

Department of Health and Human Services
Office of Inspector General



Office of Audit Services

November 2024 | A-02-24-01002

Puerto Rico Did Not Designate a Medicaid Contracts Oversight Lead in a Timely Manner and Certified Contracts That Were Noncompliant



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Why OIG Did This Audit

- In 2021, the Government Accountability Office found that most of Puerto Rico's Medicaid contract procurements that it reviewed against Federal procurement standards did not include important steps to promote competition and mitigate the risk for fraud, waste, and abuse.
- The Consolidated Appropriations Act, 2023 (the Act) required Puerto Rico to improve its Medicaid procurement oversight by designating a contracting and procurement Oversight Lead and certifying to HHS whether its Medicaid contracts complied with Federal procurement standards. The Act also mandated that OIG report on Puerto Rico's compliance with these oversight and certification requirements.
- This audit assessed whether Puerto Rico complied with Federal contracting and procurement oversight requirements applicable to its Medicaid program.

What OIG Found

Puerto Rico partially complied with Federal contracting and procurement oversight requirements applicable to its Medicaid program. Specifically, Puerto Rico submitted a timely certification to HHS regarding its Medicaid-funded contracting activities; however, it did not designate an Oversight Lead in a timely manner. In addition, Puerto Rico certified three contracts that did not meet Federal standards related to competitive procurement.

What OIG Recommends

We recommend that Puerto Rico: (1) update its contracting and procurement oversight policies and procedures to conform to Federal procurement standards—including policies and procedures related to contracts for leases, goods, and nonprofessional services—and to address the role of the Oversight Lead and the certification process, and (2) provide training to staff on policies and procedures.

Puerto Rico did not indicate concurrence or nonconcurrence with our recommendations but detailed steps it has taken and plans to take to address them.

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INTRODUCTION

WHY WE DID THIS AUDIT

Various Federal entities have identified issues related to Puerto Rico's procurement process using Medicaid funds. In 2020, the Department of Health and Human Services (HHS), Office of Inspector General (OIG) completed a risk assessment of Puerto Rico's Medicaid program that assessed its contracting as a high-risk area due to then-recent arrests, referrals, and investigations related to contracting fraud.¹ In 2021, the Government Accountability Office (GAO) found that most of Puerto Rico's Medicaid procurement transactions that it reviewed did not include important steps to promote competition and mitigate the risk for fraud, waste, and abuse.²

The Consolidated Appropriations Act, 2023 (P.L. No. 117-328) (the Act) required Puerto Rico to take certain actions to strengthen its Medicaid program integrity. The Act also required OIG to report on Puerto Rico's compliance with certain provisions of the Act.

OBJECTIVE

The objective of our audit was to determine whether the Puerto Rico Department of Health (the Health Department) complied with Federal contracting and procurement oversight requirements applicable to its Medicaid program.

BACKGROUND

Medicaid Program

The Medicaid program provides medical assistance to certain low-income individuals and individuals with disabilities (Title XIX of the Social Security Act). The Federal and State Governments jointly fund and administer the Medicaid program. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the program. Each State administers its Medicaid program in accordance with a CMS-approved State plan.³ Although a State has considerable flexibility in designing and operating its Medicaid program, it must comply with Federal requirements.

¹ *Risk Assessment of Puerto Rico Medicaid Program* ([A-02-20-01011](#)) Dec. 11, 2020.

² GAO, *Medicaid: CMS Needs to Implement Risk-Based Oversight of Puerto Rico's Procurement Process*, February 2021. Available online at <https://www.gao.gov/assets/d21229.pdf>. Accessed on October 3, 2024.

³ The Commonwealth of Puerto Rico is considered a State for the purposes of Medicaid, unless otherwise indicated (Social Security Act § 1101(a)(1)).

Puerto Rico’s Medicaid Managed Care Program

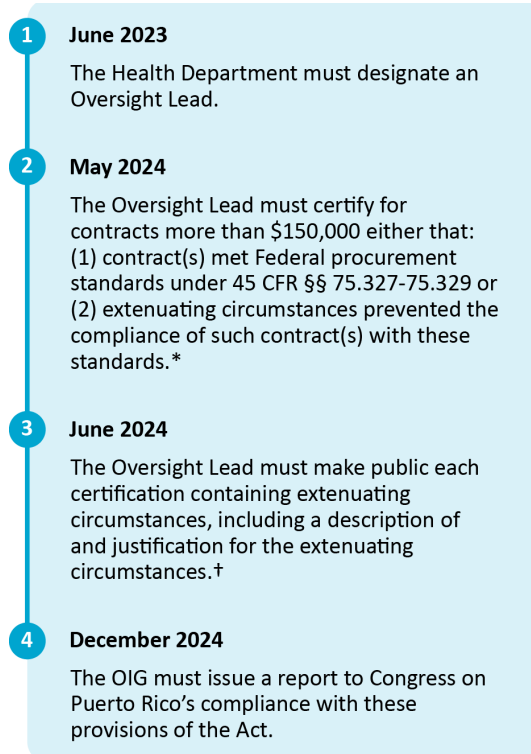
In Puerto Rico, the Health Department administers the Medicaid program. The Puerto Rico Health Insurance Administration (referred to by its Spanish acronym ASES) administers the islandwide government health care delivery system, which includes Medicaid.⁴ Both entities procure and administer contracts using Federal Medicaid funds.

Congressional Actions Related to Puerto Rico’s Medicaid Contracting

The Further Consolidated Appropriations Act, 2020 (P.L. No. 116-94) required Puerto Rico to publish a Medicaid contracting reform plan and to publicly release status reports on the plan. It also required GAO to report on CMS’s oversight of Puerto Rico’s Medicaid procurement process and its use of competition. Subsequently, the Consolidated Appropriations Act, 2022 (P.L. No. 117-103) required Puerto Rico to report to Congress on its procurement processes and standards used for selecting contracts under its Medicaid program. In the report, Puerto Rico was required to include differences between these processes and standards and Federal procurement standards.⁵

Most recently, the Consolidated Appropriations Act, 2023 (P.L. No. 117-328) (the Act) provided more than \$19 billion in funds to Puerto Rico’s Medicaid program and extended an increased Federal match rate until the end of fiscal year 2027. The Act required Puerto Rico to complete certain actions, described in Figure 1, within specified periods to strengthen its Medicaid program integrity.

