



GOVERNMENT OF PUERTO RICO
DEPARTMENT OF HOUSING

Procurement Manual for the CDBG-DR, CDBG-MIT, and CDBG State Programs

Puerto Rico Department of Housing

NUMBER: 9506

DATE: September 25, 2023

Approved: Omar J. Marrero Díaz

Secretary of State

A blue ink signature of Omar J. Marrero Díaz, Secretary of State, is written over a horizontal line.

Department of State
Government of Puerto Rico

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ARTICLE I GENERAL PROVISIONS

Section 1.1 Title

This legal body shall be known and cited as the "Procurement Manual for the CDBG-DR, CDBG-MIT, and CDBG State Programs" (**Manual**).

Section 1.2 Legal Basis

This Manual is adopted pursuant to the authority granted to the Puerto Rico Department of Housing (**PRDOH**) in Articles 4-A and 4-B, 3 LPRA § 441c-1 to 441c-2, of Act Number 97, approved on June 10th, 1972, as amended, known as the "Organic Act of the Department of Housing", 3 LPRA § 441 *et seq.*, (**Act 97-1972**), and in accordance with (i) Act Number 38, approved on June 30, 2017, as amended, known as the "Puerto Rico Uniform Administrative Procedure Act" (**LPAUG**, for its Spanish acronym); (ii) 2 C.F.R. Part 200, effective as of the date hereof and may be amended hereafter; (iii) Public Law 115-56, known as the Continuing Appropriations Act, 2018 and the Supplemental Appropriations for Disaster Relief Requirements Act, 2017; (iv) Public Law 115-123, known as the Bipartisan Budget Act of 2018; (v) Public Law 116-20, known as the Additional Supplemental Appropriations for Disaster Relief Act, 2019; (vi) Public Law 117-43, known as the Extending Government Funding and Delivering Emergency Assistance Act; (vii) Public Law 117-180, known as the Continuing Appropriations Act; (viii) Public Law 117-328, known as the Consolidated Appropriations Act, 2023; and (ix) Federal Notices 83 FR 5844, 84 FR 45838, 86 FR 32681, 86 FR 569, 87 FR 6364, and 88 FR 32046 issued by the U.S. Department of Housing and Urban Development (**HUD**) and all subsequent waivers and amendments issued thereto (collectively, the **Notice**), all of which will complement this Manual.

In the event of any conflict between the provisions of Federal and local procurement regulations and this Manual, Federal regulations will prevail.

Section 1.3 Code of Conduct

PRDOH maintains standards of conduct covering conflict of interests and governing the performance of its employees engaged in the selection, award, and administration of contracts.¹

Section 1.4 Purpose

The purpose of this Manual is to establish standards and guidelines for the procurement of goods, supplies, equipment, construction, engineering, architectural, and other professional and non-professional services for PRDOH's Community Development Block Grant - Disaster Recovery Program (**CDBG-DR Program** or **CDBG-DR**), Community Development Block Grant – Mitigation Program (**CDBG-MIT Program** or **CDBG-MIT**), and Community Development Block Grant State (**CDBG State Program** or **CDBG State**) Program. To ensure procurements are conducted in a manner that provides full and open competition or fair treatment of all persons or entities involved in PRDOH's CDBG-DR, CDBG-MIT, and CDBG State procurement processes which are funded totally or partially with federal funds.

Section 1.5 Applicability

The policies contained in this Manual apply to procurement procedures under the CDBG-DR, CDBG-MIT, and CDBG State² Programs and/or any activity financed in whole or in part with funds from the programs that are carried out by PRDOH except procurement procedures with

¹ See Conflict of Interest and Standards of Conduct Policy.

² As applicable, CDBG State procurement processes will be conducted according to 24 C.F.R. §570.489(g) and (h).

indirect cost funds. PRDOH, in the administration of CDBG-DR, CDBG-MIT, and CDBG State funds, will follow these procurement policies.³ Every subgrantee and/or subrecipient of the CDBG-DR, CDBG-MIT, and CDBG State Programs must strictly comply with the provisions of 2 C.F.R. § 200.318 through 2 C.F.R. § 200.327 and any other applicable federal or state requirements for CDBG-DR, CDBG-MIT, and CDBG State Programs. Therefore, when acquiring properties and services with CDBG-DR, CDBG-MIT, and CDBG State grants, contracting entities, including subrecipients, must follow the provisions set forth in 2 C.F.R. § 200.318 through 2 C.F.R. § 200.327.

As an exception to the above, the CDBG-DR Non-Federal Match Program (**NFMP**) and the CDBG-MIT Hazard Mitigation Grant Program (**HMGP**) Match Set-Aside must comply with the procurement requirements of the Federal Emergency Management Agency (**FEMA**). Participants of the NFMP and HMGP Match Set-Aside must provide PRDOH with the necessary records to document that they have met the FEMA Procurement requirements, which FEMA may establish and amend from time to time. In the event that FEMA does not complete a cost and price analysis, the sections of this Manual applicable to the process of such analysis will apply to the NFMP and HMGP Match Set-Aside.

Section 1.6 Competition

- a. All procurement transactions must be conducted in a manner that provides full and open competition and is consistent with the standards of this section. To ensure objective contractor performance and eliminate any unfair competitive advantage, contractors who develop or draft specifications, requirements, statements of work, invitations for bids, or requests for proposals must be excluded from competing for such procurements.
- b. Some of the situations considered to be restrictive of competition include, but are not limited to:
 1. Placing unreasonable requirements on offerors to qualify to do business;
 2. Requiring unnecessary experience and excessive bonding;
 3. Noncompetitive pricing practices between offerors or between affiliated companies;
 4. Noncompetitive contracts to consultants that are on retainer contracts;
 5. Organizational conflicts of interest;
 6. Specifying only a "brand name" product instead of allowing "an equal" product which includes a description of the item's essential characteristics so that competition is not restricted; and
 7. Any arbitrary action in the procurement process.
- c. PRDOH must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or geographical preferences in the evaluation of bids or proposals. Nothing in this section preempts state licensing laws. When procuring for architectural and engineering (**A/E**) services, geographic location may be a selection criterion provided its application allows an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

³ Acquisitions with indirect costs funds will be carry out in the manner approved by PRDOH Procurement Division.

- d. All solicitations of offers shall incorporate a clear accurate description of the technical requirements for the material, service, or product to be procured. In competitive procurements, these descriptions shall not contain features that unduly limit competition. The description may include the material, product, or services' essential characteristics to which it must conform to satisfy its intended use. Detailed product specifications shall be avoided whenever possible. References to a brand name shall be followed by the words "or equal". The descriptions of the named brand characteristics that must be met shall be clearly stated.
- e. Noncompetitive procurements can only be awarded in accordance with 2 C.F.R. § 200.320(c).

ARTICLE II DEFINITIONS

Section 2.1 Interpretation and Definition of Terms

The concepts used in this Manual in the present tense include the future; those used in the masculine gender include the feminine and neutral, except for the cases in which such an interpretation may result nonsensical; the singular number includes the plural, and the plural includes the singular.

For the purpose of this Manual the following terms or phrases shall have the following meanings, unless the context indicates otherwise:

- a. **Accord**- Any Bid Board decision which does not constitute an award.
 - b. **Agent** – any person who acts on behalf of or is authorized to commit a participant in a covered transaction.
 - c. **Architectural/Engineering (A/E) Services**
 - i. Professional services of an architectural or engineering nature, as defined by State law, if applicable, that are required to be performed or approved by a licensed, registered, or certified person to provide those services; or,
 - ii. Professional services of an architectural or engineering nature performed by contracts that are associated with research, planning, development, design, construction, alteration, or repair of real property.
 - iii. Those other professional services of an architectural or engineering nature, or incidental services, that members of the architectural and engineering professions (and individuals in their employ) may logically or justifiably perform, including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals, engineering inspections, and other related services.
 - d. **Award** – Written statement by which PRDOH accepts a bid or proposal in a procurement process.
 - e. **Bid or Sealed bid** – An offer in response to invitations for bids.
 - f. **Bid Board** - A body comprised of **five (5)** members designated by the Secretary through an Administrative Order. Members of the Bid Board may be officials or employees of PRDOH and its component agencies. One (1) of the members must be the Deputy Secretary, or its equivalent, of PRDOH, who will act as President of the Bid Board . Also,
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one (1) of the members shall be an attorney licensed in Puerto Rico. Three (3) of the five (5) members will constitute quorum for Bid Board meetings. The Bid Board will evaluate and award bids and proposals in formal and informal bidding processes for the acquisition of non-personal goods or non-personal services and professional services in a formal procurement process to be executed by PRDOH under the CDBG-DR, CDBG-MIT and CDBG State Programs, according to the applicable regulations.

