PUBLIC HOUSING ADMINISTRATION

PRPHA

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Procurement Manual

Puerto Rico Public Housing Administration (PRPHA)

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EQUAL HOUSING OPPORTUNITY

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ARTICLE I - GENERAL PROVISIONS

Section 1 .1 Title

This legal body shall be known and cited as the "Procurement Manual for the Puerto Rico Public Housing Administration" (Manual).

Section 1.2 Legal Basis

This Manual is adopted pursuant to the authority granted to the Puerto Rico Public Housing Administration (PRPHA) by Act No. 66 of August 17, 1989, as amended , known as the "Puerto Rico Public Housing Administration Organic Act" , US Housing Act of 1937, as amended, subsequent applicable statutes, laws and enabling regulations, pursuant to Act No. 97 of June 10th, 1972, as amended, known as the "Puerto Rico Department of Housing Organic Act", and in accordance with (i) Act No. 38 of June 30, 2017, as amended, known as the "Government of Puerto Rico Uniform Administrative Procedure Act" (LPAUG, for its Spanish acronym); (ii) 2 C.F.R. Part 200, effective as of the date hereof and may be amended hereafter; (iii) the Annual Contributions Contract (ACC) between the Department of Housing and Urban Development of the United States of America (HUD), the Puerto Rico Department of Housing (PRDOH) and PRPHA. 5-Year Plan and Annual Plan by all PHAs administering Public Housing and Housing Choice Voucher (HCV) programs Section 5A and Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq. as amended and enabling regulation.

In the event of any conflict between the provisions of Federal and local procurement regulations and this Manual, Federal regulations will prevail. Moreover, should there be any changes under any applicable law or regulation, they would be incorporated to this regulation without the need for additional action or formal amendment procedures.

Section 1.3 Purpose, Executive Summary and Cost/Benefit Analysis

The purpose of this Manual is to establish standards and guidelines for the procurement of goods, supplies, equipment, construction, engineering, architecture, and other professional and non-professional services for PRPHA's Programs. Procurements are to be conducted in a manner which provides full and open competition or fair treatment of all persons or entities involved in PRPHA procurement processes which are funded totally or partially with federal funds.

This Manual describes requirements and guidelines for the various procurement methods and their updated applicable thresholds, contractor's qualifications and duties, conflict of interest and ethics issues, purchasing through the Federal General Services Administration, encouraging participation of women, minorities, low-income persons and resident owned businesses in the acquisition process, as well as guidelines for issuing an award.

PRPHA certifies that this Manual does not involve any additional costs or expenditure for the Agency or the general public. Moreover, it is issued in compliance with the federal requirements for PRPHA's Programs and constitutes an integral revision of the 2017 Manual.

Section 1.4 Code of Conduct

PRPHA maintains standards of conduct covering conflict of interests and governing the performance of its employees engaged in the selection, award, and administration of contracts, under Act 1-2012, amended, the Government of Puerto Rico Ethics Act and the strictest compliance with the rule applies on 7 CFR § 1486.302; 2 CFR 200.501(h) - The sub-recipient is required to comply with the applicable provisions of this part and 2 CFR parts 200 and 400 and/or the Federal Acquisition Regulation (FAR), Title 48— Code of Federal Regulations, as applicable.

Moreover, should there be any changes under any applicable law, regulation, and conflict of interest or standard of conduct policies, they would be incorporated to this regulation without the need for additional action or formal amendment procedures.

Section 1.5 Applicability

The policies contained in this Manual apply to procurement procedures under the PRPHA's Programs and/or any activity financed in whole or in part with federal funds from the programs that are carried out by PRPHA.

Section 1.6 Competition (2 CFR 200.319(a)(b)(c)))

a. All procurement transactions must be conducted in a manner that provides full and open competition and is consistent with the standards of this section. To ensure objective contractor performance and eliminate any unfair competitive advantage, contractors who develop or draft specifications, requirements, Statements of Work, Invitations for Bids or Requests for Proposals must be excluded from competing for such procurements.

b. Some of the situations considered to be restrictive of competition include, but are not limited to:
    1. Placing unreasonable requirements on offerors to qualify to do business;
    2. Requiring unnecessary experience and excessive bonding.
    3. Noncompetitive pricing practices between offerors or between affiliated companies.
    4. Noncompetitive contracts to consultants that are on retainer contracts.
    5. Organizational conflicts of interest.
    6. Specifying only a "brand name" product instead of allowing "an equal" product which includes a description of the item's essential characteristics so that competition is not restricted; and
    7. Any arbitrary action in the procurement process.

c. PRPHA must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or geographical preferences in the evaluation of bids or

proposals. Nothing in this section pre-empts state licensing laws. When procuring for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application allows an appropriate number of qualified firms, given the nature and size of the project to compete for the contract.

d. All solicitations of offers shall incorporate a clear accurate description of the technical requirements for the material, service, or product to be procured. In competitive procurements, these descriptions shall not contain features that unduly limit competition. The description may include the material, product, or services' essential characteristics to which it must conform to satisfy its intended use. Detailed product specifications shall be avoided whenever possible. References to a brand name shall be followed by the words "or equal". The descriptions of the named brand characteristics that must be met shall be clearly stated.

e. Noncompetitive procurements can only be awarded in accordance with 2 C.F.R. §200.320(c).

ARTICLE II – DEFINITIONS

Section 2.1 Interpretation and Definition of Terms

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

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

1. **Accord:** Any Bid Board decision which does not constitute an award.

2. **Administrator:** PRPHA's Executive Director and Contracting Officer. Responds directly to the Governing Board, directing and executing all PRPHA's functions and duties as assigned by the Governing Board.

3. **Acquisition:** Acquiring by contract with appropriated funds, supplies or services (including construction) by and for the use of the Federal Government, through purchase or lease, whether the supplies or services are already in existence or must be created, developed, demonstrated, and evaluated. Acquisition begins when agency's needs are identified and it includes the description of requirements to satisfy the agency's needs, solicitation and selection of sources, award of contracts, contract financing, contract performance, contract administration, and those technical and management functions directly related to the process of fulfilling agency needs by contract.,48 CFR§ 2.101.

4. **Agent:** Any person who acts on behalf of or is authorized to commit a participant in a covered transaction.

5. **Asset Management/Asset Management Project (AMP):** Public Housing Project or Development. PRPHA's Contractors are authorized to purchase goods and services for

operational purposes and according to the needs of each AMP located in their Designated Area. As part of this project-based approach, the PRPHA must assure that every AMP has its own budget and that the purchasing of goods and services of each project is executed strictly according to its needs and within its budget. The purpose is to improve the operational efficiency, preserve and protect the assets; provide appropriate mechanisms for monitoring performance at the property level, and facilitate future investment and reinvestment in public housing by entities in public and private sectors.24 CFR 990.255(a)

6. **Architectural Engineering (A/E) Services:**

   a. Professional services of an architectural or engineering nature, as defined by State law, if applicable, that are required to be performed or approved by a licensed, registered, or certified person to provide those services; or,

   b. Professional services of an architectural or engineering nature performed by contracts that are associated with research, planning, development, design, construction, alteration, or repair of real property.

   c. Those other professional services of an architectural or engineering nature, or incidental services, that members of the architectural and engineering professions (and individuals in their employ) may logically or justifiably perform, including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals, engineering inspections, and other related services.

7. **Award**: Written statement by which PRPHA accepts a bid or proposal in a procurement process.

8. **Build America, Buy America Act (BABA)**: Enacted on November 15, 2021, as part of the Infrastructure Investment and Jobs Act (IIJA). See Public Law 117-58, Sections 70901-70952; see also 41 U.S.C. § 8301 note. BABA established a domestic content procurement preference, the Buy America preference (BAP) for certain infrastructure projects funded with Federal awards. Pursuant to Section 70914 of BABA, beginning May 14, 2022, HUD must ensure that any new Federal financial assistance (FFA) awards for an infrastructure program are covered under BABA, unless the application of BABA has been waived by HUD.

9. **Bid or Sealed bid**: An offer submitted in response to invitations for Bids. (IFB's).

10. **Bid Board**: Committee in charge of evaluating and awarding bids and proposals in formal and informal bidding processes for the acquisition of non-personal goods or non-personal services, as well as professional services in any formal procurement process executed by PRPHA.

11. **Bid Guarantee or Bid Bond**: Shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the

bidder will, upon acceptance of their bid, execute such contractual documents as may be required within the time specified.

12. **Blanket Purchase Order**: When ordering activities, the agency may establish BPAs under any schedule contract to fill repetitive needs for supplies or services. The BPA can establish the schedule the contractor(s) will use to provide the supply or service that represents the best value. Refer to 48 CFR § 8.405-3.

13. **Change Order**: A written order, signed by the contracting officer, directing the contractor to make a change within the scope of services of work included in the contract, with contractor's consent.

14. **Competitive Proposals Method**: Solicitations that can be subject to negotiated procedures which are used to inform the services or program requirements to prospective contractors and to solicit proposals.

15. **Competitive Range**: Proposals in a Request for Proposals process determined by the Contracting Officer to have a reasonable chance of receiving an award after the Evaluation Committee has evaluated all proposals in accordance with technical requirements. Those Proposers within the competitive range will be known as "Qualified Proposers".

16. **Consolidated Annual Contributions Contract (ACC)**: Agreement by and between the United States of America, acting by and through the Secretary of the Department of Housing and Urban Development (HUD), and PRPHA for the development and operation of HUD programs under Section 9 of the US Housing Act of 1937, et al. (e.g. Public Housing Program) executed on July 1996 and Section 8 of the US Housing Act of 1937, et al. (e.g. Housing Choice Voucher Program) executed on December 19, 2019. The provisions of the ACC, require PRPHA to develop and operate HUD programs (Section 8 and Section 9) in accordance to all applicable statutes, executive orders, and regulations issued by HUD, as they shall be amended from time to time, including but not limited to those regulations promulgated by HUD at Title 24 of the Code of Federal Regulations, as amended from time to time and that PRPHA shall ensure compliance with such requirements by any contractor or subcontractor engaged in the development or operation of HUD programs (Section 8 and Section 9).

17. **Contract**: A contract is a mutually binding agreement between two or more parties that creates mutual obligations enforceable by law, requiring elements like offer, acceptance, consideration, and capacity. It creates a mutually binding legal relationship obligating one or more parties to furnish the supplies or services and another to pay for them. It includes all types of written commitments that obligate PRPHA to an expenditure of appropriated funds, including bilateral contract modifications. Contracts do not include grants and cooperative agreements covered by 31 U.S.C. S 6301, et. seq. Furthermore, the contract shall be pursuant to Federal contract provisions required by HUD, 2 CFR § 200.326 and 48 CFR§ 2.101 Federal Acquisition Regulation (FAR).

18. **Contract administration** - consists of the actions taken by the PRPHA after the award of a contract, to ensure it is successfully performed in accordance with the terms and conditions agreed by the parts in writing.

19. **Contracting Officer**: The Administrator or PRPHA's authorized designee in accordance to Act No. 66-1989, as amended.

20. **Contractor**: A Vendor, Supplier, Offeror, Proposer, or Bidder, as applicable, who is awarded and executes a contract (as defined hereinabove) or a Purchase Order with PRPHA.

