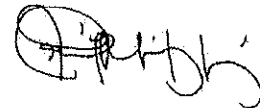


GOVERNMENT OF PUERTO RICO
GENERAL SERVICES ADMINISTRATION

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Raúl Márquez Hernández
Secretary of State
DEPARTMENT OF STATE

UNIFORM REGULATION FOR PURCHASES AND BIDS OF GOODS, WORKS AND NONPROFESSIONAL
SERVICES OF THE GENERAL SERVICES ADMINISTRATION OF THE GOVERNMENT OF PUERTO RICO



ADMINISTRACIÓN DE
SERVICIOS GENERALES
GOBIERNO DE PUERTO RICO

Index

Chapter 1 – Introduction	7
Article 1.1 - Title	7
Article 1.2 – Legal Basis	7
Article 1.3 – Purpose	7
Article 1.4 – Jurisdiction and Scope	8
Article 1.5 - Interpretation	14
Article 1.6 - Definitions	14
Chapter 2 – General Services Administration	28
Article 2.1 – Creation and Composition	28
Article 2.2 – Powers and Duties of the Administration	29
Article 2.3 – Powers and Duties of the Administrator	31
Chapter 3 – Bid Board	34
Article 3.1 – Creation and Composition	34
Article 3.2 – Internal Bylaws	36
Article 3.3 – Budget	36
Article 3.4 – Seal	36
Article 3.5 – Headquarters	36
Article 3.6 – Jurisdiction	36
Article 3.7 – Additional Member	37
Article 3.8 – General Duties of All Members	37
Article 3.9 – Administrative Officials	38
Article 3.10 – Duties of the Secretary	38
Article 3.11 – Conflict of Interests	40
Article 3.12 – Sessions	40
Article 3.13 – Quorum	40
Article 3.14 – Powers and Duties of the Bid Board	40
Article 3.15 – Powers, Roles, and Duties of the President of the Bid Board	42
Article 3.16 – Award Notice	43
Chapter 4 – Bid Review Board	44
Article 4.1 - Creation and Composition	44
Article 4.2 – Administrative Officials	45
Article 4.3 – Conflict of Interests	46
Article 4.4 – Internal Bylaws	46
Article 4.5 – Budget	46
Article 4.6 – Seal	46
Article 4.7 – Headquarters	47
Article 4.8 – Jurisdiction	47
Article 4.9 – Powers and Duties of the Bid Review Board	47
Article 4.10 – Powers and Duties of the President	50

Article 4.11 – Quorum	51
Chapter 5 – Review Procedures before the Bid Review Board	51
Article 5.1 – Applicability	51
Article 5.2 – Term for Review	51
Article 5.3 – Notice of Review	52
Article 5.4 – Content of the Request for Review	53
Article 5.5 – Administrative Review Procedure	53
Article 5.6 – Notice of Ruling	54
Article 5.7 – Term to File for Judicial Review	55
Chapter 6 – Exceptional Purchases	55
Article 6.1 – Definition	55
Article 6.2 – Evaluation of Exceptional Purchases	56
Article 6.3 – Exceptional Purchases; When They Can Be Made	57
Article 6.4 – Procedure for Making Exceptional Purchases	62
Article 6.5 – Special Conditions for Exceptional Purchases	63
Article 6.6 – Quarterly Auditing of Exceptional Purchases	69
Chapter 7 – Bidding Methods	70
Article 7.1 – Informal Purchase	70
Section 7.1.1 - Definition	70
Section 7.1.2 – Procedure for Processing an Informal Purchase	70
Section 7.1.3 – Change Order in an Informal Purchase	72
Section 7.1.4 – Amendments to the Purchase Order or Agreement; Alteration of Original Amount; Notice	73
Article 7.2 – Informal Bid	73
Section 7.2.1 - Definition	73
Section 7.2.2 – Invitation to Informal Bid; Call for Bids	73
Section 7.2.3 – Basic Requirements of the Invitation to Informal Bid	75
Section 7.2.4 – Content of the Bid Packet	77
Section 7.2.5 – Amendments to the Bid Packet	80
Section 7.2.6 – Challenge of the Invitation to Bid; Challenge of the Packet	81
Section 7.2.7 – Cancellation of the Bid Packet	84
Section 7.2.8 – Pre-bid Meetings	84
Section 7.2.9 – Presentation of Offers for the Informal Bid	86
Section 7.2.10 – Recording of Received Offers	89
Section 7.2.11 – Types of Offers	89
Section 7.2.12 – Corrections to the Offers	91
Section 7.2.13 – Modifications to the Offers	92
Section 7.2.14 – Withdrawal of the Offer	92
Section 7.2.15 – Opening	92
Section 7.2.16 – Summary of Offers	95
Section 7.2.17 – Rules of Award	96
Section 7.2.18 – Review of the Informal Bid Record	106

Section 7.2.19 – Deserted Bid.....	107
Section 7.2.20 – Penalty for Late Delivery of assets or Projects or for Rendering Nonprofessional Services. Penal Clause.	107
Section 7.2.21 – Penalties for the Bidder for Breach of Contract.....	109
Section 7.2.22 – Contracts	109
Section 7.2.23 – Supplemental Documents of the Contract and Other Required Documents for Government Contracting	110
Section 7.2.24 – Amendments to the Purchase Order or Agreement; Alteration of Original Amount; Notice.....	111
Section 7.2.25 – Master Contracts	111
Article 7.3 – Formal Bid.....	112
Section 7.3.1 - Definition	112
Section 7.3.2 – Invitation to Formal Bid; Call for Bids.....	112
Section 7.3.3 – Basic Requirements of the Invitation to Formal Bid	114
Section 7.3.4 – Content of the Bid packet.....	116
Section 7.3.5 – Amendments to the Bid packet	119
Section 7.3.6 – Challenge of the Invitation to Bid; Challenge of the Packet	120
Section 7.3.7 – Cancellation of the Bid packet	122
Section 7.3.8 – Pre-bid Meetings.	123
Section 7.3.9 – Presentation of Offers for the Formal Bid.....	125
Section 7.3.10 – Registry of Recieved Bids.....	128
Section 7.3.11- Types of Offers	128
Section 7.3.12 – Corrections to the Offers	130
Section 7.3.13 – Modifications to the Offers	130
Section 7.3.14 – Withdrawal of the Offer	131
Section 7.3.15 – Opening.	131
Section 7.3.16 – Summary of Offers.....	133
Section 7.3.17 – Rules of Award	134
Section 7.3.18 – Review of the Fomal Bid Record.....	143
Section 7.3.19 – Deserted Bid.....	145
Section 7.3.20 – Penalty for Late Delivery of assets or Projects or the Rendering of Nonprofessional Services. Penal Clause	145
Section 7.3.21 – Penalties for the Bidder for Breach of Contract.....	146
Section 7.3.22 – Contracts	147
Section 7.3.23 – Supplemental Documents of the Contract and Other Required Documents for Government Contracting	148
Section 7.3.24 – Master Contracts	148
Section 7.3.25 – Master Contracts	149
Article 7.4 – Request for Proposals or Request for Sealed Proposals.....	149
Section 7.4.1 – Definition	149
Section 7.4.2 – When It Is Appropriate to Use the Request for Proposals or Request for Sealed Proposals Procedure	150

Section 7.4.3 – Purpose	151
Section 7.4.4 – Invitation to Request for Proposals or Request for Sealed Proposals; Call for Proposals	151
Section 7.4.5 – Basic Requirements of the Invitation to Request for Proposals or Request for Sealed Proposals	152
Section 7.4.6 – Content of the Request for Proposals or Request for Sealed Proposals Packet	154
Section 7.4.7 – Amendments to the Request for Proposals or Request for Sealed Proposals Packet	157
Section 7.4.8 – Challenge of the Invitation to Request for Proposals or Request for Sealed Proposals; Challenge of the Request for Proposals or Request for Sealed Proposals Packet	159
Section 7.4.9 – Pre-proposal Meetings	159
Section 7.4.10 - Request For Clarification	159
Section 7.4.11 – Delivery or Presentation of Proposals	160
Section 7.4.12 – Modifications to the Submitted Proposal	161
Section 7.4.13 – Withdrawal of the Submitted Proposal	161
Section 7.4.14 – Recording of the Received Proposals	161
Section 7.4.15 – Opening of Proposals	162
Section 7.4.16 – Preliminary Evaluation of Proposals	163
Section 7.4.17 – Receipt or Selection of Only One Proposal	163
Section 7.4.18 – Meetings with Proponents Whose Offers or Proposals are within the Established Margins of Selection	164
Section 7.4.19 – Cancellation of the Request for Proposals or Request for Sealed Proposals packet	166
Section 7.4.20 – Award	166
Section 7.4.21 – Award Notice	167
Section 7.4.22 – Administrative Review	167
Section 7.4.23 – Notice of Filing of Administrative Review	168
Section 7.4.24 – General Provision	168
Section 7.4.25 – Master Contracts	169
Article 7.5 – Request for Information (RFI)	169
Section 7.5.1 – Definition	169
Section 7.5.2 – Purpose	169
Section 7.5.3 – Procedure	170
Article 7.6 – Request for Qualifications	170
Section 7.6.1 - Definition	170
Section 7.6.2 – Invitation to Request for Qualifications or Notice of Qualifications	171
Section 7.6.3 – Content of the Invitation to Request for Qualifications or Notice of Qualifications	171
Section 7.6.4 - Content of the Statement of Qualifications	172
Section 7.6.5 – Prequalification of Suppliers; First Phase	173

Section 7.6.6 – Interviews with Potential Proponents.....	173
Section 7.6.7 – Notice of Determination on Qualifications.....	174
Section 7.6.8 – Submission of the Packet and Filing of Proposals, Second Phase	174
Article 7.7 – Live Auction.....	175
Section 7.7.1 - Definition.....	175
Section 7.7.2 – Sale of Assigned Assets and/or Property Declared as Surplus to Entities of the Executive Branch and Public Corporations; Prerequisite to the Holding of the Live Auction.....	175
Section 7.7.3 – Convocation or Invitation to Live Auction.....	175
Section 7.7.4 – General Provisions regarding the Sale; Content of the Packet	176
Section 7.7.5 – Exclusive Criterion of Award	177
Section 7.7.6 – Live Auction Record.....	177
Section 7.7.7 – Award Letter	177
Chapter 8. Other Means of Acquisition.....	177
Article 8.1 - Donation.....	177
Section 8.1.1 - Definition.....	177
Section 8.1.2 – Donations Received in favor of the Administration	178
Article 8.2 – Trade-in or Exchange.....	180
Section 8.2.1 – Definition	180
Section 8.2.2 – Trade-in or Exchange Procedure.....	180
Article 8.3 - Leasing.....	182
Section 8.3.1 - Definition.....	182
Section 8.3.2 - Procedure; General Provisions.....	182
Section 8.3.3 – Rental of Motor Vehicles	183
Section 8.3.4 – Leasing of Nonprofessional Services.....	183
Section 8.3.5 – Leasing of Real Estate.....	184
Article 8.4 - Transfers.....	184
Article 8.5 – Installment Purchase.....	185
Section 8.5.1 - Definition.....	185
Section 8.5.2 – Installment Purchase; When It Is Appropriate.....	185
Chapter 9 – Bonds.....	186
Article 9.1 – Bonds.....	186
Section 9.1.1 – Bonds; When to Post.....	186
Section 9.1.2 – Forms of Posting	186
Section 9.1.3 – Types of Bonds	186
Section 9.1.4 – Bond Forfeiture due to Default	188
Chapter 10 – Rules regarding Purchases.....	189
Article 10.1 - Purchase; Definition.....	189
Article 10.2 – General Responsibilities of the Purchasing Office.....	189
Section 10.2.1 – General Responsibilities of the Purchasing Office of the Petitioning Entity.....	189

Section 10.2.2 – General Responsibilities of the Purchasing Office of the Administration	190
Section 10.2.3 – Direct Purchase by Contract.....	192
Section 10.2.4 – Sending of Purchase Orders to the Puerto Rico Innovation & Technology Service (“PRITS”).....	192
Article 10.3 – Request to Acquire Goods, Works, or Services	193
Section 10.3.1 – Content of the Request to Acquire Goods, Works, or Services ..	193
Section 10.3.2 – Return of the Request to the Petitioning Entity	195
Article 10.4 – Preliminary Evaluation of the Request for the Acquisition of Goods, Works, or Nonprofessional Services	196
Article 10.5 – Bid or Proposal packet; General Conditions	196
Section 10.5.1 - Packets; Definition.....	196
Section 10.5.2 – Preparation of Packets.....	197
Section 10.5.3 – Compulsory General Conditions to Be Included in All Purchase, Bid, or Request for Proposal Packets, according to Their Subject Matter	197
Chapter 11 – Fiscal Interventions.....	206
Article 11.1 – Review and Inspection of Original Bid and Proposal Records and Documents.....	206
Article 11.2 – Term of Retention of Original Bid and Proposal Packets	207
Chapter 12 - Delegations.....	207
Article 12.1 – Delegations to Government Entities.....	207
Chapter 13 – Transitory Provisions.....	208
Article 13.1 – Continuity of Duties of the Members of the Bid Board.	208
Chapter 14 – Final Provisions	208
Article 14.1 – Severability Clause.....	208
Article 14.2 - Repeal.....	208
Article 14.3 - Validity.....	209

CHAPTER 1 – INTRODUCTION

ARTICLE 1.1 – TITLE

This Regulation shall be known as the “*Uniform Regulation for Purchases and Bids of Goods, Works, and Nonprofessional Services of the General Services Administration of the Government of Puerto Rico.*”

ARTICLE 1.2 – LEGAL BASIS

The General Services Administration adopts this Regulation by virtue of the authority vested in it by Article 25 of Law 73 of July 23, 2019, as amended, known as the “2019 General Services Administration Act for the Centralization of the Purchases of the Government of Puerto Rico,” as well as the provisions contained in Law 38 of June 30, 2017, as amended, known as the “Government of Puerto Rico Uniform Administrative Procedure Act.”

ARTICLE 1.3 – PURPOSE

This Regulation is adopted with the purpose of establishing the rules and procedures to be followed by the General Services Administration for processing all purchases and bids of goods, works, and nonprofessional services. Also, to establish the principles and general rules to guarantee the best utilization of public funds with the aim of promoting healthy competition in order to attain more competitive prices and the best value to acquire better quality goods, works, and services, within a framework or transparency that seeks to stimulate economic development.

ARTICLE 1. 4. JURISDICTION AND SCOPE

Government Entities

Government Entities shall perform all their processes regarding the purchasing and bidding on goods, works, and other nonprofessional services through the Administration. The provisions of this Regulation shall apply to all procedures of purchases and bids of goods, works and nonprofessional services carried out by the Administration.

The Government Entities are: all divisions and departments of the Executive Branch, as well as all the public corporations of the Government of Puerto Rico, with the exception of the Exempt Entities.

Exempt Entities

The Exempt Entities shall not be obligated to perform their processes of purchasing and bidding on goods, works, and other nonprofessional services through the Administration.

The Exempt Entities are: The Office of Government Ethics, Office of the Inspector General of Puerto Rico, University of Puerto Rico, State Elections Commission, Fiscal Agency and Financial Advisory Authority, Government Development Bank for Puerto Rico, Puerto Rico Public-Private Partnerships Authority, Puerto Rico Infrastructure Financing Authority, Aqueduct and Sewer Authority, Electric Power Authority, Highway and Transportation Authority, the Public Corporation for the Oversight of Cooperatives of Puerto Rico, programs and facilities of the Puerto Rico Medical Services Administration (ASEM, for its Spanish acronym), the Medical Center, the Cardiovascular Hospital, the Industrial Hospital, and regional and intermediate clinics, the State Insurance Fund Corporation, the Metropolitan Bus Authority, and the Public Building Authority.

All the Exempt Entities shall adopt their respective regulations on the purchasing and bidding on goods, works, and nonprofessional services, which must include the bidding and exceptional purchase methods provided herein. Said regulations must be reviewed by the Administration, which shall moreover certify (prior to their publication) that they comply with the foregoing.

All the Exempt Entities must accept the categories previously tendered by the Administration and the agreements executed by it.

The Administrator shall designate personnel that shall serve as a liaison between the Exempt Entities to assist him or her with the processing of purchases and bids.

The Exempt Entities shall submit a report to the Administrator, within the first ten (10) days of each month, including the details of all the purchases and bids for goods, works, and nonprofessional services carried out during the previous month. Said report must include: the good or service acquired, the bidding or exceptional purchasing method carried out, the supplier selected and/or the successful bidder, the total amount of the transaction, and a certification, signed by the corresponding nominating authority, establishing that the processes detailed therein were processed pursuant to the corresponding regulatory and legal provisions.

Personnel of the Office of Special Investigations of the Administration shall perform quarterly audits of the Exempt Entities, by way of which it shall verify that the processes for purchasing and bidding on goods, works, and nonprofessional services were carried out pursuant to that established in their respective regulations. The Office of Special Investigations shall issue a report to the Administrator, in which it shall detail the findings of the audit performed within the term of thirty (30) days of the end of the audited quarter. Moreover, it shall send a copy of the report to the nominating authority of the corresponding Exempt Entity, who shall implement, if required, a corrective action plan remedying the deficiencies, if any, identified by the Office of Special

Investigations. The corrective action plan must be implemented by the Exempt Entity, within the term of fifteen (15) days of the notice of the report. The Administrator may issue an administrative fine for a minimum of one thousand dollars (\$1,000.00) and a maximum of five thousand dollars (\$5,000.00) to any Exempt Entity that fails to implement the corrective action plan within the term provided herein.

The Legislative Assembly, the Municipalities, and the Judicial Branch

The Legislative Assembly, the municipalities and the Judicial Branch shall not be bound to carry out their procedures of purchases of and bids on goods, works, and nonprofessional services pursuant to this Regulation, nor through the General Services Administration. Nevertheless, they may voluntarily carry out their processes for purchasing and bidding on goods, works, and nonprofessional services through the Administration.

In the event that they are interested in doing so, upon having identified the need for the good, work, or nonprofessional service, the Legislative Assembly, the municipalities, or the Judicial Branch must notify the Administration, in writing, their intention to carry out the specific process(es) for purchases and bids through it. Once notified, the Administration shall in turn notify the Legislative Assembly, the municipalities, or the Judicial Branch, the documents, information, or any other necessary requirement to process the acquisition. Once they have been completed by the concerned entity, the Administration shall perform the applicable procedure, pursuant to this Regulation.

If the Legislative Assembly, the municipalities, or the Judicial Branch initiate a purchase procedure pursuant to their internal regulation, they must complete it pursuant to said regulation. Hybrid purchase procedures between ASG and the Legislative Assembly, the municipalities, and/or Judicial Branch shall not be permitted, so as to preserve the integrity of the process.

Public-Private Partnerships

Those public departments, agencies, offices and instrumentalities belonging to the Executive Branch of the Government of Puerto Rico that participate in an Alliance contract, as defined in Law No. 29 of June 8, 2009, known as the “Public Private Alliances Act”, shall be exempt from the applicability of the provisions herein, only as to the matters integrated in the Alliance Contract in question; if the agreement executed between the selected Proponent and the Participating Government Entity to establish a Partnership provides that the acquisition processes of the Partnership shall be processed pursuant to the government purchasing procedure provided in this Regulation or in the regulations of the corresponding Exempt Entity, as the case may be, shall be observed. The Office of Special Investigations of the Administration shall audit the Partnership agreements within the term of ninety (90) days of the effectiveness of this Regulation or from their execution, as applicable, to identify the Partnerships that shall govern their acquisition processes according to the government purchasing procedure. The contracting parties in said Partnerships shall be audited quarterly by the Office of Special Investigations of the Administration, which shall verify that the processes for purchasing and bidding on goods, works, and nonprofessional services were carried out pursuant to the corresponding regulation.

The Office of Special Investigations shall issue a report to the Administrator, in which it shall detail the findings of the audit performed within the term of thirty (30) days of the end of the audited quarter. Moreover, it shall send a copy of the report to the Contracting Party, to the Participating Government Entity in the Partnership Agreement, and to the Public-Private Partnership Authority (P3A). The Contracting Party shall implement, if required, a corrective action plan remedying the deficiencies, if any, identified by the Office of Special Investigations. The corrective action plan must be implemented by the Contracting Party, within the term of fifteen

(15) days of the notice of the report. The Participating Government Entity and the P3A must ensure that the Contracting Party complies with the corrective action plan. The Administrator may issue an administrative fine for a minimum of one thousand dollars (\$1,000.00) and a maximum of five thousand dollars (\$5,000.00) to any Contracting Party that fails to implement the corrective action plan within the term provided herein.

Private Operators with Whom the Government Has Executed an Operation and Maintenance Agreement (not constituting a Partnership Agreement)

The private operators with whom the government has executed an Operation and Maintenance Agreement (not constituting a Partnership Agreement) shall not be obligated to perform their acquisitions through the Administration. Nevertheless, said private operators may voluntarily perform their acquisitions through the Administration.

In the event that they are interested in doing so, upon having identified the need for the good, work, or nonprofessional service, the private operator(s) must notify the Administration in writing of its/their intent to carry out the specific purchasing and bidding process(es) through it. Once notified, the Administration shall in turn notify the private operator(s) of the documents, information, or any other necessary requirement to process the acquisition. Once they have been completed by the private operator(s), the Administration shall carry out the applicable procedure, pursuant to this Regulation.

If the private operator(s) initiate(s) a purchase procedure pursuant to its/their own internal regulation, it/they must complete it pursuant to said regulation.

Hybrid purchasing procedures between ASG and the private operators shall not be permitted, so as to preserve the integrity of the process.

Puerto Rico Recovery and Reconstruction Purchases

All Puerto Rico recovery and reconstruction purchases shall be performed through the General Services Administration, pursuant to this Regulation. In those circumstances in which federal law or regulations require procedure other than that established herein to process said purchases, said procedure shall prevail.

Any Puerto Rico recovery and reconstruction purchase processed pursuant to a procedure other than that established in this Regulation must include in its record, a document detailing the procedure performed and the legal, regulatory, or contractual provision establishing and authorizing processing pursuant to said procedure.

Scope; In General

The provisions contained herein shall be applicable to every employee or officer of the Government of Puerto Rico; to every individual person that directly or indirectly intervenes in the process of purchases and bids of goods, works and nonprofessional services of the General Services Administration of the Government of Puerto Rico and to every employee or official of the Legislative Assembly, the municipalities, and the Judicial Branch that intervenes in any way in the processing of the procedures considered in this Regulation.

Scope; Source of Funds

The provisions of this Regulation shall regulate the procedures of purchases and bids of goods, works and nonprofessional services, regardless of the source of funds for the purchase (state or federal). In those circumstances in which federal law or regulation (including guides, procedures or agreements executed by or with the federal government or its entities) requires a procedure other

than the one established herein, such procedure shall prevail over the one provided herein. If that were the case, the Administration shall issue a written statement to the Bid Board or Review Board, as the case may be, in which it shall detail the federal laws and regulations applicable for the corresponding purchase.

Any purchase or bid processed pursuant to a procedure other than that established in this Regulation must include in its record a document detailing the procedure performed and the legal, regulatory, or contractual provision establishing and authorizing processing the acquisition pursuant to said procedure.

Scope; Construction Projects

In the construction projects, the provisions of Law No. 218 of December 21, 2010, known as the “Act for Uniform Documents for Contracting of Programming, Management, Design, Inspection and Construction of Public Works in Puerto Rico” or “Uniform Contracting Act”, shall prevail in that pertaining to this matter. Also, the provisions of the Puerto Rico Construction Code shall be observed.

ARTICLE 1.5. - INTERPRETATION

The provisions of this Regulation shall be interpreted jointly with the provisions of Law No. 73 of 2019, as amended, as well as any other law, regulation, executive order and other rules that is adopted pursuant to said statute.

ARTICLE 1.6. - DEFINITIONS

The words and phrases used in this regulation shall be construed according to the context and meaning established by common and ordinary usage; those used in the present tense also include

the future; those used in the masculine gender include the feminine and neutral, except in such cases where the construction makes it absurd. The singular includes the plural and the plural includes the singular.

1. **Award** – Act of evaluating the offers or proposals received in response to a bid packet or a request for proposal in order to award the bid to the bidder that best meets the criteria, specifications, conditions and terms established, in other words, the bidder that offers the best value.
2. **Administration** – Means the General Services Administration of the Government of Puerto Rico.
3. **Administrator** – Means the Administrator of the General Services Administration of the Government of Puerto Rico.
4. **Assistant Administrator of the Purchase Area** – Means the Assistant Administrator of Purchases of ASG.
5. **Purchase** – It is the act of obtaining some good or service through a transaction.
6. **Petitioning entity or Requesting Entity** – Every agency or entity of the Government that submits the corresponding request or requisition to the ASG for the purchase process.
7. **Bid Opening** – Act in which the envelopes or e-mails with offers or proposals of the bidders or proponents of a bid are opened.
8. **Goods** – Includes movable, supplemental, substitute, chattel, capital assets or everything that is susceptible of moving by itself or through another force and that is fungible or not,

such as, but not limited to the following: food, office materials and equipment, construction material and equipment, land or air means of transportation, land or maritime area, school materials, medical and scientific equipment, equipment, machinery and materials related to the processing of information through electronic means, the pieces, accessories and materials necessary for their maintenance and repair, as well as all those elements necessary for the operation of the Government of Puerto Rico

9. **Certificate of Eligibility or Sole Certificate** – Certificate issued by the General Services Administration of Puerto Rico, certifying the compliance on the part of a supplier or provider, bidder or proponent with the requirements that are required by regulation to belong to the Unique Bidder Registry or Sole Registry of Professional Services Providers.

10. **Bids or Proposals Evaluating Committee** – committee constituted by the Administrator for each bidding process in particular, which principal function shall be evaluating the compliance, on the part of the bidders or proponents, of the bidding requirements established for each bid or proposal in particular. The Bids or Proposals Evaluating Committee shall assist the Auxiliary Administration of Acquisitions or the Bid Board in the evaluation of any bid or proposal. The Bids or Proposals Evaluating Committee shall moreover evaluate the statements of qualifications submitted by the potential proponents in Request for Qualifications or Notice of Qualifications processes. The Bids or Proposals Evaluating Committee must include among its members the Acquisitions and Bids Specialist assigned to the process in particular, personnel of the petitioning entities with the expertise and necessary knowledge in the purchase process, among others. In the event of evaluation of specialized assets or services, the Committee may include personnel of the

public or private industry in question, with specialized technical knowledge for the evaluation of technical, complex, and/or specialized elements.

11. **Purchase** – Total sum of similar grouped needs, whether goods, works or nonprofessional services that must be acquired in one same transaction or moment for having one same purpose, common suppliers or because it is convenient to public interest. The term “purchase” shall be used indistinctly with the term “acquisition”.

12. **Purchaser** – Any employee authorized by the Administrator to acquire goods, works, and nonprofessional services; employee of the Administration that the Administrator empowers to make purchases. All purchasers must take six (6) credits per year in continuing education courses on purchasing processes, use of information technology systems, amendments to the current regulations, and the proper process for the use of public funds in the acquisition of goods and services for the entire Government.

13. **Exceptional Purchase** – Every purchase that is exempt from the formal or informal bid, request for proposal or request for qualifications procedure.

14. **Conflict of Interest** – Any situation that arises or may arise as a result of a transaction or event in which a person, whether or not an employee (including contractors) or officer of the Government of Puerto Rico, obtains or may obtain, directly or indirectly, any benefit, use, advantage, profit or income for reason of their actions or improper exercise of their influence or position.

15. **Contractor** – A seller, supplier, bidder or proponent, as the case may be, that a purchase or service order is awarded to, or that signs a contract with the Administration. Also, the professionals that maintain a services contract with the Government of Puerto Rico to provide counseling or assistance of any kind in the purchases or bid of assets processes carried out by the Administration are considered contractors.
16. **Contract** – Written pact or agreement between the Administration and the contractor, who shall be the bidder that is selected in a bid or proposal procedure, in which the terms under which the bidder shall provide the assets and/or services shall be established.
17. **Quotation** - Offer of prices and conditions, submitted in writing, on an asset, work or nonprofessional service, with the bidder responding to a request on the part of the Auxiliary Administration of Acquisitions. Such request can be made on the phone, by e-mail or any other means of communication available, nevertheless, the successful bidder, in the event of having made an offer by telephone, must submit their offer in writing.
18. **Evaluation Criteria** – Criteria listed in the bid or request for proposals packet that are used by the Auxiliary Administration of Purchases or Bid Board to evaluate, classify and recommend offers or proposals for their awarding. It also includes the criteria listed in a request for qualifications to be evaluated by the Bids or Proposals Evaluation Committee to recommend the qualification of a potential proponent.

19. **Statement of Qualifications** – Document in response to a request for qualifications or a notice of qualifications in which the potential proponent states their capacity to provide certain goods or perform certain services.
20. **Delegate Purchaser** – Government employee appointed as such by the ASG Administrator, who shall have in his charge the duty of purchasing in each agency or government entity.
21. **Moral Deprivation** – Consists of doing something against the law, honor, or good principles.
22. **Disqualification** – Act by which the Auxiliary Administrator of Acquisitions or the Bid Board excludes a supplier, bidder or proponent of the informal purchase process, bid or proposal, because the supplier, bidder or proponent does not meet all the conditions, terms or specifications required in the corresponding packet: Elimination of a supplier, bidder, or proponent in any purchasing process due to engaging in any practice prohibited by law or regulation, including, but not limited to: any prohibition contained in Law 2 of January 4, 2018, *Anticorruption Code for the New Puerto Rico*; when false or fraudulent information or documents that contain false or fraudulent information have been provided to the Administration or any entity of the Government of Puerto Rico, when any provision of any administrative rule adopted by the Administrator has been violated, among others.

23. **Determination on Qualifications** – shall state the determination of the Bid Board regarding which potential proponents were qualified and which were not, as a result of a Request for Qualifications or Notice of Qualifications process.
24. **Days** – Means calendar days, unless otherwise provided in this regulation.
25. **Amendment** – Every document posted prior to an award, that has but is not limited to additional explanations, changes or modifications to the bids or request for proposals posted or to their specification documents, which has been previously approved by the Auxiliary Administrator of Acquisitions.
26. **Specifications Technical Team** – Group of employees or officers of the Government constituted by the Administrator that prepare or review the specifications of all the goods, works and nonprofessional services that shall be acquired. In any acquisition of assets or services, the Administration may integrate to that team a member of the public or private industry in question, to collaborate in the drafting of the specifications.
27. **Specialist in Purchases and Bids** – Any person authorized by the Administrator to buy on behalf of the Administration and/or the Government of Puerto Rico, who has been appointed Purchases and Bids Specialist.
28. **Specifications** – Group of essential characteristics of goods, works or nonprofessional services, used as a reference for each level of quotation, bid or proposal: physical, functional, aesthetic or required quality characteristics, that the goods, works and nonprofessional services are described with.

29. **Performance Bond** – Monetary guarantee required from a bidder or proponent to ensure compliance with an obligation contracted. It must be submitted in accordance with this Regulation or as provided in the bid packet or request for proposals and/or request for sealed proposals, according to the purchasing process.
30. **Bid Bond** – Means the provisional backing that the bidder or proponent has to submit with the objective of guaranteeing that the bidder or proponent shall sustain their offer during the whole bid procedure. It must be submitted in accordance with this Regulation or the bid packet or request for proposals or request for sealed proposals, according to the purchasing process.
31. **Payment Bond** – This bond guarantees that the persons that have provided labor services or that have provided materials to the contractor that implements a public work shall receive the unpaid sums that such contractor owes them, for the labor or materials provided in implementing the work object of the contract. It must be submitted pursuant to the requirements of this Regulation or the bid packet or request for proposals or request for sealed proposals, according to the purchasing process.
32. **Quotation Sheet** – Document by way of which, in an informal purchasing process, a purchaser from the auxiliary administration of acquisitions requests for a supplier duly registered in the RUL to quote or present their offer of prices in consideration of the specifications of the assets or services described therein.
33. **Challenge of the Award** – Request by a bidder or proponent for the Bid Board to review a final decision of the Auxiliary Administration of Acquisitions, Bid Board, or any other

Bid Board of an Exempt Agency, as the case may be, that is unfavorable to the bidder and/or proponent.

34. **Challenge of the Packet** – Request by a bidder or proponent for the Auxiliary Administration of Acquisitions to review the specifications and conditions in the bid packets or proposal convened.

35. **Invitation to Bid** - Document sent to potential bidders or proponents and that shall have the notice of bid or request for proposal, the instructions of how to obtain the packets related to them or the instructions of how to present a bid or offer.

36. **Board of Bids** – Administrative body of study, evaluation and award of formal or sealed proposals, which duties are regulated by this Regulation and its internal regulation; Bid Board of the General Services Administration of the Government of Puerto Rico.

37. **Bid Review Board** – Bid Review Board of the General Services Administration of the Government of Puerto Rico.

38. **Bidder** – Any individual or entity registered in the Unique Bidder Registry (RUL, for its Spanish acronym) of the General Services Administration or that has filed a Petition to Enter to the RUL, that participates or may participate as a bidder in a determined bidding process through the presentation of an offer or proposal.

39. **Successful Bidder** – Bidder that has been awarded a bid or proposal.

40. **Responsive Bidder** – Bidder that has presented an offer or proposal after a bidding process, which meets all the terms, conditions, specifications and special requirements in the Invitation to Bid and its packet.