- g. **Bid Guarantee or Bid Bond** - Shall 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 their bid, execute such contractual documents as may be required within the time specified.
 - f. **CDBG-DR** - Community Development Block Grant-Disaster Recovery.
 - g. **CDBG-MIT** – Community Development Block Grant – Mitigation.
 - h. **CDBG-State** - Community Development Block Grant State. Program in charge of managing the appropriation of funds for the CDBG State Program, CDBG-DR 2008 appropriation, Neighborhood Stabilization Program (**NSP**) 1 and 3, Disaster Recovery Enhancement Fund (**DREF**), Loan Guarantee Assistance Under Section 108 (**Section 108**), CDBG – Coronavirus (**CV**), and any other special funds assigned by HUD.
 - i. **Change Order** - A written agreement between the parties that sets out changes in price, time, or Scope of Work to the contract, which has been approved by the Contracting Officer.
 - j. **Competitive Proposals Method** - Solicitations under negotiated procedures which are used to communicate program requirements to prospective contractors and to solicit proposals. These procedures include, but are not limited to, Request for Proposals, among others.
 - k. **Competitive Range** – Proposals in a Request for Proposals process determined by the Contracting Officer to have a reasonable chance of receiving an award after the Evaluation Committee has evaluated all proposals in accordance with technical and cost proposal requirements. Those Proposers within the competitive range will be known as "Qualified Proposers".
 - l. **Contract** - A mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. It includes all types of commitments that obligate PRDOH to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include (but are not limited to) Job Orders or Tasks Letters issued under basic ordering agreements; Orders, such as Purchase Orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications. Contracts do not include grants and cooperative agreements covered by 31 U.S.C. § 6301, *et seq.*
 - m. **Contracting Officer** - PRDOH Secretary or his/her designee.
 - n. **Contractor** - A Vendor, Supplier, Offeror, Proposer, or Bidder, as applicable, who is awarded and executes a contract (as defined hereinabove) or a Purchase Order with PRDOH.
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- o. **Cooperative Purchasing/Intergovernmental or Interagency Agreements** - Agreements between PRDOH and other governmental agencies, or entities to purchase or use common supplies, equipment, or services.
 - p. **Cost Estimate**: The estimate of the costs of the goods or services to be acquired, prepared by PRDOH staff or a third-party for Micro Purchases and Small Purchases.
 - q. **Disaster Recovery Deputy Secretary** – the Director of the CDBG-DR and CDBG-MIT Programs of the Puerto Rico Department of Housing.
 - r. **Emergency** - Situation which causes unexpected and unforeseen public needs, and which requires immediate action by PRDOH due to the danger that it represents to life, health, or public safety.
 - s. **Evaluation Committee** - Administrative body comprised of at least **three (3)** or more members, having an odd number of members (3, 5, or 7), and an alternate member, if considered necessary, appointed by PRDOH to evaluate proposals (mostly execute rating and ranking) in a competitive procurement process. PRDOH's Secretary shall designate a Chairperson to lead the process.
 - t. **First-tier Subcontractor** – A subcontracted entity contracted directly by the prime contractor who provides any supplies, materials, equipment, or services of any kind required under the prime contract, or a first-tier subcontract.
 - u. **Independent Cost Estimate (ICE)** - An independent analysis of the estimate of the costs of the goods or services to be acquired, prepared by PRDOH staff or a third-party prior to publishing a solicitation for offers.
 - v. **Invitation for Bids (IFB)** – Procurement process in which bids are publicly solicited and a firm fixed 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.
 - w. **Micro Purchase Method** - Acquisition of supplies or services which do not exceed the Micro Purchase Threshold.
 - x. **Micro Purchase Threshold** – Refers to the dollar amount at or below which PRDOH may purchase property or services using micro purchase procedures. Generally, the Micro-Purchase Threshold for procurement activities administered under Federal awards is not to exceed the amount set by the Federal Acquisition Regulations (**FAR**) at 48 C.F.R. Part 2, Subpart 2.1, unless a higher threshold is requested by PRDOH and approved by the HUD.
 - y. **Minority Owned Business** - Entity whose management and daily operations are controlled by and where at least 51% of the voting stock is owned by a person or persons who belong to a racial, ethnic, or cultural group.
 - z. **Negotiation** - Discussions with Offerors or Proposers in the Competitive Range regarding technical and cost proposals when awarding a contract or when issuing modifications to existing contracts or other required discussions with Offerors in other procurement processes.
 - aa. **Noncompetitive Proposal Method**– Procurement by means of solicitation of a proposal from only **one (1)** source when the item is available only from a single source; the public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation; HUD expressly authorizes noncompetitive proposals in response
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to a written request from PRDOH; or after solicitation of a number of sources the competition is determined inadequate.

- bb. **Offer** - A response to a solicitation by PRDOH that, if accepted, would bind the Offeror or Proposer to fulfill the contract. Responses to invitation for bids (sealed bidding) are offers called "bids" or "sealed bids"; responses to requests for proposals are offers called "proposals"; however, responses to requests for quotations (simplified acquisition) are "quotations", not offers.
 - cc. **Offeror** - A person or legal entity that responds to a solicitation issued by PRDOH. May also be referred to as Respondent, Bidder, or Proposer.
 - dd. **Payment bond** – Bond executed in connection with a contract to ensure payment as required by law of all persons supplying labor and materials in the execution of the work provided for in the contract. Bonds may vary according to the type of contract and are not required in the Small Purchase Method.
 - ee. **Performance bond** - Bond executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
 - ff. **Prequalification of Sources/ Pre-Qualification List ("Pre-Qualified List" or "PQL")** – Competitive method of procurement in which the price is not an evaluation factor, used to select a pool of professional services firms or individuals to provide services when a general need has been identified, but the specific scope has not yet been determined. Pre-Qualified List is developed through a Request for Qualifications (**RFQ**).
 - gg. **Prime Contractor**: A PRDOH contractor with potential for offering subcontracting opportunities.
 - hh. **PRDOH** - Puerto Rico Department of Housing.
 - ii. **PRDOH Secretary** – Secretary of the Puerto Rico Department of Housing.
 - jj. **Procurement File** – Official record kept by PRDOH of each procurement process which documents in detail the significant history of the procurement.
 - kk. **Proposer** - A person or legal entity that responds to a solicitation issued by PRDOH in a Competitive Proposal Method of procurement. May also be referred to as Respondent or Offeror.
 - ll. **Proposal** - The Offer submitted by a potential Contractor in a Competitive or Non-Competitive Proposals Method of procurement.
 - mm. **Qualification Based Selection Method (QBS)** - A procurement method conducted using Request for Qualifications (**RFQ**), where PRDOH first selects the highest ranked respondent on technical factors and then negotiates a reasonable price. Limited to architecture or engineering (**A/E**) services.
 - nn. **Quotation** - A price or offer submitted by an Offeror or Supplier under the Micro Purchase and Small Purchase Procurement Methods.
 - oo. **Redacted Copy** – A copy of any contract or any record (other than an Invoice) that contains confidential, proprietary, nonpublic, or commercially sensitive information, a photocopy or facsimile copy thereof as to which the offeror has redacted or obscured only such confidential, proprietary, nonpublic, or commercially sensitive information.
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- pp. **Request for Proposals (RFP)** - Solicitation method used under the competitive methods of procurement. Proposal evaluation and Proposer selection are based on the evaluation criteria and factors for award as stated in the RFP. The contract award is based on the best proposal that meets the requirements of the scope of work resulting in the greatest benefit and best value for PRDOH, which may not be primarily determined based on price.
- qq. **Request for Qualifications (RFQ)** – The first phase of a two-phase solicitation process used under the Qualification Based Selection (**QBS**) and/or the Prequalification of Sources/Prequalification List (**PQL**) competitive methods of procurement. Statement of Qualifications (**SOQs**) evaluation and Respondent selection shall be based on the evaluation criteria and factors for selection as stated in the RFQ.
- rr. **Request for Quotations (rfQ)** – General Services Administration (**GSA**) procurements shall be solicited through the issuance of a request for Quotations (**rfQ**). The rfQ must include a Scope of Work (**SOW**) and the evaluation criteria and factors for award.
- ss. **Responsibility**- Refers to the character or quality of the bidder or proposer, with consideration being given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
- tt. **Responsiveness** – Refers to the bidder's compliance with all required specifications in the solicitation, inclusive of any addenda. Any bidders or proposers listed on the System for Award Management (**SAM**) Excluded Party List will be deemed nonresponsive and automatically excluded from consideration for award.
- uu. **Scope of Work/Services** – Defines the project and states PRDOH requirements. May include a description of the goods or services required, deliverables, and the criteria which a deliverable must meet to be considered acceptable; milestones or indicators to determine activity/project progress as applicable; delivery schedule or timelines; specifications or technical information; staff position requirements and responsibilities; and other special considerations.
- vv. **Sealed Bidding Method** – Refers to a method of procurement used for non-professional services or supplies that exceed the Simplified Acquisition Threshold. In order for sealed bidding to be feasible, there must be accurate and complete specifications, a specific date and time for the submission of sealed bids, a Public Bid Opening, an evaluation of Bids, and award of the contract based on the lowest price submitted by a Contractor through a Responsive Bid.
- ww. **Section 3** - Provision of the Housing and Urban Development Act of 1968, 12 U.S.C § 1701u (**HUD Act**). The purpose of Section 3 is to ensure that employment, and other economic opportunities generated by certain financial assistance provided by the U.S. Department of Housing and Urban Development (**HUD**), to the greatest extent feasible and consistent with existing Federal, State, and local laws and regulations, shall be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.
- xx. **Section 3 Worker**- Any worker who currently fits, or when hired within the past five (5) years fit, at least one (1) of the following categories, as documented: 1) the worker's income for the previous or annualized calendar year is below the income limit
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established by HUD; 2) the worker is employed by a Section 3 business concern; or 3) the worker is a YouthBuild participant.