21. **Cooperative Purchasing/Intergovernmental or Interagency Agreements**: Agreements between PRDOH or PRPHA and other governmental agencies, or entities to purchase or use common supplies, equipment, or services.

22. **Cost Estimate**: Estimate of the projected price or cost that a contractor would incur in the successful performance of a contract. It -. The Cost Estimate is to be prepared by the PRPHA or a third party. It should be prepared in every procurement action more than the Simplified Acquisition Threshold or SAT.

23. **Designated Area**: PRPHA Property Management Areas.

24. **Emergency**: Requirement of public exigency or emergency that will not permit a delay resulting from a public notice of competitive solicitation. The *Emergency acquisition flexibilities*, are provided with respect to any acquisition of supplies or services by or for an executive agency that, as determined by the head of an executive agency, may be used pursuant to provisions under: Noncompetitive procurement - 2 CFR 200.320(c)(3); Contract cost and price - 2 CFR 200.324 and 48 CFR 2.101(FAR), as applicable.

25. **Evaluation Committee**: Administrative body comprised of at least three (3) members, appointed by the PRPHA Administrator to evaluate proposals in a competitive procurement process. The Evaluation Committee shall have an odd number of members (3, 5, or 7), and an alternate member, if necessary. PRPHA's Administrator shall designate a Chairperson to lead the process.

26. **Independent Cost Estimate (ICE)**: An independent analysis of the estimate of the costs of the goods or services to be acquired, prepared by PRPHA staff or a third-party prior to publishing a solicitation for offers. It's necessary to determine a fair and reasonable price or to determine cost realism, and the application of judgment how well the proposed costs represent what the cost of the contract should be, assuming reasonable economy and efficiency. (AFARS Subpart 5107.90; 48 FAR 36.203; 2 CFR 200.324)

27. **Invitation for Bids (IFB)**: Procurement process in which bids are publicly solicited and a firm fixed price is awarded to the bid responsible, whose bid, conforming with all the material terms and conditions of the Invitation for Bids, is the lowest price. (48 FAR Part 14; 2 CFR 320 (b)(1))

28. **Micro Purchase Method**: Acquisition of supplies or services, the aggregate dollar amount that does not exceed the Micro Purchase Threshold established in 48 FAR Part 2, Subpart 2.1.

29. **Micro Purchase Threshold**: Refers to the dollar amount at or below which PRPHA may purchase property or services using micro purchase procedures. Generally, the Micro Purchase Threshold for procurement activities administered under Federal awards is not exceed the amount set by the Federal Acquisition Regulations (FAR) at 48 C.F.R. Part 2, Subpart 2.1.

30. **Modification**: Unilateral or bilateral written revision or change to a Contract or Purchase Order within the original scope thereof, after the award and execution, or during the performance of such contract or Purchase Order.

31. **Negotiation**: Discussions with offerors, residents or proposers in the Competitive Range regarding technical and cost proposals when awarding a contract or when issuing modifications to existing contracts or other required discussions with offerors or respondents in other procurement processes.

32. **Noncompetitive** There are specific circumstances in which the recipient or subrecipient may use a noncompetitive procurement method. The noncompetitive procurement method may only to the provisions established under 2 CFR 200.320 (C).

33. **Offer**: A response to a solicitation by PRPHA that, if accepted, would bind the Offeror or Proposer to fulfill the contract. Responses to Invitation for Bids (Sealed Bidding) are Offers called "bids" or "sealed bids"; responses to Requests for Proposals are offers called "proposals"; however, responses to Requests for Quotations (simplified acquisition) are "quotations", not Offers.

34. **Offeror**: A person or legal entity that responds to a solicitation issued by PRPHA. May also be referred to as respondent, bidder, or proposer.

35. **Payment bond**: Bond executed in connection with a contract to ensure payment as required by law of all people supplying labor and materials in the execution of the work provided for in the contract. Bonds may vary according to the type of contract and are not required in the Small Purchase Method.

36. **Performance bond**: Bond executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

37. **Prequalification of Sources/ Pre-Qualification List** ("Pre-Qualified List" or "PQL"): Competitive method of procurement in which the price is not an evaluation factor, used to select a pool of professional services firms or individuals to provide services when a general need has been identified, but the specific scope has not yet been determined. Pre-Qualified List is developed through a Request for Qualifications (RFQ) pursuant to 24 CFR § 943.148. The list of vendors that have been evaluated as

possessing a specified minimum level of experience/qualifications to be able to deliver or perform certain good/ service in advance of soliciting the procurement.

38. **PRDOH:** Puerto Rico Department of Housing.

39. **PRPHA:** Puerto Rico Public Housing Administration.

40. **Procurement File**: Official record kept by PRPHA of each procurement process which documents in detail the significant history of the procurement.

41. **Proposer:** A person or legal entity that responds to a solicitation issued by PRPHA in a Competitive Proposal Method of Procurement. May also be referred to as Respondent or Offeror.

42. **Proposal:** The Offer submitted by a potential Contractor in a Competitive or Noncompetitive Proposals Method of procurement.

43. **Qualification Based Selection Method (QBS):** A procurement method conducted using Request for Qualifications (RFQ) pursuant to 24 CFR § 943.148, where PRPHA selects the highest ranked respondents on technical factors and then negotiates a reasonable price, limited to architecture or engineering (A/E) services and Development Partners.

44. **Quotation:** A price or offer submitted by an Offeror or Supplier under the Micro Purchase and Small Purchase Procurement Methods.

45. **Reasonableness:** - require threshold that PRPHA, its contractors and vendors, must comply with for contracting and expenditure of HUD funds pursuant to the provision under 2 CFR § 200.404; 48 CFR § 12.209; FAR - 31.201-3, as applicable.

46. **Redacted Copy:** A copy of any contract or any record (other than an Invoice) where the agency excludes any contractor confidential, proprietary data, personally identifiable information (PII), or other sensitive details that are not exempt from disclosure, to protect this sensitive data (oror a photocopy or facsimile copy thereof as to which the offeror has redacted or obscured only such confidential, proprietary, non-public, or commercially sensitive information. (FAR 3.104-4)

47. **Request for Proposals (RFP):** Solicitation method used under the competitive methods of procurement. Proposal evaluation and Proposer selection are based on the evaluation criteria and factors for award as stated in the RFP. The contract award is based on the best proposal that meets the requirements of the scope of work resulting in the greatest benefit and best value for PRPHA, which may not be primarily determined based on price.

48. **Request for Qualifications** (RFQ) pursuant to 24 CFR § 943.148: refer to solicitation of prospective vendors that requests the vendor's background and experience providing a specific good or service. Request for Qualification often serves as the first part in a two-part procurement.

49. **Request for Quotations (RFQs):** General Services Administration (GSA) procurements shall be solicited through the issuance of RFQs). The RFQs must include a Scope of Work (SOW) and the evaluation criteria and factors for award. It's a method of procurement involving solicitation of quotes for the purchase of specific goods. The Sealed Bid procurement method is a type of Request for Quotation.

50. **Resident Owned Business (ROB):** Any entity owned and controlled by PRPHA public housing residents as defined in 24 CFR Part 963.

51. **Responsibility:** Refers to the character or quality of the bidder or proposer, with consideration being given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

52. **Responsiveness**: Refers to the bidder's compliance with all required specifications in the solicitation, inclusive of any addenda. Any bidders or proposers listed on the System for Award Management (SAM) Excluded Party List will be deemed nonresponsive and automatically excluded from consideration for award.

53. **Scope of Work/Services:** Defines the project and states PRPHA requirements. May include a description of the goods or services required, deliverables, and the criteria which a deliverable must meet to be considered acceptable; milestones or indicators to determine activity/project progress as applicable; delivery schedule or timelines; specifications or technical information; staff position requirements and responsibilities; and other special considerations.

54. **Sealed Bidding Method:** Refers to a method of procurement used for non-professional services or supplies that exceed the Simplified Acquisition Threshold. In order for Sealed Bidding to be feasible, there must be accurate and complete specifications, a specific date and time for the submission of Sealed Bids, a Public Bid Opening, an evaluation of Bids, and award of the contract based on the lowest price submitted by a Contractor through a Responsive Bid.

55. **Section 3**: Provision of the Housing and Urban Development Act of 1968, 12 U.S.C S 17010, amended (HUD Act), ensures employment, and other economic opportunities directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons. Employment

and opportunities pursuant to Section 3 shall be generated by certain financial assistance provided by the U.S. Department of Housing and Urban Development (HUD), to the greatest extent feasible and consistent with existing Federal, State, and local laws and regulations.

56. **Section 3 Worker**: Any worker who currently meets, or when hired within the past five (5) years met, at least one (1) of the following categories, as documented: l) the worker's income for the previous or annualized calendar year is below the income limit established by HUD; 2) the worker is employed by a Section 3 Business Concern; or 3) the worker is a YouthBuild participant.

57. **Section 3 Business Concern:** A business that meets at least one (l) of the following criteria, documented within the last six (6)-month period: l) it is at least fifty one percent (51%) owned and controlled by low- or very low-income persons; 2) over seventy-five percent (75%) of the labor hours performed for the business over the prior three (3)month period are performed by Section 3 workers; or 3) it is at least fifty one percent (51%) owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

58. **Simplified Acquisition Threshold:** Means the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. Non-Federal entities adopt small purchase procedures to expedite the purchase at or below the Simplified Acquisition Threshold. The Simplified Acquisition Threshold for procurement activities administered under Federal awards is not to exceed the amount set by the Federal Acquisition Regulations (FAR) at 48 C.F.R. Part 2, Subpart 2.1.

59. **Small Purchase Method**: Competitive method of procurement of goods, work, and/or services in an aggregate amount equal to or less than the Simplified Acquisition Threshold.

60. **Solicitation:** Any request by the PRPHA to submit offers or quotations to PRPHA. Solicitations under Sealed bid procedures are called "Invitation for Bids". Solicitations under negotiated procedures are called "Requests for Proposals." Solicitations under Simplified acquisition procedures may require submission of either a quotation or an offer.

61. **Subgrant:** Means an award of financial assistance in the form of money or property in lieu of money made under a grant by a grantee to an eligible subgrantee.

62. **Subgrantee:** Means an entity, usually but not limited to non-Federal entities, to which a subgrant is awarded and which is accountable to PRPHA for the use of the funds provided.

63. **Subrecipient**: Refers to an entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a federal award; but does not include an individual that is a beneficiary of such award.

64. **Task Order:** An executed document by the PRPHA (owner) and contractor, which authorizes work on all or certain items in the Scope of Work of a contract for distinct time periods. Task Orders may include set budgets for the work.

65. **User Area**: Administrative unit, bureau, division, department, office or area within the PRPHA that requests goods or services.

66. **Unreliable:** Refers to the character or quality of the bidder or proposer, with consideration being given to such matters as economic feasibility, production capacity, poor past performance and other factors which may affect contract execution.

67. **User Area:** Area or division that requests the goods or services needed.

68. **Women-owned small business:** Entity whose management and daily business operations are controlled by and where at least fifty-one percent (51%) of the stock is owned by one or more women; or a small Business Concern eligible under the Women Owned Small Business Program in accordance with 13 C.F.R. Part 127.

