

**COMMONWEALTH OF PUERTO RICO  
DEPARTMENT OF HEALTH  
PUERTO RICO MEDICAL SERVICES ADMINISTRATION**

**PURCHASING REGULATIONS OF THE  
PUERTO RICO MEDICAL  
SERVICES ADMINISTRATION**

**Approved:** \_\_\_\_\_

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DEPARTMENT OF HEALTH  
COMMONWEALTH OF PUERTO RICO

# PUCHASING REGULATIONS OF THE PUERTO RICO MEDICAL SERVICES ADMINISTRATION

## SECTION 1 - LEGAL BASIS

The Regulations are adopted by virtue of the provisions of **Article 8, Paragraph (b), (c), (e) and (q) and of Article 11 of the Act Number 66 of June 22, 1978**, that created the Puerto Rico Medical Services Administration, as amended by the Act of July 21, 2006.. Said Articles provide as follows:

### **Article 3 - Creation; exemption of contributions and rights.**

The Administration of Medical Services of Puerto Rico is created, as an instrumentality of the Government of the Commonwealth of Puerto Rico, adhering to the Department of Health and which will be under the direction and supervision of the Secretary of Health. Said Administration will have legal personality separated of every official of the same one and of the Government of the Commonwealth of Puerto Rico and its agencies, instrumentalities, public corporations and political subdivisions. The powers of the Administration will be conferred to, and the Secretary with the counsel of the Meeting of Participating Companies and with their consent in the matters will exercise them that are specified in the Article 5 of this Law.

The Administration will be exempt of all types of contributions, right, taxes, wills or charges, including those of licenses, taxes or any other imposed by the Commonwealth of Puerto Rico or any political subdivision of this or its municipalities, including all its operations, its movable properties or real estate, its capital, incomes and surplus.

It is exempted also, to the Administration of the payment of all types of rights or taxes required by law for the execution of judicial procedures, the emission of certifications in the offices and dependences of the Government of the Commonwealth of Puerto Rico and its political subdivisions and the granting and inscription of public documents in any registration, conferring or public publish in Puerto Rico.

## **Article 8 - Powers and Duties of the Administration**

The Administration shall have all those powers necessary and convenient for carrying out and implementing the purposes of this Act, including those described in Article 4 and including, but not limited to, the following:

- a) Formulate, adopt, amend and repeal the rules and regulations necessary for its operations.
- b) Establish its own administrative structure for personnel, budget, purchasing and accounting, and any other administrative systems necessary for the efficient and economical operation of the centralized services, in coordination with the Control Office of Personnel Administration, the Treasury Department, the Budget bureau and General Services Administration.
- c) Negotiate and execute all kind of contracts, documents and other public instruments with persons, companies, corporations, government agencies and other entities to achieve the purposes of this Act, including the sale of services to private persons or entities. Commercial insurance companies, working unions, public prepaid plans, as well as insurance premiums of health and the associations with plans of health by the services of health lent.
- d) Purchase for its own use or for the consumer institutions all necessary materials, supplies, equipment, parts and services, and dispose of, by means of sale, transfer or cession to other entities, or by destruction or any other means the Administration deems most convenient, such materials, supplies, equipment and parts that no longer serve their purpose, in coordination with the General Services Administration.
- e) Carry out on its own or by contract those Works of construction, improvements, expansions or repairs needed by the Administration to house any of its facilities.

## **Article 11. Purchasing and Supply and Services Contracts**

All purchases and contracts for supplies and services made by the Administration will be subject to the Commonwealth of Puerto Rico Purchasing and Supplies Act, and to the regulations adopted by virtue of that act. Purchases must be made by means of the bidding process; it is further provided that when the estimated cost of acquisition or provision of services does not exceed forty thousand dollars (\$40,000.00), the bidding process may be waived. In addition, bids will not be necessary when:

- 1- An emergency requires immediate delivery of materials or equipment, or the performance of services, or
- 2- Repair parts, accessories, equipment or supplementary services are needed for equipment or services that were previously supplied or contracted for.
- 3- Expert services or work is needed and the Secretary deems that in the interest of good administration it is better to enter into contracts for such purposes without bids, or
- 4- Prices are not subject to competition because there is only one source of supply or because they are regulated by law. In these cases, the purchase of such materials, effects or equipment, or the obtention of such services, may be done on the open market in the usual and ordinary way that business is

conducted. The Secretary or his representative shall reserve the right to award a contract in public bidding on the basis of considerations other than price.

In all cases where a purchase is made or services contracted without going through the bidding process, a detailed record will be kept of the reasons that bids were waived. In all cases where the Secretary or his representative award a purchase order or service contract on considerations other than price, said considerations must be clearly in the public interest and a detailed record of such considerations and the way in which such action serves the public interest will be kept. Documents explaining the reasons for eliminating the bidding process or for awarding a bid for considerations other than price will be considered public documents open to inspection by any citizen and, in particular, by persons or entities interested in providing the services or in the sale of some goods or supplies.

## **SECTION 2 - PURPOSE**

These Regulations are adopted for the following purposes:

1. To establish administrative policy of the Puerto Rico Medical Services Administration with respect to purchasing procedures and for the creation and operation of a Bidding Board that will have direct participation in the various purchasing activities that so require.
2. To familiarize the public, Administration officials and employees, and the consumer institutions of the system known as the Puerto Rico Medical Center with the norms and procedures established for the purchase of material, supplies, equipment and/or series, and the sale or disposal by other means of property declared surplus or in disuse.

## **SECTION 3 - DEFINITION OF TERMS**

1. **Administration** - Puerto Rico Medical Services Administration (ASEM)
2. **Secretary** - Secretary of Health of the Commonwealth of Puerto Rico.
3. **Department** - Department of Health of the Commonwealth of Puerto Rico.
4. **Consumer Institutions** - The institutions located on Administration's grounds that use its services and/or provide basic services of medical-hospital care, training, education and research in the field of health.
5. **Centralized Services** - All those commercial medical auxiliary services and administrative services offered by the Administration and purchased by the institutions and by the Administration itself.
6. **Executive Director** - The chief executive officer of the Administration, appointed by the Secretary to represent him in all actions, and in the contracts that have to be entered into to carry out the functions of the Administration, and who will perform those duties, and have those responsibilities, powers and authority delegated to him by the Secretary.
7. **Purchase** - Any need requiring the acquisition of supplies and/or services for the Consumer Institutions or Centralized Service.
8. **Public Purchase Bid** - Procedure used by the Administration to acquire supplies or services.

