



GOVERNMENT OF PUERTO RICO

DEPARTMENT OF HEALTH
MEDICAID PROGRAM

**Puerto Rico Department of Health (PRDoH)
Puerto Rico Medicaid Program (PRMP)**

Contracting & Procurement

Standard Operating Procedure (SOP)

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Department of Health
Medicaid Program

**CONTRACTING & PROCUREMENT
STANDARD OPERATING PROCEDURE**

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1. Overview:

The Puerto Rico Department of Health (PRDoH) was established under Act Number 81 of March 14, 1912, as amended, and was elevated to Constitutional rank on July 25, 1952. PRDoH is the Single State Agency (SSA) responsible for administering the State Medicaid Program. Puerto Rico's Medicaid Program (PRMP), an office within PRDoH, oversees the Medicaid State Plan, the officially recognized declaration that describes the nature and scope of the Puerto Rico Medicaid Program, implemented on January 1, 1966, under the Social Security Act by adding Title XIX sections 1901 through 1910.

PRDoH has a Memorandum of Understanding (MOU) with the Puerto Rico Health Insurance Administration (PRHIA), a government corporation established by Act No. 72 of September 7, 1993, as amended. PRHIA implements and manages the island-wide health insurance system. While PRMP determines eligibility, provider enrollment, and other administrative functions through the MOU, PRHIA receives federal funding from PRMP to perform its duties. Therefore, PRHIA's procurement procedures and policies must align with PRMP standards and guidelines, which must be developed or updated periodically to ensure compliance with federal and state regulations regarding the use of Medicaid funds for purchasing goods and services.

As a non-federal entity PRDoH/PRMP shall govern its procurement processes applying applicable state laws and regulations in strict alignment with federal law and the federal procurement standards and procedures outlined in 45 CFR § 75.327, 75.328, and 75.329.

PRDoH/PRMP shares a vision with the larger Medicaid Enterprise: to be recognized as a leader in ethics and transparency in procurement and contracting. We strive to achieve this vision by establishing processes that identify contracting oversight that achieves results that have the best possible impact on our clients and beneficiaries, all at a lower cost to taxpayers. In addition to setting forth this vision, we have created the following guiding principles to realize it:

Contracting & Procurement Guiding Principles

Enhance the strategy and planning efforts in our procurements

Strive to align the procurement and contracting processes with the mission and goals of Puerto Rico Medicaid and engage our multiple agencies within the enterprise in this effort. The procurement process will drive innovative strategies to advance the Medicaid Enterprise.

Further drive competition across procurements

Seek to procure high-quality goods, works, and services in a competitive manner.

<i>Standardize and unify our processes</i>	Use a common structure to standardize and formalize procurement and contracting processes.
<i>Increase transparency</i>	Make most procurement scoring decisions and other relevant information easily accessible to internal and external stakeholders.
<i>Use data to inform our operations</i>	Make data central to our procurement processes, and derive insights from that data to drive procurement decision-making.
<i>Promote efficient and cost-effective processes</i>	Strive to maximize value by taking into account existing and developing organizational demands, capabilities, availability of resources, and funding while not compromising on efficiently providing goods and services that best serve our beneficiaries needs.
<i>Seek value for money and good stewardship of public funds</i>	Spend public money wisely and focus on reducing waste and abuse of taxpayer dollars.
<i>Create a culture of ownership, accountability, and continuous learning</i>	Define clearly and openly communicate roles and responsibilities across parties throughout the procurement and contracting process. Stakeholders will work cooperatively and collaboratively to continuously improve contracting and procurement processes.

2. Purpose:

This document aims to establish the procurement methods for PRDoH/PRMP in compliance with all applicable federal and local laws and regulations, particularly with 45 CFR § 75.327, 75.328, and 75.329. Furthermore, the purpose of this document is to:

- Outline the procedures for procuring goods and services to ensure efficiency, compliance, and cost-effectiveness.
- Increase competition and establish alternative competitive contracting processes.
- Clearly define the actions required to determine when non-competitive bids are necessary and justify them.
- Enhance standardization in the scoring and selection processes.

- Establish ongoing processes, tools, and internal review processes to guarantee that all relevant documents are published.
- Improve transparency and make more contracting information accessible.
- Provide a checklist that designated PRMP officials can use to ensure compliance while procuring goods and services for PRMP.

3. Scope:

This Standard Operating Procedure (SOP) applies to all units and personnel (employees, contractors, consultants, etc.) involved in the contracting and procurement process within the PRDoH/PRMP. It outlines the procedures for acquiring goods and services to ensure efficiency, compliance, and cost-effectiveness, along with the decisions and parties responsible.

4. Definitions, Acronyms and Terms:

- a. Centers for Medicare & Medicaid Services (CMS)** — The agency within the US Department of Health and Human Services with responsibility for Medicare, Medicaid, and the Children's Health Insurance Programs (CHIP) and regulates and oversees the benefits offered to the Medicaid, CHIP, and Medicare populations.
- b. Competitive Procurement** — This is the process by which PRDoH/PRMP solicits bids or proposals from multiple vendors¹ to ensure transparency and fair and open competition. It is designed to obtain the best value for PRDoH/PRMP by comparing offers and selecting the one that provides the most advantageous terms.
- c. Conflict of Interest** — Any situation that arises or may arise because of a transaction or event in which a person, whether or not an employee (including contractors) or office, obtains or may obtain, directly or indirectly, any benefit, use, advantage, profit or income for the reason of their actions or improper exercise of their influence or position.
- d. Contract** — A legal written agreement between PRDoH and a contractor by which PRDoH/PRMP acquires goods and services.
- e. Contract Administrator** — The person or entity in charge of properly administering a service contract covering the needs of an operational area or business unit of PRDoH/PRMP.
- f. Contractor** — A person or entity that provides goods or services to the PRDoH/PRMP under the terms specified in a contract.
- g. Department of Health and Human Services (HHS)** — The cabinet-level department of the U.S. federal government that enhances and protects the health and well-being of all Americans. HHS administers various health and social

¹ The terms vendor, bidder, and offeror may sometimes be used interchangeably throughout the SOP.

service programs, conducts medical research, and oversees public health initiatives.

- h. Evaluation Committee** — In compliance with Administrative Order No. 586 (published January 25, 2024), an Evaluation Committee designated to attend Puerto Rico Medicaid Program (PRMP) requests for proposals due to their high complexity and technicality, and any other type of proposal requested by PRMP. They are responsible for evaluating the technical requirements in proposals, and drafting recommendations for executive leadership approval.
- i. Financial Oversight and Management Board for Puerto Rico (FOMB)** — This entity was created under the Puerto Rico Oversight, Management, and Economic Stability Act of 2016, Pub. L. 114-187 (June 30, 2016) to revise and approve the budget and obligations of the Government of Puerto Rico.
- j. General Services Administration (GSA)** — The federal government agency that supports and manages federal property and provides contracting options for government agencies.
- k. Goods** — Includes movable, supplemental, substitute, chattel, capital assets, or everything susceptible to moving by itself or through another force, which is fungible or not.
- l. Letter of Intent (LOI)** — A document outlining the preliminary understanding between two or more parties who intend to enter into a formal agreement. It typically summarizes the key points of a proposed deal or transaction, indicating the parties' commitment to negotiating in good faith.
- m. Non-competitive Procurement** — A process that may be used only when one (1) or more circumstances apply (i.e., the item is available only from a single source, a public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation, the HHS awarding agency expressly authorizes non-competitive proposals in response to a written request, or competition is determined inadequate).
- n. Non-Professional Services** — Those services not offered by a person or entity with specialized knowledge, or skills required to have a university degree or license that credits them as specialized professionals.
- o. Notice of Intent to Award a Contract** — Notice of Intent to Award announces that PRDoH/PRMP has completed the evaluation process (for competitive procurements) and has selected a winning vendor. When applicable, this document contains signatures of the evaluation committee members certifying all vendors' final technical and cost scores (including the estimated costs) and verifying that the evaluation process was free of conflicts of interest.

For non-competitive procurements, a Notice of Intent to Award is the announced intention to enter into a contract with the desired bidder.

The notice of award must include, at a minimum:

1. Names of bidders.
 2. Summaries of the submitted proposals.
 3. Criteria that were considered to award the proposal.
 4. Reasons why other proposals did not win the contract.
 5. Warning regarding the right to review, pursuant to Article 3.15 and 4.2 of Act No. 38-2017, as amended.
- p. Procurement** — The process of acquiring goods, services, or works from external sources. It involves several steps, including identifying needs, specifying requirements, selecting suppliers, negotiating contracts, and managing the acquisition process to ensure that PRDoH/PRMP receives the best possible value.
- q. Procurement Oversight Lead (POL)** — This role is mandated by the Consolidated Appropriations Act, 2023 (P.L. 117-328) to ensure compliance with federal procurement regulations and enhance transparency and accountability in the procurement process of PRMP. This role involves (i) monitoring compliance with procurement laws and regulations, (ii) improving procurement processes to ensure efficiency and effectiveness, (iii) conducting audits and reviews to identify and mitigate risks, and (iv) providing training and guidance to procurement staff.
- r. Proposal Adjudication Unit (PU)** — Unit in charge of overseeing all procurement processes for professional services contracts. In certain circumstances it can be authorized to oversee procurement processes for goods and/or non-professional services.
- s. Professional Services** — Services in which the principal performance consists of the product of intellectual, creative, or artistic work or the management of highly technical or specialized skills.
- t. Puerto Rico Department of Health (PRDoH)** — The Single State Agency charged with the Puerto Rico Medicaid Program administration, which (through the Puerto Rico Medicaid Program) is responsible for Medicaid and CHIP eligibility determinations.
- u. Puerto Rico General Services Administration (PRGSA)** — The government entity responsible for implementing the public policy of procuring goods and non-professional services from the Government of Puerto Rico. It is also known as ASG for its Spanish Acronym.
- v. Puerto Rico Health Insurance Administration (PRHIA)** — The government entity overseeing and administering the Plan Vital Program.
- w. Puerto Rico Innovation and Technology Service (PRITS)** — A government office created to establish and promote the public policy on effective interagency

creation, management, development, coordination, and integration of innovation and information and technology infrastructure of the Government of Puerto Rico, as well as develop, in an orderly and integrated manner, timely technology projects as are necessary to promote the effective integration of technology into government operations.

- x. **Puerto Rico Medicaid Program (PRMP)** — The Puerto Rico Health Department division that conducts eligibility determinations for Medicaid, CHIP, and the State Population.
- y. **Puerto Rico Office of Management and Budget (PROMB)** — The government agency in charge of enforcing compliance with the budget of the government of Puerto Rico, ensuring that the execution and administration of the budget by government agencies is conducted per applicable laws and rules of fiscal and managerial administration and with the programmatic purposes for which public funds are allocated or provided. It is also known as OGP for its Spanish Acronym.
- z. **Puerto Rico Office of the Comptroller (PROTC)** — The government agency responsible for auditing all revenues, accounts, and disbursements of the Government of Puerto Rico, its agencies, instrumentalities, and municipalities to ensure compliance with the law.
- aa. **Real Property Review Board (JRPI, for its Spanish acronym)** — It was created by Act No. 235 of December 19th, 2014, to execute the public policy of the Government of Puerto Rico regarding the primary and preferential use of its resources and assets. In turn, and as part of this policy, the Law requires that public agencies, dependencies, and instrumentalities give preference to available public real estate, whether from the central government, in the first instance, or from the municipalities, as an alternative, before leasing or acquiring properties. Consequently, no agency, dependency, or public instrumentality of the Government of Puerto Rico (except public corporations and municipalities) may lease or acquire private real estate if the JRPI does not duly authorize it. It must be demonstrated that no public property is in inventory or reasonably available to meet the agency's needs.
- bb. **Request for Information (RFI)** — A method used to request information from a potential contractor(s) to determine what products and services are available in the marketplace and their prices, as well as a mechanism to establish the capability of the contractor(s). An RFI is not an invitation for bid, is not binding on the PRDoH/PRMP or potential contractor(s) and may or may not lead to a Request for Proposal (RFP). PRDoH/PRMP may use the RFI process to pre-qualify potential bidders or proposers for future procurement transactions. Once a bidder or proposer is pre-qualified, PRDoH/PRMP may solicit a bid or proposal from them directly by sending them a bid or proposal packet.
- cc. **Request for Proposal (RFP)** — This is a formal document issued by PRDoH/PRMP to solicit bids from potential suppliers or contractors for a specific project, service, or product. The RFP outlines the requirements and criteria the

PRDoH/PRMP seeks and provides detailed information about the project to help suppliers prepare their proposals. Usually includes the scope of work, requirements, evaluation criteria, pro-forma contract, service level agreements, and applicable terms and conditions.