ARTICLE III - PROCUREMENT AREA

Section 3.1 Segregation of Duties

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

The term Segregation of Duties (SoD) refers to internal controls that involve splitting up tasks between multiple people to prevent fraud and error. It is also known as separation of duties.

Section 3.2 Contracting Officer

The PRPHA is responsible for its own procurement system, pursuant to the authority granted to the PRPHA by the Governing Board, and in compliance with the Annual Contributions Contract. The administration of the PRPHA procurement system shall be the responsibility of the Administrator, as Contracting Officer in accordance with PRPHA's Organic Act No.66-1989. Procurement processes shall be the responsibility of the Administrator and officials authorized to administrate the procurement system and processes, including:

a. Procurement of goods.

b. Procurement of professional and technical services.

c. Issue, administrative bulletins related to procurement processes, including but not limited, all necessary to clarify and implement rules and regulations related thereto with the approval of the Governing Board, whenever applicable.

d. Execute all disciplinary actions necessary to correct any violation of the ethical standards set forth in this Manual and apply federal and state laws, rules and regulations, with the approval of the Governing Board, whenever applicable.

e. Ensure that all procurement processes of the PRPHA are consistent with the Annual Contributions Contract and the procurement planning to achieve the most efficient and cost-effective procurement.

f. Ensure that every procurement process of the PRPHA is documented and has a complete Procurement File with all the information required by this Manual and applicable federal and state laws, rules and regulations.

g. Ensure that the PRPHA meets the procurement and program requirements set forth in Part 200 of Title 2 of the Code of Federal Regulations in each procurement process or action funded totally or partially with federal funds.

h. Ensure that the PRPHA complies with the applicable HUD review requirements in establishing operational procedures pursuant to the ACC and as indicated at 2 C.F.R. 200.324:

i. The non-Federal entity (in our case it would be PRPHA) must make available, upon request of the Federal awarding agency or pass-through entity (in our case HUD), technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition.

ii. Upon request of the Federal awarding agency or pass-through entity, the non-Federal entity must make available to the latter, the pre-procurement review, procurement documents or Independent Cost Estimates, if:

1. The non-Federal entity procurement procedures or operation fail to comply with the procurement standards here indicated; or

2. The procurement is expected to exceed the Simplified Acquisitions Threshold and is to be awarded without competition or only one Bid or Offer is received in response to a solicitation: or

3. The procurement, which is expected to exceed the Simplified Acquisitions Threshold, specifies a "brand name" product; or

4. The proposed Contract is more than the Simplified Acquisitions Threshold and is to be awarded to other than the apparent low Bidder under Sealed Bid procurement; or

5. A proposed Contract modification changes the scope of the Contract or increases the Contract amount by more than the Simplified Acquisitions Threshold.

iii. The non-Federal entity is exempt from the pre-procurement review in paragraph (ii) above, if PRPHA determines and certifies to HUD that its procurement systems comply with the standards of this part, to wit:

1. The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards for its system to be certified. Generally, these reviews occur where there is continuous high-dollar funding, and third-party Contracts are awarded on a regular basis.

2. The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the federal awarding agency's right to survey the system. Under a self-certification procedure, the federal awarding agency may rely on written assurances from the non-Federal entity that is complying with these standards. In that case, the non-Federal entity must cite specific policies, procedures, regulations, or standards as following these requirements and have its system available for review.

i. Ensure that recommendations to the Bid Board for the award of Contracts of more than the Simplified Acquisitions Threshold are made in favor of the Responsible Bidder with the Responsive Bid that offers the lowest price, or to the Responsible Proposer whose Proposal is the most advantageous to the PRPHA in terms of price and other evaluation factors considered.

j. Ensure that all Contracts, Purchase Orders, Task Orders, Delivery Orders, modifications and/or Change Orders are issued in writing and are supported by all required documentation.

Section 3.3 Procurement Process

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

ARTICLE IV - PROCUREMENT PLANNING

Section 4.1 Central Office / Asset Management

PRPHA's Procurement and Contracting Area handles matters related to the procurement function of the agency. All purchases of goods and services funded totally or partially with federal funds are processed following the federal regulations established in Federal Acquisition Regulations (FAR), 2 CFR part 200, the PRPHA Organic Law and this Manual. The PRPHA must comply with the submission of a 5-Year Plan and Annual Plan as part of its responsibility of administrating Housing Choice Voucher (HCV) Public Housing (PH) and programs in accordance to Section 8 and Section 9, respectively, of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq., as amended, and enabling regulation including Asset Management regulatory requirement under 24 CFR Part 990 Subpart H.

Also, the PRPHA must comply with the thresholds for Micro Purchases and Small Purchases denominated as the Micro-purchase Threshold (MPT) and the Simplified Acquisitions Threshold (SAT), as established in 48 FAR 2.101, as may be amended by the federal government from time to time. The PRPHA should strive to maximize, as efficiently as possible, full and open competition in all procurement transactions. (2 CFR 200.319 (a)). For banning preferential treatment and potential conflict of interferes, to ensure objective performance, and fair competition, any contractor that provides technical assistance to PRPHA to develop and draft specifications, technical requirements, Statement of work, Invitation for Bids (IFBs), Independent Cost Estimate (ICE)and any other technical assistance related thereof to PRPHA's procurement of goods and services are excluded from participating, bidding competing, directly or indirectly, in procurement transactions for which the technical assistance was provided to PRPHA. . (2 CFR 200.319(b)) Competition may not be restricted by unreasonable or unnecessary requirements. (2 CFR 200.319(c)) PRPHA must incorporate a clear and accurate description of the technical requirements for the property, equipment, or services to be procured. The description may include a statement of the qualitative nature of the property, equipment or services or if necessary, provide minimum essential characteristics and standards of the corresponding property, equipment or services. "Brand name or equivalent" description of features may be used if technical requirements cannot be described accurately or it is impractical or not economical. (2 CFR 200.319(d) (2)(3).

During the contract term, PRPHA must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. (2 CFR 200.318 (b)) Also, PRPHA must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts. (2 CFR 200.318(c)) PRPHA must avoid the acquisition of unnecessary or duplicated items as well as consolidating or breaking out procurements to obtain a more economical purchase. When appropriate, PRPHA must make an analysis between leasing and purchasing property or equipment to determine the most economic approach. (2 CFR 200.318(d)) When appropriate for procurement, PRPHA may enter into local intergovernmental agreements or inter-entities agreements, use excess and surplus Federal property instead of purchasing new equipment or property, use value engineering clauses, to foster greater economy and efficiency. (2 CFR.318 (e), (f), (g)) PRPHA must award contracts only to responsible contractors that will comply with the terms and conditions of the proposed contract. (2 CFR 200.318(h))

As part of procurement planning, an internal procurement Implementation Plan will be developed and reviewed every five (5) years, or less, if deemed necessary, to ensure the PRPHA procurement planning strategy is current with existing market conditions, emphasizing a consistent cost effective and efficient procurement decision making process that provides the best benefits for the agency and the properties under Asset Management. As part of this project-based approach, the PRPHA must

ensure that every Asset Management Project (AMP) has its own budget and that the purchasing of goods and services of each project is executed strictly according to its needs and within its budget.

The Implementation Plan will determine which procurement activities will take place at the Central Office level or at the Project level or a combination of both administrative methods. The determination to consolidate procurement activities should be made based on cost effectiveness and reasonableness. The PRPHA will establish a long-term Capital Needs program that will support the PHA Implementation Plan by providing the necessary data to program and schedule procurement planning needs in a strategic manner, to maximize time and resources.

The Procurement Area (Central Office) can purchase goods and services for the use of the PRPHA and to be used or distributed to satisfy similar needs in the public housing projects, based on purchases that are most advantageous to the agency and standard accounting principles. As part of this project-based approach (Asset Management Strategy), the PRPHA must assure that every public housing project Asst Management Project; AMP) has its own budget and that the purchasing of goods and services of each project is executed strictly according to its needs and the approved budget.

Section 4.2 Procurement by PRPHA Vendors and Contractors offering Professional Services

professional services will execute all the contracts, materials, supplies, work and services necessary for the AMP, following the parameters of this Manual, guidelines and thresholds at the most advantage cost to the AMPs and will secure and credit to the AMPs all discounts, rebates and commissions obtainable with respect to purchases, Service Contracts, and all other transactions on behalf of the AMP. Purchases shall only be made in accordance with PRPHA authorized Operating Budget or other federal funds assigned and based on the inspections of the sites, buildings and units

PRPHA Vendors and Contractors offering professional services related to construction work or services, using HUD funds or other federal funding sources are obligated to comply with Section 504 of the Federal Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990 (Public Law 101-336: Effective July 26, 1990), as amended. PRPHA Vendors and Contractors are responsible as well as PRPHA for complying with these federal regulations, providing accessibility to people with disabilities in public housing projects. PRPHA delegates to the PRPHA Vendors and Contractors offering professional services the design of all the improvement or construction work consisting of full accessibility to the facilities. The Asset Management Strategy used in procurement should always be based on the best interest and/or benefit to the project. The PRPHA Vendors and Contractors offering professional services shall identify the resources needed, including skilled labor and/or human resources with technical or expertise capacity.

Just like the PRPHA's Procurement Area, when the Vendors and Contractors offering professional services execute procurement of the same services or goods during the same fiscal year, *bid splitting* should be avoided. For example, dividing the costs of the goods or services of small purchases to avoid a cost higher than the SAT and a competitive procurement process which can delay the award, should be avoided, unless it could be justified(The thresholds for the Micro Purchases and the Small Purchases (Micro-purchase Threshold (MPT) and the Simplified Acquisitions Threshold (SAT), are established in FAR 2.101. These regulations must be applied in all the procurements.

Therefore, from the date of approval of this Manual, PRPHA Vendors and Contractors offering professional services, particularly of administration, operation and maintenance of public housing projects or AMPs will inform every month to the PRPHA's Procurement and Contracting Area (Central Office Building) of all the Small Purchases issued by their Purchase or Procurement Office indicating time, date and purpose of the purchase or procurement, the goods or services purchased or procured, and the amount of money involved in the process. This information will be sent through the Procurement Web-based Platform System. The PRPHA's Procurement and Contracting Area (Central Office Building) will receive this data and create a recordkeeping mechanism of all the Small Purchases executed by these entities to assure that *bid splitting* does not happen in their Designated Areas. This precaution shall also be practiced at the central level in relation to the purchases or procurement executed to satisfy the needs of the residents in all the public housing projects of Puerto Rico. The PRPHA's Procurement and Contracting Area will also use the Procurement Web-based Platform System to process the Small Purchases of the agency. PRPHA reserves the right to invoice against any AMP located within the Designated Areas for any service, material or equipment provided by PRPHA or its Contractors or Subcontractors in connection therewith.

Section 4.3 Components' Responsibility / Procurement Planning

It shall be the responsibility of User Area of PRPHA or of the PRPHA Vendors and Contractors offering professional services, to identify the need for goods and services in the public housing projects or projects within its Designated Area, based on the delegation of funds. A copy of the document stating these needs must be submitted to Central Building Office. This will be part of the procurement planning effort of the agency. The User Areas must comply with the provisions of this Manual, including, but not limited to, the use of the Procurement Manual Forms ("PMFs") provided by the Procurement Area and any other form included in the Procurement Web-based Platform System or PRPHA Web Site for Sealed Bids and Competitive Proposals (https://subastas.avp.pr.gov).