- yy. **Section 3 Business Concern** - A business that meets at least one (1) of the following criteria, documented within the last six (6)-month period: 1) it is at least fifty one percent (51%) owned and controlled by low- or very low-income persons; 2) over seventy-five percent (75%) of the labor hours performed for the business over the prior three (3)-month period are performed by Section 3 workers; or 3) it is at least fifty one percent (51%) owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.
- zz. **Simplified Acquisition Threshold** - Means the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. Non-Federal entities adopt small purchase procedures in order to expedite the purchase at or below the simplified acquisition threshold. The Simplified Acquisition Threshold for procurement activities administered under Federal awards is not to exceed the amount set by the Federal Acquisition Regulations (**FAR**) at 48 C.F.R. Part 2, Subpart 2.1.
- aaa. **Small Purchase Method** – Competitive method of procurement of goods, work, and/or services in an aggregate amount equal to or less than the Simplified Acquisition Threshold.
- bbb. **Solicitation** – Any request to submit offers or quotations to PRDOH. Solicitations under sealed bid procedures are called "invitation for bids". Solicitations under negotiated procedures are called "requests for proposals." Solicitations under simplified acquisition procedures may require submission of either a quotation or an offer.
- ccc. **Subgrant** – Means an award of financial assistance in the form of money or property in lieu of money made under a grant by a grantee to an eligible subgrantee.
- ddd. **Subgrantee** – Means a Non-Federal entity to which a subgrant is awarded and which is accountable to PRDOH for the use of the funds provided.
- eee. **Subrecipient** – Refers to an entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award.
- fff. **Task Order** - An executed document by PRDOH or by both the contractor and PRDOH which authorizes work on all or certain items in the Scope of Work of a contract for distinct time periods. Task Orders may include set budgets for the work.
- ggg. **User Area** – Administrative unit, bureau, division, department, or area within the CDBG-DR, CDBG-MIT, and CDBG State Programs that requests services under the CDBG-DR, CDBG-MIT, and CDBG State allocation.
- hhh. **Unreliable**- Refers to the character or quality of the bidder or proposer, with consideration being given to such matters as economic feasibility, production capacity, poor past performance and other factors which may affect contract execution.
- iii. **Women-owned small business** - Entity whose management and daily business operations are controlled by and where at least fifty-one percent (51%) of the stock is owned by one or more women; or a small business concern eligible under the Women-Owned Small Business Program in accordance with 13 C.F.R. Part 127.

ARTICLE III PROCUREMENT DIVISION

Section 3.1 Segregation of Duties

PRDOH shall impose segregation of duties measures to reduce the risk of erroneous and inappropriate actions and deter fraud and fraudulent acts.

Section 3.2 Contracting Officer

All procurement processes shall be the responsibility of the Secretary or their designee in accordance to Act 97-1972, and they shall ensure that PRDOH meets the procurement and program requirements in each procurement process or action funded totally or partially with federal funds.

Section 3.3 Procurement Division Personnel Roles and Responsibilities

The following are the Procurement Division's personnel with their roles and responsibilities:

- a. **Procurement Director** – The Procurement Director is responsible for reviewing proposals, ensuring compliance with requirements and regulations, maintaining communication to ensure timely execution, and analyzing contract documents.
 - b. **Deputy Procurement Director** – The Procurement Deputy Director is responsible for reviewing proposals, ensuring compliance with requirements and regulations, maintaining communication to ensure timely execution, and analyzing contract documents.
 - c. **Sales Manager** – The Sales Manager is primarily responsible for assisting the Procurement Director and Deputy Director with procurements under the Simplified Acquisition Threshold, reviewing proposals, ensuring compliance with requirements and regulations, and analyzing contract documents.
 - d. **Acquisitions Manager** – The Acquisitions Manager is primarily responsible for assisting the Procurement Director and Deputy Director with procurements over the Simplified Acquisition Threshold, reviewing proposals, ensuring compliance with requirements and regulations, and analyzing contract documents.
 - e. **Subrecipient Manager** – The Subrecipient Manager is primarily responsible for assisting the Procurement Director and Deputy Director with procurements carried out by Subrecipients, reviewing proposals, ensuring compliance with requirements and regulations, and analyzing contract documents.
 - f. **Procurement Official** – The Procurement Official is responsible for assisting the Sales, Acquisitions, or Subrecipient Manager with reviewing proposals, ensuring compliance with requirements and regulations, and analyzing contract documents.
 - g. **Technical Specialist** – The Technical Specialist is responsible for assisting the Sales, Acquisitions, or Subrecipient Manager and Procurement Official with reviewing proposals, ensuring compliance with requirements and regulations, and analyzing contract documents.
 - h. **Procurement Specialist** – The Procurement Specialist is responsible for assisting the Procurement Division personnel with reviewing proposals, ensuring compliance with requirements and regulations, and analyzing contract documents.
 - i. **Document Management Specialist** – The Document Management Specialist is primarily responsible for assisting the Procurement Division personnel with procurement files and recordkeeping.
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- j. **Reporting Specialist** – The Reporting Specialist is primarily responsible for assisting Procurement Division personnel with preparing reports for PRDOH, HUD, or any other requesting entity.

Section 3.4 Procurement Process

PRDOH will review in a timely manner previous procurement processes, to incorporate efficiency, maximize competence, and minimize the costs of acquisitions.

Section 3.5 Procurement Division Contact Information

For assistance or specific information about CDBG-DR and/or CDBG-MIT Procurement contact:

Email: CDBGDR-PROCUREMENT@vivienda.pr.gov

Telephone: (787) 274-2527 Ext. 6618

ARTICLE IV BID BOARD

Section 4.1 Headquarters

The headquarters of the Bid Board shall be located at PRDOH's main office.

Section 4.2 Administrative Official

The Bid Board will have the following administrative officials: a secretary and an alternate secretary designated by the PRDOH Secretary. They will not count for the purpose of establishing a quorum, nor do they have the right to vote or participate in the deliberations of the Bid Board.

Section 4.3 Meetings

The Bid Board will meet as deemed necessary to consider and evaluate the Procurement Division's recommendations.

Section 4.4 Powers and Duties of the Bid Board

The Bid Board shall have the following powers and duties:

1. Adopt a seal.
2. Review and award bids and proposals in formal and informal bidding processes for the acquisition of goods or services in a formal procurement process to be executed by PRDOH under the CDBG-DR, CDBG-MIT and CDBG State Programs, according to the applicable regulations
3. Request technical counseling, when deemed necessary to make an award
4. Name a consultant committee which will offer counseling on procurement technical matters.
5. Adopt internal bylaws and procedures for its internal operation.

Section 4.5 Duties of the President of the Bid Board

1. Enforce the internal bylaws and procedures of the Bid Board
 2. Ensure members aptly comply with their duties.
 3. Conduct the procedures and represent the Bid Board.
 4. Convene the meetings of the Bid Board, as deemed necessary.
 5. Submit a monthly and annual report detailing the work performed by the Bid Board to the PRDOH Secretary, as well as any special report that may be required.
 6. Review and adopt the recommendation of the Bid Board members.
 7. Comply with all the duties and responsibilities inherent to the position.
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Section 4.6 Duties of the Secretary of the Bid Board

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

1. Answer directly to the President
2. Safeguard all the information contained in the Bid Board's records, files, and documents.
3. Maintain a record of all correspondence received and sent by the Bid Board.
4. Receive, safeguard, and oversee the proper processing of the records of all formal bids and proposals.
5. Convene the Bid Board meetings.
6. Notify the Bid Board's awards to the Secretary.
7. Safeguard the Bid Board's seal.
8. Draft the minutes of the Bid Board's meetings and keep records of the accords and recommendations.
9. Comply with all the duties and responsibilities inherent to the position.

Section 4.7 Bid Board File

The Bid Board will meet to consider the Procurement Division's recommendations, along with the Procurement File. These meetings will result in one of three possible outcomes and will be documented as follows:

1. Award

Awards must be approved by a simple majority of the members in attendance and must, at a minimum, contain a summary of the offer and the basis for its award or rejection. Awards will also have the date and signature of the members of the Bid Board who participated in the award process. The Secretary of the Bid Board will certify the award. Any member may issue a dissenting vote. The vote will become part of the Bid Board's file; however, it will not be part of the document entitled "Award".

2. Accord

Any decision of the Bid Board that does not involve adjudication shall be recorded in a document entitled "Accord". The awarding process shall be suspended until such time as the requirements contained therein are met. Accords must be approved by a simple majority of the Bid Board's members. The accord must include the following information: participants, the meeting's date, time and location, matter discussed and a brief summary of the accord. It must also have the signature of all the participants. The Secretary of the Bid Board will certify the Accord.

3. Cancellation

Cancellations must be unanimously approved by the Bid Board. The cancellation will identify the solicitation and the reason for the cancellation. When no offers are received, the determination to cancel rests solely on the decision of the Secretary of PRDOH. Cancellations prior to the deadline to receive offers rests on the determination of the Procurement Division.

ARTICLE V AWARD

Section 5.1 General Award Rule

Once the Bid Board receives the recommendation from the Procurement Division, it will proceed with the award.

When awarding bids and proposals, the Bid Board will heed the following norms:

1. Bids

Bids will be awarded to the bidder whose proven history of competence and compliance convinces the Bid Board of their ability to comply with the terms of the potential contract, provided that the bidder's offer fulfills the following requirements, in the order established below:

- a) Meets specifications
- b) Meets the conditions and other requirements established in the solicitation
- c) Lowest in price.

