



FEMA

January 21, 2021

Mr. Manuel Laboy
Executive Director
Central Office for Recovery and Reconstruction, COR3
Governor's Authorized Representative
Commonwealth of Puerto Rico
P.O. Box 195014
San Juan, PR, 00918-5014

Mrs. Maricarmen Rivera
Puerto Rico Electric and Power Authority
#1110 Ponce de Leon Avenue
San Juan, Puerto Rico 00936

Re: FEMA-4339-DR-PR
Puerto Rico Electric and Power Authority, PA ID 000-UA2QU-00
GM Project 49847
FEMA Public Assistance Eligibility Determination

Dear Mr. Laboy and Mrs. Rivera:

The Department of Homeland Security's Federal Emergency Management Agency (FEMA) has determined that the work for which Public Assistance funding is being requested by the Puerto Rico Electric and Power Authority (Applicant) is ineligible. Please see the enclosed FEMA Public Assistance Determination Memorandum for detailed information on this determination.

Under Section 423 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act and applicable regulations, the REP (Applicant) is entitled to appeal this eligibility determination to the FEMA Region II Regional Administrator.¹ Pursuant to 44 C.F.R. §206.206, the appeal must: (1) contain documented justification supporting the Applicant's position, (2) specify the monetary figure in dispute, and (3) cite the provisions in federal law, regulation, or policy with which the Applicant believes the initial action was inconsistent. The Applicant should also include a current email address to receive electronic correspondence. An appeal must be submitted to the Grantee by the Applicant within 60 days of the Applicant's receipt of this letter. The Grantee has 60 days from the date of receipt of the Applicant's appeal to forward the appeal, with its recommendation, to FEMA Region II, Recovery Division, 26 Federal Plaza, Room 1807, New York, New York 10278. If sending appeal by UPS/FedEx (Overnight Services), send to

¹ 42 U.S.C. § 5189a and 44 C.F.R. § 206.206.

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FEMA Region II, Recovery Division, One World Trade Center, 52nd Floor – Mail Room, New York, NY 10007, or via email to fema-r2pa-appeals@fema.dhs.gov. For reference, a current index of documents relevant to this determination is included in the enclosed Determination Memo.

Should you have any questions or require further assistance, please contact FEMA Public Assistance Correspondence Unit at fema-pr-pacorrespondence@fema.dhs.gov.

Sincerely,

JOSE G BAQUERO

Digitally signed by JOSE G
BAQUERO
Date: 2021.01.19 13:35:59 -04'00'

José G. Baquero
Federal Disaster Recovery Coordinator
Joint Recovery Office Director of PR and USVI
FEMA-4339-PR-DR/FEMA-4473-PR-DR

Enclosure:
FEMA PA Eligibility Determination Memorandum

ELIGIBILITY DETERMINATION MEMORANDUM
PUERTO RICO ELECTRIC AND POWER AUTHORITY, PA ID 000-UA2QU-00
FEMA-4339-DR-PR
January 19, 2021

Applicant Type <input checked="" type="checkbox"/> State Agency <input type="checkbox"/> Local Government <input type="checkbox"/> Tribe <input type="checkbox"/> Private Nonprofit			
Grants Manager: <i>Only fill out this section if the project is in Grants Manager.</i>		EMMIE: <i>Only fill out this section if the project worksheet is in EMMIE.</i>	
Project No.	49847	EMMIE Project Worksheet No.	MEPA144
Version No.	0	Version No.	0
Damage Inventory No.	134885	EMMIE Project Cost	\$ 400,000,000
		Total Amount Obligated	\$ 0
Project Title		MEPA144-DISTRIBUTION-MASTEC NORTH AMERICA	
Project Size	<input checked="" type="checkbox"/> Large <input type="checkbox"/> Small <i>(Potentially subject to Net Small Project Overrun appeal)</i>	Category of Work:	B
Issue(s):			
Amount at Issue	\$ 400,000,000**	Eligibility Issue Type(s)	<input type="checkbox"/> Applicant Eligibility
Amount Denied	\$ 400,000,000**		<input type="checkbox"/> Facility Eligibility <input checked="" type="checkbox"/> Work Eligibility <input checked="" type="checkbox"/> Cost Eligibility
Issue Keyword(s)	Support Documentation		

Project Description:

Hurricane Maria produced heavy rain, strong winds, flooding and mudslides, which caused extensive damage throughout the Commonwealth of Puerto Rico between September 17, 2017 and November 15, 2017. On September 20, 2017, the President issued a major disaster declaration (FEMA-4339-DR-PR). This major disaster declaration, as subsequently amended, authorized Public Assistance (PA) for all 78 of Puerto Rico's municipalities.

The Puerto Rico Electric and Power Authority (PREPA, Subrecipient) entered into a contract with MasTec Renewables Puerto Rico, LLC (MasTec) dated May 29, 2018, for the performance by MasTec of emergency hurricane restoration and reconstruction services at various locations within PREPA's service areas (MasTec Contract). Pursuant to the MasTec Contract, PREPA agreed to pay MasTec a not-to-exceed amount of \$500 million for services performed. Project 49847 (Category B) was created in Grants Manager/Grants Portal on August 19, 2018, for the work to be performed/completed under the MasTec Contract. To date, PREPA has not completed the essential elements of information (EIs) in Grants Manager/Grants Portal despite multiple requests from FEMA to do so. FEMA notes that PREPA has not claimed any costs for work performed/completed under the MasTec Contract (if any).

