

Paying for Failure

High Fees for Finance Consultants Shortchange Puerto Rico Electrical Grid

Executive Summary

Puerto Rico continues to suffer from an electrical system that is bankrupt, in poor physical condition and charges among the highest rates in the United States. For the last seven years, the island's government and the congressionally created Financial Oversight and Management Board (FOMB) have sought to transform the Puerto Rico Electric Power Authority (PREPA) and restructure its debt. So far, the PREPA transformation has produced two failed debt restructuring agreements; a failure to prioritize renewable energy; a controversial and potentially unviable privatization contract; and continuing contracting scandals. Yet hundreds of millions of dollars have been spent on professional consultants in an attempt to solve the electrical system's problems. The proliferation of off-island, unaccountable consultants making key operational and financial decisions for the electrical system is symptomatic of a failure of governance reforms. By the time this electrical system transformation process is completed, professional consulting contracts may exceed \$1 billion.

IEEFA reviewed professional services contracts related to debt restructuring and the transformation of PREPA from fiscal year 2015 to the present. IEEFA found:

- Puerto Rico agencies have signed more than \$440 million in professional services contracts for PREPA's restructuring and transformation.
- Puerto Rico firms have received only 3% (\$14 million) of the total contract amounts.
- Some legal and technical consulting firms charged rates that topped \$1,200 per hour.
- The FOMB estimates PREPA will require an additional \$500 million to restructure its debt and exit the bankruptcy process.
- The issue of excess fees and lack of controls over professional services has been independently raised by the Puerto Rico Energy Bureau (PREB) and by a court-appointed fee examiner in PREPA's bankruptcy case.

This boon to legal, financial and technical consultants represents not only a major and often unnecessary expense to the people of Puerto Rico, but has also contributed greatly to a structure in which there is no meaningful incentive to produce solutions.

IEEFA's analysis points to a particular failure of the FOMB, which was established with the mission of achieving fiscal responsibility and restoring capital market faith in Puerto Rico.

As a start towards correcting these fundamental problems, IEEFA recommends:

- A fee structure that reflects Puerto Rico's economy;
- A substantial reduction in fees for contractors with long-standing agreements in Puerto Rico;
- Enhanced transparency around how PREPA and the FOMB are budgeting for \$500 million in future consulting fees;
- Amending federal law so that the people of Puerto Rico are no longer responsible for paying the costs of the FOMB; and
- Implementing an Independent Private Sector Inspector General (IPSIG) to monitor electrical system contracting, and deter waste, fraud and abuse.

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Introduction

For years, Puerto Rico has suffered from an electrical system that is bankrupt, in poor physical condition and charges among the highest rates in the United States.

The Puerto Rico Electric Power Authority (PREPA) defaulted on its debt in August 2014.¹ In 2016, then- President Barack Obama signed the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA) to establish the Financial Oversight and Management Board (FOMB) to oversee the debt restructuring of the commonwealth and its public corporations, including PREPA. This process has yet to produce a viable debt restructuring agreement for PREPA's \$8.26 billion in legacy bond debt.

As part of its efforts to transform PREPA, the FOMB has championed privatization, a goal also articulated by then-Gov. Ricardo Rossello after Hurricane Maria. The process for privatizing PREPA was established under Puerto Rican law in 2018 and 2019 (Act 120-2018 and Act 17-2019). The implementation of these laws has generated substantial controversy on the island. Most recently, the Puerto Rico House of Representatives launched an investigation into the 15-year transmission and distribution system concession contract.

Even though PREPA is bankrupt and the FOMB, together with the government of Puerto Rico, has pursued policies of privatization and cuts to labor in the name of efficiency, cost-effectiveness and prudent financial management, these values have not been pursued in one core area: Contracting for professional services.

¹ Kobre & Kim LLP. [Final Investigative Report](#). August 20, 2018, p. 124.

In this report, we explore the extent to which the restructuring and transformation of PREPA have proven to be a boon to legal, financial and technical consultants while producing little of value to the people of Puerto Rico. We argue that this does not simply represent a waste of money paid for by the people of Puerto Rico (and, to a lesser extent, mainland U.S. taxpayers), but that it goes to the heart of fundamental governance problems that continue to impede the transformation to an affordable, stable and democratically accountable electrical system in Puerto Rico.

The restructuring and transformation of PREPA have proven to be a boon to legal, financial and technical consultants.

PREPA’s Debt Restructuring and Transformation Have Generated Over \$440 million in Consulting Fees

Despite the bankrupt state of Puerto Rico’s electrical system, it has been capable of generating an extraordinary level of professional services fees to (almost entirely) off-island law firms and consultants. With some exceptions discussed below, these fees are largely paid by the people of Puerto Rico.

IEEFA examined professional services fees related to restoring PREPA’s access to capital markets. This includes the debt restructuring process, as well as the physical and financial transformation of PREPA, including its privatization. It includes contracts entered into by PREPA, as well as PREPA-related contracts entered into by the Puerto Rico Public-Private Partnerships Authority (P3 Authority), FOMB and LUMA Energy (the private operator that was awarded the transmission and distribution concession).² A description of IEEFA’s methodology is provided in Appendix A. It is worth noting that all FOMB expenses are paid by Puerto Ricans.³

Appendix B provides a complete list of contracts analyzed for this report. Professional services contracts related to the restructuring and transformation of

² As will be described in more detail later, in addition to entering into its own professional services contracts, FOMB also has oversight authority over contracts entered into by commonwealth entities. FOMB’s policy is to review contracts worth \$10 million or more. Some professional services contracts related to PREPA’s bankruptcy are subject to review and oversight by the fee examiner in PREPA’s bankruptcy case. Additional oversight over contracts is supposed to be provided by the Office of Contract Procurement and Compliance created in 2017 by then-Gov. Ricardo Rossello in response to the high-profile Whitefish contracting scandal. The office, located within PREPA and managed by the Puerto Rico Fiscal Agency and Financial Advisory Authority (AAFAF by its Spanish acronym), was charged with reviewing and certifying all PREPA transactions related to the procurement of goods and services and with reporting regularly to AAFAF. (See [Executive Order](#), November 8, 2017.) These regular reports are not posted on AAFAF’s website, nor is OCPC proactive in its release of its contract reviews.

³ 48 U.S. Code § 2127 (b).

PREPA total over \$440 million from FY 2015 through FY 2021.⁴ Five firms received more than 40% of the total. These top five firms are listed in Table 1.

Table 1: Largest Professional Services Contracts Related To Restructuring and Transformation of Puerto Rico’s Electrical System Since FY 2015

Firm	Total Contract Amount (Million \$)	Contracting Government Entity	Term	Contract Scope
AlixPartners	\$46.8	PREPA	September 2014 – February 2017	Chief restructuring officer for PREPA
Ankura Consulting Group	\$36.9	PREPA	July 2017 – present	Lead in coordination of privatization initiatives; lead in negotiations of PREPA fiscal plans; negotiations with creditors; and more.
Cleary Gottlieb Steen & Hamilton	\$34.2	PREPA and P3 Authority	December 2014 – April 2017 (PREPA); September 2018 – present (P3 Authority)	Legal services to PREPA related to debt restructuring; legal advisory and consulting services to the P3 Authority related to PREPA privatization.
Filsinger Energy Partners	\$33.1	PREPA	December 2017 - November 2020	Chief financial officer for PREPA
Sargent & Lundy	\$32.0	PREPA		Technical support related to fiscal plan review, market sounding, renewable energy contract renegotiation and administration of federal funds.

See Appendix for methodology and sources.

This list would have to be extended to include the top 18 firms before encountering a firm headquartered in Puerto Rico. Of the roughly \$440 million in contracts analyzed in this report, only \$14 million (3%) was with firms headquartered in Puerto Rico.

Table 2 provides an approximate breakdown of professional consulting services by area. We note that this categorization is not exact because some firms performed work related to both operational transformation and debt restructuring. Nevertheless, it is noteworthy that two failed debt restructuring deals have

⁴ FY 2015 is the period from July 1, 2014, through June 30, 2015. As described in Appendix A, IEEFA analyzed contracts signed through February 2021.

generated more than \$125 million in legal fees, paid for by the people of Puerto Rico.⁵

Table 2: Professional Services Contracts Related to Electrical System Transformation, Broken Down by Function

Category	Amount (\$M)
Restructuring	
- Legal	\$127.5
- Technical	\$0.3
- Financial	\$55.8
- Communications	\$1.0
Transformation/Privatization	
- Legal	\$30.9
- Technical	\$56.7
- Financial	\$88.4
Management of Federal Funds	\$85.0
Total	\$446

See Appendix for methodology and sources.

