



**REGULATION FOR THE DISPOSAL OF REAL ESTATE AND THE ACQUISITION  
OF GOODS AND SERVICES FOR THE IMPLEMENTATION OF THE MASTER  
DEVELOPMENT PLAN OF THE LOCAL REDEVELOPMENT AUTHORITY FOR  
ROOSEVELT ROADS.**

## INDEX

<u>ARTICLE</u>	<u>PAGE</u>
<b>I. INTRODUCTORY AND GENERAL PROVISIONS.....</b>	<b>1</b>
ARTICLE 1. TITLE .....	1
ARTICLE 2. LEGAL BASIS .....	1
ARTICLE 3. PURPOSE.....	1
ARTICLE 4. APPLICABILITY .....	1
ARTICLE 5. DEFINITIONS .....	2
<b>II. GENERAL PRINCIPLES IN THE ACQUISITION AND CONTRACTING OF GOODS AND SERVICES .....</b>	<b>5</b>
ARTICLE 6. GENERAL PRINCIPLES ON GOVERNMENT PROCUREMENT AND THE GUIDELINES .....	5
ARTICLE 7. HIGH PUBLIC INTEREST.....	5
ARTICLE 8. APPLICATION OF LAWS, REGULATIONS AND RELATED REGULATIONS.....	5
ARTICLE 9. GENERAL REQUIREMENTS OF GOVERNMENT OBLIGATION.....	5
ARTICLE 10. ETHICAL RESPONSIBILITY IN CONTRACTING AND ACQUISITION.....	6
ARTICLE 11. CONTRACTOR’S ETHICAL RESPONSIBILITY AND DISABLING CONDUCT .....	7
ARTICLE 12. PREFERENTIAL POLICY AND CONTRACTING OF ENGINEERING, SURVEYING, AND ARCHITECTURE SERVICES .....	7
ARTICLE 13. SIGNATURES IN CONTRACTS, PURCHASE ORDERS, SERVICE ORDERS AND SIMILAR DOCUMENTS .....	8
ARTICLE 14. BONDS, GUARANTEES AND INSURANCES.....	8
ARTICLE 15. CERTIFICATIONS AND DOCUMENTS FOR GOVERNMENT CONTRACTING.....	8
ARTICLE 16. PRIOR AUTHORIZATION FROM ENTITIES EXTERNAL TO THE AUTHORITY .....	8
ARTICLE 17. REQUIREMENTS FOR TELECOMMUNICATIONS SERVICES CONTRACTS.....	9
<b>III. POWERS AND FACULTIES .....</b>	<b>9</b>
ARTICLE 18. POWERS OF THE BOARD OF DIRECTORS AND THE EXECUTIVE DIRECTOR .....	9
<b>IV. PROCURMENT OFFICER OF THE AUTHORITY.....</b>	<b>9</b>
ARTICLE 19. DUTIES AND RESPONSIBILITIES .....	9
<b>V. PROPOSAL EVALUATION COMMITTEE .....</b>	<b>10</b>
ARTICLE 20. CREATION AND COMPOSITION OF THE EVALUATION COMMITTEE.....	10
ARTICLE 21. QUORUM OF THE EVALUATION COMMITTEE.....	11
ARTICLE 22. POWERS AND DUTIES OF THE EVALUATION COMMITTEE .....	11
<b>VI. REAL ESTATE DISPOSAL AND ACQUISITION OF GOODS AND SERVICES.....</b>	<b>12</b>
ARTICLE 23. ACQUISITION OF GOODS, WORKS, AND NON-PROFESSIONAL SERVICES THROUGH ASG .....	12
ARTICLE 24. DESIGN, DEVELOPMENT, CONSTRUCTION, FINANCING, OPERATION AND MAINTENANCE .....	12
ARTICLE 25. PROCUREMENT METHODS.....	12
ARTICLE 26. REQUEST FOR PROPOSALS .....	12
SECTION 26.1 DEFINITION .....	12
Section 26.2 Request for Information.....	12
Section 26.3 RFP Invitation.....	13
Section 26.4 Basic Requirements of the Invitation to RFP .....	13
Section 26.5 Content of the RFP documents.....	14
Section 26.6 RFP Addendums .....	15
Section 26.7 Pre-Proposal Meeting .....	16

REGULATION FOR THE DISPOSAL OF REAL ESTATE AND THE ACQUISITION OF GOODS AND SERVICES FOR THE IMPLEMENTATION OF THE MASTER DEVELOPMENT PLAN OF THE LOCAL REDEVELOPMENT AUTHORITY FOR ROOSEVELT ROADS.

Section 26.8	<i>Request for Clarification</i>	16
Section 26.9	<i>Proposal Submission</i>	17
Section 26.10	<i>Modifications to the Proposals submitted</i>	17
Section 26.11	<i>Withdrawal of the submitted proposal</i>	17
Section 26.12	<i>Record of received proposals</i>	18
Section 26.13	<i>Proposal Opening</i>	18
Section 26.14	<i>Preliminary Evaluation of Proposals</i>	18
Section 26.15	<i>Receipt or selection of a single proposal</i>	19
Section 26.16	<i>Meetings with proponents whose proposals are within the established selection margins</i>	19
Section 26.17	<i>RFP Cancellation</i>	21
Section 26.18	<i>Award</i>	21
Section 26.19	<i>Notice of Award</i>	21
ARTICLE 27.	REQUEST FOR QUALIFICATIONS	22
Section 27.1	<i>Definition</i>	22
Section 27.2	<i>Invitation for Request for Qualifications</i>	22
Section 27.3	<i>Content of the Invitation for RFQ</i>	22
Section 27.4	<i>Content of the Qualification Statement</i>	23
Section 27.5	<i>Prequalification of Suppliers; First Phase</i>	23
Section 27.6	<i>Interviews with Potential Bidders</i>	24
Section 27.7	<i>Notice of Award of Qualifications</i>	24
Section 27.8	<i>Delivery of the bidding documents and submission of proposals; second phase</i>	24
ARTICLE 28.	SOLE REGISTRY OF PROVIDERS	24
ARTICLE 29.	LICENSES AND ACADEMIC BACKGROUND	25
<b>VII.</b>	<b>REVIEW AND RECONSIDERATION PROCEDURE</b>	<b>25</b>
ARTICLE 30.	RECONSIDERATION AND ADMINISTRATIVE REVIEW PROCEDURE	25
ARTICLE 31.	JUDICIAL REVIEW PROCEDURE	25
<b>VIII.</b>	<b>SUPERVISION IN THE EXECUTION OF THE CONTRACTOR OR CONSULTANT</b>	<b>26</b>
ARTICLE 32.	PERFORMANCE AND ADMINISTRATION OF THE CONTRACT, ORDER OR SIMILAR DOCUMENT	26
<b>IX.</b>	<b>PAYMENT FOR CONTRACTED OR ACQUIRED SERVICES</b>	<b>26</b>
ARTICLE 33.	PAYMENT OF CONTRACTED GOODS AND SERVICES	26
<b>X.</b>	<b>PROCEDURE FOR NON-COMPLIANCE</b>	<b>27</b>
ARTICLE 34.	OFFICES AND DEPARTMENTS RESPONSIBILITY	27
ARTICLE 35.	LEGAL ADVICE OF THE AUTHORITY	27
<b>XI.</b>	<b>FINAL AND MISCELLANEOUS PROVISIONS</b>	<b>27</b>
ARTICLE 36.	RELEVANT LAWS AND REGULATIONS	27
ARTICLE 37.	SEVERABILITY	29
ARTICLE 38.	REPEAL	29
ARTICLE 39.	EFFECTIVENESS	29
ARTICLE 40.	RECOMMENDATION AND APPROVAL	30

## **I. INTRODUCTORY AND GENERAL PROVISIONS**

### **Article 1. Title**

This regulation shall be known as the *Regulation for the Disposal of Real Estate and the Acquisition of Goods and Services for the Implementation of the Master Development Plan of the Authority for the Local Redevelopment of Roosevelt Roads* (hereinafter referred to as the "Regulation").

