

GOVERNMENT OF PUERTO RICO
GENERAL SERVICES ADMINISTRATION

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

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APPROVED: Félix E. Rivera Torres

Acting Secretary of State



Department of State

Government of Puerto Rico



**ADMINISTRACIÓN DE
SERVICIOS GENERALES**
GOBIERNO DE PUERTO RICO

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Compulsory General Conditions to Be Included in All bid packet , bids or request for
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Sources of the Law

These amendment to Regulation No. 9230, 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 are enacted pursuant to 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, by virtue of the provisions contained in Law 38 of June 30, 2017, as amended, known as “Government of Puerto Rico Uniform Administrative Procedure Act”.

Purpose and Scope of the Amendments

These amendments to Regulation No. 9230, known as the Uniform Regulation of Purchases and Bids of Goods, Works, and Non-Professional Services of the General Services Administration of the Government of Puerto Rico have the purpose of modifying the text of the regulation to adapt it to the real circumstances and scenarios that arise daily in the General Services Administration (GSA), so that it allows the practical execution of the process of purchases and bids of goods, works, and nonprofessional services in the Government of Puerto Rico. The amendments included herein shall apply to all government entities, exempt entities, and any other entities, agencies, instrumentalities, and municipalities that voluntarily process their purchases and bids of goods, works, and nonprofessional services through the General Services Administration.

Amendments

Section. 1. Subsection 10 of Article 1.6- Definitions is hereby amended to read as follows:

Article 1.6- Definitions

...

10. Bid or Proposal Evaluating Committee - committee constituted by the Administrator for one particular bidding process, whenever the latter deems such to be appropriate, whose main duty shall be to evaluate the compliance, on the part of the bidders or proponents, with the established bidding requirements, for each bid or proposal in particular for which it was constituted. The administrator shall state in writing the reason why the Bid or Proposal Evaluation Committee was not set up for a particular bidding process.

...

Section 2. Subsection 5 of Article 6.5 - Special Conditions for Exceptional Purchases so that it reads as follows:

Article 6.5 – Special Conditions for Exceptional Purchases

...

5. Term contracts may not be issued by way of the exceptional purchase process. Only the purchase order or service corresponding to said exceptional purchase may be issued. As an exception, term contracts may be issued for exceptional purchases, with the express authorization of the Administrator, for the max term of one (1) year according to the identified needs and the circumstances surrounding the acquisition.

Section 3. Section 7.2.16- Summary of Offers of Article 7.2 Informal Bid is hereby amended to read as follows:

Article 7.2 Informal Bid

Section 7.2.16 - Summary of Offers

Within a term of five (5) days after the Opening has been carried out, the Bid or Proposal Evaluation Committee shall prepare a summary of the bids received. Within the term of five (5) days here stipulated, it can be duly authorize by written communication by the Administrator. By the time said term expires, the Bid or Proposal Evaluation Committee shall submit the Summary of Bids to the Auxiliary Administrator of Acquisitions or his authorized representative to perform the corresponding evaluation and award. In the event that the Bid or Proposal Evaluation Committee has not been constituted, the Purchases and Bids Specialist assigned to the acquisition process will prepare said Summary of Bids. The Summary of Offers must include the following information:

1. ...
2. ...

Section 4. Subsection 1 is amended- Evaluation of Offer of Section 7.2.17- Award Rules of Article 7.2.-Informal Bid is hereby amended to read as follows:

Artículo 7.2.-Informal Bid

Section 7.2.17 - Award Rules

1. Evaluation of Offer

The Auxiliary Administrator of Acquisitions or his authorized representative shall evaluate all the bids received and how they meet the evaluation criteria established in the specifications, terms, and conditions stated in the informal bid packet. The Bid or Proposal Evaluation Committee, if it has been established, or the Purchases and Bid Specialist assigned to the bidding process shall assist the Assistant

Administrator of Acquisition or his authorized representative in evaluating any informal bid.

Section 5. Subsection 12-Award of Section 7.2.17- Award Rules of Article 7.2.- Informal Bid is hereby amended to read as follows:

Artículo 7.2.-Informal Bid

Section 7.2.17- Award Rules

12. Award

The Assistant Administrator of Acquisitions or his authorized representative shall make the corresponding award within a period of fifteen (15) days after the Opening has been performed. The term of fifteen (15) days here stipulated can be extended with written authorization by the Administrator, in case that the bid considers its goods and/or special services are highly technical.

The Auxiliary Administrator of Acquisitions Area or his authorized representative shall award the contract to the responsive bidder who has offered the best value.