9. **Public Sales Auction** - Procedure used by the Administration to sell property it has no use for, has been declared surplus or in disuse, and were part of its real or residual value can be recovered.
10. **Inventory Material** - Comprises material and supplies of regular and ordinary use to be stocked in given quantities for supply to the consumer Institutions or Centralized Services.
11. **Non-Inventory Material** - Refers to those items not included in the Stock Catalog. Includes all those supplies that because of their special nature or sporadic consumption are not of general and continuous use by all of the user units and there is no need to keep them on hand in the Central Warehouse or the Pharmacy.
12. **Equipment** - This term refers to those articles or a relatively permanent nature (2 years or more of useful life) and whose cost is \$25 or more, except medical instruments, books and conservation tools or biomedical instruments.
13. **Services of Construction or Capital Improvements** - Means those services, works or projects comprising the construction of new structures, annexes to original structures, or physical changes in existing facilities, as well as any kind of remodeling or improvement of the physical plant, and the purchase or repair of installed equipment (Equipment I) when of a permanent or relatively permanent nature and results in better use, aesthetic improvement or greater enjoyment of the real property or equipment in question .
14. **Non-Personnel Services** - Refers to such services as repair and/or maintenance of equipment, or work of a skilled or technical nature, printing services, garbage collection, extermination, insect and pest control, plumbing, electrical and refrigeration services, services of a mechanic or electro mechanic, electronics services, installation of equipment, security guard services, gardening and landscaping, etc.
15. **Informal Bid** - Corresponds to those purchases whose estimate or cost does not exceed **\$40,000.00**.
16. **Formal Bid** - Comprises all those purchases whose estimate or cost is in excess of **\$40,000.01**.
17. **Bid Board** - The decision-making body composed to suitable Administration officials and whose main function will be taking part in the awarding of formal bids or purchases in excess of **\$40,000.01**.
18. **Review Board** - Review Board of the Puerto Rico Medical Services Administration.
19. **Day** - Any calendar day of the week. For purposes of terminology, if it occurs on a holiday, Saturday or Sunday, it will be understood to mean the period up to the following working day. Half-holidays will be considered holidays. The term following days will mean consecutive or calendar days.
20. **Review** - Action or request to the Review Board to review the decision issued by the Director of General Services on challenges, invitations to bid, and the awards made by the Bid Board.
21. **Interested Party** - Any bidder who participates or tries to participate in the challenged bid, as well as the requesting unit or consumer affected by the action, decision or resolution.
22. **Proponent** - The party that initiates any of the actions permitted by Section XVII of the Regulations.

23. **Interested Party**- Any interested party that could be affected by a decision in an action initiated by another party and that enters said action.
24. **Resolution** - Final and binding opinion issued by the Review Board.
25. **Urgent Purchases** - Series of circumstances or unforeseen purchase needs that require immediate attention of a given supply or service does not allow the following of the regular purchasing procedure established in the Administration's Purchasing Regulations.
26. **Emergency Purchases** - A fact or combination of circumstances that produces an unexpected or unforesee situation that requires immediate attention or remedy. Emergency also will be defined as those unexpected or unforeseen public needs beyond human control, such as acts of nature requiring immediate action or attention because the life or health of one or more persons is threatened; there is a danger of damage to public property; or public services are in danger of being suspended or adversely affected. Administrative delay or oversight must not be confused with an emergency.
27. **Specifications** - The sum of fundamental characteristics of the equipment, material or service described in the purchase or bid requests that includes, among other conditions, the physical and functional circumstances, aesthetic and quality factors by which that kind of supplies required is described.
28. **Performance Bond** - A bond posted in relation to a contract, to guarantee faithful fulfillment of the obligations, commitments, terms, conditions and agreements stipulated in the contract.
29. **Bid Bond** - A bond posted in relation to a bid or quotation, guaranteeing the acceptance of a contract or order at the prices quoted and conforming to the specifications, terms and conditions of the bid.
30. **Lump Sum** - The price quoted or agreed upon between seller and buyer for the acceptance or purchase of a group of articles, without breaking down prices by lot price, unless that is required in the bid or purchase.
31. **Purchase Order** - The document used by a buyer to formalize a purchase transaction with a vendor. The purchase order, on presentation to the vendor, must contain the following details: quantity, description, discounts, delivery date, means and terms of transportation, and any other agreements pertinent to the purchase and its fulfillment by the vendor .
32. **Purchase Requisition** - Form used to request an offer proposal of price, sale terms and description of supplies or services from vendor companies.
33. **Quotation** - A proposed price or offer.
34. **Request for Quotation** - Form used to request an offer proposal of price, sale terms and description of supplies or services from all potential bidders in the informal bid process.
35. **Invitation for Bids** - A verbal or written request to potential bidders to submit quotations for merchandise or services in the formal bid process.

#### **SECTION 4 - OBJECTIVES, NATURE, AND SCOPE OF THE SERVICE**

1. **The principal objective** of the Purchasing Division involves the centralized processing of all purchases required by the centralized services of the Puerto Rico Medical Services Administration or the consumer institutions of the Puerto Rico Medical Center, for the acquisition of needed material supplies, equipment and services in the most efficient and economical way possible.

2. **The nature of the service** will resolve around a competitive purchasing system, principally using the mechanism of public bidding that allows proper guarantees of the purchasing power of the taxpayers' money and maintenance of the honesty of the procedures through proper controls and effective monitoring of purchasing activities.
3. **The scope of the service** covers the acquisition of inventory materials to maintain adequate stock in the Central Warehouse of those basic items of regular or repetitive use required by the services of consumer institutions in their daily operation and work programs; plus the purchasing procedures to obtain non-inventory articles and materials or only occasional use, and the purchase of all kinds of equipment, instruments and vehicles, and the contracting of non-personnel service. In addition to foregoing, the Purchasing Division will take part in the bid procedure for construction and capital improvement, and in the processing of the sale or other disposal of property declared surplus or in disuse.

## **SECTION 5 - DUTIES AND OPERATIONS OF THE SERVICE**

1. Advise the administrations of the centralized services and consumer institutions on the section of material, equipment or services necessary for their proper operations.
2. Develop jointly with the competent administrative levels of the Administration and/or Consumer Institutions the necessary and effective specifications for the purchase of materials, equipment and services.
3. Develop purchasing plans in harmony with those needs.
4. Continually evaluate market conditions and peculiarities.
5. Purchase the materials, equipment and services needed at the correct time, in the proper quantities, of the desired quality and at the lowest cost possible.
6. Monitor and participate in the various states of follow-up on delivery of the supplies and equipment ordered to guarantee to the extent possible that suppliers fulfill their obligation.
7. Maintain good public relations with all the areas involved in the purchasing functions.

## **SECTION 6 - BASIC OPERATIONAL NORMS**

1. Final responsibility and authority with respect to purchases resides in the Executive Director, who will be responsible for strict compliance with these regulations. Never the less, the immediate responsibility rests with the Purchasing Division of the Administration.
2. The public bidding systems will be used, characterized by a mechanism of reasonable competition in the purchases made under these Regulations, as long as this is appropriate.
3. Bids will be awarded to those bidders who, acting legitimately, offer the articles or services at the lowest or most convenient price, as long as the quality of the article or service, and other circumstances such as delivery,

- performance, conditions and sale terms are the most favorable of convenient for the Puerto Rico Medical Services Administration.
4. Written records will be kept of bid awards, indicating in each case the reasons for the decision.
  5. As far as possible, standard specification will be written for the purchases of inventory materials, in order to simplify purchasing procedures and guarantee a continuous supply of acceptable quality of the desired supplies.
  6. Purchase requisition will be accepted only when they are duly approved by a competent authority of each consumer institution or centralized service, in keeping with the norms established by the Executive Director.
  7. All purchasing activities will be carried out in accordance with these Regulations, unless written instructions to the contrary are received from the Executive Director.

## **SECTION 7 - ORGANIZATION OF THE SERVICE**

The purchasing Division is a centralized service, attached to the General Services Department, which in turn is under the Executive Director of the Puerto Rico Medical Services Administration.

The chain of responsibility of the Purchasing Division is as follows:

1. Secretary of Health of the Commonwealth
2. Executive Director
3. Director, General Service Department
4. Manager, Purchasing Division

## **SECTION 8 - PURCHASES**

- 8.1 **Purchases**- All purchases and contracts for supplies and services made by the Administration must be by bid. The bids will be awarded to those bidders that, acting in accordance with law, regulations and applicable procedures, offer the articles or services at the lowest or most convenient price, as long as the quality of the article or service, and other circumstances such as specifications, delivery, performance, conditions and sale terms are the most favorable or beneficial for the Puerto Rico Medical Services Administration.
- 8.2 **Exception** - Exceptions will be made from bidding when:
  - a) The purchase or performance of services is not in excess of **\$40,000.00**.
  - b) An Urgency or Emergency requires immediate delivery.
  - c) There is a need for repair parts, accessories, equipment or supplementary services for previously supplied or contracted equipment or services.
  - d) Expert (skilled or technical) services or work is needed and the Secretary, in the interest of good administration, determine that it would be beneficial and better if the contracts for such purposes were made outside the bidding process.
  - e) The prices are not subject to competition.
- 8.3 **Acceptance of Purchase Requisition** - Purchase requisition will be accepted only when they are duly approved by a competent authority of each consumer

institution or centralized services, in keeping with the norms established by the Executive Director.