**Estimated Dollar Amount based on information in Grants Manager/Grants Portal (Scope & Cost Summary tab).

Issue(s):

In the absence of any documentation evidencing work performed under the MasTec Contract, is Project 49847 eligible for PA funding?

Applicable Statutes, Regulations, and Policies in Effect as of the Declaration of the Emergency or Disaster:

- Robert T. Stafford Disaster Relief and Emergency Assistance (Stafford) Act, as amended, 42 U.S.C. §§ 5121–5207.

42 U.S.C. 5170b, *Essential Assistance*

- Title 44 of the Code of Federal Regulations (C.F.R.):

44 C.F.R. § 206.223, *General work eligibility*

- Other Federal Regulations:

2 CFR 200 § 200.53 Improper payment. (b)

- FEMA Policy:

Public Assistance Program and Policy Guide, FP 104-009-2, at 25 (Apr. 2018)¹

Analysis:

Section 403 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (“Stafford Act”) authorizes FEMA, in relevant part, to make contributions to State and local governments and certain private nonprofit organizations for performing work or services essential to meeting immediate threats to life, public health and safety, and improved property resulting from a major disaster. FEMA categorizes work and services of this nature as “emergency protective measures.”²

It is the responsibility of a subrecipient to provide information and documentation to support that its facilities, work, and costs are eligible for PA funding. At a minimum, FEMA usually requires the “who, what, when, where, why, and how much” for each item claimed.³ FEMA refers to this information as the EEs. FEMA and the Recipient work with a subrecipient to evaluate submitted documentation and determine whether it supports eligibility.⁴ However, if a subrecipient does not provide sufficient documentation to support its claim as eligible, FEMA cannot provide PA funding for the work.⁵

¹ Supersedes previous versions and applies to incidents declared on or after August 23, 2017.

² *Public Assistance Program and Policy Guide*, FP 104-009-2, at 19 (April 2018) (PAPPG).

³ PAPPG, at 133.

⁴ *Id.*

⁵ *Id.*

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To complete Project EEIs, a subrecipient must provide information responsive to 28 questions and certain documents depending on the provided responses. PREPA responded to 4 of the 28 questions and provided a copy of the MasTec Contract, several rate validation summaries, and insurance documents. Project 49847 has been “on hold” in Grants Manager/Grant Portal in the EEI Completion process step since January 2019. Email correspondence dating back to October 2019 evidences that FEMA has been requesting information from PREPA in order to move Project 49847 forward in Grants Manager/Grants Portal and obligate a Project Worksheet in EMMIE on multiple occasions. The most recent request was in the form of a formal “Document Deadline Letter” dated July 22, 2020, signed by FEMA and the Recipient (COR3). PREPA did not respond to this letter.

Eligibility Determination: Partially Approved Denied

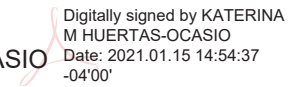
The Subrecipient (PREPA) has failed to provide information or documentation to support the eligibility of Project 49847 despite multiple requests to do so. Therefore, FEMA has determined that Project 49847 is not eligible for PA funding and will be processed as ineligible in Grants Manager/Grants Portal.

Preparation and Review:

Preparer: Dana Waller, Public Assistance Program Analyst

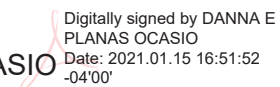
Signature: DANA M
WALLER  Digitally signed by DANA M WALLER
Date: 2021.01.15 15:36:42 -04'00' Date: _____

Office of Chief Counsel Reviewer: Katerina Huertas Ocasio, Attorney Advisor

Signature: KATERINA M
HUERTAS-OCASIO  Digitally signed by KATERINA M HUERTAS-OCASIO
Date: 2021.01.15 14:54:37 -04'00' Date: _____

Approval:

PA Management: Danna Planas Ocasio, Infrastructure Division Director

Signature: DANNA E
PLANAS OCASIO  Digitally signed by DANNA E PLANAS OCASIO
Date: 2021.01.15 16:51:52 -04'00' Date: _____

Document Index:

Document Description	File Name
MasTec Contract	MEPA0144_MasTec_Restoration+Services+Contract.pdf
Internal emails re: need for information from PREPA	MEPA144-RE Project #49847 MEPA144-MASTEC NORTH AMERICA INC. .msg
Internal emails re: need for information from PREPA	49847-DR4339-MEPA144-MASTEC NORTH AMERICA INC. .msg
Emails to PREPA re: need to complete EEI questions	49847 - MEPA144 - DR4339PR_FW GM 49847-MEPA144 - Distribution Mastec North America .msg
Document Deadline Letter	FEMA Ltr4339PREPA GM49847 DocDeadline 20200722.pdf