### **Article 2. Legal Basis**

This Regulation is established by virtue of the powers conferred by Article 11 of Act No. 508-2004, as amended, known as the *Act of the Authority for the Redevelopment of the Lands and Facilities of the Roosevelt Roads Naval Station* ("Act 508-2004"), as well as any other powers granted by law to the Authority.

### **Article 3. Purpose**

This Regulation is adopted with the purpose of establishing the rules and procedures for the disposal of real estate owned by the Authority the acquisition of goods and services for the planning, design, redevelopment, construction, financing, operation, and maintenance of the lands and facilities of the Naval Station Roosevelt Roads in accordance with the Master Development Plan.

### **Article 4. Applicability**

This Regulation shall apply to the processes of acquisition, selection, and/or awarding of contracts for the sale of real estate, administrative concession, lease contracts, or other types of contracts to carry out different phases or combinations thereof for planning, design, redevelopment, construction, financing, operation, and maintenance of the lands and facilities of the Naval Station Roosevelt Roads, for the purpose of developing and implementing the execution of the Master Development Plan, as stipulated in Article 11 of Act 508-2004.

For the purposes of this Regulation, goods and services that are not necessary for the planning, design, redevelopment, construction, financing, operation, and maintenance of the lands and facilities of the Naval Station, or for the implementation of the Master Development Plan, will be considered those strictly related to the operation of the Authority as a government entity, such as office equipment, cleaning and maintenance services in its offices or facilities, basic utilities, security services, and some professional services to the extent that they do not facilitate the achievement of said Plan, among others.

## Article 5. Definitions

For the purposes of this Regulation, the use of the singular shall include the plural, the use of the plural shall include the singular, and the use of pronouns of any gender shall include the others. The words and phrases related below are short terms or concepts of the following definitions:

- 1) **Acquisition:** It will also mean purchase. The total amount of related needs grouped together, whether they be goods, works, professional services, or non-professional services that must be acquired in the same transaction or at the same time due to a common purpose, suppliers, or as deemed in the public interest.
- 2) **ASG Regulation:** The *Reglamento Uniforme de Compras y Subastas de Bienes, Obras y Servicios No Profesionales de la ASG*, Regulation No. 9230 of November 18, 2020, adopted to implement Act 73-2019, as amended, known as the *Ley de la Administración de Servicios Generales para la Centralización de las Compras del Gobierno de Puerto Rico de 2019* or to implement any other law applicable to the procurement procedures of the Authority.
- 3) **ASG:** Puerto Rico General Services Administration.
- 4) **Authority:** Local Redevelopment Authority for Roosevelt Roads and Facilities of the Naval Station Roosevelt Roads created under Act 508-2004.
- 5) **Best Value:** The offer or proposal that represents the greatest benefit for the Authority; the bid or proposal of the bidder or proposer that best meets the requirements established in the quotation sheet (or similar document) or in the auction or proposal document and in which it is established that the bidder or proposer offers the best goods or services or has the capacity to efficiently carry out the work, considering all criteria, such as inspection, testing, quality, delivery, suitability for a particular purpose, warranties of the goods or services and the terms under which such warranties would be provided, the life cycle of the item to be acquired, discounts, economic impact in terms of job creation, and fiscal impact on the Government of Puerto Rico. Also considered as part of the best value are the conditions and limitations of warranties for parts and services of the offered product or service, as well as the time and place at which these warranties are honored and executed, and the fiscal impact. Criteria affecting the price of the bid and considered in the evaluation for the award will be objectively measurable, such as discounts, transportation costs both in the original delivery and to execute warranties, and the cost of equipment disposal once its useful life or utilization ends, among other criteria. In the case of the disposal of real estate, the Authority will determine the best value using as a basis the fair market value or the use of the property for the benefit of the public interest. In the case of acquiring goods and services, the best value will not necessarily be the bid or proposal with the lowest cost or price.

- 6) **Bidder or Proponent:** Individual or legal entity available and interested in appearing and submitting quotations, bids, or proposals for goods, works, services, and/or contracts in any Request for Proposals or Request for Qualifications procedure under this Regulation..
- 7) **Board of Directors:** Board of Directors of the Local Redevelopment Authority for Roosevelt Roads
- 8) **Conflict of Interests:** Any situation that arises or may arise because of a transaction or event in which a person or government official of Puerto Rico obtains or may obtain, directly or indirectly, any benefit, advantage, profit, gain, or advantage due to their actions or the improper exercise of their influence or position.
- 9) **Disposal:** any process by which the Government transfers the title of ownership, right of possession, use, occupation, or enjoyment of Real Estate. It will include, but not be limited to, sales contracts, administrative concession, or leasing agreements.
- 10) **Eligibility Certificate:** Certification issued by the ASG, accrediting the compliance by a bidder, supplier, or provider with the requirements established by regulation to belong to the RÚL and/or RÚP.
- 11) **Evaluation Committee – Proposal Review Committee**
- 12) **Executive Director:** Executive Director of the Authority.
- 13) **Extravagant Spending:** Expenditure outside of order and the ordinary, against reason, law, or custom, that does not adhere to the standards of utility and austerity of the moment.
- 14) **Financial Oversight and Management Board or FOMB:** Enacted by Public Law 114-187 known as the "Puerto Rico Oversight, Management, and Economic Stability Act" ("PROMESA").
- 15) **Goods:** It includes movable goods, complementary items, substitutes, consumables, capital goods, or anything capable of being moved by itself or by another force and that may be fungible or not, such as, but not limited to the following: food, office supplies; construction materials and equipment, land or air transport means, land or maritime areas; school supplies; medical and scientific equipment; equipment, machinery, and materials related to information processing through electronic means, parts, accessories, and materials necessary for their maintenance and repair, as well as all those elements necessary for the operation of the Authority.
- 16) **Guidelines:** Executive Order of the Governor of Puerto Rico, Hon. Wanda Vázquez Garced, to adopt the General Government Contracting Guidelines applicable to all administrative agencies, EO2020-082, dated November 16, 2020.
- 17) **Master Development Plan or Plan:** The comprehensive long-term plan for the redevelopment of the Lands of the Former Roosevelt Roads Naval Base in the municipalities of Ceiba and Naguabo, which includes the analysis, recommendations, and proposals for the protection of natural resources, sustainable land use, economic development of the area, provision of housing, low-income housing, transportation, and

communal facilities, among others, as outlined in the Reuse Plan submitted by the Department of Economic Development and Commerce to the United States Department of the Navy in December 2004, as amended on April 10, 2010, and as amended or modified from time to time

- 18) **Non-Professional Services:** Those services that are not offered by a natural or legal person with specialized knowledge or skills, who is required to have a university degree or license accrediting them as a specialized professional.
- 19) **Overspending:** Expenses for items, supplies, or services whose quoted prices are higher than those normally quoted in the market at the time of acquisition or purchase, or when there is a cheaper and equally durable substitute product that can serve the same purpose with equal results or effectiveness.
- 20) **Procurement Official for the Authority:** It refers to the public official, or person delegated to carry out and/or manage acquisitions or functions analogous to these.
- 21) **Professional or Consulting Services:** These are services whose main provision consists of the product of intellectual, creative, or artistic labor, or the handling of highly technical or specialized skills, and are offered by a natural or legal person with specialized knowledge or skills, requiring a university degree or license to be recognized as a specialized professional.
- 22) **Real Estate:** Refers to those assets that cannot move by themselves or be transferred from one place to another, such as land, buildings, etc.; as well as all those attached to real estate in a fixed manner, in such a way that they cannot be separated from it without breaking the material or deteriorating the object, owned by the Authority, and not considered public domain assets.
- 23) **RFP Documents:** A document provided to interested bidders for the purpose of submitting proposals. This document includes requirements, instructions, and all necessary information to assist the bidder in preparing their proposal.
- 24) **RFP Invitation:** Written request for proposals, publicly announced and/or through electronic means, to potential bidders for the acquisition of goods, works, services, and/or contracts that are interested in being awarded.
- 25) **Sole Registry of Bidders (RUL, by its Spanish acronym):** An electronic record maintained by the ASG of individuals or legal entities qualified and classified by the ASG to contract with the Government of Puerto Rico for the provision of non-professional goods, works, and services.
- 26) **Sole Registry of Providers (RUP, by its Spanish acronym):** An electronic record maintained by the ASG of individuals or legal entities qualified and classified by the ASG to contract with the Government of Puerto Rico for the provision of professional and consulting services.
- 27) **Specifications:** Set of fundamental characteristics of goods, works, services, and/or contracts intended to be awarded, identified as references for each item in a purchase, proposal, or auction, as well as the physical, functional, aesthetic, and/or quality

features or qualities that describe the type of goods, works, and services required or the contract of interest. It will also include the set of stipulations regarding the method of installation, assembly, or coupling in the case of goods.