- dd. Simplified Acquisition Threshold (SAT)** — As defined in 2 CFR 200.1, this means the dollar amount below which PRDoH/PRMP may purchase property or services using small purchase methods. The simplified acquisition threshold applicable to PRDoH/PRMP is no more than \$150,000.00.
- ee. Single Registry of Professional Service (RUP, for its Spanish acronym)** — For the contracting of professional services in the Government of Puerto Rico, it is a mandatory requirement that the professional service provider be registered in the Single Registry of Professional Service Providers under the corresponding category and that it has the corresponding certification of registry issued by the Puerto Rico General Services Administration (*Administración de Servicios Generales* or *ASG*, for its acronym), as provided in Law No. 73-2019, as amended, known as "Law of the Administration of General Services for the Centralization of Purchases of the Government of Puerto Rico of 2019".
- ff. Solicitation** — The phase of obtaining bids or proposals from prospective vendors to meet business needs.
- gg. Solicitation Coordinator** — Act as the primary point of contact and manages the solicitation process. The person is responsible for the management of the bid or proposal submission process, ensuring that all proposals meet the requirements and adhere to strict deadlines.
- hh. Standard Operating Procedure (SOP)** — A detailed, written set of instructions created to standardize the way tasks related to contracting and procurement are executed, which helps maintain efficiency, quality, and compliance with applicable standards and regulations.
- ii. Time and Materials Contract** — A contract whose cost is the sum of (i) the contractor's actual cost of materials and (ii) direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit. Since this formula generates an open-ended contract price, time and materials contracts provide no positive profit incentive to the contractor for cost control or labor efficiency. This type of contract must set a ceiling price that the contractor exceeds at its own risk.

5. Standard Operating Procedure (SOP):

5.1. Planning and Contracting Phases: PRDoH/PRMP phases when determining the need for a good or service:

5.1.1. Procurement Planning:

5.1.1.1. Identify which needs can be best met by procuring products or

services outside the organization.^{2,3}

- 5.1.1.2.** Identify the foreseeable regular needs of each business unit. Therefore, a procurement request must be submitted to the corresponding office or area within PRMP to initiate the process with sufficient time to accomplish the expected contract commencement date. The director or designated staff from each PRMP unit/office/department shall review the procurement calendar to identify contracts which are up for a new procurement process.
- 5.1.1.3.** Determine whether to procure, how to procure, what to procure, how much to procure, and when. To begin the procurement transparency process, a need must be identified by a business unit that cannot be fulfilled within the departments of PRDoH/PRPMP, requiring services be procured externally.
- 5.1.1.4.** Determine the appropriate procurement method (i.e., competitive vs. noncompetitive) based on the type of purchase, the scope of work needed, and the method required per the applicable federal and state regulations and the PRMP's internal procurement policies and procedures. All procurement transactions must be conducted in a manner that provides full and open competition.
- 5.1.1.5.** Contracts for professional services, which are expected to exceed \$150,000.00 on an annual basis shall be promptly notified to PRMP Executive Director preferably at least six (6) months prior to the expected day of commencement of the service, in order to allow sufficient time for completion of all required phases of the procurement and contracting process.⁴ . The notification shall include a description of the needs and services to be acquired and the expected date the service must commence.
- 5.1.1.6.** If need arises, PRMP may perform the following:
 - 5.1.1.6.1.** Conduct a risk analysis to mitigate any contracting issues that might have arisen with past or current vendors, conflict-of-interest issues, and funding

² The procurement method is defined based on the identified needs and the corresponding guidelines for those needs (e.g., the MCO contract requires competitive bidding vs. office supplies purchased from PRGSA's pre-approved vendors).

³ For Non-Professional Services, PRDoH/PRMP can review the desired service/item from the PRGSA price bulletin and contact any of the PRGSA's pre-approved vendors to request a quote.

⁴ Highly technical and/or complex services shall be notified preferably with a lead time of more than eight (8) months prior to the expected date of commencement.

issues.

5.1.1.6.2. Develop a procurement strategic direction and/or road map.

5.1.1.6.3. Market research on business/procurement needs.⁵

5.1.1.7. Identify and involve business owners in each contract requirement to increase oversight and accountability.

5.1.1.8. Consider local requirements for contract approval and/or vendor selections.⁶

5.1.2. Process Initiation:

5.1.2.1. At the outset of the procurement process, a business unit identifies: (i) a need that cannot be fulfilled within the departments of PRMP, requiring it to be procured externally; and (ii) the availability of funds. A procurement process will be set in motion by way of filing a requisition by the impacted PRMP department with the applicable office or area providing all required information:

5.1.2.1.1. Requisition for goods or non-professional services will be submitted to the Administration Office.

5.1.2.1.2. Requisition for professional services will be submitted to the Proposal Adjudication Unit (PAU).

5.1.2.2. The Requisition will be registered by the corresponding office or area and assigned a unique number.

5.1.2.3. In the case of the PAU, after the procurement process is defined, the PAU will determine what procurement documentation needs to be created and published, and where and when it will be published. Solicitation planning:

5.1.2.3.1. Define the process for determining the technical specifications, scope of work, or description of work procured involving procurement officers, program management, technical, and other affected functional areas.

5.1.2.3.2. Prepare the documents needed to support the solicitation, including developing preliminary statements of work, budgets, and cost and schedule estimates. Also, create the strategy for crafting the

⁵ This can be done through different mechanisms, such as a Request for Information (RFI) from potential contractor(s) to determine what products and services are available in the marketplace and their prices.

⁶ Puerto Rico's GSA registers and certifies vendors conducting business with Puerto Rico's Government.

Request for Proposal (RFP), draft the RFP⁷ and the proforma contract, develop evaluation criteria and written method/process for evaluating proposals and selecting recipients, and add relevant language to the RFP.

5.1.2.3.3. Obtain required internal justifications and document(s) approvals (i.e., CMS), where applicable.⁸

5.1.2.4. If the identified need is a good or non-professional service, once it is determined that it cannot be fulfilled internally, the Administration Office will determine the applicable procurement process pursuant to PRDoH/PRMP SOP on procurement and the applicable ASG's regulation, rules and procedures.

5.1.2.5. If the identified need is for a professional service, once it is determined that services must be procured externally, contracts will be competitively procured pursuant to this SOP.

5.1.2.6. PRMP can enter into non-competitive procurements in the case of exemptions of single source, public exigency or emergency, HHS awarding agency authorization and/or after solicitation of a number of sources, competition is determined inadequate.

5.1.3. Solicitation: Once the RFP is published with relevant documents, PRMP will receive bids or proposals from prospective vendors during the open period. During this process, PRMP might be required to host meetings, respond to prospective vendors' questions, obtain Letters of Intent (LOIs) from prospective vendors, and/or receive proposal responses from prospective vendors.

⁷ To increase transparency and accountability, PRDoH/PRMP will explicitly state any possibility for extensions and renewals in procurement documents, along with relevant terms and conditions applicable to all Medicaid-funded contracts.

⁸ Typically, contract approval is required by CMS for non-administrative contracts funded by Federal Financial Participation (FFP) dollars (such as large technology contracts for Eligibility & Enrollment and MMIS). These contracts also require a previously approved Advanced Planning Document (APD) with outcomes and metrics, including specific tasks, deliverables, and terms. For example, to develop an Advance Planning Document (APD). An ADP is a recorded plan of action used to request funding approval for a project that requires automated data processing equipment and services. It outlines the planning activities necessary to determine the need, feasibility, projected costs, and benefits of acquiring information system equipment or services. An ADP is needed for technology-related contracts. The APD must be sent to CMS for approval with the federal funding request. Once CMS approves the APD, the Request for Proposal (RFP) preparation begins. For example, to develop an Advance Planning Document (APD). An ADP is a recorded plan of action used to request funding approval for a project that requires automated data processing equipment and services. It outlines the planning activities necessary to determine the need, feasibility, projected costs, and benefits of acquiring information system equipment or services. An ADP is needed for technology-related contracts. The APD must be sent to CMS for approval with the federal funding request. Once CMS approves the APD, the Request for Proposal (RFP) preparation begins.

- 5.1.4. Source Selection:** Once proposals are received, the selected Evaluation Committee evaluates and scores prospective vendors on their technical and cost proposals, applying the developed evaluation criteria to select the highest-scoring vendor. The Evaluation Committee drafts recommendations and justifies selecting a particular vendor. After the potential vendor is chosen, negotiations will start. During this process, preparation, review, negotiation with the vendor, and required contract approval(s) (i.e., FOMB, Governor's Office, PROMB, PRITS, CMS) will occur. The contract will be then registered with the Puerto Rico Office of the Comptroller (PROTC), and relevant procurement and contract documents will be made public.
- 5.1.5. Contract Administration:** PRDoH/PRMP must maintain oversight to ensure contractors perform per the terms, conditions, and specifications of their contracts, purchase requisition, purchase order, etc. Contract administration files shall contain, at a minimum, the required documentation specified in the RFP for the original scope of work and for all amendments, where the contract work is identified in the issued contract, the identification and scope of the work contained in the contract, and all approved changes. Once the contract is awarded, the designated contract administrator(s) should be responsible for monitoring and discussing the progress of the contract and the contractor's performance associated with their functional/subject area. *See Section 9: Contract Oversight.*

5.2. General Procurement Standards:

- 5.2.1. Competition⁹:** All procurements shall be conducted to provide practical, full, and open competition to the maximum extent. Procurements shall:
- 5.2.1.1.** Avoid noncompetitive practices that may restrict or eliminate competition, including but not limited to:
 - 5.2.1.1.1.** Placing unreasonable qualification requirements on entities for them to qualify to do business.
 - 5.2.1.1.2.** Requiring unnecessary experience and excessive bonding requirements.
 - 5.2.1.1.3.** Noncompetitive pricing practices between firms or affiliated companies.
 - 5.2.1.1.4.** Noncompetitive contracts to consultants on retainer contracts.
 - 5.2.1.1.5.** Organizational conflicts of interest.
 - 5.2.1.1.6.** Specify "brand name" product instead of allowing

⁹ 45 CFR § 75.328

“an equal to” product to be offered and describing the procurement's performance or other relevant requirements.

5.2.1.1.7. Arbitrary actions in the procurement process.

5.2.1.2. Not intentionally split a single purchase into two (2) or more separate purchases to avoid dollar thresholds requiring more formal procurement methods.

5.2.1.3. Exclude contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals from competing for such procurement.¹⁰ PRDoH/PRMP will include in its RFP mandatory requirements that all proposals be accompanied by a sworn declaration that the vendor or any subcontractor included as part of the vendor's proposal or that would provide services under the resulting contract was not directly or indirectly involved in the development or drafting of the specifications, requirements, statements of work, invitations for bids, the RFP and/or its related documentation.

5.2.1.4. Ensure that all prequalified lists of persons, firms, or products used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition.¹¹

5.2.1.5. Not preclude potential bidders from qualifying during the solicitation period.¹²

5.2.1.6. Prohibit the use of statutorily or administratively imposed geographical preferences in evaluating bids or proposals, except where applicable federal statutes expressly mandate or encourage geographic preference.¹³

5.2.2. Profit: When cost analysis is used and if applicable to PRDoH/PRMP, profit must be negotiated separately from the procurement price for sole-source.

5.2.2.1. To establish a fair and reasonable profit, the complexity of work performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of the contractor's record and past performance, and industry profit

¹⁰ 45 CFR § 75.328

¹¹ 45 CFR § 75.328(d)

¹² 45 CFR § 75.328(d)

¹³ 45 CFR § 75.328(b). Nothing in this section preempts state licensing laws. When contracting for architectural/engineering (A/E) services, geographic location may be a selection criterion, provided its application leaves an appropriate number of qualified firms to compete for the contract, given the nature and size of the project.

rates in the surrounding geographical area for similar work must be considered.¹⁴

- 5.2.2.2. If applicable, PRDoH/PRMP must perform a cost or price analysis concerning every procurement action exceeding \$150,000.00 or more, including contract modifications. The method and degree of analysis depend on the facts surrounding the procurement situation, but as a starting point, PRDoH/PRMP must make independent estimates before receiving bids or proposals.¹⁵
- 5.2.2.3. PRDoH/PRMP may negotiate profit as a separate element of the price for each contract in which there is no price competition and, in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration may be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.¹⁶
- 5.2.2.4. PRDoH/PRMP may not use the cost plus a percentage of cost and percentage of construction cost contracting methods.¹⁷
- 5.2.2.5. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum vendor participation.
- 5.2.2.6. Establish delivery schedules, where requirement permits, that encourage vendor participation.

5.2.3. Minimum Bonding Requirements:¹⁸ If applicable, for construction or facility improvement contracts or subcontracts exceeding \$150,000.00, the requirements for bonding shall, at a minimum, be as follows:

- 5.2.3.1. A bid guarantee from each bidder is equivalent to five percent

¹⁴ 45 CFR § 75.332(b). The Government Accountability Office (GAO) determines whether a contract constitutes a cost-plus-a-percentage-of-cost system of contracting by considering whether (1) payment is at a predetermined rate, (2) this rate is applied to actual performance costs, (3) the contractor's entitlement is uncertain at the time of contracting; and (4) the rate increases commensurately with increased performance costs. 45 CFR § 75.332(d).

¹⁵ 45 CFR § 75.332(a)

¹⁶ 45 CFR § 75.332(b)

¹⁷ 45 CFR § 75.332(d)

¹⁸ Under the Uniform Guidance, the HHS awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the HHS awarding agency or pass-through entity has decided that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements listed in this SOP and section 45 CFR § 75.334 must be followed.

(5%) of the bid price.¹⁹

5.2.3.2. A performance bond on the contractor's part for 100% of the contract price.²⁰

5.2.3.3. A payment bond on the contractor's part for 100% of the contract price.²¹

5.2.3.4. All bonds required in this section shall be obtained from companies holding certificates of authority as acceptable sureties under the surety requirements for companies doing business with the United States according to 31 CFR Part 223.²²

5.2.4. Solicitations²³: All solicitations shall clearly and accurately describe the technical requirements for procuring products or services.

5.2.4.1. Descriptions:

5.2.4.1.1. Must not contain features that unduly restrict competition.

5.2.4.1.2. The statement may include the qualitative nature, or the technical requirements of the material, product, or service procured.

