

CERTIFIED TRANSLATION

**COMMONWEALTH OF PUERTO RICO  
STATE ELECTIONS COMMISSION  
SAN JUAN, PUERTO RICO**

**BID REGULATION**

**Approved: October 2, 1985**

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STATE ELECTIONS COMMISSION  
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STATE ELECTIONS COMMISSION  
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BID REGULATION

CHAPTER I – GENERAL PROVISIONS

Section 1.1 – Title

These Rules will be known as the “Bid Regulation of the Puerto Rico State Elections Commission.”

Section 1.2 – Legal Base

These Rules are adopted by virtue of Article 1.005, paragraph 1, of Law Num. 4 enacted on December 20, 1977, as amended, known as the Puerto Rico Electoral Act, enabling the State Elections Commission to approve and adopt the Rules that are necessary to implement the legal provisions under its jurisdiction. Furthermore, these Rules are promulgated in accordance with Article 1.004 of the Electoral Act, supra, which at the end provides the following:

“The Commission will be able to purchase or contract or lease from private entities any materials, printed materials, services, locations, and equipment, without being subject to the provisions of Law Num. 145 enacted on April 29, 1949, as amended, known as the “Purchases and Supplies Act,” and of Law Num. 164 enacted on July 23, 1974, as amended, known as the “Administration of General Services Act,” or any other analogous legal provisions.”

Section 1.3 – Scope and Purposes

These Rules apply to all private entities and individual persons directly or indirectly intervening in the purchases and auctions of the Commission; to all of the employees and officials of the latter and, in particular, to the members of its Bid Board, and to the employees and officials related to the procedures to buy, contract, or lease materials, printed materials, services,

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and equipment of the Commission.

The main purpose of these Rules is to establish the procedure that will be followed in all public auctions to buy, acquire, contract, or lease materials, printed materials, services, and equipment executed by the Committee with private entities; to create the internal bodies that will be in charge of operating and administering said procedure and for the other purposes inherent to the duties established by the Rules.

Section 1.4 – Definitions

A- In General

All of the terms, phrases, and words defined in the Puerto Rico Electoral Act, Law Num. 4 enacted on December 20, 1977, as amended, will be interpreted as having the same meaning therein expressed.

B- In Particular

For the purposes of these Rules, the following terms or phrases shall have the meaning stated below, unless a different meaning clearly results from the context:

1. Award – Shall mean the process of awarding the auction to the winning bidder or tenderer in accordance with the criteria established in these Rules.
2. Acquisition – Synonym of purchase. Shall mean the means by which a party, the seller, is bound to deliver a determinate thing, and the other party, the buyer, is bound to pay for it a price certain in money or its equivalent.
3. Buyer – Shall mean any natural or legal person, official, or employee authorized by the Commission to buy or contract or lease the materials, printed materials, services, and equipment that are necessary to carry out the duties of the Commission.
4. Opening of Auction – Shall mean the procedure by which the bid envelopes are opened on the scheduled date and



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time, sealing the auction documents received and reading the bids in the presence of the bidders, and/or their authorized representatives, who attend the procedure.

5. Lease – Shall mean the means by which a party is bound to perform a job, or provide a service, or transfer the enjoyment or use of an asset or thing, for a certain amount of time and at a price certain.

6. Contractor – Shall mean a natural or legal person, or private entity, with which the Commission has a current contract.

7. Contract – Shall mean the document or group of documents containing the terms and conditions, specifications, and other agreements between the Commission and a contractor. It shall also mean purchase orders and contract letters.

8. Direct Purchases against Contracts – Shall mean the purchases made from the winning auction bidders who have contracts that are current as of the date on which the purchase will be made.

9. Open Market Purchases – Shall mean the purchase procedure that will be carried out when a transaction does not have to be made by means of a formal auction for any cause not involving the amount.

10. Notice of Auction – Shall mean the announcement, notice or invitation to auction.

11. Private Entity – Shall mean any natural or legal person, company, business, or merchant legally trading in goods, services, etc.

12. Equipment – Includes office equipment and furniture, liquid gas and electronic devices or equipment, computers, data processing, tabulating, communications, and broadcasting equipment, among other related equipment, magnetic disks, microphotography, photography, printing, and storage equipment and furniture, legal, finance,

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accounting, or engineering texts or books, among other texts or books, automobile equipment, such as cars, vans, trucks, forklifts, and other motor vehicles, including the devices made for adaptation or installation or coupling to the aforementioned vehicles, and any other unit properly catalogued as equipment.

13. Emergency – Synonym of urgency. The proximity of elections or related events may be considered an emergency situation. The state of emergency may arise from the immediate need for replacement parts, accessories, equipment, or supplementary services needed to maintain in good operating condition the property or equipment of the Commission. The emergency may be caused by the occurrence of an unforeseen or extraordinary event or situation which must be immediately corrected in order to prevent damages to life or property, or by a risk that the service provided by the Commission may be adversely affected or paralyzed.

14. Specifications – Shall mean the aggregate of the description, the physical, functional, aesthetical, or quality characteristics, and any other reference, which may help to adequately identify the goods, supplies, or things to be acquired.

15. Bond – Synonym of guarantee. Securities and monies deposited in order to guarantee full compliance with a contracted obligation.

16. Printed Materials – Shall mean printing services consisting of the printing, per se, of all documents, information, or forms needed by the Commission to carry out its duties efficiently, and related services, such as art, design, drawings, photography, and their development, lithography and typography.

17. Board – Shall mean the Commission's Bid Board.

18. Bidder – Synonym of tenderer. All natural or legal

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persons, or private entities, interested in participating, or which participate, in an auction by submitting a bid.

19. Winning Bidder – Synonym of winning tenderer. All natural or legal persons, or private entities, to which one or more auction items are awarded.

20. Materials – Shall mean storage and office items and materials; all election items and materials; forms, supplies, objects needed by the Commission to carry out its duties efficiently, boxes, containers made out of cardboard, wood, and other similar materials; sanitation items and materials, and cleaning products.

21. Bids – Proposals submitted by the bidders interested in being awarded an auction.

22. Auction Document – Shall mean the group of documents to be delivered to the bidders interested in submitting a quote or participating in an auction, which will state all of the necessary information to help bidders prepare and submit their bids or quotes.

23. Unreasonable Price – Price quoted by a bidder that is higher than the one offered by another person or entity under the same terms, conditions, and specifications, but which did not submit a quote in the auction. The Board will adopt the measures that it may deem necessary in order to verify this fact.

24. Registry – Shall mean the registry of bidders of the Commission. File or registry of the natural or legal persons accepted by the Commission as suppliers of materials, printed materials, services, and equipment. It also includes the Registry of Bidders of the Administration of General Services which the Commission may adopt as reference.

25. Secretary – Shall mean the Secretary of the Bid Board.

26. Services – Includes non-professional,



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manual, specialized, technical, skilled and unskilled services; such as safekeeping services; communications, data processing, and other related services; improvements to property, repairs and maintenance, cleaning, and others.

27. Formal Auction – Shall mean the procedure used to acquire or purchase materials, printed materials, and equipment by means of a competition between the suppliers or bidders appearing before the Bid Board.

28. Informal Auction – Procedure used to acquire or purchase or contract or lease materials, printed materials, services, and equipment by means of a competition between suppliers or bidders without requiring the intervention of the Bid Board.

## CHAPTER II – BID BOARD

### Section 2.1 – Creation

The Bid Board of the State Elections Commission is hereby created with the powers and duties provided in these Rules.

### Section 2.2 – Jurisdiction

The Board shall have jurisdiction to consider the award of all formal auctions held in order to purchase or acquire materials, printed materials, and equipment, or in order to contract or lease services and equipment, from private entities, required by the Commission.

