



GOVERNMENT OF PUERTO RICO
DEPARTMENT OF HEALTH
MEDICAID PROGRAM

**REQUEST FOR PROPOSALS
FOR
EXTERNAL QUALITY REVIEW
ORGANIZATION SELECTION
2021-PRMP-RFP-002**

February 1, 2022

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1 INTRODUCTION

The Government of Puerto Rico, Department of Health, Medicaid Program hereinafter referred to as PRMP, issues this Request for Proposals (RFP) to define response solicitation; minimum contract requirements; detail response requirements; and outline PRMP's process for evaluating responses and selecting a contractor to provide the needed goods or services.

Through this RFP, PRMP seeks to procure necessary goods or services at the most favorable, competitive prices and to give all qualified respondents, an opportunity to do business with the PRMP as contractors, subcontractors or suppliers.

1.1. Statement of Procurement Purpose

PRMP seeks to engage in a contract with a highly qualified and experienced External Quality Review Organization (EQRO) to assist PRMP in reaching its goal of ensuring that each enrollee of the Puerto Rico Vital Program can access timely, high quality, medically necessary, covered healthcare services. The Balanced Budget Act (BBA) of 1997, requires that the State Medicaid agencies contract with qualified outside entities to conduct an annual review of managed care plans. This will include, at a minimum, Managed Care Organizations (MCOs) and Dental Benefits Managers (DBMs) that have contracts with PRMP and/or the Puerto Rico Health Insurance Administration (PRHIA) also known as Administración de Seguros de Salud de Puerto Rico (ASES).

This contract is required for compliance with federal EQRO rules and regulations. The specifications for deliverables required in this contract (refer to Appendix 10: Pro Forma Contract Draft) may evolve from year to year in response to program changes such as MCO participation or enrollment levels, and changes to federal, state, and territorial requirements. Amendments to this contract may be required to reflect such aforementioned changes.

1.2. Scope of Service, Contract Period, & Required Terms and Conditions

The RFP Appendix 10: Pro Forma Contract Draft details PRMP's non-negotiable terms and conditions:

- Scope of Services and Deliverables
- Contract Period: two (2) year period and renewed year by year for up to three (3) additional years for a maximum of five (5) years. The first year will include an MCO evaluation period from January 2018 until December 2020
- Payment Terms
- Standard Terms and Conditions
- Special Terms and Conditions including tax and insurance policy requirements that must be complied with by the selected entity in Puerto Rico

Appendix 10: Pro Forma Contract Draft substantially represents the contract document that the successful respondent must sign.

The awarded respondent will be the EQRO for the PRMP for a period of two (2) years, with three (3) additional option years, for a maximum of five (5) consecutive years.

1.3. RFP Schedule of Events

The RFP schedule of events is detailed in Table 1: Schedule of Events. PRMP may change this schedule at any time. If PRMP changes the schedule before the Technical Bid Opening, it will do so through an announcement on the Departamento de Salud de Puerto Rico website (<https://www.salud.gov.pr/CMS/21>), or there will be an announcement on the Departamento de Salud de Puerto Rico website directing interested parties to another website with the latest RFP information. The Solicitation Coordinator may also notify Vendors via email of a change in the RFP's schedule of events. The announcement will be followed by an amendment to this RFP, also available through the same website or via email from the Solicitation Coordinator. It is each prospective Vendor's responsibility to check the website for current information regarding this RFP and its schedule of events through award of the contract. Any response to this RFP will be considered to the maximum extent practical.

Table 1: Schedule of Events

RFP Released to Public.....	12/16/2021
Notice of Intent to Respond Deadline	12/31/2021
Vendor's Written Questions Submission Deadline	12/31/2021
Amendment #1 Posted	1/14/2022
Proposal Submission Due Date	3/04/2022
Technical Bid Opening	3/04/2022
Technical Evaluation Begins	3/07/2022
Oral Presentations (If Requested)	3/16/2022
Cost Bid Opening	3/16/2022
Cost Evaluation Begins.....	3/16/2022
Notice of Intent to Award	3/18/2022
Responses Open for Review	3/18/2022
Deadline to Submit Application for Review	4/07/2022
Contract Award Made.....	4/22/2022
Contract Signature and Distribution	6/28/2022

There are references in this RFP to a myriad of dates and times. Unless it is clearly provided to the contrary in this RFP, any such reference means the date and time relative to the Commonwealth of Puerto Rico local time.

Furthermore, Vendors who wish to protest must submit an Application for Review twenty (20) days from the time the Notice of Intent to Award is socialized.

1.4. Nondiscrimination

No entity shall be excluded from participation, be denied benefits of, or be otherwise subjected to discrimination in the performance of a contract pursuant to this RFP or in the employment practices of the contractor on the grounds of handicap or disability, age, race, creed, color, religion, sex, national origin, or any other classification protected by federal, or local (Puerto Rico) laws. The contractor selected pursuant to this RFP shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

1.5. RFP Communications

PRMP has assigned the following RFP identification number that must be referenced in all communications regarding this RFP:

2021-PRMP-RFP-002

Unauthorized contact about this RFP with Puerto Rico Department of Health (PRDoH) Officials except as detailed below may result in disqualification from consideration under this procurement process.

Prospective respondents must direct communications concerning this RFP to the following person designated as the Solicitation Coordinator:

Elizabeth Otero Martinez elizabeth.otero@salud.pr.gov

Only the PRMP's official, written responses and communications with respondents are binding with regards to this RFP. Oral communications between a PRMP official and one or more respondents are unofficial and nonbinding.

Potential respondents must ensure that PRMP receives all written questions and comments, including questions and requests for clarification, no later than the Vendor's Written Questions Submission Deadline detailed in Table 1: Schedule of Events.

Respondents must assume the risk of the method of any communication to (and response from) PRMP. PRMP assumes no responsibility for delays or delivery failures resulting from the respondent's method of communication. Actual or digital "postmarking" of a communication or response to PRMP by a specified deadline is not a substitute for PRMP's actual receipt of a communication or response.

PRMP will convey all official responses and communications related to this RFP to all of the prospective respondents from whom PRMP has received a Notice of Intent to Respond.

PRMP reserves the right to determine, at its sole discretion, the method of conveying official, written responses and communications related to this RFP. Such written communications may be transmitted by mail, hand-delivery, facsimile, electronic mail, Internet posting, or any other means deemed reasonable by PRMP.

PRMP reserves the right to determine, at its sole discretion, the appropriateness and adequacy of responses to written comments, questions, and requests related to this RFP. PRMP's official, written responses will constitute an amendment of this RFP.

Any data or factual information provided by PRMP (in this RFP, an RFP amendment or any other communication relating to this RFP) is for informational purposes only. PRMP will make reasonable efforts to ensure the accuracy of such data or information, however it is the respondent's obligation to independently verify any data or information provided by PRMP. PRMP expressly disclaims the accuracy of any information or data that it provides to prospective respondents.

1.6. Assistance to Respondents with a Handicap or Disability

Prospective respondents with a handicap or disability may receive accommodation relating to the communication of this RFP and participation in the RFP process. Prospective respondents may contact the Solicitation Coordinator to request such reasonable accommodation.

1.7. Respondent Required Review & Waiver of Objections

Each prospective respondent must carefully review this RFP, including but not limited to, attachments, Pro Forma Contract, and any amendments, for questions, comments, defects, objections, or any other matter requiring clarification or correction (collectively called "questions and comments").

Any prospective respondent having questions and comments concerning this RFP must provide them in writing to PRMP no later than the Vendor's Written Questions Submission Deadline detailed in the Table 1: Schedule of Events.

These questions must be sent to (and only to) the Solicitation Coordinator as described in Section 1.5. RFP Communications, using a subject line "2021-PRMP-RFP-002 Vendor Questions"

Challenges based on any objection to the RFP shall be considered waived and invalid if the objection has not been brought to the attention of the PRMP, in writing, in the period established in Table 1: Schedule of Events. Challenges must be submitted using the form provided in Appendix 9: Terms for Filing a Judicial Review and sent to the PRDoH Legal Office. The party adversely affected by a decision may, within a term of twenty (20) days from the deposit in the federal mail or email notifying the award of the auction, file a motion for reconsideration with the agency. In the alternative, you can submit a request for review to the Service Administration Review Board General or the appellate entity that corresponds in law or regulation, within a term of twenty (20) calendar days, from the deposit in the federal mail or email notifying the award of the auction.

In auction challenge cases, the party adversely affected by an order or final resolution of the agency, of the Auction Review Board of the Services Administration General, or the appealing entity of auctions, as the case may be, may submit an application of review before the Court of Appeals within a term of twenty (20) days, counted from the file of the copy of the notification of the order or final resolution of the agency, the aforementioned Auction Review Board of the

General Services Administration or the entity appeal, or within the applicable term of twenty (20) calendar days after the expiration of the term provided by Section 3.19 of this Act.

1.8. Notice of Intent to Respond

Prospective respondents should submit to the Solicitation Coordinator a Notice of Intent to Respond in the form of a simple email or other written communication with a subject of “2021-PRMP-RFP-002 Notice of Intent to Respond”. Such notice should include the following information:

- The business or individual’s name (as appropriate);
- A contact person’s name and title; and
- The contact person’s mailing address, direct telephone number, facsimile number (optional), and email address

A Notice of Intent to Respond creates no obligation and is not a prerequisite for submitting a response, however, it is necessary to ensure receipt of any RFP amendments or other notices and communications relating to this RFP through the Solicitation Coordinator.

1.9. Response Deadline

A respondent must ensure that PRMP receives a response no later than the Proposal Submission Due Date detailed in Table 1: Schedule of Events. PRMP **will not accept late responses**, and a respondent’s failure to submit a response before the deadline **will result in disqualification of the response**. It is the responsibility of the respondent to ascertain any additional security requirements with respect to packaging and delivery to PRMP. Respondents should be mindful of, and are responsible for, any potential delays due to security screening, weather, mail delays, pandemic restrictions, and orders of stay or other filing delays, whether foreseeable or unforeseeable.

1.10. Evaluation Committee and Solicitation Coordinator

The Medicaid Director will appoint an Evaluation Committee with a minimum of three members that will evaluate and score the proposal. The Medicaid Director will appoint a Solicitation Coordinator who will conduct the evaluation process according to RFP specifications. All employees involved in the procurement process will sign a Non-Conflict of Interest and Confidentiality form prior to participating in procurement related activities.

The Solicitation Coordinator may reach out to prospective vendors who may have an interest in responding to this RFP. The Solicitation Coordinator’s outreach to prospective vendors is part of an effort to increase response rates to the RFP and does not indicate bias, nor restrict other vendors from responding to the RFP.

2 RESPONSE REQUIREMENTS

2.1 Response Form

A response to this RFP must consist of two parts, a Technical Response and a Cost Proposal.

2.1.1 Technical Response

RFP Appendix 2: Technical Response and Evaluation Guide, Sections A, B, and C (otherwise referred to herein as 'Guide') provide the specific requirements for submitting a Technical Response. This Guide includes mandatory requirement items; general qualifications and experience items; technical qualifications experience; and approach items, all of which must be addressed with a written response and, in some instances, additional documentation.

A respondent must use the Guide to organize, reference, and draft the Technical Response by duplicating that section of the document, adding appropriate page numbers as required, and using the Guide as a table of contents covering the Technical Response and Cost Proposal.

A Technical Response should be prepared with emphasis on completeness and clarity and should not exceed 100 pages in length. A response, as well as any reference material presented, must be written in English and must be written on standard 8½" x 11" pages (oversize exhibits are permissible when necessary) and all text must be at least a 12-point font (diagrams and figures may use smaller font but must still be readable). All response pages must be uniquely and sequentially numbered.

All information and documentation included in a Technical Response should correspond to or address a specific requirement detailed in the Guide. All information must be incorporated into a response to a specific requirement and clearly referenced. Any information not meeting these criteria will be deemed excluded.

PRMP may determine a response to be non-responsive and reject it if (not an exhaustive list):

- a. The respondent fails to organize and properly reference the Technical Response as required by the Guide; or
- b. The Technical Response document does not appropriately respond to, address, or meet all the requirements and response items detailed in the Guide.

2.1.2 Cost Proposal

A Cost Proposal must be recorded on an exact duplicate of Section D: Cost Proposal and Scoring Guide of the Appendix 2: Technical Response and Evaluation Guide.

NOTICE: If a respondent fails to submit a Cost Proposal exactly as required, PRMP may deem the response to be non-responsive and reject it.

A respondent must only record the proposed cost exactly as required by Section D: Cost Proposal and Scoring Guide and must not record any other rates, amounts, or information.

The Cost Proposal must incorporate all costs for services under the contract for the total contract period for each evaluation, including any renewals or extensions (up to the maximum five years). The Cost Proposal must remain valid for at least one hundred and fifty (150) days subsequent to the date of the Cost Proposal submittal and thereafter in accordance with any contract resulting from this RFP. All monetary amounts must be expressed in U.S. dollars.

A respondent must sign and date the Cost Proposal.

A respondent must submit the Cost Proposal to PRMP in a sealed package separate from the Technical Response.

2.2 Response Delivery

A respondent must ensure that both the original Technical Response and Cost Proposal documents meet all form and content requirements, including all required signatures, as detailed within this RFP, as may be amended.

A respondent must submit original Technical Response and Cost Proposal documents and copies as specified below.

- One (1) original Technical Response paper document labeled: **“VENDOR NAME - TECHNICAL RESPONSE ORIGINAL”**
- Eight (8) copies of the Technical Response, each labeled: **“VENDOR NAME - TECHNICAL RESPONSE COPY”**
- One (1) original Cost Proposal paper document labeled: **“ VENDOR NAME - COST PROPOSAL ORIGINAL”**
- Eight (8) copies, each labeled: **“ VENDOR NAME - COST PROPOSAL COPY”**
- One (1) digital copy of the Technical Proposal on a USB drive or similar media and labeled: **“VENDOR NAME - TECHNICAL PROPOSAL – DIGITAL COPY”**
- One (1) digital copy of the Cost Proposal on a USB drive or similar media and labeled: **“VENDOR NAME - COST PROPOSAL – DIGITAL COPY”**

In the event of a discrepancy between the original Cost Proposal document and the digital copy, the original, signed document will take precedence.

A respondent must separate, seal, package, and label the documents and copies for delivery as follows.

The Technical Response original document and copies must be placed in a sealed package that is clearly labeled:

“TECHNICAL RESPONSE FROM [RESPONDENT LEGAL ENTITY NAME]”

The Cost Proposal original document and copies must be placed in a separate, sealed package that is clearly labeled:

“COST PROPOSAL FROM [RESPONDENT LEGAL ENTITY NAME]”

The separated and sealed Technical Response and Cost Proposal components may be enclosed in a single larger package for mailing or on hand delivery, provided that the outermost package is clearly labeled:

“SEALED TECHNICAL RESPONSE & SEALED COST PROPOSAL FROM [RESPONDENT LEGAL ENTITY NAME]”

A respondent must ensure that PRMP receives a response not later than the response deadline time and date detailed in Table 1: Schedule of Events at the following address:

PRMP Central Office
World Plaza Building 12th floor
ATTN: Elizabeth Otero Martinez
268 Muñoz Rivera Avenue
San Juan, PR 00918

2.3 Response & Respondent Prohibitions

A response must not include alternate contract terms and conditions. If a response contains such terms and conditions, PRMP, at its sole discretion, may determine the response to be non-responsive and reject it.

A response must not restrict the rights of PRMP or otherwise qualify either the offer to deliver goods or provide services as required by this RFP or the Cost Proposal. If a response restricts the rights of PRMP or otherwise qualifies either the offer to deliver goods or provide services as required by this RFP or the Cost Proposal, PRMP, at its sole discretion, may determine the response to be a non-responsive counteroffer and reject it.

A response must not propose alternative goods or services (i.e., offer services different from those requested and required by this RFP) unless expressly requested in this RFP. PRMP may consider a response of alternative goods or services to be non-responsive and reject it.

Each respondent must decide on, and independently prepare a Cost Proposal – it must not involve any collusion between respondents. PRMP will reject any Cost Proposal that involves collusion, consultation, communication, or agreement between respondents. Regardless of the time of detection, PRMP will consider any such actions to be grounds for response rejection or contract termination.

A respondent must not provide, for consideration in this RFP process or subsequent contract negotiations, any information that the respondent knew or should have known was materially incorrect. If PRMP determines that a respondent has provided such incorrect information, PRMP will deem the response non-responsive and reject it.

A respondent must not submit more than one Technical Response and one Cost Proposal in response to this RFP, except as expressly requested by the RFP or Solicitation Coordinator. If a

respondent submits varying Technical or Cost Proposals, PRMP will deem all but the first of the responses non-responsive and reject them.

A respondent must not submit a response as a prime contractor while also permitting one or more other respondents to offer the respondent as a subcontractor in their own responses. Such may result in the disqualification of all respondents knowingly involved. This restriction does not, however, prohibit different respondents from offering the same subcontractor as a part of their responses (provided that the subcontractor does not also submit a response as a prime contractor).

For purposes of this RFP, in virtue of Law #1 of 2012, the Puerto Rico Government Ethics Law, PRMP shall not consider a response from an individual who is, or within the past two (2) years has been, a PRMP or PRHIA employee.

An individual shall be deemed a PRMP and PRHIA employee until such time as all compensation for salary, termination pay, and annual leave has been paid.

A response from a company, corporation, or any other contracting entity in which a controlling interest is held by any PRMP employee will not be considered.

A response from a company, corporation, or any other contracting entity that employs an individual who is, or within the past two (2) years has operated in a leadership position or been directly involved in procurement activities at PRMP or PRHIA shall not be considered.

2.4 Response Errors & Revisions

A respondent is responsible for any and all response errors or omissions. A respondent will not be allowed to alter or revise response documents after the Proposal Submission Due Date detailed in Table 1: Schedule of Events unless such is formally requested, in writing, by PRMP.

2.5 Response Withdrawal

A respondent may withdraw a submitted response at any time before the Proposal Submission Due Date detailed in Table 1: Schedule of Events by submitting a written request signed by an authorized respondent representative. After withdrawing a response, a respondent may submit another response at any time before the Proposal Submission Due Date. After the Proposal Submission Due Date, a respondent may only withdraw all or a portion of a response where the enforcement of the response would impose an unconscionable hardship on the respondent.

2.6 Additional Services

If a response offers goods or services in addition to those required by and described in this RFP PRMP may, at its sole discretion, add such services to the contract awarded from this RFP. Notwithstanding the foregoing, a respondent must not propose any additional cost amounts or rates for additional goods or services. Regardless of any additional services offered in a response, the respondent's Cost Proposal must only record the proposed cost as require in this RFP and must not record any other rates, amounts, or information.

NOTICE: If a respondent fails to submit a Cost Proposal exactly as required, PRMP may deem the response non-responsive and reject it.

2.7 Response Preparation Costs

PRMP will not pay any costs associated with the preparation, submittal, or presentation of any response.

3 GENERAL CONTRACTING INFORMATION & REQUIREMENTS

3.1 RFP Amendment

PRMP at its sole discretion may amend this RFP, in writing, at any time prior to contract award. However, prior, to any such amendment, PRMP will consider whether it would negatively impact the ability of potential respondents to meet the Proposal Submission Due Date and revise the RFP Schedule of Events if deemed appropriate. If an RFP amendment is issued, PRMP will convey it to potential respondents who submitted a Notice of Intent to Respond. A response must address the final RFP (including its attachments) as amended.

3.2 RFP Cancellation

PRMP reserves the right, at its sole discretion, to cancel the RFP, or to cancel and reissue this RFP in accordance with applicable laws and regulations at any given time. PRMP reserves the right to cancel the RFP as a result of receiving an inadequate number of proposals.

3.3 PRMP Right of Rejection

Subject to applicable laws and regulations, PRMP reserves the right to reject, at its sole discretion, any and all responses.

PRMP may deem as non-responsive and reject any response that does not comply with all terms, conditions, and performance requirements of this RFP. Notwithstanding the foregoing, PRMP reserves the right to waive, at its sole discretion, minor variances from full compliance with this RFP. If PRMP waives variances in a response, such waiver shall not modify the RFP requirements or excuse the respondent from full compliance, and PRMP may hold any resulting contractor to strict compliance with this RFP.

3.4 Assignment & Subcontracting

The contractor may not subcontract, transfer, or assign any portion of the contract awarded as a result of this RFP without prior approval of PRMP. PRMP reserves the right to refuse approval, at its sole discretion, of any subcontract, transfer, or assignment.

If a respondent intends to use subcontractors, the response to this RFP must specifically identify the scope and portions of the work each subcontractor will perform.

Subcontractors identified within a response to this RFP will be deemed as approved by PRMP, unless PRMP expressly disapproves one or more of the proposed subcontractors prior to signing the contract.

After contract award, a contractor may only substitute an approved subcontractor at the discretion of PRMP and with PRMP's prior, written approval.

Notwithstanding any PRMP approval relating to subcontracts, the respondent who is awarded a contract pursuant to this RFP will be the prime contractor and will be responsible for all work under the contract.