ARTICLE V - PROCUREMENT FORMS AND DOCUMENTS

Section 5.1 General Rule

The PRPHA Vendors and Contractors offering professional services will comply with the use of the Procurement Manual Forms (PMF-01 to PMF-04) and the forms included in the Procurement Webbase Platform System. They will also comply with other forms and documents required in the procurement processes of Micro and Small Purchases, and Bid processes (IFB, RFP, RFQ) as well as in the award or contract process. Examples of documents or information needed in the Bid processes: Employment Substance Abuse Prevention, General Specifications of Modernization, Section 3 Requirements, Labor Standards Requirements, non-Collusive Affidavit, and others. (Please refer to Small Purchase or Bid Documents.) For HUD Forms, please refer to the link: http://www.hud.gov/hudclips.

ARTICLE VI - MINORITY, SMALL, AND SECTION 3 BUSINESS PARTICIPATION

Section 6.1 General

PRPHA shall take appropriate action to comply with statutory and regulatory requirement for Small Businesses, Minority Owned Businesses (Minority Business Enterprise, MBE), Women's Businesses (Women Business Enterprise, WBE), Section 3 Business Concerns, and Labor surplus area businesses have sufficient opportunity to participate in procurement processes financed in whole or in part with federal funds.

Section 3 of the Housing and Urban Development Act of 1968, as amended, requires that, to the greatest feasible extent, employment and other economic opportunities generated by HUD funds be directed to low- and very low-income residents. 24 CFR Part 75 establishes the standards and procedures to be followed by Public Housing Authorities, such as PRPHA, to ensure that the requirements of Section 3 are met.

ARTICLE VII - CONTRACTING WITH RESIDENT-OWNED BUSINESSES

Pursuant to 24 C.F.R. Part 963, the PRPHA may solicit and achieve contracts with Resident-Owned Businesses (ROB) for the procurement of goods, services and/or construction work by following the applicable method of procurement, as set forth in 2 C.F.R. 200.320, with solicitation limited to the ROB's. An award shall not be made if the Contract or Purchase Order exceeded the price normally paid for goods, services and/or construction work in the RBO's housing project's vicinity. The eligibility requirements set forth in 24 C.F.R. § 963.10 shall apply to all procurement processes under this Article including, but not limited to, the following:

a. Qualifications

   i The ROB shall demonstrate that it is a legally formed business: a.) The ROB shall submit certified copies of the Government of the Puerto Rico or Municipality licenses which authorize it to engage in the type of business activity for which it was formed, b.) In case the business is a corporation, the ROB also shall submit a certified copy of its corporate charter or other organizational document, that verifies that the business was properly formed in accordance with local law. (24 CFR 963.10 (a)).

   ii The ROB shall submit a certificate that is a Resident Owned Business as defined in this Article. Also, it should disclose all owners of the business, and each owner's percentage of ownership interest in the business. The business must also disclose all individuals who possess the power to make the day-to-day decisions on matters of management, policy, and operations (management officials). and that the operations of the business are controlled by at least fifty-one percent (51%) of the voting stock-owned by one or more persons or entities composed of persons who are residents of the PRPHA public housing project (24 CFR 963.10 (b). The owners must present evidence that they are actual PRPHA

public housing residents by submitting copies of their lease contracts, duly signed. (24 CFR 963.10(b)).

iii The ROB must be registered with the PRPHA's Economic Development Division of the Residents and Community Programs Area as an ROB (24 CFR 963.10 (b)).

b. Ability to Complete the Work

i In a Formal bid procedure process, the Administrator, the Procurement Director, the Evaluation Committee and/or the Bid Board, as applicable, will evaluate the integrity of the Proposer, the record of its past performance and compliance with public policy, and its financial and technical resources to deliver the goods, construction works or services requested in the particular procurement process (24 CFR 963.10 (c));

ii Completion of courses in business administration or finance management, proof of job training or apprenticeship in a particular trade, business, or profession is encouraged (24 CFR 963.10 (c)).

iii The ROB must have the required insurance, and payment and performance bonds (where required), as any other Proposer. However, the PRPHA, at its discretion, may adjust any of those insurance requirements in the procurement process to permit ROB participation.

c. Procedures

The PRPHA shall follow the Small Purchases, Sealed Bidding, Competitive Proposals, or Noncompetitive procurement methods, depending on the nature of the procurement process, but will limit solicitation among ROB's. Generally, the PRPHA will prepare an Independent Cost Estimate (ICE); select the appropriate method of procurement, as mentioned above; receive Quotations or Offers from one or more Resident Owned Businesses which are included in the ROB's registry and the "RUL" List. Joint Ventures between a ROB and a private person or entity or another ROB are permitted, but the private person or entity or the other ROB must meet, individually, the PRPHA requirements for a Responsible offeror, bidder or respondent.

At all times, the selected ROB must own and control at least fifty-one percent (51%) of the joint venture and receive at least fifty-one percent (51%) of the profits of all operations of the joint venture. The ROB will submit a certification as to the number of Contracts and/or Purchase Orders awarded to it and/or to any joint ventures under this Article, stating the total amount in dollars of each of such contracts and/or purchase orders awarded. A ROB is not eligible to participate in a procurement process under this Article if the ROB has been awarded Contracts, Purchase Orders, Task Orders, or Delivery Orders with a total combined dollar value of one million dollars ($1,000,000.00) or more. See 24 C.F.R. § 963.10 (d).

ARTICLE VIII – PROPOSAL ANALYSIS AND COMPARISON OF COST OR PRICE ANALYSIS

Section 8.1 General

The objective of proposal analysis is to ensure that the final agreed-to price is fair and reasonable pursuant to the provision under 2 CFR § 200.404; 48 CFR § 12.209; FAR - 31.201-3; FAR 15.404-, as applicable. PRPHA shall require assurance that, before entering a contract, a contract modification, or a change order with a greater cost than the Simplified Acquisition Threshold, the cost or price is reasonable. The method and degree of cost or price analysis shall depend on particular facts of each procurement process, but as starting point, PRPHA must complete an Independent Cost Estimate for the work to be completed. Documentation associated with the elements used in the evaluation of cost or price will be maintained in the procurement file. The method and degree of cost or price analysis shall depend on particular facts of each procurement process.

If the particular procurement process is Sealed Bidding, where only one responsive bid is received, or if it concerns an QBS procurement of A/E services, or if it is a Noncompetitive Proposal procurement, or if it is a Modification, or a Termination Agreement, the particular Bidder, Offeror, or the Contractor, as applicable, shall submit to the Procurement Area the following:

a. An itemized breakdown of projected costs and profits; and

b. Commercial pricing and sales information, sufficient to enable the PRPHA to verify the reasonableness of the proposed costs and prices, such as, among others, a catalog, or other evidence of the market price of a commercial product sold in substantial quantities to the general public, or documentation showing that the offered price is set by law or regulation.

Section 8.2 Independent Cost Estimate (ICE)

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

The User Area is responsible for the preparation and delivery of a cost estimate (Independent Cost Estimate; ICE) to the Procurement Area in all procurement processes where the cost is greater or in excess of the Simplified Acquisition Threshold. The Procurement Area will return a PMF or procurement request to the User Area if a cost estimate is required as attachment. The cost estimate should consider the main categories of costs, including direct costs, such as Labor, equipment, materials, subcontracts, and others, taking into consideration cost principles set forth in Subpart E of "2 CFR Part 200". The cost estimate should also take into consideration costs such as administrative expenses and fixed overhead.

Section 8.3 Cost Analysis

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

a. A Cost analysis shall be performed by the Procurement Area Staff, with the assistance of the User Area requesting the procurement and shall focus on the individual cost elements of the request. ("48 CFR § 15.404-1 (c)") The PRPHA shall have the right to audit the Offeror's or Bidder's books and records related to such costs, and profits shall be analyses separately. Costs shall be allowed only to the extent that they are consistent with the applicable federal cost principles.

The objective of proposal analysis is to ensure that the final agreed-to price is fair and reasonable. The contracting officer is responsible for evaluating the reasonableness of the offered prices. Cost analysis shall be used to evaluate the reasonableness of individual cost elements when certified cost or pricing data are required. Cost analysis may also be used to evaluate data other than certified cost or pricing data to determine cost reasonableness or cost realism when a fair and reasonable price cannot be determined through price analysis alone. (FAR 15.404-1)

b. The contracting officer may request the advice and assistance of other experts to ensure that an appropriate analysis is performed. Recommendations or conclusions regarding the Government's review or analysis of an offeror or contractor's proposal shall not be disclosed to the offeror or contractor without the concurrence of the contracting officer. Any discrepancy or mistake of fact (such as duplications, omissions, and errors in computation) contained in the certified cost or pricing data or data other than certified cost or pricing data submitted in support of a proposal shall be brought to the contracting officer's attention for appropriate action.

c. In establishing profit, the Procurement Area shall consider factors such as the complexity and risk of the work involved, in the investment and productivity of the Proponent or Bidder, the amount of subcontracting, the quality of past performance, and the margin of profit in the industry for similar work. ("FAR 15.404-1 (c)")

Section 8.4 Price Analysis

Price analysis is the evaluation of a proposed price without analyzing any of the separate cost elements that it is composed of. (FAR 15.404-1 (b))

a. A price analysis is the review and evaluation of the price proposed by a Vendor, Proposer, Offeror or Bidder, or Contractor, as applicable, in order to determine its reasonableness, without evaluating separate cost elements, i.e., without doing a cost analysis. In the case of Small Purchases and in most Sealed Bidding processes, except as otherwise hereinabove provided, the PRPHA shall perform a comparison between the prices received and the Independent Cost Estimate (ICE) prepared by the User Area, to ensure that the selected price is reasonable pursuant to the provision under 2 CFR § 200.404; 48 CFR § 12.209; FAR - 31.201-3.

b. The Procurement Area shall conduct an analysis of prices using one or more of the following procedures:

i Compare proposed prices received in response to the solicitation.

ii Compare proposed prices with current prices on Contracts awarded during the last two (2) fiscal years and other current proposed prices for the same goods, work or services equal or similar.

iii Apply simple yardsticks measures (such as dollars per pound, per square foot, or other units) to highlight significant inconsistencies that warrant additional pricing inquiries.

iv Compare competitive pricing lists, published market prices of commodities and similar indexes, and inquire about discount or rebate arrangements.

v Compare proposed prices with Independent Cost Estimate prepared by the User Area.

ARTICLE IX - PROCUREMENT METHODS

Section 9.1 Recognized Methods of Procurement

a. Seven (7) primary procurement methods shall be used by PRPHA to procure materials, supplies, construction, and services for programs activities, pursuant 2 CFR § 200.320 - Procurement methods:

i Micro Purchases.
ii Small Purchases.
iii Sealed Bids.
iv Competitive Proposals, including Request for Proposals (RFP), Request for Qualifications (RFQ) / Qualification-Based Selection.
v Noncompetitive Proposals (including Emergency Purchases).
vi GSA Schedule Purchases; and Cooperative Purchasing/Intergovernmental or Interagency Agreements.
vii General Services Administration of Puerto Rico (Administración de Servicios Generales, acronym in Spanish) Small Purchases, Sealed Bids and Competitive Processes (Registration requirements and List of Suppliers).

b. The acquisition of goods for Micro Purchases and Small Purchases shall be awarded by means of purchase orders (PO's), while services shall be awarded through contracts. Other methods of procurement shall be awarded by means of a contract, unless otherwise provided in this Manual.

c. When conditions are not appropriate for the use of Sealed Bids, the method of Competitive Proposals must be used. This is typically when the procurement is for professional services which exceed the Simplified Acquisition Threshold. See Article X.

