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GOVERNMENT OF PUERTO RICO

PUERTO RICO ENERGY AFFAIRS ADMINISTRATION

GREEN ENERGY FUND
TIER 1 AND TIER 2
REGULATION

GOVERNMENT OF PUERTO RICO

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Chapter One

INTRODUCTION, BACKGROUND AND GENERALLY APPLICABLE PROVISIONS

I. Title and Introduction

This Regulation shall be known as the "**Green Energy Fund Regulation.**"

The Puerto Rico Energy Affairs Administration (PREAA) was created to design, develop, and implement energy policy that strengthens energy security, environmental quality and economic development in Puerto Rico. PREAA will develop strategies to reduce our high fossil fuel dependency, address climate and environmental issues, promote competitiveness, industrial development, and encourage energy conservation and efficiency. Since its creation under Act No. 128 of June 29, 1977 as the Office of Energy attached to the Governor's office, PREAA has acquired multiple functions and responsibilities. Hence PREAA, directly and through its predecessors, has developed solid experience within the energy sector in Puerto Rico.

On July 19, 2010, Act No. 83 (Act 83) was enacted to designate PREAA as the Government entity in charge of implementing green energy incentives in Puerto Rico and the policy defined in such law. Act 83 recognized that the high cost of energy increases the cost of doing business in our island. High energy costs are detrimental to our quality of life, our environment,

and our economic competitiveness. Incentivizing green energy addresses these costs, quality of life and environmental and economic barriers, while improving public health. Act 83 was approved to incorporate new and integrated incentives for the production of energy with alternative and sustainable renewable sources.

Act 83 assembles under one law our existing economic incentives and reforms, and organizes and standardizes incentives for the construction and use of renewable energy sources. It creates a unified framework of economic benefits and incentives that are expected to make Puerto Rico a more competitive jurisdiction for the development of renewable energy. Act 83 offers new benefits to stimulate the development of green energy projects, addresses tax credits, Renewable Energy Certificates (RECs) and the Green Energy Fund (the "GEF").

As part of the implementation of Act 83 with respect to the GEF, PREAA is called to create and approve this Regulation for the Tier 1 and Tier 2 programs.

II. Legal Basis

This Regulation is issued in accordance with and pursuant to the powers conferred to PREAA under Act No. 83 of July 19, 2010; and Act No. 170 of August 12, 1988, as amended.

III. Purpose

The purpose of this Regulation is to create parameters, mechanisms and standard criteria for implementing incentive programs under the GEF for Tier I Projects (also referred to as Small-Scale Green Energy Projects) and Tier II Projects (also referred to as Medium-Scale Green Energy Projects).

IV. Applicability

This Regulation shall be applicable to PREAA and all parties involved in the process of submitting, evaluating and selecting applications to receive funding from the Green Energy Fund under any of the incentive programs included herein.

V. Definitions

The following terms used in this Regulation shall have the meaning ascribed to them below. Terms not defined in this Regulation shall have the meaning ascribed to such term in the Act.

5.1 **Act** shall mean Act No. 83 of July 19, 2010.

5.2 **Applicant** shall be the person or entity submitting a GEF program application and serves as the main contact to PREAA through the application process.

5.3 **Application Fee** shall mean a non-refundable standardized amount based on the GEP system size, to be charged to the Applicants to process an application under this Regulation.

- 5.4 **Authorized Representative** shall be the optional third party that a Customer may designate in writing if Customer desires to delegate in such third party the authority to apply on his or her behalf. If a Customer designates such Authorized Representative, Customer shall complete the authorization letter using the template available in the Green Energy Fund webpage indicated in Section 6.2.1 of Chapter One.
- 5.5 **Business Day** means a day other than Saturdays, Sundays and such other days recognized as holidays by the Government of Puerto Rico.
- 5.6 **Completed** shall mean, with respect to a project, an eligible GEP that is fully installed, permitted and fully capable of being placed into operation.
- 5.7 **Controlled Group** shall mean the Controlled Group of Corporations or Partnerships as such term is defined in the Act.
- 5.8 **Customer** shall be the end-user/ receiver of the electricity produced by the GEP, including individuals, legal entities, and Controlled Groups, in connection with which GEP an incentive application is submitted under this Regulation. The Customer will be the incentive reservation holder. Customer need not be the System Owner. In addition, Customers may designate a third party Authorized

Representative to act on its behalf during the application process.

- 5.9 **Evaluation Committee** shall mean the committee to be appointed in accordance with Act No. 83 to certify the final determinations of the Technical Committee under the Tier 2 program and approve GEF disbursements amounting to or exceeding \$500,000.
- 5.10 **Facility** shall mean the property or site where the Green Energy Project will be developed.
- 5.11 **Force Majeure** shall mean a cause beyond the control of the Customer or System Owner affected thereby and which, by the exercise of reasonable diligence, such party is unable to prevent or overcome to the extent that it becomes unable to perform its obligations of constructing, installing and completing the GEP on schedule, including, acts of God (including earthquakes and tsunamis) more severe than typically experienced in Puerto Rico; war, rebellion, revolution, riot, or insurrection (including for the avoidance of doubt, terrorism) which causes physical damage and long term disruption, in each case within and involving Puerto Rico; or any other sudden accident or natural disaster which is not the result of an act, omission or default of the Applicant or any person for whom it is responsible.

- 5.12 **GEPS** shall mean Green Energy Projects.
- 5.13 **Government** shall mean the Government of Puerto Rico and its agencies, public corporations, offices, subdivisions and instrumentalities, including municipalities.
- 5.14 **Green Energy Technologies or GETs** shall mean the eligible green technologies for the production of Alternative Renewable Energy and Sustainable Renewable Energy, as approved from time to time by PREAA and indicated in the Reference Guides.
- 5.15 **OGPe** shall mean the Permits Management Office, for its Spanish acronym (*Oficina de Gerencia de Permisos*).
- 5.16 **Point of Interconnection with the Electric Utility** shall mean the point of connection with the electric power utility where an eligible GET is operating in parallel with the primary source of electricity (local electric utility, PREPA). The point of interconnection can be in the supply side or load side as allowed by the current National Electrical Code Article 705 or its successor article or Code or such code at the time applicable as determined by PREAA and published in the Reference Guides.
- 5.17 **PREPA** shall mean the Puerto Rico Electric Power Authority.