## **SECTION 9 - PURCHASING PLAN**

- 9.1 **Purchasing Plan** - Purchases will be made, when possible, on the basis of an annual or quarterly purchasing plan, considering the estimated needs of the services or consumer institutions, in order to obtain the most attractive prices and provide an adequate store of the supplies needed. Purchases that cannot be made in that way, or that are urgent or emergency, will be made according to the needs at the moment.
- 9.2 **Content** - The Purchasing Division will prepare an Annual or Quarterly Purchasing Plan by item, and provide for short -or long-term contracting with periodic or schedule deliveries to facilitate acquisition and to guarantee a reliable source of supply.

## **SECTION 10 - AVAILABILITY OF FUNDS AND PURCHASE APPROVAL**

- 10.1 The Executive Director will establish in the Purchasing Procedure Manual the approval required and certification of available funds for each purchase requisition.
- 10.2 **Certification of Funds** - The Purchasing Division is not obligated to initiate processing of any purchase requisition for which the availability of funds is sufficient amount to cover the cost that has not been certified.

## **SECTION 11 PREFERENCE ACT**

- 11.1 **Application of Legal Provisions** - All purchases made of supplies for the Puerto Rico Medical Center are subject to the provisions of Act 14 *Ley para la Inversión en la Industria Puertorriqueña* of January 8, 2004, supra, as amended under the Act 28 of January 18, 2012, as amended, Incorporates to give preference to the purchase of office furnishings produced by confined, for-profit companies that employ people who are blind or with severe disabilities and for the purchase of uniforms for public employees in Employment and Training Corporation and adcrita work to the Department of Correction. In addition granted up to a maximum of 10% of preference for evaluation purposes to the articles or products produced, manufactured or assembled in Puerto Rico and up to 15% in the cases of agricultural products when conditions exist that warranted and a maximum of 30% in the case of articles produced and manufactured in Vieques and Culebra and other request according to the processes of Industries

## **SECTION 12 - BONDS**

- 12.1 **Authorization** - The Executive Director is authorized to establish different kind of bonds and the corresponding percentages in the *Manual of Purchasing Procedures*.
- 12.2 At the discretion of the Purchasing Manager, in meritorious cases or on request, the bond requirement can be waived when:
- a) Reasonable assurance exists that the supplier will meet his obligation.
  - b) The bidder in question represents the only source of supply and is the sole bidder, or is the exclusive manufacturer or distributor of the product.
  - c) The total of the debt contracted with the supplier by the Administration is substantial and it is determined that said amount can relieve him of the need to post a bond.

### **SECTION 13 - PURCHASING DIVISION MANUAL OF PROCEDURES**

- 13.1 **Authorization** -The Purchasing Division is authorized to prepare, and the Executive Director to approve a Manual of Procedures for the Purchasing Division.
- 13.2 **Revision**- Once the Manual is approved; it can be revised only by a written, dated document approved by the Executive director.
- 13.3 **Content** - The Manual will contain everything relevant to the necessary administrative and technical procedures, based on applicable law and regulations. It will include, but not be limited to:
- a) Objectives, duties and scope of the service
  - b) Activities of the service
  - c) Operating norms
  - d) Determinations of periods of time
  - e) Forms to be used
  - f) Everything referring to:
    - (1) Classification of Purchase
    - (2) Purchase Requisitions
    - (3) Bids for Purchases
    - (4) Special Purchases
    - (5) Auctions to Dispose of Property
    - (6) Registry of Bidders
    - (7) Classification and Submission of Offers
    - (8) Opening, Evaluation and Awarding of Bids
    - (9) Procedures for the application of the Act 28 *Ley para la Inversión en la Industria Puertorriqueña* of January 18, 2012, supra, as amended.

### **SECTION 14 - BID BOARD AND TECHNICAL COMMITTEES**

The Bid Board will be the decision-making body in charge of the final aspects of evaluation and decision in the awarding of formal bid of a general nature for the purchase of equipment, supplies and services, and bids for contracts of construction and/or capital improvements projects.

#### **14.1 Bid Board**

- 14.1.1 **Creation** - The Bid Board of the Puerto Rico Medical Services Administration is hereby created with all the duties provided for in these Regulations.
- 14.1.2 **Jurisdiction** - The Bid Board will have jurisdiction over all processes of awarding formal bids of a general nature for the purchase of equipment, supplies, service and construction and/or capital improvements projects.
- 14.1.3 **Composition** -The Bid Board shall be composed of four (4) members.

#### **14.2 Classes of Membership**

The members of the Board will be classified as follows:

- 14.2.1 **Permanent Members** - The Executive Director will appoint four (4) permanent members with voice and vote.
- 14.2.2 **Alternate Members** - Those officials designated by the Executive Director to substitute for any of the four (4) permanent members unable to attend any meeting.
- 14.2.3 **Executive Secretary of the Board**- will be the Purchasing Manager, with voice but no vote.
- 14.2.4 **Chairman of the Board**- Will be one of the permanent members designated by the Executive Director, and will be in charge of the direction and organization of the Board.
  - 14.2.4.1 **Terms**- The members of the Board will occupy their positions and perform their duties until their successors are designated and sworn in.

#### **14.3 Duties and Powers of the Board**

The duties and powers of the Board are as follows:

- 14.3.1 Evaluate and award bids.
- 14.3.2 Request advice from Administration officials or the requisitioning institution.
- 14.3.3 Adopt the norms and procedures for its internal operations.
- 14.3.4 Enter into agreements and/or negotiations with sole sources of supply and in situations that do not merit the public bid process, in keeping with the provisions of the Purchasing Regulations.

#### **14.4 Duties and Powers of the Chairman**

- 14.4.1 Insure the normal operations of the Board.
- 14.4.2 Insure the strict compliance of the members of the Board with the duties and responsibilities of their positions.
- 14.4.3 Direct the proceedings of the Board.
- 14.4.4 Represent the Board.
- 14.4.5 Chair the meetings of the Board.
- 14.4.6 Review and adopt as his own, the responsibilities of the members of the Board.
- 14.4.7 Submit any reports requested by the Executive Director.

#### **14.5 Meetings**

The meetings of the Board will be of two (2) kinds: Regular and Special

**14.5.1 Regular** - Will be held on scheduled dates to evaluate and award bids. When necessary, the members may meet to discuss any matter not related to the evaluation or awarding of a bid.

**14.5.2 Special** - Will be held to consider matters needing immediate attention and will be called at a special date or on an emergency basis.

##### **14.5.3 General Rules**

**14.5.3.1** The Board will be constituted with a quorum of three of its members.

**14.5.3.2** Bid Board decisions require the favorable vote of at least three (3) of its members with voting rights.

**14.5.3.3** The Minutes of a Bid Award or Meeting must be approved by the Executive Director or his authorized representative.

**14.5.3.4** When the Board fails to reach a decision, the case must be submitted to the Executive Director for a rating, in an explanatory report on the details of the case.