5.2.4.1.3. When necessary, minimum essential characteristics and standards must be set to satisfy its intended use.

5.2.4.1.4. If possible, must avoid detailed product specifications.

5.2.4.1.5. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. Specific named brand features required to be met must be clearly stated.

5.2.4.1.6. Must identify all requirements that offerors must fulfill and all other factors to be used in evaluating bids and proposals.

¹⁹ The bid guarantee must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified. 45 CFR § 75.334(a).

²⁰ A performance bond is executed in connection with a contract to secure fulfillment of all the contractor's obligations. 45 CFR § 75.334(b).

²¹ A payment bond is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in executing the work provided for in the contract. 45 CFR § 75.334(c).

²² 45 CFR § 75.334(d).

²³ 45 CFR § 75.328(c).

5.2.4.2. HHS awarding agency or pass-through entity review: PRDoH/PRMP must make available, upon request of the HHS awarding agency or pass-through entity, technical specifications on proposed procurements where the HHS awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review will generally take place before the specification is incorporated into a solicitation document. However, if PRDoH/PRMP desires to have the review accomplished after a solicitation has been developed, the HHS awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.²⁴

PRDoH/PRMP must make available upon request, for the HHS awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when: (i) the procurement procedures or operation fails to comply with the procurement standards, (ii) the procurement is expected to exceed \$150,000.00 and is to be awarded without competition or only one (1) bid or offer is received in response to a solicitation, (iii) the procurement, which is expected to exceed \$150,000.00, specifies a “brand name” product, (iv) the proposed contract exceeds \$150,000.00 and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or (v) a proposed contract modification changes the scope of a contract or increases the contract amount by more than \$150,000.00 or the Simplified Acquisition Threshold (SAT), which one applicable.²⁵

5.2.5. Considerations: PRDoH/PRMP should consider taking the following actions when procuring goods and services:

5.2.5.1. Avoid acquiring unnecessary or duplicate items. PRDoH/PRMP should consider consolidating or breaking out procurements for a more economical purchase.²⁶ For example, PRDoH/PRMP must assess whether employees can provide a service intended for a contract.

5.2.5.2. When appropriate, conduct a lease vs. purchase analysis, including for property and large equipment, to determine the

²⁴ 45 CFR 75.333(a).

²⁵ 45 CFR 75.333(b).

²⁶ 45 CFR § 75.327(d).

most economical approach.²⁷

- 5.2.5.3.** Use state and local intergovernmental or inter-entity agreements or common or shared goods and services where appropriate.²⁸
- 5.2.5.4.** If possible, to reduce project costs, explore using federal excess and surplus property instead of purchasing new equipment and property.²⁹
- 5.2.5.5.** If applicable, use value engineering clauses to offer reasonable opportunities for cost reductions in construction contracts for projects of sufficient size.³⁰
- 5.2.5.6.** If applicable, use time and materials contracts only if no other contract is suitable and the contract includes a ceiling price that the contractor exceeds at their own risk. If the agreement is negotiated and awarded, PRDoH/PRMP must assert a high degree of oversight to obtain reasonable assurance that the contractor uses efficient methods and adequate cost controls.³¹
- 5.2.5.7.** PRDoH/PRMP will award contracts only to responsible contractors who can perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to contractor integrity, compliance with public policy, record of past performance, and financial and technical resources, among other considerations.³²
- 5.2.5.8.** PRDoH/PRMP will maintain records sufficient to detail the procurement history. These records will include but are not necessarily limited to, the rationale for the procurement method, contract type selection, contractor selection or rejection, and the basis for the contract price.³³ These records might also contain written specifications for the work scope, an RFP package, meeting notes, letters, responses to Q&A received, minutes, notice of award, and any other pertinent or general correspondence pertaining to the procurement transaction.
- 5.2.5.9.** PRDoH/PRMP is responsible, per good administrative practice

²⁷ 45 CFR § 75.327(d). This analysis should only be made when both lease and purchase alternatives are available to the program

²⁸ 45 CFR § 75.327(e).

²⁹ 45 CFR § 75.327(f).

³⁰ 45 CFR § 75.327(g). Value engineering systematically and creatively analyzes each contract item or task to ensure its essential function is provided at a lower cost overall.

³¹ 45 CFR § 75.327(j).

³² 45 CFR § 75.327(h).

³³ 45 CFR § 75.327(i).

and sound business judgment, for settling all contractual and administrative issues arising from procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.³⁴

5.2.5.10. PRDoH/PRMP will select the procuring instruments appropriate for the particular procurement and for promoting the best interest of the program or project involved.³⁵

5.3. Procurement Methods: All procurements shall be necessary, at a reasonable cost, documented, not prohibited by law or the applicable funding source, and made by this SOP. Among other considerations, PRDoH/PRMP shall consider vendor integrity, public policy compliance, past performance records, and financial and technical resources.³⁶

5.3.1. Standard Methods: To comply with 45 CFR §75.329, PRMP uses the following standard procurement methods.

5.3.1.1. Procurement by micro-purchases:³⁷ Procurement by micro-purchase is the acquisition of goods or services in an aggregate amount that does not exceed the micro-purchase threshold, not to exceed \$5,000.00. If the price is reasonable, micro-purchases may be awarded without soliciting competitive quotations. PRDoH Purchase Office carries out this process directly through the PRGSA, when a PRMP unit, office, or area identifies a business need for goods or non-professional service, the following process will be followed.³⁸

5.3.1.1.1. The PRMP purchase officer will start a request (Form 1001) through the PRGSA Joint E-procurement Digital Intelligence System (JEDI 2.0). The request must include the type of good or service to be acquired and the estimated cost. If a quote is available, it must also be included in the initial request.³⁹

5.3.1.1.2. PRMP's Director of Administration will approve the request through JEDI.

³⁴ 45 CFR 75.327(k)

³⁵ 45 CFR 75.327(l)

³⁶ 45 CFR § 75.327(h).

³⁷ 45 CFR §75.329(a). For reference, see Act No. 48 of February 19, 2024, Act No. 73 of July 19, 2019, as amended, and PRDoH Circular Letter No. 2024-008- New Amounts for Bidding Methods.

³⁸ For reference, see Act No. 73 of July 19, 2019, as amended; *Reglamento Núm. 9318 de 21 de octubre de 2021, conocido como Reglamento Uniforme de Compras y Subastas de Bienes, Obras y Servicios No Profesionales para las entidades exentas del Departamento de Salud*.

³⁹ See section 2(ii)(iv) of the PRDoH Circular Letter No. 2024-008- New Amounts for Bidding Methods.

- 5.3.1.1.3.** The following areas (as applicable to the requested good or service) will revise the request and approve it accordingly.
- PRDoH Federal Funds Office
 - PRDoH Communications Office
 - PRDoH IT Office⁴⁰
 - PRDoH Transportation Office
 - PRDoH Warehouse
- 5.3.1.1.4.** The PRMP's Director will approve the request.
- 5.3.1.1.5.** PRDoH's fiscal area will certify the availability of funds and will provide the account number where the goods or services will be paid.
- 5.3.1.1.6.** If the requested goods or services are related to technology, PRITS approval may need to be obtained before the next step.
- 5.3.1.1.7.** The PRDoH purchase officer will review the request per *PRGSA Regulation No. 9230 of November 18th, 2020 – Uniform Regulation for Purchases and Bids of Goods, Works and Nonprofessional Services and Regulation 9292 of July 23, 2021 - Amendment to the Uniform Regulation for Purchases and Bids of Goods, Works and Nonprofessional Services*, request approval from the PRDoH Administrator, and submit it to the PRGSA.
- 5.3.1.1.8.** As applicable, the PRDoH/PRMP Contract Division will start contract negotiation and obtaining necessary authorizations per the PRDoH/PRMP internal process and according to applicable administrative orders, rules, and regulations. The contract must address administrative, contractual, or legal remedies if contractors violate or breach contract terms and provide for appropriate sanctions and penalties. PRDoH's internal contracting process involves collaboration and the necessary approvals, authorizations, or certifications from PRDoH's Office of the Secretary of Health, Administration, Federal Affairs, Contracts, Legal Advisors, Human Resources, and Fiscal Affairs offices, as well as

⁴⁰ Oficina de Informática y Avances Tecnológicos (OIAT).

other divisions or offices. All contracting processes must be conducted through the PRDoH internal contracts platform.⁴¹ See *Section 8: Contracting Process*.

5.3.1.2. Procurement by Small Purchase:⁴² Small purchase procedures are relatively simple and informal procurement methods for securing non-professional services, goods, or other property that cost more than 5,000.01 but not to exceed \$150,000.00 (SAT).⁴³ If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.⁴⁴ The following process will be followed:⁴⁵

5.3.1.2.1. A PRMP unit, office, or area identifies a business need for a good or non-professional service under the abovementioned circumstances and communicates it to the PRMP Administration. The PRMP unit, office, or area might also identify their desired service/item from the PRGSA's price bulletin and contact the PRGSA's pre-approved vendors to request a quote.

5.3.1.2.2. The PRMP purchaser officer will start a request (Form 1001) through the PRGSA Joint E-procurement Digital Intelligence System (JEDI 2.0). The request must include the good or non-professional service to be acquired and the estimated cost. If quotes are available, they must also be included in the initial request.⁴⁶

⁴¹ Department of Health Administrative Procedures System (e-TRA), also known in Spanish as "Sistema de Trámites Administrativos del Departamento de Salud".

⁴² 45 CFR §75.329(b)

⁴³ In addition to the internal threshold of \$150,000.00, the Administrative Order No. 530 of February 17, 2022, requires the PROMB Director to authorize contracts over \$10,000.00. Administrative Order No. OE-2021- 003 requires review and approval from the Director of FOMB and the Chief of Staff at the Governor's Office for contracts over 10,000,000.00.

⁴⁴ See Act No. 48 of February 19, 2024, Act No. 73 of July 19, 2019, as amended, and Carta Circular Núm. 2024-008-Nuevas Cuantías Para Métodos De Licitación. PRGSA Assistant Procurement Administrator or his authorized representative will request a minimum of three (3) quotes from bidders duly registered in the Administration Registry Office, under the corresponding category. In those cases where the minimum number of quotes is not obtained, this will not be an obstacle to proceed with the purchase; however, the reasons for not obtaining the three (3) quotes must be documented. In the event that a quote has been requested from a particular supplier and the supplier has not responded to the request, it should be considered as "NO BID".

⁴⁵ For reference, see Act No. 73 of July 19, 2019, as amended, and Carta Circular Núm. 2024-008-Nuevas Cuantías Para Métodos De Licitación.

⁴⁶ See section 2(ii)(iv) of the PRDoH Circular Letter No. 2024-008- New Amounts for Bidding Methods.

- 5.3.1.2.3.** PRMP's Director of Administration will approve the request through JEDI.
- 5.3.1.2.4.** The following areas (as applicable to the requested good or service) will revise the request and approve it accordingly.
- PRDoH Federal Funds Office
 - PRDoH Communications Office
 - PRDoH IT Office
 - PRDoH Transportation Office
 - PRDoH Warehouse
- 5.3.1.2.5.** The PRMP's Director will approve the request.
- 5.3.1.2.6.** PRDoH's Fiscal Area will certify the availability of funds and will provide the account number where the goods or services will be paid.
- 5.3.1.2.7.** Depending on the goods or services being requested, approvals from PRITS (technology) and/or PROMB⁴⁷ must be obtained before the next step.
- 5.3.1.2.8.** The PRDoH purchase officer will review the request per PRGSA *Regulation No. 9230 of November 18th, 2020 – Uniform Regulation for Purchases and Bids of Goods, Works and Nonprofessional Services and Regulation 9292 of July 23, 2021 - Amendment to the Uniform Regulation for Purchases and Bids of Goods, Works and Nonprofessional Services*, request approval from the PRDoH Administrator, and submit it to the PRGSA.
- 5.3.1.2.9.** For professional services contracts under \$150,000.00, PRDoH/PRMP may follow the internal contracting process without conducting a competitive process. However, the reasonableness of the cost of services must always be considered and proposals for services must be obtained from an adequate qualified source.
- 5.3.1.2.10.** As applicable, PRDoH/PRMP Contract Division will start contract negotiation and obtaining necessary

⁴⁷ Approval from PROMB must be requested through the PEP system ("*Plataforma Electrónica de Procesamientos*").

authorizations per the PRDoH/PRMP internal process and according to applicable administrative orders, rules, and regulations. The contract must address administrative, contractual, or legal remedies if contractors violate or breach contract terms and provide for appropriate sanctions and penalties. PRDoH's internal contracting process involves collaboration, along with the necessary approvals, authorizations, or certifications from PRDoH's Office of the Secretary of Health, Administration, Federal Affairs, Contracts, Legal Advisors, Human Resources, and Fiscal Affairs offices, as well as other divisions or offices. All contracting processes must be conducted through the PRDoH internal contracts platform.⁴⁸ See *Section 8: Contracting Process*.

5.3.1.3. Procurement by Sealed Bids:⁴⁹ A formal procurement method for securing non-professional services, goods, or other property that costs more than \$150,000.00.⁵⁰ Bids are publicly solicited, and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest price. This procurement method can also be used to procure professional services for \$150,000.00 and over.⁵¹ For sealed bidding to be feasible, the following conditions should be present:

- (i) A complete, adequate, realistic specification or purchase description is available.
- (ii) Two (2) or more responsible bidders are willing and able to compete effectively for the business.