Note: Numbers may not sum exactly due to rounding.

⁵ We also note that at least some of the \$85 million in contracting related to federal funds administration may be reimbursed by FEMA (i.e. U.S. taxpayers). Puerto Ricans are responsible for the remainder of the \$446 million (80% of the total).

The professional services contracts frequently disclosed the hourly rates charged by consultants. Table 3 shows the five consulting firms with the highest disclosed hourly fees:

Table 3: Top Five Consulting Firms According to Maximum Hourly Fee

Firm	Maximum Hourly Fee (\$/hour)	Term of Contract	Contract Scope
King & Spalding	\$1,426	June 2019 – June 2020	Legal advice to PREPA about its “ongoing restructuring, strategic and operational needs,” “ongoing regulatory matters” and “all regulatory aspects of the restructuring and/or transformation of PREPA and the electric energy sector in Puerto Rico.”
Cleary Gottlieb Steen & Hamilton	\$1,395	August 2020 – present	Legal advisory and consulting services to the P3 Authority related to PREPA privatization.
Norton Rose Fulbright US	\$1,280	September 2019 – June 2020	Legal services to PREPA related to debt restructuring.
Greenberg Traurig	\$1,277	August 2018 – June 2019	Legal services to PREPA related to “ongoing restructuring and operational needs.”
FTI Consulting	\$1,250	August 2020 – present	Technical and financial consultant to P3 Authority related to the transmission and distribution concession and other aspects of PREPA privatization.

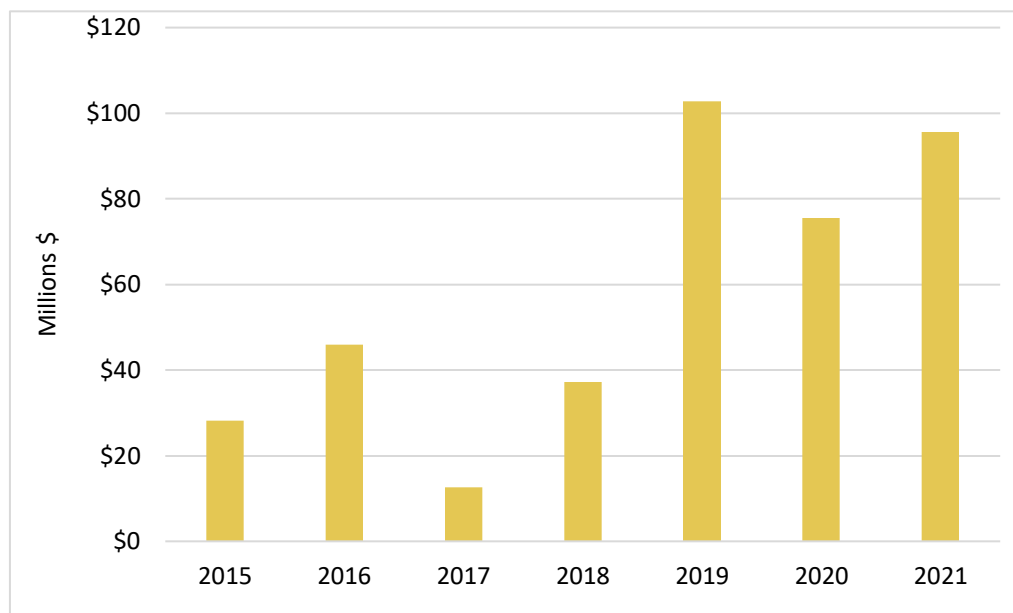
See Appendix for methodology and sources.

The fees charged by mainland U.S. firms are divorced from economic conditions on the island. The median household income in Puerto Rico is \$20,500, and more than 43% of the island’s people lived below the poverty line in 2019.⁶

The value of the professional services contracts signed by PREPA, LUMA Energy and the P3 Authority has grown over the last seven years. Figure 1 shows the value of professional services contracts by the year that the contract was signed. (We exclude the FOMB contracts from this figure. Contracts with PREPA and the P3 Authority tend to be shorter-term, *i.e.*, one fiscal year or less, whereas FOMB contracts are multi-year contracts and are therefore less comparable). Note this figure does not include all professional services contracts for FY 2021, which ends June 30.

⁶ U.S. Census Bureau. [Quick Facts: Puerto Rico](#). Last accessed April 17, 2021.

Figure 1: PREPA, LUMA Energy and P3 Authority Professional Services Contracts Related to Electrical System, by Fiscal Year



See Appendix for methodology and sources.

It is worth noting that the numerous debt deals leading up to Puerto Rico's (and PREPA's) bankruptcies generated lucrative fees for legal and financial advisors. A Wall Street Journal investigation found that the \$61 billion in Puerto Rican bonds issued between 2006 and 2013 generated \$1.4 billion in fees, and that underwriting fees were higher than fees charged to other financially distressed mainland governments, such as Detroit.⁷

In addition to more than \$440 million spent since FY 2015, the FOMB estimated in December 2020 that PREPA would require an additional \$500 million to complete its debt restructuring and exit the Title III bankruptcy process.⁸ Puerto Ricans may have to pay more than \$1 billion in fees to restructure PREPA's \$8.3 billion in bond debt and privatize the agency.

This would make the PREPA debt restructuring among the most expensive in recent history, measured in terms of the ratio of professional fees to outstanding debt. Even if professional fees related to transformation and privatization are excluded (see Table 2), current and projected fees related just to debt restructuring would make up more than 8% of the principal of outstanding debt. In its FY 2018 fiscal plan, the FOMB reviewed 10 of the largest public and private sector debt restructurings in the United States and found that the ratio of professional fees to outstanding debt ranged from 0.16% to 3.56%.⁹

⁷ Wall Street Journal. [Banks Rack Up Big Fees From Puerto Rico Bond Deals](#). October 22, 2013.

⁸ FOMB. [Creditor Mediation Cash Support Materials](#). December 17, 2020.

⁹ FOMB. [Commonwealth Fiscal Plan](#). April 19, 2018, p. 24.

IEEFA's investigation of these contracts found that 2016 warnings by the Puerto Rico Energy Bureau regarding excessive consulting fees went unheeded. In an order on PREPA's first debt restructuring agreement (which was ultimately rejected by the FOMB), PREB noted a lack of competitive bidding in the selection of law firms and financial advisors;¹⁰ consultants involved in decision-making over the level of their own fees;¹¹ and possible duplication of work among consultants.¹² As described in the next section, these problems continue.

**An analysis of
contracts reveals
systemic problems.**

Expensive Contracts Have Generated Little of Value for the People of Puerto Rico

Analysis of these professional services contracts reveals systemic problems that have not served the interests of the people of Puerto Rico, including:

- Major operational decisions made by consultants with no prior history of working in Puerto Rico;
- Consultants responsible for determining consulting fees;
- Duplication of efforts; and
- Misaligned financial incentives for consultants.

The results for the people of Puerto Rico include two failed debt restructuring agreements, a lack of prioritization of renewable energy, a controversial and potentially unviable privatization contract, and continued contracting scandals.

Major Electrical System Financial and Operational Decisions Are Made by Consultants

In December 2017, Denver-based Filsinger Energy Partners entered into a contract to act as PREPA's chief financial officer. From December 2017 through November 2020, this contract was valued at \$33 million, although Filsinger ultimately appears to have collected about \$27 million.¹³ Filsinger's scope of work as the chief financial

¹⁰ Puerto Rico Energy Commission. *Restructuring Order*, Case No. CEPR-AP-2016-0001. June 21, 2016, p. 68.

¹¹ Puerto Rico Energy Commission, *op. cit.*, p. 70.

¹² Puerto Rico Energy Commission, *op. cit.*, p. 68.

¹³ *Tenth Interim Fee Application of Filsinger Energy Partners for Allowance of an Administration Claim for Compensation and Reimbursement of Expenses Incurred as Consultants to Puerto Rico Electric Power Authority (PREPA) for the Period from October 1, 2020 – November 14, 2020*, *In*

officer for PREPA included: Development of budgets; financial oversight, management and reporting; planning and implementing operational reforms; working with the Puerto Rico Fiscal Agency and Financial Advisory Authority (AAFAF by its Spanish acronym) on restructuring, fiscal plans and transformation plans; participating in the Title III process; working with FEMA on power sector recovery and restoration; and implementing approved fiscal plans.¹⁴

The FOMB found PREPA had given an inappropriate amount of authority to Filsinger, which, according to the Puerto Rico Comptroller's Office, had no history of contracting with island entities before 2017. The original contract required Filsinger to report directly to PREPA's board of directors. The FOMB found Filsinger would be usurping the power of PREPA's chief executive.¹⁵ The contract was amended to require Filsinger to report directly to PREPA's chief executive and for PREPA to establish key performance metrics for Filsinger.¹⁶

Despite this amendment, it is clear from Filsinger's scope of work that it had significant authority over PREPA's operations. This is confirmed by a review of filings made by Filsinger in PREPA's bankruptcy proceeding, which show the company was deeply involved in long-term resource planning, PREPA's privatization process (including design of requests for proposals (RFPs) and reviewing proposals), debt restructuring, dealing with regulatory agencies, financial management and more.

