

TODOS SOMOS DESARROLLO Y

**Todo**  
**es**  
**DESARROLLO**

DEPARTAMENTO DE DESARROLLO  
ECONÓMICO Y COMERCIO  
**DDEC**



**REQUEST FOR PROPOSALS  
FOR  
INCENTIVES ANALYSIS AND CONSULTING SERVICES**

**Issued by the  
Department of Economic Development and Commerce**

**DEDC-RFP-2023-001**

**Date Initial RFP Issued: January 9, 2023**

**Proposals Due Date: February 9th 2023 at 6:00 p.m. AST**

DEPARTAMENTO DE DESARROLLO  
ECONÓMICO Y COMERCIO  
**DDEC**





## Table of Contents

1.0	Purpose and Intent .....	4
1.1	Contract Term .....	5
1.2	Proposal Submission .....	5
1.3	Prohibited Communications, Non-Collusion and Rejections .....	6
1.4	Questions & Answers .....	6
1.5	Local Participation .....	7
1.6	RFP Timeline .....	7
1.7	Revisions to the RFP .....	7
1.8	No Obligation to Contract .....	8
1.9	Definitions/Acronyms .....	8
2.0	Scope of Services .....	9
3.0	Evaluation and Selection Criteria .....	18
3.1	Interview .....	18
3.2	Direct Negotiations .....	18
3.3	Selection .....	19
3.4	Modification or Withdrawal of Proposal .....	19
3.5	Errors in Proposals .....	19
4.0	Respondent Requirements .....	19
4.1	Requirement of Legal Entities .....	19
4.2	Required General Qualifications of Respondent .....	19
4.3	Required Specific Qualifications .....	20
4.4	Insurance and Policies Requirements .....	21
4.5	Proposal Format .....	22
4.5.1	Cover Letter .....	22



<b>4.5.2</b>	<b>Experience and Capacity</b> .....	<b>22</b>
<b>4.5.3</b>	<b>Approach and Methodology</b> .....	<b>23</b>
<b>4.5.4</b>	<b>Cost/Price Proposal</b> .....	<b>23</b>
<b>4.5.5</b>	<b>Commitment to Comply with all Applicable Laws and Regulations</b> .....	<b>24</b>
<b>4.6</b>	<b>Required Certification from the Selected Respondent</b> .....	<b>24</b>
<b>4.7</b>	<b>Most Favorable Terms</b> .....	<b>24</b>
<b>5.0</b>	<b>Confidentiality of Responses &amp; Proprietary Information</b> .....	<b>25</b>
<b>6.0</b>	<b>Conflicts of Interest</b> .....	<b>25</b>
<b>7.0</b>	<b>Proposal Additional Information</b> .....	<b>26</b>
<b>7.1</b>	<b>Rejection of Proposals; Cancellation of RFP; and Waiver Informalities</b> .....	<b>26</b>
<b>7.2</b>	<b>Ownership of Proposal</b> .....	<b>26</b>
<b>7.3</b>	<b>Cost of Preparing Proposals</b> .....	<b>27</b>
<b>7.4</b>	<b>Errors and Omissions in Proposal</b> .....	<b>27</b>
<b>8.0</b>	<b>Payment Terms &amp; Method of Payments</b> .....	<b>27</b>
<b>8.1</b>	<b>Payment Terms</b> .....	<b>27</b>
<b>8.2</b>	<b>Method of Payment</b> .....	<b>27</b>
<b>9.0</b>	<b>Right to Request Review and Reconsideration</b> .....	<b>28</b>
<b>10.0</b>	<b>Attachments</b> .....	<b>28</b>
	<b>Attachment A</b> .....	<b>29</b>
	<b>Attachment B</b> .....	<b>34</b>
	<b>Attachment C</b> .....	<b>35</b>



## 1.0 Purpose and Intent

The Department of Economic Development and Commerce (“DEDC”) was created by the Department of Economic Development and Commerce Reorganization Plan of 1994, Plan No. 4 of June 22, 1994, as amended, and pursuant to the Department of Economic Development and Commerce Reorganization Plan Implementation Act of 2018, Act No. 141 of July 11, 2018. DEDC is responsible for implementing and supervising the execution of Puerto Rico's public policy for economic development in the different business sectors, as well as promoting the academic, professional, social, and entrepreneurial training and development of the country's citizens, in order to promote the active integration of young people in economic development initiatives and efforts.

Puerto Rico has a long history of granting incentives to stimulate investments and job creation. The use of various economic incentives has been a core aspect of the various economic development strategies that the Island has implemented throughout the last decades. For such purposes, throughout the years the Legislative Assembly enacted many laws that defined the Puerto Rico priorities at the time, however, those are not the priorities or needs of present-day Puerto Rico. The current economic and fiscal reality of Puerto Rico required that the Government conduct a holistic review of all of its incentives in order to provide consistency, structure, and relevance to a series of strategies that, for one reason or another, did not have a common thread and in some instances were incompatible or inconsistent with one another.

In an effort to put the Government back into a competitive position in the global economy, the Government has attempted to establish measures to promote an adequate environment of opportunities and adequate tools in order to foment a sustainable economic development in Puerto Rico. As part of those efforts, Act 60, better known as “Puerto Rico Incentives Code” was enacted on July 1, 2019.

The Incentives Code was created to promote activities that contribute to the growth of Puerto Rico’s economy through investment, export, and job creation; responsibly streamline the application and approval process; and establish uniform processes to continuously regulate, measure, and evaluate the incentives granted thus ensuring compliance, transparency, and the attainment of the fiscal objectives for development. It is important for incentives to produce tangible benefits in order to generate funds for the Treasury as well as to avoid redundant activities, and to promote economic development in the broadest and most balanced and diversified manner as possible.

Nevertheless, the effectiveness and return of the economic incentives should be subject to continuous and thorough evaluation. To such effects, the Government of Puerto Rico is soliciting proposals from qualified firms to contract for the provision of consulting services and for the development of a comprehensive analysis relating to each decree, incentive, subsidies, reimbursement or tax or financial benefit established under the Incentives Code, the economic principles, methodology and results of all tax incentives administered by DEDC, considering the most recent data available. The assessment of the costs and benefits of incentives is essential to

4



determine the money invested vis-à-vis the money received by the Treasury and that the Government's incentives are aligned with our needs. The services solicited under this RFP will allow DEDC to improve the stimulus programs and contribute to ensure that the Incentives Code is complying with its purpose of maximizing the economic impact on the Island in a positive manner.

For a full description of the Scope of Services please refer to section 2.0 of this RFP.

The Award of the RFP will be to the Proponent(s) or Respondent(s) whose Proposal(s), conforming to this RFP, is most advantageous to DEDC. Financial terms and other factors further described herein will also be considered. As such, DEDC may award this RFP to one, some, all, or none of the Proponents, and reserves the right to cancel this RFP at any time.

### **1.1 Contract Term**

The contract will be for the term agreed between the parties under the terms of the contract to be awarded. Contracts will be negotiated until the end of the fiscal year. If an additional fiscal year is needed, it can be negotiated with the DEDC. The ideal scenario is to have all deliverables ready for June 30, 2023.

It should be noted that DEDC reserves the right to re-bid the contract if the Selected Proponent fails to comply with the terms of the contract.

### **1.2 Proposal Submission**

Proposals shall be submitted by February 9, 2023, on or before, but no later than 6:00 p.m. Atlantic Standard Time (AST). Responses to the RFP submitted after the prescribed deadline will not be accepted. Proposals must include any exhibits, appendices and/or attachments to be deemed complete, and consequently, duly submitted.

