



PUERTO RICO
**FISCAL AGENCY
& FINANCIAL ADVISORY**
AUTHORITY

REQUEST FOR PROPOSAL

For Services as Trustee, Paying Agent and Registrar in Connection with the Contingent Value Instruments to be Issued Upon Confirmation and Effectiveness of the Eighth Amended Title III Joint Plan of Adjustment of the Commonwealth of Puerto Rico, Et Al

Issue Date: November 23, 2021

**Documents will only be received electronically. Refer to Section 5 herein for instructions.
Hand delivery and postal mailed documents will not be accepted.**

Submission Time:

Responses to be received at the submission email address included in Section 5 herein on or prior to:
5 pm (EST), December 2, 2021

No Telephone Queries Will Be Accepted

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REQUEST FOR PROPOSAL FOR TRUSTEE, PAYING AGENT AND REGISTRAR FOR CONTINGENT VALUE INSTRUMENTS

Introduction

The Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF” or the “Authority”) is an independent public corporation and governmental instrumentality with separate legal existence, fiscal and administrative autonomy, and independence from the Government of Puerto Rico. AAFAF was created for the purpose of acting as fiscal agent, financial advisor and reporting agent of the Government of Puerto Rico, its agencies, instrumentalities, subdivisions, public corporations and/or municipalities (hereinafter collectively referred to as the “Government”), and to assist such entities in confronting the grave fiscal and economic emergency that Puerto Rico is currently experiencing. AAFAF has assumed the majority of the fiscal agency and financial advisory responsibilities that were previously held by Government Development Bank for Puerto Rico.

AAFAF’s powers include, among other things, sole responsibility to renegotiate, to restructure and/or to reach an agreement with creditors on all or part of the public debt or any other debt issued by any government entity. AAFAF also has authority to monitor compliance with the budget certification and tax plans approved under the Puerto Rico Oversight, Management and Economic Stability Act of 2016 (“PROMESA” or the “Act”) and to review matters such as, but not limited to, contracts, transactions and regulations of agencies and instrumentalities of the Government. In addition, AAFAF is empowered to negotiate and execute any type of contract, including all instruments and agreements necessary or convenient to exercise the powers and functions conferred to AAFAF by its enabling act.

The activities and responsibilities of AAFAF are separate and distinct from those of the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), which was established by PROMESA.

Description of Contingent Value Instruments to be Issued Upon Confirmation and Effectiveness of Eighth Amended Title III Joint Plan of Adjustment of the Commonwealth of Puerto Rico, Et Al, as modified (the “CWPOA”).

Except as provided in this Request for Proposal (“RFP”), all capitalized terms used herein shall have the same meaning given to such terms in the CWPOA.

On the Effective Date, the Commonwealth shall issue the GO CVIs, in the aggregate original notional amount of \$3,500,000,000.00, having a maturity date of July 1, 2043 and a final redemption payment date of November 1, 2043.

On the Effective Date, the Commonwealth shall issue the Clawback CVIs, in the aggregate original notional amount of \$5,239,002,764.00, having a maturity date of July 1, 2051 and a final redemption payment date of November 1, 2051

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Payment Waterfall and Redemption Provisions: The GO CVIs shall be subject to mandatory redemption in accordance with priorities set forth in the “Subject to Waterfall Annual Mandatory Redemption Payments” provisions set forth on Exhibit J of the CWPOA, subject to the provisions set forth in Annex 1 thereto and the allocation set forth in Annex 3 thereto. The Clawback CVIs shall be subject to mandatory redemption in accordance with the “Mandatory Redemption Payments to Subject to Waterfall Clawback CVI” and “Mandatory Redemption Payments to Not Subject to Waterfall Clawback CVI” provisions set forth on Exhibit J of the CWPOA, subject to provisions set forth in Annex 2 thereto, the allocation set forth in Annex 4 thereto and the priorities set forth in Annex 6 thereto. The Trustee will not be required to determine whether an outperformance condition had occurred or to calculate any amounts payable to the holders of the CVIs, but will receive instructions from the Commonwealth or the Calculation Agent with respect thereto.

1. Purpose of the RFP

AAFAF is seeking proposals on behalf of the Commonwealth from entities interested in serving as trustee, paying agent, and registrar under one trust agreement for the GO CVIs and the Clawback CVIs (as defined in the Disclosure Statement for the Amended Title III Joint Plan of Adjustment of the Commonwealth of Puerto Rico, Et Al (the “**Disclosure Statement**”¹) (in such capacities, the “**Trustee**”). Respondents must be a trust company or bank with powers of a trust company, having a capital and surplus of not less than \$50,000,000 and an investment grade rating from S&P, Moody’s or Fitch. Before responding to this RFP, you should carefully read and understand the Disclosure Statement and the CWPOA.