In particular, Filsinger played an integral role in the award of a natural gas contract to New Fortress Energy. The contract to convert two units of a power plant to natural gas and supply gas to the plant for five years was the first major generation contract entered into after a pair of devastating 2017 hurricanes and was a signature effort in PREPA's transformation. IEEFA has previously raised numerous red flags about the procurement process, including Filsinger's meeting with New Fortress Energy while drafting the project RFP. In addition to reviewing New Fortress's original unsolicited proposal and drafting the RFP, the same Filsinger consultants also reviewed and analyzed bids.¹⁷

Similarly, FTI Consulting, a Washington, D.C.-based consultant contracted by the P3 Authority to assist in PREPA's privatization, played an outsized role in the selection of LUMA Energy as the private operator of PREPA's non-generation operations for the next 15 years. The procurement process was managed by a five-member Partnership Committee, which had responsibility for evaluating bids and negotiating the contract.¹⁸ After reviewing final proposals from the two bidders, the

re The Financial Oversight and Management Board for Puerto Rico, Case No. 17-04780-LTS (D.P.R., filed March 15, 2021).

¹⁴ FOMB, [Letter to CEO Jose Ortiz Re: Third Amendment to the Contract between Puerto Rico Electric Power Authority \(PREPA\) and Filsinger Energy Partners Inc. for Consulting Services](#), August 1, 2018.

¹⁵ *Ibid.*

¹⁶ PREPA, [Fourth Amendment Professional Services Agreement between PREPA and Filsinger Energy Partners, Inc.](#) August 15, 2018.

¹⁷ IEEFA, [Is Puerto Rico's Energy Future Rigged?](#) June 2020.

¹⁸ Puerto Rico Public-Private Partnerships Authority, [Regulation for the Procurement, Evaluation, Selection, Negotiation and Award of Partnership Contracts and Sale Contracts for the](#)

Partnership Committee members ranked the bids according to various technical, operational and financial criteria. The final scores were used to select the winning bidder. The Partnership Committee then negotiated a contract that was approved by the boards of the P3 Authority and PREPA, as well as by the FOMB, PREB and the governor of Puerto Rico.

A review of the individual evaluation documents, obtained via a public information request by the Puerto Rican nonprofit CAMBIO and shared with IEEFA, shows that four of the five members of the Partnership Committee arrived at identical numerical scores in 37 of the 38 categories. Three of the members even made the same numerical error in summing their scores. Several of these members noted that their scores were based on the recommendations of FTI Consulting. FTI's study, provided in response to a second public information request, provided specific financial metric scores (which accounted for 50% of the total) that appear to have been copied directly from the FTI report to the scoring sheets. It is unclear how the committee members arrived at identical scores in the remaining categories.

The documents show that not only did the members of the Partnership Committee fail to exercise independent judgment in evaluating the bids, they also based at least half of their scores (which resulted in the selection of LUMA) on the evaluation of FTI Consulting.

These contracts with New Fortress Energy and LUMA are the most high-profile PREPA contracts signed since Hurricane Maria. Yet neither of the two includes meaningful oversight over whether and how these contracts will result in savings for the people of Puerto Rico. Neither procurement process outlined a clear, documentable method or established target benchmarks to demonstrate how the electrical system would save money and lower electric rates.

New Fortress Energy (NFE) and PREPA have made very different public statements about the amount that PREPA customers will save from the NFE contract.

- In July 2018, PREPA’s board of directors approved Resolution No. 4620, authorizing PREPA to conduct the RFP that ultimately led to the contract. The board resolution estimated the project would save PREPA more than \$150 million annually (or \$750 million over five years).¹⁹
- In November 2018, NFE said its proposal to PREPA would save the authority approximately \$285 million annually.²⁰ Upon completion of its review and approval of the contract, the FOMB found that the contract would save between \$36 million and \$56 million annually (\$180 million to \$280 million over five years).²¹ The FOMB then approved PREPA’s FY 2019 certified fiscal plan in June 2019, which claimed the contract would yield a “cost savings of \$500 million over the next five years.”²²
- The FY 2020 fiscal plan released in June 2020 stated that due to construction delays, the NFE contract did not produce the expected savings for PREPA.²³
- In July 2020, New Fortress Energy told the Federal Energy Regulatory Commission (FERC) that the project was “estimated to save PREPA \$500 million over the next five years.”²⁴
- That same month, PREPA’s chief executive testified to Congress that the project would save \$280 million over five years.²⁵
- In December 2020, the FOMB requested a plan from PREPA that outlined how its fuel procurement practices, including those related to NFE, could be reevaluated to improve system efficiency and to achieve better prices—tacitly acknowledging that PREPA has yet to come up with a system for comprehensively tracking fuel initiatives and savings.²⁶

NFE and PREPA have made very different statements about the amount of savings.

¹⁹ IEEFA, *op. cit.*

²⁰ New Fortress Energy LLC. *Form S-1*. November 9, 2018.

²¹ FOMB. *Letter to PREPA CEO Jose Ortiz Re: New Fortress Energia LLC*. March 4, 2019.

²² FOMB. *PREPA 2019 Certified Fiscal Plan*. June 27, 2019, p. 25.

²³ FOMB. *PREPA 2020 Certified Fiscal Plan*. June 29, 2020, p. 24.

²⁴ *Answer of New Fortress Energy LLC to Order to Show Cause, In re New Fortress Energy LLC*, Docket No. CP-20-466-000 (July 20, 2020). p. 7

²⁵ U.S. House of Representatives Committee on Natural Resources. *The Transformation of the Puerto Rico Electric Power Authority (PREPA)*. July 23, 2020.

²⁶ FOMB. *Letter to PREPA CEO Efran Paredes Maisonet*. December 1, 2020.

The RFP had no requirements that the applicant demonstrate how its plan would achieve savings.²⁷ And the final contract signed between NFE and PREPA contains no requirements that the contract save PREPA money.²⁸

This history of the NFE contract strongly suggests that the savings component—a critical component of any financial plan to help PREPA achieve solvency—continues to struggle to maintain credibility.

The LUMA contract has also been extremely vague on savings. As a previous public records request by IEEFA and CAMBIO found, no cost-benefit study was done before deciding to privatize the transmission and distribution system.²⁹ The LUMA contract does not require any level of savings. Even the financial performance metrics that allow LUMA to earn an additional incentive fee are structured around LUMA staying within annual budgets, not achieving any savings.

The LUMA contract has also been extremely vague on savings.

The only public document associated with the LUMA contract that estimates any level of savings is a report by FTI Consulting published as an appendix to the P3 Authority’s summary report on the LUMA contract.³⁰ The FTI report simply notes that if a private operator “hypothetically” were able to reduce operating costs by 10% and “hypothetically” were able to improve system efficiency by 10%, the result would be \$294 million in annual savings. There is neither an analysis of how the savings would be achieved, nor a LUMA commitment to achieve them.

Finally, consultants have also played a dominant role in PREPA’s debt restructuring process. In a sworn declaration to the Title III court, former AAFAF Executive Director Christian Sobrino said negotiations of PREPA’s May 2019 debt restructuring agreement had been handled primarily by outside counsel (O’Melveny & Myers) with support from Ankura Consulting.³¹ After Mr. Sobrino resigned from the government in July 2019, he was replaced as a witness by Ankura consultant Fernando Batlle, a former CEO of Santander Securities when it underwrote more than \$1.3 billion in PREPA debt.³² As a result, another party to the bankruptcy case

²⁷ PREPA. [RFP 81412 Request for Proposals for Fuel Supply in the North and Conversion of San Juan Units 5 and 6](#). September 15, 2018.

²⁸ [Fuel Sale and Purchase Agreement between NFEnergia and Puerto Rico Electric Power Authority](#), March 5, 2019.

²⁹ IEEFA, *op. cit.*

³⁰ Puerto Rico Public-Private Partnerships Authority. [Puerto Rico Public-Private Partnership for the Electric Power Transmission and Distribution System](#). May 15, 2020, Exhibit B.

