



BOARD OF TRUSTEES  
UNIVERSITY OF PUERTO RICO

CERTIFICATION NUMBER 30  
2008-2009

I, Salvador Antonetti Zequeira, Secretary of the Board of Trustees of the University of Puerto Rico, DO HEREBY CERTIFY THAT:

The Board of Trustees, in its regular meeting on the 15<sup>th</sup> day of November of 2008, having considered the recommendations of its Appeals and Laws and Regulations Committee and of the President of the University of Puerto Rico, has agreed:

**WHEREAS:** On June 28 2008, by way of Certification No. 76 (2007-2008), the Board of Trustees proposed the approval of new *Rules and Regulations for the Acquisition of Equipment, Supplies, and Non Personal Services at the University of Puerto Rico*, for the purpose of establishing the rules and procedures to be followed at the University of Puerto Rico for the acquisition of equipment, supplies, and non personal and non professional services and to ensure that these are of the highest quality. Furthermore, the Board proposed authorizing, by way of these new Rules, the incorporation of modern technological mechanisms and methods, such as the Internet, among others, that result in greater administrative and academic efficiency and in cost reductions; *providing, moreover*, that the existing General Rules and Regulations for the Acquisition of Equipment, Supplies, and Non Personal Services at the University of Puerto Rico, which is currently in force, approved by this body by way of Certification No. 22 (1995-1996), as amended, and any other regulations incompatible with these new Rules shall hereby be rendered ineffective on the day they take effect.

**WHEREAS:** Pursuant to the Uniform Administrative Procedure Act for the Commonwealth of Puerto Rico, Law No. 170 of August 12, 1988, as amended, the Board published on July 8, 2008 a notice of the proposed action on the Internet and in one newspaper of general circulation in Puerto Rico. A period of thirty (30) days from the date of publication of the notice was allowed for written comments to be submitted.

**WHEREAS:** The Board of Trustees, within such time and before reaching a definitive decision regarding the adoption of the aforementioned proposed Rules, received various comments, took them into consideration, and agreed to incorporate the various recommendations that improved the proposed Rules.

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## **Part I. GENERAL PROVISIONS**

### **Article 1. Title.**

These Rules shall be known as the Rules and Regulations for the Acquisition of Equipment, Supplies, and Non Personal Services at the University of Puerto Rico.

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

These Rules find its legal basis in the provisions contained in the University of Puerto Rico Act, Law No. 1 of January 20, 1966, as amended; Section 14.10.13 of the General Rules and Regulations of the University of Puerto Rico; and the Uniform Administrative Procedure Act, Law No. 170 of August 12, 1988, as amended.

### **Article 3. Purpose and Application.**

- A. These Rules are promulgated for the purposes of establishing the rules and procedures to be followed at the University of Puerto Rico for the acquisition of equipment, supplies, and non personal services, streamline procedures for the acquisition of goods and non professional services, and to ensure that these are of the highest quality. Moreover, the incorporation of modern technological mechanisms and methods, such as the Internet, among others, that result in greater administrative and academic efficiency and in cost reductions is hereby authorized.
- B. These Rules shall extend and apply to all transactions for the acquisition of goods and non personal services carried out by the Board of Trustees, Central Administration, all institutional units of the University of Puerto Rico, and persons in charge of research projects; all employees of the University, suppliers, bidders, and related persons who intervene directly or indirectly with said processes, as well as any other related procedures, such as: delivery or receipts of goods, product substitution, price adjustments, among others.
- C. These Rules shall not apply to: 1) purchases by units, such as the University Press, bookstores belonging to the various institutional units, and others of similar nature that acquire goods in order to sell them and collect money from sales; 2) purchases of educational resources carried out by University System libraries; 3) negotiations and purchases inherent to permanent improvement projects; 4) miscellaneous improvements in facilities governed by the Permanent Improvements Rules and Regulations; and 5) transactions, acquisitions, and expenditures expressly excluded or regulated by special provisions approved by Board of Trustees certifications, such as: costs for the development of institutional relations; costs for events directed to the University community; costs for the use of telecommunications; advertisement costs and for other forms of public communications, Certification Nos. 190-193 (2002-2003).

### **Article 4. Interpretation and Definitions.**

For the purposes of these Rules, all terms used to refer to a person or position refer to both genders. Words or phrases used in these Rules shall be interpreted according to the context in which they are used and shall have the meaning awarded in common use, unless otherwise provided.

It is incumbent on the President of the University to interpret the provisions of these Rules at first instance to resolve any controversy regarding its provisions or with situations not foreseen herein.

- A. **Acquisition** – The action of procuring equipment, supplies, and non personal services through any

- of the methods recognized and authorized by these Rules. The terms “procurement” and “acquisition” may be used interchangeably in official documents.
- B. **Buyer** – University employee authorized or designated by the appropriate authority to carry out procurement transactions on behalf and in the name of the University of Puerto Rico, in accordance with applicable rules. Therefore, the term includes individuals appointed to the position of Procurement Agent for such purposes in accordance with applicable rules.
  - C. **Change Order** – Official document issued by the Procurement Office introducing modifications or amendments to the terms and conditions established in the Purchase Order after the date of issue.
  - D. **Goods** – Equipment, furniture, vehicles, supplies, provisions, and articles authorized by these Rules for the acquisition on behalf of the University of Puerto Rico.
  - E. **Contract** – Document signed between the President, Chancellor or authorized representatives, in representation of the University of Puerto Rico, and the successful bidder or supplier that formalizes the acquisition with the agreed upon specification and conditions.
  - F. **Quotation** – Written offer containing the prices and conditions of a good or non professional service in response to a request by the University.
  - G. **Procurement Director** – Employee designated to head and supervise the operation of the Procurement Office. In units where such position does not exist, it shall refer to the supervisor or employee who exercises the aforementioned responsibilities. The Procurement Director shall be responsible for complying and ensuring compliance with applicable rules for the acquisition of goods and services.
  - H. **Emergency** – An exceptional event or situation that causes an unexpected and unforeseen institutional need which requires immediate action on behalf of the University and entails the urgent procurement of goods as a result of a risk to life, health, safety, or security of one or more individuals, property, and the operations or services provided at the University.
  - I. **Equipment** – Includes all chattels and moveable property of a durable nature with a normal useful life of at least two years, which can be used repeatedly without changing its nature or being consumed.
  - J. **Specifications** – Set of terms, conditions, and physical, functional, esthetic, or qualitative characteristics for each line item of goods and services to be acquired, which shall be used as a baseline for acquisition and analysis and which bidders or supplier must satisfy in their offer.
  - K. **Date of Deposit in the Mail** – Date indicated by the postal service on the proof of certification of posting via certified mail.
  - L. **Bid Bond** – Assurance required to all bidders in the bidding process to guarantee performance of the offer, in accordance with the provisions of these Rules.
  - M. **Payment and Performance Bond** – Assurance required prior to the execution of the contract to a successful bidder in the bidding process or successful proponent in a request for proposals in order to guarantee performance, in accordance with the provisions of these Rules.

- N. **Principal Investigator** – Person responsible of a specific research project for which University funds or from other sources have been assigned.
- O. **Invitation to Bid** – Direct and individual solicitation directed to several bidders inviting them to submit an offer to provide goods or services, the contents of which are established in these Rules. It is used in public bidding processes to encourage the participation of bidders.
- P. **Board of Trustees** – The governing body in charge of governing and administrating the University of Puerto Rico, with powers and duties defined in the University of Puerto Rico Act, as amended.
- Q. **Bidding Board** – Group of employees designated by the President or Chancellor of each institutional unit responsible for analyzing and adjudicating the bidding process for the acquisition of goods and/or services required by these Rules.
- R. **Bidder** – Natural person or legal entity who participates by presenting an offer in a bidding process conducted by the University.
- S. **Successful Bidder** – Bidder who was awarded one or more line items in the bidding process.
- T. **Supplies** – Objects or provisions considered necessary to carry out the work, the performance of a service, or the execution of a project, whose useful life usually does not exceed two years and which is consumed or changes its nature with use.
- U. **Purchase Order** – Official document issued by the Procurement Office in accordance with these Rules formalizing agreements between the University and the supplier for the acquisition of goods.
- V. **Offer** – Quotation a bidder presents to provide goods and/or services, which must include the name and information relating to the person authorized to submit said quotation, as well as the bidder's commercial, physical and mailing address, employer identification number, telephone number, email, and fax number.
- W. **Procurement Office** – Office or Division that conducts procurement transactions for goods or services in each institutional unit of the University.
- X. **Trade-In** – Type of payment for the acquisition of goods given in exchange for presenting the vendor or supplier with another good, usually of similar nature and whose value has been previously determined, which is credited as partial payment for the acquisition.
- Y. **Barter** – Type of procurement under which one presents a good in exchange for another of similar value, either equal or different in nature, without any other consideration as payment.
- Z. **Bid Specifications Document** – Document presented to bidders interested in submitting a tender for the provisions of goods as part of the bidding process, which includes all specifications and conditions for bidding.
- AA. **President** – Refers to the President of the University of Puerto Rico.
- BB. **Pre-Bid Meeting** – Meeting which may be held prior to the opening of a bidding process with the participation of bidders and personnel whose participation members of the Bidding Board and the

- Procurement Director deem necessary in order to dispel doubts bidders might present regarding the terms and conditions presented in the specifications.
- CC. **Vendor or Supplier** – Natural person or legal entity willing and able to provide a good or service at the time and under the circumstances and specifications requested.
- DD. **Registry of Bidders** – List of natural persons and legal entities qualified by the University to appear in the bidding process as bidders.
- EE. **Line Item** – Category of similar goods, the specifications of which substantially distinguish them from any other, requiring them to be identified apart from the rest because of its peculiarities, according to the best interest of the Institution.
- FF. **Request for Proposal (RFP)** – Formal invitations issued to natural persons and legal entities so they may submit sealed proposals for the provision of goods or for the rendering of a service required in the invitation, for which individual negotiations regarding the terms, conditions, quality, solution, prices, or combination of factors are authorized in order to obtain the most favorable outcome for the University.
- GG. **Requisition** – Form used to request the Procurement Office the acquisition of goods and/or services, in accordance with the provisions of these Rules.
- HH. **Non Personal Services** – Services that mainly consist of a product of labor that does not require specialized or professional knowledge, skills, or abilities. Elements in addition to human labor are factored in. This category includes the miscellaneous services companies might offer, such as services for equipment and structural maintenance and repair, catering, courier services, leases, among others.
- II. **System** – Refers to the University of Puerto Rico System, comprising all its institutional units.
- JJ. **Requester** – Organizational unit, dependency, office, division, or subdivision of the University with budgetary responsibility that allows an employee to request and authorize the acquisition of goods and/or services in accordance with the provisions of these Rules.
- KK. **Bidding Process** – Competitive procedure for the solicitation of offers for the acquisition of goods and/or non personal services under the conditions and specifications established by the University.
- LL. **Credit Card** – Banking product, subject to various conditions and with a credit margin, issued to authorized employees, which is associated with a general credit account owned by the University Puerto Rico and allows the authorized employee to pay for goods and services.
- MM. **Debit Card** – Banking product issued to employees authorized to pay for goods and services, subject to various conditions, by debiting the payment from a deposit account created for such purposes that the University of Puerto Rico might keep in said institution.
- NN. **Sole Source of Supply** – Refers to the situation in which there is only one natural person or legal entity willing and supply a good or render a service that has been solicited at the time and under the conditions requested.
- OO. **Institutional Unit** – Every single one of the autonomous administrative and academic units of the University System, as defined by the General Rules and Regulations of the University.

PP. **University** – The University of Puerto Rico.