3.5 Right to Refuse Personnel or Subcontractor

PRMP reserves the right to refuse, at its sole discretion and notwithstanding any prior approval, any personnel of the prime contractor providing goods or services in the performance of a contract resulting from this RFP. PRMP will document in writing the reason(s) for any rejection of personnel.

3.6 Insurance

PRMP will require the awarded contractor to provide a Certificate of Insurance issued by an insurance company licensed or authorized to provide insurance in Puerto Rico. Each Certificate of Insurance shall indicate current insurance coverages meeting minimum requirements as may be specified by this RFP. A failure to provide a current, Certificate of Insurance will be considered a material breach and grounds for contract termination. **A list of the Insurance policies required are included in Appendix #10 Pro Forma Contract draft.**

3.7 Professional Licensure, Department of Treasury and ASG Registration

All persons, agencies, firms, or other entities that provide legal or financial opinions, which a respondent provides for consideration and evaluation by PRMP as a part of a response to this RFP, shall be properly licensed to render such opinions.

Before the contract resulting from this RFP is signed, the apparent successful respondent (and respondent employees and subcontractors, as applicable) must hold all necessary or appropriate business or professional licenses to provide the goods or services as required by the contract. PRMP may require any respondent to submit evidence of proper licensure.

Before the contract resulting from this RFP is signed, the successful respondent must be registered with the “Registro Único de Proveedores de Servicios Profesionales” (RUP) from the Puerto Rico General Services Administration (ASG) and with the Puerto Rico Treasury Department (Hacienda) for the collection of sales and use tax (IVU) as a provider (if applicable) in the SURI System. PRMP shall not award a contract, **unless the respondent provides proof of such registration or provides documentation from the Puerto Rico Treasury Department that the contractor is exempt from this registration requirement in the SURI platform.** The foregoing is a mandatory requirement of an award of a contract pursuant to this solicitation. For more information, please refer to the PR Treasury Department’s web site <http://www.hacienda.pr>.

3.8 Disclosure of Response Contents

All materials submitted to PRMP in response to this RFP shall become the property of the Government of Puerto Rico. Rejection of a response does not affect this right. By submitting a

response, the respondent acknowledges and accepts that **the full response contents** and associated documents will become open to public inspection in accordance with the laws of Puerto Rico. If a respondent determines there is a “Trade Secret” contained in the proposal, it must send a written notification to the Solicitation Coordinator when submitting the proposal to prevent public disclosure of the “Trade Secret” information contained in the proposal. Contractors whose responses contain “Trade Secret” information should also submit redacted versions of their Technical and Cost Proposals. If submitted, redacted Technical and Cost Proposals both should be packaged separately from each other; however, they may be packaged and/or sealed together with the non-redacted versions of the Technical and Cost Proposals.

PRMP will treat all response information as “confidential”, including both technical and cost information, during the evaluation process. Questions and comments submitted to PRMP before the Vendor’s Written Questions Submission Deadline are not subject to this treatment.

Upon completion of response evaluations, indicated by public release of a Notice of Intent to Award, the responses and associated materials will be open for review on the Departamento de Salud de Puerto Rico website (<https://www.salud.gov.pr/CMS/21>) or there will be an announcement on the Departamento de Salud de Puerto Rico website directing interested parties to another website with the latest RFP information. If applicable, redacted versions of the Technical and/or Cost Proposals will be posted for public review. PRMP reserves the right to decide the proposals, proposal detail, evaluation materials, and/or other documents pertaining to this RFP that will be posted for public review.

3.9 Contact Approval and Contract Payments

After contract award, the contractor who is awarded the contract must submit all appropriate documentation with the PRDoH contract office. The contract will be for a two (2) year period with the option of renewal for three (3) additional one (1) year periods for a maximum of five (5) consecutive years, subject to at least contractor performance and both federal and state funds availability.

This RFP and its contractor selection and approval process does not obligate PRMP and does not create rights, interests, or claims of entitlement in either the respondent with the apparent best-ranked response or any other respondent. PRMP obligations pursuant to a contract award shall commence only after the contract is approved and/or signed by necessary PRMP and Puerto Rico representatives, after the contract is approved by all other PRMP’s officials as required by applicable laws and regulations including the Fiscal Oversight Management Board (FOMB) if applicable, and the contractor.

No payment will be obligated or made until the contract is approved as required by applicable statutes and rules of Puerto Rico, all the necessary documentation is received from the awarded respondent and is rightfully registered with the Comptroller’s Office.

PRMP shall not be liable for payment of any type associated with the contract resulting from this RFP (or any amendment thereof) or responsible for any goods delivered or services rendered by the contractor, even goods delivered or services rendered in good faith and even if the contractor

is orally directed to proceed with the delivery of goods or the rendering of services if it occurs before the contract effective date, after the contract term or if the Vendor performs services that are not listed or included in the contract.

All payments related to this procurement will be made in accordance with the Payment Terms and Conditions of the contract resulting from this RFP (refer to RFP Appendix 10: Pro Forma Contract Draft).

3.10 Contractor Performance

The contractor who is awarded a contract will be responsible for the delivery of all acceptable goods or the satisfactory completion of all services set out in this RFP (including attachments) as may be amended. All goods or services are subject to inspection and evaluation by PRMP. PRMP will employ all reasonable means to ensure that goods delivered, or services rendered are in compliance with the contract, and the contractor must cooperate with such efforts.

3.11 Contract Amendment

After contract award, PRMP may request the contractor to deliver additional goods or perform additional services within the general scope of the contract and this RFP, but beyond the specified scope, and for which the contractor may be compensated. In such instances, PRMP will provide the contractor a written description of the additional goods or services needed. The contractor must respond to PRMP with a schedule for delivering the additional goods or accomplishing the additional services based on the compensable units included in the contractor's response to this RFP. If PRMP and the contractor reach an agreement regarding the goods or services and associated compensation, **such agreement must be performed by means of a contract amendment only**. Further, any such amendment requiring additional goods or services must be signed by both the PRMP authorized representative and the contractor, and must be approved by other Puerto Rico officials as required by applicable statutes, rules, policies, and procedures. **The contractor must not provide additional goods or render additional services until the PRMP has issued a written contract amendment with all required approvals.**

3.12 Severability

If any provision of the RFP is declared by a court to be illegal or in conflict with any law, said decision will not affect the validity of the remaining RFP terms and provisions, and the rights and obligations of PRMP and respondents will be construed and enforced as if the RFP did not contain the particular provision held to be invalid.

3.13 Next Ranked Respondent

PRMP reserves the right to initiate negotiations with the next highest ranked respondent should PRMP cease negotiating or doing business with any respondent selected via this RFP process.

4 EVALUATION & CONTRACT AWARD

4.1 Evaluation Categories & Maximum Points

PRMP will consider qualifications, experience, technical approach, and cost in the evaluation of responses and award points in each of the categories detailed below (up to the maximum evaluation points indicated) to each response deemed by PRMP to be responsive.

Table 2: Evaluation Categories and Maximum Points

Evaluation Category	Maximum Score Possible
General Qualification & Experience (refer to RFP Appendix 2, Section B)	20 (20% of total)
Technical Qualifications, Experience & Approach (refer to RFP Appendix 2, Section C)	60 (60% of total)
Cost Proposal (refer to RFP Appendix 2, Section D)	20 (20% of total)

4.2 Evaluation Process

The evaluation process is designed to award the contract resulting from this RFP to the responsive respondent deemed by PRMP to be responsible and who offers the best combination of attributes based upon the evaluation criteria, and not necessarily to the respondent offering the lowest cost. A “responsive respondent” is defined as a respondent that has submitted a response that conforms in all material respects to the RFP, and that has the capacity in all respects to perform fully the contract requirements, and the integrity and reliability which will help assure good faith performance.

4.2.1 Technical Response Evaluation

The Solicitation Coordinator and the Proposal Evaluation Team consisting of PRMP and/or PRHIA representatives will use the RFP Appendix 2: Technical Response and Evaluation Guide to manage the Technical Response Evaluation, Appendix 3: Individual Evaluation for Each Respondent for the individual evaluations, and Appendix 4: Scoring Summary Table as the scoring summary table. PRMP will maintain all these documents for its records.

PRMP reserves the right, at its sole discretion, to request of the respondent clarification of a Technical Response or to conduct clarification discussions with any or all respondents. Any such clarification or discussion will be limited to specific sections of the response identified by PRMP. That respondent must document any resulting clarification in writing in accordance with any deadline imposed by PRMP.

The Solicitation Coordinator will review each Technical Response to determine compliance with RFP Appendix 2: Technical Response and Evaluation Guide, Section A: Mandatory Requirements. If the Solicitation Coordinator or the Proposal Evaluation Team determines that a

response failed to meet one or more of the mandatory requirements, the Proposal Evaluation Team will review the response and document the team's determination of whether:

- a. the response adequately meets RFP requirements for further evaluation;
- b. PRMP will request clarifications or corrections for consideration prior to further evaluation;
or
- c. PRMP will determine the response to be non-responsive to the RFP and reject it.

Proposal Evaluation Team members will independently evaluate each Technical Response that is has not been deemed non-responsive to the RFP against the evaluation criteria in this RFP and will score each in accordance with the RFP Appendix 2: Technical Response and Evaluation Guide and Appendix 3: Individual Evaluation for Each Respondent.

For each response evaluated, the Solicitation Coordinator will populate the total scores for each scoring criteria of the RFP using the RFP Appendix 4: Scoring Summary Table. The Proposal Evaluation Team may collectively review and confirm the final criteria score.

Before Cost Proposals are opened, the Proposal Evaluation Team will review the Technical Response Evaluation record and any other available information pertinent to determine whether each respondent is responsive and responsible. If the Proposal Evaluation Team identifies any respondent that does not meet the responsive and responsible thresholds such that the team would not recommend the respondent for Cost Proposal Evaluation and potential contract award, the team members will fully document the determination.

4.2.2 Cost Proposal Evaluation.

The Solicitation Coordinator will open and deliver for evaluation the Cost Proposal of each respondent deemed by the PRMP to be responsive and responsible by the Proposal Evaluation Team. The Proposal Evaluation Team will score each respondent's Cost Proposal in accordance with the RFP Appendix 2: Technical Responses and Evaluation Guide Section D, Cost Proposal Scoring Guide.

4.2.3 Clarifications and Negotiations

PRMP reserves the right to award a contract on the basis of initial responses received. Therefore, each response shall contain the respondent's best terms and conditions from a technical and cost standpoint. PRMP reserves the right to conduct clarifications or negotiations with one or more respondents. All communications, clarifications, and negotiations shall be conducted in a manner that supports fairness in response improvement.

4.2.3.1 Clarifications

PRMP may identify areas of a response that may require further clarification or areas in which it is apparent that there may have been miscommunications or misunderstandings as to the PRMP's specifications or requirements. PRMP may seek to clarify those issues identified during one or multiple clarification rounds. Each clarification sought by PRMP may be unique to an individual respondent, provided that the process is conducted in a manner that supports fairness in response improvement.

4.2.3.2 Negotiations

PRMP may elect to negotiate with one or more respondents by requesting revised responses, negotiating costs, or finalizing contract terms and conditions. PRMP reserves the right to conduct multiple negotiation rounds or no negotiations at all.

4.2.3.3 Cost Negotiations

All respondents, selected for negotiation by PRMP, will be given equivalent information with respect to cost negotiations. All cost negotiations will be documented for the procurement file. Additionally, PRMP may conduct target pricing and other goods or services level negotiations. Target pricing may be based on considerations such as current pricing, market considerations, benchmarks, budget availability, or other methods that do not reveal individual respondent pricing. During target price negotiations, respondents are not obligated to reduce their pricing to target prices, but no respondent is allowed to increase prices.

If PRMP determines that it is unable to successfully negotiate terms and conditions of a contract with the apparent best evaluated respondent, then PRMP reserves the right to bypass the apparent best-ranked respondent and enter into terms and conditions contract negotiations with the next apparent best-ranked respondent.

4.3 Contract Award Process

The Solicitation Coordinator will submit the Proposal Evaluation Team determinations and scores to the PRMP Director for consideration along with any other relevant information that might be available and pertinent to contract award.

The PRMP Director will review the apparent best-ranked evaluated response. If the PRMP Director determines that PRMP will award the contract to a respondent other than the one receiving the highest evaluation process score, **then they will provide written justification and obtain the written approval of the Puerto Rico Secretary of Health.**

PRMP will issue a Notice of Intent to Award identifying the apparent best-ranked response and make the RFP files available for public inspection at the time and date specified in Table 1: Schedule of Events.

NOTICE: The Notice of Intent to Award shall not create rights, interests, or claims of entitlement in either the apparent best-ranked respondent or any other respondent.

The respondent identified as offering the apparent best-ranked response will be notified of PRMP's intent to award a contract for External Quality Review (EQR) services. The contract shall be substantially the same as the RFP Appendix 10: Pro Forma Contract Draft. The respondent must sign the contract by the Contract Signature and Distribution detailed in Table 1: Schedule of Events. If the respondent fails to provide the signed contract by this deadline, PRMP may determine that the respondent is non-responsive to this RFP and reject the response.

Notwithstanding the foregoing, PRMP may, at its sole discretion, entertain limited terms and conditions or pricing negotiations prior to contract signing and, as a result, revise the pro forma

contract terms and conditions or performance requirements in PRMP's best interests, provided that such revision of terms and conditions or performance requirements shall not materially affect the basis of response evaluations or negatively impact the competitive nature of the RFP and contractor selection process.

If PRMP determines that a response is non-responsive and rejects it after opening Cost Proposals, the Solicitation Coordinator will re-calculate scores for each remaining responsive Cost Proposal to determine (or re-determine) the apparent best-ranked response.

Appendix 1: Statement of Certifications and Assurances

The respondent must sign and complete the Statement of Certifications and Assurances below as required and it must be included in the Technical Response (as required by RFP Appendix 2: Technical Response and Evaluation Guide, Section A).

The respondent does, hereby, expressly affirm, declare, confirm, certify, and help assure all of the following:

1. The respondent will comply with all the provisions and requirements of the RFP.
2. The respondent will provide all services as defined in the scope of the RFP Appendix 10: Pro Forma Contract Draft.
3. The respondent, except as otherwise provided in the RFP, accepts and agrees to all terms and conditions set out in the RFP Appendix 10: Pro Forma Contract draft.
4. The respondent acknowledges and agrees that a contract resulting from the RFP shall incorporate, by reference, all proposal responses as a part of the contract.
5. To the knowledge of the undersigned, the information detailed within the response submitted to this RFP is accurate.
6. The response submitted to this RFP was independently prepared, without collusion, under penalty of perjury.
7. No amount shall be paid directly or indirectly to a Puerto Rico employee or official as wages, compensation, or gifts in exchanges for acting as an officer, agent, employee, subcontractor, or consultant to the respondent in connection with this RFP or any resulting contract.
8. Both the Technical Response and the Cost Proposal submitted in response to this RFP shall remain valid for at least 120 days subsequent to the date of the Cost Proposal opening and thereafter in accordance with any contract pursuant to the RFP.

By signing this Statement of Certifications and Assurances, below, the signatory also certifies legal authority to bind the proposing entity to the provisions of this RFP and any contract awarded pursuant to it. If the signatory is not the respondent (if an individual) or the respondent's company President or Chief Executive Officer, this document must attach evidence showing the individual's authority to bind the respondent.

DO NOT SIGN THIS DOCUMENT IF YOU ARE NOT LEGALLY AUTHORIZED TO SIGN FOR THE RESPONDENT

SIGNATURE: _____

PRINTED NAME & TITLE: _____

DATE: _____

RESPONDENT LEGAL ENTITY NAME: _____

Appendix 2: Technical Response and Evaluation Guide

Section A: Mandatory Requirements

The respondent must address all items detailed below and provide in sequence the information and documentation as required.

The evaluators will review the response to determine that the mandatory requirement items were addressed as required and mark each with a pass or fail. The evaluator shall detail the response page number, any reference information, and a pass/fail score for each item in the appropriate space below. For each item that is not addressed as required, the Proposal Evaluation Team could determine that the respondent did not comply with the RFP and reject the proposal. In addition to the mandatory requirement items, the Proposal Evaluation Team will review each response for compliance with all RFP requirements which may be reflected in the scoring of this section. This section is pass/fail – no points will be assigned for this Section.

Legal Name of Respondent: _____

Table 3: Mandatory Requirements

Response Page #	Reference	Mandatory Requirement Items	Pass/Fail
		The response must be delivered to PRMP no later than the Proposal Submission Due Date specified in Table 1: Schedule of Events.	
		The Technical Response and the Cost Proposal documentation must be packaged separately as required by the RFP.	
		The Technical Response must not contain cost or pricing information of any type.	
		The Technical Response must not contain any restrictions of the rights of PRMP or other qualification of the response.	
		A respondent must not submit alternate responses as required by the RFP.	
		A respondent must not submit multiple responses in different forms, as principal or subcontractor.	
		Provide the Statement of Certifications and Assurances (Appendix #1 of the RFP) duly completed and signed without exception.	
		Provide a statement that the respondent or any individual or subcontractor that will deliver the goods or perform services under the contract resulting from this RFP, does not have any possible conflict of interest with any employee or official, of the Puerto Rico Department of Health, the Puerto Rico Health Insurance Administration (ASES) or any other Puerto Rico Government Agency	

Response Page #	Reference	Mandatory Requirement Items	Pass/Fail
		Provide written attestation that the respondent does attest, certify, warrant and help assure that the contractor shall not knowingly employ in the performance of the contract, employees who have been excluded from participation in the Medicare, Medicaid and or Children's Health Insurance Program (CHIP) Programs pursuant to Sections 1128 of the Social Security Act.	
		Provide written disclosure of lobbying activities, please refer to Appendix 6: Disclosure of Lobbying Activities of this RFP.	
		Provide the respondent's audited financial statements for the last three years. (If the respondent has less than three years in the business, provide the audited statements available).	
		Provide a sworn statement by a Notary Public to comply with Puerto Rico Law 2 of 2018 known as "Anticorruption Code for the New Puerto Rico" and any relevant details addressing whether the respondent is any of the following: (Please refer to Appendix 7: Sworn Statement on Fraud and Misappropriation and Debarement) a- Presently debarred, suspended, or excluded from participation by any other state or federal entity. b- Has been convicted or had a civil judgment rendered against the contracting party from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or grant under a public transaction, violation of state and federal anti-trust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.	
		Provide a written statement of whether there is any material, pending litigation against the respondent that the respondent should reasonably believe could adversely affect its ability to meet contract requirements pursuant to this RFP or is likely to have a material adverse effect on the respondent financial condition. If such exists, list each separately explain the relevant details to what extent it would impair the respondent's performance in a contract pursuant to this RFP.	