- 28) **Unnecessary Spending:** Expenditure on materials or services that are not essential or necessary for the entity to carry out the functions entrusted to it by law.

## **II. GENERAL PRINCIPLES IN THE ACQUISITION AND CONTRACTING OF GOODS AND SERVICES**

### **Article 6. General Principles on Government Procurement and the Guidelines**

The Guidelines, as defined herein, are adopted by reference, and are made an integral part of this Regulation, except for those sections that are inapplicable by virtue of any law. Any standard, guideline, procedure, policy, or similar document that is promulgated must be in line with the Guidelines in their entirety, including the clauses that every contract must contain as established in Section 2.6.1 of the Guidelines, not limited to contracts for professional and advisory services, contracts for non-professional services, lease contracts, among others.

### **Article 7. High Public Interest**

Section 9 of Article VI of the Constitution of Puerto Rico states that "[o]nly public properties and funds shall be made available for public purposes and for the support and operation of state institutions, and in any case by authority of law." Similarly, the State has the obligation to promote sound public administration. Therefore, the Authority acknowledges that government contracting is vested with the highest public interest and will ensure the rigorous application of the provisions of the laws and regulations that govern it.

### **Article 8. Application of Laws, Regulations and Related Regulations**

It is the duty of the personnel of the Authority involved in the contracting and acquisition of goods, non-professional services, and professional or advisory services to be aware of and implement the laws and regulations applicable to government procurement.

### **Article 9. General Requirements of Government Obligation**

In accordance with sound public administration, it shall be observed that every government contract is made in writing, is prospective, and a copy thereof is submitted to the Office of the Comptroller within the period stipulated by law for such purpose. For every contract, it will be ensured that: (a) there is a real need for the service to be contracted or the goods to be acquired, (b) funds are used appropriately, (c) applicable laws and regulations are carefully examined, (d) the contract, purchase order, service order, or similar document is executed in writing, and (e)

necessary approvals are obtained within the Authority and from other government entities, including but not limited to the FOMB.

No acknowledgment of debt will be made for the payment of goods or services whose purchasing or contracting process has not complied with all the requirements established in this Regulation, in the internal policies and procedures of the Authority, and in the applicable laws, executive orders, regulations, and circular letters. The Authority will only honor the payment for goods and services that are acquired and/or provided during the validity of a contract awarded in accordance with the applicable laws, regulations, and rules.

#### **Article 10. Ethical Responsibility in Contracting and Acquisition**

Every person, employee, and official of the Authority involved in the process of acquiring and contracting goods, non-professional services, professional and advisory services, will carry out their duties following the ethical parameters established in Act 1-2012, as amended, known as the Organic Law of the Government Ethics Office of Puerto Rico ("Act 1-2012"), and will not incur in conflicts of interest. Additionally, the personnel involved in the government procurement and contracting function at the Authority will adhere to the following principles:

- 1) The Authority's personnel will be responsible for complying with the laws, regulations, and procedures that regulate these activities.
- 2) Every transaction and deals with suppliers and/or contractors will be conducted in a strictly commercial relationship. The Authority's personnel will refrain from entering a commercial transaction with suppliers and/or contractors with whom there is a close personal and/or familial relationship up to the fourth (4th) degree of consanguinity or where conflicts of interest exist.
- 3) Personnel will not use the name of the Authority to obtain prices, credit, or other personal benefits.
- 4) All personnel of the Authority related to purchasing and contracting functions, whether directly or indirectly, shall not request or accept any item of economic value as payment for performing the functions, duties, and responsibilities of their employment.
- 5) Under no circumstances will data related to purchases, supplier bids and/or contractors, or other confidential information of the Authority be disclosed.
- 6) Any attempt at bribery by a supplier and/or contractor will be immediately reported to the following officers of the Authority: Chief Operating Officer, General Legal Counsel, and Comptroller.

- 7) Any non-compliance with these rules will constitute sufficient cause to initiate the corresponding disciplinary action, including dismissal.

Likewise, in accordance with Act 2-2018, as amended, known as the Anticorruption Code for the New Puerto Rico, it is the responsibility of the Authority to ensure compliance with the Code of Ethics established in said statute. Pursuant to this obligation, the Authority has the power to conduct investigations to determine if any contractor, supplier, or applicant for economic incentives has acted in violation of the Code of Ethics established in Act 2-2018. This investigative power will be exercised by any official designated by the Executive Director for such purposes.

#### **Article 11. Contractor's Ethical Responsibility and Disabling Conduct**

Every contractor must comply with the provisions of the codes of ethics governing their profession and with the laws regulating ethics in government contracting.

Moreover, Act 2-2018 establishes who is disqualified from contracting with the Government of Puerto Rico, and in its Title III, it establishes the "Code of Ethics for contractors, suppliers, and applicants for economic incentives from the Government of Puerto Rico applicable to natural and legal persons in the contracting and acquisition of goods, non-professional services, professional and advisory services."

Furthermore, Act 237-2004, as amended ("Act 237-2004"), includes additional ethical requirements for any contractor under a contract for professional and advisory services.

#### **Article 12. Preferential Policy and contracting of engineering, surveying, and architecture services.**

In the procurement processes of the Authority, the applicable preferences policies will be complied with, including, but not limited to, those established in the following legislations, to the extent applicable to the Authority: Act 14-2004, as amended, known as the "Law for the Investment of the Puerto Rican Industry"; Act 129-2005, as amended, known as the "Law of Reservations in Government Purchases of the Commonwealth of Puerto Rico; Act 253-2006, known as the "Law of Multiple Selection Contracts in Procurement Processes"; Act 42-2018, as amended, known as the "Preference Law for Local Construction Contractors and Suppliers"; Act 70-1992, as amended, known as the "Law for the Reduction and Recycling of Solid Waste in Puerto Rico," among others (hereinafter, the "Preference Laws"). However, when the acquisition is subsidized by federal funds, compliance will be ensured with the federal laws and regulations governing the grant awarded to the Authority.

Additionally, in the contracting of engineering, architecture, surveying, and landscape architecture services, the Authority will comply with the provisions of Act No. 173-1988, as

amended, known as the *Act of the Board of Examiners of Engineers, Architects, Surveyors, and Landscape Architects*.

**Article 13. Signatures in Contracts, Purchase Orders, Service Orders and Similar Documents**

The representation of the Authority in contractual transactions and the acquisition of goods and services will be carried out by those officials who have legal authority or to whom such authority has been officially delegated by competent authority.

Regarding the contracting party, in accordance with the instruction set forth in the Guides, the Authority will request identification from the person signing the contract, purchase order, service order, or similar document on behalf of the contracting party. In the case of a representative of a legal entity, the document evidencing authorization to act in such capacity (e.g., a certificate of corporate resolution) must be requested.