³¹ [Declaration of Christian Sobrino Vega, In re The Financial Oversight and Management Board for Puerto Rico](#), Case No. 17-03283-LTS (D.P.R., filed July 2, 2019).

³² PREPA’s 2012 and 2013 bond issuances were: [Power Revenue Bonds, Series 2013A](#) (\$673 million) and [Power Revenue Bonds, Series 2012A and Power Revenue Refunding Bonds, Series 2012B](#) (together \$650 million). Fernando Batlle was [CEO of Santander Securities](#) from 2011 to 2016.

noted, “not a single government official from either AAFAF or PREPA is slated to testify” in support of PREPA’s debt restructuring agreement.³³

Consultants Are Determining Consulting Fees

In its 2016 order on PREPA’s first debt restructuring agreement, PREB expressed concern that consultants were able to approve rates for other consultants, exposing PREPA customers to excessive fees.³⁴

Similar situations have arisen since then.

Ankura Consulting was hired as a contractor to PREPA to draft its budgets and fiscal plans. The FOMB’s core criteria for approving contracts is that they are consistent with fiscal plans.³⁵ The FOMB has even reviewed Ankura’s contract to ensure its consistency with the fiscal plans and budgets that Ankura was heavily involved in drafting (and found, not surprisingly, that Ankura was within budget).³⁶ It is not unreasonable to assume that the consulting firms involved in drafting the fiscal plans are not targeting cuts to professional services fees.

Additionally, as noted above, from December 2017 through November 2020, Filsinger Energy Partners was PREPA’s chief financial adviser. In this role, Filsinger was responsible for managing contracts,³⁷ presumably putting them in a position to analyze and review draft contracts with other consulting firms.

Consulting Contracts Appear To Duplicate Efforts

There are numerous instances of duplication of consultant efforts, leading to higher costs for the people of Puerto Rico.

³³ AAFAF and PREPA’s Urgent Motion for Protective Order Quashing Official Committee of Unsecured Creditors’ Deposition Notice to Jose Ortiz, *In re The Financial Oversight and Management Board for Puerto Rico*, Case No. 17-04780-LTS (D.P.R., filed September 4, 2019), Exhibit M.

³⁴ Puerto Rico Energy Commission, *Restructuring Order*, p. 70.

³⁵ FOMB. *FOMB Policy: Review of Contracts*, October 30, 2020.

³⁶ FOMB found that Ankura’s contract was within the FY 2018 budget, a budget which Ankura had been involved in preparing. See: Financial Oversight and Management Board. *Letter to PREPA CEO Jose Ortiz Re: Amendment to the Ankura Contract*, July 1, 2019. See also: Amended First Interim Fee Application of Ankura Consulting Group, LLC For Compensation For Services Rendered and Reimbursement of Expenses as Financial Advisors to Puerto Rico Electric Power Authority (PREPA) For The Period July 2, 2017 Through September 30, 2017, *In re The Financial Oversight and Management Board for Puerto Rico*, Case No. 17-04780-LTS (D.P.R., filed December 20, 2017).

³⁷ *Sixth Interim Fee Application of Filsinger Energy Partners for Allowance of an Administrative Claim for Compensation and Reimbursement of Expenses Incurred as Chief Financial Advisor to Puerto Rico Electric Power Authority (PREPA) for the Period from June 1, 2019 Through June 30, 2019 and July 16, 2019 Through September 30, 2019*, *In re The Financial Oversight and Management Board for Puerto Rico*, Case No. 17-04780-LTS (D.P.R., filed September November 15, 2019).

For example, it is unclear why three separate consultants were needed to manage three separate long-term electrical system planning studies: The Grid Modernization Plan produced by Navigant Consulting on behalf of the P3 Authority in October 2019; an Integrated Resource Plan produced by Siemens Consulting for PREPA in June 2019; and the 10-Year Infrastructure Plan produced by Burns & McDonnell on behalf of PREPA in December 2020. A lack of alignment between the latter two plans has led to additional regulatory proceedings and administrative expense.³⁸

There are numerous instances of duplication of consultant efforts.

The issue of duplication of services has been addressed at length by the fee examiner in the Title III proceeding. In a January 2021 report summarizing its findings regarding professional fees for all of the commonwealth debt restructuring processes (not just PREPA), the fee examiner noted:

“The single broadest and most costly category of unreasonable and unnecessary services involves inefficient staffing, including within firms and across firms representing the same client or clients allied in interest. Within any single firm, the problem presents itself as daily time recorded and billed by individual professionals ... duplicating efforts, apparently providing the same service or completing the same task, or providing a service that might have been better delegated....

“The sheer number of participants—reflected on filed or ultimately filed applications—does not enhance public perception of value provided. Nor ... does it enhance perception when a single docketed pleading filed in the normal course bears the name of 23 individual professionals and seven firms,...not an isolated occurrence.”³⁹

A May 2018 report by the fee examiner also cited the example of 11 lawyers and advisors who spent more than 400 hours responding to congressional inquiries and preparing for and attending hearings.⁴⁰

³⁸ PREB. *In Re: Review of the Puerto Rico Electric Power Authority’s 10 Year Infrastructure Plan*. December 2020.

³⁹ Fee examiner’s PROMESA Sections 316 and 317 Status Report: Professional Fees and Expenses, *In re The Financial Oversight and Management Board for Puerto Rico*, Case No. 17-03283-LTS (D.P.R., filed January 1, 2021). p. 6.

⁴⁰ Fee examiner’s Second Report on Professional Fees and Expenses (October 1, 2017-January 31, 2018), *In re The Financial Oversight and Management Board for Puerto Rico*, Case No. 17-03283-LTS (D.P.R., filed May 30, 2018). p. 5.

Misaligned Financial Incentives for Consultants

As shown in Table 2 above, the people of Puerto Rico have spent more than \$120 million in legal fees alone for PREPA debt restructuring. The expenses have yet to result in a viable debt deal.

The first PREPA debt restructuring agreement was negotiated before Congress passed PROMESA and established the FOMB. One of the FOMB's early actions was to reject the first restructuring agreement. In doing so, the FOMB argued that, by pushing rates too high, the debt restructuring agreement would lead customers to defect from the grid by generating their own electricity, pushing up rates even further for remaining customers and undermining economic growth.⁴¹

The FOMB then oversaw the negotiation of a second debt restructuring agreement, reached in May 2019, pending approval of the Title III bankruptcy court. As IEEFA has argued at length elsewhere, that deal also failed to put PREPA and the commonwealth on a path to fiscal recovery by imposing an unaffordable debt repayment obligation for the next 47 years.⁴²

The May 2019 debt restructuring agreement has languished for almost two years without being approved by the Title III court. During that time, a series of earthquakes and the COVID-19 pandemic have further weakened Puerto Rico's economy.

In IEEFA's view, a PREPA restructuring agreement with a level of repayment comparable to either of the first two agreements will simply result in another bankruptcy. A future bankruptcy will result in more lucrative fees for financial and legal advisors.

**A future bankruptcy will
result in more lucrative
fees for financial and
legal advisors.**

At least one of the financial advisors contracted by the FOMB—Citigroup—has an even more explicit incentive to continue to pursue a PREPA debt restructuring agreement that is not in the interest of the people of Puerto Rico. The FOMB contracted with Citigroup as a financial advisor on PREPA and other commonwealth debt restructuring in 2017, even though Citigroup was an underwriter on PREPA's three most recent bond issuances, totaling over \$1.3 billion, issued in 2012 and 2013.⁴³ The FOMB has noted that PREPA was insolvent "at least as far back as fiscal year 2011."⁴⁴ One question that has often been raised regarding PREPA's \$8.26

⁴¹ FOMB. [Press Release: Oversight Board Does Not Approve PREPA's RSA](#). June 27, 2017.

⁴² IEEFA. [Puerto Rico Electric Power Authority Debt Restructuring: A Weak Deal Plagued by Scandal](#). August 2019.

⁴³ These include: Power Revenue Bonds, Series 2013A (\$673 million) and Power Revenue Bonds, Series 2012A and Power Revenue Refunding Bonds, Series 2012B (together \$650 million).

⁴⁴ [Adversary Complaint To Avoid Fraudulent Transfer By The Puerto Rico Electric Power Authority, In re The Financial Oversight and Management Board for Puerto Rico](#), Case No. 17-04780-LTS (D.P.R., filed June 30, 2019). P. 4

billion in legacy debt is whether, and to what extent, due diligence providers (including underwriters) may bear some liability for this debt, as a result of representing to the bond markets that PREPA was financially and operationally sound.⁴⁵ Citigroup, however, would be conflicted to advise the FOMB to pursue actions against due diligence providers.

