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BY ELECTRONIC MAIL

October 3, 2024

Mr. Juan Rogers Menchaca
Chief Procurement and Supply Chain Officer of LUMA
LUMA Energy ServCo, LLC

Re: ABB, Inc.

Dear Mr. Rogers Menchaca,

In accordance with the Contract Review Policy (the “Policy”) of the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), 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, and ABB, Inc. (the “Proposed Contract”).

After reviewing the Proposed Contract, the Oversight Board 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 Oversight Board does not constitute 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 Oversight Board 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 Oversight Board for review and approval **prior to execution**.

Date: 10/3/2024

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Recipient: Mr. Rogers Menchaca

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 the Oversight Board was not directed to when the review was conducted. In addition, during the course of our review, we may receive information that we may refer to the relevant authorities.

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

Sincerely,



Jaime A. El Koury
General Counsel

APPENDIX A

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LUMA– ABB, INC.

Fiscal Plan Alignment

This review covers the Proposed Contract between LUMA and ABB, Inc. (the “Contractor”), which stems from a competitive procurement process (RFP 138643) issued on December 16, 2022 to provide six integrated, complete, fully functional, pre-fabricated stainless-steel gas-insulated substation enclosures.

The Proposed Contract has a maximum payable amount of **\$41,007,068** and a term lasting up to **36 months** from its date of execution, with the option to extend for three additional one-year terms. We remind LUMA that any extensions to the Proposed Contract must be submitted to the Oversight Board for review and approval prior to execution in accordance with the Policy.

According to the information submitted by LUMA, the Proposed Contract shall be covered entirely with federal funds stemming from the Federal Emergency Management Agency, which are allocated in **Account No. 03-1071-T1511-200-350-14F008760000**. As such, the Oversight Board’s review indicates that LUMA has sufficient budgeted funds in Fiscal Year 2025 to cover the cost of the Proposed Contract as of the date of this letter.

This determination does not consider the extent to which total available funds will be subsequently encumbered by LUMA throughout the Proposed Contract’s term. Consequently, we rely on LUMA’s budget certification for the purposes of this review.

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

Finally, the following observations are based on 2 CFR 200 “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” and other relevant federal funding requirements:

Observation	Suggested Action
1. Attachment M (Non-disclosure Agreement) of the Request for Proposals (RFP) was not provided with the RFP documents. It was provided with vendor’s proposals.	LUMA should ensure that all relevant documents referenced in the RFP are attached to the RFP documentation included in the procurement file.
1. The Proposed Contract mentions the following exhibit, which was not included in the Proposed Contract, but was provided in a subsequent request for information (RFI): <ul style="list-style-type: none">• Attachment 8 - Build American Certification	LUMA should ensure that all relevant exhibits and volumes referenced in the Proposed Contract are attached to the signed and executed contract.

APPENDIX A

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Observation	Suggested Action
2. Subsequent to the initial submission in response to RFI, LUMA provided the following documents: <ul style="list-style-type: none">• The correct evaluation committee acceptance letter• Proof of solicitation advertisement• Additional BAFO communications with the awarded vendor	All documentation and information provided in the initial submission along with subsequent revisions and responses should be maintained in the procurement file.
3. Only one qualified response was received for this RFP. In a response to an RFI, LUMA provided a non-competitive procurement worksheet and confirmed the three requirements for a non-competitive procurement were met.	LUMA should maintain detailed documentation in its procurement file supporting how it met the requirement to proceed with a non-competitive procurement, as per its procurement policy.
4. An active SAM.gov check was provided for the Contractor. In response to an RFI, LUMA confirmed that the five vendors listed in the awarded proposal will not be subcontractors, but instead will serve as manufacturers or distributors.	LUMA should conduct regular debarment checks on all contractors and confirm and document the role of any vendors listed in the winning proposal in the procurement file.

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