**14.5.3.5** The members of the Bid Board are not required to be present at the Opening of a Bid.

#### **14.6 Documents**

The results of Board meetings and resolutions of each bid under its consideration will be recorded in a document entitled Award Minutes and Report. The award must be signed by all members voting in favor of the award, and certified by the Executive Secretary of the Board. Members voting in favor of the award, and certified by the Executive Secretary of the Board. Members voting against an award may place in the file their dissident explanatory vote, but it will not for part of the document entitled Award Minutes and Report.

#### **14.7 Powers of the Bid Board**

Once the Purchasing Requisition or pertinent Projects are approved, in the final processing of the corresponding purchases the following organisms will have independent jurisdiction:



- 1) **Up to \$200-** May be sold by requesting a quotation from a single buyer firm if the prices submitted are considered reasonable compared with the real residual value on the market. In addition, the commercial importance of the articles to be sold and the interest potential buyers show in acquiring them can be taken into consideration.
- 2) **From \$200 to \$500.00** - By written quotations obtained in competition from at least three (3) bidders if they can be found on the market.
- 3) **From \$500.01 to \$4,999.99** - Using the printed form called Informal Sales Auction, establishing reasonable competition that permits obtaining the highest price possible under market conditions.
  - a) These auctions will be considered Informal Sales and will require only the recommendation of the Purchasing Specialist and the approval of the Purchasing Manager, the General Services Director and the Engineering and Conservation Director.
  - b) Two-thirds of the officials approving the sale transaction will constitute quorum and all decisions will be by majority vote.
- 4) **From \$5,000.00 and over** -Formal auctions will be prepared on the Sale Auction form, following a similar mechanism to that used for purchases.
  - a) The same members that comprise the Bid Board will take part in these auctions.
  - b) The General Rules indicated under that paragraph will also apply.
  - c) The award will be made to the highest responsible bidder, in accordance with the terms and conditions established for the auction.
  - d) The property to be sold must be described as precisely as possible on the invitation to bid. The auction will also include the description, quantity or weight, unit, and terms and conditions to provide adequate orientation to bidders regarding the transaction.
  - e) Cash obtained by means of the sale system will be placed in the Administration's Operational Fund.

**14.11.3** The Executive Director may delegate the sale of miscellaneous items, in small quantities or retail that are not appropriate for public auction, to other areas of the Administration, under such conditions and controls as he deems pertinent.

**14.11.4 Technical Committees**

On the recommendation of the Purchasing Division, the Bid Board and/or any other competent area, any Technical Committees deemed convenient and necessary will be created to handle the evaluation and analysis and make recommendations on material,

equipment or services the Administration is interested in acquiring. Power of appointment will reside in the Executive Director. Such committees will be composed of at least three (3) capable members whom the Executive Director deems fit to appoint.

- 14.4.1 Regulations governing operations will be drawn up for each standing Technical Committee.
- 14.4.2 These regulations require the approval of the Secretary of Health
- 14.4.3 The Committees to be created will be as follows, but not limited to them:
  - a) Pharmacy and Therapeutic Committee
  - b) Linens Committee
  - c) Medical-Surgical Committee
  - d) Office Supplies Committee
  - e) Food and Kitchen Committee
  - f) Conservation Committee
  - g) Equipment Committee
  - h) Printing and Paper Committee
  - i) Cleaning Supplies and Building Services Committee.
- 14.4.4 The Ad Hoc Technical Committees created will draw up a Work Plan, which will be approved by the Executive Director, to carry out the tasks assigned to them.

## **SECTION 15 - SIGNS FOR THE IDENTIFICATION OF GOVERNMENTAL WORKS**

The Purchasing Division of the General Services Department will include in the terms and conditions of every Invitation to Bid for the execution of public works a disposition stating that the granted bidder will be responsible for the labeling of the work. The official versions of the signs to be placed must be contracted directly with the Government Communication Central Office (OCC) following the price-list published by the OCC. This list must form part of the Invitation to Bid.

## **SECTION 16 - CHALLENGES AND REVIEW**

- 16.1 **Challenges** - Challenges will be submitted to the Director of the General Services Department of his authorized representative, for review of one or more of the terms, requirements or details of the descriptions in a given public auction or bid.
  - 16.1.1 A challenge of an invitation to bid must be submitted to the Purchasing Manager within the period set by the Review Board's Regulations, and following the procedures and requirements established therein.
  - 16.1.2 The Purchasing Manager must rule on the challenge within a period established in the Review Board's Regulations, and notify all parties in writing.

- 16.1.3 Terms and procedures established by the Review Regulations must be strictly enforced and will be grounds for voidance.
- 16.2 **Review** - The Purchasing Review Board of the Puerto Rico Medical Services Administration is created with all the powers and duties assigned and delegated to it in these Regulations. The Review Board will hear petitions for review of the rulings of the Purchasing Manager in challenges to invitations to bid, and of the bids awarded by the Bid Board.
- 16.2.1 All requests for review must be submitted to the Review Board through the Purchasing Manager, within the period established in the Review Board's Regulations and following the procedures and requirements they established.
- 16.2.2 The Board will be composed of the number of members the Executive Director established in the Review Regulations, but at no time will that be fewer than three (3). No member of the Review Board may be a member of the Bid Board and/or the Director of General Services. The executive Director will designate a Chairman and Secretary of the Review Board from among its member.
- 16.2.3 The Review Board will have jurisdiction over the following matters:
- a) Awards made by the Bid Board.
  - b) Decisions and actions of the Purchasing Manager, the Purchasing Division and the Director of the General Services Department in the application of any provision of regulatory law or procedure involving purchasing.
- 16.3 The Review Board will draw up its Regulations and submit them to the Secretary of Health for approval. They must contain, but are not limited to all matters related to: meetings, quorum, hearings, procedures, appearances, resolutions, decisions and all matters involved with its operations.
- 16.4 Introduction of testimony and admission of evidence during hearings will be governed by the rules established in the Regulations of the Board. The Rules of Procedures and of Evidence followed in the Courts will not apply in hearings and other procedures carried out before the Board. However, the Board may, at its discretion, be guided by or apply said rules in those specific cases where such application is in the public interest.
- 16.5 The Board will report its rulings in writing. In its resolutions, the Board will state the conclusions of fact and law on which its rulings are based, in accordance with applicable regulations and statutes. Board resolutions on any action will affect only the case under its jurisdiction.

## **SECTION 17 - SEPARABILITY, AMENDMENTS, APPEAL AND FORCE**

- 17.1 **Separability**  
Should any article, section, paragraph, sub-paragraph or part of a section be declared unconstitutional, invalid or null by a court with jurisdiction, said ruling or judgment will not affect or invalidate the rest of same, but rather

its effect will be limited to the article, paragraph, subparagraph, section or part of a section so declared.

**17.2 Amendments**

Any amendment to these Regulations must be recommended by the Executive Director and approved by the Secretary of Health before taking force.

**17.3 Repeal**

These Regulations repeal all regulatory provisions in force in the Administration covering the material contained herein.

**17.4 Force**

These Regulations take force immediately upon approval by the Secretary of Health of the Commonwealth of Puerto Rico and the fulfillment of the legal and regulatory requirements for approval by the Secretary of Health.

Approved in San Juan, Puerto Rico, today \_\_\_\_\_

\_\_\_\_\_  
**Dra Ana C. Ríos Armendáriz**  
**Secretary of Health**

Effective Date \_\_\_\_\_

**COMMONWEALTH OF PUERTO RICO  
DEPARTMENT OF HEALTH  
PUERTO RICO MEDICAL SERVICES ADMINISTRATION**

**REGULATIONS FOR THE BID REVIEW BOARD  
OF THE  
PUERTO RICO MEDICAL SERVICES ADMINISTRATION**

**Approved:** \_\_\_\_\_

**Next Revision:** \_\_\_\_\_

**REGULATIONS FOR THE BID REVIEW BOARD  
OF THE  
PUERTO RICO MEDICAL SERVICES ADMINISTRATION**

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## **PURPOSE:**

To create the Bid Review board of the Puerto Rico Medical Services Administration and establish the norms to govern its operations, the prescribed terms for the review of an invitation to bid, the review of the award of a bid and the requirement for bonds to be posted by bidders.