41. **Best value** – Shall be the offer or proposal that represents the greatest benefit for the Government of Puerto Rico; the offer or proposal of the bidder or proponent that best meets the requirements established in the quotation sheet or the bid or proposal packet and in which it is established that the bidder or proponent offers the best good or service, or that has the capacity of efficiently carrying out the work, upon considering all the criteria, namely: inspection, tests, quality, delivery, suitability for a particular objective, guarantees of the good or service and the terms under which such guarantees would be provided, life cycle of the good to be acquired, discounts, economic impact in terms of creation of jobs and fiscal impact on the government of Puerto Rico. The following elements shall also be considered as part of the best value: the conditions and limitation of the guarantees of parts and services of the product or service offered, as well as the time and place in which such guarantees are honored and executed and the fiscal impact of the product. The criteria that shall affect the price of the offer and that shall be considered in the evaluation for the award shall be objectively measurable, and the discounts, the transportation costs both in its original delivery as to execute its guarantees, and the cost of disposal of the equipment once its shelf life or lifetime ends, among other criteria. The best value shall not necessarily be the offer or proposal that presents the lowest cost or price.

42. **Gross Negligence** – Lack of care; nonobservance of the established rules.

43. **Negotiation-** Process by which two or more parties seek to reach an agreement, each one defending their interests.
44. **Encumber Funds** – Separate and reserve an amount of money from the budget awards that is deemed necessary to cover certain disbursements.
45. **Work** – Any construction, reconstruction, alteration, expansion, improvement, repair, conservation or maintenance work of any structure; Public Work; Construction project.
46. **Offer or Proposal** – Offers or proposals that the bidders or proponents submit as a response to a bid notice or request for proposals. Also, it is the offer presented by a supplier or service provider upon the request for quotation issued by the Auxiliary Administration of Acquisitions as part of an informal purchasing process.
47. **Bidding Officer** – Pursuant to the organizational structure of the Administration, provided in Article 6 of Law 73 of 2019, as amended, this shall be the official that shall head all processes for the purchase of goods, works, or nonprofessional services carried out in the Administration and who shall supervise the personnel of the Auxiliary Administration of Acquisitions. The Bidding Officer shall respond directly to the Administrator and the Principal Purchasing Officer of the Government.

48. **Purchasing Office of the Administration** – Unit responsible for the acquisition of goods, works and nonprofessional services of the Administration and that answers to the Auxiliary Administration of Acquisitions.
49. **Purchase Order or Service** – Official Document that is issued to a supplier to purchase assets or nonprofessional service.
50. **Items** – Enumeration of specifications identified as part of an informal bid, formal bid packet or request for proposals, in which assets of the same or similar nature, or nonprofessional services are required.
51. **Plan** – Graphic representation of a design, that, along with the specifications, allows for the construction of a project.
52. **Bid Packet**– Packet that is provided, by sale or freely, to the bidders or proponents interested in presenting offers or proposals in a bid process, request for proposal or request for sealed proposals. It is composed of the informal bid invitation, formal bid, request for proposals or request for sealed proposals, the specifications of the goods, works or nonprofessional services requested, the terms, the conditions and the instructions of how to present a bid, offer or proposal.
53. **Pre-Bid Meeting or Pre-Proposal Meeting** – Conference prior to the opening of the bid or proposal that is held with the interested providers which objective is to clarify terms, conditions and specification of the goods, works or nonprofessional services that shall be purchased or carried out.

54. **Surplus Property** – Government fixed assets that meet at least one of the following criteria: (i) the fixed government asset does not comply with the purpose for which it was purchased or is not used; (ii) its physical or mechanical condition has deteriorated and its repair is very costly or impossible; or, (iii) developments or technological changes made it obsolete, regardless of when it was acquired.
55. **Provider or Supplier** – Person or entity that supplies the materials, assets or services to the Administration.
56. **Unique Bidder Registry (RUL, for its Spanish acronym)** – The persons or entities qualified by the General Services Administration to contract with the Government upon having met the requirements established by the Administrator of that office.
57. **Sole Registry of Professional Services Providers (RUPSP, for its Spanish acronym)** - Electronic registry that shall contain the names, addresses and all the information required by the Administration of the individuals or entities that are qualified and classified as professional services providers by the General Services Administration to contract with the Government of Puerto Rico, upon complying with the requirements established by the Administrator through regulation and those applicable laws and regulations.
58. **Sole Auctions Registry (RUS, for its Spanish acronym)** - Webpage of the Government of Puerto Rico where all the documents related with the posting, holding and awarding of bids are contained.

59. **Petition for Acquisition of Goods, Works or Nonprofessional Services** – Document used by the petitioning agencies or government entities for the acquisition of an asset, work or nonprofessional service.
60. **Request for Qualifications or Notice of Qualifications** – Announcement posted on the RUS requesting for interested individuals or entities to submit their statement of qualifications to provide certain goods or services.
61. **Deserted Bid** – When no offers or proposals are received after announcing the bid or request for proposal.
62. **Nonprofessional services** – Those services that are not offered by a person or entity with specialized knowledge or skills which are required to have a university degree or license that credits them as specialized professionals.
63. **Professional Services** – Those services that are offered by a person or entity with specialized knowledge or abilities which is required to have a university degree or license that credits them as specialized professionals or which main subject matter of the obligation consists of the product of the intellectual, creative or artistic labor or the management and the experience of highly technical or specialized skills of university level.
64. **Sole source of supply** - The existence of only one (1) supplier or the existence of only one (1) supplier that participates in any purchase process.

CHAPTER 2. – GENERAL SERVICES ADMINISTRATION

ARTICLE 2.1. – CREATION AND COMPOSITION

The General Services Administration was created by virtue of Article 5 of Law No. 73-2019. Pursuant to said statute, the General Services Administration is the body responsible for establishing the public policy related to the purchasing of goods, works, and nonprofessional services for all Government Entities and Exempt Entities, as defined in said law. The Administration shall moreover be responsible for the implementation of the centralization of government purchases.

The organizational structure of the General Services Administration is principally composed of an Administrator, who in turn shall be the Principal Purchasing Officer of the Government of Puerto Rico; a Deputy Administrator, who shall head the Administrative Affairs of the Administration, and a Bidding Officer, who shall oversee the process of purchasing goods, works and nonprofessional services.

The Administrator shall be the Principal Purchasing Officer of the Government of Puerto Rico and shall be appointed by the Governor with the advice and consent of the House of Representatives and the Senate of Puerto Rico. He shall hold the office for a term of ten (10) years. He shall respond directly to the Governor and shall act as his representative in exercising his duties. He must be of legal age and hold at minimum a master's degree; he must possess recognized professional capacity, moral integrity, knowledge and experience in the field of public administration or private enterprise. No person that has held any elective office for the term during which he was elected by the People of Puerto Rico. The Administrator shall earn the same annual salary as a member of the Supreme Court of Puerto Rico.

The Governor, after providing notice and holding a hearing, must declare the office of

Administrator and Principal Purchasing Officer of the Government of Puerto Rico as vacant due to gross negligence in the performance of his duties, omission in fulfillment of duty, or if he is convicted of a felony or misdemeanor implying moral deprivation. The Administrator and Principal Purchasing Officer of the Government of Puerto Rico may be removed from office due to any physical or mental disability that prevents him from performing the duties of his office, with the provision that a removal due to physical or mental disability shall be considered a voluntary resignation for all legal effects and consequences.

The Deputy Administrator and the Bidding Officer shall be appointed by the Administrator and Principal Purchasing Officer of the Government of Puerto Rico, in consultation with the Governor. In order to be appointed, both the Deputy Administrator as well as the Bidding Officer must meet the same requirements established for the Administrator and Principal Purchasing Officer of the Government of Puerto Rico, but they must hold at minimum a bachelor's degree. The salary of the Deputy Administrator and the Bidding Officer shall be established by the Administrator but shall never be able to be greater than his salary.

The Administrator, the Deputy Administrator, the Bidding Officer, and all the personnel that works at the Administration, as well as any personnel that participates in the purchasing process shall be subject to compliance with the provisions of Act 1-2012, as amended, known as the "Organic Act of the Office of Government Ethics of Puerto Rico" or any law that replaces it, as well as the rules and regulations approved by virtue of said law.

ARTICLE 2.2 – POWERS AND DUTIES OF THE ADMINISTRATION

The Administration shall have the following general powers and duties:

1. Create and manage the information systems and necessary tools available in order for the

Government of Puerto Rico to be able to acquire goods, works and nonprofessional services at the greatest value possible;

2. Promote efficiency and savings in the services that the Administration provides to all government entities and the general public;
3. Borrow money and execute those contracts and instruments that are necessary for such;
4. Establish the process through which the goods, works, and nonprofessional services must be performed, purchased, delivered, and distributed; execute related contracts and select the type of contract to be executed;
5. Periodically evaluate the programs and rules to develop procedures and methods that allow for reorienting the management of the Administration, taking into consideration the changing needs in the area of the services and activities that it has been tasked with;
6. Prescribe the policy and method to provide for the maximum utilization of surplus property of government bodies, including the property of the entities of the Executive Branch and public corporations, pursuant to the applicable provisions of law or regulations;
7. With the firm intention of emphasizing transparency in government management, post on the webpage of the Administration, with the advice of the official in charge of the information systems of the Government of Puerto Rico or their representative, all documents related to the processes of posting, holding, and awarding bids for all public works and purchasing through bids for assets and services of all government entities, as well as the municipalities that voluntarily participate in the procedures and/or services established in this Law. Said space on the webpage shall be known as the Unique Bid Registry of the Government of Puerto Rico (RUS, for its Spanish acronym) and shall include, without such being understood as a limitation, the announcements of bidding processes, a description of such, the participating

bidders, the award dates, or cancellation of bidding processes, the successful bidders, the price for which the bid was awarded, and any other information that the Administration deems necessary. Daily, as new opportunities for bidding are announced, notice of such must be provided electronically to each one of the bidders registered in the RUL, and;

8. Establish any necessary method or procedure to comply with the objectives of this law, compliance with which is obligatory for any government entity, exempt entity, and/or municipality.

ARTICLE 2.3 – POWERS AND DUTIES OF THE ADMINISTRATOR

The Administrator may restructure and create offices and departments within the Administration, with the aim of achieving satisfactory performance in accordance with the objectives provided for in Law No. 73-2019, as amended. Likewise, the Administrator shall have the following powers and duties, in addition to those that are granted by any other applicable law:

1. Advise the Governor, government officials, and the Legislative Assembly of Puerto Rico with regard to the public policy that by any corresponding law the Administration has been tasked with implementing;
2. Establish the necessary rules and controls for the use and conservation of the public property under his custody, pursuant to the provisions of law and this regulation;
3. Coordinate the services and programs covered by Law No. 73-2019, as amended;
4. Create the necessary conditions to achieve the greatest opportunities with regard to the cooperative efforts and the comprehensive coordination of the services of the Administration in coordination with all other government bodies of the Government of Puerto Rico;

5. Establish the internal organization of the Administration with the advice of the Office of Management and Budget;
6. Plan, direct, and oversee the functioning of the Administration;
7. Appoint the personnel of the Administration in compliance with the provisions of Law No. 8 of February 4, 2017, as amended, known as the “Government of Puerto Rico Human Resources Administration and Transformation Act” or any law that replaces it, as well as the rules and regulations approved by virtue of such;
8. Delegate to subordinate officials and authorize them to subdelegate to other officials any duty or power that has been granted to him, except the power to appoint personnel and that of regulating;
9. Obtain services through the hiring of technical, professional, or highly specialized personnel, or of another nature, that is necessary to perform the duties of the Administration;
10. Adopt, amend, and repeal this regulation to comply with the provisions of Law No. 73-2019, as amended, and any other applicable law;
11. Establish and charge fees, duties, and other charges for bidding and contract administration services, among other services provided to government entities, exempt entities, and municipalities that request services from the Administration;
12. Impose a fair and reasonable fee, for the services that are provided, including contract administration service fees, among others, to private natural or juridical persons, for the purposes of disposing of financial resources that shall be directed exclusively to defray the costs of implementing processes or advanced technological programs to carry out the operations and duties of the Administration.
13. Take possession of all abandoned and unclaimed movable property on the premises of

government buildings and use, transfer, or in any other way dispose of said property pursuant to the regulations adopted for such purposes and in compliance with the applicable state and federal legislation and regulations;

14. Perform all appropriate or necessary actions to efficiently achieve the objectives provided by the public policy stated in Law No. 73-2019, as amended;
15. Execute contracts and execute all other necessary public instruments for the exercise of his powers;
16. Carry out assignments delegated to him by way of Law No. 70 of September 18, 1992, as amended, known as "Puerto Rico Solid Waste Reduction and Recycling Act," to the extent that they do not contravene the provisions of Law No. 73-2019, as amended;
17. In any form acquire, lease, sublease, sell, purchase, donate, or dispose of the movable or immovable assets that are necessary to comply with Law No. 73-2019, as amended, and with any applicable laws and regulations. The Administrator shall not be able to receive donations for use by his agency from entities that are registered in the RUL, have any personal or pecuniary interest in bids, or that may imply a potential conflict of interest;
18. Represent the Administration in all acts and activities that require such;
19. Adopt an official seal of the Administration, of which judicial knowledge shall be taken;
20. Oversee and ensure that the Administration and the Bid Board do not accept bids that contain prices in excess of the manufacturer suggested retail price;
21. Authorize purchase orders and agreements, upon allocation funds to cover the payment of the goods received, works performed, and nonprofessional services rendered.
22. Cancel purchase orders in protection of the public interest, whenever extraordinary circumstances and proper justification exist; the Administrator shall notify the concerned entity

about the cancellation in writing or electronically.

23. Sanction by way of fine any government entity, exempt entity, employee or public official that without just legal cause breaches, ignores, or undermines the provisions of Law No. 73-2019, as amended, or the provisions of this regulation pursuant to the powers that have been granted to him;
24. Fulfill and safeguard any mandate, guideline, rule, regulation, or law that contains provisions aimed at fostering the development of SMBs; and to perform any other type of activity aimed at complying with Law No. 73-2019, as amended, and this Regulation.

CHAPTER 3 – BID BOARD

ARTICLE 3.1 – CREATION AND COMPOSITION

The Bid Board, affiliated with the Administration, was created pursuant to Article 47 of Law No. 73-2019, as amended. Pursuant to said law, the Bid Board shall have a quasi-judicial nature and shall be authorized to evaluate and award, through a uniform procedure, the bids of the Government of Puerto Rico that are carried out in compliance with the provisions of such Law.

All the members of the Bid Board shall dedicate their whole time to its service.

The members of the Bid Board shall occupy the positions for the following terms: (i) the President for the term of seven (7) years; (ii) two (2) associated members for the term of five (5) years and; two (2) associated members for the term of three (3) years. Upon the term of the first appointments, they may be nominated again. In the event they are not nominated again, the successors shall be recommended pursuant to Law No. 73-2019, as amended, and appointed successively for terms of seven (7) years.

The members of the Bid Board shall maintain their position in the Bid Board until their successor is appointed and the successor begins in their position. Immediately upon a vacancy in the Presidency of the Bid Board, the Governor shall appoint one of the associated members already confirmed, to occupy the Presidency temporarily. When the position of a member of the Bid Board is permanently vacant, and before the expiration of the term of their appointment, the successor shall be appointed to complete the term of the predecessor.

The Governor, after providing notice and holding a hearing, must declare the position of any member Bid Board to be vacant due to physical or mental disability that disqualifies him/her to carry out the duties of the position, gross negligence in carrying out their duties, omission in the carrying out their duties or if convicted of felony or misdemeanor that involves moral depravation.

The members of the Bid Board must be of legal age, residents of Puerto Rico, have knowledge in the area of public administration and government purchases, and must not have been convicted by any judicial or administrative forum in or outside of Puerto Rico. At least two (2) of the members of the Bid Board must be attorneys authorized to practice the profession by the Supreme Court of Puerto Rico. The remaining members of the Bid Board must hold as a minimum requirement a master's degree and have at least five (5) years of professional experience.

The members of the Bid Board shall be subject to compliance with the provisions of Law No. 1 of January 3, 2012, as amended, known as the "Organic Act of the Government Ethics Office of Puerto Rico".

ARTICLE 3.2 – INTERNAL BYLAWS

The Bid Board shall adopt a set of bylaws, the provisions of which are in harmony with this Regulation and which establishes the procedures that are necessary to guide and standardize its internal operation, including the forms that are necessary for its operation. This Regulation shall complement the provisions of the Internal Regulation of the Bid Board.

ARTICLE 3.3 - BUDGET

The Administrator shall manage the funds and resources necessary for the operation of the Bid Board.

ARTICLE 3.4 - SEAL

An official seal of the Bid Board shall be created that shall represent such body in every official document and shall be used to seal the offer documents in the Opening of bids.

ARTICLE 3.5 - HEADQUARTERS

The headquarters of the Bid Board shall be at Minillas Government Center, North Tower, 12th Floor, San Juan, P.R. or in any other place determined by the Administrator. The Administrator shall provide the adequate mechanisms to facilitate the operations of the Bid Board, including the personnel, equipment and space resources.

ARTICLE 3.6 - JURISDICTION

The Bid Board shall have jurisdiction for the award of formal bids and sealed proposals that are made for all the government entities. Also, it shall have jurisdiction to evaluate and preside in any matter that is delegated to it by the Administrator, pursuant to the provisions of this Regulation.

The Bid Board shall not have jurisdiction to preside in any matter related to informal purchases and exceptional purchases.

ARTICLE 3.7 ADDITIONAL MEMBER

Upon request of the Government Entity or any body for which a bid or proposal is carried out, one (1) additional member shall be incorporated to the Bid Board in representation of such body, which shall have an opinion, but not the right to vote. They shall form part of the Bid Board for the time and until the time that the bid or proposal process concerning the body they represent ends.

The Administrator, upon written notice to the President of the Bid Board, may incorporate members of any supervisory and/or oversight entity of the public and fiscal management of the Government of Puerto Rico in the sessions of the Bid Board for the sole purpose of facilitating potential audits on the processes performed by the Bid Board. Said external observers shall not have a voice or vote in the determinations of the Bid Board, no shall they be able to influence the processes that the Bid Board carries out. Any recommendation that these observers see fit to make shall be limited to the improvement of the processes with regard to efficiency, transparency, and compliance with all applicable laws and regulations. The external observers shall present their recommendations solely to the nominating authority of the oversight and/or auditory entity that they represent. Moreover, they must sign a confidentiality agreement in which they pledge not to disclose the information to which they have access as part of the bidding or proposal process.

ARTICLE 3.8 – GENERAL DUTIES OF ALL MEMBERS

The general duties of all the members of the Board are:

1. Attend all the meetings of the Board;

2. Refrain from participating in any matter where a conflict of interest exists or may exist;
3. Actively participate in the evaluation of all matters they are considering contributing their knowledge with the purpose of making the best selection for the benefit of the Government of Puerto Rico.

ARTICLE 3.9 – ADMINISTRATIVE OFFICIALS

The Bid Board shall have one (1) Secretary as an administrative official, among other administrative officials, which shall be appointed by the Administrator. They shall not count for constitution of quorum, nor shall have the right to participate in the deliberations of the Bid Board. They shall also not have the right to vote.

The Administrator may designate an Alternate Secretary that shall have the same functions and duties as the regular Secretary. The Alternate Secretary shall substitute the regular Secretary in their absence or whenever special circumstances exist that require such.

ARTICLE 3.10 – DUTIES OF THE SECRETARY

The duties of the Secretary of the Bid Board shall be the following:

1. In coordination with the President of the Board, the Secretary shall prepare the meeting agenda and calendar of the Bid Board.
2. Convene the meetings of the Bid Board.
3. Certify the existence of quorum at the meetings of the Bid Board.
4. Certify the agreements and awards whenever such are made, as well as any other document of the Bid Board.

5. Take the minutes of the meetings of the Bid Board and keep records of the agreements and awards.
6. Draft the records, agreements, minutes, awards, and reports for the approval of the President of the Bid Board.
7. Provide notice of the decisions on awards and agreements of the Bid Board to the interested parties.
8. Prepare and submit the reports and documents required by the President of the Bid Board.
9. Return all bid bonds to the bidders when a contract or purchase order or service with the successful bidder is signed.
10. Keep a record of all correspondence received and sent by the Bid Board.
11. Answer correspondence of the Bid Board, as instructed.
12. Safeguard the offers for formal bids and sealed proposals received until the Opening.
13. Receive, safeguard, and oversee the proper processing of the records of all formal bids and sealed proposals.
14. Receive and safeguard the statements of qualifications submitted by potential proponents related to a request for qualifications.
15. Safeguard all the information contained in the books, records, files and documents of the Bid Board.
16. Safeguard the seal of the Bid Board.
17. Prepare and submit a monthly report to the Administration on the bidding processes held indicating which were awarded and which were declared deserted, including copies of the rulings. This document shall be signed by the President and the Secretary of the Bid Board.

18. Perform any other duties that are assigned by the President of the Bid Board or by this Regulation.

ARTICLE 3.11 – CONFLICT OF INTERESTS

No member of the Bid Board may award matters in which they have any direct or indirect personal interest or are related to any of the requesting parties within the fourth degree by consanguinity or second degree by marriage. In the event that any conflict of interest arises, the affected member of the Bid Board shall have to recuse him/herself from every bid process. Also, any penalty, fine or sanction established in Law No. 73-2019, as amended, shall be applicable.

ARTICLE 3.12 - SESSIONS

As it is a full-time body, it shall be understood that the Bid Board is continuously in session.

ARTICLE 3.13 - QUORUM

Any three (3) members of the Board shall constitute quorum. For the validity of decisions, the simple majority shall rule. In the event of a tie, the full Bid Board (5 members) shall decide with the technical advice that it deems necessary. If necessary and as an exception, the voting by the members may be carried out electronically.

The members shall not issue explanatory votes, but rather shall solely state their position in favor or against the decision. The vote of each member shall be recorded in the books of records or minutes of the Bid Board, which shall be public documents.

ARTICLE 3.14 – POWERS AND DUTIES OF THE BID BOARD

The Bid Board shall have the following powers and duties:

1. Discussing with the Purchases and Bids Specialist assigned to the particular formal bid, request for sealed proposals, or request for qualifications, the need for the goods, works, or nonprofessional services presented by the requesting entity in its request and ensuring that the specifications included in the Invitation to be posted satisfy and/or meet such needs, upon the approval of the Invitation.
2. Sending, through its Secretary, the invitations for the formal bids and request for sealed proposals and request for qualifications.
3. Evaluating and awarding every purchase or contracting, related to formal bids and sealed proposals, which estimated cost exceeds the amount of one hundred thousand dollars (\$100,000.00);
4. Evaluating the statements of qualifications submitted by the potential proponents according to the evaluation criteria and issuing the corresponding statement of qualifications in Request for Qualifications processes;
5. Not accepting bids that have prices in excess of the manufacturer suggested retail price;
6. Holding meetings or hearings;
7. Evaluating and awarding the matters presented for its consideration, quickly and efficiently, safeguarding the procedural and substantive rights of the parties;
8. Issuing the notices of award of formal bids, sealed proposals and determination of qualifications, as well as any other order, request or ruling in accordance with law in the matters under its consideration;
9. Maintaining a complete record that documents the events occurred in each case;
10. Allowing the bidders to examine the file of the formal bids or sealed proposals that have been duly awarded and providing a copy once the corresponding fee has been paid;

11. Duly observing strict compliance with the provisions in the different preferential laws; and,
12. Any other faculty, task or duty that is assigned or delegated by law or this regulation.

The Bid Board shall not have jurisdiction to preside over any matter related to informal purchases or exceptional purchases.

The duties of the members of the Bid Board shall not be delegable.

ARTICLE 3.15 – POWERS, ROLES, AND DUTIES OF THE PRESIDENT OF THE BOARD OF BIDS

The President of the Bid Board shall have the following powers, tasks, and duties:

1. Representing the Bid Board in all those duties inherent to their position;
2. Convening the sessions or meetings of the Bid Board;
3. Conducting the procedures of the Bid Board;
4. Preparing the Calendar of Sessions for the opening of bids;
5. Identifying the need for specialized technical counseling and requesting the Administrator to appoint the resource that shall provide such counseling including, but not limited to employees or officers of the Government of Puerto Rico;
6. Enforcing the procedure for performing and awarding formal bids or sealed proposals pursuant to the applicable laws and regulations;
7. Supervising the administrative personnel that is appointed by the Administrator;
8. Using the resources available to the Administration, in coordination with the Administrator;

9. Preparing quarterly reports to the Administrator or to the officer that the Administrator delegates it to regarding formal bids or sealed proposals awarded and pending award or any other report requested;
10. Authorizing the reimbursement of reasonable expenses to the personnel under their supervision pursuant to the regulation of the Treasury Department for those purposes and any applicable legal provision, if applicable; and,
11. Adopting an official seal, of which judicial notice shall be taken and which shall serve to authenticate their agreements, orders or rulings.

ARTICLE 3.16 – AWARD NOTICE

Once the Bid Board makes the corresponding award, it shall proceed to notify its final determination by way of Ruling, which shall include determinations of fact and conclusions of law. The Ruling on the Award Notice shall be properly notified by federal certified mail with acknowledgement of receipt or e-mail to all the parties that have the right to challenge that decision, namely all the bidders that participated in the procedure. The award notice (Award Notice) must include: (i) the names of the bidders that participated in the bidding process and a summary of their proposals; (ii) the factors or criteria taken into account to award the bid; (iii) the defects, if any, of the proposals of the losing bidders, and (iv) the availability and the term to seek administrative review and judicial review.

The Bid Board must file a copy of the Ruling in the case file and a record of the notice.

CHAPTER 4 - BID REVIEW BOARD

ARTICLE 4.1 – CREATION AND COMPOSITION

The Bid Review Board, affiliated with the Administration, was created pursuant to Article 55 of Law No. 73-2019. Pursuant to said statute, the Bid Review Board shall have a quasi-judicial nature and shall be authorized to review any challenge of the determinations or awards made by the Auxiliary Administration of the Acquisitions Area, by the Bid Board of the General Services Administration of the Government of Puerto Rico or by the Bid Board of the Exempt Entities. The Review Board shall receive from the Administration and the Administration shall grant the Board, the administrative support necessary for performing its duties. However, the Review Board shall have operational autonomy, shall follow the corresponding procedure established by Law and shall act independently from the Administration and the Bid Board. This Review Board must have the technical, legal and administrative personnel necessary to carry out the corresponding tasks, including the necessary resources to perform its duties. Provided that officers or employees from other agencies or offices may be assigned to supply assistance in the work of the Board.

The Review Board shall be composed by: one (1) President, two (2) associate members and one (1) alternate member. They shall be appointed by the Governor, with the counsel and consent of the Senate. The President of the Review Board must be an attorney duly authorized to exercise the profession by the Supreme Court of Puerto Rico and shall have the position full-time. Also, at least one (1) of the associate members must be a Certified Public Accountant.

The members of the Review Board must have at least five (5) years' experience after having been admitted to practicing their respective professions in Puerto Rico, as applicable.

The members must be of legal age, residents of Puerto Rico and have knowledge in public administration and government purchases. However, employees of the Government Entities, Exempt Entities or municipalities may not be appointed to those positions.

All the members of the Review Board must be appointed by the Governor in the following way: the President for the term of seven (7) years, one (1) associate member for the term of five (5) years, one (1) associate member for the term of three (3) years, and the alternate member for the term of three (3) years. Upon conclusion of the first appointments of each, the successors shall be successively appointed for terms of seven (7) years.

The members shall maintain their position in the Review Board until their successor is appointed and they assume that position. Immediately upon a vacancy in the Presidency of the Review Board, the Governor shall appoint one of the associate members already confirmed to occupy the Presidency temporarily. When there is a vacancy in the position of a member of the Review Board, before the expiration of their appointment the successor shall be appointed to complete the term of the predecessor.

The Governor, after providing notice and holding a hearing, must declare the position of any member of the Review Board to be vacant for physical or mental disability that disqualifies him/her to carry out the duties of the position, gross negligence in the performance of their duties, omission in performing their duties or if they are convicted of felony or misdemeanor that involves moral depravation.

ARTICLE 4.2 – ADMINISTRATIVE OFFICIALS

The President of the Bid Review Board may ask the Administrator to appoint the administrative officials necessary for the effective operation of the Review Board. The President of the Bid

Review Board shall establish, through internal regulation the duties of the administrative officials under their supervision.

ARTICLE 4.3 – CONFLICT OF INTERESTS

No member of the Bid Review Board may adjudicate matters in which they have direct or indirect personal interest or are related to any of the requesting parties of the review, within the fourth degree by consanguinity or second by marriage and if any exists they must recuse him/herself. Also, any penalty, fine or sanction established by law shall be applicable, but not limited to Law No. 1-2012 or any other law that replaces it.

ARTICLE 4.4 – INTERNAL BYLAWS

The Bid Review Board shall adopt a set of bylaws, the provisions of which are in harmony with the provisions herein and which establishes the procedures that are necessary to guide and standardize its internal operation, including the forms that are necessary for its operation. This Regulation shall complement the provisions of the Internal Regulation of the Bid Review Board.

ARTICLE 4.5 - BUDGET

The Administrator shall manage the funds and resources necessary for the operation of the Bid Review Board.

ARTICLE 4.6 - SEAL

A seal of the Bid Review Board which shall represent such body in every official document shall be created.

ARTICLE 4.7 - HEADQUARTERS

The headquarters of the Bid Review Board shall be at Minillas Government Center, North Tower, 12th Floor, San Juan, P.R. or in any other place determined by the Administrator.

ARTICLE 4.8 - JURISDICTION

The Bid Review Board shall have jurisdiction to preside over every challenge of the awarding of any informal bid, formal bid, request for proposal or request for sealed proposal of any government entity or exempt entity.

Moreover, it shall have the jurisdiction to hear any challenge of a determination on qualifications in request for qualifications processes.

The Bid Review Board shall not have jurisdiction to preside in any matter related to informal purchases or exceptional purchases.

ARTICLE 4.9 – POWERS AND DUTIES OF THE BID REVIEW BOARD

The Bid Review Board shall have the following powers and duties:

1. Review and adjudicate, with independent criteria, any challenge to the awards of informal bids held by the Auxiliary Administration of Acquisitions;
2. Review and adjudicate, with independent criteria, any challenge to the awards of formal bids carried out by the Bid Board;
3. Review and adjudicate, with independent criteria, any challenge to the awards of proposals, performed by the Auxiliary Administration of Acquisitions;
4. Review and adjudicate, with independent criteria, any challenge of the award of sealed proposals and determination of qualifications, performed by the Bid Board;

5. If it deems such necessary, it may upon request of a party or *motu proprio*, hold hearings to receive oral arguments;
6. Issue any order, request, reversal, order in aid of jurisdiction or request to stay the proceedings, order of cease and desist, or any determination pursuant to law in the cases before it and that prevents its decisions from becoming moot;
7. Rule on the matters presented to it, quickly and efficiently, safeguarding the procedural and substantive rights of the parties;
8. Evaluate the written statements that the petitioning entities submit to the Administrator and/or the statements submitted by the Administration in those circumstances where the federal law or regulation allows or requires a process other to the one stated herein;
9. Evaluate the certifications and any additional documentation referred to it regarding emergency purchases and submit to the Administrator, a report detailing any purchase that is not within the legal and regulatory parameters for purchases during an emergency, in a period no greater than thirty (30) days after the review of such documentation begins;
10. Examine a representative sample of the purchases carried out during a state of emergency to determine if they were carried out pursuant to the procedures established by law and regulations for such situations and if the assets purchased were really necessary during the emergency and could be legally purchased in accordance with that procedure. Submitting to the Administrator a report detailing any purchase that has not been within the regulatory parameters for purchases during an emergency declared by the Governor, in a period no greater than forty-five (45) days after beginning the review of such purchases;
11. Perform quarterly audits of the exceptional purchases recommended by the Auxiliary Administrator of Acquisitions and approved by the Bidding Officer, to determine whether

said purchases were carried out pursuant to the procedures established by law, regulation, or any other set of rules adopted by the Administrator for such purposes. The President of the Review Board shall send a report to the Administrator, in which he or she shall detail the findings of the audit performed within the term of thirty (30) days from the end of the audited quarter. Moreover, the reports of said audits must be posted by the Administration on its webpage and sent to the corresponding government oversight entities.

12. Submit a report to the Administrator detailing any purchase that has fallen outside the regulatory parameters for purchases during an emergency declared by the Governor in a period of no greater than forty-five (45) days after beginning to examine said purchases;
13. In fulfillment of its reviewing duty imposed by Law or Regulation, any member of the Review Board may issue summonses requiring the appearance of any officer with expertise in the matter being discussed, person, witness, taking of depositions or the presentation of every kind of evidence pursuant to the current legal system, including the delivery of samples or the inspection of products;
14. Maintain a complete file that documents the events occurred in each case;
15. Any member of the Bid Review Board may take oath;
16. Demand, through any of its members, compliance with the summonses that it issued by appearing at any Courtroom of the Court of First Instance and requesting that such Court orders its compliance. The Court of First Instance shall give preference to the process and dispatch of such petition. The Court of First Instance shall have the authority to find any party in contempt, for disobeying such orders. Any person may be processed and condemned for perjury by providing false testimony before the Review Board;

17. Recognize the standing of the Board of Investment in Puerto Rican Industry and the personnel that on its behalf formulates any request made pursuant to Law No. 14-2004, recognize the standing of the Industrials Association, General Contractors Association and the Association of Home Builders and the personnel that on its behalf formulates any request made pursuant to Law No. 42-2018; recognize the standing of United Retailers Association and the personnel that on its behalf formulates any request pursuant to Law No. 129-2005, as amended or any other preferential law in matter of government purchases and bids; and,
18. Any other faculty, task or duty that is assigned to it by law or regulation.