All correspondence, documents and related information submitted by Respondents in connection with this RFP shall be written in the English or Spanish languages. If documents are submitted in a language other than English or Spanish, a full English translation shall also be provided.

Respondents shall submit their Proposals on a USB in searchable Adobe Acrobat PDF format by email or by hand-delivery, and shall be addressed to the attention of:

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Department of Economic Development and Commerce  
PO Box 362350  
San Juan, P.R. 00946-2350

DEDC-RFP-2023-001

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**Attention:** Carlos Fontan, Esq.  
Director, Office of Incentives  
Secretary's Office, 4th Floor

**Email:** [propuestas@ddec.pr.gov](mailto:propuestas@ddec.pr.gov)

**Physical Address:**  
F.D. Roosevelt Ave. 4th Floor  
Hato Rey, P.R. 00918

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Proposals must be properly marked with the title of this RFP, and duly signed by a representative of the Respondent authorized to make a legal and bidding offer. All Respondents must submit a redacted copy of their Proposals as required in Section 5.0. Proponents shall identify any information submitted that is considered confidential or privileged, as appropriate.

### 1.3 Prohibited Communications, Non-Collusion and Rejections

Except for questions submitted by interested parties on or before the date indicated in Section 1.4 of this RFP, or as otherwise provided herein, including but not limited to Sections 3.0, 3.1 and 3.2, communications with other representatives of DEDC or the Government regarding any matter related to the contents of this RFP are prohibited during the submission and selection processes. Failure to comply with these communications restrictions will result in rejection of the Proponent's Proposal.

Proponents will be required to execute a Non-Disclosure Agreement hereby included as **Attachment A**, in order to prevent the disclosure of information provided as part of this RFP process.

Proponents will also be required to execute a Non-Collusive Affidavit hereby included as **Attachment B**.

DEDC and/or the Government reserve the right to reject all Proposals received in response to this RFP when determined to be in the Government's best interest, and to waive minor noncompliance in a Proposal. DEDC and/or the Government further reserve the right to make such investigations as they deem necessary as to the qualifications or perceived conflicts of interest of all firms submitting Proposals in response to this RFP. The mere appearance of a conflict of interest shall constitute sufficient cause for the outright rejection of a Proposal(s). If any or all Proposals are rejected, DEDC and/or the Government reserve the right to re-solicit Proposals.

### 1.4 Questions & Answers



Any questions regarding this RFP or the evaluation of Proposals shall be submitted on or before January 20, 2023 in writing via electronic mail only to the following address: ([propuestas@ddec.pr.gov](mailto:propuestas@ddec.pr.gov)) and must reference this specific RFP (**DEDC-RFP-2023-001**) in the subject line of the email. No telephone inquiries will be accepted. Answers will be issued on DEDC's website at [www.ddec.pr.gov](http://www.ddec.pr.gov). All information posted on DEDC's website is deemed incorporated into this RFP.

**No questions will be accepted after the deadline provided in the above schedule.**

### 1.5 Local Participation

DEDC and the Government have the objective of fostering the participation of Local Parties in the provision of professional services and local expertise to the greatest extent possible.

Proponents are encouraged to include Local Party(ies) as part of their team. Also, the Proponents should explain how the Local Party(ies) will add value to the team and their expected role.

### 1.6 RFP Timeline

Target Date	Event
January 9, 2023	Publication of RFP
January 20, 2023	Limit to submit questions
February 9, 2023	Proposal Submission Deadline
February 15, 2023	Notice of Intent to Award Expected
February 27, 2023	Execution of Agreement Expected

Please note that the RFP timeline includes target dates and may change subject to the sole discretion of DEDC. It is the responsibility of Respondents to periodically review DEDC's website for regular updates to the RFP timeline and other important information.

### 1.7 Revisions to the RFP

DEDC may issue addenda in the event it becomes necessary to revise any part of this RFP. Additionally, the published questions and answers, and any other pertinent information will be provided by addenda to the RFP or official notice from the RFP coordinator, as authorized by the Secretary. Addenda will be published on DEDC's website and shall be the sole responsibility of Respondents to periodically review that website for any revisions to the RFP and other important information.



## 1.8 No Obligation to Contract

Issuance of this RFP does not constitute a commitment by DEDEC or the Government to award a contract. The execution of a contract will be subject to all approvals required by law, including the FOMB, if applicable. **DEDEC will not have any binding obligation, duties, or commitments to the Selected Respondent(s) until and unless a contract has been duly executed and delivered by DEDEC after approval by the appropriate governmental authorities. If DEDEC is unable to negotiate a mutually satisfactory agreement with the Selected Respondent(s), it may, in its sole discretion, negotiate with the next highest-ranked Respondent(s) or cancel and reissue a new RFP.**

**DEDEC reserves the right to accept or reject, in whole or in part, one, some, all or none of the Proposals submitted and/or cancel this RFP and/or reissue this RFP or another version of this RFP, at any time, prior to the execution of a contract, if it determines, in its absolute discretion, that doing so is in its best interests or the best interests of the impacted communities or the Government of Puerto Rico.** If any or all proposals are rejected, DEDEC reserves the right to re-solicit proposals.

## 1.9 Definitions/Acronyms

**“Applicable Law”** means any law, statute, ordinance, code, rule, or regulation, federal or local, as well as any order, writ, injunction, decree, ruling, determination, award, permit or variance of any federal or local governmental body, in effect now or as it may become applicable in the future, or any binding agreement with any federal or local governmental body, including technical standards, codes and specifications.

**“Bidder”, “Proponent” or “Respondent”** means a(n) (i) natural person, (ii) legal person, (iii) joint venture, or (iv) partnership, or (v) consortium of individuals, and/or partnerships, and/or companies or other entities that submit a response to this RFP that is not currently debarred.

**“Evaluation Committee”** refers to a committee designated by DEDEC, which will evaluate all complete Proposals pursuant to the criteria listed in Section 3.0 of this RFP.

**“Government”** refers to the Government of Puerto Rico, or any Government Entity and/or municipalities.

**“Government Entity”** refers to any department, agency, board, commission, body, bureau, office, public corporation or instrumentality of the Executive Branch, whether existing or to be created in the future.

**“Key Individuals”** means an individual who will play an important role in the engagement or contract on behalf of a Team Member resulting from this RFP.





“**Local Parties**” means local professionals and relevant service providers who are based in or have a significant on-going business presence in Puerto Rico.

“**Proposal**” means a formal offer submitted in response to this RFP.

“**Public Interest**” means any government action directed to protecting and benefiting citizens at large, whereby essential goods and services are provided for the welfare of the population.

“**RFP**” means this Request for Proposals and addendas issued by DDEC.

“**Secretary**” refers to the Secretary of the Department of Development and Commerce of Puerto Rico.

“**Selected Proponent**” or “**Selected Respondent**” means the successful proponent to whom the RFP is awarded.

“**Team Member**” means a member of a Respondent. Team Members should be identified in Respondents’ submissions and not be changed without the consent of DDEC.

## **2.0 Scope of Services**

DDEC hereby requests proposals from experienced and qualified firms for the provision of consulting services intended to provide evaluative, reporting, benchmarking and methodological evaluative framework services to the DDEC.

A consultant is required to perform the work detailed below, noting that all the work done should build upon on previous analysis completed by V2A, Estudios Tecnicos, Econometrika, FOMB, and others. All previous analysis and work can be provided by DDEC.

The Scope of Services shall be divided into the following three deliverables sets below:

- Deliverable 1 – Evaluate the Return on Investment for Incentive programs
- Deliverable 2 – Ad Hoc Consultation Services
- Deliverable 3 – Update the ROI manual in consultation with DDEC

The consultant should be clear on the requirement that Deliverable 3 must be completed and approved prior to the evaluation reporting and benchmarking specified in Deliverable 1 or Deliverable 2. Deliverable 3 provides the methodological framework for these preceding task sets.