Additionally, Citi's contract with the FOMB gives Citi an incentive to negotiate a debt restructuring deal without regard to the ability of PREPA's ratepayers and the Puerto Rico economy to pay the debt. Citi's contract includes a financial incentive payment upon the closing of the restructuring debt deal that is a percentage of the par value of new debt issued in exchange for legacy debt.⁴⁶ Citi's contract appears to reward the company for a debt deal with a high recovery rate for the bondholders while the public interest—affordable electricity prices—calls for a lower recovery bond rate and a smaller principal to be repaid by consumers.

Problems of Excessive Fees Are Symptomatic of Deeper Failure of Governance Reform

These problems—misaligned incentives, duplication of efforts, lack of effective oversight over fees and consultants in positions to make major operational decisions—represent not just a major and often unnecessary expense to the people of Puerto Rico, but have also contributed greatly to a structure in which there is no meaningful incentive to produce solutions for Puerto Rico.

There is essentially no link between the will of the people of Puerto Rico and the actions taken by consultants, supposedly on behalf of the public interest. In theory, democratic institutions should be mediating the relationship between Puerto Ricans and the consultants acting on their behalf, through effective oversight of contracting practices and management of public agencies.

In contrast, PREPA has a long history of weak management and partisan political interference in its operations. For example, PREPA cycled through six chief executives in the three years after Hurricane Maria, and a report commissioned by the FOMB found that the high level of political appointees within the agency “predisposed PREPA to massive turnover, loss of institutional knowledge, and decision-making that was unresponsive to market forces.”⁴⁷ Political interference

⁴⁵ The issue of improper or negligent behavior by due diligence providers on past PREPA debt issuances was taken up as part of an FOMB-initiated study. The report contains almost 100 pages of potentially actionable claims against firms that provided financial services to PREPA and its investors. See: Kobre and Kim. [FOMB Final Investigative Report](#). August 20, 2018.

⁴⁶ Citi. [Letter of Agreement between Financial Oversight and Management Board and Citigroup Global Markets](#). January 27, 2017. (Specifically: “The fees to Citi under this agreement shall include the following: ... (ii) a success fee equal to 0.0333% of the par amount of any bonds (A) issued by the Commonwealth or any of its agencies, authorities, public corporations or instrumentalities (“covered entities”) as part of a PROMESA related restructuring, for the avoidance of doubt, excluding any bonds issued in connection with any bonds restructured under clause B below, or (B) restructured as part of a PROMESA related restructuring (calculated by multiplying 0.000333 times the restructured bond par amount), in each case, without duplication, and subject in all cases to an aggregate success fee cap of \$10 million.”)

⁴⁷ Kobre & Kim, *op. cit.*, p. 113.

and weak management at PREPA has enabled a long history of contracting scandals, including an oil purchasing scandal that allegedly went on for more than a decade. PREPA never developed strong internal controls over the letting and oversight of contracts. PREPA's weak management also contributed to its vulnerability to being dominated by consultants in operational decisions.

The FOMB, meanwhile, has not functioned as a democratic institution. The only entity with oversight over the FOMB is the U.S. Congress, which has never exercised any meaningful oversight over the board. As discussed in the next section, the FOMB has not proven itself to be capable of providing effective oversight of electrical system contracting.

The FOMB Has Perpetuated the Problem of Excessive Fees

The FOMB was established with the purpose of providing a path for Puerto Rico to achieve fiscal responsibility.⁴⁸ As discussed above, the inability to gain control over professional services fees and the proliferation of off-island, unaccountable consultants making key operational and financial decisions for the electrical system is symptomatic of a failure of governance reform. Failed debt deals and continued electrical system contracting scandals do not fulfill the FOMB's mission of restoring capital market faith in Puerto Rico.

The FOMB's attempts to reform contracting have been ineffective and perfunctory.

The FOMB's attempts to reform professional services contracting relating to the electrical system have been ineffective and perfunctory. It has trusted consultants to make major operational decisions that are unlikely to restore PREPA to fiscal health. At the same time, Puerto Rico's energy regulatory agency argued that FOMB actively worked to impede its ability to investigate PREPA contracting.

The FOMB's Efforts at Contract Review Have Been Inconsistent and Not Transparent

The FOMB is empowered by PROMESA to recommend procurement reforms and to establish a policy to review certain contracts to promote market competition and ensure consistency with the fiscal plan.^{49,50} FOMB policy calls for reviewing all contracts with an expected value of \$10 million or more prior to execution.⁵¹

⁴⁸ 48 U.S.C. § 2121(a).

⁴⁹ 48 U.S.C. § 2145(a)(1).

⁵⁰ 48 U.S.C. § 2144(b)(2).

⁵¹ FOMB. [FOMB Policy: Review of Contracts](#). October 30, 2020.

IEEFA analyzed the FOMB's reviews of PREPA professional services contracts and found issues with consistency and transparency:⁵²

- The FOMB is inconsistent in whether its reviews include any discussion of hourly fees charged by consultants. In its reviews of PREPA professional services contracts, the FOMB has never found hourly fees to be too high. Instead, in cases where it evaluated fees, the FOMB consistently found them to be “in-line with industry standards.”⁵³
- The FOMB is also inconsistent in whether its reviews consider competitive bidding. In its 2018 review of a Greenberg Traurig contract, the FOMB noted that the contract was not awarded via a competitive bid. It said, “It is strongly advised that RFPs are issued for all professional services agreement to ensure the most competitive rate available is being secured.”⁵⁴
- The FOMB's review of PREPA's professional services contracts frequently refer to information that is not publicly available or that is inconsistent with publicly available information.
 - The FOMB's 2018 reviews of contracts with Filsinger Energy Partners, Greenberg Traurig, and Ankura Consulting all cite a \$52 million annual budget for advisory services in the PREPA fiscal plan.⁵⁵ The April 19, 2018, PREPA fiscal plan does not include any such information.⁵⁶
 - Subsequent reviews of FY 2019 Filsinger Energy Partners and Ankura Consulting contracts state that PREPA's certified fiscal plan set aside \$24 million for Filsinger Energy Partners and \$11.4 million for Ankura. Again, the amounts do not appear in the publicly available fiscal plan.⁵⁷

⁵² FOMB. [Contract Review](#). This included FOMB reviews of 12 contracts totaling \$182 million (including one rejected contract) over the period March 2018 to November 2020.

⁵³ FOMB. [Letter to PREPA CEO Walter Higgins Re: Proposed First Amendment to Professional Service Agreement between PREPA and Ankura Consulting Group, LLC – Observations, Feedback not Required](#). May 30, 2018.

⁵⁴ FOMB. [Letter to PREPA CEO Walter Higgins Re: Proposed Third Amendment to Professional Service Agreement between PREPA and Greenberg Traurig, LLP – Observations, Feedback not Required](#). May 30, 2018.

⁵⁵ FOMB. [Letter to PREPA CEO Walter Higgins Re: Proposed Third Amendment to Professional Service Agreement between PREPA and Greenberg Traurig, LLP – Observations, Feedback not Required](#). May 30, 2018. Also see: FOMB. [Letter to PREPA CEO Walter Higgins Re: Proposed First Amendment to Professional Service Agreement between PREPA and Ankura Consulting Group, LLC – Observations, Feedback not Required](#). May 30, 2018. Also see: FOMB. [Letter to PREPA CEO Walter Higgins Re: Revised – Second Amendment to the Agreement for Independent Contractor Consulting Services between PREPA and Filsinger Energy Partners, Inc – Observations, Feedback not Required](#). June 13, 2018.

⁵⁶ PREPA. [New Fiscal Plan for PREPA](#). April 19, 2018.

⁵⁷ FOMB. [Letter to PREPA CEO Jose Ortiz Re: Third Amendment to the Contract between Puerto Rico Electric Power Authority \(PREPA\) and Filsinger Energy Partners, Inc. \(Filsinger\) for Consulting Services](#). August 1, 2018. Also see: FOMB. [Letter to PREPA CEO Jose Ortiz Re: Second Amendment to the Contract between Puerto Rico Electric Power Authority \(PREPA\) and Ankura Consulting Group, LLC \(Ankura\) for Consulting Services](#). July 30, 2018.

- The FOMB's review of a 2019 contract with O'Melveny & Myers found it to be consistent with a \$60 million line item for "PREPA Restructuring and Title III" in PREPA's FY 2019 certified budget.⁵⁸ The publicly available version of PREPA's certified FY 2019 budget shows this line item to be \$49.2 million.⁵⁹

As such, it is impossible to use publicly available information to replicate the FOMB's determination that these contracts are consistent with PREPA fiscal plans.