**Article 14. Bonds, Guarantees and Insurances**

In procurement and contracting procedures, those insurances, bonds, or guarantees that are necessary and appropriate depending on the nature of the goods or services to be acquired may be requested, such as: Performance Bond, Bid Bond, Payment Bond, Insurance Policy from the State Insurance Fund Corporation, Employer's Liability Insurance, Commercial General Liability Insurance, Automobile Liability Insurance, Builders Risk Insurance, Pollution Liability Insurance, Installation Floater Insurance, Professional Liability Insurance, among others.

All bonds, insurance, and guarantees received in procurement and contracting procedures will be submitted to the Procurement Office for safekeeping. The Procurement Office will maintain a record of the bonds, insurance, and guarantees received as a control measure.

**Article 15. Certifications and Documents for Government Contracting**

In the disposal of real estate process or procurement processes for goods, works, and services, all certifications and documents required for government contracting will be requested prior to the acquisition and formalization of the contract and obligation. Additionally, as established in Article 42 of Act 73-2019, the Authority will recognize all valid eligibility certificates issued by the ASG.

**Article 16. Prior Authorization from Entities External to the Authority**

Prior to the award of a contract, purchase order, service order, or similar document, it will be ensured that the necessary prior authorizations have been obtained from the corresponding entities,

such as: the Office of the Governor, Office of Management and Budget, Puerto Rico Innovation and Technology Service ("PRITS"), FOMB as applicable to the Authority.

#### **Article 17. Requirements for Telecommunications Services Contracts**

For the contracting and acquisition of telecommunications services, the procedures of Act 75-2019, known as the "Puerto Rico Innovation and Technology Service Act" (hereinafter, "Act 75-2019"), and Circular Letter No. 2020-03 dated August 31, 2020, from PRITS, as well as any subsequent amendments and other applicable laws, shall be followed. Furthermore, compliance with federal laws and regulations governing the acquisition of technological equipment must be ensured.

### **III. POWERS AND FACULTIES**

#### **Article 18. Powers of the Board of Directors and the Executive Director**

The Board of Directors authorizes the Executive Director to award and contract professional or advisory services unrelated to the implementation of the Master Development Plan up to two hundred fifty thousand dollars (\$250,000.00). Any award and contract for professional or advisory services not related to the implementation of the Master Development Plan exceeding this amount must be approved by the Board of Directors through a competitive process, in accordance with the provisions of Executive Order 2021-029.

The Executive Director may approve the necessary measures for the implementation of this Regulation through Administrative Orders, Circular Letters, or Memoranda. Additionally, the Executive Director may amend, modify, and/or supplement internal policies and procedures to ensure efficient operation and administration of the functions related to the procurement and contracting of goods and services, as well as the contracting of professional or advisory services.

The Executive Director may delegate the authority granted by this Regulation for purchases and contracts by establishing levels of authority and conditions for the approval of purchases and contracts, which shall be observed by the authorized personnel.

### **IV. PROCURMENT OFFICER OF THE AUTHORITY**

#### **Article 19. Duties and Responsibilities**

The Procurement Officer shall have the following powers and responsibilities:

- 1) Acquire the goods, non-professional services, and professional or advisory services necessary for the effectiveness of the Authority's operations in the manner prescribed by this Regulation.

- 2) Process, evaluate, and award the acquisitions of goods and non-professional services, as well as professional or advisory services, as stipulated in this Regulation.
- 3) Prepare the Authority's Annual Procurement Plan and submit it to the ASG following the procedure established in Act 73-2019 and ASG regulations.
- 4) Review quarterly the estimates of needs and probable purchases included in the Annual Procurement Plan and notify the ASG of any changes made to the current and previously submitted procurement plan.
- 5) Issue the award notifications for acquisitions of purchases as required by regulation or legal provision.
- 6) Establish internal manuals to enforce its duties, functions, and powers.
- 7) Maintain records of purchases and acquisitions.
- 8) Keep a record of the bonds, guarantees, and insurance provided by contractors or bidders.
- 9) Recommend to the Executive Director the adoption of rules, procedures, and guidelines regarding the acquisition of goods and services.
- 10) Assist the Board of Directors in their processes of acquiring goods and services, including, but not limited to, the preparation of invitations and RFP documents.
- 11) Process and execute, in whole or in part, the processes delegated to it by the Board of Directors.
- 12) Any other power or duty assigned to it by law or regulations.

These powers and responsibilities will be exercised by the Procurement Office in accordance with the procedures established in this Regulation.

## **V. PROPOSAL EVALUATION COMMITTEE**

### **Article 20. Creation and Composition of the Evaluation Committee**

The Proposal Evaluation Committee of the Authority is established, which will be empowered to evaluate and recommend, through a uniform procedure, proposals and statements of qualifications. The Evaluation Committee will have, at a minimum, one (1) Chairman and two

(2) associate members appointed by the Executive Director. The Executive Director may, at his discretion, appoint additional members to the Evaluation Committee.

#### **Article 21. Quorum of the Evaluation Committee**

A simple majority of the Evaluation Committee will constitute a quorum for holding sessions and making decisions. All decisions of the Evaluation Committee will be adopted by a majority vote. Members may vote electronically.

#### **Article 22. Powers and Duties of the Evaluation Committee**

The Evaluation Committee will have the following powers and duties:

- 1) Evaluate and make recommendations on requests for proposals and requests for qualifications.
- 2) Hold meetings according to the agenda.
- 3) Issue recommendations for the award of requests for proposals or any legally appropriate resolution in matters under its consideration, with the signature of its President.
- 4) Evaluate and recommend for award the matters presented for its consideration promptly and efficiently, safeguarding the procedural and substantive rights of the parties.
- 5) Maintain a complete record documenting the events that occurred.
- 6) Allow bidders to examine the records of duly awarded RFPs and provide a copy thereof once the corresponding fee established by regulation has been paid.
- 7) Appoint technical committees or advisors to participate in the evaluation of submitted proposals and provide guidance. These committees will govern their work under the same confidentiality rules applicable to the Evaluation Committee.
- 8) Consider requests for the cancellation of RFPs and make recommendations to the Executive Director or Board of Directors, as appropriate.
- 9) Review and approve the minutes of its meetings. The minutes will be signed by the members of the Evaluation Committee.
- 10) Advise the Board of Directors or Executive Director in preparing guidelines or policies that complement this Regulation or suggest amendments to it.
- 11) Maintain the confidentiality of all discussions in their meetings. Before the award of an RFP, Evaluation Committee members will not discuss information related to an offer or its evaluation with persons outside the committee, except with the members of the technical or evaluation committee designated by the Evaluation Committee or Board of Directors for the specific RFP.
- 12) Any other power or duty assigned by law or regulation or inherent to the delegated powers.

## **VI. REAL ESTATE DISPOSAL AND ACQUISITION OF GOODS AND SERVICES**

### **Article 23. Acquisition of goods, works, and non-professional services through ASG**

The Authority will carry out the acquisition of non-professional goods, works, and services that are not necessary for the planning, design, redevelopment, construction, financing, operation, and maintenance of the lands and facilities of the Naval Station Roosevelt Roads, or that are not related to the implementation of the Master Development Plan, **through the ASG, in accordance with the provisions of Act 73-2019 and Regulation 9230, as amended.**

### **Article 24. Design, Development, Construction, Financing, Operation and Maintenance**

In accordance with Article 11 of Act 508-2004, the Authority may, through administrative concession contracts, lease contracts, or other types of contracts, enter into agreements with one or several entities to carry out different phases or a combination thereof involving the planning, design, redevelopment, construction, financing, operation, and maintenance of the lands and facilities of the Naval Station for the purpose of implementing the Master Development Plan.

### **Article 25. Procurement Methods**

Any contract granted for the purposes established in Article 24 will be awarded through a Request for Proposals (RFP) process.

### **Article 26. Request for Proposals**

#### **Section 26.1 Definition**

This bidding method will be used to acquire, select, or award the goods, works, services and contracts described in Article 24 of this Regulation, which allows negotiation between the bidder and the Authority while evaluating the received proposals. The Request for Proposals ("RFP") allows for negotiated procurement and gives bidders the opportunity to review and modify their offers before the award of the contract. The Authority may request bidders to submit their best and final offer. The RFP should include the parameters that will be used for the award, including requirements, terms, conditions, and factors to be considered in the evaluation for the award. The negotiation phase does not create a vested right between the parties.