### **I. Evaluate the Return on Investment for Incentive programs**

- a. Develop a comprehensive Fiscal Return on Investment (ROI) analysis for each program in Act 60, based on the methodology specified in the ROI manual. Such analysis may include the Commonwealth’s Economic Benefit, defined as the “direct, indirect, and



- induced gains in state revenues as a percentage of the state’s investment” – which includes state grants, tax exemptions, tax refunds, tax credits, and other state incentives.
- b. Develop a comprehensive Economic/social impact evaluation measuring the economic impact for each program that meets the criteria for evaluation as specified in the ROI manual. The evaluation shall be based on the methodology specified in the ROI manual. Such analysis may include an evaluation of the jobs created, the increase or decrease in personal income, and the impact on state Gross Domestic Product (GDP) for each program. Sector incentives to be analyzed:
    - Individual investor
    - Export services
    - R&D credits
    - Visitors Economy
    - Agriculture
    - Manufacturing
    - Creative Industries (film)
- The calculations, methodologies, and results of the ROI analysis shall be documented and compiled into a written report following the format suggested in the ROI manual. Its expected that the consultant shall submit an executive summary of the analysis in a power point format.
    - a. The evaluation and report should, for each program, highlight what elements contributed to a positive ROI. The evaluation should also highlight the elements of programs that lead to a negative ROI. The report shall also identify aspects of the program that can be modified in order to yield positive results to the economy.
      - i. The consultant shall build case studies of companies that have benefited from incentives and have had the desired outcome from a economic development standpoint. The same should be done for negative case studies.
    - b. The evaluation and report should answer the following questions about the program:
      - i. Did the economic activity happen as a direct result of the incentive, or the activity was going to happen regardless
      - ii. What is the tipping point that would make the activity not happen?
      - iii. Are the programs creating negative effects different from direct economic results, such as increasing real estate prices or cannibalizing local industries?
    - c. The evaluation and report should include data from annual reports tax returns, cash incentive data, and other data sources. Data collection may at times require manual data entry work for tax returns and annual reports.



## **II. Ad Hoc Consultation Services**

- a. The consultant should propose recommendations to improve incentive programs, both from a policy perspective (laws, regulations, etc.) or from an operational perspective (models, requirements, etc.) on a by request basis. Duties may include:
  1. Review of existing and proposed incentive laws
  2. Review of existing or new regulations
  3. Review of Administrative Orders, Administrative Determinations, Circular Letters, and any other administrative or executive communiques
  4. Review of excel ROI models
- b. Benchmarking: The consultant will also be required to benchmark Puerto Rico's main competitors tax regimes, for certain industries – as directed by DDEC. The benchmark should point in the direction of how DDEC can be better position Puerto Rico to attract foreign investment.

## **III. Update the ROI manual in consultation with DDEC**

The consultant is expected to update, in collaboration with the DDEC, the ROI manual currently used in DDEC as the guide for incentives policy and the evaluations conducted and recommendations made as components of Part I and Part II, above, should be based on this revised ROI manual.

The consultant shall use as a starting point the Return on Investment Manual (referred to as “the manual” hereinafter) developed by DDEC and last revised in December 2020. The update shall focus on addressing the deficiencies in the existing manual and comprehensively identifying a set of costs and benefits to be considered. Developing the methodology for a Fiscal ROI calculation and an Economic/social ROI calculation. The updated manual should allow the DDEC to accurately estimate the ROI for incentives provided by the agency and Commonwealth.

The consultant shall address structural issues with the methodology and shall build an approach based on a balanced foundation. The consultant should expand on the framework for ROI set in the Act 60-2019 regulations (Draft regulation 9248) to develop the ROI manual in a way consistent with preferred practice.

A balanced approach to ROI would put in place definitions and considerations of benefits and costs such that the bar for success would accurately reflect the benefits experienced and costs incurred, including opportunity costs and excluding benefits in the form of transfers.

The consultant shall develop an ROI methodology that would assess the real economic consequences of incentives for budgetary resources and economic activity, including the degree to which business behavior and investment is altered and the net implications.



The consultant shall develop a framework for ROI calculation that is independent of the specific project being evaluated; however, the details may appropriately vary across types of projects, activities, and sectors of the economy.

Specifically, the ROI methodology developed shall incorporate the following changes from the existing manual:

1. Change the ROI equation to incorporate net present value (NPV)
2. There should be symmetry between the costs and benefits considered
3. Fiscal impact analyses should always be calculated, Economic/Social impact analyses should be calculated on a case-by-case scenario or for a given set criterion
4. Net benefits should exclude redundant economic activities
5. Costs shall take into consideration the opportunity costs of the resources used in the context of the tax incentive
6. Costs shall take into consideration efficiency loss
7. Measures of costs and benefits of the tax incentive policy should include direct and indirect impacts

### **1. Change the ROI equation to incorporate net present value (NPV)**

An ROI score based on the net present value of the streams of benefits and costs over time is the preferred approach, since it explicitly accounts for the time value of money by discounting future benefits and costs relative to present benefits and costs to obtain their present values:

$$\text{Net present value (NPV)} = \sum_{t=1}^n \frac{(B_t - C_t)}{(1 + r)^t}$$

In the NPV equation,  $t$  is the duration of the tax credit,  $r$  is the social discount rate,<sup>1</sup> and the difference  $(B_t - C_t)$  represents the net benefit in year  $t$ , excluding “redundant” economic activities<sup>2</sup> that are within the target of the tax/cash incentive program (TIP).

### **2. There should be symmetry between the costs and benefits considered**

In general, economic benefits of a tax or cash incentive policy are likely to be determined by the following factors:

- The level of investment involved that leads to economic activity directly or indirectly
- The number of new jobs generated by the firms eligible for the TIP
- The size of the economic multipliers
- Diseconomies or economies of scale in the provision of local public services

<sup>1</sup> The social discount rate (SDR) is the interest rate used to calculate the present value of benefits and costs. The Office of Management and Budget recommends the use of 7% in benefit cost analysis of government projects. This relatively high SDR functions as a first level budget screen to eliminate more marginal projects from consideration given a budget constraint that will not accommodate funding all projects with a positive net benefit. There is more consensus around a long-term SDR of approximately 3.5%.

<sup>2</sup> Redundant economic activities are economic activities that would have occurred even in the absence of the TIP and therefore should not be counted as TIP benefit. TIP project activity also substitutes for activity that would have occurred if not displaced through the incentive, these reflect opportunity costs and reduce the net benefit of the TIP-funded activity and should be reflected in the offsetting cost stream.



- The degree to which new demand for labor fits the labor resources and/or creates new or desirable skills

By contrast, resource costs are likely to be determined by the following factors:

- The direct cost of the program itself (cost to the government in particular)
- The special services that may be demanded by investments induced by the IP and ensuing changes in population patterns in local jurisdictions affected
- The capacity of the local jurisdiction infrastructure
- The social and environmental impacts of the sectoral change induced by the TIP
- The opportunity costs of using scarce resources (government revenues, land, factor inputs) for project activities rather than their highest alternative use
- Displaced private (and public) sector activity due to the new investment (e.g., displaced return to businesses already operating in Puerto Rico that will compete with an implicitly subsidized competitor for a relatively fixed level of market demand for outputs and the supply of inputs)

### **3. Fiscal impact analyses should always be calculated, Economic/Social impact analyses should be calculated in a case-by-case scenario or for given sets of criterion**

A fiscal impact analysis in the context of a tax incentive policy is concerned with net changes in government revenues (tax revenues in particular) and expenditures that are likely to occur as a result of the tax incentive policy. The unit of analysis consists of the Commonwealth and local jurisdiction or jurisdictions and public entities that may experience material changes in population, industries, revenues and service demands as a result of the tax incentive policy. Table 1 presents a set of typical benefits and costs that are included in a fiscal impact analysis. The consultant shall develop a similar set of costs and benefits for each program to be evaluated.