The FOMB itself also enters into professional services contracts related to PREPA debt restructuring and privatization. Of the roughly \$440 million in professional services fees tabulated above, \$48 million were contracts with FOMB (an underestimate because, as described in Appendix A, many of FOMB's contracts pertain to multiple commonwealth entities and were not included in the analysis if specific PREPA amounts were not available). As discussed above, the FOMB chose to structure the contract with Citigroup, one of its top advisors on PREPA restructuring and privatization, in a manner that is contrary to the interests of the people of Puerto Rico.

The FOMB Has Signed off on Consultant-Driven Deals That Are Unlikely To Serve the Interests of the People of Puerto Rico

The FOMB has signed off on two highly controversial contracts for the transformation of the electrical system: The New Fortress Energy contract to convert units 5 and 6 of the San Juan power plant to burn natural gas, and the contract with LUMA Energy for a 15-year concession of PREPA's non-generation operations.

Regarding the New Fortress Energy contract, the FOMB signed off on the contract despite major red flags with the procurement process, including New Fortress's failure to seek FERC authorization to construct its natural gas import facility in San Juan Harbor (FERC has since ordered New Fortress to apply for a permit). The FOMB's approval explicitly noted, as typical with FOMB reviews, that it did not review the contracting process. The FOMB has also said that its review "did not involve an in-depth investigation of facts or circumstances that may have occurred outside the public view."⁶⁰ This raises questions about the FOMB's role, given the absence of meaningful oversight over a contracting process that raised numerous red flags as to whether it was rigged in favor of New Fortress Energy.⁶¹

⁵⁸ FOMB. [Letter to PREPA CEO Jose Ortiz Re: O'Melveny & Myers](#). May 23, 2019.

⁵⁹ FOMB. [Puerto Rico Electric Power Authority's Fiscal Year 2019 Compliant Budget](#).

⁶⁰ FOMB. [Letter from Natalie Jaresko to Tom Sanzillo and Ingrid Vila Biaggi, Re: Contract between Puerto Rico Electric Power Authority \(PREPA\) and New Fortress Energy, LLC \(NFE\)](#). August 31, 2020.

⁶¹ IEEFA, [op. cit.](#)

Regarding the LUMA contract, minutes of meetings of the Partnership Committee charged with bidding and negotiating the contract show that FOMB consultants were deeply involved in the contract before signing off on it.⁶² Citigroup was involved in meeting with bidders to discuss comments to the contract;⁶³ presenting revised versions of contracts to the committee;⁶⁴ answering questions about the RFP and proposed contract terms;⁶⁵ and providing an assessment of the final bids.⁶⁶ Citi's contract also reveals that it received an incentive payment of \$9.1 million for the LUMA transaction, with an additional \$4.9 million to be paid when PREPA debt restructuring is complete.⁶⁷

The FOMB has signed off on two highly controversial contracts for the transformation of the electrical system.

The FOMB approved the LUMA contract, finding it consistent with PREPA's fiscal plan, despite the absence of any publicly available information or studies regarding its impact on PREPA's finances.⁶⁸ The FOMB does not appear to have reviewed the LUMA contract for consistency with the commonwealth's fiscal plan, even though one consequence of the contract is that PREPA employees not hired by LUMA must be transferred to other government jobs, potentially increasing the labor budget of the commonwealth by roughly \$200 million. The FOMB also made no comment on the dual role of the PREB chairman in serving on the Partnership Committee that evaluated bids and negotiated the contract as well as participating in PREB's vote to approve the final contract. (This potential conflict of interest and violation of legal ethics has been referred to the Puerto Rico Office of Governmental Ethics and the Puerto Rico Supreme Court.)⁶⁹

⁶² Minutes were obtained via a public records request by CAMBIO and shared with IEEFA.

⁶³ Puerto Rico Public-Private Partnerships Authority. Partnership Committee Minutes. July 11, 2019.

⁶⁴ Puerto Rico Public-Private Partnerships Authority. Partnership Committee Minutes. August 29, 2019.

⁶⁵ Puerto Rico-Public Private Partnerships Authority. Partnership Committee Minutes. February 1, 2019.

⁶⁶ Puerto Rico-Public Private Partnerships Authority. Partnership Committee Minutes. December 20, 2019.

⁶⁷ Citigroup. [Third Amended and Restated Engagement Letter between Citigroup Global Markets Inc. and the Financial Oversight and Management Board for Puerto Rico](#). October 7, 2020, p. 4. (Note that the contract has received the Title III Court approval referenced as a condition for paying the \$9.1 million to Citi).

⁶⁸ FOMB. [Letter to Puerto Rico Public-Private Partnerships Authority Executive Director Fermin Fontanes Re: Amendments to Proposed Operation and Maintenance Agreement for the Puerto Rico Electric Power Authority's Transmission and Distribution System](#). June 22, 2020.

⁶⁹ El Nuevo Dia. [Comisión recomienda referir al presidente del Negociado de Energía a Ética Gubernamental y el Supremo](#). February 26, 2021.

In short, FOMB signed off on major electrical system transformation initiatives when major questions of legal compliance with FERC were outstanding, the PREB's approval was tainted and the contracts were of questionable value to the people of Puerto Rico.

The FOMB Allegedly Impeded a Rigorous Contracting Review by PREB

PREB argued that the FOMB actively impeded the regulator's efforts at contract oversight, at the same time that this report has shown that the board was failing to exercise meaningful oversight over professional services contracts. In November 2017, PREB issued an order that noted, "Throughout many of its proceedings, the Commission or its consultants have raised concerns regarding the terms and conditions agreed to by PREPA when entering into contracts (and whether such terms and conditions are in PREPA's and ratepayer's best interest), as well as the lack of performance metrics to ensure the quality of the work performed by the contractor."⁷⁰ PREB said it would exercise oversight over professional services contracts worth more than \$250,000 and require them to be approved by PREB. However, in a March 2018 complaint filed in the Title III court, PREB described how both PREPA and the FOMB were impeding its efforts at oversight of PREPA contracts.⁷¹ PREB ultimately abandoned its oversight effort.

Conclusions and Recommendations

More than \$440 million has been spent on consulting fees to transform PREPA and restructure its debt. Yet after seven years, there is little to show for it, other than fees. The findings of this report reveal structural misalignment of incentives that have allowed off-island consultants to make fundamental decisions about the electrical system and its debt without democratic accountability to the people of Puerto Rico. IEEFA offers several recommendations that should be seen as a starting point to address some of the fundamental problems described in this report:

Off-island consultants are making fundamental decisions about the electrical system and its debt without accountability.

- The Puerto Rico Legislature should adopt and enforce a consultant fee structure, including a cap on hourly rates, that is consistent with Puerto

⁷⁰ Order of the Puerto Rico Energy Commission, Case No. CEPR-MI-2017-0008, November 17, 2017.

⁷¹ Verified Adversary Complaint of the Puerto Rico Energy Commission For Declaratory Judgment and Request for Injunctive Relief, *In re The Financial Oversight and Management Board for Puerto Rico*, Case No. 17-04780-LTS (D.P.R., filed March 4, 2018).

Rico's economic condition.⁷² Such a structure should include a substantial fee reduction for professional services contracts (broadly defined as legal, accounting, financial advisors, consultants, and engineers) with firms that had contracts with PREPA or the commonwealth before 2014. Such companies have advised Puerto Rico in the past, some for decades, and incur no costs from any learning curve.

- The PROMESA statute should be amended to eliminate the requirement that the people of Puerto Rico pay all FOMB expenses.
- Any electrical system transformation contracts should include performance metrics based on long-term goals for the electrical system that have been established by the Puerto Rico Legislature, including affordable rates at less than 20 cents per kilowatt-hour and achieving Puerto Rico's renewable energy standard.
- The PREB or FOMB should immediately publicly post online a historical accounting of all fees spent on PREPA's transformation and debt restructuring. The information should be current, comprehensive and provide links to the contracts, full procurement record, and reporting documents, including invoices for payments.
- The FOMB and PREPA should immediately disclose the full budget that underlies the FOMB's December 2020 estimate that PREPA will spend \$500 million to complete its debt restructuring and exit the Title III process. This budget should include the amounts of expenditures and the names of the firms that FOMB and PREPA anticipate using in the process.
- The Commission for the Comprehensive Audit of the Public Credit should be reinstated to fully audit PREPA's debt. Despite seven years of negotiations, there remains no resolution to the issue of whether this debt was legally incurred and, if it was, whether the diligence conducted by the commonwealth, PREPA and its advisors violated any laws. As this report notes, one of the core financial advisors to the FOMB, Citigroup, is unlikely to advise the FOMB to aggressively pursue this issue, given Citi's past role in underwriting PREPA debt.
- Congress should authorize an Independent Private Sector Inspector General for PREPA to act as an on-site monitor to prevent waste, fraud and abuse.⁷³

⁷² Previous efforts to implement such a fee structure were adopted by executive order, *e.g.*, [OE-2001-33](#) and [OE-2002-53](#).

