



GOVERNMENT OF PUERTO RICO
Puerto Rico Public-Private Partnerships Authority

Puerto Rico Public Private Partnerships Authority

Amended Request for Qualifications for the Puerto Rico Maritime Transportation Services Project

www.p3.pr.gov

June 2018

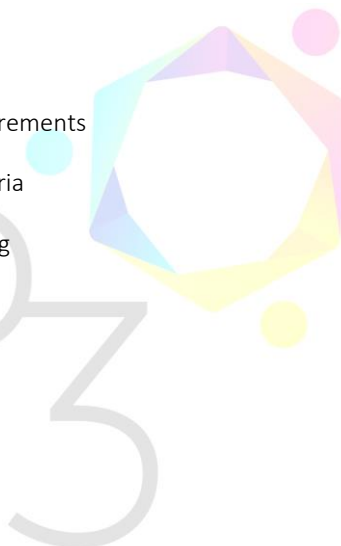


Table of Contents

| | |
|---|----|
| Section 1 – Project Overview | 1 |
| 1.1 Project Overview | 1 |
| 1.2 Background to Puerto Rico’s P3 Program | 3 |
| 1.3 Function and Overview of this Request for Qualifications | 3 |
| 1.4 Procurement Process and Schedule | 4 |
| 1.5 Procurement Schedule | 4 |
| 1.6 Consortia, Joint Venture or Partnership | 5 |
| 1.7 Additional Rules with Respect to all Respondents | 5 |
| 1.8 Restricted Parties | 6 |
| 1.9 Deadline and Clarifications | 7 |
| Section 2 – Maritime Transportation Project Objectives | 9 |
| 2.1 Project Authority | 9 |
| 2.2 Project Goals and Objectives | 9 |
| 2.3 Proposed Project Structure | 9 |
| 2.4 Payment Mechanism and Budgetary Process | 11 |
| Section 3 – Ferry Service Description | 16 |
| 3.1 Current Metro and Island Service Routes | 16 |
| 3.2 Current Passenger Demographics | 18 |
| 3.3 Metro and Island Service Timetables | 18 |
| 3.4 Metro and Island Service Ridership | 20 |
| 3.5 Current Vessels | 21 |
| 3.6 Current Status of Environmental Review | 22 |
| 3.7 Opportunity to Optimize Operations | 22 |
| Section 4 – Scope of Services Requested | 23 |
| 4.1 Vessel Requirements | 23 |
| 4.2 Terminal Requirements | 24 |



| | | |
|---|---|-----------|
| 4.3 | System Support Services | 24 |
| 4.4 | Business Arrangements | 27 |
| Section 5 – SOQ Requirements for all Respondents | | 28 |
| 5.1 | Reporting of Material Adverse Change | 30 |
| 5.2 | RFQ Submission Instructions and Next Steps | 30 |
| 5.3 | RFQ Miscellaneous Instructions | 31 |
| 5.4 | Disclaimer | 31 |
| 5.5 | Conflict of Interest | 31 |
| 5.6 | Reservation of Rights | 32 |
| 5.7 | Limitations of Damages | 33 |
| Section 6 – Evaluation Criteria | | 35 |
| 6.1 | Proponent Qualification and Proposal Requirements | 35 |
| 6.2 | Statement of Qualifications Evaluation Criteria | 35 |
| 6.3 | Qualitative Evaluation Criteria and Weighting | 36 |
| Appendix 1 | SOQ Format | 40 |
| Appendix 2 | Required Forms | 46 |



Section 1 – Project Overview

1.1 Project Overview

The Government of Puerto Rico (the “Government”) is proactively seeking alternative commercial structures for delivering maritime transportation services, currently provided by the Puerto Rico and Island Municipalities Maritime Transport Authority (“MTA”) under a traditional public delivery structure. The MTA is facing a fundamental challenge as it looks to remain financially sustainable over the long-term. There are critical and inter-related elements of this challenge:

- the Government’s General Fund is under financial pressure
- the ferry system is currently operating under a poor level of service
- there are irregular ongoing ferry expenses, with limited capacity for improvement
- assets are in need of repair, introducing safety concerns for users of the service

The Government recognizes that the quality and level of service for maritime transportation is linked to the stability and sustainability of a cohesive and robust operating and funding plan. In order to address these goals, the Government wishes to engage interested Private Partners on methods to improve the service under a long-term operation, maintenance, management and improvement model. This document, the Request for Qualifications (the “RFQ”), serves as the next step in achieving the Government’s goal.

1.1.1 The Project

The MTA was created by Act No.1 in January 1, 2000, as amended, otherwise known as the Puerto Rico and Island Municipalities Maritime Transport Authority Act (the “MTA Act”). The MTA Act established the MTA as a public corporation which owns ferry assets used to provide maritime services to Fajardo, Vieques, Culebra, San Juan, and Cataño. MTA’s purpose is to control, administer, operate and maintain the maritime transportation service and related assets in Puerto Rico. When the MTA Act was enacted, the MTA was attached to the Department of Transportation and Public Works (“DTOP”), which oversees all transportation agencies in Puerto Rico.

DTOP serves as the central agency responsible for managing and developing island wide mass transportation programs. MTA, along with the Urban Train (“Tren Urbano” by its Spanish acronym) and the Metropolitan Bus Authority (“AMA” by its Spanish acronym), are managed under DTOP. The Puerto Rico Public-Private Partnerships Authority (the “Authority”) is the sole entity responsible for the implementation of public-private partnerships (“PPP” or “P3s”) in Puerto Rico.

In order to improve the service of the MTA’s ferry system, the Authority, acting in collaboration and as an agent of the MTA, is contemplating the establishment of a PPP for the design, construction, operation, maintenance, management and improvement of the MTA’s ferry services, including, without limitation, the commencement of ferry service in the Municipality of Ceiba currently performed by the MTA in the Municipality of Fajardo, the performance and improvement of existing operations of the MTA located in the Municipalities of Vieques and Culebra (“Island Service”) and in the San Juan Bay (“Metro Service”) and the operation, maintenance and improvement of a maintenance facility located in San Juan (the “Maintenance Facility”). The Private Partner will provide the Ferry Services from Pier 2 located in the former Roosevelt Roads Naval Station in the Municipality of Ceiba (“Pier 2”).

The Government and MTA expect to procure the design and construction of capital improvements to Pier 2 with the United States Maritime Administration (“MARAD”), and it is currently expected that available grant funding will be utilized to



finance the improvements. However, grant funding for the Pier is not expected to be available until after the Project has commenced operations in Phase II, and thus, the Private Partner will be expected to finance, design, build, operate and maintain capital improvements related to Pier 2, in addition to improvements to the Maintenance Facility, and the acquisition of new vessels. The costs associated with financing, designing, building, operating and maintaining capital improvements and vessel acquisition will be repaid to the Private Partner in accordance with terms to be set forth in the PPP Agreement, and described in Section 2.4 of this RFQ.

1.1.2 Overview of Puerto Rico’s Fiscal Condition

Puerto Rico has one of the largest economies in the Caribbean region. As a territory of the U.S. since 1898, Puerto Rico offers a stable legal and regulatory framework where major U.S. and foreign multi-national corporations have historically operated, benefiting from its favorable investment environment and tax advantages. Puerto Rico has a well-educated and bilingual workforce with a sophisticated financial system that historically has acted as a global center for manufacturing, including pharmaceutical, biotechnology, medical devices, agriculture, rum, aerospace, and electronics, complemented by strong consumer, retail and service sectors.

This historic positioning notwithstanding, the Government, its agencies, public corporations and instrumentalities are currently in the midst of profound fiscal adjustments. In June 2015, the Government created a working group tasked with analyzing the fiscal and economic situation of Puerto Rico. After a series of studies and analyses, this working group estimated Puerto Rico’s consolidated budget and financing gap (including required pension payments and debt service on tax-supported debt) to be approximately \$59 billion between fiscal years 2017 and 2026.

Multiple factors contributed to this situation, including the following: (a) since 2006, the Government’s balance sheet significantly deteriorated due to years of economic recession, and (b) the government historically financed recurring expenses with long-term debt and failed to adequately fund legacy obligations, including the public employee pension systems. The Government’s balance sheet deterioration, coupled with continued structural budget imbalances and a lack of continuity and execution capacity in fiscal and economic plans, led to the loss of capital markets access in 2015, limited the Government’s ability to make necessary infrastructure maintenance and improvements investments and meet scheduled debt service payments, while guaranteeing essential government services.

Recognizing the challenging fiscal condition of Puerto Rico, the U.S. Congress enacted the Puerto Rico Oversight, Management, and Economic Stability Act (“PROMESA”), which was signed into law on June 30, 2016. PROMESA provides a series of mechanisms to achieve fiscal and budgetary balance and capital markets access to spur infrastructure revitalization in Puerto Rico. Among its main provisions, PROMESA established the Financial Oversight and Management Board for Puerto Rico (“Oversight Board”), provided a framework to restructure Puerto Rico’s public debt, called for the approval of long-term fiscal plans and budgets, mandated balanced budgets and established a specific chapter (Title V) to identify and pursue critical infrastructure projects through an accelerated local permitting process and a prioritized federal review procedure to ensure the prompt and effective revitalization of Puerto Rico’s critical infrastructure. This Project, with the potential it offers to spur and support sustainable economic development, is one such project.

The Administration of Governor Ricardo Rosselló Nevares took office on January 2, 2017, and as required by PROMESA, submitted a 10-year fiscal plan on February 28, 2017, as amended and certified by the Oversight Board on March 13, 2017. In December 2017, the Oversight Board requested that the Government submit revised fiscal plans that take into account the impacts of hurricanes Irma and Maria. Although the Government submitted various drafts of its revised fiscal plan to the Oversight Board, on April 19, 2018, the Oversight Board certified a fiscal plan that differed substantially from the draft fiscal plans previously submitted by the Government. The revised fiscal plan reflects that the Government will not have



sufficient revenue to pay its debt obligations in full while providing essential services, implying a need for substantial debt relief. It also assumes substantial federal government funding to address disaster recovery and reconstruction efforts.

In addition to the fiscal plan, the Government has taken swift actions that include, but are not limited to, the strengthening of the Puerto Rico Fiscal Agency and Financial Advisory Authority and the approval of Executive Order 003-2017, declaring a state of emergency regarding the condition of various infrastructure sectors in Puerto Rico and thus allowing the implementation and use of an expedited emergency permitting process under Act. No. 76-2000, consistent with PROMESA's statutory provisions under Title V.

The fiscal plan seeks to advance P3s as a way to revitalize infrastructure, attract private investment and spur economic development on the Island. Under the fiscal plan, the Authority is scheduled to launch a significant pipeline of projects that amount to \$5.1 billion in infrastructure investment over the next five years. Governor Rosselló has taken unequivocal steps for improving the PPP framework and advancing bankable projects. In January and August 2017, the Governor enacted a series of amendments to the PPP framework that allow for unsolicited proposals, pre-development agreements and facilitation of the approval procedures for projects under the PPP legislation. Also, in April 2017, the Government conducted its first Puerto Rico P3 Summit in order to restore communication with the infrastructure market and investors and begin showcasing the opportunities in Puerto Rico and the future project pipeline.

1.2 Background to Puerto Rico's P3 Program

The Public-Private Partnership Act (the "Act") was approved on June 8, 2009. The Act states that the public policy of the Government is to favor and promote the establishment of PPPs for the creation of certain "Priority Projects" (as such term is defined in the Act) and, among other things, to further the development and maintenance of infrastructure facilities, share with the private sector the risks involved in the development, operation or maintenance of such projects, improve the services rendered, encourage job creation and promote Puerto Rico's socio-economic development and competitiveness.

The Act confirms that the new public policy must maintain such controls as necessary to protect the public interest. The contractual relationship achieved through a PPP must be mutually beneficial, while ensuring the efficient, effective and affordable provision of public goods and services to all citizens. The Government completed certain amendments to the Act in January and June 2017. The amendments introduced provisions to allow unsolicited proposals and pre-development agreements, made a series of technical updates and introduced improvements to the Partnership Committee procedures, among others.

According to the Act, every PPP project requires a Partnership Committee ("Committee"). The Committee is responsible for: (1) the qualification, evaluation and selection processes of the proposed PPP; (2) establishing the terms and conditions of the PPP Agreement, and (3) reporting on the procedures followed.

Respondents should note that the Committee has been vested with the Authority to negotiate the terms of the PPP Agreement. The Authority's Board of Directors has been vested with the Authority to approve the PPP Agreement agreed by the Committee with a Proponent, subject to final approval by the Governor of Puerto Rico and his delegate.

1.3 Function and Overview of this Request for Qualifications

This RFQ is issued under Section 5.3 of the Regulation for the Procurement, Evaluation, Selection, Negotiation and Award of Public-Private Partnership Contracts under Act No. 29 of June 8, 2009, as amended (the "Regulation"). Prospective



Respondents should review carefully the Act and the Regulation (each of which is available for download on the Authority’s website: <http://www.p3.pr.gov>) and should ensure that they comply with all applicable provisions set out therein.

This RFQ provides each prospective Respondent with sufficient information to enable it to prepare and submit a Statement of Qualifications (“SOQ”) for consideration and evaluation by the Authority. The SOQ will be evaluated as described in Section 6 of this RFQ.

1.4 Procurement Process and Schedule

The Authority will select a Preferred Proponent through a two-phase process. The procurement of the Project is expected to take place in the following stages:

1.4(a) Phase 1 – Issue RFQ and Qualifications Process

In Phase 1, the Authority will issue the RFQ and will review SOQs against the evaluation criteria in Section 6. At the end of Phase 1, the Authority will shortlist qualified Respondents and they will be invited to participate in Phase 2 of the process.

1.4(b) Phase 2 – Issue Request for Proposals and Proposal Evaluation

In Phase 2, the Authority will issue an RFP to each shortlisted Respondent to provide instructions on how to submit a Binding Proposal. The shortlisted Respondents will have the opportunity to conduct a detailed due diligence review and submit a Binding Proposal that will include a final offer for review and consideration by the Authority. The Authority will select a Preferred Proponent based on the Binding Proposals received. A draft of the PPP Agreement will be provided to shortlisted Respondents in Phase 2.

1.4(c) Phase 3 – Implementation of the PPP Agreement

If the Authority identifies a Preferred Proponent in Phase 2, it may negotiate a final agreement with the Preferred Proponent and enter into a PPP Agreement.

Once the Preferred Proponent and the Authority have executed the PPP Agreement, the Project will proceed in accordance with the terms and conditions of the PPP Agreement.

1.5 Procurement Schedule

A summary schedule of the major activities associated with the procurement process is presented in Table 1.1. The dates and activities are subject to change and may be revised in this RFQ. The Authority anticipates the qualifications and proposal evaluation process will be conducted according to the following schedule:

Table 1-1: Procurement Schedule

| | |
|----------------------|---|
| June 13, 2018 | Issuance of RFQ |
| July 9, 2018 | Pre-Submittal Conference Call at 2:00pm (AST) |
| July 16, 2018 | Deadline for submittal of Request for Clarifications (“RFCs”) |
| July 23, 2018 | Deadline for the Authority to release responses to RFC’s |
| July 30, 2018 | Due date for submission of SOQ’s |



| | |
|-----------------|------------------------|
| August 24, 2018 | Shortlist is announced |
|-----------------|------------------------|

1.6 Consortia, Joint Venture or Partnership

To the extent that any Respondent has formed or proposes to form a consortium, joint venture, or partnership to participate in the RFQ and/or become the contracting counterparty for this Project, such Respondent should respond to this RFQ setting out the identity, role and capabilities of each Team Member. The submittal requirements will need to be satisfied for each member (i.e., financial capacity information and organization information).