The following is not included in the foregoing:

A- Purchase of materials, printed materials, and equipment, or contract or lease of services and equipment, the total amount of which does not exceed one thousand (1,000) dollars on non-election years or periods and seven thousand (7,000) dollars on election years or periods. These purchases can be made by the Buyer by means of the informal auction procedure, by requesting no less than three (3) quotations

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from suppliers or bidders by phone, and making a note of it in the file or record.

B- Purchase of materials, printed materials, and equipment, or contract or lease of services and equipment, the total amount of which exceeds one thousand (1,000) dollars, but does not exceed seven thousand (7,000) dollars, on non-election years or periods, or the total amount of which exceeds seven thousand (7,000) dollars, but does not exceed fifteen thousand (15,000) dollars, on election years or periods. These purchases can be made by the Buyer by means of the informal auction procedure by requesting no less than three (3) quotations from suppliers or bidders in writing.

C- Purchase of materials, printed materials, and equipment, or lease or contract of services and equipment, required by the Commission and put out to tender, awarded, and contracted by the Area of Purchases, Services and Supplies of the Administration of General Services, in which case said goods may be directly acquired by the Buyer from the suppliers under contract, provided that said Buyer verifies the effective term, terms, conditions, and general provisions of said contracts.

Section 2.3 – Composition – Quorum

The Board will be composed of three (3) regular members and five (5) alternate members. These cannot be employees or officials of the Administration Area, the Audit Office, or the Legal Affairs Office. The official appointed as Secretary of the Board will be a member of the Board with the right to speak, but not to vote.

The three (3) regular members must attend all formal auction meeting sessions and award sessions, and will always have the right to speak and to vote. However, in case of the justified absence of a regular member that is not the President , the alternate member with the highest seniority in the Board will be able to carry out the duties of the regular member being substituted, being



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the only occasion on which said member will be able to vote in relation to the matters being considered by the Board. In case of sick leave, vacations, or dismissal, the President of the Board must be substituted by the regular member with the highest seniority in the Board.

The employees of the Commission who are designated as members of the Board shall serve the same without any benefits, privileges, or pay in addition to the ones that they receive from their respective positions in the Commission. Furthermore, they will not be able to carry out duties that are directly or indirectly related to the Administration Area, Audit Office, or Legal Affairs Office of the Commission.

The presence of three (3) members with the right to speak and vote shall constitute a quorum, with the validity of its decisions always requiring a majority of votes.

#### Section 2.4 – Designation and Appointments

The regular members of the Board shall be appointed by the President of the Commission in the following manner: one (1) member for a term of two (2) years, another member for a term of one and a half (1-1/2) years, and another member for a term of one (1) year. Alternate members shall be appointed in the following manner: two members (2) for a term of two (2) years, two (2) members for a term of one and a half (1-1/2) years, and one (1) member for a term of one (1) year. The President of the Board shall be designated by the President of the State Elections Commission from among the three (3) regular members.

#### Section 2.5 – Duties and Powers

##### A. Of the Board:

1. Adopt an official seal.
2. Hold meetings as often as necessary.
3. Evaluate bids and award auctions.
4. Request advice from the professionals, technicians, and specialists that it may deem appropriate in order to award any auction or settle any matter brought to its consideration.



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5. Not award an auction and declare it void as provided in these Rules.
6. Adopt the internal operating rules and procedures that are advisable and necessary in relation to its duties.
7. Make the recommendations that it may deem advisable and necessary in case of breach of contracts.
8. Evaluate the Registry of Bidders at least once per year.

B- Of the Members of the Board

I- In General

a) The members of the Board have the obligation to attend all meetings upon being duly notified of an auction or in order deal with any other matter inherent to the duties of the Board. Three (3) consecutive unjustified absences to meetings of the Board shall constitute just cause to remove said member from the Board.

b) It will be the duty and obligation of any member of the Board to abstain from participating in any determination when the latter is related within the fourth degree by consanguinity and within the third degree by affinity to any of the auction bidders. Likewise, said member must abstain from participating in any determination in which the same has any direct or indirect economic interest.

II- In Particular

1. President of the Board

a) Comply with the duties and responsibilities inherent to his or her position or that are specifically mentioned in other provisions of these Rules.

b) Ensure the regular operation of the Board.

c) Ensure that the members of the Board fully comply with the duties of their positions.

d) Direct the procedures of the Board.

e) Represent the Board.



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- f) Call to and preside over the meetings of the Board.
- g) Prepare, in conjunction with the Secretary, the calendar of sessions in accordance with the invitations to tender.
- h) Submit as many reports and recommendations as requested by the President of the Commission or an official representing the latter.

2. Secretary of the Board

The Secretary of the Board shall be a regular employee of the State Elections Commission appointed to carry out the duties inherent to this position.

The Secretary shall have the following duties and obligations:

- a) Keep a minutes book and draw up the minutes regarding all of the agreements of the Board.
- b) Guard the seal of the Board, as well as all of the information contained in the books, records, files, and documents of the Board.
- c) Keep a record of all of the mail received and sent by the Board.
- d) Receive, guard, and ensure the adequate processing of auction files.
- e) Call to meetings.
- f) Coordinate, in conjunction with the Purchasing Division, the preparation of the auction documents regarding the specifications, and verify that they are correct in accordance with the provisions of these Rules. Also, coordinate, with the Budget Division, the availability of needed funds before sending out the notice of auction.
- g) Notify the awards and agreements of the Board to the interested parties.
- h) Certify the agreements and awards when the latter take place. Also, certify any other document of the Board, when necessary.
- i) Draft the minutes, agreements, awards, records, and reports for signature and approval by the President of the Board. All of these agreements and/or



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documents require the signature of the President of the Board and the Secretary of the same.

j) Submit to the Commission a monthly report regarding held auctions, indicating which were awarded and which were declared void. As to the awarded auctions, said report must indicate: winning bidder, product or service acquired, amount, and individual and total cost. As to the auctions declared void, the report must indicate the reason why the Board made that determination.

This document will be signed by the President and the Secretary of the Board.

k) Submit as many reports and documents as required by the President of the Board.

l) Carry out any other duties assigned in these Rules.

### 3. Regular Members

They will substitute the President of the Board in case of justified or unjustified absence of the latter, and in case of vacancy due to resignation, removal, death, or any other cause.

## Section 2.6 – Vacancies

### A- Causes

Vacancies left by substitute and regular members of the Board may arise due to the following reasons:

- a) Appointment of a successor.
- b) Death, disability, or illness.
- c) Separation or removal from the position due to absence or negligence in the performance of the member's duty, or due to any other justified reason, as provided in these Rules.
- d) Resignation, which, in order to become effective, must be accepted by the President of the State Elections Commission.



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## B. Declaration of Vacancy

The President of the Commission is the only one with the power to declare a vacancy in the Board due to reasons of removal from the position as a result of absences, negligence, or due to the revocation of a designation that had been made.

### Section 2.7 – Removal for Just Cause

Any of the following circumstances will constitute just cause for removal as a member of the Board:

1. Reiterated failure to comply with his or her obligations as a member of the Board.
2. Acting in any auction for his or her own benefit or illegally on behalf of any bidder or supplier, or of other persons.
3. Negligence in the performance of his or her position.
4. Patent partiality on behalf, or to the detriment of, any bidder or supplier.