2. Scope of RFP

AAFAF will only consider proposals that are responsive to the scope included herein and any deviation from the requested scope may result in disqualification. If there are items not applicable to your proposal, then please respond as such. Responses must address the following:

- a. Trustee experience for the proposed services.** Provide a summary of your experience with governmental entities and in acting as trustee, paying agent, and/or registrar. Such description should cover your experience (i) with contingent value or similar cash distribution instruments and (ii) in managing securities payable on accordance with differing distribution criteria and with multiple structures that would result in different remedies as may be required under the applicable bond documents.
- b. Fees and Expenses.** Provide a detailed description of your proposed compensation, broken down by type of service.

¹ Please refer to documentation related to the CWPOA for complete descriptions of all securities being restructured as part of the CWPOA. Relevant documentation is available at the Oversight Board’s website (<https://oversightboard.pr.gov/>) or at Prime Clerk’s website (<https://cases.primeclerk.com/puertorico/Home-Index>).



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- c. Description of Your Company.** Provide an overview of your company and its financial condition. For instance, please describe or provide the following information, as applicable:
- i. Confirm that you are (i) a trust company or a bank having the powers of a trust Company, (ii) have a capital and surplus of not less than \$50,000,000 and (iii) able to perform under a trust agreement governed primarily by New York law.
 - ii. Name, title, location and contact information of the person that will directly oversee the services that you propose to provide and who should be contacted about your proposal.
 - iii. Provide your credit rating from S&P, Moody's and Fitch, to the extent applicable.
 - iv. A description of any material judgments, arbitration proceedings or other suits, pending or outstanding, against your company or its officer.
 - v. A description of any default on a material contract occurring in the past ten years.
- d. Conflicts of Interest.** In order to allow AAFAF to conduct an assessment of potential conflicts of interest, please identify any existing or potential conflict of interest, or any relationships that might be considered a conflict of interest, that may affect or involve transaction(s) for the Oversight Board, AAFAF or the Commonwealth, including but not limited to conflicts with financial advisors or law firms providing services to the Oversight Board, AAFAF or the Commonwealth. Please include description of any work you have performed for the Government, any of its entities or instrumentalities or any creditors thereof or any guarantors of indebtedness in relation to their activities in the Commonwealth. Indicate whether this activity is ongoing, and if not, when the prior assignment was concluded.
- e. References.** Please provide names and complete contact information (phone, email, address, etc.) for at least two business references that are directly relevant to the activities anticipated by this RFP and a brief description of the services you provided to each reference.
- f. Other Matters.** Provide any other information that you believe would be helpful for AAFAF to know in evaluating proposals submitted pursuant to this RFP process.

3. Preparation of Proposals

Proposals shall be clear and concise, avoiding the use of promotional materials and focused on completeness and responsiveness. For ease of review, the proposals must be limited to 5 pages or less (inclusive of appendices, and exclusive of disclaimers, conflicts of interest and cover pages) with a minimum font size of 11 pts. Excess pages and extraneous materials or appendices will detract from the overall evaluation of the proposal.

4. Key Dates

1. RFP Due Date: December 2, 2021, 2021 @ 5:00 p.m. EST
2. RFP Award Date: At the discretion of the Authority

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5. Submission of Proposals

Proposals must be emailed to AAFAF at rfp@aafaf.pr.gov.

6. Inquiries/Questions

Any inquires or requests for clarification shall be submitted by email to the addresses indicated in Section 5 above. No telephone queries will be accepted.

7. Anticipated Evaluation Criteria

AAFAF intends to evaluate proposals using a combination of criteria, including, but not limited to, those described below. AAFAF reserves the right to make the selection in its sole discretion, subject to the consents set forth in the CWPOA, and may place more or less emphasis on any identified selection criteria.

- a. Depth of experience working with governmental entities while acting as Trustee.
- b. Experience of individual team members.
- c. Strength of references.
- d. Proposed compensation arrangement.
- e. Management strength.