1.7 Additional Rules with Respect to all Respondents

For purposes of this RFQ, the following terms will have the meaning ascribed to them below, unless the context clearly indicates otherwise:

- “Binding Proposal” means a Proponent’s detailed proposal in response to the RFP.
- “Closing Date” means the date on which the PPP Agreement shall commence and be effective upon its execution.
- “Ferry Services” means the operation and maintenance of the Project, as further set forth in the PPP Agreement.
- “Key Individual” means an individual who will play an important role in the Project on behalf of a Team Member.
- “Other Commercial Activities” means, among other things, concessions at the terminals, concessions operated in any vessel, commercial parking operations at any terminal or pier, any fees and tariffs charged for cargo or other items, advertising activities at terminals, piers, or vessels, trips or routes other than those required to be provided as part of the Ferry Services and any maintenance or docking fees charged to third parties.
- “Private Partner” means a party that executes the PPP Agreement.
- “PPP Agreement” means the contract executed by the selected Proponent and the MTA to establish a PPP, which may include, but shall not be limited to, a contract to delegate a function, administer or render one or more services, or conduct the design, building, financing, maintenance, or operation of one or more facilities that are themselves, or are closely related to, Priority Projects, as established in the PPP Act.
- “Proponent” means a shortlisted Respondent selected through the qualification process.
- “Preferred Proponent” means the Proponent selected by the Authority to undertake the Project and enter into the PPP Agreement.
- “Respondent” means a (i) natural person, (ii) legal person, (iii) joint venture, (iv) partnership, or (v) consortium of individuals, and/or partnerships, and/or companies or other entities that submit a SOQ in response to this RFQ.
- “SOQ” means a statement of qualifications to be submitted by a Respondent pursuant to this RFQ. All references in this RFQ to “SOQ submissions,” “SOQ submittals,” “SOQ responses,” and expressions of a like nature are deemed to refer to the SOQ.
- “Team Member” means a member of a Respondent. Team Members must be identified in Respondents’ RFQ submissions and cannot be changed without the prior written consent of the Committee.

Please note the following with respect to Respondents:

- Except as specifically provided to the contrary in this RFQ, no Team Member may join or participate, directly or indirectly, as a Team Member in more than one Respondent for this Project. Each person or legal entity who participates as a Team Member is responsible for ensuring that no other person or legal entity which is “Related” to it joins or participates, directly or indirectly, as a Team Member in any other Respondent. Unless otherwise provided herein, any violation of this provision shall disqualify the Respondent and its Team Members.



- A person or company is “Related” to another person or legal entity if:
 - one may exercise Control over the other
 - each is under the direct or indirect Control of the same ultimate person or legal entity
- For purposes of this RFQ, a person or legal entity exercises “Control” of another if it is the owner of any legal, beneficial or equitable interest in more than 50% of the voting securities in a corporation, partnership, joint venture or other person or entity, or if it has the capacity to control the composition of the majority of the board of directors of any such person or entity, or to control the decisions made by or on behalf of any such person or entity, or otherwise has the ability to direct or cause the direction of the management, actions or policies of any such person or entity (whether formally or informally); and the terms “Controlling” and “Controlled” have corresponding meanings.
- If for any reason, after the Submission Deadline and prior to the selection of a Preferred Proponent, a Respondent wishes or requires to: (i) change any Team Members listed in the Respondent’s SOQ (either by adding new members, removing listed members or substituting new members for listed members), or (ii) materially change the ownership or Control of a Respondent or a Team Member, then, in each case, the Respondent must submit a written application (with such information as the Committee may require) to the Committee seeking its consent to the proposed change, which consent may be withheld or delayed in the absolute discretion of the Committee. Without limiting the foregoing, the Committee may refuse to consent to a change to a Respondent or its Team Members and/or may disqualify the Respondent from further participation in the procurement process if:
 - the change would, in the sole discretion of the Committee, result in a weaker Respondent than that which is listed in the Respondent’s SOQ or result in the Respondent being materially different from the Respondent that was originally shortlisted;
 - the evaluation of the new Respondent team, using the evaluation criteria described in Section 6 of this RFQ, would rank the Respondent, taking into account the proposed change or changes, lower than a Respondent that has not been shortlisted.

For the avoidance of doubt, the Committee’s discretion to consent to changes to a Respondent’s team membership includes discretion to approve changes to the legal relationship between the Respondent and/or its Team Members, such as the creation of a new joint venture, partnership or legal entity that will take the place of the Respondent.

The Committee’s consent may include such terms and conditions as the Committee may consider appropriate.

1.8 Restricted Parties

Restricted Parties (as defined below), their respective directors, officers, partners, employees and persons or legal entities Related to them (as defined in Section 1.7 above) are not eligible to participate as Team Members, or advise any Team Member, directly or indirectly, or participate in any way as an employee, advisor, or consultant or otherwise in connection with any Respondents in matters related to the Project. Each Respondent will ensure that each Team Member does not use, consult, include or seek advice from any Restricted Party in matters related to the Project. However, Restricted Parties are allowed to advise any Respondent on matters unrelated to the Project. The following Restricted Parties have been identified:

- KPMG LLP
- Steer Davies Gleave
- Pietrantonio Mendez and Alvarez LLC
- Hunton Andrews Kurth LLP
- KPFF Consulting Engineers



- CPM PR, LLC
- any subsidiary or affiliate of the above-mentioned persons or entities

Moreover, Respondents must comply at all times during the procurement process with the Authority's Guidelines for the Evaluation of Conflicts of Interest and Unfair Advantages in the Procurement of Public-Private Partnership Contracts (the "Ethics Guidelines"). Prospective Respondents should review the Ethics Guidelines, which are available for download on the Authority's website at <http://www.p3.pr.gov>

Finally, Respondents should be aware that the list of Restricted Parties is not exhaustive and that a person that is not included as a Restricted Party may still be prohibited from participating in the Project pursuant to the provisions of the Ethics Guidelines. However, the fact that a person provides or has provided services to the Authority or MTA may not automatically prohibit such person from participating in the Project. Each Respondent is responsible for ensuring that all persons engaged to provide any type of assistance in connection with the Project are in compliance with the provisions of the Ethics Guidelines and, to the extent any question exists as to compliance with the Ethics Guidelines, the Respondent should consult with the Authority.

Communications Protocol

The Authority and MTA are committed to a fair, open and transparent selection process. Respondents, their Team Members and their respective directors, officers, employees, consultants, agents, advisors and representatives, will not, except as expressly contemplated by this RFQ or as expressly directed or permitted by the Authority, attempt to communicate directly or indirectly with any representative of the Authority, the Committee, the Puerto Rico Fiscal Agency & Financial Advisory Authority ("FAFAA") or the Government in relation to the Project during the Qualification Evaluation processes. The Authority reserves the right to disqualify any Respondent that violates this provision.

No Collusion

Respondents will not discuss or communicate, directly or indirectly, with any other Respondent(s) or any director, officer, employee, consultant, advisor, agent, representative or Team Member of any other Respondent regarding the preparation, content or representation of their SOQs. SOQs will be submitted without any connection (i.e., arising through an equity interest - other than an equity interest that does not represent a Controlling interest in an entity, as determined by the Authority from time to time, in or of a Respondent or a Respondent's Team Member), knowledge, comparison of information, or arrangement with any other prospective Respondent or any director, officer, employee, consultant, advisor, agent, representative or Team Member of any other prospective Respondent.

By submitting a response to this RFQ, a Respondent, on its own behalf and as authorized agent of each firm, corporation or individual Team Member of the Respondent, represents and confirms to the Authority, with the knowledge and intention that the Authority may rely on such representation and confirmation, that its response has been prepared without collusion or fraud, and in fair competition with responses from other Respondents.

1.9 Deadline and Clarifications

Those interested in becoming Respondents must submit their responses to this RFQ no later than the Submission Deadline at the address and in the manner set out in Section 5.



Respondents may make inquiries only by submitting questions and RFCs to the Committee Representative referred to in Section 5 of this RFQ (the “Committee Representative”) by e-mail, no later than the relevant dates outlined in Table 1-1. Questions submitted to anyone other than the Committee Representative or by any means other than e-mail will not be answered and may be grounds for disqualification according to the Communications Protocol provisions in Section 1.8 of this RFQ.

- Any Respondent that has questions as to the meaning of any part of this RFQ, or the Project, or who believes that the RFQ contains any error, inconsistency or omission, must submit its concern, in writing, to the Committee Representative in accordance with Section 1.9. The Authority will provide all submitted questions or RFCs, along with the Authority’s answers thereto, to all Respondents. The Authority will not respond to Respondents’ questions or RFCs that are not submitted in accordance with Section 1.9.
- Any oral or written response provided by the Authority in connection with this RFQ will not be binding on the Authority nor will it change, modify, amend or waive the requirements of this RFQ in any way. Respondents shall not rely on any response provided other than an Addendum issued in accordance with this RFQ.

Confirmation of Intention

Respondents that anticipate responding to this RFQ shall so indicate as soon as possible by providing contact information to the Committee via e-mail at RFQ-FerrySystem@p3.pr.gov. Also, all questions and/or RFCs regarding this RFQ should be directed to the Committee Representative via e-mail: RFQ-FerrySystem@p3.pr.gov. KPMG is serving as Financial and Procurement Advisor to the Authority for this Project and will provide assistance in the RFQ and procurement process in accordance with the Regulation. Please do not contact any officials or related parties of the Authority, MTA, and/or DTOP (other than the Committee Representative) via telephone or otherwise. Such contact may serve as grounds for disqualification



Section 2 – Maritime Transportation Project Objectives

2.1 Project Authority

The Government, its public corporations and municipalities are responsible for providing essential services at the lowest possible cost for the welfare of Puerto Rico’s citizens. These services include public health and safety, education and transportation. Due to the financial constraints of the Government and its municipalities, innovative partnerships with the private sector have often been adopted to help deliver infrastructure projects or provide essential services to its people.

The Project is an essential component of the Government’s long-term transportation initiatives, which are overseen by DTOP and implemented, in this case, by MTA. Below is an organizational chart showing the distribution of roles and responsibilities per entity under DTOP.

DTOP has responsibility for the following transportation agencies:

- a) Metropolitan Bus Authority
- b) Puerto Rico Highways and Transportation Authority (“PRHTA”)
- c) Maritime Transportation Authority

2.2 Project Goals and Objectives

The following goals, as set forth by the Government, Authority, and MTA, are expected to be achieved throughout the procurement of the Project.

- Maintain customer and crew safety
- Improve the quality and reliability of service
- Increase resources for vessel and terminal maintenance
- Streamline workforce to provide an efficient amount of employees
- Allocate project risks and responsibilities to the party best able to manage them
- Increase revenue by introducing and improving ancillary revenue sources
- Reduce costs through innovation and private sector experience
- Decrease the amount of public funding required to operate the Project by pricing the service to better reflect operating costs
- Modernize public services and build a stronger and more resilient infrastructure
- Become the first P3 project to be delivered while in the midst of the financial crisis and adapt to current economic and fiscal circumstances

2.3 Proposed Project Structure

To achieve the Project’s objectives and goals, the MTA will enter into a PPP Agreement with a Private Partner, under which the Private Partner will provide for the design, construction, management, operation, maintenance, and improvement of the Project. A summary of the expected requirements of the Private Partner and the Project’s structure is described below.



Project Structure

The Project includes the performance of operations and capital improvements related to the Ferry Services, including, without limitation, the commencement of operations in the Municipality of Ceiba, which are currently performed by the MTA in the Municipality of Fajardo, the performance and improvement of existing operations of the MTA’s Island and Metro Services, as well as the operation, maintenance and improvement of the Maintenance Facility. The Private Partner will provide the Ferry Services from Pier 2 located in the former Roosevelt Roads Naval Station in the Municipality of Ceiba.

The Project is expected to develop in two phases, each with separate and distinct requirements to be addressed in the PPP Agreement. At the commencement of and during Phase 1 (as further described below, “Phase 1”), the Private Partner will have the obligation to perform Ferry Services in accordance with performance standards to be set forth in the PPP Agreement, which is expected to require the operation, maintenance, improvement, and management of the Ferry Services, as well as acquiring new vessels, financing, designing, building, operating and maintaining improvements to Pier 2, and upgrades to the Maintenance Facility. At the commencement of, and during, Phase 2 (as further described below, “Phase 2”), the Private Partner will have the obligation to perform the Ferry Services in accordance with performance standards to be set forth in the PPP Agreement at the Private Partner’s own cost and risk.

Phase 2 is expected to include (as discussed below) the improvement, management, operation, and maintenance of the Ferry Services, including the possibility of the Private Partner implementing additional capital improvements at the request of the Authority. The repayment of any debt or equity arranged by the Private Partner to finance any portion of the Project, including capital improvements, will be the responsibility of the Private Partner without recourse to the MTA or the Government of Puerto Rico.

Capital Improvements

During Phase 1, the Private Partner will be responsible for the management, execution, design, construction, operation, maintenance and financing of capital improvements to be identified in the PPP Agreement. The MTA expects to fund or finance a significant portion of such capital improvements through the use of grants obtained for such purposes, however

Figure 1

| Requirements Items | Public Sector | Private Sector | Shared |
|---|---------------|----------------|--------|
| Labor | | | |
| Crew Management | | X | |
| Crew Members | | X | |
| Performance Reporting | | | |
| Monitor and Audit | X | | |
| FTA Required Reporting | | X | |
| Performance Reporting | | X | |
| Database Management | | X | |
| Routes and Schedules | | | |
| Ferry Route | X | | |
| Ferry Schedule | X | | |
| New Route Development | | X | |
| Consumables | | | |
| Fuel (volume) | | X | |
| Fuel (price) | X | | |
| Spare Parts/Other Parts | | X | |
| Fare box and Ticketing | | | |
| Fare Setting | | | X |
| Integrated Ticketing System (including ticket collection) | | X | |
| Routine Maintenance/Repair | | | |
| Manufacturer Recommendations | | X | |
| Repairs | | X | |
| Mandatory/Regulatory Inspections | | X | |
| Federal Compliance | | X | |
| Major Maintenance | | | |
| Capital Improvement Projects | | | X |
| Service Life Extension | | X | |
| Other | | | |
| Strategic Oversight | X | | |
| Security and Surveillance | | X | |
| Insurance | | X | |
| Force Majeure | | | X |
| Federal Approvals | X | | |



the timing of such grants remains uncertain. Therefore, the Private Partner will be expected to finance vessel acquisition, certain upgrades to the Maintenance Facility, as well as the design, construction, operation and maintenance of Pier 2. During Phase 2, it is expected that the Private Partner will be responsible for the maintenance of and any identified capital improvements necessary for the provision of the Ferry Services pursuant to the standards to be set forth in the PPP Agreement, which may include the acquisition and implementation of new vessels, among other improvements.

Schedule

The MTA will establish schedules of service for the Island Service and the Metro Service to be managed by the Private Partner, which is expected to be set forth in the PPP Agreement. Such schedules are expected to include certain days and times at which these trips must be operated. The Private Partner may schedule additional trips for any route and establish new routes, including any international routes, as long as it fulfills all of its obligations under the PPP Agreement and complies with any applicable Federal and local requirements for the establishment of such additional schedules of service routes.