ARTICLE 4.10 – POWERS AND DUTIES OF THE PRESIDENT

The President of the Review Board shall have the following powers and duties:

1. Adopt, amend and repeal the regulations necessary for the internal working and operation of the Review Board, including emergency regulations, pursuant to the provisions of Law No. 73-2019, and Law No. 38-2017, as amended, and any other applicable law;
2. Obtain services, by contract, of technical, professional or highly specialized personnel or any other kind, that is necessary to carry out their duties or those of the Bid Review Board;
3. Authorize the reimbursement of reasonable expenses to the personnel they have under their supervision, if applicable, pursuant to the regulation of the Treasury Department (Hacienda) and any applicable legal provision;
4. Supervise the administrative personnel assigned by the Administrator;
5. Utilize the available resources of the Administration, in coordination with the Administrator;
6. Represent the Bid Review Board in the actions and activities that require it;

7. Adopt an official seal, of which judicial notice shall be taken and which shall serve to authenticate the agreements, orders or rulings; and,
8. Any other faculty or duty that are assigned to him/her by law or by regulation.

ARTICLE 4.11 - QUORUM

The simple majority of the members of the Bid Review Board shall constitute quorum for the holding of sessions. All the agreements of the Bid Review Board shall be adopted by majority of votes. If necessary and as an exception, the voting of the members may be performed through electronic means. The members shall not issue explanatory votes, but shall only state their position in favor or against the decision. The vote of each member shall be included in the books of records or minutes of the Review Board, which shall be public documents.

CHAPTER 5 – REVIEW PROCEDURES BY THE BID REVIEW BOARD

ARTICLE 5.1 – APPLICABILITY

The procedures of Administrative Review evaluated by the Bid Review Board shall be governed by the parameters established in Law No. 73-201, as amended, Law No. 38-2017, as amended, as well as in this Regulation.

ARTICLE 5.2 – TERM FOR REVIEW

The party adversely affected by a decision of the Auxiliary Administration of Acquisitions, of the Bid Board or any Bid Board of Exempt Entity, within the term of twenty (20) days of the provision of notice of the bid or proposal award, may file a review petition before the Bid Review Board of the General Services Administration.

If the date of the filing of the copy of the final determination of award notice is different from that of its mailing by federal mail, the term shall be calculated from the date of its mailing by federal mail.

Once the administrative review is filed, the Auxiliary Administration of Acquisitions, the Bid Board of the Administration or the Bid Board of the corresponding Exempt Entity shall produce a certified copy of the case record to the Bids Reviewing Board of the Administration, within three (3) days of filing the appeal.

ARTICLE 5.3 – NOTICE OF REVIEW

The petitioning party shall notify a copy of the request for administrative review to the corresponding Administration and the Bid Board; simultaneously they shall also notify the provider that was awarded the bid. This requirement is jurisdictional in nature. In the review packet itself the petitioning party shall certify their compliance with this requirement to the Review Board. The notice must be made by certified mail with acknowledgement of receipt and by e-mail. The appellant must moreover notify all the bidders that participated in the bidding process. In the case of an Informal Bid or Request for Proposals, the appellant must notify the Auxiliary Administration of Acquisitions.

If so requested by the adversely affected party, the Auxiliary Administration of Acquisitions or the Bid Board, as the case may be, shall correspondingly provide the appellant with the mailing and e-mail addresses that the participating providers have reported during the challenged bidding process.

ARTICLE 5.4 – CONTENT OF THE REQUEST FOR REVIEW

The request for review of the awarding of the bid or proposal must contain:

1. Information on the parties and their attorneys, if they have legal representation.
2. Reference to the award notice whose review is being requested. A copy of this must be included including the envelope with evidence of the postmark date, if it is a different date from the filing date of the notice.
3. An accurate and concise narration of the pertinent facts and procedural events.
4. A detailed discussion of the reasons for which the award is being challenged. The appellant must list and clearly establish each one of the items of the award notice that are being challenged, and a discussion of the reasons for the challenge.
5. Any and all documentation pertaining to the awarding of the bid, which at minimum must include:
 - a. Challenged award notice
 - b. Appellant's proposal
 - c. Determination on Qualifications (if applicable)

ARTICLE 5.5 – ADMINISTRATIVE REVIEW PROCEDURE

The Bid Review Board must consider the Administrative Review, within the thirty (30) days of it being filed. The Bid Review Board may extend such term only once, for an additional term of fifteen (15) calendar days. If the Bid Review Board decides to extend the term, it must notify it to the parties, prior to the due date of the original term of thirty (30) days. If not, it shall be understood for all legal purposes that the original term was not extended.

The Bid Review Board, within the term of ten (10) days of having notified the review petition to the parties, may summon the parties to an evidentiary hearing in which it may receive additional evidence, be it documental or physical, that allows it to make a decision regarding the review it is evaluating. Also, the Bid Review Board may receive witness evidence, it may receive and request evaluations of samples of the products in question and may perform an independent and proper analysis of the facts, technical aspects and other matters contained in the bid file or request in question. Also, it may independently and autonomously review the determinations of the Auxiliary Administration of Acquisitions or of the Bid Board from which the review petition is originated, with them being reviewable in all aspects.

If any decision is made in its evaluation, the term to file the Judicial Review petition shall be computed from the date on which a copy of the Ruling of the Bid Review Board deciding the appeal was notified by federal certified mail with acknowledgement of receipt or e-mail.

The Bid Review Board must file in the case file a copy of the Ruling and of the evidence of notification.

If the Bid Review Board does not take any action regarding the review petition within the appropriate term, it shall be understood that it has been automatically rejected, and the term for judicial review shall be computed from that date.

The Court of Appeals shall be the forum with jurisdiction to review, through Judicial Review, the administrative findings provided above.

ARTICLE 5.6 – NOTICE OF RULING

Once a matter is adjudicated before the Bid Review Board, it shall proceed to notify its final determination by Ruling. Such Ruling must be notified by federal certified mail with

acknowledgement of receipt or e-mail to all the interested parties: to the Auxiliary Administration of Acquisitions or the Bid Board, concerned, as the case may be, to the appellant bidder and their attorney, should they have one, and to all the bidders that participated in the process. Such Ruling shall expose the grounds and reasons that support such decision. Also, such Ruling shall advise about the right to file a Judicial Review.

ARTICLE 5.7 – TERM FOR APPEALING BY WAY OF JUDICIAL REVIEW

Pursuant to Section 4.2 of Law No. 38-2017, the party adversely affected by the decision of the Review Board may file a review petition with the Court of Appeals within the term of twenty (20) days, counted from the filing of the copy of the notice of the final order or ruling of the Bid Review Board. The mere filing of a request for review shall not have the effect of placing a stay on the awarding of the challenged bid.

CHAPTER 6 – EXCEPTIONAL PURCHASES

ARTICLE 6.1 - DEFINITION

All the purchases that are exempt from being processed through the informal purchase procedure, informal bid, formal bid, request for proposals or request for qualifications (bidding methods) shall be considered exceptional purchases. Particularly those purchases that are processed by ignoring the ordinary purchasing process, or rather the bidding methods provided herein, shall be considered exceptional purchases, due to the **exclusive** presence of the circumstances described in Article 6.3 of this Regulation. They shall be considered exceptional purchases given that, due to their nature, should they be processed through the ordinary process, they would not meet the objective of satisfying the need identified with the urgency that the stated situation demands; or due to the fact

that administrative processing is made unnecessary due to the circumstances surrounding the acquisition, among other circumstances.

ARTICLE 6.2 – EVALUATION OF EXCEPTIONAL PURCHASES

Every exceptional purchase must be recommended in writing by the Auxiliary Administrator of Acquisitions and authorized by the Bidding Officer. Neither the Auxiliary Administrator of Acquisitions nor the Bidding Officer shall be able to recommend or authorize, as exceptional purchases, those that involve circumstances different from or additional to those described in Art. 6.3 of this Regulation.

Both the Auxiliary Administrator of Acquisitions as well as the Bidding Officer shall ensure by any means (inspection, request for documents, photographs and videos, certifications, among others), prior to issuing their recommendation and approval of each exceptional purchase, respectively, that the exceptional circumstances stated by the requesting agency exist and that it is not a case of subterfuge to avoid the ordinary acquisition process.

The Auxiliary Administrator of Acquisitions and the Bidding Officer shall certify, under their signature, the means by which they corroborated the existence of the exceptional circumstances stated by the requesting entity in its request.

The Bidding Officer may deny the processing of any request for exceptional purchase, upon understanding that the circumstances stated in the request have been caused by the administrative negligence of the requesting entity, by not having filed the request for goods, works, and nonprofessional services with the Administration in a timely manner. Said denial shall be duly founded and must be notified to the Nominating Authority of the requesting entity for the corresponding processing.

ARTICLE 6.3 – EXCEPTIONAL PURCHASES; WHEN THEY CAN BE MADE

Exceptional Purchases may be authorized:

1. When the minimum prices are fixed by law or competent government authority; when the price or the price range to sell a product is previously established by law or competent government authority. All government acquisitions must adhere to the previously established price or price range. The Administration shall take official notice of the related legal provisions.
2. When the purchase is made to the Government of the United States of America, any of its states, or through their agencies and offices or departments, quasi-public corporations, their subsidiaries and affiliates or any government entity of the Government of Puerto Rico;
3. When a supplier that has a contract with the General Services Administration is used. It shall be observed that the market conditions have not varied with regard to the prices of the goods, works, or nonprofessional services to be acquired and that the terms of the previously executed agreement represent an advantage for the Government of Puerto Rico;
4. When there is one sole source of supply and that is certified by a manufacturer's certification that the company in Puerto Rico is the exclusive representative of the good.
 - a. When there is only one (1) bidder registered in the RUL or when there are several bidders registered, but there is only one (1) vendor willing to quote, the Purchasing Office of the Auxiliary Administration of Acquisitions shall perform the necessary steps to identify the suppliers or vendors not registered in this RUL that provide the necessary good or service and that meet all the requirements demanded of bidders by the Government. The Purchases and Bids Specialist assigned to the processing of the purchase shall request from them (registered bidder and unregistered suppliers and vendors) a minimum of three (3) quotes and shall select the bidder, supplier, or vendor

that offers the best value. The same procedure shall be followed in the event of identifying only two (2) suppliers or vendors. The Purchases and Bids Specialist assigned to the purchase shall certify, under their signature, the presence of the corresponding circumstances.

- b. With the exception of that provided in the preceding subsection, the exceptional purchase shall only be appropriate when the RUL is deserted and there is only one (1) supplier or vendor in the market that meets the requirements demanded of bidders by the Government. The Auxiliary Administrator of Acquisitions shall certify in writing that, upon having performed all pertinent market research activities, he or she has determined that the entity is the only one that can provide the good, perform the work, or provide the service, as applicable. The document must include the details of the market research measures that substantiate their determination, as well as the sources consulted.
5. When there is an emergency situation in the Government Entity that generates unexpected, unforeseen and pressing needs that require immediate action from the Nominating Authority, because the life, health or safety of the employees or the citizens that visit its facilities is in danger or because it implies the suspension of the services that it provides, or them being affected.
 6. When the Governor has declared a state of emergency;
 - a. If a state of emergency has been declared by the Governor, every acquisition shall be processed pursuant to the special procedure established in Article 6.5 subsection (3) of this Regulation and the State Plan for the Management of Emergencies promulgated by the Bureau of Emergency Management and Disaster Administration (NMEAD) and

approved by the Governor, as long as they do not contravene the provisions contained in Law No. 73-2019, as amended.

- b. The Administrator may exempt a bidder, vendor, and/or supplier from the requirement to register in the Unique Bidder Registry in exceptional purchases processed pursuant to this subsection (6), as long as there is a situation of such an extraordinary nature that not excluding it from the Registration process will bring about a serious undermining of the functions of the Administration or the services that it is obligated to provide.
7. When the government property can be damaged or lost;
 8. When the funds are due to expire and every opportunity to purchase the goods, works and nonprofessional services can be lost, adversely affecting the best interests of the Government of Puerto Rico. Exceptional purchases shall only be authorized pursuant to this subsection when any of the following circumstances is present:
 - a. The request for the acquisition of goods, works, or nonprofessional services has been sent by the requesting entity to the Administration, duly filled out, sixty (60) days prior to the expiration of the funds to be used for the acquisition;
 - b. The corresponding argument has been approved by the Office of Management and Budget (OMB) for the requesting entity within a term of no less than sixty (60) days prior to the expiration of the funds to be used for the acquisition;
 - c. The funds have been allocated or the redistribution of the funds has been approved by the Fiscal Oversight Board for the requesting entity within a term of no less than sixty (60) days prior to the expiration of the funds to be used for the acquisition;
 - d. The Office of the Chief of Staff has authorized the corresponding argument within a term of no less than sixty (60) days prior to the expiration of the funds to be used for the

acquisition, despite the fact that the requesting entity submitted the corresponding documentation at least sixty (60) days prior to the expiration of the funds to be used for the acquisition;

- e. When the need has been identified by the requesting entity within a term of no less than sixty (60) days prior to the expiration of the funds to be used for the acquisition, it can be corroborated by way of the corresponding documentation that it does not constitute an expense included in the current budget and that the acquisition will be financed with a budgetary surplus.

Nevertheless, should it be demonstrated that the circumstance arose due to negligence, carelessness, or lack of planning on the part of the requesting government entity, the exceptional purchase shall not be authorized.

- 9. When there are spare parts, accessories, additional equipment or supplemental services for equipment for which repair or service is under contract;
- 10. When it is necessary to purchase the goods, works and nonprofessional services outside of Puerto Rico as there are no qualified suppliers in the local market; or the conditions offered in those markets represents a greater advantage than those in the local market.
 - a. Exceptional purchases shall only be authorized under this subsection (10) when there is one single supply source and such is recorded by way of certification by the manufacturer stating that the company outside of Puerto Rico is the exclusive representative or the sole producer of the good, or when the Auxiliary Administrator of Acquisitions certifies that, to the best of his or her understanding and personal knowledge, the entity is the only one that is able to provide the good or service, as applicable. Therefore, if there is more than one supply source outside of Puerto Rico,

the purchase must be processed through the ordinary bidding mechanisms established in Chapter 7 of this Regulation.

11. When there are no offers received after issuing the requests for quotations, invitation to bid or request for proposals.

In the event that no offers have been received once the corresponding opening ceremony has been held, the corresponding Auxiliary Administrator of Acquisitions and/or the Bid Board shall issue a second call for the process. Only in the event of not receiving any offers as a result of said call may the processing of an exceptional purchase proceed. The purchase record must contain copies of the corresponding documents attesting to the fact that no offers were received in either process; only then may the Auxiliary Administrator of Acquisitions favorably recommend the processing of an exceptional purchase.

12. When all the quotations, offers or proposals received are rejected because they do not meet the specifications, conditions or because their price is unreasonable.

- a. In the event that the circumstances described herein are present, the corresponding Auxiliary Administrator of Acquisitions or Bid Board shall issue a second call for the process. Only in the event that the same circumstances are repeated as a result of said call shall the processing of an exceptional purchase proceed. The purchase record must contain the corresponding documents attesting to the resulting circumstances in both processes; only then may the Auxiliary Administrator of Acquisitions favorably recommend the processing of an exceptional purchase.

13. When the purchase is done under the terms of the previously executed contracts or bids; as long as it is in the benefit of the Administration;

14. When the Articles, materials, equipment, works, or nonprofessional services to be acquired are of a specialized nature, or one type or brand in particular wants to be purchased, because of the proven good service that units of an equal or similar nature have provided, because of the economy involved in maintaining the standardization of multiple units or because of the superiority in the type and quality of the service that shall be obtained in the unit purchased and in its conservation, all of which must be justified in writing in the requisition; and Every exceptional purchase must be justified by the petitioning entity, pursuant to **Article 6.5 (1) and (2)**, Special Conditions for Exceptional Purchases.

ARTICLE 6.4 – PROCEDURE FOR MAKING EXCEPTIONAL PURCHASES

The exceptional purchases shall be made by purchasers, purchaser delegates and purchaser subdelegates which appointments are in effect. The exceptional purchases shall be carried out by direct purchase to the provider and/or supplier of goods, works or nonprofessional services. At the discretion of the Auxiliary Administrator of Acquisitions, quotations may be required to the providers and/or suppliers of assets or services as part of the exceptional purchase process.

The petitioning entity must justify in writing, by way of the form designed by the Administration for these purposes, the reasons for which the purchase was not able to be made through any of the bidding methods established in this Regulation and for which it is necessary to perform an exceptional purchase. Moreover, it must specify what the impact on the services provided by the petitioning entity will be if the request for an exceptional purchase is denied.

The acquisition of a good, work, or service through an exceptional purchase shall not be sufficient justification for acquiring the same type or class of good, work, or service on a subsequent occasion as an exceptional purchase. The Auxiliary Administrator of Acquisitions must evaluate whether

the conditions that justified the previous exceptional purchase remain present prior to authorizing a new acquisition through an exceptional purchase. Likewise, the petitioning entity must justify in writing the reasons for which the need to perform the exceptional purchase remains.

All exceptional purchases shall be limited to the amounts and duration that are absolutely necessary.

The Administration shall post all awards of exceptional purchases on its webpage within the thirty (30) days following the award.

ARTICLE 6.5 – SPECIAL CONDITIONS FOR EXCEPTIONAL PURCHASES

1. All exceptional purchases must be justified by the petitioning entity, through explanatory document, on the form for such purposes established by the Administration. Such document shall be prepared by the Purchasing Office of the petitioning entity and must contain the grounds that justify the exceptional purchase process (justification). Moreover, in said justification, it must be certified that the circumstances stated are not a subterfuge to avoid the ordinary acquisition procedure. Such justification must have the signature of the director or manager of the Purchasing Office of the petitioning entity and with the signature of the nominating authority of the petitioning entity.
2. Every exceptional purchase made pursuant to section (5) of the foregoing **Article 6.3**, must state in a detailed manner the nature of the administrative emergency, what caused the emergency, and the damage caused or impending. Such justification must have the signature of the director or manager of the purchasing office of the petitioning entity and with the signature of the nominating authority of the petitioning entity. Prior to the authorization of that

purchase method, the Administration must corroborate, by inspection or other mechanisms, the fact of the emergency occurred in the agency.

3. Any exceptional purchase performed pursuant to subsection (6) of the foregoing **Article 6.3** must be performed in accordance with the following procedure:

- 1) All purchases performed by the Government of Puerto Rico during an emergency or disaster that has been declared by executive order (state or federal) shall be through the Administration and pursuant to Law No. 73-2019, as amended, and the regulations issued by virtue of such.
- 2) Any Government Entity, including the Exempt Entities, must designate and authorize personnel to serve as a liaison with the State Emergency Operations Center (“COE” by its Spanish initials) of the Bureau of Emergency and Disaster Management (NMEAD, by its Spanish initials). These personnel must have access to the WEBEOC system, which must be requested.
- 3) The person designated as the liaison for each government entity must be and remain in constant communication with the authorized purchaser (delegate and subdelegate of the purchaser), as well as the personnel of the corresponding finance department. An authorized purchaser refers to those with a current appointment granted by the Administration or those designated by the Municipalities, Judicial Branch, and Legislative Assembly.
- 4) The liaison officer must document and justify the purchase by requesting all the information from the purchaser (delegate or subdelegate of the purchaser). Upon justifying the purchase, the liaison officer must include and state the name of the

purchaser, the government entity where they work, the contact information, including the phone number, and the justification for the purchase.

- a. The authorized purchaser of the requesting government entity shall complete the ASG-566 form, in the original, with all the original signatures, the signature of the authorized representative of the purchaser and the representative of the government entity. This shall serve as the purchase order, goods receipt, delivery receipt, and invoice of the vendor if it is properly filled out and finally approved. In the case of exempt entities, the emergency purchase processes, they must comply with the internal procedures established for this purpose, in addition to filing the ASG-566 form.
- b. The head of the government entity or their authorized representative shall approve the purchase orders issued by the purchaser by way of their signature after the agent of the government entity verifies that the goods or services described therein that will be acquired are not available. The purchase orders must be signed by a duly authorized or designated purchaser. In the absence of duly authorized purchasers, the name and position of the purchasers designated during the emergency must be provided to the Administration.
- c. The purchase order shall be raised before the agreements previously established by the Entity through emergency agreements executed by the Administration. If there are no preestablished agreements, the government entity shall file the ASG 565 form for review and approval by ASG personnel. The purchaser shall prepare a separate file that shall contain the purchase orders according to the Puerto Rico Catastrophic Incident Operative Plan, and any other document related to the

purchase, including, but not limited to quotes, communications, agreements, and a copy of the ASG-565 form.

- d. The purchaser shall make sure to list, with consecutive numbers, each purchase order issued during the emergency and shall keep a record of them.
 - e. The purchaser shall write "Purchase Order under the National Emergency Plan Special Procedure" on the corresponding form or the control number provided by the State Emergency Operations Center on the corresponding form for exempt entities.
 - f. Once the goods or services have been received, an individual designated by the government entity must sign the receipt provided, "purchase order," or the corresponding form required for exempt entities, certifying that the goods or services have been received, as described and listed in the purchase order. Any problem related to the delivery or receipt of the goods or services must be reported to the purchaser and be recorded in the purchase file. These files must be ready for auditing for each particular emergency event.
 - g. All communications must be made in the agency's information systems. Communications on personal devices are strictly prohibited, except in emergency situations, but said communication must be limited and transferred to a permanent file in the books and records of the agency within and no later than five (5) business days from the date on which said communication was made. It must be easily available for future audits, for each particular emergency event.
- 5) All requests for purchases related to emergencies must be sent through the WEBEOC system, which must be accompanied by the following documentation:

- a. A statement confirming that the government entity has complied with the provisions of the Office of Management and Budget (hereinafter OMB) for the approval of funds;
 - b. Purchase order;
 - c. The current contract or emergency agreement, if it will not form part of those provided by ASG;
 - d. Quote with all the specifications of the product, including the availability and delivery date;
 - e. Any other documentation that may be necessary or required.
- 6) Once the State Emergency Operations Center receives the request, specialized and authorized personnel (such as emergency management coordinators in the Administration) shall evaluate and document the corresponding determination on the same form. The designated and authorized personnel shall be designated by the Bureau of Emergency and Disaster Management.
- 7) After it has been approved by the corresponding entities provided by the Incident Commander, the personnel of the Administration shall review and confirm that the Form established to attend to the matter contains all the required documentation. The Auxiliary Administration of Acquisitions of ASG will evaluate and recommend the acquisition by stating that the purchase request and the procedures meet the applicable requirements. The Bidding Officer or their representative shall authorize the acquisition. Lastly, the corresponding personnel of ASG designated to the State Emergency Operations Center shall assign a control number.

- 8) Once the control number has been assigned, the personnel designated by the OMB shall be referred to. The OMB shall not evaluate any purchase order that has not been assigned a control number.
- 9) The evaluation of each form must be performed within a period of no greater than twenty-four (24) hours, unless there is just cause, if the request is in accordance with the declaration of the emergency.
- 10) Government entities and exempt entities shall follow the guidelines for emergency acquisitions recommended that the Administration establishes.
- 11) Payments shall not be made prior to the receipt of the goods or services requested.
- 12) Competitive practices and multiple quotes must be maintained to the extent possible. Therefore, government entities and exempt entities must provide an explanation that is convincing to not attempt to obtain multiple price quotes (or the use of contracts other than those existing).
- 13) The acquisition must be performed pursuant to all applicable federal requirements.
- 14) The Secretary, Executive Director, or the head of each Government Entity must present a monthly certification to the Administration with a copy to the Governor and the Financial Oversight and Management Board confirming that the corresponding agency complied with the established rules and regulations on acquisitions.
- 15) Any proposal for an emergency purchase agreement or purchase order, or a series of related agreements, including the amendments, modifications, or extensions, with a total aggregate value of \$10 million or more must be presented for approval prior to its execution, before the Financial Oversight and Management Board (the "Financial Oversight Board"), as required by PROMESA and its Contract Review Policy. All

other emergency purchase agreements or purchase orders must be sent to the Oversight Board immediately upon their execution.

16) The Administration shall send a purchases report to the Puerto Rico Innovation & Technology Service (“PRITS”) with the assigned control number, which shall contain: i) order number, ii) goods or services to be acquired, iii) goods or services vendor, iv) cost of goods or services, and v) requesting government entity. PRITS must post it within a term of no more than 5 days from having received the information.

4. In every exceptional purchase the Auxiliary Administrator of Acquisitions shall evaluate the exception applicable to the purchase in particular and make their favorable or unfavorable recommendation to the Bidding Officer, who shall authorize the exceptional purchase or not.
5. No term contracts may be executed through the exceptional purchase process. Only the purchase order and/or corresponding service to that exceptional purchase can be executed. As an exception, term contracts can be executed for emergency exceptional purchases, by way of the express authorization of the Administrator, for a maximum term of six (6) months. Also, contracts may be executed for a maximum term of one (1) year in the case of emergency exceptional purchases, due to the declaration of an emergency or disaster by the Governor.

ARTICLE 6.6 – QUARTERLY AUDITING OF EXCEPTIONAL PURCHASES

The Oversight Board must perform quarterly audits of all the exceptional purchases authorized by the Administration on its webpage and sent to the corresponding government oversight entities.

CHAPTER 7 - BIDDING METHODS

ARTICLE 7.1 – INFORMAL PURCHASE

SECTION 7.1.1 - DEFINITION

Bidding method to be used when purchasing goods, works and nonprofessional services which cost does not exceed fifteen thousand dollars (\$15,000.00).

SECTION 7.1.2 – PROCEDURE FOR PROCESSING AN INFORMAL PURCHASE

The procedure to process an informal purchase is the following:

1. The Purchasing Office, by way of the assigned purchaser for the processing of the purchase and through the sending of a Quotation Sheet, shall request a minimum of three (3) quotations to suppliers or assets or services providers duly registered in the RUL, under the corresponding category. The minimum of quotations to request may increase, at the discretion of the Auxiliary Administrator of Acquisitions. Upon selecting those suppliers, the purchaser shall use the responsibility criteria based on previous experiences, location, accessibility and capacity of the supplier or provider as a guide. The Administration shall promote the selection of different suppliers or assets or service providers to participate in the different informal purchase processes. The minimum number of quotations to request shall be subject to there being sufficient supplier firms for the good or service that is sought to be purchased.
2. The purchaser assigned to the processing of the purchase, through the established mechanism and identically for each supplier, the specifications, the terms and the conditions, as well as the time they shall have to present their offers so they can be considered. The term established for presenting quotes shall depend on the need for service.

3. The purchaser assigned to the processing of the purchase shall inform on the Quotation Sheet that the suppliers or assets or service providers must send, if applicable, the Ruling of the Board of Investment in Puerto Rican Industry in effect or any certifying preferential document, pursuant to the current preferential laws, so that it can apply the preferential percentage granted.
4. The Purchasing Office shall determine the amount of the performance required, if any, and shall establish said requirement in the Quotation Sheet.
5. The quotations may be received by telephone, e-mail or any other means of communication available as established in the Quotation Sheet.
6. In those cases in which the minimum number of quotations, as is determined, is not obtained, that shall not be an obstacle to proceed with the purchase, however, the reasons for not obtaining the minimum amount of quotations must be documented.
7. In the event that a quotation of a particular supplier has been requested and they have not answered the request, it must not be considered a "NO BID" unless their refusal to participate in the process is stated in writing by the supplier. The Quotation Sheet must establish the obligation of the supplier to answer if they do not want to bid in the process.
8. The quotations must be received on or before the date and time indicated in the quotation sheet, and the quotations record shall be completed.
9. The purchaser assigned for the processing of the purchase shall evaluate the quotations received and shall select the offer of best value, taking into account the totality of the circumstances and the best interests of the Government.

10. Once the purchaser assigned to the processing of the purchase has selected the supplier, in the event that the supplier has made an offer by telephone, they must submit their offer in writing under their signature.
11. The purchaser assigned for the processing of the purchase shall notify the successful bidder by telephone and shall send the Purchase Order or Service Order by e-mail. Also, the purchaser shall notify by phone to the suppliers or assets or nonprofessional services to whom the Quotation Sheet was sent the grounds for the rejection of their offers.

The Administrator may use the informal bid method for a complex purchase which cost does not exceed fifteen thousand dollars (\$15,000.00), when the Administrator determines that such method serves the best interests of the Government of Puerto Rico.

SECTION 7.1.3 – CHANGE ORDER IN AN INFORMAL PURCHASE

The Director or Manager of the Purchasing Office of the petitioning entity may notify a change order to the Purchasing Office of the Administration, only prior to the delivery or receipt of goods, the performance of the work or the rendering of services. The notification of a change order shall stop the purchase process, until the Purchasing Office of the Administration authorizes the change. If the change order alters the encumbrance of funds, the Purchasing Office of the Administration shall send the change order to such step, prior to continuing with the informal purchase process. If the Change Order does not alter the description, amount, price of the good, work or nonprofessional service, the Change Order may be processed at any moment of the purchase process.

SECTION 7.1.4 – AMENDMENTS TO THE PURCHASE ORDER OR AGREEMENT, ALTERATION OF ORIGINAL AMOUNT; NOTICE

The head of the corresponding government entity or nominating authority has the duty of notifying the Administrator of those amendments to previously issued purchase orders or previously executed agreements that have the effect of increasing the value of the awarded purchase of goods, works, and nonprofessional services. The notice of amendment must be duly documented and supported.

ARTICLE 7.2 – INFORMAL BID

SECTION 7.2.1 - DEFINITION

Bidding method to be used when purchasing goods, works and nonprofessional services which cost exceeds fifteen thousand dollars (\$15,000.00), but does not exceed the amount of one hundred thousand dollars (\$100,000.00). The Auxiliary Administrator of Acquisitions or their authorized representative shall evaluate the offers and award the responsive bidder that has offered the best value.

The Purchasing Office of the Auxiliary Administration of Acquisitions must justify the performance of each informal bid through the form established for those purposes by the Administration. Along with the form, all the documentation supporting the justification must be filed and kept on record. The justification must be signed by the Purchases and Bids Specialist assigned to the processing of the acquisition and by the Auxiliary Administrator of Acquisition. The latter shall certify on the justification that the processes were performed pursuant to this regulation.

Moreover, the Purchases and Bids Specialist assigned to the processing of the acquisition and the Auxiliary Administrator of Acquisitions shall certify on the justification there has not been any attempt to split up an acquisition in order to reduce the aggregate purchase value under the limit amount established for holding a formal bidding process.

SECTION 7.2.2 – INVITATION TO INFORMAL BID; CALL FOR BIDS

1. The Purchasing Office of the Auxiliary Administration of Acquisitions shall prepare the Invitation to Informal Bid and the related documents. The call shall be made within a term of no more than five (5) business days after the bid packet is duly prepared and has been reviewed and approved by the Auxiliary Administrator of Acquisitions and/or the Bidding Officer.
2. The Purchasing Office of the Auxiliary Administration of Acquisitions shall send the Invitation to Informal Bid to all the suppliers registered in the RUL under the category corresponding to the good or service that wants to be purchased, at least fifteen (15) days before the deadline to present offers; such period may be less than fifteen (15) days as long as the Administrator considers that serves the best interests of the Government of Puerto Rico. When the bids include federal participation, the Invitation shall be sent in the term provided by the federal entity in question. Also, the Invitation to Informal Bid shall be posted in the Sole Auctions Registry “RUS”, and in the Administration’s webpage. Evidence of sending the invitation to each bidder registered in the RUL, evidence of the publication of the Invitation to Informal Bid in the RUS and evidence of the publication of the Invitation to Informal Hearing in the Administration’s webpage, shall be kept in the bids file. The official date of the Invitation to Informal Hearing shall be the date that such invitation was posted in the RUS.

3. The Invitation to Informal Hearing shall be remitted by e-mail to all the bidders registered in the RUL under the category corresponding to the good or service that wants to be acquired, to the address provided in the RUL. The failure to notify a provider registered in the RUL shall be enough cause for the cancellation of the bid, as long as the Opening has not been held.
4. When the number of bidders registered in the RUL under the category corresponding to the good or service sought to be acquired is less than three (3), the Purchasing Office of the Auxiliary Administration of Acquisitions shall take the necessary steps to identify the suppliers or vendors not registered in the RUL that provide necessary good or service, to achieve a minimum of three (3) bidders, suppliers, or vendors to send an invitation to the informal bidding process. On the invitation to the identified suppliers or vendors not registered in the RUL, they shall be advised that their offer shall be considered only if they submit all the required documents to the RUL , within a term of five (5) business days, as provided in Section 7.29.9. If the Purchases and Bids Specialist assigned to the processing of the bid only identifies a maximum of two (2) bidders, suppliers, or vendors, they shall certify it in writing and proceed to perform the informal bidding process.
5. The Auxiliary Administration of Acquisitions may hold informal bids exclusively for preferential groups, in order to comply with that established in the Preferential Laws.

