



REQUEST FOR PROPOSALS (RFP) NO: PRDE (ER)-2019-02
TITLE: Program Management Services

EVENT	DATE AND TIME*
Publication and Release of RFP	March 13, 2019
Deadline for Submitting RFP Questions	March 28, 2019
Deadline for Submitting Letters of Intent (<i>Mandatory</i>)	March 28, 2019
Mandatory Pre-proposal Conference	April 3, 2019
DEADLINE FOR SUBMITTING PROPOSALS	April 15, 2019
Selection of Proposer Finalists, and Presentations and Product Demonstrations by Finalists	April 22, 2019

*All listed times are Atlantic Standard Time (AST)

PROPOSALS WILL NOT BE ACCEPTED AFTER THE DEADLINE.
PROPOSALS SUBMITTED BY FAX WILL NOT BE ACCEPTED

PROPOSERS SHALL DELIVER THREE (3) COPIES OF PROPOSALS AS FOLLOWS:

- 1 Signed **Original Proposal** in a 3-Ring Binder with Financial Statements, clearly marked as the Original
- 1 Exact Copy of the Original Proposal on a Jump Drive, including Financial Statements, submitted along with the Original Proposal
- 1 Exact Copy of the Original Proposal submitted by shared document link emailed to recovery@de.pr.gov

EACH ORIGINAL PROPOSAL MUST BE ADDRESSED AND HAND-DELIVERED BY PROPOSER OR BY U.S. MAIL OR COURIER TO THE FOLLOWING ADDRESS BY THE DEADLINE:

Oswaldo Guzmán
Undersecretary of Administration
Puerto Rico Department of Education
150 Federico Acosta Street 2nd Floor
Undersecretary of Administration's Office
Urbanización Industrial Tres Monjitas
Hato Rey, Puerto Rico

All Proposer questions concerning the RFP and the competitive proposal process should be in writing and emailed to: recovery@de.pr.gov. This RFP, all attachments and clarifications/addenda are available for download at: www.de.pr.gov.

P.O. Box 190759, San Juan PR 00919-0759 • Tel.: (787)773-2696



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RFP NO: PRDE (ER)-2019-02
Program Management Services

March 13, 2019

TO PROSPECTIVE PROPOSERS:

The Government of Puerto Rico Department of Education (the "Department" or "PRDE") is requesting proposals pursuant to the above-referenced Request for Proposals ("RFP"). The purpose of this RFP is to select one Proposer to provide **Program Management Services**. The RFP and Proposer selection process are conducted in accordance with the terms of this RFP. Notice of the RFP is published on the PRDE website, the Office and Budget Department Bids and RFPs website, and on the website of the Central Office of Recovery, Reconstruction and Resiliency.

Proposers are requested to propose services to be provided under the direction of the PRDE's Office of the Undersecretary of Administration. Each proposal must be in the format specified in the RFP, must include all of the required submittals specified in the RFP and be submitted by the deadline set forth on the cover page of the RFP.

All Proposers are required to submit the Letter of Intent to Submit a Proposal as specified in the RFP. The Department intends to award a contract to one (1) Proposer.

On behalf of the Department, we encourage qualified Proposers to respond to the RFP and thank you in advance for your interest in providing your services to the PRDE.

Sincerely,

Oswaldo Guzmán
Undersecretary of Administration

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I. ABOUT THE PUERTO RICO DEPARTMENT OF EDUCATION

1. OVERVIEW

The Puerto Rico Department of Education (the “Department,” or “PRDE”) is the government agency that directly runs and operates Puerto Rico’s public schools’ system. Unlike most states, the PRDE acts both as a State Educational Agency (SEA), and as a Local Educational Agency (LEA). Information concerning the approximate size of the PRDE school system is as follows:

THE PRDE SCHOOL SYSTEM*	
*Students:	300,000
Schools:	856
*Educators:	25,000
Educational Regions:	7

*Estimates

The PRDE has 1109 schools of which 856 are presently in use. Work may be done on all 1,109 schools, distributed among the seven PRDE Educational Regions. The figure presented above is for illustration purposes only, this information is an approximation of the Educational Regions components.

2. PRESENT SITUATION AFTER HURRICANES IRMA AND MARÍA

Due to the passage of hurricanes Irma and María, the schools and administrative offices of the PRDE suffered damage to its infrastructure. The PRDE must perform repairs to schools and facilities throughout the seven PRDE Educational Regions to continue providing its essential services in a safe manner and to protect its assets from further damage. PRDE is seeking to complement its current staff with the creation of a contract Program Management Office (PMO) under the PRDE’s Recovery Office. The PMO will provide consulting services and technical assistance to the PRDE in project management, grants management, development and implementation of administrative controls and the coordination with stake holders. In addition, it is to include damage assessments, cost estimating, FEMA and HUD grant applications and management, FEMA and HUD reimbursements, procurement and management of all necessary professional services including all construction and restoration services. The scope also includes the closeout of contracts, FEMA/HUD grants. Further details are provided below.

II. GENERAL INVITATION

1. OBJECTIVES

The Department is requesting proposals pursuant to **RFP No: PRDE (ER)-2019-02** (hereinafter, this "RFP"). The services described in this RFP shall be procured through PRDE's Office of the Undersecretary of Administration.

The objective of this RFP is to select one (1) Proposer to provide program management services. The PRDE will award one contract to the responsible Proposer who submits the best proposal that meets the PRDE needs. The Department is interested in selecting the best solution for program management services presented by qualified and responsible Proposers (hereinafter referred to, alternatively, as "Proposer" or "contractor").

2. PROJECT FUNDING

The contract will be financed in whole with Federal Emergency Management Agency's ("FEMA") Public Assistance Program ("PA") funds; (FEMA-4339-DR-PR-001) and the Federal Housing and Urban Development ("HUD") Community Development Block Grant ("CDBG") Program the U.S. Department of Housing and Urban Development ("HUD") issued Federal Notice FR-6066-N-01 and all subsequent waivers and amendments issued thereto. As such, the funds are governed by FEMA, HUD rules and regulations, including CDBG regulations under 24 CFR 570, local, state and federal laws, regulations and directives; and 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The selected service provider must be knowledgeable of the allowable costs for this funding stream in order to avoid the potential for disallowed costs. Proposer, by submitting a proposal, acknowledges and accepts that all applicable local and federal contract provisions will be included in any contract with the PRDE, including but not limited to provisions found at 2 CFR Part 200 and Appendix II to Part 200.

Proposers must be aware that local and federal administrative, civil and criminal responsibility might ensue from providing false or misleading information to obtain the contract awards.

3. PROPOSER ELIGIBILITY

To be eligible to submit a proposal under this RFP, Proposers must comply with the following requisites, but are not limited to:

1. Required documentation. All Proposers are hereby advised that if awarded a contract under this RFP, Proposer will be required to provide the following documents and certifications prior to the execution of the contract.
 - a. Puerto Rico Treasury Department
 - i. Treasury Department (Filing of Income Tax Returns) Form SC 6088 or Form SC 2781
 - ii. Treasury Department (Income Tax Debt Certification) Form SC 6096
 - iii. Treasury Department (Sales and Use Tax Debt Certification) Form SC 2942

- iv. Treasury Department (Merchant's Registration) Form SC 2918
 - v. Treasury Department (Filing of Sales and Use Tax Returns) Form SC 2927
 - vi. Waiver for Income Withholding (if applicable)
 - b. Municipal Revenues Collection Center
 - i. Municipal Revenues Collection Center (Personal Property Tax Certificate)
 - ii. Municipal Revenues Collection Center (All Concepts Debt Certification)
 - c. Puerto Rico Department of Labor and Human Resources
 - i. Department of Labor and Human Resources (Certification- Payment of Unemployment Insurance Premiums, Workers' Compensation Payments or Social Security for Drivers and/or Chauffeurs)
 - d. Child Support Administration(ASUME)
 - i. Employer Compliance Certificate
 - e. Department of State
 - i. Department of State (Organization Documents) Certificate of Incorporation, Certificate of Organization or Certificate of Authorization to do Business in Puerto Rico
 - ii. Department of State (Good Standing Certificate)
 - iii. Articles of Organization/Incorporation or Partnership Agreement
 - f. State Insurance Fund
 - i. State Insurance Fund Policy Certification
 - g. Other Documents
 - i. Photo identification of the person authorized to sign the contract
 - ii. Corporate or Member 's Resolution or Sworn Statement authorizing the entity's representative to sign the contract
 - iii. Copy of professional license or certification, if applicable pursuant to Act 173-188 and PRGAO CC OC-15-12.
 - iv. Sworn statement regarding compliance with Act 2 of January 4, 2018, as amended, attached hereto as Attachment B.
 - v. Evidence of the *DUNS Number* and registration of www.sam.gov for goods or services greater than \$25,000.00
 - vi. A signed statement acknowledging the contents and requirements of Act 237-2004
- A. File a Letter of Intent. Proposers must submit a letter stating its intent to submit one or more proposals in response to this RFP ("Letter of Intent"). The Letter of Intent shall be in the format set forth in **APPENDIX IV** (Proposal Submittal Forms – FORM 8) and must be delivered to PRDE by the deadline indicated on the cover page of this RFP.
- B. Must Demonstrate Ability to Meet Requirements. The Proposer must clearly demonstrate the Proposer's ability to fully meet all of the requirements of this RFP in its proposal, including but not limited to, financial capacity, service levels and delivery dates, reporting, and technical training.

If awarded a contract, the selected Proposer will be required to accept the award in writing within five (5) calendar days of the award and execute a contract containing, among other things, the general terms and conditions set forth in Section V of this RFP. In the event the Proposer and the Department fail to reach an agreement as to the terms and conditions of the contract, the Proposer's award of the contract

shall be revoked by the Department, and the Department may negotiate a contract with one (1) or more of the other Proposers.

4. PRDE RIGHTS

The Department reserves, at its sole discretion and for its sole convenience, the following rights with regard to this RFP, without limitation:

1. Reject any or all proposals;
2. Amend this RFP;
3. Correct errors in this RFP;
4. Cancel the entire RFP or reduce the scope of services;
5. Extend the deadline for submitting proposals;
6. Issue one (1) or more subsequent RFPs for the same services;
7. Appoint an evaluation committee to review proposals and make Proposer selections;
8. Seek the assistance of technical experts to review proposals and make recommendations;
9. Invite one or more Proposers for presentations and negotiations after review of proposals;
10. Negotiate with any, all, or none of the Proposers;
11. Solicit best and final offers (BAFO) from all, some or none of the Proposers;
12. Award a contract to one (1) or more Proposers;
13. Award a contract without discussions or negotiations;
14. Investigate the qualifications of any Proposer under consideration, require additional information or confirmation of information furnished by a Proposer and require additional evidence of qualifications to perform the services or supply the products described in this RFP;
15. Investigate the qualifications of Proposers and any subcontractors proposed by Proposers;
16. Waive informalities and irregularities in proposals;
17. Disqualify Proposers for non-responsiveness or proposal deficiencies;
18. Award a contract for longer or shorter terms and/or with options to renew;
19. Renegotiate or revise the contract based upon rule changes prior to and/or after the signature of the contract;
20. Disqualify proposals if there is evidence of collusion with intent to defraud or other illegal practices on the part of any Proposers;
21. If any Proposer selected for award refuses accept the award within five calendar days of the award date or to execute the contract arising from this RFP, the Department shall have the right to order the execution of the Proposal Guarantee (Bid Bond) in order to cover the difference between the Proposer's cost and the cost proposed by the next qualified Proposer, as well as to cover other damages and direct expenses of the Department;
22. Acquire the amount of services as may be required by the PRDE.
23. Exercise any other right or take any other action allowed by law or regulation.

5. COMPETITIVE PROPOSAL SCHEDULE AND PROPOSERS' QUESTIONS

A. Timeline

The PRDE intends to follow the schedule set forth on the cover page of this RFP, which is incorporated herein by this reference, but reserves the right to make schedule adjustments at the

convenience of the Department. Any schedule adjustments will be published in the same websites as the initial publication of this RFP.

B. RFP Questions

Proposers may submit questions concerning this RFP to the Department in writing by email on or before the deadline set forth on the cover page of this RFP. Questions should be emailed to recovery@de.pr.gov.

Responses to questions submitted by the deadline will be answered and posted on the PRDE website at www.de.pr.gov. Specific questions pertaining to the RFP that are received after the deadline will not be answered, except at the discretion of the Department.

Oral communications regarding this RFP will not be allowed, neither in person nor by phone.

C. Other Proposer Questions and Communications

During the competitive proposal period, general questions and/or general requests for information or clarification concerning this RFP process must be in writing and emailed to recovery@de.pr.gov. All responses will be emailed to the requesting Proposer and posted on the PRDE website at www.de.pr.gov.

Questions should be submitted only to the address above. Communications with other representatives of the Government of Puerto Rico or relevant entities of the Federal Government regarding any matter related to the contents of this RFP are prohibited during the submission and selection processes. Failure to comply with these communications restrictions will result in rejection of the Proposer's proposal and may result in disqualification from participation in future processes. **Oral responses or clarifications made by any PRDE employee or resource will not be binding on the Department.**

6. SUBMISSION OF PROPOSALS

Submission of a proposal indicates acceptance by the Proposer of the conditions contained in this RFP, unless clearly and specifically noted in the proposal submitted and confirmed in the contract between PRDE and the selected Proposer. **Proposals (including any attachments or appendixes but excluding REQUIRED appendixes) should not exceed 50 one sided pages. Required appendixes are those forms listed in the Submittal Checklist of Appendix IV (Form 1 through 10).**

7. SELECTION OF FINALIST PROPOSERS; ORAL PRESENTATIONS

The Department may, at its sole discretion, invite up to five (5) finalists whose proposals best meet the Department's needs and the requirements of this RFP to participate in oral presentations and

product demonstrations. Invited Proposers should be prepared to present such information as may be needed for the Evaluation Committee and selected Department personnel and representatives to effectively analyze proposed services described in this RFP. Proposers invited for oral presentations should be represented by the individual who is able to legally bind the Proposer and is expected to serve as the prime contact person to the Department, along with other key project team members including (a) technical specialists, (b) subcontractors expected to deliver material services under the proposal, and (c) such other individuals the Proposer intends to perform essential components of the proposal and are qualified to answer questions about the Proposer's proposal. A Proposer's inability to respond to any request for clarification and/or participate in an oral presentation may be disqualified from further consideration of a contract award.

Oral presentations will consist of an overview of the submitted proposal of each of the invited Proposers and detailed discussions regarding proposed services, including the Proposer's project plan and proposed performance schedule. Additional Proposer presentations may also be requested and scheduled, at any time by the Department.

Demonstrations are expected to include demonstrations of compliance tracking and reports.

An invitation to a Proposer for an oral presentation is not a guarantee that a contract will be awarded to the Proposer.

8. BEST AND FINAL OFFERS AND NEGOTIATIONS

The Department may request the submission of best and final offers from the finalist Proposers. The request for best and final offers shall be in writing and shall establish a common date and time for the submission. Proposers shall be informed that if they do not submit a best and final offer or a notice of withdrawal, their immediate previous offer will be construed as their best and final offer. Best and final offers shall be evaluated by the Evaluation Committee; provided, however, the Evaluation Committee may make a written determination that it is in the Department's best interest to conduct additional negotiations with one (1) or more of the finalist Proposers for purposes of determining the final offer of any such finalists. An invitation to one or more Proposers to enter into negotiations or submit a best and final offer or further negotiations is not a guarantee any of Proposers will be awarded a contract.

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III. REQUESTED SERVICES

1. INTRODUCTION

Puerto Rico Department of Education (“PRDE”) became the recipient of a capped grant and emergency work grants administered by FEMA due to hurricanes Irma and María. The PRDE is the Central Government of Puerto Rico’s agency responsible for managing state-operated schools, as well as its education system and curricula. Because of hurricanes Irma and María the Puerto Rico Department of Education sustained significant damages to the Commonwealths educational facilities and operations throughout the island of Puerto Rico. It is estimated the cost to restore PRDE schools and facilities is at least \$10,000,000,000.

Due to the significant hurricane damage, PRDE is seeking a highly qualified consulting firm, with broad depth and expertise across multiple disciplines, to assist in effectively and efficiently administering the complexities of the project and grant management procedures, based on the project and the scope of work approved by FEMA. These projects include:

Number of schools – approximately 856 remain open, 1,110 total

Location of schools – All throughout the 78 municipalities on the Island of Puerto Rico

Overview of services – the scope will include, but is not limited to, project management, grants management, development and implementation of administrative and technical controls and the coordination with all stake holders. In addition, it is to include damage assessments, condition (physical and educational) assessment, data processing, investment and operational cost estimating, FEMA and HUD grant applications and management, for FEMA and HUD reimbursements, procurement and management of all necessary professional services including all construction and restoration services. The scope also includes the closeout of all contracts and grant.

2. RFP OBJECTIVES

The objective of this RFP is to select one (1) or more Proposers to provide program management services. The number of Proposers chosen shall be determined by the PRDE at its sole discretion. The successful Proposers must be able to demonstrate their knowledge, experience, competencies and skills related to program management that includes FEMA and HUD funds. Successful Proposer should also be able to demonstrate experience in the coordination of complex projects with simultaneous projects and/or sub-contractors. The Department’s goal is for the project to start as soon as the contract is signed and duly registered in the Office of the Comptroller of Puerto Rico.

3. PRICE ADJUSTMENTS AND/OR PRODUCT SUBSTITUTIONS

It is expected that the prices submitted shall remain firm for 180 days from the date of the proposal, and that the prices set forth in the approved contract shall remain firm for the entire contract and extension periods (if any), as stated herein.