**Article 5. General Principles and Policies.**

The following General Principles and Policies are established and shall be applicable to all processes for the acquisition of goods:

- A. **Modernization of Procedures** – These Rules are in agreement with the University policy on streamlining procedures for acquisition and payment. For this reason, one of its objectives is to allow and encourage the adoption of modern methods, such as the use of credit and debit cards, the Internet and other similar processes. These Rules shall be interpreted liberally in order to stimulate and encourage the adoption, use, and development of new technologies and procedures that result in expeditious, efficient and efficacious acquisitions in order to fulfill the purpose and provisions established in these Rules. All University guidelines and procedures that intervene in the procurement process must be issued or modified without delay in order to bring them in line with the purposes and provisions of these Rules, which shall prevail over said rules or procedures in case of any inconsistencies.
- B. **Encouraging Joint Acquisitions by Institutional Units** – The University shall encourage and promote the development and implementation of joint activities for the acquisition of equipment, supplies, and non personal services, including the celebration of a bidding process, carried out by units that comprise the University of Puerto Rico System. The President of the University and Chancellors shall ensure compliance with this institutional policy regularly, including the performance by Procurement Directors.
- C. **Promote and Give Priority to More Efficient Forms of Acquisition** – All persons responsible for effecting acquisitions in the University, from those who initiate the process to those carry out the final steps, shall encourage and give priority to the most beneficial modes of acquisition, such as purchases by contract, among others.
- D. **Official Use** – The acquisition of any equipment, supplies, or non personal services shall be strictly for the official use of the University of Puerto Rico in compliance with the academic, research and outreach missions which it has been entrusted.
- E. **Parameters to the Acquisition Process** – Acquisition processes must be speedy, reasonable, efficient, sensible, and suitable to the University. They shall consider the financial situation, the possibility of obtaining the greatest benefit to the institution, and, above all, shall promote the effective achievement of the mission entrusted to the University, within the budgetary reality and the guidelines for sound public administration.
- F. **Principle of Availability** – Rule that authorizes the Bidding Board to evaluate the acquisition of equipment, supplies, and services for academic or investigative use at a higher cost in situations in which there is a risk that the cost to the University might be higher that what might be saved due to unavailability at the time requested, or would undermine the University's mission or services. This analysis must be made according to the particular circumstances presented in each situation and must be duly documented in the record.
- G. **Compliance with Legal Requirements** – All natural persons and legal entities who buy or sell goods and services to the University, as well as all Procurement Agents, Procurement Assistants or University employees involved in the acquisition process must comply with the applicable Federal



and local laws, with applicable local, Federal and University rules and regulations, as well as applicable requirements established by the Government Ethics Act for the Commonwealth of Puerto Rico, as amended.

- H. **Energy Policy** – The acquisition of all equipment that consumes or produces energy of any kind must comply with the University Energy Policy, as well as the policies, rules, and directives issued for its implementation and application.
- I. **Policy of Preference** – Pursuant to the provisions of the Puerto Rican Industry Investment Act, Law No. 14 of January 8, 2004, as amended, articles extracted, produced, assembled, or packed in Puerto Rico or distributed by agents established in Puerto Rico shall be acquired in the procurement process, as long as said articles comply with the specifications, terms, and conditions established for the bidding process or in the purchase order, offer the lowest price after applying the corresponding margin of preference, and the University's mission is not undermined.
- J. **Procurement Reserve** – The University shall make reasonable efforts to assign fifteen percent (15%) of its acquisitions to eligible small to medium-size businesses.
- K. **Acquisition of Recycled Products** – Procurement Offices shall award preference to the acquisition of recycled products, if and only if the quality and purpose for which they will be used are not affected, in accordance with the policies the University might establish and with any other applicable laws or regulations. Procurement Agents or Requesters, before issuing the purchase order, shall request bidders to indicate in the quotation if the product is made from recycled materials and in what percent. For the acquisition of paper for one or more institutional units, paper containing a percentage of recycled fibers must be requested for each fiscal year, pursuant to the Solid Waste Reduction and Recycling Act of Puerto Rico, Law No. 70 of September 18, 1992, as amended.
- L. **Institutional Necessities** – All acquisitions shall be made to satisfy to the maximum the necessities of the requesting unit at the lowest possible cost, without undermining the maximum satisfaction of said necessities. As a result, all employees authorized to conduct and approve the acquisition of goods and/or services shall be governed by the specifications established by the Requester and shall act with diligence to procure the acquisition pursuant to said specifications.
- M. **Preference to Credit Extensions** – When all other conditions are the same, preference may be awarded in the adjudication process and issuance of purchase orders to suppliers who extend credit to the University of Puerto Rico.
- N. **Enforceability of Mutually Established Conditions** – Acquisitions shall be strictly limited to the conditions mutually established by the University in grants, contracts, donations, legacies, collaborative agreements, or other types of agreements for the development of projects, or when said conditions are required by applicable laws or regulations.
- O. **Computers and Software** – The acquisition of computers and software is subject to the provisions of the *Política Institucional sobre el Uso Aceptable de los Recursos de la Tecnología de la Información en la University de Puerto Rico* [Institutional Policy on the Acceptable Use of Information Technology Resources in the University of Puerto Rico], Certification No. 35 (2007-2008) of the Board of Trustees, as amended, and to the guidelines that have been established or may be established in accordance with said Policy.

- P. **Sworn Statement or Certification of Truthfulness** – Documents used during the procurement process that are so required should be sworn and certified as truthful, under penalty of perjury.
- Q. **Public Documents** – Bidding documents, requests for proposal, and contracts are public documents, unless otherwise established by institutional necessity or suitability. Notwithstanding the aforementioned, everything related to the deliberations of the Bidding Board or the Evaluation Committee shall not be considered public.
- R. **Effect of Adjudication Determinations** – The determination reached regarding the adjudication of the bidding process, sealed request for proposal or direct procurement shall only affect the case under consideration and shall not be construed as precedent in other cases.

#### **Article 6. Forms of Acquisition.**

The University of Puerto Rico recognizes and authorizes the following procedures for the acquisition of goods and services: direct procurement in their various forms, including, among others; direct procurement against contract; acquisitions paid with credit or debit cards or other similar methods of payment; emergency acquisitions; sole source of supply or only vendor; acquisitions for research projects; annual or short-term contracts; barter; leases; acquisitions through requests for proposals (RFPs); and acquisitions through a bidding process. Specific provisions are included in Parts II, III, and V of these Rules.

#### **Article 7. Procurement Operations.**

- A. Procurement Offices are offices that offer services with the purpose of orienting, expediting, and effecting the acquisition of goods and/or services required by the respective institutional units, utilizing the forms of acquisition herein provided.
- B. Procurement Directors shall be responsible for encouraging and ensuring the implementation of the applicable General Principles and to all acquisition processes.
- C. Procurement operations are initiated when the Requester interested in an acquisition presents a Requisition Form to the Procurement Office using the electronic means established for this purpose.
- D. The Requester is responsible for providing the Procurement Office with the technical data, special conditions and any other information necessary that should be included in the bid specifications document or purchase orders for the acquisition of the goods and/or services requested. The Requester shall provide the information in writing using the electronic means established for this purpose.
- E. When conducting the acquisition process, the Procurement Office may vary or modify the characteristics, conditions, or specifications of the goods requested only after consulting and obtaining the Requester's written consent, which may be solicited and authorized using electronic means, such as fax or email.
- F. The request for the acquisition of goods and/or services shall be presented to the Procurement Office by way of a Requisition Form made available through the computerized information system, which must be consistent and in line with these Rules.

- G. To request the acquisition of a good or service, the Requester must ensure that the necessary funds are available in the budget allocations corresponding to the institutional unit. Projected costs for transportation of purchased equipment or supplies from the point of delivery to the University and installation costs, when applicable, must be included in the price. The requisition must include a total estimated cost, the account or accounts that shall be used for payment, and the approval of the corresponding supervisor or authorized representative. If the quotations received exceed the estimated cost by twenty-five percent (25%), the Procurement Office must inform the Requester and obtain written authorization in order to proceed with the acquisition, if the available budget is sufficient. Said authorization may be solicited and conceded through electronic means, such as fax or email.
- H. The Procurement Office or the Bidding Board, as the case may be, may appoint a technical committee on its own initiative, in previous consultation with the Requester or on his or her request, to participate in the technical evaluation of offers presented by suppliers.
- I. The Procurement Office or the Bidding Board, as the case may be, shall exercise due care in selecting the supplier using the following criteria: a) experience of previous acquisitions; b) that offers are compatible and in line with existing supplies, services, and equipment; c) offers fully comply with the Requester's requirements, as indicated in the Requisition Form; d) the reasonableness of the quoted price; e) service and warranty for equipment; and f) conditions of delivery. The Procurement Office will not have the responsibility of identifying suppliers when the Requester has provided the aforementioned three written quotations; notwithstanding, the Procurement Office shall be responsible for evaluating and confirming the validity of the information provided and evaluating the suppliers identified by the Requester, in accordance with the criteria expressed in this section.
- J. Before issuing a purchase order, the Procurement Office shall verify and document the cost allocations to the fund or budgetary line, in accordance with established guidelines.
- K. The Procurement Office shall formally request the supplier the acquisition through the issuance of a purchase order, expressing the terms and conditions established with the supplier. Said order shall be issued in accordance with the internal guidelines and procedures established by the University for such purposes, which shall be consistent and in line with these Rules.
- L. Procurements by way of advance payments shall be conducted through the Procurement Office and applied to the funds associated with the corresponding budgetary line. To execute said payments, the purchase order shall be issued and sent with payment to the supplier. At each institutional unit, the office charged with delivery and receipt shall establish the mechanisms through which to ensure that acquisitions are received according to the advance payment agreement.
- M. When unforeseen circumstances arise requiring certain changes, be they in price, quantity, specifications, or other conditions, the Procurement Director or the buyer on whom he or she may delegate the case, may issue a Change Order to the issued purchase order, after previous consultation with the Requester.
- N. In certain cases that are beneficial to the Institution, such as the case of annual contracts, open purchase orders may be issued (also known as "Standing Orders"), under which the supplier shall provide supplies and non personal services by way of multiple partial deliveries at a pre-determined unit price. This shall be subject to settlement through partial payments for the amount billed with each delivery received or by monthly billing cycles, as agreed.

## Part II. FORMS OF ACQUISITION

### Article 8. Direct Procurement – In general.

- A. Direct procurements or acquisitions are those that may be performed without carrying out a bidding process. These are authorized given the following situations:
1. When the estimated costs for the goods to be acquired in a single transaction does not exceed a total of three thousand dollars (\$3,000) and are purchased made with official credit or debit cards or credit accounts or made with personal funds that shall be reimbursed by the University. See Article 11.
  2. When the estimated costs for the goods to be acquired does not exceed a total of fifty thousand dollars (\$50,000), according to the information provided by the Requester in the Requisition Form. See Article 9.
  3. When equipment or supplies to be acquired are for use in Research Projects with an approved proposal that authorizes the acquisition of equipment and supplies. See Article 15.
  4. When the acquisition is made under the terms of a contract or bid previously executed at a systemic level, in accordance with the provisions of Part IV, Article 19 of these Rules, or by one of the institutional units or by a government agency (local or Federal) and will benefit the University of Puerto Rico. See Article 10.
  5. When it is necessary to effectuate an acquisition immediately due to an emergency situation. See Article 12.
  6. When there is only one available vendor or a sole source of supply. See Article 13.
  7. When the acquisition is made to the Government of the United States or one of its agencies or the Government of the Commonwealth of Puerto Rico or one of its agencies or public corporations.
  8. When prices are not subject to competition because they are regulated by law or government authority.
  9. When replacement parts, accessories, additional equipment, or ancillary services are needed for equipment that is under an existing service or repair contract with the institutional unit.
  10. When, after consulting with the Director the Procurement Office, the acquisition must be made outside of Puerto Rico, be it through the Internet or other means, because there are no known or duly qualified suppliers in the local market, or when conditions available in foreign markets, including freight charges and other applicable costs, are more attractive than the local market. In these cases, the Requester must justify in writing the acquisition with the corresponding reasons in a memorandum that must accompany the Requisition Form.
  11. When it is an acquisition of used equipment or parts. For these acquisitions, a written consultation by an expert in the field or the manufacturer of the equipment must be obtained in addition to at least three (3) quotations. Moreover, the Requester must justify the decision in

writing with the corresponding reasons in a memorandum that must accompany the Requisition Form, as well as an analysis of suitability to procure used equipment or parts instead of new ones.

