

## **Legal Requirements**

### **Anticorruption Code for the New Puerto Rico**

All respondents shall comply with Act No. 2 of 2018, known as the "Anticorruption Code for the New Puerto Rico". The acceptance with the norms established therein is an essential and indispensable condition in order to execute transactions or enter into agreements with the LRA. Also, the LRA follows the pertinent state and federal laws regarding potential organizational conflicts of interest.

The "Anticorruption Code for the New Puerto Rico" applies to any natural or juridical person, or groups of persons or associations, that wishes to establish a contractual, commercial, or financial relationship with Executive agencies (including public corporations and instrumentalities of the Commonwealth of Puerto Rico). Also, the "Anticorruption Code for the New Puerto Rico" defines a 'conflict of interest' as a situation in which the personal or financial interests is or could reasonably be incompatible with the public interest.

Therefore the "Anticorruption Code for the New Puerto Rico" requires ethical obligations and responsibilities for every person who is doing or is interested in doing business with the Government of Puerto Rico.

As a result, prior to submitting a proposal or response to an RFQ/RFP, each potential respondent shall conduct an internal review of its current affiliations and shall require its team members to identify actual, potential or perceived conflicts of interest or unfair advantages relative to the anticipated procurement. Potential respondents are notified that prior and existing contractual obligations between a company and a federal or state agency relative to the proposed procurement may present a conflict of interest or an unfair advantage. If a potential respondent identified an actual, potential or perceived conflict of interest or unfair advantage, it shall submit in writing the pertinent information so that a determination can be made as to the extent of the conflict or unfair advantage. The LRA will review potential or perceived conflicts of interest and unfair advantages related to each procurement process sponsored by the LRA.

Each potential respondent should certify that it has received a copy of and agrees to comply with Act no. 2- 2018, as amended, known as the "Anticorruption Code for the New Puerto Rico".

### **Other Contractual Requirements**

Once selected, a respondent should be ready to submit the following documents prior to formally entering into a contract with the LRA:

- a) A sworn statement to the effect that neither the contractor nor any president, vice president, executive director or any member of a board of officials or board of directors, or any person performing equivalent functions for the contractor has been convicted of or has pled guilty



to any of the crimes listed in article 6.8 of Act no. 8- 2017, as amended, known as the act for the administration and transformation of human resources in the government of Puerto Rico ("Act no. 8 -2017") or any of the crimes included in Act no. 2- 2018.

- b) A Certification that it has not been convicted for crimes under articles 4.2, 4.3 or 5.7 of Act no. 1-2012, any of the crimes listed in articles 250 through 266 of Act no. 146- 2012, as amended, known as the Puerto Rico penal code ("Act no. 146- 2012"), any of the crimes typified in Act no. 2 of 2018, or any other felony that involves misuse of public funds or property, including but not limited to the crimes mentioned in Article 6.8 of Act no. 8- 2017.
- c) A Certification that none of its partners, directors, executives, officers, and employees receives salary or any kind of compensation for the delivery of regular services by appointment (or otherwise) in any agency, instrumentality, public corporation, or municipality of the government of Puerto Rico.
- d) A Certification that at the time, the respondent has no other contracts with agencies, public corporations, municipalities, or instrumentalities of the government of Puerto Rico.
- e) A Certification to the extent required by applicable law, it is in compliance with Act no. 168 of 2000, as amended, known as the act for the improvement of family assistance and for the support of the elderly. In the event the respondent is under a court or administrative order directing it to provide financial support or to fulfill any obligation under the mentioned act, the respondent further certifies and warrants that it is in compliance with said obligations. It is expressly acknowledged that this certification is an essential condition of this agreement. If the certification is not correct in its entirety or in any of its parts, it shall constitute sufficient cause for the owner to terminate the agreement immediately, without prior notice to the respondent.
- f) A Certification that, the performance of any engineering, architecture, surveying, and landscape architecture services in Puerto Rico under the corresponding Contract, if any, shall be commissioned to a licensed professional or a professional services organization in accordance with Act. No. 173-1988, as amended, "Act of the Examiner Board of Puerto Rico's Engineers, Architects, Surveyors and Landscapers", and Act No. 319 of May 15, 1938, as amended, "Act to Create the Board of Engineers and Surveyors". Respondent hereby expressly acknowledges that only engineers, architects, surveyors, and landscape architects duly authorized and licensed to practice in the Commonwealth of Puerto Rico may perform professional services in Puerto Rico under the corresponding Contract. In the event that a professional services organization will perform any services under this under a partnership or professional association, all partners or principals of said entity shall hold a license in their respective professions and shall be enrolled in the corresponding Register of Professional Partnerships. If the professional services organization is a corporation, all the shareholders shall be licensed in their respective professions and said corporation shall be organized as a professional corporation pursuant to the provisions of sections 711 to 711z of Act No. 173, supra, and the "General Corporation Act of Puerto Rico".