Employees

The Private Partner shall be responsible for providing and maintaining the appropriate personnel to fill all employment positions related to the Project. The Private Partner will be encouraged, but not required, to assume the employment of MTA's current employees. The Private Partner, however, will be required to interview any MTA employees interested in applying for a position and, to the extent acceptable, extend an offer on the same terms it would provide its own employees at the same level. Any MTA employee not assumed by the Private Partner will be re-deployed by the government of Puerto Rico in accordance with federal law and the laws of Puerto Rico.

Project Term

It is anticipated that the PPP Agreement will continue in full force and effect until the 23rd anniversary of the Closing Date (such period, the "Term"). During the Term: (a) Phase 1 will commence on the Closing Date and will continue until the third anniversary thereof; and (b) Phase 2 will commence at the end of Phase 1 and will continue until the 23rd anniversary of the Closing Date.

2.4 Payment Mechanism and Budgetary Process

Payment Mechanism

The method of compensation to the Private Partner for designing, building, operating, maintaining, managing, and improving the Ferry Services is as follows:

During Phase 1, subject to the performance of the Ferry Services in accordance with the PPP Agreement, the MTA is expected to pay to the Private Partner a service payment calculated to account for the costs reasonably incurred by the Private Partner to perform the Ferry Services in accordance with a budget, plus a margin, agreed upon by the parties, on the Closing Date.

During Phase 2, subject to the Private Partner's performance of the Ferry Services in accordance with the PPP Agreement, the Private Partner will have the exclusive right to: (a) assess, collect, and retain user fees with respect to use of the Ferry Services, and (b) engage in Other Commercial Activities. The Private Partner will also have the right to receive a payment from the MTA for the performance of the Ferry Services, which is expected to be set forth in the PPP Agreement. The

payment amount from the MTA is expected to be equal to the annual amount requested by Proponents during the subsequent RFP phase of the Project.

Budgetary Process

The Authority intends to fund any payments through direct appropriations commitments. This Project forms an integral part of the Government's fiscal plan, which, among its many objectives, seeks to advance PPPs as a way to revitalize infrastructure and spur economic development. The Authority intends to submit the Project under Title V of PROMESA classification of Critical Projects. Below is a description of how the Government's budgeting process and priority of payment works.

Budgetary Process. The fiscal year of the Government begins each July 1. The Governor is constitutionally required to submit to the Legislative Assembly an annual balanced budget of total resources, capital improvements, and operating expenditures of the central government for the ensuing fiscal year. The annual budget is prepared by Office of Management and Budget ("OMB"), in coordination with the Planning Board, the Treasury Department, and other government offices and agencies including FAFAA, which, pursuant to Puerto Rico law, has to validate the Government's revenue projections prior to such revenue projections being submitted to the Legislative Assembly as part of the Government's budget. Section 7 of Article VI of the Constitution provides that "The appropriations made for any fiscal year shall not exceed the total resources estimated for said fiscal year unless the imposition of taxes sufficient to cover said appropriations is provided by law."

The annual budget, which is developed utilizing elements of program budgeting, includes an estimate of revenues and other resources for the ensuing fiscal year under (i) laws existing at the time the budget is submitted and (ii) legislative measures proposed by the Governor and submitted with the proposed budget, as well as the Governor's recommendations as to appropriations that in his judgment are necessary, convenient, and in conformity with the four-year investment plan prepared by the Planning Board. As required by Puerto Rico law, FAFAA, or an independent consultant selected by FAFAA, has to validate the revenue projections of the Government prior to such revenue projections being submitted to the Legislative Assembly as part of the budget.

The Legislative Assembly may amend the budget submitted by the Governor but may not increase any items so as to cause a deficit without imposing taxes or identifying additional resources to cover such deficit. Upon passage by the Legislative Assembly, the budget is referred to the Governor, who may decrease or eliminate any item but may not increase or insert any new item in the budget. The Governor may also veto the budget in its entirety and return it to the Legislative Assembly with the Governor's objections. The Legislative Assembly, by a two-thirds majority in each house, may override the Governor's veto. If a budget is not adopted prior to the commencement of a fiscal year, the budget for such fiscal year shall be the annual budget for the preceding fiscal year as originally approved by the Legislative Assembly and the Governor until a new budget is approved. This permits the Government to continue making payments of its operating and other expenditures until a new budget is approved.

Financial Control and Adjustment Procedures. Revenue estimates for budgetary purposes have historically been prepared by the Treasury Department, except for estimates of federal grants, which have been prepared by OMB based on information received from the various departments and other recipients of such grants. Revenue and federal grant estimates are under continuous review and, if necessary, are revised during the fiscal year. Prior to PROMESA, fiscal control over expenditures was exercised exclusively by the Governor through the Director of OMB and the Secretary of the Treasury.



During any fiscal year in which the resources available to the Government are insufficient to cover the appropriations approved for such year, the Governor may take administrative measures to reduce expenses and submit to both houses of the Legislative Assembly a detailed report of any adjustment necessary to balance the budget, or make recommendations to the Legislative Assembly for new taxes or authorize borrowings under provisions of existing legislation or take any other necessary action to meet the estimated deficiency. Any such proposed adjustments shall give effect to the “priority norms” established by law for the disbursement of public funds in the following order of priority; first, the payment of the interest on and amortization requirements for public debt (Government general obligations and guaranteed debt for which the Government’s guarantee has been exercised); second, the fulfilment of obligations arising out of legally binding contracts, court decisions on eminent domain, and other unavoidable obligations to protect the name, credit and good faith of the Government; third, current expenditures in the areas of health, protection of persons and property, education, welfare, and retirement systems; and fourth, all other purposes. Notwithstanding the foregoing, under Section 203(d) of Act No. 5-2017, the Governor may reprioritize services and expenses described in the “third” category of the prior sentence to a higher payment priority.

Impact of PROMESA on the Budgetary Process. The enactment of PROMESA has significantly altered the budgetary approval process for the Government and its instrumentalities, which were designated covered territorial instrumentalities by the Oversight Board on September 30, 2016. As a result, all Government budgets and covered territorial instrumentality budgets must be developed in accordance with the applicable fiscal plan developed pursuant to PROMESA, and no such budget will be effective until it is certified by the Oversight Board as compliant with such fiscal plan. PROMESA has also imposed additional fiscal controls on the Government and granted the Oversight Board broad powers to monitor and control expenses and make subsequent adjustments to budgets that were previously certified as compliant by the Oversight Board.

PROMESA requires the Oversight Board to submit to the Governor and the Legislative Assembly a notice delineating a schedule for the development, submission, approval and certification of proposed budgets. Such budget schedule will be applicable for a period of fiscal years as determined by the Oversight Board in its sole discretion, but in any case for a period of not less than one fiscal year following the fiscal year in which the notice is delivered. The Oversight Board is required to consult with the Governor and the Legislative Assembly in establishing a budget schedule. However, the Oversight Board retains sole discretion to set or, by delivery of a subsequent notice to the Governor and the Legislative Assembly, change the dates of the budget schedule as it deems appropriate and reasonably feasible. PROMESA further requires the Oversight Board to submit to the Governor and the Legislative Assembly a revenue forecast for the periods covered by the proposed budgets for use by the Governor in developing such budgets.

PROMESA provides the following process for the development and approval of the Government budget. A similar process applies to the budgets of covered instrumentalities, except that the Legislative Assembly is not involved in the process unless under Puerto Rico law such instrumentality’s budget is subject to legislative approval.

- Government Budgets Developed by the Governor - If the Oversight Board determines in its sole discretion that a proposed Government budget developed by the Governor is compliant with the applicable fiscal plan, then the Oversight Board may submit such budget to the Legislative Assembly for approval. If the proposed Government budget is found to be non-compliant, PROMESA requires the Oversight Board to provide to the Governor (i) a “notice of violation” that includes recommendations to correct any deficiencies and (ii) an opportunity to correct any deficiencies, provided such opportunity is allowed pursuant to the budget schedule approved by the Oversight Board. Should the Governor fail to submit a compliant Government budget within the time specified by the budget schedule, PROMESA authorizes the Oversight Board to develop and submit to the Governor and the Legislative Assembly a compliant budget.

- Government Budgets Adopted by Legislative Assembly - PROMESA directs the Legislative Assembly to submit to the Oversight Board the Government budget it approves. If the Legislative Assembly's approved budget is found to be non-compliant, PROMESA requires the Oversight Board to provide to the Legislative Assembly (i) a "notice of violation" that includes recommendations to correct any deficiencies and (ii) an opportunity to correct any deficiencies, provided such opportunity is allowed pursuant to the budget schedule approved by the Oversight Board. The Legislative Assembly may submit as many revised budgets as the budget schedule allows. Should the Legislative Assembly fail to submit a compliant budget, PROMESA authorizes the Oversight Board to develop and submit to the Governor and the Legislative Assembly a revised compliant budget.
- Certification of Budgets as Compliant - If the Governor and the Legislative Assembly approve a Government budget that is compliant with the applicable fiscal plan, then the Oversight Board shall issue a compliance certification. If the Governor and the Legislative Assembly fail to develop and approve a compliant budget, PROMESA authorizes the Oversight Board to develop and submit a compliant budget and such budget would be deemed approved by the Governor and the Legislative Assembly and will be in full force and effect on the first day of the applicable fiscal year.
- Joint Development of Budgets - PROMESA authorizes the Oversight Board, the Governor and the Legislative Assembly to work collaboratively to develop a Government budget that meets the requirements of PROMESA.

Section 203 of PROMESA describes the Oversight Board's ongoing oversight responsibilities with respect to, and the consequences of a finding of non-compliance with, the certified Government budget:

- Quarterly Reports - The Governor must submit a report to the Oversight Board no later than 15 days after the last day of each fiscal quarter (beginning in the fiscal year determined by the Oversight Board), in such form as the Oversight Board may require, (i) describing the actual cash revenues, cash expenditures and cash flows of the Government and covered territorial instrumentalities for the preceding fiscal quarter as compared to the projected revenues, expenditures and cash flows as contained in the certified budget for such preceding fiscal quarter, and (ii) any other information requested by the Oversight Board.
- Inconsistencies between Actual and Projected Revenues, Expenditures and Cash Flows - The Oversight Board may require the Government and any covered territorial instrumentality to provide additional information to explain inconsistencies between actual and projected revenues, expenses and cash flows based on the Governor's quarterly reports. If such explanations are deemed inadequate by the Oversight Board, the Oversight Board will advise the Government to correct such inconsistency by implementing remedial corrective actions.
- Budget Reductions - If the Oversight Board finds that the Governor and the Legislative Assembly failed to provide an explanation for an inconsistency between actual and projected revenues and expenses, or to correct such inconsistency by the deadline established by the Oversight Board, the Oversight Board is authorized to make appropriate reductions in non-debt expenditures and, in the case of the covered territorial instrumentalities, institute hiring freezes and prohibit entry into new contracts or financial transactions not previously approved by the Oversight Board. The Oversight Board shall cancel these reductions upon a finding that the Government or covered territorial instrumentality has initiated the appropriate measures to ensure compliance with the certified budget.

Payments for PPP Agreement. The funds to be provided by the Government to make the payments required under the PPP Agreement are subject to and conditioned upon the appropriation of such funds by the Legislative Assembly in the annual budget of the Government. The payments for the PPP Agreement do not constitute public debt of the Government for purposes of the constitutional provision described above. If all annual budgetary appropriations required by the PPP Agreement are made in full, presumably such amounts will be sufficient to make the payments thereunder.

The Legislative Assembly is not legally bound to appropriate sufficient amounts to allow the Government to make payments under the PPP Agreement. Moreover, the private entity under the PPP Agreement has no legal recourse to require the Legislative Assembly to appropriate the funds necessary to make any payment due thereunder. The failure to

make annual budgetary appropriations in the amounts required would cause a shortfall in the moneys available to the Government for the payments of amounts due under the PPP Agreement. In the event any PPP Agreement is terminated and the Government or the corresponding governmental entity is required to make a substantial termination payment to the private party, it is likely that such amounts will not be available in the currently approved budget, as amounts appropriated therein would have only taken into account ongoing payments under the corresponding PPP Agreement. As a result, the private entity would have to wait at least until the approval of the next budget in order to determine whether sufficient amounts to satisfy the Government's payment obligation will be appropriated.

Finally, if a budget is not adopted prior to the end of the fiscal year, the annual budget for the preceding fiscal year as originally approved by the Legislative Assembly and the Governor is automatically renewed for the ensuing fiscal year until a new budget is approved. Once a new budget is approved, any possible future shortfall situations may not have been addressed.



Section 3 – Ferry Service Description

3.1 Current Metro and Island Service Routes

Currently, the MTA operates three scheduled ferry services with 13 vessels in 5 terminals, running 7 days per week. The services are split into two main categories: Metro Services and Island Services. Figures 3-1 and 3-2 show the current Metro and Island routes, respectively. The Metro Service operates between Old San Juan and Cataño in the San Juan Bay. The Island Service connects the islands of Vieques and Culebra to Fajardo on the main island. In addition to passenger services, the MTA provides cargo and fuel transportation to the islands of Vieques and Culebra, as well as transportation for special events. As part of the Project, Ferry Services are expected to be provided from Pier 2 in Ceiba rather than Fajardo.

Metro Service

The Metropolitan Region of San Juan (comprised by the municipalities of Bayamón, Cataño, Guaynabo, San Juan, and Carolina) has seen vast changes in the demands of its riders for mass transit since the establishment of the Tren Urbano, a rapid transit train built in the mid 2000's. Tren Urbano has changed the dynamics of mass transportation in the Metropolitan Region. Figure 3.1 below shows the current route serviced by the Metro Service ferries.

Figure 3-1: Metro Service Routes



Island Service

The residents in the island municipalities have no other options provided by the Government to reach the main island. In order to effectively develop both islands to their social and economic potential, a reliable ferry service must be provided to link residents, businesses, and tourists to the offshore islands, connect island residents to the essential services (i.e., health, education, and commercial services) that are provided in the main island, and safely transport island residents in the event of a storm or emergency event.

The following map shows the services provided which link Vieques and Culebra to Fajardo.

Figure 3-2: Island Existing Route



Ceiba Service

The Government, the Authority, and MTA are replacing the current Fajardo destination of the Island Service with Pier 2, located in the Municipality of Ceiba. The new Island Service route between Ceiba and Vieques is expected to be of a shorter distance than the existing route between Fajardo and Vieques that it replaces, while the new route between Ceiba and Culebra will be of a similar distance to the existing route between Fajardo and Culebra. The Authority believes that the development and establishment of the new Ceiba routes will improve the competitiveness of the tourism industry for the island municipalities, as well as the operability and service reliability of the ferry system. Figure 3-3 below depicts a portion of the new Ceiba route alongside the Fajardo options which it will replace.

Figure 3-3: New Ceiba Route



3.2 Current Passenger Demographics

The Metro Service is primarily used by commuters to Old San Juan and by visitors to Old San Juan for leisure purposes. The Island Service serves two distinct markets: the first is island residents, for whom the ferries provide the only affordable travel option (\$2.00 and \$2.25 for Vieques and Culebra each way, respectively) to the main island of Puerto Rico. The other market served is visitors, primarily, but not exclusively, from the main island of Puerto Rico. An extensive survey was conducted to better understand the passenger market using the Municipal Islands services. Surveys were carried out between August 3, 2015 and August 10, 2015, yielding 1,200 completed surveys. The survey results suggest that Municipal Island residents account for less than one-third of passengers. The survey results also suggested that 77% of non-residents traveling to the Municipal Islands are primarily doing so for vacation. Residents of the Municipal Islands traveling to the Puerto Rico mainland have varying reasons for doing so, including work, visiting relatives or friends, shopping, or personal business. Overall, 77% of respondents identified themselves as Puerto Ricans, while 44% of the respondents were visitors living in the continental United States.