12. When it is an acquisition of a work of art, its acquisition must be endorsed in writing in terms of quality and value by a duly qualified expert in the field and in accordance with the established guidelines for these cases.
  13. By express waiver requested to the Bidding Board when deemed necessary considering the economies involved in maintaining uniformity with the multiple units already purchased.
- B. The acquisition of any equipment or moveable property through direct procurement that costs an excess of two hundred dollars (\$200) once received, including freight, transportation, delivery, and installation charges, must be notified to the Property Office of the Campus or Unit or to the corresponding University authorities in a period of time no later than five (5) business days, in order to carry out the registration and coding process, as appropriate in accordance with the University Rules and Regulations for the Control of Moveable Property.

**Article 9. Direct Procurements not Exceeding Fifty Thousand Dollars (\$50,000).**

- A. Direct procurements that do not exceed a total of fifty thousand dollars (\$50,000) shall be governed by the following criteria:
1. For acquisitions not exceeding three thousand dollars (\$3,000) per line item and are not procured through other applicable provisions of these Rules, the Procurement Office shall select the supplier taking into consideration experiences with previous acquisitions and/or the reasonableness of the price offered in the quotations requested by the Procurement Office or by the Requester.
  2. For acquisitions exceeding three thousand dollars (\$3,000) per line item, but not exceeding a total of fifty thousand dollars (\$50,000), no less than three (3) quotations in writing shall be requested (they may be original documents, copies received by fax or email, or through the Internet or other appropriate means for this purpose), before issuing a purchase order. Where there is only one vendor, the Procurement Office shall proceed according to the provisions of Article 13 of these Rules. The quotations obtained should be in express response to a request made by the University, be it by the Requester or by the Procurement Office, and should be issued by a representative authorized by the supplier.
  3. To proceed with the adjudication, written approval by the requesting unit and the technical committee, if applicable, is necessary when the specifications for the equipment, supplies, and non personal services to be acquired vary from what was originally submitted or when three (3) quotations could not be obtained. This approval may be requested and received through electronic means, such as fax or email. The justifications shall be consigned in the procurement file.
- B. The Requester, at his or her discretion, may request that the acquisition be conducted through a bidding process, even though the cost does not exceed a total of fifty thousand dollars (\$50,000).
- C. Before conducting the acquisition under the provisions of this Article, authorized employees must confirm with the corresponding Procurement Office whether a bid has been awarded or if there is

an existing contract for the goods to be acquired, which might result in a more expeditious and efficient acquisition. If so, the authorized employee must acquire the supplies under the terms agreed upon in the awarded bid or contract through the Procurement Office. Provided, moreover, that the Procurement Office shall publish the list of awarded bids and existing contracts regularly in a website and shall keep it up to date and accessible to all members of the University community.

**Article 10. Direct Procurements against Contract.**

- A. A direct procurement against contract is that which is conducted with a supplier that has signed a contract with the University, any of its institutional units, the Government of the Commonwealth of Puerto Rico, or any state or Federal public agency or instrumentality as a result of a bid awarded in favor of said supplier or an annual or short-term contract negotiated as authorized by these Rules.
- B. A direct procurement against contract may be performed when: 1) one of the referenced contracts is in force and permits the delivery of one or more types of goods and/or services during a period of time established in said contract; or 2) the supplier agreed to supply the goods and/or services under the same terms established in the referenced contract when the contract or bid was awarded by a state or Federal public agency or instrumentality.
- C. In acquisitions against contracts, quotations from other suppliers shall not be required. However, a purchase order must be issued in order to establish controls and records of purchases.
- D. When the acquisition by this mechanism will exceed fifty thousand dollars (\$50,000), the Requester shall request prior authorization from the Bidding Board, establishing the reasons in a memorandum justifying the acquisition.

**Article 11. Goods Acquired by Credit or Debit Card, Credit Account, or Personal Funds.**

- A. When the estimated cost of the goods to be acquired does not exceed three thousand dollars (\$3,000) per transaction, employees duly authorized to carry out this type of procurement may do so, without the need of a Requisition Form, directly from the supplier or through the Internet, and pay by official credit or debit cards or accounts or with personal funds to be reimbursed by the University. Upon receipt of the goods, authorized employees who conducted the purchase must notify the Property Office in a period of five (5) business days, in those cases so required by the provisions of Article 8.
- B. Before proceeding with the acquisition under the provisions of this Article, authorized employees must confirm with the corresponding Procurement Office if a bid has been awarded or if there is an existing contract for the goods to be acquired, which might result in a more expeditious and efficient acquisition. If so, the authorized employee must acquire the supplies under the terms agreed upon in the awarded bid or contract through the Procurement Office. Provided, moreover, that the Procurement Office shall publish the list of awarded bids and existing contracts regularly in a website and shall keep it up to date and accessible to all members of the University community.
- C. Under the provisions of this Article, all types of goods and non personal services for official use may be acquired, up to the maximum cost provided in subsection A.
- D. Under no circumstances may a University credit or debit card or account be used to effectuate purchases or may be charged for the user's personal use or for gifts or gambling activities. Infringement of this rule shall result in the immediate cancellation of card privileges, and the

University may not reimburse the user who has paid with his or her personal funds. In addition, it may result in disciplinary actions, including the removal from position or charge.

- E. The President or authorized representative shall establish the guidelines and procedures for the authorization and handling credit or debit card use and accounts to carry out purchases, as well as for the reimbursement of purchases paid for with personal funds. Said guidelines and procedures shall provide methods and controls to protect the interests of the University, including provisions, such as: the maximum amount of transactions or charges authorized per month; defining which employees shall be authorized and establish their responsibilities; establishing that authorized employees shall receive orientation or training before handing over the card; among others. All guidelines and procedures issued regarding this Article must enable and encourage the utilization of these methods of payment and may not be in conflict with the provisions herein established.
- F. Acquisitions of goods valued in excess of two hundred dollars (\$200) through methods authorized in this Article shall be notified to the Property Office, in accordance with the provisions of Article 8(B).

**Article 12. Emergency Acquisitions.**

- A. In the case of an emergency so determined by the President of the University or the Chancellor of an Institutional Unit, the corresponding Procurement Office shall request at least three (3) quotations for the acquisition of goods or non personal services without the need for a notice or invitation to bid.
- B. All emergency declarations and acquisitions made pursuant to said declaration must be duly justified in the procurement file. If less than three (3) quotations are received, the reasons must also be justified in the file.
- C. Once the offers have been received, the President, Chancellor, or employee who has been delegated the task shall select the supplier who submits the best offer. This task shall be exercised with extreme caution and consideration, according to the best interests of the University. Emergency acquisitions may be awarded to a single supplier, as long as it is the quickest, most effective and least expensive solution under the circumstances, all of which must be included in the file.

**Article 13. Sole Source of Supply or Only Available Vendor.**

- A. This type of acquisition may be carried out in exceptional cases when the Requester and the Procurement Office determine that there is no market competition for the article or service to be acquired and that there is only a single source of supply in the market or only one available vendor, pursuant to the definitions these terms are assigned in these Rules.
- B. The Procurement Office, with the Requester's prior consent, shall take into consideration the following: 1) whether the requirements may be modified to encourage competition without affecting the purpose, quality or characteristics of the goods or services to be acquired; or 2) if there is competition outside of Puerto Rico, it might be extended to the local market and supply the good or service.
- C. If neither of the two alternatives contained in the previous subsection are possible, be it for the lack of the Requester's consent or any other reason based on the best interest of the Institution, the Procurement Office may proceed with a direct acquisition from the sole source of supply or only

**WHEREAS:** The Board, furthermore, used its experience, technical competency, specialized knowledge, discretion, and good judgment when reaching a decision regarding the definitive provisions of said Rules; and

**NOW THEREFORE:** Pursuant to the expressions set forth herein, the Board of Trustees resolved to:

1. Approve the *Rules and Regulations for the Acquisition of Equipment, Supplies, and Non Personal Services at the University of Puerto Rico*, as indicated in the adjoining document containing the body of the new Rules, which forms an integral part of this certification; and provide that, on the day the new Rules take effect, the existing rules in force approved by this body by way of Certification No. 22 (1995-1996) and all other regulations incompatible with these new Rules shall be rendered ineffective.
2. Determine that these new *Rules and Regulations for the Acquisition of Equipment, Supplies, and Non Personal Services at the University of Puerto Rico* be filed at the Department of State for the Commonwealth of Puerto Rico, pursuant to the aforementioned Uniform Administrative Procedure Act;
3. Provide that these new Rules shall take effect thirty (30) days after filing at the Department of State.

IN WITNESS WHEREOF, I issue the present certification, in San Juan, Puerto Rico, today,

November 20, 2008.



[signature Salvador Antonetti Zequeira]

Salvador Antonetti Zequeira

Secretary



**RULES AND REGULATIONS FOR  
THE ACQUISITION OF EQUIPMENT,  
SUPPLIES, AND NON PERSONAL SERVICES  
AT THE  
UNIVERSITY OF PUERTO RICO**

*Certification Number 30 (2008-2009)*

[In the event of any inconsistency between the Spanish and the English version of this text, the Spanish version as approved by the Board of Trustees shall prevail.]

available vendor.

#### **Article 14. Acquisitions through Trade-In or Barter.**

- A. Pursuant to the actions and modes of acquisition provided in these Rules, acquisitions of chattels or moveable property through trade-in or barter may be conducted. Nothing in this Article shall be interpreted to authorize the circumventing of the bidding process when the value of the goods to be acquired requires one to be carried out.
- B. Acquisitions through Trade-In:
1. An acquisition through trade-in is one that is carried out to procure a new good in exchange for another similar used good, previously assessed at a similar value, that will be accredited to the price of sale, the difference of which shall be paid to the supplier in money. The Requester and the Procurement Office shall ensure that the value of the used good given in trade-in has been previously determined using recognized references to determine said value (such as, the Blue Book in the case of motor vehicles) or through the expert opinion suitable for this purpose.
  2. This mode may be used for acquisitions paid in installment or leases. In these cases, at the moment of effectuating the purchase, the used good shall be surrendered and the previously assessed value shall be accredited to the price of sale. The difference shall be satisfied with partial payments in the amounts previously determined and agreed upon and during a specific period of time.
  3. Goods that may be given in trade-in are those that have been determined that the application of this mode of purchase responds to the best interests of the University and, in addition, have been declared as surplus, as certified by the Property Office.
- C. Barter:
1. A barter, as defined by these Rules, may only be effectuated when it is in the best interest of the University or one of its institutional units. It must be justified in writing and duly authorized by the President or Chancellor, as applicable.
  2. The Requester and the Procurement Office shall previously determine the value of chattels or moveable property to be bartered using recognized references to determine said value or through the expert opinion suitable for this purpose.

#### **Article 15. Procurement of Specialized Equipment and Supplies for Use in Research Projects with Approved Proposals.**

- A. Specialized equipment and supplies that the Principal Investigator of a Project may determine are necessary for the development and use in a research project with approved proposals and funds awarded for the acquisition of equipment and supplies may be acquired by direct procurement and are exempt from the bidding process. These provisions apply to all research projects financed with funds awarded in consideration to an approved proposal that authorizes the acquisition of specialized equipment and supplies. Acquisitions may be applied to the funds that have been assigned to the project.