2. Request for Proposal (RFP)

The contract will be awarded to the proposer who fulfills the evaluation criteria and whose proven history of competence and compliance convinces the Bid Board of their ability to meet the terms of the potential contract. Price is not the main determining factor. Although one of the determining factors, the award should not be made based solely on the offer with the lowest price.

Section 5.2 Specific Rules for Awards

These rules provide guidance which the Bid Board must follow under the specific circumstances provided therein.

1. Lack of Adequate Competition

- a. When only one quotation is received from a sole offeror and the price is considered unreasonable, the offer may be rejected on the premise that there was no adequate competition. However, a reasonable price may be negotiated before outright rejection of the offer.
- b. When only one offer is received, the award can be made to said offeror if the offer complies with the specifications and conditions and the price is not unreasonable.

2. Rejection of the Sole Offer

The sole offer received may be rejected, even if it meets the requirements, when the offered price is unreasonable, or the offeror is unreliable

3. Multiple Offers by a Single Offeror

When an offeror submits several offers for the same acquisition process under his name or under other names or pseudonyms, these will be automatically rejected. The offeror may be prohibited from entering or participating in future IFBs or RFPs for the period of time recommended to PRDOH's Secretary by the Bid Board, which shall not be less than one (1) year nor more than three (3) years.

If, in response to a procurement process for equipment, vehicles or machinery, an offeror can, due to the specifications, offer several models or styles which all meet the required specifications, the offeror must choose only one to offer. If the offeror were to offer all of them, even when they all meet the specifications, the Bid Board must reject them, unless specifically permitted by the solicitation.

4. Apparent Conspiracy or collusion

When there are reasons to believe that two (2) or more offerors may have arranged to defraud or impair PRDOH, the Bid Board will reject their offers. The offerors may be prohibited from entering or participating in future bids or RFPs for the period of time recommend to PRDOH's Secretary by the Bid Board, which shall not be less than one (1) year nor more than three (3) years. The case will be submitted to the concerned agencies. The following can constitute proof of potential or apparent conspiracy or collusion: the unreasonableness of the offers, an investigation, or a sworn statement presented before the Bid Board by another registered bidder or any other reasonable basis.

5. Global Rejection

The Bid Board may reject one or all of the offers during any stage of the process prior to the issuance of the contract when:

- a. One or more of the offerors do not meet the stipulated requirements, specifications, or conditions.
- b. If adequate competition has not been achieved.
- c. The prices are unreasonable.
- d. There are not enough funds available to pay for the offered goods or services.
- e. Offers show the offerors control the market for the requested product and have agreed among themselves to quote unreasonably high prices.
- f. By order of the PRDOH Secretary, when so justified.
- g. It is in PRDOH's best interest.

In the aforementioned cases, if necessary:

- 1) a new IFB or RFP will be announced;
- 2) the acquisition will be negotiated;
- 3) the matter will be addressed in the manner most beneficial to PRDOH, in keeping with the circumstances involved and applicable regulations.

Section 5.3 Evaluation and Award

The Bid Board will evaluate the written recommendations made by the Procurement Division to award bids and proposals.

i) Procedure

- Personnel from the Procurement Division will discuss the written recommendation and each of the offers that were evaluated and will indicate which offer must be rejected and the reasons for said rejection.
- The members in attendance will vote for the bidder or proposer that meets the specifications and conditions and whose offer is, in general, most beneficial to PRDOH.
- Awards shall be approved by a simple majority.

ii) Effect of the Award

The award will be document on a Resolution consisting of three parts: a summary of the offers, a breakdown of each item that has been awarded or rejected and the basis for each action.

The Resolution must be signed by all the members who participated in the award and will be certified by the Secretary of the Bid Board.

Any member who voted against the award may attach an explanatory dissenting vote to the Bid Board file. The vote, however, will not be part of the document entitled "Award".

Section 5.4 Award Notification

- i) Once the Bid Board makes the corresponding award, the Bid Board Secretary shall notify PRDOH on or before the next business day.
- ii) The Procurement Division will notify the offerors of the award by email or certified mail. This notification will be performed on or before the next business day after the communication from the Bid Board is received.

Section 5.5 Notice

The offerors shall be notified of the award by means of a document entitled "Notice of Award" or "Notice of Selection", as applicable, which must be sent by electronic mail or certified mail.

Section 5.6 Content

The Notice of Award or Notice of Selection, as applicable shall include the following information:

- i) Date of notice;
- ii) Bid Board Resolution;
- iii) Name and address of all offerors;
- iv) IFB or RFP number;
- v) Summary of the offer;
- vi) Factors or criteria considered to award the bid;
- vii) The name of every offeror with an indication of the items awarded in their favor and the reason for rejecting the items not awarded.
- viii) Rights for judicial review as per section 4.2 of LPAUG, as amended, 3 LPRA § 9672, as well as Act No. 201-2003, as amended, known as the Judiciary Act of the Commonwealth of Puerto Rico of 2003, 4 LPRA § 24 *et seq.*

Section 5.7 Awardee

In addition to the information mentioned in the preceding section, the Notice of Award or Notice of Selection, as applicable, to the successful offeror will indicate the following:

1. Documents necessary for contract execution
2. The time allotted to submit the required documentation and;
3. A notice to the effect that the award is non-binding until such time that the contract is executed.

ARTICLE VI PROCUREMENT OF RECOVERED MATERIALS

PRDOH is encouraged to purchase materials that maximize the use of recovered and recycled materials. In doing so, PRDOH must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6962. PRDOH will procure only items designated in guidelines of the Environmental Protection Agency (**EPA**) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year

exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

ARTICLE VII PROCUREMENT FORMS

Section 7.1 General Rule

The procurement forms shall be utilized by PRDOH.

Section 7.2 Specific Forms

The procurement forms will be used in accordance with this Manual and the written Standard Operating Procedures (**SOPs**) developed by PRDOH for procurement processes. Each procurement file must contain the appropriate procurement forms as established in the corresponding SOP. Procurement forms are subject to revisions and modifications at the discretion of PRDOH.

ARTICLE VIII MINORITY, SMALL, AND SECTION 3 BUSINESS PARTICIPATION

Section 8.1 General

PRDOH shall take appropriate affirmative action to assure that Small Businesses, Minority Owned Businesses (**Minority Business Enterprise, MBE**), Women's Businesses (**Women Business Enterprise, WBE**), Section 3 Business Concerns, and labor surplus area businesses have sufficient opportunity to participate in all procurement processes financed in whole or in part with PRDOH CDBG-DR, CDBG-MIT, and CDBG State federal funds. PRDOH shall also consider the feasibility of dividing total requirements into smaller tasks or quantities to permit maximum participation by small and minority firms, women's business enterprises, and labor surplus firms. Where permitted by regulations, delivery schedules will be developed including participation by such businesses. PRDOH shall assist the prime contractor whenever possible by providing lists that identify qualified small and minority businesses, women's business enterprises, and labor surplus area firms.

Section 8.2 Affirmative Action Steps

Affirmative action steps for the policy stated in Section 8.1 (General) of this Manual shall include:

- a. Placing qualified small and minority businesses, and women's business enterprises (**MBE/WBE**) and Section 3 Business Concerns (**SEC3**) on solicitation distribution lists;
 - b. Assuring that MBE/WBE/SEC3 are solicited whenever they are prospective sources;
 - c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by MBE/WBE/SEC3;
 - d. Establishing delivery schedules, where the requirement permits, which encourage participation by MBE/WBE/SEC3 enterprises;
 - e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration (**SBA**), and the Minority Business Development Agency (**MBDA**) of the Department of Commerce;
 - f. Carrying out workshops on CDBG-DR, CDBG-MIT, and CDBG State procurement requirements and procedures;
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- g. Including in contracts, to the greatest extent feasible, a clause requiring Contractors to provide opportunities for training and employment for lower income residents of the project area and to award Subcontracts for work in connection with the project to business concerns which provide opportunities to low-income residents, as described in 24 C.F.R. § 75.19; and
- h. As a required component of Invitations for Bids or Request for Proposals/ Qualifications, requiring the prime contractor and its Subcontractors to take the affirmative steps listed in this section and as otherwise directed in the Invitation for Bids or Request for Proposals/Qualifications.

This section of the Manual will be applicable to the NFMP and HMGP Match Set-Aside to comply with the federal regulations established for activities subsidized with CDBG-DR and CDBG-MIT funds.

ARTICLE IX COST OR PRICE ANALYSIS

Section 9.1 General

PRDOH shall require assurance that, before entering into a contract, a contract modification, or a change order in excess of the Simplified Acquisition Threshold, the cost or price is reasonable. The method and degree of cost or price analysis shall depend on particular facts of each procurement process, but as starting point, PRDOH must complete an independent cost estimate for the work to be completed. Documentation associated with the elements used in the evaluation of cost or price will be maintained in the procurement file.

Section 9.2 Independent Cost Estimate (ICE)

ICE must establish the total estimated cost related to the execution of the Scope of Work. The ICE will consider separate cost elements, as applicable, contingent on whether a cost or price analysis will be performed.

Section 9.3 Cost Analysis

Cost analysis is the evaluation of separate cost elements that make up the offeror's total cost proposal to determine if they are allowable, directly related to the requirement, and reasonable.