Section 9.2 General Rules for Procurement Methods

a. Prior to commencing a procurement process, an environmental evaluation must be completed for a proposed project/activity to review its potential environmental impact to ensure that the proposed project does not negatively impact the surrounding environment and that the property site itself will not have adverse environmental or health effect on end users; and whether it meets federal, state, and local environmental standards.

b. All procurement processes shall be conducted in a manner providing for full and open competition and shall avoid any conditions that may restrict such competition. Examples of such restrictions include, but are not limited to, the following:

   i Imposing unreasonable requirements (i.e., requirements that are not relevant to the scope of the solicitation) on proposers and bidders, which may reduce their ability to qualify to do business with the PRPHA;

   ii Requiring unnecessary experience or excessive bonding;

   iii Allowing noncompetitive pricing practices (collusion) among proposers or bidders, or among affiliated proposers or bidders;

   iv Allowing individual and or organizational conflict of interest.

   v Specifying only a "brand name" product, rather than allowing an "equivalent" product to be offered by describing the expected performance or other relevant procurement requirements; or

   vi Tolerate any capricious or arbitrary action by the PRPHA personnel in ant procurement process.

c. The Contracting Officer shall not approve purchases or modifications of contracts aggregating more cost to the original Small Purchase and increasing the cost of the purchases to sum more than the Simplified Acquisition threshold.

d. The Contracting Officer shall ensure compliance with the minimum bonding requirements in Construction Contracts, which exceeds the amount of the Simplified Acquisition Threshold, mostly awarded using the procurement methods of Sealed Bidding, Competitive and Noncompetitive Proposals. These are:

   i A bid guarantee from each bidder is equivalent to five percent (5%) of the bid price.

   ii A performance bond on the part of the contractor for one hundred percent (100%) of the contract price.

   iii A payment bond on the part of the contractor for one hundred percent (100%) of the contract price. The bonds may vary according to the type of Contract and are not required in the Small Purchase Method.

e. Except for Micro Purchases and Small Purchases, all procurement methods require public advertising, which may be in print or electronic media.

f. Forms of Micro Purchases and Small Purchases are included in the Yardi Program or System. The PRPHA and the Management Agents must use them in these procurement processes

g. Any amendments prior to the receipt of offers shall be issued to all potential offerors.

h. PRPHA reserves its right to negotiate with more than one Proposer at the same time and/or to award a given procurement process to more than one Proposer. These reserves must be conspicuously stated in the solicitation materials for each procurement process.

Section 9.3 Micro Purchases

Micro purchase means an acquisition of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed the micro-purchase threshold. (FAR 13.201)

a. Acquisitions for construction are subject to the DavisBacon Act and are also subject to a particular threshold. The threshold amount shall be subject to automatic amendment upon the issuance of any modifications by the applicable federal agencies. Any rule modifications promulgated by these agencies shall be deemed incorporated herein as of the effective date of such changes, without the need for additional action or formal amendment procedures. See Article XX.

b. To the extent practicable, PRPHA must distribute micro purchases equitably among qualified suppliers.

c. Micro purchases may be awarded without soliciting competitive quotations if PRPHA considers the price reasonable.

d. PRPHA must execute a determination on price reasonableness.

e. PRPHA may request changes of an existing Purchase Order (PO) to authorize modifications to the scope, term, schedule, and/or cost, provided that such changes are consistent with the following conditions:

   i Changes are within the Scope of Work; and
   ii The original PO amount plus cumulative PO changes shall never result in an amount greater that permissible amount.

Section 9.4 Small Purchases

a. Any procurement or method of procurement not exceeding the current Simplified Acquisition Threshold. The threshold amount shall be subject to automatic amendment

upon the issuance of any modifications by the applicable federal agencies. Any rule modifications promulgated by these agencies shall be deemed incorporated herein as of the effective date of such changes, without the need for additional action or formal amendment procedures. See Article XX.

b. Not less than three (3) potential suppliers shall be requested to submit a quotation.

c. However, larger requirements may be broken into smaller ones. When this occurs, the Contracting Officer should document in the Procurement File the reasons for breaking down larger requirements into smaller ones.

d. Small Purchase Contracts and Purchase Orders must address cause for termination and for convenience by PRPHA including how the termination shall be executed and the basis for settlement.

e. The Contracting Officer or designated official may negotiate the price and other terms of purchase, when appropriate. The primary objective of the negotiation is to maximize PRPHA's ability to obtain the best possible offer.

f. PRPHA must decide on price reasonableness.

g. PRPHA may request changes of an existing PO to authorize modifications to the scope, term, schedule, and/or cost, provided that such changes are consistent with the following conditions:

   i Changes are in accordance with the Scope of Work;

   ii and the total value of a Purchase Order (PO), including all modifications does not exceed the Simplified Acquisition Threshold. (FAR Part 13, 13.302).

Section 9.5 Sealed Bidding Method

General: A method of procurement used for acquisition of services or supplies that exceeds the Simplified Acquisition Threshold (See Article XX) requires accurate and complete specifications, a Public Bid Opening, an evaluation of Bids, and award of the Contract based on the lowest price submitted by a Responsible Bidder through a Responsive Bid. The IFB is the preferred method for procuring construction services, if the following conditions apply: (i) complete, adequate, and realistic specifications or a purchase description is available; (ii) two (2) or more responsible bidders are willing to compete effectively; and (iii) the procurement lends itself to a Firm Fixed Price Contract and the selection can be made principally on the basis of price. (2 CFR 200.320 (b)(1) and FAR Part 14).

a. Solicitation and Receipt of Bids: The IFB shall include specifications, all contractual terms, and conditions applicable to the procurement, and a statement that the award will be made to the lowest responsible and responsive bidder whose Bid meets the requirements of the solicitation. If equal low responsive and responsible Bids are received, secondary criteria will

be used as tiebreakers, which will vary on a case-by-case basis. The IFB must state the time and place for both receiving the bids and the Public Bid Opening.

The IFB may include the date the Contracting Officer will hold a Pre-bid Conference, at the discretion of PRPHA. The time between the advertisement of the IFB and the date of the Pre-bid Conference should be sufficient for the bidders to review the IFB and prepare for the conference. Nothing said at the Pre-bid Conference will change any of the terms of the IFB, except a written amendment to the solicitation. The period between the advertisement of the IFB and the date when the Bids are received by the Procurement Area must also be sufficient to achieve effective competition.

b. Specifications: The specifications and attachments must clearly define the items or services needed for bidders to properly respond to the invitation. All the specifications must be drafted for the intended purposes and to promote competition. PRPHA must ensure that it is not unduly restrictive or represents duplicity. Detailed specifications should be avoided over products. (2 CFR 200.319(a))

c. Limitations: The following specifications in solicitations must be avoided as these could limit competition (2 CFR 200.319 (b)(c)):

   i Requiring unnecessary experience and excessive bonding.

   ii Placing unreasonable requirements on firms for them to qualify to do business.

   iii Geographical restrictions which are not required, nor promoted by the federal law, except in cases of Architectural and Engineering (A/E) Contracts, which may include geographical locations if such a selection factor allows for adequate competition.

   iv Brand products specifications or catalog numbers. Specific brand names may be used only for establishing standards that the article must comply with for the use proposed. References for brand names shall be followed by the words "or equal". When brand names or catalog numbers are used, the bidders must be informed that such references establish only the standards desired; in fact, any other product that clearly demonstrates the standard is also acceptable.

   v However, nothing in this procurement policy will have the effect of excluding, ("pre-empting") the application of the laws of Puerto Rico related to professional licenses.

d. The Bid Opening and Award:

   i All bids received should be time stamped on by PRPHA to demonstrate that they were received prior to the deadline. PRPHA should keep the bids in a secure place to ensure that they are not opened or mishandled before the Public Bid Opening.

ii Sealed Bidding is a public process; therefore, Bids shall be publicly opened and in the presence of at least one (1) witness, although it also can be conducted virtually. All interested parties are permitted to attend the Bid Opening.

iii The Public Bid Opening must be documented. The memorandum or summary of the Opening must state:

1. The bidders' name.
2. The bidders' total proposed costs as stated in the bids.
3. The total amounts of the Bid Bonds submitted with the bids; and
4. The date and time the bids were received.

iv If equally low responsive and responsible Bids are received, secondary criteria will be used as tiebreakers.

e. Withdrawal

i A bidder may withdraw the Bid at any time prior to the Public Bid Opening by written notice received in the Procurement Area as established in the IFB.

ii After the Public Bid Opening, a Bidder may also be permitted to withdraw a low bid if the bidder submits written evidence that clearly demonstrates that a mistake was made. All decisions to allow withdrawal of a bid shall be documented in the procurement file. After Public Bid Opening, changes in bid (s) or other provisions of bid (s) shall not be permitted.

Section 9.6 Competitive Proposals Method

General: The Competitive Proposal Method is typically used to contract, but not limited to, professional consulting, architectural or engineering services, and other professional services, This method of procurement allows for the consideration of technical factors other than price; discussion concerning proposals submitted; negotiation of other contract terms and conditions; revision of proposals before the final selection; and the withdrawal of a proposal at any time up until the point of award. The award is based on the proposal that represents the most advantageous, considering price and other factors, such as technical expertise, experience, quality of proposed staffing, etc., set forth in the solicitation and not solely the lowest price. (FAR Part 15)

Section 9.6.1. Request for Proposals (RFP)

a. Conditions of Use: Where conditions are not appropriate for the use of Sealed Bidding, Competitive Proposals may be used. Competitive proposals are the preferred method for procuring professional services that will exceed the Small Purchase Threshold See Article XX.

b. Form of Solicitation: Competitive proposals shall be solicited through the issuance of an RFP. PRPHA must establish evaluation criteria taking into consideration price in conjunction with

technical factors. The RFP shall clearly identify the importance and relative value of each of the evaluation factors and price. Proposals shall be handled to prevent disclosure of the number of proposals, identity of the Proposers, and the contents of the proposals until after award.

c. Evaluation: The proposals will be evaluated by an Evaluation Committee. The Evaluation Committee must base the evaluation of the proposals only on the criteria established in the RFP. The Procurement Area will provide the necessary guidance to the designated Evaluation Committee members to support a standardized and consistent evaluation process for reach procurement. (Refer to Article II – Definitions, x. Evaluation Committee) The Evaluation Committee should consider the strengths, deficiencies and weakness of each Proposal. (FAR Part 15.305)

d. Negotiations with offerors:

i Negotiations are exchanges (in either competitive or sole source environment) between PRPHA and offerors that are undertaken with the intent of allowing the offeror to revise its offer, these negotiations may include bargaining.