SECTION 7.2.3 – BASIC REQUIREMENTS OF THE INVITATION TO INFORMAL BID

The Invitation to Informal Bid must contain the following:

1. Bid number.
2. Purpose of the bid.
3. Date of publication of the bid.

4. Conditions or requirements that bidders must meet.
5. Specific instructions of where and how to obtain copy of the bid packets, including the physical address and specific place where the packets shall be delivered and a contact telephone number. Also, it shall specify the cost of the packets, if any.
6. Copies of the bid packet shall be available so that any other supplier that is not part of the Unique Bidder Registry can pick them up.
7. The bid packets may be posted on the webpage of the Administration or be sent to the bidders by e-mail in case they are free. They can also be delivered personally, if so determined by the Administration. If personal delivery is decided, free or not, it shall be notified by electronic message to all the suppliers included in the Unique Bidder Registry under the corresponding category of the good, work or nonprofessional service that wants to be purchased and the availability of the bid packets, if any, shall be posted in the webpage of the Administration. The notification must include the dates, the schedule and exact time for the pick-up of the bid packets. For each particular bid, all the suppliers shall be notified the same way.
8. Date and time of the last day to pick up the packets.
9. If it has been decided to hold a pre-bid meeting, the date, time and place shall be indicated, stating if the attendance is compulsory.
10. Date, time, place, and mode (in the case of an electronic filing) in which the offers will be received;
11. It shall be indicated if the offer must be submitted with a bid bond equal to the percentage (%) determined in this Regulation, according to the kind of good, work or service included in the invitation.
12. Date, time, and place where the offers will be opened;

13. The notice that the Administration may order the partial or total cancellation of the informal bid packet regardless of the phase it is in, as long as it is prior to formalizing the contract or having issued a purchase order shall be included, when that serves the best interest of the Government of Puerto Rico.
14. The warning that the Administration may amend any invitation and/or informal bid packets shall be included, when that serves the best interests of the Government of Puerto Rico. In that case, the supplier shall not have to pay again (if applicable) to obtain the amended bid packet;
15. Any notice required in the preferential laws;
16. In the bids of constructions work projects, the name of the project, location of the project description of the project, term within which the work shall be executed and the service to be provided (“Scope of Work”) shall be stated. Also, a Project Estimate shall be included.

SECTION 7.2.4 – CONTENT OF THE BID PACKET

Each bid packet must be identified by its number, purpose and date of issuance. It shall be composed by the invitation to bid, the instructions, specifications and the terms and conditions of the bid.

All the elements necessary for the bidder to be able to submit their offer by e-mail or delivery in the Administration (as provided bid packet), considering the requirements stated below:

1. Clear and detailed descriptions of the characteristics of the goods, works and/or nonprofessional services that want to be purchased and the complete specifications for each one of them. If a specific brand is necessary, the file of the bid shall include a recommendation that justifies such;

2. Specific instructions regarding the way that the offers shall be submitted including the deadline date and time to submit them;
3. The terms and conditions that shall regulate the transaction. Such terms and conditions along with the specifications shall constitute the basis of the Contract or Purchase Order.
4. Required delivery and inspection terms and conditions that are essential for the Award of the Bid.
5. Place, date and time in which the envelopes or e-mails of Offers shall be opened and indications about the way in which they must be identified;
6. Special conditions or requirements that may affect the Award process. For example, if it shall be necessary to deliver a sample of the product for evaluation and how the sample will be disposed of once the evaluation is completed;
7. Evaluation criteria for the awarding of the informal bid;
8. Terms for filing and/or presenting a challenge of the invitation, the packets, and the award;
9. Every certificate or special document that the bidders must submit as part of their Offer;
10. Types of discount, including the percentage (%) of discount for down payment, if any;
11. The notice that the Administration may order the partial or total cancellation of the informal bid packet before or after the Opening, pursuant to **Section 7.2.7** regarding the Cancellation of the bid packet;
12. The notice that the Administration may amend any informal bid packet up to two (2) business days before the Opening of the offers when the offer implies changes or additional requests that must be included in the offer or bid or one (1) day prior to the opening of the bid when the amendment does not affect the presentation of offers;

13. In cases of construction projects, the warning that the Administration may amend any informal bid packet up to five (5) business days before the Opening of the offers must be included when the amendment entails changes or additional requests that must be included in the offer or bid or three (3) business days before the opening of the bid when the amendment does not affect the presentation of the offers;
14. Notice to the bidders that copies of the related packet shall be at their disposal in the Administration, in those situations in which all the specifications of the goods, works and/or services that want to be purchased are not in the packets.
15. In the case of construction projects, the bidders shall be notified the date of inspection of the construction project, which they shall attend mandatorily. The failure to appear of the bidders to the mandatory inspection of the construction project shall be sufficient grounds for their disqualification;
16. Any notice required in the preferential laws;
17. Every certificate or special document that the bidders must submit as part of their offer;
18. Requirements of current regulation and of the applicable norms of engineering and safety in those cases that require the installation of the equipment that shall be purchased;
19. Also, the following warning shall always be included: "The award notice of this bid shall not constitute the formal agreement between the parties. It shall be necessary to execute the corresponding contract or for the Administration to issue a purchase order signed by the authorized person";
20. Notice to the bidders about the availability of additional related documents and the place where they can be obtained;
21. Any additional criteria that the Administration considers necessary to include in the bid packet.

The Auxiliary Administrator of Acquisitions may, when it is necessary, ask the Administrator for technical counseling by any external resource, employee or officer of the Government of Puerto Rico with specialized knowledge for the preparation of the informal bid packet.

The bid packet must comply, in that pertaining to the matter, with **Article 10.5** of this Regulation.

SECTION 7.2.5 – AMENDMENTS TO THE BID PACKET

Amendments may only be made to the bid packet:

1. When the petitioning entity submits amendments;
2. When according to the Administrator, the terms provided therein are unreasonable;
3. When a substantial and irreparable error is found in the bid packet;
4. When they seek to increase or decrease terms or amounts, or vary conditions or specifications;
5. When the terms of the packet are reconsidered.

The Administration may amend any informal bid packet up to two (2) business days before the Opening of the offers when the amendment entails additional changes or requests that must be included in the offer or bid or one (1) business day before the opening of the bid when the amendment does not affect the presentation of the offers.

In cases of construction projects, the Administration may amend any informal bid packet up to five (5) business days before the Opening of the offers when the amendment entails additional changes or requests that must be included in the offer or bid or three (3) business days before the opening of the bid when the amendment does not affect the presentation of offers.

All the amendments must be authorized by the Auxiliary Administrator of Acquisitions and approved by the Administrator.

The Purchasing Office of the Administration shall notify the Notice of Amendment of the packet to the suppliers summoned to the informal bid. Also, the Notice of Amendment of the packet shall be posted in the Sole Auctions Registry “RUS”, and also in the Administration’s webpage.

All the amendments shall form part of the bid packet and those who want to bid shall have to consider them when presenting their offers.

**SECTION 7.2.6. – CHALLENGE OF THE INVITATION TO BID (CALL);
CHALLENGE OF THE PACKET**

Challenge of the Invitation to Bid (Call)

Any bidder that is interested in participating in the informal bidding process may challenge the Invitation to Bid, in writing, only when any of the procedures established in this Regulation have not been followed, or when it is deemed that term established for performing the study and preparation of the offer and the date for filing the offer is insufficient. The packet must contain the grounds on which the invitation is being challenged, moreover, it must be signed by the bidder. The challenge packet must be filed in person at the Auxiliary Administration of Acquisitions within three (3) business days following the date on which the Administration sent the invitation by e-mail to the bidders or from the date the Invitation was posted in the RUS. If the date on which the invitation was sent by e-mail to the bidders is different from the date on which the Invitation was posted in the RUS, it shall be counted from the sending date of the latter. Every challenge packet filed outside of the term established herein shall be fully rejected. Notice must be provided of a copy of the filed appeal to the bidders invited to the informal bidding process.

As a consequence of the filing of this appeal, all procedures in the challenged bidding process shall be automatically halted and the subsequent terms shall be counted from the notice of the decision of the Auxiliary Administrator of Acquisitions, who shall evaluate and decide on its merits the

challenge within a term of five (5) business days as of the date on which it was received.

As a consequence of the challenge filed, the Auxiliary Administrator of Acquisitions may determine the following:

- 1) To dismiss the challenge filed and order for the procedures to continue.
- 2) To amend the Invitation to Bid or issue a new one.
- 3) To cancel the Invitation to Bid.

The determination of the Auxiliary Administrator of Acquisitions shall be notified to the appellant and the bidders invited to the informal bidding process by e-mail. If the bidder is not in agreement with the determination of the Auxiliary Administrator of Acquisitions, they may request an administrative review proceeding before the Review Board, upon being provided notice of the award notice, pursuant to Chapter 5 of this Regulation.

Challenge of the Bid Packet

If a bidder interested in participating in an informal bidding process does not agree with the final terms, instructions, specifications, or conditions established in the bid packet, they may file the corresponding challenge packet in person at the Auxiliary Administration of Acquisitions within three (3) business days following the date on which the Administration makes the bid packets available. Any contestation of the bid packet filed outside of the term established herein shall be fully rejected. A copy of the filed appeal must be notified to the bidders invited to the informal bidding process.

The bid packet challenge packet must contain the following:

- 1) The bid number.
- 2) A detailed narration stating the specific parts, specifications, and/or conditions established in the packet whose terms are being challenged.

- 3) The grounds on which the filed challenge is based and any evidence that supports the argument laid out.
- 4) A clear statement of the remedy or action that is being requested.
- 5) The bidder's signature.

As a consequence of the filing of this appeal, the procedures of the challenged bidding process shall automatically be halted and the subsequent terms shall be counted from the notification of the decision of the Auxiliary Administrator of Acquisitions, who shall evaluate and decide the challenge on its merits within the term of five (5) business days as of the date on which it was received.

As a consequence of the filed challenge, the Auxiliary Administrator of Acquisitions may determine the following:

- 1) To dismiss the filed challenge and order for the procedures to continue.
- 2) Amend the packet or issue a new one.
- 3) Cancel the bid packet.

The determination of the Auxiliary Administrator of Acquisitions shall be notified to the appellant and the bidders invited to the informal bidding process by e-mail.

If the bidder is not in agreement with the determination of the Auxiliary Administrator of Acquisitions, they may request an administrative review proceeding before the Review Board, upon being provided notice of the award notice, pursuant to Chapter 5 of this Regulation.

SECTION 7.2.7 – CANCELLATION OF THE BID PACKET

The Administrator may cancel the bid packet subject to the following:

Prior to the Opening:

1. Should any of the conditions that exempt the bidding procedure (exceptional purchases) arise;
2. Due to any cause that the Administrator deems to be duly justified by the petitioning agency, by the Auxiliary Administration of Acquisitions, or by the Bid Board;
3. As a consequence of a challenge;
4. When the Administrator determines that the cancellation of the bid packet results in the best interest of the Government of Puerto Rico. The cancellation shall be notified by e-mail to the bidders that have obtained the packet. Moreover, an announcement of the cancellation will be posted in the RUS and on the webpage of the Administration.

After the Opening:

1. The Administrator may cancel the packet of a bid after having held the opening as long as a contract has not been formalized or a purchase order has been issued, when the Administrator determines that the cancellation of the bid packet results in the best interest of the Government of Puerto Rico. The cancellation notice shall be notified by e-mail to the bidders that have obtained the packet. Moreover, the cancellation notice shall be posted in the RUS and on the webpage of the Administration.

SECTION 7.2.8 – PRE-BID MEETINGS

1. The Auxiliary Administration of Acquisitions may hold pre-bid meetings with no less than five (5) business days prior to the date set for the Opening. When it is being held, the presence of the Purchases and Bids Specialist assigned to such bid and the presence of a representative of the petitioning entity with knowledge of the type of good or service that wants to be purchased shall be required. The presence of the two latter is compulsory.

2. The Auxiliary Administrator of Acquisitions or their authorized representative shall preside the pre-bid meetings.
3. Every pre-bid shall have the objective of clarifying the doubts of the bidders that arise as to the bid packet. The bidders shall be warned that it is forbidden to have contact with the members of the Auxiliary Administration of Acquisitions and the Purchasing Office, after the pre-meeting concludes and at the time that the members are in the process of evaluating the Offers.
4. A period and deadline shall be established to provide written questions. Every question or request for documents presented by the potential bidders to the Auxiliary Administration of Acquisitions shall be channeled through the Office of the Secretary of the Auxiliary Administration of Acquisitions.
5. Every written question that is submitted to the consideration of the Auxiliary Administration of Acquisitions, shall be answered in the term established for it. Both the question and the answer shall be offered to the other bidders for their benefit and to add transparency to the process.
6. The persons that participate in the pre-bid meeting shall sign the attendance registry. In case of potential bidders, they must identify the person or entity that they represent.
7. The Purchases and Bids Specialist assigned to such bid shall prepare a minute of the pre-bid meeting which shall include, as least, the following: (i) a list with the names of the participating persons and the persons or entities they represent, if applicable; (ii) the matters discussed, the clarifications and agreements made in the meeting; and (iii) the date, the time and place in which the meeting was held.

8. The Purchases and Bids Specialist assigned to the bid shall send copy of the minutes by e-mail to the potential bidders that participated in the meeting at least two (2) business days before the Opening. The original of the minutes shall be included in the official file of the bid.
9. Any verbal or written offer presented by the bidders in the pre-bid process shall be deemed not presented, shall not be among the files, and shall not be taken into consideration at the moment of the award.
10. When the packet establishes that the presence of the bidders at the pre-bid meetings is compulsory, a bidder's failure to appear shall be sufficient reason for that bidder's disqualification.

SECTION 7.2.9 – PRESENTATION OF OFFERS FOR THE INFORMAL BID

1. The offers must be endorsed (with the signature or initials) by the bidder that appears registered in the RUL. In the event that the bidder is not registered in the RUL, the offer must be endorsed by the person that shall submit all the required documents to the RUL.

When a bidder that is not registered in the RUL appears in an informal bid process and presents an offer, the Auxiliary Administration of Acquisitions must not reject it for the fact that such bidder is not registered in the RUL and shall give the bidder five (5) business days, computed from the Opening to submit all required documents to the RUL. In the event that the bidder does not provide the required documents, the bidder shall be disqualified.

Every bidder that is registered in the RUL, that has presented an offer for an informal bid and that after the Opening is not eligible, shall be given a non-extendable term of five (5) business days, from the Opening, to submit the information or the corresponding packets in the RUL. During such period no award shall be made. The Auxiliary Administration of Acquisitions

shall be responsible for notifying the bidder, by telephone call and e-mail, regarding the term provided and to update the bidder's information in the RUL. In the event that the bidder does not update their information in the RUL during the term provided, the bidder shall be disqualified.

2. The offers may be received by e-mail or personal delivery in the Auxiliary Administration of Acquisitions of the Administration (as established in the bid packet).
3. The e-mail, which includes as the offers as an attachment or the envelope containing the offers, as the case may be, shall be identified with the name, address and telephone number of the bidder and the bid number. The personal deliveries of the envelopes shall be carried out in the Auxiliary Administration of Acquisitions of the Administration, where they shall be labeled indicating the date and exact time in which they were received, which shall constitute the official date of the delivery of the offer. The date and time of the offers presented by e-mail shall be printed in the packet. Every offer received without identification as provided herein, shall be processed as regular correspondence. Once opened pursuant to the usual process for regular correspondence (physical or electronic), the Auxiliary Administrator of Acquisitions or their authorized representative shall contact the bidder and return the envelope as received, to comply with that established herein. The Auxiliary Administrator of Acquisitions or their authorized representative shall make a photostatic copy of the envelope or shall print the receipt of the e-mail as evidence and shall proceed to draw up a record.
4. The Auxiliary Administration of Acquisitions shall accept the offers until the deadline date and time established for the presentation of the offers. If any natural event or special circumstance occurs that causes the closing of the Administration and prevents the receipt of offers in the deadline provided for it in the bid packet, the offers shall be delivered on the day

that the Administration resumes duties, at the time provided originally, or at any other time that is timely notified.

5. Each bidder shall have the right to present only one offer for each good, work or nonprofessional service specified in each bid, unless otherwise indicated in the bid packet.
6. The bidders shall present their offers in the official forms provided by the Administration, in original. In case they submit their offers through e-mail, they must present all the related documents to the Administration, in original.
7. The bidders may photocopy the official form if it were necessary.
8. If it were necessary, the bidders may add sheets to clarify or describe in more detail their offers.
9. The offers that are received outside of the date and time set shall be returned to the bidder informing the bidder of their breach with the established conditions and of their disqualification. The original envelope where the offer was sent and/or electronic receipt shall be kept which shall form part of the bid file.
10. The offers presented by the bidders shall be part of the file of the bid in which they participated and shall form part of the Administration's property, regardless that the informal bid is cancelled or awarded. However, the confidential information constitutive of trade secret or any information protected by copyright, among other legal provisions, may not be divulged by the Administration or any other government entity. Due to this, every information that constitutes confidential or protected information, must be attached by the bidder to the offer in an individual sheet that must be titled "Confidential and/or Protected Information."
11. If the bidder that offers a specific brand is the exclusive representative of that brand, the bidder shall have the obligation to mention it in the offer and remit the manufacturer's certificate.

12. Every offer presented shall be under the custody of the Auxiliary Administrator of Acquisitions and under no circumstance shall be opened until the date and time set for the Opening.
13. If before the Opening date a bid was received with the envelope open, violated, deteriorated or without identification, the Auxiliary Administrator of Acquisitions shall contact the bidder in question in order for the bidder to personally verify the envelope and the documents within and to place them in another sealed envelope, duly identified and to formally deliver the bid. The submittal date shall be the date of the original receipt. The Auxiliary Administrator of Acquisitions shall prepare a record of the incidents which shall be attached to the deteriorated, violated or unidentified envelope and the bidder shall sign the bottom of the record indicating the date and time of the inspection of the violated, deteriorated or unidentified envelope.
14. The offers must be made in dollars and cents, by items.
15. In the event no offers are received, the Auxiliary Administration of Acquisitions may carry out a new call for bids or make an exceptional purchase.

SECTION 7.2.10 – REGISTRY OF RECEIVED OFFERS

In the date established to receive offers, the Auxiliary Administrator of Acquisitions or his authorized representative shall write the offers received in the Registry of Received Offers. Said Registry shall remain under the custody of the Auxiliary Administrator of Acquisitions.

SECTION 7.2.11 – TYPES OF OFFERS

The Auxiliary Administration of Acquisitions may accept or reject offers presented by the bidders as follows:

1. Basic Offer

Constitutes that in which the bidders write the unit price of each of the items or categories for which they want to quote. If the bidder writes unit prices in some items and omits them in others it shall be understood that it wants to make offers only in those items for which the bidder makes the basic offer.

2. Alternate Offer

A bidder may submit a basic offer and one or various alternate offers for assets or nonprofessional services of different prices, qualities or categories when they have been requested in the bid packets and the same opportunity has been provided to the other bidders. The fact that alternate offers are requested does not compel the Auxiliary Administration of Acquisitions to accept them, even if they are lower in price than the basic offer, if it is understood that it is not convenient for the Government of Puerto Rico.

3. "All or Nothing" Offer

In addition to the basic offer, an offer based on "all or nothing" shall be admissible. It consists of an offer of a lower price for a group of items or categories, subject to the condition that all are adjudicated to the bidder. The total lowered price or the percentage of discount must be written next to each item, indicating the phrase "all or nothing".

4. Lump Sum Offer

In substitution of the offers based on "all or nothing", it shall be admissible for the bidders to quote based on the Lump Sum. The bidder shall write a reduced amount or shall state a percentage of discount next to the sum of the categories for which the bidder has quoted.

5. Several Offers by a Single Bidder

A commercial company may not submit various offers for a bid, either on its behalf, on behalf of any of its subsidiaries or branches, of some or various of its partners, agents, officials and entities that they belong to because each and every one of the offers shall be declared null and void.

The Auxiliary Administration of Acquisitions shall not consider the offers that add or eliminate specifications or conditions required in the bid packet, or that alter, modify or vary them. Also, the offers that contain phrases, paragraphs or ambiguous incomplete, undefined comments or that take certainty away from the offer shall also not be considered. As an exception, those minimum deviations that do not alter the basic concept of the specification, condition or term of the bid packet shall be accepted only if no bidder has offered an asset or nonprofessional service that meets the specifications and the terms required.

The Auxiliary Administration of Acquisitions shall consider the total offered price, however, every offer presented must be included in the details of the offered price: per-unit price of the good or service (for each item), costs of transportation, delivery, packaging, warranty, training, maintenance or services, replacements, among others.

SECTION 7.2.12 – CORRECTIONS TO THE OFFERS

The corrections to the offers, which are caused by mistakes must be endorsed by the bidder with the bidder's signature or initials, otherwise the offer for the corresponding item or items shall be invalidated.

SECTION 7.2.13 – MODIFICATIONS TO THE OFFERS

Any modification that varies the terms of the offer previously submitted shall be done by written communication, submitted to the Auxiliary Administrator of Acquisitions and must be sent in a sealed envelope, duly identified with the following information:

1. Bid number
2. Date
3. Time set for the submittal of the offer
4. Name and address of the supplier
5. Information that indicates the reasons for the modification of the offer

No modifications submitted after the deadline established for the submittal of the offers shall be admitted.

Every modification of offer shall be opened on the date and time stated in the opening of the bid jointly with the original bid.

SECTION 7.2.14 – WITHDRAWAL OF THE OFFER

1. The withdrawal of an offer may be carried out through written request addressed to the Auxiliary Administrator of Acquisitions, submitted at any time prior to the Opening.
2. The bidder may not present a substitute offer once their offer for a particular purchase is withdrawn.
3. No bidder may withdraw their offer after the opening of the bid.

SECTION 7.2.15 – OPENING

1. The offers shall be opened on the date and time set for their opening. The Opening shall be open to the public and every person interested may attend. In the event that the opening is

performed virtually, every interested individual shall be sent an electronic link to access the ceremony electronically.

2. The Opening shall be presided by the Auxiliary Administrator of Acquisitions or their authorized representative.
3. The bidders in question may be present at said ceremony and every particular person interested.
4. The bidders must be in the room where the Opening shall be held at the time indicated for its commencement. Those who arrive later may not enter and shall lose the opportunity to participate.
5. All persons that attend the Opening shall sign an attendance registry, indicating the name of the person or entity that they represent and their position.
6. The Auxiliary Administrator of Acquisitions or their authorized representative that presides the Opening shall state aloud the bid number that they are evaluating, its purpose and the name of each one of the bidders that have submitted offers. They shall show all the persons present the e-mails and the sealed envelopes of the bids. They shall open them and verify that they contain all the documents required in the bid packet. The receipts of the e-mails and/or envelopes of the bids shall be kept in the bid's file.
7. The Auxiliary Administrator of Acquisitions or their authorized representative who presides over the Opening shall initial and seal each one of the pages of each bid. In the cases in which it is anticipated that the bids shall be voluminous or that many bidders shall concur, the collaboration of personnel of the Purchasing Office of the Administration shall be required so that, along with the Auxiliary Administrator of Acquisitions or their authorized representative who presides over the Opening, they seal and initial the bids. Such document shall form part

of the bid record. In the case of electronic filing of offers, the pages shall be initialed, and sealed marked electronically.

8. The following information must be read aloud: (i) the number of the item or category for which the offer is being presented; (ii) the price per item; (iii) the brand and model; (iv) the guarantee, if applicable, and; (v) the delivery date if it is one of the conditions of the bid.
9. Once the bids are opened and read in public the Auxiliary Administration of Acquisitions may not change the terms of the bid, and the bidders present shall not be allowed to make an offer or make changes or modifications to it.
10. Any person present in the Opening may examine the offer documents presented after the Auxiliary Administrator of Acquisitions or their authorized representative that presides the Opening reads aloud, initials and seals all the offers.
11. The Auxiliary Administrator of Acquisitions or their authorized representative who presided over the opening shall be responsible for drafting a record of all the incidents in a term of twenty-four (24) hours which shall certify the veracity of what is stated. The record shall contain the following information:
 - a. Number and matter of the informal bid;
 - b. Date, time and place of the opening;
 - c. Number of offers received;
 - d. How many bidders quoted for one or more items and how many did not quote;
 - e. Name of the bidders that did not make offers;
 - f. Copy of the attendance registry signed by the attendants to the act must be made part of the Record;

- g. Certificate of the person that presides the Opening regarding compliance with the regulatory provisions concerning such act;
- h. Any incident occurred during the Opening; and,
- i. Signature of the person that presided the act.

SECTION 7.2.16 – SUMMARY OF OFFERS

The Bids and/or Proposals Evaluating Committee shall make the pertinent evaluations. Within the evaluation, in a form provided for it, there shall be an itemization or summary of the offers offered by all the bidders, which shall include the following information, when proper:

1. Number of the Informal Bid;
2. Name of each bidder that presented the offer;
3. Offered price;
4. Finding as to whether it complies with the specifications and conditions or not;
 - a. If not, it shall state which it does not comply with and why those specifications and conditions are not met.
 - b. When the breach of specifications and conditions of the process is stated as grounds to disqualify or reject the offer, the grounds for such determination must be clearly stated, along with the technical analysis that was carried out and the totality of the packets that support it.
5. In the analysis of the economic aspects of the purchase, it must include an evaluation of the jobs, economic activity and the income received by the Government, that generate the different offer, according to the base of operations of each participating bidder. The local provider shall be considered as preferred if it represents the best value for the Government of Puerto Rico.

6. Recommendation in favor of which bidder to award and the reason why and the reason for which the other offers must be rejected; and
7. Date and signature of the person that will prepare the summary of offers.

SECTION 7.2.17 – RULES OF AWARDS

1. Evaluation of Offer

The Auxiliary Administrator of Acquisitions or their authorized representative have a term of fifteen (15) days from the day on which the opening ceremony is held to examine and evaluate all the offers and award the bid. In the process, the Bids or Proposals Evaluating Committee shall assist the Auxiliary Administrator of Acquisitions or their authorized representative as to the evaluation of any informal bid.

2. Basic Evaluation Criteria

When evaluating the offers, the Auxiliary Administrator of Acquisitions or their authorized representative shall consider the criteria established in the informal bid packet, in addition to the following:

- a. The accuracy with which the bidder has complied with the specifications, the terms and the conditions of the informal bid packet.
- b. The quality of the goods, works and nonprofessional services offered and how these meet the specifications and satisfy the needs established. In situations in which tests were carried out with samples provided by the bidder, the evaluation of the sample of the good shall be included among the aspects of this quality criterion.
- c. If the price is competitive and comparable with the prevailing market price. Also, they shall apply the preferential percentage (%) if the person or the entity has presented a Ruling of

the Board for Investment in Puerto Rican Industry or any certifying preferential document, as provided in the preferential laws.

- d. The recognized ability of the bidder to carry out works of the nature under consideration in works and nonprofessional services.
- e. The financial liability of the bidder and the experiences of the Administration with the fulfillment of previous contracts of the same or similar nature.
- f. The closest delivery term if it has been included among one of the conditions.
- g. The economic and financial capacity as well as the trajectory and previous experience of the bidder to provide these services or assets and comply with the delivery terms and guarantees of the product or service.
- h. The specific period or the terms applicable to each guarantee, its limitations and conditions, the steps required to claim the guarantee, what amount shall provide the replacement, remediation, correction, repair of good service or the service.
- i. If the bidder qualifies as a minority-owned or woman-owned business, or any other qualification for which preference must be given under any applicable law.
- j. Any other pertinent criterion that represents the best value for the Government of Puerto Rico.

All these criteria shall be tabulated and presented in comparative form among bidders and this report shall form part of the bid record.

3. Rejection of the Lowest Offer

The Auxiliary Administrator of Acquisitions or its authorized representative may reject the lowest offer when one or more of the following conditions takes place:

- a. When there is knowledge and evidence that the bidder that makes the lowest offer has breached the terms of the previous contracts executed by the Administration and that breach is attributable to the bidder. Matters in controversy and pending adjudication in any forum shall not be considered.
- b. When the tests of the samples of the product that were carried out reflect an inferior quality to the specifications of the informal bid packet.
- c. When there is knowledge and reliable evidence that the bidder has breached the terms of the contracts executed with other government entities.
- d. When the offer does not meet the specifications, the requirements and terms of the informal bid or the authorized signature or the bidder's initials are not included.
- e. The previous experience of the Administration with the guarantee or the operation of the category offered has not been satisfactory.
- f. When the offer does not represent the best value for the Government of Puerto Rico.

The reasons for which the lowest price offer is rejected shall be stated in detail in writing and the document shall form part of the file of the informal bid.

4. Delivery Term as Main Evaluation Criterion

- a. Unless the informal bid packet states that the urgency with which the items requested shall be considered as main criterion for the award, the offer that best meets the specifications, terms and conditions of the invitation to the informal bid which is the lowest in price cannot be rejected, to award it to a bidder that offers a higher price with a quicker delivery date.
- b. In those cases in which a specific delivery date is not required in the bid packet, the bidders must indicate in their offer the term or the date in which they shall submit the articles or shall provide the required nonprofessional service.

- c. In exceptional situations in which, after the opening of the bid the Administration learns and consequently determines that the delivery term may adversely affect the development of the activities in the petitioning entity, this shall become the main criterion that shall be considered to evaluate the offers for award. The Auxiliary Administrator of Acquisitions shall notify the bidders that the delivery date shall be the main criterion for the award and shall give them a term of twenty-four (24) hours to amend such delivery term. The justification of such action shall be put in writing and it must form part of the particular bid file.

5. Preference

The Auxiliary Administration of the Purchase Area shall strictly comply with the public policy of preferred purchases provided in law.

- a. Law No. 14 of January 8, 2004, as amended, known as the "*Act to Invest in Puerto Rican Industry.*" To grant Preference, the following conditions shall be met:
 1. The Bidder shall establish Preference through the filing of the Ruling of the Investment Board, jointly with the documents of price offers;
 2. The Ruling must mark the item or items in which the Bidder has been granted the preference they request;
 3. No requests for Preference shall be considered if they do not include the documents requested for the Preference cases as established in the preceding sections;
 4. No Preference requests shall be considered after the date and time established for the opening of the offers;

5. The Preference percentage shall be applied to the price offered by the product and the resulting price shall be compared with other prices to determine the lowest offers and the best value;
6. The Auxiliary Administration of Acquisitions may hold an informal bid exclusively for preferential groups protected by Law No. 14 of January 8, 2004, as amended, known as the *“Act for the Investment in Puerto Rican Industry,”* to meet the reserved preferential percentage established in that law.

b. Law No. 129-2005, known as the *“Commonwealth of Puerto Rico Government Purchase Reserves Act”*:

It shall be fully observed that the government entities have assigned a minimum of twenty (20) percent of the total of the amount assigned to purchase from its general budget to be granted to micro-companies, small and medium sized companies, as long as the fiscal situation so allows and produces savings to the treasury. It shall be observed that half of the aforementioned twenty percent (20%) shall be awarded to women entrepreneurs, proprietors of micro-companies, small and medium sized companies, as long as such award is beneficial to the treasury.

The Auxiliary Administration of Acquisitions may hold informal bids exclusively for preferential groups protected by Law No. 129-2005, to comply with the reserved preferential percentage (%) established in that law.

c. Law No. 253-2006, known as *“Multiple Selection Contracts in Purchasing Procedures Act”*:

The multiple selection contract shall be adopted as one of the options and purchase contract that shall be available and may be used in the purchase of assets and services.

The multiple selection contract shall not mean that a bid and/or proposal shall be awarded to all the bidders and/or proponents that participate in the process, but to the bidders and/or proponents that represent the best value for the Government of Puerto Rico.

The multiple selection contract shall be used when the Administrator determines that this type of contract serves the best interests of the Government.

d. Law No. 42-2018, as amended, known as the *“Preference for Contractors and Local Construction Providers Act”*:

It shall be fully observed that the government entities have reserved, as to the purchase and contracting of Construction Services, at least twenty percent (20%) of such purchases and contracting for services rendered by a Business or Local Provider of Construction Services.

The Auxiliary Administration of Acquisitions may hold informal bids exclusively for the preferential groups protected by Law No. 42-2018, to comply with the reserved preferential percentage (%) established in that law.

Moreover, the Auxiliary Administration of Acquisitions shall require all the bidders, as an indispensable requirement to participate in any informal bid exclusively for local construction services businesses and providers, a sworn statement that certifies their preference pursuant to that established in Law No. 42-2018. The Auxiliary Administration of Acquisitions may, *motu proprio* or upon request of a party, verify the veracity of what is affirmed by any bidder in the referenced sworn statement. In the event that the administration corroborates that the bidder does not comply with that established in Law No. 42-2018 it may disqualify the bidder.

6. Prompt Payment Discount

For purposes of the award of an informal bid, the prompt payment discounts shall not be considered, except when this criterion has been established in the informal bid packet.

7. Award by Items

When it is in the best interests of the Government of Puerto Rico, and is not contrary to that indicated in the bid packet, the Auxiliary Administration of Acquisitions may:

- a. Accept or reject any item or groups of items of any offer; or
- b. Award the bid encompassing various items.

8. Award to Sole Offer

When only the offer of one bidder is received, the Auxiliary Administration of Acquisitions may accept it as long as it adjusts to the specifications and the price is competitive and comparable to the prevailing market price. Moreover, its terms can also be negotiated.

If the requirements of specifications and price are not met, the Auxiliary Administration of Acquisitions must issue a second call for the process. Only in the event of not receiving any offers as a result of said call may the processing of the exceptional purchase proceed.