⁴⁸ Department of Health Administrative Procedures System (e-TRA), also known in Spanish as "Sistema de Trámites Administrativos del Departamento de Salud." For more details, please refer to the User Manual.

⁴⁹ 45 CFR §75.329(c), Carta Circular Núm. 2024-008-Nuevas Cuantías Para Métodos De Licitación.

⁵⁰ For non-professional services, goods, or other property, if PRDoH/PRMP decides to carry out this type of procurement procedure it is performed directly through the PRGSA per the PRGSA Regulation No. 9230 of November 18th, 2020 – Uniform Regulation for Purchases and Bids of Goods, Works and Nonprofessional Services and Regulation 9292 of July 23, 2021 - Amendment to the Uniform Regulation for Purchases and Bids of Goods, Works and Nonprofessional Services.

⁵¹ For professional services, if PRDoH/PRMP decides to carry out this type of procurement procedure it is performed internally through the Proposal Adjudication Unit (PAU) per the process established in this SOP. According to Executive Order 2021-029 and Circular Letter No. 013-2021, all professional services contracts with the Government of Puerto Rico of more than \$250,000.00 must follow a competitive process. However, the Secretary of Health, at their sole discretion, and in accordance with federal standards, determined to use the amount of \$150,000.00 in the same fiscal year.

(iii) The procurement lends itself to a firm-fixed-price contract, and the successful bidder can be selected principally based on price.⁵²

If sealed bids are used, the following requirements apply:

- (i) Bids must be publicly advertised to solicit from an adequate number of known suppliers, providing them with sufficient response time before the bid opening date.
- (ii) The invitation for bids, including any specifications and pertinent attachments, must define the items or services for the bidder to respond appropriately.
- (iii) All bids will be opened at the time and place prescribed in the invitation for bids.
- (iv) A firm-fixed-price contract will be awarded in writing to the lowest responsive and responsible bidder.
- (v) Any or all bids may be rejected if there is a sound, documented reason.⁵³

5.3.1.4. Procurement by Competitive Proposals:^{54,55} A formal procurement method for securing non-professional services, goods, or other property that costs more than \$150,000.00 and is generally used when conditions are not appropriate for using sealed bids. Whereas contract awards under sealed bidding are focused on selecting the lowest responsive, responsible bid, under the competitive procurement method, PRDoH/PRMP may prioritize non-price factors, such as technical capability or past performance, over price and therefore award a contract to a contractor whose proposal is not the lowest priced offer but reflects a better overall value to PRDoH/PRMP (e.g. “best value” contracting). It will also be used to procure professional services for \$150,000.00 and over. The technique of competitive proposals is typically conducted with more than one (1) source submitting an offer and either a fixed price or cost-reimbursement type of contract. Proposals must be solicited from an adequate number of

⁵² 45 CFR §75.329(c)(1).

⁵³ 45 CFR §75.329(c)(2).

⁵⁴ 45 CFR §75.329(d).

⁵⁵ PRDoH/PRMP may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services. In this method, competitors' qualifications are evaluated, and the most qualified competitor is selected, subject to the negotiation of fair and reasonable compensation. The method, where the price is not a selection factor, can only be used to procure A/E professional services. It cannot be used to purchase other services, though A/E firms are a potential source for the proposed effort.

qualified sources.⁵⁶ If a PRMP unit, office, or area identifies a business need for a good or service under the abovementioned circumstances, the following processes applies.

- 5.3.1.4.1.** The PRMP unit, office, or area identifying a business need for a good or service that cannot be internally fulfilled will notify the PRMP's Executive Director and Administration Office. The notification must include an explanation justifying the necessity of the good or service.
- 5.3.1.4.2.** PRMP's Administration Office will request approval from the PRMP's Executive Director to start a competitive process through an RFP. The request for approval must include an explanation justifying the necessity of the good or service. If contracting professional services, PRMP's Administration Office will notify the Proposal Adjudication Unit (PAU) to start a competitive process through an RFP.
- 5.3.1.4.3.** A formal RFP⁵⁷ will be drafted with all the required instructions, requirements, specifications, evaluation factors, and their relative importance. The RFP must also include the following: (i) contact name and phone number, (ii) date, time, and location, including address, date(s) to submit questions, publish or submit amendments to the specifications, oral presentations, and meetings, among others. (iii) notice to bidders/proposers that incomplete bid/proposal packages will not be considered, (iv) SOW, (v) deadlines (including due date and time frame for receipt of all proposals among other relevant events of the procurement and contracting phases), (vi) minimum and mandatory requirements, (vii) proforma contract, (viii) Service Level of Agreement (SLAs), (ix) terms and conditions and special instructions to offerors to assist in developing the proposal, (x) required documentation that must be submitted (xi) evaluation criteria to be used in the evaluation of

⁵⁶ For example: a provider's lists or market surveys, to the extent practicable, to help determine whether there will be enough prospective offerors; A prequalified provider lists may be used if they are current and include enough qualified sources to ensure adequate competition; A publication in local newspapers or websites shall be considered to achieve a more effective, open competition.

⁵⁷ A unique reference number will be assigned.

the offers, (xii) information and instructions on the cost proposal, (xiii) reservations of right of the PRDoH/PRMP, including, but not limited to the power to amend the RFP, cancel the RFP process, etc., and (xiv) any other information that may be required for the offerors to understand the contents and intent of the RFP thoroughly.

- 5.3.1.4.4.** Once the PRMP's Executive Director approves the final RFP document package, it will be sent to CMS for approval, if applicable, and publicized on the PRDoH and/or PRMP websites, as well as through any other platforms or media designed to encourage maximum participation and reach the greatest potential bidders and proposers, ensuring extensive coverage of the service area.
- 5.3.1.4.5.** A written method for conducting the technical evaluations of the proposals received will be developed.
- 5.3.1.4.6.** Potential offerors with questions can submit them to PRMP's PAU. PRMP's written responses to such questions will be shared with all potential offerors. PRDoH/PRMP reserves the right to determine, at its sole discretion, appropriate and adequate responses to written comments, questions, and requests for clarification. PRDoH/PRMP's official responses and other official communications shall constitute an amendment or supplement of the RFP if stated in the RFP Document Package.
- 5.3.1.4.7.** RFPs should provide sufficient time to permit the preparation and submission of offers before the specified due date. However, an extension may be granted by PRDoH/PRMP own initiative or if a bidder/proposer requests an extension before the due date and the extension is granted in writing. Contractor bids/proposals are considered late if received after the due date and time specified in the RFP. Late bids and proposals must be clearly marked on the outside of the envelope and kept unopened in the procurement folder. Bidders or proposers who submit late proposals will receive a letter informing them that their submission was late and could not be considered for the award.

- 5.3.1.4.8.** The Evaluation Committee (EC) will meet as many times as necessary to assess the proposals received. Based on the EC's final determination and the scores assigned to the proposals, the EC will create and send an Award Notification Letter recommending to the Secretary of Health or his/her authorized representative to award and proceed with contract negotiations with the entity responsible for the most beneficial proposal to PRDoH/PRMP.
- 5.3.1.4.9.** The Secretary of Health or his/her designee might accept/approve or not accept the EC's recommendations. However, if the determination of the Secretary of Health or his/her designee is not to accept/approve the EC's recommendation and determines that PRDoH/PRMP will award the contract to a respondent other than the one receiving the highest evaluation process score, then must provide a written justification⁵⁸ and obtain the written approval of the PRDoH Secretary of Health. Furthermore, the Secretary of Health or his/her designee might ask for more information from the EC before deciding to accept/approve the EC recommendation. If, after receiving any requested clarifications or more details from the EC, the Secretary of Health or his/her designee deems the recommendations unacceptable, it might cancel the RFP with the appropriate written justification. This written justification will be part of the entire RFP documentation for compliance and auditing purposes.
- 5.3.1.4.10.** If the Secretary of Health or his/her designee determines to accept/approve the EC's recommendations or determines to award to another respondent as stated in the aforementioned paragraph, a Notice of Award⁵⁹ to

⁵⁸ A report based on the totality of the procurement record to substantiate the disagreement and differing recommendations.

⁵⁹ The notice of award must include, at a minimum, (i) names of offerors/vendors and (ii) summaries of the submitted proposals, (iii) criteria that were considered for awarding the proposal, (iv) reasons why other proposals did not win the contract, and (v) warning regarding the right to review, according to Article 3.15 and 4.2 of Act No. 38 of June 30, 2017, as amended, known as the Government of Puerto Rico Uniform Administrative Procedure Act". Interested parties have twenty (20) days to submit a challenge

contract must be sent to the awarded vendor, and contract negotiation must start. As part of this process and before the formation of the contract, the award notification and the awarded vendor's proposal must be sent to CMS for approval, if necessary.⁶⁰ Once CMS approves, the awarded vendor will be asked to submit all required documentation to the PRDoH/PRMP contract office.

5.3.1.4.11. Should the PRDoH/PRMP not reach a favorable agreement with a selected vendor, negotiations shall be terminated, and negotiations may commence with the next highest-scoring vendor.

5.3.1.4.12. Contract negotiation and obtaining necessary authorizations will follow the PRDoH/PRMP internal process according to applicable administrative orders, rules, and regulations. The contract must address administrative, contractual, or legal remedies if contractors violate or breach contract terms and provide for appropriate sanctions and penalties. PRDoH's internal contracting process involves collaboration, along with the necessary approvals, authorizations, or certifications from PRDoH's Office of the Secretary of Health, Administration, Federal Affairs, Contracts, Legal Advisors, Human Resources, and Fiscal Affairs offices, as well as other divisions or offices. All contracting processes must be conducted through the PRDoH internal contracts platform.⁶¹ See *Section 8: Contracting Process*.

5.3.1.4.13. Every competitive procurement will follow and comply with the process steps of the applicable SOP checklist, which is included below.

5.3.2. Exceptions to Standard Methods:

5.3.2.1. Procurement by Non-competitive Proposals:⁶²

if they wish to file a motion for reconsideration with the PRMP. The PRDoH Legal Department handles these challenges, which PRDoH must review within ninety (90) days of submission. This period may be extended only once, for an additional thirty (30) calendar days.

⁶⁰ CMS authorization for contracts that uses APD funding, and any administrative contract required by CMS.

⁶¹ Department of Health Administrative Procedures System (e-TRA), also known in Spanish as "Sistema de Trámites Administrativos del Departamento de Salud".

⁶² 45 CFR §75.329(f).

Procurement by non-competitive proposals is procurement through solicitation of a proposal from only one (1) source and may be used when one (1) or more of the following circumstances apply:

5.3.2.1.1. Single Source: The item is available only from a single source. A sole-source procurement is permissible if a requirement is available from only a single supplier. A requirement for a particular proprietary item does not justify sole source procurement if there is more than one (1) potential bidder or offeror for that item or service. All sole-source procurements require adequate written justification and documentary support in the procurement file to be allowable. They must also reflect applicable state and/or local laws and regulations as long as those requirements conform to the federal procurement standards. Sole source procurement should be used only when competitive solicitation procedures like sealed bids or competitive proposals are not applicable to the requirements or are impracticable.

The POL or his/her authorized representative can determine the use of a sole source in the PRDoH/PRMP's best interest based on documented justification. This determination must be documented. The letter of explanation justifying the necessity to contract in a non-competitive manner because of the sole source request shall be attached to the documentation requiring approval by the PRMP's Executive Director. If the item or service is available only from one (1) source, PRMP will document the following: (i) Uniqueness of items or services to be procured from the proposed contractor or vendor (e.g., compatibility or patent issues); (ii) How it was determined that the item or service is only available from one (1) source; (iii) Explanation of the need for contractors' expertise linked to the current project (e.g., knowledge of project management, responsiveness, experience of contractor personnel, and/or prior work on earlier phases of

the project that no other company possesses and which accrues to the benefit of PRMP, an award to any other source would result in substantial duplication of cost to PRDoH/PRMP that is not expected to be recovered through competition or will cause unacceptable delays in fulfilling the requirement or there is a performance risk), (iv) Any additional information that would support the exception.

A circumstance that could necessitate a sole source procurement is the purchase of technical equipment for which there is no competitive product, and which is available only from one (1) supplier. A quote and letter of explanation must accompany the request. "Sole source" refers to the supplier and a product or service. Thus, the ability to meet a delivery date or to provide on-call repairs will not create a sole source that is a single-supplier condition. Justification for a sole source purchase depends upon a needed item or service available from only a single supplier under the prevailing conditions. If the item or service can be obtained from multiple sources, price competition shall be solicited, or a select source procurement will be completed. A letter of explanation shall explain the rationale used in determining "sole source" and determining that the awarded price is "fair and reasonable". A quote and letter from the sole source on company letterhead, signed by a person of authority from the supplier, must accompany this request.

5.3.2.1.2. Public Exigency or Emergency: The public exigency or emergency for the requirement will not permit a delay resulting from the competitive solicitation. An "exigency" or "emergency" is a situation that calls for immediate action that will not permit a delay resulting from competitive solicitation. The public exigency or emergency exception is only permissible during the exigency or emergency circumstances. Once the exigency or emergency circumstances cease, PRDoH/PRMP must transition to a more appropriate method of contracting using full and open competition.