### **Section I. Legal Basis**

These Regulations are adopted by the Bid Review Board of the Puerto Rico Medical Services Administration in accordance with the provisions of Articles 8 and 11 of Act Number 66 of June 22, 1978, as amended; and of Act No. 170 of August 12, 1988, as amended under the Law 132 of July 21, 2006.

### **Section 2. Definition of Terms**

For the purposes of these Regulations, the following terms will have the meanings stated below:

#### **2.1.1 Board**

Refers to the Bid Review board of the Puerto Rico Medical Services Administration created by these Regulations.

#### **2.1.2 Executive Director**

Executive Director will mean in all parts of these Regulations that the term is used, the Executive Director of the Puerto Rico Medical Services Administration.

#### **2.1.3 Chairman**

The person designated by the Executive Director to chair the Board.

#### **2.1.4 Bidder**

Any person or entity registered in the Registry of Bidders interested and available to appear and be contracted through the public bidding process.

### **2.1.5 Reconsideration**

Resource by which the Board is requested to reconsider any action or resolution issued by the Bid Board.

### **2.1.6 Specifications**

The physical, operational, aesthetic and quality characteristics of the materials, goods and services to be acquired.

### **2.1.7 Resolution**

Final opinion issued by the Bid Review Board.

### **2.1.8 Day**

Working day.

### **2.1.9 Registry of Bidders**

Registry of suppliers in which are listed those persons or corporations acceptable for contracting by the Administration because they have fulfilled the requirements established.

### **2.1.10 Administration**

Puerto Rico Medical Services Administration.

## **Section 3 Appointment and Composition of the Board**

- 3.1** The Executive Director will appoint the members of the Review Board and designate a Chairman from among their number. The Board will be constituted by not less than three (3) members. **The Purchasing Manager shall act as secretary of the Board with voice but not vote.**
- 3.2** The appointments of the members of the Board will not be for a fixed term, and they may be replaced at any time by the Executive Director. They will remain in their positions until a successor has been appointed.
- 3.3** The Executive Director may appoint alternates to fill in for regular members of the Board during a prolonged absence, or an ad hoc member when the circumstances require such action.
- 3.4** The Executive Director may appoint a substitute member to replace the Secretary on his/her absence.

#### **Section 4. General Duties and Responsibilities of the Board**

- 4.1 Adopt, with the approval of the Executive director, the internal norms and procedures necessary for its operations.
- 4.2 Keep Minutes of the Board's agreements and determinations.
- 4.3 Consider, analyze, evaluate, and issue resolutions on petitions for consideration submitted to the Board.
- 4.4 Hold the administrative meetings it deems necessary.
- 4.5 Keep records of cases filed, meetings held and resolutions issued.

#### **Section 5. Duties and Powers of the Chairman**

- 5.1 Enforce the current regulations.
- 5.2 Oversee the operations of the Board.
- 5.3 See that members of the Board fulfill the duties of their positions.
- 5.4 Direct the work of the Board and chair meetings.
- 5.5 Represent the Board.

#### **Section 6. Duties of the Secretary of the Board**

- 6.1 **Prepare the agenda and the resolutions issued emit by the board.** Guard all the contained information in the books, correspondence, files, documents and file cases of the Board, as well as all the evidence regarding to the same.
- 6.2 Maintain control of all correspondence and documents received/sent by the Board.
- 6.3 Certify the documents of the Board. Raise, control, and maintain minutes of meetings and administrative hearings of the Board.
- 6.4 Keep control of the administrative resolutions and decisions of the Board.
- 6.5 Elevate the file cases of the Formal Bids to the judicial forum, as a group with the Administration Legal Advisor.

#### **Section 7. Meetings of Board**

- 7.1 The Bid Review Board will meet all those times that the own Board reckon necessary to consider the matters that are submitted him or when is requested by the Executive Director. The meetings will be called by the President of the Board and they will be

notified by the Secretary. The members should attend to all the meetings, unless there are extraordinary circumstances, in whose case, they should notify their absence in advance to be able to summons a substitute member as replacement.

### **Section 8. Quorum and Vote of the Board**

8.1 Two-thirds of the members of the Board will constitute a *Quorum*. All agreements and decisions of the Board will be by majority vote of the members present.

### **Section 9. Jurisdiction of the Board**

9.1. The Board will have jurisdiction to resolve requests for reconsideration of challenges to invitations to bid and awards made by the Bid Board.

9.2. It may also act on complaints submitted by bidders that are referred to it by the Executive Director.

### **Section 10. Board Submissions**

#### **10.1 Submissions for Review**

- a. A bidder may file a request for review before the Review board of an invitation to bid when there is disagreement over some term, specification or condition of a given invitation to bid and a review of the decision of the Director of General Services has been requested.
- b. A bidder who has taken part in a public bid may request reconsideration by the Board of the award made by the Bid Board on a given bid.

### **Section 11. Procedure for Review of an Invitation to Bid by the Purchasing Manager and the Director of General Services Department**

#### **11.2 Term**

Any challenge to an invitation to bid must be submitted to the Purchasing Manager within Five (5) Working days of the date of the postmark on the invitation or within Three (3) days of receipt of same by messenger, depending on the kind of invitation made. Any challenge submitted after those periods will be rejected.

#### **11.2 Content**

The challenge must be presented in the original and two (2) copies, typewritten or printed, and containing the following:

- a. The bid number.
- b. A detailed account indicating the specific parts, specifications or conditions being challenged.
- c. The specific reasons on which the challenge is based, including the documentary evidence and material necessary to demonstrate and prove that the facts in the challenge to the invitation to bid are valid.
- d. A clear statement of the relief or action sought.
- e. The signature of the appellant or authorized representative.
- f. The Purchase Manager through the Director of General Services will study the approach and will write a report of its decision to the parties.

## **Section 12. Procedure for the Resource to Review an Invitation to Bid before the Board**

### **12.1 Term**

- a. When a bidder has filed a request for review of an invitation to bid with the Purchasing manager and is dissatisfied with the decision, he may file a review petition with the Board within Three (3) Working days of the date of the postmark on the answer received.

### **12.2 Content**

- a. The document requesting review of an invitation to bid must be submitted in the original and two (2) copies, **in computer format**, and contain the following:
  1. The bid number.
  2. A detailed account indicating the specific parts, specifications or conditions being challenged.
  3. The specific reasons on which the challenge is based, including the documentary evidence and material necessary to demonstrate and prove that the facts in the challenge to the invitation to bid are valid.
  4. A clear statement of the relief or action sought.
  5. The signature of the appellant or authorized representative.

- b. Copies will be sent by certified mail with return receipt or delivered by hand to all the bidders appearing in the record as taking part in the challenged bid.

### **12.3 Procedure for the Resource to Review a Bid Award before the Board**

The part adversely affected by the decision of the Board will be able to present, within ten (10) days term, a motion for reconsideration and/or challenge, to the Board. If the Board stop take action in regard of the motion for reconsideration within the ten (10) days of being presented, will be understood that it has been rejected outright, and from that will begin to run the terms for the judicial revision.

If some decision on the reconsideration was taken, the term to request the judicial revision will begin to be counted since the date in which is filed a copy of the notification of the decision of the Board.

One part adversely affected by a decision of the Administration regarding to bids challenge cases, and have exhausted all the remedies provided for the same, particularly, the appellate forum of the Board, will be able to present a request for revision in a Superior Court with competence within ten (10) counted days from the date of filed a copy of the notification of the order or final resolution of the agency.