- I. For the purposes of this Article, "specialized equipment and supplies" refers to equipment and supplies directly related to the objectives of the investigation associated with the specific project and that are required or contemplated as part of the approved proposal, as certified in writing by the Principal Investigator of the project; *provided, moreover*, that the term does not include regular and ordinary office supplies and equipment, the acquisition of which must follow the corresponding process.
- B. When the Procurement Offices receive a Requisition Form for the acquisition of these specialized equipment and supplies for research projects with approved proposals, they shall precede to give priority to the purchase order.
- C. The Procurement Office shall ensure that the Requisition Form has been completely filled out with all the specifications and certifications the Principal Investigator has established. In the instances when the procurement process is carried out by the Principal Investigator of a project, he or she shall certify in the receipt report when the acquisitions are delivered directly to said employee, due to the nature of the goods ordered, and shall remit the receipt report to the Receipt and Delivery Office of the institutional unit in a period of five (5) days, during which time he or she shall also notify the Property Office.
- D. The Receipt and Delivery Offices shall give priority to all things related to the specialized equipment and supplies intended for research projects and shall submit a copy of the purchase order as received to the Property Office so as to identify the requested equipment.
- E. ***Duties and Responsibilities of the Principal Investigator of a Project:*** It is incumbent on the Principal Investigator of a Project or his or her authorized representative:
  - I. After verifying that there are no existing contracts for those goods in accordance with Article 10, to request directly from the suppliers prices, freightage and transportation costs, excise taxes, warranty, delivery and installation dates, and conditions of the articles requested.
    - a. For the acquisition of specialized equipment and supplies in which the estimated costs do not exceed three thousand dollars (\$3,000) per transaction, the Principal Investigator shall exercise greater discretion in selecting the supplier, based on experiences in prior acquisitions and the reasonableness of the prices offered. In the case of catalog prices, the Principal Investigator shall always verify with the supplier that prices are current and if there is a special price or tax exemption for educational institutions. These formalities shall be established in writing. The aforementioned acquisitions may be paid by debit card, pursuant to the guidelines and procedures the President might issue for these purposes, or through the Procurement Office.
    - b. For the acquisition of specialized equipment and supplies in which the estimated costs exceed three thousand dollars (\$3,000) per transaction, the Principal Investigator shall obtain no less than three (3) quotations in writing (they may be original documents, copies received by fax or email, or through the Internet or other appropriate means) before preparing the Requisition Form. The obligation of obtaining three (3) quotations will not be required when there are not enough vendors who might supply the specialized equipment or supplies, as specified by the Principal Investigator of the Project, and this fact has been documented. The quotations obtained should be in express response to a request made by the University, be it by the Requester or by the Procurement Office, and should be issued by a representative authorized by the supplier.

2. To select, in consultation with the Director of the corresponding Procurement Office, the supplier who best meets the needs of the research project and offers the best quality, savings, service, warranty, and the most favorable delivery conditions.
  3. To prepare the Requisition Form for acquisitions in excess of three thousand dollars (\$3,000) per line item, justifying the selection of the supplier and certifying with his or her signature that the specialized equipment and supplies requested are necessary for the execution of the investigation and that funds have been assigned for the acquisition. The Principal Investigator shall remit the current quotations received to the Procurement Office, together with a copy of the documents that evidence the actions carried out as part of the procurement process.
  4. To submit to the Dean of Administration of the institutional unit each year the Acquisition of Specialized Equipment and Supplies for Research Projects Report. Said report shall include the name of the project, the requisition number, the date of purchase, the vendor, a description of the acquisition, quantities acquired, and the date of receipt. In addition, the Principal Investigator shall submit a copy of this report to the Preintervention Office and the Property Office.
  5. To exercise the duties described in this Article, the Principal Investigator of the Project must be named Procurement Agent in order to exercise the duties and comply with the guidelines and procedures governing the conduct of persons authorized to effectuate purchases.
- F. Once the necessary documents have been presented, the Procurement Office shall proceed immediately to issue a Purchase Order, unless the selected vendor has a history of non compliance known to the University.
- G. The President or Chancellor of each institutional unit, as applicable, may establish the necessary procedures to implement the provisions of this Article and ensure the controls and compliance with regulatory provisions applicable to these purchases. These procedures shall incorporate agreements, regulations and directives issued by the Federal government or sponsoring entity or donor, when applicable to the project.

#### **Article 16. Annual or Short-Term Contracts.**

- A. In its procurement process, the University shall provide for the formalization of recurrent purchases made to a supplier, whenever possible, through annual or short-term contracts not exceeding one (1) fiscal year, by which direct procurement shall be conducted as the need arises. The contract may be for specific or undetermined amounts, and prices must be agreed upon in advance. The contract may be renewed prior to expiration through amendment signed by the vendor and the authorized representative of the institutional unit, depending on the availability of funds for this purpose. *Provided, notwithstanding*, that the contract shall be executed after a bidding process, whenever so required in consideration to the value of the contract. Information regarding the term of the contract and the opportunity for amendment shall be included in the bid specifications document.
- B. When the quantities of the goods or supplies to be acquired have not been determined, the vendor shall be required to present a quotation based on unit price. Estimated quantities of the merchandise to be supplied may be included in the Requisition Form during the life of the contract. Quantities shall be submitted for evaluation purposes and by no means shall be interpreted as an obligation regarding the quantities to be acquired. The contract shall only secure the unit price, and it shall establish that neither the University nor its institutional units are obligated to purchase the

specified quantities of the merchandise during the term of the contract.

- C. Limitations to the term of the contract provided in subsection A shall not be applicable to leases or acquisitions paid in installments that extend beyond the fiscal year. In such cases, the contract may be renewed upon expiration, depending on the availability of funds for this purpose.

**Article 17. Lease.**

- A. A lease is a type of contract by which a supplier promises to supply an equipment or chattel in exchange for a rate or price paid in installments for a specified period of time, with or without a residual value payment at the end of the contract, that meets or includes at least one of the following conditions:
1. Ownership of the chattel or moveable property under contract is transferred upon the end of the lease.
  2. Contains an option to buy the chattel or moveable property under contract at a substantially lower price than the fair market value of said item at the time the option to buy is exercised.
  3. The term of the contract is equal to or greater than seventy-five per cent (75%) of the useful life of the leased item.
  4. The present value of minimum payments, excluding administrative costs (such as, insurance, maintenance and others associated with the item), is equal to or greater than ninety percent (90%) of the fair market value of the leased item.
- B. This mode of acquisition may be utilized when it has been determined to respond to the best interests of University, the legally required authorization by the Government Development Bank for Puerto Rico has been obtained, and any other legal requirement has been satisfied.
- C. In the case of leases or acquisitions paid in installments with terms that extend beyond the fiscal year, the contract must be renewed yearly with the issuance of a purchase order, subject to the availability of funds for this purpose.
- D. Nothing in this Article shall be interpreted as an authorization to circumvent the bidding process when the total value of the good to be acquired requires one to be carried out.

**Part III. REQUESTS FOR PROPOSALS (RFP)**

**Article 18. Requests for Proposals (RFP).**

- A. The form of acquisition of goods and services by way of a Request for Proposals (RFP) provided in this Article may be used when: 1) prior authorization is obtained as established in subsection B; 2) the cost of the goods or services to be acquired is valued in excess of fifty thousand dollars (\$50,000) and, in addition; 3) any of the following circumstances are present: a) When the work or services required are of such nature that its scope cannot be determined in advance with reasonable certainty, or when such definition would improperly eliminate or restrict competition; or b) When the evaluation of individuals who could potentially carry out the work, render services or supply goods requires his or her relative capacity for performance to be considered, including the degree of

technical capacity or experience; or c) When the goods or services to be acquired are specialized, due to the nature, complexity, specifications, or requirements of the arts, sciences, and technology, or require a certain level of expertise, specialized knowledge, abilities, or experience by those who shall supply said goods or render said services, or may require that other factors, such as quality and esthetic value, among others, be taken into consideration, so that price is not the principal factor to be considered during the adjudication process; or d) When the use of a process of direct negotiation best serves the interests of the University, at the discretion of the President, the Chancellor or his or her representative authorized for this specific purpose.

- B. To use the RFP process, in each case, the Requester, after consulting with the President or Chancellor or his or her representative who has been authorized for this specific purpose, as applicable, shall request the authorization of the Bidding Board through a memorandum of justification, establishing the circumstances that warrant this form of acquisition via RFP and be excused from the bidding process.
- C. RFP Evaluation Committee. Once the aforementioned authorization has been issued, the President of the University or Chancellor, as applicable, shall designate a group of employees who shall be responsible for evaluating the proposals presented in response to the RFP and negotiate with the proponents that were determined to be within the established margin of selection. The President or Chancellor, as applicable, shall establish the assistance that the Secretary of the Bidding Board, the Procurement Office and other employees shall offered the Committee. The Committee may obtain technical assistance during the proposal evaluation process.
- D. The Request for Proposals (RFP) shall include the following:
  - 1. A description of the goods or services to be provided, the timeframe for delivery and performance, and the terms or conditions proposed for the contract;
  - 2. A description of the selection process, which includes the timeframe for receiving, evaluating and awarding the contract;
  - 3. Instructions and forms to be used in the preparation and presentation of the proposal, indicating how, when, and where to do so;
  - 4. Required or permissible options or alternatives;
  - 5. The criteria for evaluation;
  - 6. Instructions regarding how and when prices must be submitted;
  - 7. If applicable, a statement regarding any financial contingencies or other conditions, approvals, authorizations, or certifications that may be required in order to adjudicate or award the contract, order to proceed, or payment;
  - 8. Closing date and place for presenting proposals;
  - 9. The necessary caveats regarding the utilization of individual negotiations regarding the terms, conditions, quality, solution or prices, or combinations of factors in order to obtain the best outcome for the University; the fact that price may not be necessarily the most important

factor for adjudication; the possibility that the contract may be awarded without negotiation.

10. Any other information that may be useful or should be required of the proponents.
- E. A Request for Proposal (RFP) Notice shall be published, at least once, in one or more newspapers of general circulation in Puerto Rico. Said Notice shall contain:
1. RFP Number;
  2. The title of the RFP;
  3. Brief description of the goods or services to be acquired by the University;
  4. Date, time, place, and cost associated with the RFP specifications document;
  5. Date, time, and place where proposals shall be received;
  6. Date and time when proposal shall be opened;
  7. Signature of the Chairman of the Bidding Board or authorized employee;
  8. Indication that the University is an "Equal Employment Opportunity Employer M/W/V/H", and therefore does not discriminate against minorities, women, veterans, or persons with disabilities;
  9. Any other information required by law or deemed appropriate.

In addition to publishing the Notice, as many notices may be circulated as deemed necessary and, at the discretion of the Requester, the Evaluation Committee or the Bidding Board, the Notice may be disseminated through other means or through specific persons, in order to announce it in Puerto Rico and abroad.

- F. Modifications to the RFP: Proponents may request in writing that the RFP be clarified, explained, or interpreted seven (7) days before the established closing date for submitting proposals. The Evaluation Committee and the Bidding Board shall provide any response to written requests as an Addendum to the Request for Proposals (RFP) and shall be sent to all proponents. Only written responses that are provided as an Addendum shall be considered official responses. Any other type of communication with any officer, employee, or agent of the University shall not be considered part of the RFP.
- G. Modifications to a Submitted Proposal: Only the Evaluation Committee and the Bidding Board may accept a modification to a previously submitted proposal when said modifications are received before the closing date and time for submitting proposals. All modifications shall be made in writing and shall be effectuated and submitted in the same form and manner carried out for the original proposal.
- H. Proposal Evaluation Process: Proposals shall be submitted to the Evaluation Committee by the closing date for proposal submissions, in accordance with the instructions contained in the RFP. Upon receipt of the proposals, the Evaluation Committee shall follow the procedure indicated

below:

1. On the date established to receive proposals, the Secretary of the Bidding Board shall register the proposals received in the Board's Minutes Book and shall proceed to open all proposals.
2. Proposals shall not be read in public. When opening the proposals, only the identity of the proponents shall be announced. All proposals, evaluations, discussions, and negotiations shall be kept confidential during the evaluation and negotiation process until the contract is signed. During this period, only the members of the Board and the Evaluation Committee shall have access to the proposals and the evaluations results.