4. SCOPE OF WORK FOR REQUIRED SERVICES

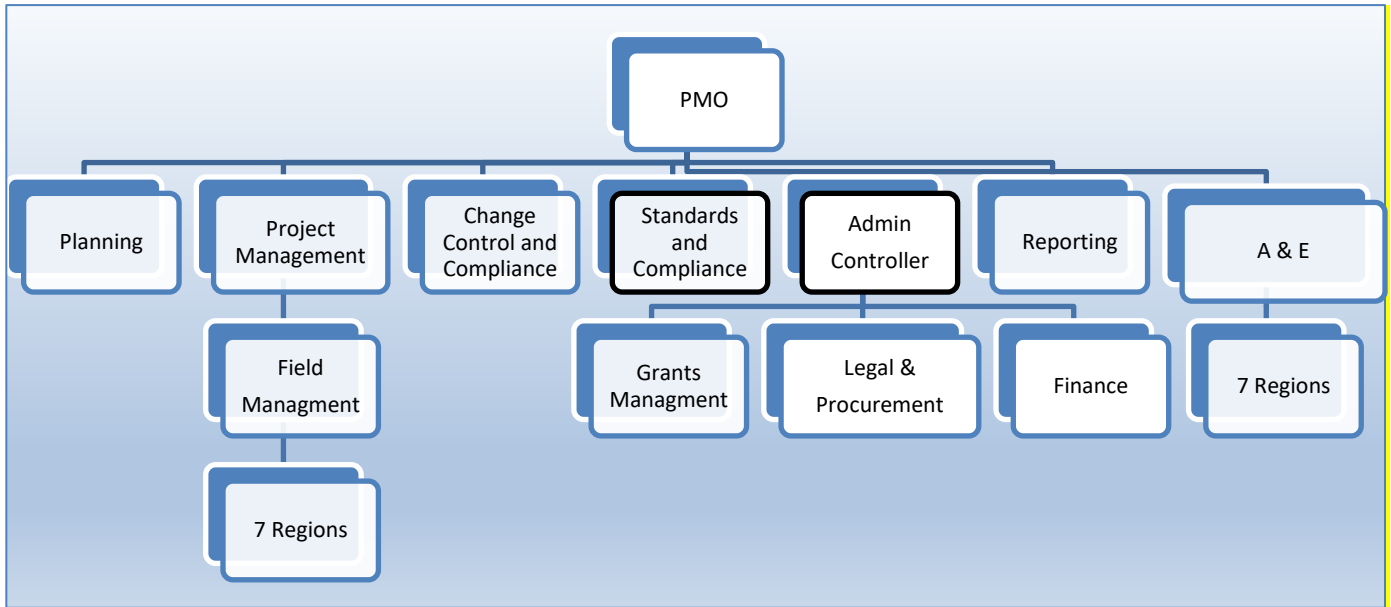
The Department seeks proposals from responsible and qualified vendors that have substantial experience in program management for disaster recovery projects in large K-12 school districts or in other large enterprises. Proposers should describe years of experience and qualifications to provide the

required services within and throughout the campuses of the Department’s schools and facilities (posted at www.de.pr.gov).

A. Program Management Services

Program Specific Services

- PRDE is seeking to complement its current staff with the creation of a contract Program Management Office (PMO) under the PRDE’s Infrastructure and Recovery Office. A conceptual organization of the PMO is provided below:



- The Program Manager’s (PM) office will be located inside the PRDE offices. The PMs main project staff must be located within one mile of the PRDE administration office.
- The PM shall have demonstrated Integrated Project Delivery (IPD) experience.
- The PMO will be responsible for developing an approach to implement this PMO. The Proposer must outline its approach in the proposal.

The PMO will assist the PRDE throughout all phases of the project, including, but not limited to, preliminary assessments, development of budget and financial controls, project launch, design and preconstruction, construction and occupancy, and project close out. The list of tasks enumerated below is not intended to be an exhaustive itemization of the tasks but rather provide an example of the anticipated tasks.

General Responsibilities of the PM

- Lead regular meetings as needed with all pertinent regulatory agencies such as the Central Office for the Recovery and Reconstruction of Puerto Rico (“COR3”), the Puerto Rico Environmental Quality Board (“PREQB”) and the Environmental Protection Agency (“EPA”), FEMA and HUD leadership, as may be requested by PRDE. These meetings should be documented in a written report or minute, chronologically maintained and sequentially numbered. Retention of not less than 3 years.
- Act as the lead for the Core Team. The Core Team is a cross-functional team. Core team members have a dual responsibility; they are responsible for the projects achieving their goals and they are responsible to ensure that the program and each of its components complies with State, Federal standards and regulations and recognized industry best practices.

- Exchange information with PRDE designated personnel, and provide technical expertise, case studies and support to develop a comprehensive plan to meet the PRDE's short and long-term goals for its facilities (the "Master Facilities Plan" or "MFP").
- Time is of the essence, the PM must ensure that contractors renders their work according to schedule, present their corresponding invoices on time, for evaluation and approval. Ensuring that services were rendered, and materials were incorporated to the job.
- Work with PRDE designated personnel to develop a project launch strategy that allows the PM and PRDE to propose and monitor preferred project delivery method for each project, sequencing, and individual project and program cash flow projections throughout the development of the program, and to develop monthly updates additional program milestone schedules.
- Lead all procurement activities associated with selection and development of project delivery teams for all MFP projects according to applicable PRDE, Commonwealth, and Federal Law.
- Prepare meeting agendas to lead meetings with relevant personnel to continually assess the MFP status and to ensure conformity with project costs, schedule, and performance goals. Similarly, the PM will prepare action lists for all projects by project in a format agreed by PRDE.
- PM will collaborate with PRDE to develop an annual CIP (Capital Improvement Plan) Budget.
- PM will update and maintain a complete project listing, assisting with the assessment of current and upcoming program needs as it relates to scope, schedule, budget and resources.
- PM will provide a monthly Project Status Report (PSR) outlining schedule and financial progress of active projects within the Program with a focus on the schedule, budget, and key issues requiring action to keep the Project moving forward.
- Ensure compliance with all applicable PRDE policies, Federal and Local laws, regulations, executive orders, inclusive of all HUD and FEMA requirements.
- Assist in preparation and participate in PRDE meetings and presentations as requested.
- Support PRDE in the evaluation of departmental organizational structure as it relates to execution of the MFP projects and continue to provide PM staff support and training as determined by PM and the PRDE.
- Ensure all architects and engineers are that are required to be licensed, are licensed under Puerto Rico Public Act 173-1998.
- Develop and implement contract standards and processes to ensure high performance from contractors and vendors.
- Develop metrics and service level agreements to ensure projects are delivered within scope, on time, and within budget.
- Evaluate, measure and report on performance and follow up on actions taken to mitigate poor performance.
- The PMO must utilize an electronic program/project management platform for managing planning, design and construction projects.
- To minimize risk and promote industry best practices, the mandatory criteria must meet all the following requirements:
 - The platform must be developed by, implemented by, hosted by and supported by the same single vendor.
 - Platform must be designed to support the program and project management lifecycle – Planning through Closeout.
 - Platform must have at least a five-year history of successfully supporting requirements related to construction program/project management and be approved by the PRDE.
 - Platform must allow PMO and PRDE to measure and manage every aspect of the program management and integrated project delivery process. Platform must provide at a minimum, cost management, process management, benchmarking, procurement, field management, fund management and compliance.

- Platform must fully support the program requirements as outlined under specific requirement in this RFP.
- Solution must be a cloud hosted system.
- PRDE should be trained in the use and allowed full to access the platform at any time.
- All Program documentation and systems developed during the Program are property of the PRDE.
- Platform should allow for the use of secure but accessible library of key documents, contracts, deliverables, and other documentation for the Program for both internal and external usage.
- The PM shall have a high level of demonstrated experience in the agreed project/program management electronic platform.

The PMO will provide project control duties as specifically described below in support of PRDE and future project controls, including, but not limited to:

- Develop and maintain a master budget that will guide projections, development plans, and construction decisions.
- Ensure all Project decisions, including design and construction, will be based on forecast of cost implications and will ensure proper control procedures are developed and implemented.
- Ensure Program decisions are based on comprehensive understanding of all aspects of the Program so that total budget is not exceeded.
- Update cost plans, adjust cash flow plans, and reissue any initial financial documents to reflect the corresponding variations to maintain an updated estimate of the final cost of the project and of the future cash flow needs.
- Implement budget controls that include development of initial project budgets with respective project and grants managers, document organization and retention, in accordance with PRDE's and FEMA standards, within the agreed program management electronic platform. All relevant project data (standards, guidelines, procedures, drawings, contracts, purchase orders, etc.) and grants data will be saved digitally – each project having a standard folder structure.
- Develop detailed project scopes, review subcontractor and/or vendor proposals, and ensure accurate reporting.
- Prepare weekly reports to the PRDE representative of all projects including summaries of approved and current budgets, current commitments, projected over/under, and target completion dates.
- Review the applications for payment submitted by the architect, engineers, PMs, contractors, vendors, etc., and provide recommendations for revisions and/or payment.

Through the agreed electronic platform, PM will work with PRDE to:

- monitor of all project cost summaries on a regular basis for confirmation of status and accuracy in relation to the current level of project completion.
- develop documents and systems to provide annual projects cost summary document for reporting to PRDE Administration.
- establish regular monthly reconciliations of all projects between PRDE Finance Department

PM will serve as PRDE advisor in the areas of project launch, project management, project planning, contracting, design and construction, execution, monitoring, and grants management, and project close-out, including, but not limited to:

- In conjunction with PRDE, establish overall Project goals, objectives and expectations which typically include Project budget, schedule, guiding design principles, team member selection parameters and process, reporting and communication expectations, responsibility and approval levels of authority and the completion of a Project gap analysis.
- Work with A/E Design Team and PRDE to support efforts in the development of the operational and functional space programs for the Project. Project schedule development (with short, medium and long-term strategies) including adjustments based on the progress of work and specific

- recommendations for prioritizing and accelerating critical path items.
- Oversee and review requests for reimbursement of all FEMA and HUD grants.
 - Review change proposal requests submitted by the professional of record and contractor and make recommendations for revision or approval, as needed.
 - Coordinate and manage swing space, relocation or occupancy efforts once construction is final.
 - In coordination with PRDE, establish quality assurance/quality control reviews and assessments associated with the payments process to ensure that they comply with federal and state regulations and conform to best practices.
 - Prepare and assemble all necessary documentation required for FEMA and HUD Project Closeout and ensure all requirements of the projects and grants are satisfied, and the project is complete in accordance with State and Federal Close-out procedures and regulations.
 - A Closeout checklist, in consultation with PRDE or its designee, to ensure compliance with applicable Federal regulations, will be submitted by the awarded proponent.
 - Assist the PRDE, to the extent necessary, with any state or federal audits related to the work performed by its firm for the PRDE.
 - Perform tasks such those related to risk management and risk analysis for key decisions, including cataloging key risks for the program and development of mitigation strategies for each risk.
 - Provide necessary tools (software) to manage risk as appropriate.
 - Provide input and analysis of federal, state, and local policies.
 - Work with PRDE to identify critical stakeholders and build communication plans that leverage multiple channels.
 - Performance issues are effectively identified and resolved. Conflicts and issues are actively identified and tracked through to resolution.
 - A highly effective method for identifying and mitigating operational, technical, and financial risks is in place and provides a basis for critical leadership decisions.
 - Communication support to result in highly informed stakeholders across the island.
 - Develop and establish a system to forecast future maintenance and small repairs needs of the PRDE's facilities.
 - Develop standards, criteria, and design models that can be used for future school building designs and remodeling work.
 - Elaborate and propose strategies for the accomplishment of PRDE policies and vision.
 - Maintain close communications with PRDE officials to ensure a clear understanding of the PRDE Secretary's priorities and the schools system's needs and ensure alignment of the PMO's work with the Secretary's vision. The PM will perform any additional reasonably related tasks as requested by PRDE.

The Program Management Office will coordinate its work and exchange information with the PRDE but will not manage projects out of the scope of the grants provided by FEMA and HUD, unless otherwise approved by PRDE. All activities to be performed by the PMO will be part of a work plan that must be previously approved by the PRDE.

The Proposers shall be prepared to furnish a general list of all subcontractors that it intends to utilize for the Project. The PRDE requests that successful Proposers implement, at minimum, the affirmative steps listed in 2 CFR 200.321 to use small and minority businesses, and women's business enterprises as subcontractors, where possible. The Proposer's plan to implement the affirmative steps must be included with the Proposal as it is part of the evaluation criteria.

The contracts awarded by this RFP may be used by any political subdivision of the Government of Puerto

Rico or eligible FEMA Public Assistance sub-grantee upon the consent of the Agency, the prospective political subdivision or eligible sub-grantee, and the Proposer.

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IV. REQUIRED REPORTS

1. REPORTS

Reports must be delivered to the Department at the frequency requested. There reports include those listed under the scope of services and others may be deemed necessary by the PRDE.

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V. GENERAL TERMS AND CONDITIONS

1. SERVICE QUALITY

The Proposer will be required to represent and warrant in the contract that it can and will perform, or cause the services to be performed, in strict accordance with the provisions and requirements of the contract. The services will be performed in a timely, professional and workmanlike manner, in accordance with all applicable industry and professional standards. Such services shall be in compliance with all applicable local and federal laws, rules, regulations or orders. If the Department notifies the Proposer, or if the Proposer becomes aware of any non-performance, error or negligence covered by the foregoing warranties, the Proposer shall, at its own expense, promptly (but in no event later than thirty (30) days after written notification by the Department) correct such non-performance, error or negligence.

2. DOCUMENT SIGNATURES

Proposer proposals and contracts are to be signed on behalf of the Proposer by an authorized representative of the proposing entity, stating signer's official relation to, or position with, the Proposer. Signatures shall be written in ink. Signatures with rubber stamps, typewriter, computerized or in pencil will not be acceptable. If the Proposer is a partnership, the RFP must be signed by a partner with his or her title noted thereon. If the Proposer is a corporation, the proposal must be signed by an officer of the corporation and be accompanied by a corporate resolution authorizing the individual to sign the proposal and to enter into a contractual agreement on behalf of the corporation. The corporate resolution must specify the state of incorporation. Unsigned proposals and proposals not properly signed or accompanied by the appropriate corporate resolution will be rejected.

3. CONTRACT REQUIREMENT

Each Proposer agrees that if selected as a contractor under this RFP, the Proposer will enter into a written contract with the Department pertaining thereto. The contract will contain, among other terms, the general and specific terms and conditions contained in this Section V, Section VI and Appendix V of this RFP. All general and specific terms and conditions are subject to change by the Department's legal counsel. In the event the Department and any Proposer fail to enter into a contract, the Proposer's approval for award will be revoked by the Department.

4. CONTRACT TERM

The Department intends to award a three-year contract, to one (1) or more Proposers for the services requested in this RFP. **The term of the contract is expected to commence as soon as the contract is executed by the PRDE and the selected Proposer and end on or before December 31, 2022** subject to annual budget appropriations by the Department, **with two (2) one-year optional extensions, unless terminated earlier.** In accordance with Section II of this RFP, the Department reserves the right to award a shorter-term agreement and/or to include additional voluntary contract renewal options.

5. BONDS REQUIRED – BID, PERFORMANCE AND PAYMENT BOND

Bid Bond – Proposer must provide a bid bond in an amount equal to 5% of the contract total. The bond may be issued by a surety company authorized to do business in the Government of Puerto Rico and included in the latest Federal Register (Circular 570) as accepted by the Federal Government. The Bid Bond may also be in the form of an Irrevocable Letter of Credit issued by a financial institution authorized to do business in the Government of Puerto Rico, or a money order, cashier’s or certified check issued to the Puerto Rico Secretary of the Treasury.

Performance Bond – The Proposer that is awarded a contract pursuant to this RFP shall be required to submit a Performance Bond issued by a surety company authorized to do business in the Government of Puerto Rico in an amount equal to 100% of the contract total, and for any contract renewal period.

Payment Bond - The Proposer that is awarded a contract pursuant to this RFP shall be required to submit a Payment Bond issued by a surety company authorized to do business in the Government of Puerto Rico in an amount equal to 100% of the contract total, and for any contract renewal period.

6. PROPOSER COMPENSATION

Compensation for services performed under the contract shall not exceed the maximum compensation authorized by the Department therein or applicable federal regulation. PRDE agrees to pay the Proposer the contract compensation for the services delivered during the term of the contract.

Payment of compensation shall be based on actual services performed and/or equipment delivered during the term of the contract. The Department shall not be obligated to pay for any services not performed or equipment not delivered in compliance with the contract. In the event of early termination of the contract, the Department shall only be obligated to pay the compensation due up to the date of termination, unless otherwise agreed by the Department as specified in the immediately preceding paragraph. In no event shall the Department be liable for any costs incurred or services delivered after the effective date of termination as provided herein.

7. CONTRACT PRICE ADJUSTMENTS

It is expected that the prices submitted shall remain firm for the entire contract term and all extension periods (if any), as stated above.

The PRDE's representative shall have the authority to order minor changes in the work not involving adjustment in the contract price or an extension to the Contract term and not inconsistent with the contract. Such changes shall be made by written order, or as otherwise established in writing by the parties.

8. CONTRACT TERMINATION; EVENTS OF DEFAULT

- A. Termination for Convenience or to Protect the Public Interest. If at any time during the Term of the contract, the Department determines, in its sole discretion, that the services provided by Proposer are no longer in its best interest, the Department may terminate the contract upon thirty (30) calendar day's written notice to Proposer. Further, the Department may terminate the contract if the Department determines that the termination is necessary for the protection of the public interest. In either instance, the Department will only pay for services rendered until termination date and will not pay any early termination charges under the contract.
- B. Suspension of Services. Upon ten (10) days prior written notice from the Department to the Proposer, the Department may request that Proposer suspend services in whole or part. The Proposer shall promptly resume performance of services upon written notice from the Department.
- C. Proposer Events of Default. Events of default ("Events of Default") include, but are not limited to, the following:
 - i. Any material misrepresentation by Proposer in its response to the RFP or the contract;
 - ii. Breach of any material agreement, representation or warranty made by Proposer in its proposal or the awarded contract;
 - iii. Failure of Proposer to perform in accordance with or comply with the terms and conditions of the contract;
 - iv. Default by Proposer under any other agreement Proposer may have with the Department;
 - v. The directors or officers of the Proposer are indicted for the commission of any felony or any misdemeanor that implies corruption or moral depravation, or for any crime against the public treasury, faith or function or that involves public property or funds;
 - vi. If any license, permit, franchise or authorization needed by the Proposer to carry out its obligations under the contract is suspended, revoked or expired;
 - vii. Failure to maintain insurance as required under the contract;
 - viii. An assignment by the Proposer for the benefit of creditors or consent by Proposer to the appointment of a trustee or receiver or the filing by or against Proposer of any petition or proceeding under any bankruptcy, insolvency or similar law.