Figure 1: Timeline of Consolidated Appropriations Act, 2023 Requirements



* Certifications must be submitted to the HHS Secretary within 60 days after the end of each fiscal quarter, beginning with the first quarter of calendar year (CY) 2024.

† Publication of certifications containing extenuating circumstances are due within 30 days from the certification.

⁴ ASES was established by law to oversee, monitor, and evaluate services offered by contracted Medicaid managed care organizations. It is a public corporation overseen and monitored by a board of directors.

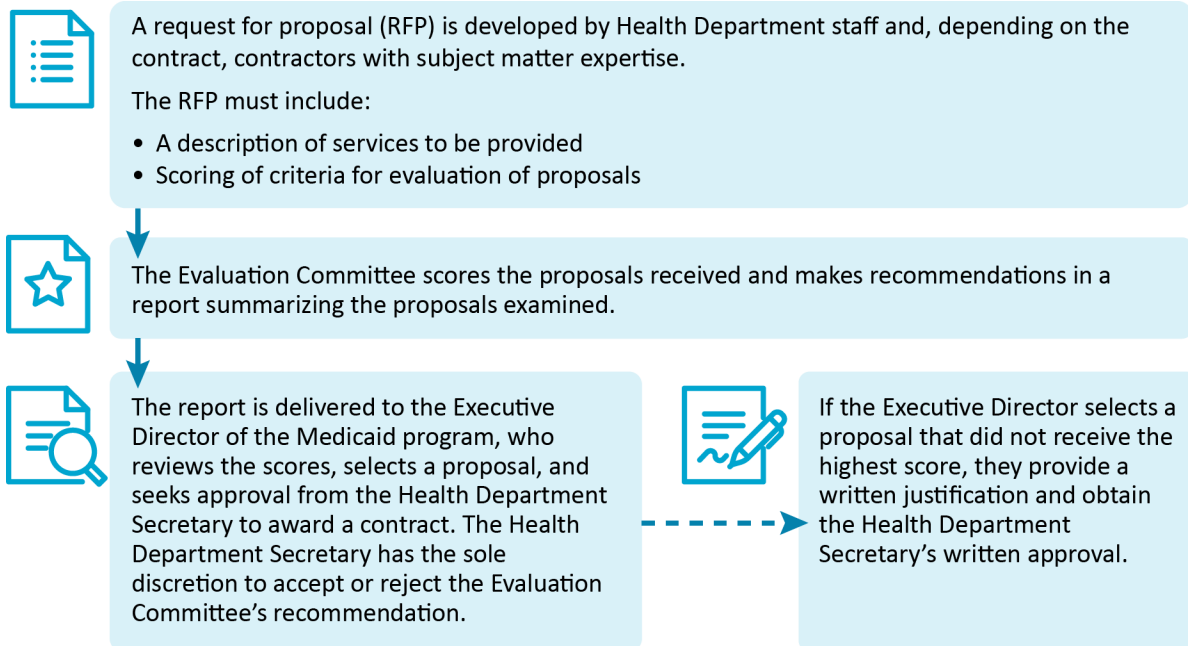
⁵ The Federal procurement standards (as described in 45 CFR §§ 75.327-75.329) seek to ensure that non-Federal entities (other than a State or territory) comply with written procurement standards in accordance with State and local laws and regulations that must include areas such as conflict of interest, recordkeeping, and competitive and noncompetitive procurement procedures.

The Health Department’s Medicaid Procurement and Contracts Processes

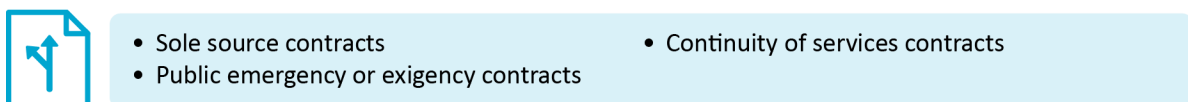
To comply with the Medicaid contracting reform requirements set forth in the appropriations laws of 2020 and 2022 described above,⁶ the Health Department developed its “Contracting Transparency, Non-Competitive Procurement & Competitive Bid Evaluation Process” standard operating procedures (SOPs). The SOPs were approved by the Medicaid program’s Executive Director in June 2022. The document is primarily focused on describing the Health Department’s procurement processes for service contracts and serves as a training document for new and existing staff, a reference document, and a checklist to demonstrate compliance with Federal Medicaid contracting requirements.

The Health Department uses Medicaid funds to award contracts for professional services, nonprofessional services and goods, and office space leases. A summary of procurement processes is provided below in Figures 2 through 4 and detailed in Appendix B. Contracts are procured by Health Department staff and approved by the Secretary of the Health Department. Any contract valued at \$10 million or more must also be approved by Puerto Rico’s Fiscal Oversight Management Board.

Figure 2: Medicaid Professional Services Contracts – Competitive Procurements



Exceptions From Competitive Procurement for Contracts More Than \$150,000



⁶ Specifically, the Further Consolidated Appropriations Act, 2020 and the Consolidated Appropriations Act, 2022.