## CHAPTER III – FORMAL AUCTION

### Section 3.1 – Beginning of Procedure

#### A- Request for Materials, Printed Materials, Services, and Equipment

When an office, division, section, or work unit of the Commission needs to acquire materials, printed materials, or equipment, or to contract or lease services and/or equipment, from private entities, the Supervisor or Head of said office, division, section, or work unit of the Commission, or the authorized representative of the same, shall submit to the Director of the Division of General Services, and through the Administration Director, a requisition enclosing an explanatory memo specifying said need. An original and three (3) copies of said request will be prepared. The original and two (2) copies of the same will be sent to the Division of General Services and the requestor will keep the third copy in a file of requisitions being processed. The Division of General Services will evaluate the request and determine whether what has been requested can be found in the agency's warehouse. If it cannot be found, it will send the request to the Purchasing Division.



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B- Minimum Content of Request

- a) Exact description of what is being requested.
- b) Justification regarding the need for the acquisition by purchase or lease.
- c) Detailed specifications of what is being requested.
- d) Purpose and specific use of the articles required in order to be able to examine the adequacy of the specifications.
- e) When the installation of equipment is required, a list must be included specifying the safety an engineering rules and regulations.
- f) When the purpose of the request or requisition is to establish contracts for undetermined amounts, estimated periodic or annual figures of consumption will be provided. This determination regarding consumption figures must be authorized by the President or the authorized representative of the same.
- g) Any other information which in the opinion of the office that made the request or requisition is necessary and advisable.

In addition to the information provided above, when dealing with the contracting or leasing of services or equipment, the request must also indicate the following:

- 1) Term of lease, rent considered reasonable, and total estimated cost.
- 2) Lease cost compared against purchase cost as a measure of justifying or showing the advisability of this type of acquisition.

C – Criteria to Determine whether Acquisition by Lease is Appropriate

In general terms, the following criteria will be taken into consideration when determining the preference or advisability of this means of acquisition against a purchase:

- a) When it is a specialized service that cannot be rendered by the Commission, where there is an immediate need for said service so that the Commission is able to comply with the purposes and objectives of the Electoral Act.
- b) When the purchase cost is so high that a purchase disbursement is not justified since



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the equipment will probably have to be constantly updated, or since it will not be used permanently, and other criteria related to the final cost of the equipment, such as availability and cost of replacement parts, service, frequency of repairs, local establishments for maintenance, and others.

c) Any other criterion that, in the opinion of the office that sent the request, is necessary and advisable, and is justified in writing.

D- Obligations of the Purchasing Division

The above referenced requests or requisitions for materials, printed materials, services, and equipment will be reviewed in order to make sure that they comply with the requirements established by the Puerto Rico Electoral Act and these Rules, as well as with any other rule applicable to the type of transaction in question.

The Purchasing Division shall determine whether said request or requisition must be processed by means of a formal auction, in which case it will submit it to the Bid Board, along with the auction documents. If it is determined that the case should be processed by means of an informal auction, said Purchasing Division will proceed in accordance with said determination, subject to the provisions of these Rules.

All purchases of materials, printed materials, and equipment, and all contracting of leasing of services and equipment, must be done for the convenience and benefit of public interest.

In every case involving a purchase of materials, printed materials, and equipment, the award will be executed following the order of preference in accordance with Law 103 enacted on June 24, 1977, as amended.

Section 3.2 – Contents of Auction Document

The Auction Document must contain four (4) matters, which may be contained in two (2) or more documents:

- I- Notice of Auction
- II- Instructions
- III- Specifications
- IV- Terms and Conditions



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Section 3.3 – Term to Study Auction Document

Bidders will be granted a reasonable term to study the auction documents, which term will not be less than ten (10) calendar days between the deadline established as the last day on which the bidder will be able to request and receive the auction documents and the deadline for delivery of the bids.

Section 3.4 – Notice of Auction

A- When Notice is Given

The notice of auction will be given after the specific instructions and terms and conditions arrive at the hands of the Secretary of the Board under the signature of the Director of the Purchasing Division.

B- Contents of Notice of Auction

1. Date of the notice of auction.
2. Number of Auction.
3. Purpose of Auction.
4. Name or title of Auction.
5. Conditions or requirements that must be met by the bidders.
6. Deadline, specifying the time, and location where the bidder must submit his or her bid.
7. Date and time of opening and location of auction. Even though the deadline for delivery may be the same as the opening date, the times must not be the same and will always be indicated in the notice of auction.
8. Costs, if any, that must be paid.
9. Regarding the auctions announced in newspapers, or when it is not feasible or inexpensive for the Commission to send the notice of auction by mail, the following will be given:
  - a) Specific instructions regarding where to get or how to obtain the auction documents, including the physical address and specific location where the auction documents will be handed out and telephone number.
  - b) Deadline, specifying the time, to pick up

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the auction documents.

- c) Cost, if any, that must be paid by the interested party in order to be able to receive the auction documents.
10. Deadline for delivery and location and conditions or terms under which delivery is desired, as well as special required services inherent to the good or product, if any.
11. As to auctions notified by invitation, the invitation will include all of the auction documents, as long as it is not onerous for the Commission, in which case they will be delivered in person at the location indicated in the notice of auction.

Section 3.5 – Form of Announcement or Notification

The notice of auction will be given by publishing it in the newspapers or by invitation.

I- Notice of Auction in Newspapers

It will be given when there is no Registry available or when the interests of the Commission would be better protected. The notice will be published in two (2) newspapers of general circulation, two (2) times, during a period or term of seven (7) calendar days. Notices of Auctions in newspapers will be given under the signature of the President of the State Elections Commission and the Secretary of the Bid Board.

Auctions notified in newspapers will be open to all interested persons who comply with the requirements of the registry of bidders no later than forty-eight (48) working hours before the opening date.

II- Notice of Auction by Invitation

It may be given in one of the following forms:

- a) By sending all of the auction documents by certified mail return receipt requested, which receipt, upon being returned by mail, will be part of the auction file.

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- b) By delivering the auction documents personally, by receipt.
- c) In addition to the above, a copy of the notice of auction will be posted on the "Bulletin Board" of the Commission provided for those purposes.

The notice of auction given by invitation will be sent to the bidders that as of that date the Commission has in its Registry of Bidders or in the Registry of the Administration of General Services, according to the product or matter for which they registered themselves.

### Section 3.6 – Amendments to Notice of Auction

The amendments will have to be approved by the President of the State Elections Commission. Amendments to the notice of auction can only be made before the Opening Session and under the following circumstances:

- a) When, by any means, a substantial and uncorrectable error is discovered in the auction document.
- b) When wishing to increase or reduce terms or sums, or when wishing to change conditions or specifications.
- c) When the notice auction is challenged for valid reasons.

The amended notice of auction will be notified by the Secretary of the Board in the same manner that the original notice of auction was notified. The Board will be duly notified of the amendment by the Secretary.

### Section 3.7 – Cancellation of Notice of Auction

Cancellations will have to be approved by the President of the Commission. The cancellation will have to be done at any time before the Opening Session and under the following circumstances:

- a) When any of the conditions that exempts from having to carry out a formal auction unexpectedly take place, as herein established.
- b) When, for any reason, the President of the Commission determines that the interests of the Commission are



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better protected by said cancellation

The cancellation will be notified by the Secretary of the Board in the same manner that the notice of auction is notified. The Board will be duly notified of this cancellation.

### Section 3.8 – Instructions contained in Auction Document

The Secretary of the Board and the Director of the Purchasing Division shall make sure that the General Instructions, as well as the Special ones, if any, are included in all formal auctions to be notified. The instructions will serve as guidelines for the preparation and delivery of the bids.

#### A- General Instructions

The general instructions will be similar for all formal auctions. In order to ensure this similarity and uniformity, they should be formally adopted in an official form to be prepared and written by the Secretary of the Board, in consultation with the Purchasing Division.