ii Bargaining includes persuasion, alteration of assumptions and positions, give-and-take, and may apply to price, schedule, technical requirements, type of contract, or other terms of a proposed contract.

iii When negotiations are conducted in a competitive acquisition, they take place after establishment of the competitive range and are called discussions.

iv Discussions are tailored to each offeror's proposal and shall be conducted by the Contracting Officer with each offeror within the competitive range.

v The primary object of discussions is to maximize PRPHA's ability to obtain best value, based on the requirements and the evaluation factors set forth in the solicitation. The Contracting Officer shall indicate to, or discuss with, each offeror still considered for award, significant weaknesses, deficiencies, and other aspects of its proposal (such as cost/ price, technical approach, past performance, and terms and conditions) that could, in the opinion of the Contracting Officer, be altered or explained to enhance materially the proposer's potential for award.

vi The scope and extent of discussions are a matter of the Contracting Officer's judgment. The Contracting Officer may inform an offeror that its price is considered by PRPHA to be too high and reveal the results of the analysis supporting that conclusion. It is also permissible to indicate to all offerors the cost or price that PRPHA's price analysis, market research, and other reviews have identified as reasonable. Revealing one offeror's price in an attempt to get another offeror to lower their price is prohibited.

vii Best and Final Offers (BAFOs):

e. After initial negotiations are complete, the Contracting Officer shall invite the offerors in the competitive range to submit their BAFOs, making any changes they wish in their technical proposal and the price. All proposers in the competitive range should be provided with an opportunity to present BAFOs.

i BAFOs shall be evaluated in the same manner as the initial offers. At his/her discretion, the Contracting Officer may have the entire Evaluation Committee or only one subset of the Committee evaluates the BAFOs. In either case, the Contracting Officer shall ensure that a full evaluation is conducted sufficiently to support the award decision.

ii BAFOs are usually requested only once in a competition. However, in exceptional circumstances, the Contracting Officer may determine that it is in PRPHA's best interest to conduct another round of negotiations and request a second BAFO. (Note: The Contracting Officer may also redetermine the competitive range based upon the BAFOs. In that case, only those offerors still in the competitive range — but all of them - are asked to submit another revised BAFO.) The Contracting Officer should document in the contract file his/her rationale for re-opening negotiations and requesting any additional BAFO.

f. The Procurement Area shall establish a common date and time for submission of offers. Late responses should be treated the same as late initial offers. When requesting BAFOs, the Contracting Officer shall clearly inform offerors that should they fail to submit a BAFO or fail to submit one by the due date, their initial offer will be deemed to be their BAFO.

g. Negotiations may be recommended at PRPHA's discretion. Negotiations will be carried out with Proposers that have a reasonable chance of being selected for award ("Qualified Proposers"). The determination must be based on the score of the proposals, as these have been evaluated and rated in accordance with the requirements established in the RFP. The primary objective of the negotiations is to maximize the PRPHA 's ability to obtain the best possible offers.

h. Award: The Bid Board shall make the final selection based on the RFP after considering the recommendation of the Evaluation Committee. The selected respondent(s) will be notified through a Notice of Award issued by the Procurement Area based on the Bid Board's determination. The award (or awards in case of multiple awards) shall be made to the firm responsible whose technical approach to the project, qualifications, price and/or any other factors considered, are most advantageous to PRPHA provided that the cost or price is reasonable under the methods identified in this Manual.

Section 9.6.2. Request for Qualifications / Qualifications Based Selection (QBS)

a. **Conditions for Use:** PRPHA may use a competitive procedure for qualifications-based procurement of architectural/engineering (A/E) design contracts and Development Partner

for the development or redevelopment of public housing in Puerto Rico, utilizing a mixed-finance, mixed-income approach; whereby competitors' qualifications are evaluated, and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services or Development Partners. It cannot be used to purchase other types of services through A/E firms that are a potential source to perform the proposed effort.

b. **Form of Solicitation:** QBS is conducted using Request for Qualifications (RFQs) where PRPHA first selects the highest ranked respondent on technical factors and then negotiates the price. The RFQ shall clearly identify the selection criteria by which PRPHA shall evaluate each potential contractor. Selection criteria shall include necessary professional qualifications and experience of the firm regarding design of a specific type of project; experience and professional qualifications of the firm staff to be assigned to the project; and overall performance record of the firm. A mechanism for fairly and thoroughly evaluating the technical aspects of responses shall be established before the solicitation is issued. Responses shall be handled to prevent disclosure of the number of responses, identity of respondents, and the contents of the responses until award.

c. **Evaluation:** Responses will be evaluated by an Evaluation Committee. The Evaluation Committee must base the evaluation of responses only on the criteria established in the RFQ. The Procurement Area will provide the necessary guidance to the designated Evaluation Committee members to support a standardized and consistent evaluation process. The Area will also provide the development of a Short-list. Following the evaluation of the statements of qualifications, the Evaluation Committee will prepare a report that recommends the firms who will be short-listed.

d. **Short listed selection by the Bid Board**: The Bid Board shall review the recommendation of the Evaluation Committee and shall make the final selection. The final selection shall be a listing, in order of preference, of the firms considered most highly qualified to perform the work. All firms on the final selection list are considered selected firms with which the Contracting Officer or its authorized designee may negotiate. The shortlisted respondents will be notified of the RFQ results through a Notice of Selection issued by the Procurement Area based on the Bid Board's determination.

e. **Negotiations with short-listed respondents.** After short-listing respondents, the Contracting Officer or its authorized designer may negotiate a contract with the highest-ranked respondent for architectural and engineering services with compensation which PRPHA determines is fair and reasonable. In making such a determination, PRPHA shall take into consideration the estimated value of the services to be rendered, the scope, complexity, and professional nature thereof. An ICE of the cost of architectural-engineering services shall be prepared and furnished to the Contracting Officer before commencing negotiations for each proposed contract. If negotiations do not result in an agreement, PRPHA shall terminate negotiations and undertake negotiations with the second-highest ranked respondent and continue with succeeding respondents until an agreement is reached. Once negotiation with any respondent is terminated, such respondent is eliminated from further consideration. Should the Contracting Officer or its designer be unable to negotiate

a satisfactory contract with any of the selected firms, it shall select additional firms in order of their competence and qualifications and continue negotiations in accordance with this section until an agreement is reached. However, in the case of a Development Partner shortlist for multiple developments, the agency may approach any respondent or various respondents in the shortlist simultaneously for different developments according to respondents' expertise, experience or proficiency required for the various projects designated by the PRPHA.

Section 9.6.3. Prequalification of Sources or Prequalification Lists (PQL)

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

b. **Form of Solicitation**: The first phase selection process of the PQL shall be initiated through the issuance of a Request for Qualifications (RFQ) The RFQ shall clearly identify the importance and relative value of each of the evaluation factors. A mechanism for fairly and thoroughly evaluating the responses shall be established before the RFQ is issued. The criteria for selecting pre-qualified sources for each project or task shall be developed by the area requesting the procurement and will vary, depending upon the expertise needed and requirements of the applicable project or task. Criteria could involve requiring a firm's personnel to have a certain demonstrated experience and proficiency in a certain subject/area depending on the specific requirements of the project or services; demonstrated understanding of the requirement; and experience and professional qualifications of the firm staff to be assigned to the project; and overall performance record of the firm.

A PHA may use competitive proposal procedures for qualifications-based procurement (request for qualifications or "RFQ"), or may solicit a proposal from only one source ("sole source") to select a joint venture partner to perform an administrative or management function of its public housing program or to provide or arrange to provide supportive or social services covered under this part, under the following circumstances: (24 CFR § 943.148)

i The proposed joint venture partner has under its control and will make available to the partnership substantial, unique and tangible resources or other benefits that would not otherwise be available to the PHA on the open market (*e.g.*, planning expertise, program experience, or financial or other resources). In this case, the PHA

must maintain documentation to substantiate both the cost reasonableness of its selection of the proposed partner and the unique qualifications of the partner: or

ii A resident group or a PHA subsidiary is willing and able to act as the PHA's partner in performing administrative and management functions or to provide supportive or social services. This entity must comply with the requirements of 2 CFR part 200 (if the entity is a nonprofit or a State or local government) with respect to its selection of the members of the team and the members must be paid on a cost-reimbursement basis only. The PHA must maintain documentation that indicates both the cost reasonableness of its selection of a resident group or PHA subsidiary and the ability of that group or subsidiary to act as the PHA's partner under this provision.

c. **Evaluation**: The qualifications for the RFQ will be evaluated by an Evaluation Committee. The Evaluation Committee must base the evaluation and subsequent recommendation on the criteria established in the RFQ. The Procurement Area will provide the necessary guidance to the designated Evaluation Committee members to support a standardized and consistent evaluation process. (Refer to ARTICLE II – DEFINITIONS, x. Evaluation Committee)

d. **Selection by the Bid Board:** The Bid Board shall make the final selection based on the RFQ after considering the recommendation of the Evaluation Committee. The selected respondent(s) will be notified through a Notice of Award issued by the Procurement Area based on the Bid Board's determination. Where a PQL has been completed, the pool of qualified providers has been established, and the specific scope is defined, PRPHA will initiate a second phase selection process with the solicitation of offers. The second phase selection process will not require to be publicly advertised. Offers from the selected respondents may be solicited by means of a Small Purchase or RFP, as defined in this Manual. After the procurement, the award will be based on the requirements specified in the method of acquisition used.

Section 9.7 Noncompetitive Proposals Method and Emergency Purchases

a. **General**: Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one (l) source and may be used only when one (l) or more of the following circumstances apply: (2 CFR 200.320 (c)(3) and 2 CFR 200.324).

i The acquisition of property or services, the aggregate dollar amount of which does not exceed the Micro Purchase Threshold,

ii The item is available only from a single source, based on a good faith review of available sources,

iii The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation,

iv HUD expressly authorizes the use of noncompetitive proposals in response to a written request from PRPHA; or

v After solicitation of several sources, competition is determined inadequate. Adequate competition means two (2) or more responsible offerors, competing independently, submitting priced offers that satisfy the requirements of the solicitation process. PRPHA shall maintain detailed records substantiating the lack of competition.

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

i Description of the requirement.

ii History of prior purchases and their nature (Competitive vs. Noncompetitive), if available.

iii The specific exception that applies.

iv Statement as to the circumstances that require award by Noncompetitive Proposals.

v Description of the efforts made to find competitive sources (advertisements in trade journals or local publications, phone calls to local suppliers, issuance of a written solicitation, among others).

vi Determination on cost reasonableness; and

vii Signature by the User Area.