Section 6. Section 7.2.25- Master Contracts of Article 7.2.-Informal Bid is hereby amended to read as follows:

Artículo 7.2.-Informal Bid

Section 7.2.25 - Master Contracts

The Administration may hold any Informal Bid procedure with the objective of granting master contracts, under the previously established terms and conditions of which, the agencies may issue purchase orders, if the need described therein is identified. Multi-year master contracts may be awarded.

The Administrator may authorize the amendment of master contracts, only one time, in order to extend their validity for a period that does not exceed the term establish in the original contrat. All amendments shall be made by way of an “Amendment” document and must include the signatures of the parties.

Section 7. Section 7.3.16- Summary of Offers of Article 7.3 Formal Bid is hereby amended to read as follows:

Article 7.3 - Formal Bid

Section 7.3.16 - Summary of Offers

Within a term of five (5) days after the Opening has been carried out, the Bid or Proposal Evaluation Committee shall prepare a summary of the bids received. The term of five (5) days here stipulated, can be extended with written authorization by the Administrador. On or before the said term expires, the Bid or Proposal Evaluation Committee shall submit the Summary of Bids to the Board of Bid to perform the corresponding evaluation and award. In the event that the Bid or Proposal Evaluation Committee has not been constituted, the Purchases and Bids Specialist assigned to the acquisition process shall prepare said Summary of Bids. The Summary of Offers must include the following information:

1. ...
2. ...

Section 8. Subsection 1- Evaluation of Offer of Section 7.3.17- Award Rules of Article 7.3-Formal Bid is hereby amended to read as follows:

Article 7.3-Formal Bid

Section 7.3.17 - Award Rules

1. Evaluation of Offer

The Board of Bids shall evaluate all the bids received and how they meet the evaluation criteria established in the specifications, terms, and conditions stated in the formal bid packet. The Bid or Proposal Evaluation Committee, if it has been established, or the Purchases and Bid Specialist assigned to the acquisition process shall assist the Board of Bid in evaluating any formal bid.

Section 9. Subsection 12-Award of Section 7.3.17-Award Rules of Article 7.3.-Formal Bid is hereby amended to read as follows:

Article 7.3-Formal Bid

Section 7.3.17 - Award Rules

12. Award

The Bid Board shall make the corresponding award within a period of fifteen (15) days after the Opening has been performed. The term of fifteen (15) days here stipulated can be extended with written authorization by the Administrator, in case that the bid considers its goods and/or special services are highly technical.

The Bid Board shall award the contract to the responsive bidder who has offered the best value.

Section 10. Section 7.3.25-Master Contracts of Article 7.3-Formal Bid is hereby amended to read as follows:

Article 7.3-Formal Bid

Section 7.3.25 - Master Contracts

The Administration may hold any Formal Bid procedure with the objective of granting master contracts, under the previously established terms and conditions of which the agencies may issue purchase orders, if the needs there describe are identified. Multi-year master contracts may be awarded.

The Administrator may authorize an amendment to the master contracts, only one time, in order to extend their validity for a period that does not exceed the term establish in the original contrat. All amendments shall be made by way of an “Amendment” document and must include the signatures of the parties.

Section 11. Section 7.4.10-Request for Clarification of Article 7.4.-Request for Proposals or Request for Sealed Proposals is hereby amended to read as follows:

Article 7.4 Request for Proposals or Request for Sealed Proposals

Sección 7.4.10 - Request For Clarification

...

1. On or before the deadline date established for such, potential bidders may request in writing to the Auxiliary Administration of Acquisitions or the Bid Board, as the case may be, a clarification or interpretation of any aspect or exception to any requirement established in the corresponding bid packet The Auxiliary Administration of Acquisitions or Bid Board, as the case may be, shall provide the corresponding responses or clarifications on the date established for such.
2. ...

Section 12. Section 7.4.16-Preliminary Evaluation of Proposals of Article 7.4.-Request for Proposals or Request for Sealed Proposals is hereby amended to read as follows:

Article 7.4- Request for Proposals or Request for Sealed Proposals

Section 7.4.16 – Preliminary Evaluation of Proposals

...

The Auxiliary Administration of Acquisitions or the Bid Board, as the case may be, with the assistance of the Bid or Proposal Evaluation Committee or the Purchases and Bids Specialist assigned to the acquisition process, may select one or more of the proposals that it considers best serve(s) the interests of the Government of Puerto Rico.

The Auxiliary Administration of Acquisitions or the Bid Board, as the case may be, with the assistance of the Bid or Proposal Evaluation Committee or the Purchases and Bids Specialist assigned to the acquisition process, may hold discussions and negotiate with the proponents whose offers are within the established margins of selection.