9. DEPARTMENT REMEDIES

The occurrence of any Event of Default which Proposer fails to cure, or cause to be cured, within thirty (30) calendar days after receipt of written notice given in accordance with the terms of the contract specifying the Event of Default, or if such Event of Default cannot be reasonably cured within thirty (30) calendar days after notice, Proposer fails to commence, or cause to be commenced, and continue diligent efforts to cure or cause said Event of Default to be cured, in the sole opinion of the Department, the Department may declare the Proposer in default, and give the Proposer written notice of the Department's intent to terminate the contract, effective as of the date specified in the notice. After giving written notice to the Proposer, the Department may invoke any or all of the following remedies:

- A. Take over and complete the services or any part thereof, either directly or through others. Proposer shall be liable to the Department for any excess costs incurred by the Department. Any amount due the Proposer under the contract or any other agreement Proposer may have with the Department may be offset against amounts claimed due by the Department in exercising this remedy;
- B. Terminate the contract, effective at a time specified by the Department, in whole or in part, as to any or all of the services yet to be performed and/or if required;
- C. Suspend services during the thirty (30) day cure period if the default results from an action or failure to act by Proposer which affects the safety or welfare of students or the Department staff;
- D. Seek specific performance, an injunction or any other appropriate equitable remedy;
- E. Receive from Proposer any and all damages, including money damages, incurred as a result or in consequence of, an Event of Default;
- F. Withhold all or part of Proposer's compensation under the contract; and/or
- G. Any other legal remedy available to the Department.

10. NO WAIVER

No delay or omission, or series of delays or omissions, by the Department to exercise any right under the contract shall be construed as any type of waiver of any right of the Department under the contract or the right to declare an Event of Default in the future. The remedies under the terms of the contract are not intended to be exclusive any other remedies provided, and each and every such remedy shall be cumulative and shall be in addition to any other remedies, existing now or hereafter, at law, in equity or by statute. The parties acknowledge that this right is solely for the benefit of the Department and if the Department permits the Proposer or any of its subcontractors to continue to provide services despite one or more Events of Default, the Proposer is not relieved of any responsibilities, duties or obligations under the contract.

11. TURNOVER OF DOCUMENTS AND RECORDS

Upon demand by the Department following termination of the contract for any reason, or following the expiration of the contract by its terms, Proposer shall turn over to the Department or its designee within ten (10) business days of demand, all materials, supplies, equipment owned, or purchased by the Department, completed or partially completed work, analyses, data, metadata, electronic documents including but not limited to files in pdf format, Excel, Word and others, computer disks, documents, reports and any other information pertaining to the contract or the performance or furnishing of services, whether prepared by the Proposer or its subcontractors. The Proposer shall cause its subcontractors to undertake the same obligations agreed to by Proposer under the contract.

12. WORK QUALITY ASSURANCE

The Proposer is responsible for the quality of the work and activities of each of its staff and subcontractors, including without limitation, compliance with the terms of the contract. The Proposer shall retain and utilize sufficient resources to assure the most effective and efficient performance of services and shall utilize professionals licensed to practice the applicable profession, as required by law or by the contract. The Proposer shall use efficient business administration methods and perform the services in the best way and in the most expeditious and economical manner consistent with the best interests of the Department, so as to ensure, among other things, that the services are performed at a reasonable cost to the Department and that the services performed by other entities or persons in connection with the contract are also efficiently and cost-effectively delivered.

13. CONFIDENTIAL INFORMATION, DISSEMINATION OF INFORMATION, OWNERSHIP, SURVIVAL

- A. Confidential Information. During the performance or delivery of services to the Department, the Proposer may have access to or receive certain information that is not generally known to others (“Confidential Information”). The Proposer will not use or disclose any Confidential Information or any finished or unfinished originals, documents, screens, reports, writings, procedural manuals, forms, source codes, object codes, work flow charts, methods, construction documents, processes, data, data studies, briefs, drawings, maps, files, records, computer printouts, papers, notes, designs, equipment descriptions, or other materials prepared or generated as a result of the contract (“Work Product”) without the prior written consent of the Department. The Proposer shall use at least the same standard of care in the protection of the Confidential Information of the Department as Proposer uses to protect its own confidential information, but in any event such Confidential Information shall be protected in at least a commercially reasonable manner.

- B. Dissemination of Information. The Proposer shall not disseminate any information obtained in the performance or delivery of services for the Department to a third party without the prior written consent of the Department. Proposer shall not issue publicity news releases or grant press interviews during or after the performance or delivery of the services without the prior written consent of the Department. If Proposer is presented with a request for documents by any administrative agency or with a *subpoena duces tecum* regarding any Confidential Information or Work Product which may be in the Proposer’s possession, the Proposer shall immediately give notice to the Department and its legal counsel, with the understanding that

the Department shall have the opportunity to contest such process by any means available to it prior to submission of any documents to a court or other third party. The Proposer will not be obligated to withhold delivery of documents beyond the time ordered by a court of law or administrative agency, unless the request for production or subpoena is quashed or withdrawn, or the time to produce is otherwise extended. The Proposer will cause its personnel and subcontractors to undertake the same obligations of confidentiality agreed to by Proposer under the contract.

- C. Ownership. The Proposer agrees that, to the extent permitted by law, any work product created specifically for the Department under the contract ("Work Product"), including any written procedures, rules, regulations or such similar documents, drafted by the Proposer for the performance of work pursuant to this RFP, shall exclusively be deemed "works for hire" within the meaning and purview of the United States Copyright Act, 17 U.S.C. 101§ *et seq*. All Work Product and Confidential Information shall at all times be and remain the property of the Department. The Proposer will execute all documents and perform all acts that the Department may request in order to assist the Department in perfecting or protecting its rights in and to the Work Product and all intellectual property rights relating to the Work Product. All of the foregoing items shall be delivered to the Department upon demand at any time and in any event, shall be promptly delivered to the Department upon expiration or termination of the contract within ten (10) business days of demand. In addition, the Proposer shall return the Department's data in the format requested by the Department.
- D. Injunctive Relief. In the event of a breach or threatened breach of paragraphs A, B, and/or C above, the Proposer acknowledges and agrees that the Department would suffer irreparable injury not compensable by money damages and would not have an adequate remedy at law. Accordingly, the Proposer agrees that the Department shall be entitled to immediate injunctive relief to prevent or curtail any such breach, threatened or actual. The foregoing shall be in addition to and without prejudice to such rights that the Department may have in equity, or by law or statute.
- E. Survival. The provisions of the contract pertaining to Confidential Information, dissemination of information and ownership shall survive the termination or expiration of the contract.

14. REPRESENTATIONS AND WARRANTIES OF THE PROPOSER

As may be applicable, the Proposer (also, alternatively, referred to in this section of the RFP as the "contractor") represents and warrants that the following shall be true and correct as of the date of submittal of the proposal through the date of the contract and shall continue to be true and correct (as may be modified from time to time subject to Department approval) during the Term of the contract:

- A. Financially Solvent. The Proposer, and each of its subcontractors, is financially solvent, is able to pay all debts as they mature and is possessed of sufficient working capital to complete all services and perform all obligations under the Proposer's proposal(s) and contract. The Proposer also warrants that neither it nor any of its subcontractors owe any non-tax debt to the state or federal government.

Proposers should expect to be paid within 90 days of invoice acceptance. For these reasons, Proposers should demonstrate in their Proposals that they have sufficient financial capacity to continue to pay all staff and subcontractors in a timely manner and continue to perform under any eventual contract with PRDE without interruption or delay for at least that period of time. Proposer must include copies of their audited financial statements as indicated elsewhere in this RFP, along with a summary as to why the Proposer believes that and any other relevant information provided demonstrates the firm's financial capacity to pay employees and subcontractors even when awaiting payment of invoices under this engagement. If awarded this RFP, the Proposer will certify in writing that the Proposer will pay its employees and sub-contractors without regard to the timing of payment by PRDE and the Government of Puerto Rico.

B. Minimum Contract Requirements; Conditions Required Under Federal and Puerto Rico Laws: By submitting a proposal under this RFP, Proposal acknowledges and represents it is or will be able to comply with the minimum requirements in Appendix VI. In addition, the Proposer, by submitting a proposal under this RFP acknowledges and represents that is aware of 34 CFR 80.36, and local requirements regarding Government RFP proceedings.

15. NO OTHER RIGHTS LIMITED

Nothing in the foregoing representations and warranties will be construed to limit any other rights or remedies available to the Department under the law and the contract.

16. GIFTS AND GRATUITIES PROHIBITED

No gift, gratuity, offer of employment or other item of value was offered or made by the Proposer or to the best of Proposer's knowledge, by or to any subcontractors, or any of its employees, agents or subcontractors as an inducement for the award of the contract.

17. MANUFACTURER WARRANTY

If applicable to the services in this RFP, Proposer shall assign to the Department the benefits of any manufacturer warranty of the products and shall cooperate with the Department in securing any and all remedies of such warranty for the benefit of the Department.

18. INDEPENDENT CONTRACTOR

It is understood and agreed that the relationship of Proposer to the Department is and shall continue to be that of an independent contractor. Neither Proposer nor any of Proposer's staff, agents, employees or subcontractors shall be entitled to receive Department employee benefits. It is further understood and agreed that the Department shall not be responsible for, nor incur any liability for, any State or Federal withholding or other taxes or for FICA or State unemployment insurance for Proposer, its agents, employees or subcontractors, and the payment of any such taxes incurred or due by Proposer shall be the sole responsibility of Proposer. The Proposer agrees that neither Proposer nor its staff or subcontractors shall represent themselves as employees or agents of the Department. The Proposer shall provide the Department with a valid taxpayer identification number as defined by the United States Internal Revenue Code, including, but not limited to, a social security number or a federal employer identification number.

19. INDEMNIFICATION

The Proposer agrees to defend, indemnify and hold harmless the Department, and its respective Department members, employees, agents, officers and officials from and against liabilities, losses, penalties, damages and, expenses, including costs and attorney fees, arising out of all claims, liens, damages, obligations, actions, suits, judgments or settlements, or causes of action, of every kind, nature and character arising or alleged to arise out any of the following:

- (i) negligent or willful acts or omissions of the Proposer, its officials, agents, employees and/or subcontractors in the performance of the contract;
- (ii) failure of Proposer or its subcontractors to comply with applicable law;
- (iii) actual or asserted violation or infringement of any domestic or foreign patents, copyrights or trademarks or other intellectual property, or any improper use of confidential information or other proprietary rights that may be attributable to Proposer or any subcontractor in connection with the services;
- (iv) claims by any Government agency as a result of a failure by Proposer or any subcontractor to pay taxes;
- (v) failure of contractor to make payments to any subcontractor in accordance with the respective subcontract; or
- (vi) personal injury to, illness or death of any person, or damage to or destruction of property of any person in any way arising out of or resulting from or related to the services to the extent caused by Proposer or any subcontractor or anyone directly or indirectly employed by them or anyone for whose acts they may be liable.

The Proposer shall, at its own cost and expense, appear, defend and pay all attorney fees and other costs and expenses arising from the indemnification provisions of the contract. In addition, if any judgment shall be rendered against the Department in any such action, the Proposer shall, at its own expense, satisfy and discharge such obligation of the Department. The Department shall have the

right, at its own expense, to participate in the defense of any suit, without relieving the selected Proposer(s) of any of its obligations under the indemnification provisions of the contract. The Department retains final approval of any and all settlements or legal strategies, which involve the interest of the Department.

If Proposer, after receiving notice of any such proceeding, fails to immediately begin the defense of such claim or action, the Department may (without further notice to Proposer) retain counsel and undertake the defense, compromise, or settlement of such claim or action at the expense of Proposer, subject to the right of Proposer to assume the defense of such claim or action at any time prior to settlement, compromise or final determination thereof. The cost and expense of counsel retained by the Department in these circumstances shall be borne by Proposer and Proposer shall be bound by, and shall pay the amount of, any settlement, compromise, final determination or judgment reached while the Department was represented by counsel retained by the Department pursuant to this paragraph, or while Proposer was conducting the defense.

The indemnifications set forth herein shall survive the expiration or termination of the contract.

20. NON-LIABILITY OF DEPARTMENT OFFICIALS

The Proposer agrees that no Department member, employee, agent, contractor, officer or official shall be personally charged by Proposer, its members if a joint venture, or any subcontractors with any liability or expense under the contract, or be held personally liable under the contract to Proposer, its members if a joint venture, or any subcontractors.

21. INSURANCE REQUIREMENTS

The Proposer, at its own expense, shall procure and maintain insurance for all operations under the contract, whether performed by Proposer or by subcontractors. Within 30 days of award notification, the Proposer shall submit to the Department satisfactory evidence of insurance coverage in the form of a Certificate of Insurance and within 60 days of award notification, the Proposer shall submit to the Department a certified copy(s) of any insurance policy required under this RFP. The minimum insurance requirements are described on **APPENDIX IV** (Proposal Submittal Forms – FORM 7).

22. NON-DISCRIMINATION

During the Term of the contract and any extension or renewal thereof, the Proposer shall not fail or refuse to hire or discharge any individual, or otherwise to discriminate against any individual with respect to compensation, or other terms, conditions, or privileges of employment, because of such individual's race, color, ancestry, religion, sex, sexual orientation, age, handicap, marital status, parental status, military discharge status, or national origin; or to limit, segregate, or classify employees or applicants for employment from equal employment opportunities or otherwise adversely affect an individual's status as an employee because of such individual's race, color, ancestry, religion, sex, sexual orientation, age, handicap, marital status, parental status, military discharge status, or national origin. It is also an unlawful employment practice for Proposer or any of its members to subject any Department employee, applicant for services, participant, student or volunteer to unwelcome sexual advances, requests for sexual favors or conduct of a sexual nature when submission to or rejection of

such conduct is: (i) made either explicitly or implicitly a term or condition of such person's employment, participation or receipt of services; (ii) is used as a basis for a decision affecting the individual's employment, participation or receipt of services; or (iii) has the purpose of creating an intimidating, hostile, or offensive working or learning environment.

23. ENTIRE AGREEMENT; AMENDMENTS

The contract, including all attachments and referenced documents, will constitute the entire agreement of the parties with respect to the matters contained therein. No modification of or amendment to the contract shall be effective unless such modification or amendment is in writing and signed by both parties.

24. CONTINUING OBLIGATION TO PERFORM

In the event of any dispute between Proposer and the Department, Proposer shall expeditiously and diligently proceed with the performance of all of its obligations under the contract with a reservation of all rights and remedies it may have under or pursuant to the contract at law or in equity.

25. SURVIVAL/SEVERABILITY

All express representations and warranties made or given in the contract shall survive the completion of services by the Proposer or its subcontractors, or the termination of the contract for any reason. If any provision or part of the contract is held to be unenforceable, the contract shall be considered divisible and such provision shall be deemed inoperative to the extent it is deemed unenforceable, and in all other respects the contract shall remain in full force and effect; provided, however, that if any such provision may be made enforceable by limitation thereof, then such provision shall be deemed to be so limited and shall be enforceable to the maximum extent permitted by applicable law.

26. GOVERNING LAW

The contract shall be construed in accordance with the laws and regulations of Puerto Rico and the United States of America, and any action related to the contract shall be venued solely in the local courts of Puerto Rico, in San Juan, Puerto Rico and the parties hereby irrevocably submit to the jurisdiction of its corresponding forum.

27. CONFLICT OF INTEREST

In the performance of its services under the contract, the Proposer agrees to act in a professional and ethical manner, which includes neither having nor representing any adverse interests to the Department. "Adverse Interests" include the representation of clients that may have or could have interests contrary to the Department or contrary to the public policy of the Department of Education. This duty includes the continuous obligation of disclosing to the Department any relationship of the Proposer with clients or third persons that may constitute a conflict of interest. It shall be understood that there exists a conflict of interests when, in the compliance of any duty to third parties, the Proposer would have to undertake any acts detrimental to the best interests of the Department, or when for the

benefit of another prior, present or potential client, the Proposer would have to promote something to which it would otherwise have to be opposed, in favor of the Department. Conflict of interest shall also consist of any conduct, which is described or recognized as such in the laws and regulations of Puerto Rico. In any case that the Department determines that the Proposer has a conflict of interest, it will give written notice to the Proposer of such conflict and will give the Proposer thirty (30) days to resolve the same. Failure to resolve such conflict will result in the termination of the contract.

By the submission of a Proposal, the Proponent represents and warrants, for itself and each of its Principal Members (each, individually, a "Proponent Representative"), that:

1. No Proponent Representative, nor any of its partners, officers or employees is or has been an employee or assembly member of the PRDE within two (2) years prior to the Proposal Due Date.
2. No officer, employee, assembly member of the PRDE nor any member of their respective family units, has any direct or indirect economic interest in this Project or any Contract therefor and that no officer, employee, advisor or consultant of the PRDE nor any member of their respective family units has any interest or participation in the economic benefits or earnings related to this Project.
3. No Proponent Representative, nor any of their partners, officers, employees, directors, associates, advisors or consultants nor any member of their respective family units has any conflict of interest related to the provisions and obligations arising from this Project.
4. No Proponent Representative, nor any of its partners, officers, employees or directors has been convicted of or has pled guilty to any crime involving fraud, or misuse or misappropriation of public funds.
5. No Proponent Representative currently employs, or intends to employ, a public official or any member of his or her immediate family.
6. No Proponent Representative has achieved or may achieve an unfair competitive advantage in the procurement of the Project due to other activities or relationships with the PRDE or other persons or entities.
7. By the submission of its Proposal, for itself and its respective employees, officers, board members and agents, that its participation in the RFP process and, if selected, its engagement by the PRDE to perform the obligations under a Contract would not result in violation of the applicable provisions of the Government Ethics Law or in either a personal or an organizational conflict of interest.

Any contract awarded under this RFP will preclude the selected respondent from representing before the PRDE any bidder other than those bidders or grantees who may be assigned under the contract during the period the contract is in effect.