9. Tied Offers

The offers that are identical in price, specifications and other conditions stipulated in the informal bid packets are considered tied. For the award, the Auxiliary Administration of Acquisitions or its authorized representative must notify by e-mail the bidders with similar offers that in a term of three (3) business days they must appear before the Auxiliary Administrator of Acquisitions and present new sealed offers. On the date and time scheduled the e-mails and/or envelopes shall be opened in the presence of those bidders. The Auxiliary Administrator of Acquisitions or their authorized representative shall evaluate the offers and award the bid to the responsive bidder that has offered the best value for the Government of Puerto Rico. At the discretion of the Auxiliary Administrator of Acquisitions, the appearance may be virtual and the new offers may be presented electronically.

If there is a new tie, the award of the bid shall be divided between those bidders, if the parties accept the reduced award. If not, the item or items in which the tie occurred shall be cancelled.

The way the tie of the offers is resolved must be included in the corresponding minutes.

In case there is a tie among local bidders, bidders from the United States and/or foreign bidders, the Puerto Rican bidders shall have preference; in second place, those from the United States and in third place those from the foreign countries, with regard to the offers that represent the best value for the Government of Puerto Rico.

10. Outright Rejection

Any or all the offers for an informal bid may be rejected in the following situations:

- a. The bidders do not meet any of the stipulated requirements, specifications or conditions.
- b. The prices obtained are unreasonable or the terms are onerous.
- c. When the offers show that the bidders control the market of the product requested and it is understood they have agreed with each other to quote excessive prices. In that case, the corresponding referral shall be made to the Department of Justice.

If any of the aforementioned circumstances occurs, the Auxiliary Administration of Acquisitions must issue a second call for the process. Only in the event that the offers received in said call again result in the abovementioned circumstances shall the processing of an exceptional purchase proceed. The Auxiliary Administrator of Acquisitions must keep a record of every process in which he/she states in detail the particular situation occurring as a result of each call. Both calls must be included in the record, as a requirement prior to the processing of an exceptional purchase.

11. Permissible Deviations

The Auxiliary Administration of Acquisitions may accept minimal deviations in the specifications, terms and conditions of the offers received, as long as the following requirements concur:

- a. No bidder offers the good or nonprofessional service with the required specifications;
- b. The original purpose for which the bid is intended is not affected and;
- c. The quoted price is competitive and comparable with the prevailing market price.

The Administration reserves the right to omit any informality or difference of lesser importance in the terms and conditions, if they meet the purpose for which they are requested and they are beneficial for the Government of Puerto Rico. The deviations may not substantially affect the essential quality, capacity or characteristics of the requested items or services. An explanatory memorandum of the permitted deviation must be included in the bid record.

12. Award

The Purchasing Office of the Auxiliary Administration of Acquisitions shall evaluate the offers and how these meet the criteria of evaluation established in the specifications, the terms and the conditions indicated in the informal bid packet.

The Auxiliary Administrator of the Acquisitions Area or their authorized representative shall award the bid to the responsive bidder that has offered the best value.

13. Award Notice

Once a matter has been adjudicated before the consideration of the Auxiliary Administration of Acquisitions, the final determination shall be notified by way of an Award Notice. The bid award notice shall be properly notified, by federal certified mail with acknowledgement of receipt or e-mail to all the parties that are entitled to challenge such determination, namely, all the bidders participating in the process. The award notice must include: (i) the names of the bidders that participated in the bidding process, and a summary of their proposals; (ii) the factors or criteria that were taken into account to award the bid; (iii) the defects, if any, that the losing bidders'

proposals have, and (iv) the availability and the term for requesting the administrative review and judicial review.

The Auxiliary Administration of Acquisitions must file the final determination on the award and a record of the notice.

14. Administrative Review

The party adversely affected by a decision of the Auxiliary Administration of Acquisitions, within the term of twenty (20) days from the mailing of the award notice by federal mail or e-mail, may file a review petition before the Bid Review Board of the General Services Administration.

If the filing date of the copy of the notice of the final determination of the award is different from the federal postal service postmark or time of sending it by e-mail, the term shall be calculated from the mailing of by way of the federal postal service. Once the administrative review has been filed, the Auxiliary Administration of Acquisitions shall send a certified copy of the case record to the Bid Review Board of the Administration within the three (3) days following the filing of the appeal.

15. Notice of the Filing of Administrative Review

The appellant shall provide notice with a copy of the request for administrative review to the Administration and the Auxiliary Administration of Acquisitions; they shall simultaneously also provide notice to the provider that was awarded the bid. This requirement is of a jurisdictional nature. In the review document itself, the appellant shall certify to the Review Board its compliance with this requirement. The notice must be provided through standard mail and certified mail with acknowledgement of receipt. The appellant must provide notice, furthermore, to all the bidders that participated in the bidding process.

SECTION 7.2.18 – REVIEW OF THE INFORMAL BID RECORD

The record of the informal bid shall comprise the following documents:

1. The Invitation to the Informal Bidding Process;
2. The informal bid packet with its amendments, if any;
3. The minutes of the pre-bid meetings and of award of the Auxiliary Administrator of Acquisitions;
4. The certificate of the opening;
5. The offers presented;
6. The award of the bid;
7. The notification of the award to the bidders; and
8. Any other document that must be included pursuant to this Regulation or that is sent to the bidders, or that is necessary for the evaluation of an informal bid.

Any particular person that is interested and requests to examine the referenced file may do so after being notified the final decision of the Auxiliary Administration of Acquisitions of that particular bid. The file may be examined even if it is before the Bid Review Board, but always as after the award is notified.

In the event that an informal bid is cancelled, after the Opening is performed, any particular person that requests it may examine that file, except for the information that is a trade secret or protected information.

The right that is given to particular persons shall always be subject to not affecting the services provided and the normal course of the works of the Auxiliary Administration of Acquisitions and Purchasing Office. For that, it shall be necessary to request in writing to the Auxiliary Administrator of Acquisitions, who shall make arrangements so that an authorized representative

or official of the Purchasing Division is present during the evaluation of the packets, and shall notify the convenient date and time. The Auxiliary Administrator of Acquisitions shall allow the petitioner to review the file in the term of three (3) business days after the date of the request.

The offers presented by the bidders shall be part of the informal bid file for which they were presented and shall become property of the Administration, regardless of whether the informal bid is cancelled or awarded.

SECTION 7.2.19 – DESERTED BID

It shall be considered that the bid was deserted whenever no offers are received by the date and time established for such in the bid packet. In the event that the bid is deserted, the Administration shall hold a new bid. If the second bid is also deserted, an Exceptional Purchase may be made.

SECTION 7.2.20 – PENALTY FOR LATE DELIVERY OF GOODS OR IN THE RENDERING OF NONPROFESSIONAL SERVICES. PENAL CLAUSE.

1. The bidder with whom the Administration or any government entity executes a contract or the bidder to whom a purchase order is issued, shall be obligated to provide the movable property or ordered service, pursuant to the delivery terms, specifications and other stipulated conditions. In the event of breach of the contract on the part of the bidder for delay in the delivery of the movable property or nonprofessional service contracted, the Finance Office, at the time of processing the payment, may provide a discount of half percent (1/2%) of the value of the contract breached for each work day in delay; being understood that at no time the total amount to be discounted for damages shall exceed ten percent (10%) of the amount of the

contract for a corresponding item. Also, the bond that guarantees the execution of the contract shall pay for damages.

2. The sum to pay for delay in the delivery of the good or nonprofessional service in no way represents a penalty but does represent damages agreed between both parties to compensate the Government of Puerto Rico for additional expenses and other setbacks.

The foregoing shall apply to construction projects contracts. The penalty for late delivery of the construction project shall be the following:

Penalty for late delivery of the construction project:

Price of the Original Contract		Daily fee
From this amount	Up to this amount, inclusive	
\$00.00	\$99,999.99	\$300.00
\$100,000.00	\$499,999.99	\$400.00
\$500,000.00	\$999,999.99	\$800.00
\$1,000,000.00	\$1,999,999.99	\$1,000.00
\$2,000,000.00	\$4,999,999.99	\$2,000.00
\$5,000,000.00	\$9,999,999.99	\$3,000.00
\$10,000,000.00	\$19,999,999.99	\$4,000.00
\$20,000,000.00	\$29,999,999.99	\$5,000.00
\$30,000,000.00	\$39,999,999.99	\$6,000.00
\$40,000,000.00	\$49,999,999.99 unlimited	\$7,000.00
\$50,000,000.00		\$8,000.00 or any other amount agreed in the contract

SECTION 7.2.21 – PENALTIES FOR THE BIDDER FOR BREACH OF CONTRACT

The Administrator, in the event of breach of contracts and determination of lack of financial liability or of another nature on the part of the contractors, may impose the penalties or measures they deem appropriate for the protection of the public interest, which are established below:

1. Confiscate the bond or bonds submitted in guarantee.
2. Make an exceptional purchase of the goods, works or nonprofessional services object of the breach of the contract or its equal in the market, charging the difference of the price paid over the quoted price to the bidder that breached their contract or claim it to its surety.
3. Eliminate from the Unique Bidder Registry for the time they deem appropriate, the name of any person or entity that breached a contract or that otherwise incurs in violation of the terms of the order.

SECTION 7.2.22 – CONTRACTS

Once the informal bid process ends, the execution of the corresponding contract or the issuance of the purchase order is appropriate.

In the term of twenty (20) days after having provided notice of the award, the Review Board shall send the Auxiliary Administration of Acquisitions a notification informing that there has been no filing of any challenge in the Review Board, therefore the Administration can proceed to formalize the corresponding contract.

In the event that the award of the bid in question has been challenged, the Bid Review Board shall notify the Auxiliary Administration of Acquisitions immediately after notifying the final ruling of the Review Board.

The Auxiliary Administration of Acquisitions shall be the permanent custodian of its records. In the event of the filing of the challenge of a bid, they shall be processed to the attention of the Bid Review Board which shall be the temporary custodian of the requested record.

The offer or proposal of the successful bidder or proponent and the content of the bid packet shall constitute the basis of the contract between the parties or in the purchase or service order. Along the other form requirements of the government contracts they shall constitute the contract file. Such file shall include the copies of the orders issued against such contract. For each successful bidder there shall be a contract file.

SECTION 7.2.23 – SUPPLEMENTAL DOCUMENTS OF THE CONTRACT AND OTHER REQUIRED DOCUMENTS FOR GOVERNMENT CONTRACTING

1. Copy of the Bid packet;
2. Original of the successful offer;
3. Copy of the Award notice;
4. Plans and other documents required in the call for bids, bid conditions and those provided in the “Act for Uniform Documents for the Contracting of Programming, Management, Design, Inspection and Construction of Public Works in Puerto Rico” or “Uniform Contracting Act,” Law No. 218 of December 21, 2010, if applicable.
5. The additional documents necessary for the formalization of the contract such as policy, bonds, among others.

In every construction project, a clause shall be included that establishes the obligation on the part of the contractor of complying with the current Construction Code of Puerto Rico. Also, it shall

be established as an obligation of the contracting government entity that shall administer the contract, to observe the compliance of the contractor with the aforesaid Code.

In every construction project, a clause shall be included that establishes the obligation on the part of the contractor of complying with the controls, safety measures and environmental demands provided in state and federal laws.

SECTION 7.2.24 – AMENDMENTS TO THE PURCHASE ORDER OR AGREEMENT, ALTERATION OF ORIGINAL AMOUNT; NOTICE

The head of the corresponding government entity or nominating authority has the duty of notifying the Administrator of those amendments to previously issued purchase orders or previously executed agreements that have the effect of increasing the value of the awarded purchase of goods, works, and nonprofessional services. The notice of amendment must be duly documented and supported.

SECTION 7.2.25 – MASTER CONTRACTS

The Administration may hold any Informal Bid procedure with the objective of executing master contracts, under which previously established terms and conditions, the agencies may execute purchase orders, if the need described therein is identified.

Multi-annual contracts may be executed. The Administrator may authorize amending the master contracts in order to extend their effective term for a maximum term of six (6) months. The amendments shall be made through an “Amendment” document and it must have the signatures of the parties.

ARTICLE 7.3 – FORMAL BID

SECTION 7.3.1 - DEFINITION

Bidding method to be used when purchasing goods, works and nonprofessional services which cost exceed the amount of one hundred thousand dollars (\$100,000.00). Such award shall be made by the Bid Board to the responsive bidder who has offered the best value.

SECTION 7.3.2 – INVITATION TO FORMAL BID; CALL FOR BIDS

1. The Purchasing Office of the Auxiliary Administration of Acquisitions shall prepare the Invitation to Formal Bid and the related documents within a term of no more than ten (10) business days after the submission of the duly completed request by the requesting entity. Once prepared the Invitation and the related documents must be presented to the Auxiliary Administrator of Acquisitions and/or the Bidding Officer for review and approval.
2. The Auxiliary Administrator of Acquisitions or the Bidding Officer shall review the Invitation and related documents (bid packet) within a term of no more than five (5) business days from the date on which the packet was presented to him/her, to evaluate it. Then, the bid packet must be presented by the Purchasing Office of the Auxiliary Administration of Acquisitions to the Bid Board for review and authorization.
3. The Bid Board shall review the bid packet within a term of no more than five (5) business days after it has been presented by the Purchasing Office of the Auxiliary Administration of Acquisitions.
4. The call for bids shall be made within a term of no more than five (5) business days after the bid packet has been prepared and reviewed by the Auxiliary Administration of Acquisitions or the Bidding Officer and authorized by the Bid Board.

5. The Secretary of the Bid Board, shall send the Invitation to Formal Bid to all the bidders registered in the RUL under the category corresponding to the good or service that wants to be purchased, at least twenty-one (21) days before the deadline to present offers. Nevertheless, said period may be reduced, but never to a term of less than ten (10) days if unusual circumstances were to occur and the Administrator considers that it serves the best interests of the Government of Puerto Rico. When the Administrator deems that the term should be less than twenty-one (21) days, he/she must justify such in writing and state the reasons for such. Said justification shall be kept on record. When the bid includes federal participation, the invitation shall be sent in the term provided by the federal entity in question. Also, the Invitation to Formal Bid shall be posted in the RUS, as well as in the webpage of the Administration. Evidence of the delivery of the invitations to the formal bid in the RUL, of the invitation to formal bid posted in the RUS and of the invitation to formal bid posted on the Administration's webpage shall be kept in the bid file. The official date of the Invitation to the Formal Bid shall be the date in which such invitation was sent through RUS.
6. The Invitation to Formal Bid shall be remitted by e-mail to all the bidders registered in the RUL under the category corresponding to the good or service that wants to be acquired, to the address provided in the RUL. The failure to notify a bidder of the RUL shall be sufficient cause for the cancellation of the bid, as long as the Opening has not been held.
7. When the number of bidders registered in the RUL under the category corresponding to the good or service sought to be acquired is less than three (3), the Purchasing Office of the Auxiliary Administration of Acquisitions shall take the necessary steps to identify the suppliers or vendors not registered in the RUL that provide necessary good or service, to achieve a minimum of three (3) bidders, suppliers, or vendors to send an invitation to the

formal bidding process. On the invitation to the identified suppliers or vendors not registered in the RUL, they shall be advised that their offer shall be considered only if they submit all the required documents to the RUL , within a term of five (5) business days, as provided in Section 7.3.9. If the Purchases and Bids Specialist assigned to the processing of the bid only identifies a maximum of two (2) bidders, suppliers, or vendors, they shall certify it in writing and proceed to perform the formal bidding process.

8. The Bid Board may hold formal bids for preferential groups, in order to comply with what was established in the Preference Laws.

SECTION 7.3.3. – BASIC REQUIREMENTS OF THE INVITATION TO FORMAL BID

The Invitation to Formal Bid must include the following:

1. Bid number;
2. Purpose of the bid;
3. Date of publication of the bid;
4. Conditions or requirements that the bidders must meet;
5. Specific instructions regarding where and how to obtain copy of the bid packets, including the physical address and the specific place where the packets shall be provided and a contact telephone number. Also, the cost of the packets, if any, shall be specified;
6. Copies of the bid packet shall be kept available so that any other supplier that does not form part of the Unique Bidder Registry can pick them up;
7. The bid packets may be posted on the webpage of the Administration or be sent to the bidders by e-mail; if they are free. Also, they may be personally delivered, if so decided by the Administration. If it is decided that they be personally delivered, freely or not, it shall be

notified by electronic messaging to all the suppliers included in the Unique Bidder Registry under the category corresponding to the good, work or nonprofessional service that wants to be purchased and the availability of the bid packets and their cost, if any, shall be posted in the webpage of the Administration. The notification must contain the dates, time and exact place for the pick-up of the bid packets. For each bid in particular, all suppliers shall be notified in the same way;

8. Date and time of the last day to pick up the packets;
9. If it has been determined to hold a pre-bid meeting, the date, time and place shall be indicated, stating if the attendance is compulsory;
10. Date, time, place, and mode (in the case of electronic filing) in which the offers will be received;
11. It shall be stated whether the offer must be submitted with a bid bond equal to the percentage (%) determined in this Regulation, according to the type of good, work or service included in the invitation.
12. Date, time, and place where the offers will be opened;
13. It shall include the notice that the Administration may order the partial or total cancellation of the formal bid packet regardless of the phase it is in, as long as it is before formalizing the contract or a purchase order having been issued, when that serves the best interests of the Government of Puerto Rico;
14. It shall include the notice that the Administration may amend any invitation and/or formal bid packet, when that serves the best interests of the Government of Puerto Rico. In this case, the supplier shall not have to pay again (if applicable) to obtain the amended bid packet;
15. Any notice required in the preferential laws;

16. In the construction project bids, it shall state the name of the project, location of the project, description of the project, term within which the work must be executed and the service to be provided (“Scope of Work”). Also, a Project Estimate shall be included.

SECTION 7.3.4 – CONTENT OF THE BID PACKET

Each bid packet must be identified by its number, purpose, and issuance date. It shall be composed by the invitation to the bid, the instructions, the specifications and the terms and conditions of the bid.

In the bid packet, all the elements necessary for the bidder to submit its offer by e-mail or delivery in the Bid Board (as provided in the packet) shall be included, considering the requirements that follow:

1. Clear and detailed descriptions of the characteristics of the goods, works and/or nonprofessional services that want to be acquired and the complete specifications of each one of them. If a specific brand is necessary, the bid file shall include a recommendation that justifies such.
2. Specific instructions regarding the form in which the offers shall be submitted including the deadline date and time to submit them;
3. The terms and the conditions that shall regulate the transaction. Such terms and conditions along with the specifications shall constitute the basis of the Contract or Purchase Order;
4. Terms and conditions of delivery and inspection required that are essential for the awarding of the bid;
5. Place, date and time in which the envelopes and/or e-mails of Offers will be opened and indications about the way in which these must be identified;

6. Special conditions or requirements that may affect the award process. For example, if it shall be necessary to submit a sample of the product for evaluation and how to dispose of the sample once the test is done;
7. Evaluation criteria for the awarding of the formal bid;
8. Terms for filing and/or presenting a challenge of the invitation, the packet, and the award;
9. All certifications or special documents that the bidders must submit as part of their offer;
10. Types of discounts, including the discount percentage (%) for prompt payment, if any;
11. The notice that the Administrator may order the partial or total cancellation of the informal bid packet before or after the opening, pursuant to **Section 7.3.7** regarding the Cancellation of the bid packet;
12. The notice that the Administration may amend any formal bid packet up to two (2) business days prior to the Opening of the offers when the amendment entails additional changes or requests that must be included in the offer or bid or one (1) work day before the opening of the bid when the amendment does not affect the presentation of the offers;
13. In cases of construction projects, it shall include the warning that the Administration may amend any formal bid packet up to five (5) business days before the Opening of the offers when the amendment entails additional changes or requests that must be included in the offer or bid or three (3) business days before the opening of the bid when the amendment does not affect the presentation of offers;
14. Notice to the bidders that copies of the related documents shall be available in the Administration or the Bid Board, in those situations in which all the specifications of the goods, works or services that want to be acquired are not in the packets;

15. In case of construction projects, the bidders shall be notified the date of inspection of the construction project, to which they shall compulsorily attend. The failure of the bidders to appear at the compulsory inspection of the construction project shall be sufficient grounds for their disqualification;
16. Any notice required in the preferential laws;
17. All certificates or special documents that the bidders must submit as part of their offer;
18. Requirements of the current regulation and of the applicable engineering and safety standards in those cases that the installation of the equipment that shall be purchased is required;
19. The following notice shall also always be included: "The award notice of this bid shall not constitute the formal agreement between the parties. It shall be necessary to execute the corresponding contract or for the Administration to issue a purchase order signed by the authorized person";
20. Notice to the bidders of the availability of additional related documents and the place where they can be obtained;
21. Any additional criteria that the Administration or the Bid Board considers necessary to include in the bid packet.

The Bid Board may, when necessary, request the Administrator for the technical counseling of any employee or officer of the Government of Puerto Rico with specialized knowledge as counselor for the preparation of the formal bid packet.

The bid packet must comply, in that pertaining to the matter, with **Article 10.5** of this Regulation.

SECTION 7.3.5 – AMENDMENTS TO THE BID PACKET

Amendments may only be made to the bid packet:

1. When the petitioning agency submits amendments;
2. When in the opinion of the Administrator, the terms stated therein are unreasonable;
3. When a substantial and irreparable error is found in the bid packet;
4. When interested in increasing or decreasing terms or amounts, or vary conditions or specifications;
5. When the terms of the packet are reconsidered.

The Administration may amend any formal bid packet up to two (2) business days before the Opening of the offers when the amendment entails additional changes or requests that must be included in the offer or bid or one (1) work day before the Opening of the bid when the amendment does not affect the presentation of offers.

In cases of construction projects, the Administration may amend any formal bid packet up to five (5) business days before the Opening of the offers when the amendment entails additional changes or requests that must be included in the offer or bid or three (3) business days before the Opening of the bid when the amendment does not affect the presentation of the offers.

All the amendments must be authorized by the Auxiliary Administrator of Acquisitions and approved by the Administrator.

The Bid Board shall notify the Notice of Amendment of the packet to the suppliers convened to the formal bid. Furthermore, the Notice of Amendment of the packet shall be posted in the Sole Auctions Registry “RUS”, and in the Administration’s webpage also.

All the amendments shall form part of the bid’s document and those interested in bidding shall have to consider them when presenting their offers.

SECTION 7.3.6 – CHALLENGE OF THE INVITATION TO BID (CALL); CHALLENGE OF THE PACKET

Challenge of the Invitation to Bid (Call)

Any bidder that is interested in participating in the formal bidding process may challenge the Invitation to Bid, in writing, only when any of the procedures established in this Regulation have not been followed, or when it is deemed that the term established for performing the study and preparation of the offer and the date for filing the offer is insufficient. The packet must contain the grounds on which the invitation is being challenged, moreover, it must be signed by the bidder. The challenge packet must be filed in person at the Auxiliary Administration of Acquisitions within three (3) business days following the date on which the Administration sent the invitation by e-mail to the bidders or from the date the Invitation was posted in the RUS. If the date on which the invitation was sent by e-mail to the bidders is different from the date on which the Invitation was posted in the RUS, it shall be counted from the sending date of the latter. Every challenge packet filed outside of the term established herein shall be fully rejected. Notice must be provided of a copy of the filed appeal to the bidders invited to the formal bidding process.

As a consequence of the filing of this appeal, all procedures in the challenged bidding process shall be automatically halted and the subsequent terms shall be counted from the notice of the decision of the Auxiliary Administrator of Acquisitions, who shall evaluate and decide on its merits the challenge within a term of five (5) business days as of the date on which it was received.

As a consequence of the challenge filed, the Auxiliary Administrator of Acquisitions may determine the following:

- 1) To dismiss the challenge filed and order for the procedures to continue.
- 2) To amend the Invitation to Bid or issue a new one.

- 3) To cancel the Invitation to Bid.

The determination of the Auxiliary Administrator of Acquisitions shall be notified to the appellant and the bidders invited to the formal bidding process by e-mail.

If the bidder is not in agreement with the determination of the Auxiliary Administrator of Acquisitions, they may request an administrative review proceeding before the Review Board, upon being provided notice of the award notice, pursuant to Chapter 5 of this Regulation.

Challenge of the Bid packet

If a bidder interested in participating in a formal bidding process does not agree with the final terms, instructions, specifications, or conditions established in the bid packet, they may file the corresponding challenge packet in person at the Auxiliary Administration of Acquisitions within three (3) business days following the date on which the Administration makes the bid packets available. Any challenge of the bid packet filed outside of the term established herein shall be fully rejected. A copy of the filed appeal must be notified to the bidders invited to the formal bidding process.

The bid packet challenge packet must contain the following:

- 1) The bid number.
- 2) A detailed narration stating the specific parts, specifications, and/or conditions established in the packet whose terms are being challenged.
- 3) The grounds on which the filed challenge is based and any evidence that supports the argument laid out.
- 4) A clear statement of the remedy or action that is being requested.
- 5) The bidder's signature.

As a consequence of the filing of this appeal, the procedures of the challenged bidding process

shall automatically be halted and the subsequent terms shall be counted from the notification of the decision of the Auxiliary Administrator of Acquisitions, who shall evaluate and decide the challenge on its merits within the term of five (5) business days as of the date on which it was received.

As a consequence of the filed challenge, the Auxiliary Administrator of Acquisitions may determine the following:

- 1) To dismiss the filed challenge and order for the procedures to continue.
- 2) To amend the packet or issue a new one.
- 3) To cancel the bid packet.

The determination of the Auxiliary Administrator of Acquisitions shall be notified to the appellant and the bidders invited to the formal bidding process by e-mail.

If the bidder is not in agreement with the determination of the Auxiliary Administrator of Acquisitions, they may request an administrative review proceeding before the Review Board, upon being provided notice of the award notice, pursuant to Chapter 5 of this Regulation.

SECTION 7.3.7 – CANCELLATION OF THE BID PACKET

The Administrator may cancel the bid packet subject to the following:

Prior to the Opening:

1. Should any of the conditions that exempt from the bidding procedure (exceptional purchases) arise;
2. Due to any cause that the Administrator deems to be duly justified by the petitioning agency, by the Auxiliary Administration of Acquisitions, or by the Bid Board;
3. As a consequence of a challenge;

4. When the Administrator determines that the cancellation of the bid packet results in the best interest of the Government of Puerto Rico. The cancellation shall be notified by e-mail to the bidders that have obtained the packet. Moreover, an announcement of the cancellation will be posted in the RUS and on the webpage of the Administration.

After the Opening:

2. The Administrator may cancel the packet of a bid after having held the opening as long as a contract has not been formalized or a purchase order has been issued, when the Administrator determines that the cancellation of the bid packet results in the best interest of the Government of Puerto Rico. The cancellation notice shall be notified by e-mail to the bidders that have obtained the packet. Moreover, the cancellation notice shall be posted in the RUS and on the webpage of the Administration.

SECTION 7.3.8 – PRE-BID MEETINGS

1. The Bid Board may hold pre-bid meetings no less than five (5) business days before the date set for the Opening. During the meeting, the presence of the Purchases and Bids Specialist assigned to such bid and the presence of a representative of the petitioning entity with knowledge of the type of good or service that is sought to be acquired shall be required. Their presence is compulsory.
2. The Secretary of the Bid Board or any authorized representative of the Bid Board shall preside over the pre-bid meetings.
3. Every pre-bid meeting shall have the purpose of clarifying the doubts to the bidders that arise regarding the bid packet. Moreover, the bidders shall be advised that it is forbidden to have

contact with the members of the Administration and the Bid Board, after the pre-bid meeting has concluded and during the Offer evaluation process.

4. A period and deadline shall be established to submit written questions. Every question or request for documents filed with the Bid Board by the potential bidders shall be channeled through the Secretary of the Bid Board.
5. Every written question that is submitted for the consideration of the Bid Board shall be answered in the term established for it. Both the question and the answer shall be offered to the other bidders for their benefit and to add transparency to the process.
6. Individuals that participate in the pre-bid meeting shall sign the attendance registry book and they must identify the person or entity they represent.
7. The purchases and bids Specialist assigned to such bid shall prepare a minutes of the pre-bid meeting which shall at least, include the following: (i) a list with the names of the participating persons and the persons or entities that they represent, if applicable; (ii) the matters discussed, the clarifications and the agreements made in the meeting; and (iii) the date, time and place in which the meeting was held.
8. The purchases and bids Specialist assigned to such bid shall send copy of the minutes by e-mail to the potential bidders that participated in the meeting at least two (2) business days before the Opening. The original of the minutes shall be included in the official file of the bid.
9. Any verbal or written offer presented by the bidders in the pre-bid process shall be deemed not presented, shall not be included in the archives and shall not be taken into consideration at the moment of the award.
10. When it is determined that the presence of the bidders to the pre-bid meetings is compulsory, a bidder's failure to appear shall be sufficient grounds for the bidder's disqualification.

SECTION 7.3.9 – PRESENTATION OF OFFERS FOR THE FORMAL BID

1. The offers must be endorsed by the bidder that appears registered in the RUL. In case of not being registered in the RUL, it must be endorsed by the person that shall submit all the required documents before the RUL.

When a bidder that is not registered in the RUL appears to a formal bid process and presents an offer, the Bid Board must not reject the same for the fact that such bidder is not in the RUL and shall give the bidder five (5) business days, from the Opening to submit all the required documents to the RUL. In the event that the bidder does not provide the required documents, the bidder shall be disqualified.

Every bidder that is registered in the RUL, that has presented an offer for a formal bid and that after the Opening is not eligible, shall be given a non-extendable term of five (5) business days, from the Opening, to submit the corresponding information and/or packets in the RUL. During said period, no award shall be made. The Secretary of the Bid Board shall be responsible for notifying the bidder, by telephone call and e-mail, so that the bidder can update their information in the RUL within the term provided. In the event that the bidder does not update their information in the RUL in the term provided, the bidder shall be disqualified.

2. The offers may be received by e-mail or personal delivery at the Bid Board (as is established in the packet).
3. The e-mail including the offers as an attachment or the envelope containing the offers, as the case may be, shall be identified with the name, address and telephone number of the bidder and the bid number. The personal deliveries of the envelopes shall be made at the Bid Board, where they shall be marked indicating the exact date and time in which they

were received, which shall constitute the official delivery date of the offer. The date and time of the offers presented by e-mail shall be the ones printed in the packet. Every offer received without identification as required herein shall be processed as regular correspondence. Once opened pursuant to the process for regular correspondence (physical or electronic), the Secretary of the Bid Board shall contact the bidder and return the envelope as received, to comply with that established herein. The Secretary of the Bid Board shall make a photostatic copy of the envelope or print the receipt of the e-mail as evidence and shall proceed to draw up a Record.

4. The Bid Board shall accept the offers until the deadline date and time established for the presentation of the offers. If any natural event or special circumstance occurs that causes the closure of the headquarters of the Bid Board and prevents the receipt of offers in the deadline provided for it, the offers shall be delivered on the date that the Bid Board resumes duties, at the time originally provided, or at any other that is opportunely notified.
5. Each bidder shall have the right to present only one offer for each good, work or nonprofessional service specified in each bid, unless stated otherwise in the bid packet.
6. Bidders shall present their offers in the official forms provided, in the original. In the event that they submit their offers by e-mail they must present all the related documents to the Bid Board, in the original.
7. Bidders may photocopy the official form if necessary.
8. If it were necessary, the bidders may add sheets to clarify or describe their offers in more detail.
9. Offers received outside of the date and time set shall be returned to the bidder informing their noncompliance with the established conditions and of their disqualification. The

original envelope of the delivery of the offer and/or the receipt of the e-mail shall be kept, which shall form part of the bid file.

10. The offers presented by the bidders shall be part of the bid file in which they participated and shall become property of the Administration, regardless of whether the formal bid is cancelled or awarded. However, the confidential information consisting of trade secrets or any other information protected by copyright, among other legal provisions, may not be divulged by the Bid Board or other government entity. Because of this, every information that constitutes confidential and privileged information, must be attached to the offer by the bidder in an individual sheet that must be titled "Confidential and/or Protected Information."
11. If the bidder that offers a specific brand is the exclusive representative of that brand, that bidder shall have the obligation to mention it in the offer and remit the manufacturer's certification.
12. Every offer presented shall be under the custody of the Bid Board and under no circumstance shall be opened until the date and time set for the Opening.
13. If before the date of the Opening a bid is received with the envelope open, violated, deteriorated or without identification, the Secretary of the Bid Board shall contact the bidder in question for that bidder to personally verify the envelope and the documents inside and place them again in another sealed envelope, duly identified, and formally submit the bid. The delivery date shall be the date of the original receipt. The Secretary of the Bid Board shall prepare an incidents record to which she shall attach the deteriorated, violated or unidentified envelope and the bidder shall sign the bottom of the record

indicating the date and time of the inspection of the violated, deteriorated or unidentified envelope.

14. Offers must be made in dollars and cents, by items.

15. In the event no offers are received, the Bid Board may carry out a new call for bids or may make an exceptional purchase.

SECTION 7.3.10 – REGISTRY OF RECEIVED OFFERS

On the date established to receive the offers, the Secretary of the Bid Board shall write the offers received in the Received Offers Registry. Said Registry shall remain under the custody of the Secretary of the Bid Board.

SECTION 7.3.11 – TYPES OF OFFERS

The Bid Board may accept or reject offers presented by the bidders as follows:

1. Basic Offer

Is that in which the bidders write the unit price of each one of the items or categories for which they want to quote. If the bidder writes unit prices in some items and omits it in others, it shall be understood that the bidder is interested in making offers only in those items for which the bidder makes the basic offer.

