securing the most favorable pricing possible. Overall, the prices obtained through the Proposed Contract are deemed reasonable. Nevertheless, considering the contract structure -namely, a two-year term with two optional one-year extensions-the resulting prices are not the most favorable for ratepayers. The administrative record reflects that there are longer-term proposals that offer more favorable pricing conditions.

M The Proposed Contract establishes an all-inclusive energy fixed rate per project site of \$0.2450 per kWh for the initial two (2) year term and the first optional one (1) year extension, and \$0.2435 per kWh for the second optional one (1) year extension. However, the Energy Bureau identified, based on the documentation submitted by PREPA, that the proponent offered a version of the Proposed Contract with a ten (10) year term, which included an all-inclusive fixed energy rate of \$0.189 per kWh for the Aguirre site and \$0.203 per kWh for the Costa Sur site. The Energy Bureau finds that entering into a longer-term contract based on this proposal is likely to result in greater benefits for ratepayers. This option is particularly advantageous given that the Proposed Contract does not include take-or-pay commitments, guaranteed minimum generation hours, or fixed volume purchase obligations.

(iii) Proposed Contract Term

JM As established by the facts of this case, the initial plan contemplated the installation of certain temporary generation units for an estimated period of approximately eighteen (18) months. However, as part of the process carried out by the 3PPO, a contract term was selected that may be extended for up to four (4) years. As previously discussed, for purposes of an IRP, a temporary activity is generally defined as one that does not involve prolonged use. That analysis was conducted in Part II(B)(ii) of this Resolution and Order, and even under the Proposed Contract term of approximately four years, the Energy Bureau determined -based on the current condition and generation deficiency of Puerto Rico's electrical system- that such a term may still qualify as temporary.³⁸ This is particularly true when considering the extended timeframes typically required to develop and implement permanent generation projects. These circumstances reasonably extend what may be considered a "temporary" period under an IRP framework.

AM On the other hand, as discussed in Part II(B)(iii) of this Resolution and Order, the Energy Bureau, based on prevailing electric system conditions and the public policy changes introduced under Act 1-2025, found it necessary to require that the P3 Authority procure up to 3,000 MW of generation capacity, which may be fulfilled through any type of generation resource, provided it results from a competitive process and is offered at reasonable prices. This includes, but is not limited to, generation based on natural gas or renewable energy sources. It is further recognized that the legislative amendments enacted under Act 1-2025 have, to some extent, affected or influenced the provisions of the Approved IRP.

In light of these circumstances, and given the critical state of the electrical system, the Energy Bureau finds that extending the Proposed Contract for a term of up to ten (10) years is not inconsistent with Puerto Rico's energy public policy or with the Energy Bureau's directive set forth in the March 19 Resolution-New Capacity, provided that such extension proves beneficial to ratepayers. Moreover, it must be considered that this type of generation peaking unit supports the integration of renewable energy resources, as they can be made available during periods of renewable generation intermittency. Therefore, under the current context,

³⁸ See Part II(C)(i) of this Resolution and Order.



the Energy Bureau concludes that it is consistent with the Energy Public Policy to authorize the Proposed Contract for a term of up to ten (10) years, as long as the terms remain favorable to ratepayers.

(iv) Interconnection

The parties propose to utilize the existing interconnection infrastructure at each site, expecting to reduce the extent of interconnection work timeline and costs. That is, the parties intend to integrate the proposed temporary generation using the existing transmission infrastructure at Aguirre and Costa Sur. In addition, the design and construction of all interconnections related infrastructure shall comply with all applicable industry standards, as well as any technical requirements reasonably established by LUMA. Given this, the Energy Bureau deems that the interconnection of the proposed generation does not pose a threat to the reliability or security of the electric grid and confirms that no terms or conditions included in the Proposed Contract are contrary to -or undermine- the safe and reliable operation of the system.

(v) Certain Contractual Provisions

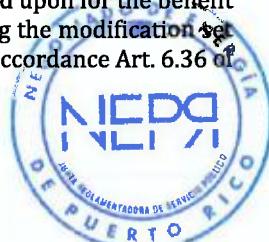
John
TM
Shawn
AM

As part of its evaluation of the contractual provisions, the Energy Bureau noted that the parties may reach more precise and accurate language for several terms of the Proposed Contract. In addition, consistency should be ensured with respect to defined terms. Any lack of clarity in the contract's terms and conditions may result in ambiguity or confusion in the interpretation or implementation of the agreement -issues which the Energy Bureau's recommendations aim to eliminate. For example, it must be clearly stated that the Provider shall be responsible for all costs required to implement the project, including, without limitation, the provision and installation of the generation units and any associated infrastructure necessary for their operation, as well as any and all interconnection costs required to place the project into service. All operational and maintenance costs associated with the project shall likewise be borne exclusively by the Provider. Furthermore, the Provider shall be solely responsible for procuring and arranging the delivery of the fuel, as well as for all costs related to the fuel used in the operation of the units. In other words, the only cost PREPA shall incur under the Proposed Contract is the payment for the energy delivered by the Provider, in accordance with the rates set forth in the Proposed Contract. For the avoidance of doubt, this recommendation does not imply that the Proposed Contract, subject to the conditions set forth below, is not hereby approved. Rather, it should be understood as a formal exhortation to the parties to produce a document that reflects the greatest possible clarity and minimizes any potential ambiguity.

III. Conclusion

After evaluating the Proposed Contract and the supporting information submitted by PREPA, the Energy Bureau finds it prudent and reasonable to approve the Proposed Contract, **subject to the parties reaching an agreement to modify the Proposed Contract to allow for a longer term and reduced price, as discussed in Part II(C)(ii) of this Resolution and Order.** That is, a ten (10) year term and an all-inclusive fixed energy rate of \$0.189 per kWh for the Aguirre site and \$0.203 per kWh for the Costa Sur site.

To the extent the parties are unable to reach an agreement to modify the Proposed Contract as preliminarily approved by the Energy Bureau through this Resolution and Order, PREPA is hereby granted a term not to exceed next **Wednesday, July 9, 2025**, to inform the Energy Bureau whether more favorable alternative conditions have been agreed upon for the benefit of ratepayers or, in the alternative, to explain the reasons why pursuing the modification set forth herein is not feasible. The Energy Bureau **WARNS** PREPA that, in accordance Art. 6.36 of Act 57-2014:



- i. noncompliance with this Resolution and Order, regulations and/or applicable laws may carry the imposition of fines and administrative sanctions of up to one hundred twenty-five thousand dollars (\$125,000) per day; and
- ii. for any recurrence of non-compliance or violation, the established penalty shall increase to a fine of not less than fifteen thousand dollars (\$15,000) nor greater than two hundred fifty thousand dollars (\$250,000), at the discretion of the Energy Bureau.

Be it notified and published.



Edison Ayvies Deliz
Chairman



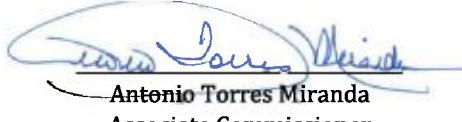
Lillian Mateo Santos
Associate Commissioner



Ferdinand A. Ramos Soegaard
Associate Commissioner



Sylvia B. Ugarte Araujo
Associate Commissioner



Antonio Torres Miranda
Associate Commissioner

CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau agreed on July 3rd, 2025. Also certify that on July 4, 2025, I have proceeded with the filing of this Resolution and Order and was notified by email to arivera@gmlex.net; lrn@roman-negron.com; legal@genera-pr.com; regulatory@genera-pr.com; RegulatoryPREBorders@lumapr.com; Emmanuel.porrogonzalez@us.dlapiper.com; laura.rozas@us.dlapiper.com; margarita.mercado@us.dlapiper.com I sign in San Juan, Puerto Rico, today, July 4, 2025.



Sonia Seda Gatzambide
Clerk

EXHIBIT 5



REQUEST FOR PROPOSAL

Emergency Temporary Power Generation RFP 3PPO-0314-20-TPG2

Issued by the Third-Party Procurement Office (3PPO)

Date Initial RFP Issued: July 15, 2025

Proposal Submissions Due: **July 25, 2025**

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Attachments

The RFP consists of the following attachments to be used for reference purposes or as part of the pre-bidding process.

1. Attachment A.1 – Scope of Supply
2. Attachment A – PowerAdvocate® Guide
3. Attachment B – Non-Disclosure Agreement
4. Attachment C – Notice of Intent to Bid
5. Attachment D – Question and Answer Form
6. Attachment E – Q&A responses previous RFP version
7. Attachment F – Purchase Agreement
8. Attachment G - PREPA Procurement Guidelines
9. Attachment G.1 - PREPA Auction regulations 8518
10. Attachment H – Restricted Parties List
11. Attachment I.1 – Specifications Aguirre Power Plant 230kV Switchyard
12. Attachment I.2 – Specifications Costa Sur Power Plant 230kV Switchyard
13. Attachment J - Health, Safety and Environmental Certifications
14. Temporary Generation - Title 3 White Paper v.Send
15. Aguirre SLD 230kV-SLD 1
16. Aguirre SLD 230kV-SLD 2
17. Costa Sur 115 kV-LBay39500
18. Costa Sur 115 kV-LBay39900
19. Costa Sur 115 kV-SLD 2s
20. 4901.001 Protection, Control, and Automation Design Criteria
21. 4751.001 LUMA Transmission Design Criteria Document & Manual
22. 4451.001 Telecom Design Criteria Document
23. 4300.001 Distribution Design Criteria Document

Exhibits

The RFP consists of the following exhibits that are to be completed by the Proponent and submitted as part of the proposal.

1. Exhibit A – Proposal Mandatory Requirements Checklist
2. Exhibit B – Statement of Qualifications
3. Exhibit C – Authorization for Background and/or Financial Information
4. Exhibit D – Certifications Affidavit Non-Conflict of Interest
5. Exhibit E – Price Proposal
6. Exhibit F – Comparable Projects
7. Exhibit G – References
8. Exhibit H - Bid Guarantee
9. Exhibit I – S/M/WB/LS Forms
10. Exhibit J – Supplier General Information
11. Exhibit K – Proposal Submission Requirements & Instructions
12. Exhibit L – Insurance Requirements

1. INTRODUCTION

1.1. Role of the Third-Party Procurement Office (3PPO)

To ensure transparency, independence, and compliance in the execution of public procurements, the Puerto Rico Public-Private Partnerships Authority (P3A), a public corporation of the Commonwealth of Puerto Rico created under Act No. 29-2009, has designated the Third-Party Procurement Office (3PPO) to manage this procurement process on behalf of the Puerto Rico Electric Power Authority (PREPA).