Proposals shall be evaluated based on the Evaluation Criteria. The Board, with the assistance of the Evaluation Committee, may select one or more proposals considered to best serve the interests of the University. When only one proposal is received or selected, the Board, with the assistance of the Evaluation Committee, shall follow the procedures described in subsection 6H, *infra*. In all other instances, the Board and the Committee shall evaluate the proposals based on the Evaluation Criteria in order to determine which proposals falls within the established margins of selection. The Evaluation Committee may hold discussions and negotiate with proponents whose offers fall within the established margins of selection. It shall be understood that an offer falls within the established margins of selection when the offer complies with the specifications and, according to the Board and the Evaluation Committee, has a high probability of being selected because it offers the best prices and/or terms and conditions that best suit the University.

4. If the Board and the Evaluation Committee have decided to hold discussions and negotiations, these shall be conducted following the procedures indicated below:
  - a. The University shall keep all discussions and negotiations confidential. These shall be carried out individually with each proponent. Prior to awarding the contract, information relating to a proposal or its evaluation shall be discussed with no one, except with the proponent who submitted the proposal and the personnel involved in the evaluation and selection process.
  - b. No statement or action on the part of the Evaluation Committee or of any University employee during the discussions or negotiations shall obligate the University in any form whatsoever.
  - c. Proponents whose offers fall within the established margins of selection shall be invited to individual private meetings with the Evaluation Committee to discuss any aspect of the proposal and answer questions. The Committee shall determine the content and scope of the meetings between the Committee and the proponents, based on the content and circumstances of the proposal. The purpose of the meetings shall be to clarify any doubts regarding the RFP requirements and ensure that the terms of the contract are understood; improve technical concerns and other aspects of the proposal in order to guarantee compliance with the required specifications and performance and/or reduce prices; address the proposed baseline price; and discuss any other particular details of the proposal in order to secure a better proposal.
  - d. All proponents whose offers fall within the established margins of selection shall be



granted the opportunity to discuss their proposals. If deemed necessary, the Evaluation Committee shall grant the opportunity to review the proposal, according to the criteria provided in the corresponding RFP. Discussions shall be based on the information and circumstances of each proposal, as described in the preceding paragraph.

- e. The Board, with the assistance of the Evaluation Committee, shall:
    - i. Establish procedures and calendars for discussions and control of meetings;
    - ii. Clarify any aspect of the proposal, as well as its terms and conditions;
    - iii. Offer the proponent a reasonable opportunity to submit any modification to price or cost, technical aspects or any other aspect of the proposal that may result from the discussions; and
    - iv. Keep a register of the date, time, place, and general circumstances of the meetings, as well as the individuals who attended the meetings.
  - f. After each interview or meeting with a proponent, the Committee shall require the proponent to confirm the clarification of a proposal discussed in the meeting in writing.
  - g. At the discretion of the Board or the Committee, discussions and negotiations may be carried out, completely or in part, by way of written communications without the need of face-to-face meetings or interviews.
5. Once the Evaluation Committee receives the revised proposals, additional discussions and negotiations may be carried out, as long as said additional discussions or negotiations serve the best interests of the University.
  6. Oral or written discussions shall not be required in those cases where it has been determined, on the basis of the existence of a full and open competition or based on previous experiences regarding the cost of a product or service, that accepting of the initial most favorable proposal without a discussion shall result in the lowest total cost for the University at a fair and reasonable price, provided that in the Request for Proposals (RFP) all bidders have been notified of the possibility that a contract may be awarded without discussions. When only one proposal has been received, negotiations may be continued pursuant to this Article if the Board and the Committee consider that it best suits the University to do so.
  7. In all processes concerning a Request for Proposals (RFP), the Board and the Committee may reject a proposal received or cancel an RFP when it has been determined that it would not result in the best interest of the Institution.

I. Awarding:

1. The Evaluation Committee shall present the Bidding Board with its recommendations regarding the proposal that best serves the interests of the Institution.
2. The Bidding Board shall proceed to award the bid pursuant to Part V, Article 23(H) of these Rules.

J. Cancellation of Proposals:

All cancellations under this Article shall be performed pursuant to Part V, Article 24 of these Rules when the form of acquisition is compatible with the provisions of this Article.

K. General Provisions:

1. The President or Chancellor, as applicable, may authorize guidelines and procedures for the implementation of this form of acquisition in his or her institutional unit, provided that said guidelines and procedures are not contrary with the provisions of this Article.
2. The provisions set forth in this Article shall prevail over any other provision in these Rules that are contrary to the terms herein established or to the purpose of the acquisition by way of a Request for Proposals (RFP); *provided, notwithstanding*, that in any unforeseen events not considered in the provisions of this Article, the bidding process shall serve as a guide and shall be extended by analogy.
3. All proponents who submit a sealed proposal in accordance with the provisions of this Article must be qualified and registered in the University's Registry of Bidders.

**Part IV. JOINT ACQUISITIONS**

**Article 19. Acquisitions and Projects among the Units.**

- A. The President or the person on whom he or she has delegated this task, shall hold a meeting at least twice a year with the Procurement Directors of all institutional units to determine and plan the development of joint acquisition activities, including the celebration of a bidding process, the issuance of purchase orders, warehousing activities, purchasing of supplies, equipment and services among the units, and sharing of all information regarding its Registry of Bidders.
- B. The Central Administration Procurement Director shall submit a report with the outcome of each meeting. This report shall be sent to the President of the University, who, in turn, shall inform each Chancellor.
- C. The University procurement directors must perform at least one system-wide bidding process a year to procure equipment, supplies, goods, and non personal services for the use of all system units at a more cost-effective prices as a result of bulk purchases.
- D. The system-wide bidding process shall be conducted through the Central Administration Bidding Board, augmented with the attendance of representatives from each participating unit, and with the assistance provided by the President, in accordance with the provisions on bidding processes established in these Rules.

**Part V. BIDDING PROCESSES**

**Article 20. Acquisitions through a Bidding Process.**

- A. When to Execute the Bidding Process

A bidding process must be carried out in the following cases for all acquisitions of goods and/or non personal services with a minimum estimated total cost exceeding fifty thousand dollars (\$50,000) and, therefore, cannot be procured through other modes of acquisition provided in these Rules.

B. Invitation to Bid Announcement

The Bidding Board must publish an Invitation to Bid Announcement, containing the information required in Article 22 B, in a newspaper of general circulation in Puerto Rico for at least two (2) days and no less than ten (10) calendar days prior to the opening date of the bidding process, unless the Bidding Board approves a shorter period of time. The Bidding Board may also send invitations to particular bidders. The invitation shall be sent to bidders through the most appropriate methods after the Announcement has been published.

**Article 21. Bidding Boards.**

A. Establishment: Each institutional unit and Central Administration shall establish at least one Bidding Board for the acquisition of equipment, supplies, and non personal services. All bidding boards shall be comprised as provided in this Article.

B. Composition of the Bidding Board: All bidding boards shall be comprised of three (3) full members and two (2) alternates, provided, moreover, that:

1. The members of the Bidding Boards shall be appointed by the President of the University, in the case of Central Administration, and by the Chancellors, in the case of the institutional unit he or she directs. In addition, the President and the Chancellors shall designate the Chairpersons of the respective Boards among the three (3) full members.
2. The members that shall comprise each board shall be selected among the employees of the corresponding unit and shall serve for a term of three (3) years. However, they may be replaced at any time at the discretion of the President or Chancellor, as the case may be.
3. The Unit Procurement Director shall be an *ex officio* member of the Bidding Board. He or she may participate in the deliberations solely in an advisory capacity.
4. The members of the Bidding Board shall not receive compensation whatsoever in addition to their salaries as University employees.
5. The presence of any three (3) members of the Bidding Board, including the alternate members, shall constitute a quorum for this purpose.
6. In the absence of the Chairperson of the Bidding Board to a duly convened meeting, any other member of the Bidding Board may act as Interim Chairperson by designation of those present.
7. Whenever it is deemed necessary or suitable to carry out a bidding process for the whole University System or between two (2) or more institutional units, the President of the University or the person in whom he or she delegates, in consultation with the Chancellors of the respective units, shall call to order a Joint Bidding Board which shall serve all

institutional units in the common acquisitions of goods. This Board shall be comprised of the Chairpersons of the Bidding Boards of the participating Institutional Units. The Procurement Directors of each participating unit shall join in an advisory capacity. The President shall designate the Chairperson of each joint board from among its members. In those cases in which the amount of participating units are an even number, the President shall designate an additional member to the Joint Bidding Board from among Central Administration employees.

C. Power and Duties of the Bidding Board

The Bidding Board shall exercise the powers and shall have the duties that follow:

1. Evaluate and submit a recommendation in regards to each bidding process exemption request submitted for its consideration, reviewing the evidence presented to sustain each request.
2. Carry out the bidding process and award contracts for the procurement of goods and/or non personal services that should be acquired through the bidding process.
3. Appoint technical committees to participate in the evaluation of bid offers submitted and offer technical advice. The works of the committee shall be governed by the same rules of confidentiality that are applicable to the Bidding Board. If the members of the committee are University employees, they shall not receive compensation for these services.
4. Consider requests for bidding cancelations.
5. Make determinations regarding petitions for reconsideration presented by bidders to be admitted to the Registry of Bidders, both for new applications and readmissions.
6. Make determinations regarding the recommendation of applying penalties and sanctions to bidders, contractors, and suppliers for non compliance with their duties and responsibilities.
7. Review and approve the minutes taken during meetings. These shall be signed by the Secretary and Chairperson of the Bidding Board.
8. Consider any other transaction related to the acquisition of goods and non personal services that the President of the University or Chancellors may present for the consideration of the Board.

D. Meetings of the Bidding Board

1. The Bidding Board shall hold as many meetings as deemed necessary for the timely award of contracts for pending bids and to address any other issue presented for their consideration.
2. The Board shall follow the order established in the agenda during their meetings.
3. The Board shall keep confidential all discussions held during their meetings. Prior to adjudication of the bidding process, Board members shall not discuss information regarding a bid or its evaluation with any person outside of the Board, except with members of the technical committee that the Board may have designated for a particular bidding process.

E. Duties and Responsibilities of the Chairperson of the Bidding Board

1. Direct the works of the Board and ensure that the provisions established in these Rules are upheld.
2. Ensure compliance with the General Principles and Policies established in these Rules.
3. Certify, with his or her signature, the minutes or resolutions issued by the Board, as well as the invitation to bid announcement.