- 5.18 **Proposals** shall mean the required document to be submitted by the Applicant for purposes of Tier 2 GEPS, in accordance with Section VI of Chapter Three of this Regulation.
- 5.19 **Reference Guides** shall mean the documents approved by PREAA and published on its website at least once every Fiscal Year (For Tier 1) and at least once every quarter (for Tier 2) indicating, among other, further details in connection with the issuance of incentives hereunder, the Green Energy Technologies that are eligible to participate in the applicable incentive program under this Regulation, the maximum incentive percentage established for each one of these technologies, which shall never exceed 60% (for Tier 1) and 50% (for Tier 2) of the Total Project Cost, their Reference Costs and the technology-specific requirements.
- 5.20 **Reference Costs** shall mean the maximum acceptable Total Project Cost per installed Watt of System Capacity. The Reference Costs will vary according to the technology and system size, as described in this Regulation. Reference Costs are used to cap the Total Incentive Amount to be granted. Reference Costs are based on reasonable and supported criteria, including but not limited to the following:

- 5.20.1. National market reports;
- 5.20.2. Local market statistics, which may be compiled by PREAA based on previous years Green Energy Projects developed in the island;
- 5.20.3. Local constraints and particular conditions to develop Green Energy Projects in the island. As will be further specified in the Reference Guides, a higher Reference Cost may be granted to economically deprived or underdeveloped areas in Puerto Rico, as is the case with Vieques and Culebra under Act No. 153 of August 10, 2002, "Act to Create the Special Vieques-Culebra Economic Development Zone."

5.21 **Reservation Agreement** shall mean the agreement to be signed by the Applicant, the Authorized Representative and PREAA, including the terms, conditions, obligations and required documentation necessary to receive an incentive under programs hereunder.

5.22 **Reservation Guarantee** shall mean the guarantee to be provided by an Applicant prior to or simultaneous with the execution of a Reservation Agreement, as further provided herein and in the Reference Guides.

5.23 **System Capacity** shall be defined as follows:

5.23.1. For Photovoltaic (PV) System, shall be based on the lesser of:

5.23.1.1. The sum of the AC nameplate capacity (kW) of the inverters installed; and,

5.23.1.2. The sum of the individual DC nameplate capacity ratings of PV Modules.

5.23.2. Small Wind Power System: shall be based on the "AWEA Rate Power" definition provided in AWEA Small Wind Turbine Performance and Safety Standard (Standard 9.1-2009) for small wind power systems (turbines with rotor areas up to 200m²). Larger turbines shall be based on the turbine rated power output at 11 m/s per IEC 61400-12.

5.23.3. The applicability of these standards may be revised from time to time by PREAA and published in the Reference Guides, as the GETs available in the market are improved and modified.

5.24 **System Owner** shall mean the Owner of the GEP at the time the incentive is paid. In the case of third-party owned systems, the third-party is the System Owner. System Owners can be

designated by the Customer as Authorized Representatives.

- 5.25 **Technical Committee** shall mean the committee or committees to be formed by PREAA to perform the functions assigned to it under this Regulation.
- 5.26 **Technical Evaluation Process** shall mean the process of evaluating completed and pre-approved Proposals submitted for Tier 2 GEPs to determine the incentives to be awarded under such Tier 2 program during any one quarter.
- 5.27 **Tenant** shall mean a person (natural or legal entity) that uses or occupies, and pays rent for such use or occupancy, a Facility owned by another person. Tenant will need to submit a written authorization from landlord in order to construct or install the GEP in landlord's property.
- 5.28 **Tier 1** shall mean any GET project that has a System Capacity of up to and including one hundred (100) kilowatts (kW).
- 5.29 **Tier 2** shall mean any GEP that has a System Capacity greater than one hundred (100) kilowatts (kW) and up to and including one (1) megawatt (MW).

- 5.30 **Total Incentive Amount** shall mean the total amount determined by PREAA to be reserved for a GEP.
- 5.31 **Total Project Cost** shall mean the total eligible costs of developing and installing a GEP. Eligibility is further defined in this Regulation.
- 5.32 **Validation Process** shall mean the process by which PREAA reviews and approves applications to confirm their compliance with this Regulation and to determine the incentives to be granted, if any.

VI. Generally Applicable Provisions

In order to qualify for an incentive under this Regulation, both Customers and Green Energy Projects must satisfy the following provisions:

6.1 Applicant Eligibility

- 6.1.1. Residential, commercial, industrial, agricultural, and non-for-profit (educational or otherwise) Customers will all be eligible to apply for a GEF incentive, subject to the requirements of the Act, this Regulation and the Reference Guides.
- 6.1.2. Government entities, as Customers, will only be eligible to apply for Tier 2 incentives under this

Regulation. Notwithstanding the above, commercial and industrial Customers occupying a Government owned building, will be eligible to receive the benefits of all programs presented hereunder, subject to the requirements of this Regulation and additional provisions included in the Reference Guides.

6.1.3. Customers that may have unsuccessfully applied in any period or quarter may re-apply in the future. However, a new application fee shall be payable. Customers and/or Authorized Representatives that sign a Reservation Agreement and default under the causes stated therein, causing PREAA to cancel a reservation, may not apply for GEF incentives in the future.

6.2 Application Requirements

6.2.1. Applicants shall complete their applications for incentives under the Green Energy Fund through www.prdoesitbetter.com or such other webpage as may be indicated from time to time in the Reference Guides. Green Energy Fund information, including the Reference Guides, shall

also be available at PREAA's website www.aae.gobierno.pr.

6.2.2. Applicants with no Internet access shall visit PREAA offices, where PREAA will provide the resources to submit an application under Tier 1 and Tier 2 programs.

6.3 **Application Fee**

6.3.1. Applicants will be required to pay a non-refundable Application Fee in order to successfully complete an application. The fee structure shall be detailed in the Reference Guides and may be modified from time to time by PREAA.

6.4 **Reservation Guarantee**

6.4.1. A Reservation Guarantee shall be provided at the time the Reservation Agreement is executed between the Customer, the Authorized Representative and PREAA.

6.4.2. Upon successful project completion and PREAA's final determination, the Reservation Guarantee will be refunded together with the incentive payment. Reservation Guarantee shall be forfeited and the incentive denied if the approved GEP is not Completed

satisfactorily or if Applicant does not comply with any other terms and conditions of the Reservation Agreement.

6.4.3. The applicable Reservation Guarantee structure and conditions shall be detailed in the Reference Guides and may be modified from time to time by PREAA.

6.5 Eligible Projects

Only GEPs that have not begun construction or installation before submittal of the application and before final approval may receive incentives hereunder. Only permitting related activities may begin before final approval of an application and shall not constitute project initiation for purposes of eligibility. Except as indicated in the next sentence, incentives will not be granted retroactively to constructed projects. In the case of Applicants that submitted an application for tax credits to the Department of Treasury under Act No. 248 of August 10, 2008 after July 1, 2010 but before September 30, 2010, for projects Completed or substantially Completed by September 30, 2010 and did not receive a response or received a negative response based on the provisions of Art. 2.22(g) of Act 83, will be eligible to apply for an incentive under this Regulation

during Fiscal Year 2012. PREAA will request written confirmation from the Treasury Department and/or request further evidence from Applicant to validate the information submitted in connection with a Completed project that may qualify for an exception pursuant to the previous sentence. Further details about the interaction and receipt of GEF incentives and other incentives will be reviewed by PREAA. To the extent applicable, Applicants shall comply with any additional conditions that may be required under the joint Puerto Rico Treasury Department and PREAA Regulation to be approved for tax and other incentives.