#### **Section 26.2 Request for Information**

The RFP procedure may include a Request for Information ("RFI") to prospective proponents, at the discretion of the Evaluation Committee, but such an RFI shall not in any way obligate the Authority to proceed with an RFP.

An RFI may be conducted independently to gather information about potential proponents, suppliers or service providers and compare them to each other. As deemed appropriate, a joint invitation for RFI and RFP may be issued, or separate invitations may be issued.

### **Section 26.3 RFP Invitation**

- 1) The Procurement Officer, or the person designated by the Executive Director, will prepare the RFP document. The call for proposals will be made after the document has been reviewed and authorized by the Evaluation Committee.
- 2) The RFP Invitation at least fifteen (15) days before the deadline for submitting proposals; this period may be less than five (5) working days if the Evaluation Committee considers it to be in the best interests of the Authority. When the RFP involves federal participation, the invitation will be sent within the timeframe established by the relevant federal entity. Additionally, the RFP Invitation will be posted on the Authority's website.
- 3) The proposal file will contain evidence of the RFP Invitation published on the Authority's website. The official date of the Request for Proposals Invitation will be the date it was published on the Authority's website.

### **Section 26.4 Basic Requirements of the Invitation to RFP**

The RFP Invitation should include:

- 1) RFP Number.
- 2) RFP Purpose.
- 3) Date of Publication.
- 4) Date, time, and location for receiving proposals.
- 5) Date, time, and location for opening proposals.
- 6) Specific instructions on where and how to obtain a copy of the Request for Proposals document, including the physical address, the specific location for obtaining the documents, and a contact telephone number and email. The cost of the Request for Proposals documents, if any, will also be specified.

The RFP documents may be sent via email if they are free of charge. They may also be delivered in person, as determined by the Authority. If personal delivery is decided, whether free or not, notification will be given and published on the Authority's website regarding the availability of RFP documents and their cost, if any. The notification should include the dates, schedule, and exact location for picking up the RFP documents. For each specific RFP, all suppliers will be notified through the same means.:

- 1) Date and time of the last day to pick up the documents.
- 2) If it has been determined to hold a pre-proposal meeting, the date, time, and location will be indicated, specifying whether attendance is mandatory.
- 3) It will be indicated whether the proposal must be accompanied by a bid bond equivalent to the percentage established in the documents, depending on the type of goods, works, services or contract included in the invitation.
- 4) The warning that the Authority may cancel the Request for Proposals document, even after the Opening Ceremony has taken place, if no contract has been formalized or a purchase order issued, if canceling the Request for Proposals document is in the best interest of the Authority.
- 5) The warning that the Authority may amend any invitation or Request for Proposals document when it serves the best interests of the Authority. In this case, the proponent will not have to pay again (if applicable) for obtaining the amended Request for Proposals document.
- 6) Any notice required by Preferential Laws.

## **Section 26.5 Content of the RFP documents**

The RFP documents shall include, at the minimum, the following:

1. Clear and detailed descriptions of the characteristics of the real estate to be disposed of, or of the goods, works, and/or services to be acquired, and complete specifications for each of them. If a specific brand is necessary, the documentation will include a justified recommendation to that effect.
2. A general description of the selection process;
3. Criteria for the evaluation and selection of proposals;
4. The deadline, method, and place where proposals should be submitted;
5. Specific instructions regarding how proposals or bids will be submitted, including the date and time limit for submission;
6. The terms and conditions that will govern the transaction. These terms and conditions, along with the specifications, will constitute the basis of the contract or purchase order;
7. Terms and conditions of delivery and inspection required that are essential for the corresponding award

8. Place, date, and time when the envelopes or emails containing the proposals or bids will be opened and instructions on how they should be identified;
9. Special conditions or requirements that may affect the award process. For example, if it will be necessary to submit a sample of the product for evaluation and how the sample will be disposed of once the test is conducted;
10. Evaluation criteria for the award;
11. Types of discounts, including the percentage (%) of prompt payment discount, if any;
12. Warning that the Authority may order the partial or total cancellation of the request for proposals before or after the Bid Opening;
13. Warning that the Authority may amend any request for proposals document before selecting a preferred proponent and with prior notification to all parties that have submitted proposals
14. Notification to proponents that copies of related documents will be available at the Authority in those situations where not all specifications of the real estate to be disposed of, or goods, works, or services to be acquired are included in the RFP documents;
15. Any notice required by Preference Laws;
16. Any certification or special documents that bidders must submit as part of their proposal or bid;
17. Requirements of current regulations and applicable engineering and safety standards in cases where the installation of the equipment to be purchased is required;
18. Also included will always be the following warning: "The notification of the award of this proposal will not constitute a formal agreement between the parties. It will be necessary to execute the corresponding contract or for the Authority to issue a purchase order signed by the authorized person";
19. Necessary warnings about the use of individual negotiation regarding terms, conditions, quality, solution, or prices, or a combination of factors, to obtain the most advantageous outcome for the Authority; the fact that the price will not necessarily be the most heavily weighted factor in the award; the possibility that the award may be made without negotiation; and,
20. Warning that every bid and/or proposal submitted must include a detailed breakdown of the offered price: price per unit of the non-professional goods or service (per each item), transportation costs, delivery, assembly, warranty, training, maintenance or services, replacements, among others.
21. Any additional criteria that the Authority deems necessary to include in the RFP, as applicable.

## **Section 26.6 RFP Addendums**

Amendments to the RFP documents may be made when:

- 1) In the judgment of the Evaluation Committee, the terms set forth therein are unreasonable;
- 2) A substantial and insurmountable error is discovered in the RFP document;
- 3) There is an interest in increasing or decreasing terms or quantities, or varying conditions or specifications;
- 4) If any law or regulation is approved that changes the legal status.
- 5) It is in the best interest and benefit of the Authority.

The Evaluation Committee may amend any Request for Proposals document before selecting a preferred proponent and with prior notification to all parties that have submitted proposals.

The Evaluation Committee will notify the Amendment Notice to participating proposers in the Request for Proposals. Additionally, the Amendment Notice will be published on the Authority's website. All amendments will become part of the proposal document, and those interested in bidding must take them into account when submitting their proposals.

All amendments must be authorized by the Evaluation Committee and will be considered part of the RFP document, and those interested in bidding must consider them when submitting their proposals.

#### **Section 26.7 Pre-Proposal Meeting**

The Evaluation Committee may convene one or more pre-proposal meetings to address any questions related to the Request for Proposals, no less than five (5) business days before the scheduled Opening Act.

#### **Section 26.8 Request for Clarification**

Proponents may request the clarification or interpretation of any requirement contained in the RFP according to the following:

- 1) Before five (5) days prior to the deadline established in the Request for Proposals for receiving proposals, potential proposers may request in writing from the Evaluation Committee clarification or interpretation on any aspect or exception to any requirement set forth in the corresponding Request for Proposals. The Evaluation Committee will provide the corresponding answers within a period of three (3) days. The Evaluation Committee may extend or reduce the abovementioned period, if they are in the best interest and benefit of the Authority
- 2) The Authority or the Evaluation Committee will not respond to verbal requests, except those made at a pre-proposal meeting.

- 3) The Evaluation Committee will publish any related clarification or interpretation on the Authority's website. Additionally, it will notify each proposer individually of such clarification or interpretation.

### **Section 26.9 Proposal Submission**

Proposals will be submitted on or before the deadline for submitting proposals, in accordance with the instructions established in the RFP documents.

If required by Act 73-2019, proposals must be endorsed (signed) by the bidder or proposer registered in the RUL or RUP, as the case may be. If not belonging to the RUL/RUP, it must be endorsed by the person submitting all the required documents to the RUL/RUP, as applicable.