Figure 3: Medicaid Nonprofessional Services and Goods Contracts

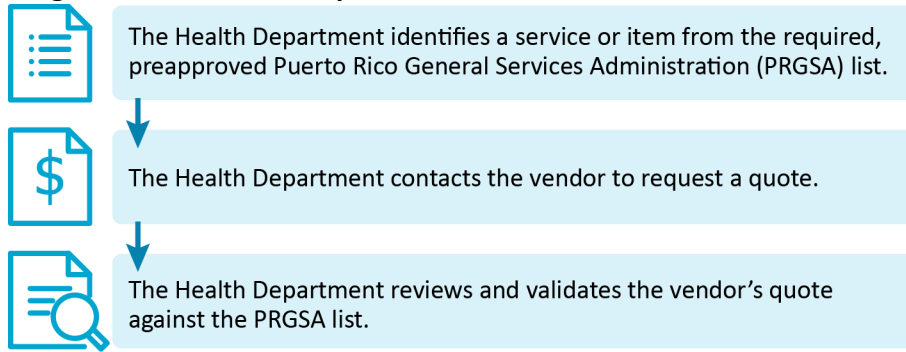
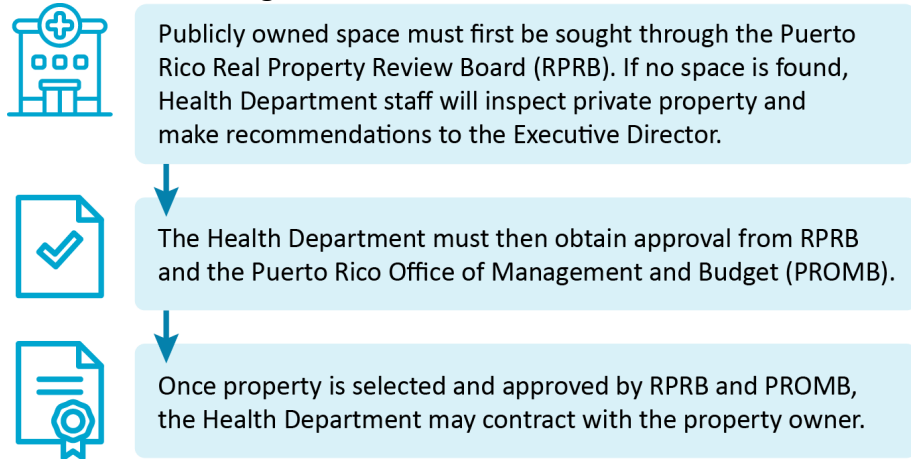


Figure 4: Medicaid Lease Contracts



HOW WE CONDUCTED THIS AUDIT

Our audit covered the Health Department’s certification to the HHS Secretary for the first quarter of calendar year (CY) 2024. This certification included five contracts greater than \$150,000, totaling \$5,802,696. Specifically, we reviewed the Health Department’s oversight of its procurement processes and supporting documentation related to its designation of an Oversight Lead and its certification to HHS.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix A contains the details of our audit scope and methodology.

FINDINGS

The Health Department did not fully comply with Federal contracting and procurement oversight requirements applicable to its Medicaid program. Specifically, the Health Department submitted a timely certification to HHS that included five Medicaid-funded covered contracts;⁷ however, it did not designate an Oversight Lead in a timely manner. In addition, the Health Department certified three contracts that did not meet Federal standards related to competitive procurement.

This occurred because the Health Department's policies and procedures did not conform to or address all required Federal standards for competitive procurement. As a result, the Health Department did not mitigate the risk of fraud, waste, and abuse or ensure fair competition.

THE HEALTH DEPARTMENT SUBMITTED A TIMELY CERTIFICATION FOR COVERED CONTRACTS TO HHS

The Act required the Oversight Lead to certify to the HHS Secretary that, within 60 days after the end of the quarter, covered contracts: (1) met the Federal procurement standards under 45 CFR §§ 75.327-75.329 or (2) did not meet these standards due to extenuating circumstances (The Act § 5101(e)(2), adding 42 U.S.C. 1308(g)(7)(A)(v)(II)).

The Health Department submitted a timely certification to the HHS Secretary regarding five covered contracts. Appendix C contains the Health Department's certification to the HHS Secretary for the first quarter of CY 2024.

THE HEALTH DEPARTMENT DID NOT DESIGNATE AN OVERSIGHT LEAD IN A TIMELY MANNER

The Act required the Health Department to designate an officer (other than the Director of the Health Department) to serve as the Oversight Lead not later than 6 months after enactment of the Act (i.e., by June 29, 2023) (The Act § 5101(e)(2)).

The Health Department did not comply with the June 29, 2023, deadline established by the Act to designate an Oversight Lead. Specifically, the Health Department designated an Oversight Lead on September 5, 2023—68 days after the deadline. The Health Department indicated that it did not designate an Oversight Lead in a timely manner because the individual selected for the role previously held another position within the Health Department and the Health Department had to recruit a substitute for his previous position before designating him as Oversight Lead.

⁷ We refer to contracts with an annual value of more than \$150,000 as "covered contracts."

THREE COVERED CONTRACTS IN THE HEALTH DEPARTMENT’S CERTIFICATION TO HHS DID NOT MEET FEDERAL STANDARDS RELATED TO COMPETITIVE PROCUREMENT

The Act required the Oversight Lead to certify to the HHS Secretary that covered contracts: (1) met the Federal procurement standards under 45 CFR §§ 75.327-75.329 or (2) did not meet these standards due to extenuating circumstances (The Act § 5101(e)(2)). Federal regulations require the Health Department to establish and maintain effective internal controls that provide reasonable assurance of compliance with Federal statutes and regulations (45 CFR § 75.303(a)). Further, the Health Department is required to use its own documented procurement procedures, provided that the procurements conform to applicable Federal law and standards (45 CFR § 75.327(a)). Noncompetitive procurement may be used only when certain circumstances apply (45 CFR § 75.329(f)).

The Health Department certified that five covered contracts met Federal procurement standards or followed local law or regulation that conformed to Federal standards. However, the procurements for three of the five contracts did not meet Federal standards for competitive procurement. Specifically:

- One of three covered contracts related to professional services was an amendment awarded using noncompetitive procurement. The exception identified to justify using a noncompetitive procurement was continuity-of-services, which was allowed under local regulations. However, this is not an exception under Federal procurement standards.⁸
- The Health Department awarded two covered contracts related to leases using a noncompetitive procurement and did not document whether any of the exceptions under Federal procurement standards applied. The Health Department stated in its certification to the HHS Secretary that Federal procurement standards do not apply to leases and stated that it complied with local laws that “conform to the purpose” of Federal standards. However, lease contracts are not excluded from Federal procurement requirements.

The Health Department certified contracts for which procurements did not meet Federal standards because its policies and procedures did not conform to or address all required Federal standards for competitive procurement, including procedures for documenting exceptions and the rationale for using noncompetitive procurement.

In addition, we identified other internal control deficiencies that could also prevent the Health Department from complying with Federal procurement standards in the future. (Appendix D

⁸ For the two remaining covered contracts that the Health Department certified met Federal procurement standards, we did not identify specific noncompliance with these standards. However, because of the deficiencies in the Health Department’s internal controls described in this report, we could not determine whether the contracts met all Federal procurement standards.

describes these deficiencies and summarizes the corresponding Federal procurement standards.) The Health Department designed its written policies and procedures to primarily focus on service contracts. Specifically, the Health Department did not have procedures for office space leases and ASES's covered contracts and lacked procedures that addressed compliance with Federal procurement standards for goods and nonprofessional services contracts. Further the Health Department's written policies and procedures did not address the Oversight Lead's role and the Health Department's certification process. The Health Department indicated that the SOPs serve as a training document and that they were shared with the staff. The Health Department also stated that on-the-job training is provided to staff through participation in the procurement process. However, there was no formal training on the SOPs and the Health Department's staff did not always follow them.