The general instructions must contain provisions regarding the following:

- a) How to prepare and submit the bids.
- b) Requirements that must be met by the bidders.
- c) Where, when, and how bids must be delivered.
- d) Any other provisions or rules that govern the auction procedure and that the Secretary of the Board deems necessary to indicate in order to ensure the effective compliance by bidders when submitting their bids.

#### B- Special Instructions

These shall be warnings or special reference marks to be prepared by the Purchasing Division when it deems necessary to be specific in order to facilitate the evaluation and award of bids.

### Section 3.9 – Specifications contained in the Auction Document

All auction documents must contain, clearly identified as



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“Specifications,” a clear, precise, and complete description of the requested materials, printed materials, services, or equipment.

A- Model Specifications

The Purchasing Division may write and adopt model specifications to be applied individually to the entry of materials, printed materials, equipment, and services, thereby creating a pattern of uniformity in the degree of quality and description of what is requested. To that end, the specifications prepared by the State or Federal Administration of General Services may be used as guideline for these specifications.

B- Special Specifications

The special specifications regarding any materials, printed materials, equipment, and services will be written when necessary, in consultation with an expert in the matter. The primary obligation regarding compliance with this rule is on the office, division, section, or work unit of the Commission who made the request or requisition.

Section 3.10 – Terms and Conditions contained in the Auction Document

I- General Mandatory Conditions

All auction documents must include the terms and conditions that a bidder must comply with in order for his or her bid to be considered.

The details of the following general and mandatory conditions included in all auction documents may vary depending on the auction matter:

A- Bid Bond

The bid guarantee is a provisional backing to be submitted by the bidder with the purpose of guaranteeing to the Commission that the same will maintain his or her bid throughout the entire auction procedure.

1- Way to Give It

It must be given to the Commission in one of the following manners:

- a) Certified Check.



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- b) Money Orders.
  - c) Insurance Bonds issued by insurance companies authorized to do business in Puerto Rico.
- 2) When to Give it
- a) At the very moment the bid is submitted.
  - b) Annually, through a lump sum at the moment of registering in the Registry of Bidders.
- 3) Amount

The amount of the bid guarantee shall be twenty-five (25) per cent of the bid total. However, when merited by the situation, the Purchasing Division, through a justification to that end, may request that the President of the State Elections Commission authorize a bid guarantee that is higher than the one herein established.

- 4) Return or Withholding of Bid Bond

All given guarantees will be returned to the bidders following thirty (30) calendar days from the auction award notice. In the event that the award is challenged, the guarantee of the winning bidder and of the challenger will be withheld until the matter is resolved in accordance with the review procedure provided in these Rules.

All returns must be carried out by certified mail return receipt requested, or personally, as long as proof of the return of these securities is included in the file of the bidder.

When the Board agrees to cancel the auction, or if awarding the auction or executing the contract would not be appropriate, for any



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of the reasons provided in these Rules, all bid guarantees will be returned as herein provided.

The bidder to whom the auction is awarded will not be able to withdraw his or her bid guarantee until the award is formalized with the Commission and the same posts his or her performance bond as herein provided.

5- Execution of Bid Bond

If following a term of ten (10) days from the notice to the winning bidder to appear, he or she fails to appear, the bid guarantee will be executed in order to cover the excess quoted by the bidder to whom it is ultimately awarded. If the bid guarantee does not cover said difference, it will be requested from the bidder who failed to comply. If the latter refuses to cover the same, he or she will be removed from the registry of bidders for a minimum of six (6) months and up to a maximum of one (1) year, at the discretion of the President of the State Elections Commission.

B) Performance Bond

The performance bond is the backing of the bidder by which the latter guarantees to the Commission that he or she will comply with his or her obligation.

The bond will only be posted by the winning bidder who is awarded an auction in the same manner provided for the bid guarantee. The total amount of the performance guarantee will be equal to one hundred (100) per cent of the bid total. Refusal to post a bond in its entirety within a term of ten (10) days from the date of the award notice will constitute cause to execute the bid guarantee in accordance with the provisions of these Rules. The auction will then be awarded to

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the bidder in second place who, in the opinion of the Board, complies with all of the other terms and conditions of the same.

C- Trademarks and Model

1. Prohibition

The Auction Document will never include references to specific trademarks such as “such and such trademark” or “equal to”.

2. Obligation of Bidder

In order to consider submitted bids, the bidder must mention the trademark of the product or equipment, and the model that the same is offering, as well as include a copy of the literature from the manufacturer.

3. Obligation of Trademark Representative

If the bidder offering a specific trademark is the exclusive representative of the trademark that the same is offering, the bidder must mention this fact in the bid, in addition to indicating the additional discount percentage that the same will offer to the Government if the latter buys the article directly from him or her, instead of from a distributor.

D- Samples

Bidders must submit, when so required and under the following terms, representative samples of the article or product to be delivered if the auction is awarded to them:

1. At no charge to the Commission.
2. In the required amounts.
3. Including the original label or stamp identifying the product trademark.
4. Delivered before the opening, if so required. All bids not including samples, when so required, will not be considered.



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5. Including the literature from the manufacturer.
6. The sample may be examined by the Board or the Commission, free from liability for its cost or reduction in value.
7. The bidder must pick up his or her sample within ten (10) days of being requested to do so by the Board. The bidder who fails to pick up his or her sample within the aforementioned term, releases the Commission from all liability for its loss or deterioration.

E. Date of Delivery

Even when it is not requested in the auction documents, the Bidder must indicate in his or her bid the date on which the goods will be delivered.

F- Certification

Bidders must state the following:

1. That they have not entered into an agreement with any individual person, corporation, or business to submit several bids under different names.
2. That no employee, official, or other personnel of the Commission has a direct or indirect monetary interest in his or her bid.

II- Special Conditions

These are the conditions that the Purchasing Division will write based on its experience, according to the article or product to be acquired. The Purchasing Division may consult and adopt the observations and recommendations made by the experts in the matter that are consulted to that end.

## CHAPTER IV – BID SUBMISSION

### Section 4.1 – Deadline for Delivery or Submission of Bids

The notice of auction must clearly indicate the location, date, and time on which the bids must be delivered or submitted.

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The deadline for delivery may be the same day of the opening, but the times cannot be the same. The time for delivery will not be later than one (1) hour before the time scheduled for the opening. When the delivery is done by mail, it must be received by the mail unit of the State Elections Commission no later than eight (8) working hours before the time scheduled for the opening. The Board may establish different dates for the delivery and the opening.

#### Section 4.2 – Manner of Submitting Bids

##### 1. Official Forms

The bidders will submit their bids or proposals in the forms provided by the Commission, including the original and at least one (1) copy. The bidders may make photocopies of the official form and, also, add sheets of the bidder's stamped paper, either typewritten or printed, in order to clarify or describe in more detail his or her bids, if necessary.

##### 2. Sealed or Identified Packages or Envelopes

All bidders must submit their bids in sealed envelopes or packages, the outside of which must be identified with the following information:

- a) Name, telephone number, and address of the bidder.
- b) Name, telephone number, and address of the bidder's representative or agent.
- c) Auction number, date, and time for delivery and opening of the same.
- d) The phrase "Bidder's Bid."

##### 3. Failure to Correctly Identify Envelope or Package

All received bids that are not identified in the manner established above will be processed as regular mail. Once it is opened in accordance with the regular procedure for regular mail, and the fact that it is an auction bid is verified, said mail will be remitted to the Secretary of the Board, who will contact and return its contents to the bidder so that the latter comply with what has been provided above. The Secretary



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will retain the unidentified wrapping of the package or envelope in the auction file and draw up minutes in this regard.