The file of a request for revision on challenge bid will not have the effect to stop the award of the challenge bid. The file of a motion of reconsideration and/or impugnation should be notified to all the parts within the term to request the reconsideration and/or challenge.

### **12.1 Reconsideration of Awards**

- a. The request for reconsideration must be submitted in the original and two (2) copies, typewritten or printed and contain the following:
  - 1. Bid number.
  - 2. A clear and detailed account of the facts, on which the allegations are based, and the specific part or parts of the award whose reconsideration is being sought.
  - 3. A clear statement of the relief sought.
  - 4. The documentary evidence possessed.
  - 5. The signature of the appellant at the bottom of the petition. If the bidder is a partnership, a partner must sign it; if it is a corporation, by an Authorized Officer. When a legal representative makes the filing, his signature will suffice.
- b. If the Board finds that a protest over an award is valid, it will issue a recommendation in a detailed report to the Executive Director, who will make the final decision.
- c. The Review Board will carefully study all requests from bidders that meet these requirements, and report its decision in writing.
- d. The Review board will determine the validity of the challenge, and decide the case on its merits.

- e The Review board will issue its decision in writing, and the parties will be notified within Ten (10) days of the date the challenge was received.
- f The decision on the appellant's petition will be reported in writing to the parties by certified mail or by messenger, and a receipt will be obtained.

### **Section 13. Special Guarantees**

The recurrent part should place, jointly within its resource of revision to an awarding bid, a bond in a certified check, money order or bond expedite by an Insurance Company authorized to do business in Puerto Rico, in favor of the Administration Medical Services of Puerto Rico, equivalent to a twenty percent (20) % of the value of the contract or the part challenge of it. The Bid Review Board is reserve the right to require a similar bond to any part that request to intervene, whose bond should be filed in the Finance Division to the official collector within the next five (5) day after intervention request.

**13.1** The bid bond or special guarantee will respond for the following:

- a. Any increase in cost that should pay the Administration regarding to the delay in the procedure of the purchase.
- b. Any damages and prejudice caused to the Administration by the delay that may occur regarding the interposed resource or if the opportunity to acquire the supplies, equipment or services, if is determined that the action was interposed recklessly.
- c. Any other expenses that the Administration considers necessary regarding to the Review.

### **Section 14. Filing and Notification**

A petition will not be considered filed until it is stamped by the Purchasing Division of the Administration. Copies of the reconsideration request must be sent to the Executive Director, each of the interested parties and the Purchasing Division.

Failure to notify the concerned parties may, at the option of the board, be cause to reject the reconsideration request.

### **Section 15 Right to Intervene**

**15.1** All parties considering themselves affected may ask to enter into an action before the Board to present their position on the reconsideration being sought. If the Board believes the rights of the party so requesting will be affected by the decision in the case, it may allow their intervention. In such cases, they must submit in writing to the Board, within Three (3) days of receipt of their copy of the reconsideration request, the ***Document of***

***Intervention by Interested Party.*** Said document must comply with the provisions of these Regulations.

### **Section 16. Effects**

- 16.1** When a motion of reconsideration of the award of a bid is received, all procedures involving said bid will be halted until a final ruling is made on the matter under consideration.
- 16.2** Should the halting of the procedures of a bid produce an emergency situation where the services provided by the Puerto Rico Medical Center could be affected, the established procedures will be followed for acquisition of the supplies, equipment or services for the period of time the Review Board needs to settle the case.
- 16.3** If the bidder submit in the request for reconsideration is a contractor on a current contract that will be replaced by the new contract to be issued, this does not mean that said contract will be extended automatically until the board reaches a decision.

### **Section 17. Violations and Penalties**

- 17.1** Any employee of the Administration who provides information on matters before the consideration of the Board or intervenes with the documents or in any other way acts improperly will be subject to the administrative sanctions provided for such purposes in the Personnel Regulations, in the Collective Bargaining contract and/or in the governmental Ethics Act, as well as any other applicable statute or regulation.
- 17.2** If such violation involves the commission of a crime, or if in the judgment of the board the violation of these regulations so merit, it will recommend to the Executive Director that the case be submitted to the Justice Department for the appropriate action. Submission of the case to the Justice Department will not impede the imposition of the applicable administrative sanctions.
- 17.3** Any bidder or sales company who files three or more insubstantial or frivolous actions within a period of Twelve (12) months may be eliminated from the Administration's Bidder list, which will make them ineligible to take part in bids of the Puerto Rico Medical Services Administration for a period of no more than Six (6) months nor less than Three (3) months, at the discretion of the Review Board. Said penalty will also be grounds for disqualification from a bid in process.

**Section 18. Separation, Repeal, and Force****18.1 Separation**

Should any provision of these Regulations be declared unlawful or unconstitutional by a court with jurisdiction, said judgment will not affect, diminish or invalidate the remaining provisions, but rather its effect will be limited to the provision so declared.

**18.2 Repeal**

These Regulations repeal all Regulations and/or provisions in force in the Administration governing the matters contained herein.

**18.3 Force**

These Regulations take force immediately upon their approval by the Secretary of health of the commonwealth of Puerto Rico and upon compliance with the legal and regulatory requirements for approval by the Secretary of State.

Approved in San Juan, Puerto Rico on: \_\_\_\_\_

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**Dra . Ana C. Riuz Armendáriz**  
**Secretary of Health**

Effective Date \_\_\_\_\_

**COMMONWEALTH OF PUERTO RICO  
DEPARTMENT OF HEALTH  
PUERTO RICO MEDICAL SERVICES  
ADMINISTRATION**

**REGULATIONS FOR THE BIDS BOARD  
OF THE  
PUERTO RICO MEDICAL SERVICES  
ADMINISTRATION**

Approved: \_\_\_\_\_

Next Revision: \_\_\_\_\_

**REGULATIONS FOR THE BIDS BOARD  
OF THE  
PUERTO RICO MEDICAL SERVICES ADMINISTRATION**

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## **PURPOSE:**

These Regulations are adopted in order to establish the responsibilities and jurisdiction of the Bids Board of the Puerto Rico Medical Services Administration, and the policy to be followed in purchases made through formal bids.

### **Section I. Legal Base**

These Regulations are adopted by virtue of the provisions of Article 8, Paragraph (b), (c), (e) and (q) and Article 11 of the Act Number 66 of June 22, 1978, as amended that created the Puerto Rico Medical Services Administration, being the last amendment on July 21, 2006 under the Law No. 132.

### **Section 2. Definitions**

#### **2.1.1 Executive Director**

In any part of these Regulations that it is so used, refers to the Executive Director of the Puerto Rico Medical Services Administration (ASEM).

#### **2.1.2 Administration**

In any part of these Regulations that it is so used, refers to the Puerto Rico Medical Services Administration.

#### **2.1.3 Private Advisor or Technical Committee**

Person, group of persons, office, division or any other unit within or outside of the Administration to which a bid is referred for study, evaluation and recommendation.

#### **2.1.4 Open Market**

Suppliers that may provide articles or services at reasonable prices and that do not have formal contracts to supply the same to the Puerto Rico Medical Services Administration.

#### **2.1.5 Board**

In any part of these Regulations that it is so used, refers to the Bids Board of the Puerto Rico Medical Services Administration.

### **2.1.6 Bid**

Procedure used by the Administration to obtain the best materials, goods and services in which the greatest number of bidders is required to offer prices and terms in accordance with the specifications sought.

### **2.1.7 Purchasing Division**

Refers to the Purchasing Division of the Administration.

### **2.1.8 Chairman**

Refers to the person designated by the Executive Director to chair the Board.