For the NFMP and HMGP Match Set-Aside, the cost analysis as established in this Manual may be applicable as long as it is not completed by FEMA.

Section 9.4 Price Analysis

Price analysis is the evaluation of a proposed price without analyzing any of the separate cost elements that it is composed of.

For the NFMP and HMGP Match Set-Aside, the price analysis as established in this Manual may be applicable as long as it is not completed by FEMA.

ARTICLE X METHODS OF PROCUREMENT

Section 10.1 Recognized Methods of Procurement

- a. **Seven (7)** primary procurement methods shall be used by PRDOH to procure materials, supplies, construction, and services for CDBG-DR, CDBG-MIT, and CDBG State programs activities, as referenced in sections below:
 - 1. Micro Purchases;

2. Small Purchases;
 3. Sealed Bids;
 4. Competitive Proposals, including Request for Proposals (**RFP**), Qualifications Based Selection (**QBS**), and Prequalification of Sources/ Prequalification List (**PQL**);
 5. Noncompetitive Proposals (including Emergency Purchases);
 6. GSA Schedule Purchases; and
 7. Cooperative Purchasing/Intergovernmental or Interagency Agreements
- b. The acquisition of goods for Micro Purchases and Small Purchases shall be awarded by means of purchase orders, while services shall be awarded through contracts. Other methods of procurement shall be awarded by means of a contract, unless otherwise provided in this Manual.
- c. When conditions are not appropriate for the use of Sealed Bids, the method of Competitive Proposals must be used. This is typically when the procurement is for professional services which exceed the Simplified Acquisition Threshold.

Section 10.2 General Rules

- a. An environmental evaluation must be completed for a proposed project/activity that could have an environmental impact, prior to commencing a procurement process.
 - b. All procurement processes shall be conducted in a manner providing for full and open competition and shall avoid any conditions that may restrict such competition.
 - c. The Contracting Officer shall not approve purchases or modifications of contracts aggregating more cost to the original Small Purchase and increasing the cost of the purchases to sum more than the Simplified Acquisition threshold.
 - d. The Contracting Officer shall ensure compliance with the minimum bonding requirements in Construction Contracts which the amount exceeds the Simplified Acquisition Threshold, mostly awarded using the procurement methods of Sealed Bidding Competitive and Noncompetitive Proposals. These are:
 1. A bid guarantee from each bidder is equivalent to five percent (5%) of the bid price.
 2. A performance bond on the part of the contractor for one hundred percent (100%) of the contract price.
 3. A payment bond on the part of the contractor for one hundred percent (100%) of the contract price. The bonds may vary according to the type of Contract and are not required in the Small Purchase Method.
 - e. Except for Micro Purchases and Small Purchases, all procurement methods require public advertising.
 - f. Any amendments prior to the receipt of offers shall be issued to all potential offerors.
 - g. Any amendments after the offers due date will be issued to all offerors that have not been eliminated from the competition.
 1. If it's determined that the changes may have had an impact on the acceptability of any offeror who was not included in the Competitive Range,
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PRDOH should consider re-determining the range to include such offerors and provide them with the amendment.

2. If at any time in the process any needed changes are substantial enough as to exceed what potential offerors reasonably could anticipated, so that additional offerors would have submitted offers had the changes been known to them, PRDOH should cancel the Solicitation, make the needed changes, and issue a new Solicitation with a new offers due date.

h. Negotiations with offerors:

1. Negotiations are exchanges (in either competitive or sole source environment) between PRDOH and offerors that are undertaken with the intent of allowing the offeror to revise its offer. These negotiations may include bargaining.
 2. Bargaining includes persuasion, alteration of assumptions and positions, give-and-take, and may apply to price, schedule, technical requirements, type of contract, or other terms of a proposed contract.
 3. When negotiations are conducted in a competitive acquisition, they take place after establishment of the competitive range and are called discussions.
 4. Discussions are tailored to each offeror's proposal and shall be conducted by the Contracting Officer with each offeror within the competitive range.
 5. The primary object of discussions is to maximize PRDOH's ability to obtain best value, based on the requirements and the evaluation factors set forth in the solicitation. The Contracting Officer shall indicate to, or discuss with, each offeror still considered for award, significant weaknesses, deficiencies, and other aspects of its proposal (such as cost, price, technical approach, past performance, and terms and conditions) that could, in the opinion of the Contracting Officer, be altered or explained to enhance materially the proposer's potential for award.
 6. The scope and extent of discussions are a matter of the Contracting Officer's judgment. The Contracting Officer may inform an offeror that its price is considered by PRDOH to be too high and reveal the results of the analysis supporting that conclusion. It is also permissible to indicate to all offerors the cost or price that PRDOH's price analysis, market research, and other reviews have identified as reasonable. Revealing one offeror's price in an attempt to get another offeror to lower their price is prohibited.
 7. Best and Final Offers (**BAFOs**):
 - After initial negotiations are complete, the Contracting Officer shall invite the offerors in the competitive range to submit their BAFOs, making any changes they wish in their technical proposal and the price. All proposer in the competitive range should be provided with an opportunity to present BAFOs.
 - BAFOs shall be evaluated in the same manner as the initial offers. At his/her discretion, the Contracting Officer may have the entire Evaluation Committee or only a subset of the Committee evaluates the BAFOs. In either case, the Contracting Officer shall ensure that a full evaluation is conducted sufficiently to support the award decision.
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- BAFOs are usually requested only once in a competition. However, in exceptional circumstances, the Contracting Officer may determine that it is in PRDOH's best interest to conduct another round of negotiations and request a second BAFO. (Note: The Contracting Officer may also redetermine the competitive range based upon the BAFOs. In that case, only those offerors still in the competitive range – but all of them - are asked to submit another revised BAFO.) The Contracting Officer should document in the contract file his/her rationale for re-opening negotiations and requesting any additional BAFO.
- The Procurement Division shall establish a common date and time for submission of offers. Late responses should be treated the same as late initial offers. When requesting BAFOs, the Contracting Officer shall clearly inform offerors that should they fail to submit a BAFO, or fail to submit one by the due date, their initial offer will be deemed to be their BAFO.

Section 10.3 Micro Purchases

- a. Procurement by a Micro Purchase procedure is the acquisition of goods or services, that the aggregate dollar amount does not exceed ten thousand dollars (\$10,000⁴) (or two thousand dollars (\$2,000) in the case of acquisitions for construction subject to the Davis-Bacon Act).
- b. To the extent practicable, PRDOH must distribute micro purchases equitably among qualified suppliers.
- c. Micro purchases may be awarded without soliciting competitive quotations if PRDOH considers the price reasonable.
- d. PRDOH must make a determination on price reasonableness.
- e. PRDOH may request changes of an existing Purchase Order (**PO**) to authorize modifications to the scope, term, schedule, and/or cost, provided that such changes are consistent with the following conditions:
 - Changes are within the Scope of Work; and
 - The original PO amount plus cumulative PO changes shall never result in an amount greater than \$10,000.

Section 10.4 Small Purchases

- a. Any procurement not exceeding the Simplified Acquisition Threshold of two hundred fifty thousand dollars (\$250,000.00).⁵
- b. Not less than **three (3)** potential suppliers shall be solicited to submit a quotation.
- c. However, larger requirements may be broken into smaller ones. When this occurs, the Contracting Officer should document in the Procurement File the reasons for breaking down larger requirements into smaller ones.
- d. Small Purchase Contracts and Purchase Orders must address cause for termination and for convenience by PRDOH including the manner by which such termination shall be executed and the basis for settlement.

⁴ See Office of Management and Budget Memorandum M-18-18 published on June 20, 2018.

⁵ Id.

- e. The Contracting Officer or designated official may negotiate the price and other terms of purchase, when appropriate. The primary objective of the negotiation is to maximize PRDOH's ability to obtain the best possible offer.
- f. PRDOH must make a determination on price reasonableness.
- g. PRDOH may request changes of an existing PO to authorize modifications to the scope, term, schedule, and/or cost, provided that such changes are consistent with the following conditions:
 - 1. Changes are in accordance with the Scope of Work; and
 - 2. The original PO amount plus cumulative PO changes shall never result in an amount over \$250,000.00.

Section 10.5 Sealed Bidding Method

- a. **General:** A method of procurement used for acquisition of services or supplies that exceeds the Simplified Acquisition Threshold. Requires accurate and complete specifications, a Public Bid Opening, an evaluation of Bids, and award of the Contract based on the lowest price submitted by a Responsible Bidder through a Responsive Bid. The IFB is the preferred method for procuring construction services, if the following conditions apply: (i) complete, adequate, and realistic specifications or a purchase description is available; (ii) two (2) or more responsible bidders are willing to compete effectively; and (iii) the procurement lends itself to a firm fixed price contract and the selection can be made principally on the basis of price.
- b. **Solicitation and Receipt of Bids:** The IFB shall include specifications, all contractual terms, and conditions applicable to the procurement, and a statement that the award will be made to the lowest Responsible and Responsive Bidder whose Bid meets the requirement of the solicitation. If equal low responsive and responsible Bids are received, secondary criteria will be used as tiebreakers, which will vary on a case-by-case basis. The IFB must state the time and place for both receiving the Bids and the Public Bid Opening.