6.6 Eligible Project Costs

The Applicant must submit project cost details in a single project quote signed by both the Customer and the sales representative to evidence the eligibility and amount of Total Project Cost. The following may be included as part of the Total Project Costs of a GEP for incentive calculation purposes.

- 6.6.1. Equipment costs including, photovoltaic (PV) modules, wind turbines, inverters, metering devices, and any other balance of system equipment necessary for the operation of a GEP; on-site system measurement, monitoring and data

acquisition equipment cost. PREAA certified accessory equipment, such as batteries and charge controllers, for stand-alone systems that demonstrate inability to interconnect to the utility grid due to circumstances beyond the control of Applicant, will be considered as eligible Total Project Costs.

6.6.2. Engineering, design and permitting cost;

6.6.3. Construction, installation and mounting cost. For projects in which the GEP is part of a larger development, only the construction and installation cost directly associated with the setting up of the GEP are eligible. Mounting and anchoring structures such as racking systems, car ports, and any other structure that provide primary support for the GET equipment may be included.

6.6.4. In cases where part of the GEP will be financed, interest expense may be included, provided such interest expense is commensurate with rates provided by financial institutions to finance projects with similar risks.

6.6.5. Such other costs as PREAA may determine from time to time and publish in the Reference Guides.

PREAA may request copies of construction documents and evidence of costs incurred before determining final incentive amount to be reserved or paid. Under no circumstances the Total Project Cost per installed Watt (System Capacity) shall exceed the Reference Cost.

6.7 **Installers**

6.7.1. Installations must be performed by a PREAA Certified Renewable Energy Systems Installer according to PREAA Regulation No. 7796 of January 19, 2010, as amended from time to time, or such other regulation at the time applicable. This includes PV Installer certification for Solar PV GEPs, and Small Wind Turbine Installer certification for Small Wind GEPs.

6.7.2. Should an installer be performing engineering or architectural work, the Certified Renewable Energy System Installer shall also be a licensed or authorized professional under Act No. 173 of August 12, 1988.

6.7.3. For a list of certified installers see: <http://www.aae.gobierno.pr>

6.8 Insurance

6.8.1. All PREAA Certified Renewable Energy System Installers and/or Customer or System Owner shall present to PREAA proof of insurance in order to participate in this program. Insurance shall be adequate to cover the risks of the project until completion. PREAA will publish in the Reference Guides specific terms and conditions of insurance, as deemed necessary for the GEPs.

6.9 Equipment

6.9.1. Eligible technologies for each program hereunder will be published through the respective Reference Guide.

6.9.2. All Green Energy Technology equipment must be certified according to the Joint Regulation of Permits for Construction Works and Land Uses (Joint Regulation), as amended from time to time, or such other regulation at the time applicable. However, certifications of a Green Energy Technology issued before the approval of the Joint Regulation and

certified by PREAA according to PREAA Regulation No. 7796 of January 19, 2010, Regulation for the Certification of Renewable Energy Systems, will maintain its validity.

- 6.9.3. All equipment installed under the programs included in this Regulation shall be new. Rebuilt, refurbished or relocated equipment do not qualify for incentives.

6.10 Installations

- 6.10.1. All installations shall be connected at the Point of Interconnection with the Electric Utility, comply with the National Electrical Code, PREPA standards and local net metering laws and regulations as applicable.

- 6.10.2. All installations must have monitoring capability that is readily accessible to the Customer and/or System Owner and PREAA. This metering device must be in compliance with minimum requirements established in Section 6.12.

6.11 Minimum Performance Design

- 6.11.1. PREAA will provide minimum performance requirements for each

Green Energy Technology through the Reference Guides.

6.12 Metering Requirements

- 6.12.1. All GEPs recipients of an incentive under the GEF must be installed with System Performance and Revenue Grade Meters that allow the Customer, System Owner and PREAA to determine the amount of green energy production of the GEP.
- 6.12.2. Installed System Performance and Revenue Grade Meters must comply with the applicable accuracy ratings established in the Reference Guides. If the meter to be used is not included in the list, evidence of compliance with the requirements must be presented to PREAA.
- 6.12.3. Accuracy ratings must be certified by a Nationally Recognized Technological Laboratory (NTRL) such as UL or TUV.
- 6.12.4. All GEF incentive recipients must provide PREAA staff with access to their facilities in order to re-inspect and/or verify reported production. Customer, and System Owner if applicable, shall have the right to accompany PREAA staff during such visits.

6.12.5. A System Owner or Customer, as applicable, may be invoiced an amount not to exceed \$500, if more than two inspections are required due to any non-performance of the metering system.

6.13 Meter Communication Requirements

6.13.1. All System Performance and Revenue Grade Meters must be installed with some form of communication capability that will provide feedback to Customer, System Owners and PREAA.

6.13.2. System should have remote communicating capability whereby data can be collected, accessed remotely, and downloaded for processing by PREAA.

6.13.3. GEP System Owners are required to report annual energy production to PREAA via electronic data exchange. More information regarding this provision will be published in the Green Energy Fund webpage indicated in Section 6.2.1 of Chapter One of this Regulation.

6.14 Interconnection to the Electric Utility

6.14.1. All Applicants for grid-connected system must submit an interconnection

application to the electric power utility (PREPA).

6.14.2. System interconnection and operation requirements shall be in accordance with the local electric power utility regulations.

6.14.3. To ensure that a proposed GEP is eligible for interconnection and metering (when applicable), all Applicants are encouraged to contact the local electric power utility prior to submitting an incentive application under this Regulation.

6.14.4. Proof of interconnection permit is required prior to receiving an incentive payment under this Regulation. Under exceptional circumstances and in PREAA's absolute discretion, which may be consulted with the electric power utility, PREAA may disburse an incentive without proof of dully executed interconnection agreement and permit if Applicant presents evidence of filing an application to interconnect with the electric power utility and the delay in its approval can be shown to be not Applicant's fault.

6.15 Renewable Energy Certificate (REC) Ownership

6.15.1. In accordance with Article 2.8(g) of the Act, all environmental and social attributes, in the form of Renewable Energy Certificates (RECs) or otherwise, derived from the production of the GEPs that have received incentives under programs included in this Regulation, will be owned by PREAA. The System Owner, or any third party transferee, will own RECs derived from projects not receiving funds from the GEF. For stand-alone systems, PREAA may transfer the environmental and social attributes of the GEP, to the System Owner.

6.16 Reserved Prerogatives

6.16.1. By submitting an application under this Regulation, an Applicant is expressly authorizing PREAA to receive, gather, store, share and exchange with other local and federal governmental authorities, information regarding the GEP, Applicant, Customer, Authorized Representative and/or System Owner, as may be necessary to validate the information provided by Applicant and/or to evaluate and validate the

application. Disclosure of the information provided to PREAA may also be made available to Federal and Puerto Rico agencies for prosecution or further investigation if a violation or possible violation of a civil or criminal law has been committed, or as may be required by law.