Evaluator Name: _____

Evaluator Signature: _____

Date: _____

Section B: General Qualification and Experience

A Proposal Evaluation Team member will independently evaluate and score the response to each item. Each evaluator will use the following whole numbers for scoring each item (using an example 0-3 point scale):

0 points – Poor

1 point – Fair

2 points – Satisfactory

3 points – Excellent

Respondent Legal Name: _____

Table 4: General Qualifications and Experience

Response Page Number	Reference	General Qualifications and Experience	Points
		Detail the name, email address, mailing address, telephone number, and facsimile number of the person Puerto Rico needs to contact regarding the response.	
		Describe the respondent's form of business (individual, sole proprietor, corporation, non-profit corporation, partnership, limited liability company, and business location).	
		Detail the number of years the respondent has been in business.	
		Briefly describe how long the respondent has been providing the goods or services required in this RFP.	
		Describe the respondent's number of employees, client base, and location of offices.	
		Provide a written statement of whether in the last 10 years, the respondent has filed any bankruptcy or insolvency proceeding whether voluntary or involuntary or undergone the appointment of a receiver, trustee, or assignee for the benefit of creditors. If necessary, provide explanation.	
		Provide a brief descriptive statement detailing evidence of the respondent's ability to deliver the goods and services sought under this RFP.	
		Provide a narrative description of the proposed project team, its members and organizational structure along with an organizational chart identifying key people who will be assigned to deliver the goods or services required by the RFP.	
		Provide a personnel roster listing the names of key people who the respondent will assign to meet the respondent's requirements under this RFP along	

Response Page Number	Reference	General Qualifications and Experience	Points
		with the estimated number of hours that each individual devoted to that performance. Follow the personnel roster with a resume for each of the individuals listed. Each resume should be limited to three (3) pages.	
		Provide a statement of whether the respondent intends to use subcontractors to meet the respondent's requirement of any contract awarded pursuant to this RFP. Please list the following: Name of the subcontractor A description of the scope of each subcontractor involved A letter from each subcontractor assenting that has been proposed as subcontract.	
		Provide three (3) customer references from individuals or entities (who are not current or former officials of the Government of Puerto Rico) for projects similar to the services sought under this RFP and which represent largest accounts serviced by the respondent. All references must be provided using the standard reference questionnaire included as Appendix 5: Reference Questionnaire in the RFP. Each reference questionnaire must be completed and signed. Puerto Rico will not review more than the number of references required in this RFP (3).	
		Provide documentation of the respondent's commitment to diversity, example: <i>Provide a description of the respondent's existing internal programs and procedures designed to encourage and foster commerce with business enterprises owned by minorities including, women, veterans, disabled veterans, Latino Community, Asian, African American, LGBTQ Community, etc. This may include contractors or subcontractors.</i> Note: This section is not a prerequisite and is not required to be able to receive a maximum evaluation score. However, if complied with in satisfactory form, there will be a bonus of two (2) points.	Bonus
Total Points for Section B Maximum possible section score = 33 points Maximum possible section bonus score = 2 points			

The total maximum points possible for this section is 33 section points plus a maximum of two (2) bonus points. This section is weighted 20% of the total possible response score of 100 response points. An example calculation of the total response points awarded based on a perfect section score including bonus points is:

35 section points

_____ x 20% x 100 = 21.21 response points
33 section points

Evaluator Name: _____

Evaluator Signature: _____

Date: _____

Section C: Technical Qualifications

A Proposal Evaluation Team member will independently evaluate and score the response to each item. Each evaluator will use the following whole numbers for scoring each item (using an example 0-3 point scale):

0 points – Poor

1 point – Fair

2 points – Satisfactory

3 points – Excellent

Respondents Legal Name: _____

Table 5: Technical Qualifications

Response Page Number	Reference	Item	Item Score
		Please provide a summary of the staff proposed for this project demonstrated experience and knowledge of Medicaid beneficiaries, policies, data systems and processes. 42 CFR 438.354(b)(1)(i), 42 CFR 438.356(b).	
		Provide a summary of the staff proposed for this project demonstrated experience and knowledge of managed care delivery systems, organizations, and financing. 42 CFR 438.354(b)(1)(ii), 42 CFR 438.356(b).	
		Provide a summary of the staff proposed for this project demonstrated experience and knowledge of quality assessment and improvement methods. 42 CFR 438.354(b)(1)(iii) 42 CFR 438.356(b).	
		Provide a summary of the staff proposed for this projects demonstrated experience and knowledge of research design and methodology, including statistical analysis. 42 CFR 438.354(b)(1)(iv) 42 CFR 438.356(b).	
		Provide a narrative that demonstrates that the EQRO have sufficient physical, technological, and financial resources to conduct EQR or EQR-related activities. 42 CFR 438.354(b)(2) 42 CFR 438.356(b).	
		Provide a staffing summary plan which demonstrates that the EQRO have clinical and nonclinical skills necessary to carry out EQR or EQR-related activities and to oversee the work of any subcontractor. 42 CFR 438.354(b)(3) 42 CFR 438.356(b)	
		Provide a narrative that illustrates the respondent's understanding of PRMP's requirement and project schedule.	

Response Page Number	Reference	Item	Item Score
		Describe the detailed process to be used for conducting and completing the MCO annual quality survey. Respondent will have to include the proposed data collection tool and the format to be used.	
		Provide a redacted copy of a completed annual quality review of a Medicaid MCO and the corresponding executive summary demonstrating how the respondent designed and implemented a tool capturing all Centers for Medicare & Medicaid Services (CMS) requirements. The sample provided must use a survey tool developed by the EQRO in house staff.	
		Describe the data collection tool and the reporting format the proposer would use for the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) annual evaluation report. Include sample tools and reports for review.	
		Describe the data collection tool and the reporting format the respondent would assess network adequacy and delivery of health benefits in accordance with each MCO contractor risk agreement, please include a sample.	
		Provide a detailed description of the process the respondent would use to validate the accuracy of the provider-related information submitted by each MCO, if possible, submit tools and report format that would be used for this project.	
		Provide examples of technical assistance that would be offered to both the MCOs and PRMP staff. Also provide explanation of how the need for technical assistance would be assessed.	
		Provide sample of a comparative analysis the respondent has completed on Healthcare Effectiveness Data and Information Set (HEDIS), Consumer Assessment of Healthcare Providers and Systems (CAHPS) data, or other similar data.	
		Describe the respondent's process for validation of each MCO's performance improvement projects. Include proposed reporting format and protocols used.	
		Provide a redacted copy of an EQRO Technical Report that was prepared by the respondent.	
		Describe how the respondent will fulfill the CMS requirement for validation of MCO performance measures utilizing HEDIS specifications.	
		Provide a work product sample which was collaborative effort between the respondent's biostatistician, epidemiologist, medicine doctors and other EQRO staff. Information/identifiers should be stricken from the document prior to submission.	
		Describe how the respondent will train and educate staff regarding contractor responsibilities described in the scope of the contract.	

Response Page Number	Reference	Item	Item Score
		Describe how the respondent will monitor and ensure inter-rater reliability among the audit staff. Describe internal controls to help assure accuracy and completeness of required reporting.	
		Describe any current or previous EQRO experience with population health or disease management evaluation methods. Describe how the respondent will monitor and provide feedback to PRMP regarding the efficacy of MCO population health and or disease management protocols and interventions.	
		Describe the mechanism the respondent will use to remain current on state and federal requirements related to MCO's.	
		Describe ongoing internal controls to safeguard access to data as well and the respondent contingency plan for data systems failure in any critical EQRO areas.	
		Describe in detail how the respondent would plan and host meetings with MCOs and interrelated oversight agencies.	
Total Points for Section C Maximum number of section points = 72			

The total maximum points possible for this section is 72 section points. This section is weighted 60% of the total possible response score of 100 response points. An example calculation of the total response points awarded based on a perfect section score is:

72 section points
 _____ x 60% x 100 = 60 response points
 72 section points

Respondent Signature: _____

Printed Name and Title: _____

Date: _____

Section D: Cost Proposal and Scoring Guide

The Proposal Evaluation Team will use whole numbers for scoring each cost item. Only respondents that have not been eliminated from competition will be compared and scored. Points will be assigned according to the tables below for each contract year.

Table 6: Cost Proposal and Scoring Guide A

Cost Rank	
1 (Lowest Cost Bidder)	30 points
2	27 points
3	24 points
4	21 points
5	18 points
6	16 points
7	14 points
8	12 points
9 or more	10 points

Table 7: Cost Proposal and Scoring Guide B

Cost Item Description	Proposed Cost	Evaluation Points
Cost of all deliverables and scopes of services required in the RFP for year one of quality evaluation	\$	
Cost of all deliverables and scopes of services required in the RFP for year two of quality evaluation	\$	
Cost of all deliverables and scopes of services required in the RFP for year 3 (option year 1)	\$	
Cost of all deliverables and scopes of services required in the RFP for year 4 (option year 2)	\$	
Cost of all deliverables and scopes of services required in the RFP for year 5 (option year 3)	\$	
Total Points (150 points possible)		

The total maximum points possible for this section is 150 section points. This section is weighted 20% of the total possible response score of 100 response points. An example calculation of the total response points awarded based on a perfect section score is:

$$\frac{150 \text{ section points}}{150 \text{ section points}} \times 20\% \times 100 = 20 \text{ response points}$$

Respondent Signature: _____

Printed Name and Title: _____

Date: _____

Appendix 3: Individual Evaluation for Each Respondent

In Table 8: Individual Response for Each Respondent, **each evaluator** will add the points for each of the respondent's individual evaluation. This table will be repeated for each respondent.

Respondent's Legal Name: _____

Table 8: Individual Response for Each Respondent

Segment evaluated	Maximum Points Allowed	Points Awarded
General Qualifications and experience	20	
Technical Qualifications and approach	60	
Cost Proposal	20	
Total Score	100	

Evaluator Printed Name: _____

Signature: _____

Date: _____

Appendix 4: Scoring Summary Table

The Scoring Summary table is to be filled only by the **Solicitation Coordinator**. This table will be modified to reflect the number of respondents. The Solicitation Coordinator will receive copies of Appendix 3: Individual Evaluations for Each Response from each evaluator and will insert the totals in Table 9: Scoring Summary Table to determine the best score among the respondent's based on the evaluators scoring. Once the Solicitation Coordinator has populated the Scoring Summary Table, the table will be reviewed by PRMP Leadership.

Table 9: Scoring Summary Table

Evaluation Criteria	Maximum Response Points	Proposal 1	Proposal 2	Proposal 3	Proposal 4	Proposal 5
General Qualifications & Experience	20*					
Technical Qualifications, Experience & Approach	60					
Cost Proposal	20					
Total Points	100					

*Additional bonus points are available which would increase the maximum response points to 21.21 points for General Qualifications & Experience for a total of 101.21 points.

I certify that the highest score received in 2021-PRMP-RFP-002 is respondent

_____ with a total score of _____.

Prepared by:

Solicitation Coordinator: _____

Date: _____

Reviewed by:

PRMP Leadership: _____

Date: _____

Appendix 5: Reference Questionnaire

The standard reference questionnaire provided must be completed by all entities offering a reference for the respondent. As mentioned before the respondent will be solely responsible for obtaining completed reference questionnaires and for enclosing them in sealed envelopes with the Technical Response.

2021-PRMP-RFP-002 Reference Questionnaire:

Respondent's Legal Name: _____

The reference subject above intends to submit a response to the Puerto Rico Medicaid Program in response to 2021-PRMP-RFP-002. As part of such response the reference subject must include a number of completed and sealed references questionnaires.

Please follow these instructions:

1. Complete this questionnaire using this form or an exact duplicate of the form.
2. Sign and date the completed questionnaire and insert in a sealed envelope.
3. Return the sealed envelope containing the questionnaire directly to the respondent's address.

Questions:

1. What is the legal name of the company, organization or entity responding this reference questionnaire?

2. Please provide the following information about the individual completing this reference questionnaire:

Table 10: Reference Questionnaire Contact Information

Name:	
Title:	
Phone Number:	
Email Address:	

3. What goods or services does/did the reference subject provide to your company or organization?

4. What is the level of overall satisfaction with the reference subject as a Vendor of the goods or services described above?

References for respondents should populate Table 11 below with a score of 1-5 indicating their level of satisfaction with the goods or services provided by the respondent.

Table 11: Reference Level of Satisfaction A

Level of Satisfaction	Mark One Number That Applies With An X
1	
2	
3	
4	
5	

1 = Least satisfied – 5 = Most satisfied

1. The goods or services that the reference subject provided to your company or organization were completed? Were these good or services provided in compliance with the terms of the contract and in time?

2. Does the reference subject exceeded or fell short in some areas?

3. What is the level of overall satisfaction with the reference subject’s technical abilities, professionalism and interpersonal skills of the individuals assigned?

References for respondents should populate Table 12 below with a score of 1-5 indicating their level of satisfaction with the respondent’s technical abilities, professionalism, and interpersonal skills.

Table 12: Reference Level of Satisfaction B

Level of Satisfaction	Mark One Number That Applies With An X
1	

Level of Satisfaction	Mark One Number That Applies With An X
2	
3	
4	
5	

1 = Least satisfied – 5 = Most satisfied

1. Would you contract again with the reference subject for the same or similar goods or services?

References for respondents should populate Table 13 below with a score of 1-5 indicating their likelihood to contract with the respondent again for similar goods and services.

Table 13: Reference Level of Satisfaction C

Likelihood to Contract Again	Mark One Number That Applies With An X
1	
2	
3	
4	
5	

1 = Would not contract again – 5 = Definitely would contract again

Reference signature:

Date:

Appendix 6: Disclosure of Lobbying Activities (Respondent Only)

The respondent shall also disclose if any corporation was hired to perform lobbying activities or notify if any partner or employees of the corporation are engaged in this type of activity.

This disclosure must be delivered via a written certification by the legal representative of the respondent. If there were no lobbying activities, then a negative certification must be sent as part of the process.

Failure to disclose this information **will result in disqualification from the process.**

Appendix 7: Sworn Statement on Fraud and Misappropriation and Debarment (Respondent Only) As Required by Puerto Rico Law #2 of January 4th, 2018

Sworn Statement

I (full name) _____ of legal age, (marital status) _____, (profession) _____ and resident of (city and state) _____, under the most solemn oath,

1. That my name and other personal circumstances are as previously described.
2. That the Board of Directors has been informed of the content of this sworn statement and that it has authorized me by means of a resolution of the Board of Directors to subscribe this sworn statement.
3. That I am the President of the company (organization name) _____, which is duly organized and or authorized to do business pursuant to the Laws and regulations of the Government of Puerto Rico. Or in the alternative: That I am in the _____ (position) of (entity Name) _____ and because the President is not available to notarize this document, I have been authorized according to paragraph 2, for signing this sworn statement.
4. That I am legally authorized by the company to sign this sworn statement.
5. That in the best of my knowledge and after diligent investigation, the company, its subsidiary companies, affiliates, and or headquarters, and their respective shareholders, directors, associates, officers, executives, principals and/or employees, and/or business associates, have not been convicted, no probable cause has been found for their arrest, nor they are under investigation in any legislative, judicial or administrative procedure, whether in or out the jurisdiction of Puerto Rico, for reasons of any conduct that may be held to constitute fraud, embezzlement or illegal appropriation of public funds, according to the provisions of Act 2 of January 4, 2018 known as the "Anticorruption code for the New Puerto Rico", or any another legal provision that penalizes crimes against the treasury and the public confidence, and neither have I, the declarant, been investigated, arrested, convicted, declared guilty nor sentenced for the conducts previously mentioned. Or In the alternative: in the case of having knowledge that any of the persons identified in the above-mentioned positions or categories have been on are being investigated, arrested, declared guilty, convicted or sentenced for such conduct and/or criminal offences referred to in the preceding paragraph, a statement regarding this fact shall form part of this sworn declaration. The statement must be included in an additional sheet describing positions, full names, charges, description of the offence or offences for which they have been or are being investigated, convicted, or sentenced, including current processes status.
6. I give faith that I have personal knowledge, as does the company, its subsidiary, companies, affiliates, and or headquarters, and/or their respective shareholders, directors, associates, officers, executives, principals, and or employees, that the crimes referred to in these provisions include, but are not limited to:

- a. Aggravated illegal appropriation, in all of its modalities;
- b. Extortion;
- c. Fraud in constructions;
- d. Fraud in the execution of construction work;
- e. Fraud in the delivery of things;
- f. Undue intervention in the contracting processes of auctions or in the operations of the government;
- g. Bribery, in all its modalities;
- h. Aggravated bribe;
- i. Offering a bribe;
- j. Undue influence;
- k. Crimes against public funds;
- l. Preparation of false documents;
- m. Forgery of documents;
- n. Possession and transfer of false documents; and
- o. Crimes under the laws of the United States and its territories and state jurisdiction of the United States, whose elements are equivalent to those of the crimes aforementioned.

7. That I have been advised by my legal advisors and company's counsels on the obligations imposed by ACT 2 – 2018, and other applicable laws, and I acknowledge and accept the consequences of signing this sworn statement.

8. That I certify that I as well as the company, know of our continuous duty to report on any investigation, accusation or conviction against the company, its subsidiary companies, affiliates and/or headquarters, and/or their respective shareholders, directors, associates, officers, executives, principals and/or employees, related to the crimes and undue conducts listed in clause 5 & 6.

9. I certify that neither, the declarant nor the company, its subsidiary companies, affiliates and/or headquarters, and/or their respective shareholders, directors, associates, officers, executives, principals and/or employees, to the best of my knowledge or according to what has been informed to me, has been or is presently debarred, suspended, or excluded from participation by any other state or federal entity.

10. I certify that neither, the declarant nor the company, its subsidiary companies, affiliates and/or headquarters, and/or their respective shareholders, directors, associates, officers, executives, principals and/or employees, to the best of my knowledge or according to what has been informed to me, have incurred nor will we incur in conducts that violate the law, anti-trust federal and state regulations and guidelines, such as agreeing with another company and/or company proponent to set fixed prices, submit proposals or take another action for the purpose of impeding, restricting or limiting free competition; or that may have an adverse or negative impact on the services to be offered to the population.

11. That the above declared is the truth and nothing but the truth

and in Witness Thereof, I swear and sign this affidavit on _____ of 2021

Signature of Declarant

Name of Declarant

Position

Company name

Sworn and subscribed before me by _____ whose personal circumstances have been previously stated, and whom I gave faith to know personally/have identified by means of _____.

In _____, _____ of 2021 (location)

Notary Public

Place seal here

Appendix 8: Absence of Conflict of Interest Certification

(Respondent Only)

PRMP and PRHIA requires that all contractors/subcontractors, when executing their professional services exhibit full loyalty toward PRMP and PRHIA, including having no adverse interests against it, as well as having no material adverse interests with other Puerto Rico Government entities.

Adverse interests include representing clients who have or may have interests that are contrary to PRMP and PRHIA or other Puerto Rico Government entities. This duty includes the continued obligation to disclose to PRMP and PRHIA any circumstances of its relations with clients and third persons that could influence the contractor or its subcontractor in a materially adverse way in the execution of its duties under the contract. Adverse interest also arise when, among others, the contractor/subcontractor must support on behalf of one client that which it has a duty to oppose on behalf of another client. Adverse interests also arise when so stated in standards of ethics applicable to the contractors / subcontractor profession, or Puerto Rico's laws and regulations.

It will also be considered a conflict of interest any instance where the contractor or any of its subcontractor, or any of their shareholders, members, employees, officers or its directors has an interest, financial or otherwise, whereby the use or disclosure of information obtained while performing services under the contract would allow for private or personal benefit or for any other purpose that is consistent with the goals and objectives of the contract; or any instance where a contractor or any of its subcontractor, or any of their shareholders, members, employees, officers, or directors use their positions for purposes that are, or give the appearance of being for private gain for themselves or others, such as those with whom they have family, business, or other ties that are determined by PRMP or PRHIA in its sole discretion to be a conflict of interest.

By signing this certification, the respondent proposed subcontractor acknowledges and accepts that, if awarded a contract under this RFP:

- a. It will not acquire any interest, direct or indirect, that would conflict in any material manner or degree with or have a material adverse effect on the performance of its services pursuant to this RFP.
- b. No person having any such interest shall be employed and that it will notify PRMP and PRHIA if any conflict of interests arise after the execution of the contract.
- c. It shall be the responsibility of the contractor/subcontractor to maintain independence and to establish necessary policies and procedures to assist the contractor and its subcontractor, if any, in determining if the actual individuals performing work under the contract have any impairment to their independence.
- d. It shall take all necessary actions to eliminate threats to impartiality and independence included but not limited to reassigning, removing or terminating employees or subcontractors.
- e. These requirements shall be in effect for the term of the contract including extensions, if any.

- f. The duty to provide information about interests and conflicting relations is continuous and extends throughout the contract term.

Certification

I _____ (full name), in my capacity of _____

(position) from _____(organization name)

_____ after being authorized to represent _____
(organization name) declare upon oath and certify that:

All the statements contained in this document have been read and fully understood by the undersigned, that I have been advised by my legal advisors and company's counsel on the obligations, acknowledgments and representations made in this certification and I accept the consequences of signing this certification; and

****Check the ones that apply****

_____ That the respondent proposed subcontractor comply with the absence of conflict of interests

_____ A lack of independence situation exists, a detailed explanation of the same and the corresponding divestiture action plan is attached to this certification

_____ A conflict of interest does not exist, a detailed explanation of the same and a conflict avoidance plan to address the conflict of interest is attached to this certification.

_____ A suspected or potential conflict of interest exists or is expected to occur during the term of the contract, and additional information is attached along with a conflict avoidance plan to address the possible conflict of interest.

And in Witness Thereof, I swear and sign this affidavit on _____ of 2021

Signature of Declarant

Name of Declarant

Position

Company name

Sworn and subscribed before me by _____ whose personal
circumstances have been previously stated, and whom I gave faith to know personally/have
identified by means of _____.

In _____, _____ of 2021
(location)

Notary Public

Place seal here

Appendix 9: Terms for Filing a Judicial Review 3 L.P.R.A. Section 9672

Any of the respondents that submitted a responsive proposal to 2021-PRMP-RFP-002 will have the opportunity to challenge or appeal the award that results from the RFP and evaluation process.

To file an application for review according to 3 L.P.R.A Section 9672, the respondent must fill out and submit this form during the period established in Section 1.3 RFP Schedule of Events. If the form is not received on the period established in Section 1.3 RFP Schedule of Events, then the application for review will not be considered. This form must be **hand delivered** in person or by courier to the following address:

Puerto Rico Department of Health
Legal Office
Centro Médico Edificio A
Antiguo Hospital de Psiquiatría
San Juan PR 00936

This form, and any packaging that it is transmitted in, must clearly state on the outside of the package:

Application for Review for: RFP number 2021-PRMP-RFP-002

Respondent's legal Name

I _____ representing _____ company

hereby request to challenge the award of 2021-PRMP-RFP-002 to _____

(awarded entity) due to the following reasons:

Please explain and detail the reasons below:

Representative Signature: _____

Date: _____

Appendix 10: Pro Forma Contract Draft

**COMMONWEALTH OF PUERTO RICO
DEPARTMENT OF HEALTH
SAN JUAN, PUERTO RICO**

APPEARING

FOR THE FIRST PARTY: The Puerto Rico Department of Health, herein represented by the Secretary of Health, _____, of legal age, married, doctor by profession and resident of _____, Puerto Rico, or by the Undersecretary of Health, _____, of legal age, married, doctor by profession and resident of _____, Puerto Rico, or by the Chief Administrative Officer, _____, of legal age, _____ and resident of _____, Puerto Rico who appears in representation of the Secretary of Health and is duly authorized to sign this Agreement by the delegation made on January 4, 2021 by the Secretary of Health, in accordance with Law No. 81 of March 14, 1912. Also, for the **FIRST PARTY** will appear **THE PUERTO RICO HEALTH INSURANCE ADMINISTRATION** represented herein by its Executive Director, _____, of legal age, married and resident of _____ Puerto Rico.

