



PUBLIC POLICY FOR THE PURCHASING OF MATERIALS, SUPPLIES OR SERVICES IN CASE OF EMERGENCY

I. INTRODUCTION

The Puerto Rico Governor, Hon. Wanda Vázquez Garced, enacted the Administrative Bulletin No. OE-2020-020, by which she decreed an emergency state related to the COVID-19 impact. In that order a total government lockdown was ordered from March 15 to March 30, 2020. This order has been extended until April 12, 2020. The order applies to public employees that do not render essential services. The One-Stop-Centers and the services provided in the System were not considered essential services. To the effect of minimizing the impact of this measure to the services that are offered to participants, employers, and service providers, the Local Board of Southeast Labor Development has determined to authorize the offering of activities by means of virtual work.

II. LEGAL BASE

Administrative Bulletin No. OE-2020-020 enacted by the Puerto Rico Governor, Hon. Wanda Vázquez Garced on March 12, 2020, Section 107 (d) the Workforce Innovation and Opportunity Act, (WIOA, for its English acronym)

Sections 679.370 (h) (4) (i) (2) of the Regulation of the Workforce Innovation and Opportunity Act, (WIOA, for its English acronym)

The Puerto Rico Autonomous Municipalities Law 81, of August 30, 1991, as amended

2 CFR Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, Chapter I and II Part 200.320

III. DEFINITIONS

1. Local Development Area (ALDL)– Pursuant to Section 106 (b) of the WIOA, it refers to a territorial delimitation that is established by taking into consideration multiple criteria among these the labor market demand and the regional economic development. The purpose of this is to authorize the allocation of Title I-B funds. Originally, it was created under the Puerto Rico Autonomous Municipalities Law, such as the Southeast Consortium.

The organization was conducted by means of an intermunicipal agreement subscribed by the mayors of the municipalities that are part of ALDL. This as part of the powers and faculties conferred to the municipalities that are authorized to create intermunicipal organisms that allow two (2) or more municipalities to identify common problems, plan, and develop activities or services jointly to benefit its population. That is why the Municipalities Law provisions that are stipulated in this Policy apply to us.

2. Emergency - The Autonomous Municipalities Law defines “an emergency” as a situation, event, or the combination of circumstances that cause unexpected and unforeseeable public necessities, which require immediate action from the municipal government, because the life, health, or the safety of the citizens is in danger of being suspended, or because the public services or the municipal property could be affected. Therefore, the ordinary process of purchasing and acquiring goods and services cannot be completed soon due to the urgency of the action that must be taken. The emergency can be caused by a fortuitous or major cause event, such as an act of God, a catastrophic accident, or any other situation or event that due to its unexpected and unforeseeable nature, impact and magnitude puts in imminent danger the life, health, safety, tranquility, or the wellbeing of the citizens, or that affects in a notorious way the services offered to the community, or the projects or municipal programs that have a public purpose.

IV. PUBLIC POLICY

The Workforce Innovation and Opportunity Act, (WIOA, for its English acronym), and its Interpretive Regulation stipulate that the Local Board will develop strategies to maximize the effectiveness and accessibility of the services that are offered to workers, persons that are searching for a job, and employers by means of the use of technology, among other means. To offer remote services, we have identified that it is essential to buy on an emergency basis materials, equipment, and services to the ends of developing the System’s inherent activities.

For that purpose, we authorize the purchase of materials, equipment, and services by adopting the mechanism of emergency purchase. The materials, supplies, equipment, and services will be those necessary in order to comply with the activities related to the emergency.

LOCAL BOARD OF SOUTHEAST LABOR DEVELOPMENT

Calle Dufresne Esquina Antonio López No. 104 Humacao, Puerto Rico 00791| PO Box 487 Humacao, Puerto Rico 00792
T (787)656-0101|656-0658| TTY (787) 656-0655

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Conducting the ordinary purchase process implies an unnecessary delay that impairs the execution and satisfaction of the immediate need to respond to the emergency scenario. In these cases, a written evidence of the urgency or emergency acts or circumstances for which the bid or ordinary purchasing process are not conducted must exist, and the costs will be reasonable, subject to what is available in the market. When there is only one quote, the price reasonability will be evaluated by using a history of other purchases of products or services of the same nature that compare favorably. If comparable purchases do not exist, it will be certified. The name of the contractor (provider), the amount of the purchase, a list of what has been acquired in each purchase order, as well as the criteria established to determine the necessity, will be included in the documentation. As part of the process, the following criteria will be met:

- a. In those cases in which due to the functions conducted, a need to make a purchase or acquire emergency services arises, the supplies can be purchased or obtained the required services without the need of requesting or receiving proposals or quotes as usual. Purchase of goods, equipment or services can be done without having to prepare a corresponding purchase order firstly.
- b. When ordering purchases, it will be necessary to make sure that there is an available budget in the allocation and the corresponding account.
- c. For equipment purchases, an approval from the Labor Development Program will be requested.
- d. The Purchasing Official must keep an Emergency Purchases Request Register.
- e. At the time of making purchases through the emergency process, adequate documentation will be kept justifying the reasons to prescind from the requirement of issuing a purchase order at time of purchase. Said documentation will be part of the required documents to issue a payment disbursement without the corresponding purchase order.
- f. In these cases, the Local Board's Executive Director written authorization will be required and a written justification will be part of the purchasing file. The Executive Director of the Local Board will authorize the Purchasing Official to carry out the emergency purchase without issuing the Purchase Order form, and with preference character simultaneously with the purchase, or if feasible, this official will carry out the payment promptly in a direct way by means of a Disbursement Request through the Fiscal Agent.
- g. In these cases, the Fiscal Agent or their authorized representative will prepare the corresponding purchase order within ten (10) days following the date when the purchase was ordered.

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- h. In the cases in which a purchase can be processed by means of the Purchase Order form, the facts or circumstances that justify the purchase must be indicated in a visible part of it. In these cases, the Executive Director of the Local Board will approve the purchase in said form.
- i. Once authorized, the emergency cases will be processed on a priority basis together with the available quotes at the time when the goods and or services are required.
- j. None of the above-mentioned exempts from complying with the Law in the award of contracts prior to the service rendering. In the cases when the emergency nature of the purchase makes difficult the printing of a contract, the purchase must, at least, be evidenced in writing. ALDL must prepare a model contract that will be available and to which the necessary information will be added. Everything that is contained in the contract must be initialed by the undersigned persons, so that the parties' identity can be verified. In the case in which working remotely is necessary, the provider's electronic signature can be obtained.

To make this decision, we based ourselves on what is established by the Autonomous Municipalities Law, as amended, and in 2 CFR 200 "Uniform Administrative Requirements, Cost Principles, and audit Requirements for Federal Awards" Chapter I and II.

The Autonomous Municipalities Law establishes that in the particular case of purchases that imply a public bid to make the purchase of supplies or services, if the delivery of supplies, materials, or the rendering of a service is immediately required, the bid process will be skipped. In these instances, written evidence of the urgency or emergency acts or circumstances for skipping the bid process must be kept. The "emergency" definition also makes reference to the purchase processes in which the ordinary purchasing and acquisition of goods and services procedure cannot proceed in a rapid manner due to the urgency of the action that must be taken.

Regarding this same topic in the "Uniform Administrative Requirements, Cost Principles, and audit Requirements for Federal Awards" the following is established in relation to the public contracting through noncompetitive proposals: "The public contracting through noncompetitive proposals is the contracting through the request of a proposal from a sole source, and can only be used when one or various of the following circumstances applies:"

- a. The article is only available from a sole source.
- b. The demand or public emergency to make the purchases does not provide the space for a delay caused by the competitive request.

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V. APPLICATION

This policy will apply to this emergency, or any other emergency decreed in the state or federal scope that applies to Puerto Rico and/or our Local Labor Development Area.

VI. APPROVAL AND VALIDITY

This public policy was approved by the Local Board of ALDLSoutheast through the remote consultation procedure via electronic mail to all its members. The issued votes were tallied, registered, and filed by the Local Board's Executive Assistant on April 1, 2020. This policy will take effect immediately after its approval. The Local Board's Executive Director will be responsible for informing the personnel as soon as it is approved. This Public Policy nullifies any other public policy, procedure, or written communication, completely or partly, that is valid at the time of this Public Policy approval.

For the record, I hereby sign the present in Humacao, Puerto Rico, on April 1, 2020.

[Signed]

Jesús Delgado Morales
President
Local Labor Development Board

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