CONCLUSION

The Health Department did not fully comply with Federal contracting and procurement oversight requirements applicable to its Medicaid program. While the Health Department certified its covered contracts to the HHS Secretary in a timely manner, it did not designate an Oversight Lead within the required timeframe. In addition, the Health Department certified three contracts that did not meet Federal standards related to competitive procurement. This occurred because the Health Department's policies and procedures did not conform to or address all Federal procurement standards. As a result, the Health Department did not mitigate the risk of fraud, waste, and abuse or ensure fair competition.

RECOMMENDATIONS

We recommend that the Puerto Rico Department of Health:

- update its policies and procedures to conform to Federal procurement standards—including policies and procedures related to contracts for leases, goods, and nonprofessional services—and to address the role of the Oversight Lead and the certification process, and
- provide training to staff on policies and procedures.

HEALTH DEPARTMENT COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the Health Department disagreed with our finding regarding when it designated an Oversight Lead and did not indicate concurrence or nonconcurrence with our recommendations, but it did detail steps that it has taken and plans to take to address them. After reviewing the Health Department's comments, we maintain that our findings and recommendations are valid. We acknowledge the Health Department's actions it has taken or plans to take to address our recommendations.

A summary of the Health Department’s comments and our responses follows. The Health Department’s comments are included in their entirety as Appendix E.

THE HEALTH DEPARTMENT DID NOT DESIGNATE AN OVERSIGHT LEAD IN A TIMELY MANNER

Health Department Comments

The Health Department disagreed with our finding that it designated an Oversight Lead on September 5, 2023. Specifically, it stated that the Oversight Lead began to fulfill the responsibilities of the position on July 26, 2023, when he joined the Puerto Rico Medicaid Program. The Health Department further stated that the Oversight Lead was designated to fulfill the position’s duties on August 3, 2023, with an effective date of July 26, 2023. According to the Health Department, its late designation of an Oversight Lead did not impact the Oversight Lead’s required duties and it submitted a timely certification for covered contracts to the HHS Secretary.

Office of Inspector General Response

We maintain that the Health Department did not designate an Oversight Lead in a timely manner. On August 3, 2023, the current Oversight Lead was appointed as a “Special Assistant” to the Puerto Rico Medicaid Program with an effective date of July 26, 2023. Even though Puerto Rico Medicaid Program staff indicated that the designation was made for the individual to fulfill the duties of an Oversight Lead, the individual’s appointment letter did not provide details on their duties. On September 5, 2023, the Puerto Rico Medicaid Executive Director designated the individual as the Oversight Lead of the Procurement Oversight Unit, which was created on the same day, to comply with the Act. As indicated in the report, the Act required Puerto Rico to designate an officer to serve as the Oversight Lead by June 29, 2023; therefore, the appointment and designation were not made in a timely manner. Therefore, we maintain that our finding is valid.

THREE COVERED CONTRACTS IN THE HEALTH DEPARTMENT’S CERTIFICATION TO HHS DID NOT MEET FEDERAL STANDARDS RELATED TO COMPETITIVE PROCUREMENT

Health Department Comments

The Health Department agreed that continuity-of-services (the exception identified to justify using noncompetitive procurement for one covered contract) is not an exception under Federal procurement standards. The Health Department stated that the intent of the covered contract was to add funds and update services within the scope of work of an existing contract—not to extend the final date of the contract. The Health Department stated that it understands that local regulations mostly allow the use of this exception when it extends the validity of the original contract to add time to fulfill the duties of the contract. Nevertheless, the Health Department realized that to add funds and update services within the scope of work could also

be considered continuity-of-services. The Health Department stated that it plans to remove continuity-of-services as an allowed exception for future covered contracts.

The Health Department also indicated that the covered contract should have been considered under the category of extenuating circumstances and that should have been reflected in the Health Department's certification to HHS, as required by the Act.⁹

Regarding the two covered contracts related to leases, the Health Department described the process it followed as required by 2014 P.R. Law 235 and compared it with requirements established in 2 CFR § 200.465. In addition, the Health Department indicated that, in its future certifications to HHS, it will not assess this type of contract as being in compliance with Federal procurement standards. The Health Department further stated that it will update its policies and procedures to include a competitive process for leases that complies with 45 CFR § 75.329.

Finally, the Health Department indicated that the agency, as well as ASES,¹⁰ are in the process of revising their respective SOPs—to assure that they comply with applicable Federal procurement standards and to address the internal control deficiencies identified in our report—and described some of these revisions.¹¹

Office of Inspector General Response

Based on our review of the Health Department's comments, we agree that the covered contract described in the report could have been identified as not meeting Federal procurement standards due to extenuating circumstances (an allowed exception) in the Health Department's certification to the HHS Secretary.

We reviewed the Health Department's planned actions and believe they will address most of the recommendations and internal controls deficiencies identified in our report. We recognize that ASES is in the process of revising its SOPs to align with Federal procurement standards;

⁹ The Health Department explained that the original contract was made for IT services related to the development and implementation of the technological platform used in the operation of the government health plan program. During the implementation stages of the Health Department's Puerto Rico Medicaid Management Information System, several situations surfaced that required immediate attention to avoid disruption of government health plan program operations and to continue making payments to managed care organizations. The Health Department stated that, given the contractor's in-depth knowledge, expertise, and prior experience with this platform, it was uniquely situated to resolve this issue. According to the Health Department, failure to address this critical situation would have impacted the sustainability of the Medicaid program. Therefore, it was critical to award an amendment for additional funds without the delays of a procurement process.

¹⁰ The Health Department indicated that ASES had adopted its own SOPs for the acquisition of goods and nonprofessional services and for its competitive and noncompetitive process that were aligned with Federal procurement standards.