The IFB may include the date the Contracting Officer will hold a Pre-bid Conference, at the discretion of PRDOH. The time between the advertisement of the IFB and the date of the Pre-bid Conference should be sufficient for the bidders to review the IFB and prepare for the conference. Nothing said at the Pre-bid Conference will change any of the terms of the IFB, except a written amendment to the solicitation.

The period between the advertisement of the IFB and the date when the Bids are received by the Procurement Division must also be sufficient to achieve effective competition.

- c. **Specifications:** The specifications and attachments must clearly define the items or services needed in order for bidders to properly respond to the invitation. All the specifications must be drafted for the intended purposes and to promote competition. PRDOH must ensure that it is not unduly restrictive or represents duplicity. Detailed specifications should be avoided over products.
 - d. **Limitations:** The following specifications in solicitations must be avoided as these could limit competition.
 - 1. Requiring unnecessary experience and excessive bonding.
 - 2. Placing unreasonable requirements on firms for them to qualify to do business.
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3. Geographical restrictions which are not required, nor promoted by the federal law, except in cases of Architectural and Engineering (A/E) Contracts, which may include geographical locations if such a selection factor allows for adequate competition.
4. Brand products specifications or catalog numbers. Specific brand names may be used only for establishing standards that the article must comply with for the use proposed. References to brand names shall be followed by the words "or equal". When brand names or catalog numbers are used, the bidders must be informed that such references establish only the standards desired; in fact, any other product that clearly demonstrates the standard is also acceptable.
5. However, nothing in this procurement policy will have the effect of excluding, ("preempt") the application of the laws of Puerto Rico related to professional licenses.

e. The Bid Opening and Award:

1. All bids received should be time stamped by PRDOH to demonstrate that they were received prior to the deadline. PRDOH should keep the bids in a secure place to ensure that they are not opened or mishandled before the Public Bid Opening.
2. Sealed Bidding is a public process; therefore, Bids shall be publicly opened and in the presence of at least **one (1)** witness. All interested parties are permitted to attend the Bid Opening.
3. The Public Bid Opening must be documented. The minute must state:
 - The Bidders' name;
 - The Bidders' total proposed costs as stated in the Bids;
 - The total amounts of the Bid Bonds submitted with the Bids; and
 - The date and time the Bids were received.
4. If equal low responsive and responsible Bids are received, secondary criteria will be used as tiebreakers.

f. Withdrawal

1. A Bidder may withdraw the Bid at any time prior to the Public Bid Opening by written notice received in the Procurement Division as established in the IFB.
2. After Public Bid Opening, a Bidder may also be permitted to withdraw a low Bid if the Bidder submits written evidence that clearly demonstrates that a mistake was made. All decisions to allow withdrawal of a Bid shall be documented in the procurement file. After Public Bid Opening, changes in Bid (s) or other provisions of Bid (s) shall not be permitted.

Section 10.6 Competitive Proposals Method

General: The Competitive Proposal Method is typically used to contract, but not limited to, professional consulting, architectural or engineering services, and other professional services. This method of procurement allows for the consideration of technical factors other than price; discussion concerning Proposals submitted; negotiation of other contract terms and conditions; revision of Proposals before the final selection; and the withdrawal of a Proposal at any time

up until the point of award. The award is made based on the Proposal that represents the most advantageous, considering price and other factors, such as technical expertise, experience, quality of proposed staffing, etc., set forth in the solicitation and not solely the lowest price.

Section 10.6.1. Request for Proposals (RFP)

- a. **Conditions of Use:** Where conditions are not appropriate for the use of Sealed Bidding, Competitive Proposals may be used. Competitive Proposals are the preferred method for procuring professional services that will exceed the Small Purchase Threshold.
- b. **Form of Solicitation:** Competitive Proposals shall be solicited through the issuance of an RFP. PRDOH must establish the evaluation criteria taking into consideration price in conjunction with technical factors. The RFP shall clearly identify the importance and relative value of each of the evaluation factors and price. Proposals shall be handled to prevent disclosure of the number of Proposals, identity of the Proposers, and the contents of the Proposals until after award.
- c. **Evaluation:** The proposals will be evaluated by an Evaluation Committee. The Evaluation Committee must base the evaluation of the Proposals only on the criteria established in the RFP. The Procurement Division will provide the necessary guidance to the designated Evaluation Committee members to support a standardized and consistent evaluation process for each procurement.
- d. **Negotiations:** Negotiations may be recommended at PRDOH's discretion. Negotiations will be carried out with Proposers that have a reasonable chance of being selected for award ("Qualified Proposers"). The determination must be based on the score of the Proposals, as these have been evaluated and rated in accordance with the requirements established in the RFP. The primary objective of the negotiations is to maximize the PRDOH's ability to obtain the best possible offers.
- e. **Award:** The Bid Board shall make the final selection based on the RFP after considering the recommendation of the Evaluation Committee. The selected respondent(s) will be notified through a Notice of Award issued by the Procurement Division based on the Bid Board's determination. The award (or awards in case of multiple awards) shall be made to the responsible firm(s) whose technical approach to the project, qualifications, price and/or any other factors considered, are most advantageous to PRDOH provided that the cost or price is reasonable under the methods identified in this Manual.

Section 10.6.2. Qualifications Based Selection (QBS)

- a. **Conditions for Use:** PRDOH may use a competitive procedure for qualifications-based procurement of architectural/engineering (A/E) design contracts whereby competitors' qualifications are evaluated, and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services through A/E firms that are a potential source to perform the proposed effort.
 - b. **Form of Solicitation:** QBS is conducted using Request for Qualifications (RFQs) where PRDOH first selects the highest ranked respondent on technical factors and then negotiates the price. The RFQ shall clearly identify the selection criteria for which PRDOH shall evaluate each potential contractor. Selection criteria shall include necessary professional qualifications and experience of the firm regarding design of a
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specific type of project; experience and professional qualifications of the firm staff to be assigned to the project; and overall performance record of the firm. A mechanism for fairly and thoroughly evaluating the technical aspects of responses shall be established before the solicitation is issued. Responses shall be handled to prevent disclosure of the number of responses, identity of respondents, and the contents of the responses until award.

- c. **Evaluation:** Responses will be evaluated by an Evaluation Committee. The Evaluation Committee must base the evaluation of responses only on the criteria established in the RFQ. The Procurement Division will provide the necessary guidance to the designated Evaluation Committee members to support a standardized and consistent evaluation process.
- d. **Development of a Short-list:** Following the evaluation of the statements of qualifications, the Evaluation Committee will prepare a report that recommends the firms who will be short-listed.
- e. **Short listed selection by the Bid Board:** The Bid Board shall review the recommendation of the Evaluation Committee and shall make the final selection. The final selection shall be a listing, in order of preference, of the firms considered most highly qualified to perform the work. All firms on the final selection list are considered selected firms with which the Contracting Officer or its authorized designee may negotiate. The short-listed respondents will be notified of the RFQ results through a Notice of Selection issued by the Procurement Division based on the Bid Board's determination.
- f. **Negotiations with short listed respondents:** After short-listing respondents, the Contracting Officer or its authorized designee may negotiate a contract with the highest-ranked respondent for architectural and engineering services with a compensation which PRDOH determines is fair and reasonable. In making such a determination, PRDOH shall take into consideration the estimated value of the services to be rendered, the scope, complexity, and professional nature thereof. An ICE of the cost of architectural-engineering services shall be prepared and furnished to the Contracting Officer before commencing negotiations for each proposed contract. If negotiations do not result in an agreement, PRDOH shall terminate negotiations and undertake negotiations with the second- highest ranked respondent and continue with succeeding respondents until an agreement is reached. Once negotiation with any respondent is terminated, such respondent is eliminated from further consideration. Should the Contracting Officer or its designee be unable to negotiate a satisfactory contract with any of the selected firms, it shall select additional firms in order of their competence and qualifications and continue negotiations in accordance with this section until an agreement is reached.

Section 10.6.3.Prequalification of Sources or Prequalification Lists (PQLs)

- a. **Conditions for Use:** PQLs may be used when necessary to allow aspects of the competitive process to be addressed in a two-phased selection process so that selected sources on the PQL can be subsequently engaged on an accelerated or more efficient basis. This method provides convenience in instances where a general service need is identified, yet the specific scope of work is being developed as program needs evolve. PQLs may result in a list of sources determined to be qualified for a particular procurement with proven competence to perform in the required manner. Where a PQL has been completed and the pool of qualified providers has
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been established, the solicitation of proposals to that PQL is not required to be publicly advertised. The need for the required services and uses of the PQL must be identified in writing by the area requesting the procurement. PQLs must receive the submission of two (2) or more responses to be deemed in compliance with full and open competition.