6.16.2. By submitting an application, Applicant shall be certifying to PREAA that it has title, license, copyright and/or any other valid authorization to present the documentation included as part of the application, including design works and any other intellectual property. Should a dispute arise, formal or otherwise, at any time while in the process of applying or receiving an incentive under the Green Energy Fund, between Customer, System Owner or any other party with alleged rights over any of the documentation submitted, upon notice to PREAA of such dispute, PREAA shall cancel the application or reservation and return the documentation to Applicant, unless a judicial or administrative body with jurisdiction may otherwise order PREAA. PREAA shall also be

released and held harmless from any liability in connection with any copyright or intellectual property infringement or alleged infringement.

6.16.3. Completion of an application is voluntary, but failure to provide the requested information will preclude Applicant from completing a successful application, validation and/or evaluation process and no incentives will be granted under such application.

6.16.4. In addition to the prerogatives of PREAA stated in Section 6.12.4, PREAA reserves the right to visit or inspect a GEP site at any time during the Validation Process, Technical Evaluation Process or construction.

6.17 Safety

The proposed GEP may in no way degrade the Facility safety and/or affect the security of its occupants.

6.18 Proper Disposal

When applicable, all equipment removed from a Facility shall be properly recycled or disposed by Applicant in accordance with applicable law.

6.19 Location

Only GEPs located in Puerto Rico are eligible to receive incentives hereunder.

6.20 Permanence

Only permanent systems are eligible for incentives hereunder. Physical permanence is shown by equipment secured to a permanent surface using fasteners or other fittings standard to the industry. Any installation that shows signs of portability (unsecured equipment, quick disconnects, others) will not qualify for incentives hereunder. PREAA reserves the right to verify system permanence with a site inspection.

GEF incentives recipients will be required to comply with a recapture period of at least five (5) years. If the System Owner removes the GEP from the Facility during this five (5) year period (hereinafter "disqualifying event"), the GEF incentive payment must be repaid to the GEF as follows: 100% of the payment must be repaid if the disqualifying event takes place within one year from the date placed in service; 80% of the payment must be repaid if the disqualifying event takes place after one year but before two years from the date placed in service; 60% of the payment must be repaid if the disqualifying event takes place after two

years but before three years from the date placed in service; 40% of the payment must be repaid if the disqualifying event takes place after three years but before four years from the date placed in service; and 20% of the payment must be repaid if the disqualifying event takes place after four years but before five years from the date placed in service.

Funds that must be repaid to the GEF under these rules are considered debts owed to the Government of Puerto Rico and if not paid when due, will be collected by all available means against any assets of the System Owner, including legal enforcement

6.21 Government Certifications

For PREAA to disburse a reserved amount, Applicants with a Reservation Agreement in an amount greater than \$16,000 shall present the following certifications no later than upon project completion:

6.21.1. Certificate issued by the Puerto Rico Treasury Department evidencing that Applicant does not have any income tax debts outstanding, or if a debt is outstanding, he/she has a validly agreed upon and current payment plan.

6.21.2. Certificate of filing income tax returns with Puerto Rico Treasury Department for the prior five (5)

years. Applicants that have been organized or doing business in Puerto Rico for less than 5 years, will submit a sworn statement, in form and substance acceptable to PREAA, detailing such circumstances.

6.21.3. Certificate of no debt for real property taxes or for any other tax under Puerto Rico law.

6.21.4. Certificate of no debt with the Puerto Rico Department of Labor.

6.21.5. Certificate of no debt for Worker's Compensation Insurance.

6.21.6. Certificate of no debt for child support under Puerto Rico law issued by ASUME or under the law of any other state of the United States.

6.21.7. Sworn Statement in compliance with Act No. 428 of September 22, 2004.

6.22 Deed or Contractual Restrictions

Incentives will not be granted where deeds, condominium laws, regulations, contractual or association by-laws prohibit the installation of equipment contemplated for the GEP.

6.23 Other Grants or Assistance

Except as provided under Article 2.8(d) of the Act and except as may be prohibited by other laws or regulations, other incentives may be combined with incentives hereunder to complete the construction or installation of a GEP. However, in no case may such project receive total incentives, including rebates and tax credits, among others, exceeding the overall project cost. Applicants may be asked to provide information about other incentives programs in which the submitted GEP will participate or has participated.

6.24 Fraud and Non Compliance

6.24.1. If the Applicant cannot comply with requirements of Law No. 458 of December 29, 2000, as amended (Law 458), or if there is evidence of fraud in the application process, PREAA reserves the right to reject the application or proposal. If the fraud or breach of Law 458 by Applicant is discovered after the incentive has been disbursed, Applicant shall return the incentive to PREAA. Applicant may also be subject to criminal charges.

6.25 Unforeseeable Circumstances

If before a Reservation Agreement is signed, circumstances arise that require changes to the systems, equipment or Facility described in the application, Applicant must promptly notify PREAA. PREAA will evaluate if the changes require a new application. Such changes requiring notification to PREAA include, but are not limited to, a change in system size of more than 20%, change in equipment or a change of the proposed location. Under no circumstances will a change in Customer be accepted without canceling the application and requiring a new application under a new Customer name to be submitted.

6.26 Code of Ethics for Contractors, Service Providers and Applicants for Economic Incentives

Applicants shall abide by Act No. 84 of June 20, 2003 (Code of Ethics for Contractors, Service Providers and Applicants for Economic Incentives) and may not have been convicted of any crime against public funds or public functions or being under investigation for any such violations.

6.27 Notices

In line with PREAA's mission in protecting the environment and making Puerto Rico greener, all relevant parties are herein informed that

PREAA's main communication medium with Applicants shall be electronic mail, unless otherwise stated in this Regulation. Interested parties will be responsible for ensuring that the correct electronic addresses are provided to PREAA and that electronic mail systems used by Applicants are at all times functional. Should an Applicant or interested party (Customer or System Owner or Authorized Representative) experience any difficulty or has doubts as to the working conditions of its electronic mail system or provider, it has the responsibility of communicating with PREAA and provide PREAA an alternative physical or electronic address, particularly during period with set deadlines that may result in cancellation of an application or incentive if Applicant is not responsive. All electronic mail sent by PREAA without receipt of a non-delivery notification generated by the carriers will be assumed successfully delivered to and read by Applicant. Relevant deadlines and periods will begin counting from the following day. For example, a notice sent by PREAA via electronic mail on the 3rd of August with a response deadline of fifteen (15) days therefrom, will have to be responded by Applicant on or before August 18.