Based on documented justification, the POL or his/her authorized representative can determine that a competitive solicitation is not feasible due to a public exigency or emergency. A letter of explanation justifying the necessity to contract in a non-competitive manner because of a public exigency or emergency shall be attached to the documentation requiring approval by the PRMP's Executive Director. The letter must include, but it will not be limited to: (i) a description of the nature of the public exigency or emergency, (ii) the need for the contract and period of performance, and (iii) the impact on the project if deadline/dates are not met, and (iv) why procurement other than through non-competitive proposals would cause an unacceptable delay in addressing the public exigency or emergency. In an emergency, the letter must include evidence of an emergency declaration and any additional information supporting the determination. Time constraints will not be considered factors if competitive proposals are not sought promptly.

5.3.2.1.3. CMS Authorization: The HHS awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from PRMP. PRMP will initiate a justified and written request to CMS for approval to proceed with a contract without a competitive process in justifiable cases. The contract file will include the authorization letter from CMS as evidence of compliance.

5.3.2.1.4. Competition is Inadequate: After solicitation of a number of sources, competition is determined inadequate. Before utilizing this exception, PRDoH/PRMP shall review the solicitation and how it was publicized to ensure that it was not inadvertently drafted to reduce or eliminate competition, which resulted in the receipt of one (1) or no proposals. If this is the case, PRDoH/PRMP can re-publicize the solicitation to resolve the competitive concerns. After that, and based on documented justification, the POL or his/her authorized representative can determine that a competitive solicitation is inadequate after

solicitation from a number of sources. A letter of explanation justifying the necessity to contract in a non-competitive manner because of this exception shall be attached to the documentation requiring approval by the PRMP's Executive Director. The letter must include, but it will not be limited to: (i) a detailed summary of any prior recent solicitations or competitive procurements (include the number of sources solicited) and explain why the competition was determined to be inadequate, (ii) Results of a market survey to determine competition availability; if no survey is conducted, please explain why not, (iii) independent investigation in the RUP or similar registry or source (e.g., listing from a professional organization), (iv) explanation of why the competition was determined to be inadequate; and (v) any additional information that would support the exception.

5.3.3. Real Estate Property Lease or Purchase Procurement: To ensure that the real estate property lease or purchase procurement process for PRDoH/PRMP is also conducted efficiently, transparently, and in compliance with all applicable regulations and federal standards, the following process will be followed:

5.3.3.1. Needs Assessment: As soon as the need to lease or purchase office space for PRMP's operations arises, PRMP shall prepare a needs assessment describing PRMP's property needs, including space requirements, availability, location preferences, and budget considerations.

5.3.3.2. Request to JRPI: Per Act No. 235-2014 PRMP must submit to the JRPI the assessment created to verify whether a public real estate property that fits PRMP's needs is available or request authorization from the JRPI to lease or buy a private property. PRMP will then evaluate the properties certified by the Public Buildings Authority (AEP, by its Spanish acronym) and/or JRPI, if any. If the property(ies) presented by the AEP and/or JRPI do(es) not fulfill PRMP's needs or the AEP and/or JRPI certifies that there is no public property in inventory or reasonably available to meet PRMP's needs and/or that the proposed real estate property lease is necessary to ensure the continuity of services to the public, PRMP must proceed to conduct market research. If any property presented by the AEP and/or JRPI fulfills PRMP's needs, then an interagency negotiation will start.

5.3.3.3. Market Research: PRMP can conduct market research to

identify potential properties that meet its needs. If the real estate property yearly lease or purchase is expected to exceed the \$150,000 threshold, the Administration Office must obtain approval from the PRMP Executive Director to initiate a competitive process through a Request for Proposal (RFP). The request for approval from the PRMP Executive Director must include: (i) AEP and/or JRPI negative certification or authorization, (2) the specifications of the property to be leased/purchased, (iii) market research, or cost or price analysis, or independent estimate, and (iv) evidence of funding availability.

- 5.3.3.4. Request for Proposals (RFP):** An RFP to solicit proposals from property owners or leasing agents will be publicized in <https://medicaid.pr.gov/>. The RFP will describe PRMP's property needs, including, at minimum, space requirements, availability, lease terms, amenities, location preferences, and budget considerations. Also, any evaluation criteria, the relative weight or importance of each criterion, and any special instructions for the offerors to assist them in developing the offer must be included within the RFP. The RFP might also include a PRDoH proforma contract and/or any required special or mandatory clauses, the due date and time frame for receipt of the proposals/offers, as well as any other information that may be necessary for offerors to understand the contents and intent of the RFP thoroughly.
- 5.3.3.5. Proposal Evaluation:** PRMP may request a report from a licensed engineer certifying the structural conditions and feasibility of the property(ies) to be evaluated as part of the RFP process. This report will be provided to the designated Evaluation Committee for use in the evaluation process.
- 5.3.3.6. Property Appraisal:** Per Act No. 235-2014, PRMP must submit to the JRPI an appraisal report of the property selected. Note: This applies to competitive and non-competitive processes.
- 5.3.3.7. Negotiation:** Contract negotiation and obtaining the necessary authorizations will start following the PRDoH/PRMP internal process and per applicable administrative orders, rules, and regulations.

- 6. Evaluation Committee:** In compliance with Administrative Order No. 2024-586 (published January 25, 2024), an Evaluation Committee (EC) must be designated to

attend PRMP's RFP exclusively⁶³.

6.1. Responsibilities: The designated EC will be responsible for:

- 6.1.1. Evaluating the mandatory and technical requirements in proposals received.
- 6.1.2. Evaluating the cost proposals received.
- 6.1.3. Drafting recommendations for executive leadership approval.
- 6.1.4. Refrain or recuse himself or herself from evaluating a specific RFP once he/she becomes aware that a real or apparent conflict of interests exists.

6.2. Members: As early as possible, the Secretary of Health or his/her designee will designate the members of the Evaluation Committee at his/her sole discretion. The evaluation committee shall be composed of five (5) members, one of whom shall be designated as president and another as secretary.

- 6.2.1. The presence of at least three members shall constitute a quorum for all purposes in cases where one or two members are unavailable, or a vacancy exist.
- 6.2.2. A specialized sub-committee might be created for a particular RFP.
- 6.2.3. An advisor(s) to assist the EC in the proposal evaluation might be hired or consulted.

6.3 Process:

The Proposal Adjudication Unit (PAU) will:

- 6.3.1 Facilitate a kick-off meeting for all EC members to establish a standard procedure and shared goals for the procurement process.
- 6.3.2 Distribute and collect the Declaration of Non–Conflict of Interest and Confidential Information from all Evaluation Committee and subcommittee members, as applicable, before they have access to the proposals.
- 6.3.3 Provide the documentation and guidance the EC requires to evaluate the proposals received through a specific RFP. The evaluators will receive detailed information about the procurement, goals, and objectives, the rules and guidelines of the RFP, the scoring methodology and the evaluation tools they will be using, the calendar of the RFP, and the rules of conduct they need to follow, among other pertinent information.
- 6.3.4 Schedule and facilitate as many meetings as needed by the EC to evaluate the proposals properly.

⁶³ The Evaluation Committee created for PRMP under Administrative Order No. 2024-586 will function and have the same responsibilities as the Executive Committee created by the Department of Health under Administrative Order No. 2023-581 to evaluate competitive procurement at a central level.

- 6.3.5 Facilitate the evaluation process and the drafting of the award recommendation by the EC.
- 6.3.6 Notify the EC if a procurement is challenged after it is awarded.

For the evaluation process, the EC:

- 6.3.7 Review each technical response to determine compliance with the RFP Technical Response and Evaluation Guide. If the EC determines that a proposal response has failed to meet one (1) or more of the mandatory requirements, the EC will review the response. The EC's secretary will then document whether (i) the response adequately meets RFP requirements for further evaluation, or (ii) the response will be determined to be non-responsive to the RFP and thus rejected.
- 6.3.8 Evaluate each proposal response according to the evaluation criteria and weights specified in the RFP. They will utilize a scoring template, which must be submitted to the PAU upon completion. PRDoH/PRMP retains the right, at its sole discretion, to request clarification of a technical response from the respondent.
- 6.3.9 During the technical scoring phase, the EC can request clarification or additional information from offerors/vendors via oral presentations or email. Any clarification or discussion will be limited to specific sections of the response identified by the EC. If applicable, the EC member conducts a consensus scoring activity after the oral presentations or after receiving clarifications requested by email.
- 6.3.10 EC members will discuss their final individual evaluations to reach a consensus on each criterion and identify the proposal representing the "best value." After each member presents a rationale, the group assigns an agreed-upon consensus score for each criterion. With assistance from the PAU, the EC secretary will complete the scoring summary table with the final scores and take minutes of all consensus scoring sessions. All meeting documentation and minutes will be included in the procurement file.
- 6.3.11 After the technical scoring is complete, the PAU convenes the EC to disclose the cost proposals of offerors and vendors.
- 6.3.12 Before opening the cost proposals, the EC will review the technical response evaluation record and any other relevant information necessary to determine whether each respondent is responsive and responsible. If the EC identifies any respondent who does not meet the responsive and responsible thresholds, and the EC members do not recommend the respondent for cost proposal evaluation and potential contract award, the EC secretary will document this determination.
- 6.3.13 If the EC finds a non-responsive response and rejects it after opening the cost proposals, they will recalculate scores for each remaining

responsive cost proposal to determine the apparent best-ranked response.

6.3.14 Proposals considered responsive and responsible will be opened for evaluation by the EC regarding the proposed costs. The EC will develop recommendations based on the aggregated technical and cost scores.

6.3.15 After evaluating the RFP, the EC must draft recommendations based on the evaluation outcomes of all proposals for awarding to the Secretary of Health and the PRMP's Executive Director.

7. Procurement Oversight Lead (POL): To comply with the Consolidated Appropriations Act 2023, Public Law 117-328, as outlined in the Puerto Rico Program Integrity - Section 1108(g)(7)(A) of the Social Security Act (42 U.S.C. 1308(g)(7)(A)), the Secretary of the PRDoH is required to designate and maintain an officer to serve as the Contracting and Procurement Oversight Lead. This position is essential for ensuring compliance with federal procurement regulations while enhancing transparency and accountability in the procurement process of PRMP.

7.1 Responsibilities: This role involves, among other responsibilities:

7.1.1 Monitoring the procurement procedures and policies of PRDoH/PRMP to ensure compliance with federal standards and, in certain exceptions, with state regulations applicable to purchasing goods and services using Medicaid funds.

7.1.2 Enhancing procurement processes to promote efficiency and effectiveness.

7.1.3 Conduct audits and reviews to identify and mitigate risks.

7.1.4 Providing training and support for procurement staff, Evaluation Committee (EC).

7.1.5 Working with PRHIA's Principal Proposal Adjudicator and Procurement Contact officers on (i) the certification process, (ii) ensuring PRHIA's compliance with federal standards in Medicaid-funded contracts, and (iii) conducting investigations or reporting developments to comply with applicable federal contracting and procurement standards services.

7.2 Certification: No later than sixty (60) days following the conclusion of each fiscal quarter, the officer designated as the POL shall, for each contract with an annual value exceeding \$150,000.00 entered into during that quarter, certify to the Secretary of the HSS that:

7.2.1 The contract has met the procurement standards outlined in sections 75.327, 75.328, and 75.329 of title 45, Code of Federal Regulations (or successor regulations); or

7.2.2 Extenuating circumstances (including the absence of multiple entities competing for the contract) prevented the contract from meeting these

standards.

The POL shall make public each certification detailing the extenuating circumstances mentioned above no later than thirty (30) days after the certification is issued, along with a description and justification of these extenuating circumstances.

8. Contracting Process:

- 8.1** The internal contracting process begins when the PRMP's Contracts Office submits a contract request through PRDoH's contract platform. This process also includes creating a contract draft and entering, uploading, or generating the required documents⁶⁴ within the platform. These documents include but are not limited to: (i) a justification letter, (ii) DS-34 Form (allocation of funds), (iii) certification of funds availability, (iv) contractor's documents, (v) proposal, (vi) required certifications and approvals, and (vii) contract.
- 8.2** The contract request and supporting documents undergo several steps through the contract platform requiring revisions, approvals, and necessary certifications, as detailed below:
 - 8.2.1** PRMP's Executive Director receives a request for approval.
 - 8.2.2** PRDoH's Administration Office receives a request for an initial contract evaluation and approval.
 - 8.2.3** PRDOH's Fiscal Affairs Office receives a request for fiscal evaluation and authorization of the DS-34 Form.
 - 8.2.4** PRDoH's Federal Affairs Office receives a request to evaluate compliance with federal regulations when the contract involves using federal funds.
 - 8.2.5** PRDoH's IT Office receives a request to revise the contract when the goods or services are related to technology. They are also responsible for submitting Form PRITS-001 for PRITS's approval.
 - 8.2.6** PRDoH's Human Resources Office receives a request for contract evaluation and produces the required certification(s). To ensure that PRDoH employees cannot provide the contracted professional services, this office must certify⁶⁵ that (i) the individual being hired is eligible for public service⁶⁶, (ii) the functions to be performed or services to be provided do not fall under a classified position in PRDoH's career service, (iii) if it is a classified position and the functions are essential, but the program, office, or unit does not have the funds under the payroll item to

⁶⁴ See Puerto Rico Department of Treasury Circular Letter 1300-16-16. See also Administrative Order No. OE-2021- 003, which requires review and approval from the Director of FOMB and the Chief of Staff at the Governor's Office for contracts over 10,000,000.00.

⁶⁵ See Puerto Rico Department of Treasury Circular Letter 1300-35-07.

⁶⁶ See Special Memorandum No. 26-2015 (OCALARH).

fill a career position, or (iv) that PRDoH lacks classified positions or employees available to perform the tasks or services being contracted.