8. Confidential or Proprietary Information

All proposals, evaluations and the content of any discussions shall be kept strictly confidential throughout the evaluation and award process. Only the Authority's evaluation committee shall have access to the proposals and the evaluation results. The Authority and/or the Government may request and use, at their discretion, assistance from outside consultants during the evaluation process of the proposals. A copy of each proposal will be retained for the Authority's files. If a proponent considers that its proposal contains material that is confidential and/or proprietary, the proponent must clearly note or mark each section of material as confidential and/or proprietary. The Authority will determine whether such material meets the requirements for an exemption from disclosure. If so, that information will not be disclosed pursuant to a request for public documents. If the Authority does not consider such material to meet the requirements for exemption from disclosure, the material will be made available to the public, regardless of the notation or markings. It is the responsibility of proponents to be thoroughly informed and familiar with the requirements of disclosure of public documents.

Furthermore, by responding to this RFP, proponents acknowledge and agree that the Authority will not be responsible or liable in any way for any losses that the proponent may suffer from the disclosure of information or materials to third parties. It is the responsibility of the proponent, as the real party in interest, to object any disclosure and defend any action that may be necessary to protect its confidential information.

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9. Other matters and additional disclosures

- a. This RFP process is intended to provide all prospective Trustees with sufficient information to enable them to prepare and submit offers for consideration by AAFAF. This RFP process does not obligate any prospective Trustee to procure or contract for services or supplies, and it shall not be construed as authorization to proceed with or be reimbursed for any of the costs of the work specified herein. Each prospective Trustee is responsible for all of its costs and expenses for preparation and submission of the proposal and all related activities.
- b. The issuance of this RFP, submission of a proposal, and the acceptance of such proposal by the Authority does not obligate the Authority. Legal obligations will only arise upon the execution of a formal contract with the selected proponent. This RFP does not constitute a promise or guarantee of engagement by AAFAF and/or the Commonwealth, and in no way limits AAFAF and/or the Commonwealth's authority to engage any other organization or firm, as needed. Subject to the obligations set forth in the CWPOA, AAFAF will negotiate a contract with the prospective Trustee whose proposal, in the joint and absolute discretion of the Authority and/or the Commonwealth, is the best, i.e., most advantageous to the Commonwealth. Experience, financial capacity, resources of the proponent and other factors will be considered in the evaluation.
- c. The Authority reserves the right to amend, modify or cancel this RFP in whole or in part, at any time, with or without substitution of another RFP if such cancellation is determined to be in the best interest of the Authority and/or the Commonwealth. All costs and expenses incurred by the proponents in the preparation and delivery of a proposal will be the sole responsibility of the proponents. The Authority will not be liable for any amounts to any proponent in any manner, under any circumstances, including without limitation, as a result of a cancellation of the RFP process. The proponents cannot make any claims whatsoever for reimbursement from the Authority for the costs and expenses associated with the process.
- d. To be eligible for award, the proponent shall comply with the requirements stated under this RFP. Also, to be eligible for award the proponent shall submit a proposal that conforms to the requirements of format and content as stated under sections ***Scope of Services, Key Information to be Included in Your Proposal*** and ***Preparation of Proposals*** of this RFP. Failure to comply with such requirements may result in disqualification and removal from further consideration. The Authority is not bound to accept any proposals if proponents do not meet the requirements set forth in this RFP. Specifically, to be responsive, the proposal shall include all information identified, organized and in the form specified under the abovementioned sections. A nonresponsive proposal may be disqualified and removed from further consideration.
- e. Any prospective Trustee who submits or attempts to submit a proposal is solely responsible for the method of submission and assumes the risk that the proposal may be delayed or not received

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by AAFAF, whether by reason of equipment malfunction, human error or any other cause whatsoever.

- f.** Upon receipt of responses to this RFP, AAFAF, together with the Puerto Rico Department of Treasury (“Treasury”) and/or any other corresponding Government entity, shall discuss the merits of such responses. Acceptance of proposals shall give rise to no liability or obligation on the part of the Commonwealth, AAFAF, Treasury, and/or the Government, as well as the Oversight Board, any other party to the CWPOA or their respective advisors, and no prospective Trustee will have any cause of action against such arising out of a failure to award a contract to that prospective Trustee, or failure to consider any proposal or any expenses incurred by a prospective Trustee in the course of the preparation of the proposal. AAFAF, on behalf of the Commonwealth, reserves the right, in its sole discretion (but subject to its obligations under the CWPOA), to request other proposals in the future. AAFAF, Treasury, and/or any other corresponding Government entity, hereby reserve the right to consider any and all factors relating to a determination of the ability and suitability of the prospective Trustees, their respective agents or representatives.
- g.** The prospective Trustee will secure the prior written approval of AAFAF before any specifications, records, drawings, data and other information relating to this RFP are released to anyone other than such prospective Trustee’s directors, officers, employees, accountants or attorneys.

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