



# GOVERNMENT OF PUERTO RICO

## PUERTO RICO LAND ADMINISTRATION

Rev. February, 2020

### GUIDELINES FOR DEVELOPMENT PROPOSAL SUBMISSIONS

### PUERTO RICO LAND ADMINISTRATION

**DISCLAIMER:** This document is a translation of the original document *Guía para la elaboración y la presentación de propuestas para proyectos de desarrollo ante la Administración de Terrenos*. If any inconsistency is identified in this document (English version), the Spanish version will prevail.

## I. INTRODUCTION

The Puerto Rico Land Administration (PRLA) is a public corporation with legal personality; independent from the Commonwealth of Puerto Rico General Fund and established by Act No. 13 of May 16, 1962, as amended. The PRLA's mission is to promote the acquisition of land (including real estate properties) and the optimum management of its land inventory, in an efficient and planned manner, to assist and promote the development of economic, social, conservation and urban renovation projects; in order to contribute to the well-being and quality of life of the citizens of Puerto Rico. Its main objectives are to guarantee, through the creation of land reserves, the availability of land for its future development or conservation; to observe for the land to be used in accordance with the public policies established; and to promote an efficient use and compact development of our land, which represents our most valuable natural resource.

The current PRLA's public policy establishes:

- The acquisition of land and real estate in order to keep up-to-date the properties and land reserve inventory of the Commonwealth of Puerto Rico
- To limit, as much as possible, the sale of properties. Sale transactions will only be performed to promote housing developments.
- Promote the development of commercial, industrial and tourism projects through leases.
- Ensure maximum utilization and a responsible, efficient and compact use of land.

The requirements for assessing submitted development proposals will be governed by the regulatory provisions established in the *Reglamento de la Administración de Terrenos de Puerto Rico para Transacciones de Derechos Reales sobre Bienes Inmuebles*, RE 9112 (document available only in Spanish).

In order for a development proposal to be considered, the Applicant must:

- Fill (completely) and submit the Lease or Sale Request Form (Individual or Corporation, as applicable), with the required documents listed in the instructions and check-list page of the form.
- Pay a Non-refundable and non-transferable administrative fee in the amount of \$50.00.
- Submit with the request form, the *Proposal Document*, as detailed in Section III of this document.

Once the documents have been submitted, they will be evaluated and considered by the PRLA Leasing Committee or the PRLA Sales Committee (as applicable), who will make recommendations to the PRLA Executive Office. Favorable proposals will receive a *Letter of Terms and Conditions* (terms letter), laying out the basis for the terms of the agreement. The Applicant must return the *terms letter* signed within the timeframe limit indicated therein.

The Applicant may appeal for reconsideration of the terms set forth in the term letter, subject to evaluation and approval by the Leasing Committee or the Sales Committee, as the case may be. In addition to that, the request form (Lease or Sale), the development proposal and the signed *terms letter* will be submitted to the PRLA Governing Board for its final approval. Rejected proposals will receive a letter stating the PRLA determination in regards to the request.

## II. LEGAL PARAMETERS AND OTHER CRITERIA

### DEVELOPMENT CONTRACT

#### LEASE

- SHORT TERM LEASE AGREEMENT
- LONG TERM LEASE AGREEMENT
- GROUND LEASE

The development of a project involves two contracts or agreements: the **Development Contract** and a **Lease**. This Lease could be in the legal form of a Short-Term Lease Agreement, a Long-Term Lease Agreement or a Ground Lease (hereinafter all documents will be referred to as *the Lease*).

The Development Contract contains the conditions that must be met in order to grant the Lease by means of which the project will be built. Therefore, once authorization is obtained from the PRLA Governing Board, the PRLA will formalize with the Applicant a Development Contract that establishes the following *Precedents Conditions*:

- Complete the design and prepare the project's construction documents.
- Obtain all endorsements and permits required by law to initiate project's construction.
- Obtain and submit evidence of the financing for the Project, and
- Submit evidence of the signed Agreement between Owner (of the Project) and General Contractor.

The Development Contract will establish the timeframe granted to the Applicant, so it be able to comply with the Precedent Conditions indicated above. The Applicant will be obliged to present a Project Schedule, as well as Quarterly Progress Reports showing the status and compliance of each of the Precedent Conditions. If the Applicant does not comply with Precedent Conditions within the established timeframe, the Administration reserves the right to terminate the Development Contract. However, the PRLA reserves its right, to its sole discretion, to extend the time for compliance with the Precedent Conditions, at the request of the Applicant. This extension must be based on causes not attributable to the Applicant, and they must be documented and submitted to the PRLA as part of the aforementioned quarterly reports.