In such case, the respondent will certify and guarantee that the professional services



agreement between the respondent and the licensed professional or professional services organization of all tiers, as applicable, shall include the following clause: *The licensed professional or professional services organization herein engaged to perform any engineering, architecture, surveying and landscape architecture services under this contract, hereby certifies and guarantees that is duly organized, validly existing and in good standing under the laws of Puerto Rico, particularly Act. No 173-1988, as amended, "Act of the Examiner Board of Puerto Rico's Engineers, Architects, Surveyors and landscapers, and Act No. 319 of May 15, 1938, as amended, "Act to create the Board of Engineers and Surveyors", authorized to do business in the Commonwealth and with the full legal right, power and authority to execute, deliver and perform the professional services above-mentioned under any applicable law. The licensed professional or professional services organization herein engaged to perform any of the above-mentioned services shall be directly liable to the Owner for the professional services rendered under this contract. Copy of said contract shall be furnished to the LRA.*

- g) The respondent acknowledges and certifies the proprietary and confidential nature of all internal, non-public, information systems, financial, and business information relating to the LRA, hereafter provided to the respondent.

The respondent shall keep in strict confidence all such information and shall not make public or disclose any of said information without the previous written consent of the LRA, provided such information is not previously known to the respondent, is not within the public domain, or is not furnished to the respondent by a third party who is under no obligation to keep the information confidential.

- h) A Certification of Existence or Certification that the organization is duly authorized to do business in Puerto Rico. The Certification to do business in Puerto Rico applies to foreign companies, it indicates that the applicant is authorized to do business in Puerto Rico. They must be current, indicate the dates of issuance and incorporation or of authorization to do business in Puerto Rico, and must be issued by the Department of State.
- i) Indicate whether the organization is an association, corporation, limited liability corporation, or have another corporate structure. If you are a corporation, submit the incorporation certificates and the good standing certificate from the Puerto Rico Department of State.
- j) Present an Income Tax Return Submission Certificate issued by the Internal Revenue Area of the Puerto Rico Department of Treasury, to the effect that the respondent has submitted its annual Income Tax Returns for the past five (5) years. If the respondent is not obligated or has not been obligated to render the Income Tax Returns during all or part of the period of the last five (5) years, the respondent must present a Sworn Statement stating the reasons the respondent was not obligated to render the Income Tax Returns.
- i) Debt Certificate issued by the Internal Revenue Area of the Puerto Rico Treasury Department, even if the respondent has certified that does not possess Tax Debts.
  - ii) Debt Certificate, issued by the Center for the Collection of Municipal Income ("Centro de Recaudaciones de Ingresos Municipales (CRIM)").



Certificates issued by the Puerto Rico Labor Department for the following:

- iii) Negative Certificate of Debt of Unemployment Insurance, Temporary Non-occupational Disability Taxes, and Negative Certificate of Debt of Chauffeurs Insurance (“Certificación negativa de Deuda de Contribuciones de Seguro por Desempleo y Seguro por Incapacidad Temporal no Ocupacional” and “Certificado de Deuda Seguro Choferil”).
- iv) In-effect policy (pólizas vigentes) certificate with the State Fund Insurance Corporation (“Corporación del Fondo del Seguro del Estado”).
- v) No-Debt Certificate with the State Fund Insurance Corporation (“Corporación del Fondo del Seguro del Estado”).

The respondent will present evidence that it does not have outstanding debts with the government of Puerto Rico for income taxes, real or chattel property taxes, unemployment insurance premiums, workers’ compensation payments or social security for chauffeurs in Puerto Rico and the administration for the sustenance of minors (known by its Spanish acronym as “ASUME”). Tax debt shall mean any debt that the respondent, or other parties which the LRA authorizes the respondent to subcontract, may have with the government of Puerto Rico for income taxes, real or chattel property taxes, including any special taxes levied, license rights, tax withholdings for payment of salaries and professional services, taxes for payment of interest, dividends and income to individuals, corporations and non-resident accounting firms, for payment of interests, dividends and other earnings shares to residents, unemployment insurance premiums, workers’ compensation payments, social security for chauffeurs and ASUME.