The 3PPO is an independent procurement entity established by P3A and operated by Regulatory Compliance Services Corp. (RECOMS) under contract with P3A. The 3PPO is responsible for overseeing and executing certain PREPA procurements to avoid or mitigate any actual or perceived organizational conflicts of interest. This includes drafting and issuing this RFP, receiving and evaluating proposals, and supporting the selection and contracting process.

This procurement for emergency power generation is being managed by the 3PPO on behalf of PREPA. Genera PR LLC is not the contracting entity for this procurement and is not acting as PREPA's agent in this process.

2. AUTHORITY AND RESPONSIBILITIES

2.1. Procurement Authority

This procurement is being conducted pursuant to the authority granted to PREPA under Act 83-1941, Act 120-2018, and Act 29-2009, and is fully compliant with applicable federal and local procurement regulations. The 3PPO, under designation by the P3A, is responsible for the managing and supporting of this RFP process, from release through contract execution.

All communications, document submissions, evaluations, and procurement-related decisions will be managed directly by the 3PPO, in coordination with PREPA and P3A, as applicable. Genera PR LLC will not have any role in evaluating proposals, determining awards, or administering the resulting contract.

2.2. Regulatory and Procedural Compliance

This RFP process is governed by applicable federal and local regulatory frameworks, including requirements set by:

- U.S. Environmental Protection Agency (EPA)
- Puerto Rico Energy Bureau (PREB)
- Puerto Rico Environmental Quality Board
- Clean Water Act, Clean Air Act
- Other applicable federal, state, and local environmental laws and standards

Additionally, proposals must comply with the competitive procurement conditions established in PREB Resolution and Order Case No. NEPR-MI-2024-0004, which mandates that all energy solutions ensure competitive pricing and receive regulatory approval. Proponents must also comply with PREB's Resolution and Order dated July 4, 2025 (Case No. NEPR-MI-2024-0005), which approves proposals to reflect up to 10-year term with an all-inclusive fixed energy rate. Solutions must connect to the existing

transmission infrastructure and include all necessary grid stabilization equipment.

3. PROPONENT'S ACKNOWLEDGEMENT

By submitting a proposal in response to this RFP, each Proponent acknowledges the exclusive authority and role of the 3PPO as described in this document and agrees to fully cooperate with the 3PPO throughout all stages of the procurement process.

To safeguard the integrity of this procurement, the 3PPO requires Proponents to disclose any actual or potential organizational conflicts of interest. Proponents must state whether they, or any team member (as a contractor, partner, or otherwise), have an organizational conflict of interest involving PREPA, P3A, Genera, RECOMS, or the 3PPO.

Proponents must also ensure that no “**Restricted Parties**” (as defined in **Attachment H**) participate in their proposal team. Restricted Parties may not be involved in any aspect of proposal development, submission, evaluation, or post-award implementation. Each Proponent is responsible for ensuring that all team members comply with this restriction.

This process is designed to preserve the independence and fairness of the procurement. The 3PPO retains full authority over the RFP process and may take corrective action, including disqualification of proposals, if conflicts of interest are not properly disclosed or addressed.

4. STATEMENT OF CONFIDENTIALITY

The Parties acknowledge that the existence and the terms of this Agreement and any oral or written information exchanged between the Parties in connection with the preparation and performance of this Agreement are regarded as confidential information. Each Party shall maintain confidentiality of all such confidential information, and without obtaining the written consent of the other Party, it shall not disclose any relevant confidential information to any third parties, except for the information that is under the obligation to be disclosed pursuant to the applicable laws or regulations, or orders of the court or other government authorities.

This document can only be used to prepare the Proposal for this RFP.

This RFP contains PREPA’s confidential and proprietary information, which is provided solely to allow the Proponent to respond to this RFP. The Proponent agreed to maintain the confidentiality of the information and to not disclose this information to any person outside the Proponent’s team directly responsible for preparing the Proposal for this RFP by signing the Non-Disclosure Agreement (“NDA”). This document can only be used to prepare the Proposal for this RFP.

Proponents must submit a signed Non-Disclosure Agreement (“NDA”) on or before the due date, as stated in RFP Timeline. The NDA is included as **Attachment B – (Non-Disclosure Agreement)**. Proponents will submit the signed NDA via PowerAdvocate® through the Messaging tab of the RFP event. The NDA will not be accepted if sent via any other method not specified herein.

5. RFP BACKGROUND

Over the past decade, Puerto Rico has experienced severe natural disasters, including Hurricanes Irma, María, and Fiona, and the 2020 earthquakes, which caused widespread

destruction to infrastructure, property, and the power grid, leading to prolonged island-wide blackouts. In response, the federal government issued major disaster declarations (e.g., FEMA DR-4339-PR and DR-4473-PR), enabling assistance through FEMA, HUD, and other federal agencies. These recovery efforts include support for temporary generation units, authorized for use through December 2027.

As recovery efforts continue, PREPA and its agent Genera, in coordination with COR3, aim to develop a more efficient and reliable generation system by diversifying fuel supply types and delivery modes. Currently, key generation units totaling 1,846 MW are out of service, and the system's estimated available capacity of 2,800 MW falls short of the projected 3,200 MW summer peak demand. Without restoration of these units, Puerto Rico may face energy shortfalls.

Some of the work to be performed under this RFP, like the interconnection (but not necessarily limited to the interconnection) might be eligible for federal funding. The 3PPO will ensure all work under this RFP that are eligible for FEMA Public Assistance are conducted in full compliance with all applicable federal and local regulations. Qualified firms must hold required licenses and demonstrate compliance with programs such as FEMA PA, HUD CDBG-DR, DOE grid resilience, DOT emergency relief grants, and others. Adherence to safety standards (OSHA), environmental regulations (EPA, DERA), and federal laws (e.g., Jones Act) is mandatory.

Contracts awarded under this RFP will be governed by the laws of the Commonwealth of Puerto Rico and applicable U.S. federal law, including compliance with 2 C.F.R. Part 200 and other conditions tied to federal funding.

6. PURPOSE OF THE RFP

The purpose of this RFP is to identify one or more eligible proponents capable of delivering a turnkey emergency power generation solution through a temporary interconnection. The proposed solution must be resilient to adverse weather conditions and extreme climate events. Therefore, proponents must present in their proposal a clear demonstration of the expected downtime, if any, in the event of a hurricane or other critical incident. This will allow us to assess how quickly power generation can be restored.

The proposed solution must primarily be land-based and provide a combined generation capacity of up to 800 MW. This includes up to 400 MW at 230 kV and 60 Hz at the Aguirre site, up to 200 MW at 115 kV and 60 Hz at Costa Sur, and an additional 200 MW at 115 kV or 230 kV at an alternative site, if available. The solution also contemplates floating power generation units (barges) as part of the overall capacity strategy.

Proponents must also present a complete interconnection plan, detailing solutions for integrating the power generation system into the existing transmission infrastructure. **(Refer to Attachment I.1 & I.2)**

Proponents should submit pricing based on a price per kWh. However, all associated costs related to interconnection, mobilization, and demobilization must be clearly itemized. **Interconnection costs, mobilization costs, and demobilization costs should be presented separately but must be included in the per kilowatt hours pricing.** The interconnection process will be executed in coordination with Luma and Genera.

As part of the interconnection plan, proponents must submit a **detailed list of equipment and materials to be used for interconnection with their cost**. This list should specify the components required to ensure proper integration with the existing transmission system.

For evaluation and negotiation purposes, proponents must prepare their price proposals by separately itemizing the costs for Costa Sur, Aguirre, and any additional alternative site, if applicable, in accordance with the format provided in **Exhibit E – Price Proposal**.

A detailed schedule must be provided, ensuring that the project achieves full commercial operation no later than **60-90 days from contract signature**.

Proposal must include the following:

a. Temporary Grid Integration:

Project must ensure that interconnection solutions are tailored to existing grid capabilities.

Coordination with system operators is crucial to facilitate a seamless connection.

b. Weather Resilience:

Land-based and barge power solutions must be designed to withstand hurricane-force winds, storm surges, and severe weather conditions. The proposal must clearly specify the engineered resilience of the proposed solution, including structural, mechanical, and mooring systems (for barges) capable of withstanding extreme weather events. **As part of the proposal, proponents must include a Weather Mitigation Plan outlining the measures in place to prepare for, respond to, and recover from major weather events. This plan must address both land-based and barge-specific vulnerabilities.**

Location Feasibility:

- Proposed land-based and barge power generation solutions, including those that may incorporate battery energy storage systems, must undergo a site assessment. For barges, this includes mooring site suitability, proximity to interconnection points, navigational access, and environmental impact considerations.
- The assessment should evaluate the physical space required for all equipment, including generators, transformers, batteries (if applicable), fuel storage, and access roads.
- Proponents must also consider the proximity to existing electrical infrastructure for interconnection purposes.
- In addition, the assessment must include an initial review of potential environmental impacts, such as emissions, noise, land use restrictions, and risks to nearby water sources or protected areas.

c. Fuel Supply and Cost Structuring:

- The cost must be presented as a **turnkey solution**, with all costs related to power generation, including fuel, established on a price-per-kWh basis. However, mobilization and interconnection costs must be presented separately and independently but included in the total kW/h pricing. A clear separation of these costs (interconnection, mobilization, etc.) ensures transparent financial planning and prevents the misallocation of expenses within the hourly rate.
- Electrical Infrastructure – Step-Up Transformer and Protection Systems:
 - .1 The proposal must include a main step-up power transformer to match generation output with the interconnection voltage level.
 - .2 Appropriate protection and control systems must be provided to safeguard both generating equipment and the utility grid, including relays, breakers, and surge arrestors.

d. Schedule:

- Time is a critical factor in the successful execution of this project. The proposal must include a detailed and realistic project schedule that demonstrates the proponent's ability to complete the scope of work within the timeline established in this RFP.

The proposal must include a detailed mobilization and power generation supply schedule. This schedule should detail all activities leading to full operational readiness in 60-90 days, as required by this RFP. This includes, but is not limited to, logistics planning, transportation and delivery timelines, on-site setup, equipment testing, and commissioning.

7. CONTRACT TERM

The Purchaser intends to award one or more Contract(s) as a result of this RFP. PREPA anticipates awarding the resulting contract up-to **Ten (10) years** from the effective date of the contract, as required by the Puerto Rico Energy Bureau's Resolution and Order dated July 4, 2025 (Case No. NEPR-MI-2024-0005). The contract term shall be non-renewable and must reflect an **all-inclusive fixed energy rate** for the full duration of the agreement. The award will be subject to the Proponent's compliance with all regulatory requirements, the availability of funds, required authorizations, and approval by the Financial Oversight and Management Board (FOMB), same as with the Puerto Rico Energy Bureau's (PREB).