2. Alternate Offer

A bidder may submit a basic offer and one or several for assets and nonprofessional services of different prices, qualities or categories when these have been requested in the bids packets and they have been provided the same opportunity as the other bidders. The fact that alternate offers

are requested does not compel the Bid Board to accept them, even if they are lower in price than the basic offer, if it is understood that it is not convenient for the Government of Puerto Rico.

3. “All or Nothing” offer

In addition to the basic offer, an offer based on “all or nothing” shall be admissible. It consists of a lower price for a group of items or categories, subject to the condition that all are awarded to the bidder. The total discounted price or the percentage of discount must be written next to each item, indicating the phrase “all or nothing.”

4. Lump Sum Offer

In substitution of the offers based on “all or nothing,” it shall be admissible for the bidders to quote based on the Lump Sum. The bidder shall write down a discounted amount or shall state a percentage of discount next to the sum of the categories for which the bidder has quoted.

5. Several Offers by a Single Bidder

A commercial company may not submit various offers for a bid, either on its own behalf, or on behalf of any of its subsidiaries or branches, of some or several of its partners, agents, officers and entities that they belong to because each and every one of the offers shall be declared null.

The Bid Board shall not consider the offers that add or eliminate specifications or conditions required in the bid packet, or that alter, modify or vary them. Also the offers that contain ambiguous, incomplete, undefined phrases, paragraphs or comments or that take away certainty from the offer shall not be considered. As an exception, those minimal deviations that do not alter the basic concept of the specification, the condition or the term of the bid packet shall be accepted, only if no bidder has offered an asset or nonprofessional service that meets the specifications and the terms required.

The Bid Board shall consider the total offered price, however, every offer presented must be included in the details of the offered price: per-unit price of the good or service (for each item), costs of transportation, delivery, packaging, warranty, training, maintenance or services, replacements, among others.

SECTION 7.3.12. CORRECTIONS TO THE OFFERS

The corrections to the offers, which are caused by the mistakes, must be endorsed by the bidder with the bidder's signature or initials, otherwise the offer shall be invalidated for the corresponding item or items.

SECTION 7.3.13. MODIFICATIONS TO THE OFFERS

Any modification that varies the terms of the offer previously submitted shall be made by written communication, presented before the Auxiliary Administrator of Acquisitions and must be sent in sealed envelope, duly identified with the following information:

1. Bid number
2. Date
3. Time set for the submittal of the offer
4. Name and address of the supplier
5. Information that indicates the reasons for the modification of the offer

No modifications presented after the deadline established for the presentation of the offers shall be admitted.

Every modification of offer shall be opened on the date and time set for the Opening of the bid jointly with the original bid.

SECTION 7.3.14 – WITHDRAWAL OF THE OFFER

1. The withdrawal of an offer may be performed by written request addressed to the Bid Board, presented at any time prior to the Opening.
2. The bidder may not present a substitute offer, once the bidders offer is withdrawn for a certain purchase.
3. No bidder may withdraw their offer after the Opening of a bid.

SECTION 7.3.15 – OPENING

1. The offers shall be opened on the date and time set for its opening. The Opening shall be open to the public and to every person interested may attend. In the event that the opening is performed virtually, every interested person shall receive an electronic link to access said ceremony electronically.
2. The opening shall be presided over by the Secretary of the Board or by any member of the Board designated for such.
3. The members of the Bid Board, the bidders in question, and every interested person may be present at the opening. It shall not be a requirement for the Board to be constituted in whole for the opening.
4. The bidders must be in the room where the Opening shall take place at the indicated time for its start. Those who arrive later may not come in and shall lose the opportunity to participate.
5. All persons that attend the Opening shall sign an attendance registry, indicating the name of the person or entity who they represent and their position.
6. The officer of the Bid Board that presides the Opening shall state aloud the bid number that is under its consideration, the purpose of the bid, and the name of the bidders that have presented

offers. They shall show all the persons present the e-mails or the sealed envelopes of the bids, as established in the packet. He shall open them and verify that they have all the documents required in the bid packet. The e-mails or envelopes of the bids shall be kept in the bid record.

7. The official that presides over the opening shall initial and seal each one of the pages of each bid. In those cases that it is anticipated that the bids shall be voluminous or that many bidders shall attend, the Secretary of the Bid Board shall request the attendance of the members of the Bid Board so that they assist him in sealing the bids. In the event of electronic presentation of offers, the pages can be electronically initialed and sealed.
8. The following information must be read aloud: the item or category number for which the offer is being presented, the item price, the brand and the model, the guarantee, if applicable, and the delivery date if it is one of the conditions of the bid.
9. Once the bids have been opened and read in public, the Bid Board may not change the terms of the bid, nor shall it allow the bidders present to make an offer or to make changes or modifications to it.
10. Any person present in the Opening may examine the documents of the offers presented after the Secretary of the Board reads aloud, initials and seals all the offers.
11. The Secretary of the Bid Board or the officer that presides the Opening shall be responsible for drafting a record of all the incidents in a term of twenty-four (24) hours and shall certify the veracity of what is stated. The record shall contain the following information:
 - a. Number and matter of the formal bid;
 - b. Date, time and place of the opening;
 - c. Number of offers received;
 - d. How many bidders quoted for one or more items and how many did not quote;

- e. Name of the bidders that did not offer;
- f. Copy of the attendance registry signed by the attendants to the act must be made part of the record;
- g. Certification of the person that presides the opening, as to the compliance with the regulatory provisions concerning such act;
- h. Any incident occurred during the opening; and,
- i. Signature of the person that presided the act.

The opening of every formal bid must be recorded and transmitted “live” through the webpage of the Administration or any digital platform. The recording shall be preserved intact and identified under the custody of the Bid Board, for a term of no less than six (6) months. In case a review of the process was filed before the Bid Review Board and/or before the General Court of Justice, such recording shall be preserved until a final and unappealable decision is rendered.

SECTION 7.3.16 – SUMMARY OF OFFERS

The Bids Evaluating Committee shall perform the pertinent evaluations. Within the evaluation in the form provided for it, there shall be an itemization or summary of the offers offered by all the bidders, which shall include the following information, when proper:

- 1. Formal Bid number;
- 2. Name of each bidder that presented an offer;
- 3. Offered price;
- 4. Finding of whether it meets the specifications and conditions or not;
 - a. If not, it shall state which it does not comply with and why it does not comply with such specifications and conditions.

- b. When the breach with specifications and conditions of the process is stated as grounds for disqualification or to reject the offer, it must clearly state the grounds for such finding, along with the technical analysis that was carried out and the totality of the packets that support it.
5. In the analysis of the economic aspects of the purchase, it must be included an evaluation of the jobs, economic activity and income received by the Government that the different offers generate, according to the basis of operation of each participating bidder. The local provider shall be considered preferred if that provider represents the best value for the Government of Puerto Rico.
6. Recommendation in favor of which bidder to award and for what reason, and the reason for which the other offers must be rejected; and
7. Date and signature of the person that prepares the summary of offers.

SECTION 7.3.17 – RULES OF AWARDS

1. Evaluation of Offer

The Bid Board shall have a term of fifteen (15) days from the day on which the opening ceremony is held to examine and evaluate all the offers and award the bid. In the process, the Bids Evaluating Committee may assist the Bid Board in the evaluation of any formal bid.

2. Basic Evaluation Criteria

When evaluating the offers, the Bid Board shall consider the criteria established in the formal bid packet, along with the following:

- a. The accuracy with which the bidder has complied with the specifications, the terms and the conditions of the informal bid packet.

- b. The quality of the goods, works and nonprofessional services offered and how these meet the specifications and satisfy the needs established. In situations in which tests were carried out with samples provided by the bidder, the evaluation of the sample of the good shall be included among the aspects of this quality criterion.
- c. If the price is competitive and comparable with the prevailing market price. Also, they shall apply the preferential percentage (%) if the person or the entity has presented a Ruling of the Board for Investment in Puerto Rican Industry or any certifying preferential document, as provided in the preferential laws.
- d. The recognized ability of the bidder to carry out works of the nature under consideration in works and nonprofessional services.
- e. The financial liability of the bidder and the experiences of the Administration with the fulfillment of previous contracts of the same or similar nature.
- f. The closest delivery term if it has been included among one of the conditions.
- g. The economic and financial capacity as well as the trajectory and previous experience of the bidder to provide these services or assets and comply with the delivery terms and guarantees of the product or service.
- h. The specific period or the terms applicable to each guarantee, its limitations and conditions, the steps required to claim the guarantee, what amount shall provide the replacement, remediation, correction, or repair of good service or the service.
- i. If the bidder qualifies as a minority-owned or woman-owned business, or any other qualification for which preference must be given under any applicable law.

- j. Any other pertinent criterion that represents the best value for the Government of Puerto Rico.

All these criteria shall be tabulated and presented in comparative form among bidders and this report shall form part of the bid record.

3. Rejection of the Lowest Offer

The Auxiliary Administrator of Acquisitions or its authorized representative may reject the lowest offer when one or more of the following conditions takes place:

- a. When there is knowledge and evidence that the bidder that makes the lowest offer has breached the terms of the previous contracts executed by the Administration and that breach is attributable to the bidder. Matters in controversy and pending adjudication in any forum shall not be considered.
- b. When the tests of the samples of the product that were carried out reflect an inferior quality to the specifications of the formal bid packet.
- c. When there is knowledge and reliable evidence that the bidder has breached the terms of the contracts executed with other government entities.
- d. When the offer does not meet the specifications, the requirements and terms of the formal bid or the authorized signature or the bidder's initials are not included.
- e. When the previous experience of the Administration with the guarantee or the operation of the category offered has not been satisfactory.
- f. When the offer does not represent the best value for the Government of Puerto Rico.

The reasons for which the lowest price offer is rejected shall be stated in detail in writing and the document shall form part of the file of the formal bid.

4. Delivery Term as Main Evaluation Criterion

- a. Unless the formal bid packet states that the urgency with which the items requested shall be considered as main criterion for the award, the offer that best meets the specifications, terms and conditions of the invitation to the formal bid which is the lowest in price cannot be rejected, to award it to a bidder that offers a higher price with a quicker delivery date.
- b. In those cases in which a specific delivery date is not required in the bid packet, the bidders must indicate in their offer the term or the date in which they shall submit the articles or shall provide the required nonprofessional service.
- c. In exceptional situations in which, after the opening of the bid, the Administration learns and consequently determines that the delivery term may adversely affect the development of the activities in the petitioning entity, this shall become the main criterion that shall be considered to evaluate the offers for award. The Bid Board shall notify the bidders that the delivery date shall be the main criterion for the award and shall give them a term of twenty-four (24) hours to amend such delivery term. The justification of such action shall be put in writing and it must form part of the particular bid record.

5. Preference

The Bid Board shall strictly comply with the public policy of preferred purchases provided in law.

- a. Law No. 14 of January 8, 2004, as amended, known as the "*Act to Invest in Puerto Rican Industry.*" To grant Preference, the following conditions shall be met:
 1. The Bidder shall establish Preference through the filing of the Ruling of the Investment Board, jointly with the documents of price offers;
 2. The Ruling must mark the item or items in which the Bidder has been granted the preference they request;

3. No requests for Preference shall be considered if they do not include the documents requested for the Preference cases as established in the preceding sections;
4. No Preference requests shall be considered after the date and time established for the opening of the offers;
5. The Preference percentage shall be applied to the price offered by the product and the resulting price shall be compared with other prices to determine the lowest offers and the best value;
6. The Bid Board may hold a formal bid exclusively for preferential groups protected by Law No. 14 of January 8, 2004, as amended, known as the "*Act for the Investment in Puerto Rican Industry,*" to meet the reserved preferential percentage established in that law.

b. Law No. 129-2005, known as the "*Commonwealth of Puerto Rico Government Purchase Reserves Act*":

It shall be fully observed that the government entities have assigned a minimum of twenty (20) percent of the total of the amount assigned to purchase from its general budget to be granted to micro-companies, small and medium sized companies, as long as the fiscal situation so allows and produces savings to the treasury. It shall be observed that half of the aforementioned twenty percent (20%) shall be awarded to women entrepreneurs, proprietors of micro-companies, small and medium sized companies, as long as such award is beneficial to the treasury.

The Bid Board may hold formal bids exclusively for preferential groups protected by Law 129-2005, to comply with the reserved preferential percentage established in that law.

c. Law 253-2006, known as "*Multiple Selection Contracts in Purchasing Procedures Act*":

The multiple selection contract shall be adopted as one of the options and purchase contract that shall be available and may be used in the purchase of assets and services.

The multiple selection contract shall not mean that a bid and/or proposal shall be awarded to all the bidders and/or proponents that participate in the process, but to the bidders and/or proponents that represent the best value for the Government of Puerto Rico.

The multiple selection contract shall be used when the Administrator determines that this type of contract serves the best interests of the Government.

d. Law 42-2018, as amended, known as the “*Preference for Contractors and Local Construction Providers Act*”:

It shall be fully observed that the government entities have reserved, as to the purchase and contracting of Construction Services, at least twenty percent (20%) of such purchases and contracting for services rendered by a Business or Local Provider of Construction Services.

The Bid Board may hold formal bids exclusively for the preferential groups protected by Law No. 42-2018, to comply with the reserved preferential percentage established in that law.

Moreover, the Bid Board shall require all the bidders, as an indispensable requirement to participate in any formal bid exclusively for local construction services businesses and providers, a sworn statement that certifies their preference pursuant to that established in Law 42-2018. The Auxiliary Administration of Acquisitions may, *motu proprio* or upon request of a party, verify the veracity of what is affirmed by any bidder in the referenced sworn statement. In the event that the administration corroborates that the bidder does not comply with that established in Law 42-2018 it may disqualify the bidder.

6. Prompt Payment Discount

For purposes of the award of a formal bid, the prompt payment discounts shall not be considered, except when this criterion has been established in the formal bid packet.

7. Award by Items

When it is in the best interests of the Government of Puerto Rico, and is not contrary to that indicated in the bid packet, the Bid Board may:

- a. Accept or reject any item or groups of items of any offer; or
- b. Award the bid encompassing various items.

8. Award to Sole Offer

When only the offer of one bidder is received, the Bid Board may accept it as long as it adjusts to the specifications and the price is competitive and comparable to the prevailing market price. Moreover, its terms can also be negotiated.

If the requirements of specifications and price are not met, the Bid Board shall reject the offer and must issue a second call for the process. Only in the event of not receiving any offers as a result of, said call may the processing of an exceptional purchase proceed.

9. Tied Offers

The offers that are identical in price, specifications and other conditions stipulated in the formal bid packets are considered tied. For the award, the Bid Board must notify by e-mail the bidders with similar offers that in a term of three (3) business days they must appear before the Secretary of the Board and present new sealed offers. On the date and time scheduled the e-mails and/or envelopes shall be opened in the presence of those bidders. The Bid Board shall evaluate the offers and award the bid to the responsive bidder that has offered the best value for the Government of Puerto Rico. At the discretion of the President of the Bid Board, the appearance may be virtual and the new offers may be presented electronically.

If there is a new tie, the award of the bid shall be divided between those bidders, if the parties accept the reduced award. If not, the item or items in which the tie occurred shall be cancelled.

The way the tie of the offers is resolved must be included in the corresponding minutes.

In case there is a tie among local bidders, bidders from the United States and/or foreign bidders, the Puerto Rican bidders shall have preference; in second place, those from the United States and in third place those from the foreign countries, with regard to the offers that represent the best value for the Government of Puerto Rico.

10. Outright Rejection

Any or all the offers for a formal bid may be rejected in the following situations:

- a. The bidders do not meet any of the stipulated requirements, specifications or conditions.
- b. The prices obtained are unreasonable or the terms are onerous.
- c. When the offers show that the bidders control the market of the product requested and it is understood they have agreed with each other to quote excessive prices. In that case, the corresponding referral shall be made to the Department of Justice.

If any of the aforementioned circumstances occurs, the Auxiliary Administration of Acquisitions must issue a second call for the process. Only in the event that the offers received in said call again result in the abovementioned circumstances shall the processing of an exceptional purchase proceed. The Auxiliary Administrator of Acquisitions must keep a record of every process in which he/she states in detail the particular situation occurring as a result of each call. Both calls must be included in the record, as a requirement prior to the processing of an exceptional purchase.

11. Permissible Deviations

The Bid Board may accept minimal deviations in the specifications, terms and conditions of the offers received, as long as the following requirements concur:

- a. No bidder offers the good or nonprofessional service with the required specifications;
- b. The original purpose for which the bid is intended is not affected and;
- c. The quoted price is competitive and comparable with the prevailing market price.

The Bid Board reserves the right to omit any informality or difference of lesser importance in the terms and conditions, if they meet the purpose for which they are requested and they are beneficial for the Government of Puerto Rico. The deviations may not substantially affect the essential quality, capacity or characteristics of the requested items or services. An explanatory memorandum of the permitted deviation must be included in the bid record.

12. Award

The Bid Board shall evaluate the offers and how these meet the criteria of evaluation established in the specifications, the terms and the conditions indicated in the formal bid packet.

The Bid Board or their authorized representative shall award the bid to the responsive bidder that has offered the best value.

13. Award Notice

Once the Bid Board makes the corresponding award, it shall proceed to provide notice of its final determination by way of Ruling, which shall include determinations of fact and conclusions of law. The Ruling on the award (Award Notice) shall be properly notified, by federal certified mail with acknowledgement of receipt or e-mail to all the parties that are entitled to challenge such determination, namely, all the bidders participating in the process. The award notice must include:

(i) the names of the bidders that participated in the bidding process, and a summary of their proposals; (ii) the factors or criteria that were taken into account to award the bid; (iii) the defects, if any, that the losing bidders' proposals have, and (iv) the availability and the term for requesting the administrative review and judicial review.

The Bid Board must file the final determination on the award and a record of the notice.

14. Administrative Review

The party adversely affected by a decision of the Bid Board, within the term of twenty (20) days from the mailing of the award notice by federal mail or e-mail, may file a review petition before the Bid Review Board of the General Services Administration.

If the filing date of the copy of the notice of the final determination of the award is different from the federal postal service postmark or the time of sending the e-mail, the term shall be calculated from the mailing of by way of the federal postal service or e-mail, as the case may be.

Once the administrative review has been filed, the Auxiliary Administration of Acquisitions shall send a certified copy of the case record to the Bid Review Board of the Administration within the three (3) days following the filing of the appeal.

15. Notice of the Filing of Administrative Review

The appellant shall provide notice with a copy of the request for administrative review to the Administration and the Bid Board; they shall simultaneously also provide notice to the provider that was awarded the bid. This requirement is of a jurisdictional nature. In the review document itself, the appellant shall certify to the Review Board its compliance with this requirement. The notice must be provided through certified mail with acknowledgement of receipt and e-mail. The appellant must provide notice, furthermore, to all the bidders that participated in the bidding process.

SECTION 7.3.18 – REVIEW OF THE FORMAL BID RECORD

The formal bid record shall comprise the following documents:

1. The Invitation to the Formal Bidding Process;

2. The formal bid packet with its amendments, if any;
3. The minutes of the pre-bid meetings and of award of the Bid Board;
4. The opening record;
5. The offers presented;
6. The award of the bid;
7. The notifications of the award to the bidders; and
8. Any other document that must be included pursuant to this Regulation or that is sent to the bidders, or that is necessary for the evaluation of a formal bid.

Any particular person that is interested and requests to examine the referenced file may do so after being notified the Ruling that contains the final decision of the Bid Board of that particular bid. The file may be examined even if it is before the Bid Review Board, but always after the award is notified.

In the event a formal bid is cancelled, after the opening is carried out, any particular person that requests it may examine that file, except for that information that is a trade secret or protected information.

The right that is given to particular persons shall always be subject to not affecting the services provided and the normal course of the works of the Bid Board. For that, it shall be necessary to request it in writing to the Secretary of the Bid Board, who shall make arrangements so that an authorized representative is present during the evaluation of the packets, and shall conveniently notify the date and time. The Secretary of the Bid Board shall allow the petitioner to review the file in the term off three (3) business days after the date of the request.

The offers presented by the bidders shall be part of the formal bid file for which they were presented and shall become property of the Bid Board, regardless of whether the formal bid is cancelled or awarded.

SECTION 7.3.19 – DESERTED BID

It shall be considered that the bid was deserted whenever no offers are received by the date and time established for such in the bid packet. In the event that the bid is deserted, the Administration, shall hold a new bid. If the second bid is also deserted, an Exceptional Purchase may be made.

SECTION 7.3.20 – PENALTY FOR LATE DELIVERY OF GOODS OR IN THE RENDERING OF NONPROFESSIONAL SERVICES. PENAL CLAUSE.

1. The bidder with whom the Administration or any government entity executes a contract or the bidder to whom a purchase order is issued, shall be obligated to provide the movable property or ordered service, pursuant to the delivery terms, specifications and other stipulated conditions. In the event of breach of the contract on the part of the bidder for delay in the delivery of the movable property or nonprofessional service contracted, the Finance Office, at the time of processing the payment, may provide a discount of half percent (1/2%) of the value of the contract breached for each work day in delay; being understood that at no time the total amount to be discounted for damages shall exceed ten percent (10%) of the amount of the contract for a corresponding item. Also, the bond that guarantees the execution of the contract shall pay for damages.

2. The sum to pay for delay in the delivery of the good or nonprofessional service in no way represents a penalty but does represent damages agreed between both parties to compensate the Government of Puerto Rico for additional expenses and other setbacks.

The foregoing shall apply to construction projects contracts. The penalty for late delivery of the construction project shall be the following:

Penalty for late delivery of the construction project:

Price of the Original Contract		Daily fee
From this amount	Up to this amount, inclusive	
\$00.00	\$99,999.99	\$300.00
\$100,000.00	\$499,999.99	\$400.00
\$500,000.00	\$999,999.99	\$800.00
\$1,000,000.00	\$1,999,999.99	\$1,000.00
\$2,000,000.00	\$4,999,999.99	\$2,000.00
\$5,000,000.00	\$9,999,999.99	\$3,000.00
\$10,000,000.00	\$19,999,999.99	\$4,000.00
\$20,000,000.00	\$29,999,999.99	\$5,000.00
\$30,000,000.00	\$39,999,999.99	\$6,000.00
\$40,000,000.00	\$49,999,999.99	\$7,000.00
\$50,000,000.00	Unlimited	\$8,000.00 or any other amount agreed in the contract

SECTION 7.3.21 – PENALTIES FOR THE BIDDER FOR BREACH OF CONTRACT

The Administrator, upon the breach of contracts and determination of lack of financial liability or another on the part of the contractors, may impose the penalties or measures they deem appropriate for the protection of the public interest, which are established below:

1. Confiscate the bond or bonds submitted in guarantee.
2. Make an exceptional purchase of the goods, works or nonprofessional services object of the breach of the contract or its equal in the market, charging the difference of the price paid over the quoted price to the bidder that breached their contract or claim it to its surety.

3. Eliminate from the Unique Bidder Registry for the time they deem appropriate, the name of any person or entity that breached a contract or that otherwise incurs in violation of the terms of the order.

SECTION 7.3.22 - CONTRACTS

Once the formal bid process ends, the execution of the contract or the issuance of the purchase order is appropriate.

In the term of twenty (20) days after having provided notice of the Ruling notifying the award, the Review Board shall send the Bid Board a notification informing that there has been no filing of any challenge in the Review Board, therefore the Administration can proceed to formalize the corresponding contract.

In the event that the award of the bid in question had been challenged, the Bid Review Board shall notify the Bid Board immediately after notifying the final ruling of the Review Board.

The Bid Board shall be the permanent custodian of its records. In the event of the filing of the challenge of a bid, they shall be sent to the attention of the Bid Review Board which shall be the temporary custodian of the requested record.

The offer of the successful bidder and the content of the bid packet shall constitute the basis of the contract between the parties or in the purchase and/or service order. Along the other form requirements of the government contracts they shall constitute the contract file. Such file shall include the copies of the orders issued against such contract. For each successful bidder there shall be a contract file.

SECTION 7.3.23 – SUPPLEMENTAL DOCUMENTS OF THE CONTRACT AND OTHER REQUIRED DOCUMENTS FOR GOVERNMENT CONTRACTING

1. Copy of the Bid packet;
2. Original of the successful offer;
3. Copy of the Award notice;
4. Plans and other documents required in the call for bids, bid conditions and those provided in the “Act for Uniform Documents for the Contracting of Programming, Management, Design, Inspection and Construction of Public Works in Puerto Rico” or “Uniform Contracting Act”, Law No. 218 of December 21, 2010, if applicable.
5. The additional documents necessary for the formalization of the contract such as policy, bonds, among others.

In every construction project, a clause shall be included that establishes the obligation on the part of the contractor of complying with the Puerto Rico Construction Code in effect. Also, it shall be established as an obligation of the contracting government entity who shall administer the contract, to supervise the compliance of the contractor with the aforesaid Code.

In every construction project, a clause shall be included that establishes the obligation on the part of the contractor of complying with the controls, safety measures and environmental demands provided in the state and federal laws.

SECTION 7.3.24 – AMENDMENTS TO THE PURCHASE ORDER OR AGREEMENT, ALTERATION OF ORIGINAL AMOUNT; NOTICE

The head of the corresponding government entity or nominating authority has the duty of notifying the Administrator of those amendments to previously issued purchase orders or previously

executed agreements that have the effect of increasing the value of the awarded purchase of goods, works, and nonprofessional services. The notice of amendment must be duly documented and supported.

SECTION 7.3.25 – MASTER CONTRACTS

The Administration may hold any Formal Bid Procedure with the objective of executing master contracts, under which previously established terms and conditions, the agencies may execute a purchase order, if the need described therein is identified. Multi-annual contracts may be executed. The Administrator may authorize to amend the master contracts in order to extend their effective term for a maximum term of six (6) months. The amendments shall be made through an “Amendment” document and it must have the signatures of the parties.

ARTICLE 7.4 – REQUEST FOR PROPOSALS OR REQUEST FOR SEALED PROPOSALS

SECTION 7.4.1 - DEFINITION

Bidding method to be used to purchase goods, works and nonprofessional services that allows the negotiation between the proponent and the Administration, while the proposals received are evaluated. The Request for Proposals or Request for Sealed Proposals (RFP) allows the negotiated purchase and gives the bidders the opportunity to review and modify their offers or proposals before the award of the bid; the Administration may request the bidders or proponents to present their best and final offer. The RFP must contain the parameters or criteria that are used for the award of the contract. Namely, the requirements, the terms and conditions and the factors that shall

be considered in the evaluation for the corresponding award. The negotiation phase shall not create an acquired right between the parties.

This bidding method shall be called a Request for Proposals when the cost of the goods, works and nonprofessional services does not exceed the amount of one hundred thousand dollars (\$100,000.00) and the award is made by the Auxiliary Administration of Acquisitions with the approval of the Administrator. The Invitation shall be issued by the Auxiliary Administration of Acquisitions.

This bidding method shall be called a Request for Sealed Proposals when the cost of the goods, works and nonprofessional services exceeds the amount of one hundred thousand dollars (\$100,000.00) and the award is made by the Bid Board. The Invitation shall be issued by the Bid Board.

The procedure of Request for Proposals or Request for Sealed Proposals may include a request for information (RFI) to suppliers or service providers, at the discretion of the Auxiliary Administrator of Acquisitions or the Bid Board, as the case may be, but that request for information shall not compel the Administration in any way to process a Request for Proposals or Request for Sealed Proposals. A Request for Information may be carried out independently to obtain information about potential suppliers or service providers and be able to compare them to each other. As it is deemed appropriate, a joint invitation of request for information and request for proposals may be issued or invitations may be issued separately.

SECTION 7.4.2 – WHEN IT IS APPROPRIATE TO USE THE REQUEST FOR PROPOSALS AND/OR REQUEST FOR SEALED PROPOSALS (RFP)

The procedure of Request for Proposals and/or Request for Sealed proposals may be used when one of the following circumstances occurs:

1. When the movable properties to be purchased are highly sophisticated, specialized, technical, or complex;
2. When the quoted prices in a bid are unreasonably high;
3. When the terms of the offers presented in a bid are onerous for the Government of Puerto Rico;
4. When there are scarce qualified suppliers, or;
5. When the Administrator, after being duly advised, determines that the negotiation with bidders that allows for said bidding method results in greater benefits for the Government of Puerto Rico.

SECTION 7.4.3 - PURPOSE

The Request for Proposals or Request for Sealed Proposals is the mechanism that is used to negotiate the terms for the purchase of goods, works and nonprofessional services as established in this Regulation.

SECTION 7.4.4 – INVITATION TO REQUEST FOR PROPOSALS OR REQUEST FOR SEALED PROPOSALS; CALL FOR PROPOSALS

1. The Purchasing Office of the Auxiliary Administration of Acquisitions shall prepare the Request for Proposals or Request for Sealed Proposals packet. The call for proposals shall be made after the packet is prepared and has been reviewed and authorized by the Auxiliary Administrator of Acquisitions and/or by the Bidding Officer or by Bid Board, as applicable.
2. The Auxiliary Administration of Acquisitions and/or the Secretary of the Bid Board, as the case may be, shall send the Invitation of Request for Proposals or Request for Sealed Proposals to all the bidders registered in the RUL under the category corresponding to the good or service

that wants to be purchased, at least fifteen (15) days before the deadline to present proposals; such period may be less than fifteen (15) days as long as the Administrator considers that serves the best interests of the Government of Puerto Rico. When the Request for Proposals or Request for Sealed Proposals includes federal participation, the invitation shall be sent within the term provided by the federal entity in question. Also, the Invitation of Request for Proposal or the Request for Sealed Proposals shall be posted in the RUS, and on the Administration's webpage. Evidence of the delivery of the invitation of Request for Proposals or Request for Sealed Proposals in the RUL, of the invitation of Request for Proposals or Request for Sealed Proposals posted in the RUS and of the invitation to Request for Proposals or Request for Sealed Proposals posted on the webpage of the Administration shall be kept in the record. The official date of the Invitation to Request for Proposals or Request for Sealed Proposals shall be the date that such invitation was posted in the RUS.

3. The invitation of Request for Proposals or Request for Sealed Proposals shall be remitted by e-mail to the address provided in the RUL to all bidders registered in the RUL under the category corresponding to the good or service that wants to be purchased. The failure to notify a bidder of the RUL shall be sufficient cause for the cancellation of the Request for Proposals or Request for Sealed Proposals, as long as the opening has not been held.

SECTION 7.4.5 – BASIC REQUIREMENTS OF THE INVITATION TO REQUEST FOR PROPOSALS OR REQUEST FOR SEALED PROPOSALS

The Invitation for Request for Proposals or Request for Sealed Proposals must include the following:

1. Number of the Request for Proposals or Request for Sealed Proposals.
2. Purpose of the Request for Proposals or Request for Sealed Proposals.

3. Date of publication of the Request for Proposals or Request of Sealed Proposals.
4. Date, time and place at which the proposals shall be received.
5. Date, time and place at which the proposals shall be opened.
6. Specific instructions of where and how to obtain copy of the Request for Proposals and/or Request for Sealed Proposals packets, including the physical address, the specific place where the packets shall be delivered and a contact telephone number. Also, the cost of the packets, if any, shall be specified.

Copies of the Request for Proposals or Request for Sealed Proposals packets shall be kept so that any other supplier that does not form part of the Unique Bidder Registry can pick them up.

The Request for Proposals and/or Request for Sealed Proposals packets may be sent by e-mail, in case they are free. Moreover, they may be personally delivered, if so determined by the Administration. If personal delivery is determined, free or not, it shall be notified by electronic message to all the suppliers included in the Unique Bidder Registry under the category corresponding to the good, work or nonprofessional service that wants to be purchased and the availability of the bid packets and their cost, if any, shall be posted on the Administration's webpage. The notification must contain the dates, the time and the exact place for the pick-up of the bid packets. For each particular bid, all the suppliers shall be notified the same way.

7. Date and time of the last day to pick up the packets.
8. If it has been decided to hold a pre-proposal meeting, the date, time and place shall be stated and also stating if the attendance is compulsory.

9. It shall be stated if the proposal must be presented with a bid bond equal to the percentage determined in this Regulation, according to the type of good, work or nonprofessional service included in the invitation.
10. It shall include the notice that the Administrator may cancel the Request for Proposals or Request for Sealed Proposals packet, even after having performed the opening, as long as a contract has not been formalized or a purchase order has not been issued, if the cancellation of the packet results in the best interest of the Government of Puerto Rico.
11. It shall include the notice that the Administration may amend any invitation or packet of the informal bid, when that serves the best interest of the Government of Puerto Rico. In this case, the supplier shall not have to pay again (if applicable) to obtain the amended bid packet.
12. Any notice required in the preferential laws.
13. The invitation for the Request for Proposals or Request for Sealed Proposals for Construction projects shall state the name of the project, location of the project, term within which the work must be performed and the service rendered ("Scope of Work"). Also, a Project Estimate shall be included.

SECTION 7.4.6 – CONTENT OF THE REQUEST FOR PROPOSALS OR REQUEST FOR SEALED PROPOSALS PACKET

The Request for Proposals or Request for Sealed Proposals packet must include at minimum the following:

1. Clear and detailed descriptions of the characteristics of the goods, works and/or nonprofessional services that want to be purchased and the complete specifications of each one of them. If a specific brand is necessary, the file shall include a recommendation that justifies such.