A social benefit cost analysis<sup>3</sup> focuses on the net economic benefits (economic benefits less resource costs including opportunity costs) generated by the TIP on everyone who has standing in the context of the TIP. The unit of analysis here is much broader in scope since it includes the various stakeholders, the industrial sector affected by the TIP, the governments, as well as the population affected by the various investments and costs that occur as a result of the TIP. Table 2 presents a set of typical benefits and costs that are considered in an economic impact analysis. The consultant shall develop a similar set of costs and benefits for each program to be evaluated.

The consultant, in consultation with DDEC, shall set the criteria used to determine whether or not an Economic/social impact analysis is required.

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<sup>3</sup> Social benefit cost analysis here is used interchangeably with benefit cost analysis in the sense that it takes into account society's welfare.



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**Table 1: Typical Benefits and Costs in Fiscal Impact Analysis**

<b>Fiscal Benefits</b>	<b>Fiscal costs</b>
(i) One-time construction-related revenues in the form of application fees and development fees to government	(i) Cost of the TIP
(ii) Increased recurrent government revenue directly related net “new” project operating activity and employment	(ii) Tax expenditures
a. Personal income tax	a. Exemptions on income tax, property tax, Commonwealth and municipal excise taxes, sales tax, dividends and capital gains.
b. Corporate income tax	(iii) Administrative and compliance costs associated with the TIP
c. Payroll taxes	(iv) Opportunity costs
d. Property tax	a. Foregone revenues (e.g., net taxes and fees) if resources devoted to the incentives would have been used for other purposes
e. Sales and use tax	b. Foregone tax revenues due to potential investments that were crowded out because of the TIP
f. Excise tax	(v) Implementation costs to government due to project development and continuing operations, for example, but not limited to:
g. Patent tax	a. Additional cost for public safety (e.g., police presence required to ensure safety of visitors due to the TIP)
h. Royalty tax	b. Additional costs to Arts and Recreation Department in connection to the TIP if additional amenities (e.g., parks) must be created
(iii) Increased “new” recurrent government fees	c. Additional community and infrastructure costs in connection to the TIP
a. Business license fees	(vi) Incremental recurrent costs
b. Licenses and permits fees	a. All incremental general government services and administrative services due to the TIP (including the above) associated employment, residents and visitors
(iv) Taxes on “new” indirect and induced jobs	b. Incremental service and infrastructure costs induced
(v) Taxes on arbitration and patents	
(vi) Additional “new” revenue gains due to positive externalities associated with the TIP to the extent that they represent additional tax revenue generated by these positive externalities	

Note: Benefits listed in the table are in connection to new (non-substitutive) economic activity due to the TIP.

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**Table 2: Typical Economic Benefits and Costs in Benefit Cost Analysis**

Economic Benefits	Economic costs
<p>(i) One-time construction-related revenues in the form of application fees and development fees to government</p> <p>(ii) Increased recurrent net “new” government revenue related direct indirect and induced activity and employment</p> <p>a. Personal income tax</p> <p>b. Corporate income tax</p> <p>c. Payroll taxes</p> <p>d. Property tax</p> <p>e. Sales and use tax</p> <p>f. Patent tax</p> <p>g. Excise tax</p> <p>(iii) Increased “new” government fees</p> <p>a. Business license fees</p> <p>b. Licenses and permits fees</p> <p>(iv) Taxes on “new” indirect and induced jobs generated</p> <p>(v) Taxes on arbitration and patents</p> <p>(vi) Total “new” and induced capital investment into targeted economic sector due to the TIP</p> <p>(vii) Increases in direct, indirect, and induced jobs due to the TIP</p> <p>(viii) Additional wages and non-wage spending generated in connection to the economic sector targeted by the TIP</p> <p>(ix) Purchases of capital goods in local economy such as building materials, machinery, and equipment associated with “new” capital investment attracted by the TIP.</p> <p>(x) Purchase of goods and services in local economy associated with the “new” capital investment attracted by the TIP.</p> <p>(xi) Any positive externalities associated with the TIP (e.g., increased in property values in neighboring areas, without duplicative accounting)</p> <p>(xii) Additional revenue or economic gains due to positive externalities associated with the TIP to the extent that they represent additional tax revenue generated by these positive externalities or reflect otherwise uncaptured public benefits</p>	<p>(i) Cost of the TIP</p> <p>(ii) Tax expenditures</p> <p>a. Exemptions on income tax, property tax, state and municipal excise taxes, sales tax, dividends and capital gains</p> <p>(iii) Administrative and compliance costs</p> <p>(iv) Opportunity costs</p> <p>a. Foregone tax revenues (e.g., net taxes and fees) if resources devoted to the incentives would have been used for other purposes</p> <p>b. Foregone tax revenues due to potential investments that were crowded out because of the TIP</p> <p>c. Foregone benefits that could have been generated if resources used for the TIP had been utilized for another purpose</p> <p>(v) Implementation costs to government</p> <p>a. Additional public safety costs (e.g., police presence to ensure safety of visitors due to the TIP)</p> <p>b. Additional costs to Arts and Recreation Department in connection to the TIP if additional amenities (e.g., parks) must be created</p> <p>c. Additional community and infrastructure costs in connection to the TIP</p> <p>(vi) Incremental costs</p> <p>a. All incremental general government services and administrative services due to the TIP associated employment, residents and visitors</p> <p>b. Incremental service and infrastructure costs induced</p> <p>(vii) Value of investments that were crowded-out by the TIP (investments outside the sector targeted by the TIP that would have occurred in the absence of the TIP).</p> <p>(viii) Costs associated with supporting public services that would complement the objectives of the TIP (e.g., any service streamlining regulatory and permitting processes, and costs of providing services to the development associated with the TIP that is in excess of service costs that would otherwise be provided)</p> <p>(ix) Costs associated with redundant investments due to the TIP (e.g., investment that would that have occurred anyway even in the absence of the TIP in the sector targeted by the TIP)</p> <p>(x) Any negative externalities associated with the TIP</p>





#### **4. Net benefits should exclude redundant economic activities**

Relevant benefits incorporated in the ROI should only be those reflecting “new” (non-substitutive and non-transferred) economic activity due to the TIP. Adjustments are required to adequately account for displaced alternative activity.

On the cost side, costs should include all incremental service costs, such as education, police, recreation, community, development, administrative and compliance costs, incremental service and infrastructure costs, congestion or diseconomy of scale costs, and any negative externalities associated with the TIP. Any cost savings on services would be considered a benefit (or a negative cost), such as reduced unemployment benefit payments.

#### **5. Costs shall take into consideration the opportunity costs of the resources used in the context of the tax incentive**

Opportunity costs in this context refer to: i) the alternative uses of the foregone revenues that might have been collected; ii) foregone tax revenues due to potential investments that were crowded out because of the tax incentive policy and; iii) foregone benefits that could have been generated if resources used for the TIP had been utilized for another purpose. The revenue lost could have been used for more effective fiscal measures including direct spending on infrastructure, education, or any other spending that may achieve the development goal at a lower cost. The inclusion of opportunity costs allows the analysis to consider the counterfactual. That is, it allows the analysis to consider what would have occurred in the absence of the TIP.

