

2023

PROTOCOL FOR THE PROCUREMENT OF GOODS AND SERVICES WITH REFORM FUNDS

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PROTOCOL FOR THE PROCUREMENT OF GOODS AND SERVICES WITH REFORM FUNDS

I. Purpose:

The purpose of this protocol is to set forth the rules and internal processes governing the expenditure of Reform Funds in support of the Agreement by both the DPS and PRPB.

II. Definitions:

- A. Agreement: The Agreement for the Sustainable Reform of the PRPB.
- B. Coordinator: The Budget Coordinator of the PRPB Reform Office.
- C. Director: The Director of the PRPB Reform Office.
- D. DPS: The Department of Public Security, as established by Law No. 20-2017, as amended.
- E. Government of Puerto Rico: The Government of the Commonwealth of Puerto Rico.
- F. Public Instrumentality: Any department, agency, governmental entity, public corporation or municipality of the Government of Puerto Rico.
- G. MPRPB: All agents and officers of the PRPB rank system.
- H. PRPB: The Puerto Rico Police Bureau, as established by Law No. 20-2017, as amended.
- I. Financial Oversight Officer: The individual appointed by the Federal Court to assist, monitor and audit the funds allocated to the Reform of the Puerto Rico Police Bureau.
- J. Office of Reform: The PRPB Reform Office.
- K. Petitioner: Any government official at the DPS and/or the PRPB who is duly authorized to request the purchase of goods and / or contracting of professional or non-professional services.
- L. Protocol: The Protocol for the Procurement of Goods and Services with Reform Funds.
- M. Non-professional services: Those services that are not offered by a person or legal entity with specialized knowledge or skills, requiring a university degree or license that accredits him as a specialized professional.
- N. Professional services: Those services that are offered by a person or legal entity with specialized knowledge or skills, requiring a university degree or license that accredits him

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as a specialized professional; or whose main benefit consist of the product of intellectual, creative, artistic work, or in the management of highly technical or specialized skills.

- O. Goods: Those goods which are movable, complementary, substitute, consumable, capital, or any other goods with capability to move by themselves or by other force and that may or may not be fungible, such as, but not limited to the following: food, office material and equipment, construction material and equipment, means of land, maritime or air transportation, office and school materials, medical or scientific equipment; equipment, machinery and materials related to the processing of information by electronic means, accessory parts, and materials necessary for their maintenance and repair, as well as any and all goods that are necessary for the operation of the PRPB.
- P. Travel: Travel to and from outside the jurisdictional limits of Puerto Rico or the country where the employee's or person's official work place or office is located.
- Q. Technology: Any interconnected system or subsystem of equipment used in the automatic acquisition, analysis, evaluation, evaluation, manipulation, handling, movement, control, display, switching, exchange, transmission, or reception of data and information by the agency, regardless whether the equipment is used by the agency directly or by a third party under a contract with the agency that requires the uses (i) of that equipment; or (ii) its use to a significant extent for the provision of a service or the supply of a product; Includes computers, ancillary equipment (including imaging peripherals, input, output and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by a computer's central processing unit, software, hardware and similar procedures and services (including support services) and related resources.
- R. Parties: Pursuant to the Agreement, the parties are: The Government of Puerto Rico (primarily the DPS and PRPB), and the United States.
- S. Court Officers – In accordance with the Agreement, the Technical Compliance Advisor (oftentimes referred to as the Federal Monitor) is a Court officer, as well as the Special Master and the Financial Oversight Officer by orders of the Court.
- T. Reform Funds: Public funds from any source designated to implement and comply with the Agreement, comprised of, but not limited to Commonwealth budget appropriations and funding allocated from federal programs.
- U. Implementation Plan: Written plan designed to assist with the management and implementation of specific requirements of the Agreement in a coordinated and structured manner with specific action steps, assigned responsibilities, and timelines. An Implementation Plan is developed with input from the Parties and Court Officers, and is intended to overcome barriers to, and accelerate the pace of, compliance with the Agreement.