FOR THE SECOND PARTY: EQRO Selected Entity, a _____ corporation organized under the existing law of the STATE OF _____ with offices at _____, represented in this act by its Chief Executive Officer, _____, of legal age, (married/single), and resident of _____.

NOW THEREFORE, pursuant to Act 81 of March 14, 1912, as amended, Circular Letter Number 07-93, issued on March 8, 1993, and the Administrative Bulletin No. OE-1991-24 issued on June 18, 1991 as amended by Administrative Bulletin No. OE-1992-52 issued on August 28, 1992, and Law 72 of 1993, **ALL PARTIES** agree as follows:

WITNESSETH AS FOLLOWS

WHEREAS: Pursuant to Medicaid Regulations governing the Commonwealth of Puerto Rico, Medicaid and the Government Health Insurance Plan program contracts, the procurement of external quality review contracts was mandated for all Managed Care Organizations (hereinafter referred to as the “MCOs”) and the Prepaid Inpatient Health Plans’ (hereinafter referred to as the “PIHPs”) contracts subsidized under the Commonwealth’s Medicaid Program. To that effect, the **FIRST PARTY** (Department of Health Medicaid Program) must help assure the procurement of an annual independent external quality review for the physical and mental health services provided by the MCOs.

WHEREAS: The Balanced Budget Act of 1997 (hereinafter referred to as the “BBA”) directed the Department of Health and Human Services (hereinafter referred to as the “DHHS”) through the

Medicaid Program at the federal level to contract with a competent and independent External Quality Review Organization as described in 42 CFR §438.354, for the review of quality outcomes, timeliness, and access to services included in the contract between the MCOs, the PIHPs and the State as described in 42 CFR §438.350. Accordingly, the Centers for Medicare & Medicaid Services (CMS) regulations require approval of all external quality review contracts and will be required for this SOW.

WHEREAS: Since the compliance with the performance for an annual independent external quality review is mandated and required for and by Medicaid Program regulations and the **DEPARTMENT OF HEALTH**, as the State Agency, is the agency with the primary responsibility of administering these federal funds, it shall borne and assume the costs of the services subject of the contract.

WHEREAS: The Department of Health and Human Services final Rule on the External Quality Review (hereinafter referred to as the “EQR”) of January 24, 2003, required the compliance with three mandatory activities that are included in the **FIRST PARTY’s** Quality Initiative and Improvement Program, such as: 1) validation of performance improvement projects; 2) validation of performance measures; and 3) retrospective review, of the past three years to determine compliance with federal Medicaid managed care regulations under the 42 CFR §438 Subparts C, D, E, and F.

WHEREAS: According to 42 CFR §438.354 Subpart E, whereby consideration was given to the independence of administrative and technical elements stated as requirements by the referred section, the **FIRST PARTY** conducted an competitive process where the **SECOND PARTY** as the entity selected and that fully meets the criteria set forth in the above-mentioned regulation and definition set forth in 42 CFR §438.320; and has authorization to do business in Puerto Rico.

WHEREAS: According to 45 CFR §75 Appendix II (H), PMRP will not award contracts to Vendors listed on the government-wide exclusions list as identified in the System for Award Management (SAM). Validation of debarred and suspended parties will be done d in accordance with the OMB guidelines at 2 CFR part 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235) and are otherwise identified as “debarred and suspended.

WHEREAS: All parties help assure that the services to be provided shall be consistent with those clinical and non-clinical parameters as per state and national standards following applicable guidelines, directives and protocols under the Medicaid Program from CMS and under those established by the **FIRST PARTY**. This includes, but is not limited to, 42 CFR §438.352.

WHEREAS: The **FIRST PARTY** shall make available to the public as requested, the Final Report and outcomes resulting from the external quality review activities, object of this contract as described in 42 CFR §438.364(b) and (c). The **FIRST PARTY** must provide copies of the information listed above, upon request, through print or electronic media, to interested parties such as participating healthcare providers, enrollees and potential enrollees of the MCO or PIHP, recipient advocacy groups, and members of the general public. The **FIRST PARTY** must make this information available in alternative formats for persons with sensory impairments, when requested.

WHEREAS: In harmony to the applicable State and federal Medicaid regulations governing the procurement of external quality review services contract, the **FIRST PARTY** ensured the **SECOND PARTY** complies with the qualification requirements and competence as described under 42 CFR §438.354(b)(1)(2)(3) and 42 CFR §438.356(b).

WHEREAS: The **SECOND PARTY** and its subcontractors acknowledges and complies with the requirement of independence as specified in the CFR. The **SECOND PARTY** in agreement of this contract shall attest to the following requirements:

- The **FIRST PARTY** requires that the **SECOND PARTY** and its subcontractors are independent from the State Medicaid agency and from the MCOs, PIHPs, PAHPs, or PCCM entities that they review. 42 CFR 438.354(c) 42 CFR 438.356(d), 42 CFR 438.310(c)(2)
- If the **SECOND PARTY** is a State agency, department, university, or other State entity, the **FIRST PARTY** requires that the **SECOND PARTY** may not have Medicaid purchasing or managed care licensing authority and must be governed by a Board or similar body the majority of whose members are not government employees. 42 CFR 438.354(c)(1)(i) and (ii) 42 CFR 438.356(d)
- The **FIRST PARTY** requires that the **SECOND PARTY** and its subcontractors do not review a particular MCO or PIHP if either the EQRO or the MCO or PIHP exerts control over the other through stock ownership. "42 CFR 438.354(c)(3)(i)(A) 42 CFR 438.356(d) 48 CFR 19.101(3)
- The **FIRST PARTY** requires that the **SECOND PARTY** and its subcontractors do not review any MCO, PIHP, PAHP, or PCCM entity, or a competitor operating in the state, over which the EQRO exerts control or which exerts control over the EQRO through stock ownership. 42 CFR 438.354(c)(2)(i)(A), 42 CFR 438.356(d) 48 CFR 19.101(3), 42 CFR 438.310(c)(2)
- The **FIRST PARTY** requires that the **SECOND PARTY** and its subcontractors do not review a particular MCO or PIHP if either the EQRO or the MCO or PIHP exerts control over the other through stock options and convertible debentures. 42 CFR 438.354(c)(3)(i)(B) 42 CFR 438.356(d), 48 CFR 19.101(4)
- The **FIRST PARTY** requires that the **SECOND PARTY** and its do not review any MCO, PIHP, PAHP, or PCCM entity, or a competitor operating in the state, over which the EQRO exerts control or which exerts control over the EQRO through stock options and convertible debentures. 42 CFR 438.354(c)(2)(i)(B), 42 CFR 438.356(d) 48 CFR 19.101(4), 42 CFR 438.310(c)(2)"
- The **FIRST PARTY** requires that the **SECOND PARTY** and its subcontractors do not review a particular MCO or PIHP if either the EQRO or the MCO or PIHP exerts control over the other through voting trusts. "42 CFR 438.354(c)(3)(i)(C) 42 CFR 438.356(d), 48 CFR 19.101(5)
- The **FIRST PARTY** requires that the **SECOND PARTY** and its do not review any MCO, PIHP, PAHP, or PCCM entity, or a competitor operating in the state, over which the EQRO exerts control or which exerts control over the EQRO through voting trusts. 42 CFR 438.354(c)(2)(i)(C), 42 CFR 438.356(d) 48 CFR 19.101(5) 42 CFR 438.310(c)(2)

- The **FIRST PARTY** requires that the **SECOND PARTY** and its do not review a particular MCO or PIHP if either the EQRO or the MCO or PIHP exerts control over the other through common management, including interlocking management. 42 CFR 438.354(c)(3)(i)(D), 42 CFR 438.356(d)48 CFR 19.101(6)
- The **FIRST PARTY** requires that the **SECOND PARTY** and its subcontractors do not review a particular MCO or PIHP if either the EQRO or the MCO or PIHP exerts control over the other through contractual relationships. 42 CFR 438.354(c)(3)(i)(E), 42 CFR 438.356(d), 48 CFR 19.101(7)
- The **FIRST PARTY** requires that the **SECOND PARTY** and its subcontractors do not review any MCO, PIHP, PAHP, or PCCM entity, or a competitor operating in the state, over which the EQRO exerts control or which exerts control over the EQRO through contractual relationships. 42 CFR 438.354(c)(2)(i)(E), 42 CFR 438.356(d), 48 CFR 19.101(7), 42 CFR 438.310(c)(2)
- The **FIRST PARTY** requires that the **SECOND PARTY** and its subcontractors do not deliver any health care services to Medicaid beneficiaries. 42 CFR 438.354(c)(3)(ii), 42 CFR 438.356(d)
- The **FIRST PARTY** requires that the **SECOND PARTY** and its subcontractors do not deliver any health care services to Medicaid beneficiaries. 42 CFR 438.354(c)(2)(ii), 42 CFR 438.356(d) , 42 CFR 438.320"
- The **FIRST PARTY** requires that the **SECOND PARTY** and its subcontractors do not conduct, on the state's behalf, ongoing Medicaid managed care program operations related to oversight of the quality of MCO or PIHP services, except for EQR-related activities. 42 CFR 438.354(c)(3)(iii), 42 CFR 438.356(d), 42 CFR 438.358"
- The **FIRST PARTY** requires that the **SECOND PARTY** and its subcontractors do not conduct, on the state's behalf, ongoing Medicaid managed care program operations related to oversight of the quality of MCO, PIHP, PAHP, or PCCM entity services, except for EQR-related activities. 42 CFR 438.354(c)(2)(iii), 42 CFR 438.356(d) , 42 CFR 438.310(c)(2), 42 CFR 438.358
- The **FIRST PARTY** requires that the **SECOND PARTY** and its subcontractors do not review any MCO, PIHP, PAHP or PCCM entity for which it is conducting or has conducted an accreditation review within the previous 3 years. 42 CFR 438.354(c)(2)(iv)42 CFR 438.356(d) 42 CFR 438.310(c)(2)
- The **FIRST PARTY** requires that the **SECOND PARTY** and its subcontractors do not have a present or known future, direct or indirect financial relationship with an MCO or PIHP that it will review as an EQRO. 42 CFR 438.354(c)(3)(iv) 42 CFR 438.356(d), 42 CFR 438.320"

WHEREAS: The **SECOND PARTY** acknowledges is accountable for, and must oversee, all subcontractor functions as stated in 42 CFR §438.356(c).

WHEREAS: The **SECOND PARTY** acknowledges and represents, it has been familiarized with all Definitions, Contract Terms and Provisions of the entities contract under the Government Health Plan (hereinafter referred to as the "GHP") that provide physical and mental health services to the Medicaid enrollees.

WHEREAS: The external quality review to be conducted by the **SECOND PARTY** shall be provided in strict compliance with the federal and state regulations, the proposal submitted by the **SECOND PARTY**, the clarification meetings, calls and correspondence between both **PARTIES**, that are herein incorporated and referenced, and which are made an integral part of this contract, subject to the following:

WHEREAS: For purposes of this Agreement, the following definitions apply:

TERMS AND CONDITIONS

FIRST: DEFINITIONS:

1. *EQR* stands for external quality review.
2. *EQRO* stands for External Quality Review Organization.
3. *PRHIA* stands for Puerto Rico Health Insurance Administration, also known as Administración de Seguros de Salud de Puerto Rico (ASES) .
4. *External quality review* means the analysis and evaluation by an EQRO, of aggregated information on quality, timeliness, and access to the healthcare services that an MCO or PIHP, or their contractors furnish to Medicaid recipients.
5. *External quality review organization* means an organization that meets the competence and independence requirements set forth in § 438.354, and performs external quality review, other EQR-related activities as set forth in 438.358, or both.
6. *Financial relationship* means—
 - A direct or indirect ownership or investment interest (including an option or nonvested interest) in any entity. This direct or indirect interest may be in the form of equity, debt, or other means and includes any indirect ownership or investment interest no matter how many levels removed from direct interest; or
 - A compensation arrangement with an entity.
7. *Quality*, as it pertains to external quality review, means the degree to which an MCO or PIHP increases the likelihood of desired health outcomes of its enrollees through its structural and operational characteristics and through the provision of health services that are consistent with current professional knowledge.
8. *Validation* means the review of information, data, and procedures to determine the extent to which they are accurate, reliable, free from bias, and in accord with standards for data collection and analysis.

SECOND: SERVICES:

The services outlined below will be provided to the **FIRST PARTY** with an initial contract period of two (2) years, and optionally renewed year-by-year for up to three (3) additional years for a maximum of five (5) years. The first year will include an MCO evaluation period from January 2018 until December 2021

CONTRACT PERIOD TO BE EVALUATED: January 1, 2017 to December 31, 2021 for Medicaid Plans

January 1, 2019 to December 31, 2021 for Platino Plans

Compliance Review

PRHIA is the agency with legal authority to contract with Managed Care Organizations (MCOs) for the provision of Medicaid services for physical and behavioral health services to the Island's Medicaid beneficiaries. PRHIA contracts with MCOs under a full risk managed care model to administer Medicaid benefits for the island-wide. These Medicaid MCOs are responsible for providing physical and behavioral health services. As of September 30, 2021, the Medicaid population as 1,672,663.

CMS requires a review, within the previous three-year period, to determine a health plan's compliance with federal Medicaid managed care regulations, state regulations, and state contract requirements. The **SECOND PARTY** will include the previous compliance review results from 2018 onward, including Platino Plans in the Technical Report.

Outstanding Work

The Health Plans to be reviewed (complete prior contract work not completed) will comprehend (Medicaid) January 1, 2017 - December 31, 2017 for Molina, MMM, Triple-S and First Medical. Platino Plans to be reviewed for January 1, 2017 - December 31, 2017 are: Triple-S, Medicare, Humana, MMM and MCS.

New Scope

The Health Plans to be reviewed as part of this scope will comprehend (**Medicaid**) January 1, 2018– December 31, 2021 for Molina, MMM, Triple-S and First Medical. **Platino Plans** to be reviewed for January 1, 2019 – December 31, 2021 are: Triple-S Medicare, Humana, MMM and MCS.

The **SECOND PARTY** will include as part of the compliance review for Medicaid and Platino Plans validation of compliance with Program Integrity contractual requirements.

The contract requires that the **SECOND PARTY** validate MCO, PIHP, or Prepaid Ambulatory Health Plan (PAHP) network adequacy during the preceding 12 months to comply with requirements for network adequacy standards. The audit will comprehend (Medicaid and Platino Plans) contract period year 2018-2021. The **SECOND PARTY** will conduct validation activities in

accordance with §438.358(2) and will refer to the Electronic Code of Federal Regulations (e-cfr) for compliance, found here: <https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-C/part-438/subpart-E/section-438.358>

System Requirements and Data Sharing

The **SECOND PARTY** shall maintain a system as necessary to support all EQR activities and have the ability to interface with data sources as required by PRMP.

- a. The System shall be compatible with any legacy and current patient-level Medicaid and CHIP encounter and claims data, member eligibility, provider and other applicable data required to perform activities required as part of this contract.
- b. The **SECOND PARTY** shall perform systems quality assurance and testing in accordance with PRMP approved guidelines
- c. The **SECOND PARTY** will ensure that information about beneficiaries is safeguarded according to 42 CFR 434.6(a)(8) and 42 CFR 431 Subpart F

The **SECOND PARTY** shall perform ongoing data collection, data analysis, and data transfer in accordance with guidelines established during contract negotiations.

The 42 CFR §438.358(b)(2) establishes that one of the mandatory EQR activities for the Medicaid managed care health plans is the validation of performance measures (PMs) reported (as required by the state) during the preceding 12 months. **PRHIA** selected the National Committee for Quality Assurance (NCQA) HEDIS measures as the required PMs.

The **FIRST PARTY** shall support the **SECOND PARTY'S** activities related to this contract by providing the **SECOND PARTY** with the following information, either from itself or through its agent:

- a. Provider files in the specified format;
- b. Enrollment files in the HIPAA 834 format;
- c. Encounter data files in the HIPAA 837 format;
- d. State requirements for collection and submission of encounter data by the MCOs, PIHPs, or PAHPs;
- e. Encounter data format specifications;
- f. PRMP data dictionary;
- g. Flow chart of data from the MCOs, PIHPs, or PAHPs to PMRP;
- h. PMRP standards for MCP encounter data completeness and accuracy;
- i. Timeframes for encounter data submission;

- j. Thresholds for acceptable rates of accuracy and completeness for each data field of MCOs, PIHPs, or PAHPs encounter data
- k. Any reports available that can assist the **SECOND PARTY** in determining MCOS or PIHPS compliance with the quality strategy standards established by the **FIRST PARTY** related to access to care, structure, and operations, and quality measurement improvement.
- l. Any reports available that can assist the **SECOND PARTY** in determining each MCO's PIHP's, PAHP's, PCCM entity's compliance with the standards and quality assessment and performance improvement requirements as described in in §438.330. "42 CFR 438.358(b)(1)(iii)42 CFR 438.358(b)(2), 42 CFR 438.330, 42 CFR 438.310(c)(2), 42 CFR 438 subpart D

Validation of PMs

The 42 CFR §438.358(b)(2) establishes that one of the mandatory EQR activities for the Medicaid managed care health plans is the validation of PMs reported (as required by the state) during the preceding 12 months. **PRHIA** selected the NCQA HEDIS measures as the required PMs.

PRHIA required all health plans to collect and report HEDIS 2019-2021 measures, which reflected the services rendered to their Medicaid enrollees during the calendar year 2018-2021. The MCO will submit to the **FIRST PARTY** the HEDIS 2020 measures specifically selected by **PRHIA**. For the CY 2017, the health plans' final rates for HEDIS 2017 and 2019-2021 will be included in the Technical Report and compared to the NCQA HEDIS National Medicaid Benchmarks. The Health Plans will submit the data for HEDIS 2019 (Calendar Year 2018), HEDIS 2020 (Calendar year 2019) HEDIS 2020-MY2020 (Calendar year 2020) and HEDIS 2021-MY2021. The technical will include the measures denominators, numerators, rates and the National Medicaid Benchmarks for all HEDIS measures.

The final rates for HEDIS 2019-2021 measures relevant to the Platino Plans population for the Platino Plans: Humana Health Plan, MCS, MMM, and Triple-S Advantage will be requested from **PRHIA** and/or the health plans and compared to NCQA HEDIS 2019-2021 National Platino Plans Benchmarks. The final rates and comparative information will be included in the Technical Report.

HEDIS 2021

The **SECOND PARTY** will conduct an NCQA audit of the Medicaid plans. The plans to be audited will be determined by the **FIRST PARTY** on or before November 30, 2021.

Validation of Performance Improvement Projects

Medicaid PIPs that were in process during CY 2018-2021 will be validated for each plan to ensure that the projects were designed, conducted and reported in a methodologically sound manner, allowing real improvements in care and services and giving confidence in the reported improvements. Each Medicaid plan is required to submit their documentation directly to the EQRO.

The Health Plans to be reviewed are:

The Health Plans to be reviewed will comprehend (Medicaid) Triple – S, First Medical, MMM, and Molina Healthcare for the period of January 1, 2017 to December 31, 2021.

PRHIA also requires that all contracted health plans submit all PIPs with a focus on clinical or non-clinical services provided to their Platino Plans managed care enrollees that were in process during CY 2019- 2021. **PRHIA** will provide this information to the **SECOND PARTY** so that it can be incorporated into the Technical Report in the form of a summary for each of the PIPs reported by the Platino Plans health plans.

The summaries will include descriptions of the following for each PIP, the:

- Study topic;
- Study questions and indicators;
- Study population and sampling strategy, if applicable;
- Data collection procedures;
- Interventions/improvement strategies;
- Data analysis and results;
- Achievement of improvement; and
- Achievement of sustained improvement, if applicable.

The Health Plans to be reviewed will comprehend (Platino) Humana Health Plan, MCS, MMM, and Triple-S Advantage.

Assessment of Compliance with Prior Recommendations

Federal regulations for EQR results and detailed Technical Reports [§438.364] require that the EQRO include in each annual Technical Report an assessment of the degree to which each MCO, PHIP, PHAP and Primary Care Case Management (PCCM) has addressed the recommendations for quality improvement made in the prior year's Technical Report. The **SECOND PARTY** will request that each applicable plan submit a summary of actions that were implemented by the plan in follow-up to the findings reported in the last submitted Technical Report. The **SECOND PARTY** will provide an assessment of the degree to which the health plans effectively addressed the improvement recommendations.