- b. **Form of Solicitation:** The first phase selection process of the PQL shall be initiated through the issuance of an RFQ. The RFQ shall clearly identify the importance and relative value of each of the evaluation factors. A mechanism for fairly and thoroughly evaluating the responses shall be established before the RFQ is issued. The criteria for selecting Pre-Qualified sources for each project or task shall be developed by the area requesting the procurement and will vary, depending upon the expertise needed and requirements of the applicable project or task. Criteria could involve requiring a firm's personnel to have a certain demonstrated experience and proficiency in a certain subject/area depending on the specific requirements of the project or services; demonstrated understanding of the requirement; and experience and professional qualifications of the firm staff to be assigned to the project; and overall performance record of the firm.
- c. **Evaluation:** The qualifications for the RFQ will be evaluated by an Evaluation Committee. The Evaluation Committee must base the evaluation and subsequent recommendation on the criteria established in the RFQ. The Procurement Division will provide the necessary guidance to the designated Evaluation Committee members to support a standardized and consistent evaluation process.
- d. **Selection by the Bid Board:** The Bid Board shall make the final selection based on the RFQ after considering the recommendation of the Evaluation Committee. The selected respondent(s) will be notified through a Notice of Selection issued by the Procurement Division based on the Bid Board's determination. Where a PQL has been completed, the pool of qualified providers has been established, and the specific scope is defined, PRDOH will initiate a second phase selection process with the solicitation of offers. The second phase selection process will not require to be publicly advertised. Offers from the selected respondents may be solicited by means of a Small Purchase or RFP, as defined in this Manual. After the particular procurement, the award will be based on the requirements specified in the method of acquisition used.

Section 10.7 Noncompetitive Proposals Method and Emergency Purchases

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

- a. The acquisition of property or services, the aggregate dollar amount of which does not exceed the Micro Purchase Threshold;
 - b. The item is available only from a single source, based on a good faith review of available sources;
 - c. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
 - d. HUD expressly authorizes the use of noncompetitive proposals in response to a written request from PRDOH; or
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- e. After solicitation of several sources, competition is determined inadequate. Adequate competition means two (2) or more responsible offerors, competing independently, submit priced offers that satisfy the requirements of the solicitation process. PRDOH shall maintain detailed records substantiating the lack of competition.

Justification: Each procurement based on Noncompetitive Proposals shall be supported by a written justification. The justification shall be approved in writing by the Contracting Officer. Poor planning or lack of planning is not justification for emergency or sole source procurements. The justification, to be included in the procurement file, should include the following information:

1. Description of the requirement;
2. History of prior purchases and their nature (Competitive vs. Noncompetitive), if available;
3. The specific exception that applies;
4. Statement as to the circumstances that require award by Noncompetitive Proposals;
5. Description of the efforts made to find competitive sources (advertisement in trade journals or local publications, phone calls to local suppliers, issuance of a written solicitation, etc.);
6. Determination on cost reasonableness; and
7. Signature by the User Area.

Section 10.8 General Services Administration (GSA) Purchases

General: Procurements may be conducted using the GSA established price schedules. The PRDOH Procurement Director shall evaluate and determine whether the GSA procurement will be allowable for PRDOH. This written determination must be included in the procurement file.

- a. **Form of Solicitation:** GSA procurements shall be solicited through the issuance of a request for Quotations (**rfQ**), including the Scope of Work (**SOW**) and the evaluation criteria. The SOW shall include a description of work to be performed; location of work; period of performance; deliverable schedule; applicable performance standards; and any special requirements. Request for Quotations shall clearly identify the supplies or services evaluation criteria, the importance and relative value of each of the criteria and price. GSA schedule contractors that meet the supplies or services criteria indicated in the rfQ will be provided the opportunity to respond to the procurement.
 - b. **Evaluation:** GSA procurements below the Simplified Acquisition Threshold will be evaluated by a Procurement Specialist. GSA procurements in excess of the Simplified Acquisition Threshold will be evaluated by an Evaluation Committee. The Evaluation Committee shall evaluate all responses received using the evaluation criteria provided to the schedule contractors.
 - c. **Negotiations:** After the evaluation of the responses, the Evaluation Committee or the Procurement Specialist may recommend negotiations with Contractors that have a reasonable chance of being selected for award ("Qualified Proposer").
 - d. **Award:** After evaluation of the revised Quotations, if any, the contract shall be awarded to the Responsible Proposer that provides the greatest overall benefit in response to the requirements and results in the lowest overall cost alternative (considering price special requirements and administrative costs, etc.) to meet PRDOH needs.
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Section 10.9 Cooperative Purchasing/ Intergovernmental or Interagency Agreements

General: Agreements between PRDOH and other government entities to purchase or use common supplies, equipment, or services. The decision to use an interagency agreement instead of conducting a procurement process shall be based on economy and efficiency.

- a. PRDOH may either participate in, sponsor, or conduct, a Cooperative Purchasing/Intergovernmental or Interagency Agreement for the procurement of any supplies, services, or construction with one (1) or more governmental agencies, or entities.
- b. All Cooperative Purchasing/Intergovernmental or Interagency Agreements shall be through contracts or purchase orders awarded through full and open competition, and consistent with the standards of this Manual.
- c. If used, the Cooperative Purchasing/Intergovernmental or Interagency Agreements shall establish who is authorized to purchase on behalf of the participating entities and shall specify acceptance, termination, payment, and other relevant terms and conditions.
- d. PRDOH may use Federal or State excess and surplus property instead of purchasing new equipment and property if feasible and if it will result in a reduction of project costs.

ARTICLE XI CANCELLATION OF SOLICITATIONS

Section 11.1 Prior to Deadline to Receive Offers

All solicitations may be cancelled by PRDOH before the deadline in which the offers must be submitted or received in PRDOH if:

- a. The goods, services, or construction works solicited are no longer required; or
- b. Funding is no longer available for the PRDOH's procurement of goods or services;
- c. Amendments proposed to the initial solicitation are material and PRDOH determines that a new solicitation would be most advantageous for the agency; or
- d. For just cause when it is in the best interest of PRDOH.

Section 11.2 After the Deadline for Submitting Offers

All solicitations may be cancelled by PRDOH after the advertised deadline for submission of offers and all offers received may be returned if:

- a. PRDOH no longer requires the goods, services, or construction works solicited; or
 - b. Ambiguous or otherwise inadequate specifications were included in the solicitation; or
 - c. The solicitation did not include all the selection or evaluation factors that are significant for PRDOH; or
 - d. Changes are substantial enough as to exceed what potential offerors reasonably could anticipate, so that additional offerors would have submitted offers had the changes been known to them;
 - e. The projected cost exceeds available funds, and it is not appropriate to adjust the solicited quantities to fit within available funds; or
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- f. There is reason to believe that offers are not bona fide, or may not have been prepared separately through open competition, or may be collusive; or
- g. No offers were received by PRDOH in response to the solicitation; or
- h. After solicitation of several sources, competition is determined inadequate; or
- i. For just cause when it is in the best interest of PRDOH.

Section 11.3 Cancellation Notice

The reason for cancellation of the solicitation shall be set forth in writing by the Secretary, will be included in the Procurement File, and notified to all Suppliers, Offerors, and Bidders who participated in the process. The Cancellation Notice will inform that an opportunity will be given to compete in any other process thereto or any purchase of similar items.

ARTICLE XII OFFICIAL RECORDS

The Procurement File shall constitute the exclusive basis for actions by PRDOH in the award of any Contract or Purchase Order, as applicable, and for any subsequent administrative and/or judicial proceedings or review related thereto.

The Procurement File shall be a public record, except for those documents and/or information which the Secretary determines, in writing, to be privileged and/or confidential under applicable laws. In the event a proposer submits a redacted copy of the proposal to address privileged information or Secretary deems documents or information to be confidential, the redacted copy of proposals, documents and information will become part of the file and will be available for public review after the award has been made. Except as otherwise provided herein, after the award of each contract or Purchase Order, the Procurement File shall be available for public inspection. The Procurement File shall be kept by PRDOH for a period of **five (5) years** after grant close-out with HUD. Exceptions for longer file retention include: audits started before the end of the **three (3) year** period; HUD notifies in writing to extend retention period; Program Income after the period of performance; and Real Property monitoring.

Each Procurement File shall include the following information and documents concerning each procurement process:

- a. Solicitation documents such as, without limitation, the user request, Scope of Work, evaluation criteria, and terms and conditions of the solicitation;
 - b. The ICE including any amendments and supporting documents or data used to provide the estimate;
 - c. For all procurement actions, the rationale for the selected procurement method;
 - d. Evaluations, recommendations, and determinations taken by PRDOH;
 - e. Advertisements and their details including those to comply with MBE/WBE/Section 3 requirements;
 - f. Documents or information requested, considered, or received by PRDOH, including questions or comments; and
 - g. Offers received during the solicitation process.
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For the NFMP and HMGP Match Set-Aside, all the necessary records will be obtained and maintained to document that the participants have met the FEMA's Procurement requirements as established and amended from time to time.

For additional information, see the CDBG-DR Recordkeeping, Management and Accessibility Policy (RKMA Policy) available in English and Spanish at: <https://cdbg-dr.pr.gov/en/download/record-keeping-management-and-accessibility-policy-rkma-policy/> and <https://cdbg-dr.pr.gov/download/politica-sobre-manejo-administracion-y-accesibilidad-de-documentos/>.

ARTICLE XIII CONTRACT TYPES

In every procurement process, PRDOH will use the type of contract that will serve its best interests and follows all applicable Federal and local laws and regulations. The preferred types of contracts are Firm Fixed-Price Contracts and Requirement Contracts. Contracts using "Cost-Plus Percentage of Cost", or "Percentage of Construction" cost are not allowed. However, other types of contracts may be used. Among all types of contracts, the most used are the following:

- a. Fixed-Price Contract (Firm Fixed-Price and Fixed-Price)
- b. Cost-Reimbursement Contracts
- c. Cooperative Purchasing/Intergovernmental Agreements for Procurement Activities

Contractual requirements, including the required contract provisions found in the 2 C.F.R. Part 200 Appendix II, are included in the CDBG-DR Contracts and Subrecipient Agreement Manual. **The CDBG-DR Contracts and Subrecipient Agreement Manual is available in English and Spanish at:** <https://cdbg-dr.pr.gov/en/download/contract-and-subrecipient-agreement-manual/> and <https://cdbg-dr.pr.gov/download/manual-para-contratos-y-acuerdos-de-subrecipiente/>.