### Timeframe for the development, construction and operation of the Project

Once the Precedent Conditions are satisfied, it is understood that the project is ready to begin construction. The PRLA will grant to the Applicant the development rights of the property to develop the project, by signing the Lease. Construction of the project must begin within ninety (90) days following the granting of the Lease. During the term of the Lease, the Applicant will build and operate the proposed project. The Lease will be accompanied by the payment of annual rent (base rent) payable to the PRLA.

### Base Rent, Percentage Rent and Capital Gain Events

The PRLA may consider a rent scheme that includes an annual base rent, a percentage rent, and/or any combination of these two; as well as a participation in capital gain events. For this, the PRLA has established the following payment parameters:

- **Interim Rent:** To make the development of the project feasible, the PRLA may consider proposals that include a lower annuity during the construction period and the stabilization period. The PRLA may consider fixed or staggered annuities during such periods. The annuity of the Interim Rent will be payable per year in advance.
- **Fixed Annual Base Rent:** The Applicant may submit a fixed annuity offer, payable per year in advance, from the end of the Interim Rent period until the expiration of the term as established in the Deed. The proposed annuity will be increased gradually in periods to be determined by the PRLA Leasing Committee.
- **Percentage Rent:** The Applicant may include in the proposal a Percentage Rent, in addition to the Fixed Annual Base Rent. If the Applicant opt for this, it must establish and propose which percentage of the Net Operating Income (NOI) – produced by all the operations carried out therein – will be the annuity to be paid to the PRLA. *The Project's NOI will be defined as the net income of the Project excluding interest, depreciation, amortization and taxes. All income from the project will be considered in the calculation of Participatory Income.*
- **Capital Gain Events:** The Applicant must include in his proposal, a share of the profits for the PRLA, for each capital event in which the Applicant refinance the project's loan or sells the Project to another investor.

## Insurance

The required insurance policies must be submitted after the submission of the signed terms letter and prior to the signing of the Development Contract. These insurances policies may vary, according to the specifics of each Project. The policies mentioned below are only a guide, for reference purposes.

The Applicant, at its own account and expense, will obtain the following insurance policies:

- Property Insurance.
- General Liability Insurance.
- Garagekeeper Insurance.
- Flood Insurance.
- Employer's Liability Insurance.
- Any other insurance required by law or deemed necessary.

The PRLA Office of Finance and Budget reserves the right to request additional insurance policies from those already mentioned in this document, as it deemed appropriate or satisfactory for the interests of the PRLA. The terms letter that the Applicant will receive will contain a list of all the required insurance for the specific project. In addition to that, the Applicant must submit proof of payment of all the required insurance policies.

## III. REQUIREMENTS FOR THE PROPOSAL DOCUMENT

To submit a Development Proposal, the Property Lease Request Form or the Property Sales Application must be complemented with a Proposal Document. The Proposal Document consists of the following:

### A. Executive Summary that must include, at minimum, the following information:

- Proposed Project Program (Use): Detailed description of the programmatic components of the project. The description must include a preliminary construction gross area and a gross area

breakdown per each proposed programmatic component. The Executive Summary shall contain all the information necessary to clearly communicate the full scope and the expected quality level of the proposed project.

- Description of the proposed improvements to the property and its surroundings.
- Description of the estimated execution time for the work. The execution time should not only consider the construction stage of the project, but all the stages, including all the pre-development and development activities for and of the project.

## **B. Project Cost and Anticipated Financial Structure.**

The Applicant must provide preliminary information on projected development costs and proposed funding, that includes:

- Project's cost estimate (including hard costs and soft costs).  
The Project's cost estimate must include a cost breakdown related to the pre-development, development and construction stages of the project.
- Provide the proposed financing plan for the development, based on the estimated total cost of the Project and the Pro-forma presented (Pro-forma is discussed in subsection III, letter C of this document). The financing plan should indicate capital sources with a breakdown of debt, equity and other sources and uses of funds for pre-development, development and construction periods; as well as a capital availability itinerary. The lender must be an established institution with reputation within the financial industry, proven track record and experience in financing similar projects.
- Regarding the *equity* described in the financing plan; cash reserve sources, amounts committed to the project, and any claims or commitments on that cash reserve, as well as evidence of such commitments, should be described.