THIRD: INTERAGENCY SERVICES: BOTH PARTIES acknowledge and agree that the contracted services can be rendered to any entity part of the Executive Branch, with which the **FIRST PARTY** has entered into an interagency agreement or by direct order of the Governor's Chief of Staff. Said services will be rendered under the same terms and conditions as agreed upon in this Contract.

FOURTH: TIMETABLE, TECHNICAL ASSISTANCE AND PROTOCOLS:

The **SECOND PARTY** will provide details on the activities to be performed for each of the above-mentioned mandatory activities according to the applicable CMS protocols. The timetable will be provided to each MCO and PIHP at the initiation of the external quality review on-site visit, as well as to the **FIRST PARTY** at the threshold meeting prior to conduct the external quality review.

The **SECOND PARTY** will provide technical guidance to groups of MCOs, PIHPs, PAHPs or PCCM entities to assist them in conducting activities related to the mandatory and optional EQR-related activities that provide information for the EQR and the resulting EQR Technical Report.

The **SECOND PARTY** will use mandatory and optional EQRO-related activities using protocols or methods consistent with the protocols established by the Secretary in accordance with §438.352. 42 CFR §438.350(e) Section 1932(c)(2)(A)(iii), 42 CFR §438.352.

When the contract is executed, the **SECOND PARTY** will begin to gather the necessary information needed from all of the health plans and start preparation of the detailed technical report and contract deliverables, which shall be due in accordance with the approved schedule or time frame set forth in the extension period.

FIFTH: PAYMENT OF SERVICES:

1. Payment under this contract is to be made by the **FIRST PARTY, DEPARTMENT OF HEALTH - Puerto Rico Medicaid Program**. The invoices will be submitted to the Puerto Rico Medicaid Program. The Puerto Rico Medicaid Program will be responsible of certifying the invoice as correct, after proper verification by the PRHIA.
2. The **FIRST PARTY** shall pay the **SECOND PARTY** up to a maximum amount of _____, according to the terms and conditions of this contract and as described in the approved proposal submitted with the RFP process, which is broken down as follows:

Table 14: HEDIS 2020 Network Adequacy, Annual Technical Report

Contract Year Medicaid January 1, 2017 to December 31, 2021 / HEDIS 2020; Network Adequacy; Annual Technical Report 2023					
EQR Activity	Comments	All-Inclusive Unit (Per Plan) Price*	No. of Plans	Subtotal	Comments
Validation of PIPs (Medicaid) (CFR 438.330)	1/1/2017-12/31/21 for Technical Report		5		Review of process during contract year. Molina, MMM, Triple-S, First Medical, Plan de Salud Menonita.
Network Adequacy Validation	1/1/2017-12/31/2021		5		Network adequacy audit (federal regulation 438.68)
Validation of PMs (Medicaid)			5		Conduct HEDIS 2020 compliance audits. Molina, MMM, Triple-S, First Medical, Plan de Salud Menonita.
Compliance Reviews Including	1/1/2017-12/31/2021				Comprehensive review for all plans. Medicaid: Molina, MMM, Triple-S, First Medical.

Contract Year Medicaid January 1, 2017 to December 31, 2021 / HEDIS 2020; Network Adequacy; Annual Technical Report 2023					
Program Integrity					
Annual Technical Report	1/1/2017-12/31/2021		NA		Aggregate report including five Medicaid plans and five Platino Plans. In addition to Medicaid MCO information, included will be Medicare MCO PIP review and HEDIS results.
Total				\$ _____	
EQR Activity	Comments	All-Inclusive Unit (Per Plan) Price*	No. of Plans	Subtotal	Comments
Compliance Reviews Including Program Integrity	1/1/2017-12/31/2021 complete prior contract work not performed and billed			\$	Comprehensive review for all plans. Triple-S Medicare, Humana, MMM, MCS.
Annual Technical Report	1/1/2017-12/31/2021	\$	NA	\$	Aggregate report including four Medicaid plans and five Platino Plans. In addition to Medicaid MCO information, included will be Medicare MCO PIP review and HEDIS results.
Total				\$ _____	
Grand total				\$ _____	

- Comprehensive review for all plans will be completed. The plans reviewed will depend on the MCO's contracted by ASES and the Platinos for each year that an audit is conducted.
- Payments shall be made by quarterly installments upon submission of quarterly invoices. The monthly invoice shall include a report of the work done during the month that is being billed, deliverables accepted and hours worked, which shall be duly certified by the **EXECUTIVE DIRECTOR OF THE MEDICAID PROGRAM or their authorized representative.**
- The **SECOND PARTY** agrees to submit detailed and itemized invoice for services rendered within ten (10) business days following the quarter in which the services were provided.

- The **FIRST PARTY** will not honor invoices submitted ninety days (90) or more after the services were rendered. The **SECOND PARTY** accepts and agrees to comply with this requirement, and understands that if the invoices are not submitted on a timely manner it waives the right to get paid for services rendered.
- **BOTH PARTIES** agree that the payment established in this agreement shall entail the discount of one point five percent (1.5%) to the General Fund of the State Treasury, pursuant to Article 1 of Act No. 48 of June 30, 2013, Law which establishes a special contribution on government contracts.
- Invoices must include a written certification stating that no officer or employee of **FIRST PARTY**, its subsidiaries or affiliates, will derive or obtain any benefit or profit of any kind from this Agreement, with the acknowledgment that invoices which do not include this certification will not be paid. This certification must read as follows:

“We certify under penalty of nullity that no public employee of the Department of Health or the PRHIA will derive or obtain any benefit or profit of any kind from the contractual relationship which is the basis of this invoice. If such benefit or profit exists, the required waiver has been obtained prior to entering into the Agreement. The only consideration to be received in exchange for the delivery of goods or for services provided is the agreed-upon price that has been negotiated with an authorized representative of the Department of Health. The total amount shown on this invoice is true and correct. The services have been rendered, and no payment has been received.”
- **FIRST PARTY** shall verify the invoices within twenty (20) working days of the receiving date of the invoice and, if they comply with the requirements set forth in this Agreement, it will process the payment to the **SECOND PARTY** within thirty (30) days of the approval of the invoice. The **FIRST PARTY** will promptly notify the **SECOND PARTY** any questions regarding invoices so that **SECOND PARTY** can receive timely payment. Any edits or resubmittal of invoices requested by **FIRST PARTY** shall restart the clock for time for submittal. The procedure for acceptance of deliverables is defined in the **FIFTH CLAUSE**, from which invoices must include, as attachments, all receipts of accepted final deliverables as proof of acceptance.
- The invoice shall detail the available balance of the Agreement’s budget when submitting the invoice as well as the available balance of the Contract at the time the invoice is delivered. The invoices should be presented accompanied with a short summary of the total quantity of the Contract, the invoices sent and the available balance of the Contract which will be formatted as:

Contract Number:

Balance \$ _____

Invoice detail xxx \$ _____

Invoice xxx \$ _____

Invoice xxx \$ _____
Current invoice xxx \$ _____
Balance at the date of this invoice \$ _____

3. This contract will be administered and monitored by the **FIRST PARTY** or their authorized representative and will be evaluated to measure results obtained according to the needs of the service.
4. The contract requires that the **SECOND PARTY** evaluates a total of four (4) mandatory activities for the Medicaid plans: 1) Compliance Review for Medicaid and Platino Plans, 2) Validation of Performances Measures reported by the MCOs PIHP, & PAHPS 3) Validation of Performance Improvement Projects; and 4) Validation of Network Adequacy. In addition, the Platino Plans data delivered to the **SECOND PARTY** by PRHIA, which includes EQR comparable findings from the Platino Plans Advantage organizations must be part of the final technical report. In the event the **SECOND PARTY** is unable to fulfill or complete the evaluation as stipulated above within the number for the particular month, the Puerto Rico Medicaid Program, in coordination with the PRHIA shall make the proper readjustments and authorize payments in proportion to the results obtained during the process of the evaluation.
5. All invoices must contain the following certification duly signed by the Finance Area of the **SECOND PARTY**:

We certify under penalty of nullity that no public employee from the Department of Health or the PRHIA will derive or obtain any benefit or profit of any kind from the contractual relationship which is the basis of this invoice. If such benefits or profit exists, the required waiver has been obtained prior to entering into the agreement. The only consideration to be received in exchange for the delivery of good or for services provided in this agreed-upon price that has been negotiated with an authorized representative of the Department of Health or the PRHIA. The total amount shown on this invoice is true and correct. The services have been rendered, and no payment has been received”.

SIXTH: RESOURCES TO PAY FOR THE SERVICES:

The services provided under this contract will be paid from the Allowance for Professional and Consulting Services, account number:

**75%: (E1290)-272-0710000-06F-2021-H2175X0512A (PS 8.4);
272-0710000-081-2021-H2175X0512A (PRIFAS);**
**25%: (E1290)-201-0710000-082-2021-H2175X0512A (PS 8.4);
201-0710000-082-2021-H2175X0512A (PRIFAS);**

and/or any other available account figure or any percentage of state or federal matching funds as approved by CMS, up to \$ _____ during the term of this agreement. *The 75% FFP is conditioned to the approval of this contract from CMS.

SEVENTH: INDEPENDENT CONTRACTOR: Freely and voluntarily, the **PARTIES** agree in that under the terms of this contract no employer and employee relationship is being established and in that the **SECOND PARTY** will at all times discharge its duties as an independent Contractor, and agree in that no member of the **SECOND PARTY**, nor the people by it employed, will demand from the **FIRST PARTY** any payment for vacation or sick leave, retirement, Christmas bonus, professional responsibility policy, nor federal Social Security.

The **SECOND PARTY** will not be subject to deductions or discounts from its monetary remuneration for the payment of the Social Security. The **FIRST PARTY** may deduct, from the payments made to the **SECOND PARTY** for services rendered up to 7% as specified by Section 1062.3 of the 2011 Income Tax Law, as amended, in accordance with the regulations approved by the Secretary of the Treasury.

As a necessary condition for this contract, the **SECOND PARTY** is bound to submit a Certification of having filed income tax returns in the past five years from the Treasury Department of Puerto Rico, and a Certification attesting that there is no outstanding debt or, if a debt exists, that it is subject to payment plan (or pending administrative review under applicable law or regulations).

The **SECOND PARTY** will have the responsibility of submitting its income tax forms and disbursing any taxable amounts resulting from the income earned under this contract, to the federal Social Security and to the Treasury Department's Income Tax Bureau. The **FIRST PARTY** will notify the Income Tax Bureau about the payments and reimbursements made to the **SECOND PARTY**.

The **SECOND PARTY** certifies and guarantees that at the time of execution of this Agreement, it is a corporation duly authorized to conduct business in Puerto Rico. The **SECOND PARTY** has submitted a certification of incorporation and the certification of good standing from the State Department of Puerto Rico.

The **SECOND PARTY** will have the responsibility of insuring all its employees, as well as all personnel who will provide services under this contract. A copy of the State Insurance Fund policy will be included here and made part of this contract.

The **SECOND PARTY** will provide Equal Employment Opportunity Provisions in accordance with 45 CFR §75 Appendix II(C) 48 CFR Subpart 22.8

It is expressly recognized that the foregoing certifications, documents, and assurances are material conditions of this Agreement. In the event the above certifications and acknowledgments contained in this clause are not correct, in whole or in part, it shall be sufficient cause for the **FIRST PARTY** to terminate the Agreement.

EIGHTH: REPORTS:

The **SECOND PARTY** must submit to the **FIRST PARTY** all required reports, concerning the services set forth in this contract.

- A. The **SECOND PARTY** must evaluate overall validity and reliability of the PIPs' results and report its findings to the **FIRST PARTY** in the form of a short summary of the validation findings along with a summary rating using levels such as the following:
1. High confidence in reported the MCOs and/or PIHPs PIPs' results.
 2. Confidence in reported MCOs and/or PIHPs PIPs' results.
 3. Low confidence in reported MCOs and/or PIHPs PIPs' results.
 4. Reported MCOs and/or PIHPs PIPs' results no credible.
- B. In the second mandatory activity, validation of PMs, the **SECOND PARTY** will incorporate the information gathered by Medicaid's Vendor and report findings to the Administrator of the selected measures by MCO/PIHP and compare them to national means.
- C. For reporting evaluations results to the MCOs/PIHPs for the third mandatory activity, the **SECOND PARTY** reviewers, in addition to discussing specific compliance issues, would indicate an overall compliance finding or rating, based on aggregation of all the regulatory provisions. Reviewers would highlight those areas of deficiency that will be presented to the **FIRST PARTY**. The aggregation process would consist of reviewers report on compliance issues they have identified during the course of the evaluation. There is an opportunity for the MCOs/PIHPs to offer additional information, if such evidence of compliance is available. There will be no attempt to aggregate findings or indicate any MCO/PIHP overall "level of performance" to the regulatory provisions. This verbal report would be presented at the conclusion of the on-site evaluation during an exit conference with the MCOs/PIHPs leadership and could also involve leaving a written report with the MCOs/ PIHPs.
- D. Reports on evaluation results to the **FIRST PARTY** will be based on the **FIRST PARTY's** established thresholds, compliance guidelines, and in coordination with the State Medicaid Agency. The **SECOND PARTY**, which will be responsible for the evaluation, would aggregate or summarize the following:
- Findings noted on the documentation and reporting tool for each MCO/PIHP and additionally, an overall compliance summary and determination for each MCO/PIHP.
 - Will complete a narrative summary of reviewer's findings as documented on the documentation and reporting tool for each MCO/PIHP (summary of the information contained in the documentation and reporting tool), with a simple analysis, such as the total number of regulatory provisions with a status of Met, Partially Met, and Not Met. The compliance summary would be based on pre-established State thresholds and guidelines.
- E. The **SECOND PARTY** must present a detailed technical report that complies with the deliverables requirements of 42 CFR §438.364, in a format compliant with Section 508 of the Rehabilitation Act (29 USC 794d), on or before September 30, 2022, focused at how data from all related mandatory activities was aggregated and analyzed and how conclusions were drawn as to the quality, timeliness, and access to care furnished by the MCOs/PIHPs.
- F. The **SECOND PARTY** will produce an annual and a detailed technical report that describes the objectives for each EQR-related activity conducted including:

1. Objectives for each EQR-related activity conducted.
 2. Technical methods of data collection and analysis for each EQR-related activity conducted.
 3. Methods of data collection and analysis for each EQR-related activity conducted.
 4. Description of the data obtained for each EQR-related activity conducted including validated performance measurement data for each EQR-related activity conducted in accordance with §438.358(b)(1)(i) and (ii), 42 CFR §438.364(a)(2)(iii), 42 CFR §438.358, 42 CFR §438.358(b)(1)(i) and (ii).
 5. Conclusions drawn from the data for each EQR-related activity conducted.
 6. Produce an assessment of each MCO's or PIHP's strengths and weaknesses with respect to the quality, timeliness, and access to healthcare services furnished to Medicaid recipients.
 7. Produce an annual detailed technical report that includes an assessment of each MCO's, PIHP's, PAHP's, or PCCM entity's strengths and weaknesses for the quality, timeliness, and access to healthcare services furnished to Medicaid recipients.
 8. Produce recommendations for improving the quality of healthcare services furnished by each MCO or PIHP.
 9. Produce an annual detailed technical report that includes recommendations for improving the quality of healthcare services furnished by each MCO, PIHP, PAHP, or PCCM entity.
 10. Produce an annual detailed technical report that includes recommendations for how the State can target goals and objectives in the quality strategy, under §438.340, to better support improvement in the quality, timeliness, and access to healthcare services furnished to Medicaid beneficiaries.
 11. Produce methodologically appropriate, comparative information about all MCOs and PIHPs, as determined by the State.
 12. Produce an annual detailed technical report that includes methodologically appropriate, comparative information about all MCOs, PIHPs, PAHPs, and PCCM entities, consistent with guidance included in the EQR protocols issued in accordance with §438.352(e), 42 CFR §438.364(a)(5), 42 CFR §438.352(e), 42 CFR §438.310(c)(2).
 13. The **SECOND PARTY** shall provide to the **FIRST PARTY** quarterly reports/updates that outline the initial findings identified as part of the aforementioned activities, to be included as part of the annual report.
- G. The report needs to include information for each of the related activities and as requested by CMS must include the following components:
1. Executive Summary addressing the following:
 - a. EQR process;
 - b. Major findings;
 - c. Conclusions for timeliness;
 - d. Access;
 - e. Quality of Care, and
 - f. Recommendations for State and MCOs/PIHPs.

2. Background of the healthcare reform in Puerto Rico through and explanation of the following:
 - a. History of the State's Medicaid related Managed Care Program(s)
 - b. Summary of the State's Quality Strategy objectives
 - c. PM and PIP's requirements and targets
 - d. Operational System Standards
3. Description of EQRO activities based on the number of activities included in Annual EQR reviews and any other entity(ies) utilized in conducting mandatory and optional EQR activities. Information must include:
 - a. Summarize entities (if any) utilized in completing the reviews required for the three mandatory activities;
 - b. Summarize if optional activities are included in the report;
 - c. Summarize how the Technical Reporting process is used for assessing the State's progress in meeting in overall State Quality goals and objectives.
4. State Quality Initiative.
 - a. Highlight quality initiatives implemented by the State to support MCO/PIHP efforts to improve the quality of care and services for enrollees of the GHP (e.g.: immunization registry, disease management programs, calling centers, etc.).
5. MCO/PIHP Best and Emerging Practices for Improving Quality of Care and Service
 - a. Highlight MCO/PIHP activities that are unique, effective in demonstrating improvements in care of services, or
 - b. High satisfaction survey results, or
 - c. Any recognitions by a national entity, or
 - d. Any performance measures, operational standards or performance improvement projects findings that really stand out.
6. Organizational Assessment and Structure Performance - Document entity performing the mandatory review (if not the EQRO). Document if CMS protocol or comparative assessment protocol was utilized. Include time frame covered to review all entities. Highlight any changes in standards previously reviewed and required by the State.
 - a. Provide background on assessment process.
 - b. Reference assessment tool in appendices.
 - c. Summarize comparative results for entities reviewed.
 - d. Highlight best practices identified.
 - 1) Strengths of the State as well as individual plans.
 - e. Document major opportunities identified, particularly areas requiring follow-up for more than one reporting period.
 - f. Reference individual plan findings in appendices.
7. Performance Measurement Performance - Document entity performing the mandatory review (if not the EQRO). Document if CMS protocol or comparative assessment protocol

was utilized. Include time frame covered to review all entities. Highlight any changes in standards previously reviewed and required by the State.

- a. Provide background on assessment process.
 - b. Reference assessment tool in appendices.
 - c. Summarize comparative results for entities reviewed.
 - d. Highlight best practices identified.
 - 1) Strengths of the State as well as individual plans.
 - e. Document major opportunities identified, particularly areas requiring follow-up for more than one reporting period.
 - f. Reference individual plan findings in appendices.
8. Performance Improvement Project Performance - Document entity performing the mandatory review (if not the EQRO). Document if CMS protocol or comparative assessment protocol was utilized. Include time frame covered to review all entities. Highlight any changes in standards previously reviewed and required by the State.
- a. Provide background on assessment process.
 - b. Reference assessment tool in appendices.
 - c. Summarize comparative results for entities reviewed.
 - d. Highlight best practices identified.
 - 1) Strengths of the State as well as individual plans.
 - e. Document major opportunities identified, particularly areas requiring follow-up for more than one reporting period.
 - f. Reference individual plan findings in appendices.
9. Conclusions and Recommendations for the State – as required by CFR §483.364(a)(1) must include:
- a. Summary conclusions on data collected for all mandatory activities with regards to the
 - 1) Quality,
 - 2) Timeliness, and
 - 3) Access to care across all participating managed care entities should be documented.
10. Conclusions and Recommendations for MCOs and/or PIHPs – as required by 42 CFR §438.364(a)(3) and §483.364(a)(5) must include:

Specific conclusions and recommendations for each mandatory activity should be documented and referred to in the next reporting period.