Respondents are required to detail any other current or former advisory contracts the firm has/had with any entity of the Government of Puerto Rico, or which bear any direct or indirect relation to the activities of the Government of Puerto Rico. Further, provide a description of any recent historical or ongoing legal proceedings, interviews, or investigations being conducted by any Puerto Rico or US law Enforcement agencies involving the respondent's firm or team that are related to transactions executed in or on behalf of the Government of Puerto Rico, state agencies, and/or public corporations.

In addition, provide a brief description of any work performed for any creditors or guarantors of the Government of Puerto Rico, a state agency, and/or a public corporation debt about their positions in Puerto Rico debt obligations. Indicate whether this activity is ongoing, and if not, when the prior assignment concluded. A person or business, and their agents, who seek to contract or enter into an agreement with PRDE or the Government of Puerto Rico are required to file a conflict of interest questionnaire which is found in the Appendix. This questionnaire complies with 2 CFR, §200.112. This form must be submitted with the proposal. If no conflict exists, the Proposer must mark the form Not Applicable or NA.

At some point in the selection process, the PRDE may request information on any perceived conflict of interest. Also, the PRDE may in the future request a list of direct or indirect relationships the firm or its professionals have to PRDE officials or executives of state agencies or public corporations. In the event of real or apparent conflicts of interest, PRDE reserves the right, in the PRDE's or the Government of Puerto Rico's best interest and at its sole discretion, to reject a proposal outright or to impose additional conditions upon respondents. PRDE reserves the right to cancel any contract awarded pursuant to this RFP with 30 days of notice in the event that an actual conflict of interest, or the appearance of such conflict, is not cured to PRDE's satisfaction.

All existing consultants, contractors, and subcontractors of the Public-Private Partnerships Authority ("P3") and the COR3 are precluded from responding to the RFPs. P3 Authority and COR3 consider that it is important to avoid any perceived and/or real unfair advantages or conflicts.

If any question of real or apparent conflict of interest should arise, the determination of PRDE as to such question shall be final and binding. The PRDE reserves the right, in the event it determines that a conflict of interest would arise, to reject all or any portion of any Proposal based on such conflict of interest.

28. JOINT AND SEVERAL LIABILITY

In the event that Proposer, or its successors or assigns, if any, is comprised of more than one individual or other legal entity (or a combination thereof), then, and in that event, each and every obligation or undertaking herein stated to be fulfilled or performed by Proposer shall be the joint and several obligation or undertaking of each such individual or other legal entity.

29. TAX OBLIGATIONS

Proposers shall be responsible for complying with applicable federal and local tax laws and regulations. Proposer shall pay all required taxes on amounts paid to Proposer under the contract and indemnify and hold the Department harmless from any and all taxes, assessments, penalties, and interest asserted against the Department by reason of the Proposer's relationship, as an independent contractor, created by the contract. Proposer shall fully comply with the workers' compensation law regarding Proposer and Proposer's employees. Proposer shall indemnify and hold the Department harmless from any failure of Proposer to comply with applicable workers' compensation laws or applicable federal and local tax laws and regulations. The Department may offset against the amount of any fees due to Proposer under the Agreement any amount due to the Department from Proposer as a result of Proposer's failure to promptly pay to the Department any reimbursement or indemnification arising under this paragraph.

Proposer shall bear all taxes and duties etc. levied or imposed on Proposer under the contract on account of devices supplied and services rendered, and payments received by him from the Department under the contract.

Proposer will certify in the contract that it has complied with its federal and Puerto Rico tax obligations during the previous five (5) years, including filing income tax returns on earnings or extensions thereof. The Proposer further certifies that it does not have any debt with the Government of Puerto Rico, nor for personal or real estate taxes or excise taxes. The Proposer specifically represents and warrants that all Puerto Rico and federal tax returns have been filed and all obligations have been paid or Proposer has a valid payment plan with which it is complying. It is explicitly recognized by Proposer that this is an essential pre-condition to any contract or agreement and if the above certification should prove not to be truthful in all or in part, it will be sufficient cause for the PRDE to not engage the services of the Proposer or to cancel any agreement entered into immediately without any further obligation to the Proposer.

30. NON-APPROPRIATION

Expenditures not appropriated by the Department in its current fiscal year budget are deemed to be unrecognized expenditures and therefore unallowable expenses. In the event sufficient funds are not appropriated in a subsequent fiscal year by the Department for performance under the contract, the Department shall notify Proposer and the contract shall terminate on the last day for the fiscal period for which funds were appropriated. In no event shall the Department be liable to Proposer for any amount in excess of the then current appropriated amount.

31. FORCE MAJEURE

Neither the Proposer nor the Department shall be responsible for any failure to perform due to causes beyond either's respective reasonable control (each a "Force Majeure"), including but not limited to, acts of God, riots, embargoes, terrorist acts, acts of civil or military authorities, disruptions in the flow of data to or from networks, denial of or delays in processing of export license applications, accidents, strikes, fuel crises or power outages.

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VI. SPECIFIC TERMS AND CONDITIONS

1. NO MULTIPLE AWARD STIPULATIONS

Each RFP issued by the Department shall constitute a separate and distinct solicitation, and Proposers shall not be allowed to condition their proposal and/or pricing with respect to one (1) RFP on an award of services under any other PRDE RFP. Any Proposer that attempts to make one of its proposals contingent upon the award of a contract on another proposal may be deemed non-responsive and immediately disqualified from further consideration under any proposal.

The Evaluation Committee shall contact any Proposer that submits a proposal containing such a multiple award stipulation and give them an opportunity to waive in writing said stipulation within a specified period of time following receipt of a waiver request from the Evaluation Committee. Any Proposer that fails to waive said condition or fails to respond within the specified period shall automatically be disqualified from consideration of a contract award under any proposals covered by said stipulation.

2. LIMITED PROPOSER CONFIDENTIALITY RIGHTS

The following materials shall be collectively referred to as "Proposer Documents:" (i) proposals, (ii) pricing, (iii) correspondence (including letters, notices and emails), (iv) and any other documentation or information not clearly marked as confidential or proprietary. All Proposer Documents shall become the exclusive property of the PRDE. For those documents or information marked as confidential or proprietary, please place them in a clearly marked envelop within your submission.

Proposers shall be instructed that they may only mark or classify trade secrets and Proposer's corporate or personal financial information in their proposals (not including their price proposals) as confidential or proprietary, and that any portion of their Proposer Documents marked as confidential or proprietary that do not fall within these exceptions shall be subject to the following:

- A. Disclosure, duplication, publication, and transmission deemed by the Department as necessary or appropriate to comply with document requests from U.S. Department of Justice, the Puerto Rico Department of Justice, any state or federal court with jurisdiction over any matter pertaining to the RFPs or Proposer proposals, any Puerto Rico legal requirement or upon request of any other governmental or administrative agency
- B. Posting on the PRDE website and/or made available for inspection by participating Proposers.

Proposers shall also be advised that the Department may seek indemnification from Proposers for any liability, loss, damage, expense, penalty, or cost, including any and all legal fees, sought in every claim or suit of any kind arising out of confidentiality markings or conditions in proposals.

3. UNAUTHORIZED COMMUNICATIONS BETWEEN A PROPOSER AND PRDE; CONE OF SILENCE

During the RFP process any and all communications, questions, discussions or exchange of information to be had between Proposers and the PRDE shall be conducted exclusively as indicated

in this RFP. Any ex-parte communications between a Proposer and an employee of the PRDE shall be grounds for immediate disqualification of the Proposer and the Proposer shall not be able to continue participating in the RFP process.

The following communications related to this RFP between the persons indicated below shall be prohibited:

- A. A potential vendor, service Proposer, Proposer, lobbyist, or consultant of a Proposer or potential vendor or Proposer and the Department's professional staff. The professional staff includes, but is not limited to, the Secretary and her staff.
- B. A potential vendor, service Proposer, lobbyist, or consultant of a Proposer or potential vendor or potential Proposer and any member of the Evaluation Committee therefor.

EXCEPTIONS: Unless specifically provided otherwise in this RFP, the Cone of Silence does not apply to the following:

- A. Communications with the PRDE's Legal Division and its staff.
- B. Oral communications at pre-bid conferences.
- C. Oral presentations before the Evaluation Committee meetings.
- D. Contract negotiations.

4. PROPOSER DISQUALIFICATION DUE TO EVIDENCE OF COLLUSION

The Evaluation Committee shall have the ability to disqualify any Proposer in instances where there is proof of collusion or other misconduct with respect to the RFP process.

5. PROPOSER AND WARRANTIES

Proposer represents and warrants that it shall provide the Department with truthful and accurate information about its invoices promptly upon request by the PRDE. Proposer also represents and warrants that it has carefully identified components of the services. Further, through internal audit and review of the services rendered during the Term of the contract, Proposer represents and warrants that it will ensure that the services and products being provided through the Department are limited to services and products requested and authorized under the contract and the RFP.

6. INVOICING

Throughout the term of the contract, Proposer will invoice monthly the Department only for the cost of products and services approved by the Department pursuant to this RFP.

The PMO will adhere to specific timekeeping requirements which allow for the reimbursement of costs by FEMA and HUD. Time must be recorded as Grant or Non-Grant-related activity. For example, Direct Administrative Costs Activity (FEMA), Project Management (HUD and Construction) or Other and include a description of work performed. Time allotted to a maximum increment of 0.25 hour.

The Department may request on-line invoicing and use of specific formats as may be required by the Puerto Rico Treasury Department. Invoices should comply with Act 2-2018 and the required certifications.

7. EXCLUSION OF LIABILITY

The PRDE shall have no liability for the payment of invoices, costs, charges or fees billed by Proposer or its subcontractor(s) for:

- A. Costs of services not authorized in writing by the PRDE;
- B. Costs related to upgrading, maintaining or programming billing systems to meet the PRDE's requirements;
- C. Costs related to reimbursement of legal expenses in order to provide the services to the PRDE.

8. ACCOUNT MANAGEMENT

Proposer shall provide an account manager as a single point of contact for all issues and reporting under the contract. Proposer shall also provide reporting tools related to the PRDE's purchasing of services from the Proposer.

9. PROPOSER NOT AN AUTHORIZED REPRESENTATIVE OF PRDE

Proposer understands and agrees that Proposer is not an authorized representative of the PRDE and that all Department decisions and actions must be made by authorized PRDE representatives.

10. KEY PERSONNEL AND SUBCONTRACTORS

Any key personnel of the Proposer or any of its subcontractors assigned to provide services to the Department and who are listed in the contract ("Key Personnel") will continue to provide services to the Department for the Term of the contract, unless the Department requests that the Key Personnel be removed or if the Key Personnel resigns or is dismissed, or upon loss/removal of a Key Personnel due to illness, disability or death. Proposer shall notify the Department promptly after any Key Personnel resigns or is dismissed, or upon loss or removal of any Key Personnel due to illness, disability or death. Before the assignment of any Key Personnel or the replacement of any Key Personnel, Proposer will provide the Department, upon the Department's written request, with the resume of the prospective Key Personnel, an opportunity to interview such individual or individuals, and will obtain the written consent of the Department's authorized representative to the assignment of such individual as a Key Personnel.

PRDE encourages Proposers to engage local subcontractors, professionals and relevant service providers headquartered in Puerto Rico ("Local Parties") as team members and Key Personnel to the greatest extent possible. Proposers are strongly encouraged as part of this RFP to provide descriptions

of their current and/or anticipated business arrangements with Local Parties and, in particular, Local Parties who are team members and Key Personnel for work under this RFP, as applicable.

Key Personnel assigned to perform Proposer's obligations under the contract shall have experience, training, and expertise equal to personnel with similar responsibilities in the business in which Proposer is engaged and shall have sufficient knowledge of the Department's practices and areas of expertise, to enable them to perform their duties and responsibilities under the contract. If the Department requests that Proposer remove any Key Personnel assigned to the Department's account, the parties will attempt to resolve the Department's concerns on a mutually agreeable basis. If the parties have not been able to resolve the Department's concerns within fifteen (15) business days of receipt of written notice of requested removal from the Department, Proposer will remove such Key Personnel from the Department's account and provide a replacement in a timely manner.

Proposer shall not allow any of its employees or subcontractors to have direct regular contact with a Department student until the Proposer shall have obtained certifications of good conduct and negative certifications from the sexual offenders' registry for said employees or subcontractors. If requested, Proposer shall also, at its own cost and expense, conduct fingerprint-based criminal history records check on any and all employees, agents and subcontractors who may have direct, regular contact with a student under the contract.

Proposer shall furnish the Department with a copy of all subcontracts within five (5) days after the Department's request.

11. SMALL AND MINORITY-OWNED BUSINESSES, WOMEN'S BUSINESS

In accordance with 2 CFR, §200.321, it is the policy of the Government of Puerto Rico and PRDE to stimulate growth of local minority and women-owned business enterprises (M/WBE) by encouraging their participation in all phases of its contract and procurement activities and by affording them the opportunity to compete for PRDE contracts. The purpose and objectives of this article are to:

1. Increase the capacity of local M/WBE firms to provide products and services.
2. Increase the opportunities for local M/WBE firms to expand their business with PRDE and other public and private sector business entities.

Provided, however nothing herein shall require PRDE to award contracts for services or procurements to a M/WBE which is not also the most responsive and responsible Proponent and otherwise qualified.

12. GENERAL SAFETY GUIDELINES

- A. Proposer shall be solely responsible for safety in performing the services. Proposer shall adhere to any and all safety related requests by the Department and the Department's designated representatives, including submission, upon the request of the Department, a copy of Proposer's safety manual.
- B. Proposer, both directly and indirectly through its subcontractors, shall continuously protect the Department's property and adjacent property from damage, injury, or loss arising in connection

with operations under the contract. Proposer shall make good any such damage, injury, or loss. Proposer is responsible for school site security.

- C. Proposer, both directly and indirectly through its subcontractors, shall take all necessary precautions to ensure the safety of the public and workers in performing the Services, and to prevent accidents and/or injury to any persons on, about, or adjacent to any site where the Services are being performed.
- D. Proposer shall ensure that all contractors and subcontractors of the PRDE engaged in projects being managed by the Proposer shall comply and adhere to all applicable safety rules and standards and they ensure the safety of the public and personnel as well as that the PRDE's property is continuously protected against damage or loss arising of the projects being managed.
- E. Proposer shall comply with all applicable local and federal laws, ordinances, codes, rules, and regulations relative to safety and the prevention of accidents, including all safety rules and regulations adopted by the Department. Proposer, and its subcontractors shall cooperate with any other contractor that may be performing work on a site; such compliance shall include, but be not limited to, OSHA compliance and safety efforts.
- F. In an emergency affecting the safety of life or adjoining property, Proposer, without special instructions or authorization from the Department, is permitted to act, at its discretion, to prevent the threatened loss or injury.
- G. Proposer shall protect private and public property adjacent to where the Services are being performed, including all streets, sidewalks, light poles, hydrants, and concealed or exposed utilities of every description affected by or adjacent to where the Services are being performed. If the items are damaged by Proposer or its subcontractors, Proposer shall make all necessary repairs to or replacements of them at no cost to the Department.
- H. If, in the opinion of the Department, the performance of the Services endangers adjoining property or persons, upon written notice from the Department to the Proposer, the services and installations shall be stopped, and the method of operation changed in a manner acceptable to the Department. Proposer acknowledges and agrees that it shall be responsible for any financial repercussions resulting therefrom and that service delivery schedules may be postponed as a result thereof.

VII. PROPOSAL FORMAT AND SUBMITTAL REQUIREMENTS

1. PROPOSAL PREPARATION

Proposals are to be prepared in conformance with all the instructions, guidelines, conditions and requirements stated in this RFP. Proposers are expected to examine all documents, schedules and requirements (explicit and implicit) in their entirety and respond to them completely and accurately. Failure to conform to any RFP condition will be entirely at the Proposer's risk and may render the corresponding proposal non-responsive.

Proposers that timely file Letters of Intent are eligible to submit proposals in response to the RFP referenced in their Letters. Proposals must be submitted by the deadlines established in the RFPs. The Evaluation Committee will not consider any proposals received after the deadline.

All costs associated with the preparation, oral presentation or interview, and delivery of the Proposer's proposal, or any other expense incurred by the Proposer in relation to the RFP, are the sole responsibility of the Proposer, and shall not, under any circumstances, be reimbursed in any manner by the PRDE (even in the situation where an RFP is canceled).

2. PROPOSAL FORMAT

Proposals shall be in the format and submitted in the quantities specified in **APPENDIX IV** (Proposal Format and Submittal Checklist) attached to this RFP. The failure of a Proposer to comply with the quantity and format requirements may result in said Proposer being deemed non-responsive.

3. PROPOSAL SUBMITTALS

Each proposal shall include the submittals outlined in this section. For convenience and reference, a Proposal Submittal Checklist is included in **APPENDIX IV** (Proposal Format and Submittal Checklist) attached to this RFP. Any Proposer that fails to include submittals marked "**Mandatory**" shall be automatically disqualified from consideration for a contract award. Proposer proposals responses shall include each of the following submittals:

A. **TAB 1: Cover Letter**

Proposers shall include a cover letter signed by an authorized representative of the Proposer. The cover letter must indicate a commitment to provide the services described in the Proposer's proposal, and a written acknowledgement to agree to enter into a written contract with the Department for the proposed equipment and services, if selected. The letter shall also include a brief narrative description of the Proposer and its service offerings.

B. TAB 2: Proposal Signature Page (Mandatory) – Refer to APPENDIX IV, FORM 1

Each Proposer shall execute and deliver the Proposal Signature Page attached to this RFP as **APPENDIX IV** (Proposal Submittal Forms – FORM 1) with their proposal acknowledging receipt of this RFP and RFP addenda (if any), and that Proposer has reviewed and agrees to abide by the terms and conditions set forth in this RFP and such other materials as shall be posted on the Department’s website or as otherwise specified by the Department. **The failure of a Proposer to include a Proposal Signature Page may result in the disqualification of the Proposer from further consideration of a contract award.**

C. TAB 3: Service Requirements (Mandatory) – Refer to APPENDIX II

Each Proposer submitting a proposal must provide the information outlined in **APPENDIX II** (Service Requirements). The failure to respond fully to each question and information requested in **APPENDIX II** may result in Proposer disqualification for non-responsiveness.