⁷³ IEEFA. [Carta a la Asamblea Legislativa sobre el Acuerdo de Reestructuración para AEE](#). October 29, 2019, pp. 19-21.

Appendix A: Methodology

IEEFA analyzed contracts signed since FY 2015 (through February 2021) for financial and operational services identified with PRPEA's capacity to regain access to capital markets. The methodology for identifying these contracts included the following:

- Searching all PREPA, P3 Authority and Government Development Bank contracts worth more than \$1 million since July 1, 2014, on the Puerto Rico Comptroller's Office online contracts database and identifying those contracts pertaining to legal, financial and technical consulting services related to PREPA debt restructuring, privatization and management of federal funds.⁷⁴
- Augmenting this list with additional high-profile contracts that were less than \$1 million or had not yet been reported in the comptroller's database (including a \$21 million contract amendment with Burns & McDonnell).
- Adding contracts from FOMB's online list of contracts in which we were able to derive fees pertaining specifically to PREPA. In some instances in which contracts did not specifically break out work related to PREPA from other commonwealth entities, we were able to derive PREPA-specific fees from the reports of the fee examiner in the Title III bankruptcy court.
- Examining publicly available invoices from LUMA Energy to derive an estimate of professional consulting services subcontracted by LUMA in its first eight months of operation in Puerto Rico.

This is not an exact methodology. Our analysis focuses on contract amounts, which may be higher or lower than amounts ultimately billed, which are generally not publicly available information. Additionally, some of the contracts we analyzed are subject to review by the fee examiner in the Title III bankruptcy court and the final amounts approved may be less—typically by a small fraction—than the amounts requested.⁷⁵ Finally, some of the contracts included indicated scopes of work that may go beyond exclusively debt restructuring and transformation issues, such as contracts with legal counsel that include work on labor and employment cases in addition to debt restructuring.⁷⁶

On the other hand, we were unable to incorporate contracts—some of which we believe to be quite extensive—for which PREPA-specific data is not available. For example, much of the cost of the FOMB's contract with Citi was not included because it did not break down work specifically attributable to electrical system transformation, other than an incentive fee for closing the transmission and

⁷⁴ Comptroller's Office, Commonwealth of Puerto Rico. [Consultation of the Contract Registry](#).

⁷⁵ IEEFA's analysis of fee examiner reports suggests that amounts approved are typically about 98% of amounts requested.

⁷⁶ See, for example: PREPA. [Professional Services Agreement between Puerto Rico Electric Power Authority and Cancio, Nadal, Rivera & Diaz, PSC](#). July 30, 2018.

distribution system concession.⁷⁷ Additionally, \$30.8 million in contracts between the Puerto Rico Fiscal Agency and Financial Advisory Authority and Rothschild were entirely excluded for this reason, even though Rothschild has also been involved in the PREPA privatization. Other legal and financial consulting contracts with AAFAF and the Government Development Bank of Puerto Rico may also have included work related to electrical system restructuring and privatization.⁷⁸

⁷⁷ From January 2017 through February 2021, we estimate the total cost of the Citigroup contract at more than \$58 million for all services to the FOMB (including monthly retainers, a \$5.8 million success fee for the COFINA debt restructuring as reported in the July 22, 2020, report of the fee examiner to the Title III Court, and a \$9.1 million success fee for the LUMA transaction).

⁷⁸ For example, a \$4.7 million [contract](#) (including amendments) between the Government Development Bank and MillCo Advisors appears to have encompassed work related to all of Puerto Rico's public corporations, including PREPA.

Appendix B

The following tables present the \$446 million in contracts analyzed by IEEFA.

Appendix Table 1: Contracts With PREPA

Counterparty	Effective Date	Termination Date	Amount	Source
AlixPartners	9/15/2014	4/14/2015	\$8,995,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=67659
	4/16/2015	7/15/2015	\$4,155,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=67658
	7/16/2015	11/15/2015	\$7,911,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=67657
	11/13/2015	3/15/2016	\$7,866,720	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=67648
	3/16/2016	8/15/2016	\$9,105,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=67646
	8/16/2016	12/15/2016	\$6,713,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=67645
	12/16/2016	2/15/2017	\$2,044,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=67610
Cleary Gottlieb Steen & Hamilton	12/11/2014	12/10/2015	\$5,000,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=2782860
	8/11/2015	12/10/2015	\$5,000,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=78117
	12/9/2015	6/30/2016	\$6,500,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=78112
	6/30/2016	12/15/2016	\$600,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=78111
	3/15/2017	4/30/2017	(\$2,122,904)	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=78137
Sidley Austin	12/16/2014	12/15/2015	\$1,000,000	https://consultacontratos.ocpr.gov.pr//contract/details?contractid=4083655
	12/14/2015	6/30/2016	\$2,500,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=78116
	3/23/2016	6/30/2016	\$500,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=78114
	6/30/2016	12/15/2016	\$2,100,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=78113
	12/15/2016	6/15/2017	\$3,825,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=78109
J. Frank Associates	10/15/2015	4/14/2016	\$1,000,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=77887

Norton Rose Fulbright US	6/28/2016	12/15/2016	\$2,500,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=59786
	12/15/2016	4/15/2017	\$1,000,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=59784
Quinones & Arbona Law Offices	3/6/2016	3/6/2017	\$100,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=59971
Navigant Consulting	3/4/2016	3/3/2017	\$225,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=59995
	7/6/2016	3/3/2017	\$100,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=59994
Greenberg Traurig	6/16/2017	6/30/2017	\$1,000,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=59422
	7/1/2017	6/30/2018	\$5,000,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=1008883
	3/28/2018	6/30/2018	\$4,800,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=1008874
	6/27/2018	7/31/2018	\$3,200,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=1008905
Ankura Consulting	7/1/2017	6/30/2018	\$8,800,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=59364
	7/1/2018	7/31/2018	\$3,350,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=957578
	8/16/2018	6/30/2019	\$7,600,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=957574
	7/12/2019	7/15/2019	\$1,200,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=1461290
Cancio, Nadal, Rivera & Diaz	8/16/2017	6/30/2018	\$1,620,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=59266
Filsinger Energy Partners	12/7/2017	6/30/2018	\$5,000,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=79961
	6/18/2018	7/31/2018	\$5,500,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=79959
	8/15/2018	6/30/2019	\$11,130,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=79743
	3/15/2019	6/30/2019	\$3,000,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=1007297

Horne Federal LLC	1/19/2018	6/30/2018	\$1,500,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=397379
	8/1/2018	6/30/2019	\$3,729,472	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=397377
Baker, Donelson, Bearman, Caldwell & Berkowitz	2/1/2018	6/30/2018	\$1,500,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=958472
	8/1/2018	6/30/2019	\$1,094,740	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=958467
Sargent & Lundy	3/20/2018	6/30/2018	\$270,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=83021
	7/25/2018	6/30/2019	\$129,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=83008
	11/14/2018	6/30/2019	\$5,473,124	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=958446
King & Spalding	7/24/2018	6/30/2019	\$1,500,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=81649
	11/9/2018	6/30/2019	\$4,000,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=958347
	6/28/2019	6/30/2019	\$2,000,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=1440268
Cancio, Nadal, Rivera & Diaz	7/30/2018	7/30/2019	\$3,497,200	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=958372
O'Melveny & Myers	8/10/2018	6/30/2019	\$8,000,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=76820
	6/5/2019	6/30/2019	\$4,200,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=1431982
Greenberg Traurig	8/16/2018	6/30/2019	\$3,290,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=397411
Norton Rose Fulbright	9/13/2018	6/30/2019	\$4,500,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=954087