Additional EQR Activities

The **FIRST PARTY** may require additional EQR activities of the **SECOND PARTY** the scope and nature of these requirements if determined necessary will be defined with prices being negotiated at a later point in time. Additional EQR activities may include:

- The **FIRST PARTY** may require the **SECOND PARTY** to validate encounter data from the preceding 12 months that were reported by an MCO, PIHP, PAHP, or PCCM entity. 42 CFR 438.358(c)(1), 42 CFR 438.310(c)(2) 42 CFR 438.320.
- The **FIRST PARTY** may require the **SECOND PARTY** to administer or validate consumer or provider surveys of quality of care from the preceding 12 months for each MCO, PIHP, PAHP, and PCCM entity. 42 CFR 438.358(c)(2), 42 CFR 438.310(c)(2), 42 CFR 438.320.
- The **FIRST PARTY** may require the **SECOND PARTY** to use information derived during the preceding 12 months from the calculation of performance measures in addition to those reported by an MCO or PIHP and validated by an EQRO. 42 CFR 438.358(c)(3).
- The **FIRST PARTY** may require the **SECOND PARTY** to calculate performance measures using information from the preceding 12 months in addition to validating performance measures reported by an MCO, PIHP, PAHP, or PCCM entity in accordance with §438.358(b)(1)(ii). 42 CFR 438.358(c)(3), 42 CFR 438.358(b)(1)(ii), 42 CFR 438.310(c)(2).
- The **FIRST PARTY** may require the **SECOND PARTY** to use information derived during the preceding 12 months from the conduct of performance improvement projects in addition to those conducted by an MCO or PIHP and validated by an EQRO. 42 CFR 438.358(c)(4).
- The **FIRST PARTY** may require the **SECOND PARTY** to conduct performance improvement projects in the preceding 12 months in addition to validating performance improvement projects conducted by an MCO, PIHP, PAHP, or PCCM entity in accordance with §438.358(b)(1)(i). 42 CFR 438.358(c)(4) 42 CFR 438.358(b)(1)(i) 42 CFR 438.310(c)(2).
- The **FIRST PARTY** may require the **SECOND PARTY** to conduct studies on quality in the preceding 12 months that focus on a particular aspect of clinical or nonclinical services at a point in time for each MCO, PIHP, PAHP, and PCCM entity. 42 CFR 438.358(c)(5), 42 CFR 438.310(c)(2).
- The **FIRST PARTY** may require the **SECOND PARTY** to assist with the quality rating of MCOs, PIHPs, and PAHPs in the preceding 12 months consistent with the Medicaid managed care quality rating system requirements. 42 CFR 438.358(c)(6) 42 CFR 438.334.

NINTH: The **SECOND PARTY** is bound by the Administrative Policies established by the **FIRST PARTY** and it cannot change or act against said policies, without prior approval and permission from the **FIRST PARTY**.

TENTH: REMEDIES FOR BREACH, NEGLIGENCE OR ABANDONMENT: In any case where the **FIRST PARTY** deems that the **SECOND PARTY** is in breach of the terms of this contract and/or has acted negligently and/or abandoned its duties and/or obligations under this contract, the **FIRST PARTY** will serve notice to the **SECOND PARTY** describing the nature of the breach, negligence, and/or abandonment and giving the **SECOND PARTY** a period of 10 (ten) labor days to cure the same.

If the **SECOND PARTY** is in breach under any provision of this Contract and/or if the **FIRST PARTY** understands that the **SECOND PARTY** has acted negligently and/or abandoned its duties and/or obligations under this contract and the **SECOND PARTY** fails to cure the same following the notice and cure period set forth in this section, the **FIRST PARTY** shall have all of the remedies listed in this section, in addition to all other remedies set forth in this Contract or at law. The **FIRST PARTY** may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

a. Termination for Breach, Negligence and/or Abandonments

In the event of the **SECOND PARTY's** uncured breach, negligence or abandonment, the **FIRST PARTY** may terminate this entire Contract or any part of this Contract without being subject to this contract's **RESOLUTION CLAUSE**. The **SECOND PARTY** shall continue performance of this Contract to the extent not terminated, if any.

b. Obligations and Rights

To the extent specified in any termination notice, the **SECOND PARTY** shall not incur further obligations or render further performance past the effective date of such notice and, shall terminate outstanding orders and subcontracts with third parties. However, the **SECOND PARTY** shall complete and deliver to the **FIRST PARTY** all work not cancelled by the termination notice and, may incur obligations as necessary to do so within this Contract's terms. At the request of the **FIRST PARTY**, the **SECOND PARTY** shall assign to the **FIRST PARTY** all of the **SECOND PARTY's** rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, the **SECOND PARTY** shall take timely, reasonable and, necessary action to protect and preserve property in the possession of the **SECOND PARTY** but in which the **FIRST PARTY** has an interest. At the **FIRST PARTY's** request, the **SECOND PARTY** shall return materials owned by the **FIRST PARTY** in the **SECOND PARTY's** possession at the time of any termination. The **SECOND PARTY** shall deliver all completed work product and all work product that was in the process of completion to the **FIRST PARTY** at the **FIRST PARTY's** request.

c. Payments

Notwithstanding anything to the contrary, the **FIRST PARTY** shall only pay the **SECOND PARTY** for accepted work received as of the date of termination. If, after termination by the **FIRST PARTY**, the **FIRST PARTY** agrees that the **SECOND PARTY** was not in breach or that the **SECOND PARTY's** action or inaction was excusable, such termination shall be treated as a termination in the public interest, and the rights and obligations of the Parties shall be as if this Contract had been terminated in the public interest.

d. Damages and Withholding

Notwithstanding any other remedial action by the **FIRST PARTY**, the **SECOND PARTY** shall remain liable to the **FIRST PARTY** for any damages sustained by the **FIRST PARTY** in connection with any breach by the **SECOND PARTY**, and the **FIRST PARTY** may withhold payment to Contractor for the purpose of mitigating the **FIRST PARTY's** damages until such time as the exact amount of damages due to the **FIRST PARTY**. The **FIRST PARTY** may withhold any amount that may be due to the **SECOND PARTY** as the **FIRST PARTY** deems necessary to protect the **FIRST**

PARTY against loss including, without limitation, loss as a result of outstanding liens and excess costs incurred by the **FIRST PARTY** in procuring from third parties replacement work as cover.

e. Remedies Not Involving Termination

The **FIRST PARTY**, in its discretion, may exercise one or more of the following additional remedies:

- i. Suspend Performance
Suspend the **SECOND PARTY's** performance with respect to all or any portion of the work pending corrective action as specified by the **FIRST PARTY** without entitling the **SECOND PARTY** to an adjustment in price or cost or an adjustment in the performance schedule. The **SECOND PARTY** shall promptly cease performing work and incurring costs in accordance with the **FIRST PARTY's** directive, and the **FIRST PARTY** shall not be liable for costs incurred by the **SECOND PARTY** after the suspension of performance.
- ii. Withhold Payment
Withhold payment to the **SECOND PARTY** until the **SECOND PARTY** corrects the issues included in the notice.
- iii. Deny Payment
Deny payment for work not performed, or that due to the **SECOND PARTY's** actions or inactions, cannot be performed or if they were performed are reasonably of no value to the **FIRST PARTY**, provided that any denial of payment shall be equal to the value of the obligations not performed.
- iv. Removal
Demand immediate removal of any of the **SECOND PARTY's** employees, agents, or subcontractors from the work whom the **FIRST PARTY** deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Contract is deemed by the **FIRST PARTY** to be contrary to the public interest or the State's best interest.
- v. Intellectual Property
If any work infringes, or if the **FIRST PARTY** in its sole discretion determines that any work is likely to infringe, a patent, copyright, trademark, Trade Secret or other intellectual property right, the **SECOND PARTY** shall, as approved by the **FIRST PARTY** (i) secure that right to use such work for the **FIRST PARTY** and the **SECOND PARTY**; (ii) replace the work with non-infringing work or modify the work so that it becomes non-infringing; or, (iii) remove any infringing work and refund the amount paid for such work to the **FIRST PARTY**.

The **FIRST PARTY** reserves the right to terminate this contract without prior notice or approval, in any case the **FIRST PARTY** deems that the **SECOND PARTY** has acted negligently and/or abandoned its duties and/or obligations under this contract. The **SECOND PARTY's** negligence and abandonment would be considered just cause for the termination of this contract without being subject to this contract's **RESOLUTION CLAUSE**, and the **SECOND PARTY's** actions or omissions will relieve the **FIRST PARTY** from any obligation to the **SECOND PARTY** or any other

party affected by the **SECOND PARTY's** actions. The **SECOND PARTY** will finish all pending matters and jobs at the time of the contract termination without the **FIRST PARTY** incurring in any responsibility to pay for any additional amounts concerning pending matters or jobs.

ELEVENTH: DISCRIMINATION IN RENDERING OF SERVICES: The **SECOND PARTY** pledges to abstain from discriminatory practices in the provision of the services, for reasons of a political or religious nature, race, social status, sex, age, nationality, as well as physical or mental limitations or for sexual orientation or gender identity.

The **SECOND PARTY** shall at all times during the execution of this Contract strictly adhere to, and comply with, all applicable federal and state laws, and their implementing regulations, as they currently exist and may hereafter be amended, which are incorporated herein by this reference as terms and conditions of this Contract. The **SECOND PARTY** shall also require compliance with these statutes and regulations in subcontracts and subgrants permitted under this contract. The federal laws and regulations include but are not limited to:

Table 15: Subcontracts and Subgrants Statutes and Regulations

Age Discrimination Act of 1975, as amended	42 U.S.C. 6101, et seq.
Age Discrimination in Employment Act of 1967	29 U.S.C. 621-634
Americans with Disabilities Act of 1990 (ADA)	42 U.S.C. 12101, et seq.
Equal Employment Opportunity	E.O. 11246, as amended and as supplemented by 41 C.F.R. Part 60
Equal Pay Act of 1963	29 U.S.C. 206(d)
Immigration Reform and Control Act of 1986	8 U.S.C. 1324b
Section 504 and 508 of the Rehabilitation Act of 1973, as amended	29 U.S.C. 794
Title VI of the Civil Rights Act of 1964, as amended	42 U.S.C. 2000d, et seq.
Title VII of the Civil Rights Act of 1964	42 U.S.C. 2000e

TWELFETH: INTELLECTUAL PROPERTY: BOTH PARTIES agree that any work, report and/or product resulting from the services provided by the **SECOND PARTY**, including but not limited to studies, research, consultations, or any other shape or form that they may take, will always be the personal and intellectual property of the **FIRST PARTY**. The **FIRST PARTY** will not be obligated to pay any monetary amount in addition to the payment specified in the **FOUR** Clause of this contract nor it would be in any obligation to the **SECOND PARTY** as a result of any intellectual rights, services and work performed including, but not limited to studies, research, consultations, or any other shape or form that they may take. The **FIRST PARTY** is also authorized and has the full right to give the aforementioned work product the official use it deems necessary.

The **SECOND PARTY** may not use work, reports and/or products resulting from services rendered in this contract for any other purposes other than the ones stated in this contract or authorized by the **FIRST PARTY**.

THIRTEENTH: VALIDITY AND DURATION: This contract will be effective from the day it is signed by both the **FIRST PARTY** and the **SECOND PARTY** and will be effective until **two years from the day of both parties' signatures**. This Contract may be extended up to five (5) years with no single extension exceeding one (1) year, by the mutual written consent of **BOTH PARTIES** at the same terms, conditions, and pricing at the rates proposed in the RFP process in which the **SECOND PARTY** was selected.

FOURTEENTH: RESOLUTION: This contract may be dissolved prior to its termination date by any of the **TWO PARTIES**, through written notification to the **OTHER PARTY**, with thirty (30) days previous notice from the date of the intended dissolution, with no additional obligations from either **PARTY**.

The insufficiency of funds shall be just cause for the immediate termination or modification of the Compensation clause of this contract.

An infraction or failure to comply with the following conditions by the **SECOND PARTY** shall construe just cause for the termination of this contract by the **FIRST PARTY**, and the **FIRST PARTY** shall not be liable for any obligations or responsibilities under this contract:

1. The infringement or infringements by the **SECOND PARTY** of Act No. 1 of January 3, 2012, as amended, known as the Puerto Rico Government Ethics Act.
2. The negligent performance by the **SECOND PARTY** of his responsibilities, or the abandonment of such responsibilities.
3. The noncompliance by the **SECOND PARTY** of the regulations and procedures established by the **FIRST PARTY**.
4. The conviction or the determination of probable cause for the arrest against the **SECOND PARTY** for the commission of a crime or offence against public treasury or government administration or that involves public funds or properties, be it in the federal or state levels.
5. If the **SECOND PARTY** incurs in acts in violation of public policy legislation, such as sexual harassment, discrimination, and use and abuse of controlled substances.
6. If the **SECOND PARTY** is accused, administratively or criminally, or convicted, of the fraudulent acquisition of any credentials.
7. If the **SECOND PARTY** loses his professional license or does not maintain his professional license up to date.
8. If the **SECOND PARTY** *has the* State and federal License for prescription Drug Enforcement *revoked* or rescinded during the term of this contract.
9. Cancellation or modification of the professional liability policy of the **SECOND PARTY**.
10. The **FIRST PARTY** may terminate this contract immediately if, in its sole discretion it, determines that the **SECOND PARTY** has incurred in a violation of the privacy, confidentiality and security agreements regarding the use and disclosure of protected health information of patients of the **FIRST PARTY**. The failure to notify to the **FIRST PARTY** of any violation in the management of the PHI (Protected Health Information) by the **SECOND PARTY**, his associates or subcontractors, shall be the cause for termination of this contractual agreement. The **FIRST PARTY** reserves the right to refer

to the federal Department of Health and Human Services of any unsolved violations of the **SECOND PARTY**.

11. Failure to comply with the necessary professional credentials requirement issued by the pertinent Accrediting Board, in order to fulfill the obligations herein contracted.
12. The noncompliance with any clause of this contract shall be sufficient grounds for immediate termination of the contract.
13. The Governor's Chief of Staff will have the power to terminate this Contract at any moment during its term.

It is expressly agreed upon that the **SECOND PARTY** shall complete any work pending at the time of dissolution without the **FIRST PARTY** being obligated to pay or additionally compensate **SECOND PARTY**.

FIFTEENTH: MONETARY INTEREST:

_____ The **SECOND PARTY** certifies that to the best of its knowledge, no official or employee of the **SECOND PARTY**, nor any member of their family unit has, directly or indirectly, a pecuniary interest in this contract.

_____ The **SECOND PARTY** certifies that to the best of its knowledge, no official or employee of the **DEPARTMENT OF HEALTH** has had during the preceding two (2) years before occupying his current position, any direct or indirect pecuniary interest in this contract.

_____ The **SECOND PARTY** certifies that to the best of its knowledge, there is no family relationship with any of its partners, officials or employees that has decision-making authority or influence or participation in the institutional decision-making process of the **FIRST PARTY**.

_____ The **SECOND PARTY** certifies that one or some of its officers, directors or employees have a family relation with an official or employee of the **FIRST PARTY** but the Government Ethics Office issued a waiver. The **SECOND PARTY** is hereby obligated to inform of any family relationship and name and place of work of said officer or employee, as expressly established in the certification. Copy of the certification and waiver are made part of this contract.

The **FIRST PARTY** certifies that, to the best of its knowledge, no employee or official of the **DEPARTMENT OF HEALTH** or any member of their family unit has, directly or indirectly, any pecuniary interest in this agreement and that no official or employee of the Executive Branch of the government of the Commonwealth of Puerto Rico has any interest in the earnings and benefits resulting from this contract.

SIXTEENTH: INTERPRETATION: This contract will always be subject to the Laws and Regulations of the Commonwealth of Puerto Rico and will be interpreted accordingly. If any of the clauses, paragraphs, sentences, words or parts of this contract is declared invalid or unconstitutional by a court of law, the remaining provisions, paragraphs, sentences, words or parts of this contract shall continue in effect to ensure the intent of the contracting parties, which may be interpreted in accordance with the applicable provisions of the Civil Code of Puerto Rico and the laws governing the contracting parties with the Commonwealth of Puerto Rico.

SEVENTEENTH: FORMER GOVERNMENT EMPLOYEES:

_____ The **SECOND PARTY** certifies that to the best of its knowledge none of its partners, officers and/or directors have been public servants.

_____ The **SECOND PARTY** certifies that to the best of its knowledge more than two (2) years have passed from the termination of the functions of some of its partner(s) and/or incorporators as a public servant and that he/she has not offered information, intervened, cooperated, assessed in any way or represented directly or indirectly any natural person, legal person or public entity before the agency he/she worked, according to the provisions of Section 4.6 of the Governmental Ethics Act, Act Number 1 of January 3rd, 2012.

_____ The **SECOND PARTY** certifies that not more than two (2) years have elapsed since the end of duties as public servant of one or more of its partners, officers or directors and/or one or more of its partners, officers or directors continue rendering services as a public servant. Notwithstanding these facts, services rendered were performed under the provisions of the Political Code of 1902, as amended, Article 177 (3 L.P.R.A. §551) which exempts doctors, dentists, pharmacists, dental assistants, nurses, trainees, x-ray technicians and laboratory personnel from this double compensation prohibition for those who have been public servants with any of Commonwealth of Puerto Rico's instrumentalities or its municipalities.

_____ The **SECOND PARTY** certifies that not more than two (2) years have passed from the termination of the functions of one or some of its officers, directors and/or partners as public servants, nevertheless *ad honorem* services were being according to the provisions of Section 4.6 of the Governmental Ethics Act, Act Number 1 of January 3, 2012.

_____ The **SECOND PARTY** certifies that one or some of its officers, director and/or partners have been public servants for the **FIRST PARTY**, and that not more than two (2) years have passed from the termination of the functions.

In the event of exceptional circumstances and at the sole discretion of the Office of Governmental Ethics, it may issue a waiver, if contracting the former public servant within the two (2) year period results in benefit for the public service.

EIGHTEENTH: CRIMES AGAINST THE PUBLIC TREASURY:

The **SECOND PARTY** certifies that neither it or its shareholders, partners, officials, principal, employees, subsidiaries or its parent company has been convicted or found with probable cause for arrest for any crime against the public treasury, the public faith and duty, nor one that involves public property or funds, whether state or federal.

The **SECOND PARTY** acknowledges its obligation to inform, on a continuous basis and while this contract is on effect, of any circumstance related with the status of an ongoing investigation based on a commission of a crime against the public treasury, the public faith and duty, against government execution or that involves public property or funds, whether state or federal.

The **SECOND PARTY** certifies that 10 years prior to the formalization of this contract, it has not been involved in the commission of any crime against the public treasury, the public faith and duty, or one that involves public property or funds, whether state or federal.

NINETEENTH: CONFIDENTIALITY: The **SECOND PARTY** agrees to maintain in strict confidentiality and shall not make public all the **SECOND PARTY's** disclosed information related to the services to be rendered under this contract.

TWENTIETH: AUDITS: The **SECOND PARTY** agrees to make viable any audits that the **FIRST PARTY** and/or the Office of the Comptroller of Puerto Rico may deem necessary and, accordingly, it must:

1. Maintain available for examination by the **FIRST PARTY** or the Office of the Comptroller of Puerto Rico at all times, all files, documents, books and data pertaining to all matters covered by this contract.
2. Preserve all files and any other document pertaining to this contract for a period of six (6) years after the expiration of this contract. If an audit has been started and it has not been completed at the end of the six (6) years, the files must be preserved until the final results of the audit are issued.

TWENTY-FIRST: The services to be provided by the **SECOND PARTY** under this contract shall not be transferable without previous notice and approval of the **FIRST PARTY**. Their delegation to other parties will be just cause for the immediate termination of this contract. The **SECOND PARTY** will be responsible for any direct or indirect damages or detriment which might be caused to the **FIRST PARTY** because of the breach of this clause.

TWENTY-SECOND: INSURANCE POLICIES: The **SECOND PARTY** will maintain in force during the period of this Agreement the following insurance policies:

1. Commercial General Insurance with limits set by PMRP insurance and risks experts.
2. Commercial Auto Liability with limits set by PMRP insurance and risks experts.
3. Professional Liability Insurance with limits set by PMRP insurance and risks experts.

The policies must have the following endorsements:

- Naming the **DEPARTMENT OF HEALTH** of Puerto Rico, as an additional insured.
- Including the Hold Harmless Agreement.
- Policies cannot be cancelled or modified without providing thirty (30) days prior written notice to the **DEPARTMENT OF HEALTH**, Office of Insurance and Risks ("Oficina de Seguros y Riesgos"), P. O. Box 70184, San Juan, Puerto Rico 00936-8184.

Copy of all policies will be part of this Agreement's file.

TWENTY-THIRD: RESPONSIBILITY FOR TORT DAMAGES: The **SECOND PARTY** will be responsible for any damages and injuries caused by the negligent handling or the abandonment of the responsibilities under this contract and, will thus exempt the **FIRST PARTY** from any obligation or responsibility from such actions.

TWENTY-FOURTH: INCOME TAX CERTIFICATION:

_____The **SECOND PARTY** certifies and warrants that it has fulfilled its income tax obligations and does not have any tax debts with the Commonwealth of Puerto Rico for the past five (5) years prior to the signing of this contract. It further certifies that it has no outstanding debts with the government, such as any income tax debts, excise taxes, real estate or property taxes, including any special liens, license rights, payroll source taxes payment withholdings, interest income, dividend income, annuities income, salaries and any other income for any other concept.

OR

_____The **SECOND PARTY** certifies and warrants that, at the time of executing this contract, it has filed its tax declarations for the five (5) previous years, and that it has adhered to an installment repayment agreement, and that it is complying with its terms and conditions. **Copy of the Payment Plan or Plans shall be included and made part of this contract.**

OR

_____The **SECOND PARTY** certifies that at the time of entering into this contract, it has NOT submitted its tax declaration for some of the tax periods within the five (5) years prior to this contract, and that it does not owe any taxes to the Commonwealth of Puerto Rico. The **SECOND PARTY** also certifies that it does not owe any taxes, in the form of income taxes, sales taxes, real and personal property taxes, including any special liens, license rights, dividends, rents, salaries and other fees owed for any other reason.