D. TAB 4: Price Proposal (Mandatory)– Refer to APPENDIX IV, FORM 2 (Sample)

Proposers shall provide a Price Proposal. Proposers may, but are not required to, use the sample form attached as **APPENDIX IV** (Proposal Submittal Forms – FORM 2) attached hereto. It is mandatory for all proposals to include a Price Proposal. Failure of a Proposer to include a Price Proposal will result in automatic disqualification of the proposal.

An hourly rate schedule for the delivery of services, by category (project executive, project manager, subject matter expert, project Accountant, closeout specialist, etc.) of the personnel that will be assigned to the PMO. All hourly rates shall include overhead and proposer’s profit. The rates provided by the Proposer shall be guaranteed for the performance period of the contract.

The PRDE will not reimburse costs related to office materials, photocopies, scanners, stamps, messengers, fax transmissions, telephone calls or similar costs.

Proposers shall separately identify all federal and state taxes, fees and surcharges that apply to the proposed services. If a tax or charge is based on a specific percentage, include an estimate of the total charges based on the applicable percentage. Proposer pricing shall be subject to the following terms and conditions:

1. Best Proposer Rates. Proposers are expected to propose their very best prices and to the extent possible, reflect any anticipated price reductions from technology advancements and/or market place efficiencies in their pricing.
2. Firm Price Commitment. Each Proposer agrees that its pricing shall remain firm and effective for 180 days from the date of submission.
3. Discounts. Proposers should clearly identify any education or other discounts being offered to the Department and are required to apply said discount before entering line item pricing on the price proposal.

4. No Minimum Service Commitment. Proposer pricing may not be subject to, or contingent upon, a minimum service commitment by the Department.

E. **TAB 5: Non-Collusion Affidavit (Mandatory) – Refer to APPENDIX IV, FORM 3**

Proposers must include the Non-Collusion Affidavit attached to this RFP as **APPENDIX IV** (Proposal Submittal Forms – FORM 3), with their proposals, certifying, among other things, that the Proposer has not directly or indirectly induced or solicited any other proposer to put in a false or sham proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any proposer or anyone else to put in a sham proposal. **The failure of a Proposer to include the Non-Collusion Affidavit shall result in the automatic disqualification of the Proposer from further consideration of a contract award.** The failure to comply with the Non-Collusion Affidavit requirement of this RFP cannot be cured. The Evaluation Committee shall notify Proposers disqualified for failure to comply with this requirement and shall indicate the disqualification in the Notice of Award as the reason said Proposer was not considered for a contract award by the Evaluation Committee.

F. **TAB 6: Proposal (Bid) Bond (Mandatory)**

Proposers shall be required to include a proposal (bid) bond with their proposal, which bid bond(s) shall be in an amount equal to 5% of the Proposer's pricing of the contract. The proposal (bid) bond may be in one of the following formats:

- A bid bond issued by a surety company authorized to do business in Puerto Rico; The surety company must be included in the latest Federal Register (Circular 570) as accepted by the Federal Government.
- An irrevocable letter of credit issued by a financial institution authorized to do business in Puerto Rico, or
- A money order, cashier's check or certified check issued to the Puerto Rico Secretary of Treasury.

Proposers who fail to include a proposal (bid) bond with their proposal shall automatically be disqualified from consideration for a contract award. This omission cannot be cured. The Evaluation Committee shall notify Proposers disqualified for failure to comply with this requirement, and shall indicate the disqualification in the Notice of Award as the reason said Proposer was not considered for a contract award by the Evaluation Committee.

G. **TAB 7: Proposer Questionnaire – Refer to APPENDIX IV, FORM 4**

Proposer shall include a completed Proposer Questionnaire Form, which form is attached hereto as **APPENDIX IV** (Proposal Submittal Forms – FORM 4).

H. TAB 8: Proposer References – Refer to APPENDIX IV, FORM 5

Proposer shall include a completed Proposer Reference Form attached hereto as **APPENDIX IV** (Proposal Submittal Forms – FORM 5), identifying a minimum of three (3) references from programs of similar scope and magnitude for which the Proposer is currently providing services similar to the services required herein or has provided such services within the last 5 years.

Proposers shall request the individuals Proposer includes in the references listed on Form 5 to email completed Reference Questionnaires to recovery@de.pr.gov. Proposers will be evaluated on three (3) completed reference questionnaires. The completed reference questionnaires must be from individuals, companies, or public entities with knowledge of the Proposer's experience that is similar in nature and scope to the products and services being requested by the RFP.

References which are not received prior to the proposal response due date and time will receive a score of "0" for that reference. References outside the three (3) years will also receive a score of zero (0) points.

I. TAB 9 Designation of Subcontractors – Refer to APPENDIX IV, FORM 6

Any Proposer that intends to use one (1) or more subcontractors to deliver all or part of the proposed services shall include a completed Designation of Subcontractors Form attached hereto as **APPENDIX IV** (Proposal Submittal Forms – FORM 6), identifying all subcontractors the Proposer intends to use, describe their experience and skills, and the percentage of work the Proposer expects each subcontractor to perform for each service.

J. TAB 10: Certificate of Insurance Coverage – Refer to APPENDIX IV, FORM 7

Evidence of current insurance coverage shall be submitted on the form attached as **APPENDIX IV** (Proposal Submittal Forms – FORM 7) to this RFP. If Proposer's current coverage does not meet the requirements stated in this RFP, the Proposer shall include a statement of a commitment to acquire the required insurance coverage, should it be awarded a contract for these services.

1. Bonds Required: Bid Bond, Performance Bond and Payment Bond

- Bid Bond - The Proposer shall be required to submit a Bid Bond with the Proposal in an amount equal to 5% of the contract total. The bond may be issued by a surety company authorized to do business in Puerto Rico and included in the latest Federal Register (Circular 570) as accepted by the Federal Government. The Bid Bond may also be in the form of an Irrevocable Letter of Credit issued by a financial institution authorized to do business in Puerto Rico, or a money order, cashier's or certified check issued to the Puerto Rico Secretary of the Treasury.
- Performance Bond – The Proposer that is awarded a contract pursuant to this RFP shall be required to submit a Performance Bond issued by a surety company

authorized to do business in Puerto Rico in an amount equal to 100% of the contract total, and for any contract renewal period.

- Payment Bond - The Proposer that is awarded a contract pursuant to this RFP shall be required to submit a Payment Bond issued by a surety company authorized to do business in Puerto Rico in an amount equal to 100% of the contract total, and for any contract renewal period.

2. Workmen' Compensation and Employers' Liability Insurance.

Evidence of compliance with the requirements established by the Corporación del Fondo del Seguro del Estado. For all Proposers domiciled outside of Puerto Rico, evidence of Workmen's Compensation Insurance from the corresponding state will also be required. Workmen's Compensation insurance should be in compliance with the Workmen's Compensation law of the State of the Contractor's headquarters and the Government of Puerto Rico.

Employers Liability should be included with a minimum limit of \$1,000,000 per accident/per disease/per employee. The policy shall be for the duration of the contract from inception to date of final payment.

The Workmen Compensation policy shall be endorsed with a Waiver of Subrogation in favor of the Government of Puerto Rico, Puerto Rico Department of Education, all State Departments, Municipalities, Agencies, Boards and Commissions, its officers, agents, servants, employees and volunteers, for all work performed by the Contractor, its employees, agents and subcontractors.

3. Commercial General Liability Insurance.

The Contractor must purchase and maintain without interruption for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work by the Contractor, its agents, representatives, employees or subcontractors, or anyone employed directly or indirectly by any of them. The duration of the coverage should be from the inception of the contract until the date of final payment. This insurance shall be endorsed to include the following policy forms:

CG 20 10 11 85 Additional Insured – Owners, Lessees or Contractors – (Form B).

In the absence of CG 20 10 11 85, the insurance shall include both of the following: CG 20 10 AND CG 20 37.

Commercial General Liability Insurance must include limits of not less \$3,000,000 per occurrence and \$6,000,000 in the aggregate for this coverage. Coverage shall be for each occurrence and shall include, but not be limited to: all operations, contractual liability, independent contractors, products/completed operation, errors and omissions. Defense and legal costs shall not erode the Per Occurrence or Aggregate Limits. **Claims-made policy form is unacceptable.**

4. Automobile Liability Insurance

Automobile Liability Insurance when any motor vehicle (whether owned, non-owned or hired) is used in connection with any contract, with limits of not less than Two Million and 00/100 Dollars (\$2,000,000.00) per occurrence for bodily injury and property damage. This

insurance shall include third-party bodily injury and property damage liability for owned, hired and non-owned automobiles and shall be endorsed to include Code 1 "Any Auto". If the Contractor does not own any automobiles, the insurance shall be endorsed to include Code 8 "Hired Auto" and Code 9 "Non-Owned Auto".

5. Additional Insured – Additional Loss Payee

All insurance policies with the exception of Workers Compensation and Professional Liability shall include the, the Government of Puerto Rico, the Puerto Rico Department of Education, all governmental Departments, Agencies, Municipalities, Boards and Commissions, its officers, agents, servants, employees and volunteers as an additional insured.

6. Additional Provisions

The following additional provisions are required:

- Waiver of Subrogation on all policies, except Workers Compensation and Professional Liability
- Additional Insured Clause
- For any claims related to this project, the Contractor's insurance shall be primary
- Contractor agrees to have and maintain the policies as set forth and described herein
- The insurance obligations under this agreement shall be 1) all insurance coverage and/or limits carried by the contractor or 2) the minimum coverage required, whichever is greater
- Hold Harmless and Indemnification Agreement
- 90 Days' Notice of Cancellation, of Material Change or Non-renewal, including Non-Payment of Premium
- Cancellation of coverage for any reason does not release the Contractor from fulfilling its obligations under the Contract.
- Neither the acceptance of the completed work nor the payment thereof shall release the Contractor from the obligations of the insurance requirements or indemnification agreement
- The insurance companies issuing the policies shall have no recourse against the Government of Puerto Rico, the Puerto Rico Department of Education, all State Agencies, Municipalities, Boards and Commissions, its officers, agents, servants, employees and volunteers

7. Certificate of Insurance and Certified Copy of Each Policy.

The insurance company, or its representative, shall submit a Certificate of Insurance within 30 days of notification of the award and within 60 days of notification of the award shall provide a Certified Copy of each policy providing coverage for the scope of work being performed. evidencing all coverage as required under contract and indicating the Additional Insured status as required therein. The Department will not pay the Proposer for any services if satisfactory proof of insurance is not provided prior to the commencement of services.

8. Professional Liability

Evidence of Professional Liability with minimum limits of Two Million Dollars and 00/100 (\$2,000,000) per occurrence and Four Million Dollars and 00/100 (\$4,000,000) aggregate. **A claims-made policy is acceptable.** A policy period inception date of no later than the first day of anticipated work under this contract and an expiration date of no earlier than 30 days after

anticipated completion of all work under the contract shall be provided. For claims-made coverage, there shall be an extended reporting period of at least 60 months, with full reinstatement of limits, from the expiration date of the policy if policy is not renewed. The policy shall not be cancelled for any reason, except non-payment of premium but said cancellation does not release the Contractor from the fulfillment of its obligations under the Contract.

9. Excess Umbrella

Excess Umbrella insurance may be used to meet the minimum requirements for Commercial General Liability including Products and Completed Operations, and Automobile Liability only.

10. General

a. Contractor shall furnish the Agency with Certificates of Insurance reflecting proof of required coverage. The Certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The Certificates are to be received and approved by the Agency before work commences and upon any contract renewal or insurance policy renewal thereafter.

b. The Certificate Holder should be listed as follows:

**Government of Puerto Rico, Puerto Rico Department of Education
150 Federico Costa Avenue
Urb. Industrial Tres Monjitas
San Juan, Puerto Rico
RFP PRDE(ER)-2019-02
Project or Contract #:**

c. In addition to the Certificates, Contractor shall submit the declarations page and the cancellation provision for each insurance policy. The Agency reserves the right to request complete certified copies of all required insurance policies at any time.

d. If the Contractor does not meet the insurance requirements at policy renewal, at the option of the Agency, payment to the Contractor may be withheld until the requirements have been met, OR the Agency may pay the renewal premium and withhold such payment from any monies due the Contractor, OR the contract may be suspended or terminated for cause. Failure of the Contractor to purchase and/or maintain any required insurance shall not relieve the Contractor from any liability or indemnification under the contract.

e. All insurance policies must be issued by insurance companies authorized to do business in Puerto Rico, must have a solid financial position and be classified as "A-" or better and a financial strength of VII or higher by the latest version of the Best Key Rating Guide or be accepted by PRDE after proper evaluation.

f. Any failure of the Department to demand or receive proof of insurance coverage shall not constitute a waiver of Proposer's obligation to obtain the required insurance. The receipt of any certificate does not constitute an agreement by the Department that the insurance requirements in the contract have been fully met or that the insurance policies indicated on the certificate are in compliance with all contract requirements.

g. The Proposer's failure to carry or document required insurance shall constitute a breach of the Proposer's agreement with the Department. Non-fulfillment of the insurance conditions may constitute a violation of the contract, and the Department retains the right to stop services until proper evidence of insurance is provided, or the contract may be terminated. Department will not pay the Proposer for any services if satisfactory proof of insurance is not provided before the commencement of services.

h. Any deductibles or self-insured retentions on referenced insurance coverage must be borne by Proposer. Any insurance or self-insurance programs maintained by the Department of Education do not contribute with insurance provided by the Proposer under the contract.

i. All subcontractors are subject to the same insurance requirements of Proposer unless otherwise specified in the contract. The Proposer shall require any subcontractors under the contract to maintain comparable insurance naming the Proposer, the Department inclusive of its members, employees and agents, and any other entity designated by the Department, as Additional Insureds. The Proposer will maintain a file of subcontractor's insurance certificates evidencing compliance with these requirements.

j. The coverage and limits furnished by Proposer in no way limit the Proposer's liabilities and responsibilities specified within the contract or by law. The required insurance is not limited by any limitations expressed in the indemnification language in the contract or any limitation placed on the indemnity in the contract given as a matter of law.

k. The Proposer agrees that insurers waive their rights of subrogation against the Department.

l. Prior to signature of the contract Proposer and/or its subcontractors shall promptly provide a certified copy of any applicable policy of insurance. The Department reserves the right to modify, delete, alter or change insurance requirements at any time.

K. TAB 11: Copy of Filed Letter of Intent – Refer to APPENDIX IV, FORM 8

Copy of executed Letter of Intent filed by Proposer on or before the filing deadline set forth on the cover page of this RFP.

L. TAB 12: Disclosure of Recent Legal Actions

List, and briefly describe, any and all legal actions and any judgments entered in the past three (3) years in which the Proposer has been a debtor in bankruptcy, a defendant in a lawsuit for deficient performance under a contract or agreement; a party in an administrative action for deficient performance or a defendant in a criminal action. Proposers must also identify any lawsuits or other legal proceedings and any judgments against them, which directly or indirectly relate to any of the products or services included in their corresponding proposal in the past five (5) years. Indicate **N/A** if Proposer has not been involved in any legal actions described above.

The Proposer disclosure statement should be dated and signed by an authorized Proposer representative, and include the following representation:

The undersigned, after reasonable inquiry and investigation, has no knowledge of any action, suit, proceeding, or material claim or investigation pending or threatened against [name of Proposer] in any court, or by or before any federal, state, municipal, or other governmental department, commission, board, bureau, agency, or instrumentality, domestic or foreign, or before any arbitrator of any kind, that, if adversely determined, would materially affect [name of Proposer]'s ability, or the ability of its subcontractor(s), to perform the services described in its proposal at the prices set forth in its price proposal.

M. TAB 13: Hold Harmless And Indemnification Agreement

The _____ {Contractor} agrees to protect, defend, indemnify, save, and hold harmless, the Government of Puerto Rico, the Puerto Rico Department of Education, all State Departments, Municipalities, Agencies, Boards and Commissions, its officers, agents, servants, employees, and volunteers, from and against any and all claims, damages, expenses, and liability arising out of injury or death to any person or the damage, loss or destruction of any property which may occur, or in any way grow out of, any act or omission of _____ {Contractor}, its agents, servants, and employees, or any and all costs, expenses and/or attorney fees incurred by _____ {Contractor} as a result of any claims, demands, suits or causes of action, except those claims, demands, suits, or causes of action arising out of the negligence of the Government of Puerto Rico, the Puerto Rico Department of Education, all State Departments, Municipalities, Agencies, Boards and Commissions, its officers, agents, servants, employees, and volunteers.

_____ {Contractor} agrees to investigate, handle, respond to, provide defense for and defend any such claims, demands, suits, or causes of action at its sole expense and agrees to bear all other costs and expenses related thereto, even if the claims, demands, suits, or causes of action are groundless, false or fraudulent. The Government of Puerto Rico and/or the Puerto Rico Department of Education may, but is not required to, consult with the Contractor in the defense of claims, but this shall not affect the Contractor's responsibility for the handling of and expenses for all claims.

N. TAB 14: Bidders Registry – Eligibility Certificate (Mandatory)

Proposers are advised that if awarded a contract under this RFP, Proposer will be required to provide the documents and certifications requested in Section II, subsection 3.1 prior to the execution of the contract.

O. TAB 15: W-9 Taxpayer Identification Number and Certification (IRS)

Proposers must include a properly completed W-9 identified in **APPENDIX IV, FORM 9**.

P. TAB 16: Project Plan and Deployment Schedule (Mandatory)

Proposers must include a project plan and deployment schedule with proposed schedule if awarded the contract.

Q. **TAB 17: Financial Statements**

Copies of audited financial statements or tax returns signed by the preparer for the three (3) previous fiscal years and the most recent quarterly report shall be provided. Financial Statements shall include auditor's letter of opinion, auditor's notes, balance sheet, and statement of income/loss. Each prime or joint venture partner shall submit this information. The Department reserves the right to accept alternative information and/or documentation submitted by Proposer(s).

R. **TAB 18: Joint Venture (If Applicable)**

Any Proposer proposing as a joint venture must also include a copy of the executed joint venture agreement with its proposal.

S. **TAB 19: Corporate Resolution**

If the Proposer is a corporation, the proposal must be signed by an officer of the corporation and be accompanied by a corporate resolution authorizing the individual to sign the proposal and to enter into a contractual agreement on behalf of the corporation. The corporate resolution must also specify the state of incorporation. Unsigned proposals and proposals not properly signed or accompanied by the appropriate corporate resolution will be rejected.