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III. Use of Reform Funds:

- A. Reform Funds must be used to advance the process of compliance with the Agreement in accordance with this Protocol and any other applicable laws, regulations or requirements governing the use of public funds. Furthermore, the use of Reform Funds must be tied to the implementation of, and compliance with, Sections III through XIV of the Agreement, the District Court's Orders, and the Commonwealth's Implementation Plans to provide the PRPB with the necessary professional services, training, and equipment.
- B. Reform Funds shall be used in accordance with applicable funding source requirements and limitations, and for the following types of expenditures:
1. Professional Services: shall cover expenses for contracting such as: legal counsel, Instructors for the Auxiliary Superintendence for Education and Training (officially referred to as SAEA, for its acronym in Spanish), Technology Specialists, Project Managers and/or any other licensed or certified professional.
 2. Court Oversight: Reform funds will be used to cover the operating expenses of the Office of the Technical Compliance Advisor (Federal Monitor), as well as, the Office of the Special Master and the Financial Oversight Officer, pursuant to the Agreement and Orders issued by the United States District Court for the District of Puerto Rico.
 3. Purchase of goods and non-professional services, including equipment.
- C. All purchases of goods and non-professional services must be made in accordance with Act No. 73-2019, as amended, known as Law of the Administration of General Services for the General Services for the Centralization of Purchases of the Government of Puerto Rico, Regulation Number: 9230 of the General Services Administration, and/or any other applicable laws and regulations which may complement and/or replace those mentioned herein. This regulation regulates the following, among other operations:
1. Exceptional purchases
 2. Informal Purchases
 3. Informal Auction
 4. Pre-Auction Meetings
 5. Contracts
 6. Formal Auctions
- D. Professional Services shall be procured in accordance with Executive Order 2021-029 and Circular Letter Number: 013-2021 of the Office of Management and Budget and/or any other regulations approved by the Government of Puerto Rico and/or any other

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applicable laws, executive orders and regulations which may complement and/or replace those mentioned herein.

- E. All transactions for the acquisition of goods and non-professional services shall be processed by means of the corresponding application provided by the General Services Administration, and in accordance with Act No. 73-2019, as amended, and/or any other applicable laws and regulations which may complement and/or replace Act 73

IV. Planning and Prioritization

Each fiscal year, the Office of Reform shall submit a preliminary spending plan covering the following fiscal year to the United States, the Monitor, the Special Master, and the Financial Oversight Officer for review and comment. The preliminary spending plan shall identify spending priorities and expected expenditures that consider the Agreement, the Court's Orders, and the Commonwealth's Implementation Plans. The preliminary spending plan shall be submitted at the time that the Governor presents the recommended Annual Budget of Operational Expenses and Permanent Improvements of the Government of Puerto Rico to the Fiscal Oversight and Management Board, pursuant to the established annual budgeting process.

By August 1 of each fiscal year, the Office of Reform shall update the preliminary spending plan to reflect, among other potential changes, the current fiscal year appropriations and shall submit the updated spending plan to the Parties and Court Officers for review and comment. The updated spending plan shall include a report with the total amount of Reform Funds available within the Government of Puerto Rico for use during the current fiscal year. The Parties and the Court Officers shall review and approve the updated spending plan in accordance with the comment and dispute resolution process under Paragraph 229 of the Agreement.

V. Process for the Procurement of Goods and Non-Professional Services:

- A. In compliance with applicable administrative procedures and this Protocol, each Petitioner shall submit to the Office of Reform a memorandum justifying the acquisition of a good or service using Reform Funds. The memorandum, approved and submitted in accordance with the applicable DPS and PRPB regulations, shall explain how the good or service is necessary to implement or comply with a paragraph or paragraphs of the Agreement. In addition, the Petitioner shall include those forms required by their respective agencies, duly completed and signed, along with its corresponding quote, in accordance with the applicable regulation. The forms to be submitted must include a contact person, and the contact information for that individual. Petitioners seeking use of Reform Funds for goods or non-professional services must also comply with all

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applicable laws, regulations, rules, or guidelines of the funding source when submitting requests to the Office of Reform.