2. A general description of the selection process;
3. The proposal evaluation and selection criteria;
4. The deadline date, mode, and place where the proposals must be submitted;
5. Specific instructions regarding the form in which the proposals or offers shall be submitted including the deadline date and time to submit them;
6. The terms and the conditions that shall regulate the transaction. Such terms and conditions along with the specifications shall constitute the basis of the Contract or Purchase Order;
7. Terms and conditions of delivery and inspection required that are essential for the corresponding award;
8. Place, date and time in which the envelopes and/or e-mails containing the proposals or offers and instructions about the way in which these must be identified;
9. Special conditions or requirements that may affect the award process. For example, if it shall be necessary to submit a sample of the product for evaluation and how to dispose of the sample once the test is done;
10. Evaluation criteria for the award;
11. Terms for filing and/or presenting a challenge of the invitation, the packet, and the award;
12. All certifications or special documents that the bidders must submit as part of their proposal or offer;
13. Types of discounts, including the discount percentage (%) for prompt payment, if any;
14. The notice that the Administrator may order the partial or total cancellation of the request for proposals or request for sealed proposals packet before or after the opening, pursuant to **Section 7.3.7** regarding the Cancellation of the packet;

15. The notice that the Administration may amend any request for proposals or request for sealed proposals packet up to two (2) business days prior to the opening of the offers when the amendment entails additional changes or requests that must be included in the proposal or offer or one (1) work day before the opening of the bid when the amendment does not affect the presentation of the offers;
16. In cases of construction projects, it shall include the warning that the Administration may amend any request for proposals or request for sealed proposals packet up to two (2) business days before the opening of the offers when the amendment entails additional changes or requests that must be included in the offer or bid or one (1) business day before the opening of the bid when the amendment does not affect the presentation of offers;
17. Notice to the bidders that copies of the related documents shall be available in the Administration or the Bid Board, in those situations in which all the specifications of the goods, works or services that want to be acquired are not in the packets;
18. In case of construction projects, the bidders shall be notified the date of inspection of the construction project, to which they shall compulsorily attend. The failure of the bidders to appear at the compulsory inspection of the construction project shall be sufficient grounds for their disqualification;
19. Any notice required in the preferential laws;
20. All certificates or special documents that the bidders must submit as part of their proposal or offer;
21. Requirements of the current regulation and of the applicable engineering and safety standards in those cases that the installation of the equipment that shall be purchased is required;

22. The following notice shall also always be included: "The award notice of this proposal shall not constitute the formal agreement between the parties. It shall be necessary to execute the corresponding contract or for the Administration to issue a purchase order signed by the authorized person";
23. The necessary notices regarding the use of individual negotiation with regard to the terms, conditions, quality, solution, prices, or combination of factors, to obtain the most advantageous price for the Government of Puerto Rico; the fact that the price shall not necessarily be the factor of greatest weight in the award process; the possibility that the award may be made without negotiation; and,
24. The warning that any offer and/or proposal presented must include the details of the offered price: per-unit price of the good or service (for each item), costs of transportation, delivery, packaging, warranty, training, maintenance or services, replacements, among others.
25. Any additional criteria that the Administration or the Bid Board considers necessary to include in the bid packet.

SECTION 7.4.7 – AMENDMENTS TO THE REQUEST FOR PROPOSALS OR REQUEST FOR SEALED PROPOSALS PACKET

Amendments shall only be made to the packet:

1. When the petitioning entity submits amendments;
2. When in the opinion of the Administrator, the terms provided therein are unreasonable;
3. When a substantial and irreparable error is found in the packet;
4. When they seek to increase or decrease terms or amounts, or vary conditions or specifications;
5. When the terms of the invitation or the packet are challenged.

The Auxiliary Administration of Acquisitions and or the Bid Board, as the case may be, may amend any Request for Proposals or Request for Sealed Proposals packet up to two (2) business days prior to the date established for the delivery of proposals, when the amendment entails additional changes or requests that must be included in the proposal; or, one (1) business day prior to the date established for the delivery of proposals when the amendment does not affect the presentation of the proposals.

In cases of construction projects, the Auxiliary Administration of Acquisitions and/or the Bid Board, as the case may be, may amend any Request for Proposals and/or Request for Sealed Proposals up to five (5) business days prior to the date established for the delivery of proposals, when the amendment entails additional changes or requests that must be included in the proposal; or three (3) business days prior to the date established for the delivery of proposals when the amendment does not affect the presentation of the proposals.

The Auxiliary Administration of Acquisitions or the Bid Board, as the case may be, shall notify the Notice of Amendment to the proponents convened to present a Request for Proposals and/or Request for Sealed Proposals. Also, the Amendment Notice shall be posted in the Unique Bid Registry "RUS", as well as on the Administration's webpage. All the amendments shall form part of the packet and those interested in bidding shall have to consider them when presenting their proposals.

All amendments must be authorized by the Auxiliary Administrator of Acquisitions or the Bid Board, depending on the case, and approved by the Administrator.

All amendments shall form part of the Request for Proposals or Request for Sealed Proposals packet and those interested in bidding shall have to consider them when presenting their proposals.

SECTION 7.4.8 – CHALLENGE OF THE REQUEST FOR PROPOSALS OR REQUEST FOR SEALED PROPOSALS PACKET; CHALLENGE OF THE CALL FOR PROPOSALS

Any potential proponent that is interested in participating in a Request for Proposals or Request for Sealed Proposals may challenge the corresponding invitation and/or packet, pursuant to Sections 7.2.6 and 7.3.6 of this Regulation, respectively.

SECTION 7.4.9 – PRE-PROPOSAL MEETINGS

The Auxiliary Administration of Acquisitions and/or the Bid Board, as the case may be, may convene one or more pre-proposal meetings to clarify doubts related to the Request for Proposals or Request for Sealed Proposals, no less than five (5) business days before the date set for the Opening.

SECTION 7.4.10.- REQUEST FOR CLARIFICATION

The proponents may request the clarification or interpretation of any requirement contained in the Request for Proposals Request for Sealed Proposals, pursuant to the following:

1. Prior to the five (5) days before the deadline established in the Request for Proposals or Request for Sealed Proposals packets to receive proposals or sealed proposals, the potential proponents may request a clarification or interpretation from the Auxiliary Administration of Acquisitions or the Bid Board, as the case may be, in writing, regarding any aspect or exception to any requirement established in the corresponding packet. The Auxiliary Administration of Acquisitions or Bid Board, as the case may be, shall offer the corresponding answer within a term of three (3) days.

2. The Auxiliary Administration of Acquisitions and/or Bid Board shall not respond to verbal requests, except those made in a pre-proposal meeting.
3. The Auxiliary Administration of Acquisitions or the Bid Board shall post every related clarification or interpretation on the Administration's webpage. Also, it shall notify such clarification or interpretation individually, to each proponent.

SECTION 7.4.11 – DELIVERY OR PRESENTATION OF PROPOSALS

The Proposals shall be personally delivered or presented by e-mail to the Auxiliary Administration of Acquisitions or the Bid Board, as the case may be, on or before the deadline to submit proposals, according to the instructions established in the corresponding packet.

The proposals must be endorsed (signed or initialed) by the bidder that appears registered in the RUL. In the event of not belonging to the RUL, it must be endorsed by the person that shall submit all the required documents to the RUL.

When a bidder or proponent that is not registered in the RUL appears to a process of Request for Proposals or Request for Sealed Proposals and presents an offer or proposal, the Auxiliary Administration of Acquisitions and/or the Bid Board, as the case may be, must not reject it for the fact that such bidder is not registered in the RUL and shall give the bidder five (5) business days, from the opening of the proposals, to submit all the documents required to the RUL. In the event that the bidder or proponent does not submit the required documents, they shall be disqualified.

Every bidder and/or proponent that is registered in the RUL, that has presented an offer and/or proposal and that is not eligible at the time of the opening of the proposals, shall be given a non-extendable term of five (5) business days, from the time the proposals are opened, to submit the corresponding information and/or packets to the RUL. During that period no award shall be made.

The Auxiliary Administration of Acquisitions or the Bid Board, as the case may be, shall be responsible of notifying the bidder and/or proponent, by telephone call and e-mail, of the term provided for the bidder or proponent to update their information in the RUL. In the event that the bidder does not update their information in the RUL during the term provided, they shall be disqualified.

SECTION 7.4.12 – MODIFICATION OF THE SUBMITTED PROPOSAL

Once the proposals have been submitted, the Auxiliary Administration of Acquisitions or the Bid Board, as the case may be, may provide the proponent a reasonable opportunity to submit any price or cost modification, technical aspect or any other aspect of their proposal that may result from the discussions, once the best and final offer is requested.

SECTION 7.4.13 – WITHDRAWAL OF SUBMITTED PROPOSAL

1. The withdrawal of a proposal may be carried out through written request addressed to the Auxiliary Administration of Acquisitions and/or the Bid Board, presented at any time prior to the opening.
2. The proponent may not present a substitute proposal, once their proposal for a certain purchase is withdrawn.
3. No proponent may withdraw their offer after the opening.

SECTION 7.4.14 – RECEIVED PROPOSAL REGISTRY

On the date established to receive the proposals, the Auxiliary Administrator of Acquisitions or the Secretary of the Bid Board, as the case may be, shall record the proposals received in the

Registry of Received Proposals. The Auxiliary Administrator of Acquisitions or the Secretary of the Bid Board, as the case may be, shall be the custodian of said Registry.

SECTION 7.4.15 – OPENING OF PROPOSALS

The Auxiliary Administration of Acquisitions or the Bid Board, as the case may be, shall carry out the opening of the proposals on the date and time established for it. The opening shall be open to the public and every person interested may attend but the content of the proposals shall not be read to the public. At the time of opening the proposals only the identity of the proponents shall be announced. Every proposal, evaluation, discussion and negotiation shall be kept confidential during the evaluation and negotiation process until the signing of the contract. During that period only the members of the Auxiliary Administration of Acquisitions, of the Bid Board and the Bids and Purchases Evaluating Committee, in addition to the Administrator, shall have access to the proposals and to the results of the evaluation.

The Auxiliary Administrator of Acquisitions or the Secretary of the Bid Board (or their respective authorized representatives), who shall preside the opening, shall be responsible for drafting a record of all the incidents in a term of twenty-four (24) hours in which they shall certify the veracity of what is stated. The record shall contain the following information:

1. Number and matter of the Request for Proposal and/or Request for Sealed Proposals;
2. Date, time and place of the opening;
3. Number of proposals received;
4. Name of the bidders that did not present proposals;
5. Copy of the attendance registry signed by the attendees to the act must be made part of the Record;

6. Certificate of the person that presides the opening, as to the compliance with the regulatory provisions concerning said ceremony;
7. Any incident occurred during the opening; and,
8. Signature of the person that presided over the ceremony.

The opening of every Request for Sealed Proposal must be recorded and transmitted “live” through the Administration’s webpage or any other digital platform.

SECTION 7.4.16 – PRELIMINARY EVALUATION OF PROPOSALS

The proposals shall be evaluated in view of the Evaluation Criteria established in the corresponding packet. The Auxiliary Administration of Acquisitions or the Bid Board, with the aid of the Bids and Proposals Evaluating Committee, may select one or more of the proposals they consider to best serve the interests of the Government of Puerto Rico.

The Auxiliary Administration of Acquisitions or the Bid Board, as the case may be, with the aid of the Bids and Proposals Evaluating Committee may hold discussions and negotiate with the proponents which offers are within the established selection margins. It shall be understood that an offer is within the established selected margin when it complies with the specifications terms and conditions established in the packet.

SECTION 7.4.17 – RECEIPT OR SELECTION OF A SINGLE PROPOSAL

When only one proposal is received or selected, the Auxiliary Administration of Acquisitions or the Bid Board, as the case may be, with the aid of the Bids and Proposals Evaluating Committee may negotiate the terms of the proposal presented if it complies with the provisions established in the packet and it is determined that said negotiation would result in the benefit of the Government of Puerto Rico. Otherwise, the process shall proceed to be cancelled.

SECTION 7.4.18 – MEETINGS WITH PROPONENTS WHOSE OFFERS OR PROPOSALS ARE WITHIN THE ESTABLISHED MARGINS OF SELECTION

If the Auxiliary Administration of Acquisitions or the Bid Board have decided to hold discussions and negotiations, these shall be conducted following the procedures indicated below:

1. No statement made or action taken by the Auxiliary Administration of Acquisitions or the Bid Board and the Bids and Proposals Evaluating Committee during said discussions and negotiations shall compel the Administration in any way.
2. Every bidder whose offers or proposals comply with the provisions established in the packet shall be invited to attend one or several private meetings with the Auxiliary Administration of Acquisitions, with the Bid Board, or with the Evaluating Committee to discuss any facet of their proposal and answer any specific question provided in said invitation.
 - a. The content and extent of the discussions between the Auxiliary Administration of Acquisitions, the Bid Board, or the Bids and Proposals Evaluating Committee and each bidder shall be determined by the Auxiliary Administration of Acquisitions, the Bid Board, or the Bids and Proposals Evaluating Committee.
 - b. The purpose of each meeting shall be to clarify and ensure understanding of the requirements of the contract; improve the technical aspects of the proposal in an effort to lead them to comply with the performance specifications and requirements and/or reduce the price; discuss the data that justify the price and the details pertaining to each proposal that can improve it.
3. The proponents whose offers comply with the provisions established in the packet will be given fair and equal treatment with regard to the opportunity to discuss and revise the proposals. However, as the information that is addressed in said meetings may vary in relation to each

proponent, the revisions and discussions shall be based on facts and circumstances particular to each proposal.

4. The Auxiliary Administration of Acquisitions or the Bid Board, with the aid of the Bids and Proposals Evaluating Committee, may: i) Establish the methods and itineraries for carrying out the discussions and controlling them; ii) Provide orientation to the bidder regarding deficiencies in their proposal so that they have the opportunity to meet the requirements; iii) Attempt to clarify any uncertainty related to the proposal, and in any other way refine the terms and conditions of such; and, vi) Keep a record of the date, time, place, and purpose of the discussions and of the individuals that attend them.
5. After each interview or meeting with a bidder, the Bids and Proposals Evaluating Committee shall draft minutes that include all the important elements of the interview or meeting. The minutes shall form part of the record of the process.
6. The bidder shall put into writing any substantive verbal clarification of a proposal.
7. The discussions and negotiations may be conducted fully or in part through written communications without personal meetings or interviews, at the discretion of the Administration of Acquisitions, the Bid Board, or the Bids and Proposals Evaluating Committee. They may also be conducted by way of any digital platform.
8. No oral or written discussions shall be required in those cases that it is determined, based on the existence of complete an open competition, or based on the prior experience regarding the cost of the product or service, that the acceptance without discussion of the initial most favorable proposal shall result in the best value for the Government of Puerto Rico, as long as the Request for Proposals or Request for Sealed Proposal packet has notified all the bidders about the possibility of awarding the contract without discussions.

9. Should discussions and negotiations be held, the Auxiliary Administration of Acquisitions or the Bid Board may request that the bidders whose offers or proposals comply with the provisions established in the packet submit amendments to the Proposals (“Best and Final Offer” or “BAFO”) that respond to the discussions and negotiations that are conducted.
10. The Auxiliary Administration of Acquisitions, the Bid Board, or the Bids and Proposals Evaluating Committee shall keep all discussions and negotiations confidential. No information that has to do with the proposals or their evaluations shall be discussed with anyone other than the bidder that submitted them prior to the execution of the contract.

The Auxiliary Administrator of Acquisitions and/or the Bid Board, as the case may be, shall award the bid to the responsive proponent which proposal represents the best value for the Administration and the Government of Puerto Rico.

SECTION 7.4.19 – CANCELLATION OF THE REQUEST FOR PROPOSALS OR REQUEST FOR SEALED PROPOSALS PACKET

The Administrator may cancel the Request for Proposals or Request for Sealed Proposals packet pursuant to Sections 7.2.7 and 7.3.7 of this Regulation, respectively.

SECTION 7.4.20 - AWARD

The Auxiliary Administration of Acquisitions, with the approval of the Administrator or the Bid Board, as the case may be, shall award the responsive bidder whose proposal represents the best value for the Government of Puerto Rico.

SECTION 7.4.21 – AWARD NOTICE

Once the Auxiliary Administration of Acquisitions, with the approval of the Administrator or the Bid Board, as the case may be, makes the corresponding award, they shall provide notice of their final determination by way of Ruling or Award Notice. The Ruling or Award Notice shall be properly notified, by federal certified mail with acknowledgement of receipt or e-mail to all the parties that are entitled to challenge such determination, namely, all the proponents participating in the process. The award notice must include: (i) the names of the bidders that participated in the Request for Proposals or Request for Sealed Proposals and a summary of their proposals; (ii) the factors or criteria that were taken into account for the awarding of the proposal; (iii) the defects, if any, that the losing bidders' proposals had, and (iv) the availability and the term for requesting the administrative review and judicial review.

The Auxiliary Administration of Acquisitions or the Bid Board, as the case may be, must file the final determination on the award and a record of the notice.

SECTION 7.4.22 – ADMINISTRATIVE REVIEW

The party adversely affected by a decision of the Auxiliary Administrator of Acquisitions or the Bid Board, within the term of twenty (20) days from the mailing of the proposal award by federal mail or e-mail, may file a petition for review before the Bid Review Board of the General Services Administration.

If the filing date of the copy of the notice of the final determination of the award is different from the federal postal service postmark or the time of its sending by e-mail, the term shall be calculated from the mailing of by way of the federal postal service or the time of its sending by e-mail, as the case may be.

Once the administrative review has been filed, the Auxiliary Administration of Acquisitions or the Bid Board, as the case may be, shall send a certified copy of the case record to the Bid Review Board of the Administration within the three (3) days following the filing of the appeal.

SECTION 7.4.23 – NOTICE OF THE FILING OF ADMINISTRATIVE REVIEW

The appellant shall provide notice with a copy of the request for administrative review to the corresponding Administration and the Bid Board; they shall simultaneously also provide notice to the provider that was awarded the bid. This requirement is of a jurisdictional nature. In the review document itself, the appellant shall certify to the Review Board its compliance with this requirement. The notice must be provided through certified mail with acknowledgement of receipt and e-mail. The appellant must provide notice, furthermore, to all the bidders that participated in the bidding process. In the case of an Informal Bid or Request for Proposals, they must notify the Auxiliary Administration of Acquisitions.

If so requested by the adversely affected party, the Auxiliary Administration of Acquisitions or the Bid Board, as the case may be, shall correspondingly provide them with both the mailing addresses and e-mail addresses that the participating providers have reported during the challenged bidding process.

SECTION 7.4.24 – GENERAL PROVISION

In the cases not provided for in this Article, the informal bid or formal bid procedure shall be followed analogously and as a guide, in accordance with the amount of the purchase or acquisition.

SECTION 7.4.25 – MASTER CONTRACTS

The Administration may hold any Request for Proposals and/or Request for Sealed Proposals procedure with the objective of executing master contracts, under which previously established terms and conditions, the agencies may draft purchase orders, if the need described therein is identified. Multi-annual master contracts may be executed.

The Administrator may authorize the amendment of the master contracts in order to extend their effectiveness for a maximum of six (6) months. The amendments shall be made by “Amendment” document and shall have the signatures of the parties.

ARTICLE 7.5 – REQUEST FOR INFORMATION (RFI)

SECTION 7.5.1 - DEFINITION

The request for information is **not a bidding method**. It is used to know if there are one or more suppliers in the market that can provide or offer any particular good and/or nonprofessional service.

SECTION 7.5.2 - PURPOSE

It may also be used to obtain relevant information in the market for planning purposes, and to estimate prices and capabilities, among others, or to determine the different ways that a required nonprofessional service can be provided.

The request for information shall in no way obligate the Administration with regard to the participating suppliers.

SECTION 7.5.3 - PROCEDURE

When the Auxiliary Administrator of Acquisitions or the Bid Board determines the convenience of issuing a request for information, it shall include a general guide that guides the possible suppliers of the need that may give basis to a future purchase through some bidding method established in this Regulation. Also, it shall include the date and the place to submit the information requested or the available means to send it. The request for information shall be sent by e-mail to all the suppliers that belong to the Unique Bidder Registry under the category corresponding to the goods, works or nonprofessional services that they wish to acquire, if any. It shall also be posted on the Administration's webpage and in the RUS.

The request for information shall state that the suppliers must take the cautionary measures to safeguard confidential information that are trade secrets or confidential information.

The information that is received from the suppliers shall not be considered an offer or proposal for negotiation or award, unless any request or quote is included.

The Auxiliary Administrator of Acquisitions or the Bid Board may convene one or more meetings to exchange information with the suppliers in the cases it is necessary, without this obligating the Administration in any way.

All the information that is received through this mechanism may not be divulged to unauthorized persons.

ARTICLE 7.6 – REQUEST FOR QUALIFICATIONS

SECTION 7.6.1 - DEFINITION

Bidding method to be used when dealing with the purchase of goods, works or nonprofessional services, that involve highly technical and complex matters, through which the potential

proponents are asked to submit their statements of qualifications to participate in a bidding process. This mechanism shall consist of a dual process; in the first phase, the proponents shall be qualified (“RFQ”); in the second phase, the proposal shall be awarded (“RFP”). Only the qualified proponents shall receive the Request for Proposals or Request for Sealed Proposals packet. The Administrator, after having been duly advised, shall determine whether the Request for Qualifications method is appropriate to use, in light of the circumstances present in each particular case.

SECTION 7.6.2 – INVITATION TO REQUEST FOR QUALIFICATIONS OR NOTICE OF QUALIFICATIONS

The Purchasing Office of the Auxiliary Administration of Acquisitions shall prepare the Invitation to Request for Qualifications or Notice of Qualifications. The call shall then be made after the corresponding invitation or notice is prepared, has been reviewed by the Auxiliary Administrator of Acquisitions or the Bidding Officer, and has been authorized by the Bid Board.

The Secretary of the Bid Board shall send the Invitation to Request for Qualifications or Notice of Qualifications to all the bidders registered in the RUL under the category corresponding to the good or service that wants to be purchased, at least fifteen (15) days before the deadline established to receive the statements of qualifications. Also, the Invitation of Request for Qualifications or Notice of Qualifications shall be posted in the RUS, as well as on the Administration’s webpage.

SECTION 7.6.3 – CONTENT OF THE INVITATION TO REQUEST FOR QUALIFICATIONS OR NOTICE OF QUALIFICATIONS

The Invitation to Request for Qualifications or Notice of Qualifications must include the following:

1. Number of the Request for Qualifications;
2. Purpose of the Request for Qualifications;
3. Posting date of the Invitation to Request for Qualifications;
4. Date, time, place, and mode (in the case of electronic filing) in which the statements of qualifications must be filed or submitted;
5. If it has been determined that an orientation meeting will be held, the date, time, and place shall be indicated, with a statement as to whether attendance is compulsory;
6. General Instructions;
7. Statement of Needs;
8. Nature of the Work and/or Scope of Services;
9. General Performance Requirements (if applicable)
10. Evaluation Criteria;
11. Selection Process; and,
12. Any other information that the Administration deems pertinent to include.

SECTION 7.6.4 – CONTENT OF THE STATEMENT OF QUALIFICATIONS

The statement of qualifications must describe the experience of the potential proponent in works or services of an equal or similar nature to those requested, and shall provide financial information or other type of information, including the potential proponent's capacity to obtain the bonds that may be pertinent, among other criteria, as requested in the corresponding Invitation to Request for Qualifications or Notice of Qualifications.

SECTION 7.6.5 - PREQUALIFICATION OF SUPPLIERS; FIRST PHASE

The Bids and Proposals Evaluating Committee shall evaluate the statements of qualifications filed by the potential proponents pursuant to the evaluation criteria established in the Invitation to Request for Qualifications or Notice of Qualifications. Moreover, it shall prepare a Summary of Qualifications, in which it shall state for the record the following:

1. Number of the Request for Qualifications;
2. Name of each potential proponent that submitted the corresponding statement of qualifications;
3. Remark with regard to whether or not the potential proponent meets the evaluation criteria established in the corresponding Request for Qualifications or Notice of Qualifications and score;
4. Recommendation with regard to the qualifications of each proponent to receive the Request for Proposals or not; the recommendation must state which potential proponents were qualified and which were not.
5. Date and signature of the person preparing the Summary of Qualifications; and,
6. Any other necessary information for the evaluation and selection of the qualified proponents.

The Bid Board shall not be obligated to determine the qualifications of the potential qualified proponents pursuant to that established in the Summary of Qualifications, but rather it shall have independent judgement with regard to its determination.

SECTION 7.6.6 – INTERVIEWS WITH POTENTIAL PROPONENTS

The Bid Board, with the aid of the Bids and Proposals Evaluating Committee, shall be able to conduct interviews with the potential proponents prior to making the determinations on

qualifications. The objective of the interviews shall be to clarify any information provided by the potential proponent on the statement of qualifications.

SECTION 7.6.7 – NOTICE OF RULING ON DETERMINATION OF QUALIFICATIONS

The Bid Board, after the corresponding evaluation and pursuant to the evaluation criteria established in the Invitation, shall determine which potential proponents are qualified and which are not.

The Bid Board shall provide notice by way of a Ruling on its Determination on Qualifications to all the participants of the Request for Qualifications process. The notice shall be made by way of federal certified mail with acknowledgement of receipt or e-mail. The Determination on Qualifications shall state the determination of the Bid Board regarding which proponents were qualified and which were not, based on the evaluation criteria established in the Invitation.

Any party adversely affected by a decision by the Bid Board regarding the Determination on Qualifications may request an administrative review proceeding before the Review Board, upon being provided notice of the award notice, pursuant to Chapter 5 of this Regulation.

SECTION 7.6.8 – DELIVERY OF THE PACKET AND FILING OF PROPOSALS; SECOND PHASE

Only the qualified proponents may receive the Request for Proposals packet. The qualified proponents shall present their proposals pursuant to the terms contained in that packet.

ARTICLE 7.7 – LIVE AUCTION

SECTION 7.7.1 - DEFINITION

Procedure by which every assigned good or property declared in surplus by the Auxiliary Services Administration is sold verbally, and at a reasonable price in accordance with the appraisal value. The sale must be carried out, exclusively with non-profit organizations duly registered and in compliance with the requirement to file Annual Reports to the State Department, if applicable; to every *bona fide* certified farmer certified as such by the Department of Agriculture, fish farmer, poultry farmer, artisan, fisherman and *bona fide* public carrier recognized or authorized to act as such by the government entity with authority in that regard and to other interested bidders, duly affiliated to the State Surplus Property Program.

SECTION 7.7.2 – SALE OF ASSIGNED GOODS OR PROPERTY DECLARED AS SURPLUS TO ENTITIES OF THE EXECUTIVE BRANCH AND PUBLIC CORPORATIONS; REQUIREMENT PRIOR TO HOLDING THE LIVE AUCTION

Prior to holding any Live Auction, it shall be required to inform the entities of the Executive Branch and public corporations of the inventory available for purchase. In the event that any entity of the Executive Branch or Public Corporation is interested in purchasing the property in inventory, the Auxiliary Services Administrator shall determine the method of purchase (Conveyance; Sale, Assignment; Donation and Transfer) and shall process such.

SECTION 7.7.3 – CALL OR INVITATION TO LIVE AUCTION

The Auxiliary Services Administration shall prepare the corresponding Invitation to Live Auction, which shall be sent, by the most convenient method for the Administration (standard mail or e-mail), to non-profit organizations duly registered; every *bona fide* farmer certified as such by the

Department of Agriculture, fish farmer, poultry farmer, artisan, fisherman, and *bona fide* public carrier recognized or authorized to act as such by the government entity with authority in that regard; and, to other interested bidders duly affiliated to the State Surplus Property Program.

The Invitation must state the place, date and time at which the Live Auction shall take place and any other pertinent aspect.

SECTION 7.7.4 – GENERAL PROVISIONS REGARDING THE SALE; PACKET CONTENT

1. The live auction packet must inform the place, date and time where the Live Auction shall take place.
2. The auction packet shall include a general description of the assets to be auctioned.
3. The auction packet must establish that all the property declared as surplus or the assigned goods object of the Live Auction shall be sold in the conditions they are physically and no guarantees shall be offered for them.
4. The auction packet must establish that the successful bidder shall be responsible for the transportation or haulage expenses of the property declared in surplus or the assigned goods acquired.
5. The packet must establish that the successful bidder in the Live Auction, is obligated to collect the merchandise or the good awarded to that bidder within five (5) days of having received the notification to collect it, at the bidder's cost and risk. If it is not collected within the established term, it shall be awarded to the second bidder and the difference between that bidder and the bidder who originally was awarded shall be covered by their bond. Also, the bidder shall be charged for the storage of the days that go by after the date that was set to collect it and the date the good was collected by the second bidder.

6. The auction packet shall include any instructions and/or conditions object of the sale.
7. The bid packet must state any documents required to participate in the auction.

SECTION 7.7.5 – EXCLUSIVE AWARD CRITERION

The sales bid shall be awarded in favor of the bidder with the highest and most reasonable offer, in accordance with the appraisal of the good, provided by the Auxiliary Services Administration.

SECTION 7.7.6 – RECORD OF LIVE AUCTION

The Auxiliary Services Administrator or their authorized representative shall draw up a record that includes the name of all the participating bidders, as reflected in the visitors' registry, where all the incidents of the process shall also be included.

SECTION 7.7.7 – AWARD LETTER

The Auxiliary Services Administrator or their authorized representative shall draw-up a record that includes the detail of the property sold and the name, address and telephone of the successful bidder and/or bidders.

CHAPTER 8. OTHER MEANS OF ACQUISITION

ARTICLE 8.1 - DONATION

SECTION 8.1.1 – DEFINITION

Means by which the Administrator acquires a thing, a service or a work by the generosity and voluntariness of the person who does it gratuitously. Donations shall be accepted by the

Administrator if he/she deems they are beneficial for the Administration and/or for the Government of Puerto Rico.

SECTION 8.1.2 – DONATIONS RECEIVED IN FAVOR OF THE ADMINISTRATION

Conditional Donations

The Administrator may accept conditional donations as long as they are for the objectives entrusted by law to the Administration.

1. The donor shall prepare a letter in which the donor notifies the Administration about the donation and the use or purpose for which it is made.
2. The Administration shall receive the donor's notification and shall proceed as follows:
 - a. It shall verify that the purpose of the donation is related to the duties and objectives entrusted by law to the Administration. Property for which there is no immediate or future use shall not be accepted.
 - b. If the donation has as specific condition, it shall be analyzed whether the Administration can comply with the specification established by the donor.
 - c. It shall evaluate, among others, the costs of installation, maintenance, insurance, technical personnel, and endorsements required that the acceptance of the donation entails and its impact in the budget of the Administration. In the cases of donation of used equipment, prior to the acceptance of the donation, an inspection of the equipment must be carried out to confirm that the equipment is in good conditions and/or the repair cost is accessible.
 - d. If the Administrator determines that it is not appropriate to accept the donation, they shall notify the donor, in writing, the reasons for which they did not accept the

donation. If it is decided to accept the donation, in cases that they are authorized by law to receive the donation, they shall proceed to ask the Secretary of the Treasury or his Authorized Representative, the authorization to accept and receive the good or assets that want to be donated to them.

- e. The procedure established by Circular Letters issued by the Secretary of the Treasury shall be performed.

Money Donations

In the cases of donations of money, the value has to be issued in favor of the Secretary of the Treasury; the Administration may not accept money in cash.

1. The value shall be given to the official tax collector for him/her to proceed to issue an official receipt to the donor and to deposit it in the bank account of the Secretary of the Treasury.
2. The process established in the Circular Letters issued by the Secretary of the Treasury shall be completed.

Donations of Moveable Assets

If the donation is a movable asset, the Administration shall proceed as follows:

1. It shall issue the corresponding Receipt of Donated Property to the donor. shall give the original to the donor, shall send a copy to the Property Manager and shall retain a copy for the donor's file.
2. The inspector of the surplus property shall appraise it and the Property Manager shall assign a property number and shall label it with that number.
3. It shall prepare an Amendment to the Fixed Asset Report to account for the property donated in the books of the Department of Hacienda.

4. It shall send the corresponding forms, duly completed to the Secretary of the Treasury.

ARTICLE 8.2 – TRADE-IN OR EXCHANGE

SECTION 8.2.1 - DEFINITION

The “trade-in” is the purchase method in which used equipment is given as part of the payment. Transfer is when one good is exchanged for another, even if it is of a different nature. The value of the thing received is equal or greater than the thing given. When the value of what is received is greater than the thing given, it shall be compensated by payment in money, but that payment may never be greater than the value accredited by appraisal to the thing received.

SECTION 8.2.2 – TRADE-IN OR EXCHANGE PROCEDURE

1. Government entities may acquire an asset through the trade-in or exchange procedure.
2. The Property Manager of the petitioning entity shall remove the good given through trade-in or exchange using the form promulgated by the Secretary of the Treasury.
3. Prior to purchasing an asset through the trade-in or exchange procedure, the Property Managers shall submit to the Surplus Property Director of the ASG the following:
 - a. An explanatory letter requesting authorization to trade-in or exchange an asset of the agency. The letter must include a description of the good or equipment to be traded-in or transferred and the benefits of such transaction.
 - b. Proposal and offer of the supplier.
 - c. Copy of the proof of payment and purchase order, by which the property that wants to be traded-in was purchased.
 - d. Form promulgated by the Secretary of the Treasury for this purpose.