A model of the contract, excluding service descriptions and associated pricing details that will be determined during the contracting phase, will be included with this RFP as **Attachment F-Purchase Agreement**, which provides details on submission requirements related to the Model Contract. The Proponent must comply with the Terms & Conditions of PREPA's Contract. PREPA reserves the right to replace or modify the Model Contract included with this RFP at any time.

8. FUNDING SOURCE

Funding for this contract shall be sourced from the Puerto Rico Electric Power Authority (PREPA)'s self-generated revenues as a public corporation and may be supplemented by available or future Federal funds designated for energy infrastructure resilience and recovery. The disbursement of funds is subject to applicable local and federal laws, regulations, and RFP conditions.

9. PROPOSAL SUBMISSION INSTRUCTIONS

Proponents must submit their proposals through the PowerAdvocate® platform. Proposals submitted after the deadline, via the Messaging tab, or that are incomplete will be disqualified. No extensions will be given to individual Proponents, although time extensions may be granted to all if necessary. All document submissions must follow the guidelines detailed in **Exhibit K-PROPOSAL SUBMISSION REQUIREMENTS & INSTRUCTIONS**, and Proponents are responsible for ensuring that documents are fully uploaded before the closing date and make sure all the Mandatory Required Documents have been uploaded as per **Exhibit A – Proposal Mandatory Requirements Checklist**. The RFP process does not create any legal relationship until a final agreement is negotiated and signed, and proposals must remain valid for 180 days from the submission date. All costs related to the RFP are the Proponent's responsibility. Technical support is available through PowerAdvocate®.

The **PowerAdvocate® guide** is included as **Attachment A** of this RFP. For technical assistance with the sourcing platform application please contact PowerAdvocate®'s technical support at (857) 453-5800, or by email at: support@poweradvocate.com.

10. RFP TIMELINE

The following schedule provides the key dates of the RFP process. **Please note that the RFP Timeline includes target dates that are subject to change**. It is the sole responsibility of Proponent to monitor PowerAdvocate® for updates to the RFP Timeline.

No.	Milestone	Targeted Date
1	RFP Released to Public	Tuesday, July 15, 2025
2	Q&A Period Deadline, & Signed Confidentiality Submission Due Date	Friday, July 18, 2025
3	Q&A Answers Period Deadline to question(s) submitted	Monday July 21, 2025
4	Notice of Intent to Bid	Tuesday, July 22, 2025
5	Proposal Submission Due Date	Friday, July 25, 2025
6	PREPA and/or 3PPO to issue Notice of Intent of Award to Selected Proponent*	Thursday, July 31, 2025
7	PREPA and/or 3PPO to sign contract with Selected Proponent**	August 8, 2025

3PPO and PREPA will not consider Proposal submissions that Proponents fail to completely upload by the time and date corresponding to the “**Proposal Submission Due Date**” in the column captioned “Targeted Date” of the table above, as applicable. Proponents are encouraged to allow enough time to upload their documents and to confirm that the files are available for PREPA’s review.

****This date is an estimate, and the 3PPO will communicate the award decision at its earliest convenience.***

***** This date is an estimate, and the Contract will be signed when all terms are negotiated and accepted by both parties.***

Proposal submissions that have not been completely uploaded by the Proposal Submission Date, will not be considered. Proponents are encouraged to allow enough time to upload their Proposals and to confirm that the files are available for the 3PPO and/or PREPA’s review.

10.1. Question & Answer Period

Note that a Proponent may submit question(s) to the 3PPO for explanation or interpretation of any matter contained in this RFP through the **Question and Answer (“Q&A”)** period. Proponents should submit each question in the Q&A form included in **Attachment D** via PowerAdvocate® through the Messaging tab.

Proponents must submit their questions in the Q&A form included in **Attachment D – (Questions and Answers Form)**. This document must be submitted in Microsoft Excel format and each question must reference the RFP page number, section of the RFP document, RFP Attachment, or section of the model contract. No questions will be accepted after the deadline provided in the above schedule or in any form not specified herein.

The responses to the questions will be provided to all potential proponents through PowerAdvocate® on the timeline specified in the RFP Timeline. Questions from Proponents must not contain proprietary information because the questions and answers may be published in the public domain. Please note that the 3PPO and PREPA do not guarantee answers to all questions or comments received. Be advised that improperly submitted questions may be rejected.

If responses to the questions require a modification or additions to the original RFP, the 3PPO will issue an Addendum posted on PowerAdvocate®. If Proponent has already submitted its Proposal, or any part thereof, to the 3PPO before the issuance of an Addendum, Proponent may submit a revised Proposal by the Proposal Submission Date and Time, and in appropriate cases the 3PPO may extend the Proposal Submission Date and Time.

11. EVALUATION METHODOLOGY AND SELECTION PROCESS

The Committee members will independently evaluate each response and assign a score for each criterion. The scores and criteria weight will be used to calculate Quality Points for each Proponent. The Quality Points will be calculated for each proposer by multiplying the Evaluator’s rating for each evaluation criterion times the weight for the corresponding criteria.

Each Proposal that meets all submission criteria requirements will be independently reviewed and evaluated by an Evaluation Panel formed of a cross-functional team of Subject Matter Experts. The Evaluation Panel will consider the evaluation criteria specified under the table below to perform their evaluations.

Proponent must comply with all in Exhibit K – PROPOSAL SUBMISSION REQUIREMENTS & INSTRUCTIONS- WRITTEN CONTENT REQUIREMENTS.

Criteria Category	Overall Weighting %
Experience and Capacity	20%
Approach to Services Fulfillment	10%
Approach to Power Generation Solutions	10%
Pricing	30%
Schedule	30%

12. COMMUNICATIONS

All communications regarding this RFP must be made through the Messaging tab of PowerAdvocate®.

Neither Proponent nor any Proponent team members, nor any of their respective advisors, employees, or representatives may contact or attempt to contact, either directly or indirectly, at any time during the RFP process, any of the following persons on matters related to this RFP process, the RFP documents, or the Proposals: (a) the 3PPO, or its employees, representatives, or advisors (other than the 3PPO Project Manager); and (b) PREPA or P3A employees, representatives, or advisors.

12.1. Prohibited Communications During the Blackout Period

The blackout period is a specified period during a competitive procurement process in which any Proponent, bidder, or its agent or representative, is prohibited from communicating with 3PPO, PREPA or P3A employee or PREPA contractor involved in any step of the procurement process about the solicitation. The blackout period applies not only to the P3A, 3PPO or PREPA employees but also to any current contractor of PREPA. "Involvement" in the procurement process includes but may not be limited to project management, design, development, implementation, procurement management, development of specifications, and evaluation of proposals for a particular period.

All communications to and from potential Contractors and/or their representatives during the blackout period must be in accordance with the RFP's defined method of communication with the Designated Procurement Representative. The blackout period begins on the date that the 3PPO first publishes this RFP and will end after the dispute period has passed.

In the event a Proponent may also be a current 3PPO or PREPA Contractor, PREPA employees and said Proponent may contact each other with respect to their existing contract and duties only. Under no circumstances may any individual involved in the evaluation or

review of proposals, other than the 3PPO's designated Procurement Representatives discuss this RFP, the corresponding procurement process, or its status with potential Proponents.

Proposals must be submitted with no connection to, knowledge of, information comparison, or arrangement with other Proponents, including their directors, officials, employees, consultants, advisers, agents, or representatives.

Any Proponent who violates the blackout period may be excluded from the awarding contract and/or may be liable to the 3PPO or PREPA in damages and/or subject to any other remedy allowed under the law.

All communications must be in the English language.

12.2. Notice of Intent to Bid

Proponents must confirm their intent to submit a proposal in response to this RFP by submitting to the PPO a completed version of the form set forth in **Attachment C – (Notice of Intent to Bid)**. The completed form must be submitted through the Messaging tab in PowerAdvocate® on or before the deadline for submission set forth in RFP Timeline. Proponent will not be considered after the submission date. Proposals from Proponents who fail to timely submit a Notice of Intent to Bid will be disqualified from evaluation. Please note that any notice to intend to bid not submitted via **Attachment C** will not be considered as such.

12.3. Proposal Errors, Omissions, and Modifications

A Proponent may modify or withdraw its Proposal at any time before the due date (closing date in PowerAdvocate®) as established in the RFP Timeline. All modifications must be made in writing and will be submitted in the same manner as the original Proposal per the terms of this RFP. The Proponent must submit its modified Proposal along with a cover letter with the modified RFP and must include Proponent's name, contact information, mailing address, submission date, modification number, and the Project Title. Timely withdrawal of a Proposal does not preclude Proponent's right to submit another Proposal provided the new Proposal is submitted by the due date. Notice of withdrawal may be provided before the due date of RFP proposal submissions, in writing, through the Messaging tab, or by deleting the uploaded Proposal documents from the event before the closing date of the RFP.

3PPO and PREPA reserves the right to waive minor discrepancies in proposals. A "minor discrepancy" is a defect or error which does not materially affect the deadlines or process for submitting proposals, or the price, quality, quantity or delivery schedule of the goods or services being procured. Purchaser will not allow any one Proponent to clarify or submit additional information after the Submission Due Date of this RFP without providing equal opportunity to all Proponents to clarify or submit additional information.

12.4. Ownership of Proposals

All materials submitted in response to this RFP must become the property of PREPA. Selection or rejection of a submittal does not affect this provision.

12.5. Non- Binding Nature and Validity of Proposal

The procurement process is not intended to create and must not create a formal legally binding bidding process and must instead be governed by the laws applicable to direct commercial negotiations. For greater certainty and without limitation: (a) the RFP must not give rise to any legal obligations; and (b) neither the Proponent nor the 3PPO and PREPA must have the right to make any breach of contract, tort, or other claims against the other concerning the award of a contract, failure to award a contract or failure to honor a response to the RFP.

The RFP process is intended to identify prospective proponents to negotiate potential agreements. No legal relationship or obligation regarding the procurement of any good or service must be created between the Proponent and the 3PPO or PREPA by the RFP process until the successful negotiation and execution of a written agreement for the acquisition of such goods and/or services.

Proponent must submit a proposal that is valid for no less than one hundred and eighty (180) days.