¹¹ The Health Department also stated that ASES's revisions would include annual training on procurement and contracting processes.

however, we maintain that the Health Department must develop its own procedures to ensure that it receives all the information needed to assess and accurately certify the status of compliance for ASES Medicaid-funded covered contracts. Further, we note that the Health Department did not describe corrective actions to: (1) implement the checklist it designed to document compliance with SOPs or (2) create a process to ensure that contractors that develop or draft request for proposals, or related documentation, are excluded from competing in such procurements. Also, although the Health Department stated that ASES is planning to implement training for ASES staff on procurement and contracting processes, the Health Department did not indicate its own plans to provide similar training to Health Department staff.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

Our audit covered the Health Department's certification to the HHS Secretary for the first quarter of CY 2024, which included five contracts greater than \$150,000, totaling \$5,802,696.

We did not assess the overall internal control structure of the Health Department or Puerto Rico's Medicaid program. Rather, we reviewed only those internal controls that relate to the Health Department's compliance with Federal contracting and procurement oversight requirements applicable to its Medicaid program.

We conducted our audit work from October 2023 through September 2024.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal and Commonwealth procurement standards;
- provided written questions to, reviewed responses from, and met with CMS officials to assess their oversight over Puerto Rico's procurement process using Medicaid funds;
- provided written questions to, reviewed responses from, and met with the Health Department's and ASES's personnel responsible for procurement and contracting activities to obtain an understanding of internal controls over the procurement process using Medicaid funds;
- reviewed documentation related to the designation of an Oversight Lead to determine whether it was completed by the Health Department within the timeframe required by the Act;
- reviewed the written policies and procedures for the procurement process to determine whether the Health Department's oversight provided adequate assurance that its contracts complied with Federal procurement standards;
- obtained from the Health Department and ASES lists of covered contracts entered into during the first quarter of CY 2024 and obtained reasonable assurance of completeness of these lists by comparing them to the Puerto Rico Comptroller's Office contracts lists for the same period;
- reviewed supporting documentation for covered contracts to determine whether they met Federal standards for procurement;

- reviewed the Oversight Lead’s certification to determine compliance with the Act’s reporting requirements (i.e., completeness and timeframe to submit the certification) and to identify whether extenuating circumstances that prevented compliance with Federal procurement standards were included; and
- discussed our results with Health Department officials.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX B: THE HEALTH DEPARTMENT'S MEDICAID PROCUREMENT AND CONTRACTS PROCESSES

MEDICAID PROFESSIONAL SERVICES CONTRACTS – COMPETITIVE PROCUREMENTS

The procurement process for Medicaid-related professional services begins when a Health Department unit identifies a need that can be met by procuring products or services.¹² Generally, professional services contracts totaling more than \$150,000 must be procured competitively. The procurement process must begin with a request for proposal (RFP).¹³

To score a contract proposal, the Health Department obtains signed “Non-Disclosure and Confidentiality Agreements and Non-Conflict of Interest Attestations” from all members of the Evaluation Committee.¹⁴ Health Department employees and decisionmakers are prohibited from participating in the selection, award, or administration of a contract for which they have a real or apparent conflict of interest.¹⁵

The Evaluation Committee scores proposals received based on criteria defined in the RFP and makes recommendations to the Health Department Secretary in a report summarizing the proposals examined. The report is first delivered to the Executive Director of the Medicaid program, who reviews the Evaluation Committee’s rankings, selects a proposal, and seeks approval from the Health Department’s Secretary to award a contract.¹⁶ The Health Department Secretary has the sole discretion to accept or reject the Evaluation Committee’s recommendation.

¹² To prevent a person who would be performing functions already covered by a government position from being hired through a professional services contract, the Health Department’s Human Resources Office verifies and certifies all personal and/or individual professional services contracts for compliance purposes.

¹³ An RFP is developed by Health Department staff and, depending on the contract, contractors with subject matter expertise. The Health Department does not have a process to ensure that contractors assisting with the development of the RFP do not also participate in the related procurement process.

¹⁴ This document is not required for employees engaged in noncompetitive procurements or additional staff that might be engaged in the selection, award, and administration of contracts.

¹⁵ The Health Department Secretary or its representative certify in contracts and/or procurement documentation compliance with Puerto Rico laws regarding conflict of interest for Health Department officials and employees. However, other than the non-conflict of interest attestation obtained from the Evaluation Committee members, no other process is described in the SOPs to ensure that the attestation is obtained from all employees engaged in the selection, award, and administration of contracts.

¹⁶ If the Executive Director selects a proposal that did not receive the highest score, they provide a written justification and obtain the Health Department Secretary’s written approval. The Health Department’s SOPs do not provide guidance on the information required in the written justification to demonstrate compliance with Federal procurement standards.

MEDICAID PROFESSIONAL SERVICES CONTRACTS – EXCEPTIONS FROM COMPETITIVE PROCUREMENT

The Health Department follows noncompetitive procurement processes for Medicaid professional services contracts less than \$150,000 that are not complex or technical, or if a service contract is necessary to deal with an emergency. The Health Department's SOPs provide for three exceptions to competitive procurement processes for contracts greater than \$150,000:¹⁷

- Sole Source Contracts: Selected when contractors possess highly technical knowledge.
- Emergency/Public Exigency Contracts: Selected when services are required before a competitive procurement can be carried out.¹⁸
- Continuity-of-Services Contracts: Selected when continuity of service is required to fulfill the purposes of an original contract.¹⁹

MEDICAID NONPROFESSIONAL SERVICES AND GOODS CONTRACTS

To procure nonprofessional services and goods, Puerto Rico government entities (including the Health Department) must select from a preapproved list of vendors from the Puerto Rico General Services Administration (PRGSA), in accordance with the 2019 P.R. Laws 73. The process begins when the Health Department identifies a service or item from the PRGSA list and contacts the preapproved vendor to request a quote. The Health Department reviews and validates the vendor's quote against the PRGSA list for accuracy.

MEDICAID LEASE CONTRACTS

Puerto Rico requires all agencies seeking to lease office space, including the Health Department, to identify if publicly owned property is available through the Puerto Rico Real Property Review Board (RPRB).²⁰ If space is not identified through RPRB, Health Department staff will inspect private property and make recommendations to the Executive Director.

¹⁷ Contracts for professional services greater than \$150,000 procured noncompetitively require an explanation described in what is known as a justification letter. For contracts valued at \$250,000 or more, the Health Department Secretary or the entity they delegate must issue a written justification and send a copy to the Director of the Puerto Rico Office of Management and Budget (PROMB) for their approval.