...

Section 13. Section 7.4.17-Receipt or Selection of a Single Proposal of Article 7.4.-Request for Proposals or Request for Sealed Proposals is hereby amended to read as follows:

Article 7.4- Request for Proposals or Request for Sealed Proposals

Section 7.4.17 - Receipt or Selection of a Single Proposal

When a single proposal is received or selected, the Auxiliary Administration of Acquisitions or the Bid Board, as the case may be, with the assistance of the Bid or

Proposal Evaluation Committee or the Purchases and Bids Specialist assigned to the acquisition process may negotiate the terms of the proposal presented if it complies with the provisions established in the bid packet and it is determined that said negotiation would benefit the Government of Puerto Rico. Otherwise, the cancellation of the process shall then be performed.

Section 14. Subsections 1, 2, 2(a), 4, 5, 7, and 10 of Section 7.4.18-Meetings with Proponents Whose Offers or Proposals Are Within the Established Margins of Selection of Article 7.4-Request for Proposals or Request for Sealed Proposals are hereby amended to read as follows:

Article 7.4- Request for Proposals or Request for Sealed Proposals

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 has decided to hold discussions and negotiations, these shall be conducted following the procedures stated below:

1. No statement made or action taken by the Auxiliary Administration of Acquisitions or the Bid Board and Bid or Proposal Evaluation Committee or the Purchases and Acutions Specialist assigned to the acquisition process during said discussions and negotiations, shall bind the Administration in any way.
2. Any bidder whose bids or proposals comply with the provisions established in the packet shall be invited to attend one or more meetings in private with the Auxiliary Administration of Acquisitions or the Action Board and the Bid or Proposal Evaluation Committee or the Purchases and Bids Specialist assigned to

the acquisition process to discuss any facet of their proposal and answer any specific questions provided in said invitation.

a. The content and extent of the discussions between the Auxiliary Administration of Acquisitions or the Bid Board and the Bid or Proposal Evaluation Committee or the Purchases and Bids Specialist assigned to the procurement process and each bidder shall be determined by the Auxiliary Administration of Acquisitions or the Bid Board and the Bid or Proposal Evaluation Committee or the Purchases and Bids Specialist assigned to the acquisition process based on the particular facts and circumstances of each proposal.

b. ...

3. ...

4. The Auxiliary Administration of Acquisitions or the Bid Board with the assistance of the Bid or Proposal Evaluation Committee or the Purchases and Bids Specialist assigned to the acquisition process, may: i) ...; ii)...

5. After each interview or meeting with any bidder minutes shall be redacted, which shall include all the important elements of the interview or meeting. The minutes shall form part of the process record.

6. ...

7. Discussions and negotiations may be carried out fully or partially through written communications without face-to-face meetings or interviews, at the discretion of the Auxiliary Administration of Acquisitions or the Bid Board. They may also be carried out through any electronic platform.

8. ...

9. ...

10. The Auxiliary Administration of Acquisitions, the Bid Board, the Bid or Proposal Evaluation Committee and the Purchases and Bids Specialist assigned to the acquisition process shall maintain the negotiations and the issues discussed in confidentiality.

...

Section 15. Section 7.4.20-Award of Article 7.4.-Request for Proposals or Request for Sealed Proposals is hereby amended to read as follows:

**Article 7.4- Request for Proposals or Request for Sealed Proposals Section 7.4.20
– Award**

...

The corresponding award shall be made within a period of fifteen (15) days after the Opening has been performed. Within the fifteen (15) days here stipulated can be may be extended through the written authorization of the Administrator, in the event that the goods or services of the proposal considers specialized and / or highly technical. If the situation warrants, the term for negotiations and meetings with the proponents may be extended.

Section 16. Section 7.4.25-Master Contracts of Article 7.4.-Request for Proposals or Request for Sealed Proposals is hereby amended to read as follows:

**Article 7.4- Request for Proposals or Request for Sealed Proposals
Section 7.4.25 - Master Contracts**

...

The Administrator may authorize an amendment of the master contract, only one time, in order to extend their validity for a period that does not exceed the term establish in the original contrat. All amendments shall be made by way of an “Amendment” document and must include the signatures of the parties.

Section 17. Subsection 8 (c) of Section 10.3.1 – Content of the Request for the Acquisition of Goods, Works, or Services of Article 10.3- Request for the Acquisition of Goods, Works, or Services is hereby amended to read as follows:

Article 10.3- Request for the Acquisition of Goods, Works, or Services

Section 10.3.1 - Content of the Request for the Acquisition of Goods, Works, or Services

...