When a bidder or proposer who is not registered in the RUL/RUP participates in a RFP and submits an offer or proposal, the Evaluation Committee shall not reject it solely because the bidder is not registered in the RUL/RUP. The bidder will be given five (5) business days, counted from the opening of the proposals, to submit all the required documents to the RUL/RUP. If the bidder or proposer does not submit the required documents, and registration in the RUL/RUP is required by Act 73-2019 in said instance, they will be disqualified.

Any bidder or proposer registered in the RUL/RUP who has submitted an offer or proposal and is not eligible at the time of opening the proposals will be granted a non-extendable period of five (5) business days, counted from the opening of the proposals, to submit the corresponding information or documents to the RUL/RUP. No award will be made during this period. If the bidder does not update their records in the RUL/RUP within the provided period, they will be disqualified.

In the processes for the disposal of the Authority's real estate, the bidder or proposer will not be required to be registered in the RUL/RUP.

### **Section 26.10 Modifications to the Proposals submitted**

Once the proposals have been submitted, the Evaluation Committee may provide the proposer with a reasonable opportunity to submit any modifications to price or cost, technical aspects, or any other aspect of their proposal that may result from discussions, once the best and final offer is requested. The Evaluation Committee may request proponents to elaborate on aspects of the proposals that are not clear or require further development.

### **Section 26.11 Withdrawal of the submitted proposal**

- 1) The withdrawal of a proposal may be made by written request addressed to the Evaluation Committee, submitted at any time prior to the Opening Act.
- 2) The proposer may not submit a substitute proposal once their proposal has been withdrawn for a specific purchase.
- 3) No proposer may withdraw their bid after the Opening Act

#### **Section 26.12 Record of received proposals**

On the date set for receiving the proposals, the official designated by the Evaluation Committee will record the received proposals in the Record of Received Proposals. This official will be the custodian of the said Record.

#### **Section 26.13 Proposal Opening**

The Evaluation Committee will conduct the opening of proposals on the scheduled date and time. At the time of opening the proposals, only the identity of the proposers will be announced. All proposals, evaluations, discussions, and negotiations will be kept confidential during the evaluation and negotiation process until the contract is signed. During this period, only members of the Evaluation Committee, as well as the Executive Director or authorized representative, will have access to the proposals and evaluation results.

A designated official from the Evaluation Committee will preside over the Opening Act and will be responsible for recording minutes of all incidents within a reasonable timeframe, certifying the accuracy of the proceedings. The minutes will include the following information:

- 1) Number and subject of the RFP;
- 2) Date, time, and place of the opening;
- 3) Number of proposals received;
- 4) Names of bidders who submitted proposals;
- 5) A copy of the attendance record signed by the attendees at the event should be included as part of the minutes;
- 6) Certification from the person presiding over the opening ceremony regarding compliance with regulatory provisions related to the event;
- 7) Any incidents that occurred during the opening ceremony; and,
- 8) Signature of the person who presided over the event

#### **Section 26.14 Preliminary Evaluation of Proposals**

The proposals will be evaluated considering the evaluation criteria established in the corresponding specifications. In accordance with the provisions of Article 11e(3) of Act 508-2004, the evaluation criteria must include, but are not limited to:

- A. the commercial and financial reputation of the proponent and its economic, technical, or professional capacity, as well as the proponent's experience in the planning, design, redevelopment, construction, financing, operation, and maintenance of closed military land and facility installations;
- B. the quality of the proposal submitted by the proponent regarding, among others, design, engineering aspects, and estimated construction time;
- C. the capital that the proponent is willing to invest and the time for the recovery of such capital;
- D. the proponent's financing plans and its economic capacity to carry them out;
- E. the fees proposed by the operator, the internal rate of return used by the proponent, and the projected net income flow; and
- F. the terms of the contract with the Authority that the proponent is willing to accept

Notwithstanding the above, in the processes for the disposal of the Authority's real estate, the evaluation of proposals will be based on the fair market value and the use of the property for the benefit of the public interest.

The Evaluation Committee, with the assistance of technical committee(s) or advisors, may recommend to the Executive Director or the Board of Directors, as appropriate, the selection of one or more proposals that it considers best serves the interests of the Authority. In carrying out this function, the Evaluation Committee may engage in discussions and negotiations with the proponents whose offers are within the established selection parameters. An offer will be deemed within the established selection margin when it complies with the specifications, terms, and conditions set forth in the request.

#### **Section 26.15 Receipt or selection of a single proposal**

When only one proposal is received or selected, the Evaluation Committee may negotiate the terms of the submitted proposal if it complies with the provisions set forth in the request, and it is determined that such negotiation would be beneficial to the Authority. Otherwise, the process may be canceled.

#### **Section 26.16 Meetings with proponents whose proposals are within the established selection margins.**

If the Evaluation Committee has decided to hold discussions and negotiations, they will be conducted following the procedures outlined below:

- 1) No statement made or action taken by the Evaluation Committee during such discussions and negotiations shall obligate the Authority in any way.
- 2) Each bidder whose bids or proposals comply with the provisions set forth in the specifications will be invited to attend one or more private meetings with the Evaluation Committee to discuss any aspect of their proposal and answer any specific questions provided in said invitation.
  - a. The content and extent of the discussions between the Evaluation Committee and each bidder will be determined by the Evaluation Committee based on the specific facts and circumstances of each proposal.
  - b. The purpose of each meeting will be to clarify and ensure understanding of the contract requirements; enhance the technical aspects of the proposal to meet specifications and performance requirements and/or reduce the price; discuss data supporting the price and relevant details of each proposal that may improve it.
- 3) Bidders whose bids or proposals comply with the provisions set forth in the specifications will be treated fairly and equally in terms of the opportunity to discuss and review the proposals. However, as the information discussed in these meetings may vary for each proponent, reviews or discussions will be based on the specific facts and circumstances of each proposal.
- 4) The Evaluation Committee may: (a) establish methods and schedules for conducting and controlling discussions; (b) guide the bidder on deficiencies in their proposal so that they have the opportunity to meet the requirements; (c) attempt to clarify any uncertainty related to the proposal and otherwise refine its terms and conditions; (d) correct any errors that may exist, bringing them to the attention of the bidder as soon as possible, without disclosing information related to other proposals or the evaluation process; (e) provide the bidder a reasonable opportunity to submit any modifications to the proposal, be it on price or cost, technical, or any other, that may result from the discussions; and (f) maintain a record of the date, time, place, and purpose of the discussions and the persons attending.
- 5) After each interview or meeting with any bidder, the Evaluation Committee will draft minutes that include all important elements of the interview or meeting. The minutes will become part of the process file.
- 6) The bidder will put in writing any substantive verbal clarification to a proposal.
- 7) Discussions and negotiations may be conducted in whole or in part through written communications without personal meetings or interviews, at the discretion of the Evaluation Committee. They may also be conducted through any electronic platform.

- 8) Oral or written discussions will not be required in cases where, based on the existence of full and open competition, or based on previous experience regarding the cost of the product or service, it is determined that accepting the initial most favorable proposal without discussion will result in the best value for the Authority, provided that the Request for Proposals explicitly notified all bidders of the possibility of awarding the contract without discussions.
- 9) If discussions and negotiations take place, the Evaluation Committee may request bidders whose bids or proposals comply with the provisions set forth in the specifications to submit amendments to the proposals ("Best and Final Offer" or "BAFO") that respond to the discussions and negotiations that take place.
- 10) The Evaluation Committee will keep all discussions and negotiations confidential. No information related to the proposals, or their evaluations will be discussed with anyone other than the bidder who submitted them before the contract is awarded.

#### **Section 26.17 RFP Cancellation**

The Authority may cancel the RFP at any time and terminate negotiations at any time before or after the award, and prior to the signing of the contract or issuance of the purchase order, in any of the following cases: (1) when approvals from the Board of Directors are not obtained; (2) when any regulatory agency, whose authorization is required, denies approval; (3) when, in the judgment of the Authority, the proposals do not meet the published requirements or comply with any provision of this regulation; when by law the property subject to the proposal must be dedicated for a public purpose; (4) when, in the judgment of the Authority, the cancellation of the RFP is in the public interest.