Under these circumstances, the Board will not be responsible if the bidder or sender loses his or her opportunity to submit his or her bid on time. The bidder will not be able to require that notice of his or her bid be taken or argue that his or her offer was disclosed or opened prematurely.

The date and time of receipt of the returned bid will not be considered for purposes of the receipt of the subsequent bid, if any.

#### 4. Form of the Bid

Bids must be made in dollars and cents, United States currency, per items. Bids expressed in terms of percentage, in prices that are undetermined or may be determined, or the sum of which exceeds the highest or the lowest quote, will not be considered. The amount of the bids will be calculated based on the unit required in the specifications.

#### 5. Signature and Initials

The bid must be signed in ink by the authorized representative of the person, company, entity, corporation, or firm submitting the quote. Said signer shall identify his or her signature by printing his or her name and indicating in which capacity the same is signing and the post or position that he or she occupies.

The signer will write his or her initials in each and every one of the pages of the bid.

#### 6. Unsigned Bids

The Board may consider unsigned bids if before the opening the affected bidder, or the latter's authorized representative, submits to the Board a signed letter or document justifying the lack of his or her signature and confirming his or her bid.

#### 7. Alterations

All bids must be written in a legible, clear, complete, and precise manner. No illegible or ambiguous bids will be considered by the Board.

All smudges, crossings out, notes, or any correction in the auction documents, must be approved by writing the initials of the person

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signing the bid in order for the Board to consider the same.

#### Section 4.3 – Registration and Safekeeping of Bids

##### 1. Registry

The Secretary shall keep a registry per auction of all received or delivered bids, containing at least the following information:

- a) Name and address of bidder or sender.
- b) Date and time of receipt or delivery of the bid.
- c) Location where bid is kept.

##### 2. Safekeeping

The Secretary is in charge of safekeeping the received or delivered bids in the envelopes as received.

#### Section 4.4 – Manner and Location for Delivery of the Bid

The bid shall be delivered personally in the Office of the Secretary of the Board or by certified mail return receipt requested addressed to the Bid Board and to the known address of the Commission, or in the location specifically provided in the notice of auction of the specific auction.

The Secretary of the Board will be available during the agency's business hours in order to receive the bid envelopes and mark them with the date and time of receipt, and issue the representative with adequate proof in case of personal delivery, indicating the date and time of delivery and number of the auction for which the bid is received.

When the bid is sent by mail, the post office return receipt will be the bidder's receipt. If the bidder sends his or her bid by regular mail, the latter will do so at his or her own risk.

When the Secretary receives the sealed envelope or package containing the bid, the same will make the corresponding notes in the file of the auction in question and in any other document or file internally used to record the delivery and receipt of the bid.

#### Section 4.5 – Failure to Comply with Term of Delivery



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### I – Late Delivery

The date and time noted on the envelope of the bid received in the Mail Section of the Commission, not the postage machine of the bidder or of the Federal Post Office, will be the one used in this case. All bids that are delivered personally, and on time before the beginning of the Opening Session, will be received and considered by the Board, as long as said delivery complies with the remaining terms and requirements, as provided in these Rules.

### II – Failure to Comply with Other Requirements

If the bid arrives at the Mail Section of the Commission or before the Secretary of the Board on time, but in an open, forced, or deteriorated envelope, exception will be taken by the Mail Section or by the Secretary of the Board. Said official will contact the bidder, or the representative of the same, to appear in the agency and verify the contents of the envelope in his or her presence and determine whether it contains all of the documents, and to proceed with the formal delivery in a sealed envelope, which must be done before the last date scheduled as the date of delivery.

Under this circumstance, the agency will not be responsible if the bidder or sender loses his or her opportunity to bid on time, and the bidder will not be able to require that notice of his or her bid be taken or argue that his or her offer was disclosed or opened prematurely.

The date and time of receipt of the original bid received in an open, forced, or deteriorated envelope will not be considered for purposes of the receipt of the bid; the one to be considered will be the date and time appearing on the new closed envelope.

### Section 4.6 – Ways to Make Bid

There are four (4) ways in which the bidders will be able to submit their bids, that is:

- I- Basic Offer
- II- All or Nothing
- III- Lump Sum
- IV- Refusal



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I- Basic Offer

All bidders must make a bid for each entry or items for which it would like to give a quote by writing the same next to each of the items. In relation to the ones for which it would not like to give a quote, the bidder will indicate so next to the relevant item. A blank item or entry will be interpreted as a lack of interest in making any bid.

No auction document lacking a basic offer will be accepted.

II- All or Nothing

In addition to the basic offer, the bidder may decide to bid conditional prices, subject to a group of items in an entry, a group of entries, or all of the latter being awarded to said bidder.

The "All of Nothing" bid may be submitted in two (2) ways:

a) With Discount

This is the one where the bidder will write down next to the items grouped together and to the sum of the items a lowered price, or a percentage, with the phrase "All or Nothing."

For purposes of the evaluation and awarding of bids, only discounts for a term of thirty (30) calendar days or more will be considered. In its duty to award, the Board will consider both the offered discount amount and the term given to pay the same.

b) Without Discount

This is the one where the bidder will write down next to the items grouped together and to the sum of the items the phrase "All or Nothing."

An "All or Nothing" bid can only be awarded if the group of the items for which the bidder submitted a quote complies with the specifications, conditions, and other requirements of the auction, and they add up to a sum that is lower than the sum of the amounts offered by the other bidders who complied with the



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specifications and conditions and offered the lowest prices in the same items.

### III- Lump Sum

In addition to the basic offer, the bidder may decide to indicate, next to the sum of the entries for which it submitted a quote, a figure that is lower than the original sum or a discount percentage.

The Board may consider and accept the individual items of any bid, ruling out the lump sum bid, if so agreed by the Commission, in accordance with its better judgment, but in such case the discount will not be applicable to said items. If the Board accepts the lump sum bid, and the same had been made based on a total amount, the lowered amount will be distributed on a pro rata basis proportional to the basic offer per each quoted entry or item. If it had been made based on a discount percentage, the percentage will be applied to each item.

### IV- Refusal

When the bidder is not interested in making a bid, the same will return the invitation with a note to that effect, or explaining why a bid is not being made, and indicating whether the same is interested or not in being invited to future auctions.

### Section 4.7 – Amendments to the Bid

The bids may only be amended before the opening of the auction through a written document in a sealed envelope duly identified in the same manner as the original bid envelope, in addition to the phrase “Amended.” Said amended bids will be delivered in the same manner as the original bid.

The Board will not consider amendments to bids that arrive after the date and time for delivery set for the relevant auction.

Amendments may result from an error or omission by the bidder or when the latter wishes to do so.

An error



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in the sums of the bid will not be taken into account by the Board since the latter will consider the figures in the items and, if an auction is awarded, it will make the corresponding correction in the sum.

Bids will also be amended when the auction document is amended.

#### Section 4.8 – Withdrawal of the Bid

A bid withdrawal will only be done before the auction opening, through a written notice signed and personally delivered by the original bidder, or the latter's authorized representative, in the Office of the Secretary of the Board, or through a certified letter return receipt requested received or personally delivered in the Board before the Opening Session. The bidders must indicate the reasons explaining the withdrawal of their bids.

Verbal notice of withdrawal of bids will never be accepted. A bidder who withdraws his or her bid will not be able to make a substitute bid subsequently.

If, in the opinion of the Board, it is conclusively proven that an offer was withdrawn before the Opening Session, but that the notice of withdrawal arrived at its hands after the opening but before the award, this bid will not be considered by the Board for purposes of the award.