Household Income

Household income for respondents who are visitors from outside Puerto Rico is significantly higher than for residents of the Municipal Islands. For such visitors, 45% have a household income over \$50,000, while only 18% of residents do. In comparison, 63% of residents have household incomes below \$30,000, while only 31% of visitors from outside Puerto Rico have incomes in this range. The Island Service passengers who are residents of Puerto Rico, but not of the Municipal Islands, have income levels between those of these two groups.

Travelers flying between the Municipal Islands and the main island of Puerto Rico were also surveyed for comparison. Users of the air travel market were found to be quite distinct from ferry users. They generally have higher income levels than those using the ferries, with perhaps the most striking difference being where these users reside. Results of the sample of non-ferry users overwhelmingly indicated that users are from outside of Puerto Rico.

Based on the results of the survey, the following can be concluded regarding the current operations of the Metro and Island Services:

- Most travelers are Puerto Rico residents traveling for leisure purposes with slightly higher income than residents of the Municipal Islands
- Municipal Island residents have lower income than other users of the service and cannot afford other means of transportation
- Ridership may increase if service attracts non-residents on vacation or leisure

3.3 Metro and Island Service Timetables

Island Service

The Fajardo-Vieques and Fajardo-Culebra Services have the following scheduled trips:

Seven days of operation each week, 365 days per year. Holiday schedule includes Puerto Rican Holidays.

Figure 3-4: Island Service Route Schedule

| Route | Departure Times | |
|--------------------|--|-----------------------|
| | Weekdays | Weekends and Holidays |
| Fajardo to Culebra | 4:00 AM * | 9:00 AM |
| | 9:00 AM | 3:00 PM |
| | 1:30 PM* only Wednesday and Friday | 7:00 PM |
| | 3:00 PM | |
| | 5:00 PM * | |
| | 7:00 PM | |
| Fajardo to Vieques | 4:00 AM * | 9:00 AM * |
| | 9:00 AM * | 1:00 PM * |
| | 1:00 PM * | 4:45 PM * |
| | 4:45 PM * | 8:15 PM * |
| | 8:15 PM * | |
| Culebra to Fajardo | 6:00 AM | 6:30 AM * |
| | 6:30 AM * | 1:00 PM |
| | 1:00 PM | 5:00 PM |
| | 1:30 PM * only Wednesday and Friday | |
| | 5:00 PM | |
| | 7:30 PM * | |
| Vieques to Fajardo | 6:00 AM * | 6:30 AM * |
| | 6:30 AM * | 11:00 AM * |
| | 11:00 AM * | 3:00 PM * |
| | 3:00 PM * | 6:30 PM * |
| | 6:30 PM * | |

* indicates trips for passengers and cargo

In addition to passenger and cargo trips, Island Service includes fuel trips where there is flexibility in timing within the given day of the week. The timing of fuel trips outlined in Figure 3-5 are for guidance and dependent on demand and availability of fuel storage space ashore.

Figure 3-5: Island Service Estimated Fuel Schedule

| Fuel Trips | |
|--------------------|---|
| Fajardo to Vieques | Monday and Thursday - 10:00 AM (return trip at 1:00 PM) |
| Fajardo to Culebra | Wednesday and Friday - 9:30 AM (return trip at 1:30 PM) |

Metro Service

The Cataño-San Juan Service has the following hours of operation:

- Continuous operation Monday through Friday from 6:00 AM to 6:30 PM, with service headways of 30 minutes.
- Continuous operation Saturday, Sunday, and Holidays from 8:00 AM to 7:30 PM, with service headways of 30 minutes.

The Hato Rey-San Juan Service is currently not operating. This service was discontinued in 2014.

3.4 Metro and Island Service Ridership

All services have distinct advantages relative to competing services. The Metro Service provides considerable time savings over the existing bus service for trips across the San Juan Bay Harbor. For the Island Service, the residents in the Municipal Islands of Vieques and Culebra have no other mass transit option provided by the Government to reach the main island.

The ridership analysis developed for this Project reveals that each service displays differences in the type of market served (urban versus island/leisure) as well as differential growth trends. All services are tied closely to the Puerto Rican economy. There is significant evidence that ridership on the Culebra and Vieques services have been constrained by available vessel capacity, especially during the summer months. This is particularly pronounced in the case of the Culebra service, where any increase in available seats is associated with a close to proportional increase in ridership.

The charts below show annual and monthly ridership for the Island and Metro Services. For the Island Service, ridership displays a strong seasonal pattern related to tourism activity, with large peaks in July. From 2009 through most of 2017, ridership on the Vieques and Culebra service has been fairly constant. Ridership for the latter half of the year has fallen significantly due to Hurricane Maria. Metro ridership peaks in January of each year. However, overall ridership has decreased following a reduction of service in early 2014 and subsequent intermittent service in 2017 and 2018.

Figure 3-6: MTA Annual Historical Ridership¹

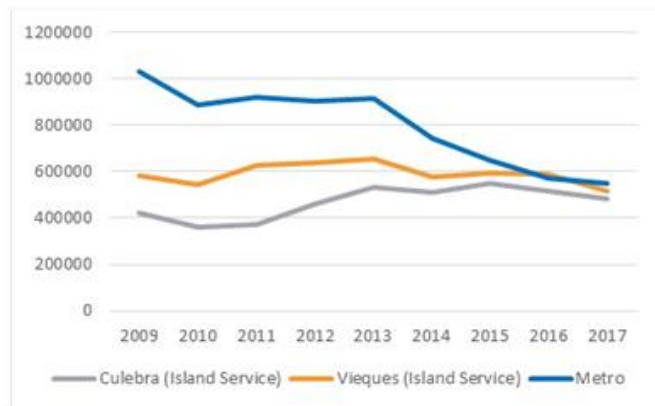
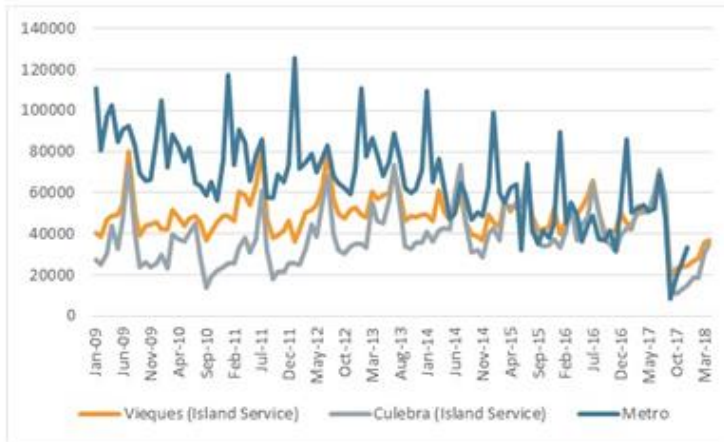


Figure 3-7: MTA Historical Ridership²

¹ In 2014 service frequency in the peak periods was reduced, with headways increasing from 15 minutes to 30 minutes. Also, service from Old San Juan to Hato Rey (San Juan’s financial district) was terminated, which has reduced ridership for the Metro Service.

²Data not available for parts of 2018 when Metro Service was out of operation.



Monthly ridership on the Island Service and Metro Service displays a strong seasonal pattern. For Fajardo-Vieques-Culebra Service, ridership peaks in July, when many Puerto Rican residents and Puerto Ricans living in the U.S. take vacations. Metro Service ridership is at its highest in January, reflecting another peak in tourism from outside Puerto Rico. Ridership for the Island Services with a Ceiba terminal in place of Fajardo is expected to display a trend similar to the trend the current routes display, with the assumption that transit connectivity to the Ceiba terminal is instituted.

Forecasts for ridership for all three services take care to separate the effect of decreased service due to hurricane disruption from the trend. Drawing on population and employment forecasts and patterns in the recovery of similar natural disasters, it is expected that ridership will return to modest trend growth and a permanently lower level due to increased emigration from the islands by 2019. The robustness of Island Service ridership is supported by the fact that a large portion of users are tourists, whose trip patterns and demand should be unaffected by Puerto Rico resident emigration. Therefore, although data for recent months shows a decline in ridership, it is clear that there is a movement back towards pre-Hurricane Maria levels of ridership since October 2017.

3.5 Current Vessels

Metro Service

The current Metro Service fleet consists of the following vessels:

Figure 3-8: Metro Service Vessels

| Name | Year Built | # Passengers |
|-------------|------------|--------------|
| Amelia | 1989 | 143 |
| Covandonga | 1989 | 144 |
| La Princesa | 2009 | 150 |

Of these vessels, the Covandonga and Amelia are past their expected service life and need to be replaced with new vessels having similar passenger capacity. La Princesa has adequate passenger capacity but does not have the speed necessary to provide the level of service that may be required during peak demand periods.

Island Service

The Islands Service fleet currently consists of the following vessels:

Figure 3-8: Metro Service Vessels

| Name | Year Built | # of Passengers |
|----------------------------------|------------|-----------------|
| Passenger-Only Vessels | | |
| Caribeña | 2004 | 236 |
| Cayo Blanco ³ | 2009 | 600 |
| Fajardo II | 1996 | 272 |
| Vieques II | 1996 | 523 |
| Passenger + Cargo Vessels | | |
| Cayo Largo | 2008 | 300 |
| Cayo Norte | 1995 | 198 |
| Isla Bonita | 2012 | 355 |
| Isleño | 2004 | 204 |
| Santa Maria | 1990 | 137 |

The MTA is currently in the process of conducting a complete survey of the Metro and Island Service vessels to determine the current conditions of the fleet, as suggested in the MTA’s 2017-2026 Fleet Maintenance Plan.

3.6 Current Status of Environmental Review

At this time, the Preferred Proponent is expected to be responsible for obtaining all permits and environmental approvals for the Project, except for any approvals required pursuant to the National Environmental Policy Act of 1969, as amended (“NEPA”). To the extent that the Project is subject to NEPA, please be advised that any analysis of alternatives for the Project required by NEPA may not have been completed, and nothing herein is intended to affect any decision by the Authority, the MTA, or others pursuant NEPA, including whether to select a “no-build alternative” for the Project.

3.7 Opportunity to Optimize Operations

The central goals and opportunities for the Project include improving customer service, implementing operational efficiencies, increasing revenue, reducing costs and ultimately reducing public subsidy of maritime transportation. Additions to revenue and cost savings can be achieved under the PPP model through, but not limited to, the measures listed below:

- Additional revenues from ridership
- Additional revenues from advertising
- Additional revenues from concessions
- Cost savings from fringe benefits
- Cost savings from the elimination of unscheduled trips
- Cost savings from natural attrition

A complete assessment report of piers and vessels will be provided as part of the Request for Proposals (RFP) documents.

³ In service as of January 30, 2018.

Section 4 – Scope of Services Requested

4.1 Vessel Requirements

Vessel Services Key Responsibilities

The Private Partner shall ensure vessels and crews are ready for service for every departure on the schedule. The vessels will be clean and well-maintained, the crew will be adequately trained and carry the requisite U.S. Coast Guard (“USCG”) credentials and qualifications. Operations will be conducted in accordance with all applicable USCG and other agency rules and regulations. Specific responsibilities include the following:

- **Vessel Operations:** The Private Partner shall ensure that a clean vessel of the appropriate type and capacity, with a qualified crew and in good operating condition, makes each sailing on the contract-specified schedule. The Private Partner is responsible for maintaining a fully compliant vessel, meeting all local, Government, USCG, FTA, and U.S. federal safety, health, security, and environmental regulations.
- **Crew Training:** The Private Partner shall provide all crew training related to vessel operations, including, but not limited to, watch standing, passenger management, life safety, firefighting, environmental protection, and security. The Private Partner is responsible for ensuring that the vessel crew on each sailing has the credentials specified on each vessel’s USCG-issued Certificate of Inspection (COI) and meets all other USCG regulations. The Private Partner shall provide all crew training necessary to comply with USCG regulations. The Private Partner shall compensate crew members for the cost of obtaining and maintaining merchant mariner credentials and Transportation Worker Identification Credentials (“TWIC”).
- **Vessel Cleaning:** The Private Partner shall be responsible for maintaining a clean and uncluttered vessel, including cleaning the interior and exterior of all vessels both during and after daily operations and removal of all trash and waste products. The Private Partner will be required to maintain cleaning records and make them available for auditing by MTA on a monthly and spot-check (24-hour notice) basis.
- **Vessel Maintenance:** The Private Partner shall perform all preventative and scheduled maintenance for all vessel systems in accordance with the equipment manufacturer’s recommendations. This includes, but is not limited to propulsion, electrical, communications, navigation, piping, and ventilation systems as well as interior and exterior furnishings, hardware and finishes. The Private Partner shall be responsible for cylinder rebuilds and engine overhauls per the manufacturer’s recommendations as well as the periodic replacement of filters, seals, gaskets, impellers, and other system components subject to normal wear. The Private Partner shall be responsible for periodic dry docking activities such as, but not limited to, application of bottom coatings, shaft and bearing maintenance, and propeller maintenance. The Private Partner will be required to maintain vessel maintenance records and make them available for auditing by MTA on a monthly and spot-check (24-hour notice) basis. The Private Partner shall be responsible for the replacement of major machinery such as main engines or generators, major vessel overhauls or service life extensions.
- **Vessel Repairs:** The Private Partner shall be responsible for ensuring all necessary hull and vessel system repairs are made in a timely manner, using sound marine practices and including any requisite notifications of and/or inspections by regulatory agencies. If repairs are expected to keep a vessel out of service for more than one day, the Private Partner will be required to notify MTA and provide a repair plan and schedule for returning the vessel to service.
- **Vessel Inspections and Regulatory Compliance:** The Private Partner shall be responsible for all inspections required by regulation, including USCG-required vessel dry dockings. The Private Partner will be required to make vessels available for all required USCG inspections, drills, and training. The Private Partner will be required to maintain vessel inspection, drill, and training records and make them available for auditing by MTA on a monthly and spot-check (24-hour notice) basis.

The Private Partner shall resolve all CG-835 reports issued by the USCG within the time limit stated in the report. The Private Partner shall notify the MTA whenever a CG-835 is issued and provide a plan for resolving any CG-835 reports that require a vessel to be out of service for more than one day.