F. Appointment, Duties, and Responsibilities of the Secretary of the Bidding Board:

The President of the University or the Chancellor, as the case may be, shall appoint the Secretary of the Board, who may not be a member of said Board, and shall have the duties and responsibilities that follow:

1. In coordination with the Chairperson of the Bidding Board and the Procurement Director, the Secretary shall prepare the agenda and the calendar of Board meetings and shall notify the celebration of said meetings.
2. Control and keep custody of all documents relating to the bidding process, in accordance with applicable regulations on the conservation of documents, including the full names of bidders, authorized representatives, mailing, physical and email addresses, employer identification number, telephone and fax number, and all other relevant information.
3. Attend all meetings and bidding processes held by the Board to take minutes.
4. Draft and sign meeting minutes and submit them for the approval of the members. He or she shall keep a Minutes Book with a table of contents in numerical order by bidding process, using the appropriate electronic means.
5. Review bidding announcements for publication with the required information, obtain the signature of the Chairperson of the Bidding Board, carry out all actions for the publication of the announcement and confirm its publication.
6. Keep clippings or copies as published, with the date, page, and name of the newspaper, together with the file of the bidding process.
7. Review the invitations to bid with the required information, mail the invitations, and keep proof of mailing to each invited bidder.
8. Keep custody of all offers presented until the date and time established for the opening of the bidding process.
9. Prepare the files for each bidding process.
10. Distribute the agenda and documents to the members of the Board prior to each meeting.

11. Certify the presence of a quorum in the Board meetings.
12. Answer mail addressed to the Board, as instructed.
13. Prepare and issue all Board certifications.
14. Draft, convey, and follow up on directives issued by the Board.
15. Prepare draft resolutions.
16. Carry out any additional task the Chairperson of the Bidding Board may assign.

**Article 22. Bidding Procedures.**

**A. Invitation to Bid.**

1. In all cases in which a bidding process must be carried out, the Requester shall submit a Requisition Form to the Procurement Office with a justification memorandum. The Procurement Office shall evaluate the requisition and request the Bidding Board the commencement of a bidding process.
2. The Requester is responsible for providing the Procurement Office all technical data, special conditions, specifications, and all other information to be included in the bid specifications document.
3. The Procurement Office, after consulting with the Requester, may determine that in order to execute the project, separate bidding processes must be carried out for its various components, when it is suitable to the University. The Procurement Office must identify the aforementioned components and justify this course of action.
4. In the case of a bidding process for the acquisition of supplies, equipment, and non personal services for two or more institutional units, the Procurement Directors of each unit shall notify their respective Chancellors, who shall request the President to name a Joint Bidding Board.
5. The Procurement Director shall present the corresponding Bidding Board the written request to celebrate a bidding process together with the following documents or information in writing:
  - a. Requisition Form and justification memorandum presented by the Requester in which the execution of the project has been approved.
  - b. Proof of funds assigned and the account number from which the costs of acquisition will be drawn.
  - c. Technical specifications duly approved by the Requester.
  - d. Terms and conditions for acquisition.

- e. Any permit required by law, or in its absence, a certification indicating that no permits of any nature are needed or the reason why such permits are not need at that stage of the project for which the bidding process shall be carried out.
- f. Bidders who shall receive an invitation to participate in the bidding process, if any.
- g. Bonds and insurance requirements as established in writing by the University Insurance Office, including the Bid Bond.
- h. Indication whether a pre-bid meeting shall be held.
- i. Provisions referencing specific brands of articles, if any, are solely included as a guide or index to help illustrate the bidder regarding the items that are wanted for acquisition.
- j. If specific brands are required, they shall be expressly indicated. The procurement file shall include a report presented by the Requester in which he or she justifies such need.
- k. Any consideration given to an offer that contains cash discounts.
- l. Any other information or documentation deemed necessary by the Procurement Office of the institutional unit or those required by University rules and regulations or by applicable Federal or state laws or regulations.

B. Contents of the Notice and Invitation to Bid

1. The Secretary of the Board, on instructions by the Chairperson of the Bidding Board, shall publish a Notice and Invitation to Bid and shall verify that it contains the following information:
  - a. Bid number;
  - b. The title of the bidding process;
  - c. Brief description of the goods or services to be acquired by the University;
  - d. Date, time and place of the pre-bid meeting, if applicable;
  - e. Date, time, place, and cost associated with the bid specifications document;
  - f. Date, time, and place where offers shall be opened;
  - g. Signature of the Chairperson of the Bidding Board or authorized employee;
  - h. Indication that the University is an "Equal Employment Opportunity Employer M/W/V/H", and, therefore, does not discriminate against minorities, women, veterans, or persons with disabilities;
  - i. Any other type of information required by law or deemed appropriate.

C. Amendments to the Bid Specifications Document

1. Amendments to the bid specifications documents issued before the pre-bid meeting, or in cases in which no such meeting shall be held, must be communicated through the same means used to publish the bid notice and must be sent to all bidders who were sent an invitation to bid or requested a copy of the bid specifications document.
2. Amendments to the bid specifications documents issued after the pre-bid meeting shall be notified via fax, email, or any other written means to all participating bidders at the pre-bid meeting.
3. In all cases, amendments must be notified simultaneously to all bidders with at least three (3) business days prior to the opening of the bidding process. Copies of each notice of amendment sent must be kept in the file associated with the bidding process.
4. The Bidding Board, on its own initiative or by request of the Procurement Office, may postpone the opening date for the bidding process when it is deemed suitable considering the best interests of the University. The Bidding Board must notify this determination through the same methods used to announce the bidding process and, in addition, in writing to all bidders via fax, email, and regular mail.

D. Interpreting Bidding Documents

1. In case of doubts regarding any part or provisions of the bid specifications document, the bidder must request clarification during the pre-bid meeting or, in case no such meeting is held, in writing to the person indicated in the bidding instructions within the period of time stipulated for such requests. If the request has merit, the Bidding Board shall issue a clarification, and it shall be included as an addendum to the bid specifications document. The clarification shall be sent or delivered to the requesting bidder and to all other bidders, following the provisions of subsection C(3) of this Article.
2. The University shall not entertain any requests for clarification or interpretation of bidding documents that are carried out in any way different to what is established in the previous section.

E. Pre-Bid Meeting

1. When it is so required in the notice or the invitation to bid, the Bidding Board shall summon all bidders to a pre-bid meeting as follows:
2. The notice or the invitation to bid shall establish the date, time, and place where the pre-bid meeting shall be held and if attendance is mandatory.
  - a. Prior to the pre-bid meeting, possible bidders must:
    - i. Acquire a copy of the bid specifications document, the Rules and Regulations for the Acquisition of Equipment, Supplies, and Non Personal Services or other necessary documents; and



- ii. After coordinating with the Procurement Office, bidders shall visit and inspect the place where the equipment will be installed or where the project shall be carried out or where the service subject to the bidding process shall be offered in those cases in which the bid specifications document so requires it.
- b. The pre-bid meeting shall be presided by the Chairperson of the Bidding Board or an employee of the Procurement Office in whom he or she delegates, with the participation of the Secretary of the Board and the Requester or his or her representative.
- c. The Secretary of the Board shall prepare and keep a registration document of attendees indicating the corporation or association each participant represents or if he or she appears as a natural person.
- d. The Secretary of the Board shall take minutes of the issues brought at the pre-bid meeting and shall include clarifications made upon a bidders request. In addition, minutes must include all addenda to bid specifications documents in case it is necessary to make modifications, corrections, and changes to said document.
- e. If an addendum must be issued as a result of the meeting, the Secretary of the Board, on instructions of the Chairperson of the Bidding Board, shall send a copy of the addendum to all bidders in no less than three (3) business days prior to the opening of the bidding process.

#### F. Signing of Offers

1. If the bidder is an association, the offer shall be signed in ink on behalf of said association by a partner or representative authorized to obligate the association.
2. If the bidder is a corporation, the offer shall be signed in ink with the corporate name, followed by the signature and designation of its Chairperson, Secretary or any other officer authorized to obligate the corporation.
3. The names of the signatories must be typed or printed under their signatures in ink. The offer made by a person who adds the word "Chairperson", "Secretary", "Agent" or another designation without revealing its principal shall be disqualified.
4. Corrections or erasures on the offer must be duly initialized in ink by the bidder in his or handwriting. Failure to do so shall result in the invalidation of the offer for the corresponding line items.

#### G. Modification to Offers

1. Offers may be modified only in writing and prior to the opening of the bidding process. Modifications must be presented before the Secretary of the Bidding Board in a closed envelop appropriately identified with the bidding process number, date, and time announced for the bid opening procedure, and the name and address of the bidder.
2. In the written communication, the reasons for modifying the offer must be indicated.

3. All modifications to offers shall be opened on the date and at the time established for the opening of the bidding process.

#### H. Opening of Offers

1. Bidders must present their offers in a closed enveloped, which shall be received by the Secretary of the Board at the place indicated in the notice or invitation to bid on or prior to the date established for the bid opening procedures. Offers received before the deadline shall be kept closed until the bid opening procedures. Offers received after the date and time allocated for the acceptance of offers shall be returned to the bidder without opening and shall be considered rejected or not accepted. Unless the bid specification document requests or authorizes more than one alternative, no bidder may submit more than one offer, and, in so doing, all offers submitted by said bidder shall be disqualified. The offer must include any claim applied to the bidder pursuant to the provisions of the Puerto Rican Industry Investment Act, Law No. 14 of January 8, 2004, supported with documents demonstrating the percent of preference awarded by the Puerto Rican Industry Investment Board.
2. Envelopes in which the offers were presented shall be stamped with an official seal of registry, indicating clearly the place, date, and time in which they were received.
3. No offers will be accepted over the telephone.
4. An offer opened prematurely as a result of having been incorrectly labeled shall be disqualified.
5. At the opening of the bidding process, the Bidding Board does not have to be constituted. However, the Bidding Board shall be represented by its Chairperson or a member in whom the Chairperson has delegated, and the Secretary of the Board.
6. The procedure for the opening of the bidding process shall be presided by the Chairperson or, in his or her absence, by a member of the Bidding Board, who shall be assisted by the Director of the Procurement Office. All bidders, their representatives, and the general public may be present during the process of opening the bid offers. The Secretary of the Board shall require all those present to sign an attendance registry with the name of the company or corporation he or she represents and the position he or she holds in said company or corporation.
7. The policy on preferential acquisitions, established by the Puerto Rican Industry Investment Act, Law No. 14 of January 8, 2004, as amended, and the requirements of the Guarantees for Acquisitions of Products Made in Puerto Rico Act, Law No. 253 of September 2, 2003, as amended, on the right to have applied a preference extended by law, the right to contest all adjudications contrary to the provisions of law, and a statement affirming that all adjudications shall be canceled if they do not comply.
8. Once the offers have been opened, no additional information shall be accepted or used for evaluation, except as provided in these Rules.
9. Upon the opening of offers, the members of the Board who are present and the Secretary shall ensure that: (a) all offers have been signed in ink by the bidder; (b) the name of the signatory

appears in print; (c) it has been established in what capacity he or she signs and the position he or she holds in the company; (d) the name, commercial, physical and mailing address, employer identification number, telephone number, email address, or fax number are noted in the document, in accordance with the provisions of these Rules.

10. The presentation and opening of a signed offer implies the bidder's acceptance of all terms and conditions established in the bid specifications document and any addenda. Terms and conditions appearing in an offer that modify, alter or are contrary to those appearing in the bid specifications document and its addenda shall be considered as not included, and so it shall be recorded.
11. Each offer shall be read in public and sufficient time shall be awarded to bidders to inspect each offer or part thereof, except for material identified as confidential by the bidder, either in the room where the bid opening procedures are held or in a place designated for such purposes, and in the presence of the Secretary of the Bidding Board.
12. Bidders who do not wish to participate in the bidding process after having sent their offer and corresponding bond shall notify the Bidding Board in writing prior to the opening of the bidding process. After the offers have been opened, no bidder may withdraw. If this is the case of the bidder who is awarded the contract, the Board shall proceed to execute the Bid Bond, unless there are justifiable grounds not to do so. Events beyond the control of the bidder, such as natural disasters or fortuitous events of an extraordinary nature, which the Board considers justifies not executing the bond, shall be considered justifiable grounds. Once an offer for a particular bidding process has been withdrawn, the bidder may not present an alternate bid.
13. Minutes shall be taken during the bid opening procedure, which shall be signed by the Secretary and by the members of the Board who were present.
14. The bid opening procedure may be recorded at the discretion of the Board. If there is a recording, it shall be included as part of the file for said bidding process.
15. Once the offers have been opened at the specified place, date and time established for such purposes, these shall be considered submitted for the consideration of the Board until the notice of award is issued or the bidding process is cancelled.
16. While the offers are being considered by the Board, bidders, their representatives, or any other party with interest shall abstain from communicating with any University employee through any means regarding issues relating to the bidding process.
17. No University employee or family member shall establish contact with bidders or persons outside the University to offer information regarding a bidding process that is under consideration.
18. The Board may reject any and all offers and impose disciplinary or corrective measures that may apply when, in the opinion of the Board, there has been a violation of the previous sections or when it is believed that the bidder, either personally or through third parties, has exercised undue pressure on the evaluation or adjudication of the bidding process.