13. RESERVATION OF RIGHTS

The 3PPO and PREPA reserves the right to withdraw or modify this RFP at any time. The decision to select a Proponent for further negotiation and discussion by the 3PPO and/or PREPA is contingent upon PREPA's sole determination, acting in its discretion, that it is in the best interests of PREPA to select such Proponent, in whole or in part, based upon any factors the 3PPO and/or PREPA determines are relevant, which include price and may include but are not limited to compliance with specifications; ability to carry out the work; quality and adaptability of the materials, goods, equipment, or services offered; financial responsibility; expertise; experience; reputation of business integrity; safety; and the dates for the delivery or performance offered, etc. The 3PPO and/or PREPA will use all reasonable efforts to indicate to a Proponent in writing that it has been selected to enter into negotiations. If 3PPO and/or PREPA and the selected proponent(s) fail to agree on contract terms, the 3PPO and/or PREPA may conduct negotiations with the next most qualified proponent. The 3PPO and/or PREPA will use all reasonable efforts to communicate its award determination in writing to all Proponents that submitted Proposals.

PREPA reserve the right to award the contract to other than the lowest-priced Proposal. The 3PPO and/or PREPA reserves the right, in its discretion, to disqualify any Proposal that does not comply with or meet the requirements set out in the RFP. Additionally, PREPA reserves the right to grant more than one Contract and/or select more than one qualified Proponent, to award all or any of the services required in the RFP.

The 3PPO and PREPA also reserve the right, without limitation to:

- Transfer responsibility for completing the procurement process begun by this RFP from the 3PPO to PREPA.
- Waive minor discrepancies in a Proposal that do not materially affect the deadlines or process for submitting proposals, or the price, quality, quantity or delivery schedule of the

goods or services being procured.

- Reject any proposal that does not meet the mandatory requirements of this RFP as per **Exhibit A- Proposal Mandatory Requirement Checklist**, including but not limited to incomplete proposals and/or proposals offering alternate or non-requested services.
- Cancel this solicitation and reissue the RFP or another version of it if it is considered that doing so is in the public's best interest.
- To reduce, adjust or increase contracted power generation and service without prejudice or liability, if:
 - Funding is not available.
 - Legal restrictions are placed upon the expenditure of monies for this category.
 - PREPA's requirements in good faith change after the award of the contract.
- Issue an award to more than one Proponent based on ratings.
- To require additional information from all Proponents to determine responsibility levels.
- To contact any individuals, entities, or organizations that have had a business relationship with the Proponent.
- To contract with one or more qualified Proponents as a result of the selection of qualified Proponents or the cancellation of this RFP.
- This RFP process does not constitute a commitment by the 3PPO nor PREPA to award the RFP and execute a contract.

14. PROPOSAL CLARIFICATION REQUESTS

The 3PPO and PREPA reserves the right, at any time, whether prior to or after the preparation of the list of short-listed Proponents (if applicable), to request that any one or more Proponents clarify their Proposal in accordance with these RFP instructions. Without limiting the generality of the foregoing, the 3PPO or PREPA may request clarification where any one or more Proponent's intent is unclear (including where there is an irregularity or omission in the information or documents provided by Proponents in their Proposals). The 3PPO or PREPA may, at its discretion, choose to meet with one, some, or all Proponents to clarify any aspects of their Proposals. The 3PPO or PREPA may require Proponents to submit supplementary documents clarifying any matters contained in their Proposals, or the 3PPO or PREPA may prepare a written interpretation of any aspect of a Proposal (including meeting minutes) and seek the respective Proponent's acknowledgment of that interpretation.

15. RIGHT TO REJECT PROPOSAL

The entity with responsibility for overseeing the procurement process reserves the right, at its discretion, to reject and not review any Proposal which does not comply with or meet the requirements set out in the RFP.

The entity with responsibility for overseeing the procurement process will evaluate proposals consistent with the criteria and procedures established in this RFP and reserves the following rights, at its discretion to:

- reject or select a Proponent for negotiations or submission of a BAFO.
- request clarifications or enter into discussions or negotiations in respect of the services with one or more Proponents or their respective partners, consortium members, or joint venturers.
- enter into one or more agreements for the supply or performance of all or any part of the services with one or more Proponents or their respective partners, consortium members, or joint venturers, , for the purpose of obtaining the best agreement possible for all or any part of the services that The entity with responsibility for overseeing the procurement process, in its discretion, deems to be in PREPA's best interests;
- discuss the terms of a Proposal submitted by a Proponent for the purposes of clarification and negotiation, consistent with the terms and conditions of this RFP and any amendments thereto.
- cancel all or any portion of this Proposal process at any time, without prior notice to Proponent, and procure the services, or any portion of the services, by some other means; and
- enter into a contract (including a contract that is substantially the same as the contract model) in respect of the services, or a portion or portions thereof, with any other third parties.

16. SELECTION OF PROPOSALS FOR NEGOTIATIONS

16.1. Selection Process for Negotiations:

16.1.1. The entity with responsibility for overseeing the procurement process 3PPO or PREPA will, acting at its discretion and following the submission deadline, select one or more Proponents to enter negotiations with the 3PPO or PREPA. The entity with responsibility for overseeing the procurement process 3PPO or PREPA will use all reasonable efforts to indicate to a Proponent in writing that it has been selected to enter into negotiations.

16.1.2. At the discretion of the entity with responsibility for overseeing the procurement process, the selection process may occur in multiple stages, and Proponents not initially selected may be invited to enter negotiations with the entity with responsibility for overseeing the procurement process following the commencement of negotiations with other Proponents.

16.1.3. The entity with responsibility for overseeing the procurement process may elect to award no contracts in response to this RFP, to award a single contract, or award multiple contracts for the same or similar supplies or services under this solicitation.

16.2. Negotiation of a Final Agreement

16.2.1. The entity with responsibility for overseeing the procurement process will enter into negotiations with one or more selected Proponents. In the event negotiations commence with more than one selected Proponent, such negotiations will be concurrent. The 3PPO or PREPA will provide each of the selected Proponents with any additional information and may seek further information and Proposal improvements from each of the selected Proponents.

16.2.2. Following the negotiations, each of the selected Proponents may be invited to revise its initial Proposal and submit its best and final offer ("BAFO") to the entity with responsibility for overseeing the procurement process.

16.2.3. The BAFO of each of the selected Proponents will be evaluated against the same criteria as the initial Proposals submitted by the selected Proponents. The top-ranked Proponent may then be selected to enter into a final round of non-binding discussions and negotiations to determine the possibility of PREPA and such Proponent entering into a final written agreement for the provision of all, or part of, the services. Any such final agreement will be based on the contract model **Attachment F- Purchase Agreement**. The terms of the contract model may be materially altered as a result of the above discussions, negotiations, changes, amendments, or modifications with the successful Proponent.

16.2.4. The entity with responsibility for overseeing the procurement process reserves the right, at its discretion, to identify one or more successful Proponents who will enter into a final round of non-binding discussions and negotiations to determine the possibility of PREPA and such Proponent entering into a final written agreement for the provision of all, or part of, the services as a result of those negotiations.

16.2.5. PREPA, the 3PPO and P3A will incur no liabilities to any Proponent as a result of, or arising from, a failure to enter into a final written agreement in relation to the services.

16.2.6. The entity with responsibility for overseeing the procurement process reserves the right, in its discretion, to choose not to engage in the BAFO process and to proceed to enter into direct negotiations with the top Proponent.

16.3. Non-Selection of a Proponent

The entity with responsibility for overseeing the procurement process will use reasonable efforts to notify an unsuccessful Proponent if it has yet to be initially selected for negotiations. If Proponent is unsuccessful, it agrees that by submitting a Proposal, it will not have a claim for, and hereby irrevocably, absolutely and finally releases PREPA, P3A, and the 3PPO from any breach of procedural fairness, including where the terms of any final agreement differ from those in the contract model (whether materially or otherwise) that will be included in the RFP.

16.4. PREPA's Discretion to Select Proponents

The decision to select a Proponent for further negotiation and discussion is contingent upon the determination, acting in its discretion, by the entity with responsibility for overseeing the procurement process that it is in the best interests of PREPA to select such Proponent, in

whole or in part, based upon the evaluation criteria in this RFP.

17. CONFIDENTIALITY OF RESPONSES & PROPRIETARY INFORMATION

Any contract(s) resulting from this RFP will be entered into between the Proponent(s) and PREPA – an instrumentality of the Commonwealth of Puerto Rico. As such, they are public contracts. Further, the costs incurred under any contract(s) resulting from this RFP are expected to be submitted to the Federal Government for reimbursement. Accordingly, upon completion of the RFP process, all documents regarding the procurement and selection process may be released publicly or to Commonwealth or Federal grant awarding agencies.

To facilitate compliance with information laws and federal oversight requirements, if a Proponent submits trade secrets or other confidential commercial information in its Proposal, Proponent must also submit a redacted copy of their Proposal. The redacted copy must include a written explanation of why any redacted information is confidential or proprietary, including why the disclosure of the information would be commercially harmful, specifically refer to any legal protection currently enjoyed by such information and why the disclosure of such information would not be necessary for the protection of the public interest, and request that the documents so labeled be treated as confidential by PREPA.

PREPA reserves the right to make public the redacted copies of the Proposals at the conclusion of the RFP process. If a redacted copy is not submitted by a Proponent, PREPA will assume that the original copy of the Proposal can be made public. Proposals containing substantial content marked as confidential or proprietary may be rejected. Provision of any information marked as confidential or proprietary must not prevent PREPA from disclosing such information if required by law or the requirements of any Federal grant agreement applicable. The executed contract(s), if any, and all prices set forth therein must not be considered confidential or proprietary, and such information may be made publicly available.

- i. Proposals submitted in response to this RFP may contain proprietary information, and employees must maintain the confidentiality of such information, sharing it only on a need-to-know basis.
- ii. Employees with information about the weighting of evaluation criteria, the evaluation of Proponent proposals, and the selection of Proponents must maintain that information in confidence. That information may not be shared with anyone outside of the 3PPO or P3A. That information may not be shared with other employees who do not have a bona fide need to know. Nothing in this RFP, including this section regarding confidentiality, is intended to restrict cooperation with audits or internal reviews by the Puerto Rico Comptroller's Office, P3A, or in the case of federal grants, the federal awarding agency, the Puerto Rico entity serving as a pass-through entity, or the Comptroller General of the United States.