Chapter Two

TIER I PROGRAM

I. Type of Awards

Pursuant to Act 83, incentives under Tier 1 Program will be awarded by PREAA in the form of payment upon GEP completion and in accordance with this Regulation and the Tier 1 Reference Guide. Under no circumstances, shall Total Incentive Amount exceed 60% of Total Project Costs nor will Total Project Cost per installed Watt (System Capacity) exceed the Reference Cost.

II. Eligibility

- 2.1 To the extent funds are available in the applicable funding cycle, Applicants may apply for a Tier I GEP incentive upon compliance with the terms and conditions of this Regulation.
- 2.2 Funds not allocated during a given funding cycle will be made available for distribution in the following funding cycle, if within the same fiscal year.
- 2.3 Customers may only apply for a single Tier 1 GEP per fiscal year.
- 2.4 The amount of the incentive shall be determined by taking into account the applicable reimbursement percentage of Total Project Cost, System Capacity and Reference

Cost. Tier 1 Reference Guide will illustrate the calculation formula to be used by PREAA to determine Total Incentive Amount.

III. Application Procedure

3.1 Annual Tier 1 funding will be divided into funding cycles as defined in the Tier 1 Reference Guide. Incentives will be distributed to Applicants on a first come first served basis according to conditions set forth in the Tier 1 Reference Guide.

3.2 Applicants shall apply for Tier 1 incentives under the PR Green Energy Fund through the website indicated in section 6.2.1 of Chapter One to submit their applications. The following, without limitation, shall be submitted electronically into the application fields:

3.2.1. Applicant Information ,including Customer and Authorized Representative, and if Customer is a Tenant, when applicable;

3.2.2. Site Information; physical address where the GEP will be located;

3.2.3. System Information, including System Capacity, Project Costs, estimated annual energy production, GET equipment manufacturers and models, among others; and

3.2.4. Payment of Application Fee as per section 6.3 of Chapter one of this Regulation.

3.3 After an Applicant has duly completed the application and submitted the required documentation, an automatic pre-approval notice will be issued with a summary of the application.

3.4 All pre-approved cases will be subject to a Validation Process to be performed by PREAA. Validation Process shall include a site visit. Should the application be incomplete or require further clarifications or information in order for PREAA to complete the Validation Process, Applicant will receive an information request notice also stating the deadline and instructions for submittal. Information requests may include submittal of landlord acknowledgment and consent from landlord for tenant to install the GEP, shading analysis, resource studies, among others, as identified in the site visit and/or review of submitted application. Failure to submit the information by the deadline stated in the Information request notice shall result in the cancellation of the application. PREAA will complete the Validation Process within twenty (20) Business Days from the latter of the submittal of all information or the issuance of the pre-approval.

- 3.5 Upon final approval, PREAA will issue a notification to applicants with terms, conditions, and requirements to receive an incentive under this Tier 1 program.
- 3.6 The Customer and the Authorized Representative, if any, will then be required to present evidence of payment of Reservation Guarantee, evidence of insurance to cover the construction and sign a Reservation Agreement with PREAA no later than ten (10) Business Days from the date on which the notification was issued. Reservation Agreements shall be executed in accordance to terms and conditions defined by PREAA. If no agreement is executed or evidence of payment of Reservation Guarantee or insurance coverage is not presented within the ten (10) days period, the application will be cancelled. GEPs may not begin construction or installation until a Reservation Agreement is signed.
- 3.7 Funds will be reserved for a nine (9) months period from the date of signing the Reservation Agreement, during which time the GEP must be Completed. If the GEP is not Completed within this period, the reservation will be cancelled. Applicants are encouraged to begin permitting activities before applying or signing the Reservation Agreement to advance processes and ensure that the GEP will

be Completed within the nine (9) months reservation period.

3.8 Once the GEP is Completed, the Applicant shall submit a reservation claim, including all documents indicated in the Reservation Agreement. Required documents to be submitted with the reservation claim include, but shall not be limited to, the following:

3.8.1. Evidence of payment of GEP costs (other than long term debt);

3.8.2. Documents required under Section 6.21 of Chapter One of this Regulation;

3.8.3. Signed Interconnection Agreement with, and interconnection permit from, PREPA (or evidence of filing of application to interconnect with PREPA, as previously determined by PREAA);

3.8.4. Renewable Energy System Installation Certificate in accordance with OGPe Joint Regulation, Title XII, Chapter 55, Rule 55.6; and

3.8.5. Any other documentation specified in the Reservation Agreement.

3.9 Once the Applicant notifies PREAA of project completion, and submits all required documentation, PREAA will send an inspector to

verify GEP compliance with terms and conditions stated in the Reservation Agreement.

3.10 An inspection will be completed within thirty (30) Business Days from the date of receipt of the Applicant's reservation claim with all required documentation. An inspection showing full compliance with all terms and conditions of the Reservation Agreement will become a final inspection determination.

3.11 In case the inspection shows that the Completed GEP has a smaller System Capacity than described in the Reservation Agreement, the inspection determination will become final but shall reflect an adjustment in the Total Incentive Amount proportional to the reduction in the GEP System Capacity.

3.12 Completed GEPs with larger System Capacity than described in the Reservation Agreement will receive the Total Incentive Amount as stated in the Reservation Agreement, unadjusted.

3.13 Completed GEPs with significant variations other than as described above will have the option to, within twenty (20) Business Days, either:

3.13.1. Modify the GEP in accordance with the Reservation Agreement and reapply for a final inspection determination.

3.13.2. Withdraw the application and notify PREAA as instructed in the Reservation Agreement or in the inspection determination.

3.14 Reservations for GEPs that reflect significant variations will be cancelled if Applicant does not act within twenty (20) Business Days from receipt of the inspection determination.

3.15 Within thirty (30) calendar days from issuance of a final inspection determination showing full compliance with all terms and conditions of the Reservation Agreement or from the date of issuance of final inspection determination after modification of the GEP, PREAA will disburse incentive payment to Customer or its assignee. Incentive payments may be disbursed to third parties (including System Owners and Authorized Representatives) when such third party has partially or completely paid for the cost of the GEP, and evidence thereof is available to PREAA, provided a payment release or assignment notice is submitted by Customer (incentive reservation holder) to PREAA.

IV. Application Documents

4.1 Minimum documentation required to apply for an incentive under this program is listed below:

4.1.1. Site drawing and Layout - A single page document in PDF format and prepared using computer aided design

software, indicating at a minimum the locations of major components, layout, positioning, true north orientation symbol, and property lines;

4.1.2. Project price quote - containing the following components:

1. Equipment costs;
2. Engineering design and permitting cost;
3. Construction, installation and mounting cost;
4. Interest Expense;

4.1.3. If applicable, an executed Authorization Letter (refer to the website stated in Section 6.2.1 of Chapter One of this Regulation).