## **Section 3. Constitution, Duties and Jurisdiction of the Bids Board**

### **3.1 Constitution of the Board**

- a. The Bids Board will be constituted with four permanent members, one of whom will be the Chairman, to be named by the Executive Director. The member with most seniority on the Board will assume the chair in the absence of the Chairman. **In addition it may appoint alternate members to replace any member in property by reason of holiday or sick prolonged or another personal situation if necessary.**
- b. The members of the Board will remain in their positions until successors are named and sworn in.
- c. The Manager of the Purchasing Division will act as Advisor and Executive Secretary to the Board by delegation of the Executive Director: he will have voice but no vote.

### **3.2 Jurisdiction of the Board**

The Board will have jurisdiction over all award processes in formal bids, **when the amount of the purchase exceeds \$40,000.01** . Including the purchase of equipment, supplies **,medicine,** services and projects of construction and/or capital improvements.

### **3.3 Duties of the Board**

- a. The Bids Board will be responsible for evaluating all proposals submitted and awarding the bids.
- b. It will seek advice from Administration officials or from the Administration officials or from the requisitioning institutions.
- c. It will adopt norms and procedures for its internal operations.

- d. It will authorize agreements and/or negotiations with sole sources of supply, and **Emergency OR Urgent** and in situations that do not justify the formal bid procedure, in accordance with the provisions of the Purchasing Regulations.

### 3.4 Duties and Powers of the Chairman

- a. Oversee Board operations.
- b. See that Board members fulfill the duties and responsibilities of their positions.
- c. Direct Board proceedings.
- d. Represent the Board.
- e. Chair board meetings.
- f. Review and assume as his own the responsibilities of the members of the Board.
- g. Submit any reports requested by the Executive Director.

### 3.5 Duties of the Board Secretary

- a. **Prepare the agenda and the minutes of meeting and award of the auctions to be subjected to the Board.**
- b. Keep all information kept in books, correspondence, file of Board cases, including all related paperwork.
- c. Keep account of all document and correspondence received and sent by the Board.
- d. Certify all Board documents. Keep log of all meetings and administrative hearings.

### 3.6 Meetings

Board meetings will be of two (2) kinds: **Regular and Special**

- a. **Regular – These will have a minimum of one meeting per week** .Will be held on prior scheduled dates to evaluate and award bids. When necessary, the members of the Board may meet to discuss matters not related to the evaluation or awarding of bids.
- b. **Special – Will be held to consider matters that require immediate attention, and will be set on special dates or on an emergency basis.**
  - 1. Quorum for meetings will be three (3) members.
  - 2. Decisions of the Bids Board require the affirmative vote of a least three (3) voting members.
  - 3. The Award of Meeting Minutes must be approved by the Executive Director or his/her authorized representative.
  - 4. When the Board cannot reach an agreement, the case will be submitted to the Executive Director, by means of an explanatory

memo detailing the particulars of the case... **Members voting against the award may place an explanatory dissenting vote in the file, but it will not form part of the document entitled Award Minutes and Report.**

5. Members of the Bids Board will not be required to be present at the opening of the Bids.

### 3.7 Documents

The results of meetings and resolutions of the Board on each bid before its consideration will be recorded in the document entitled Award Minutes and Report. Award must be signed by all members voting in favor of the award, and certified by the Executive Secretary of the Board

### 3.8 Powers of the Bids Board

Once a Purchase Requisition or Project is approved, in the final stages of the purchase the following organisms will have independent jurisdiction:

ORGANISM	TOTAL OF PURCHASE	
	FROM	TO
<b>1- Purchasing Division</b> In case of Informal Bids		<b>\$40,000.00</b>
<b>2. Bids Board</b> In Formal Bids, will have the following limits:		
<b>a.</b> Purchase of Equipment, Services, materials, <b>medicine</b> , Supplies, Parts.	<b>\$40,000.01</b>	No Limit
<b>b.</b> Construction and/or Capital Improvements Bids	<b>\$40,000.01</b>	No Limit

## Section 4. Awards

a. The Purchasing Division must submit to the Board the file of the bid with its study and preliminary evaluation of the offers within a **Maximum term of thirty(30) days from the date of opening. The above evaluation will be conducted by the Technical Committees previously designated and/or relevant services.**

b. The Board must meet within a reasonable period **a period of thirty (30) days** of time after receiving the file from the Purchasing Division. The Board

must decide on the awarding of a bid within a reasonable period after the date of the first meeting of the Board at which the file is considered. The Board reserves the right to extend the evaluation period to be extent it deems reasonable in cases of highly complicated bids that require more study and consultation. In such cases, interested parties will be notified.

## **Section 5**    **Notification of Award**

Once the Board must have awarded the Bid and the Award has been approved by the Executive Director, the Purchasing Division must notify all the bidders as quickly as possible. **Period of ten (10) days**

## **Section 6**    **Sales Auction**

Property that the Administration has decommissioned or must be disposed of because it is surplus, recovered, obsolete or useless may be sold by the Purchasing Division in accordance with the provisions of these Regulations listed below.

- a. Whenever the importance of the sale in terms of residual value so justifies, public auctions will be held to formalize contract for the sale of property that because of its nature is not of use to the various areas of the Administration and part of whose residual value can be recovered.
- b. To determine the sale procedure to be followed in these cases, the following guidelines are established on the basis of the estimated sale amount for each case or group in particular:
  - c. **The Board shall have jurisdiction to assess sales auctions whose value exceeds 5,000 . Formal auctions are prepared in the form of auctions for sale, in accordance with the public auction mechanism similar to that of purchases of supplies or equipment.**

**\$5,000.00 and Over** – Formal auctions will be prepared on the Sale Auction form, following a similar mechanism to that used for purchases.

- 1.The same members that comprise the Bids Board will take part in these auctions.
- 2.The award will be made to the highest responsible bidder, in accordance with the terms and conditions established for the auction.
- 3.The property to be sold must be described as precisely as possible on the invitation to bid. The auction will also include the description, quantity or weight, unit and terms and conditions to provide sufficient orientation to bidders regarding the transaction.
- 4.Cash obtained through the sale system will be placed in the Administration's Operational Fund.

d. The Executive Director may delegate the sale of miscellaneous items, in small quantities or retail that are not appropriated for public auction, to other areas of the Administration, under such conditions and controls as he deems pertinent.

## **Section 7   Advisors**

The Bids Board may refer any bid for study, evaluation and recommendation to the advisor or group it deems necessary and appropriate for the proper performance of its duties.

## **Section 9.   Norms for Operations of the Bids Board**

The following norms will apply to the Bids Board in carrying out its duties:

- a. All board resolutions will pursue the best interests of the Puerto Rico Medical Services Administration, and the avoidance of favoritism, preference or partiality toward any bidder.
- b. Offers received in response to invitations to bid will be kept by the manager of the Purchasing Division and must be held until the date and time set for the opening of bids.
- c. A member of the Board, or any person designated by the Board with expert knowledge of the product or service being quoted may be present at the opening and reading of the bids if that is considered necessary.
- d. The opening of bids will be public and the names of the persons appearing in representation of the bidders will be recorded. **This information will be part of the dossier.**
- e. In cases where only one bid is received, the Board will decide immediately if the price quoted is reasonable and whether to accept the bid or whether the interests of the Administration would be better served by postponing or suspending the bid to wait for more offers.
- f. While bids are being studied and analyzed, the Board will abstain from any communication with bidders except for the purpose of obtaining information from a bidder or bidders, or to clarify some doubt about the offer.
- g. In evaluating quotations, in addition to the price of an article or service, other pertinent factors involved in selecting the best proposal should be taken into consideration, such as: quality and adaptability of the articles and services, the solvency of the bidding firm, its ability, experience and reliability with respect to provision of maintenance, repair parts, and delivery time.
- h. **In evaluating quotations** , in cases of an error in prices the unit price will prevail, and in case of disparity between figures and words in a quotation, the words will prevail. In cases of error in unit price, the total price quoted will govern for effects of the award.