¹⁸ The first two exceptions conform with Federal procurement standards included in 45 CFR § 75.329(f).

¹⁹ This exception is allowable under local requirements (i.e., Puerto Rico Governor's Executive Order 2021-029, PROMB's Circular Letter 013-2021, and the Health Department's Administrative Order No. 581). However, this circumstance is not among the exceptions included in 45 CFR § 75.329(f).

²⁰ Information on available property must be certified by the Puerto Rico Public Buildings Authority.

Prior to entering into a real property lease contract, the Health Department must obtain approval from RPRB and the Puerto Rico Office of Management and Budget (PROMB), in accordance with 2014 P.R. Laws 235 and RPRB's Circular Letter 001-2021. Once a property is selected and approved by RPRB and PROMB, the Health Department may contract with the property owner.

**APPENDIX C: HEALTH DEPARTMENT'S CERTIFICATION TO THE HHS SECRETARY
FOR THE FIRST QUARTER OF CALENDAR YEAR 2024**



DEPARTMENT OF HEALTH

Puerto Rico Medicaid Program

May 16, 2024

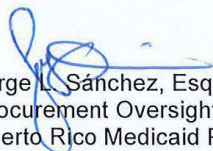
Via Certified Mail: 9589-0710-5270-0502-4497-55

Honorable Xavier Becerra
Secretary
Department of Health and Human Services
200 Independence Avenue, SW
Washington DC, 20201

Dear Secretary Becerra:

Pursuant to 42 U.S.C. 1308(g)(7)(A)(v)(II) and (III), the Commonwealth of Puerto Rico, certifies that contracts listed in the attached Certification were issued by the Administration of the Puerto Rico Medicaid Program during the period of January 1st, 2024 thru March 31, 2024 and to the best of our knowledge and efforts have met the procurement standards set forth in Sections 75.327, 75.328 and 75.329 of 45 CFR, except as indicated.

Respectfully,


Jorge L. Sánchez, Esq.
Procurement Oversight Lead
Puerto Rico Medicaid Program



DEPARTMENT OF HEALTH

Puerto Rico Medicaid Program

CERTIFICATION

Pursuant to 42 U.S.C. 1308(g)(7)(A)(v)(II) and (III), the Commonwealth of Puerto Rico certifies to the Honorable Xavier Becerra, Secretary of the Department of Health and Human Services, that contracts listed below issued by the Administration of the Puerto Rico Medicaid Program during the period of January 1st, 2024 thru March 31, 2024 to the best of our knowledge and efforts have met the procurement standards set forth in Sections 75.327, 75.328 and 75.329 of 45 CFR, except as indicated.

The Puerto Rico Department of Health (PRDoH) is the State Medicaid Agency (SMA) within the Commonwealth of Puerto Rico. Within PRDoH, the Puerto Rico Medicaid Program (PRMP) is responsible for the management of the Medicaid Program and the Puerto Rico Medicaid Enterprise System (PRMES). The Puerto Rico Health Insurance Act (PRHIA) created the Puerto Rico Health Insurance Administration (ASES for its Spanish acronym), which has a memorandum of understanding with the PRMP and is responsible for contracting with, and monitoring services provided by, the Managed Care Organizations (MCOs) and other carriers.

Puerto Rico Health Insurance Administration (ASES)				
Vendor	Contract number	Contract period	Amount	Note
First Medical Health Plan, Inc.	2023-000047D	10/1/2023 – 2/29/2024	0	1
First Medical Health Plan, Inc.	2023-000047E	10/1/2023 – 3/31/2024	0	1
First Medical Health Plan, Inc.	2023-000047F	10/1/2023 – 4/30/2024	0	1
MMM Multihealth, LLC	2023-000045D	10/1/2023 – 2/29/2024	0	1
MMM Multihealth, LLC	2023-000045E	10/1/2023 – 3/31/2024	0	1
MMM Multihealth, LLC	2023-000045F	10/1/2023 – 4/30/2024	0	1
Plan de Salud Menonita, Inc.	2023-000044D	10/1/2023 – 2/29/2024	0	1
Plan de Salud Menonita, Inc.	2023-000044E	10/1/2023 – 3/31/2024	0	1
Plan de Salud Menonita, Inc.	2023-000044E	10/1/2023 – 4/30/2024	0	1
Triple-S Salud, Inc.	2023-000046D	10/1/2023 – 2/29/2024	0	1
Triple-S Salud, Inc.	2023-000046E	10/1/2023 – 3/31/2024	0	1
Triple-S Salud, Inc.	2023-000046F	10/1/2023 – 4/30/2024	0	1
Citriom, LLC	2024-000008A	2/15/2024 – 6/30/2024	\$1,088,000	2

Puerto Rico Medicaid Program				
Vendor	Contract number	Contract period	Amount	Note
Publicidad Tere Suarez, LLC	2024-DS3772	1/29/2024 – 3/30/2024	\$3,000,000	3
Bridgewater Consulting Group, Inc.	2024-DS3856	2/13/2024 – 9/30/2024	\$499,482	3
Mundo Editorial, Inc.	2024-DS3465A	12/4/2023 – 3/30/2024	0	4
Epifanio Vidal, SE	2024-DS3664	3/1/2024 – 2/28/2029	\$845,298	5
3 Ríos LTD, Corp.	2022-DS0503A	3/10/2024 – 6/31/2026	\$369,916	5

Color indication:

- Contracts have met procurement standards identified under any of Sections 45 CFR 75.327 – 329.
- Refers to contracts that have met procurement standards under local law or regulation.
- Extenuating circumstances prevented compliance with 75.327 – 329 procurement standards.

Notes:

1 – Refers to amendments to contracts with MCOs who provide health services for persons eligible for Medicaid and other enrollees of the Puerto Rico Government Health Plan Program known as “Plan Vital”. Original contracts signed in 2022 were preceded by the Request for Proposal PSG-RFP2018.

2 – Contract 2024-000008A refers to an amendment to contract with the same number for IT professional services related to the healthcare platform and technologies for the Vital Program and Medicare Platino. Original contract was preceded by the Request for Professional Services NNSP 2023-011 awarded on July 3, 2023.