Section 9.8 Federal General Services Administration (GSA) Purchases

Procurements may be conducted using the Federal GSA established price schedules. **GSA Schedules Ordering Guide** provides instructions for agencies and contractors on using GSA Schedules, including verifying pricing and identifying "open market" items. GSA Procedures refer to the processes managed by the U.S. General Services Administration (GSA) for government procurement, contracting, and property management, involving steps like market research, solicitation, negotiation, and contract management (for vendors), or registration on GSA Advantage (for buyers). Key procedures include the GSA Schedule for buying/selling services, real property disposition (selling surplus property), and compliance monitoring.

a. The PRPHA Procurement Director shall evaluate and determine whether the GSA procurement will be allowable for PRPHA. This written determination must be included in the procurement file.

i **Form of Solicitation**: GSA procurements shall be solicited through the issuance of a Request for Quotations (RFQ), including the Scope of Work (SOW) and the evaluation criteria. The SOW shall include a description of work to be performed; location of work; period of performance; delivery schedule; applicable performance standards; and any special requirements. The Request for Quotations shall clearly identify the supplies or services evaluation criteria, the importance and relative value of each of the criteria and price. GSA scheduled contractors that meet the supplies or services criteria indicated in the RFQ will be provided with the opportunity to respond to the procurement.

ii **Evaluation**: GSA procurements below the Simplified Acquisition Threshold will be evaluated by the Procurement Area. GSA procurements above the Simplified Acquisition Threshold will be evaluated by an Evaluation Committee. The Evaluation Committee shall evaluate all responses received using the evaluation criteria provided to the schedule contractors.

iii **Negotiations**: After the evaluation of the responses, the Evaluation Committee or the Procurement Area may recommend negotiations with Contractors that have a reasonable chance of being selected for award ("Qualified Proposer").

iv **Award**: After evaluation of the revised Quotations, if any, the contract shall be awarded to the bidder responsible that provides the greatest overall benefit in response to the requirements and results in the lowest overall cost alternative (considering price special requirements and administrative costs, etc.) to meet PRPHA needs.

Section 9.9 Cooperative Purchasing/Intergovernmental or Interagency Agreements

The PRPHA may enter into Agreements with other government entities to purchase or use common supplies, equipment, or services. The decision to use an Interagency Agreement instead of conducting a procurement process shall be based on economy and efficiency. (FAR Part 52)

a. PRPHA may either participate in, sponsor, or conduct, a Cooperative Purchasing/intergovernmental or Interagency Agreement for the procurement of any supplies, services, or construction with one (1) or more governmental agencies, or entities.

b. All Cooperative Purchasing/intergovernmental or Interagency Agreements shall be through contracts or purchase orders awarded through full and open competition, and consistent with the standards of this Manual.

c. If used, the Cooperative Purchasing/Intergovernmental or Interagency Agreements shall establish who is authorized to purchase on behalf of the participating entities and shall specify acceptance, termination, payment, and other relevant terms and conditions.

d. PRPHA may use Federal or State excess and surplus property instead of purchasing new equipment and property if feasible and if it will result in a reduction of project costs.

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ARTICLE X - CANCELLATION OF SOLICITATION

This part establishes reasons for Cancellation of Solicitation for the convenience of PRPHA. (2 CFR § 200.340)

Section 10.1 Cancellation Prior to Deadline to Receive Offers

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

a. The goods, services, or construction works solicited are no longer required; or

b. Funding is no longer available for the PRPHA's procurement of goods or services.

c. Amendments proposed to the initial solicitation are material and PRPHA determines that a new solicitation would be most advantageous for the agency: or

d. For just cause, when it is in the best interest of PRPHA.

Section 10.2 Cancellation After the Deadline for Submitting Offers

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

i PRPHA no longer requires goods, services, or construction works solicited; or

ii Ambiguous or otherwise inadequate specifications were included in the solicitation; or

iii The solicitation did not include all the selection or evaluation factors that are significant for PRPHA; or

iv Changes are substantial enough to exceed what potential offerors reasonably could anticipate, so that additional offerors would have submitted offers had the changes been known to them.

v The projected cost exceeds available funds, and it is not appropriate to adjust the solicited quantities within the available funds; or

vi There is reason to believe that offers are not *bona fide*, or may not have been prepared separately through open competition, or may be collusive; or

vii No offers were received by PRPHA in response to the solicitation; or

viii After solicitation of several sources, competition is determined inadequate: or

ix For just cause when it is in the best interest of PRPHA.

Section 10.3 Cancellation Notice

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

ARTICLE XI - AWARD

Section 11.1 General Award Rule

The Bid Board of the PRDOH (Bid Board) will evaluate and award bids and proposals in formal and informal bidding processes over the Simplified Acquisitions Threshold for the acquisition of non-personal goods or non-personal services and professional services in a formal procurement process to be executed by PRPHA, according to the applicable regulations. It will consider and evaluate the recommendation from the Procurement Area before issuing an award. When awarding bids and proposals, the Bid Board will heed the following norms:

a. Bids

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

i Meets the specifications.
ii Meets the conditions and other requirements established in the solicitation; and
iii The offer is the lowest in price.

b. Request for Proposal (RFP)

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

Section 11.2 Specific Rules for Awards

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

a. Lack of Adequate Competition

i When only one quotation is received from a sole offeror and the price is considered unreasonable, the offer may be rejected on the premise that there was no adequate

competition. However, a reasonable price may be negotiated before outright rejection of the offer.

ii When only one offer is received, the award can be made to said offeror if the offer complies with the specifications and conditions, and the price is not unreasonable.

b. Rejection of the Sole Offer

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

c. Multiple Offers by a Single Offeror

When an offeror submits several offers for the same acquisition process under its name or under other names or pseudonyms, they will be automatically rejected. The offeror may be prohibited from entering or participating in future IFBs or RFPs for the period recommended to Administrator or President of the Government Board, which shall not be less than one (l) year nor more than three (3) years.

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

d. Apparent Conspiracy or collusion

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

e. Global Rejection

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

i One or more of the offerors do not meet the stipulated requirements, specifications, or conditions.

ii If adequate competition has not been achieved.

iii The prices are unreasonable.

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iv There are not enough funds available to pay for the goods offered or services.

v Offers show the offerors control the market for the requested product and have agreed among themselves to quote unreasonably high prices.

vi By order of the PRPHA's Administrator, or PRPHA Governing Board, when so justified.

vii It is in PRPHA' s best interest as determined by PRPHA's Administrator or PRPHA Governing Board, when so justified.

f. In the aforementioned cases, if necessary:

a. A new IFB or RFP will be announced.

b. The acquisition will be negotiated.

c. The matter will be addressed in the manner most beneficial to PRPHA, taking into consideration the circumstances involved and applicable regulations.

Section 11.3 Evaluation and Award

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

a. Procedure

Personnel from the Procurement Area will discuss the written recommendations and each of the offers that were evaluated and will recommend which offer should be considered for award and those that must be rejected and the reasons for said rejection. The members of the Bid Board in attendance will vote for the bidder or proposer that meets the specifications and conditions and whose offer is, in general, most beneficial to PRPHA. Awards shall be approved by a simple majority.

b. Effect of the Award

The award will be documented on a Resolution consisting of three parts:

i. a summary of the offers;

ii. a breakdown of each item that has been awarded or rejected; and,

iii. the basis for each action.

The Resolution must be signed by all the members who participated in the award and will be certified by the Secretary of the Bid Board. Any member who voted against the award may attach an explanatory dissenting vote to the Bid Board file. The vote, however, will not be part of the document entitled "Award".

Section 11.4 Award Notification

a. Once the Bid Board makes the corresponding award, the Bid Board Secretary shall notify PRPHA on or before the next business day.

b. The Procurement Area will notify the offerors of the award by email or certified mail or both. This notification will be performed on or before the next business day after the communication from the Bid Board is received.

Section 11.5 Notice

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

Section 11.6 Content

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

a. Date of notice.
b. Bid Board Resolution.
c. Name and address of all offerors.
d. IFB or RFP number.
e. Summary of the offer.
f. Factors or criteria considered to award the bid.
g. The name of every offeror with an indication of the items awarded in their favour and the reason for rejecting the items not awarded.
h. Strengths, deficiencies and weaknesses of each Proposal.
i. Rights for judicial review as per section 4.2 of LPAUG, as amended, 3 LPRA S 9672, as well as Act No. 201-2003, as amended, known as the Judiciary Act of the Commonwealth of Puerto Rico of 2003, 4 LPRA S 24 et seq.

Section 11.7 Awardee

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

a. Documents necessary for contract execution,

b. The time allotted to submit the required documentation; and

c. A notice to the effect that the award is non-binding until the contract is executed.

ARTICLE XII - CONTRACT ADMINISTRATION AND MONITORING

Section 12.1 General

a. The PRPHA must administer the execution of the contract from the date the contractor begins to offer its services (Construction Contract – "Notice to Proceed"), to the date the contract is terminated, or the goods and services are finally delivered (Non-construction Contract); and in both cases, the date the last payment is approved and issued. The User Area assists the PRPHA's Procurement Staff in this function, specifically with the monitoring of the contract. In a Construction Contract, for example, the User Area (Engineer Staff) will administer a Pre-construction Conference before the contractor begins the work agreed; execute progress meetings to verify the work performed, including inspections, correction of deficiencies, compliance with construction schedule and labor standards, for the PRPHA to issue payments on time. In a Non-construction Contract, the User Area will administer a Post-award Conference to ensure that the contractor understands the performance requirements of the contract; establish a system for receiving supplies, equipment, and services; monitor and inspect supplies and services; enforce specifications and timelines and labor standards, for the PRPHA to establish control of the payments. The PRPHA must administer the contract to ensure the contractor's performance and the contract results, including any modifications, achieve the goals of the Agency with respect to the procurement and that the process remains in the best interests of the PRPHA.

b. The requesting User Area has the crucial responsibility of monitoring the contractor's performance under the contract and to enforce applicable bonds and/or warranties with the assistance of the Procurement Area until the closeout of the contract.

c. If the contractor is not satisfactorily performing under the terms and conditions of the contract, the User Area shall notify the Procurement Area, in writing. The Procurement Area will refer the situation to the Office of the Legal Counsel who will assess it and decide whether to terminate the contract for default, send a Cure Notice, and enforce applicable bonds and/or warranties, or any other feasible alternative.

d. Upon satisfactory completion of the contract, the Procurement Area in conjunction with the User Area will close out the contract. All contract records must be kept by each contractor and the PRPHA for five (5) years after final payment and/or the Contract's closeout.

Section 12.2 User Area's Responsibilities

a. The User Area will not authorize or issue any Change Order.

b. The User Area is responsible for monitoring each contractor's performance and for reporting, in writing, if possible, to the Procurement Area all incidents of non-compliance with the terms and conditions of the contract. If there is any doubt as to whether an incident is noncompliant, the User Area must inform the issues identified to the Procurement Area.

c. The User Area is responsible for promptly inspecting, accepting, rejecting or taking all necessary action with respect to delivery of conforming or non-conforming goods, construction work and/or services, and is responsible for supervising the performance of the same. The PRPHA is not obligated to accept or pay for the goods or services until the User Area has had the opportunity to inspect them. The inspection must take place within a reasonable time after delivery of goods, construction work and/or services.

Section 12.3 Acceptance or Rejection of Goods and Services

Acceptance of goods and services shall take place by the User Area. Upon receipt of evidence of acceptance, the Finance and Administration Bureau (Finance Bureau) will pay to the Contractor according to provisions of the Contract for all goods, services and/or construction works accepted, within the time allotted by the Finance Bureau for payment of invoices.

When goods or services do not conform to the contract, the User Area shall inform the Procurement Area, who shall:

a. Reject defective goods, construction works and/or services, in which case, the contractor may be declared in default, unless it can furnish conforming items within the contract delivery schedule; or

b. Issue a Cure Notice requiring the contractor to cure the defective goods, construction works and/or services within a special delivery schedule.