I. Evaluation of offers received in a bidding process

1. The Board shall be in charge of evaluating the offers received in a bidding process, in coordination with the Requester or the designated evaluating technical committee and the Procurement Office.
2. The Board, when considering the offers received, shall confirm that bidders comply with the terms and conditions established in the bid specifications document, with special emphasis on those terms and conditions that are mandatory.
3. When evaluating the offers and emitting recommendations, due consideration shall be given to such factors as the ability of the bidder to perform the services, project or works or provide the equipment or supplies that is the object of the bid under consideration; the quality, adaptability and compatibility of the materials, effects, equipment or services for their desired purpose; the bidder's financial responsibility; the bidder's expertise, experience, commercial reputation and integrity, and ability to render ancillary services such as training, maintenance, warranty, replacement parts, and ability to comply with the delivery period.
4. Price estimates or formulas for calculating prices or descriptions of equipment, supplies, or services offered that might be susceptible to various interpretations shall not be accepted.
5. Consideration to compliance with the Puerto Rican Industry Investment Act, Law No. 14 of January 8, 2004, as amended, for the acquisition of equipment and supplies produced, manufactured or assembled in Puerto Rico will be awarded to bidders who have requested it as required in the previous subsection H.1 and have documents supporting their request that evidence the percentage of preference awarded by the Puerto Rican Industry Investment Board.
6. Discounts for early payment may be considered as part of the offer for the purposes of adjudicating the bid, as long as these are in line with the provisions established for such purposes in the bid specifications.
7. In the case of a lease, monthly payments, interest rates, administrative costs, and the residual value to be paid, if any, at the end of the term, in the case of exercising the option to buy.

**Article 23. Awarding the Bid.**

- A. If the Bidding Board has proof regarding the existence of an deal between two or more bidders in order to obtain the bid, all offers submitted by these bidders shall be rejected.
- B. The Bidding Board shall not consider offers by bidders who have not fully complied with their previous obligations to the University or with government agencies or private clients. In the case of noncompliance, the Board shall notify the Procurement Office so that the participants may be removed from the Registry of Bidders.
- C. The Bidding Board shall ensure that bidders who have been awarded the contract after the bidding process are natural persons or legal entities who: (1) have a solid moral and financial solvency, as reflected by the required documents and financial statements presented; (2) possess the necessary and experience and capacity demonstrated in transactions similar to a bidding process; (3) have

current and valid licenses, permits and franchises as necessary and required by applicable laws and regulations; and (4) having participated in other transactions with the University, have fully complied with their obligations.

- D. If all terms and conditions are equally satisfied, the contract shall be awarded to the lowest bidder. Notwithstanding, the contract may be awarded to another bidder if the quality of the product or service or the suitability of the University justifies such an action.
- E. The bidding process may be adjudicated by line item, groups of line items or completely, in accordance with the bidding process specifications provided and in the manner that is most suitable to the Institution.
- F. The Bidding Board may not award contracts for amounts that exceed the funds available for the acquisition of goods or non personal services.
- G. Before the adjudication, the Bidding Board shall prepare a written evaluation of the offers received, indicating and including the following information:
  - 1. Names of all bidders;
  - 2. Description of the services to be contracted or equipment or supplies to be acquired;
  - 3. Offers submitted by the bidders, including the delivery and/or installation terms for goods and/or services, as well as the validity of prices;
  - 4. Evaluation of services and new technologies;
  - 5. Recommendation for the adjudication or cancelation of the bidding process, duly supported and in accordance with the provisions of these Rules;
  - 6. Copy of the report submitted by the technical committee, if one was constituted, and any other document considered during the adjudication of the bidding process;
  - 7. The evaluation document shall be kept in the bidding process file, but it shall not be notified with the adjudication determination.
- H. The Board shall adjudicate the bidding process in writing in an Award Notice and shall express the reasons for the adjudication. The Award Notice must, at least, contain the following:
  - 1. Names and addresses of all bidders;
  - 2. A summary of the offers;
  - 3. Factors or criteria taken into account in the adjudication of the bidding process;
  - 4. Defects, if any, the proposals presented by the losing bidders;
  - 5. The availability and timeframe in which to petition for reconsideration and judicial review.

- I. After the period of time in which to petition for reconsideration and judicial review, the Bidding Board shall notify its final decision to the Procurement Office so that office may proceed with the guarantee and insurance verification procedure request at the Insurance Office and the preparation of a Purchase Order or request a contract to the Office of the Legal Adviser, as the case may be.

**Article 24. Canceling the Bidding Process.**

- A. The Bidding Board, on its own initiative or on request of the President of the University or the Chancellor, may reject all offers received if it considers that bidders lack the necessary capacity to comply with their offers, when the goods or services are not in line with the specifications, if the quoted prices exceed the assigned budget, or when it is necessary to protect the best interests of the University.
- B. The Bidding Board shall cancel the bidding process that does not comply with the Preference Act and the Guarantees Act.
- C. The Bidding Board shall declare the bidding process null and void when no offers were received or when only one was received. In these cases, at the discretion of the President of the University of the Chancellor, the process may be carried out under the provisions of Part II, Article 13.
- D. The Bidding Board shall issue a resolution indicating the reasons for authorizing the cancelation.
- E. If the cancelation was authorized prior to the opening of the bidding process, notice of said cancelation shall be given through an announcement in a daily newspaper of general circulation or it shall be notified on the day, time, and place of the bid opening procedure. The notice that shall be sent to the bidders shall include a copy of the cancelation resolution.
- F. If the cancelation was authorized after the opening of the bidding process, a written notice shall be sent to all bidders who participated in the opening of the bidding process.
- G. If the cancelation of the bidding process was authorized after its adjudication, the Bidding Board must prepare a report with the reasons for the cancelation, including a summary with recommendations for the announcement of a new bidding process or any other measure that suits the best interests of the University.

**Article 25. Post Award Procedure.**

- A. The Bidding Board, by means of a communication signed by its Chairperson, shall notify the successful bidder that the bidding process was awarded in his or her favor via certified mail with return receipt. Said communication shall contain a brief report of the grounds for adjudication, as well as a list of the bidders' names and addresses. Concurrently with this notification, the successful bidder or bidders shall be required to submit the corresponding performance and payment bonds, as well as any other insurance or guarantee, as per the instructions to bidders.
- B. The Bidding Board, by means of a written communication signed by its Chairperson, shall notify in writing the result of the bidding process to all other bidders via certified mail with return receipt. Said communication shall contain a brief report of the grounds for adjudication, as well as a list of the bidders' names and addresses.

- C. Communications addressed to both the successful bidder and to all other bidders who participated in the bidding process must advise of the right to petition for judicial review or reconsideration of the adjudication to a Reconsideration Panel of the Bidding Board, pursuant to the provisions established in these Rules. Said notice shall advise all bidders of their rights, in the following terms: *Pursuant to Article 26 of the Rules and Regulations for the Acquisition of Equipment, Supplies, and Non Personal Services at the University of Puerto Rico, you have the right to request a reconsideration of the adjudication of this bidding process by presenting a written Petition to this end to the Bidding Process Reconsideration Panel at the Office of the Secretary of the Reconsideration Panel at the following address [Include the corresponding address and telephone number], within a period of fifteen (15) calendar days from the date on which this notice was deposited in the mail. The Reconsideration Panel must consider the petition for reconsideration of the adjudication of a bidding process within ten (10) calendar days from the date the Petition was presented. Failure to do so shall be interpreted as a rejection or non acceptance of the petition, and from that date, the period of ten (10) calendar days to petition for judicial review before the Court of Appeals shall commence. If the Reconsideration Panel decides to accept the Petition for Reconsideration, the Panel may request additional relevant evidence, hold hearings or delegate the celebration of hearings to an examining officer before entering a decision. The party adversely affected by a decision issued in reconsideration may petition for judicial review before the Court of Appeals within ten (10) calendar days from the date on which the notification of the final order or resolution of the Panel was deposited in the mail.*

*Furthermore, you are hereby advised and notified that, pursuant to Section 4.2 of the Uniform Administrative Procedure Act, Law No. 170 of August 12, 1988, as amended, if you do not petition for reconsideration, you may resort directly to the Court of Appeals to request judicial review of this bidding process within ten (10) calendar days from the date on which the notification of this decision was deposited in the mail.*

#### **Article 26. Petitions for Reconsideration.**

- A. There shall be at least one Reconsideration Panel to attend to reconsiderations originated from all units of the University that are authorized by these Rules. No members of the Reconsideration Panel may be members of the Bidding Board of the institutional unit under appeal. Each Panel shall be formed by two (2) employees designated by the President of the University and one (1) designated by the Chancellor of the respective institutional unit, none of whom may be members of a Bidding Board. These members must have experience and formal education in the field of Law, Finance, Accounting, Procurement, or Administration. In the case of a bidding process originating from Central Administration, the President of the University shall designate the representative from the unit under appeal. The President of the University shall designate the Secretary of the Reconsideration Panel and may also name alternate Panel members.
- B. The Panel shall be responsible for analyzing the petition for reconsideration and reaching a decision regarding said petition, as provided in the following subsections of these Rules.
- C. Only the following may petition for reconsideration of a final decision or adjudication issued by the Bidding Board:
1. Bidders who participated in the bidding process on the adjudication of said bidding process;
  2. Natural persons or legal entities who were excluded or denied a request for admission or readmission to the Registry of Bidders by a Procurement Office or Bidding Board.

3. Natural persons or legal entities against whom a Procurement Office or Bidding Board applied penalties or sanctions.
- D. The jurisdictional terms to petition for reconsideration of a final decision or adjudication issued by the Bidding Board shall be the following:
1. All petitions for reconsideration of a final decision or adjudication of a bidding process shall be presented before the Secretary of the Reconsideration Panel within ten (10) calendar days from the date on which the notification of the decision was deposited in the mail.
  2. All petitions for reconsideration of a decision to exclude or deny entry to the Registry of Bidders or the imposition of a sanction or penalty must be presented before the Office of the Secretary of the Reconsideration Panel within twenty (20) calendar days from the date on which the notification of the decision was deposited in the mail.
  3. All reconsiderations shall be requested by presenting a written Petition for Reconsideration signed by the interested party, his or her legal counsel or authorized agent, containing the following information:
    - a. Name, address, telephone number, email address, and fax number of the bidder petitioning for reconsideration;
    - b. Number and title of the bidding process, if applicable;
    - c. Supported statement of all facts and legal grounds on which the petition arises;
    - d. Copy of the notice announcing the adjudication of the bidding process issued by the Bidding Board or the exclusion or denial of admission to the Registry of Bidders or the notice of imposition of a penalty or sanction;
    - e. Statement of the remedy requested;
    - f. Certification that demonstrates having sent on the same day of presentation a copy of the petition for reconsideration via certified mail with return receipt to all bidders in the bidding process, to the Procurement Director of the unit, and the Bidding Board or the person or legal entity whose decision is being appealed. This requirement shall be of strict compliance.
  4. A petition for reconsideration may be presented and notified through electronic means that offer proof of the date sent, such as fax or email (in pdf format).
- E. The presentation of a Petition for Reconsideration shall not stay the adjudication of a bidding process. Notwithstanding, the petitioning party may request the stay of the adjudication process through a Petition for Reconsideration that is duly supported by evidence and accompanied by a bond. Said bond shall be issued by an insurance or bonding company authorized to do business in Puerto Rico that is acceptable to the University. The bond may also be satisfied by money order or certified check issued in the name of University. Said bond shall be equal to 10% of the full amount of the adjudicated offer or \$100,000, whichever is the lesser of the two. The mere presentation of a bond shall not stay the adjudication of a bidding process. This determination shall lie exclusively at



the discretion of the Reconsideration Panel.