4.2 Terminal Requirements

Terminal Services Key Responsibilities

The Private Partner shall ensure all shore side facilities are staffed and maintained as required to support vessel operations per the specified schedule. Specific responsibilities include the following:

- **Terminal Operations:** the Private Partner shall ensure terminal operations are conducted as required to provide safe and efficient loading and unloading of passengers, vehicles, and cargo. Terminal operations include, but are not limited to, vessel fueling, ticket sales, security, and passenger, vehicle, and cargo loading.
- **Terminal Staff Training:** All terminal staff shall receive the training necessary to perform their assigned duties and comply with all applicable federal, state, and local regulations. The Private Partner shall compensate employees requiring TWIC or other licenses or credentials for the cost of obtaining and maintaining their licenses and credentials.
- **Facility Cleaning:** The Private Partner is required to maintain all of the existing terminal facilities in a state of good repair. The Private Partner shall be required to maintain terminal cleaning and maintenance records and make them available for auditing by MTA on a monthly and spot-check (24-hour notice) basis.
- **Facility Maintenance & Repair:** The Private Partner is responsible for the maintenance and repair of all fenders, dolphins, ramps, gangways, and other terminal components that are used during passenger and cargo loading and unloading. All terminal systems, furnishings, and finishes shall be maintained in good condition and in accordance with equipment manufacturer's or vendor's recommended maintenance schedules and warranty requirements. MTA will be responsible for inspection and maintenance of the terminal piers, wharves, and bulkheads.
- **Utilities:** The Private Partner shall pay for all utility services at all terminal locations including, but not limited, to trash and recycling collection, electrical power, water, sewage, telephonic connections, and internet connections (if applicable).

4.3 System Support Services

Transition Requirements

The Private Partner is responsible for the transfer of all system support related operations from MTA. This may include transfer of personnel to the Private Partner's staff, documenting existing conditions of all vessel and terminal equipment, and negotiating any outstanding contracts with vendors. As part of the transition process, the Private Partner shall survey all vessels and identify any deferred maintenance to be performed upon receipt of notice to proceed. A detailed transition plan which identifies the current state of the system, including the anticipated timing of proposed changes, shall be submitted after the selection of the Preferred Proponent and prior to the execution of the PPP Agreement.

Health & Safety, Security, Emergency Response, and Environmental Protection Requirements

The Private Partner is required to operate the system (terminals, vessels, and maintenance facilities) in compliance with all applicable local, Government, and federal laws and regulations. This includes, but is not limited to the following:

- Health & Safety: OSHA & USCG regulations



- Security: Maritime Transportation and Security Act of 2002 (“MTSA”) & USCG regulations
- Environmental Protection: EPA & USCG regulations

Private Partners are to avoid, to the extent possible, accidents/incidents and/or breaches of security pursuant to the MTSA. Any accidents/incidents or breaches in security shall be reported immediately.

Fares and Ticketing Requirements

Fare Policy

Metro and Island service fares and fare policy are currently set by the MTA and are subject to change at the discretion of the MTA. The Private Partner may be consulted regarding fares with consideration to the Private Partner’s ticketing systems to accommodate any proposed change.

New Fares

The Private Partner will be granted the right to assess, collect, and retain user fees with respect to the Ferry Services. The PPP Agreement is expected to grant the right for the Private Partner to modify and implement fares for non-residents of Vieques and Culebra, however such modifications will be subject to MTA and/or Government approval. The fares for residents of Vieques and Culebra are expected to be capped at a specified level. The fare structure will be set forth in the PPP Agreement and subject to change through a contractual modification process.

Table 4-1: Current Island Service Fares

| | |
|---------------------------------|----------------|
| Vieques | \$2.00 |
| Culebra | \$2.25 |
| Under 11 years | \$1.00 |
| Seniors 60 to 74 years | \$1.00 |
| Seniors 75 and older | free of charge |
| Prices by loose articles | |
| Cooler | \$2.00 |
| Bicycle | \$2.00 |
| Backpacks | \$1.00 |
| Tent | \$2.00 |
| Umbrellas | \$1.00 |
| Chairs | \$1.00 |
| Surf board | \$6.00 |
| Boogey board | \$3.00 |
| Boxes | \$1.00 |
| Hand Truck (big) | \$5.00 |
| Hand Truck (small) | \$3.00 |
| Caged animals | \$2.00 |
| Kayak | \$10.00 |
| Cow/Horse | \$4.00 |
| Tires | \$1.00 |
| Freight | |
| Motorbike/four track | \$7.00 |



| | |
|--------------------------|-----------------------------|
| Auto | \$15.00 to \$19.00 |
| SUVs, Pickup, Van- | \$32.00 to \$39.50 |
| Trailers- Linear ft. | \$1.50 to \$2.50 Linear ft. |
| Trucks by measure | |
| Up to 30 ft. | \$19.50 to \$47.00 |
| Over 30 ft. | \$1.50 to \$5.00 Linear ft. |
| Trucks by weight | |
| Up to 30 tons | \$34.50 to \$84.50 |
| Over 30 tons | \$84.51 to \$259.50 |

Table 4-2: Metro Service Fares

| | |
|--------------------------|----------------|
| Regular Tariff | \$0.50 |
| Seniors 60 to 74 years | \$0.25 |
| Seniors 75 and older | free of charge |
| Seniors (65 to 75 years) | \$0.25 |
| Disabled | \$0.25 |
| Children (under 3 years) | free of charge |

Ticketing

The Private Partner shall be responsible for the publication and enforcement of ticketing for the Metro and Island Service. In addition, the Private Partner shall provide the following ticketing systems which will be able to provide refunds and determine ticket expiration.

- **Island Service Ticketing:** The Private Partner may choose to retain and maintain MTA’s current ticketing system and will be required to implement electronic ticketing in addition to paper ticketing during the Project Term. The Private Partner shall be responsible for the development, installation, operation and maintenance of an electronic ticketing and reservation system which will be compatible with the fare structure outlined in Table 4-1, should they choose to utilize their own system. The system is to include online ticket sales, attendant ticket sales, and consider opportunities for ticket vending machines and mobile applications. The fare structure approved by the MTA and/or Government shall be identical to the fares offered in the online ticketing and mobile application, and will be inclusive of all service charges and other fees. The system must accept coins, notes, debit and credit cards, and consider alternative payment mediums. The fare ticketing system must provide proof of payment, a retained receipt, and an ability to validate fares for all forms of payment.
- **Metro Service Ticketing:** The Private Partner will be responsible for the operation and maintenance of MTA’s current Metro Service ticketing system. The Private Partner shall coordinate with PRHTA, AMA, and MTA to support any integrated ticketing system initiative. The Private Partner will also be responsible for monitoring the performance of the ticketing equipment, and reporting faults and issues of the new integrated ticketing system.

The Private Partner will be responsible for the financial reconciliation of all forms of payment once the new integrated system is installed. Coordination with PRHTA, AMA, and MTA will be required to set up a third party reconciliation of the ticketing machines.

Marketing/Customer Service

The Private Partner shall develop and execute marketing for the Metro and Island Services. The Private Partner shall create a website and targeted advertising, which may include print advertising, collateral materials, and digital campaigns. The website must provide, at a minimum, information about schedules, fares, electronic ticketing, directions to terminals, user guides, and details of MTA policies. All Metro and Island Service marketing is to maintain a consistent brand to be developed by the Private Partner and subject to MTA's approval. The consistent brand is to be applied on all marketing materials including websites, signage, and other mediums.

The Private Partner shall also be responsible for providing a customer service center to attend to customer issues and concerns. In addition, the Private Partner shall provide and maintain a log of customer service issues and must efficiently resolve such issues within a reasonable amount of time.

4.4 Business Arrangements

Management and Shore Based Service Requirements

Management Plan

The Respondent shall develop an organizational structure which efficiently identifies key positions, their duties and responsibilities and how the proposed structure will deliver the required quality of service. The plan must provide details of the proposed staff and their qualifications for the positions.

Fuel

Procurement of fuel to operate the Ferry Service will be the responsibility of the Private Partner. The Private Partner will be required to provide all operating cost assumptions inclusive of fuel costs in the future RFP. The Private Partner shall propose a plan to reduce fuel usage without compromising the operating schedule.

Unscheduled Trips

The Island Service at times is required to perform a series of unscheduled trips outside the regular operating schedule, whether to meet particularly high demand or to accommodate transportation for special events. These unscheduled trips have averaged around 35 round trips per month. The Private Partner shall factor a specific number of unscheduled round-trips a month into its Operating Cost Plan for the service to Vieques and Culebra. The exact number of unscheduled trips to be included in the net public subsidy bid will be determined during the procurement process.

In addition, the Private Partner should include the cost for additional unscheduled trips on a round-trip basis per vessel type (cargo vs passenger only). The proposed cost should detail the underlying assumptions for each cost component consistent with the Operating Cost Plan.

Section 5 – SOQ Requirements for all Respondents

RFQ Requirements

General

The Authority expects SOQs submitted in response to this RFQ to provide enough information about the requested items so as to allow the Authority to evaluate, competitively rank and shortlist the Respondents based on the criteria set forth herein. SOQs shall be submitted exclusively in the English language inclusive of English units of measure, and cost terms in United States of America (U.S.) dollar denominations. Standard corporate brochures, awards, licenses and marketing or promotional material shall not be included in the SOQ.

Format

Number and Types of Copies

Each Respondent shall submit the following in sealed packages:

- 1) One digital copy of its SOQ in read-only format on a write-protected flash drive, clearly marked with the Respondent's name on the package or the drive itself. The Authority encourages Respondents to use searchable, bookmarked PDFs and hyperlinked tables of contents.
- 2) One (1) original and five (5) copies—for a total of six (6) hardcopies—of its SOQ in loose-leaf, three-ring binders, one SOQ part per binder. The SOQ containing original signatures shall be marked as "Original". The original must be clearly marked "Original" on its face and spine. Each copy must be numbered 1 through 5 on its spine. The Respondent's name and part number must also be clearly marked on the spine.

Paper and Printing Requirements

SOQs must be prepared on 8-1/2" x 11" sized white paper. For purposes of all page limits set forth in this RFQ, each printed side shall be considered one page and will be included in any applicable page limitations. The use of 11" x 17" pages is acceptable (and each printed side will be considered one page) for Forms 1 through 4 in Appendix 2 or schedules, but not for narrative text. Printed lines may be single-spaced. Insofar as is practical or economical, all paper stock used shall be composed of recycled materials.

Page and Font Limitations

There is no aggregate page limit for SOQ Part A, Part B and Part C, but page limits for individual components may apply as specified in Appendix 1. Part A, Part B and Part C shall have all pages sequentially numbered. Part A and Part B shall not exceed 40 pages, excluding all Forms and all applicable license and registration information provided in response to Appendix 2.

The font size used in the SOQ shall be no smaller than 12 point, except for tables, which may be prepared using 10 point font.

Overview of Submission Requirements

The SOQ shall be delivered no later than the Submission Deadline. Prospective Respondents that anticipate responding to this RFQ shall so indicate as soon as possible by providing contact information via e-mail to the Committee Representative's e-mail address listed below. The SOQ should comply with the format provided in Section 5 and Appendix 1. Additional information not specifically related to the Project or this RFQ should not be included. All questions, RFCs, or requests for information regarding this RFQ should be directed to the Committee Representative via e-mail. Please do not contact any officials or related parties of the Authority in any other manner. Such contact may serve as grounds for disqualification.

Address questions, comments, and RFCs to:

Maritime Transportation Authority Committee Representative

Request for Qualifications – Maritime Transportation Authority Project

E-mail:RFQ-FerrySystem@p3.pr.gov

Authorization for Further Investigation

The Committee and its officers, employees and consultants are authorized to make any inquiry or investigation to verify the statements, documents, and information submitted in connection with this RFQ, and to seek clarification from the Respondent's officers, employees, advisors, accountants and clients regarding the same.



5.1 Reporting of Material Adverse Change

At any time prior to the selection of a shortlisted Respondent, each Respondent shall submit immediately to the Authority information pursuant to the submission requirements set out in Section 5 of this RFQ either (i) upon the occurrence of a material adverse change to the information previously submitted by the Respondent in response to such submission requirements, or (ii) from time to time upon the Authority' request. The Authority will evaluate the information submitted by the Respondent in accordance with the evaluation criteria set out in Section 6, and may revise the Respondent's score and ranking to reflect the results of the evaluation. If a shortlisted Respondent's revised score results in a change in its ranking, the Committee may, in its discretion, invite other Respondents based on their ranking in this RFQ process (provided such Respondents have achieved the minimum score required) to be added to the list of shortlisted Respondents and replace the Respondent whose score was re-evaluated under Section 6, even if those replacement Respondents were not shortlisted Respondents in the first instance.

5.2 RFQ Submission Instructions and Next Steps

The Authority will not accept RFQ submissions sent by facsimile, electronic mail, telex or other telegraphic means. The determination of whether an RFQ submission is submitted before the Submission Deadline will be based on the time and date stamp each Respondent must ensure it receives from the Authority/Committee at the Submission Address. It is the sole responsibility of each Respondent to ensure that its RFQ submission is delivered to the Submission Address no later than the Submission Deadline. RFQ submissions received after the Submission Deadline will be rejected and returned to Respondents unopened. Respondents should not submit promotional materials as part of their RFQ submissions and are strongly encouraged not to submit information that is not required by this RFQ. Respondents are strongly encouraged to be succinct in their prequalification submissions. Respondents shall limit their prequalification submission, or each component of the RFQ submission, to the maximum number of pages indicated in Section 5. Respondents are cautioned that, if there are page limits set out in Appendix 1 for specific sections, the Authority will not review or score pages submitted in excess of the maximum number of pages indicated for such item. For the avoidance of doubt, any page limits set out in the RFQ shall apply to all materials submitted by the Respondent in response to the item that is the subject of a page limit, whether submitted in the text of the prequalification submission or included as an appendix, schedule or other attachment to the RFQ submission.

The SOQ submission shall be labeled as follows:

Puerto Rico Public-Private Partnerships Authority
Ferry System Committee Representative
Maritime Transportation Services SOQ
Submitted by (Respondent's name and Address)

The SOQ shall be delivered to:

Puerto Rico Public-Private Partnerships Authority
cc: Omar J. Marrero, Esq. – Executive Director PPP Authority
Government Development Bank for Puerto Rico
Roberto Sánchez Vilella (Minillas) Government Center – Third Floor
De Diego Ave. Stop 22
San Juan, PR 00907



5.3 RFQ Miscellaneous Instructions

Addenda to RFQ

The Authority reserves the right to amend this RFQ at any time. Any amendments to this RFQ will be described in written Addenda. Copies of each Addendum will be available at the Authority's website at <http://www.p3.pr.gov> and Respondents will be notified. Respondents are encouraged to review the Authority's web page regularly. All Addenda will become part of this RFQ. In the event of any conflict in the wording or any issue of interpretation, Addenda, when issued, will take priority over the original wording in the RFQ and any wording in prior Addenda. Each Respondent shall, in its SOQ, acknowledge receipt of each Addendum. Each Respondent is solely responsible to ensure that it has received all communications issued by the Authority. A failure to obtain any such communication is at the sole and absolute risk of the Respondent and the Authority accepts no responsibility for any Respondent that does not receive or obtain all RFQ information (including Addenda). Each response to this RFQ is deemed to be made on the basis of the complete RFQ issued prior to the Submission Deadline.

Withdrawal of SOQs

A Respondent may withdraw an SOQ by delivering to the Authority a written request for withdrawal, prior to the date of the selection of the Preferred Proponent, at the address for delivery of SOQs set forth in Section 5.2. Any such withdrawal does not prejudice the right of a Respondent to submit another SOQ by the Submission Deadline.

5.4 Disclaimer

The information provided in this RFQ, or any other written or oral information provided by the Authority, MTA, the Committee, the Government or their respective officers, employees, advisors or consultants in connection with the Project or the selection process is provided for the convenience of the Respondents only. Respondents shall make their own conclusions as to such information. Oral explanations or instructions from officials, employees, advisors or consultants of the Authority, MTA, the Committee, or the Government or any Puerto Rico public agency will not be considered binding on the Authority, MTA, the Committee, or the Government. The Authority, MTA, the Committee, the Government and their respective officers, employees, advisors and consultants make no representation as to such information, the accuracy and completeness of such information is not warranted by any of them and none of them will have any liability in connection with such information or the selection process, all of which liability is expressly waived by the Respondents. This RFQ is not an offer to enter into any contract of any kind whatsoever.