If the contractor fails to cure the defects, the User Area or the Procurement Area will refer to the contract to the Office of the Legal Advisor of the PRPHA to terminate the contract for default.

Section 12.4 Suspension and Debarment

Purchase Orders or contracts shall not be awarded to debarred, suspended, non-responsible or ineligible contractors. Contractors may be suspended or debarred by HUD in accordance with the debarment procedures determined by HUD pursuant to 24 C.F.R. Part 24, as in effect on the date thereof and as the same may be amended from time to time (2 CFR part 2424, Subpart 2409.4-Debarment, Suspension and Ineligibility)

ARTICLE XIII - OFFICIAL RECORDS

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

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

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

a. Solicitation documents such as, without limitation, the user request, Scope of Work, evaluation criteria, and terms and conditions of the solicitation.

b. The ICE includes any amendments and supporting documents or data used to provide the estimate.

c. For all procurement actions, the rationale for the selected procurement method.

d. Evaluations, recommendations, and determinations taken by PRPHA;

e. Advertisements and their details include those to comply with MBE/WBE/Section 3.

f. Documents or information requested, considered, or received by PRPHA, including questions or comments; and

g. Offers or proposals received during the solicitation process.

ARTICLE XIV - CONTRACT TYPES

In every procurement process, PRPHA will use the type of contract that will serve its best interests and follow all applicable Federal and local laws and regulations. The preferred types of contract are Firm Fixed-Price Contracts and Requirement Contracts. 2 CFR § 200.326, 48 CFR§ 16.01 Contracts using "CostPlus Percentage of Cost", or "Percentage of Construction" cost are not allowed.

ARTICLE XV -CONTRACTOR QUALIFICATIONS AND DUTIES

Section 15.1 Determination of Contractor Eligibility and Responsibility

a. Prior to the award of a contract with a prime contractor, PRPHA must obtain contractor and First Tier Subcontractor clearance, if applicable, by taking the following steps:

   i Search https://wwwsam.gov/SAM/ and obtain documentation of the search results to confirm eligibility of the contractor.

   ii Search https://www.hud.gov/topics/limited denials of participation and obtain documentation of the search results to confirm eligibility of the contractor.

   iii The contractor and subcontractors shall also have the Government of Puerto Rico's Certificate of Eligibility issued by the General Services Administration (*Administración de Servicios Generales'; ASG*) *RUL* or RUP, as applicable.

   iv The results of these searches must be documented in the Procurement File.

b. PRPHA must award contracts or Purchase Orders only to responsible contractors with the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

c. Debarment and excluded parties' verification will also be executed using one of the methods listed at 2 C.F.R, 180.300 (as supplemented by 2 C.F.R. S 2424.300), which include:

   1. Collecting a certification to the effect that contractor is not debarred or excluded.
   2. Adding a clause or condition to the contract by which the contractor represents and warrants they are not debarred or excluded.

d. PRPHA reserves its right to not enter into a contract or Purchase Order with a person, organization, or entity against whom a Determination of Non-Responsibility has been previously made by another government agency.

Section 15.2 Subcontractor Clearance

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

a. Collecting a certification to the effect that contractor is not debarred or excluded contractor.

b. Adding a clause or condition to the contract by which the contractor represents and warrants they are not excluded or disqualified.

The prime contractor assumes responsibility for the performance of the subcontractor; therefore, PRPHA urges prime contractors to closely scrutinize subcontractors. If a contractor or subcontractor is found to be ineligible after award of a contract, the contract must be immediately terminated, and the matter reported to PRPHA. The subcontractors shall also have the Government of Puerto Rico's *Administración de Servicios Generales' (ASG) RUL* or *RUP,* as applicable.

ARTICLE XVI – LOW AND VERY LOW-INCOME PERSONS OR FIRMS PARTICIPATION

Section 3 of the Housing and Urban Development Act of 1968 (Section 3), as amended, 12 U.S.C. 51701 u, requires that recipients, subrecipients, contractors, subcontractors, and/or developers funded in whole or in part by federal funding, to the greatest extent feasible, provide training, employment, contracting, and other economic opportunities to low- and very low-income persons, particularly those who live or reside in public or government assisted housing or meet the income limits identified by HUD.

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

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

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

ARTICLE XVII - CONFLICTS OF INTEREST AND ETHICS IN PUBLIC CONTRACTING (Section 19 Part A, PRPH's ACC)

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

ARTICLE XVIII - ADMINISTRATIVE AND APPELLATE REMEDIES

Section 18.1 Administrative Procedure (Judicial Review)

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

The party adversely affected by a determination in a public bid process may file a request for administrative review before the Bid Review Board of the General Services Administration (hereinafter, Bid Review Board) within a period of ten (10) calendar days, counted from the date the award of the public bid process is deposited in the federal mail or sent via email, whichever occurs first; as set forth on Section 3.19 of Act 38-2017, as amended, known as the Uniform Administrative Procedures Act of the Government of Puerto Rico, 3 L.P.R.A. § 9659. The Bid Review Board of the General Services Administration must determine whether to accept the request for administrative review within ten (10) calendar days from the date the request was submitted.

If within that period the Bid Review Board decides to accept the request, it will have an additional thirty (30) calendar days period to resolve it, counted from the expiration of the ten (10) calendar days it had to determine whether to accept the request. The Bid Review Board may extend the thirty (30) calendar day period only once, for an additional period of fifteen (15) calendar days.

If a determination is made during the administrative review, the period to file a judicial review before the Court of Appeals will begin to run from the date a copy of the notification of the Bid Review Board's determination is deposited in the federal mail or sent by email, whichever occurs first. If the Bid Review Board fails to take action on the administrative review request within the time periods set forth on Act 38-2017, as amended, it will be understood that the request has been outright denied, and from that date, the period to file for judicial review will begin to run.

The party adversely affected will have a jurisdictional term of twenty (20) calendar days to file an appeal for judicial review before the Court of Appeals, counted from the date the determination was deposited in the federal mail or via email, whichever occurs first, from either the date of award, of the request for administrative review before the Bid Review Board of the General Services Administration, or from the date of the expiration of the term that the Bid Review Board of the General Services Administration had to determine whether or not to accept the request for administrative review. The mere presentation of the file of appeal for judicial review does not affect paralyzing the cancellation of the procurement process contested.

All petitions for judicial review shall be notified to the Bid Board and all parties of record in accordance with the applicable regulatory requirements.

These terms may vary according to Act No. 201-2003, as amended, known as the Judiciary Act of the Commonwealth of Puerto Rico of 2003, 4 LPRA S 24 et seq., and section 4.2 of Act No. 38 of June 30, 2017, as amended, known as the "Government of Puerto Rico Uniform Administrative Procedure Act" (LPAUG, for its Spanish acronym), 3 LPRA 9672. Moreover, should there be any

changes under any applicable law or regulation, they would be incorporated into this regulation without the need for additional action or formal amendment procedures.

ARTICLE XIX - PURCHASE THRESHOLDS

The threshold amount shall be subject to automatic amendment upon the issuance of any modifications by the applicable federal agencies. (48 FAR Part 2, Subpart 2.1) Any rule modifications promulgated by these agencies shall be deemed incorporated herein as of the effective date of such changes, without the need for additional action or formal amendment procedures.

ARTICLE XX - BUILD AMERICA, BUY AMERICA (BABA) IMPLEMENTATION GUIDANCE FOR THE PUBLIC HOUSING PROGRAM - NOTICE PIH 2025-06

Under Section 70912(7) of BABA, the term "Project" means "the construction, alteration, maintenance, or repair of infrastructure in the United States" and includes buildings and real property within the definition of infrastructure (Section 70912(5)(K)). BABA applies to the following funding obligated by PIH:

1. Funds appropriated under the Public Housing Fund account including Operating Funds, Capital Funds and set-aside funding under the Public Housing Fund appropriation.
2. Funds appropriated under the Choice Neighborhoods Initiative account.

Therefore, PIH programs engaged in the construction, alteration, maintenance or repair of Public Housing, the scope of an Infrastructure Project is:

1. A procurement, subgrant, a cooperative agreement or inter-agency agreement that will result in the expenditure of funds to construct, alter, maintain or repair infrastructure.

2. Where applicable, a collection of procurements/cooperative agreements/inter-agency agreements that will result in the expenditure of funds to construct, alter, maintain or repair infrastructure focused on the same specific or

3. In the instance of the use of Force Account Labor, both the labor and the associated acquisition of materials required to accomplish the purpose of the work being accomplished by the Force Account Labor. The scope of the Force Account project shall be determined by the PHAs written authorization of the project.

Consistent with Section 70914 of BABA, HUD requires application of the BAP for all FFA that is obligated by HUD and provided to Non-Federal Entities after May 14, 2022, where the funds will be used to fund Infrastructure Projects unless the application of the BAP has been waived by HUD. HUD will require HUD Grantees/Funding Recipients, such as PRPHA, to document compliance with the BAP where applicable and to ensure that the BAP is applied to all subgrantees and subrecipients of funding as well as other entities expending grant funds (including contractors and subcontractors paid with funding subject to the BAP), whether provided through contract, grant, loan, or other means, to which the BAP applies. HUD has determined that for projects exclusively utilizing funds obligated by HUD prior to November 14, 2022, BABA does not apply.

HUD Grantees/Funding Recipients, such as PRPHA, must ensure that all procurements, subgrants, cooperative agreements, and inter-agency agreements shall incorporate requirements to ensure application of the BAP, unless the BAP has been waived for funds utilized in connection with an Infrastructure Project.

HUD Grantees/Funding Recipients may request waivers of BAP in connection with any Infrastructure Project. HUD, in its discretion, may grant waivers of BAP consistent with section 70914(b) of BABA, where the Secretary determines that:

1. applying the domestic content procurement preference would be inconsistent with the public interest.
2. types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
3. the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

BABA, does not apply to:

1. Assistance authorized under section 402, 403, 404, 406, 408, or 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170a, 5170b, 5170c, 5172, 5174, or 5192) relating to a major disaster or emergency declared by the President under section 401 or 501, respectively, of such Act (42 U.S.C. 5170, 5191); or

2. Pre and post disaster or emergency response expenditures.

Further BABA applicability and compliance requirement at: Notice PIH 2025-06

ARTICLE XXI - SEVERABILITY CLAUSE

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

regulation, they would be incorporated into this regulation without the need for additional action or formal amendment procedures.

ARTICLE XXII - PREVAILING VERSION

These Manual repeals the *Puerto Rico Public Housing Administration Policy and Procurement Manual*, Regulation No. 8967 dated June 8, 2017, and Regulation No. 6405, entitled *"Procurement Manual,"* dated March 12, 2002; as well as any other prior regulation, manual, administrative order, or circular letter related to this subject matter.

This Manual is originally adopted in the English language; therefore, a Spanish translation is included. In the event of any inconsistency between both versions, the English version shall prevail.

ARTICLE XXIII - EFFECTIVE DATE

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

APPROVED in San Juan, Puerto Rico, on the 26 of Enero, 2026.

Juan A. Rosario-Hernández
Administrator

Approval Date: _____
Filing Date: _____
Effective Date: _____