4.1.4. When applicable, a corporate resolution indicating the names of individuals authorized to act and sign documents on behalf of a corporation;

4.1.5. Any other document required by PREAA as part of the application process.

V. Final Determination

5.1 Applicants may present the Executive Director of PREAA a reconsideration request in connection with an unfavorable final inspection determination within fifteen (15) calendar days from the delivery to the Applicant of such determination. The Applicant shall explain in writing the reasons for which the inspection determination should be reconsidered. The Executive Director shall make a final determination within fifteen (15) calendar days from receipt of the reconsideration request. The Executive Director's decision shall be final.

Chapter Three

TIER 2 PROGRAM

I. Type of Awards

Pursuant to Act 83, incentives under the Tier 2 Program will be awarded by PREAA through a competitive tendering process. This Regulation elaborates on such process.

Incentives will be paid in the form of payment to awarded Completed GEPs in accordance with this Regulation, the Reservation Agreement and the applicable Reference Guide. Under no circumstances, shall the Total Incentive Amount exceed 50% of Total Project Costs nor will Total Project Cost per installed Watt (System Capacity) exceed the Reference Cost.

II. Application and Award Timeline

2.1 Every quarter, PREAA shall open a new tendering process for Tier 2 GEPs. The quarters shall be the following for each fiscal year:

<u>Quarter</u>	<u>Funding Cycles</u>
Q1	July 1 through September 30
Q2	October 1 through December 31
Q3	January 1 through March 31
Q4	April 1 through June 30

Funds not allocated during a given quarter will be made available for distribution in the following quarter of the same Fiscal Year.

2.2 Proposals shall be submitted not later than the fifth day of each quarter, namely:

<u>Quarter</u>	<u>Deadline</u>
Q1	July 5 of the fiscal year in progress.
Q2	October 5 of the fiscal year in progress.
Q3	January 5 of the fiscal year in progress.
Q4	April 5 of the fiscal year in progress.

2.3 Final determination notifications shall be issued by electronic mail, followed by certified mail, within 40 calendar days from the application deadline, namely:

<u>Quarter</u>	<u>Deadlines</u>
Q1	August 14 of the fiscal year in progress.
Q2	November 14 of the fiscal year in progress.
Q3	February 14 of the fiscal year in progress.
Q4	May 15 of the fiscal year in progress.

If the deadline falls on a non-business day, notifications will be issued on the following business day.

III. Eligibility

- 3.1 Any Proposal that consists of multiple projects with separate Points of Interconnection with the Electrical Utility, shall be eligible as a Tier 2 GEP only if each one of those projects has a minimum System Capacity greater than one hundred kilowatts.
- 3.2 A Controlled Group may apply and submit proposals for more than one GEP per funding quarter. However, the aggregated System Capacity of all the proposals presented by the Applicant for the same Controlled Group for that funding quarter shall be considered as a single project for purposes of determining its eligibility as a Tier 2 GEP. Same rules will apply when the Customer is a Government entity.
- 3.3 The maximum amount that a successful GEP may be eligible to receive shall be determined by multiplying the applicable reimbursement percentage indicated in the Tier 2 Reference Guide by the Total Project Cost; however, the Total Project Cost per installed Watt (System Capacity) shall be capped by the applicable Reference Cost (refer to Tier 2 Reference Guide).
- 3.4 Applicants may request funding up to the maximum levels as stated in the Reference

Guide; however incentives are limited and awarded on a competitive basis.

3.5 Awards shall be based on the evaluation of the Applicant's GEP Proposal, compliance with this Regulation, the Reservation Agreement and the Tier 2 Reference Guide applicable to such quarter.

3.6 Teaming arrangements, joint ventures and other forms of partnerships are eligible and encouraged when necessary to meet project goals. Teams may consist of commercial firms, government organizations, universities, and/or other entities. Preference will be given to teams that can demonstrate green energy project development and operational knowledge and experience.

IV. Application Procedure

4.1 Applicants shall apply for Tier 2 incentives under the PR Green Energy Fund through the webpage indicated in Section 6.2.1 of Chapter One of this Regulation.

4.2 After an Applicant has duly submitted the general description and the required Proposal for the GEP, in accordance with Section VI of this Chapter, the system will issue a notification with an application number and a GEP summary. Applications will only be accepted if submitted within the first five (5) days of each quarter as described above.

- 4.3 A submitted application, including the required Proposal, will then be subject to a Technical Evaluation Process to be completed by the Technical Committee within (30) calendar days from the issuance of the notification. Technical Evaluation Process shall include a site visit.
- 4.4 All Proposals shall be complete and in compliance with all requirements included in this Regulation. Incomplete or non-compliant applications and Proposals may be disqualified. Notwithstanding, PREAA may in its discretion and without granting a competitive advantage to one Applicant over another, require further clarifications in order to complete the Technical Evaluation Process. In such cases, an information request notice shall be issued to Applicant stating the deadline and instructions for submittal. Information requests may include submittal of landlord acknowledgment and consent from landlord for tenant to install the GEP, shading analysis, resource studies, among others, as identified in the site visit and/or review of submitted application. Failure to submit the information by the deadline stated in the information request notice shall result in the cancellation of the application.
- 4.5 PREAA will notify the evaluation results to Applicants upon final recommendation of the

Technical Committee, and approval of the Evaluation Committee (where required as provided in Section VI), within the timeframe indicated in Section 2.3 of this Chapter.

4.6 For awarded GEPs, Customer and Authorized Representative, if any, will be required to present evidence of payment of Reservation Guarantee, insurance policies and sign a Reservation Agreement with PREAA no later than fifteen (15) Business Days from the date on which the notification was issued. Reservation Agreements shall be executed in accordance to terms and conditions defined by PREAA and in accordance with this Regulation and the Reference Guide. If no agreement is executed by the Applicant or evidence of payment of the Reservation Guarantee and of insurance policies is not presented within the fifteen (15) days period, the application will be cancelled.

4.7 Funds will be reserved for a twelve (12) month period, but may be extended at PREAA's discretion and on a project by project basis to take into account particular circumstances and project contingencies anticipated in the application. Other unanticipated delays caused by Force Majeure events may also be considered to extend the reservation period, during which time the GEP must be Completed. In no case shall the time granted for project completion

exceed a total of twenty four (24) months, as stated in the Act. If the GEP is not Completed within this period, the reservation will be cancelled. Applicants could begin permitting activities before applying or signing the Reservation Agreement to advance processes and ensure that the GEP be Completed within the reservation period.

4.8 Once the GEP is Completed, the Applicant shall submit a reservation claim, including all documents indicated in the Reservation Agreement. Required documents to be submitted with the reservation claim include, but shall not be limited to, the following:

4.8.1. Evidence of payment of GEP Total Project Costs;

4.8.2. Documents required under Section 6.21 of Chapter One of this Regulation;

4.8.3. Signed Interconnection Agreement with, and interconnection permit from, PREPA (or evidence of filing of application to interconnect with PREPA and in accordance with Section 6.14 of Chapter 1);

4.8.4. Renewable Energy System Installation Certificate in accordance with OGPe Joint Regulation, Title XII, Chapter 55, Rule 55.6; and

4.8.5. Any other documentation specified in the Reservation Agreement.

4.9 Once the Applicant notifies PREAA of project completion, and submits all required documentation, PREAA will send an inspector to verify GEP compliance with terms and conditions stated in the Reservation Agreement.