18. CONFLICT(S) OF INTEREST

To avoid or mitigate the risk of actual or perceived Organizational Conflicts of Interest (OCI), the Third-Party Procurement Office ("3PPO") has issued and is administering this RFP. If any Covered Party is identified as a Proponent or team member, the 3PPO will retain full

responsibility for managing the procurement process to ensure fairness and prevent any risk of preferential treatment or undue influence.

If no such conflicts are identified during the procurement process, the 3PPO reserves the right to transition post-award responsibilities, including contract administration and monitoring, to the appropriate public entity, provided that doing so does not present any risk of real or apparent conflict of interest.

Selected Proponents awarded a contract through this RFP will be prohibited from representing or advising other Proponents in matters before the relevant public entity for the duration of the contract, except for activities specifically assigned under the terms of the awarded agreement.

An apparent conflict of interest is any existing relationship or situation that would lead a reasonable person to believe that a Covered Party's judgment may be impaired due to a financial or other interest in, or benefit from, a procurement decision or contract award. A Covered Party includes any parent company, affiliate, or subsidiary of the public entity overseeing the contract.

The Proponent certifies that:

- None of its representatives are currently employed by or receiving compensation from any government agency, public corporation, or municipality of Puerto Rico.
- No Puerto Rico government employee has a personal or financial interest in the Proponent's submission.
- It may hold service contracts with other Puerto Rico public entities, but those relationships do not present a conflict of interest related to this procurement.
- To the best of its knowledge, it holds no other contractual relationships that would constitute a conflict of interest or contravene public policy.

Proponents acknowledge their duty of ethical conduct throughout the procurement process and during contract performance. This duty includes avoiding any actual, potential, or perceived conflicts of interest, including:

- Representing clients with interests adverse to the public entity in connection with the services to be performed (if applicable).
- Engaging in conduct that violates applicable professional ethics rules or legal obligations.
- Seeking or granting to any public employee, official, or agent any benefit, advantage, or undue influence relating to this procurement.

Proponents agree to avoid even the appearance of a conflict of interest. Any appearance of conflict may constitute sufficient grounds for rejection of the proposal or cancellation of the awarded contract if not promptly addressed to the satisfaction of the oversight authority.

The Proponent has a continuing obligation to disclose to the 3PPO any actual, potential, or perceived conflict of interest or relevant third-party relationship that may arise in connection with this RFP or any resulting contract.

18.1. Organizational Conflict of Interest

Proponents, including Covered Affiliates, as defined in this RFP, are responsible for disclosing any actual or apparent Organizational Conflict of Interest ("OCI") at the earliest reasonable time before, during, and after the procurement process. In addition, contractors must notify the

3PPO and PREPA promptly if an actual or apparent OCI arises, including an interest in subcontracting with any Covered Affiliate. Not complying with any of the requirements could result in penalties that may include disqualification, cancellation of an award, or termination of the contract.

An Organizational Conflict of Interest Avoidance and Mitigation Plan (“OCIAMP” or “Plan”) has been adopted to reflect best practices for identifying, avoiding, mitigating, reporting, neutralizing, and managing actual or apparent organizational conflicts of interest (OCI) in connection with this procurement. The purpose of the OCIAMP is to ensure a fair and transparent procurement process for all Proponents competing for contracts, and to prevent any form of preferential treatment. The Plan is designed to ensure that all contracts are awarded and administered using arms-length procedures, and that all goods and services acquired provide best value at fair and reasonable prices.

19. NO LOBBYING, NO COLLUSION, & NO PROHIBITED ACTS

Neither the Proponent nor any member of their team, including their respective directors, officers, employees, consultants, agents, advisers, or representatives (as it relates to the project or RFP), is allowed to participate in any way or in any type of political or other lobbying; nor can they communicate in any way with any representative of the Evaluation Committee or any 3PPO or PREPA employee, including any Restricted Party such as any director, officer, employee, agent, advisor, staff member, consultant, or representative of any of the aforementioned parties, as applicable, for any purposes, including, but not limited to:

- to comment or try to influence the opinion on the merits of a Proposal or in relation to the Proposal of another Proponent.
- to influence, or to try to influence, the result of the RFP phase or the competitive selection process, including the review, evaluation, and classification of the Proposals, the selection of the selected Proponent, or any negotiation with the selected Proponent.
- to promote their interests or those of the Proponent in the project, including the interests of another Proponent.
- to criticize or comment on aspects of the RFP, the competitive selection process, or the project, in any way that can give a competitive advantage or any other advantage to the Proponent over other Proponent; and,
- to criticize the Proposal of another Proponent.

The Proponent or members of its team must not discuss or communicate, directly or indirectly, with any other Proponent, or any director, officer, employee, consultant, adviser, agent, or representative of any other Proponent, including any member of the team of any other Proponent, regarding the preparation, content, or representation of their Proposals. Proposals will be submitted without any connection (for example, arising from an interest in or from a Proponent or member of a Proponent’s team), knowledge, comparison of information, or arrangement, with any other Proponent or any director, officer, employee, consultant, advisor, agent, or representative of any other Proponent, including any member of the team of any other Proponent. To ensure this, all potential Proponents must sign and accept a Confidentiality Agreement prior to having access to any of the documents that have been

selected to be protected through the Confidentiality Agreement. The violation of the agreements and instructions included in this section will be enough cause for the rejection of the Proponent's participation in this RFP. The 3PPO and PREPA also reserve the right to separate and eliminate definitively the Proponent from PREPA's Registry of Suppliers; this, in addition to the legal and financial sanctions which may be imposed as a result of one or several of the violations previously mentioned.

20. HEALTH, SAFETY & ENVIRONMENTAL REGULATIONS

Proponent must comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, 42 USC 7401, and the Federal Water Pollution Control Act, 33 USC 1251, and other appropriate requirements of Environmental Protection Agency Regional Office. Also, the contractor must comply with the Safety and Health Regulations 29 CFR 1926 and 29 CFR 1910, and other appropriate requirements of the Occupational Safety and Health Regional Office (PROSHA) and Federal Office (OSHA). Refer to **Attachment J - Health, Safety, Environmental and Historical Requirements**

21. SUSPENSION, DEBARMENT, & INELIGIBILITY

Federal regulations restrict PREPA from contracting with parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities, where the contract is funded in whole or in part with federal funds. Proponents must submit a certification of Suspension or Debarment Status to this RFP by submitting to the 3PPO or PREPA a completed version of the form set forth in **Exhibit D – (Certifications Affidavit.)**

Accordingly, a contract or subcontract must not be made with any parties listed on the SAM Exclusions list. SAM Exclusions is the list maintained by the General Services Administration that contains the name of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under certain statutory or regulatory authority. Proponents can verify their status and the status of their principals, affiliates, and subcontractors at www.SAM.gov. A copy of their current status should be submitted with their Proposal.

22. RIGHT TO REQUEST REVIEW

At any time, the 3PPO may transfer the procurement process to PREPA, and PREPA may assume responsibility for managing and administering the procurement process, to include evaluation, contract award and post-award contract administration.

22.1 Disputes prior to Contract Award

- i. Disputes regarding restrictive specifications or alleged improprieties in the competitive process must be submitted in writing five (5) business days prior to the closing date for receipt of Proposals. If the written dispute is not received by the time specified, the award may be made in the normal manner unless the 3PPO or PREPA, upon investigation at its discretion, finds that remedial action is required, in which event such action should be taken. Oral protests not followed by a written dispute will be disregarded.
- ii. The 3PPO shall consider the request for reconsideration within thirty (30) business

days from filing, unless the 3PPO notifies the disputing party that additional time is needed to prepare a final decision.

iii. All requests for reconsideration shall be made in writing, in a searchable Adobe Acrobat PDF document and shall include:

1. The title and number of the solicitation under which the request reconsideration is made;
2. Full name, electronic address and phone number of the disputing party, including contact information for a representative of the disputing party with whom the 3PPO/ PREPA may correspond regarding the dispute;
3. A detailed description of the specific grounds for the request and all supporting documentation; and,
4. The specific ruling or relief requested.

iv. All requests for reconsideration shall be submitted electronically to:

3PPO Legal Department at: procurement@recomspr.net

v. Notice of a dispute and the basis therefore, will be given to all Proponents who have a reasonable prospect of receiving an award. In addition, when a dispute against the making of an award is received, and the 3PPO or PREPA determines to withhold the award pending disposition of the dispute, the Proponents who are eligible for the award may be requested (prior to the expiration of the time for acceptance of their Proposals) to extend the time for acceptance (with the consent of sureties, if any) to avoid the need for re-advertising. The 3PPO or PREPA will provide a written response to each material issue raised in the written dispute.

vi. Where a written dispute against the making of an award is received in the time specified, the award will be held until the resolution of the dispute. However, the 3PPO and PREPA reserve the right to proceed with appropriate action in the procurement process when:

- The subject goods or services are urgently required;
- The 3PPO or PREPA determines the dispute was vexatious or frivolous; or
- Where the performance of the work will be unduly delayed, or other undue harm will occur by failure to make a prompt award.

When the award is made the 3PPO or PREPA will document the file to explain the need for an award and will give written notice of the decision to proceed with the award to the disputing party and, as appropriate, to others concerned.

22.2 Disputes after Contract Award

i. Any Proponent adversely affected by a contract award may submit a written request for reconsideration to the 3PPO no later than five (5) business days from the Notice of Award

Date. Any dispute received after the applicable deadline will not be considered.

- ii. The mere submission of a request for reconsideration will not paralyze the adjudication of the contested contract award.
- iii. The 3PPO, shall consider the request for reconsideration within thirty (30) business days from filing, unless the 3PPO notifies the disputing party that additional time is needed to prepare a final decision.
- iv. All requests for reconsideration shall be made in writing, in a searchable Adobe Acrobat PDF document and shall include:
 1. The title and number of the solicitation under which the request reconsideration is made;
 2. Full name, electronic address and phone number of the disputing party, including contact information for a representative of the disputing party with whom the 3PPO may correspond regarding the dispute;
 3. A detailed description of the specific grounds for the request and all supporting documentation; and,
 4. The specific ruling or relief requested.

- v. All requests for reconsideration shall be submitted electronically to:

3PPO Legal Department at: **procurement@recomspr.net**

EXHIBIT 6

Emergency Temporary Power Generation
RFP 3PPO-0314-20-TPG

ADDENDA# 1
Readiness to Perform and Executed Agreements Requirement

DATE OF ADDENDA: 7/15/2025

All Proponents:

This Addendum is issued to formally amend the RFP No. 3PPO-0314-20-TPG2 – *Emergency Temporary Power Generation*, by adding the following mandatory requirement:

Readiness to Perform and Executed Agreements Requirement

In order to be considered under this RFP, Proponents must demonstrate that they are prepared to immediately mobilize and perform the scope of work upon contract award. Accordingly, Proponents shall submit evidence of fully executed and binding contracts or agreements with their key suppliers, Engineering, Procurement, and Construction (EPC) partners, and any joint venture participants, as applicable.