#### **6. Costs shall take into consideration efficiency loss**

Efficiency loss due to tax incentive policy usually result from the displacement effect and/or crowding out effect. Tax incentives may direct investment towards the industry covered by the tax incentive policy. That investment, however, could have been made in other industries that are experiencing organic growth in Puerto Rico.

#### **7. Measures of costs and benefits of the tax incentive policy shall include direct and indirect impacts**

Direct impacts refer to changes in economic activities and ensuing tax revenue gains/losses directly attributed to the TIP. Indirect impacts refer to changes in economic activities that occur as a result of the direct impacts of the TIP through inter-industry linkages (e.g., supply chains, backward linkages).

Proponents are invited to submit in their proposals additional services that have not been contemplated in this RFP, which they consider necessary to comply with the objectives established in the Section 1.0 of this RFP.



### 3.0 Evaluation and Selection Criteria

DEDC will examine all Proposals in a proper and timely manner to determine if they meet the proposal submission requirements. Proposals that are materially deficient in meeting the submission requirements or have omitted material documents, in the sole opinion of DEDC, may be rejected. **All the Proposals submission requirements will be evaluated as Pass or Fail requirements.**

DEDC may request further clarification to assist the Evaluation Committee in gaining additional understanding of a Proposal. A response to a clarification request must be to clarify or explain portions of a Proposal already submitted and may not contain new information not included in the original Proposal.

#### Final Evaluation and Selection:

The final score will be based upon the criteria listed below:

<b>Evaluation Criteria</b>	<b>Maximum Evaluation Points</b>
Experience and Capacity (Section 4.5.2)	40
Approach and Methodology (Section 4.5.3)	40
Cost Reasonability (Section 4.5.4)	20
<b>Total</b>	<b>100</b>

### 3.1 Interview

DEDC reserves the right, at its sole discretion, to invite the proponents to attend an interview with the Evaluation Committee. If this occurs, DEDC will send to the proponents a notification with the instructions. The Evaluation Committee may alter the scoring of Proposal based upon the interview. Respondents will be responsible for all costs or expenses incurred to attend such interview.

### 3.2 Direct Negotiations

DEDC may select one or more Proponents to be invited to one or more meetings to start negotiations. The purpose of such meetings will be to clarify any doubts as to the requirements of the RFP and confirm that the terms of the contract are understood by the Proponent to ensure compliance with the specifications. No statement made or action taken by DEDC during these discussions or negotiations shall bind DEDC in any manner. After each interview or meeting with any Proponent, the Evaluation Committee may require the Proponent to submit a written confirmation of any clarification of the Proposal discussed at the meeting. DEDC will keep



confidential all such discussions and negotiations. Prior to the award of the RFP, information related to a Proposal, or its evaluation will not be discussed with anyone other than the Proponent who submitted it and the personnel involved in the evaluation and selection process. Confidentiality warranties are subject to the conditions described in Section 5.0 below. The execution of a contract will be subject to final approval by the Secretary.

### **3.3 Selection**

Following completion of the evaluation process, the Evaluation Committee will meet to choose the Selected Proponent. DDEC will notify the Selected Proponent and the parties will proceed to negotiate such written agreements as may be required and mutually acceptable to the parties (collectively, the “Definitive Agreements”), subject to compliance with all applicable laws and regulations.

### **3.4 Modification or Withdrawal of Proposal**

A Proposal that is in possession of DDEC may be withdrawn or altered by the Proponent by letter including the signature and name of the person authorized to submit the Proposal, if it is received prior to the time and date of the Proposal submission deadline. The withdrawal must be submitted in writing and directed to the Contact Person designated in Section 1.2 of this RFP prior the time and date established in Section 1.6.

### **3.5 Errors in Proposals**

The Respondents are responsible for errors and omissions on their Proposals and any such errors and omissions will not reduce their obligation to DDEC.

## **4.0 Respondent Requirements**

### **4.1 Requirement of Legal Entities**

Respondents that are corporations, partnerships, or any other legal entity, U.S. or Puerto Rico based, shall be properly registered or capable to be registered to do business in Puerto Rico and the U.S. at the time of the submission of their Proposals, and comply with all applicable Puerto Rico or U.S. laws and/or requirements.

### **4.2 Required General Qualifications of Respondent**

- Respondents to this RFP shall provide information in their Proposals that demonstrates the following general qualifications: Respondent has adequate financial resources to perform the contract, or the ability to obtain them. Respondent shall provide financial statements for the past two (2) years, or equivalent financial records must be included in the Proposal.
- Respondent has a satisfactory performance record.
- Respondent has a satisfactory record of integrity and business ethics.



- Respondent has the necessary organization, experience and technical skills.
- Neither Respondent nor any person or entity associated who is partnering with Respondent has been subject of any adverse findings that would prevent DEDC from selecting Respondent. Such adverse findings include, but are not limited to, the following:
  - Negative findings from a Federal Inspector General or from the U.S. Government Accountability Office, or from an Inspector General in another state.
  - Pending or unresolved legal action from the U.S. Attorney General or from an attorney general in Puerto Rico or another state.
  - Pending litigation with the Government of Puerto Rico, or any other state.
  - Arson conviction or pending case.
  - Harassment conviction or pending case.
  - Puerto Rico and Federal or private mortgage arrears, default, or foreclosure proceedings.
  - In rem foreclosure.
  - Sale tax lien or substantial tax arrears.
  - Fair Housing violations or current litigation.
  - Defaults under any Federal and Puerto Rico-sponsored program.
  - A record of substantial building code violations or litigation against properties owned and/or managed by Respondent or by any entity or individual that comprises Respondent.
  - Past or pending voluntary or involuntary bankruptcy proceeding.
  - Conviction for fraud, bribery, or grand larceny.

Respondents shall provide a listing and brief description of all legal actions for the past five (5) years if any, in which any firm that is part of the Respondent's team has been: (i) a debtor in bankruptcy; (ii) a defendant in a lawsuit for deficient performance under a contract or failure to comply with laws or regulation; (iii) a defendant in an administrative action for deficient performance on a project or failure to comply with laws or regulations; or (iv) a defendant in any criminal action. If in the last five (5) years the Respondent or its subsidiary firms have not been involved in any of the aforementioned legal actions, it is not necessary for the Respondent to comply with this requirement.

#### **4.3 Required Specific Qualifications**

Respondents to this RFP shall provide information in their Proposals that demonstrates the following specific qualifications:

- Extensive knowledge and understanding of general economic development issues, particularly with respect to tax incentives under Puerto Rico law.
- Specific experience assessing both the quantitative and qualitative economic impacts of tax incentives on state's economy and evaluating tax incentive programs in a state's economy.
- At least one staff member assigned to the project should have an advanced degree in economics, statistics, mathematics or a substantially comparable field of study, with a



preference for a Doctoral level degree.

- Relevant experience performing all responsibilities listed under the Scope of Services section of this RFP. Respondents' responsibilities also include, but are not limited to, update the Return on Investment Manual ("ROI"), propose recommendations to improve incentive programs, both from a policy perspective (laws, regulations, etc.) or from an operational perspective (models, requirements, etc.), develop a comprehensive economic/social impact evaluation measuring the economic impact for each incentive sector program, develop a comprehensive Fiscal Return on Investment analysis for each program in Act 60, including the Government's Economic Benefit, among others.

#### 4.4 Insurance and Policies Requirements

The Selected Proponent will be required to include DEDC as additional insured on the following insurance policies with the following minimum coverage:

1. Commercial General Liability including Premises, Products and Completed Liabilities: \$1,000,000 per occurrence, general aggregate and Products and Operations Completion.
2. Workman's Compensation Liability: \$1,000,000 per accident, per employee, per sickness and aggregate and State Insurance Fund Corporation Policy.
3. Professional Liability Insurance: \$1,000,000.