4.10 An inspection will be completed within thirty (30) Business Days from the date of receipt of the Applicant's reservation claim with all required documentation. An inspection showing full compliance with all terms and conditions of the Reservation Agreement will become a final inspection determination.

4.11 In the case that the inspection shows that the Completed GEP has a smaller System Capacity than described in the Reservation Agreement, the inspection determination will become final but shall reflect an adjustment in the Total Incentive Amount proportional to the reduction in the GEP System Capacity. However, a modification in System Capacity that reduces the project to a 100kW or less GEP will be considered a significant variation under Section 4.14 below.

4.12 An inspection showing that the Customer or the location or site of the GEP is different from those specified in the Reservation Agreement,

shall constitute a failed inspection and will result in the cancelation of the reservation.

4.13 Completed GEPs with larger System Capacity than described in the Reservation Agreement will receive the Total Incentive Amount as stated in the Reservation Agreement, unadjusted.

4.14 Completed GEPs with significant variations other than as described above will have the option to, within thirty (30) Business Days either:

4.14.1. Modify the GEP in accordance with the Reservation Agreement and reapply for a final inspection determination.

4.14.2. Withdraw the application and notify PREAA as instructed in the Reservation Agreement or in the inspection determination.

4.15 Reservations for GEPs that reflect significant variations will be cancelled if Applicant does not act within thirty (30) Business Days from receipt of the inspection determination.

4.16 Within thirty (30) calendar days from issuance of a final inspection determination showing full compliance with all terms and conditions of the Reservation Agreement or from the date of issuance of final inspection determination after modification of the GEP, PREAA will

disburse incentive payment to Customer or its assignee. Incentive payments may be disbursed to third parties (including System Owners and Authorized Representatives) when such third party has partially or completely paid for the cost of the GEP, provided a payment release or assignment notice is submitted by Customer (incentive reservation holder) to PREAA.

V. Application Requirements

5.1 Minimum documentation required to apply for an incentive under this program is listed below:

5.1.1. Site drawing and Layout - A single page document in PDF format and prepared in a computer aided design software, indicating at a minimum the locations of major components, layout, positioning, true north orientation symbol, and property lines;

5.1.2. Project price quote - containing the following components:

1. Equipment costs;
2. Engineering design and permitting cost;
3. Construction, installation and mounting cost;
4. Interest Expense;

- 5.1.3. If applicable, an executed Authorization Letter (refer to Green Energy fund webpage or PREAA website as stated in Section 6.2.1 of Chapter One of this Regulation).
- 5.1.4. If applicable, a corporate resolution indicating the names of individuals authorized to act and sign documents on behalf of a corporation;
- 5.1.5. Payment of Application Fee as per section 6.3 of Chapter one of this Regulation;
- 5.1.6. Any other document required by PREAA as part of the application process; and
- 5.1.7. The Proposal for project funding containing the information stated below.

VI. Proposal Submittal - Proposals must meet the following minimum requirements to be considered for funding. To facilitate the submission of similarly formatted proposals that enable ready comparison by evaluators, applicants should organize proposals as follows:

- 6.1 **Project Description** - Applicants should demonstrate within the relevant sections of their project descriptions how their proposal meets or exceeds the criteria set forth

herein, in the Tier 2 Reference Guide and in any additional tendering process details that PREAA may publish through the Green Energy Fund webpage indicated in Section 6.2.1 of Chapter One of this Regulation. Applicants must provide the following information with the associated descriptive headings in bold below:

6.1.1. **Equipment** - Applicants must indicate the major types of equipment that will be installed or, if not yet selected, the candidate technologies. For actual construction and upon showing a good cause, successful candidates are permitted to replace or update equipment identified in the proposal with more technologically advanced equipment that is equal to or better than the equipment identified in the proposal.

For each candidate technology, Applicants may be required to provide the manufacturer's specification sheets, and if not available, describe the renewable resource characteristics applicable to the proposed equipment; estimate the expected capacity of the resource and provide the methodology and data

sources that corroborate this estimate.

6.1.2. **Relevant Experience & Knowledge** - The proposal must list all senior team members and external consultants participating in the GEP and include evidence of their relevant expertise and appropriate technical knowledge regarding GEPs. Applicants will be required to certify that its proposed senior project team will remain the project team for the duration of the project, subject to any changes notified, and thus approved by PREAA.

6.1.3. **Schedule of Project Related Milestones** - For each distinct project component proposed, the Applicant must identify the expected duration of the permitting, design and construction phases. This should also include the expected useful economic life for any major equipment and/or component. In addition, a project timeline will be required.

6.1.4. **Site Location and Description** - The applicant must describe and document all distinct individual project site locations and basis for selection including the location(s), the construction staging area(s), and the

location(s) of transmission lines and all points of interconnection to the distribution system. Applicants must include a map or satellite image with the location of the site(s) clearly marked. Describe any current uses, conflicts, or characteristics of the land areas under consideration; specify whether the project is located at one site, or divided among several sites; define the attributes which make the site attractive and list any potential problems, constraints or limitations with locating an energy facility at that site including but not limited to environmental, economic, or energy production characteristics.

- 6.1.5. **Land Acquisition and Access to Facility** - For each candidate area, applicants must prove they have land access rights for all portions of the project including all required interconnection areas; describe progress in securing land access rights, and propose a plan for accomplishing remaining steps toward acquiring rights; and indicate the type and number of entities securing leases or owning land, if applicable. For rooftop projects, Applicant must

submit consent letters from every rooftop owner that is included in the GEP.

Applicants are required to demonstrate adequate financial resources to acquire any necessary land or leases needed to undertake this project.

6.1.6. **Permits** - For each candidate area, applicants must identify all municipal, Puerto Rico, and/or federal permits and/or approvals required to develop, install/construct and operate the GEP.

6.1.7. **Construction/Installation-** Applicants must describe in detail a construction plan with the proposed time frame. Identify all the necessary construction code requirements with the names of the agencies to contact for compliance. Installations must be performed by a PREAA Certified Renewable Energy Systems Installer.

6.1.8. **Electric Interconnection** - For each candidate area, Applicants must document tasks required and discuss issues associated with electrical interconnection, including the distance between the project and a suitable point to interconnect with the

electrical grid; new equipment to be installed, upgrades to existing equipment required, and any feasibility studies required and the timeframe for review. Applicants shall provide with a timeframe regarding the interconnection process and permitting.

6.1.9. **Environmental, Energy and Economic Impacts and Benefits** - Applicants are required to comply with all relevant environmental statutes and regulations. Applicants should address in their proposal all anticipated or likely environmental, energy or economic issues.