T. **TAB 20: Proposer Experience History (Mandatory)**

Each Proposer should include an organized, detailed summary of Proposer's experience providing the proposed services, as well as the Proposer's experience working on comparably sized projects. The Proposer's experience history should include the following for at least 2 similar engagements, one of which should be for managing a large public project:

- (a) Name of the client
- (b) Services provided
- (c) Name, title, phone and email of a contact person who can verify the Proposer's work
- (d) The start and end dates services were performed
- (e) Total contract compensation, or if an ongoing service, the total compensation paid to date.

U. **Tab 21: Lobbying Certification:**

Proposer must submit Proposal Submittal Form 10, Lobbying Certification for Contracts, Grants, Loans, And Cooperative Agreements, with its RFP documents, which is a requirement for all projects funded with FEMA and CDBG funds.

V. **Tab 22. Acknowledgement of Receipt of Addenda Form (if applicable).**

Should the PRDE deem it convenient or necessary to issue addenda to this RFP, Proposers will be requested to acknowledge receipt of the Addenda issued by the PRDE.

VIII. EVALUATION COMMITTEE AND PROPOSAL REVIEW

This section describes the overall proposal and selection process that the PRDE intends to follow with respect to this RFP.

1. EVALUATION COMMITTEE

An Evaluation Committee is being appointed by the Secretary of Education to review proposals and select one Proposer. The Evaluation Committee may be assisted by a team of technical advisers and such other resources as the committee deems helpful and/or appropriate.

2. EVALUATION CRITERIA AND PROPOSER SELECTION

PRDE will review proposals and select the proposal that offers the best value and reserves the right to award the contract to other than the lowest priced offeror. Should PRDE decide that oral presentations of qualified proposals would assist the selection process, PRDE will notify all proposers invited to make these presentations. All proposers will be notified of PRDE selection as soon as is practicable. Upon the selection of the successful proposing firm, a contract for consulting services will be executed. All contents of the selected proposal, in conjunction with this RFP, and any formal questions and answers provided during the proposal process, may be incorporated into the final contract at the discretion of PRDE.

B. Selection Criteria

The evaluation of proposals will be conducted in conformance with pre-established criteria. The evaluation criteria is as follows:

A. Qualifications and Experience	30
Firm financial strength and solvency	
Previous experience (at least 5 years) with similar roles	
Detail 2 similar engagements (at least one in managing a large public project)	
Availability to start immediately	
Background check (3 references)	
B. Approach and Methodology	25
Evaluate proposer's approach for performance management, reporting and measurement	
Key roles and key executives (including engagement manager and key work stream leaders)	
Proposed project implementation plan	
C. Compliance with all Applicable Federal and Puerto Rico Regulations	20
Experience with FEMA and HUD regulations	
Specific FEMA and HUD trainings and expertise within the team	
D. Integration of Local Parties	10
How local parties add value and their expected roles	
Key personnel from local parties and day-to-day activities	
E. HUD Section Plan to include S/W/MBE	10
How the firm will implement efforts for participation of small, women, minority business enterprise	
F. Electronic Platform Capabilities	10

The platform must be developed by, implemented by, hosted by and supported by the same single vendor. Platform must be designed to support the program and project management lifecycle – Planning through Closeout.

Platform must have at least a five-year history of successfully supporting requirements related to construction program/project management and be approved by the PRDE.

Platform must allow PMO and PRDE to measure and manage every aspect of the program management and integrated project delivery process. Platform must provide at a minimum, cost management, process management, benchmarking, procurement, field management, fund management and compliance.

Platform must fully support the program requirements as outlined under specific requirement in this RFP. Solution must be a cloud hosted system.

PRDE should be trained in the use and allowed full to access the platform at any time.

All Program documentation and systems developed during the Program are property of the PRDE.

Platform should allow for the use of secure but accessible library of key documents, contracts, deliverables, and other documentation for the Program for both internal and external usage.

The PM shall have a high level of demonstrated experience in the agreed project/program management electronic platform.

E. Cost Proposal

20

Includes hourly rate schedule by category

Rates guaranteed for the performance of the period

Total

125

3. DEPARTMENT'S SELECTION; REQUESTS FOR REVIEW

The Department intends to enter into a three-years contract to end December 31, 2022 (subject to annual appropriations), with one or more qualified and responsible Proposers that submit responsive proposals for the most responsive solution that will meet the Department's needs. A Notice shall be sent to the winning Proposer. The Notice may include a summary of all Proposer pricing, the Evaluation Committee voting record, the reasons the winning Proposer was/were selected, the reasons losing proposals were not selected (including any Proposer disqualifications), and such other information as shall be deemed necessary or appropriate by the Evaluation Committee. Copies of the Notice shall also be mailed to all other Proposers that submitted proposals in response to this RFP. The selected Proposer(s) must, within 3 business days return a signed copy of the Notice to the Department indicating acceptance of their selection.

Award revisions will be governed by the dispositions of the Law of Uniform Administrative Procedures of the Puerto Rico Government (Law 38 of June 30, 2017, as amended, (3 L.P.R.A 9601-9683)).

Any proponent adversely affected by this decision may file a request for reconsideration (3 L.P.R.A. 9655) with the PRDE within twenty (20) days of notification. The PRDE must consider the request for reconsideration within thirty (30) days of its filing date (30-day period may be extended once for an additional 15 days by PRDE). If the PRDE does not issue a response to the request for reconsideration within such 30-day period (or 45-day period if the once-time extension is triggered by the PRDE), said request will be deemed to have been denied.

The Motion or Petition for Reconsideration will have to be filed on or before the deadline mentioned before at:

Evaluation Committee
c/o Office of Infrastructure and Recovery
Puerto Rico Department of Education
150 Federico Costa Avenue
2nd Floor
Urb. Industrial Tres Monjitas
Hato Rey, PR 00926

The proponent may file an appeal brief for judicial review of PRDE's final decision with the Puerto Rico Appellate Court within 20 days from the earlier of: (i) the date of the notification of the postmark on the envelope containing PRPB's final decision on the proponent's request for reconsideration or (ii) the date that the request for reconsideration is deemed to have been rejected. Proponents who fail to file request for reconsideration or for judicial review within the periods indicated herein waive their right to contest an award.

The filing of an appeal before the Appellate Court will not stay the award proceedings. The judicial review is the exclusive or sole remedy for a review on its merit regarding the agency's administrative decision regardless if it is an adjudicative or informal decision.

The Notice of award is subject to execution of a written contract and, as a result, such Notice does NOT constitute the formation of a contract between the PRDE and the successful Proposer(s). The Proposer(s) shall not acquire any legal or equitable rights relative to the contract services until a contract containing terms and conditions acceptable PRDE is executed. If the successful Proposer(s) fails to negotiate and execute a contract with the PRDE, the PRDE may revoke the award and award the contract to the next highest ranked vendor or withdraw the RFP. The PRDE further reserves the right to cancel the Notice of Award at any time prior to the execution of a written contract.

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APPENDIX I: PRDE Educational Regions and Schools

- 1. Appendix IA:**
Schools per Educational Region (Arecibo, Bayamón, Caguas, Humacao, Mayagüez, Ponce, San Juan).

- 2. Appendix IB:**
Educational Regions Map

APPENDIX II: SERVICE REQUIREMENTS

Please provide all the information requested below. If a question does not apply, please mark “N/A.”

1. GENERAL EXPERIENCE

Describe experience in providing the services being proposed to the scale and scope described in this RFP. Include years of experience with educational and governmental entities.

Relevant Experience and History

Include a description of any relevant experience and history of working with a governmental entity, either local or Federal. As an essential requirement of the RFP, please describe experience working with FEMA and HUD program management. Please include any FEMA and HUD training the Proposer’s team has received.

Provide an organizational chart for your team with the designation of primary leadership and day-to-day professionals.

All Proposers must name and provide resumes for Key Staff to be assigned to the project. This shall include, at a minimum, the key staff necessary to lead and manage the elements of the organizational structure offered by the Proposer for this project. Any key staff who are proposed and any resumes included in the Proposer’s bid shall be offered under the condition that their participation is guaranteed by Proposer and said staff would be required to work on-site and on a full-time basis on the engagement with PRDE. Once engaged, Contractor shall not reduce the hours or on-site presence of said staff or replace said personnel without prior approval from PRDR (such approval shall not be unreasonably withheld).

2. IMPLEMENTATION PLAN PROPOSED FOR WORK UNDER THIS RFP

Provide a sample deployment and project implementation plan to include required actions and target dates. Please include here the itinerary for work. This plan will be approved by the Department in advance of the start of services and must address the following:

- A. Formal project plan, including dependencies and contingencies, and estimated timeframes.

3. PERFORMANCE MEASUREMENT AND REPORTING

Describe the Proposer’s approach to manage and evaluate performance and proposed report submittals. Additionally, please describe available electronic formats (Web download, CD, etc.) for providing performance information to the Department for the proposed services.

4. BILLING DISPUTE RESOLUTION FOR ALL PROPOSED SERVICES

- A. Describe the process in place to assure that billing issues are corrected in a timely fashion.
- B. Are tracking numbers assigned in order that billing problems do not “disappear” and if so, describe.
- C. Provide written procedures for resolving billing issues and the escalation process

5. PROBLEM ESCALATION PROCESS

- A. Initial problem identification.
- B. Determination of priority and severity of problem.
- C. Steps for resolving problem
- D. Problem escalation for situations when resolution is not forthcoming or an implemented solution is unsatisfactory.

[Remainder of page intentionally left blank

APPENDIX III: PROPOSAL FORMAT

1. PROPOSAL FORMAT

Proposers' proposals shall be in the following format and quantities:

- A. One (1) signed original Proposer proposal must be submitted by the due date in a 3-ring binder with a pocket for a cover sheet and separate tabs for the submittal requirements specified in this RFP. The binder shall have a front cover sheet containing the following information:
 - RFP Number and Name
 - Proposer name and address
 - Proposer contact person (name, title, email, office and cell phone)
 - Clearly marked as the Original
- B. 1 Exact Copy of the Original Proposal on a Jump Drive, including Financial Statements, submitted along with the Original Proposal
- C. 1 Exact Copy of the Original Proposal submitted by shared document link emailed to recovery@de.pr.gov
- D. Proposals must be received by the due date.
 - D. All proposals must be in English, including Letters of Intent and all submittals
 - E. Each proposal should be divided into sections in the order, and separated by numbered Tabs, as specified in this RFP
 - F. Proposal text should be single-spaced, with 1-inch margins and typed in Times New Roman 12-point font or Arial 10-point font (smaller font can be used for charts and graphics only)
 - G. Two-sided copying and the use of recycled paper are strongly encouraged.
 - H. Original Proposal Binder must be **hand-delivered** by Proposers or Courier by the due date in sealed enveloped labeled and addressed as follows:

RFP # **PRDE (ER)-2019-02**

Due Date: **4:00 p.m. on**

Deliver To:

c/o Office of Infrastructure and Recovery
Puerto Rico Department of Education
150 Federico Costa Avenue
2nd Floor
Urb. Industrial Tres Monjitas
Hato Rey, PR 00926

APPENDIX IV: PROPOSAL SUBMITTAL CHECKLIST

ALL SUBMITTALS AND FORMS BELOW ARE REQUIRED AND SHOULD BE INCLUDED WITH EACH PROPOSAL. ANY PROPOSER THAT FAILS TO INCLUDE SUBMITTALS OR FORMS IDENTIFIED AS “MANDATORY” SHALL BE AUTOMATICALLY DISQUALIFIED FROM CONSIDERATION. ANY PROPOSER THAT FAILS TO INCLUDE ANY OTHER NON-MANDATORY SUBMITTALS OR FORMS SHALL BE NOTIFIED AND MAY BE GIVEN A REASONABLE OPPORTUNITY TO PROVIDE THE MISSING SUBMITTAL OR FORM.

PROPOSERS SHALL DELIVER THREE (3) COPIES OF PROPOSALS AS FOLLOWS:

- 1 Signed **Original Proposal** in a 3-Ring Binder with Financial Statements, clearly marked as the Original
- 1 Exact Copy of the Original Proposal on a Jump Drive, including Financial Statements, submitted along with the Original Proposal
- 1 Exact Copy of the Original Proposal submitted by shared document link emailed to recovery@de.pr.gov

TAB #	DESCRIPTION	FORM	CHECK ✓
TAB 1	Cover Letter		
TAB 2	Proposal Signature Page – Mandatory	FORM 1	
TAB 3	Equipment and Service Proposal – Mandatory		
TAB 4	Price Sheet-Mandatory	FORM 2	
TAB 5	Non-Collusion Affidavit – Mandatory	FORM 3	
TAB 6	Proposal Bid Bond (5%) - Mandatory		
TAB 7	Proposer Questionnaire	FORM 4	
TAB 8	Proposer References (3 Minimum)	FORM 5	
TAB 9	Designation of Subcontractors	FORM 6	
TAB 10	Certificate of Insurance Coverage	FORM 7	
TAB 11	Copy of Filed Letter of Intent- Mandatory	FORM 8	
TAB 12	Recent Legal Actions		
TAB 13	Hold Harmless Agreement		
TAB 14	W-9 (IRS)	FORM 9	

TAB 16	Project Plan and Schedule		
TAB 17	Audited Financial Statements for 3 Years- <i>Mandatory</i>		
TAB 18	Joint Venture Documentation (If Applicable)		
TAB 19	Corporate Resolution (Authorizing signer to execute proposal and enter into a contract on behalf of the corporation. The corporate resolution must also specify the state of incorporation) <i>Mandatory</i>		
TAB 20	Proposer Experience History		
TAB 21	Lobbying Certification	FORM 10	
TAB 22	Acknowledgement of Receipt of Addenda Form (if applicable)		

PROPOSAL SUBMITTAL FORM 1 – PROPOSAL SIGNATURE PAGE

EACH PROPOSER IS REQUIRED TO SUBMIT A PROPOSAL SIGNATURE PAGE WITH ITS PROPOSAL. ANY PROPOSER THAT FAILS TO DELIVER THE PROPOSAL SIGNATURE PAGE IS AUTOMATICALLY DISQUALIFIED FROM CONSIDERATION FOR AN AWARD

PROPOSER:

ADDRESS:

PHONE:

The undersigned, doing business under the full and complete legal name as set forth above, proposes to provide the services described in the Proposer proposal to the Puerto Rico Department of Education, for the prices set forth in the Proposer's Price Proposal. The Proposer makes the following certifications with regard to its service and pricing proposals:

1. Proposer is presenting its proposal for the RFP No. **PRDE (ER)-2019-02**.
2. Proposer certifies that it has filed all its income tax forms and paid all its taxes (including property taxes), unemployment insurance, disability, and chauffeurs social security, in all applicable cases; or, that it has a payment plan for payment of those obligations and is complying with such plan.
3. Proposer certifies that there is no conflict of interest in the contract and provisioning of the proposed services and items to the PRDE.
4. Proposer agrees that its service proposal and price proposal shall remain valid for 180 days from the date of submission.
5. Proposer certifies that none of the employees of the Department or any of its sub-departments or agencies has a pecuniary interest in their offer.
6. Proposer certifies that its proposal has been prepared and developed without collusion with any of the Department's officials or other Proposers and without effort to preclude the Department from obtaining the best competitive proposal.
7. Proposer certifies the Proposer nor any person or entity associated who is partnering with the Proposer has been the subject of any adverse findings that would prevent PRDE from selecting the respondent. Such adverse findings include but are not limited to the following:
 - a. Negative findings from a federal Inspector General or from the US Government
 - b. Accountability Office (GAO), or from an Inspector General in another state;
 - c. Pending or unresolved legal action from the US Attorney General or from an

- d. Attorney General in Puerto Rico or another state;
 - e. Pending litigation with the Government of Puerto Rico, or any other state;
 - f. Arson conviction or pending case;
 - g. Harassment conviction or pending case;
 - h. Puerto Rico, federal, or private mortgage in arrears, default, or foreclosure proceedings;
 - i. In rem foreclosure;
 - j. Sales tax lien or substantial tax arrears;
 - k. Fair Housing violations or current litigation;
 - l. Defaults under any federal or Puerto Rico sponsored program;
 - m. A record of substantial building code violations or litigation against properties owned and/or managed by respondent or by any entity or individual that compromises the respondent;
 - n. Past or pending voluntary or involuntary bankruptcy proceedings; or
8. Conviction for fraud, bribery, or grand larceny or any felony listed in the PR Anticorruption Code of 2017. The undersigned, hereby acknowledges receipt of (a) RFP# PRDE (ER)-2019-02 and including all appendices, (*Proposer should list here any and all addenda to the RFP issued by the Department and posted at www.de.pr.gov*). The undersigned also hereby certifies that the Proposer has read and agrees to abide by the terms and conditions of the RFP including all appendices and addenda.

Signature: _____

Name/Title: _____

Date: _____

PROPOSAL SUBMITTAL FORM 2 – SAMPLE PRICE PROPOSAL FORM

PROPOSER IS REQUIRED TO DISCLOSE ANY EXCEPTIONS TO THE SERVICES, AND MUST CLEARLY SPECIFY ALL EXCEPTIONS AND LIST THE SEPARATE COSTS IN THE PROPOSER'S PRICING PROPOSAL. ANY PROPOSER THAT FAILS TO SUBMIT PRICE PROPOSAL SHALL BE AUTOMATICALLY DISQUALIFIED FROM CONSIDERATION FOR AN AWARD.

IF APPLICABLE, THE PERCENTAGE ESTABLISHED BY RESOLUTION OF THE BOARD FOR THE INVESTMENT IN THE PUERTO RICAN INDUSTRY **SHALL BE IDENTIFIED BY PROPOSER IN A SEPARATE COLUMN IN THE PROPOSER'S PRICE PROPOSAL** SO THAT THE EVALUATION OF PRICING TO BE CONDUCTED IN ACCORDANCE WITH LAW NO. 14 OF JANUARY 8, 2004, AND LAW 42 OF JANUARY 21, 2018 AS THEY MAY HAVE BEEN AMENDED. THESE LAWS SHALL BE APPLIED IF PERMITTED UNDER APPLICABLE FEDERAL AND LOCAL LAWS.