If, in the opinion of the Board, it is conclusively proven that a bid was withdrawn after the Opening Session and after it was awarded to the bidder claiming that he or she withdrew it in time, and the latter refuses to comply with the terms of the auction awarded to the same, the Board will execute said bidder's guarantee to cover the excess, if any, that the Commission has to pay to the next bidder to whom it is awarded.

### CHAPTER V – OPENING SESSION

#### Section 5.1 – In General

The session will be open to the public and all interested persons may attend the same, having the obligation to comply with the



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rules of conduct established by the Board. The primary purpose is that the interested parties verify the quotes, the received offers, their amount and form, and whether the requirements were complied with as provided in these Rules.

All persons who attend the Opening Session must sign an attendance registry provided for those purposes by the Board and write down the capacity in which they are attending and the post or position occupied by them.

The Board will come together for said session, with the President being in charge of the proceedings, which will be recorded for purposes of documentation.

### Section 5.2 – Opening, Reading, and Closing Procedures

The Secretary will make sure to close the doors to the room at the previously set time, announcing to the people present the number of the auction the bids of which will be opened, the matter of the auction, and any other relevant announcement.

#### I- Opening

The Secretary will open the envelopes with the bids received for the auction in the presence of the people present. In relation to each and every one of the envelopes that are opened, the name of the bidder or sender, and/or of the bidder's agent or representative, will be read out loud, verifying the date and time on which said bid was received.

#### II- Reading of Bid

The Secretary will read out loud the following information about each of the received bids:

1. Description or number of the item for which a quote was provided.
2. Price offered for the item.
3. Form of the offer, if any.
4. Offered date of delivery.
5. Trademark, model, and other relevant data regarding the bid.

The Secretary will take note of the details of the session and ensure full compliance with the provisions of these Rules by each and every one of the bidders who



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submitted their bids.

The Secretary, along with the other members of the Board, shall write their initials on, and stamp with the seal of the Board, each and every of the sheets or pages of the bids.

### III- Closing

Once the reading of the bids ends, the people present during said act will be able to examine them and raise any objection or argument, in relation to the bidders or their bids, that should be brought to the attention of the Board.

## Section 5.3 – Procedure after Opening Session

### I- Minutes

The Secretary shall write, no later than twenty-four (24) hours after the holding of the opening, the minutes containing all of the events that took place during said meeting, as well as the following information:

1. Number and matter of the auction.
2. Date, time, and location of the opening.
3. Number of received bids.
4. Number of bidders who provided quotes for one or more items.
5. Number of bidders who did not provide quotes.
6. Name of bids received under the refusal option.
7. Persons who attended the session. A copy of the signed Attendance Sheet may be attached to the minutes.
8. Certification by the President of the Board to the effect that the information that was read in public is the one required by the Rules.
9. Any other event or detail pointed out in relation to any condition, specification, or bidder, or any other matter which the President may deem appropriate to announce.

The minutes will be signed by the Secretary and by each and every one of the members who made up the Board during that auction.



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## II- Receipt of Bid Bond

The Board will have the obligation to make sure that a Commission official is designated for all formal auction acts, which official may be one of the members of the Board, to act as the Receiver of the bid guarantees required from bidders.

The Receiver will have the obligation to receive and verify the required guarantees, retain and keep the same in accordance with the manner or procedure used internally, and issue receipts.

## CHAPTER VI – AWARDING OF AUCTION

### Section 6.1 – In General

During the process of examining, evaluating, and analyzing the bids, the Board may consult the professionals, technicians, and specialists that it may deem advisable in order to award any auction, or in order to consider, investigate, resolve, or settle any matter or determination related to the procedures of the auction.

### Section 6.2 – Term to Hold Award Session

In the case of auction awards, a determination must be made within a period not exceeding ten (10) working days following the opening date of the auction.

In the case of any other matter brought to its consideration, the Board will issue a resolution within the most reasonable term possible according to the matter in question.

### Section 6.3 – Award Session – Procedure

The Secretary of the Board has the obligation to keep record of all incidents during the award session and write the Minutes in this regard.

The Secretary of the Board, or the member who is assigned the task, will make a summarized verbal presentation of each of the received bids. Pursuant to said presentation, the Board will vote on each item in favor of the bidder who complies with the specifications



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and conditions, and whose bid, in general, is more beneficial to the Commission. The agreement must be approved by at least the majority of the Board.

#### Section 6.4 – General Award Rules

The auction will be awarded to the bidder supported by a good capacity and compliance record guaranteeing to the Board that the same will comply with the terms of the contract subsequently executed, as long as said bidder and his or her bid meet the following requirements:

- a) Compliance with the specifications.
- b) Compliance with the conditions and remaining requirements established in the auction document.
- c) Quality and relative adaptability of the materials, printed materials, and equipment.
- d) Responsibility and economic solvency.
- e) Term of delivery.
- f) Prior history of the bidder in its commitments with the Commission.
- g) In the case of equipment auctions, the Board shall take into consideration the economy in the consumption of fuel and electric power of the same, local facilities for equipment maintenance, cost of replacement parts, availability of parts and services, and other similar factors.
- h) Any other conditions and considerations that are more advisable and advantageous to the best interests of the Commission or the Government of Puerto Rico.

The offered price will not be a determining factor until all of the requirements herein established are complied with.

#### Section 6.5 – Award Rules

The following rules are adopted in order to provide the Board with the guidelines to follow in the circumstances foreseen in them.



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I – Draws

A draw takes place when two (2) or more bidders make identical bids in terms of the specifications, prices, and remaining general conditions provided in the auction documents regarding specifications.

When a draw does not cover the entire auction, but just some of its items, the award of the remaining evaluated and awarded items will be notified.

In case of a draw, the Board will order the Secretary to notify the bidders who are tied of this fact in order to request new prices, requiring that they, on the date and time set by the same, which cannot be more than five (5) days after the order by the Board, appear before the same and deliver their new prices in sealed envelopes. The Secretary will open the envelopes in their presence, and by drawing up Minutes, will inform the Board of the results of said draw session in order to execute the corresponding award. If a new draw takes place, the same procedure of requesting new prices will be followed.

When deciding on draws, the Board will follow the general award criteria listed in the preceding Section.

II- Sole Bid or One Bidder

The Board will be able to award the auction to said bidder if his or her bid complies with the specifications and remaining conditions provided in the auction documents, but even then it will be able to reject it if the offered price is unreasonable, or if it considers that the bidder or his or her product do not meet the requirements listed in Section 6.3.

It is the obligation of the Board to keep the President of the Commission informed of a continuous or recurring event where only one bidder appears in the auctions of the Commission in order to order the performance of an investigation aimed at identifying the causes of said event and in order to take the corrective measures that are deemed appropriate in said case.

III- Several Bids by the same Bidder

When a bidder submits several bids in separate envelopes for the same entry under his or her name, or another name, with purpose of faking a competition, and this is proven,

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the Board will have the obligation to reject all bids submitted in this manner, and said bidder will be penalized by removing him or her from the Registry, prohibiting that he or she register in the same or participate in future auctions for the period provided by the Board, which will not be less than six (6) months or more than one (1) year. The bidder may appear before the President of the Commission within ten (10) days of being notified of the resolution of the Board to request review or reconsideration of his or her case.

#### IV- Void Auction

The Board will have the authority to not award and declare the auction void when:

- a) The bids received are unacceptable since they do not comply with the specifications or conditions, or because the offered prices are unreasonably high.
- b) An adequate competition is not considered to have taken place.
- c) The available funds are not enough to cover the price of the selected bid.
- d) The bidders do not offer the required bonds or guarantees.
- e) Doing so is considered to benefit the best interests or public ends of the Commission and the Commonwealth of Puerto Rico.
- f) No offers are received after the auction is announced.