#### **Section 26.18 Award**

The Executive Director or the Board of Directors, as applicable, in accordance with Article 8 of this Regulation, will award the contract to the responsive bidder whose proposal represents the best value for the Authority.

However, the Authority will dispose of its real estate using the fair market value as a basis, to be determined through the corresponding evaluation and appraisal procedure, or by ensuring the use of the property for the benefit of the public interest.

#### **Section 26.19 Notice of Award**

Once the Executive Director or the Board of Director, as the case may be, makes the corresponding award, it will notify the final determination through a Resolution or Award Notice.

This will be properly notified, either by certified mail with return receipt requested or by email, to all parties entitled to challenge such determination, meaning all participants in the process.

The award notification must include: (a) the names of the participants in the RFP and a summary of their proposals; (b) the factors or criteria taken into account for the award of the proposal; (c) any defects, if any, found in the proposals of the losing bidders, and (d) the availability and deadline for requesting reconsideration and judicial review, as established in Article 30 and 31 of this Regulation.

The Evaluation Committee must file a copy of the final award determination and proof of notification in the records.

## **Article 27. Request for Qualifications**

### **Section 27.1 Definition**

This bidding method will be used when acquiring specialized goods, works, or services, development projects, involving highly technical and complex matters, as described in Article 24 of this Regulation. In this method, potential bidders are requested to submit their qualifications to participate in a bidding process through a Request for Qualifications (RFQ). This process will consist of two phases: in the first phase, bidders will be qualified, and in the second phase, the RFP proposal will be awarded. Only qualified bidders will receive the RFP document.

The Authority, after receiving appropriate advice, will determine whether to use the Request for Qualifications method based on the specific circumstances of each case.

### **Section 27.2 Invitation for Request for Qualifications**

The Procurement Officer, or the person designated by the Executive Director will prepare the Request for Qualifications. The announcement will be made after the corresponding invitation or notice is prepared, reviewed, and authorized by the Evaluation Committee.

The invitation will be published on the Authority's website at least fifteen (15) days before the deadline for receiving statements of qualifications.

### **Section 27.3 Content of the Invitation for RFQ**

The RFQ shall include the following:

- 1) Number of the Request for Qualifications;
- 2) Purpose of the Request for Qualifications;
- 3) Date of publication of the Request for Qualifications;

- 4) Date, time, place, and method (if electronic submission) for submitting the statements of qualifications;
- 5) If it has been determined to hold an orientation meeting, the date, time, and place will be indicated, specifying whether attendance is compulsory;
- 6) General Instructions;
- 7) Statement of Needs;
- 8) Nature of the Work and/or Scope of Services;
- 9) General Execution Requirements (if applicable);
- 10) Evaluation Criteria;
- 11) Selection Process; and
- 12) Any other information that the Authority deems relevant to include.

#### **Section 27.4 Content of the Qualification Statement**

The statement of qualifications must describe the potential proposer's experience in work or services of a nature equal or similar to those requested, and provide financial or other information, including the potential proposer's capacity to obtain relevant bonds, among other criteria, as requested in the corresponding Request for Qualifications.

#### **Section 27.5 Prequalification of Suppliers; First Phase**

The Evaluation Committee will evaluate the qualification statements submitted by potential proposers in accordance with the evaluation criteria established in the Request for Qualifications Invitation. Additionally, it will prepare a Qualifications Summary, including the following information:

- 1) Request for Qualifications number;
- 2) Name of each potential proposer who submitted the corresponding statement of qualifications;
- 3) Indication of whether the potential proposer meets or does not meet the evaluation criteria established in the corresponding Request for Qualifications and scoring;
- 4) Recommendation regarding the qualifications of each proposer to receive or not receive the Request for Proposals; the recommendation should specify which potential proposers are qualified and which are not;
- 5) Date and signature of the person preparing the Qualifications Summary; and,
- 6) Any other information necessary for the evaluation and selection of qualified proposers.

The Evaluation Committee will not be obligated to determine the qualifications of potential proposers in accordance with the Qualifications Summary but will have independent judgment in its determination.

When a single statement of qualifications is received, the Evaluation Committee may consider the qualifications in accordance with the criteria established here.

#### **Section 27.6 Interviews with Potential Bidders**

The Evaluation Committee may conduct interviews with potential proposers before making determinations on qualifications. The purpose of the interviews is to clarify any information provided by the potential proposer in the qualifications statement. With the intention of dispelling any questions, these interviews may be held in accordance with the processes outlined in Section 26 of this Regulation.

#### **Section 27.7 Notice of Award of Qualifications**

The Evaluation Committee, following the corresponding assessment and in accordance with the evaluation criteria outlined in the Invitation, will recommend to the Executive Director which proposer(s) are qualified and which are not.

The Evaluation Committee will notify its determination on qualifications to all participants in the Qualifications Request process through a Resolution. The notification will be sent by certified mail with return receipt requested or by email. The Determination on Qualifications will express the Authority's decision on which proposers were deemed qualified and which were not, in accordance with the evaluation criteria set forth in the Invitation.

Any adversely affected party by a decision of the Authority on Determination on Qualifications may request reconsideration, following the notice of award, in accordance with the provisions of Article 30 of this Regulation.

#### **Section 27.8 Delivery of the bidding documents and submission of proposals; second phase**

Only qualified bidders will be eligible to receive the RFP. Qualified bidders will submit their proposals in accordance with the terms outlined in said document. The Request for Proposals process will be conducted in accordance with the provisions set forth in Article 26 of this Regulation. When a single (1) statement of qualifications is received, this will not be an impediment for the Authority to send the Request for Proposals to this sole proponent.

#### **Article 28. Sole Registry of Providers**

According to Article 35 of Act 73-2019, only individuals or legal entities that are part of the RUP can be contracted under such a contract. Regarding this requirement, the same exceptions established by the ASG through regulations, circular letters, memoranda, or informational bulletins will apply.

## **Article 29. Licenses and Academic Background**

Prior to the granting of any contract for professional or consulting services, the office or department requesting the formalization of a contract will request that the contractor certifies possession of the licenses, studies, degrees, or academic preparation necessary to perform the tasks for which they are being contracted. In the case that the contractor is a legal entity, the office or department requesting the formalization of a contract will request that the authorized representative of the contractor certifies that the natural persons providing the services possess the mentioned qualifications and that the legal entities have been organized in accordance with applicable laws, including those related to the profession of their members, partners, and/or shareholders.

## **VII. REVIEW AND RECONSIDERATION PROCEDURE**

### **Article 30. Reconsideration and Administrative Review Procedure**

In accordance with Section 3.19 of Act 38-2017, as amended, known as the "Uniform Administrative Procedure Act of the Government of Puerto Rico," the adversely affected party by a decision may, within a period of twenty (20) days from the deposit in the federal mail or email notifying the auction award, file a motion for reconsideration with the Authority. Alternatively, it may file a request for review with the ASG Review Board within a period of twenty (20) calendar days from the deposit in the federal mail or email notifying the auction award. The agency or the Review Board must consider it within thirty (30) days of its submission. The Board may extend this period only once, for an additional period of fifteen (15) calendar days. If any determination is made in its consideration, the deadline to file a judicial review will begin to run from the date the copy of the decision of the agency, the appellate entity, or the Review Board resolving the motion was deposited in the federal mail or email. If the agency or the Review Board fails to take any action regarding the motion for reconsideration or request for review within the corresponding period, as provided in Act 38-2017, it will be deemed to have been rejected outright, and from that date, the deadline for judicial review will commence.