- 8.2.7 PRDoH's Legal Advisors Office receives a request for a preliminary evaluation of the contract process.
- 8.2.8 PRDoH's Contracts Office receives the contract request and all necessary certifications, documents, and approvals outlined in the previous steps. If the contract costs over \$10,000.00, the PRDoH's Contracts Office must request approval from the PROMB. Once the PROMB approves, the PRDoH's Contracts Office uploads the approval in the contract platform. Also, the PRDoH's Contract Office creates a contract draft or reviews the one provided by the PRMP's Contract Office and uploads the final version of the contract to the platform.
- 8.2.9 PRDoH's Legal Advisors Office receives a request from the PRDoH's Contracts Office for final contract evaluation, approval, and required certification.
- 8.2.10 The PRDoH's Contracts Office obtains approval from PRDoH's Legal Advisors Office and proceeds to coordinate the signatures of the contractor and the Secretary of Health on the final contract. At this stage, the PRDoH's Contracts Office may require the contractor to submit additional documents. Once received, the PRDoH's Contracts Office uploads these documents (if any) to the platform. After this process is complete, the PRDoH's Contracts Office has fifteen (15) or thirty (30) days, as applicable, from the date of signature to register the signed contract with the PROTC. The final contract and related details will be posted on the PROTC's website following the completion of their internal processes.
- 8.2.11 The contract is also sent to the PRDoH's Finance Office for funds obligation.

9. Contract Oversight: PRDoH recognizes the importance of maintaining contract oversight to ensure contractors perform under the terms, conditions, and specifications of their contracts or purchase orders.⁶⁷ Once the contract is awarded, the Contract Administrator/Oversight Designee(s) should be responsible for monitoring and discussing the progress of the contract and the contractor's performance associated with their functional/subject area.

9.1 Responsibilities:

- 9.1.1 Monitor the progress of all contractual obligations at least monthly to ensure timely and satisfactory completion.
- 9.1.2 Conduct regular reviews and audits of the contract performance.

⁶⁷ 45 CFR 75.327(b).

- 9.1.3 Serve as the primary point of contact for resolving any disputes or issues that may arise.
 - 9.1.4 Evaluate and report any discrepancies or non-compliance to the relevant personnel, units, and/or authorities.
 - 9.1.5 Provide periodic updates and reports to the contracting parties on the status of the contract.
 - 9.1.6 Request and review documentation pertinent to the fulfillment of the contract.
 - 9.1.7 Convene meetings between the contracting parties to discuss and resolve any issues.
 - 9.1.8 Recommend corrective actions to ensure compliance with the contract terms.
 - 9.1.9 Review reports, formal deliverables, and performance metrics as documented in a Service Level Agreement (SLA).
 - 9.1.10 Schedule regular meetings or on-site visits with a contractor to monitor and discuss the contract's progress and the contractor's performance. Document and resolve or escalate contract disputes and claims to the legal or procurement office.
 - 9.1.11 Identify the need and start the process of requesting contract amendments.
 - 9.1.12 Identify complex contract transition issues with a new and existing vendor.
 - 9.1.13 Any other relevant considerations.
- 9.2 Contracts Requirements:** All PRDoH/PRMP contracts shall include a clause about the Contract Oversight/Administration and its responsibilities. The clause⁶⁸ will read as follows: "This contract will be oversight by _____ (hereinafter referred to as the "Contract Oversight Designee") or its authorized representative and will be evaluated to measure results obtained per the need for the service. The Contract Oversight Designee shall ensure that all parties adhere to the terms and conditions outlined within this contract and shall (a) Monitor the progress of all contractual obligations to ensure timely and satisfactory completion; (b) Conduct regular reviews and audits of the contract performance; (c) Serve as the primary point of contact for resolving any disputes or issues that may arise; (d) Report any discrepancies or non-compliance to the relevant authorities and (e) Provide periodic updates and reports to the contracting parties on the status of the contract. The Contract Oversight Designee is hereby granted by the PRDoH the authority to, among others, (a) Request and review documentation pertinent to

⁶⁸ It might be modified from time to time per the PRDoH Legal Division's recommendations.

the fulfillment of the contract, (b) Convene meetings between the contracting parties to discuss and resolve any issues, and (c) Recommend corrective actions to ensure compliance with the contract terms”.

9.3 Contract Amendments: Amendments to contracts must be submitted to the PRMP’s Executive Director and the POL to determine the procurement mechanism that must be followed. However, the competitive process will always be the standard, even for continuity-of-services. This applies to amendments under the following circumstances: (i) the proposed amendment's expected annual monetary value will cause the original contract's annual value for the same contract year as the proposed amendment to exceed \$150,000.00 or (ii) the expected annual monetary value of the proposed amendment exceeds \$150,000.00, or (iii) the sum of the total annual value of prior amendments within the same contract year of the proposed amendment, and the expected annual monetary value of the proposed amendment will exceed \$150,000.00. The request must include the following information: (i) a detailed description of the need, purpose, reason, amount, and terms of the amendment; (ii) an independent estimate of the cost of the amendment; (iii) the name of the contractor and the number of the contract being amended, (iv) the expected date of its signature, and (v) the method of procurement used for the original contract.

10. Training and Continuing Education: Given the complexity of contracting and procurement procedures, ongoing education and training for personnel involved are extremely important. To ensure that executive professionals, as well as those who participate directly or indirectly in the contracting and procurement processes of goods or services for the PRDoH/PRMP, possess the necessary knowledge, skills, competencies, and tools to perform their duties per applicable laws and regulations, along with the ethical standards governing these processes, the PRDoH/PRMP must identify training needs, develop a training plan (whether in-person or online), and ensure the availability or provide access to such training for executive professionals and those participating directly or indirectly in the PRDoH/PRMP procurement process.

10.1 Training Plan: PRDoH/PRMP will create and execute a periodic or annual training plan for executive professionals and those involved directly or indirectly in the PRDoH/PRMP procurement process.

10.1.1 Subject to availability and as applicable, executive professionals and those involved directly or indirectly in the PRDoH/PRMP procurement and contracting processes must undertake ongoing continuing education that may or may not align with the annual training plan. For instance, if another government agency or private entity announces a new course that is not included in the training plan but is highly beneficial for PRDoH/PRMP, it could be considered part of the training.

10.1.2 All executive professionals and individuals involved directly or indirectly

in the PRDoH/PRMP procurement and contracting processes must receive initial training on this SOP and all relevant federal and state procurement laws, standards, and regulations. This training must be conducted annually, and attendance is mandatory.

10.1.3 New employees will receive training on this SOP during their initial orientation after the hiring process, as applicable. The PRMP Human Resources Office or Administration will coordinate with the POL for any necessary training for new employees.

10.1.4 Within the training plan, the following topics may be considered: (i) Standard Procedures for Contracting and Procurement, (ii) Government Contracting, (iii) Contracting with Federal Funds and Contract Oversight/Compliance, (iv) GSA Regulations and Administrative Orders, (v) Jurisprudence related to Act No. 73 of July 19, 2019, and the procurement process of the Government of Puerto Rico, (vi) Ethical aspects regarding the purchasing function, (vii) Federal regulations applicable to the public bidding process and states of emergency, (viii) Government corruption, (ix) Effective Market Research for Government Agencies. To prevent redundancy in training efforts, these courses may be offered internally or in collaboration with other entities, such as the GSA, the Puerto Rico Government Ethics Office, the Puerto Rico Office of the Comptroller, the Office of the Inspector General, and the Puerto Rico Health Insurance Administration.

10.2 Training Documentation:

10.2.1 The PRMP's Proposal Adjudication Unit and/or the Human Resources and Administration offices will keep records of the training and continuing education received by the executive professionals and those directly or indirectly involved in the PRDoH/PRMP procurement and contracting processes.

10.2.2 To the greatest extent possible, the materials provided during training sessions will be posted on PRDoH/PRMP's SharePoint for all personnel to access conveniently.

11. Standards of Conduct and Conflict of Interest for Procurement: PRDoH/PRMP acknowledges the importance of ensuring that all procurement activities are conducted transparently, fairly, and ethically to prevent conflicts of interest. Examples of conflicts of interest include but are not limited to, situations in which an employee, officer, consultant, contractor, or agent (i) negotiates or approves a contract, purchase, or lease on behalf of an entity or person while having a direct or indirect interest in, or receiving personal benefit from, the entity or individual providing the goods or services, (ii) employs or approves the employment of, or supervises, a person who is an immediate family member of the awarded individual or entity, (iii) sells products or services that compete with those of the awarded vendor, or (iv) utilizes the awarded entity's facilities, assets, employees, or other resources for

personal gain. PRDoH/PRMP mandates the same standards of conduct and duty to disclose for employees or contractors as for any covered person consultants who perform services equivalent to a regular office or position. Covered person consultants for PRDoH/PRMP share the same duty as other employees, staff, officers, and agents of PRDoH/PRMP to deliver their services honestly, responsibly, and competently, applying their best skills and judgment and exercising the utmost good faith and care.

11.1 Standards: The following Standards of Conduct will apply to all procurement actions under PRDoH/PRMP activities, regardless of whether they are fully or partially funded with Medicaid funds.

- 11.1.1** Employees, former employees, contractors, consultants, or individuals involved in Medicaid-funded activities, or those able to participate in decision-making or acquire inside information about these activities, are prohibited from obtaining a financial interest (for themselves, their family unit,⁶⁹ or those with whom they have business connections) or benefiting from it through any contract, subcontract, or agreement. Therefore, no PRDoH/PRMP employee, officer, consultant, contractor, or agent may participate in selecting, awarding, or administering a Medicaid-funded contract if a real or apparent conflict of interest exists. Such a conflict occurs when the employee, officer, consultant, contractor, agent, or any member of their family unit, partner, or organization that employs or intends to employ any of the parties as mentioned above has a financial or other interest in, or a tangible personal benefit from, an entity being considered for a contract. In any of these situations, they must not be directly or indirectly involved in related matters.
- 11.1.2** A PRDoH/PRMP employee, officer, consultant, contractor, or agent involved in the selection, award, or administration of contracts may neither, directly or indirectly, solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. An exception to this is that the financial interest is not substantial, or the gift is an unsolicited item of nominal value.⁷⁰
- 11.1.3** No PRDoH/PRMP employee, officer, consultant, contractor, or agent involved in the selection, award, or administration of contracts shall disclose or utilize confidential information or documents obtained through their employment or contractual relationship with PRDoH/PRMP to gain, directly or indirectly, any benefit for themselves or any other private individual or entity.

⁶⁹ For purposes of this provision, the term family unit means the spouse, dependent child, or family member who, not being a dependent or residing with the employee or consultant, are within the fourth degree of consanguinity or second degree of affinity, or who shares the legal residence or whose financial affairs are under the control of the employee or consultant.

⁷⁰ 45 CFR 75.327(c)(1).

- 11.1.4** In their relationship with PRDoH/PRMP, every individual or entity involved in public bids, submitting quotations, seeking to enter into contracts with them, or attempting to obtain any economic incentive will be required to disclose all necessary information for the relevant evaluation. This also encompasses participation in situations where organizational conflicts of interest may occur.
- 11.1.5** All PRDoH/PRMP employees, officers, consultants, contractors, or agents involved in the selection, award, or administration of contracts shall (i) avoid conflicts of interest, potential⁷¹ conflicts of interest, or the appearance of conflicts; (ii) disclose actual and apparent conflicts of interest to the Procurement Oversight Lead (POL) in writing; and (iii) refrain from performing any procurement tasks or participating in decisions regarding matters involving real conflicts of interest, potential conflicts of interest, or the appearance of a conflict.
- 11.1.6** In situations where a conflict of interest is identified, PRDoH/PRMP, through the POL, will document adherence to its standards of conduct and will prohibit individuals or entities with actual or perceived conflicts of interest regarding a specific contract from participating in the selection, award, or administration of that contract. Most concerns about conflicts of interest can be promptly and completely resolved through proper disclosure. However, when a real, potential, or apparent conflict that may influence the decision-making process arises, the POL may consider referring the case in writing to the PRDoH Legal Division for further evaluation and recommendations in writing.
- 11.1.7** A person with a conflict of interest shall not participate in or be permitted to hear discussions on the matter, except to disclose material facts and respond to questions. Such a person shall not attempt to exert his or her personal influence regarding the matter.
- 11.1.8** A person with a conflict of interest regarding a contract or transaction to be voted on at a meeting shall not be counted when determining a quorum for that vote. The individual with a conflict of interest may not vote on the contract or transaction and must not be present in the meeting room during the vote unless it is by secret ballot. The individual's ineligibility to vote and abstention from voting shall be noted in the meeting minutes.
- 11.1.9** The POL or his/her designee will ensure that a conflict-of-interest declaration is obtained from all employees, officers, agents, subcontractors, or contractors involved in preparing, selecting, and awarding competitive or noncompetitive processes and managing

⁷¹ A potential conflict of interest is a situation or circumstance that is not currently a conflict of interest but is likely to be classified as, or result in, a conflict of interest.

the resulting contracts.

- 11.1.10** All employees, officers, consultants, contractors, and agents involved in a competitive procurement process or designated evaluators must fully comply with all relevant laws, rules, circular letters, and administrative orders and regulations.⁷²

11.2 Process:

11.2.1 Proposal Evaluation Committee/Subcommittee(s):

11.2.1.1 For each procurement, the PAU will distribute and collect the Declaration of Non–Conflict of Interest and Confidential Information to the Evaluation Committee and subcommittee members, as applicable, who were appointed for that procurement. This must be completed before they can access the proposal(s) and attend the kick-off meeting.