8. Certification regarding the availability of funds:

When submitting the purchase request, the Administration shall verify the availability of funds assigned to the requesting entity, by way of online certification through the Department of the Treasury. When verifying the availability of funds, the system will authorize the purchase if there are funds available or it will provide notification of insufficient funds:

a. ...

b. ...

c. In the case of Government Entities that do not appear in the Central Accounting System (**PRIFAS**), they must present a certification of available funds from their banking institution. In case the Government Entity cannot provide said

certification of their banking institution, they can provide a signed certification, under oath, by the Chief of the Government Entity shall certify the availability of funds and the reason why he couldn't get said certification. The Chief of the Government Entity in question may delegate the preparation of the aforementioned certification to the official of the Government Entity who directs the office, area, budget division or its equivalent.

...

Section 18. Subsection 2- Specifications and subsection 17- Warranty of Section 10.5.3 – Compulsory General Conditions to Be Included in All bid packet , bids or request for proposals, According to their Subject Matter of Article 10.5-Bid packet or Proposal; General Conditions are hereby amended to read as follows:

Section 10.5.3 – Compulsory General Conditions to Be Included in All bid packet , bids or request for proposals, According to their Subject Matter Article 10.5 Bid Packet or Proposal; General Conditions

In addition to the Bid Invitation, the packet shall include the following:

...

2. Specifications

...

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

Every bidder or proponent must certify that the goods, works, and nonprofessional services included in their offer or proposal meet the particular specifications (model specifications and special specifications) established in the packet. Said certification must be supported by reliable documentation that certifies full and unequivocal compliance with the particular specifications of each line included in the price table and must not be limited exclusively to information provided in catalogs, literature, or general certifications provided by the distributor, manufacturer, or supplier of goods and services, local or foreign, regarding the good, work, or nonprofessional service included in the offer or proposal.

Any bidder with whom the Government of Puerto Rico has finalized a contract for the acquisition of goods, works, or nonprofessional services, shall be bound to include, in every subcontracting agreement (if subcontracting is permitted), a contractual clause in which the subcontracted party pledges to acknowledge and accept that it shall be bound to comply with all the specifications of the goods or services during the term of the agreement. Moreover, the contractor must notify the government contracting entity of all subcontracting that has been formalized under said agreement.

3. ...
4. ...
5. ...
6. ...
7. ...
8. ...
9. ...
10. ...

11. ...

12. ...

13. ...

14. ...

15. ...

16. ...

17. Warranty

The packet must state that all bidders must include with their offer or proposal, a true and exact copy of the warranty, issued by the manufacturer of the product and service, which clearly and precisely details the specific period or terms applicable to each warranty, its validity, terms, its limitations and conditions, the procedures required to claim the warranty, the name of the entity that will provide the replacement service, remedy, correction, or repair of the product or the service, and the terms of delivery and installation of the product or service.

The product or service warranty must clearly list what it includes. The bidder shall be bound to honor the warranty signed with the offer or proposal.

It shall also state that the bidder must bear the costs related to the warranty, including transport or shipping costs.

Bidders shall be informed that the warranty provided by a manufacturer from Puerto Rico shall be preferentially considered over the warranty provided by a manufacturer abroad.

Every bidder shall be bound to honor the warranty, if any, for the Government of Puerto Rico, regardless of whether or not it is purchased through a distributor.

In the packet, every bidder shall be warned that failure to comply with the foregoing shall be grounds for disqualification.

18. ...

Section 19. Article 14.2- Repeal is hereby amended to read as follows:

Article 14.2- Repeal

Bid Regulation Number 3380 and Acquisition Regulation Number 3381, both of December 2, 1986, are hereby repealed. Circular Letter 2020-07, Circular Letter 2020-03, and any other previous rule related to the matters regulated in this Regulation are also hereby repealed.

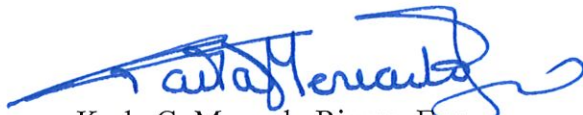
Severability

If any article, section, sentence, paragraph, or clause of this Regulation is declared null and void or unconstitutional by a court with jurisdiction, said pronouncement shall not affect or invalidate the remainder of its provisions.

Validity

This Regulation shall go into force thirty (30) days after having been filed in the Puerto Rico Department of State in accordance with the Law and repeals any previous provision to the contrary.

Approved in San Juan, Puerto Rico on July 22, 2021.



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