- F. The Secretary of the Reconsideration Panel shall mark the date and time in which the petition was received on the Petition presented and shall forward it to the Panel as soon as possible.
- G. Any bidder whose interests might be affected by the petition for reconsideration of the adjudication of a bidding process shall have five (5) calendar days from the date on which the copy of the Petition for Reconsideration was sent to appear in writing and present his or her position on the issue.
- H. The Panel may dismiss the petition for reconsideration if, after having required corrections, the Petition does not comply in the given period of time with the established form or content requirements.
- I. The Panel must consider the petition and determine if it shall be accepted or denied within ten (10) calendar days after it has been presented. Failure to do so at the expiration of those ten (10) days shall be interpreted as a rejection or a non acceptance of the petition and, from that date, the period to petition for judicial review of the adjudication of the bidding process shall commence.
- J. The Reconsideration Panel must consider the Petition for Reconsideration for exclusions from the Registry of Bidders and on the imposition of penalties within fifteen (15) calendar days from the presentation of the Petition. Failure to do so shall be interpreted as rejected or not accepted and, from that date, the period to petition for judicial review of the adjudication of the bidding process shall commence.
- K. If the Panel opportunely accepts the Petition for Reconsideration and does not dismiss it or reject it, the Panel must make a final decision in a suggested period of thirty (30) calendar days from the date on which the decision to accept the petition was rendered.
- L. In order to reach a decision regarding a petition for reconsideration that has been accepted, the Panel may request any other additional evidence deemed relevant, hold hearings or delegate the celebration of a hearing to designated examining officers in order to subsequently enter a decision. The Reconsideration Panel shall establish the rules that shall govern those hearings.
- M. The resolutions of the Reconsideration Panel shall be considered final rulings.
- N. Any party adversely affected by a final resolution of the Panel may present a petition for review before the Court of Appeals within a period of ten (10) calendar days from the date on which the notification of the final order or resolution of the Panel was deposited in the mail, or within ten (10) calendar days after the period of time provided in subsection I of this Article has expired, in the case of the adjudication of the bidding process. In the cases of exclusion from the Registry of Bidders or the imposition of penalties, the period of time to resort to the Court of Appeals shall be thirty (30) calendar days after the expiration of the period of time provided in subsection I of this Article.
- O. The mere presentation of a petition for judicial review before the Court shall not have the effect of staying the adjudication of a bidding process. The Bidding Board shall notify its final decision to the Procurement Office so that office may proceed with the guarantee and insurance verification procedure request at the Insurance Office and the preparation of a Purchase Order or request a

contract to the Office of the Legal Adviser, as the case may be.

## **Part VI. MISCELLANEOUS PROVISIONS**

### **Article 27. Registry of Bidders.**

- A. Each Procurement Office shall keep a Registry of Bidders accepted for the acquisition of goods, which shall be shared with all institutional units. The Registries of Bidders shall be made available to all agencies of the Commonwealth of Puerto Rico and of the United States Government who so request it. These lists shall be revised each month.
- B. This Registry shall contain: the name of natural persons and legal entities; the type of business or activity conducted; the physical and mailing addresses, including their business address, telephone and fax numbers; email addresses; names of persons authorized to sign offers; Department of State registration numbers in the case of corporations; trade or professional license or the organization's operating license; and the type of business or activity conducted. In addition, credit account numbers for each unit (if applicable) may be requested from the bidders, as well as related information for carrying out electronic payments. The Procurement Office shall revise and update the information in this Registry at least once a year.
- C. The elimination of the Registry of Bidders shall not hinder the University from resorting to other legal remedies in its right.
- D. The President shall establish a procedure for accepting and removing persons from the Registry of Bidders pursuant to these Rules and any applicable laws or regulations.

### **Article 28. Penalties and Sanctions.**

- A. The Bidding Board, under recommendation of the Procurement Director or the Requester, after prior consultation with the Office of Legal Affairs, may apply any of the penalties or sanctions listed in subsection B of this Article to any supplier, bidder, proponent, contractor, or provider who commits the following actions:
  - 1. Violations of applicable Federal laws or laws of the Commonwealth of Puerto Rico.
  - 2. Conviction for crimes committed against public treasury, trust and public service or that involve public property or funds.
  - 3. Breach of contract or of the specifications, terms and conditions of the adjudication or of the purchase order.
  - 4. Acting in consort and mutual agreement with a University employee to obtain advantage or benefit in an acquisition process at the University.
  - 5. Violation of University de Puerto Rico rules or guidelines or incur in conduct that substantially affects the interests of the Institution.
- B. Any supplier, proponent, contractor, or provider who commits any of the actions described in the previous subsection of this Article may be subject to the following penalties, sanctions, or

measures:

1. Forfeiture of the deposit, guarantee or bond that may have been deposited;
2. Satisfaction by the contractor or his or her guarantor of the difference between the price of completing the project and the quoted price;
3. No consideration to both present and future offers;
4. No works awarded.
5. Removal of his or her name from the Registry of Bidders for a period of time deemed appropriate.

**Article 29. Guarantees, Insurances, and Bonds.**

- A. The Requester and the Central Administration Insurance Office shall evaluate the risks associated with the acquisition of equipment, supplies, and non personal services and shall determine the insurance policies and bonding requirements deemed necessary for tender or contract, all of which shall be established in the bid specifications document or request for proposals.
- B. As a general rule, the University shall determine and record in the bid specifications document or proposal requirement that bidders or proponents must offer a deposit, guarantee or bond by an insurance company duly certified by the Commissioner of Insurance of Puerto Rico and that are acceptable to the University, for the amount and term deemed reasonable, to guarantee: (1) the offer; (2) compliance with the contract to be formalized; (3) payment of materials and manual labor; (4) costs or damages suffered by the University as a result of a petition for reconsideration of any decision issued by the Board; (5) other aspects related to the bidding process or requests for proposals, as applicable. If an exception to this rule arises, it must be fully justified in the Bidding Board files.
- C. In order to cover the aforementioned risks, employees shall require the applicable policies and bonds from the following list:
  1. Performance Bond
  2. Bid Bond
  3. Payment Bond
  4. State Insurance Fund Corporation Policy
  5. Employer' s Liability
  6. Commercial General Liability
  7. Automobile Liability

8. Builders Risk
  9. Pollution Liability
  10. Installation Floater
  11. Any other insurance, guarantee or bond deemed necessary to protect the best interests of the University.
- D. Unless provided otherwise by the President, the minimum amounts for the bonds mentioned below shall be the following:
1. Bid Bond: The Bid Bond shall be issued for no less than five percent (5%) of the amount of the offer.
  2. Performance Bond, in general: When it is required, it shall be issued for a minimum of one hundred percent (100%) of the tendered amount, with a maximum of \$1,000,000; *provided, notwithstanding*, that the amount of the bond required shall be established in the invitation to bid in accordance with the risk assessment for the equipment, goods, or services to be tendered; provided, furthermore, that in all bidding processes awarded for more than one year, the base for calculating the performance bond shall be the annual cost as quoted.
  3. Performance Bond, in the case of contracts for medical services for University employees and students: The performance bond shall be issued for the equivalent of 25% of the total annual cost or \$6,000,000, whichever is less. When the tender is made through the financing method known as *Cost Plus*, the base for calculating the bond shall be the claims paid plus the administrative costs incurred in the last twelve (12) months as contemplated in the specifications contained in the usage reports.
- E. All policies must contain an endorsement through which the University is given notice thirty (30) days prior to the modification or cancelation of said policies. In addition, via endorsement, policies must include the University of Puerto Rico as additional insured.
- F. The Procurement Office shall forward the required documents on insurance policies, bonds, or guarantees received from bidders and successful bidders or proponents to the Central Administration Insurance Office. The Insurance Office shall notify the Procurement Office whether the documents comply with the requirements before issuing any purchase order or signing any contract whatsoever.
- G. The Insurance Office shall ensure that companies that issue bonding and insurance are acceptable to the University and are solvent and authorized to do business in Puerto Rico. For this purpose, they shall be required to present a certificate from the Commissioner of Insurance of Puerto Rico.
- H. Any bidding process or request for proposal may be invalidated if, after twenty (20) business days from the award notice, the successful bidder or proponent does not submit the bonds, insurance, and other guarantees and required documents for the consideration of the University. This inaction shall constitute sufficient motive for the President, after the Bidding Board has issued a determination of noncompliance, to proceed to execute the Bid Bond and the bidder's suspension from the Registry of Bidders, in consultation and coordination with the Offices of Finance and Legal Affairs.

**Article 30. Receipt, Delivery, and Payment of Goods.**

- A. Delivery of equipment and supplies shall be made directly to the office that issued the purchase order or to the Receipt and Delivery Office, as each institutional unit may determine. The President or Chancellor shall establish the necessary procedures regarding the delivery and receipt of equipment and materials in order to provide expeditious notification of receipt of purchase to the offices concerned and expedite payment. After supplies have been received and payment satisfied, the goods received shall be verified in order to ensure that these strictly adhere to the specifications and other stipulations contained in the purchase order or contract.
- B. As a general rule and in order to ensure the appropriate internal controls, the functions of procurement, receipt and delivery, certification of payment, and registration of received property shall be kept separate. The employee in charge of receipt and delivery shall verify the amount requested by the corresponding requesting unit with the amount ordered and shall initiate corrective measures if necessary when discrepancies in the purchase order arise.
- C. The purchase order receipt report shall be signed by the person authorized in the requesting unit to do so when the employee in charge of delivery delivers the goods.

**Article 31. Ethical Obligations.**

- A. University employees or advisors who participate in the bidding process may not have economic interests of any other kind in the bidding process and under no circumstance shall they intervene in an advisory capacity or in the preparation or drafting of offers for bidders or suppliers.
- B. Bidders and suppliers must comply with the provisions of Law No. 84 of June 18, 2002, as amended, known as the Code of Ethics for Contractors, Suppliers and Applicants for Economic Incentives of the Executive Agencies of the Commonwealth of Puerto Rico.
- C. In each Institutional Unit, the Procurement Director shall be responsible for training and orienting individuals who participate in the acquisition process on their ethical responsibilities. He or she must also be available to offer orientation on these issues to third parties who participate in the process for the acquisition of goods or services for the University.

**Article 32. Amendments, Repeals, and Validity.**

- A. These Rules may only be amended by the Board of Trustees.
- B. These Rules shall affect the Rules and Regulations for the Acquisition of Equipment, Supplies, and Non Personal Services at the University of Puerto Rico approved by the Board of Trustees by way of Certification No. 22 (1995-1996), all of its amendments and any other certification, rules, regulation, or communication inconsistent with these Rules.
- C. The provisions of these Rules are separable from each other. The invalidity of one or more articles or sections shall not affect the remaining provisions that may be applied independently of those declared null and void.
- D. These Rules shall take effect thirty (30) days after filing at the Department of State, pursuant to the provisions of the Uniform Administrative Procedure Act, as amended.