5.5 Conflict of Interest

Each Respondent Representative, on behalf of the Team Members identified as meeting the experience requirements of Section 4 of this RFQ, must declare and continue to be under an obligation to declare all Conflicts of Interest or any situation that may be reasonably perceived as a Conflict of Interest that exists now or may exist in the future. In this Section 5.5, "Conflict of Interest" includes any situation or circumstance where in relation to the Project, the Respondent and the Team Members identified as meeting the experience requirements contemplated in Section 4 of this RFQ have other commitments, relationships or financial interests that:

- could or could be seen to exercise an improper influence over the objective, unbiased and impartial exercise of both the Authority and Committee's independent judgment
- could or could be seen to compromise, impair or be incompatible with the effective performance of its obligations under the O&M contract

In connection with its SOQ, each Respondent shall:

- avoid any Conflict of Interest in relation to the Project
- disclose to the Authority without delay any actual or potential Conflict of Interest that arises during the RFQ process
- comply with any requirements prescribed by the Authority to resolve any Conflict of Interest

In addition to all contractual or other rights available at law or in equity or legislation, the Committee may immediately exclude a Respondent from further consideration or remove the Respondent from the RFQ process if:

- the Respondent fails to disclose an actual or potential Conflict of Interest
- the Respondent or a Team Member identified as meeting the experience requirements of Section 4 of this RFQ fails to comply with any requirements prescribed by the Authority to resolve a Conflict of Interest
- the Respondent's Conflict of Interest issue cannot be resolved

5.6 Reservation of Rights

In connection with the proposed Project, the Authority, and MTA reserve all rights (which rights will be exercisable by the Authority and MTA in their absolute discretion) available to them under applicable laws and regulations, including, without limitation, with or without cause and with or without notice, the right to:

- Modify the procurement process to address applicable law and/or the best interests of the Authority, MTA, FAFAA and the Government
- Develop the Project in any manner that they deem necessary and change the limits, scope and details of the Project
- If the Committee and MTA are unable to negotiate a PPP contract to their satisfaction with a Respondent, negotiate with the next highest ranked Respondent, terminate the process and pursue other alternatives relating to the Project or exercise such other rights as they deem appropriate
- Cancel the procurement process, as applicable, in whole or in part, at any time prior to the execution by MTA of an agreement, without incurring any cost, obligations or liabilities whatsoever
- Issue a new RFQ after withdrawal of this RFQ
- Reject or disqualify any and all RFQ submissions and responses received at any time for any reason without any obligation, compensation or reimbursement to any Respondent or prospective Respondent or Team Member
- Modify all dates, deadlines, process, schedule and other requirements set out, described or projected in this RFQ
- Terminate evaluations of responses received at any time
- Exclude any Respondent from submitting any response to the RFQ, as the case may be, based on failure to comply with any requirements
- Issue addenda, supplements and modifications to this RFQ
- Require confirmation of information furnished by a Respondent, require additional information from a Respondent concerning its response and require additional evidence of qualifications to perform the work described in this RFQ
- Consider, in the evaluation of any RFQ submission, any instances of poor performance by a Respondent, Team Member or key individual that any of the Authority, MTA, FAFAA or the Government may have experienced
- Seek or obtain data from any source that has the potential to improve the understanding and evaluation of the responses to this RFQ
- Add or delete Respondent responsibilities from the information contained in this RFQ or any subsequent process instruments

- Negotiate with any party without being bound by any provision in its response
- Waive any deficiency, defect, irregularity, informality, non-conformity or non-compliance in a response to the RFQ or permit clarifications or supplements to a response to the RFQ, and accept such response even if such deficiency, defect, irregularity, non-conformity or non-compliance would otherwise render the response null and void or inadmissible
- Add or eliminate facility expansion to or from the Project
- Incorporate the RFQ or any Respondent's response to the RFQ as part of any formal agreement with a shortlisted Respondent
- Not issue a notice to proceed after execution of any contract
- Postpone the date on which responses to this RFQ are due
- Exercise any other right reserved or afforded to the Authority, the Committee, and MTA under the Act, the Regulation, this RFQ or applicable law

This RFQ does not commit MTA to enter into a contract or proceed with the Project as described herein. The Authority, MTA, FAFAA, and the Government assume no obligations, responsibilities, or liabilities, fiscal or otherwise, to reimburse all or part of the costs incurred or alleged to have been incurred by parties considering a response to and/or responding to this RFQ, or in considering or making any submission. All of such costs shall be borne solely by each Respondent.

In no event will the Authority or MTA be bound by, or liable for, any obligations with respect to the Concession Agreement until such time (if at all) as a contract, in form and substance satisfactory to the Authority and MTA has been executed and authorized by MTA and then, only to the extent set forth therein.

5.7 Limitations of Damages

Each Respondent, by submitting a response to this RFQ, agrees that in no event will the Authority, MTA, FAFAA, the Committee, the Government, or any of their respective employees, advisors or representatives, be liable, under any circumstances, for any Claim, or be required to reimburse or compensate the Respondent in any manner whatsoever, including but not limited to costs of preparation of the response, loss of anticipated profits, loss of opportunity, or for any other matter. Without in any way limiting the above, each Respondent specifically agrees that it will have absolutely no Claim against the Authority, MTA, FAFAA, the Committee or the Government or any of their respective employees, advisors or representatives if any such party for any reason whatsoever:

- Does not select a shortlist of prequalified Respondents
- Suspends, cancels, or in any way modifies the Project or the solicitation process (including modification of the scope of the Project or modification of the RFQ or both)
- Accepts any compliant or non-compliant response or selects a shortlist of one or more prequalified Respondent(s)
- Under the terms of the RFQ permits or does not permit a Restricted Party to advise, assist, or participate as part of a Respondent team
- For any breach or fundamental breach of contract or legal duty of the Authority, MTA, FAFAA, the Committee or the Government, whether express or implied, each Respondent waives any and all Claims whatsoever, including Claims for loss of profits or loss of opportunity, if the Respondent is not shortlisted in the solicitation process for any other reason whatsoever

For purposes of this Section 5.7, "Claim" means any claim, demand, liability, damage, loss, suit, action, or cause of action, whether arising in contract, tort or otherwise, and all costs and expenses relating thereto.

The Authority and its advisors are not responsible for costs incurred by Respondents, Team Members, subcontractors, or other interested parties in connection with the solicitation or procurement process, including but not limited to costs associated with preparing responses, qualifications, and of participating in any conferences, oral presentations or negotiations, whether in connection with this RFQ or otherwise. A shortlisted Respondent will not be entitled to indemnity (including, but not limited to, reimbursement for costs and expenses) from the Authority if the Authority decides, in its discretion, to terminate the procurement process for this Project.



Section 6 – Evaluation Criteria

6.1 Proponent Qualification and Proposal Requirements

This RFQ is available for prospective Proponents who desire to participate in the Project. All RFQ qualification submissions will be reviewed based on the requirements set forth in Section 6 and Appendix 1 of this RFQ.

The process for evaluating the SOQ is outlined in this Section 6. The Regulation states that the Committee reserves the right to qualify a limited number of prospective Proponents in order to arrive at a shortlist for a particular Project; provided, that such right is contemplated in the applicable RFQ. The Authority's goal is to create a fair basis for the evaluation of the SOQs in compliance with all applicable laws governing this procurement.

The SOQ evaluation process will include: (1) a review of each SOQ for responsiveness and pass/fail criteria in accordance with Section 6.2.1 and (2) a qualitative evaluation of the SOQ in accordance with the evaluation criteria set forth in Section 6.3, resulting in a qualitative score.

6.2 Statement of Qualifications Evaluation Criteria

SOQs shall be prepared and submitted in the format set out in Section 5, and shall completely and clearly address the scope of work outlined in Section 4, and the project objectives outlined in Section 2 of this RFQ.

The Act requires the Committee to take into account certain factors in evaluating the submitted SOQs. The evaluation criteria for the SOQ submissions will consist of two (2) Pass/Fail criteria.

6.2.1 Pass/Fail and Responsiveness Review

Each SOQ will be reviewed for: (a) conformance to the RFQ instructions regarding organization and format, and responsiveness to the requirements set forth in this RFQ and (b) conformance with the pass/fail criteria set forth in Section 6.2.1.

Any SOQ determined by the Authority that does not address the requirements set forth in this RFQ or that does not pass the pass/fail criteria herein will be excluded from further consideration and will not be eligible for qualitative evaluation and shortlisting. The Authority may also exclude from consideration any Respondent whose SOQ contains a material misrepresentation of information. Should an SOQ be excluded from further evaluation, the Authority will inform the Proponent.

The Authority may request written clarifications, confirmations or corrections from a Proponent regarding minor nonconformities, irregularities, and apparent clerical mistakes as provided in Section 5. The Authority reserves the right, in its discretion, to disregard or waive minor informalities, irregularities, omissions, nonconformities, discrepancies, and apparent clerical mistakes.

Pass/Fail Criteria: The Authority will evaluate each SOQ based upon the following pass/fail criteria:



Criterion 1 – Compliance with RFQ

To pass Criterion 1, the SOQ must comply with the requirements contained within this RFQ including but not limited to format requirements, terms, conditions of this RFQ and the completion of required Forms in Appendix 2.

Criterion 2 – Compliance with Requirements of the Act

Each SOQ submitted pursuant to this RFQ will be reviewed to determine whether it satisfies the Act's requirements. To pass this Criterion 2, Proponents are to provide a statement which addresses the following:

- The Respondent shall demonstrate that it is a Person authorized to do business in Puerto Rico.
- Each Team Member and each Respondent, if the Respondent has been formed as of the date of a submission of a response to this RFQ, shall certify that neither it nor any of its directors, officers, shareholders, or subsidiaries, nor its parent company, nor in the case of a partnership, any of its partners, nor any person or entity that may be considered an alter ego or the passive economic agent of the Respondent (each a "Covered Party"), has been convicted, has entered a guilty plea or has been indicted, or has had probable cause found for their arrest, in any criminal proceeding in the courts of the Government, the Federal courts of the United States, or the courts of any jurisdiction of the United States or a foreign country, of criminal charges related to acts of corruption or to any of the following crimes: a crime against public integrity, as defined in the Government of Puerto Rico Penal Code, embezzlement of public funds, a crime against the public treasury, public trust, public function or involving the wrongful use of public funds or property, any of the crimes enumerated in Act No. 458 of December 29, 2000, as amended ("Act 458"), or under the Foreign Corrupt Practices Act; nor is any Covered Party under investigation in any legislative, judicial or administrative proceedings in the Government of Puerto Rico, the United States or any other country. The Respondent is in compliance and will continue to comply at all times with all federal, state, local and foreign laws applicable to the Respondent that prohibit corruption or regulate crimes against public functions or public funds, including the Foreign Corrupt Practices Act (this requirement may be satisfied by completing the Form of Sworn Statement and Form of Respondent Certification included in Appendix 2 to this RFQ).
- Proponents who apply or bid for an award of U.S. \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient (this requirement may be satisfied by completing the Certification Regarding Lobbying included in Appendix 2 to this RFQ).

6.3 Qualitative Evaluation Criteria and Weighting

Each Respondent's SOQ passing all of the "pass/fail" criteria set forth in Section 6.2 will be qualitatively evaluated and scored by the Committee in the following categories:

- Technical Qualifications and Capability (40% Weighting)
- Financial Qualifications and Capability (20% Weighting)
- Conceptual Technical Approach Statement (30% Weighting)
- Management Plan (10% Weighting)



The evaluation criteria for each category are set forth below.

6.3.1 Technical Qualifications and Capability (40% Weighting)

The Respondent's technical experience and capability will be evaluated based on the following factors, and such evaluation will only consider:

a) Firm Experience

The extent and depth of the experience of the Respondent's Team Members with projects of similar scope and complexity and with similar responsibilities as are anticipated to be within the scope of work, and specific experience with PPP agreements/contracting, design and construction, operations and maintenance contracting, or any variation thereof.

The Authority will consider the individual and collective project experience of the Team Member firms in accordance with the criteria listed below, as reflected in the SOQ. The extent and depth of the technical capability of the Respondent and its Team Members will be evaluated based on:

1. Evidence of experience with the design, construction, operation and maintenance of projects comparable to the design, construction, operation and maintenance of capital improvements to Pier 2, including any examples of innovative approaches to similar projects that provided benefits to both the public and private sectors;
2. Evidence of experience with the management, improvement, operations and maintenance of maritime transit operations or government-sponsored or owned infrastructure
3. A demonstrable history of acquiring and/or financing new ferry vessels
4. Evidence of operation of vessels including history of past "on time" service performance
5. Evidence of maintenance of vessels including fleet sizes and type/size of vessels maintained, including history of missed trips
6. Evidence of customer service and ticketing system development and operation
7. Evidence of meeting local, governmental, federal, and international labor standards and fair wage
8. A demonstrable history of maintaining responsible environmental practices and regulatory compliance

Reference letters for current and/or past government entities regarding performance on operating ferry systems are encouraged.

b) Technical Key Personnel Experience

The extent and depth of the experience of Technical Key Personnel with projects of similar scope and complexity and with similar personnel roles and responsibilities as are anticipated for this Project, and specific experience with concessions, PPP contracting, design and construction, operations and maintenance contracting, or any variation thereof.

6.3.2 Financial Qualifications and Capability (20% weighting)

The Respondent's financial experience and capability will be evaluated based on the following factors, and such evaluation will only consider:



1. Demonstrated financial experience in managing, designing, constructing, operating, maintaining and improving maritime transportation projects as described below:
 - The Respondent shall have demonstrable experience and understanding with accessing necessary corporate or equity capital, securities, or other financial resources that enable the design, construction, operation, maintenance, improvement, and management of maritime transportation and/or infrastructure assets similar to the Project
2. Depth of experience of the Proponent's Financial Key Personnel (consisting of one or more Finance Leads) as described below:
 - Length and depth of experience in funding maritime related transportation project improvements, design and construction, vessel acquisition, and other maritime related capital improvements

6.3.3 Conceptual Technical Approach Statement (30% Weighting)

The Respondent's Conceptual Technical Approach Statement should be a narrative of its approach to delivering the Project and demonstrate the following:

- An understanding of the Project's scope and complexity
- An understanding of Project risks and potential solutions (regardless of which party has responsibility for such risks) that may arise during all Project phases, including design, construction, management, operation, maintenance, improvement, as well accepting the risk of demand of the ferry service
- An understanding and sound approach to PPP contracting and successfully delivering the Project using PPP contracting
- A sound approach to implementing Commercial Activities to generate additional revenue for the Project
- An understanding and sound approach to establishing a ticketing system and business opportunities to optimize revenue that can be generated from the Project
- An understanding and sound approach to implementing current personnel and/or utilizing other personnel to achieve appropriate staffing levels
- An understanding and sound approach to project quality (QA/QC) during Phase I and Phase II operations
- An understanding and sound approach to safety management during both Phase I and Phase II of operations
- An understanding and sound approach to providing good customer service through the operations of the Project

6.3.4 Management Plan (10% Weighting)

The Respondent shall develop an organizational structure which efficiently identifies key positions, their duties and responsibilities and how the proposed structure will deliver the required quality of service. The plan must provide details of the proposed staff and their qualifications for the position.