Letters of intent (LOIs), memoranda of understanding (MOUs), or any non-binding commitments will not be accepted as substitutes for executed agreements.

The 3PPO reserves the right to disqualify proposals that fail to demonstrate execution readiness, including the absence of binding and enforceable agreements necessary to fulfill the scope of services under this RFP.

The original RFP documents remain in full force and effect, except as modified by this Addenda, which is hereby made part of the RFP. Proponents shall take this Addenda into consideration when preparing and submitting its proposal.

As a general rule, proposal submissions that have not been completely uploaded by the Submission due date and time will not be considered, unless there are extenuating circumstances, justifiable cause and/or if deemed in the best interest of Puerto Rico, as determined by the 3PPO in its sole discretion. Proponents are encouraged to allow enough time to upload their Proposals and to confirm that the files are available for review.

Sincerely,

3PPO

END OF ADDENDA

EXHIBIT 7

Confidential treatment requested

EXHIBIT 8

Confidential treatment requested

EXHIBIT 9

Confidential treatment requested

EXHIBIT 10

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

IN RE: ELECTRIC SYSTEM PRIORITY
STABILIZATION PLAN

CASE NO.: NEPR-MI-2024-0005

SUBJECT: PREPA's First Proposed Contract
Resulting from Temporary Emergency
Power Generation.

RESOLUTION AND ORDER

I. Relevant Background

Given the critical condition of Puerto Rico's electric system, through a Resolution and Order issued on March 19, 2025 ("March 19 Resolution"), the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") ordered the Puerto Rico Electric Power Authority ("PREPA") to appear before the Public-Private Partnerships Authority ("P3A") and initiate the process of the Independent Third-Party Procurement Office ("3PPO") to begin the expedited procedure for the acquisition of up to 800 MW of temporary generation for eighteen (18) months. PREPA was directed to submit to the Energy Bureau, upon completion of the bidding process, the costs associated with each initiative so the Energy Bureau could assess whether such costs are prudent and reasonable.¹

Before issuing the March 19 Resolution, the Energy Bureau had initiated efforts to develop a plan to stabilize the electric system in response to recurring major outages and grid instability events that took place in early June 2024.² As part of this proceeding, the Energy Bureau ordered LUMA,³ PREPA, and Genera⁴ to each develop an "aggressive preliminary plan of improvements to the electric system" with a maximum implementation period of two (2) years.⁵ This proactive initiative required the identification and mitigation of all key factors contributing to the electric system's unreliability, including, but not limited to, outdated protection schemes, lack of system redundancy, inadequate vegetation management practices, insufficient reliable generation capacity, deficiencies in frequency and inertia control, and persistent triggers for load shedding. Each plan was to describe the proposed corrective measures, the associated costs, and the identified funding sources.⁶ As part of the evaluation process of the plans submitted by LUMA, Genera, and PREPA, the Energy Bureau considered identified deficiencies in generation, as well as their effects on system operations and the proposed measures to address such deficiencies.

In determining the need to procure 800 MW of emergency generation, the Energy Bureau also considered the October 2024 Adequacy Report⁷, which identified a generation shortfall of that magnitude.⁸ In addition, a catastrophic failure at Aguirre Unit #1 occurred during the Energy

¹ March 19 Resolution.

² See Resolution and Order, *In re: Electric System Priority Stabilization Plan*, Case No.: NEPR-MI-2024-0005, June 13, 2025 ("June 13 Resolution").

³ LUMA Energy, LLC, and LUMA Energy ServCo, LLC, (collectively, "LUMA").

⁴ Genera PR, LLC ("Genera").

⁵ See June 13 Resolution, p. 2.

⁶ *Id.*

⁷ *In re: LUMA Resource Adequacy Study*, Case No.: NEPR-MI-2022-0002, Motion to Sumit LUMA's Fiscal Year 2025 Resource Adequacy Study, Exhibit 1, *Puerto Rico Electrical System Resource Adequacy Analysis Report* filed by LUMA on October 31, 2024, ("October 2024 Adequacy Report").

⁸ See October 2024 Adequacy Report, p. 13.



Bureau's evaluation process, further aggravating the shortfall.⁹ This event was also considered by the Energy Bureau as part of the supporting facts justifying the request for 800 MW of emergency generation made through the March 19 Resolution.

Through a March 24, 2025 filing, LUMA submitted an Updated Resources Adequacy Report.¹⁰ This report reaffirmed the need for the installation of 800 MW of temporary emergency generation and analyzes the impact of the catastrophic failure of Aguirre Unit #1.¹¹ Finally, it is worth highlighting that, on that same date, the Energy Bureau issued the Priority Stabilization Plan,¹² which also addresses the aforementioned matters.

On June 20, 2025, PREPA filed a document titled *Motion Submitting Proposed Contract Resulting from Temporary Emergency Power Generation RFP for the Energy Bureau's Review and Approval* ("June 20 Motion"), including as *Exhibit A* a proposed contract resulting from the competitive procurement process for temporary emergency power generation, and as *Exhibit B* a 3PPO report summarizing the procurement process and providing the rationale for the selection of the preferred proponent.

On June 27, 2025, the Energy Bureau issued a Resolution and Order requiring information and clarifications from PREPA regarding the June 20 Motion ("June 27 Resolution"). On July 1, 2025, PREPA filed a document titled Motion in Partial Compliance with the June 27 Resolution ("July 1 Motion"). Through this motion, PREPA submitted certain documents and information required by the June 27 Resolution.

On July 4, 2025, the Energy Bureau issued a Resolution and Order granting conditional approval to the proposed contract, subject to the parties agreeing to modify the proposed contract to allow for a longer term and reduced price ("July 4 Resolution"). The Energy Bureau required PREPA to renegotiate and resubmit the contract with materially revised terms, including reduced energy pricing capped at approximately \$0.189/kWh for Aguirre and \$0.203/kWh for Costa Sur.

Following the issuance of the July 4 Resolution, the procurement process did not proceed directly to a final executed contract. The solicitation process restarted under the revised regulatory parameters. Subsequently, on November 26, 2025, PREPA filed before the Energy Bureau a document titled *Motion Submitting the First Proposed Contract Resulting from Temporary Emergency Power Generation RFP for the Energy Bureau's Review and Approval and Memorandum of Law in Support of Request for Confidential Treatment* ("November 26 Motion"). In the November 26 Motion, PREPA represented that the filing constitutes the first proposed contract under the reopened procurement and corresponds to 400 MW of temporary emergency generation to be at the Aguirre Power Plant. PREPA further stated that the additional proposed contracts for the remaining 800 MW authorization will be submitted separately as negotiations conclude. PREPA also requested that Exhibits I and II to the November 26 Motion be granted confidential treatment until the evaluation process concludes and the final contract is executed, arguing such documentation contains ongoing deliberative material that forms part of an active negotiation process as part of a competitive procurement process.

⁹ See *In re: Electric System Priority Stabilization Plan*, Case No.: NEPR-MI-2024-0005, *Motion Submitting LUMA's Position Regarding Genera's Request for Expedited Approval of Emergency Generation Capacity Solutions* filed by LUMA on March 6, 2025 ("March 6 Motion").

¹⁰ *In re: LUMA Resource Adequacy Study*, Case No. NEPR-MI-2022-0002, *Motion to Submit Interim Update for Summer 2025 of LUMA's Fiscal Year 2025 Resource Adequacy Resource*, filed by LUMA on March 24, 2025 ("Updated Resources Adequacy Report").

¹¹ *Id.*, p. 16.

¹² See Resolution and Order, *In re: Electric System Priority Stabilization Plan*, Case No.: NEPR-MI-2024-0005, , March 28, 2025 ("Priority Stabilization Plan").

II. Analysis and Evaluation

A. Summary of Principal Terms of the Proposed Contract

The proposed Performance-Based Service Agreement submitted by PREPA provides for 400 MW of Continuous Operating Power ("COP") generation at the Aguirre site and/or the additional site, subject to the Power Availability requirements. As defined in the proposed contract "Additional Site" means the generation site proposed in the Municipality of Yabucoa, Puerto Rico, which may be incorporated into this Agreement upon review and approval by the Energy Bureau. The inclusion, activation, and use of the Additional Site shall not be effective unless and until the Energy Bureau's approval is obtained, and all related regulatory, technical, and operational requirements applicable to the Additional Site have been satisfied.

For the Aguirre Power Plant, the Seller shall procure all Liquefied Natural Gas ("LNG") required to operate the Temporary Power Generation Units. The Seller shall be responsible for LNG delivery, storage, regasification, associated infrastructure, and environmental and safety compliance. The Buyer may elect to operate the TM2500 units using diesel fuel. In such case, the Buyer shall supply the diesel fuel and its delivery infrastructure. When instructed by the Buyer, the Seller shall operate the generation units on diesel.

The proposed contract becomes effective upon execution by both Parties and shall remain in effect for a ten (10) year term beginning on the Commercial Operation Date ("COD") of the Facility at the Project Site.

Buyer's obligation is limited to paying for metered and accepted kilowatt-hours. The proposed contract imposes no minimum-take requirement, minimum-generation requirement, or make-whole payments.

The Seller is responsible for all infrastructure required to interconnect the generation systems at the 115 kV or 230 kV switchyards, including transformers, switchgear, auxiliary systems, and all associated equipment. The Seller shall obtain and maintain all permits and approvals necessary for installation, operation, environmental compliance, and interconnection.

The Seller is responsible for integrating its power generation system with the Buyer's transmission and dispatch network and shall comply with all applicable interconnection standards and protocols set by the Buyer and coordinated with LUMA as the T&D Operator. The Seller shall connect its system at the 115 kV and/or 230 kV switchyard at Aguirre and if applicable to the Additional Site shall operate and maintain all auxiliary facilities, including transformers, switchgear, and related equipment, in full working condition throughout the Performance Period. The Seller is responsible for all interconnection costs bared by the Seller and LUMA.