ITEM	HOUR	Price
TOTAL (MUST INCLUDE PRICING FOR ALL LINE ITEMS):		

TOTAL PROPOSAL PRICING: \$ _____*
 *TOTAL NOT TO EXCEED AMOUNT

TOTAL PROPOSAL PRICING FOR EVALUATION PURPOSES,
 AFTER APPLICATION OF INVESTMENT PERCENTAGE: \$ _____

PROPOSAL SUBMITTAL FORM 3 - NON-COLLUSION AFFIDAVIT

EACH PROPOSER IS REQUIRED TO SUBMIT A NON-COLLUSION AFFIDAVIT WITH ITS PROPOSAL. ANY PROPOSER THAT FAILS TO SUBMIT A NON-COLLUSION AFFIDAVIT SHALL BE AUTOMATICALLY DISQUALIFIED FROM CONSIDERATION FOR AN AWARD.

I, the undersigned, am the _____ of _____ (the "Proposer"), and being duly sworn, declare that the proposal submitted by the Proposer in response to **PRDE (ER)- 2019-02** is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the proposer has not directly or indirectly induced or solicited any other proposer to put in a false or sham proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any proposer or anyone else to put in a sham proposal; that the proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price of the proposer or any other proposer, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other proposer, or to secure any advantage against the Government of Puerto Rico or the Puerto Rico Department of Education; that all statements contained in the proposal are true; and, further, that the Proposer has not, directly or indirectly, submitted its proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, proposal depository, or to any member or agent thereof to effectuate a collusive or sham proposal.

I certify (or declare) under penalty of perjury under the laws of Puerto Rico that the foregoing is true and correct.

NAME OF PROPOSER: _____
Signature: _____
Name: Title: _____
Date: _____

NOTARY PUBLIC SEAL

Sworn to and subscribed before me on this ____ day of _____, 2019, proved to me on the basis of satisfactory evident to be the person who appeared before me and signed this Affidavit.

PROPOSAL SUBMITTAL FORM 4 - PROPOSER QUESTIONNAIRE

ANSWER ALL QUESTIONS THAT APPLY; IF A QUESTION DOES NOT APPLY, MARK N/A.

Business Name: _____.

Telephone Number: _____; Fax Number: _____;

E-mail Address: _____ Web Site Address: _____.

Business _____ Address: _____

_____ City: _____;

BUSINESS INFORMATION

Years in Business: _____.

Check the following as it applies to your Business:

Public Corporation Privately Held Corporation Limited Partnership

Sole Proprietorship Limited Liability Company

Manufacturer Distributor Service Proposer

Are you a subsidiary of another Company: Yes No; If Yes, name of parent: _____

List all companies with whom you have partial or complete ownership:

Check the following Business Classifications that apply to your firm, if any:

Small Business Concern Minority owned business Woman owned business

OTHER OPERATIONAL INFORMATION

Number hourly employees: Direct _____; Indirect _____

Number salary employees: Direct _____; Indirect _____

Normal work days: _____; Normal work hours: _____;

PROPOSAL SUBMITTAL FORM 5: PROPOSER REFERENCES (3 Required)

Proposer is required to provide a minimum of three (3) customer references for similar scope and magnitude of work that Proposer has performed within the past three (3) years. Please include only references for services that are similar enough to demonstrate Proposer's ability to perform the services requested in the above-referenced RFP.

CLIENT REFERENCE NO. 1

CLIENT NAME: ADDRESS: _____
CONTACT NAME/TITLE: _____
CONTACT EMAIL: SERVICE DATES: _____
CONTACT PHONE: _____
SERVICE DATES: _____
DESCRIPTION OF WORK PERFORMED
/PERFORMING: _____

CONTRACT AMOUNT (\$): _____

CLIENT REFERENCE NO. 2

CLIENT NAME: ADDRESS: _____
CONTACT NAME/TITLE: _____
CONTACT EMAIL: SERVICE DATES: _____
CONTACT PHONE: _____
SERVICE DATES: _____
DESCRIPTION OF WORK PERFORMED
/PERFORMING: _____

CONTRACT AMOUNT (\$): _____

CLIENT REFERENCE NO. 3

CLIENT NAME: ADDRESS: _____
CONTACT NAME/TITLE: _____
CONTACT EMAIL: SERVICE DATES: _____
CONTACT PHONE: _____
SERVICE DATES: _____
DESCRIPTION OF WORK PERFORMED
/PERFORMING: _____

CONTRACT AMOUNT (\$): _____

REFERENCE QUESTIONNAIRE - INSTRUCTIONS TO THE PROPOSER:

Proposers will be evaluated on three (3) completed reference questionnaires. The completed reference questionnaires must be from individuals, companies, or public entities with knowledge of the Proposer's experience that is similar in nature and scope to the products and services being requested by the RFP. References should be from current projects or projects completed within the last three (3) years from the date of the RFP.

References which are not received prior to the proposal response due date and time will receive a score of "0" for that reference. References outside the three (3) years will also receive a score of zero (0) points.

If more than three (3) qualifying references are received prior to the proposal due date, the three (3) references with the highest scores will be used in the evaluation.

REFERENCES MUST BE RECEIVED BY THE DEPARTMENT DIRECTLY FROM THE REFERENCE IN ORDER TO BE CONSIDERED

1. Proposers must complete the following information on page 2 of the "Reference's Response To" document before sending it to the Reference for response.
 - Print the name of your reference (company/organization) on the "REFERENCE NAME" line.
 - Print the name of your company on the "PROPOSER (VENDOR) NAME" line.

Send the "Reference's Response To" document to your references to complete and submit.

NOTE: It is the Proposer's responsibility to follow up with its references to ensure timely receipt of all questionnaires. Proposers may contact the RFP Lead prior to the RFP closing date to verify receipt of references.

REFERENCE QUESTIONNAIRE

**PUERTO RICO DEPARTMENT OF EDUCATION
RFP – PRDE(ER)-2019-02
Program Management Services**

REFERENCE NAME (Company/Organization): _____

PROPOSER (VENDOR) NAME (Company/Organization): _____ intends to submit a proposal to Puerto Rico Department of Education in response to the Department’s RFP program management services.

INSTRUCTIONS TO INDIVIDUAL COMPLETING REFERENCE QUESTIONNAIRE:

1. Complete **Section I. RATING** using the Rating Scale provided.
2. Complete **Section II. GENERAL INFORMATION** (*This section is for information only and will not be scored.*)
3. Complete **Section III. ACKNOWLEDGEMENT** by manually signing and dating the document. (*Reference documents must include a manual actual signature.*)
4. E-mail **THIS PAGE** and your completed reference document, **SECTIONS I through III** to recovery@de.pr.gov.
5. This completed document **MUST** be received no later than 4:00 p.m. on April 15, 2019 AST. Reference documents received after this time will not be considered. References received without a manual signature will not be accepted.
6. DO **NOT** return this document to the Proposer (Vendor).
7. The Puerto Rico Department of Education may contact references by phone for further clarification if necessary.

**REFERENCE QUESTIONNAIRE
PUERTO RICO DEPARTMENT OF EDUCATION
RFP NO. PRDE(ER)-2019-02**

REFERENCE NAME: _____

PROPOSER (VENDOR) NAME : _____

Section I. RATING

Using the Rating Scale provided below, rate the following numbered items by circling the appropriate number for each item:

RATING SCALE

CATEGORY	SCORE
Poor or Inadequate Performance	0
Below Average	1 – 3
Average	4 – 6
Above Average	7 - 9
Excellent	10

1. Rate the overall quality of the vendor's services:

10 9 8 7 6 5 4 3 2 1 0

2. Rate the response time of this vendor:

10 9 8 7 6 5 4 3 2 1 0

3. Rate how well the agreed upon, planned schedule was consistently met and deliverables provided on time. *(This pertains to delays under the control of the vendor):*

10 9 8 7 6 5 4 3 2 1 0

4. Rate the overall customer service and timeliness in responding to customer service inquiries, issues and resolutions:

10 9 8 7 6 5 4 3 2 1 0

5. Rate the knowledge of the vendor's assigned staff and their ability to accomplish duties as contracted:

10 9 8 7 6 5 4 3 2 1 0

6. Rate the accuracy and timeliness of the vendor's billing and/or invoices:

10 9 8 7 6 5 4 3 2 1 0

7. Rate the vendor's ability to resolve a problem related to the services provided quickly and effectively:

10 9 8 7 6 5 4 3 2 1 0

8. Rate the vendor's flexibility in meeting changing business requirements:

10 9 8 7 6 5 4 3 2 1 0

9. Rate the likelihood of your company/organization recommending this vendor to others in the future:

10 9 8 7 6 5 4 3 2 1 0

Section II. GENERAL INFORMATION

1. Please include a brief description of the products and services provided by this vendor for your business/organization and any other comments you would like to provide:

2. During what time period did the vendor provide these services for your business?

Month: _____ Year: _____ to Month: _____ Year: _____

3. Annual Value of Contract: \$ _____

Section III. ACKNOWLEDGEMENT

I affirm to the best of my knowledge that the information I have provided is true, correct, and factual:

Signature of Reference

Date

Print Name

Title

Phone Number

Email address

PROPOSAL SUBMITTAL FORM 6: DESIGNATION OF SUBCONTRACTORS

PROPOSER NAME:

SUBCONTRACTOR NO. 1:

Proposed Subcontractor Services: _____
Percentage (%) of Total Work: _____
Subcontractor Name: _____
Address: _____
Contact Person/Title: _____
Phone: _____
Email Address: _____

SUBCONTRACTOR NO. 2:

Proposed Subcontractor Services: _____
Percentage (%) of Total Work: _____
Subcontractor Name: _____
Address: _____
Phone: _____
Contact Person/Title: _____
Phone: _____
Email Address: _____

SUBCONTRACTOR NO. 3

Proposed Subcontractor Services: _____
Percentage (%) of Total Work: _____
Subcontractor Name: _____
Address: _____
Contact Person/Title: _____
Phone: _____
Email Address: _____

ADD ADDITIONAL PAGES IF NEED

PROPOSAL SUBMITTAL FORM 7: CERTIFICATE OF INSURANCE COVERAGE

PROOF THAT COVERAGE IS EITHER CURRENTLY IN PLACE OR WILL BE PROVIDED MUST BE SUBMITTED WITH THE PROPOSER PROPOSAL IN ONE (1) OF THE TWO (2) METHODS DESCRIBED BELOW.

PROPOSER NAME: _____

PROPOSER ADDRESS: _____

NAME OF SURETY: _____

NAME OF AGENT: _____

AGENT'S PHONE: _____

The undersigned hereby certifies that _____ (the "Proposer") and its subcontractor(s) has the following insurance coverage, respectfully:

TYPE OF COVERAGE	MINIMUM LIMITS	POLICY OR BINDER NO.	ACTUAL LIMITS PROVIDED	EXPIRATION DATE
COMMERCIAL/GENERAL LIABILITY OCCURRENCE /AGGREGATE (INCLUDING ERRORS AND OMMISIONS)	As per Part VII of RFP Refer to Tab 10			
PRODUCTS AND COMPLETED OPERATIONS LIABILITY	As per Part VII of RFP REFER TO TAB 10			
AUTOMOBILE LIABILITY	As per Part VII of RFP REFER TO TAB 10			
EMPLOYERS' LIABILITY	As per Part VII of RFP REFER TO TAB 10			
WORKER'S COMP	CONTRACTOR'S STATE & PUERTO RICO MINIMUM COMPENSATION			
PROFESSIONAL LIABILITY	As per Part VII of RFP REFER TO TAB 10			
BID BOND	5% CONTRACT PRICE PER REGION			
PERFORMANCE BOND	100% OF THE CONTRACT PRICE			

PAYMENT BOND	100% OF THE CONTRACT PRICE			
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PROOF THAT COVERAGE IS EITHER CURRENTLY IN PLACE OR WILL BE PROVIDED MUST BE SUBMITTED WITH THE PROPOSER PROPOSAL. This can be done by one of the two following methods:

1. Complete form "CERTIFICATION OF INSURANCE COVERAGE" *or*
2. Submit a Certificate of Insurance on a form provided by your Insurance Agent. This form must include the following clauses:
 - (a) The government of Puerto Rico, the Department of Education, all governmental Departments, Agencies, Municipalities, Boards and Commissions, its officers, agents, servants, employees and volunteers are hereby named as Additional Insured.
 - (b) The policy(s) cannot be reduced or canceled without at least ninety (90) days' prior written notice to the Puerto Rico Department of Education.
 - (c) The insurance company is prohibited from pleading government function in the absence of any specified written authority from the Puerto Rico Department of Education.
 - (d) The policy(s) will automatically include and cover all phases of work, equipment, persons, et cetera which are normally covered while performing work under the above contract, whether specifically written therein or not.

Regardless of the method used, the form **MUST** be totally complete, **MUST** show that all Limits of Insurance are or will be met, and **MUST** be signed by the Agent.

The successful Proposer will be required to provide insurance coverage as shown in General Conditions of RFP and Contract, prior to providing any services. This insurance coverage must be maintained throughout the term of the contract.

Signature: _____

Name: _____

Title: _____

Date: _____

PROPOSAL SUBMITTAL FORM 8: LETTER OF INTENT TO SUBMIT A PROPOSAL

PROPOSERS ARE REQUIRED TO SUBMIT A LETTER OF INTENT NO LATER THAN 4:00 P.M., April 15, 2019. FAILURE TO DELIVER A LETTER OF INTENT BY THE DEADLINE SHALL RESULT IN AUTOMATIC DISQUALIFICATION FROM PARTICIPATION IN THE COMPETITIVE PROCESS.

_____ (the "Proposer") has received a copy of **RFP NO. PRDE(ER)-2019-02 for program management services** (the "RFP") issued by the Puerto Rico Department of Education. I, the undersigned, in my capacity as _____ of the Proposer, am duly authorized to submit this Letter of Intent on behalf of Proposer, and to designate the following person to act on behalf of the Proposer as its principal contact in connection with the RFP.

PRINCIPAL CONTACT:

Name: _____
Title: _____
Address: _____
Office Phone: _____
Cell Phone: _____
Email: _____

I hereby acknowledge receipt of the RFP and any addenda thereto, and certify that it is the intent of the Proposer to submit a proposal in response to the RFP. f

Signature: _____
Name/Title: _____
Date: _____

LETTERS OF INTENT ARE TO BE ADDRESSED AND EMAILED TO

Oswaldo Guzmán
Undersecretary of Administration
recovery@de.pr.gov

PROPOSAL SUBMITTAL FORM 9: W-9 TAXPAYER IDENTIFICATION NUMBER/CERTIFICATION (IRS)

THIS FORM IS AVAILABLE FOR DOWNLOAD AT

<https://www.irs.gov/uac/about-form-w9>

[The remainder of this page intentionally left blank.]

PROPOSAL SUBMITTAL FORM 10

LOBBYING CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

APPENDIX V – REQUIRED CLAUSES

Minimum Contract Requirements; Conditions Required Under Federal and Puerto Rico Laws.

By submitting a proposal under this RFP, Proposer acknowledges and represents it is or will be able to comply with the following minimum contract requirements:

1. Changes. The PRDE may, at any time, by written order, make changes in the services or work to be performed within the general scope of this RFP or contract. If such changes cause an increase or decrease in Proposer's cost of, or time required for, performance of any services under the contract, an equitable adjustment shall be made and the Contract shall be modified in writing accordingly. Provided, however, that no changes shall be made to the scope of the services that would render the costs incurred in the performance of the Contract unallowable or not allocable under, or outside the scope or not reasonable for the completion of, Federal grant awards from the Federal Emergency Management Agency ("FEMA"), the U.S. Department of House and Urban Development ("HUD") or any other U.S. Federal agency.

Debarment, Suspension, and Ineligibility. The Proposer represents and warrants that the Proposer, its principals, and affiliates have not been debarred, suspended, or placed in ineligibility status under the provisions of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000 (government debarment and suspension regulations). The Proposer represents and warrants that it will not enter into any contracts or subcontracts with any individual or entity which has been debarred, suspended or deemed ineligible under those provisions. During the term of the contract, the Proposer will periodically review SAM.gov and local notices to verify the continued accuracy of this representation. The Proposer shall require all subcontractors at every tier to comply with this requirement.

This certification is a material representation of fact relied upon by the PRDE. If it is later determined that the Proposer did not comply with 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000, in addition to remedies available to the PRDE, and the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

2. Reporting Requirements. The Proposer shall complete and submit all reports, in such form and according to such schedule, as may be required by the PRDE.
3. Access to Records. The Proposer agrees to provide the PRDE, the Government of Puerto Rico, the Federal Program Administrators, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Proposer which are directly pertinent to this RFP or the contract for the purposes of making audits, examinations, excerpts, and transcriptions.

The Proposer agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Proposer agrees to provide the PRDE, the Government of Puerto Rico, Federal Program Administrators, the Comptroller General of the United States or their authorized representatives access to work sites pertaining to the work being completed under the Agreement.

4. Inspection. The authorized representative and agents of the PRDE and the HUD shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records.

5. Records Retention. The Proposer agrees to maintain all books, records, accounts and reports and all other records produced or collected in connection with this RFP and the contract for a period of not less than six (6) years after the date of final payment and close-out of all pending matters related to this Agreement or the federally declared disasters. If any litigation, claim, or audit is reasonably anticipated to arise or is started before the expiration of the 6-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
6. Program Fraud and False or Fraudulent Statements or Related Acts. The Provider acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Provider's actions pertaining to this Agreement.
7. No Obligation by the Federal Government. The Federal Government is not a party to the contract resulting from this RFP and is not subject to any obligations or liabilities to the non-Federal entity (PRDE), Proposer, or any other party pertaining to any matter resulting from the contract.

8. Modifications and Amendments. No amendment to or modification or other alteration of the contract resulting from this RFP shall be valid or binding upon the parties unless made in writing, signed by the parties and, approved by such parties as may be required under applicable law or regulation.

Personnel. The Proposer represents that it has, or will secure at its own expense, all personnel required in performing the services under the contract resulting from this RFP. Such personnel shall not be employees of or have any contractual relationship with the PRDE.

All the services required will be performed by the Proposer or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services.

No person who is serving sentence in a penal or correctional institution shall be employed on work under the contract.