11.2.1.2 The POL will review all completed forms to determine the appropriate resolution if necessary.

11.2.1.3 If a member reveals the material fact of a real, potential, or apparent conflict of interest during a procurement meeting rather than beforehand, that disclosure must be included in the meeting minutes. The member shall not participate in or be allowed to hear discussions regarding the matter except when disclosing material facts and responding to questions. The POL will determine the appropriate resolution if necessary.

11.2.1.4 The POL or his/her designee will ensure that all evaluation committee (or subcommittee) members sign a non-conflict of interest declaration at the start of each procurement evaluation. This process will also be certified as complete as part of the compliance checklist to be included in the procurement file's documentation.

11.2.2 Secretary of Health, PRMP's Executive Director, PRMP Contract Office, Administration Office, Proposal Adjudication Unit, Fiscal Division, Contract Oversight, and employees/consultants with procurement and/or hiring responsibilities or authority:

11.2.2.1 At the start of employment, during employment, at the time of signing a contract, or whenever necessary, the PRMP Contract Office will create a list of all current contractors

⁷² As reference, see Act No. 2 of January 4, 2018, as amended, known as the Anti-Corruption Code for the New Puerto Rico; Act No. 1 of January 3, 2012, as amended, known as the Puerto Rico Government Ethics Act.

and send it to the POL. The POL will evaluate if any potential conflicts arises, these individuals must submit a signed, updated disclosure form. These individuals will use the designated form to notify the PRMP's Executive Director and the POL of any potential reportable conflicts in writing and with their signature.

- 11.2.2.2 If any new potential conflicts arise during the year, these individuals must submit a signed, updated disclosure form.
- 11.2.2.3 The POL will review all completed forms to determine the appropriate resolution if needed.
- 11.2.2.4 The POL or his/her designee will always ensure that all roles specified in this section sign a non-conflict of interest declaration at any time and as needed thereafter. This process will be documented as completed as part of the compliance checklist to be included in the procurement file's documentation.

11.3 Non-compliance: Any violations of the standards outlined in this section may lead to disciplinary actions as stipulated by the relevant laws and regulations. For a consultant or contractor, this may constitute a breach of contract, resulting in the application of remedies for contractual damages, including, but not limited to, contract cancellation. In such instances, the POL or anyone identifying noncompliance with this SOP must refer the case to PRDoH/PRMP offices, and PRDoH Legal Advisors office.

11.4 Declaration of Non-Conflict of Interest and Confidential Information Templates:

- 11.4.1 Evaluation Committee Members – See Attachment 1.
- 11.4.2 Employees/Consultants - See Attachment 2.

12. Checklist:

- 12.1 Contract & Procurement Checklist - See Attachment 3.

13. SOP Compliance:

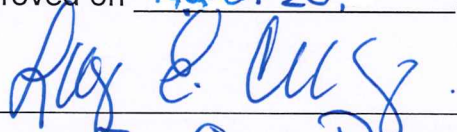
- 13.1 **Compliance Measurement:** PRDOH/PRMP will ensure compliance with this SOP through various methods, including but not limited to internal and external audits, reports, and feedback to the SOP owner.
- 13.2 **Exceptions:** PRDOH/PRMP must approve any exceptions to this SOP in writing.
- 13.3 **Non-Compliance:** An employee, consultant, agent, or contractor who does not comply with any provision of this SOP may face disciplinary actions, including termination of employment or cancellation of the contract.

14. General Dispositions:

- 14.1 This SOP will take effect immediately upon approval. If this SOP is modified after this date, the effective date of the new or revised SOP will be noted in the heading. Previous procurement guidance should be retained for future reference in connection with any audits, monitoring, or investigations.
- 14.2 This SOP may be amended at any time, in whole or in part. Any amendments will require the approval of the PRMP’s Executive Director and must be promptly communicated to all relevant parties.
- 14.3 This SOP precedes any previous SOP, circular letter, memorandum, or document that may conflict with the topics covered herein.
- 14.4 If, after the approval and taking effect of this SOP, any of the laws cited herein are amended, the provisions of this SOP shall be interpreted per current legislation. In such cases, any provision that contradicts current legislation shall be regarded as repealed.
- 14.5 If any section or part of this SOP is deemed void by any regulatory or administrative authority or by a competent court, that decision will not affect, prejudice, or invalidate the remainder of this document, and its effects will be confined to that specific section or part.

15. SOP Approval:

This Contracting and Procurement Standard Operating Procedure (SOP) was reviewed and approved on March 28, 2025.

Signature: 
 Printed Name: Luz E. Cruz-Romero
 Role or Position: Executive Director – Medicaid Program

16. Revision History:

Version #	Date	Description
1.0	06/21/2022	The first version was released for revision.
2.0	03/30/2025	The second version was released for the purpose of: (1) updating the contracting and procurement oversight policies and procedures to conform to Federal procurement standards—including policies and procedures related to contracts for leases, goods, and nonprofessional services—and to address the role of the Oversight Lead and the certification process, and (2) training to staff on policies and procedures.



GOVERNMENT OF PUERTO RICO
 Department of Health
 Medicaid Program

**DECLARATION NON-CONFLICT OF INTEREST
 AND CONFIDENTIAL INFORMATION**
(Evaluation Committee Members)

Introduction:

Your willingness to participate in this procurement effort is essential to the project's success. The Puerto Rico Department of Health (PRDoH) and the Puerto Rico Medicaid Program (PRMP) sincerely appreciate your assistance, expertise, and support. Your participation requires a thorough understanding of the policies concerning potential conflicts of interest and the confidential nature of this procurement effort. This form pertains to the entire procurement lifecycle, from initial conception to contract award and beyond. Regardless of the role, all individuals involved in this procurement must sign this form prior to engaging in procurement-related activities due to their access to privileged and confidential information. You are accountable for maintaining strict confidentiality and may only share procurement-related information with other relevant parties who have also signed this Declaration. Furthermore, to ensure a fair, objective, and competitive procurement process, you are required to report any perceived or actual conflicts of interest and breaches of confidentiality to the PRMP POL or his/her designee.

Conflict of Interest/Standards of Conduct:

PRDoH/PRMP recognizes the importance of ensuring that all procurement activities are conducted transparently, fairly, and ethically to avoid conflicts of interest. Examples of conflicts of interest include, but are not limited to, situations in which an employee, officer, consultant, contractor, or agent (i) negotiates or approves a contract, purchase, or lease on behalf of an entity or person while having a direct or indirect interest in, or receiving personal benefit from, the entity or individual providing the goods or services, (ii) employs or approves the employment of, or supervises a person who is an immediate family member of the awarded person or entity, (iii) sells products or services in competition with the awarded vendor, (iv) uses the awarded entity's facilities, other assets, employees, or resources for personal gain, (v) is affiliated with a bidding company or institution, (vi) is employed by or is being considered for employment with the company or institution submitting any bid or proposal, or holds a consulting, advisory, or similar position with said company or institution, (vii) holds any current membership on a committee, board, or similar position with the company or institution, (viii) holds ownership in the company or institution, securities, or other evidence of debt, or (ix) has a relationship¹ with someone who has a personal interest in a proposal or bid.

PRDoH/PRMP requires the same standards of conduct and duty to disclose that apply to employees or contractors from any covered person consultants who provide services equivalent to a regular office or position. PRDoH/PRMP covered person consultants have

¹ This includes any affiliation or relationship by marriage or through family membership, any business or professional partnership, close personal friendship, or any other relationship that might tend to affect the objectivity or judgment of the person or may give an appearance of impropriety to someone viewing it from the outside the relationship.

the same obligations as other employees, staff, officers, and agents of PRDoH/PRMP to deliver their services in an honest, responsible, and competent manner, utilizing their best skills and judgment while exercising the utmost good faith and care. The following Standards of Conduct will apply to every procurement action under the PRDoH/PRMP activities, whether wholly or partially funded by Medicaid.

1. It is prohibited for employees, former employees, contractors, consultants, or individuals with responsibilities related to Medicaid-funded activities, or those in a position to make decisions or access inside information about these activities, to obtain a financial interest (for themselves, their family unit², or those with whom they have business ties) or benefit from it through any contract, subcontract, or agreement. Therefore, no PRDoH/PRMP employee, officer, consultant, contractor, or agent may engage in the selection, award, or administration of a contract supported by Medicaid funds if a real or apparent conflict of interest exists. Such a conflict of interest arises when the employee, officer, consultant, contractor, agent, or any member of their family, their partner, or an organization employing or about to employ any of the parties mentioned above has a financial or other interest in or a tangible personal benefit from an entity being considered for a contract. In any of the relationships as mentioned above, they shall not directly or indirectly intervene in any related matter.
2. A PRDoH/PRMP employee, officer, consultant, contractor, or agent involved in contract selection, award, or administration may neither directly nor indirectly solicit or accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. An exception to this is when the financial interest is not substantial or the gift is an unsolicited item of nominal value.
3. No PRDoH/PRMP employee, officer, consultant, contractor, or agent involved in the selection, award, or administration of contracts shall disclose or utilize confidential information or documents obtained from their employment or contractual relationship with PRDoH/PRMP to gain, directly or indirectly, any benefit for themselves or any other private individual business.
4. In their relationship with PRDoH/PRMP, every individual or entity involved in public bids, submitting quotations, wishing to enter contracts with them, or seeking economic incentives must disclose all necessary information for the corresponding evaluation. This requirement also extends to situations where organizational conflicts of interest may arise.
5. All PRDoH/PRMP employees, officers, consultants, contractors, or agents involved in the selection, award, or administration of contracts must (i) avoid conflicts of interest, any potential³ conflicts, or the appearance of conflicts; (ii) disclose actual and apparent conflicts of interest to the Procurement Oversight Lead (POL) in writing; and (iii) refrain from carrying out procurement tasks or participating in any decisions regarding matters that involve a real conflict of interest, a potential conflict of interest, or the appearance of one conflict.
6. A person may be disqualified or removed from participating in a procurement effort if

² For purposes of this provision, the term family unit means the spouse, dependent child, or family member who, not being a dependent or residing with the employee or consultant, are within the fourth degree of consanguinity or second degree of affinity, or who shares the legal residence or whose financial affairs are under the control of the employee or consultant.

³ A potential conflict of interest is a situation or circumstance that is not currently a conflict of interest but is likely to be classified as, or result in, a conflict of interest.

he or she conducts himself or herself in a manner that could create the appearance of bias or an unfair advantage with or on behalf of any competitive bidder/vendor, potential bidder/vendor, agent, subcontractor, or other business entity, through direct association with contractor representatives, indirect associations, recreational activities, or other means.

7. In instances where a conflict of interest is identified, PRDoH/PRMP, through the POL, will document adherence to its standards of conduct and will prohibit individuals or entities with actual or apparent conflicts of interest related to a specific contract from participating in the selection, award, or administration of that contract. Most concerns regarding conflicts of interest can be resolved and appropriately addressed through prompt and complete disclosure. However, when a real, potential, or apparent conflict that may influence the decision-making process arises, the POL may consider referring the case in writing to the PRDoH Legal Division for further written evaluation and recommendation.
8. A person with a conflict of interest must refrain from participating in or hearing discussions about the matter except to disclose relevant facts and answer inquiries. This person must not attempt to exert personal influence on the issue.
9. A person with a conflict of interest related to a contract or transaction being voted on during a meeting shall not be included when determining a quorum for the vote.
10. A person with a conflict of interest may not vote on the contract or transaction and must leave the meeting room while the vote is taken, unless the vote is conducted by secret ballot. The individual's ineligibility to vote and abstention from voting must be documented in the meeting minutes.
11. All employees, officers, consultants, contractors, or agents involved in a competitive procurement process and/or designated evaluators must fully comply with all applicable laws, rules, circular letters, administrative orders, and regulations.⁴

Confidentiality:

As a member of the Evaluation Committee, you may receive information and materials deemed confidential. Confidential information in procurement refers to sensitive or proprietary details that must be kept secret and safeguarded against unauthorized access. This information may include trade secrets, pricing data, strategic plans, supplier details, and other essential data related to procurement processes. Protecting this confidential information is crucial for maintaining a competitive advantage, safeguarding business interests, and ensuring compliance with legal and ethical standards. You will also have access to information about bidders/vendors, which may only be used during the evaluation process and for discussion purposes with fellow evaluators and relevant PRDoH/PRMP personnel. You must not discuss the evaluation, scoring, or status of any proposal or any actions affecting any proposal with any person, firm, corporation, or others outside the business entity at any time before, during, or after the procurement process. Additionally, you must not use this information for any personal benefit, financial or otherwise, nor copy or disseminate any portion of any proposal at any time before, during, or after the procurement process. To the extent permitted by law, you agree to keep this information and

⁴ As reference, see Act No. 2 of January 4, 2018, as amended, known as the Anti-Corruption Code for the New Puerto Rico; Act No. 1 of January 3, 2012, as amended, known as the Puerto Rico Government Ethics Act.

materials confidential and return all confidential material to the committee chairperson or PRMP's Procurement Oversight Lead (POL).

Confidentiality of Evaluators:

During the evaluation process, the Medicaid Program strives to keep evaluators' identities confidential and will uphold that confidentiality to the fullest extent permitted by law. As an evaluator, you must not discuss or disclose the names of evaluators to bidders/offerors or other individuals.