AND

The **SECOND PARTY** shall submit, in original format, a Department of the Treasury's Income Tax Return Filing Certification, Form SC 6088, if pertinent, a Manual Correction to the Income Tax Return Filing Certification (Form SC 2888) and Tax Return Filing Certification (Form SC 6096), and the Center for Municipal Revenue Collection (CRIM) Certification of Property Tax Payment. In the event the **SECOND PARTY** does not own property, and does not pay property taxes, the **SECOND PARTY** shall submit a sworn statement, pursuant to the requirements of terms on Circular Letter 1300-16-16 of the Department of the Treasury, and a Debt Certification for all concepts that are part of this contract.

The **SECOND PARTY** also agrees to submit with its last invoice, Form SC-6096, a Debt Certification issued by the Department of the Treasury. The **SECOND PARTY** accepts and acknowledges that the last payment under this contract shall only be issued if the Debt Certification states that the **SECOND PARTY** owes no debts to the Department of the Treasury. In the event of debt, the **SECOND PARTY** agrees to cancel such debt through withholdings on the payments due to him for services rendered under this contract.

In fulfillment with Section VII, General Provisions, Item F of Circular Letter 1300-16-16 of January 19th, 2016 from the Commonwealth of Puerto Rico Department of the Treasury, which provides that when the cost of a contract does not exceed the amount of \$16,000.00, the **SECOND PARTY** shall certify that it has fulfilled all of its tax responsibilities or in the case of an existing tax debt, it is currently subscribed to a payment plan which terms and conditions are being met and shall not be required to present to the **FIRST PARTY** any documents required under the aforementioned Circular Letter.

It is expressly accepted that these are essential conditions of this contract, and if the above certification is not accurate in any or all of its parts, this may construe sufficient grounds for the annulment of this contract by the **FIRST PARTY**, and for the **SECOND PARTY** to be liable for the reimbursement of all sums of money paid under this contract.

TWENTY-FIFTH: CERTIFICATION OF SALES AND USE TAX - SUT:

_____ The **SECOND PARTY** certifies and warrants that at the time of this contract's execution it has filed its monthly return of the sales and use tax - SUT during the five (5) years prior to this contract and that it does not owe taxes to the Commonwealth of Puerto Rico.

OR

_____ The **SECOND PARTY** certifies and warrants that at the time of this contract's execution it has filed its monthly tax return during the five (5) years prior to this contract and that is subject to a payment plan with the terms and conditions being met. Copy of the Payment Plan or Plans, are part of the file of this contract.

OR

_____ The **SECOND PARTY** certifies that at the time of this contract's execution it is NOT required to file any monthly tax return as a Withholding Agent of the SUT.

OR

_____ The **SECOND PARTY** certifies that it has no obligation to file the monthly or annual tax return on sales and use IVU and / or the monthly or annual import tax return because it is considered a non-withholding agent at the time of signing this contract.

AND

The **SECOND PARTY** shall submit an original of the Department of the Treasury "Certification of Filing of the Return of Sales and Use Tax – SUT" (Form SC 2942), "Certification of Debt of the Sales and Use Tax" (Form SC 2927) in compliance with the requirements stated in Circular Letter 1300-16-16 issued by the Department of the Treasury.

The **SECOND PARTY** also undertakes to submit, with its latest invoice, Model SC-2927, IVU Debt Certification issued by the Department of the Treasury. The **SECOND PARTY** accepts and acknowledges that the last payment to be made under the contract will only be processed if the Debt Certification indicates that the **SECOND PARTY** has no debt with the Department of the Treasury. If there is debt, the **SECOND PARTY** undertakes to cancel it by withholding the payments to which it is entitled to receive for the services that are the object of this contract.

In fulfillment with Section VII, General Provisions, Item F of Circular Letter 1300-16-16 of January 19th, 2016 from the Commonwealth of Puerto Rico Department of the Treasury, which provides that when the cost of a contract does not exceed the amount of \$16,000.00, the **SECOND PARTY** shall certify that it has fulfilled all of its tax responsibilities or in the case of an existing tax debt, it is currently subscribed to a payment plan which terms and conditions are being met and shall not

be required to present to the **FIRST PARTY** any documents required under the aforementioned Circular Letter.

It is expressly acknowledged that these are essential conditions to this contract, and if the aforementioned certification is not correct at all, or in part, it shall be sufficient cause for the **FIRST PARTY** to cancel the contract and the **SECOND PARTY** shall have to repay to the **FIRST PARTY** any sum of money received under this contract.

TWENTY-SIXTH: CONFLICT OF INTERESTS:

The **SECOND PARTY** acknowledges that in the fulfillment of its professional functions it has the duty to be completely loyal to the **FIRST PARTY**, a duty that includes not having any interests that run counter to those of the **FIRST PARTY**. These conflicting interests include the representation of clients who have or might have interests that conflict with those of the **FIRST PARTY**. This duty also includes the unceasing obligation to keep the **FIRST PARTY** fully informed regarding its relationship with its clients and other third parties, and about any interest that might have an influence on the **FIRST PARTY** at the moment of awarding the contract or while the contract is in force.

The **SECOND PARTY** certifies that it is not representing, nor will it represent, while this contract is in force, any private interests in cases or matters involving conflicts of interest, or of public policy, against the **FIRST PARTY**.

The **SECOND PARTY** represents conflicting interests when, in order to benefit a client, it has the duty to promote or advance something which, in fact, it should oppose in the fulfillment of its duty toward another previous, present or potential client. It also represents conflicting interests when its behavior is so described in the ethical standards that are generally accepted in its profession, or in the laws and regulations of the Commonwealth of Puerto Rico.

In the matter of contracts with societies and companies, the fact that one of its managers, associates or employees incurs in the conduct described here will constitute an infringement of the ethical clause. The **SECOND PARTY** will avoid even the impression that a conflict of interest exists.

The **SECOND PARTY** acknowledges the investigatory and supervisory powers of the **FIRST PARTY's** head concerning the restrictions included here. If the **FIRST PARTY's** head concludes that interests that run counter to those of the **FIRST PARTY** are present or taking shape he will send a written report to the **SECOND PARTY**, detailing his or her findings and expressing his intention to annul the contract within a period of thirty (30) days. Within that time span the **SECOND PARTY** may request a meeting with the **FIRST PARTY's** head, in order to present its points of view regarding the determination of conflict of interest; the request will always be granted. If there is no request of a meeting within those thirty (30) days, or in case no agreement is reached in the meeting, this contract will be declared null and void.

TWENTY-SEVENTH: CERTIFICATION BY THE CHILD SUPPORT ADMINISTRATION:

The **SECOND PARTY** shall submit to the **FIRST PARTY** a certification of compliance issued by the Child Support Administration ("ASUME", for its acronym in Spanish).

This certification is issued to legal entities (companies, corporations, LLCs) to verify compliance with any orders issued to them as employers for salary retention for payment of child support obligations of its employees.

TWENTY-EIGHTH: CERTIFICATION BY THE CENTER FOR COLLECTION OF MUNICIPAL REVENUES:

The **SECOND PARTY** shall submit to the **FIRST PARTY** a negative debt certification issued by the Center For Collection Of Municipal Revenues ("CRIM", for its Spanish language acronym) or to the effect that the **SECOND PARTY** is complying with a payment plan for any accrued debt.

TWENTY-NINTH: COMPLIANCE WITH ACT NUMBER 168 OF AUGUST 12, 2000:

_____ The **SECOND PARTY** certifies and warrants that it is obliged to comply with the provisions of Act No. 168 of August 12, 2000, known as the "Act for the Enhancement to the Support of the Elderly in Puerto Rico", by which the Program for the Support of the Elderly is established and ascribed to the Child Support Enforcement Administration ("ASUME", for its acronym in Spanish), the breach of this clause shall result in immediate termination of this contract.

It is expressly acknowledged that the aforementioned certification is an essential condition to this contract, and if it is not accurate at all, or in part, it shall be sufficient cause for the **FIRST PARTY** to terminate the contract and the **SECOND PARTY** shall have to refund to the **FIRST PARTY** any sum of money received under this contract.

_____ The **SECOND PARTY** certifies and warrants that it is not required to comply with the provisions of Act No. 168 of August 12, 2000, known as the "Act for the Enhancement to the Support of the Elderly in Puerto Rico", by which the Program for the Support of the Elderly is established and ascribed to the ASUME, the breach of this clause shall result in immediate termination of this contract.

It is expressly acknowledged that the aforementioned certification is an essential condition of this contract, and if it is not accurate at all, or in part, it shall be sufficient cause for the **FIRST PARTY** to terminate the contract and the **SECOND PARTY** shall have to refund to the **FIRST PARTY** any sum of money received under this contract.

THIRTIETH: CERTIFICATION REGARDING DEPARTMENT OF LABOR AND HUMAN RESOURCES MATTERS: The **SECOND PARTY** certifies and warrants that at the moment of executing this contract it has paid:

_____ Unemployment Insurance

_____ Temporary Disability

_____ Chauffeur's Insurance

It is hereby acknowledged that this is an essential condition for the execution of the contract, and if the previous certification is not correct, in all or in part, shall be sufficient cause for the contracting party to set aside this contract and the **SECOND PARTY** having to reimburse to the **FIRST PARTY** all sums of money received under this contract.

THIRTY-FIRST: ANTI-CORRUPTION CODE FOR THE NEW PUERTO RICO:

The **SECOND PARTY** certifies knowing and complying with the ethical provisions established in Act Number 2 of January 4, 2018, known as the “Anti-Corruption Code for the New Puerto Rico.

THIRTY-SECOND: COMPLIANCE WITH THE FEDERAL HEALTH INSURANCE AND PORTABILITY AND ACCOUNTABILITY ACT OF 1996:

A. The federal law, Health Insurance Portability and Accountability Act of 1996 (known by its acronym, “HIPAA”) and its Privacy and Security Rule require that any entity that is covered by this statute trains its employees and establish policies and procedures related to provisions as to privacy, confidentiality and information security requirements regarding patient health information, whether that information is created, stored, managed, accessed or transmitted either on paper or by electronic means.

B. HIPAA defines ‘labor force’ as those regular employees, independent contractors, transitory employees, volunteers, students, interns and any person who works in the area assigned by the **FIRST PARTY**, whether or not that person is compensated for work performed.

C. The **SECOND PARTY** is part of that labor force and as such, is subject to complying with the policies and procedures established by the **FIRST PARTY** relative to HIPAA compliance and its accompanying regulations. As such, the **SECOND PARTY** shall:

i. Be trained on said law, its Privacy Rule, Codes Transactions and Identifiers and its Security Rule regarding PHI that is accessed, created, maintained or transmitted through electronic means (ePHI).

ii. Learn about and comply with the requirements established in the **FIRST PARTY’S** Policies and Procedures Regarding Privacy and Security Practices.

iii. Immediately report to the **FIRST PARTY**, in writing, any PHI use and/or disclosure which do not comply with the terms of this contract as detailed in 45 C.F.R. § 164.504(e)(2)(ii)(C).

iv. The **SECOND PARTY** shall ensure that any agent(s) or subcontractor(s) agree, in writing, to the same conditions and restrictions that apply to the **SECOND PARTY** regarding the privacy of said information as detailed in 45 C.F.R. § 164.502 (e)(1)(ii), § 164.504(b)(2) and §164.504(e)(2)(ii)(D).

v. If the **SECOND PARTY** has to disclose PHI to third parties, in order to comply with the terms and conditions of this contract as well as its duties and responsibilities, before disclosing any PHI, the **SECOND PARTY** will obtain assurances from the third party that the information will remain confidential and secure, that it will only be disclosed as Required By Law and only for the purposes for which it was provided, and that it will immediately notify the **FIRST PARTY** of any

known confidentiality violations. 45 C.F.R. §164.504(e)(2)(i), §164.504(e)(2)(i)(B), §164.504(e)(2)(ii)(A) and §164.504(e)(4)(ii).

vi. Comply with the HIPPA requirements that apply to participants regarding their PHI rights as established in 45 C.F.R. §164.524, provide designated record sets to the **FIRST PARTY** as developed during the course of furnishing healthcare services as required by 45 C.F.R. § 164.524.

vii. Comply with all the **FIRST PARTY's** policies regarding the protection of privacy, confidentiality, and security of patient PHI, whether this information is on paper or stored in electronic media. Comply with federal regulations regarding the management and custody of PHI relative to administrative, physical and technical requirements as required by 45 C.F.R. § 164-308, 164.310, 164.312 and 164.316.

D. With regards to shared PHI between the **PARTIES**, the **SECOND PARTY** will be required to maintain the following PHI managing standards:

1. Maintain systems that protect PHI, either through physical or electronic means, from unauthorized access and maintain compliance with the HIPAA electronic security rules, including but not limited to, electronic risk analysis.

2. Previous written request to the **FIRST PARTY**, to allow access to the PHI owner individual to his/her health information, in compliance with the **FIRST PARTY's** policies that only the minimum necessary information be disclosed with any PHI request.

3. Maintain a registry of shared PHI, with access to the **FIRST PARTY**, as required by 45 C.F.R. § 164.528.

4. Immediately inform the **FIRST PARTY** of any unauthorized use or disclosure as soon as it has knowledge.

5. Require that any subcontractor or agent follow the restrictions and conditions that are applicable to the **FIRST PARTY** in the management of PHI, including electronic medical information. The **SECOND PARTY** shall, upon request from the **FIRST PARTY**, share the flow-down process undertaken with contractors in the management of PHI.

6. Incorporate any amendment to the individual information that is transmitted by the **FIRST PARTY**.

7. Make available for inspection by DHHS personnel its internal practices, books and records related to the use and disclosure of PHI received from the **FIRST PARTY**.

8. The **SECOND PARTY** shall make available to DHHS personnel, Inspectors General, the Comptroller General of the United States, and the pass through entity or any authorized representatives, the right to access any documents, papers, or other records as required to make audits, examinations, excerpts, and transcripts. The **SECOND PARTY** must also ensure timely and reasonable access to personnel for the purposes of interviews and discussion related to such documents.

9. The **SECOND PARTY** shall adhere to the auditing and quality oversight process as defined by the **FIRST PARTY**. Auditing and quality oversight activities may include but are not limited to systems test, assessments, performance reviews, on-site audits, and regular reports submitted by the **SECOND PARTY**. Additionally, the Contractor shall not restrict the **FIRST PARTY**, DHHS, or the Federal Government from conducting whatever inspections and audits are necessary to help assure quality appropriateness or timeliness of services and reasonableness of their cost.

10. The **SECOND PARTY** shall return to the **FIRST PARTY**, all the PHI that it possesses upon contract termination.

11. The **SECOND PARTY** will be responsible for maintaining the security and integrity of the **FIRST PARTY's** patients' information, in particular the information that is shared through mobile electronic devices. Therefore, the **SECOND PARTY** shall be obligated to comply with the following requirements:

a. The management of PHI by electronic means of the **FIRST PARTY's** patients, the **FIRST PARTY's** programs, clinics, hospitals and other direct service areas, shall be done through the equipment provided by the **FIRST PARTY**.

b. The management of PHI through other mobile methods is limited to extreme circumstances in which its exchange is necessary to preserve the health and security of the patients and when the communication is between duly authorized healthcare professionals by the Covered Entity that is sharing the PHI. In these circumstances, the information to be shared will be identified in such manner that it does not identify the patient receiving health services.

c. In any other case, the exchange, possession and/or use of PHI under the custody of the Department of Health and its employees through the use of electronic means is prohibited, such as:

- i. Cell phones.
- ii. Portable computers (when their use is outside of the **FIRST PARTY's** premises and/or the device does not have encryption capabilities, acceptable to the **FIRST PARTY**) or any other portable electronic device
- iii. Flash drives
- iv. Portable discs
- v. Any other method of information exchange that is not authorized by the **FIRST PARTY**

E. The **SECOND PARTY** shall be responsible for the requirements listed in subpart C of 45 C.F.R. § 164 relative to compliance with Electronic PHI (ePHI). The **SECOND PARTY** shall immediately inform the **FIRST PARTY** as soon as it has knowledge regarding the use or disclosure of any electronic security incident where the PHI of program participants may be compromised as required by 45 C.F.R. § 164.410. Any expense generated because of the violation of PHI or ePHI management requirements shall be the responsibility of the **SECOND PARTY**.

F. The **SECOND PARTY**, at its own expense, shall be responsible for notifying each patient and participant that an electronic security breach has occurred that affects or compromises their PHI, and will proceed to report the incident to the U.S. Department of Health and Human Services Office of Civil Rights in compliance with the Health Information Technology for Economic and Clinical Health Act, and the Genetic Information Nondiscrimination Act, and will report to the **FIRST PARTY** of all activities undertaken to resolve the incident. Additionally, the **SECOND PARTY** shall file a report with the **FIRST PARTY's** HIPAA Office.

G. If the **SECOND PARTY** does not comply with the standards established under HIPAA and its regulations or the Government of Puerto Rico privacy, confidentiality, and security laws, it will be exposed to sanctions from the Department of Health and Human Services and its contract could be terminated immediately. The **FIRST PARTY** reserves the right to terminate this contract in accordance with the termination clause.

H. The **SECOND PARTY** recognizes that if a violation of federal law has taken place, its regulations, as well as the Government of Puerto Rico law regarding the management of confidential information, it will be responsible for the payment of any fines that may be imposed by the U.S. Department of Health and Human Services.

I. If the **SECOND PARTY's** personnel who are rendering services under this contract, do not comply with the standards established under the HIPAA and its regulations, the Government of Puerto Rico laws and regulations that protect the privacy, confidentiality, and security of PHI and Privacy, Confidentiality and Security Policies and Procedures, these can be sanctioned and this contract could be terminated immediately.

J. The **SECOND PARTY** ensure that financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to this award are retained for a period of three years from the date of submission of the final expenditure report or, if this contract is renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report.

THIRTY-THIRD: PUBLIC POLICY COMPLIANCE: If the **SECOND PARTY** incurs in any conduct that contravenes with legislation and/or Public Policy for the protection and prohibition of Sexual Harassment, Discrimination of Any Kind, Use and/or Abuse of Controlled Substances, this contract shall be deemed terminated immediately.

THIRTY-FOURTH: COMPLIANCE WITH ACT NUMBER 127 OF MAY 31, 2004: **BOTH PARTIES** acknowledge and accept that none of the obligations and stipulations in this contract are enforceable until this contract is dully presented and registered by the Comptroller of the Commonwealth of Puerto Rico as per Act Number 18 of October 30, 1975, as amended, by Act Number 127 of May 31, 2004.

THIRTY-FIFTH: LITIGATION: The **SECOND PARTY** certifies that there is no ongoing civil or criminal action against the Puerto Rico Department of Health or any government agency, office or instrumentality at the moment of this contract signing.

THIRTY-SIXTH: SMOKE FREE WORKPLACE ENVIRONMENT: The **SECOND PARTY** hereby agrees to comply with the dispositions of Act No. 40 of August 3, 1993, as amended, known as

the “Law to Regulate Smoking in Public and Private Places” and with the regulations of the Secretary of Health and the Puerto Rico Police Department number 7304, as amended, which prohibits smoking in their facilities, including external and internal areas, both open and enclosed, among others.

THIRTY-SEVENTH: SUBCONTRACTING: The **SECOND PARTY** shall not subcontract with any private entity with the purpose of delegate the essential services object of this contract. The **SECOND PARTY** shall only subcontract for personal services and professional and consulting services with the only purpose to fulfill the essential services object of this contract. Under no circumstance **FIRST PARTY’s** consent to authorize such subcontracts shall be interpreted that the **FIRST PARTY** would incur in additional obligations as to the total compensation in dollars convened in this contract, or that the **SECOND PARTY** will be relieved of its responsibility for any damages that the subcontracted party would cause.

Any subcontracting the **SECOND PARTY** deem necessary to engage, not included on the allowed types of subcontracting, shall require **FIRST PARTY’s** written authorization. Every subcontract shall be subject to all special conditions established on this contract and to any additional condition the **FIRST PARTY** deem necessary for its approval, and to all law and regulations (state and federal) applicable to the contract originated and subscribed by the **FIRST PARTY** and the **SECOND PARTY**.

The **SECOND PARTY** shall ensure all subcontracts are in writing and fulfill the requirements of any part of this contract and attest understanding that no subcontract terminates the legal responsibility of the contract to the **FIRST PARTY** to help assure that all activities under this contract are carried out.

THIRTY-EIGHTH: FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) COMPLIANCE:

The **SECOND PARTY** agrees to provide all necessary documentation and to provide the **FIRST PARTY** evidence of having the Data Universal Numbering System (DUNS) number. In addition, the **SECOND PARTY** must be registered and have an active account in the System for Award Management (SAM). After receiving the aforementioned information, the **FIRST PARTY** will register the **SECOND PARTY** in the FFATA Sub-award Reporting System (FSRS) in order to comply with the Federal Funding Accountability and Transparency Act (FFATA).