#### Section 6.6 – Measure to Take in case Auction is Declared Void

If the event that the auction is declared void, the Board may:

- a) Require that a new auction be held.
- b) Execute a contract through negotiations when doing so would be the most beneficial to the best interests or public ends of the Commission and the Commonwealth of Puerto Rico. When quotations

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are received, the possibilities of entering into negotiations with the bidder that comes closest to adjusting to the rules established in Section 6.3 of these Rules will be studied and evaluated.

Section 6.7 – Notice of Award

No later than five (5) working days after the Board awards an auction, the Secretary will notify the award to the bidders who attended the auction through the most adequate means in accordance with the instructions of the Board. The Secretary shall certify the date and means of said notice.

Section 6.8 – Contents of Notice

The notice of award shall contain the following information:

- 1) Date of Notice.
- 2) Date of Award.
- 3) Name and address of bidders.
- 4) Items awarded to the bidder and the rejected items.
- 5) Number of Auction.
- 6) Warning to the effect that in case he or she does not agree with the award, the same may request that it be reviewed within five (5) working days following the date of notice.

In addition to the preceding general information, the following will be indicated to the winning bidder:

- a) The documents that he or she must be submit before the contract is formalized.
- b) Term to produce said documents, which will not amount to more than ten (10) working days from the date of notice.
- c) Warning to the effect that the award is not binding on the Commission until the contract is executed.

Section 6.9 – Notice to Purchasing Division and the Receiver

The Secretary shall notify to the Purchasing Division with a copy



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of the Notice of Award sent to the bidders for the subsequent procedures relevant to the case in accordance with the internal control procedures of the Commission. The Secretary shall also give notice to the Receiver so that the same return the guarantees and bonds to be returned in accordance with the provisions of these Rules.

#### Section 6.10 – Cancellation of Award

The Board may cancel the award before the contract is formalized based on the following:

- a) The need for which the auction was held no longer exists.
- b) The funds assigned to the transaction were used up or released for another purpose.
- c) Doing so is considered to benefit the best interests or public ends of the Commission and the Commonwealth of Puerto Rico.

All award cancellations must be approved by the President of the Commission following a justification by the Board. Neither the Board, nor the Commission, nor the Commonwealth of Puerto Rico, shall incur any liability for these cases.

### CHAPTER VIII – CHALLENGES

#### Section 7.1 – Challenge of Notice of Auction

Bidders may challenge, before the Board, in writing, and duly signed by the interested party and/or his or her agent or representative, any notice of auction when any of the procedures established in these Rules are not followed, or when they consider that between the term set to do the study and prepare the bid and the date for submission of the bid there was not enough time.

#### Section 7.2 – Procedure and Effect of Challenge of Notice of Auction

All challenges of notices of auctions must be filed with the Secretary of the Board within five (5) working

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days following the deadline for bidders to request and receive the auction documents. The Secretary will be responsible of notifying said challenge to the members of the Board. The challenger, for his or her part, will be responsible of notifying it to the bidders who were invited to the auction. If the challenger fails to comply with said notification, his or her challenge will be dismissed.

The challenge will paralyze the subsequent auction procedures. If granted, the subsequent terms will be calculated from the final decision of the Board and/or of the President if an appeal is subsequently filed with the latter.

### Section 7.3 – Resolution of the Board

The Board is obligated to settle the challenge within fifteen (15) working days following the receipt of said challenge and may issue one of the following resolutions:

- a) Dismiss the request and order that the proceedings continue.
- b) Amend the notice of auction and proceed as established in Section 3.6 of these Rules.
- c) Cancel the notice of auction and proceed as established in Section 3.7 of these Rules.

### Section 7.4 – Appeal

The decision of the Board in a case of challenge of notice of auction may be appealed before the President of the Commission, in accordance with the procedure provided in Section 7.8 of these Rules.

### Section 7.5 – Challenge of Award

Bidders may challenge, before the Board, in writing, and duly signed by the interested party and/or his or her agent or representative, any award of auction when any of the procedures established in these Rules are not followed.



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### Section 7.6 – Procedure and Effect of Challenge of Award

All challenges of awards of auctions must be filed with the Board within five (5) working days following the date certified by the Secretary as the date on which the notice of award of auction was notified.

The challenge will paralyze the subsequent auction procedures and the subsequent terms will be calculated from the final decision of the Board and/or of the President, if an appeal is subsequently filed with the latter.

A copy of said challenge must be sent by the challenging bidder to all challenged bidders, whom will have the right to respond within five (5) working days following its receipt. The bidder challenging the award shall certify in his or her challenge document that he or she has sent a copy of the same to the challenged bidders, indicating the name and address of the latter and the date of notice.

The challenged bidders will notify their response to the Board and to the challenging bidder within the above-referenced term.

If the bidder submitting the challenge is the contractor with the current contract to be substituted by the new contract being proposed, the effective term of his or her contract will not be extended.

### Section 7.7 – Resolution of the Board

The Board is obligated to settle the challenge within ten (10) working days following the receipt of said challenge and may issue one of the following resolutions:

- a) Dismiss the request and order that the proceedings continue.
- b) Revoke the award and proceed to analyze and evaluate the other auction quotes for a new award in accordance with the provisions of these Rules.

A copy of the decision will be notified to the interested parties



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and to the President of the State Elections Commission.

Section 7.8 – Appeal before the President of the Commission

The decision of the Board regarding all cases of challenges may be appealed before the President of the Commission through an appeal document, duly signed by the interested party and/or his or her agent or representative, within five (5) working days following the date of notice of the resolution of the Board to the interested parties. Said document must contain the grounds supporting said appeal before the President. A copy of the same must be notified to the Board and to each of the interested parties in the controversy, certifying in the document the date of notice to the persons mentioned in the same with their known addresses.

Section 7.9 – Effect of Appeal

Appeals so completed will suspend the effect of the challenged or appealed decision until the President issues his or her decision regarding the argued matter.

Section 7.10 – Decision of the President of the Commission

As a procedure preceding his or her decision, the President may:

- a) Request that the Board send all files related to the challenged auction.
- b) Hold a hearing to hear all of the interested parties.

The President will issue his or her decision in writing, notifying the same to the Board and to the relevant parties, through the means that he or she deems reasonable and advisable, but which can guarantee its date of notice.

The decision of the President shall become final ten (10) calendar days after the date of notice within which term reconsideration may be filed with the President. The decision of the President upon reconsideration shall be final.



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CHAPTER VIII – PURCHASES OR LEASES  
WITHOUT NEEDING TO HOLD FORMAL AUCTION

Section 8.1 – Situations that Do Not Require Holding an Auction – Open Market Purchases

The Commission may enter into negotiations without the need for a formal auction when:

1. Replacement parts, accessories, equipment, or services previously supplied or contracted are needed.
2. The prices are not subject to competition because there is only one supplier. The existence of only one supplier must be pointed out and minutes to that effect should be written and prepared by the Director of the Purchasing Division, and signed by said official, the Secretary, and the members of the Bid Board.
3. No bids are received after the auction is announced on two (2) occasions.
4. The services, equipment, or materials will be obtained at prices regulated by law or set by a department or instrumentality of the Government of the Commonwealth of Puerto Rico.
5. When the good or service is offered by a public instrumentality or agency of the Commonwealth of Puerto Rico or the Federal Government.
6. The purchase of equipment, printed materials, materials, articles, or services is done against a contract of the Administration of General Services.
7. When a current contract is breached and the need to acquire the goods or services continues.
8. The purchase of equipment, printed materials, materials, articles, and services directly from the manufacturer or outside of Puerto Rico is necessary and advisable to be best interests of the Commission. Necessity and advisability are considered to exist when the superiority of the material, equipment, or service is evident, both

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in terms of quality and adaptability, and the ability of the supplier to provide the corresponding maintenance and repair services is well known. When the above-described circumstances exist, minutes must be written certifying the existence of the same in accordance with the procedure established in paragraph (2) of this Section.