9. Assignment. The Proposer shall not assign any interest in the contract, and shall not transfer any interest in the same (whether by assignment or novation) without prior written approval of the PRDE provided that claims for money due or to become due the Proposer from the PRDE under the contract may be assigned to a bank, trust company, or other financial institution, or to a Trustee in Bankruptcy, without such approval. Notice of any such assignment or transfer shall be furnished promptly to the PRDE.
10. Confidential Findings. All of the reports, information, data, etc., prepared or assembled by the Proposer under the contract are confidential, and the Proposer agrees that they shall not be made available to any individual or organization without prior written approval of the PRDE.

Compliance with False Claims Act 31 U.S.C. §§ 3729 – 3733 and chap. 38 The Proposer agrees to comply with all aspects of the Federal False Claims Act 31 U.S.C. §§ 3729 – 3733 which, in general, prohibits: (i) knowingly presenting, or causing to be presented to the Government of the United States a false claim for payment; (ii) knowingly making, using, or causing to be made or used, a false record or statement to get a false claim paid or approved by the Government of the United States; (iii) conspiring to defraud the Government of the United States by getting a false claim allowed or paid; (iv) falsely certifying to the United States the type or amount of property to be used; (v) certifying receipt of property on a document without completely knowing that the information is true; (vi) knowingly buying property of the Government of the United States from an unauthorized officer of the Government of the United States; and, (vii) knowingly making, using, or causing to be made or used a false record to avoid or decrease an obligation to pay or transmit property to the Government of the United States.

The Proposer acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Proposer's actions pertaining to this RFP or the contract.

11. Clean Air Act and the Federal Water Pollution Control Act. The Proposer agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq., and the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Proposer agrees to report each violation to the PRDE and understands and agrees that PRDE will, in turn, report each violation as required to assure notification to the Government of Puerto Rico, FEMA, HUD, or other Federal Program agencies, and the appropriate Environmental Protection Agency Regional Office. The Proposer agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.
12. Age Discrimination Act of 1975. The Proposer shall comply with the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.), as amended, and any applicable regulations. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.
13. Title VI of the Civil Rights Act of 1964. The Proposer shall comply with the provisions of Title VI of the Civil Rights Act of 1964. No person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
14. Equal Employment Opportunity Act. During the performance of the contract, the Proposer agrees as follows:
 - (a). The Proposer will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Proposer will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Proposer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
 - (b). The Proposer will, in all solicitations or advertisements for employees placed by or on behalf of the Proposer, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
 - (c). The Proposer will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Proposer's legal duty to furnish information.

(d). The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. The Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section.

(e). The Proposer will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(f). The Proposer will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(g). In the event of the Proposer's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Proposer may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(h). The Proposer will include the portion of the sentence immediately preceding paragraph (a) of this Section 15 and the provisions of paragraphs (a) through (h) in every contract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each contractor or vendor. The Proposer will take such action with respect to any contract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a contractor or vendor as a result of such direction by the administering agency, the Proposer may request the United States to enter into such litigation to protect the interests of the United States.

Proposer further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work. Provided, that if Proposer so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such Government which does not participate in work on or under the contract.

Proposer agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may

require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

Proposer further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractor by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, Proposer agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to Proposer under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(i) Contractors shall incorporate foregoing requirements in all subcontracts.

15. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). The Proposer certifies, to the best of his or her knowledge and belief that:

No federally appropriated funds have been paid or will be paid, by or on behalf of the Proposer, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the contractor shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Proposer shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

By signing the Agreement with the PRDE, Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor

understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Proposer must submit Proposal Submittal Form 10, Lobbying Certification for Contracts, Grants, Loans, And Cooperative Agreements, with its RFP documents.

16. Certification of Non-segregated Facilities. By the submission of a proposal, Proposer, offeror, applicant or subcontractor certifies that Proposer does not maintain or provide for Proposer’s establishments, and that Proposer does not permit employees to perform their services at any location, under Proposer’s control, where segregated facilities are maintained. Proposer certifies further that Proposer will not maintain or provide for employees any segregated facilities at any of Proposer’s establishments, and Proposer will not permit employees to perform their services at any location under Proposer’s control where segregated facilities are maintained. The Proposer, offeror, applicant or subcontractor agrees that a breach of this certification is a violation of the equal opportunity clause of this RFP and of the resulting contract.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason.

Proposer further agrees that (except where Proposer has obtained for specific time periods) Proposer will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the equal opportunity clause; that Proposer will retain such certifications in Proposer’s files; and that Proposer will forward the following notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

17. Discrimination Due to Beliefs. No person with responsibilities in operation of the services to be offered under the RFP, to which this grant relates will discriminate with respect to any program participant or any applicant for participation in such program because of political affiliation or beliefs.
18. Political Activity. The Contractor will comply with the provisions of the Hatch Act (5 U.S.C. 1501 et seq.), which limits the political activity of employees.
19. Davis-Bacon Act. (a) To the extent any work contemplated hereby relates to the actual construction, alteration and/or repair by Proposer, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency (the “Agency”) or financed from funds obtained by pledge of any contract of an Agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in 29 CFR 5.1, the following provisions shall be applicable and shall specifically be referred to in the applicable statement of work:

(1) Minimum wages.

- (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week,

and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Proposer and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in §5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Proposer and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(ii)(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(ii)(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the

contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(ii)(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The PRDE shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under the contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the PRDE may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records. (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash

equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Agency if the Agency is a party to the contract, but if the Agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the Agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Agency if the Agency is a party to the contract, but if the Agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the Agency, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the Agreement during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or

indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Agreement.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Agency or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the

journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The Proposer shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in the contract.

(6) Subcontracts. The Proposer shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Agency may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Proposer shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this Agreement shall not be subject to the general dispute's clause of this Agreement. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Proposer (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility. (i) By entering into this Agreement, the Proposer certifies that neither it nor any person or firm who has an interest in the Proposer's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this Agreement shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(b) Contract Work Hours and Safety Standards Act. To the extent any work performed hereunder is subject to the overtime provisions of the Contract Work Hours and Safety Standards Act, the following clauses shall be applicable. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of paragraph (b)(1) of this section the Proposer and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, the Proposer and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$26

for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The PRDE shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Proposer or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The Proposer or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

20. Anti-Kickback Rules. Salaries of personnel performing work under the contract shall be paid unconditionally and not less often than once a month without payroll deduction or rebate on any account except only such payroll deductions as are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; Title 18 U.S.C. 874; and Title 40 U.S.C. 276c). The Contractor shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this contract to insure compliance by the subcontractors with such regulations, and shall be responsible for the submission of affidavits required of subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

21. Procurement of Recovered Materials. To the extent applicable, in the performance of work under the contract resulting from this RFP, the Proposer will comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act at 42 U.S.C. § 6962), including but not limited to: (1) making maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired - (i) competitively within a timeframe providing for compliance with the contract performance schedule; (ii) meeting contract performance requirements; or (iii) at a reasonable price, and (2) procuring solid waste management services in a manner that maximizes energy and resource recovery.

Section 3 of the Housing and Urban Development Act of 1968. The work to be performed under the contract resulting from this RFP may be subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

Proposer agrees to comply with HUD's regulations in 24 C.F.R. part 135, which implement section 3, as may be applicable. As evidenced by their execution of the contract resulting from the RFP, the parties to the contract shall certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

The Proposer agrees to send to each labor organization or representative of workers with which the Proposer has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Proposer's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

The Proposer agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. part 135. The Proposer will not subcontract with any subcontractor where the Proposer has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. part 135.

The Proposer will certify that any vacant employment positions, including training positions, that are filled: (1) after the Proposer is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 C.F.R. part 135 require employment opportunities to be directed, were not filled to circumvent the Proposer's obligations under 24 C.F.R. part 135. Noncompliance with HUD's regulations in 24 C.F.R. part 135 may result in sanctions, termination of the contract for default, and debarment or suspension from future HUD assisted contracts.

With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25U.S.C. § 450e) also applies to the work to be performed under the contract. Section 7(b) requires that to the greatest extent feasible: (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this Agreement that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

For contracts exceeding \$100,000, the Proposer shall submit Form HUD 60002 (Section 3 Summary Report) to PRDE on a quarterly basis, notwithstanding the annual reporting requirement set forth in that form's instructions.

22. Fair Housing Act of 1968. Proposer shall comply with the provisions of the Fair Housing Act of 1968 as amended. The act prohibits discrimination in the sale or rental of housing, the financing of housing or the provision of brokerage services against any person on the basis of race, color, religion, sex, national origin, handicap or familial status. The Equal Opportunity in Housing Act prohibits discrimination against individuals on the basis of race, color, religion, sex or national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with Federal funds.

- 23. Section 109 of the Housing and Community Development Act of 1964.** The Proposer shall comply with the provisions of Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Section 109 further provides that discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973, as amended, is prohibited.
- 24. Section 503 of the Rehabilitation Act of 1973.** (applicable to contracts and subcontracts over \$10,000). The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is otherwise qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Department of Labor. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

The Contractor will include the provisions of this clause in every subcontract or purchase order of \$10,000 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the PRDE or other Government officials may direct to enforce such provisions, including action for noncompliance.

- 25. Section 504 of the Rehabilitation Act of 1973.** The Proposer shall comply with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), as amended, and any applicable regulations. The Proposer agrees that no qualified individual with handicaps shall, solely on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance from HUD.

26. Energy Efficiency. The Proposer agrees to comply with the requirements of 42 U.S.C. § 6201 which contain policies relating to energy efficiency that are defined in the Government of Puerto Rico's energy conservation plan issued in compliance with this Act.
27. Compliance with the United States Office of Management and Budget. Contractor agrees to comply with the regulations, policies, guidelines, and requirements of the Office of Management and Budget, Circulars A-95, A-102, A-133, and A-54, as they relate to the use of Federal funds under the contract.
28. Subcontracts. The Contractor shall not enter into any subcontract with any subcontractor who has been debarred, suspended, declared ineligible, or voluntarily excluded from participating in contracting programs by any agency of the United States Government or the Government of Puerto Rico.

The Contractor shall be as fully responsible to the PRDE for the acts and omissions of the Contractor's subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by the Contractor.

The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind subcontractor to the Contractor by the terms of the contract documents insofar as applicable to the work of subcontractors and to give the Contractor the same power as regards terminating any subcontract that the PRDE may exercise over the Contractor under any provision of the contract documents.

Nothing contained in this contract shall create any contractual relation between any subcontractor and the PRDE.

Flood Disaster Protection. This RFP and the resulting contract are subject to the requirements of the Flood Disaster Protection Act of 1973 (P.L. 93 234). Nothing included as a part of the contract is approved for acquisition or construction purposes as defined under Section 3(a) of said Act, for use in an area identified by the Secretary of HUD as having special flood hazards which is located in a community not then in compliance with the requirements for participation in the National Flood Insurance Program pursuant to Section 201(d) of said Act; and the use of any assistance provided under the contract for such acquisition for construction in such identified areas in communities then participating in the National Flood Insurance Program shall be subject to the mandatory purchase of flood insurance requirements or Section 102(a) of said Act.

Any contract or agreement for the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Contract shall contain, if such land is located in an area identified by the Secretary as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 et seq., provisions obligating the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under Section 102(a) of Flood Disaster Protection Act of 1973.

29. Interest of the Contractor. The Contractor covenants that it presently has no interest and shall not acquire any interest direct or indirect in the project or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services under the Agreement. The Contractor further covenants that in the performance of this Contract no person having any such interest shall be employed.

- 30. Provisions Required by Law Deemed Inserted.** Each and every provision of law and clause required by federal law, regulation, executive order, policy, procedure, directive, Federal grant award or agreement, or cooperative agreement with any Federal agency to be inserted in this RFP or the resulting contract shall be deemed to be inserted herein and the RFP and the contract shall be read and enforced as though it were included herein. If, through mistake or otherwise, any provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall be amended to make such insertion or correction.
- 31. Compliance with Laws, Regulations, and Executive Orders.** The Proposer acknowledges that FEMA, HUD, or other federal financial disaster funds will be used to fund work under the RFP and the resulting contract. The Proposer shall comply will all applicable Federal and Government of Puerto Rico laws, regulations, executive orders, policies, procedures, and directives, including but not limited to all Federal Cost Principles set forth in 2 C.F.R. Part 200, and all applicable FEMA regulations in 44 C.F.R. Chapter I.
- 32. Patents.** The Contractor shall hold and save the PRDE and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the contract including its use by the PRDE, unless otherwise specifically stipulated in the RFP or the contract.

License or Royalty Fees: License and/or Royalty Fees for the use of a process which is authorized by the PRDE for the project must be reasonable, and paid to the holder of the patent, or his authorized license, direct by the Owner and not by or through the Contractor.

If the Contractor uses any design device or materials covered by letters, patent or copyright, he shall provide for such use by suitable agreement with the owner of such patented or copy-righted design device or material. It is mutually agreed and understood, that without exception the contract prices shall include all royalties or costs arising from the use of such design, device or materials, in any way involved in the work. The Contractor and/or his Sureties shall indemnify and save harmless the PRDE of the project from any and all claims for infringement by reason of the use of such patented or copy-righted design, device or materials or any trademark or copy-right in connection with work agreed to be performed under the contract, and shall indemnify the PRDE for any cost, expense, or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after completion of the work.

Copyrights. No materials, to include but not limited to reports, maps, or documents produced as a result of the contract, in whole or in part, shall be available to the contractor for copyright purposes. Any such materials produced as a result of the contracts that might be subject copyright shall be the property of the PRDE and all such rights shall belong to the PRDE.

- 33. Breach of Contract Terms.** Any violation or breach of terms of the contract on the part of the Contractor or the Contractor's subcontractors may result in the suspension or termination of the contract or such other action that may be necessary to enforce the rights of the parties of the contract. The duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

Compliance with Act 151 of 2004 and ATI Policies. As applicable, the Proposer hereby agrees and certifies that all information technology products and services rendered under the contract will comply with Puerto Rico Act 151 of 2004 (Ley de Gobierno Electrónico (Electronic Government Act) and with all applicable policies issued by the **Puerto Rico Office of Management and Budget's Area of Information Technology**, including, without limitation, the dispositions of ATI Policy ATI-017. Pursuant to OMB's Policy ATI-017, Proposer shall document all phases of the development of any software, customization or programming provided under the contract. Proposer shall provide all pertinent source codes of the software or programming developed under the contract. Source Codes shall be delivered in electronic form in the Department's servers or back-up systems in testing and production environments, as well as in a physical media such as a CD, DVD or USB. Contractor's documentation will include standard or common development methodology and documentation.

The Proposer hereby agrees that any design, model, software, programming or product developed under the contract shall become the intellectual property of the Government of Puerto Rico, who shall have absolute rights over such property. The Proposer shall have no intellectual property rights or otherwise over the products and the documentation. Therefore, the product may be used by any other Government Agency without additional payment to the Proposer.

Furthermore, during any warranty period or if the Proposer's services are engaged for maintenance of the product, the Proposer shall supply the Department with up-to-date documentation of the wireless equipment and software.

34. Unemployment Insurance and Social Security. The Proposer certifies that it has paid unemployment insurance, disability, and chauffeurs social security, in all applicable cases, or that it has a payment plan for payment of those obligations and is complying with such plan.
35. No Indictments or Convictions. The Proposer certifies that it has not been convicted nor accused of any crimes against the public treasury, faith or function or that involves misappropriation or misuse of public funds or property, and that it has not engaged in any practice or behavior of the kind that disqualifies persons or companies from entering into contracts with government agencies of the United State of America and the Government of Puerto Rico. The Proposer shall notify the Department of any indictment or conviction for any crime against the public treasury, faith or function or that involves public property or funds during the Term of the contract.
36. Good Standing. The Proposer and each of its subcontractors are not in default or have not been deemed by the Department to be in default under any other agreement with the Department during the five (5) year period immediately preceding the date of the contract.
37. Anti-Corruption Code. The Proposer agrees to comply, and to cause each of its subcontractors to comply, with the dispositions of the Anticorruption Code of the Government of Puerto Rico, Law Number 1 of January 4, 2018. In conformity with the laws and the norms that govern the contracting of services, the Proposer is aware and warrants that no services will be rendered under the contract until it has been signed by both parties. Proposer further agrees and warrants that no services will be rendered under the contract after it has expired or been terminated. Services rendered in violation of this clause will not be paid, and any officer of the Department that requests and accepts services from the Proposer in violation of this clause, is without legal authority to so.

38. Authorization. The Proposer has taken all action necessary for the approval and execution of the contract, and that execution by the person signing on behalf of Proposer is duly authorized by Proposer and has been made with complete and full authority to commit Proposer to all terms and conditions of the contract which shall constitute valid, binding obligations of the Proposer.
39. No Intellectual Property Infringement. That in performing the services, neither the Proposer nor any of its subcontractors will violate or infringe upon any patent, copyright, trademark, trade secret or other proprietary or intellectual property right of any third party, and will not improperly use any third party's confidential information; and shall have, without encumbrance, all ownership, licensing, marketing and other rights required to furnish all materials and services that it furnishes to the Department under the contract and can grant or assign all rights granted or assigned to the Department pursuant to the contract.
40. No Legal Actions Preventing Performance. As of the date of the contract, Proposer has no knowledge of any action, suit, proceeding, or material claim or investigation pending or to its knowledge threatened against it in any court, or by or before any federal, state, municipal, or other governmental department, commission, board, bureau, agency, or instrumentality, domestic or foreign, or before any arbitrator of any kind, that, if adversely determined, would materially affect Proposer's ability, or the ability of its subcontractor(s) to perform its obligation under the contract.
41. No Conflict with Other Government Contracts. The Proposer represents and warrants that the services to be rendered to the Department pursuant to another contract, if any, subscribed with the Government of Puerto Rico are not in conflict with the services to be rendered under the contract, neither in fact nor in appearance. The Proposer further represents and warrants that it does not have any contractual relationships with any other parties that would hamper or impede its ability to perform its duties and obligations under the contact.
42. Other government entities. The contracts awarded by this RFP may be used by any political subdivision of the Government of Puerto Rico or eligible FEMA Public Assistance sub-grantee upon the consent of the PRDE, the prospective political subdivision or eligible sub-grantee, and the Proposer.