3 – Contract 2024-DS3772 refers to publicity services related to the unwinding process and was preceded by the Request for Proposal 2023-PRMP-RPC-008 awarded on November 21, 2023. Contract 2024-DS3856 refers to the HIT environmental scan and was preceded by the Request for Proposal 2023-PRMP-HIT-006 awarded on October 19, 2023.

4 – Contract 2024-DS3465A refers to an amendment to contract with the same number, which was preceded by the request for proposal 2023-PRMP-HIT-006 awarded on October 19, 2023. The amendment had no budgetary impact, for its purpose was the extension of its time of validity so that vendor could continue providing professional services related to the unwinding process.

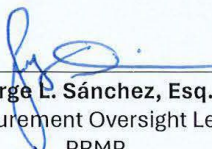
5 – In our opinion 45 CFR 75.327 – 45 CFR 75.329 do not provide a circumstance that applies to the nature of real-estate’s acquisition. Local law, nevertheless, provides dispositions that conform to the purpose of 45 CFR 75.327 – 45 CFR 75.329.

Puerto Rico Law Number 235/2014 establishes as public policy that government agencies looking for real property must give priority to available public real property before opting for a private lease or purchase. It also creates an inventory of available localities, and the Real Property Revisory Board of the Government of Puerto Rico (JRPI for its Spanish acronym). This entity has the responsibility of authorizing all governments’ private leasing or purchase of real property.

The cited law states that no agency can proceed with a private lease or purchase without previous authorization from the Revisory Board. To receive authorization, (1) the agency must show evidence that no public facility meeting the requirements is available, and (2) provide an appraisal study of the desired real property from a licensed appraiser. Other administrative requirements are detailed in Carta Circular Núm. (Circular Letter No.) 001-2021 issued by the Revisory Board.

Contract 2024-DS3664 refers to an extension of a lease contract for an additional period of five years; whereas contract 2022-DS0503A refers to the lease of additional space due to operational necessity (original contract expires on June 31, 2026). For both PRMP received the Revisory Board’s authorization to proceed with the identified leases. According to the desired size and location, PRMP did not find a vacant public facility, and proceeded with the consideration of available private real properties within the areas. To verify that landlords’ prices and conditions were in accordance with market’s fair value and standards PRMP obtained the corresponding appraisals.

Given today May 16, 2024, in San Juan, Puerto Rico.



Jorge L. Sánchez, Esq.
Procurement Oversight Lead
PRMP

**APPENDIX D: FEDERAL PROCUREMENT STANDARDS AND
CORRESPONDING INTERNAL CONTROL DEFICIENCIES**

Federal regulations require the Health Department to establish and maintain effective internal controls that provide reasonable assurance of compliance with Federal statutes and regulations (45 CFR § 75.303(a)). The table below summarizes the Federal procurement standards and describes the internal control deficiencies we identified for each.

Federal Procurement Standard	Description of Internal Control Deficiency
<p>45 CFR § 75.327(a): The Non-Federal entity must use its own documented procurement procedures, provided that the procurements conform to applicable Federal law and the standards identified in 45 CFR part 75.</p>	<p>The Health Department’s SOPs did not address the Oversight Lead role and its certification process of compliance with Federal procurement standards.</p>
<p>45 CFR § 75.327(a)</p>	<p>The Health Department did not have procedures for ASES Medicaid-funded covered contracts and lacked procedures that addressed compliance with Federal procurement standards for nonprofessional services and goods contracts.</p>
<p>45 CFR § 75.327(a)</p>	<p>The Health Department lacked controls to determine the method of procurement to be used to identify property for lease when publicly owned property is not available. The Health Department’s policies and procedures did not address all Federal procurement requirements for competitive procurement. Specifically, they did not specify how to document whether one of the Federal procurement standards’ exceptions from competitive procurement applied.</p>
<p>45 CFR § 75.327(a)</p>	<p>The Health Department did not implement a process to ensure that the detailed checklist it designed to document compliance with the SOPs is completed.</p>
<p>45 CFR § 75.327(b): Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.</p>	<p>Even though contracts may include clauses for termination due to noncompliance, the Health Department lacked controls to ensure that it maintains oversight of contractors’ compliance with contract terms, conditions, and specifications. The contracts do not specify who will be performing the oversight or describe the actions the agency will take to perform the oversight. The SOPs describe controls to ensure oversight of compliance with the procurement processes but do not include processes to perform oversight of contractors.</p>

Federal Procurement Standard	Description of Internal Control Deficiency
<p>45 CFR § 75.327(c)(1): The Non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. These standards must provide for disciplinary actions to be applied for violations of such standards.</p>	<p>The Health Department obtains non-conflict-of-interest attestations from Evaluation Committee members. However, it lacked a process to ensure that the attestation is obtained from <i>all</i> employees engaged in the selection, award, and administration of contracts. Further, it did not implement a process to ensure that a non-conflict-of-interest certification is completed for all procurements.</p>
<p>45 CFR § 75.328(a): To ensure full and open competition, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements.</p>	<p>The Health Department lacked a process to ensure that contractors that develop or draft RFPs, or related documentation, were excluded from competing in such procurements.</p>
<p>45 CFR § 75.329(d): If procurement by competitive proposals is used:</p> <ul style="list-style-type: none"> (1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance; (2) Proposals must be solicited from an adequate number of qualified sources; (3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients; and (4) Contracts must be awarded to a proposal that is most advantageous to the program. 	<p>The Health Department allows its Secretary or the Medicaid program’s Executive Director to potentially reject an Evaluation Committee recommendation without documenting compliance with Federal procurement requirements.</p>
<p>45 CFR § 75.329(f): Procurement by noncompetitive proposals may be used only when one or more of the following circumstances apply:</p> <ul style="list-style-type: none"> (1) The item is available only from a single source; (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation; (3) The HHS awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or (4) After solicitation of a number of sources, competition is determined inadequate. 	<p>The Health Department allowed the use of noncompetitive proposals for continuity-of-services contracts because local requirements allow for this exception. However, this circumstance was not among the exceptions listed under the Federal standard and the Health Department did not write its SOPs to conform with Federal procurement standards for covered contracts.</p>

APPENDIX E: HEALTH DEPARTMENT COMMENTS



GOVERNMENT OF PUERTO RICO
Department of Health
Office of the Secretary

October 15, 2024

Report Number: A-02-24-01002

Jennifer Webb
Regional Inspector General
for Audit Services
Office of Audit Services, Region II
Jacob K. Javits Federal Building
26 Federal Plaza, Room 3900
New York, NY 10278

Dear Ms. Webb:

The Puerto Rico Department of Health (PRDoH) appreciates the opportunity from the Office of Inspector General (OIG) to review and comment on the draft report *Puerto Rico Did Not Designate a Medicaid Contracts Oversight Lead in a Timely Manner and Certified Contracts That Were Noncompliant*. The findings will be addressed in the same order that were presented in the draft report.