9. After an auction is held where the Board does not recommend that it be awarded. For those purposes, the submission of a detailed report to the Commission will be required. Said report must contain specific data and not mere conclusions and speculations. Once the Commission has said report, it will be authorized, if it deems it advisable to the best interests of the agency, to negotiate directly with the bidders the performance of work, the purchase of equipment, materials, or articles, or the receipt of services.

#### Section 8.2 – Emergency Situations

The Commission will also be able to negotiate without needing a formal auction when pursuant to a detailed report from the Purchasing Division, it determines, through a Resolution to that end, that an emergency exists and, therefore, the immediate delivery of materials, printed materials, articles, and equipment, or the rendering of services, is required.

Said procedure will be performed in the following manner:

1. The relevant specifications will be made in relation to the matter that will be the subject of the contract. The same will be prepared in the form of an auction document, including the relevant terms and conditions for submission to the corresponding bidders.
2. The specifications will be sent to at least three (3) bidders, if they exist in the market, whether by mail or messenger, depending on the need to acquire the articles, in accordance with the stated emergency.



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3. The Commission will determine the necessary term for bidders to send their quotations to the Commission in accordance with the emergency situation.

4. The Commission will execute the corresponding award, keeping in mind the best interests of the People of Puerto Rico and the emergency situation

5. The Commission will notify the winning bidder that the same was chosen and will also notify the non-winners that they were not chosen.

6. The Commission and the winning bidder will sign the corresponding contract depending on the nature of the articles.

### Section 8.3 – Delegation of Duties for Processing Purchases by means of Emergency Procedure

In accordance with the magnitude or degree of the emergency, the Commission, through a Resolution to that effect, may authorize the Purchasing Division to use the informal auction procedures if it deems it just and reasonable under the circumstances of the emergency, always safeguarding the best interests of the agency. The Purchasing Division will submit to the Commission a report regarding the proceedings carried out by means of this delegation.

## CHAPTER IX – REGARDING CONTRACTS

### Section 9.1 – In General

The contract is the culmination of the process of purchasing, contracting, or leasing services and equipment, and awarding by the Commission. The President of the Commission, or the authorized representative of the same, will be the person who will represent the Commission in the execution of all contracts. The contract does not necessarily have to be acknowledged before a notary.

The contract, in addition to the formal document, in writing, signed by the parties, must include:

- 1) The auction document.
- 2) The bid of the winning bidder.



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- c) The notice of award.
- d) Any other document relevant to the case.

**Section 9.2 – Notice to Appear**

The Purchasing Division, in coordination with the Legal Affairs Office, will require that the winning bidder appear in the Commission in order to sign the contract, or to pick up the purchase order, or sign the contract letter, using for it, at its discretion, the quickest or most effective means of communication, always noting in the file that the notice to appear was given, indicating the date and the means. In the notice to appear, the winning bidder will be warned that if he or she does not appear in the Commission to sign the contract on the scheduled date and time, said failure to appear may be interpreted as his or her refusal to formalize the contract, unless the bidder gives proper excuse of the impossibility to appear on the indicated date and time. In this case, the bidder must indicate his or her availability for the signing of the contract on another day and during the working hours of the Commission, which date cannot be later than five (5) days after the originally scheduled date.

**Section 9.3 – Refusal to Formalize Contract**

If the winning bidder refuses to formalize the contract, the Board may, during an extraordinary session held in this regard, at its discretion:

- a) Award to the second bidder, and
- b) Penalize said bidder by executing his or her guarantee to cover the difference between the amount or price quoted by the same and the one quoted by the second bidder or other bidder.

If the guarantee is not enough, the Commission may go directly against the bidder in order to recover the difference.

- c) Proceed as it may deem advisable and necessary, under any other alternative contained in these Rules, including, without limitation, the



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emergency purchase.

Section 9.4 – Breach of Contract

If a contractor, within the performance of his or her contract fails to comply with it, the Board may, at its discretion, use the above-referenced alternatives, and order that said bidder be eliminated from the Registry or suspend the bidder's right to submit quotes in future auctions, for the term that it may deem just and reasonable, which will not exceed two (2) years.

This will not harm the right of the Commission to file the judicial claim that it may deem reasonable for breach of contract.

CHAPTER X – FINAL PROVISIONS

Section 10.1 – Transitory Provisions

All forms, documents, or procedures not covered in these Rules but dealing with the same matter, even when approved under other rules repealed by this one, will remain effective until the new procedures are approved and the new forms are issued.

Section 10.2 – Severability

If any Section of these Rules is declared unconstitutional by a competent Court of Justice, the judgment issued to that effect will not affect or invalidate the remaining part of the same.

Section 10.3 – Penal Provisions of Electoral Act

The relevant penal provisions contained in Title VIII of the Electoral Act must be taken into consideration by all persons, entities, associations, groups, or companies to which they apply. The violation of rules and regulations adopted and promulgated by the State Elections Commission will be penalized with imprisonment not exceeding three (3) months or a fine not exceeding three hundred (300) dollars, or both sentences, at



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the discretion of the Court, in accordance with the provisions of Article 8.005 of the Electoral Act.

Section 10.4 – Effective Term

These Rules will come into effect following the notice and publication provided in Article 1.005, paragraph (I), of the Puerto Rico Electoral Act.

In San Juan, Puerto Rico, on October 2, 1985.

[signature]  
CESAR R. VAZQUEZ DIAZ  
President

[signature]  
EDUARDO BAEZ GALIB  
P.P.D. Electoral Commissioner

[signature]  
PETER S.A. KRYZANOWSKI  
P.N.P. Electoral Commissioner

[signature]  
HIRAM MELENDEZ RIVERA  
P.I.P. Electoral Commissioner

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I CERTIFY: That these Rules were approved during an Ordinary Commission Meeting held on October 2, 1985.

In witness whereof, I sign and seal this Certification in San Juan, Puerto Rico, on October 7, 1985.

[signature]  
RAMON BAUZA ESCOBALES  
Secretary  
State Elections Commission

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**COMMONWEALTH OF PUERTO RICO  
STATE ELECTIONS COMMISSION  
SAN JUAN, PUERTO RICO**

CERTIFICATION

I, Néstor J. Colón Berlingeri, Secretary of the State Elections Commission, who, by virtue of the provisions of Article 1.014 of the Electoral Act, is the official authorized to issue certifications, hereby CERTIFY that:

The Honorable Commission, today, May 16, 1991, exercising the faculties granted under Article 1.005 (f) of the Puerto Rico Electoral Act, amended the Bid Regulation of the Commission, approved on October 2, 1985, in order to add Sections 10.5 and 10.6, which will read as follows:

Section 10.5 – **AMENDMENTS TO THE RULES**

These rules may be amended by the Commission in accordance with the provisions of the Puerto Rico Electoral Act.

Section 10.6 – **CHANGE OF TERMS**

The terms established in these Rules may be changed by unanimous agreement of the Electoral Commissioners when merited and justified, except for the ones provided by the Puerto Rico Electoral Act, and said change will be noted in the documents related to the specific auction

These amendments will come into effect immediately and will apply to any auction currently being held.

Wherefore, I sign and seal this certification in San Juan, Puerto Rico, on May 16, 1991.

[signature]  
Néstor J. Colón Berlingeri  
Secretary

[STAMP]

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