

January 15, 2021

RFP PRDE(ER)-2020-01

ADDENDA NO. 3

PRDE hereby issues attached Addenda No. 3 to RFP No. PRDE(ER)01 answering requests submitted to recovery@de.pr.gov. PRDE encourages all potential proposers to frequently visit www.de.pr.gov for updated information.

January 13, 2021

BY EMAIL

Dear sirs:

The Puerto Rico Department of Education (the "Department" or "PRDE") on December 4, 2020 issued the RFP NO: PRDE (ER)-2020-01 for Program Management Services, related to the repair and improvement to schools and facilities affected by Hurricane María and the Puerto Rico 2020 series of earthquakes. _____the firm that I preside, submitted a Letter of Intent (LOI) before the due date of January 7, 2021. As of today, the name of the proposers that submitted LOI hasn't made public.

The services to be provided by the selected proposer(s) are classified as professional services. There is no construction or facility improvement services as part of the scope of work of the RFP:

The RFP requires proposers to include a proposal Bid Bond with their proposal in an amount equal to 5% of the Proposer's pricing of the contract. FEMA and the applicable federal regulations, C.F.R. Part 200.325, only impose bonding requirements for contracts and sub-contracts for construction or facility improvement projects.

Although the PRDE can still have bonding requirements for professional services, the bonding requirements are excessive and arbitrary. The specified bonding requirement will prevent small and medium size firms from participating as prime, since the local bonding market very rarely provide bonds for such firms. In addition, with required bonding restricts competition and effectively disqualify local firms from the onset.

The RFP also requires audited financial statements for the three (3) previous fiscal years. Puerto Rico tax laws don't require audited financial statements for entities that the total gross revenue is under \$3.0 million a year. After consultation with our accountant, it was determined that the audited financial statements requested couldn't be complemented before the proposal due date. I understand that proposers must demonstrate financial capacity as part of the evaluation process, however imposing excessive and arbitrary requirements is contrary to the spirit of the federal and state goals requirements.

The total budget for this reconstruction initiative is in excess of \$2,060 million. The professional fees associated with the Program Management Services are in the order of \$100 to \$125 millions. The RFP states that either one or more proposers will be selected at the sole discretion of the PRDE. The selection of multiple proposers will be consistent with 2 CFR 200.321 (3) which encourages dividing the project scope into smaller tasks to permit maximum participation by small and minority businesses, and women's business enterprises.

Therefore, I formally request to the three parties that this letter addresses to amend the RFP to:

1. Eliminate the Bid Bond requirements.
2. Eliminate the requirement of audited financial statements.
3. Formally divide the project scope so that multiple proposers are selected. One approach is to select proposers using the PRDE regions (1 or 2 regions per proposer) and to consider the possibility of a proposer performing oversight duties for the regional Program Managers.
4. Make available to all proponents the names of proposers that submitted LOIs.

Such amended RFP will provide the PRDE with a safer implementation approach since it will not only rely on the performance of a single proposer. In addition, it will permit the participation of local firms in Puerto Rico's reconstruction, critical to our economic recovery.

The RFP process being conducted doesn't provide for a pre-proposal submission meeting that is customary and part of the due process of complex RFP such as this one. I strongly recommend that a meeting be held with all proposers prior to the proposal due date.

As the due date of the proposal is rapidly approaching on January 28, I urge for a prompt determination on this request so that we can complete our proposal on time.

Sincerely,



GOVERNMENT OF PUERTO RICO
DEPARTMENT OF EDUCATION

Via electronic mail

[REDACTED]

Reference is made to your letter of January 13, 2021 addressed to me and the principal officials the Federal Emergency Management Agency (“FEMA”) and the Central Office of Infrastructure and Recovery of Puerto Rico (“COR3”) regarding the Puerto Rico Department of Education’s request for proposals for program management services (RFP PRDE(ER)-2020-01), hereinafter the “RFP”.

In your letter you made the following requests. Our answer regarding each one is also included:

1. Eliminate the Bid Bond requirements.

Answer: Although in your letter you recognize that bonding can be required for professional services you indicate that the RFPs requirements are excessive. First it must be clarified that these are PRDE’s standard bonding requirements. However, several proponents in addition to you, indicated that the bonds and/or amounts were burdensome. We consulted with insurance and bond experts with knowledge of the Puerto Rico bond market and they indeed indicated that our requirements might be difficult to acquire under present local market conditions and would require proposers to go to other markets, thus complicating and delaying the process and increasing costs.

As you must already know, on December 30, 2020, the PRDE issued Addenda No. 1 to the RFP and addressed this issue. Our new requirements limit the amount of the Bid Bond to \$250,000.00, which we were assured by our consultants to be reasonable and readily available in Puerto Rico.

2. Eliminate the requirement of audited financial statements.

Answer: The request of audited financial statements for proponents is also a standard requirement for our large projects, both for professional and other miscellaneous services. As a Government of Puerto Rico agency, PRDE has the responsibility to verify the financial capacity of all proponents to ensure that the selected party is able to meet all its financial obligations during the term of the agreement. Indeed, financial strength and solvency is part of the selection criteria under which proponents will be evaluated. The most accurate and responsible way of doing this is by requiring audited financial statements.

This is PRDE's largest project ever. It will involve both state and federal funds for which PRDE will be responsible. It is PRDE's obligation to the Puerto Rico and United States Governments to make sure that its contractors can withstanding the economic demands that this project will require from them. Therefore, this requirement cannot be waived.

3. Formally divide the project scope so that multiple proposers are selected.

Answer: As customary under all our request for proposal processes, the RFP documents clearly state that PRDE has reserved the right to select one or more proposers. Although at present, because of budgetary, economic, strategic and efficiency considerations, the PRDE is inclined to select one proposer that meets all RFP requirements, PRDE will make a final determination when it completes a thorough evaluation of all proposals. It is the responsibility of the PRDE to select the proposer(s) who best meet the needs and demands of the project, thus ensuring its successful completion.

4. Make available to all proponents the names of proposers that submitted LOIs.

Answer: The list of all proposers who submitted a LOI will be published on PRDE's web page along with all other documents related to the RFP. I can inform you that PRDE received nineteen (19) LOIs. Although, usually PRDE receives more LOIs than actual proposals we are confident that we will have a healthy amount of competition in the form of proposals from both local and non-local proponents.

As per the RFP terms, it is PRDE's obligation to make public to all proposers any communications and answers to questions posed by a proposer related to the RFP so that all proposers may have access to the same information. The established way for that type of communications with proposers is by publishing the answers on PRDE's web page. Since your letter consisted mainly of a request for changes to the terms of the RFP, both your letter and PRDE's response will be published with all other RFP documents. The identifying

information (ie. Names, your firm's name as well as other identifying logos) will be deleted or blocked from view.

The PRDE encourages your firm to submit a proposal for the RFP. We wish you and your firm continued success.

Sincerely,

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