B. Evaluation Framework

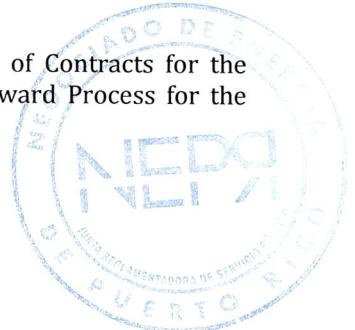
i. Article 6.32 of Act 57-2014¹³ and Regulation 8815¹⁴

Section 6.32 of Act 57-2014, as amended by Act 17-2019,¹⁵ provides for the evaluation and approval of all agreements between electric power service companies, including independent power producers, before the execution thereof. Paragraph (d) of Section 6.32 provides that in evaluating every proposal for an agreement between electric power service companies, the Energy Bureau shall consider the IRP. The Energy Bureau shall not approve an agreement that is inconsistent with the IRP, particularly in all that pertains to renewable energy, distributed

¹³ Transformation and Energetic RELIEF Act of Puerto Rico, as amended ("Act 57-2014").

¹⁴ Joint Regulation for the Procurement, Evaluation, Selection, Negotiation and Award of Contracts for the Purchase of Energy and for the Procurement, Evaluation, Selection, Negotiation and Award Process for the Modernization of the Generation Fleet, November 9, 2016 ("Regulation No. 8815").

¹⁵ The Puerto Rico Energy Public Policy Act ("Act 17-2019").



generation, conservation and efficiency goals established in the integrated resource plan as well as in the Energy Public Policy.¹⁶ In addition, Paragraph (e) of Section 6.32 provides a timeframe for the review and evaluation of PREPA's agreements.

PREPA is facing a critical situation resulting from a shortage of generation resources. There remains significant uncertainty in the availability of sufficient capacity in the coming months. Absent immediate action by the Energy Bureau, this emergency is likely to worsen during the peak demand season, which has begun. PREPA anticipates a base load generation shortfall exceeding 800 MW if the generation resources contemplated under the proposed contract are not available and no mitigating measures are implemented.

Under these circumstances, and in light of Article 6.32 of Act 57-2014 with respect to ensuring that the proposed contract is consistent with the Approved IRP and subject to an expedited evaluation process, the Energy Bureau **DETERMINES** that an expedited evaluation is warranted. Such evaluation, conducted under the principles listed in Regulation 8815 and Article 6.32 of Act 57-2014, is justified given the emergency circumstances surrounding this matter.

ii. *Compliance with Approved IRP¹⁷*

An Integrated Resources Plan (“IRP”) considers all reasonable resources needed to supply demand over the planning horizon, which in our case is twenty (20) years. Therefore, using temporary emergency generation due to unexpected or emergency situations is not normally considered a resource planning action in an IRP. Due to its temporary nature, actions that may result from unexpected situations or emergencies, such as the one contemplated by PREPA in the proposed contract and validated by the Energy Bureau through the March 19 Resolution, were not specifically identified as a resource planning action during the evaluation of the Approved IRP. The IRP should identify the permanent resources needed to supply demand over the planning horizon, at least cost. All permanent resources are assumed to be available to provide service.

If certain assets are not available due to a prolonged emergency, the effect this loss can have on the system could be detrimental to the point of compromising service reliability. Under certain circumstances, the acquisition or development of a temporary resource to supply a need that arises as the result of an emergency not contemplated in the IRP analysis, could be considered as consistent with such IRP. For example, the temporary acquisition of a generation asset (e.g., by purchase or lease) to make up for the temporary loss of permanent assets due to unforeseen circumstances could be considered one such situation. In these circumstances, the analysis regarding consistency should include, at least, (1) if the permanent assets are part of the identified resources on the IRP, (2) the effect the loss of the assets have on the system, (3) the time the temporary asset would be in service (i.e. the temporary nature of such asset), and (4) the purpose of the acquisition of the temporary asset is to temporary replace, in total or in part, the permanent asset.

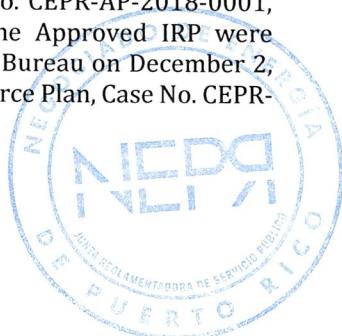
iii. *Act 1-2025*¹⁸

As required by Act 57-2014, on July 12, 2023, the Energy Bureau initiated a new Integrated Resource Plan (IRP) process to update the previously approved IRP. This update is mandated by law to account for changes in available resources and to reflect updated circumstances and

¹⁶ See in general, Section 1.5 of Act 17-2019, where the general statements of "Energy Public Policy 2050" of Puerto Rico are enunciated.

¹⁷ Final Resolution and Order on the Puerto Rico Electric Power Authority's Integrated Resource Plan, In re. Review of the Puerto Rico Electric Power Authority Integrated Resource Plan, Case No. CEPR-AP-2018-0001, August 24, 2020 ("Approved IRP"). Minor modifications and/or clarifications to the Approved IRP were introduced through a Resolution and Order on Reconsiderations issued by the Energy Bureau on December 2, 2020, in case: In re. Review of the Puerto Rico Electric Power Authority Integrated Resource Plan, Case No. CEPR-AP-2018-0001.

¹⁸ Act No. 1 of March 12, 2025 (“Act 1-2025”).



conditions affecting the electric system, thereby ensuring that Puerto Rico's long-term energy planning remains aligned with current realities and future needs. As part of this process, LUMA submitted the First Interim 2025 IRP Filing before the Energy Bureau on November 25, 2024. The IRP process is ongoing, with further evaluations and stakeholder engagements planned to ensure a sustainable and reliable energy future for the island.

Pending the evaluation of the updated IRP, House Bill 267 has been enacted into law ("Act 1-2025"), amending Puerto Rico's Public Energy Policy Act ("Act 17-2019") and the Energy Diversification Act, as amended ("Act 82-2010"). Act No. 1-2025 extends the lawful use of coal-based power generation through the year 2032, which may permit the continued operation of the AES¹⁹ power plant in Guayama beyond its previously anticipated retirement date of December 2027. Additionally, Act No. 1-2025 eliminated the interim renewable energy targets of 40% by 2025 and 60% by 2040, while retaining the statutory objective of achieving 100% renewable energy generation by 2050.

These legislative amendments modify the energy transition goals to better align with current energy system conditions and to ensure continued system reliability. They allow, during a transitional period, the integration of other generation resources into the system, not necessarily based on renewable energy sources, provided that such integration supports the achievement of the 100% renewable energy goal by the year 2050, and that such resources are procured at competitive prices that can compete with renewable energy alternatives. Act 1-2025 also includes provisions to enhance energy efficiency and promote the integration of renewable energy sources into the grid.

Consistent with Act 1-2025, on March 19, 2025 the Energy Bureau issued a Resolution and Order²⁰ in which it determined that: (i) given the pattern of forced outages of PREPA's existing, aging, thermal generation fleet, the available generation capacity is limited and may complicate needed maintenance and repairs to the existing fleet; (ii) there is a need to explore the costs and timeframe of availability of new, modern, generation sources that will allow Puerto Rico to reach the goals set in the new energy public policy and serve the electricity customers' best interests; and (iii) this procurement effort shall explore 2,500 to 3,000MW of new capacity. While perhaps the Energy Bureau's directive for the procurement of new generation, as stated in the March 19 Resolution – New Capacity, is not entirely consistent with the Approved IRP, such directive falls within the Energy Bureau's delegated authority to establish energy public policy and to issue determinations in furtherance thereof. This is true given that the decision is aligned with the provisions and policy objectives established under Act No. 1-2025, which directly affects and bears on the mandates set forth in the Approved IRP. The Energy Bureau has the power and duty to oversee and ensure the execution and implementation of the public policy on the electric power service in Puerto Rico,²¹ to establish and implement regulations and the regulatory actions to guarantee the capacity, reliability, safety, efficiency, and reasonability of the rates of Puerto Rico's electrical system, and to establish the guidelines, standards, practices, and processes to be followed to purchase power, modernize power plants or electric power generation facilities.²² It has the power to formulate and implement strategies to achieve the energy public policy goals, including, but not limited to, attaining the goals established in the Renewable Portfolio Standard and promoting the storage of energy.²³ The Energy Bureau has broad authority under Act 57-2014, Act 82-2010²⁴ and Act 17-2019 to oversee the acquisition of energy resources by PREPA to help ensure that the Energy Public Policy goals are met and that PREPA's ratepayers' interests are protected.

¹⁹ AES Puerto Rico, Inc. ("AES").

²⁰ See Resolution and Order, *In re: Competitive Procurement or New Generation*, Case No.: NEPR-MI-2025-0001, March 19, 2025 ("March 19 Resolution-New Capacity").

²¹ Act 57 2014 Article 6.3(a).

²² *Id.*, Article 6.3(c).

²³ *Id.*, Article 6.3(f).

²⁴ Puerto Rico Energy Diversification Policy through Sustainable and Alternative Renewable Energy Act, as amended, ("Act 82-2010").



C. *Proposed Contract Evaluation*

(i) *Consistency with Approved IRP*

The emergency generation resources contemplated in the proposed contract are not included in the Approved IRP, as temporary resources of this nature are rarely identified through the IRP resource planning process. However, given the temporary and emergency nature of the proposed generation and considering that its purpose is to address an unforeseen and urgent shortfall resulting from the unavailability of permanent assets, the Energy Bureau **CONCLUDES** that the proposed contract follows the Approved IRP.²⁵

(ii) *Pricing Terms*

The prices established in the proposed contract arise from a procurement process conducted by the 3PPO under an RFP, which was not reviewed by the Energy Bureau before its execution. However, based on the report submitted and the proposals received -as evaluated by the Energy Bureau through PREPA's responses to the Energy Bureau's requests for information- it appears that, in general, the 3PPO followed standard procedures securing competitive pricing. The prices obtained through the proposed contract are deemed reasonable. The pricing associated with the proposed contract is contained in a confidential exhibit filed under seal with the November 26 Motion and is therefore not disclosed in this Resolution and Order.

The Energy Bureau acknowledges the 3PPO's²⁶ clarification that the pricing values referenced in the July 4 Resolution (\$0.189/kWh for Aguirre and \$0.203/kWh for Costa Sur) reflected an earlier proposal scenario structured under an 8,000-hour minimum annual dispatch assumption. Although proponents subsequently removed this assumption, the procurement record presented before the Energy Bureau did not clearly differentiate the preliminary dispatch-based pricing from the updated scenario, and the Energy Bureau reasonably relied on the information PREPA placed before it. The July 4 Resolution benchmarks represented sound regulatory reference points based on the evidence then available. The updated pricing submitted through the November 26 Motion, is therefore evaluated under the evolved procurement record, which excludes the dispatch guarantee. Because the proponents earlier lower pricing assumed a guaranteed 8,000 hours of annual dispatch, the removal of that guarantee necessarily increased the per-kWh price, since the seller must now recover fixed and operating costs over a smaller and uncertain volume of energy. By eliminating the 8,000 hours minimum dispatch guarantee, the ratepayers avoid any obligation to pay for energy they do not need, ensuring they only pay for actual energy delivered.