6.1.10. **Financial Ability-** Applicant must provide evidence that it has the financial ability to undertake the proposed project. Applicant shall include information about self-funding and/or signed commitment letters from sources of financing collectively representing at least fifty percent (50%) of your expected development costs. The letters must include an agreement in principle to provide the necessary financing. The commitment(s) may be conditional on issuance of the notice to proceed.

Applicants shall provide audited financial statements from the previous two (2) years.

6.1.11. **Sworn Statement** - In compliance with Article 2.8(a)(2)(H) of the Act, applicants shall present a Sworn Statement disclosing whether or not at the time of submittal, the GEP object of the application is covered by, or receives other state and/or federal incentives, in the form of tax or production credits, accelerated depreciation, rebates, grants, industrial incentives or otherwise, and under what laws.

6.1.12. **Operation and Maintenance** - Include a complete operation and maintenance plan for the life of the GEP, including any estimated increases resulting from additional fuel costs. Applicant is required to demonstrate that it has the capacity to perform all necessary upkeep/maintenance over the life of the project.

6.1.13. **Proposal Information and Signatures** - The Proposal should include the full business address of the Applicant or lead team member and the names and phone numbers of authoritative and technical contact persons. A

principal of the lead firm must sign a statement of verification of proposal information (to be posted in the webpage indicated in Section 6.2.1 of Chapter One). Satisfactory evidence of authority of each person signing the proposal shall be included.

VII. Evaluation Process

- 7.1 **Evaluation Committee:** The Evaluation Committee shall be required to approve any incentive requests and disbursements that equal or exceed \$500,000.
- 7.2 **Technical Committee:** PREAA shall create a Technical Committee to review and provide recommendations on submitted proposals.
- 7.3 The Technical Committee may include external independent consultants and/or subject matter experts and may include PREAA staff.
- 7.4 Based upon the recommendations of the Technical Committee, and the Evaluation Committee's approval when applicable, PREAA will issue a final determination.

VIII. Evaluation Criteria

- 8.1 The following criteria, not necessarily listed in order of significance, will be used to evaluate proposals. These criteria will be

used to develop a project application scoring system with input from the Technical Committee and PREAA. Tier 2 Reference Guide and additional tendering process details published from time to time will elaborate on the scoring system, as PREAA may deem necessary. The criteria used in this scoring system shall include but not be limited to:

- 8.1.1. Incentive amount requested per kWh of green energy produced (cost-effectiveness measure);
- 8.1.2. Project development experience;
- 8.1.3. Project equipment and technology;
- 8.1.4. Project related benefits, including green energy production, avoided greenhouse gases emissions, green jobs created and economic development benefits, as would be the case for GEPs established pursuant to Act No. 153 of August 10, 2002, "Act to Create the Special Vieques-Culebra Economic Development Zone".;

- 8.1.5. Project location and sitting, including potential interconnection issues;
- 8.1.6. Project's Finance, including ability to provide, through self-funding or through third party financing, expected development costs;
- 8.1.7. Project completion schedule; and
- 8.1.8. Other incentives available to the project.

IX. Appeal

- 9.1 Unsuccessful Applicants will have ten (10) calendar days from the date of the notice of award rejection to request reconsideration of the determination to the Executive Director of PREAA. Presentation of the request for reconsideration will constitute a jurisdictional requirement to eventually solicit judicial review.
- 9.2 PREAA will make a determination and issue a final notification stating its decision with respect to the request for reconsideration within fifteen (15) calendar days after a request for reconsideration is filed. If PREAA rejects, accepts or fails to take action

within such fifteen (15) calendar days, the term to request judicial review shall start running when said decision is notified or upon expiration of the fifteen (15) calendar days provided to consider it, depending on the case.

9.3 Applicants who receive a final adverse notification may seek judicial review by filing an appeal for judicial review with the Court of Appeals within a jurisdictional term of ten (10) calendar days from the final adverse notification. The mere filing of an appeal for judicial review with the Court of Appeals shall not automatically stay processes before PREAA. Therefore, any awards at the time granted shall not be automatically reversed or their notifications stayed. Instead, a request for a relief to stay PREAA's processes must be presented through a motion to that effect and must be justified in compliance with all the requirements for an order in aid of jurisdiction.

9.4 Any order issued by the Court of Appeals to stay procedures before PREAA must be issued within five (5) calendar days of the request. If such order is issued within these five (5) calendar days, it shall only affect and be limited to the amount in controversy, thus PREAA may proceed to award incentives to other selected projects up to the available amounts

after subtracting the incentives that would be applicable to the project or projects under judicial review. If the Court of Appeals does not issue an order to stay PREAA's proceedings within five (5) calendar days of the filing of a motion seeking such relief, PREAA must proceed with the competitive tendering process as if no appeal for judicial review had been filed. On the other hand, if the Court of Appeals issues a stay order within five (5) calendar days of filing the appeal for judicial review, the provisions stated in the second sentence of this section shall apply.

Chapter Four

OTHER PROVISIONS AND EFFECTIVENESS

I. Interpretation

- 1.1 This Regulation shall be interpreted as a whole and in the most flexible way to permit granting rebates to the extent funds are available.
- 1.2 In case any one or more of the provisions of this Regulation shall for any reason be held by a court of competent jurisdiction to be invalid or contrary to any superseding law or regulation, such invalid provision shall be deemed not included and the Regulation as a whole shall be construed and enforced as if such invalid provision had not been contained herein.
- 1.3 This Regulation shall not be deemed to waive or modify any applicable provisions of laws or regulations regulating renewable energy systems, equipment, designers, and installers in Puerto Rico. Any applicable certifications and permits shall also be obtained or requested for the application to be submitted.

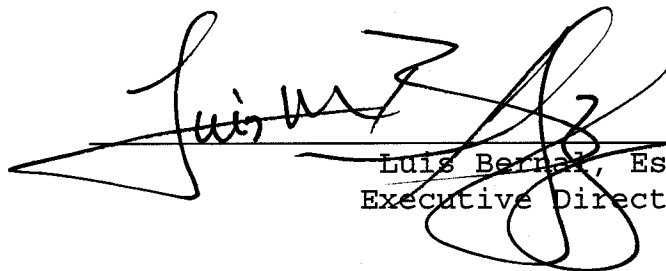
II. Ethical Considerations

- 2.1 PREAA employees and external independent technical consultants and/or subject matter

experts that are members of the Technical Committee(s) and the Evaluation Committee reviewing, verifying or approving Tier 1 or Tier 2 applications and the immediate families of those individuals listed above may not participate in any of the programs under this Regulation nor may they have any direct or indirect ownership over Applicants submitting applications for their programs. Any other Government employees or person may participate provided the conditions set forth in Section 1823(e)(3) of the Ethics in Government Act are complied with.

III. Effectiveness

- 3.1 The Executive Director of PREAA approved this Regulation on June 28, 2011.



Luis Bernat, Esq.
Executive Director