- i. Any condition or limitation added by bidders to the information, conditions, etc., of the bid may be considered amendments and are subject to rejection.
- j. In cases where award of a bid is recommended to other than the lowest bidder, the report or resolution should state clearly the reason that the lowest bid was rejected.
- k. Offers for a quantity or number that is lower than that specified may be accepted by the Board if such action is in interest of the Puerto Rico Medical Services Administration.
- l. All offers conditioned by the bidder in such a way as to change or modify the conditions stipulated originally **may** be rejected.
- m. Acceptance of an offer constitutes a tacit rejection of all other offers submitted by bidders for the items awarded.
- n. The Board will have the power to reject the bids of two or more bidders when it is determined that they have gotten together on the quotations.
- o. When two or more bidders submit the same bid, and when the price as well as the other terms and conditions are identical and there is no fair way to make the award, the Board may decide by lot among those bidders.
- p. When there is a tie on bids between local and foreign bidders, the bid will be awarded to the local bidder with business and warehouse in Puerto Rico.
- q. Bids will be awarded in the manner that is most advantageous, whether item-by-item, or on an entire quotation.
- r. The Executive Director of the Puerto Rico Medical Services Administration or his Authorized Representative will issue a contract or purchase order, as the case may be, for the articles or services indicated in the bid to the bidder to whom the bid has been awarded. Any information omitted in the contract that appears in the bid proposal will be considered valid unless the contrary is stated, on the understanding that the omission was involuntary. However, when deemed appropriate, it may be indicated in the contract that the Administration reserves the right to issue purchase orders for larger or smaller amounts than those stipulated in the bid.
- s. The bid board of auction will attend Urgency ,Emergency, Only Sources for slaughter or negotiable that are referred by the Executive Director whose amount spent the \$40,000.01 without public auction , as established in the Purchasing Regulations and Administrative Manual. It will be issued a act of justifying the purchase meeting.

## **Section 10 General Duties and Responsibilities**

The following general norms are established for the bid process:

- a. The Purchasing Manager or his Authorized Representative will use the “Registro Unico de Licitadores” for a list of possible bidders to be invited

to the bidding and purchasing of ASEM as stated in the Law No. 85 of June 18, 2002 that oversees Law No. 164 of July 23, 1974.

- b. The Purchasing Manager will set an announcement board where a copy of the Invitation to Bid will be posted.
- c. Offers received in response to Invitation to Bid can be mailed to the Purchasing Division or brought directly to the Purchasing Division offices.
- d. **The bids of the tenderers should come in a sealed envelope, sealed and identified with number and description of auction, the date and time of opening and the address of the sender .**
- e. In cases where a bidder is not bidding on articles or services requested in a bid, this should be indicated by placing the phrase **NO BID** on the upper right-hand part of the envelope.
- f. Any bid sent by mail and received after the time set for the opening of bids will be rejected and returned to the bidder, unless such bid is received before the opening has concluded and the bidders are still on the site, and as long as the postmark on the envelope (not the bidder's postage meter) is prior to the date and time set for he closing.
- g. All bids sent by messenger or submitted in person by the bidder after the date and time set for the opening of the bids will be rejected and returned to the bidder with an explanatory note.
- h. Any modification to a bid, received in writing before the time set for the opening of the bids will be considered valid, as long as the modification or other change or amendment to the bid is explained and validated with the bidder's signature. No modification or withdrawal of a bid will be permitted after the time set for the opening of the bids.
- i. The bid sheets will become the exclusive property of the Puerto Rico Medical Services Administration and will be retained in the file of each bidder and of the bid.
- j. All bid envelopes must be duly identified with the number of the bid, the date and time of the opening, and the bidder's address. Should an unidentified envelope be received on a day when more than one bid is taking place:
  - 1. It will be opened in the presence of the bidders.
  - 2. The identification of the bid to which it belongs will be inserted into the envelope.
  - 3. The reason for its being opened will be stated.

4. The official or officials dealing with it will sign it, certifying that the price bid has not been revealed.
- k. Once all the bids have been opened, additional information will not be accepted from bidders unless requested in writing by the Board.
- l. All bids must be signed by the bidder in indelible pencil or ball-point pen.
- m. Any bid that arrives unsigned, but accompanied by an explanatory letter signed by the bidder, will be considered since these documents indicate it was the bidder's intention to sign the bid.
- n. No bidder may withdraw his bid once the bid is opened.
- o. Any errors in a bid will be the sole responsibility of the bidder. Acceptance by the Bids Board of a bid thus submitted will oblige the bidder to accept the award, and to purchase or deliver the materials, as the case may be. Exceptions will be made only in those cases where the difference in price is so disproportionate and so unreasonable that to accept it would cause grave damage to the interest of the bidder.
- p. Bids submitted in the name of partnerships or corporations must be signed by authorized representatives, indicating their title in the organization, and must be accompanied by a letter or resolution indicating that the person is authorized to negotiate or contract for the company.
- q. When the needs of the service so require, the Board may require the posting of a performance bond to guarantee fulfillment of the contract issued to the bidder by the Puerto Rico Medical Services Administration, by insertion of said requirement in the bid sheets.
- r. In cases where a bid is announced without this requirement, the Board may require it once the bids are opened.
- s. The bond may be posted in the following ways:
  1. In cash.
  2. The bearer bonds of the government of the United States of America, the Commonwealth of Puerto Rico or any of its public corporations.
  3. In certified check to the order of the Puerto Rico Medical Services Administration.
  4. Check or bank bond from a bank acceptable to the Administration.

5. Bond issued by a bonding company authorized to do business in Puerto Rico and endorsed by its representative on the Island.
- t. When the bid being considered requires a bond, the important information will be read out loud.
- u. ASEM can accept anual bonds to guarantee “licitaciones de suministros”.

#### **Section 11** **Petitions of Reconsideration or Challenges to a Bid**

- a. Should any petition for the reconsideration or challenge to a bid arise, it must be submitted in writing to the Bid Review Board.
- b. The document must fulfill the terms and conditions established in the **Bid Review Board Regulations** in order to be considered.

#### **Section 12** **Minutes**

- 12.1 The Bids Board will keep in the file of each bid the minutes of the agreements of the Board, containing a summary of all recommendations and a note of the action taken.

#### **Section 13.** **Cancellation of a Contract**

- 13.1 The Bids Board may recommend to the Executive Director that a contract be cancelled with a bidder, when said bidder fails to comply fully with the requirements, stipulations, conditions and/or specifications of the bid or contract.

#### **Section 14.** **Separation, Repeal and Force**

##### **14.1 Separation**

Should any article, section, paragraph, sub-paragraph or part of a section be declared unconstitutional, invalid or null by a court with jurisdiction, said ruling or judgment will not affect or invalidate the rest, but its effects will be limited to the article, paragraph, sub-paragraph or part of the section so declared.

##### **14.2 Repeal**

These Regulations repeal all regulatory provisions in force in the Administration covering the material contained herein.

**14.3 Force**

These Regulations take force immediately upon approval by the Secretary of Health of the Commonwealth of Puerto Rico and the fulfillment of the legal and regulatory requirements for approval by the Secretary of Health.

Approved in San Juan, Puerto Rico, on \_\_\_\_\_.

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**Dra. Ana C. Rius Armendáriz**  
**Secretary of Health**

Effective Date \_\_\_\_\_