- B. The Coordinator will evaluate the petition submitted by the Petitioner and verify that it is complete. It will then proceed to advise the Director on the petition, so that he can make his final determination. Upon receipt of the petition, the Director shall have a term of up to fifteen (15) calendar days to make the final determination.
- C. Once the request has been evaluated and approved by the Director, the Coordinator will prepare the "Certification of Availability of Funds", which will be sent to the Secretary of the DPS for review. If approved, the corresponding procedure will continue, in accordance with the applicable regulations.
- D. In cases where the request is denied by the Director, the Coordinator shall prepare a memorandum to notify the Petitioner of the determination, within a period not exceeding five (5) business days. Once the Petitioner receives the memorandum sent by the Coordinator, the Petitioner shall have a term of no more than five (5) business days to appeal such determination to the Secretary of the DPS. If the Petitioner fails to act within such term, the Director's determination as set forth in the memorandum shall become firm and final.
- E. In the event that the Secretary of the DPS determines that the acquisition of non-professional goods or services is justified, he will prepare a memorandum explaining how the good or service is necessary to implement or comply with a paragraph or paragraphs of the Agreement. A copy of the authorization signed by the Secretary will be sent to the Director for his knowledge and inclusion in the file. The Director and/or Coordinator will convey the approved purchase to the DPS for vendor selection, execution, and payment.
- F. The Coordinator will be responsible for handling and following up at all times on each request for the acquisition of non-professional goods and services throughout the process provided herein and that all the steps taken are duly documented.

VI. Process for Hiring Professional Services:

- A. Any Petitioner who wishes to Reform Funds for the contracting of professional services shall do so in accordance with the applicable DPS and/or PRPB regulations and shall direct it to the Director. This request shall also include a memorandum explaining how the service is necessary to implement or comply with a paragraph or paragraphs of the Agreement. Petitioners seeking use of Reform Funds for professional services must also comply with all applicable laws, regulations, rules, or guidelines of the funding source when submitting requests to the Office of Reform.

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- B. The Director will receive the request and make an initial assessment. Likewise, it will send it to the Coordinator, so that he can ensure that the request is complete and complies with the requirements established in this Protocol. Once this procedure has been completed, the Coordinator will proceed to advise the Director on it, so that a final determination can be made. For these purposes, the Director will have a term of up to fifteen (15) calendar days to make the final decision, counted from the receipt of the request.
- C. After the Director evaluates and approves the petition, the Coordinator will prepare the "Certification of Availability of Funds", which will be sent to the Secretary of the DPS for approval. If approved, the corresponding procedure will continue, in accordance with the applicable regulations.
- D. In cases where the petition is denied by the Director, the Coordinator shall prepare a memorandum to notify the Petitioner of the determination within a period not exceeding five (5) business days. Once the Petitioner receives the memorandum sent by the Coordinator, the Petitioner shall have a term not exceeding five (5) working days to appeal said determination to the Secretary of the DPS. If the Petitioner fails to act within such term, the Director's determination as set forth in the memorandum shall become firm and final.
- E. In the event that the Secretary of the DPS determines that the acquisition of professional services is justified, he will prepare a memorandum explaining how the service is necessary to implement or comply with a paragraph or paragraphs of the Agreement. A copy of the authorization signed by the Secretary will be sent to the Director for his knowledge and inclusion in the file. The Director and/or Coordinator will convey the approved purchase to the DPS for vendor selection, execution, and payment.
- F. The Coordinator will be responsible for handling and following up at all times on each request for hiring professional services throughout the process provided here and that all the steps taken are duly documented.