- k) If the respondent has a payment plan agreement with any agency, instrumentality, or public corporation of the Commonwealth of Puerto Rico in which a certificate for this proposal is required, the respondent must submit evidence of an up-to-date payment certificate.
- l) Present a sworn statement certifying that no person with interest in the proposal is an official or employee of the LRA or the Commonwealth of Puerto Rico and its instrumentalities.
- m) A Certification that on the best of its knowledge and belief (after reasonable inquiry), the respondent certifies it is not required to obtain a dispensation in compliance with the applicable laws and regulations of the Commonwealth of Puerto Rico prior to or in connection with the execution of this agreement. Both parties agree that the proven illegality of any of the provisions of this agreement shall not invalidate it as a whole.

Furthermore, the respondent shall also be responsible for providing the LRA with the certifications required under this clause from any professional or technical consultant subcontracted or eventually subcontracted by the respondent and authorized by the LRA. Any person engaged by the respondent in accordance with the conditions of the agreement, who dedicates fifty percent (50%) or more of his or her time to provide material advisory services related to the services to be provided under the agreement, other than back office, business consulting or administrative services such as legal,





accounting, human resources, financial, it or similar functions, shall be considered subcontractors. Notwithstanding anything herein to the contrary, the contractor shall have the right to rely conclusively on the aforementioned certifications from government agencies in making the representations in this clause.

The person that signs all documents must be fully authorized to do so. If a person is designated as a representative, the respondent must provide a Resolution authorizing such designation.

If the respondent cannot submit the certificates required by this section, the respondent must present a sworn statement stating the reasons the respondent is not obligated to comply with this requirement.

### **Municipal License Tax ("Patente")**

As a general rule, all businesses are subject to a municipal license tax on the "volume of business" transacted in each municipality in Puerto Rico. The term "volume of business" has been defined as the gross income that is received or earned from the rendering of any service, the sale of any goods or from any other industry where the main organization maintains its offices. The applicable tax rate varies between municipalities, but it may not exceed 0.5% for general businesses and 1.5% for financial businesses.

A declaration of the volume of business must be filed on or before five working days after April 15 of each year, with the Director of Finance of each municipality where the business is doing business and has received or earned income through offices, branches, warehouses or other form of commercial or industrial organization. Businesses with a volume of business equal to, or less, than \$3,000,000 must attach a copy of their income tax return with the volume of business declaration. If the volume of business exceeds \$3,000,000, audited financial statements must be submitted with the declaration. A certificate duly signed and issued by the Director of Finance should be displayed as evidence of the payment of the tax.

### **Municipal Construction Excise Taxes**

The municipalities of Puerto Rico also are empowered to impose an excise tax on the value of any construction project within their territorial limits. The tax rate varies from municipality to municipality. Certain exemptions may be available depending on the purpose of the project. Also, a construction permit issued by the Permit Management Office, or the Municipality Permit Office can be required.

### **Compliance With Federal Laws**

The contractor certifies compliance with all federal laws applicable to the construction agreement including the following:

- a) **The Davis- Bacon Act** as amended (40 USC sec. 3141-3144, 3146, 3147; 42 USC sec. 3212), which requires minimum wages for mechanics and laborers employed on Federal Government public



works projects to be based on the wages that the Secretary of Labor determines to be prevailing for the corresponding classes of laborers and mechanics employed on projects of character similar to the contract work in the civil subdivision of the Commonwealth of Puerto Rico.

- b) **The Contract Work Hours and Safety Standards Act**, as amended (40 USC sec. 3701-3708) which provides work hour standards for every laborer and mechanic employed by any contractor or subcontractor in the performance of a federal public works project.
- c) **The National Historic Preservation Act of 1966**, as amended (54 USC 300101 et seq.), And the advisory council on Historic Preservation Guidelines (36 CFR part 800), which require stewardship of historic properties in projects involving Federal Funds.
- d) **The Historical and Archeological Data Preservation Act** of 1974 as amended (16 USC sec, 469 a-1 et seq) which requires appropriate surveys and preservation efforts if a Federally licensed project may cause irreparable loss or destruction of significant scientific, prehistorical, historical or archeological data.
- e) **The Architectural Barriers Act of 1968**, as amended (42 USC sec 4151 et seq.) and the regulations issued thereunder, which prescribe standards for the design and construction building or facility intended to be accessible to the public or that may house handicapped employees.
- f) **The Uniform Relocation Assistance and Real Property Acquisition Policies Act** of 1970, as amended ( 42 USC sec 4601 et seq) and implementing regulations issued at 49 CFR part 24 ( Uniform Relocation Assistance and Real Property Acquisitions for Federal and Federally Assisted Programs) which establish uniform policies for the fair and equitable treatment of persons, businesses, or farm operations affected by the acquisition, rehabilitation or demolition of real property acquired for a project financed wholly or in part with Federal Financial assistance.
- g) **The Energy Conservation and Production Act** (42 USC sec 6834 et seq) which establishes energy efficiency performance standards for the construction of new residential and commercial structures undertaken with federal financial assistance.