ARTICLE XIV CONTRACTOR QUALIFICATIONS AND DUTIES

Section 14.1 Determination of Contractor Eligibility and Responsibility

- a. Prior to the award of a contract with a prime contractor, PRDOH must obtain contractor and First Tier Subcontractor clearance, if applicable, by taking the following steps:
 1. Search <https://www.sam.gov/SAM/> and obtain documentation of the search results to confirm eligibility of the contractor.⁶
 2. Search https://www.hud.gov/topics/limited_denials_of_participation and obtain documentation of the search results to confirm eligibility of the contractor.
- b. PRDOH must award Contracts or Purchase Orders only to responsible contractors with the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

⁶ Contractors are not required to obtain full SAM.gov registration, however they must have a Unique Entity Identifier. More information regarding the difference between the Unique Entity Identifier and full SAM.gov registration can be found at: https://www.fsd.gov/gsa/ids?id=kb_article_view&sysparm_article=KB0051214&sys_kb_id=dd40f4ef1b9641d0937fa64ce54bcb7a&spa=1.

- c. Debarment and excluded parties' verification will also be executed using one of the methods listed at 2 C.F.R. § 180.300 (as supplemented by 2 C.F.R. § 2424.300), which include:
 - 1. Collecting a certification to the effect that contractor is not debarred or excluded.
 - 2. Adding a clause or condition to the contract by which the contractor represents and warrants they are not debarred or excluded.
 - 3. Checking the Excluded Parties List System (**EPLS**)
- d. PRDOH reserves its right to not enter into a contract or purchase order with a person, organization, or entity against whom a Determination of Non-Responsibility has been previously made by another government agency.

Section 14.2 Subcontractor Clearance

Prime contractors have the duty to verify subcontractor eligibility. The prime contractor must also use the website: <https://www.sam.gov/SAM/> to determine if a subcontractor has been debarred at a federal level.⁷ Debarment and excluded parties verification can also be executed using one of the methods listed at 2 C.F.R. § 180.300 (as supplemented by 2 C.F.R. § 2424.300), which include:

- a. Collecting a certification to the effect that contractor is not debarred or excluded contractor.
- b. Adding a clause or condition to the contract by which the contractor represents and warrants they are not excluded or disqualified.
- c. Checking the EPLS.

The prime contractor assumes responsibility for the performance of the subcontractor; therefore, PRDOH urges prime contractors to closely scrutinize subcontractors. If a contractor or subcontractor is found to be ineligible after award of a contract, the contract must be immediately terminated, and the matter reported to PRDOH.

ARTICLE XV LOW AND VERY LOW- INCOME PERSONS OR FIRMS PARTICIPATION

Section 3 of the Housing and Urban Development Act of 1968 (**Section 3**), as amended, 12 U.S.C. §1701u, requires that recipients, subrecipients, contractors, subcontractors, and/or developers funded in whole or in part by CDBG-DR, CDBG-MIT, and/or CDBG State funding, to the greatest extent feasible, provide training, employment, contracting, and other economic opportunities to low- and very low-income persons, particularly those who live or reside in public or government assisted housing or meet the income limits identified by HUD.⁸

Businesses can qualify as Section 3 Business Concern in any one of three (3) ways: (a) If it is at least fifty one percent (51%) owned and controlled by low- or very low-income person; or (b) over seventy-five percent (75%) of the labor hours performed for the business over the prior three (3)-month period are performed by Section 3 Workers; or (c) It is a business at least fifty one percent (51%) owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

⁷ Subcontractors are not required to obtain full SAM.gov registration, however they must have a Unique Entity Identifier. More information regarding the difference between the Unique Entity Identifier and full Sam.gov registration can be found at: https://www.fsd.gov/gsafsd_sp?id=kb_article_view&sysparm_article=KB0051214&sys_kb_id=dd40f4ef1b9641d0937fa64ce54bcb7a&spa=1.

⁸ <https://www.huduser.gov/portal/datasets/il.html#null>

Businesses can qualify as Section 3 Business Concern in any one of three (3) ways: (a) If it is at least fifty one percent (51%) owned and controlled by low- or very low-income person; or (b) over seventy-five percent (75%) of the labor hours performed for the business over the prior three (3)-month period are performed by Section 3 Workers; or (c) It is a business at least fifty one percent (51%) owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

HUD has developed a business registry for businesses who have identified themselves as a Section 3 Business Concern in order to facilitate the process of engaging in best efforts.⁹ PRDOH shall also provide a preference or bonus points in the evaluation criteria of the method of rating, for major participation of Section 3 Businesses Concerns in the competitive procurement method.

PRDOH will include Section 3 clause in every contract or subcontract subject to compliance with regulations in 24 C.F.R. Part 75. Noncompliance with HUD's regulations in 24 C.F.R. Part 75 will result in the termination of the Contract or Subcontract.

With the exception of the preference, this section of the Manual will be applicable to the NFMP and HMGP Match Set-Aside to comply with the federal regulations established for activities subsidized with CDBG-DR and CDBG-MIT funds.

For additional information, see CDBG-DR Section 3 Policy available in English and Spanish at: <https://cdbg-dr.pr.gov/en/download/section-3-policy/> and <https://cdbg-dr.pr.gov/download/politica-sobre-seccion-3/>.

ARTICLE XVI CONFLICTS OF INTEREST AND ETHICS IN PUBLIC CONTRACTING

Section 16.1 General

Since the awarding of a Contract or Purchase Order involves the disbursement of taxpayers' funds, PRDOH officials, agents, subrecipients, subgrantees, and employees, as well as the contractors involved in each procurement process owe a fiduciary duty to PRDOH. Therefore, no PRDOH official, agent, subrecipients, subgrantees, or employee shall participate directly or indirectly in the selection, award, administration, or monitoring of any Contract or Purchase Order if a conflict of interest, real or apparent, results.

For additional information, see the CDBG-DR Conflict of Interest and Standards of Conduct Policy (COI Policy) available in English and Spanish at: <https://cdbg-dr.pr.gov/en/download/conflict-of-interest-and-standards-of-conduct-policy/> and <https://cdbg-dr.pr.gov/download/politica-de-conflictos-de-interes-y-estandares-de-conducta/>.

ARTICLE XVII ADMINISTRATIVE AND APPELLATE REMEDIES

Section 17.1 Administrative Procedure (Judicial Review) Determinations by PRDOH

Disputes, bid protests, and other contractor claims related to bids or contracts, which amounts exceed the Simplified Acquisition Threshold from PRDOH shall be handled in accordance with this Manual.

Any person, party, or entity that considers itself having been adversely affected by a decision of the Bid Board made under the provisions of this Manual, may file a petition for Judicial Review before the Court of Appeals of Puerto Rico within **twenty (20) calendar days** from the

⁹ <https://hudapps.hud.gov/OpportunityPortal/>

date on which a copy of the Notice of Award or Notice of Selection was filed in the record of the agency. See Act No. 201-2003, as amended, known as the Judiciary Act of the Commonwealth of Puerto Rico of 2003, 4 LPRA § 24 *et seq.*, and section 4.2 of LPAUG, 3 LPRA § 9672.

ARTICLE XVIII PURCHASE THRESHOLDS

The threshold amounts established for each purchase may be modified by the Federal Government from time to time. This Manual will be considered automatically modified whenever the Federal Government modifies the thresholds for every type of procurement without the need to amend the Manual and such modifications will apply to CDBG-DR, CDBG-MIT, and CDBG State procurements.

ARTICLE XIX SEVERABILITY CLAUSE

If any provision of this Manual, or the application thereof to any person, partnership, corporation, or circumstance, is deemed invalid, illegal, or incapable of being enforced to any extent by a competent court, the remainder of this Manual, and the application of such provisions, will not be affected. All valid applications of this Manual shall be severed from any applications deemed invalid, leaving the valid applications in full force.

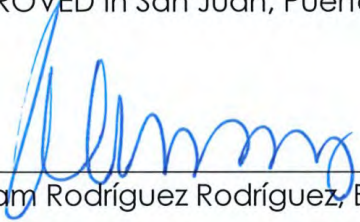
ARTICLE XX PREVAILING VERSION

This Manual repeals the "Procurement Manual for CDBG-DR Program", Regulation No. 9205 of August 4, 2020; and any other previously issued regulation, manual, administrative order, circular letter regarding this matter. This Manual is originally adopted in the English language, therefore a translation to the Spanish language is included. In case of any inconsistency between both versions, the English version will prevail.

ARTICLE XXI EFFECTIVE DATE

This Manual shall take effect thirty (30) days after its filing date to the Department of State of the Government of Puerto Rico.

APPROVED in San Juan, Puerto Rico, on the 7th of September, 2023.



William Rodríguez Rodríguez, Esq.
Secretary

Approval Date: _____

Filing Date: _____

Effective Date: _____