The aforementioned policies must contain:

1. Endorsements to include: DEDC, and or any subsidiary, affiliated or related entity.
2. All policies must be underwritten by an insurance company authorized by the Office of the Insurance Commissioner or Puerto Rico to do business in Puerto Rico.
3. Hold Harmless Agreement in favor of DEDC
4. 60 Days' Notice of Cancellation
5. Waiver of Subrogation
6. Coverage shall either be occurrence based or maintained for the duration of the resulting contractual agreement and for two years following completion of services provided.

**Commented [A1]:** Corroborar con el Broker seguros necesarios para servicios de consultoría de esta índole.



## 4.5 Proposal Format

The Respondent's Proposal to this RFP can be either in a Power Point format or a Word format. It must include the following information and shall be formatted as follows:

### 4.5.1 Cover Letter

Provide a cover letter which includes a certification that the information submitted, and the Proposal is true and accurate, and that the person signing the cover letter is authorized to submit the Proposal on behalf of the Respondent and Team Member(s). Respondent must include a certification that it understands and is fully bound by all the terms and conditions of this RFP. Clearly identify the designated contact person for the engagement.

### 4.5.2 Experience and Capacity

Proponents must provide a summary of the types of services the Respondent offers that relate to this RFP. As such, a list of similar incentives analysis and consulting services that have been rendered by Proponent during the last five (5) years, and/or detail at least one to three (1-3) similar engagements or experience with public-sector clients that would demonstrate that the Respondent can provide the requested services must be provided. Each example should include:

- a) Name of client organization.
- b) Description of engagement or experience and objectives of the services required.
- c) Examples of recommendations offered to the DEDC and the results of the implementation of those recommendations.
- d) Information regarding the services that would demonstrate successfully experiences by the client, as a result of the recommendations. This may include performance metrics and improvements.

If the example involves a private sector client, describe how the experience could be applied to the public sector.

At least three (3) references are required for the Respondent. Each reference should include the name, title, company, address, phone number and email address of the reference. Inability to contact a reference will not be considered favorably. Any and all information or reference provided by a Respondent may be used by DEDC to conduct credit and background checks.

A summary of the Respondent's expertise that describes the Respondent's unique capabilities shall also be provided. This narrative should highlight the Respondent's ability to provide the services requested in this RFP. As such, a listing of the names, resumes and relevant project experience of the Key Individuals and their proposed roles must be included. Resumes can be attached as an appendix and shall include Team Members' qualifications, identification of which Team Member will be DEDC's direct contact for the project (name, title, location, telephone number, and e-mail address).



In addition, the Proposal shall identify any sub-consultants and/or Local Parties incorporated into the team and clearly explain their expertise, expected role and value to the engagement.

This section shall include an acknowledgement that, if selected, the Respondent has the ability to undertake the tasks associated with this RFP with sufficient key and line staff, and the proposed Key Individuals and Team Members.

#### 4.5.3 Approach and Methodology

**Proposed Methodology, Approach and Implementation Plan** - Respondents must indicate their understanding of the scope of services required in this RFP plus any refinements it feels are warranted. Particularly the Respondent should robustly articulate a work plan with respect to:

- Research and understanding of the incentives, exemptions, modifications and other tax or benefit policy items according to the Scope of Services;
- Data collection and data preparation, particularly as it relates to data sources planned to be used, understanding of the data generating process, data anomalies and any other identified or perceived issues with the collection or application of data in the analysis and how the Respondent intends to address such issues;
- Economic or other modelling approach, with specificity on all applications to be used, specific methodological approaches that will be used, and a description of how the Respondent will address issues such as data limitations and the effect on the specific methodology proposed; and
- A summary of the quality control and review process that the Respondent will use throughout the project.

Explain how the Respondent will achieve the goals, objectives, tasks, and/or deliverables outlined in this RFP and in the Scope of Services. Also, is required to respond how the Respondent intends to provide all services in a cohesive and organized manner.

**Proposed Timeline** - Respondents must provide a timeline for accomplishing the work, showing each event and task according to the Scope of Services.

#### 4.5.4 Cost/Price Reasonability

Respondents must provide the cost/rate/price information for all firms/persons named in the Technical Proposal to demonstrate the reasonableness of the Price Proposal. Respondent may attach a schedule of all expenses covering each of the services and activities identified in the proposal. Please note that rates quoted in response to this RFP are firm for the duration of the



Agreement; no price increase will be permitted.

The following hourly cost format per staff, although not required to be used, serves as a guideline to establish the price proposal to be included. Respondents are free to select a different cost/price format. The proponent should submit an estimate of cost per deliverable. Deliverables should be proposed by the proponent, based on the scope of services in this RFP.

Staff	Position	Rate Per Hour	Total Hours Per Month	Position Duties
		\$		
		\$		
		\$		

For a detailed description of the Scope of Service, please refer to [Section 2.0](#).

#### 4.5.5 Commitment to Comply with all Applicable Laws and Regulations

By submitting the proposal, Respondent agrees to comply with all applicable laws, regulations and policies.

Respondent acknowledges that this RFP may be withdrawn or amended in response to changes in applicable laws, regulations, policies or otherwise.

#### 4.6 Required Certification from the Selected Respondent

Pursuant to the provisions of Act 73-2019 of July 19, 2019, as amended, known as the "General Services Administration Act for the Centralization of Purchases in the Government of Puerto Rico of 2019", and without excluding other certifications pertinent to this specific RFP, and except as specified below, the Proponent must include with the Proposal, a valid and effective certification evidencing its registration in the Sole Registry of Professional Service Providers (RUP, by its Spanish acronym) of the Puerto Rico General Services Administration ("ASG" by its Spanish acronym) and its eligibility to contract with the Government.

The Proponent shall expressly acknowledge in the Proposal that the above certification constitute an essential condition for entering into a contractual relation with DEDC and if found to be intentionally misleading or the related certification altered or forged, the contract shall be nullified or made void.

#### 4.7 Most Favorable Terms





All Proposals shall be initially submitted including the most favorable terms that Proponents can present since DEDC may not provide further opportunities to Proponents to refine the Proposals. DEDC does reserve the right to contact a Proponent for clarification of its Proposal and/or to request a better definitive offer.

The terms of the selected Proposal may ultimately be incorporated, in whole or in part, into Definitive Agreements. The Proposal will become a part of DEDC official procurement file on this matter.

### **5.0 Confidentiality of Responses & Proprietary Information**

Upon completion of the RFP process, DEDC will make public its report regarding the procurement and selection process, which shall contain certain information related to this RFP process, except trade secrets, pricing and proprietary or privileged information of the Respondents. Information considered trade secrets or non-published financial data may be classified as proprietary by the Respondents.

All Respondents are required to submit a redacted copy of their Proposal. DEDC reserves the right to make public the redacted copies of the Proposals at the conclusion of the RFP process. If a redacted copy is not submitted by a Respondent, DEDC will assume that the original copy of the Proposal can be made public. Proposals containing substantial contents marked as confidential or proprietary may be rejected by DEDC. Provision of any information marked as confidential or proprietary shall not prevent DEDC from disclosing such information if required by law. The ultimately awarded contract(s) and all prices set forth therein shall not be considered confidential or proprietary and such information may be made publicly available.

### **6.0 Conflicts of Interest**

Respondents shall be responsible for reviewing any applicable DEDC ethic guidelines, as well as other applicable ethic laws and regulations, including Law No. 2 of January 4, 2018, known as the “Anticorruption Code for a New Puerto Rico.”