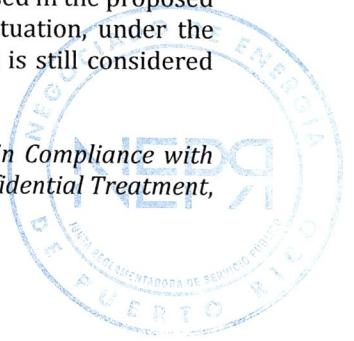
(iii) *Proposed Contract Term*

As previously discussed, for purposes of an IRP, a temporary activity is generally defined as one that does not involve prolonged use. Based on the current condition and generation deficiency of Puerto Rico's electrical system, the proposed ten (10) year term is deemed as temporary. This is true when considering the extended timeframes typically required to develop and implement permanent fossil generation projects. These circumstances reasonably extend what may be considered a "temporary" period under an IRP framework.

On the other hand, the Energy Bureau based on prevailing electric system conditions and the public policy changes introduced under Act 1-2025, found it necessary to require that the P3A procure up to 3,000 MW of generation capacity, which may be fulfilled through any type of generation resource, provided it results from a competitive process and is offered at reasonable prices. This includes, but is not limited to, generation based on natural gas or

²⁵ As discussed further below, even under circumstances in which the use of the assets proposed in the proposed contract may extend beyond what is typically expected for a temporary or emergency situation, under the provisions of the Energy Public Policy adopted through Act 1-2025, the proposed contract is still considered consistent and does not result in an insurmountable incompatibility with the Approved IRP.

²⁶ *In re: Electric System Priority Stabilization Plan*, Case No.: NEPR-MI-2024-0005, Motion in Compliance with October 10, 2025 Resolution and Order and Memorandum of Law in Support of Request for Confidential Treatment, Exhibit 1, filed by PREPA on October 15, 2025.



renewable energy sources. It is further recognized that the legislative amendments enacted under Act 1-2025 have, to some extent, affected or influenced the Approved IRP.

Considering these circumstances, and given the critical state of the electrical system, the Energy Bureau finds that a term of up to ten (10) years is not inconsistent with Puerto Rico's energy public policy or with the Energy Bureau's directive set forth in the March 19 Resolution–New Capacity, provided that such extension proves beneficial to ratepayers. It must be considered that this type of generation peaking unit supports the integration of renewable energy resources, as they can be made available during periods of renewable generation intermittency. Therefore, under the current context, the Energy Bureau concludes that it is consistent with the Energy Public Policy to authorize the proposed contract for a term of up to ten (10) years, as long as the terms remain favorable to ratepayers.

(iv) Interconnection

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The parties propose to utilize the existing interconnection infrastructure at Aguirre, expecting to reduce the extent of interconnection work timeline and costs. The parties intend to integrate the proposed temporary generation using the existing transmission infrastructure at Aguirre. In addition, the design and construction of all interconnections related infrastructure shall comply with all applicable industry standards, as well as any technical requirements reasonably established by LUMA. Given this, the Energy Bureau deems that the interconnection of the proposed generation does not threaten the reliability or security of the electric grid and confirms that no terms or conditions in the proposed contract are contrary to -or undermine- the safe and reliable operation of the system.

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The Energy Bureau **UNDERSCORES** that it is not, and has never been, a party to the contractual negotiations at issue. The Energy Bureau does not direct, supervise, or participate in the negotiation of the terms agreed upon between the parties, nor does it assume responsibility for the commercial strategy, policy determinations, or risk-allocation decisions inherent to those negotiations. The responsibility for negotiating a contract that reflects sound governmental judgment and advances the objectives and interests entrusted to P3A lies exclusively with the governmental negotiator, whose scope of evaluation encompasses various operational, financial, policy, and strategic considerations outside the jurisdiction of the Energy Bureau.

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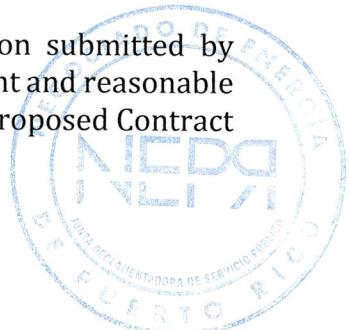
The Energy Bureau further emphasizes that its role is not to second-guess or replicate the bargaining process, nor to substitute its discretion for that of the governmental entity that negotiated the agreement (P3A). Instead, the Energy Bureau's authority is strictly limited to determining whether the submitted contract complies with applicable regulatory requirements, supports just and reasonable rates, and aligns with the statutory mandate to ensure that utility services remain reliable, affordable, and consistent with the public interest. It must be clearly understood that the proceeding before the Energy Bureau is not a negotiation of the contract, but a regulatory review focused solely on ensuring adherence to the legal and regulatory framework governing public utilities.

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However, the Energy Bureau notes that, to the extent that a policy-based decision embedded in the negotiated agreement would (i) adversely affect the public interest, (ii) undermine the Energy Bureau's ability to fulfill its statutory duties, or (iii) result in unjust, unreasonable, or discriminatory outcomes for ratepayers, the Energy Bureau may require modifications or conditions to ensure compliance with applicable regulatory standards. In such limited circumstances, the Energy Bureau is justified in addressing those contractual elements, even if they stem from broader governmental policy judgments, solely to the extent necessary to prevent detriment to ratepayers and to protect the integrity of the regulatory framework.

III. Conclusion

After evaluating the proposed contract and the supporting documentation submitted by PREPA, the Energy Bureau **DETERMINES** its terms and conditions are prudent and reasonable and align with the public interest. The Energy Bureau **APPROVES** the First Proposed Contract as presented in the November 26 Motion.



The Energy Bureau **NOTES** that, within the procurement process, the proponent to the First Proposed Contract represented its ability to provide approximately 201 MW of supplemental capacity at the Costa Sur site, in addition to the 400 MW proposed for Aguirre. At this stage, the Energy Bureau **approves the 400 MW** reflected in the proposed contract to be installed at Aguirre. However, consistent with the stated need for up to 800 MW, if upon conclusion of the procurement process, the 3PPO determines that the remaining proponents do not submit pricing terms that are more favorable to ratepayers than the approved herein, the 3PPO may designate the proponent under this First Proposed Contract to supply the additional capacity **under the same terms and conditions approved in this Resolution and Order**. The Energy Bureau **CLARIFIES** that, consistent with the procurement, the Costa Sur site is already an authorized location under scope of the competitive process. Therefore, should PREPA and the proponent to the First Proposed Contract later proceed with approximately 201 MW contemplated for Costa Sur, no additional substantive approval from the Energy Bureau shall be required. Notwithstanding, PREPA shall submit before the Energy Bureau the corresponding contractual amendment under the same terms and conditions approved in this Resolution and Order, for ministerial confirmation, without the need for further substantive approval by the Energy Bureau.

However, **any capacity beyond the Aguirre and Costa Sur sites** shall require a separate filing and approval by the Energy Bureau. The Energy Bureau **CLARIFIES** that the scope of the procurement process pertains exclusively to the installation of temporary emergency generation at the Aguirre and Costa Sur site. Nothing in this Resolution and Order shall be construed as authorizing installation or operations of temporary generation at any additional or alternative site. Should the proponent seek to locate any portions of the temporary generation capacity at a site other than Aguirre or Costa Sur, and as required in the contract, PREPA must file the corresponding proposal for separate review and approval by the Energy Bureau.

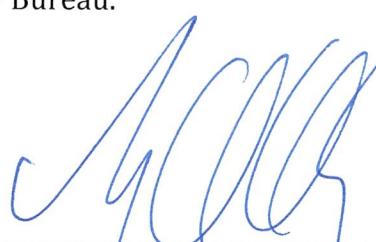
The Energy Bureau **GRANTS** confidential designation and treatment to Exhibits I and II to the November 26 Motion.

The Energy Bureau **ORDERS** PREPA to file **immediately** the approved amendment with the Financial Oversight and Management Board for Puerto Rico ("FOMB") for its review and approval. Any further amendments require the prior approval of the Energy Bureau.

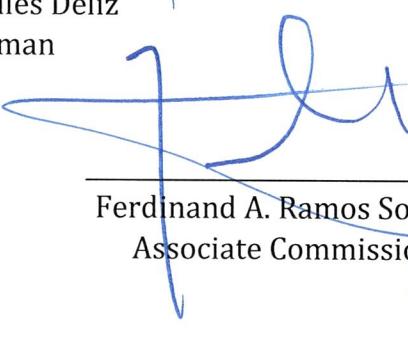
The Energy Bureau **WARNs** PREPA that, in accordance Art. 6.36 of Act 57-2014:

- (i) noncompliance with this Resolution and Order, regulations and/or applicable laws may carry the imposition of fines and administrative sanctions of up to one hundred twenty-five thousand dollars (\$125,000) per day; and
- (ii) for any recurrence of non-compliance or violation, the established penalty shall increase to a fine of not less than fifteen thousand dollars (\$15,000) nor greater than two hundred fifty thousand dollars (\$250,000), at the discretion of the Energy Bureau.

Be it notified and published.


Edison Avilés Deliz
Chairman


Lillian Mateo Santos
Associate Commissioner


Ferdinand A. Ramos Soegaard
Associate Commissioner



Sylvia Ugarte
Sylvia B. Ugarte Araujo
Associate Commissioner

Antonio Torres Miranda
Antonio Torres Miranda
Associate Commissioner

CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau has so agreed on December 11, 2025. I also certify that on December 11, 2025 I proceeded with filing the Resolution and a copy was notified by electronic mail to alexis.rivera@prepa.pr.gov; nzayas@gmlex.net; mvalle@gmlex.net; rcruzfranqui@gmlex.net; lrn@roman-negrон.com; legal@genera-pr.com; regulatory@genera-pr.com; RegulatoryPREBorders@lumapr.com; emmanuel.porrogonzalez@us.dlapiper.com; laura.rozas@us.dlapiper.com; margarita.mercado@us.dlapiper.com.

I sign this in San Juan, Puerto Rico, on December 11, 2025.

Wanda I. Cordero Morales
Wanda I. Cordero Morales
Interim Clerk