VII. Technology:

- A. Reform Funds may be used to acquire technology, provided that the technology is necessary to implement or comply with a paragraph or paragraphs of the Agreement. Petitioners seeking use of Reform Funds for technology must also comply with all applicable laws, regulations, rules, or guidelines of the funding source when submitting requests to the Office of Reform.
- B. When requesting equipment or services, the Director of the PRPB's Technology Bureau shall prepare a memorandum explaining how the equipment or service is necessary to implement or comply with a paragraph or paragraphs of the Agreement.

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- C. When the request for technology is not from the Technology Bureau, the Coordinator will evaluate and verify that the technology complies with Sections VI and VII of this Protocol. If the petition is fully compliant, the Coordinator will send it to the Director of the PRPB's Bureau of Technology and Communications who will then assess and inform the Coordinator in a written communication if the acquisition is necessary and confirm that it is in accordance with the Agreement.
- D. All technology is strictly regulated by the Office of Innovation and Technology Services (PRITS) and, therefore, all these processes must also comply with their applicable regulations. Therefore, the communication to be sent by the Director of the PRPB's Bureau of Technology and Communications to the Coordinator shall also include PRIT's certification of such compliance, plus their authorization to that specific petition.

VIII. Asset Control and Inventory:

The internal regulations governing the purchases and/or acquisition of equipment, control and accounting of public property in the DPS and NPPR, shall always be in accordance with Act 230 of July 23, 1974, as amended, known as the "Puerto Rico Government Accounting Act, with Act 73-2019, as amended, known as the "General Services Administration Act for the Centralization of Purchases of the Government of Puerto Rico of 2019," Regulation 9230, known as the "Uniform Regulations for Purchases and Auctions of Goods, Works and Non-Professional Services of the General Services Administration of the Government of Puerto Rico"; Regulation 9157, known as the "Surplus Property Regulations of the General Services Administration", Regulation 11, Basic Norms for Control and Accountability for Fixed Assets from the Puerto Rico Department of Treasury and/or any other applicable laws, executive orders and regulations which may complement and/or replace those mentioned herein. The subsequent maintenance, control, assignment, and disposition of equipment and assets purchased with Reform Funds shall follow the specific processes, roles, and responsibilities set forth in General Order Chapter 200, Section 208, dated October 20, 2016 and Norms of Controls and Accountability of Federal Property Bought by the Puerto Rico Police, dated October 21, 2016.

IX. Documentation:

The Coordinator shall maintain a digital and physical file of all petitions, both approved and unapproved and include, at a minimum, the following:

- A. For Non-professional services or goods:

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- Explanatory memorandum justifying the acquisition of the good or service for the purpose of advancing compliance and implementation of one or more paragraphs of the Agreement.
- PRPB Model SC-1001 "Requisition of Materials, Equipment and Services", or the corresponding form from the DPS, and/or any other applicable forms which may complement and/or replace those mentioned herein.
- Quote.
- Certification of Funds from the Reform Office.
- Approval by the Secretary of the DPS
- Purchase Order (P.O.).
- Invoice.
- PRPB Model SC-735 "Proof of Payment / Proof of Payment Against Obligation / Proof of Payment Against Obligation of Suppliers by Contract", or the corresponding form from the DPS, and/or any other applicable forms which may complement and/or replace those mentioned herein.

B. For Professional services:

- Explanatory memorandum justifying the contracting of professional services for the purpose of advancing compliance and implementation of one or more paragraphs of the Agreement.
- Certification of Funds from the Reform Office.
- Approval by the Secretary of the DPS.
- Proposal and Contract.
- Once the recruitment has been made, the file shall also contain:
 - Invoices
 - Proofs of payment

C. For purchases of Technology:

- In addition to the relevant items required above, the file must also include the form titled PRITS-001 "Application for Authorization to PRITS for the Acquisition of Goods and / or Services of a Technological Nature", and/or any other applicable form which may complement and/or replace the aforementioned form.