Acceptance and Signature:

I have read this document and understand my obligations as explained herein. I also acknowledge that I must sign and submit this declaration to the chairman of the Evaluation Committee or the POL before participating in the evaluation process.

I certify that neither I nor any member of my immediate family has a material personal or financial interest or fiduciary relationship with any offeror or a direct competitor under consideration by this Request for Proposal (RFP). I affirm that no other relationships with or biases toward any offeror exist that would prevent me from evaluating any proposal solely on its merits. Furthermore, I agree to immediately notify the chairman of the Evaluation Committee or the Procurement Oversight Lead (POL) overseeing this RFP if my personal, financial, or fiduciary relationship with one of the offerors/vendors changes at any time during this evaluation process, or if I become aware of any potential conflict of interest while reviewing a proposal. I understand my obligation to disclose any conflict of interest that may arise before, during, or after the evaluation process.

or

A member of my immediate family or I have a material personal or financial interest, or fiduciary relationship, with any offeror/vendor or direct competitor considered in this Request for Proposal (RFP), or I have an actual, potential or apparent conflict of interest as I explain below:

Signature: X _____
Printed Name: _____
Role or Position: Evaluation Committee Member _____
Date: 02/07/2022 _____
RFP No. _____



GOVERNMENT OF PUERTO RICO
 Department of Health
 Medicaid Program

**DECLARATION NON-CONFLICT OF INTEREST
 AND CONFIDENTIAL INFORMATION**

(Employees/consultants with procurement and/or hiring responsibilities or authority)

Conflict of Interest/Standards of Conduct:

PRDoH/PRMP recognizes the importance of ensuring that all procurement activities are conducted transparently, fairly, and ethically to avoid conflicts of interest. Examples of conflicts of interest include, but are not limited to, situations in which an employee, officer, consultant, contractor, or agent (i) negotiates or approves a contract, purchase, or lease on behalf of an entity or person while having a direct or indirect interest in, or receiving personal benefit from, the entity or individual providing the goods or services, (ii) employs or approves the employment of, or supervises a person who is an immediate family member of the awarded person or entity, (iii) sells products or services in competition with the awarded vendor, (iv) uses the awarded entity's facilities, other assets, employees, or resources for personal gain, (v) is affiliated with a bidding company or institution, (vi) is employed by or is being considered for employment with the company or institution submitting any bid or proposal, or holds a consulting, advisory, or similar position with said company or institution, (vii) holds any current membership on a committee, board, or similar position with the company or institution, (viii) holds ownership in the company or institution, securities, or other evidence of debt, or (ix) has a relationship¹ with someone who has a personal interest in a proposal or bid.

PRDoH/PRMP requires the same standards of conduct and duty to disclose that apply to employees or contractors from any covered person consultants who provide services equivalent to a regular office or position. PRDoH/PRMP covered person consultants have the same obligations as other employees, staff, officers, and agents of PRDoH/PRMP to deliver their services in an honest, responsible, and competent manner, utilizing their best skills and judgment while exercising the utmost good faith and care. The following Standards of Conduct will apply to every procurement action under the PRDoH/PRMP activities, whether wholly or partially funded by Medicaid.

1. It is prohibited for employees, contractors, consultants, or individuals with responsibilities related to Medicaid-funded activities, or those in a position to make decisions or access to information about these activities, to obtain a financial interest (for themselves, their family unit,² or those with whom they have business ties) or

¹ This includes any affiliation or relationship by marriage or through family membership, any business or professional partnership, close personal friendship, or any other relationship that might tend to affect the objectivity or judgment of the person or may give an appearance of impropriety to someone viewing it from the outside the relationship.

² For purposes of this provision, the term family unit means the spouse, dependent child, or family member who, not being a dependent or residing with the employee or consultant, are within the fourth degree of

benefit from it through any contract, subcontract, or agreement. Therefore, no PRDoH/PRMP employee, officer, consultant, contractor, or agent may engage in the selection, award, or administration of a contract supported by Medicaid funds if a real or apparent conflict of interest exists. Such a conflict of interest arises when the employee, officer, consultant, contractor, agent, or any member of their family, their partner, or an organization employing or about to employ any of the parties mentioned above has a financial or other interest in or a tangible personal benefit from an entity being considered for a contract. In any of the relationships mentioned above, they shall not directly or indirectly intervene in any related matter.

2. A PRDoH/PRMP employee, officer, consultant, contractor, or agent involved in contract selection, award, or administration may neither directly nor indirectly solicit or accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. An exception to this is when the financial interest is not substantial or the gift is an unsolicited item of nominal value.
3. No PRDoH/PRMP employee, officer, consultant, contractor, or agent involved in the selection, award, or administration of contracts shall disclose or utilize confidential information or documents obtained from their employment or contractual relationship with PRDoH/PRMP to gain, directly or indirectly, any benefit for themselves or any other private individual business.
4. In their relationship with PRDoH/PRMP, every individual or entity involved in public bids, submitting quotations, wishing to enter contracts with them, or seeking economic incentives must disclose all necessary information for the corresponding evaluation. This requirement also extends to situations where organizational conflicts of interest may arise.
5. All PRDoH/PRMP employees, officers, consultants, contractors, or agents involved in the selection, award, or administration of contracts must (i) avoid conflicts of interest, any potential³ conflicts, or the appearance of conflicts; (ii) disclose actual and apparent conflicts of interest to the Procurement Oversight Lead (POL) in writing; and (iii) refrain from carrying out procurement tasks or participating in any decisions regarding matters that involve a real conflict of interest, a potential conflict of interest, or the appearance of one conflict.
6. A person may be disqualified or removed from participating in a procurement effort if he or she conducts himself or herself in a manner that could create the appearance of bias or an unfair advantage with or on behalf of any competitive bidder/vendor, potential bidder/vendor, agent, subcontractor, or other business entity, through direct association with contractor representatives, indirect associations, recreational activities, or other means.
7. In instances where a conflict of interest is identified, PRDoH/PRMP, through the POL, will document adherence to its standards of conduct and will prohibit individuals or entities with actual or apparent conflicts of interest related to a specific contract from participating in the selection, award, or administration of that contract. Most concerns regarding conflicts of interest can be resolved and appropriately addressed through prompt and complete disclosure. However, when a real, potential, or apparent conflict

consanguinity or second degree of affinity, or who shares the legal residence or whose financial affairs are under the control of the employee or consultant.

³ A potential conflict of interest is a situation or circumstance that is not currently a conflict of interest but is likely to be classified as, or result in, a conflict of interest.

that may influence the decision-making process arises, the POL may consider referring the case in writing to the PRDoH Legal Division for further written evaluation and recommendation.

8. A person with a conflict of interest must refrain from participating in or hearing discussions about the matter except to disclose relevant facts and answer inquiries. This person must not attempt to exert personal influence on the issue.
9. A person with a conflict of interest related to a contract or transaction being voted on during a meeting shall not be included when determining a quorum for the vote.
10. A person with a conflict of interest may not vote on the contract or transaction and must leave the meeting room while the vote is taken, unless the vote is conducted by secret ballot. The individual's ineligibility to vote and abstention from voting must be documented in the meeting minutes.
11. All employees, officers, consultants, contractors, or agents involved in a competitive procurement process must fully comply with all applicable laws, rules, circular letters, administrative orders, and regulations.⁴

Confidentiality:

As part of your role or the services you provide to the PRDoH/PRMP, you may receive information and materials deemed confidential. Confidential information in procurement refers to sensitive or proprietary information that must be kept secret and protected from unauthorized access. This information may encompass trade secrets, pricing data, strategic plans, supplier details, and other essential data related to procurement processes. Safeguarding confidential information is vital for maintaining a competitive advantage, protecting business interests, and ensuring compliance with legal and ethical standards. You must not use this information for any personal gain, monetary or otherwise, nor copy or distribute it at any time before, during, or after the procurement process. To the extent permitted by law, you agree to keep this information and materials confidential.

Acceptance and Signature:

I have read this document and understand my obligations as explained herein. I also acknowledge that I must sign and deliver this declaration to the POL when requested.

I certify that I have reviewed the list of all contractors with whom the PRDoH/PRMP has engaged in business over the past year and that neither I nor any member of my immediate family has a material personal or financial interest or fiduciary relationship with such individuals or entities. I certify that there is no other relationship with, or bias toward, a current vendor that would prevent me from evaluating or approving its services solely on their merits. Furthermore, I agree to immediately notify the Procurement Oversight Lead (POL) if my personal, financial, or fiduciary relationship with one of the contractors or vendors changes at any time or if I become aware of any potential conflict of interest while performing my job's tasks or responsibilities. I understand that my obligation to disclose any conflict is ongoing. If any new potential conflicts arise during the year, I agree to submit a signed and updated disclosure form.

⁴ As reference, see Act No. 2 of January 4, 2018, as amended, known as the Anti-Corruption Code for the New Puerto Rico; Act No. 1 of January 3, 2012, as amended, known as the Puerto Rico Government Ethics Act.

or

A member of my immediate family or I have a material personal or financial interest or fiduciary relationship to any contractor/vendor, or I have a real, potential, or appearance of a conflict of interest as I explain below:

Signature: X

Printed Name: _____

Role or Position: _____

Date: dd/mm/yyyy



GOVERNMENT OF PUERTO RICO
 Department of Health
 Medicaid Program

CONTRACT & PROCUREMENT CHECKLIST

This Checklist can be used to review each procurement and resulting contract to be funded in whole or in part using federal financial assistance. Completing this Checklist will help ensure compliance with the federal procurement standards at 45 CFR §§ 75.327, 75.328, and 75.329 and other applicable federal and state contract and procurement standards.

PROCUREMENT NAME OR RFP # _____

General requirements:	Yes	No	N/A
1. Did the procurement comply with applicable SOPs, policies, and/or procedures?			
2. Did PRMP have a file with the procurement history, including, but not limited to, records documenting the procurement method's rationale, contract type selection, contractor selection or rejection, and the basis for the contract price?			
Conflict of Interest:	Yes	No	N/A
1. Did any employee, officer, contractor, or agent participating in the procurement process report an actual or apparent conflict of interest?			
2. Did PRMP all employees, officers, contractors, subcontractors, or agents who participated in the procurement process sign a Declaration Non-Conflict of Interest and Confidential Information?			
3. Did the RFP include the statement and requested, as a mandatory requirement, a sworn declaration that the vendor or any subcontractor included as part of the vendor's proposal or that would provide services under the resulting contract was part directly or indirectly of the development of the RFP/solicitation or its related documentation?			
Competition: All procurement transactions must be conducted to provide full and open competition consistent with federal standards.	Yes	No	N/A
1. Does the procurement involve any of the following? ¹			
a. Placing unreasonable requirements on entities for them to qualify to do business?			
b. Requiring unnecessary experience and excessive bonding?			
2. Did the RFP clearly and accurately describe the technical requirements for procuring material, product, or service?			

¹ This list is non-exclusive and only serves as an example of some of the types of situations considered to be restrictive of competition.

3. Did the RFP identify all requirements the offerors must fulfill and all other factors for evaluating bids or proposals?			
4. Was the contractor bidding on the contract also involved with developing or drafting the specifications, requirements, statement of work, invitation for bids, or request for proposals?			
Procurement Method: <i>Confirm that one of the following acceptable procurement methods was used.</i>	Yes	No	N/A
1. <u>Micro-purchase</u> (Micro-purchases may be awarded without soliciting competitive quotations if the price is considered to be reasonable)			
2. <u>Small purchase procedures</u> (Small purchase procedures are relatively simple and informal procurement methods for securing services, supplies, or other property that cost less than \$150,000.			
3. <u>Sealed Bids</u> (Bids are publicly solicited, and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid conforms with all the material terms and conditions of the invitation for bids and is the lowest price.	Yes	No	N/A
a. A complete, adequate, realistic specification or purchase description is available.			
b. Was the solicitation publicly advertised?			
c. Did PRMP provide suppliers sufficient response time before the bid opening date?			
d. Did the invitation for bids include any specifications and pertinent attachments and define the items or services allowing the offeror/vendor to respond appropriately?			
e. Did PRMP open all bids at the time and place prescribed in the invitation for bids?			
f. Were the bids publicly opened?			
g. If any bids were rejected, was there a sound, documented reason supporting the rejection?			
4. <u>Procurement by competitive proposals:</u>	Yes	No	N/A
a. Did PRMP publicize the Requests for Proposals (RFPs) and identify all evaluation factors and their relative importance?			
b.			
c. Did PRMP have a written method for conducting technical evaluations of the proposals received and selecting recipients?			
d. Did PRMP award the contract to the responsible entity whose proposal is most advantageous to the program, with price and other factors considered?			
5. <u>Noncompetitive proposals:</u> Do one or more of the following circumstances apply?	Yes	No	N/A
a. The item is available only from a single source.			
b. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.			

c. CMS expressly authorized noncompetitive proposals in response to PRMP's written request.			
d. After solicitation of a number of sources, competition is determined inadequate.			
If any of the above circumstances apply, Did PRMP have adequate written justification and documentary support in the procurement file?			
Contract:	Yes	No	N/A
1. Does the contract address administrative, contractual, or legal remedies where contractors violate or breach contract terms and provide for sanctions and penalties?			
2. Does the contract include the Contract Oversight Designee and oversight actions clause?			

Additional comments/notes:

Signature: X

Printed Name: _____

Role or Position: Procurement Oversight Lead or Designee

Date: dd/mm/yyyy

Note: This checklist must be filed in the procurement file for audit and compliance purposes.