## **C. Proposed Operational Plan**

The Applicant must develop an Operational Plan for the Project (OP), based on the proposed development. The aforementioned OP must consider various aspects that are specific to the project's typology; such as, for example: proposed amount of housing units, proposed amount of rooms/keys, proposed commercial space square footage, proposed office space square footage, proposed parking spaces, among any other considerations. In addition to that, the OP will include:

- A 10-years *Financial Pro-forma Income Statement* according to the proposed project program (use). As part of the Pro-forma document, a complete list of the data that has been assumed for its elaboration must be provided.
- Or instead, the Applicant should submit a Business Plan with 5-year projections. A complete list of the data that has been assumed for its elaboration must be provided.

If the Applicant is submitting a Property Sale Request Form, the OP should demonstrate the need to acquire the property, rather than opt for a Lease. This should also be pointed out in the Executive Summary.

## **D. Project Team (Project Organizational Relationship)**

Submit information regarding the Project Team, its management structure and roles. Include, at least, the following information:

1. Information of each company, or individual, already identified as a stakeholder in the development of the project. Include: name, physical and mail address, phone number, and contact person of at least the following team components:
  - Developer.
  - Project Manager.
  - Designer (Architect).
  - Financial Partners (if applicable) or Lender.

Include with this information an organizational chart (also known as organigram) showing the relationships of the Project Team and a RACI matrix showing roles and responsibilities of all the stakeholders identified as part of the Project Team.

2. Project Team Development Experience. It must be demonstrated and supported that Project Team members have experience in developing and/or operating a similar project; or instead, one of similar scope. Applicant must include information regarding such matter, which includes each member's participation, in projects of similar scope (specifically, scale and complexity) similar to the proposal. Include the following information for each project submitted:
  - Name and location (address) of the project.
  - A brief description of the project, including use(s).
  - Year of construction.
  - Construction square footage.
  - Development costs and construction costs.
  - Financing (method) and the name of the lender that financed the Project.
  - Project photos
  - Participación o rol que desempeño en el desarrollo del proyecto.
  - Owner's name and contact information.

**E. Applicant Information (or entity that will develop the project):**

The following information must be provided for the Applicant or entity that will develop the project:

1. Applicant's audited financial statements for – at least – the last three (3) years, certified by an independent Authorized Public Accountant. In the event that the Applicant has no such requested document, or if the legal entity had not operated consecutively for any reason, prior to the proposal submission, the Applicant shall submit an affidavit stating the reasons for this situation.
2. Income Tax Returns Filing Certificate, issued by the Puerto Rico Treasury Department.
3. Debt Certificate, issued by the Puerto Rico Treasury Department.
4. Negative Debt Certificate for all Concepts, from the Center for Municipal Revenue Collection (CRIM, for its acronym in Spanish).
5. For legal entities, a Corporate Resolution (stamped with the entity's official seal) authorizing the representative to act on its behalf.

If the Applicant is unable to submit any of the required certifications here, the Applicant must submit an affidavit stating the reasons why he or she is prevented from, or is not obliged to, comply with this requirement. Such a declaration shall be subject to perjury, criminalized in the Puerto Rico Penal Code.

If there is any debt to any of the aforementioned agencies, the Applicant must present evidence that it is covered by a repayment plan and that such payment plan it is up to date. These documents will become part of the contract to be formalized.

In the event that the Applicant is a legal entity organized as a company, all partners residents of the Commonwealth of Puerto Rico will have the obligation to comply with the aforementioned provisions and will have to submit their respective certifications.

**F. Preliminary Design Concept:**

As part of the Proposal, the Applicant must submit the conceptual or preliminary design concept for the project. This graphic presentation shall also be included in a size no larger than 11" X 17" in horizontal format, in the Proposal Document. Recommended drawings to include are:

- Site plan
- Project's plan drawings.
- Elevations or project's perspectives (any sort of tridimensional image).
- Project's phasing drawings (if applicable).
- Optional: any other illustration, at any scale, that assists to illustrate the project's proposed design concept.

**G. Proposal Submission**

Proposal must be clearly identified and addressed to:

Dalcia Lebrón Nieves  
Executive Director  
Puerto Rico Land Administration  
PO BOX 363767  
San Juan, PR 00936-3767

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