4. An Inspector of the Program shall verify all the documents received. If necessary, the Inspector shall visit the petitioning entity to inspect the asset that wants to be traded-in or transferred, it shall appraise it and determine if the price offered by the supplier benefits the best interests for the Government of Puerto Rico.
5. After the Inspector and the Director of the Program evaluate the transaction and the documents received, they shall recommend whether the trade-in or exchange is favorable or not.
6. Every transaction through the trade-in or exchange procedure shall have to be authorized by the Director of the Program and the Administrator or their authorized representative.
7. After the transaction is authorized by the Surplus Program:
 - a. The Property Manager may give the good to the seller, as partial or total (transfer) payment of the good to be acquired, but always in the presence of the Surplus Property Inspector, who shall validate the process.
 - b. The petitioning government entity shall submit the request for the acquisition to the Purchases Area, with the authorization of Surplus Property, the decision of the evaluating committee of the requesting government entity, the quotation of the property to be acquired and any other document required.
8. The purchase order that is prepared must clearly reflect the amount of the credit obtained by the asset that was traded-in or transferred.

ARTICLE 8.3 - LEASING

SECTION 8.3.1 - DEFINITION

Leasing can be of assets or services. In the lease of assets, one of the parties agrees to give the other the enjoyment or use of one thing for a determined period and certain price. In the lease of services, one of the parties agrees to give the other a service for a certain price.

Also, the lease may be of real property; the lessor temporarily assigns the use and enjoyment of the real property to another person in exchange for the payment of a rent.

SECTION 8.3.2 – PROCEDURE; GENERAL PROVISIONS

Leases of assets or services are made by the same procedures that are used for the purchases. In case there is a contract in effect with the Administration to offer the asset or provide the service the corresponding purchase order or service order shall be processed under that contract. In case there is no contract in effect, it shall proceed to carry out the procedure of the corresponding purchase method.

The petitioning entity must request, in writing, the lease it is interested in. The request must contain:

1. Number of units or amount of assets requested per their type and their description;
2. Justification for the lease;
3. Projected period for the lease;
4. Estimated total cost, and;
5. Comparison of the estimated cost versus cost of purchase.

The Auxiliary Administrator of Acquisitions or their authorized representative shall evaluate the request received and shall determine, with the approval of the Administrator, whether they

authorize or deny it, taking into consideration whether the purchase is of greater benefit than the lease proposed. Also, they shall base their decision, evaluating the following criteria:

1. Value in the market of what is requested;
2. Use for which it shall be intended;
3. Immediate need of the agency regarding what is requested;
4. Term of the lease;
5. Preference of this type of purchase over any other and;
6. Any other criterion that the Administrator deems convenient for the best interests of the Government.

SECTION 8.3.3 – RENTAL OF MOTOR VEHICLES

The rental of motor vehicles must be performed only when there is an imminent need and there is no other vehicle in the pool of the petitioning entity available that serves the purpose of the rental or in cases of emergency, as defined in this Regulation.

The maximum term for the rental of motor vehicles shall be three (3) months. In case of exceptional circumstances, such term may be extended for a greater term with the written authorization of the Administrator.

SECTION 8.3.4 – LEASING OF NONPROFESSIONAL SERVICES

The leasing of nonprofessional services shall be appropriate when the service requested cannot be provided by the Government, by the employees of the petitioning entity, by the employees of the Administration or by any other government body. In the event that the nonprofessional service can be provided by the Government, by any government employee or by the Administration, the

service must be contracted from them. Memorandums of Understanding or “MOU” may be considered for the referenced services.

SECTION 8.3.5 – LEASING OF REAL ESTATE

Any lease of real estate must be carried out pursuant to the provisions of “Act to Create the Real Estate Review Board of the Commonwealth of Puerto Rico”, Law No. 235 of December 19, 2014, as amended, and any other related regulation.

ARTICLE 8.4 - TRANSFERS

The Government of Puerto Rico may acquire movable properties by transfers of title or possession of them, pursuant to that established in various provisions of state laws that provide for the transfer of properties to the Government.

The Government may also purchase properties by transfers made by the Federal Government of new or used property, pursuant to the procedures established by Law and Regulation to that effect.

On the other hand, the ASG may transfer the property or material declared in surplus or the assigned assets to;

1. Bodies of the Executive Branch obligated by Law to acquire and dispose of the property with the intervention of the ASG;
2. Exempt Entities; Public Corporations or Municipalities;
3. Duly incorporated non-profit entities, that serve a social purpose and qualified in any of their social programs to receive funds from the Government of Puerto Rico;
4. Government Body of the United States of America, either federal or state;
5. Public Corporations;

6. *Bona Fide* farmer certified as such by the Department of Agriculture, fish farmer, poultry farmer, artisan, fisherman and *bona fide* public carrier

The Bodies of the Executive Branch shall have priority over any other government entity, non-profit institutions, bodies or persons at the time of a transfer. When no body of the Executive Branch is interested in the property or material declared as surplus or an assigned asset, then it may be transferred to any of the other entities or persons listed above.

At the time of the transfer, the forms established for this objective shall be completed.

ARTICLE 8.5 – INSTALLMENT PURCHASE

SECTION 8.5.1 – DEFINITION

Type of Purchase by way of which a thing is used and enjoyed immediately and which payment is made in fixed terms, in parts or installments.

SECTION 8.5.2 – INSTALLMENT PURCHASE; WHEN IT IS APPROPRIATE

A purchase in installments is appropriate when in the discretion of the Administrator, it is for the benefit and best interest of the Government. Such purchases must comply with the requirements of the request for purchase, as provided in this Regulation. If interest rates apply to the installment purchase, they shall not exceed the prevailing legal interest in the market, as established for private transactions. No financing, handling charges shall be paid, nor any other special charge.

CHAPTER 9. BONDS

ARTICLE 9.1 - BONDS

SECTION 9.1.1 – BONDS; WHEN TO POST

When the specifications of the goods, works or nonprofessional services that are going to be purchased so warrant, the Administrator may require those who offer, bid or present proposal to post several types of bonds with the purpose of enduring compliance with the obligation contracted. It shall always be specified in the bid packet or in the Requisition or Request for Proposals or Request for Sealed Proposals when it is a compulsory requirement to post a bond.

SECTION 9.1.2 – FORMS OF POSTING

The bond shall be posted in favor of the Secretary of the Treasury (or as established in the packet) in one of the following ways:

1. Certified check;
2. Money orders or manager's check, or;
3. Insurance bond issued by an insurance company authorized by the Insurance Commissioner of Puerto Rico.

Bonds for amounts lower than the required amount shall not be accepted. Breach of this requirement shall entail the rejection of the offer or proposal or the cancellation of the award.

Every bond shall in the custody of the Finance Division of the Administration.

SECTION 9.1.3 – TYPES OF BONDS

1. Bid Bond:

Those who bid or present proposals may be required to post a bid bond to secure the offer or proposal. The amount of the bond shall not exceed fifteen percent (15%) of the bid or quoted price,

unless the bid packet or the request for proposals establishes another amount. In the case of Public Works the bid bond shall be five (5%). When the contract is executed or the purchase order is issued, as applicable, the Auxiliary Administration of Acquisitions or the Secretary of the Bid Board, as the case may be, shall reimburse all the bid bonds submitted, including the one of the successful bidder who was awarded the bid.

When the offers are amended, if the amendment entails an increase in price of the original offer, it shall be the obligation of the bidder to adjust the bond in accordance with the new amount. If not, the bidder's original offer shall remain in effect and the amendment shall not be considered.

When the Administration or the Bid Board decides to cancel the bid, all the bid bonds shall be reimbursed within the term of three (3) business days after the corresponding notification.

2. Performance Bond:

The person who is awarded a bid or proposal must post a performance bond before the Auxiliary Administration of Acquisitions or the Bid Board, as the case may be, no later than the ten (10) business days following the notification of the award. Such bond shall secure the performance of the contract or purchase order, as applicable. The amount of the bond shall be set in the bid packet or in the requisition or in the Request for Proposals and/or Request for Sealed Proposals. The Auxiliary Administrator of Acquisitions or the Secretary of the Bid Board, as the case may be, shall reimburse this bond when the term of the contract expires or when the corresponding purchase order is complied.

3. Payment Bond:

If awarded a bid or proposal to perform a construction work a Payment Bond may also be required, in addition to any other bond. This bond guarantees that the persons that have provided labor or

materials to the contractor shall receive the unpaid sums the contractor owes them for labor or materials provided in compliance with the work object of the contract.

SECTION 9.1.4 – BOND FORFEITURE DUE TO DEFAULT

1. Bid Bond:

The Bid Bond may be forfeited if after the expiration of the term of ten (10) business days from the notification of the award, the successful bidder does not submit the Performance Bond. Also, it may be forfeited if the successful bidder refuses to sign the contract within ten (10) business days following the date the bidder was summoned for such.

2. Performance Bond:

The Performance Bond may be forfeited if after the lapse of the term provided in the bid or request packet or Request for Proposals or Request for Sealed Proposals, the successful bidder does not provide the assets, does not honor the guarantees or does not meet the obligations as contracted, for causes attributable to the bidder. In addition, the bidder shall be financially liable for the difference in price adjudicated the second time or of the price that is obtained by exceptional purchase. If the bond does not cover such excess, the balance to the bidder in question shall be claimed.

3. Payment Bond:

The Payment Bond may be forfeited, at any time after the agreed payment date, if the bidder owes any sum to any person that has provided labor services or that has provided materials for the execution and performance of the work object of the contract.

CHAPTER 10. RULES REGARDING PURCHASES

ARTICLE 10.1 – PURCHASE; DEFINITION

The term “purchase” shall be used indistinctly with the term “acquisition”. Form of acquisition by which a party, the seller, agrees to deliver a determined thing and the other party, the petitioning entity, agrees to pay for it a certain price in money or sign that represents it. It shall be opted to acquire by purchase when there is a real need for the good, work or service. The term “purchase” shall also refer to the total amount of the grouped similar needs, either goods, works and/or nonprofessional services that must be acquired in one same transaction or moment for having one same purpose, common suppliers or if it is convenient for public interest.

ARTICLE 10.2 – GENERAL RESPONSIBILITIES OF THE PURCHASING OFFICES

SECTION 10.2.1 – GENERAL RESPONSIBILITIES OF THE PURCHASING OFFICE OF THE PETITIONING ENTITY

1. Identify and justify the need and the use of the good, work or nonprofessional service.
2. Verify the availability of the available funds before proceeding to initiate the processes to request or require a purchase or service.
3. Prepare the Request for Purchase of Goods, Works or Nonprofessional Services. Upon the identification of the need for the good, work or service, the petitioning entity shall complete the Request for Purchase of Goods, Works or Nonprofessional Services (Form 1001 or another analogous), which shall be signed by the Delegate Purchaser and the Purchases Director of the petitioning entity.
 - a. The Request for Purchase of Goods, Works, or Nonprofessional Services must be filed with the Administration, duly filled out, sixty (60) days prior to the date for which it is

estimated that it will be necessary to have the good, begin the work, or begin to receive the nonprofessional services.

4. Provide all documentation required with the Request for the Purchase of Goods, Works or Nonprofessional Services.
5. Ensure there is a purchase or service order or contract before receiving the properties or providing the services.
6. Resolving any doubt or discrepancy that arises as to the specifications contained in a purchase or service order and the product presented by the supplier at the time of the delivery and acceptance.
7. Verify if in the Administration there is a contract in effect with a provider and/or supplier that provides the good or service requested, in which case the purchase shall be made to it.
8. Verify the accuracy of the information included in the Request for Purchase of Goods, Works and Nonprofessional Services (amount, description of the product, etc.) in all its aspects, before presenting it to the Administration.

SECTION 10.2.2 – GENERAL RESPONSIBILITIES OF THE PURCHASING OFFICE OF THE ADMINISTRATION

1. Review and corroborate, the accuracy of the information included in the Request for Purchase of Goods, Works or Nonprofessional Services (amount, description of the product, signature(s), etc.), in all its aspects, before beginning the purchase process. Also, verify if the petitioning entity presented all the documentation required with the Request for Purchase of Goods, Works or Services.

2. Require the petitioning entity by e-mail, if necessary, additional information, changes, corrections and alterations to the request received, or send reasonable specifications so it indicates if they agree with the good, work or nonprofessional service required. In that e-mail, the Purchasing Office of the Administration shall provide the petitioning entity the corresponding term so that entity sends the information requested by e-mail. The purchase process shall resume when the petitioning entity supplies the information requested. If no response is obtained in the required term, it shall be understood that the request was withdrawn and the Purchasing Office of the Administration shall return all the related documents to the petitioning entity due to inaction.
3. Verify the purchases or service requests to avoid the fractioning of the purchases with the purpose of avoiding the application of the corresponding criteria to the total value of the goods, works or nonprofessional services to be acquired.
4. Verify if in the Administration there is a contract in effect with a provider or supplier that provides the good or service requested, in which case the corresponding purchase shall be made from that provider and/or supplier.
5. Verify the availability of funds before proceeding to begin the processes to carry out a purchase, contract or service order.
6. Verify that the requests received comply with the requirements established in the laws, regulations or any applicable norms.
7. Pursuant to the content of the request, the Purchases Director shall recommend to the Auxiliary Administrator of Acquisitions or the Bidding Officer the bidding method, exceptional purchase or other acquisition method by which the request must be processed, in accordance with this Regulation.

8. After conducting the corresponding bidding process, the corresponding purchase order or contract shall be prepared and the funds shall be encumbered.
9. The Auxiliary Administration of Acquisitions and the Bid Board, in the case of acquisitions with federal funds, must verify that the successful bidder is not in the Debarment Registry of the System for Award Management (better known as “SAM” or “SAM System”). In the event that a bidder that is successful in any purchasing procedure is included in said registry, it shall be sufficient grounds for their disqualification.

SECTION 10.2.3 – DIRECT PURCHASE BY CONTRACT

A direct purchase by contract is that which is made from a provider that has been contracted by the Administration, through a bid or proposal awarded in that provider’s favor as authorized in this Regulation and whose contract is valid.

In the purchases made against contract, it shall not be required to request quotations from other suppliers, but a purchase order or agreement must be issued , as has been established in the corresponding packet.

SECTION 10.2.4 – SENDING OF PURCHASE ORDERS TO THE PUERTO RICO INNOVATION & TECHNOLOGY SERVICE (“PRITS”)

The Administration shall send a copy of every purchase order within a term of no more than fifteen (15) days of having been issued. PRITS must post said purchase orders within a term of no more than five (5) days of having received them.

ARTICLE 10.3 – REQUEST TO ACQUIRE GOODS, WORKS, OR SERVICES

The purchase procedure is originated when the petitioning entity has the need to acquire an asset, a work or a service to carry out its duties and prepares a request for the acquisition of goods, works or nonprofessional services. Upon receiving any request, the Administration shall open a file and shall identify it with the corresponding number.

SECTION 10.3.1 – CONTENT OF THE REQUEST TO ACQUIRE GOODS, WORKS, OR SERVICES

The request that is presented must be prepared by the delegate purchaser of the petitioning entity and authorized by the director of the Purchasing Office of the petitioning entity. Also, it must include:

1. A detailed description of the goods, works or services that facilitates preparing the specifications and allows to establish competition between various suppliers and brands;
2. Justification, if applicable;
3. Recommended specifications;
4. Conditions that what is requested should meet;
5. The place and delivery conditions required or the way in which the services shall be required and provided;
6. The purpose and specific use of the goods, works or services requested;
7. Certification from the petitioning entity about the percentage and amount available in its budget for preferential purchases;
8. Certification about availability of funds:

By submitting the request for purchase, the Administration shall verify the availability of funds assigned to the petitioning entity, through online certification with the Department of Hacienda. When verifying the availability of funds, the system shall authorize the purchase if there are funds available or shall notify the lack of funds:

a. Insufficiency of funds

When the insufficiency of funds for the requested purchase is verified, the purchase process begun shall be halted and the Administration shall electronically notify the end of the process to the Purchase Director of the petitioning entity.

b. Available Funds

When the availability of funds is certified, the Administration shall encumber the funds, through a notification to the Department of Hacienda, to the Office of Management and Budget and the Purchases Director of the petitioning entity that requested the purchase.

c. In case of Government Entities that are not in the Integrated Financial Accounting System (PRIFAS), they must present a certification of available funds from their banking institution. The certification of funds shall be a mandatory requirement prior to processing any purchase request;

9. If the petitioning entity identifies the need to establish a term contract on the good or service to be acquired, it must inform the effective term proposed for such contract.

10. Its recommendation to the Administrator as to the award; if the need must be covered by only one (1) supplier (individual contract) or various bidders (multiple selection contract).

11. Any other document or certification required by the Office of Government's Chief of Staff and/or the Office of Management and Budget.

12. Any other information that is useful according to the petitioning entity or the Administration.

SECTION 10.3.2 – RETURN OF THE REQUEST TO THE PETITIONING ENTITY

The Purchasing Office of the Administration may return the request to the petitioning entity in the following circumstances:

1. Due to lack of information;
2. Due to failure to include specifications;
3. Due to failure to state amounts;
4. Due to failure to include the percentage and the amount available in its budget for preferential purchases;
5. Due to not being signed by the Purchases Director of the petitioning entity;
6. Due to insufficiency of funds;
7. Due to lack of any other document or certification required by the Government Chief of Staff or the Office of Management and Budget, and;
8. For any other matter that the Administration deems pertinent that is necessary to include to make the purchase.

The Purchasing Office of the Administration may require the petitioning entity in a written document or e-mail, that submits any additional information that makes changes, corrections, and/or alterations to the request received. The Administration may also send the requiring entity specifications to state if they agree with the good, work, or nonprofessional service requested. The Purchasing Office of the Administration, in said document or e-mail, shall notify the petitioning entity of the term granted to provide that requested.

The purchase process shall be resumed when the petitioning entity submits to the Administration that requested by the Administration to it. If no response is obtained from the petitioning entity within the term granted, it shall be understood that the request was withdrawn and the Purchasing

Office of the Administration shall return to the petitioning entity all previously submitted documents.

ARTICLE 10.4 – PRELIMINARY EVALUATION OF THE REQUEST TO ACQUIRE GOODS, WORKS, OR NONPROFESSIONAL SERVICES

When the request for acquisition of goods, works or services of a petitioning entity is received in the Administration and evaluated by the Purchasing Office, the Auxiliary Administrator of Acquisitions and/or the Bidding Official, prior to evaluation of the processing recommendation made by the Office, shall determine the bidding method, exceptional purchase or other method of acquisition by which the purchase shall be processed.

In the event that the request originally submitted by the petitioning entity was amended and said amendment alters the acquisition price, the corresponding bidding method shall proceed to be performed.

ARTICLE 10.5 – BID OR PROPOSAL PACKET; GENERAL CONDITIONS

SECTION 10.5.1 – PACKETS; DEFINITION

The bid packet is the document that shall be given to the bidders interested in quoting, offering or proposing, in which everything necessary for their preparation of the offers must be stated. The document is composed of the invitation to informal bid, formal bid or request for proposals, the specifications of the goods, works or nonprofessional services, the terms, the conditions and the instructions of how to present a bid or offer, among others.

SECTION 10.5.2 – PREPARATION OF THE PACKETS

Based on the purchase request filed by the petitioning entity and the provisions of this Regulation, the Purchasing Division of the Administration shall prepare the Informal Purchase, Formal Purchase, Request for Proposals or Request for Sealed Proposals or Request for Qualifications packets.

SECTION 10.5.3 – COMPULSORY GENERAL CONDITIONS TO BE INCLUDED IN ALL PURCHASE, BID, OR REQUEST FOR PROPOSALS PACKETS, ACCORDING TO THEIR SUBJECT MATTER

In addition to the Invitation to Bid the packet must include the following:

1. Instructions

The instructions shall be the guidelines that shall be offered to the bidders for purposes of how to present and prepare their quotations, offers or proposals. The Purchasing Division of the Administration shall adopt and publish them, stating which shall apply in each proceeding. These shall be based on the regulatory provisions established in the rules that govern the purchase. They shall be of the following classes:

a. General Instructions

The General Instructions shall contain provisions about the manner in which to prepare and submit the quotations, offers or proposals and the requirements that the bidders must meet, among others, pursuant to that established in this Regulation.

b. Special Instructions

The special instructions are instructions that the Administrator seeks to be included in the bid to facilitate the evaluation and awarding of the offers.

2. Specifications

The specifications of a purchase, bid, or request for proposals are the group of physical, functional, aesthetic and quality characteristics of each one of the goods, works or services requested and that are in the descriptive part of what is requested in the packet and clearly identified as “specifications.”

The model specifications shall be used in each category applicable to each purchase or bid or request for proposals made by the Auxiliary Administration of Acquisitions or by the Bid Board of the General Services Administration.

The special specifications shall be used only in the specific purchase, bid and/or request for proposals for which they were drafted.

The specifications of the assets and services that want to be acquired shall be clear, understandable and objective and must not be based exclusively in the appreciation or vision of some officer or public employee or external consultant, but shall be drafted by a technical team of specifications.

When specialized assets or services want to be acquired, the Administrator may integrate a member of the industry in question, public or private, to the technical team of specifications to collaborate in the drafting of the specifications.

For those purposes, a consulting body must be constituted that shall be continuously and uninterruptedly constituted and may assist the Administration in the preparation of the specifications, if convened by the Administration for it. Such body may count with the participation of representatives of the different economic sectors, including, but not limited to the Puerto Rican Investment Board, United Retailers Association, the Manufacturers Association, the Puerto Rico Products Association, the General Contractors Association, the Puerto Rico Builders Association, among other entities of the public and private sector. Such consulting body shall be

constituted continuously and uninterruptedly and may assist the Administration in the preparation of specifications, if convened by the Administration for it.

The Administration must establish clear, understandable and objective specifications that are not exclusively based in the appreciation or vision of any officer or public employee or external consultant, and that meets the objective criteria of optimal quality, functionality, durability and performance of the product or service to be acquired or contracted.

In the event that the federal norm establishes specifications requirements different to those established here, the former shall prevail.

Also, the Administration shall ensure to recruit and maintain personnel adequately trained, prepared, supervised and with the necessary knowledge to carry out the duty to prepare the specifications in such a way that ensures the functionality, quality, adequate design and prudent use of the products and services that the Government of Puerto Rico needs.

At the time of adopting the corresponding specifications, the employee that prepared them shall validate that the provisions of Law 14-2004, as amended, known as the "Act for Investment in Puerto Rican Industry" have been met.

Every bidder with whom the Government of Puerto Rico has perfected a contract for acquisition of assets or nonprofessional services, shall be obligated to include, in every subcontracting contract (if subcontracting is allowed), a contractual clause in which the subcontracted party affirms to recognize and accept that it is obligated to comply with all the specifications of the assets or services during the effectiveness of the obligation. Also, the contractor must notify the contracting entity of the government, all subcontracting that has been formalized pursuant to such contract.

Every bidder must confirm and certify, at the time of formalizing an acquisition by way of the corresponding purchase order or agreement, that their product meets the specifications provided

by the Administration. The Administration shall keep evidence of said certification in the transaction record.

3. Bonds

When the specifications of the goods, works or nonprofessional services that shall be acquired warrant it, various types of bonds may be required to those who bid or present proposals with the purpose of ensuring fulfillment of the contracted obligation. In those times in which it is a requirement to submit a bond, this shall be always specified in the bid packet or in the requisition or Request for Proposals or Request for Sealed Proposals.

The bonds shall be submitted, pursuant to Chapter 9 of this Regulation.

4. Trademarks

The packet may contain references, for example, to specific trademarks of items, solely as a guide to aid the bidder or proponent determine the class and type of items they seek to acquire. In those cases, the bidders or proponents may quote their prices for other trademarks that cover the specifications indicated in the bid packet.

Invitations may be made to bid for the acquisition of specific trademarks, whenever such can be justified due to the experience obtained, to maintain compatibility or standardization, and any other circumstance that requires such specific trademarks due to them being the ones that best satisfy the needs of the petitioning entity. Should a specific trademark be necessary, the bid record shall include a report providing justification for such.

5. Samples

The bidders are obligated, whenever so required in the packet, to submit samples that are representative of what they shall provide in their day, if they are awarded the bid:

- a. Free of cost for the Government;

- b. In the amounts and with the characteristics in the specifications required;
- c. With the original label that identified the brand of the product and the container required in the purchase, bid or request for proposal, or in its commercial container;
- d. Submitted before the opening, if so required:
 - 1. When a sample is required and it is not submitted within the term required, said quotation, offer or proposal shall not be considered.
- e. Accompanied by the manufacturer's literature.

The samples shall be examined by the Purchasing Division of the Administration. If within the process of evaluation of samples these are destroyed or consumed, the government shall not be liable for their cost.

If after the evaluation the samples are not destroyed or are not fully exhausted, the bidder is obligated to collect them within ten (10) days of having been notified of such by the Purchasing Division of the Administration. If such term expired and the bidder did not pick up the samples, these shall become the property of the Government.

When the submission of samples of the products to be purchased is demanded or required, an objective evaluation or analysis of the samples of all bidders must be done. All the participating bidders shall have the reasonable and notified opportunity of being present in such evaluation, prior to the award.

In the case of the successful bidder, their samples may be retained for the adequate administration of the contract. In case these are returned, the successful bidder must have to have them available for inspection at any time during the effectiveness of the contract.

Everything stated in this paragraph about the samples shall not be applicable in those bids in which the object in question is physically impossible to present, such as machines, heavy equipment, transportation vehicles, but may require a demonstration of the equipment to all the bidders alike.

6. Inspection of Merchandise

In those purchases, bids or requests for proposals in which the document is specifically required, the bidder is obligated submit a certificate of inspection with their offer.

a. Delivery Method

1. Must submit the original;
2. Issued by the corresponding state or federal government authority;
3. Dated after the Invitation date.

b. Content of the Certificate

The certificate shall contain the following information:

1. Manufacturing date of the product;
2. Packaging date (month and year) of the merchandise that is offered;
3. Coding or key of the containers in which the inspected items are packaged in.

c. Content of the Coding

The coding must contain the letters, numbers and symbols or a combination of these that the packager normally stamps on any of the ends of each package to mark the packaging month, day and year, date until the product can be used, namely, the expiration date, as well as any other pertinent information.

Evidence must be presented that the product meets the quality requirements of all federal and state specifications.

7. Quality of the Containers

The containers in which any merchandise is supplied shall have to be completely new and hermetically sealed and in cases of metal containers with no indication of oxidation.

The carton, sack, wooden, box containers, or any other have to be conserved in good conditions.

8. Content and Weight

It shall be the obligation of the bidder to supply the correct information regarding the net weight, content, number of units per carton or containers of their product, even if that has not been expressly requested in the packet.

9. Deliveries

a. Delivery Dates of Merchandise, Start and End of the Services or Performance of Works

In the purchase, bid or request for proposals packet, the bidder shall be required to state their quotation, offer or proposal, the dates that the merchandise will be delivered; in the cases of works or services, the date in which the bidder projects the work will be started or the service will be provided and the date that the bidder will hand over the work or will end the service. The bidder may not include any cost additional to the price offered under expenses related to the delivery of the purchased good.

b. Delivery Site

It shall be the obligation of the Purchasing Division to inform the bidder the delivery site in the Invitation to Bid.

10. Pick-up Date

The packet must establish, if applicable, that the successful bidder of a sale bid, is obligated to collect the merchandise or good awarded in their favor, within five (5) days of having received the

notification to collect it, at their cost and risk. If the bidder does not collect it within the established term, the bid shall be awarded to the second bidder and the difference between the offer of the second bidder and the bidder who was originally awarded the bid shall be paid by the original bidder's bond. Also, the bidder shall be charged for the storage of the days that lapse after the date set to collect it and the date that the second bidder picks it up.

11. Storage

In the event that the bidder that sells to the Government had to store the supplies to be provided, the Government shall not be responsible for the price the bidder pays for the storage or for the unearned profits. Also it shall not pay excise taxes, if any, for the storage.

12. Discount

Any discount offered by the bidder as an incentive to expedite their eventual payment shall not be considered in the evaluation of the offer for the award unless stated so in the packet.

13. Excise Taxes

The price offered by the bidder may not include the state excise taxes.

14. Preferential Laws

The packet must contain any notice established in the different preferential laws. The packet must also inform the bidders or proponents of the obligation to present any document certifying their preference with their offer.

The Administration and the Bid Board shall strictly comply with the public policy of preferred purchases provided in law.

15. Federal Energy Conservation Act

The packet must establish that every bidder that offers equipment, machinery or vehicle that consumes electric power or fuel for its operation, when making their offer, must state that their

equipment, machinery or vehicle meets the requirements established by the Federal Energy Conservation Act. When awarding these bids, the Auxiliary Administration of Acquisitions or the Bid Board shall follow the federal norms of consumption, conservation and use of the good in question and awarding the bid to a bidder that offers a **more expensive** good shall not be grounds for contesting the bid if the ones offered by the other bidders do not meet the norms established by such law.

16. Additional Conditions

The conditions of a bid are the terms under which the good must be delivered, the work performed, or the service provided. Any additional condition that according to the Administrator must be included to guarantee and safeguard the best interests of the Government of Puerto Rico, may be included in the bid packet.

17. Guarantee

The packet must state that every bidder must clearly and in detail include the specific period or the terms applicable to each guarantee, their limitations and conditions, the procedures required to claim the guarantee, a clear description of which entity shall provide the replacement, fixing, correction or repair service of the product or the service and the delivery terms of the product or service.

The guarantee of the product or service must clearly detail what it includes. In turn, the guarantee must be certified, in the case of products, by the local or foreign manufacturer and also by their representative or distributor, guaranteeing the government entity the replacement of parts or products, services and labor under terms clearly stated in the bidder's offer.

It shall moreover be stated that the bidder must assume all costs related to the guarantee, including transporting and shipping costs.

The bidders shall be informed that the guarantee given in Puerto Rico shall be considered preferentially over the guarantee given abroad.

Every bidder shall be required the duty of honoring the guarantee, if any, to the Government, regardless if the purchase is through a distributor or not.

The packet shall advise every bidder that breach of the foregoing shall be grounds for disqualification.

18. Disposal of the good to be acquired

Every packet must include a provision requiring every bidder, in any purchase process, to state in their offer whether the safe and sustainable disposal of the good to be acquired is included. It must also state whether or not their offer includes the cost of disposal of the good to be purchased. In the event that the offer does not contemplate disposal or cost of disposal, the bidder must include disposal alternatives and the estimated cost.

CHAPTER 11 – FISCAL INTERVENTIONS

ARTICLE 11.1 – REVIEW AND INSPECTION OF ORIGINAL BID AND PROPOSAL RECORDS AND DOCUMENTS

Every document related to the procedures provided in this Regulation constitutes official information and shall be subject to review by the Office of the General Inspector and the Comptroller's Office of Puerto Rico, which shall review the aforementioned documents pursuant to their intervention itineraries. The records shall be in the custody of the Auxiliary Administration of Acquisitions and the Bid Board, as the case may be.

ARTICLE 11.2 – TERM FOR THE RETENTION OF ORIGINAL BID AND PROPOSAL RECORDS AND DOCUMENTS

The original bid or proposal records and documents, as they are fiscal in nature, shall be retained for six (6) years or until there is an intervention by the Office of the Comptroller of Puerto Rico, whichever occurs first.

However, the original bid and proposal records and documents that are in process of investigation or pending legal action, shall be retained until the investigation or legal case is ultimately resolved. On the other hand, the original bid and proposal records and documents subject to citations in the intervention reports of the Comptroller shall be retained until final action is taken with regard to them.

CHAPTER 12 - DELEGATIONS

ARTICLE 12.1 – DELEGATIONS TO GOVERNMENT ENTITIES

Government entities may ask the Administrator, by way of a formal document signed by the head, secretary, and/or the administrator of the entity, to be delegated the duties established by this Regulation for the purchase of one or more goods, works and/or nonprofessional services, for a fixed term or for an indefinite term, subject to the following:

1. The document must state the duly supported justification for such request.
2. The Administrator of the General Services Administration shall have the faculty to grant or deny the request presented, considering the best interests of the Government of Puerto Rico.
3. In the event that delegation to a government entity is approved, it has the power to oversee all due compliance with the provisions of this Regulation and any other valid legal provision related to acquisition processes.

4. If such delegation is granted, the government entity must submit to the Administration a monthly report of the purchases made.
5. The Administrator shall have the faculty of reversing the delegation granted at any time if deemed appropriate.

CHAPTER 13 – TRANSITORY PROVISIONS

ARTICLE 13.1 – CONTINUITY OF DUTIES OF THE MEMBERS OF THE BIDS BOARD

The members of the Bid Board appointed pursuant to the former Bids Regulation, repealed herein, shall continue carrying out the duties of their positions until their successors are appointed in accordance with that established in this Regulation.

CHAPTER 14 – FINAL PROVISIONS

Article 14.1 – SEVERABILITY CLAUSE

If any chapter, article, section, subsection or paragraph of this Regulation were to be declared unconstitutional, invalid or null and void by a court of competent jurisdiction, the remaining provisions of the Regulation shall remain valid.

ARTICLE 14.2 – REPEAL

Bids Regulation Number 3380 and Purchases Regulation Number 3381, both of December 2, 1986 are hereby repealed. Furthermore, Circular Letter 2020-07, Circular Letter 2021-03, and any other former rule relating to the matters regulated by this Regulation are hereby repealed.

ARTICLE 14.3 – VALIDITY

This Regulation shall go into effect thirty (30) days after its filing at the Office of the Clerk of the Department of State and shall apply to all acquisition procedures initiated after its effective date.

Approved in San Juan, Puerto Rico on November 18, 2020.



Karla G. Mercado Rivera, Esq.
Administrator and Chief Purchasing Officer