THIRTY-NINTH: OTHER PROVISIONS:

_____The **SECOND PARTY** acknowledges that it renders services under contract for _____ and that the services provided under such contract do not enter in conflict in any way, with the services to be provided under the terms of this contract.

_____The **SECOND PARTY** acknowledges and agrees to comply with all applicable standards as defined in the 45 CFR Appendix II (G) and agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42.U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations to this

agreement must be reported to the **FIRST PARTY** and the Regional Office of the Environmental Protection Agency.

_____The **SECOND PARTY** acknowledges and agrees to comply with all applicable standards as defined in with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). 45 CFR 75 Appendix II(G) 42 U.S.C. 7401-7671q , 33 U.S.C. 1251-1387

_____The **SECOND PARTY** acknowledges and agrees to comply with all applicable standards as defined in the 45 CFR Appendix II (I) and outlined as part of the Byrd-Anti-Lobbying Amendment (31 U.S.C. 1352). Accordingly, the **SECOND PARTY** shall attest to complying with the following standards:

- Certification that each tier has not and will not use Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. 45 CFR 75 Appendix II(I)31 U.S.C. 1352.
- Disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal awardee. 45 CFR 75 Appendix II(I)31 U.S.C. 1352

_____The **SECOND PARTY** acknowledges and agrees to comply with all applicable standards as defined in the 45 CFR Appendix II (a), (b), and (H).

_____The **SECOND PARTY** acknowledges and agrees to comply with all applicable standards and privileges provided to the **FIRST PARTY** as defined in the 45 CFR§ 75.342 Monitoring and Reporting Program Performance.

_____The **SECOND PARTY** acknowledges and agrees to comply with all applicable standards and reporting requirements as defined in the 45 CFR§ 75.302(a)(b) Financial Management and Standards for Financial Management Systems. Furthermore, acknowledgment of this contractual requirement shall be an attestation of the **SECOND PARTY** financial management system's sufficiency in permitting the preparation of reports required by general and program-specific terms and conditions, and the financial managements system's ability to trace funds to a level of expenditures adequate to establish that such funds have been used according to Federal Status, regulations, and terms and conditions of this contract.

FORTIETH: ULTRAVIRES: IN ACCORDANCE WITH THE RULES OF LAW AND THE STANDARDS THAT GOVERN THE CONTRACTING OF SERVICES, THE PERSONS

APPEARING FOR THIS CONTRACT ACKNOWLEDGE THAT NO SERVICES SHALL BE PROVIDED UNDER THIS CONTRACT UNTIL IT IS SIGNED BY BOTH PARTIES. LIKEWISE, NO SERVICES WILL BE PROVIDED UNDER THIS CONTRACT AFTER THE EXPIRATION DATE, EXCEPT IN THE CASE THAT AT THE EXPIRATION DATE, AN AMENDMENT IS ALREADY IN PLACE SIGNED BY BOTH PARTIES. THE SERVICES PROVIDED IN VIOLATION OF THIS CLAUSE SHALL NOT BE PAID, DUE TO THE FACT THAT ANY OFFICIAL WHO MIGHT REQUEST AND RECEIVE SERVICES FROM THE OTHER PARTY, IN VIOLATION OF THIS PROVISION, WILL BE DOING IT WITHOUT ANY LEGAL AUTHORITY.

ATTESTING TO WHICH, THE CONTRACTING PARTIES SIGN THIS CONTRACT, THUS BINDING THEM TO ABIDE BY ITS CLAUSES AND CONDITIONS.

In San Juan, Puerto Rico, today _____, 2021.

First Party:

XXXXXXXXXX
SSP. XXX-XX-XXXX

Second Party:

EQRO Selected Entity

This contract was presented for registration at the Comptroller Office, today _____, 2021.

CERTIFICATION

I, _____ Attorney for the Legal Division of the Puerto Rico Department of Health, hereby I certify that I have reviewed the contract, it complies with the format and mandatory clauses of rigor.

Pro Forma Contract Appendix A

Business Associate Agreement

In the event of any conflict among the terms of the Agreement (excluding Pro forma Contract Appendix A (*Business Associate Agreement*)) and the terms and conditions of this Pro forma Contract Appendix A (*Business Associate Agreement*), the terms and conditions that are more protective of the PHI shall govern to the extent of that conflict.

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“Agreement”) is entered into by and between the Puerto Rico Department of Health, with offices at Departamento de Salud, Antiguo Hospital de Psiquiatría, Edif. A, Centro Médico, San Juan, PR 00936 (“Covered Entity”), and _____ (“Business Associate”), with offices at _____ (individually a “Party” and collectively the “Parties”), is applicable when referenced in or attached to a Professional Services Contract for Business Consultant Services for the Puerto Rico Medicaid Program for the Provision of Services (“Transaction Document”), and is effective on the last signature date below (“Effective Date”).

RECITALS:

WHEREAS, the Covered Entity is subject to the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. §§ 1320d – 1320d-8 (“HIPAA”), as amended from time to time, and is required to safeguard individually identifiable health information that the Covered Entity creates, receives, maintains, or transmits (hereinafter “Protected Health Information” or “PHI”) in accordance with the requirements HIPAA establishes and also the requirements set forth in the Health Information Technology for Economic and Clinical Health (“HITECH”) Act and their respective implementing regulations;

WHEREAS, Covered Entity desires to disclose PHI to Business Associate and/or allow others to disclose PHI to Business Associate, on Covered Entity’s behalf, to perform functions or activities on behalf of, and/or provide services as described in the Transaction Document to Covered Entity; and¹⁶⁴

WHEREAS, Covered Entity and Business Associate understand that they must enter into this Agreement so that PHI may be disclosed to Business Associate and to allow Business Associate to perform functions or activities on behalf of, and/or provide services as described in the Transaction Document to Covered Entity that requires the use or disclosure of PHI.

NOW, THEREFORE, in consideration of the Parties’ continuing obligation to each other and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

I. Definitions

The following terms shall have the meaning ascribed to them in this Section. Other capitalized terms shall have the meaning ascribed to them in the context in which they first appear. Terms used but not otherwise defined in this Agreement shall have the same meaning as those terms in the federal Standards for Privacy of Individually Identifiable Health Information, 45 CFR Parts 160 subpart A and 164 subparts A and E (the “Privacy Rule”); the federal Security Standards for the Protection of Electronic PHI, 45 CFR Parts 160 subpart A and 164 subparts A and C (the “Security Rule”); and the Notification in the Case of Breach of Unsecured PHI, 45 CFR Part 164 subpart D (the “Breach Notification Rule”) (collectively the “HIPAA Rules”).

- (a) Breach. “Breach” shall have the same meaning as the term “Breach” as defined in 45 CFR §164.402.

- (b) Business Associate. “Business Associate” shall have the same meaning as the term “Business Associate” in 45 CFR §160.103 and, as used in this Agreement, refers to Business Associate in its capacity as an entity that creates, receives, maintains, or transmits PHI in providing services to a Covered Entity.
- (c) Covered Entity. “Covered Entity” shall have the same meaning as the term “Covered Entity” in 45 CFR §160.103 and, as used in this Agreement, refers to the Covered Entity identified above.
- (d) Individual. “Individual” shall have the same meaning as the term “Individual” in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
- (e) Protected Health Information. “Protected Health Information” or “PHI” shall have the same meaning as the term “Protected Health Information” in 45 CFR §160.103, and shall refer to PHI obtained from Covered Entity or created, received, maintained, or transmitted by Business Associate on behalf of Covered Entity, including any PHI that is created, received, maintained, or transmitted in an electronic form (“Electronic PHI”).
- (f) Required By Law. “Required By Law” shall have the same meaning as the term “Required By Law” in 45 CFR §164.103.
- (g) Secretary. “Secretary” shall mean the Secretary of the Department of Health and Human Services or his/her designee.
- (h) Security Incident. “Security Incident” means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system” as defined at 45 CFR §164.304.
- (i) Unsecured PHI. “Unsecured Protected Health Information” or “Unsecured PHI” shall mean Protected Health Information that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified by the Secretary in the guidance issued under section 13402(h)(2) of Pub. L. 111-5, as defined at 45 CFR § 164.402.

II. Obligations and Activities of Business Associate

- (a) Uses and Disclosures of PHI. With respect to each use and disclosure of PHI Business Associate makes pursuant to this Agreement, or otherwise, Business Associate agrees as follows:
 - (1) Business Associate agrees not to use or disclose PHI other than as permitted or required by this Agreement or as Required By Law. To the extent that Business Associate performs any of Covered Entity’s obligations under the Privacy Rule, Business Associate will comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of such obligation.

- (2) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.
- (3) Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Agreement of which it becomes aware.
- (4) If applicable, in accordance with 45 CFR §164.504(e)(1)(ii) and 164.308(b)(2), Business Associate agrees to enter into written agreements with any subcontractors that create, receive, maintain, or transmit PHI on behalf of Business Associate, and the terms of such agreements shall incorporate substantially similar restrictions, conditions, and requirements that apply to Business Associate through this Agreement.
- (5) At the sole cost and expense of the Covered Entity, Business Associate agrees to make available and provide Covered Entity with access to PHI to meet the requirements under 45 CFR §164.524. The obligations of Business Associate in this paragraph apply only to PHI in Designated Record Sets in Business Associate's possession or control as such term is defined at 45 CFR § 164.501. Such access shall be in a timely and reasonable manner, as agreed upon by the Parties.
- (6) At the sole cost and expense of the Covered Entity, Business Associate agrees to make any amendment(s) to PHI that Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of Covered Entity, in a time and manner reasonably agreed upon by the Parties. The obligations of Business Associate in this paragraph apply only to PHI in Designated Record Sets in Business Associate's possession or control as such term is defined at 45 CFR § 164.501.
- (7) Business Associate agrees to make its internal practices, books, and records, including any policies and procedures, relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of Covered Entity, available to the Secretary, in a time and manner reasonably agreed upon or designated by the Secretary, for purposes of the Secretary determining a Covered Entity's compliance with the Privacy and Security Rule.
- (8) Business Associate agrees to maintain and make available, in a time and manner reasonably negotiated between the Parties, the information required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI, as necessary to satisfy Covered Entity's obligations under 45 CFR §164.528.

(b) Securing Electronic PHI.

- (1) Business Associate agrees to use appropriate safeguards and comply with applicable and mandatory requirements of the Security Rule set forth at 45 CFR §164.308, 164.310, §164.312, and §164.316 with respect to Electronic

PHI to prevent the use or disclosure of Electronic PHI other than as provided for by this Agreement.

- (2) Business Associate shall report to Covered Entity any security incident that results in the unauthorized disclosure of Electronic PHI of which Business Associate becomes aware with respect to Electronic PHI Business Associate creates, transmits, receives or maintains on behalf of Covered Entity. Business Associate shall report unsuccessful Security Incidents to Covered Entity upon request. Parties recognize, however, that a significant number of meaningless attempts to access, without authorization, use, disclose, modify or destroy PHI in Business Associate's systems will occur on an ongoing basis and could make a real-time reporting requirement formidable for Parties. Therefore, Parties agree that the following are illustrative of unsuccessful Security Incidents that, if they do not result in a pattern of Security Incidents or the unauthorized access, use, disclosure, modification, or destruction of PHI or interference with an information system, do not need to be reported:

- (i) Pings on a firewall;
- (ii) Port scans;
- (iii) Attempts to log on to a system or enter a database with an invalid password or username; and
- (iv) Malware (e.g., worms, viruses).

- (c) Notification of Breaches of Unsecured PHI. Business Associate will notify Covered Entity of Breaches of Unsecured PHI without unreasonable delay and in no case later than thirty (30) calendar days after the Discovery of such a Breach of the Covered Entity's Unsecured PHI, as those terms are defined at 45 CFR Part 164 subpart D. Business Associate's notice to the Covered Entity shall include the applicable elements as set forth at 45 CFR §164.410(c).

III. Permitted Uses and Disclosures by Business Associate

In accordance with the limitations in this Agreement, Business Associate may use or disclose PHI as necessary to perform functions on behalf of and/or provide services to Covered Entity to the extent such uses or disclosures are permitted by the Privacy Rule, as it may be amended from time to time.

IV. Specific Use and Disclosure Provisions

- (a) In accordance with the limitations in this Agreement, Business Associate may use PHI as necessary for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate, to the extent such use is permitted by the Privacy Rule, as it may be amended from time to time.
- (b) In accordance with the limitations in this Agreement, Business Associate may disclose PHI as necessary for the proper management and administration of Business Associate or to carry out the legal responsibilities of the Business Associate, provided

that such disclosures are (i) Required By Law, (ii) Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as Required By Law or for the purposes for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been Breached, or (iii) are otherwise permitted by the Privacy Rule, as it may be amended from time to time.

- (c) Business Associate may use PHI as necessary to report violations of law to appropriate federal and state authorities, to the extent permitted by 45 CFR §164.502(j)(1).
- (d) In accordance with 45 CFR §164.504(e)(2)(i)(B), Business Associate may use PHI to provide data aggregation services.

V. Specific Use and Disclosure Restrictions

- (a) Business Associate will restrict the disclosure of an Individual's PHI in accordance with 45 CFR §164.522(a)(1)(i)(A), notwithstanding paragraph (a)(1)(ii) of that section, when, except as otherwise Required By Law, the Covered Entity notifies Business Associate that the Individual has made such a restriction request, and each of the following conditions is satisfied:
 - (1) The disclosure would be to a health plan for the purposes of carrying out payment or healthcare operations, as that term may be amended from time to time, and
 - (2) The PHI pertains solely to a healthcare item or service for which the healthcare provider involved has been paid out-of-pocket in full.
- (b) In accordance with 45 CFR §164.502(b)(1), Business Associate will limit to the extent practicable the use, disclosure, or request of PHI to the minimum necessary to accomplish the intended purposes of such use, disclosure, or request, respectively, except that the restrictions set forth herein shall not apply to the exceptions set forth in CFR §164.502(b)(2).
- (c) Business Associate shall not directly or indirectly receive remuneration in exchange for any PHI unless the Business Associate obtains written authorization (from the Individual) that includes a specification of whether the PHI can be further exchanged for remuneration by the entity receiving the PHI of that Individual, except that this prohibition shall not apply in the following cases, which Business Associate will limit remuneration to a reasonable, cost-based fee to cover the cost to prepare and transmit the PHI for such purpose or a fee otherwise expressly permitted by other law:
 - (1) The purpose of the exchange is for research or public health activities, as described at 45 CFR §154.501, §164.512(i), §164.512(b) and §164.514(e), or

- (2) The purpose of the exchange is for the treatment of the Individual, subject to 164.506(a) and any regulation that the Secretary may promulgate to prevent PHI from inappropriate access, use or disclosure, or
- (3) The purpose of the exchange is the healthcare operation specifically described in subparagraph (iv) of paragraph (6) of the definition of healthcare operations at 45 CFR §164.501 and pursuant to 164.506(a), or
- (4) The purpose of the exchange is for remuneration that is provided by Covered Entity to the Business Associate for activities involving the exchange of PHI that Business Associate undertakes on behalf of and at the specific request of the Covered Entity as set forth in this Agreement, or
- (5) The purpose of the exchange is to provide an Individual with a copy of the Individual's PHI pursuant to 45 CFR §164.524 or an accounting of disclosures pursuant to 164.528, or
- (6) The purpose of the exchange is otherwise determined by the Secretary in regulations to be similarly necessary and appropriate.

VI. Obligations of Covered Entity

- (a) Covered Entity shall notify Business Associate of any limitation(s) in a Covered Entity's notice of privacy practices, in accordance with 45 CFR §164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- (b) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- (c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that a Covered Entity has agreed to or is required to abide by in accordance with 45 CFR §164.522, or as mandated pursuant to Section 13405(c) of the HITECH Act, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
- (d) Covered Entity agrees to disclose to Business Associate only the minimum amount of PHI necessary to accomplish the services covered in the Transaction Document.
- (e) Covered Entity understands and agrees that in addition to obligations required by Law, Business Associate provides services in the Transaction Document on the express condition that the Covered Entity fulfills its additional obligations set forth therein.

VII. Permissible Requests by Covered Entity

Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy or Security Rules if done by Covered Entity.

VIII. Term and Termination

- (a) Term. This Agreement shall be effective as of Effective Date, and shall continue until terminated. The obligations under this Agreement shall apply to each Transaction Document referencing this Agreement until the later of (i) completion, termination, or expiration of that Transaction Document or (ii) when all of the PHI provided by Covered Entity to Business Associate or created received, maintained, or transmitted by Business Associate on behalf of Covered Entity under the Transaction Document is destroyed or returned to Covered Entity, in accordance with subsection (d), below.
- (b) Termination for Cause for Failure to Comply with this Agreement by Business Associate. Upon any material failure to comply with this Agreement by Business Associate, Covered Entity shall either:
- (1) Provide an opportunity for Business Associate to cure the failure to comply or end the violation and terminate this Agreement if Business Associate does not cure the failure to comply or end the violation within a reasonable time specified by Covered Entity; or
 - (2) Immediately terminate this Agreement if Business Associate has failed to comply with a material term of this Agreement and cure is not possible and the Business Associate has not implemented reasonable steps to prevent a reoccurrence of such failure to comply.
- (c) Termination for Cause for Failure to Comply with this Agreement by Covered Entity. Upon any material failure to comply with this Agreement by Covered Entity, Business Associate shall either:
- (1) Provide an opportunity for Covered Entity to cure the failure to comply or end the violation and terminate this Agreement if Covered Entity does not cure the failure to comply or end the violation within the time specified by Business Associate;
 - (2) Immediately terminate this Agreement if Covered Entity has failed to comply with a material term of this Agreement and cure is not possible and the Covered Entity has not implemented reasonable steps to prevent a reoccurrence of such failure to comply.
- (d) Effect of Termination.
- (1) Except as provided below in paragraph (2) of this subsection, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity or created, received, maintained, or transmitted by Business Associate on behalf of Covered Entity in accordance with HIPAA. This provision shall apply to PHI in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of PHI.
 - (2) In the event Business Associate determines returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of

the conditions that make return or destruction infeasible. Upon written notification that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of PHI for so long as Business Associate maintains such PHI.

Miscellaneous

- (a) Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity or Business Associate to comply with requirements of HIPAA.
- (b) Survival. The respective rights and obligations of Business Associate under Section VIII (Term and Termination) of this Agreement shall survive termination of this Agreement.
- (c) Interpretation. Any ambiguity in this Agreement shall be resolved to the extent reasonable to permit Covered Entity to comply with HIPAA.
- (d) Conflicts. To the extent a conflict exists between this Agreement and the Transaction Document, the terms and conditions of this Agreement shall take precedence.

IN WITNESS WHEREOF, Covered Entity and Business Associate have caused this Agreement to be signed and delivered by their duly authorized representatives, as of the date set forth below.

COVERED ENTITY

BUSINESS ASSOCIATE

By: _____
Print Name: _____
Title: _____
Date: _____

By: _____
Print Name: _____
Title: _____
Date: _____

Appendix 11: Acronyms, Abbreviations, and Terms Glossary

This section includes acronyms, abbreviations, and terms used throughout the RFP.

Table 16: Acronyms, Abbreviations, and Terms Glossary

Acronym	Term
ADA	Americans with Disabilities Act
ASG	Puerto Rico General Services Administration
ASUME	Puerto Rico Child Support Administration (acronym in Spanish)
BBA	Balanced Budget Act
CAPHS	Consumer Assessment of Healthcare Providers and Systems
CFR	Code of Federal Regulation
CMS	Centers for Medicare & Medicaid Services
CRIM	Center For Collection of Municipal Revenues (acronym in Spanish)
CY	Calendar Year
DBM	Dental Benefit Manager
E-CFR	Electronic Code of Federal Regulations
ePHI	Electronic Protected Health Information
EPSDT	Early and Periodic Screening, Diagnostic, and Treatment
EQR	External Quality Review
EQRO	External Quality Review Organization
FOMB	Fiscal Oversight Management Board
Hacienda	Puerto Rico Treasury Department
HEDIS	Healthcare Effectiveness Data and Information Set
HIPAA	Health Insurance Portability and Accountability Act
HITECH	Health Information Technology for Economic and Clinical Health Act
IVU	Puerto Rico sales and use tax
MCOs	Managed Care Organizations
MCP	Managed Care Plan
NCQA	National Committee for Quality Assurance
PAHP	Prepaid Ambulatory Health Plan
PCCM	Primary Care Case Management
PHI	Protected Health Information
PIHP	Prepaid Inpatient Health Plan

Acronym	Term
PIP	Performance Improvement Project
PM	Performance Measures
PRDoH	Puerto Rico Department of Health
PRHIA	Puerto Rico Health Insurance Administration
PRMP	Puerto Rico Medicaid Program
QAPI	Quality Assurance Performance Improvement
QIO	Quality Improvement Organization
RFP	Request for Proposal
RUP	Registro Único de Proveedores de Servicios Profesionales
SURI	Internal Revenue Unified System (Spanish Acronym)