King & Spalding	6/28/2019	6/30/2020	\$7,500,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=1446706
	6/26/2020	6/30/2020	\$2,000,000	https://consultacontratos.ocpr.gov.pr//contract/details?contractid=5083829
Sargent & Lundy	7/1/2019	6/30/2020	\$9,873,900	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=1440286
	5/26/2020	6/30/2020	\$1,200,000	https://consultacontratos.ocpr.gov.pr//contract/details?contractid=5051130
O'Melveny & Myers	7/1/2019	6/30/2020	\$9,000,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=1444295
Ankura Consulting	7/16/2019	6/30/2020	\$7,420,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=1453511
Filsinger Energy Partners	7/16/2019	6/30/2020	\$7,420,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=1453510
Diaz & Vazquez Law Firm	8/1/2019	6/30/2020	\$475,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=1461299
	9/30/2019	6/30/2020	\$2,597,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=2775829
	4/14/2020	6/30/2020	\$850,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=2827592
	7/1/2020	6/30/2021	\$4,740,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=2848753
Norton Rose Fulbright	9/30/2019	6/30/2020	\$4,000,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=2717149
Tidal Basin Caribe	10/3/2019	12/31/2019	\$6,000,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=2717137
	3/31/2020	6/30/2020	\$3,600,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=2810200
	6/30/2020	9/30/2020	\$300,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=2845862
Christie 55 Solutions	2/13/2020	5/13/2020	\$86,250	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=2799458

Christie 55 Solutions	5/29/2020	12/31/2020	\$201,250	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=2805108
Sargent & Lundy	7/3/2020	6/30/2021	\$9,000,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=2813001
O'Melveny & Myers	7/7/2020	6/30/2021	\$9,000,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=2812998
Ankura Consulting	7/8/2020	6/30/2021	\$8,500,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=2840827
King & Spalding	7/14/2020	9/30/2020	\$1,875,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=2843229
	10/1/2020	6/30/2021	\$5,625,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=2885929
Filsinger Energy Partners	8/19/2020	11/17/2020	\$1,000,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=2840491
Burns & McDonnell Caribbean	8/21/2020	6/30/2021	\$9,000,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=2840403
	1/27/2021	6/30/2021	\$21,000,000	https://www.telemundopr.com/noticias/puerto-rico/denuncian-falta-de-procesos-y-de-costos-competitivos-en-la-transformacion-de-la-ae/2176598/
Sargent & Lundy	12/4/2020	6/30/2021	\$6,100,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=2892776

Appendix Table 2: Contracts with the P3 Authority

Counterparty	Effective Date	Termination Date	Amount	Source
Cleary Gottlieb Steen & Hamilton	9/10/2018	6/30/2019	\$4,750,000	https://consultacontratos.ocpr.gov.pr//contract/downloaddocument?documentid=76741
	5/15/2019	6/30/2019	\$3,000,000	https://consultacontratos.ocpr.gov.pr//contract/downloaddocument?documentid=1043032
Navigant Consulting	9/12/2018	6/30/2021	\$17,835,731	https://consultacontratos.ocpr.gov.pr//contract/downloaddocument?documentid=76795
	5/24/2019	6/30/2019	\$3,208,331	https://consultacontratos.ocpr.gov.pr//contract/downloaddocument?documentid=1043031
	8/9/2019	6/30/2020	\$9,855,364	https://consultacontratos.ocpr.gov.pr//contract/downloaddocument?documentid=2799502
FTI Consulting	9/4/2019	6/30/2020	\$2,000,000	https://consultacontratos.ocpr.gov.pr//contract/downloaddocument?documentid=2715999
Cleary Gottlieb Steen & Hamilton	9/30/2019	6/30/2020	\$5,500,000	https://consultacontratos.ocpr.gov.pr//contract/downloaddocument?documentid=2717126
	1/27/2020	6/30/2020	\$2,000,000	https://consultacontratos.ocpr.gov.pr//contract/downloaddocument?documentid=2771932
Cleary Gottlieb Steen & Hamilton	8/1/2020	6/30/2021	\$4,000,000	https://consultacontratos.ocpr.gov.pr//contract/downloaddocument?documentid=2827360
FTI Consulting	8/1/2020	6/30/2021	\$2,000,000	https://consultacontratos.ocpr.gov.pr//contract/downloaddocument?documentid=2861015
	12/14/2020	6/30/2021	\$400,000	https://consultacontratos.ocpr.gov.pr//contract/downloaddocument?documentid=2885989
	1/27/2021	6/30/2021	\$2,500,000	https://consultacontratos.ocpr.gov.pr//contract/details?contractid=5139264

Appendix Table 3: Contracts with the FOMB

Counterparty	Effective Date	Termination Date	Amount	Notes and Source
Citi	1/27/2017	present	\$9,083,750	This represents on the fee paid to date for completion of the LUMA Energy transaction: https://drive.google.com/file/d/1sH3F3DJoSHsFx2iL26ELxUzt6jdVzsPY/view
Nixon Peabody	2/7/2019	present	\$1,028,248	Nixon Peabody motions for interim compensation, filed in: <i>In re The Financial Oversight and Management Board for Puerto Rico</i> , Case No. 17-03283-LTS (D.P.R.)
McKinsey	7/3/2017	present	\$23,447,000	Reports of the fee examiner dated October 31, 2018; March 6, 2019; October 23, 2019; and October 21, 2020, filed in: <i>In re The Financial Oversight and Management Board for Puerto Rico</i> , Case No. 17-03283-LTS (D.P.R.), covering the period 10/1/2017 through 5/31/2020
Proskauer Rose	11/25/2016	present	\$14,210,108	Reports of the fee examiner dated March 6, 2019; April 26, 2019; June 5, 2019; September 20, 2019; May 27, 2020, filed in: <i>In re The Financial Oversight and Management Board for Puerto Rico</i> , Case No. 17-03283-LTS (D.P.R.), covering the period 10/1/2017 through 5/31/2019

Appendix Table 4: PREPA-Related Contracts with the Government Development Bank of Puerto Rico

Counterparty	Effective Date	Termination Date	Amount	Source
MillCo Advisors	4/16/2015	12/31/2016	\$9,000,000	https://consultacontratos.ocpr.gov.pr//contract/downloadaddocument?documentid=2888378

Appendix Table 5: Amounts Invoiced Under LUMA Energy Professional Services Subcontracts

Counterparty	Invoice Month	Amount
Alumbra LLC	Jul-20	\$527,932
Alumbra LLC	Aug-20	\$887,433
Alvarez & Marsal Corporate Performance Improvement, LLC	Aug-20	\$194,423
Covington & Burling	Aug-20	\$50,271
DLA Piper LLP	Aug-20	\$77,345
Alumbra, LLC	Sep-20	\$1,259,729
Alvarez & Marsal	Sep-20	\$400,938
DLA Piper LLP	Sep-20	\$230,489
Korn Ferry	Sep-20	\$50,328
Alumbra LLC	Oct-20	\$843,309
Alvarez & Marsal	Oct-20	\$594,069
Covington & Burling LLP	Oct-20	\$29,856
DLA Piper LLP	Oct-20	\$109,803
Korn Ferry	Oct-20	\$2,650
Resources Global Professionals	Oct-20	\$92,559
Alumbra LLC	Nov-20	\$1,134,906
Alvarez & Marsal	Nov-20	\$197,665
Covington & Burlington LLP	Nov-20	\$21,129
DLA Piper LLP	Nov-20	\$154,217
Resources Global Professionals	Nov-20	\$38,955
Trans4mative	Nov-20	\$116,965
Troutman Pepper Hamilton Sanders LLP	Nov-20	\$15,078
Alumbra LLC	Dec-20	\$776,859
Alvarez & Marsal	Dec-20	\$110,869
Covington & Burling LLP	Dec-20	\$34,654
DLA Piper	Dec-20	\$92,128
Korn Ferry	Dec-20	\$2,400

Resources Global Professionals	Dec-20	\$53,459
Trans4mative	Dec-20	\$31,623
Troutman Pepper Hamilton Sanders	Dec-20	\$17,046
Bennett Jones LLP	Dec-20	\$8,301
Alumbra	Jan-21	\$427,908
Alvarez & Marsal	Jan-21	\$160,958
Covington & Burling LLP	Jan-21	\$38,396
DLA Piper	Jan-21	\$42,231
Ogletree, Deakins, Nash, Smoak & Stewart	Jan-21	\$2,070
Mbarrett Consulting	Jan-21	\$1,100
Trans4mative	Jan-21	\$155,862
Troutman Pepper Hamilton Sanders	Jan-21	\$18,588
McConnell Valdes	Jan-21	\$24,066
Alumbra LLC	Feb-21	\$1,277,779
Alvarez & Marsal	Feb-21	\$273,315
Covington & Burling	Feb-21	\$32,832
DLA Piper	Feb-21	\$127,068
Korn Ferry	Feb-21	\$2,400
Ogletree, Deakins, Nash, Smoak & Stewart	Feb-21	\$2,322
Resources Global Professionals	Feb-21	\$19,127
Trans4mative	Feb-21	\$143,353
Troutman Pepper Hamilton Sanders	Feb-21	\$18,818
Total		\$10,925,581

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