- D. Once the purchase process has culminated, it is the responsibility of the Coordinator to include all documents of such process in the physical and digital file.

X. Disapproval and Cancellations

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In the case of disapproved petitions, the file must include the memorandum justifying the acquisition, all required forms and the explanatory memorandum indicating why the purchase does not proceed.

Disapproved Purchase: A purchase that is not in compliance with the applicable laws, regulations and/or the Agreement.

Cancellation of Purchase: A purchase that having started the purchasing process, in compliance with the Law, the Regulations and the Agreement, has been cancelled due to extraordinary and justified circumstances particularly in protection of the public interest.

The file will have everything required in the beginning of the section, including the cancellation sheet provided by the General Services Administration purchasing application and an explanatory memorandum indicating why the purchase does not proceed.

XI. Travel:

- All travel will be regulated according to the applicable laws and regulations that establish the rules to be followed by all officers and employees of the Government of Puerto Rico with respect to expenses incurred in official travel outside Puerto Rico.
- The Coordinator in consultation with the Director can determine that certain travel should be covered by the general fund of the PRPB, rather than Reform Funds.
- Any travel proposed to support the Reform Agreement must be fully documented in advance with a justification memorandum that sets forth the paragraph or paragraphs that support the travel and how that travel advances compliance with the Agreement.

XII. Monthly Review Processes:

- No later than the 15th of each month, the Coordinator shall submit to the Parties and the Court Officers a report showing the monthly expenditures incurred during the previous month with Reform Funds for their review and comments.
- The Parties and the Court Officers will have a term of ten (10) business days to complete their evaluation, submit their comments concurring with the report or citing specific items for review.
- If a disagreement occurs regarding the correctness and permissibility of any transaction with the use of Reform Funds, the Parties and the Court Officers will meet and confer to resolve the disagreement.

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- If no agreement can be reached, either one of the Parties or Court Officers may seek resolution from the United States District Court for the District of Puerto Rico.

XIII. Fiscal Measures to Sustain Reform

The sustainability of reform under the Agreement will require that the Government of Puerto Rico institutionalize the requirements of the Agreement by making them part of the DPS and PRPB's standard operations. This path toward sustainable reform will also require a transition strategy that decreases dependence on non-reoccurring funds for reoccurring needs as reforms become institutionalized. Accordingly, both the DPS and the PRPB will adopt the following fiscal measures to sustain reform:

Beginning in fiscal year 2024 and each fiscal year thereafter, the Government of Puerto Rico will develop plans to fund reoccurring needs from reoccurring sources, such as the DPS and PRPB's general operating budgets to sustain compliance with the Agreement. The initial plan will cover, at a minimum, the less lethal weapons and reoccurring expenses listed in subsections A through C, below. The Government of Puerto Rico will implement the initial plan in fiscal year 2025 and will seek to cover more goods and services with reoccurring funding sources in future plans as the Government of Puerto Rico achieves compliance with the Agreement and reforms become institutionalized. These fiscal measures will be incorporated into the planning and prioritization in Section IV of this Protocol.

A. Less lethal weapons:

1. Baton
2. Electrical Control Device (DCE for its acronym in Spanish), holster and cartridges
3. Pepper spray and holster
4. Mechanical restrictions
5. Flashlight

B. Recurring Expenses:

1. Police Doctor
2. Shooting Range Rental
3. Ammunition
4. Contract for maintenance of GTE and CAD
5. Contract for maintenance of the CIW
6. Photocopier contract
7. Contract Sim Card CAD Mobile
8. PRPB website contract
9. Voice and data contract

C. Reform Funds shall not be used for the following items:

1. Uniforms



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2. Footwear
3. Office materials (Except, if the purchase is necessary for the administrative duties of the Office of Reform.)
4. Office furniture (Except, if the purchase is necessary for the administrative duties of the Office of Reform.)
5. Vehicles (Except, if the purchase is necessary for transportation of the personnel of the Office of Reform.)
6. Building materials

