

February 15, 2019

To: Public-Private Partnerships Authority
appreglamento120@p3.pr.gov

From: ReImagina Puerto Rico

Subject: Regulation Act 120 – Comments 2019

ReImagina Puerto Rico presents the following general and sections specific comments on the *Regulation for the Procurement, Evaluation, Selection, Negotiation and Award or Partnership Contracts and Sale Contracts for the Transformation of the Electric System Under Act No. 120-2018, as Amended* published by the Public-Private Partnerships Authority of the Government of Puerto Rico on February 5, 2019:

A. General Comments

1. The Puerto Rico Senate, with the assistance of a Technical Advisory Committee composed of various relevant non-profit organizations, including ReImagina Puerto Rico, spent 6+ months in 2018 developing a new energy public policy and regulatory framework for the Puerto Rico energy transformation process, which resulted in the PR Senate approval of P.S. 1121-2018 on November 6, 2018. Months later, the P.S. 1121 of 2018 was not approved by the House of Representatives as presented, it was recently approved with amendments by the House and it is currently under conference by both committees. Therefore, currently there is no law passed that includes the new energy public policy and regulatory framework envisioned for the Puerto Rico energy transformation process that includes privatization. **ReImagina Puerto Rico recommends this *Regulation for the Procurement, Evaluation, Selection, Negotiation and Award or Partnership Contracts and Sale Contracts for the Transformation of the Electric System Under Act No. 120-2018, as Amended* not be finalized and approved until the new energy public policy and regulatory framework Puerto Rico law is approved, so that this regulation also require accordance with this new law.**
2. **This entire Regulation should comply with requirements established in Act 120-2018, Act 29-2009, and the new energy public policy and regulatory framework Puerto Rico**

law, which is expected to be approved in the near term (P.S. 1121 of 2018 with amendments as approved). It is understood that the new energy public policy and regulatory framework Puerto Rico law will also require the Energy Bureau to review and verify that PREPA operations and transactions are aligned with the current approved Integrated Resource Plan (IRP).

3. **A Partnership Contract related to a PREPA Transaction should include appropriate Key Performance Indicators (KPIs) that will allow to easily and effectively monitor and supervise the compliance of the partnership contract.** The Partnership Contract definition should include the use of KPIs.
4. If the Authority will be responsible for signing and supervising Partnership Contracts for long-term PREPA transactions, it is important the Authority have sufficient capable permanent employees to perform these supervisory functions adequately, regardless if there is a change in administration. The lack of permanent employees within the Authority will not allow effective continuity of management and supervisory functions of Partnership Contracts when there is a change in administration.
5. The Authority's review and approval process, timeframes and requirements for reviewing and approving a Partnership Contract or Sale Contract by up to seven entities makes the process complex, long, inefficient, and difficult to obtain approval by all. Greater flexibility, and established review and approval timeframes, possibly some performed concurrently, should be incorporated where possible to accelerate the time required for the transaction review and approval process.

B. Specific Section Comments

1. **Section 4.1 – Identification of PREPA Transaction:** While the Authority will select, evaluate and prioritize the PREPA transactions in accordance with Act 120-2018 as specified, it should also be performed in accordance with the new energy public policy and regulatory framework Puerto Rico law to be approved and in alignment with the currently approved IRP. **Before the Authority selects, evaluates and prioritizes the PREPA transaction, it should formally consult in writing the Energy Bureau as entity with technical expertise to confirm in writing alignment with above mentioned Acts and currently approved IRP.**
2. **8.3 – Approval by the Authority Board and PREPA Board:** It is our recommendation that the Authority Board meeting scheduled for vote on PREPA transaction be scheduled

within 15 calendar days of circulating Committee Report and Preliminary Contract for PREPA transaction, and that the PREPA Board meeting scheduled for vote on PREPA transaction be scheduled within 15 calendar days of Authority Board approval of PREPA transaction. It is recommended timeframes be established for all entities in the review and approval process.

3. **Section 8.4 – Approval by the FOMB:** It is our recommendation that the Authority request that FOMB provide their approval or rejection within 15 calendar days of circulating Committee Report and Preliminary Contract for PREPA transaction.
4. **Section 8.6.c – Approval by Legislature for PREPA Assets Related to Energy Generation:** It is presented that the Governor may present a PREPA Transaction involving the sale of PREPA Assets related to energy generation that has already been denied for the approval of the Legislative Assembly, however it should be clarified in text that transaction already denied by Legislature can be resubmitted to Legislature as is for another consideration. Also, it is unclear why it is presented in this section that the Governor can make changes it deems pertinent for consideration by the Legislature, when it was understood and stated in other instances that any proposed changes to a Proposed Preliminary Contract would require a review and approval of all entities again involved in the review and approval process. Please clarify.
5. **Section 10.1 - Supervision Work Plan:** It is our recommendation that the supervisory functions after the consummation of any PREPA transaction be more clearly defined and assigned between the Authority, the Energy Bureau and PREPA.

ReImagina Puerto Rico is a non-profit organization, created in January of 2018 after the impacts of Hurricanes Irma and Maria, that developed 97 recommendations in June of 2018 for the reconstruction and rebuilding of a stronger and more resilient Puerto Rico by integrating and engaging multiple voices and sectors from Puerto Rico during the outreach and engagement process. ReImagina Puerto Rico promotes a just and coordinated reconstruction that maximizes benefits for all Puerto Ricans.

Sincerely,



Malu Blázquez Arsuaga

Executive Director

ReImagina Puerto Rico