The Respondent's Management Plan will be evaluated based on the completeness and capability of its organizational structure to successfully deliver the Project.



Appendix 1 - SOQ Format

Responses must be prepared and submitted in the format set out in Section 5 of this RFQ and must comprehensively and completely address its requirements.

Respondents shall assemble their SOQ as presented below.

| SOQ Component | Form if any |
|---|-------------|
| Part A – General Information | |
| Form of Sworn Statement | Form 1 |
| Form of Respondent Certification for each Team Member | Form 2 |
| Certification Regarding Lobbying | Form 3 |
| Certification indicating that Respondent is not currently disqualified, removed, debarred or suspended from performing or bidding on work for federal government or any state government. | Form 4 |
| Disclosure of Conflicts: list any dealings with the Government of Puerto Rico, the Authority, or MTA (including the employees and elected representatives of each), as well as any suppliers of goods or services to MTA. | |
| Cover Page (to include identification of all Team Members, 1 page maximum) | |
| Cover Letter (2 pages maximum) | |
| Table of Contents | |
| <p>Executive Summary (3 pages maximum)</p> <p>The Executive Summary shall be written in a non-technical style and shall contain sufficient information for reviewers with both technical and non-technical backgrounds to become familiar with the Proponent’s SOQ and its ability to satisfy the financial and technical requirements of the Project. The executive summary shall identify each Team Member and briefly describe the role, headquarter office location, and the qualifications of each Team Member, and their experience in performing comparable projects. The executive summary shall address why the Respondent wants to become the Preferred Proponent.</p> | |
| <p>Respondent and Organization Information (2 pages maximum)</p> <p>Respondent Representative: provide a single contact person (“Respondent Representative”) for all future communication between the Authority and the Respondent. Please identify the Respondent Representative’s name, title, organization, work address, email address, and work, cell and fax numbers.</p> <p>If the organization listed has multiple offices, the SOQ shall include information about the parent company and branch office separately and identify offices from which the Project will be managed and their respective responsibilities and subordinate organizational units (including an organizational chart which illustrates the various subcontractors and Key Personnel).</p> <p>Provide form of ownership, including state of residency or incorporation, and number of years in business.</p> | |



| | |
|--|--|
| <p>Specify whether the firm is a sole proprietorship, partnership, corporation, limited liability company, joint venture, or other structure.</p> | |
| <p>Management Plan (2 pages maximum) Respondents should address all areas referred to in the Evaluation Criteria set out in Section 6.3.4 of this RFQ, under the heading “Management Plan”.</p> | |
| <p>Part B – Technical Information</p> | |
| <p>Firm Experience Respondents should provide details for a minimum of three and no more than five projects that best meet the evaluation criteria set out in Section 6.3.1(a) of this RFQ.</p> <p>Respondents shall also submit copies of the following reports for the last three (3) years:</p> <ul style="list-style-type: none"> (i) Occupational Safety and Health Administration (OSHA) 300 forms. If not applicable, a Respondent shall present a document explaining the reasons for not submitting the form. (ii) Inclusion of vessel safety records including list of accidents/incidents they have been involved in. (iii) USCG CG-835 and CG-2692 forms for current operations. If not applicable, a Respondent shall present a document explaining the reasons for not submitting the form. | |
| <p>Technical Key Personnel Experience Each Respondent must identify at least one individual as Technical Key Personnel and provide separate resumes for all other Technical Key Personnel whose qualifications and experience will be evaluated as in part Section 6.3.1(b) of this RFQ. Resumes shall be limited to no more than three pages per person, exclusive of licenses or license applications. For each project, the following information shall be included in the resume:</p> <ul style="list-style-type: none"> (i) Name of the project, the public owner’s contact information (project manager name, telephone number, email address), and dates of work performed on the project. (ii) Description of the individual’s exact role and the work or services provided on the project. If more than one role was played, identify the dates and duration of each role. (iii) Description of how the individual’s experience on the project is relevant to the evaluation criteria set forth in Section 6.3.1(b) of this RFQ. (iv) Relevant licensing and registration. (Copies of licenses and/or applications for licenses, if applicable, must be attached.) <p>One reference must be supplied for each of the Key Technical Personnel. The references, in each case, must be from projects on which the Key Technical Personnel was involved during the past five years.</p> <p>References shall be provided by previous clients with whom the Key Technical Personnel have worked as described above, and shall include the reference’s name, position, company or agency, and current contact details (including current address, e-mail address, and telephone number). Respondents are requested to verify the accuracy of the reference’s contact details, and are advised that if the contact details are not correct, the Authority may elect to exclude the experience represented by such reference in determining the Key Technical Personnel’s qualifications.</p> <p>Respondents shall provide an express written statement from each entity employing the individuals designated in the SOQ committing such individuals as Key Technical Personnel. While the Authority recognizes the impact of personnel availability and scheduling conflicts upon Respondents, Respondents are urged to designate and proffer only those individuals they reasonably believe will be available for, and intend to assign to work as Key Technical Personnel. Procedures concerning changes to Key Technical Personnel will be set forth in the RFP. Respondents are advised, however, that change requests will be subject to the Authority’s prior approval and will</p> | |



| | |
|---|--|
| <p>be reviewed very carefully. Key Technical Personnel changes without the Authority’s prior approval may result in disqualification of the Respondent.</p> | |
| <p>Conceptual Technical Approach Statement (5 pages maximum) Provide a narrative statement of the Proponent’s conceptual technical approach to the Project responsive to the evaluation criteria set out in Section 6.3.3 of this RFQ.</p> | |
| <p>Part C – Financial Information</p> | |
| <p>Project Financing Experience Respondents should provide details for a minimum of three and no more than five projects that best meet the evaluation criteria set out in Section 6.3.2 of this RFQ, including descriptions of the projects and case studies. Each case study should highlight any unique financial challenges encountered and the approach to overcoming these challenges. Only list maritime transportation projects that are comparable to the Project.</p> | |
| <p>Financial Key Personnel (4 pages maximum) Each Respondent must identify at least one individual as Financial Key Personnel and provide separate resumes for all other Financial Key Personnel whose qualification and experience will be evaluated based on the evaluation criteria described in Section 6.3.2 of this RFQ. Resumes shall be limited to no more than three pages per person, exclusive of licenses or license applications. For each project, the following information shall be included in the resume:</p> <ul style="list-style-type: none"> (i) Name of the project, the public owner’s contact information (project manager name, telephone number, email address), and dates of work performed on the project. (ii) Description of the individual’s exact role and the work or services provided on the project. If more than one role was played, identify the dates and duration of each role. (iii) Description of how the individual’s experience on the project is relevant to the evaluation criteria set forth in Section 6.3.2 of this RFQ. (iv) Relevant licensing and registration. (Copies of licenses and/or applications for licenses, if applicable, must be attached.) <p>One reference must be supplied for each of the Financial Key Personnel. The references, in each case, must be from projects on which the Financial Key Personnel was involved during the past five years.</p> <p>References shall be provided by previous clients with whom the Financial Key Personnel have worked as described above, and shall include the reference’s name, position, company or agency, and current contact details (including current address, e-mail address, and telephone number). Respondents are requested to verify the accuracy of the reference’s contact details, and are advised that if the contact details are not correct, the Authority may elect to exclude the experience represented by such reference in determining the Financial Key Personnel’s qualifications.</p> <p>Respondents shall provide an express written statement from each entity employing the individuals designated in the SOQ committing such individuals as Financial Key Personnel. While the Authority recognizes the impact of personnel availability and scheduling conflicts upon Respondents, Respondents are urged to designate and proffer only those individuals they reasonably believe will be available for, and intend to assign to work as Financial Key Personnel. Procedures concerning changes to Financial Key Personnel will be set forth in the RFP. Respondents are advised, however, that change requests will be subject to the Authority’s prior approval and will be reviewed very carefully. Financial Key Personnel changes without the Authority’s prior approval may result in disqualification of the Respondent.</p> | |
| <p>Financial Capacity The respondent shall provide the following information:</p> <ol style="list-style-type: none"> 1. Financial Statements | |



Provide financial statements for the Respondent, including all Team Members and any Guarantors in respect of the three most recent completed fiscal years. Each financial statement must meet the following requirements:

- GAAP/IFRS: Financial statements must be prepared in accordance with U.S. GAAP or IFRS. If financial statements are prepared in accordance with principles other than U.S. GAAP or IFRS, a letter must be provided from a Certified Public Accountant discussing the areas of the financial statements that would be affected by a conversion to U.S. GAAP or IFRS. A restatement of the financial information in accordance with U.S. GAAP or IFRS is not required.
- U.S. Dollars: Financial statements must be provided in U.S. dollars if available. If financial statements are not available in U.S. dollars, the Respondent must include summaries of the income statements, balance sheets and statement of cash flow for the applicable time periods converted to U.S. dollars by a Certified Public Accountant with an explanation as to how they were converted.
- Audited: Financial statements must be audited by an independent party qualified to render audit opinions (e.g. a Certified Public Accountant). If audited financial statements are not available for an entity, the SOQ must include unaudited financial statements for such entity, certified as true, correct and accurate by the chief executive, chief financial officer, treasurer or a duly authorized representative of that entity.
- English: Financial statement information must be prepared in English. If audited financial statements are prepared in a language other than English, translations of all financial statement information must accompany the original financial statement information.

If the Respondent is a newly formed entity and does not have independent financial statements, the Respondent shall expressly state that it is a newly formed entity and does not have independent financial statements meeting the Financial Capacity requirements discussed in this section and shall provide financial statements otherwise consistent with those required hereby for each of its shareholders/Equity Members.

If a Guarantor is a parent company of an entity to which a guarantee is being provided, the Respondent shall provide financial statements on a consolidated basis, only for each parent company entity (not for both the parent company and its subsidiary).

If an entity is performing more than one role as part of a Respondent's team, the Respondent shall provide only one set of financial statements and clearly state the roles the entity is performing.

"Financial statements" include the following:

- opinion letter (auditor's report)
- balance sheet
- income statement
- statement of cash flow
- footnotes

If an entity for whom financial statements are submitted files reports with the U.S. Securities and Exchange Commission, then the entity must provide electronic links to the most recently filed Forms 10-K and 10-Q for all such reporting entities.

In addition to all other electronic information requested in this RFQ, each Respondent must submit a copy of all financial statements digitally in searchable PDF format on one or more USB flash drives.

2. Material Changes in Financial Condition

Provide information regarding any material changes in financial condition ("Material Changes") for each entity required to provide financial statements above for the past three years and anticipated for the next fiscal quarter.

Set forth below is a representative list of events intended to provide examples of what the Authority considers a Material Change in financial condition. This list is intended to be indicative only. At the discretion of the Committee, any failure to disclose a prior or pending Material Change may result in disqualification from further participation in the selection process:

- An event of default or bankruptcy involving the affected entity, or the parent corporation or Guarantor of the affected entity or any controlled subsidiary or affiliate;
- A change in tangible net worth of 10% of shareholder equity;
- A sale, merger or acquisition exceeding 10% of the value of shareholder equity prior to the sale, merger or acquisition which in any way involves the affected entity or parent corporation or Guarantor of the affected entity;
- A change in credit rating for the affected entity or parent corporation or Guarantor of the affected entity;
- Inability to meet material conditions of loan or debt covenants by the affected entity or parent corporation or Guarantor of the affected entity which has required or will require a waiver or modification of agreed financial ratios, coverage factors or other loan stipulations, or additional credit support from shareholders or other third parties;
- In the current and three most recent completed fiscal years, the affected entity or the parent corporation or Guarantor of the affected entity either: (i) incurs a net operating loss; (ii) sustains changes exceeding 5% of the then shareholder equity due to claims, changes in accounting, write-offs or business restructuring; or (iii) implements a restructuring/reduction in labor force exceeding 50 positions or involves the disposition of assets exceeding 10% of the then shareholder equity;
- Other events known to the affected entity which represents a material change in financial condition over the past three years, or may be pending for the next reporting period.

In instances where a Material Change has occurred, or is anticipated, the affected entity shall provide a statement describing each Material Change in detail, actual and anticipated associated changes or disruptions in executive management, the likelihood that the developments will continue during the period of performance of the Project, and the projected full extent, nature and impact, positive and negative, of the changes experienced and anticipated to be experienced in the periods ahead. Include discussion of how the change is anticipated to affect the organizational and financial capacity, ability and resolve of the entity to remain engaged in this procurement and, if short-listed, submit a Binding Proposal.

Estimates of the impact on revenues, expenses and the change in equity should be provided separately for each Material Change.

References to the notes in the financial statements are not sufficient to address the requirement to discuss the impact of Material Changes.

Where a Material Change will have a negative financial impact, the affected entity shall also provide a discussion of measures that would be undertaken to insulate the Project from any recent material changes, and those currently in progress or reasonably anticipated in the future.

If the financial statements indicate that expenses and losses exceed income in each of the three completed fiscal years (even if there has not been a Material Change), the affected entity shall provide a discussion of measures that will be undertaken to make the entity profitable in the future and an estimate of when the entity will be profitable.

If no Material Change has occurred and none is pending, please include a statement to this effect.

| | |
|--|--|
| <p>3. Bankruptcy/Insolvency Proceedings Provide detailed information regarding any voluntary or involuntary proceeding commenced within the most recent three fiscal years (whether or not such proceeding was ultimately dismissed) under any law relating to bankruptcy, insolvency, reorganization, or the composition or re-adjustment of debts, in respect of any entity required to provide financial statements as stated above.</p> <p>4. Off-Balance Sheet Liabilities Identify all off balance sheet liabilities in excess of \$25 million dollars in the aggregate.</p> | |
|--|--|



Appendix 2 - Required Forms

| List of Forms | |
|---------------------|---|
| SOQ Compliant Forms | |
| <i>Form Name</i> | <i>Description</i> |
| Form 1 | Form of Sworn Statement |
| Form 2 | Form of Respondent Certification |
| Form 3 | Form of Certification Regarding Lobbying |
| Form 4 | Certification indicating that Respondent is not currently disqualified, removed, debarred or suspended from performing or bidding on work for federal government or any state government. |



Form 1: Form of Sworn Statement

[Letterhead of each Respondent and Respondent Team Member]

UNITED STATES OF AMERICA

STATE OF

CITY OF

[Name of Representative], of legal age, married (or single), and a resident of _____, _____, in his (her) capacity as _____ of [Name of Respondent] (the "Respondent"), Employer Identification Number _____, being duly sworn, deposes and certifies that, as of the date of this Sworn Statement⁴:

1. The principal office of the Respondent is located at _____.
2. The Respondent [has filed all] [has not had to file any] income tax returns with the Department of the Treasury of the Government of Puerto Rico during the past five years.
3. The Respondent does not have any Tax Debts with the Government of Puerto Rico, nor any of its instrumentalities or political subdivisions. The term "Tax Debt" means any debt for (i) income taxes, (ii) sales and use taxes, (iii) excise taxes, (iv) real or personal property taxes, (v) municipal license taxes ("patente"), (vi) special taxes levied, (vii) license rights, (viii) tax withholdings for payment of salaries, professional service fees, interests, dividends, rents or profits, (ix) unemployment or disability insurance premiums, (x) workers compensation payments, or (xi) premiums for social security for chauffeurs.
4. Neither the Respondent nor any of its directors, officers, shareholders, members, or subsidiaries, nor its parent company, nor in the case of a partnership, any of its partners, nor any person or entity that may be considered an alter ego of the Respondent (each a "**Covered Party**"), has been convicted, has entered a guilty plea or has been indicted, nor has probable cause been found for their arrest, in any criminal proceeding in the courts of the Government of Puerto Rico, the Federal courts of the United States, or the courts of any jurisdiction of the United States or a foreign country, of criminal charges related to acts of corruption or to any of the following crimes: a crime against public integrity, as defined in the Government of Puerto Rico Penal Code, embezzlement of public funds, a crime against the public treasury, public trust, public function or involving the wrongful use of public funds or property, any of the crimes enumerated in Act No. 458 of December 29, 2000, as amended ("**Act 458**"), or under the Foreign Corrupt Practices Act; nor is any Covered Party under investigation in any legislative, judicial or administrative proceedings, in the Government of Puerto Rico, the United States or any other country.⁵
5. The Respondent understands and accepts that any guilty plea or conviction for any of the crimes specified in Article 3 of Act 458, will also result in the immediate cancellation of any contracts in force at the time of conviction, between

⁴ All capitalized terms in this Sworn Statement that are not defined herein are used as defined in the Request for Qualification issued in [June] 2018 in relation to the operation and maintenance of the public maritime transportation services within the San Juan Bay and the Municipalities of Vieques and Culebra and the operation of the maintenance base located in Isla Grande, San Juan.