### **Article 31. Judicial Review Procedure**

In accordance with Section 4.2 of Act 38-2017, in cases of bid challenge, the party adversely affected by an order or final resolution of the Authority or the ASG Bid Review Board, as the case may be, may file a request for review with the Court of Appeals within a period of twenty (20) days, counted from the filing in the record of the copy of the notice of the order or final resolution of the agency or the ASG Bid Review Board, or within the applicable twenty (20) calendar days from the expiration of the period established by Section 3.19 of Act 38-2017. The

mere filing of a review request under this Section 4.2 of Act 38-2017 shall not have the effect of suspending the award of the contested auction.

## **VIII. SUPERVISION IN THE EXECUTION OF THE CONTRACTOR OR CONSULTANT**

### **Article 32. Performance and Administration of the Contract, Order or Similar Document**

It is the duty of the Authority to adequately supervise the tasks performed by contractors or consultants, ensuring that they invoice for the work performed, deliver the agreed goods, and fully comply with the contracted services, warranties, quality, terms, and conditions. Effective administration should include, at a minimum: (a) supervision of the work performed by the contractor through meetings, logs, or other means; (b) involvement of Authority officials and employees related to the project in its development to ensure that the agreed-upon requirements are being met; (c) rigorous inspections of completed work and delivered products; (d) recording of hours worked by the contractor, where applicable.

## **IX. PAYMENT FOR CONTRACTED OR ACQUIRED SERVICES**

### **Article 33. Payment of Contracted Goods and Services**

The Authority must maintain prior control over all its operations, and, in turn, the accounting department will exercise effective control over revenues, disbursements, funds, property, and other assets. Similarly, the expenses of the Authority will be incurred within a framework of efficiency and austerity.

In accordance with Circular Letter No. 1300-16-16 from the Department of Treasury, before finalizing the last payment under the contract, the contractor or consultant must be requested to provide the debt certifications from the Department of Treasury. The final payment under the contract will only be released if the Debt Certifications indicate that the contractor has no outstanding debt with the Department of Treasury. For these purposes, the Authority will be responsible for including a clause in the contract where the contractor commits to settling any debt that cannot be clarified with the Department of Treasury through withholding payments due under the contract.

The Authority must pay for goods and services rendered. As an exception, advance payments may be made subject to the provisions of Regulation No. 31 of June 21, 2007, of the Department of Treasury, titled "Advance Payment for Goods or Services of the Government of Puerto Rico," as well as any successor regulations. This regulation outlines the procedure, applicable conditions, and occasions on which payment in this manner is allowed.

## **X. PROCEDURE FOR NON-COMPLIANCE**

### **Article 34. Offices and Departments Responsibility**

It will be the responsibility of the offices and departments of the Authority to oversee the execution and fulfillment of the contracts and acquisitions they administer. The offices and departments will maintain a record of the project, service, or purchase under their supervision and include evidence of any non-compliance. The Authority's office or department will make necessary attempts to achieve contractor compliance and will retain evidence of such efforts. Additionally, the office or department must notify the Authority's accounting department of any adjustments required in the invoice due to non-compliance.

### **Article 35. Legal Advice of the Authority**

The office or department of the Authority, after making initial attempts to achieve contractor compliance, will consult with the Legal Counsel on the course of action that would be appropriate to implement, depending on the nature of the agreement, the severity of the breach, among other factors.

## **XI.FINAL AND MISCELLANEOUS PROVISIONS**

### **Article 36. Relevant Laws and Regulations**

The provisions of the laws, regulations, and administrative standards listed below are considered relevant to the implementation of this Regulation:

- A. Act 73-2019, as amended, known as "General Services Administration for the Centralization of Procurement of the Government of Puerto Rico Act of 2019" and its Regulation.
- B. Act 26-2017, as amended, known as "Compliance with the Fiscal Plan Act"
- C. Act 237-2004, as amended, known as "Act to Establish Uniform Parameters in the Contracting Processes of Professional and Consulting Services for the Governmental Agencies and Entities of the Commonwealth".
- D. Act 18 of October 30, 1975, as amended, known as "Contract Records Act".
- E. Act 80-2017, known as the "Act for Fair Competition in Telecommunications, Information and Pay Television Services in Puerto Rico".

- F. Act 1-2012, as amended, known as the “Organic Act of the Government Ethics Office of Puerto Rico”.
- G. Act 2-2018, as amended, known as “Anti-Corruption Code for the New Puerto Rico”.
- H. Act 38-2017, as amended, known as la “Uniform Administrative Procedure Act of the Government of Puerto Rico”.
- I. Act 14-2004, as amended, known as “Puerto Rican Industry Investment Act”.
- J. Act 129-2005, as amended, known as “Commonwealth of Puerto Rico Government Procurement Reserves Act.”
- K. Act 253-2006, known as “Law of Multiple Selection Contracts in Procurement Processes”.
- L. Act 508-2004, as amended, known as “Naval Station Roosevelt Roads Land and Facilities Redevelopment Authority Act.”
- M. Act 42-2018, as amended, known as “Preference for Local Construction Contractors and Suppliers Act”.
- N. Act 70-1992, as amended, known as “Puerto Rico Solid Waste Reduction and Recycling Act”.
- O. Act 173-1988, as amended, known as “Board of Examiners for Engineers, Architects, Surveyors, and Landscape Architects of Puerto Rico Act”
- P. Regulation No. 31 of July 21<sup>st</sup> of 2007 of the Department of Treasury, known as “Advance Payment for Goods or Services of the Government of Puerto Rico”.
- Q. Special Memorandum No. 2-2016 known as “Guidelines to determine whether the services to be rendered constitute professional or advisory services positions or contracts,” promulgated by the Office of Human Resources Management and Transformation of the Government of Puerto Rico”, promulgated by the Office of Administration and Transformation of Human Resources of the Government of Puerto Rico (OATRH by its Spanish acronym).
- R. Circular Letter of the Central Accounting of the Department of Treasury No. 1300-35-07 known as “Guidelines to Determine if the Services to be Presented Constitute a Position or Professional Services”.

- S. Circular Letter No. 1300-16-16 of the Department of Treasury issued on February 22, 2016.
- T. FOMB Policy: Review of Contracts, effective on November 6, 2017, modified on October 30, 2020.
- U. Circular Letter No. 2020-03 of August 31<sup>st</sup>, 2020, of the Puerto Rico Innovation and Technology Service (“PRITS”).
- V. Circular Letter No. 152-2018 of March 23, 2018, of the Office of Budget and Management (OGP, by its Spanish acronym).
- W. Circular Letter No. OC-19-11 of March 28, 2019, of the Office of the Comptroller.
- X. Administrative Bulletin No. OE-2020-082 entitled "Executive Order of the Governor of Puerto Rico, Hon. Wanda Vázquez Garced, to adopt the *General Guidelines for Government Contracting applicable to all executive agencies.*"

#### **Article 37. Severability**

The provisions of this Regulation are severable. If any article, section, subsection, paragraph, word, sentence, or part of this Regulation is declared unconstitutional, invalid, or void by a court with jurisdiction and authority, such declaration will not affect, impair, or invalidate the remaining provisions and parts of this Regulation. In such a case, its effect will be limited to the specific article, section, subsection, paragraph, word, sentence, or part, and it shall not be construed to affect or impair its application or validity in any other instance of the Regulation.

#### **Article 38. Repeal**

Regulation No. 9366, known as the Request for Proposal (RFP) Regulation of the Authority for the Local Redevelopment of Roosevelt Roads, is hereby repealed. Similarly, this Regulation nullifies any other regulation, policy, procedure, norm, circular letter, internal memorandum, in whole or in part, that is incompatible or in conflict with the provisions herein, to the extent of such incompatibility or conflict.


#### **Article 39. Effectiveness**

This Regulation shall become effective from its approval date and will apply to all procedures initiated from its effective date. It is stipulated that any procurement process carried

out prior to the entry effectiveness of this Regulation will be evaluated in accordance with the applicable regulations at the time of its execution.

**Article 40. Recommendation and Approval**

Recommended by:

  
Joel Piza Batiz, Esq.  
Executive Director