XIV. Purchases and Contracts During an Officially Declared State of Emergency

Relevant sections of this Protocol may be suspended temporarily by the DPS Secretary and/or the PRPB Commissioner in accordance with applicable federal and Commonwealth laws and regulations when there are emergent or exigent circumstances involving the declaration of a state of emergency either by the Governor or the President of the United States. Any purchase and/or contract (professional or non-professional) that is necessary during the state of emergency, shall be undertaken in accordance with the applicable Executive Orders and/or other regulations enacted by virtue of the emergency declaration. Moreover, notwithstanding the limitations resulting from the emergency situation, it is the duty of the Coordinator to do everything in his power to comply with the requirements of Sections X and XI of this Protocol during this period.

XV. Audits:



The use of Reform Funds is subject to audits by authorized federal entities and the corresponding public instrumentalities of the Government of Puerto Rico, in accordance with applicable laws, regulations, rules, procedures, or guidelines. The use of Reform Funds is also subject to audit by the Financial Oversight Officer. To the extent permitted by the Court, the Financial Oversight Officer will provide advance notice of audits and will provide comprehensive reports of findings, deficiencies, and recommendations to the parties and court officers.

XVI. General Provisions:

- A. The DPS and/or the PRPB acquires a good or service outside the scope of this Protocol using Reform Funds, the Director will evaluate the acquisition and inform the Parties and Court Officers. The Director will provide the exceptional circumstances that justify the use of Reform Funds or what corrective action, if any, was taken, in the event that the use of Reform Funds was not justified.

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- B. This Protocol shall be reviewed and revised, as necessary, at least every two (2) years or earlier, if warranted, by the Parties and/or Court Officers.
- C. This Protocol will have both an English and a Spanish official version; nonetheless, in case of any conflicting interpretation, the English version as approved by the Parties and the Court Officers will prevail.
- D. This Protocol is not intended to alter, amend, or supersede any federal or Puerto Rico law, regulation, rule, or guideline that applies to a funding source.

XVII. Supremacy Clause:

All provisions of this Protocol shall prevail over the provisions of any other conflicting DPS or PRPB protocol, regulation, or administrative rule, unless the provisions thereof have the express and unequivocal purpose of amending or repealing the provisions hereof.

XVIII. Severability Clause:

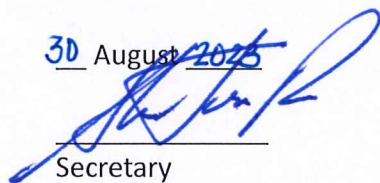
If any section, paragraph, sentence or title of this Protocol is annulled or declared unconstitutional, the resolution, opinion or sentence to that effect rendered shall not affect, prejudice, or invalidate the remainder thereof. The effect shall be limited to the section, paragraph, sentence or title of this Protocol that has thus been declared null or unconstitutional.


XIX. Enactment Clause:

This Protocol shall become effective immediately upon its adoption.

Adopted on:

30 August ~~2023~~


Secretary
Department of Public Safety


Commissioner
Puerto Rico Police Bureau

IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

COMMONWEALTH OF PUERTO RICO, et
al.,

Defendants.

Civil No. 12-2039 (FAB)

ORDER

On June 1, 2023, the Court rejected a proffered protocol regarding reform-related expenditures and ordered the parties and the Monitor's Team, under the direction and guidance of the Office of the Special Master, to draft a more streamlined protocol. See Docket No. 2425. That order was complied with and noted by the Court. See Docket Nos. 2456 and 2458. The Court has completed its review of the protocol. The protocol is **APPROVED**.

The parties will strictly adhere to the protocol; the Court must be immediately informed of any material non-compliance with the protocol, which the Court will swiftly address.

IT IS SO ORDERED.

San Juan, Puerto Rico, August 16, 2023.

s/ Francisco A. Besosa
FRANCISCO A. BESOSA
SENIOR UNITED STATES DISTRICT JUDGE