BY ELECTRONIC MAIL

December 1, 2022

Mr. Mariano Mier Romeu
Vice President, Procurement and Contracts
LUMA Energy Servco, LLC

Re: Quanta Services Solutions PR, LLC

Dear Mr. Mier Romeu,

In accordance with the contract review policy of the Financial Oversight and Management Board for Puerto Rico ("FOMB") established pursuant to Section 204(b)(2) of PROMESA, we have reviewed the proposed contract between LUMA Energy Servco, LLC ("LUMA"), as agent to the Puerto Rico Electric Power Authority ("PREPA"), and Quanta Services Solutions PR, LLC (the "Proposed Contract").

After reviewing the Proposed Contract, the FOMB concludes "Approved with Observations." Observations related to the Proposed Contract are set forth in Appendix A attached hereto.

Our review is solely limited to compliance of the Proposed Contract with Section 204(b)(2) of PROMESA, which seeks to ensure proposed contracts promote market competition and are not inconsistent with approved Fiscal Plans. For the avoidance of doubt, the review performed by the FOMB does not cover a legal review of the contractual documentation or the contracting process, including without limitation: (i) compliance with contracting requirements under applicable laws, rules, and regulations, both federal and local; and (ii) compliance with applicable laws, rules, and regulations governing procurement activities, both federal and local.

In addition, the FOMB has not engaged in any due diligence or background check with respect to the contracting parties nor whether the contracting parties comply with the requirements under the applicable contract. Any material changes to the Proposed Contract must be submitted to the FOMB for review and approval **prior to execution**.

This letter is delivered as of the date hereof and we reserve the right to provide additional observations and modify this letter based on information not available when the review was conducted. In addition, during the course of our review, we may receive information which we may refer to the relevant authorities.

This letter is issued only to LUMA and solely with respect to the Proposed Contract.

Sincerely,

Jaime A. El Koury
General Counsel

LUMA – QUANTA SERVICES SOLUTIONS PR, LLC

Fiscal Plan Alignment

This review covers the Proposed Contract between LUMA and Quanta Services Solutions PR, LLC (the "Contractor"), which contemplates storm response emergency repair services for large-scale damage requiring sizeable deployments of labor, equipment, and materials from the United States mainland.

The Proposed Contract arises from the emergency and major disaster declarations issued in the aftermath of Hurricane Fiona (*see* FEMA:3583-EM-PR and DR-4671-PR), pursuant to which LUMA was allowed to conduct a non-competitive procurement process in accordance with its Procurement Manual. Specifically, the Procurement Manual waives the standard restrictions for contracts between LUMA and its parent companies and affiliates (which aim to avoid or mitigate any organizational conflict of interests) during an "event of a public [e]xigency or [e]mergency requiring resources not available through prepositioned contracts…." This exemption lasts through the duration of the emergency period, which was extended to 180 days on September 29, 2022 by the Puerto Rico Public Private Partnerships Authority and COR3.

According to LUMA, the resources available under LUMA's prepositioned contracts proved insufficient to address the emergency, the Proposed Contract contemplates certain repair services, including mobilization of crews, labor, equipment, and materials to repair and restore the Transmission and Distribution System. Specifically, the Contractor shall:

(i) provide storm response emergency repairs services for large-scale damage requiring sizeable deployments of labor, equipment and materials from the United States mainland;
(ii) provide all labor, supervision, equipment, and materials, unless otherwise agreed upon with PREPA, necessary to complete the emergency repairs work within the timeframe set by PREPA; and
(iii) comply with all PREPA requirements, including restoring any environmental impacts (such as but not limited to accesses, deviations, and staging areas) and following all environmental regulations. If applicable, and if notified in advance of performance of the relevant work, the Contractor shall record all necessary data for Environmental and Historic Preservation review as instructed by PREPA.

The Proposed Contract has a term from its date of execution until **March 16, 2023** and a maximum payable amount of **$95,000,000**, payable from PREPA's Gridco Operating & Maintenance Expenses budget line item, with funds allocated in **Account No. 03- 1071-5151-550-340**. LUMA, on behalf of PREPA, has certified that it shall only incur costs against the Proposed Contract to the limit considered in the GridCo Budget contemplated within the Fiscal Year 2023 PREPA Certified Budget. In addition, LUMA will seek federal reimbursements to fully cover the costs of the Proposed Contract.

Finally, we have the following observations based on 2 CFR 200 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" and other applicable FEMA documents:

Observation	Suggested Action
1. Per Section 2.2.4 of LUMA's procurement manual: "LUMA may forego a competitive procurement and award work for the duration of the Emergency but not exceeding [thirty (30)] days, unless a longer period is approved by the P3A and COR3, provided justification is documented."	LUMA should clearly document how it complied with its procurement policy and maintain this documentation, along with any required approvals, in the procurement file. LUMA should also maintain documentation regarding the declared state of emergency, including applicable dates, in the procurement file.
2. It appears that LUMA is conducting a noncompetitive procurement, relying on the emergency/exigency exception for competitive procurement. However, it does not appear that a justification for noncompetitive procurement memorandum has been provided.	LUMA should prepare and maintain a justification memorandum in the procurement file that must, at a minimum: • Identify which circumstances justify a noncompetitive procurement; • Provide a brief description of the product or service being procured, including the expected amount; • Explain why the noncompetitive procurement is necessary. Specifically, explain the nature of the public exigency/emergency, including specific conditions and circumstances that clearly illustrate why procurement other than through noncompetitive proposals would cause unacceptable delay in addressing the public exigency/emergency; • State how long the noncompetitively procured contract will be used for the defined scope of work and the impact of that scope of work should the noncompetitively procured contract not be available for that amount of time; • Describe the steps taken to determine that full and open competition could not have been used; • Discuss cost reasonableness and the method(s) used to justify cost reasonableness; • Describe any known conflicts of interest and any efforts that were made to identify possible conflicts of interest;

Observation	Suggested Action
	• Describe why no other contract type was suitable other than T&M at this point in time; • Describe how LUMA will maintain oversight over the Contractor to ensure the Contractor is using efficient methods and effective cost controls; and • Include any other information necessary to justify the noncompetitive procurement.
3. The term of the Proposed Contract extends through March 2023.	LUMA should consider if the emergency/exigency circumstances continue to exist through March 2023 and consider putting out a competitive RFP for these services. **Note that an exigent/emergency procurement exception only applies during the actual exigent/emergency circumstances**. FEMA guidance encourages including language in the contract that limits the duration of the contract to a short time period, thus providing LUMA time to develop a scope of work and transition to competitive procurement procedures.
4. LUMA provided a cost estimate conducted in conjunction with the sole sourced procurement to the FOMB in an RFI response on November 17, 2022.	LUMA should maintain the cost estimate documentation in the procurement file.

LUMA is expected to inform the FOMB of any budgetary differences other than those specified in Appendix A (Contract Submission Questionnaire) and to request a re-review of the Proposed Contract should any changes occur.

This review was conducted on the basis of information submitted by LUMA. The FOMB has not independently verified the information included in the submission. Should the FOMB become aware of any inaccuracies or misrepresentations – whether intentional or not – it would re-evaluate its assessment.