Respondents are required to provide a list of any other current or former contracts the firm has/had with any Government Entity in Puerto Rico, or which bear any direct or indirect relation to the activities of the Government of Puerto Rico. Further, please provide a description of any recent historical or ongoing legal proceedings, interviews or investigations being conducted by any U.S. law enforcement agencies involving your firm or team that are related to work executed in or on behalf of the Government and/or its instrumentalities. In addition, please provide a brief description of any work you have performed for any creditors or guarantors of the Government or any public corporation debt about their positions in Puerto Rico debt obligations. Indicate whether this activity is ongoing, and if not, when the prior assignment concluded.



DEDC may request information on any perceived conflict of interests. Also, DEDC may in the future request a list of direct or indirect relationships the Respondent or its professionals have to officials at DEDC or other government entities.

**In the event of real or apparent conflicts of interest, DEDC reserves the right, in the Government's best interest and at its sole discretion, to reject a Proposal(s) outright or to impose additional conditions upon Respondents.** DEDC reserves the right to cancel any contract awarded pursuant to this RFP with 30 days' notice in the event that an actual conflict of interest, or the appearance of such conflict, is not cured to DEDC's satisfaction.

To the extent that any Proponent has formed or proposes to form a consortium, joint venture, or partnership to participate in the RFP, such Proponent shall include in this RFP the identity, role and capabilities of each member. The submittal requirements will need to be satisfied for each member (i.e., financial capacity information and organization information).

Except as specifically provided to the contrary in this RFP, no member may join or participate, directly or indirectly, as a member in more than one Respondent for this RFP. Each person or legal entity who participates as a member is responsible for ensuring that no other person or legal entity which is related to it joins or participates, directly or indirectly, as a member of any other Respondent.

## **7.0 Proposal Additional Information**

### **7.1 Rejection of Proposals; Cancellation of RFP; and Waiver Informalities**

DEDC reserves the right to accept or reject, in whole or part, any or all Proposals submitted and/or cancel this solicitation and reissue this RFP or another version of it, if it deems that doing so is in the best interest of DEDC or the Government.

This RFP may be cancelled by DEDC for convenience, including for lack of funds or, if in the DEDC's sole discretion, none of the Proposals meet its requirements or fulfills its needs of incentives analysis and consulting services.

DEDC, at its sole discretion, may reject any Proposal that does not meet the requirements of this RFP or that is not in compliance with any applicable local, State or Federal laws, rules or regulations. DEDC reserves the right to waive any informalities and/or irregularities in a Proposal if it deems that doing so is in the best interest of DEDC or the Government.

### **7.2 Ownership of Proposal**



All materials submitted in response to this RFP shall become the property of DEDC. Selection or rejection of a Proposal does not affect this provision.

### **7.3 Cost of Preparing Proposals**

All costs associated with the response to this Proposal are the sole responsibility of the Respondent. Neither DEDC nor the Government will be responsible for any expenses in the preparation or presentation of the Proposals, oral interviews or for the disclosure of any information or material received about this RFP.

### **7.4 Errors and Omissions in Proposal**

DEDC reserves the right to reject a Proposal that contain an error or omission. DEDC also reserves the right to request the correction of any errors or omissions and/or to request any clarification or additional information from any Respondent, without requesting clarifications to all Respondents. Respondents will be provided a reasonable period in which to submit written responses to DEDC's requests for clarification or additional information. Respondents shall respond by the deadline stated in the correspondence.

### **8.0 Payment Terms & Method of Payments**

The Selected Proponent will be paid by services provided previously approved by DEDC. It is the Selected Proponent's responsibility to include all services required to meet the engagement's objective as established in this RFP.

#### **8.1 Payment Terms**

Payment will be made upon presentation of invoice evidenced by the services provided and duly authorized by DEDC. If DEDC finds the submitted invoice as acceptable, then the invoice will be approved and processed for payment promptly after submission of the invoice. DEDC reserves the right to review the correctness of invoices and perform the audits as it deems fit.

#### **8.2 Method of Payment**

The Selected Proponent shall submit monthly invoices for the agreed fees. Invoices must be detailed, specific and itemized accompanied by a description of the services provided as previously approved by DEDC. In addition, it shall be noted that no public servant of the contracting entity is a party or has interest on the profits or benefits product from the contract, regarding the invoice and if it does have interest in some part on the profits or benefits of the contract it must specify that a waiver has been mediated. DEDC shall request the Selected Proponent all the necessary information, related to the invoiced expenses, in order to verify them, previous to order the release of payment.



DEDC reserves the right to perform audits it deems appropriate. In the case of finding unpaid invoices, they shall approve and process its payments.

#### **9.0 Right to Request Review and Reconsideration**

Any Proponent adversely affected by a decision made by DEDC in connection with the selection and award procedures provided in this RFP may, within twenty (20) days of the deposit in the federal mail or e-mail notifying the adjudication of the auction, submit a request for reconsideration to the Secretary of DEDC in accordance with the *Uniform Administrative Procedure Act*, Law No. 38 of June 30, 2017, as amended, and DEDC's regulations, as applicable. A request for reconsideration or other petition for review that fails to comply with Applicable Laws may be dismissed or denied without further consideration.

Judicial review of the determinations made by DEDC as to a request for reconsideration will be governed by the *Uniform Administrative Procedure Act*.

#### **10.0 Attachments**

1. Attachment A – Non-Disclosure Agreement
2. Attachment B – Non-Collusion Affidavit
3. Attachment C – Non-Conflict of Interest



**Attachment A**

**NON-DISCLOSURE AGREEMENT**

This Non-Disclosure Agreement (“Agreement”) is entered into and effective as of \_\_\_\_\_, 202\_\_ (“Effective Date”) by and between \_\_\_\_\_ (Company) and the Department of Economic Development and Commerce (“Department” or “DDEC”).

\_\_\_\_\_ is a corporation created under the laws of \_\_\_\_\_, herein represented by \_\_\_\_\_ (hereinafter known as “the Recipient”).

The Department is a government instrumentality created by the Department of Economic Development and Commerce Reorganization Plan of 1994, Plan No. 4 of June 22, 1994, as amended, and pursuant to the Department of Economic Development and Commerce Reorganization Plan Implementation Act of 2018, Act No. 141 of July 11, 2018, represented by its Secretary, Manuel Cidre Miranda (hereinafter known as “Discloser”).

Discloser and Recipient are jointly referred to herein as the “Parties.” “Party” means either Discloser or Recipient.

It is understood and agreed that the Discloser and the Recipient would like to exchange certain information that belongs to the Department that may be considered confidential. Such information is necessary for the Recipient to present its proposal related to a Request for Proposal (“RFP”) for the Incentives Analysis and Consulting Services.

To ensure the protection of such information and in consideration of the agreement to exchange said information, the Parties agree as follows:

1. The confidential information to be disclosed by Discloser under this Agreement



(“Confidential Information”) is described as, and includes:

- Technical, privileged and business information related to Discloser’s status and privileged information that belongs to the Government of Puerto Rico.
- In addition to the above, Confidential Information shall also include, and the Recipient shall have a duty to protect, other confidential and/or sensitive information which is (a) disclosed by Discloser orally and in writing whether or not marked as confidential (or with other similar designation) at the time of disclosure; and/or (b) disclosed by Discloser in any other manner and identified as confidential at the time of disclosure and is also summarized and designated as confidential in a written memorandum.

2. Recipient shall use the Confidential Information only for the purpose of evaluating the contractual relation between the parties.

3. Recipient shall limit disclosure of Confidential Information, within its own organization, to its directors and/or officers having a need to know.