⁵ As required by Article 9 of the Public Private Partnership Act and the provisions of Act No. 237 of August 31, 2004, as amended, Act 84 and Act 458, and the Guidelines adopted by the Secretary of Justice of Puerto Rico in Circular Letter 2009-01.



the undersigned, the corporation, or any special partnership that it may represent, and any government entity, public corporation or municipality.

6. The Respondent is in compliance with the provisions of the Authority's Guidelines for the Evaluation of Conflicts of Interest and Unfair Advantages in the Procurement of Public-Private Partnership Contracts, a copy of which is available at the Authority's website: <http://www.p3.pr.gov>.
7. The Respondent makes this sworn statement so that any government entity, public corporation or municipality may have knowledge of what is herewith declared and for any other administrative and/or legal purpose that may be required.
8. That neither the undersigned, nor the institution have been convicted, nor have pleaded guilty at a state or federal court in any jurisdiction of the United States of America, of crimes consisting of fraud, embezzlement or misappropriation of public funds, as stated in Article 3 of Act 458 of December 29, 2000, as amended, which prohibits the grant of bids or government contracts to those convicted of fraud, misapplication or misappropriation of public funds for the past 20 years. That the undersigned and the institution recognize that crimes in above mentioned law are: aggravated illegal appropriation, in all its forms; extortion; construction fraud; construction fraud in carrying out work; fraud in the delivery of goods; unlawful and unwarranted intervention in bid contracting processes or in the operations of the Government; bribery in all its forms; aggravated bribery; offering bribes; undue or unlawful influence; offences against public funds; preparation of false documents; submitting false documents; falsifying documents; possession and transfer of forged document.
9. The Respondent subscribes this sworn statement in conformity with what is established in Article 6 and 7 of Act 458 of December 29, 2000 (the "Act"), as amended.
10. Should the Respondent have been convicted of any of the crimes described in the eight paragraph, the Respondent must disclose the crime of which it was convicted, or to the extent applicable, the crime for which the corporation, partnership, or cooperative the Respondent represent was convicted. In addition, information as to the jurisdiction where the crime(s) was committed, as well as the year and the number of the case should be provided.
11. The Respondent understands and accept that any guilty plea or conviction for any of the crimes specified in Article 3 of said Act will also result in the immediate cancellation of any contracts in force at the time of conviction, between the undersigned, the corporation, or any partnership that it may represent, and any government entity, public corporation or municipality. (If the information was affirmative, the crimes which the person was been found or pleaded guilty must be specified)
12. That neither the signer, nor the institution that the Respondent may represent has been convicted, nor has pleaded guilty to crimes in the federal jurisdiction, or in the jurisdiction of any state or territory of the United States of America or any other country, for crimes whose elements are equivalent to those enumerated in Article 3 of the aforementioned Law.
13. The undersigned, or the institution that the Respondent may represent, _____ is or _____ is not (mark one of the previous) under investigation in any legislative process, judicial or administrative proceeding, whether in Puerto Rico, the United States of America or any other country, to participate in the award or grant of any auction or contract, respectively.
14. That the undersigned, or the institution that the Respondent represents, is familiar with the provisions of Act 84 of June 18, 2002, as amended, and commit to comply with the provisions of Act 84 of June 18, 2002, as amended, also known as the "Code of Ethics for Contractors, Suppliers of Goods and Services and Applicants for Economic Incentives



of the Executive Agencies of the Commonwealth of Puerto Rico". A copy of Act 84 of June 18, 2002, as amended, is available at the Authority's website: <http://www.p3.pr.gov>.

- 15. That the Respondent makes this sworn statement solely so that any government entity, public corporation or municipality may have knowledge of what is herewith as may be required by the Act or applicable law as of this date.

In _____, _____, this ____ day of _____, _____.

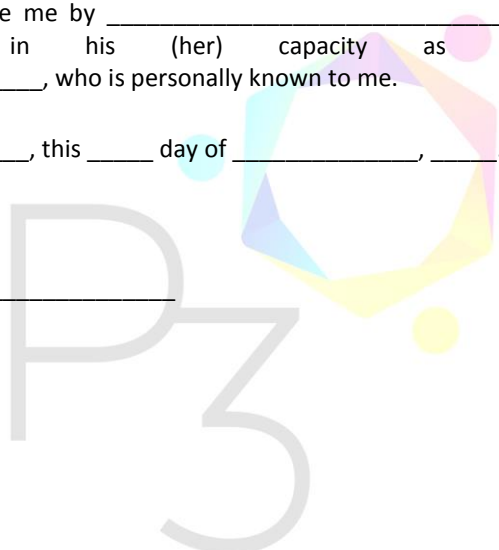
[RESPONDENT]

By: _____

Sworn and subscribed to before me by _____, of the above stated personal circumstances, in his (her) capacity as _____ of _____, who is personally known to me.

In _____, _____, this ____ day of _____, _____.

NOTARY PUBLIC



Form 2: Form of Respondent Certification

[Letterhead of each Respondent and Respondent Team Member]

Puerto Rico and the Island Municipalities Maritime Transport Authority
Request for Qualifications –
Management, Operation, Maintenance, and Improvement of Certain Public Maritime Transportation Services (“Project”)

Dear [XXXX],

We have carefully reviewed, fully understand and have no reservation to the Request for Qualifications for the Project, dated [], 2018 (“RFQ”) issued by the Puerto Rico Public-Private Partnerships Authority (the “Authority”) and the Puerto Rico and the Island Municipalities Maritime Transport Authority (“MTA”) and any other documents accompanying or made a part of the RFQ. Capitalized terms used in this certificate have the meanings given to them in the RFQ.

We acknowledge and agree to comply with all terms and conditions of the RFQ, the attached Statement of Qualifications, and all enclosures thereto. Without limitation, we specifically acknowledge [REFERENCE TO SPECIFIC SECTIONS OF THE RFQ] of the RFQ.

We certify that the information contained in the attached Statement of Qualifications is truthful and that all accompanying documents are true copies of their respective originals. We further certify that the individual who has signed and delivered this certification is duly authorized to submit the attached Statement of Qualifications on behalf of the Respondent.

We further certify that no officer or employee of the Authority, MTA or any other public agency of the Government of Puerto Rico who participates in the selection process described in, or negotiations in connection with, the RFQ (nor any member of their families) has an economic interest in or is connected with the Respondent, and no officer or employees of the Authority, MTA or any other public agency of the Government of Puerto Rico (nor any member of their families) has directly or indirectly participated with the Respondent in the preparation of its RFQ submission.

We further certify that this submittal is made without prior understanding, agreement, connection, discussion or collusion with any other person, firm or corporation submitting a separate Statement of Qualifications or any officer, employee or agent of the Authority or MTA and that the undersigned executed this Respondent’s Certification with full knowledge and understanding of the matters herein contained and was duly authorized to do so.

The attached Statement of Qualifications shall be governed by and construed in all respects according to the laws of the Government of Puerto Rico and the terms of the RFQ.

Yours faithfully,

*[Insert appropriate signature block for signature by a person
duly authorized to bind the Respondent or Team Member]*



Form 3: Form of Certification Regarding Lobbying

[RESERVED]



Form 4: Certification

Respondent Team:

Name of Team Member:

1. Has the Respondent or the Team Member, as applicable, or any affiliate* or any current officer, director or employee thereof, been indicted or convicted of fraud, bribery, collusion, conspiracy, antitrust, or other fraud or contract-related crimes or violations or any other felony or serious misdemeanor, or had its professional license suspended or revoked, or been subjected to disciplinary proceedings, within the past ten years?

Yes No

If yes, please explain:

2. Has the Respondent or the Team Member, as applicable, or any affiliate ever sought protection under any provision of any bankruptcy act within the past ten years?

Yes No

If yes, please explain:

3. Has the Respondent or the Team Member, as applicable, or any affiliate ever been disqualified, removed, debarred or suspended from performing work for the federal government, any state or local government, or any foreign governmental entity within the past ten years, or is the Respondent or the Team Member, as applicable, or any affiliate currently under investigation, review or examination for such disqualification, removal, debarment or suspension or currently under disqualification, removal, debarment or suspension?

Yes No

If yes, please explain:

4. Has the Respondent or the Team Member, as applicable, or any affiliate ever been found liable in a civil suit or found guilty in a criminal action for making any false claim or other material misrepresentation to a public entity within the past ten years?

Yes No

If yes, as to each such inquiry, state the name of the public agency, the date of the inquiry, the grounds on which the public agency based the inquiry, and the result of the inquiry:

5. Has the Respondent or the Team Member, as applicable, or any affiliate ever been found in default of any federal, state or local government agency contract within the past ten years, or is the Respondent or the Team Member, as applicable, or any affiliate currently under any notice of default or intent to default on any such contract?



Yes No

If yes, please explain:

6. To the knowledge of the undersigned, has the Respondent, the Team Member, or any affiliate thereof, as applicable, been involved in repeated or multiple failures to comply with safety rules, regulations or requirements with respect to any construction project performed or managed by the Respondent, the Team Member, or any affiliate thereof, within the past ten years?

Yes No

If yes, please identify the team members and the projects, provide an explanation of the circumstances, and provide owner contact information including telephone numbers:

7. Has the Respondent or the Team Member, as applicable, or any affiliate been found, adjudicated or determined by any federal or state court or agency (including, but not limited to, the Equal Employment Opportunity Commission, the Office of Federal Contract Compliance Programs, any applicable Puerto Rico governmental agency or any similar governmental agency in another state, province or country) to have violated any laws or Executive Orders relating to employment discrimination or affirmative action within the past ten years, including, but not limited to, Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. Sections 2000 *et seq.*); the Equal Pay Act (29 U.S.C. Section 206(d)); and any applicable or similar law of Puerto Rico or another state, province or country?

Yes No

If yes, please explain:

8. Has the Respondent or the Team Member, as applicable, or any affiliate been found, adjudicated, or determined by any state court, state administrative agency, including, but not limited to, the Puerto Rico Department of Labor, federal court or federal agency to have violated or failed to comply with any law or regulation of the United States or any state within the past ten years governing prevailing wages (including, but not limited to, payment for health and welfare, pension, vacation, travel time, subsistence, apprenticeship or other training, or other fringe benefits) or overtime compensation?

Yes No

If yes, please explain:

9. Has the Respondent or the Team Member, as applicable, or any affiliate, or any officer, director or employee thereof, been convicted or found liable for any act prohibited by state or federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding or proposing on any public contract, within the last four years, or is the Respondent or the Team Member, as applicable, or any affiliate, or any officer, director or employee thereof, currently under investigation by any governmental agency for any act prohibited by state or federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding or proposing on any public contract?

Yes No



If yes, please explain:

- 10. Does the Respondent or the Team Member, as applicable, or any affiliate have any outstanding, delinquent obligations to the Government of Puerto Rico or the MTA, including, but not limited to, any state tax liability not being contested on appeal or other obligation of the Respondent or the Team Member, as applicable, or affiliate that is owed to the Government of Puerto Rico or the MTA?

Yes No

If yes, please explain:

- 11. Has the Respondent or the Team Member, as applicable, or any affiliate, under separate contract with the MTA, PRPA and/or DTOP, made any recommendations to the MTA, PRPA, and/or DTOP concerning the need for the services described in the SOQ or the specifications for the services described in the SOQ (excluding recommendations given at any industry forum(s) or one-on-one meetings hosted by the Authority or the Government prior to the issuance of the RFQ)?

Yes No

If yes, please explain:

- 12. With respect to each of Questions 1-9 above, if not previously answered or included in a prior response on this form, is any proceeding, claim, matter, suit, indictment, etc. currently pending against the Respondent or the Team Member, as applicable, that could result in the Respondent or the Team Member, as applicable, being found liable, guilty or in violation of the matters referenced in Questions 1-9 above and/or subject to debarment, suspension, removal or disqualification by the federal government, any state or local government, or any foreign governmental entity?

Yes No

If yes, please explain and provide the information requested as to such similar items set forth in Questions 1-9 above:

* The term "affiliate" includes parent companies at any tier, subsidiary companies at any tier, entities under common ownership, joint ventures and partnerships involving such entities (but only as to activities of joint ventures and partnerships involving the Respondent or the Team Member, as applicable, as a joint venture or partner and not to activities of other joint venturers or partners not involving the Respondent or the Team Member, as applicable), and other financially liable or responsible parties for the entity, that (i) within the past five years have engaged in business or investment in North America or (ii) have been involved, directly or indirectly, in the debt or equity financing, credit assistance, design, construction, management or maintenance of any project listed by a Respondent in response to the requirements of Appendix 1, Part C of the RFQ.

Under penalty of perjury, I certify that (i) the foregoing is true and correct, (ii) to the best of my knowledge, the information given in response to the RFQ is full, complete and truthful and (iii) I am the official representative. I acknowledge, agree and authorize (and certify that the Respondent or the Team Member, as applicable, acknowledges, agrees and authorizes) that the Authority may, by means it deems appropriate, determine the accuracy and truth of the information provided by the Respondent or the Team Member, as applicable, and contact any individual or entity named in the SOQ for the purpose



of verifying the information supplied therein. I acknowledge and agree that all of the information contained in the SOQ is submitted for the express purpose of inducing the Authority to short-list proposers and to award a contract.

A material false statement or omission made in conjunction with this response is sufficient cause for suspension or debarment from further contracts, or denial of rescission of any contract entered into based upon this response thereby precluding the Respondent or the Team Member, as applicable, from doing business with, or performing work for, the Government or MTA. In addition, such false statement or omission may subject the person and entity making the proposal to criminal prosecution under the laws of the United States, including but not limited to 18 Pa. C.S. § 4904 (relating to an unsworn falsification to authorities) and 18 U.S.C. §§ 1001 or 1341.

By: _____

Print Name: _____

Title: _____

Date: _____

Sworn and subscribed before me

this ____ day of _____, 2018.

NOTARY PUBLIC

NOTARY SEAL

My Commission Expires: _____