### Nondiscrimination Requirements

- a) No person in the United States shall on the ground of race, color, national origin, handicap, age religion or sex be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal Financial assistance.
- b) **Title IX of the Education Amendments of 1972** (20 USC sec 1681 et seq) which prohibits discrimination on the basis of sex under federally assisted education programs or activities.
- c) **The Americans and Disabilities Act of 1990** (42 USC sec 12101 et seq) (ADA) which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereof, as well as public or private entities that provide public transportation.
- d) **Section 504 of the Rehabilitation Act of 1973** as amended (29 USC sec 794) and DOC implementing regulations published at 15 CFR part 8b (Prohibition of Discrimination against Handicapped in federally assisted programs operated by the Department of Commerce) which prohibits discrimination on the basis of handicap under any program or activity receiving or



benefiting from federal assistance.

- e) **The Age Discrimination Act of 1975** as amended, (42 USC sec. 6101 et seq.) and DOC implementing regulations published at 15 CFR part 20 (Nondiscrimination on the basis of age in programs or activities receiving federal financial assistance) which prohibit discrimination on the basis of age in programs or activities receiving federal financing assistance.
- f) **Civil Rights Act of 1964**- All borrowers are subject to, and facilities must be operated in accordance with, title VI of the Civil Rights Act of 1964 (42 U.S. C. 2000d et seq) and 7 CFR 1901, subpart E, particularly as it relates to conducting and reporting of compliance reviews. Instruments of conveyance for loans and /or grants subject to the Act must contain the covenant required by Paragraph 1901.202 ( e ) of this title.
- g) **Limited English Proficiency (LEP) under Executive 13166**- LEP statutes and authorities prohibit exclusion from participation in, denial of benefits of, and discrimination under Federally- assisted and/or conducted programs on the ground of race, color, or national origin. Title VI of the Civil Rights Act of 1964 covers program access for LEP persons. LEP persons are individuals who do not speak English as their primary language and who have a limited ability to read, speak, write or understand English. These individuals may be entitled to language assistance, free of charge. Contractor must take reasonable steps to ensure that LEP persons receive the language assistance necessary to have meaningful access to USDA programs, services, and information your organization provides. These protections are pursuant to Executive Order 13166 entitled, "Improving Access to Services by Persons with Limited English Proficiency" and further affirmed in the USDA Departmental Regulation 4330-005, "Prohibition Against National Origin Discrimination Affecting Persons with Limited English Proficiency in Programs and Activities Conducted in the USDA".

### **Criminal And Prohibited Activities**

- a) **The Program Fraud Civil Remedies Act** (31 USC sec. 3801 et seq) provides for the imposition of civil penalties against persons who make false fictitious or fraudulent claims in the federal government for money including money representing grants loans or other benefits.
- b) **The False Claims Amendment Act of 1986 and False Statements Accountability Act of 1996** (18 USC sec 287 and 1001 respectively) provide that whoever makes or presents any false, fictitious or fraudulent statement representation or claim against the United States shall be subject to imprisonment of not more than five years and shall be subject to a fine in the amount provided by 18 USC sec. 287.
- c) **The Civil False Claims Act** (31 USC sec 3729-3733) provides that suits can be brought by the Government, or a person on behalf of the government, for false claims under federal assistance programs.
- d) **The Copeland Anti kick back Act** (18 USC sec. 874) prohibits a person or organization engaged in a federal project from enticing and employee working on the project from giving up a part of his or her compensation under an employment contract. The Copeland anti kick back act also applies to contractors and subcontractors pursuant to 40 USC sec. 3145.





**In compliance with the Local Redevelopment Authority Request for Proposal Regulation document (Regulation No. 9366), Section 19.02, the LRA's Executive Aide will be the custodian of the RFP Proposal Registry.**