4. This Agreement imposes no obligation upon Recipient with respect to any Confidential Information (a) that was in Recipient’s possession before receipt from the Discloser; (b) is or becomes a matter of public knowledge through no fault or omission attributable to Recipient; (c) is rightfully received by Recipient from a third party, including any government entity, not owing a duty of confidentiality to the Discloser; (d) is disclosed without a duty of confidentiality to a third party by, or with the authorization of the Discloser, or (e) is independently developed and/or obtained by Recipient through other means.

5. Recipient’s obligation of non-disclosure contained herein shall not apply to the release of any Confidential Information that it may be required to produce as a result of a court order or legal process. However, prior to any such disclosure, Recipient shall promptly notify Discloser of any demand, subpoena, or other request to produce the Confidential Information, in order to allow Discloser an opportunity to appear and seek an appropriate protective order prior to any required disclosure. Recipient will also use reasonable efforts to support Discloser in seeking to obtain an appropriate protective order prior to any such disclosure. If Recipient is nonetheless required to disclose Confidential Information, in the absence of a protective order, it may do so provided it discloses only that portion required to be disclosed and no other. Such required disclosure will not release Recipient from its obligation to protect the Confidential Information from other disclosure.

6. The Discloser warrants that it has the right and authority to make the disclosures under



this Agreement and that to the best of its knowledge such information is accurate. Also, the Discloser agrees that the Recipient shall not be liable for the content of the information if it is not accurate, and if the Recipient endorses any business project related to the Confidential Information on the basis of information provided by Discloser that is not accurate, Recipient shall not be bound by such endorsement, and the same may be revoked.

7. This Agreement shall not be construed as creating, conveying, transferring, granting or conferring upon the Recipient any rights, license or authority in or to the information exchanged, except the limited right to use Confidential Information specified in paragraph 2. Furthermore, and specifically, no license or conveyance of any intellectual property rights is granted or implied by this Agreement.

8. All documents, reports, e-mails exchanges, memoranda and any other document prepared by Recipient, which reflect or reference any Confidential Information, shall be deemed Confidential also. During the term of this Agreement, Recipient may, at its option, either destroy or keep all disclosed or referenced Confidential Information related to the purpose herein specified. However, any Confidential Information retained by Recipient during the term of this Agreement shall remain subject to the obligations and restrictions set forth in this Agreement.

9. Both Parties acknowledge and agree that the exchange of information under this Agreement shall not commit or bind either Party to any present or future contractual relationship (except as specifically stated herein), nor shall the exchange of information be construed as an inducement to act or not to act in any given manner.

10. Neither Party shall be liable to the other in any manner whatsoever for any decisions, obligations, costs or expenses incurred, changes in business practices, plans, organization, products, services, or otherwise, based on either Party's decision to use or rely on any information exchanged under this Agreement.

11. This Agreement states the entire agreement between the Parties concerning the disclosure of Confidential Information for the purpose described in paragraph 2 above and supersedes any prior agreements, understandings, or representations (orally or verbally) with respect thereto between the Parties. Any addition or modification to this Agreement must be made in writing and signed by authorized representatives of both Parties. This Agreement is made under and shall be construed according to the laws of the Commonwealth of Puerto Rico



12. If any of the provisions of this Agreement are found to be unenforceable, the remainder shall be enforced as fully as possible, and the unenforceable provision(s) shall be deemed modified to the limited extent required to permit enforcement of the Agreement as a whole.

13. This Agreement will be effective for a term of one (1) year from the Effective Date but may be terminated by either party prior to that time with thirty (30) days written notice to the other party. Termination shall not, however, affect obligations set forth in this Agreement with respect to Confidential Information disclosed prior to termination.

14. Recipient's obligations with respect to Discloser's Confidential Information disclosed or received prior to termination or expiration will survive for three (3) additional years following the expiration or termination of this Agreement. This Agreement may be terminated immediately with written notice by either party upon any material breach by the other party of any term or condition of this Agreement. If the information to be disclosed is patent-protected, Recipient's obligations with respect to said confidential information will survive for the remainder of the term of such patent. After the expiration or termination of this Agreement, Recipient may, at Discloser's option, either destroy or return all disclosed or referenced Confidential Information related to the purpose herein specified. If Recipient destroys all Confidential Information, it must issue a letter certifying that all copies, documents, data, and/or electronic data received has been destroyed, deleted and/or disposed in any proper manner.

**WHEREFORE**, the Parties acknowledge that they have read and understand this Agreement and voluntarily accept the duties and obligations set forth herein.

**Recipient of Confidential Information:**

Company: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_, 202\_\_.

**Discloser of Confidential Information:**



DEPARTAMENTO DE DESARROLLO  
ECONÓMICO Y COMERCIO  
**DDEC**



Department of Economic Development and Commerce  
By: Manuel Cidre Miranda  
Title: Secretary OF DEDC  
Address: P.O. Box 362 350, San Juan, P.R. 00936-2350

Signature: \_\_\_\_\_

Date: \_\_\_\_\_, 202\_\_.



**Attachment B**

**NON-COLLUSION AFFIDAVIT**

The undersigned Proponent or agent, being duly sworn on oath, says that he/she has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be proposal by anyone at such letting nor to prevent any person from bidding nor to include anyone to refrain from bidding, and that this proposal is made without reference to any other proposal and without any agreement, understanding or combination with any other person in reference to such bidding.

He/She further says that no person or persons, firms, or corporation has, have or will receive directly or indirectly, any rebate, fee gift, commission or thing of value on account of the award resulting from this RFP.

**OATH AND AFFIRMATION**

I AFFIRM, UNDER PENALTY OF PERJURY, THAT THE FACTS AND INFORMATION CONTAINED IN THE SUBMITTED PROPOSAL ARE TRUE AND CORRECT.

Dated this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
(Name of Organization)

\_\_\_\_\_  
(Title of Person Signing)

\_\_\_\_\_  
(Signature)

**AFFIDAVIT No.** \_\_\_\_\_

Sworn and subscribed before me by \_\_\_\_\_, \_\_\_\_\_ (civil status),

\_\_\_\_\_ (profession) whom I identify by \_\_\_\_\_.

At \_\_\_\_\_, Puerto Rico, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public Signature



### Attachment C

#### NON-CONFLICT OF INTEREST CERTIFICATION

The Person/Entity interested in doing businesses, certify that:

1. No public official employee of the DEDC possesses any financial interest in this contract, or business transaction, and that likewise, has had no direct or indirectly financial interest in this business transaction for the past four (4) years.
2. No public official or employee has solicited or accepted goods of any value, related to this transaction from any representative of the entity as a form of compensation for performing the duties and responsibilities of his or her position.
3. No public official or employee has accepted, or solicited from any person whatsoever directly or indirectly, either for himself (herself), for any member of his (hers) immediate family unit, or for any other person, business or entity, any asset whatsoever of monetary value, including gifts, loans, promises, favors, or services, in exchange for the actions of said public official or employee being of influence on behalf of my person or the entity.
4. There is no similar relationship within the fourth (4th) degree of consanguinity and second (2nd) degree of affinity with any public official or employee in position of influencing or participating in institutional decisions of the contracting agency.
5. The DEDC is a government instrumentality that is highly committed to management excellence and promotes the effective use of the government resources to benefit the people of Puerto Rico. We are committed to support and comply with Act 2-2018 “Anti-Corruption Code for the New Puerto Rico”
6. Agrees to bind by the provisions of Act 2-2018, “Anti-Corruption Code for the New Puerto Rico”. Acceptance of the rules contained in such law is a vital essential condition so that transactions can be carried out or set up arrangements with the DEDC.

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Signature of Authorized Representative of the Entity

[Date]