The Health Department Submitted a Timely Certification for Covered Contracts to HHS

Pursuant to the Consolidated Appropriations Act, 2023 (CAA 2023), the PRDoH had the responsibility to designate an officer by June 29, 2023, to serve as the Contracting and Procurement Oversight Lead. This official has the responsibility to certify to the Secretary of the Department of Health and Human Services that contracts with an annual value exceeding \$150,000 either has met the procurement standards identified under any of sections 75.327, 75.328 and 75.329 of title 45 of the Code of Federal Regulations, or that extenuating circumstances prevented compliance with such standards.

The Act states: “Not later than 60 days after the end of each fiscal quarter (beginning with the first fiscal quarter beginning on or after the date that is 1 year after the enactment of this clause)”. It was understood that the first certification required by the Act encompassed the months of January, through March of 2024. Therefore, the PRDoH had until the end of May of 2024 to present the document. As stated in OIG findings, the certification was submitted in a timely manner. The certification was submitted to the Honorable Xavier Becerra via certified mail and emailed to letterstosecretary@hhs.gov. It was also notified to CMS through electronic mail.

Furthermore, as of the date of this writing, the PRDoH’s oversight lead submitted, in a timely manner as well, the certification for the April through June 2024 fiscal quarter, and the corresponding publication of a certification for those contracts that due to extenuating

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circumstances did not comply with the procurement standards indicated above. It is our firm commitment to duly comply with the Act's requirement each fiscal quarter.

The Health Department Did Not Designate an Oversight Lead in a Timely Manner

According to the OIG report, the PRDoH designated the Oversight Lead on September 5, 2023. It is our contention, however, that the Puerto Rico Medicaid Program Oversight Lead began to fulfill the responsibilities of the position on July 26, 2023, when he joined the program. On September 5, 2023, the Puerto Rico Medicaid Program (PRMP) responded to OIG's RFI identification number A-02-23-01015 indicating that on August 3, 2023, Jorge Sanchez, Esq., was designated to fulfill Procurement Oversight Lead duties. Nonetheless, said designation was effective on July 26, 2023.

As noted during the process of OIG's request for information, the replacement process for his previous position as assistant secretary within the PRDoH took a toll and prevented him from joining the program earlier. Nevertheless, it is our understanding that the late designation of the Oversight Lead did not have an impact in the duties required by the CAA 2023. As acknowledged in the OIG findings, the PRDoH did provide its first certification in a timely matter.

Three Covered Contracts in the Health Department's Certification to HHS Did Not Meet Federal Standards Related to Competitive Procurement

This topic includes two findings. For the first one the OIG states that: "One of the three covered contracts related to professional services was an amendment awarded using a noncompetitive procurement. The exception identified to justify using a noncompetitive procurement was continuity-of-services, which was allowed under local regulations. However, this is not an exception under Federal procurement standards." This finding refers to the contract identified as 2024-000008A.

In "Note 2" of the certification, it was stated that the evaluated contract referred to an amendment to a contract that was preceded by a competitive procurement process. Even though local regulations allow for a contract to be amended by virtue of continuity-of-services, our initial understanding was that this regulation mostly allows for the extension of the validity of the original contract in instances in which additional time is necessary to fulfill the duties of the contract. This was not the case, for the intention of the amendment was to add funds and to update services within the SOW related to duties already contracted; not to extend the final date of the contract. Nevertheless, we realized that this could also be another acceptable understanding of "continuity-of-services".

Although we do not intend to contest OIG's conclusion that "continuity-of-services is not an exception under Federal procurement standards", we deem necessary to explain in further detail the purpose of the amendment to the contract and provide a new perspective. The amendment should have been considered under the category of extenuating circumstances. Likewise, the certification should also have been publicized as required by section 5101(e)(2)(III) of the CAA 2023.

The Puerto Rico Health Insurance Administration (ASES for its Spanish acronym) is responsible for contracting with and monitoring the services provided by the Managed Care Organizations (MCOs). Through a competitive process ASES entered into multi-year contracts with the MCOs who provide coverage for persons eligible for Medicaid and other enrollees of the Puerto Rico Government Health Plan Program, Plan Vital. ASES also entered into contracts with Medicare Advantage Organizations with wraparound services (Medicaid Platino) to assist the Medicare and Medicaid dual-eligible population. As indicated in the second certification dated August 20, 2024, the initial contracts provided for yearly amendments related to capitation.

As explained by ASES, through contract 2024-000008 the vendor provides IT services to ASES related to the development and implementation of the Enterprise System (ES) which is the technological platform under which the highly complex operation of Plan Vital and Medicare Platino runs on. The contract provides for the maintenance, continuity and required upgrades to the existing platform, as well as for the development and implementation of the technological structure as required. Nonetheless, during the implementation stages of PRDoH's PRMMIS project in FY 2023-2024, several situations regarding the implementation and execution of 834 file format surfaced, thus requiring immediate attention by ASES to be able to continue making the corresponding premium payments (capitated payments) to the MCOs and avoid a dislocation and disruption of operations of Plan Vital.

Given the contractor's in-depth knowledge, expertise, and prior experience with the ES and the implementation of 834 file format, this contractor was uniquely situated to resolve this issue with the urgency that the same required. While working on 834 file format, the contractor was simultaneously providing general maintenance to the ES and database, critical to the proper operation of ASES, as well as working on other projects related to the Compliance Oversight and Monitoring Program ("COMP") tool in the ES, which is an oversight tool to comply with Federal regulations (42 CFR 438.66). Unfortunately, funds had been depleted halfway through the contract term. Therefore, as stated in the justification letter for the amendment of the contract, it was "vital" to complete the premium payment process. Failure of ASES to promptly adopt the necessary measures and guarantees to deal with this critical situation, promote proper payment of premiums and avoid recurrence of underfunded payments to the MCOs, would have impacted the health and sustainability of Plan Vital and exposed ASES to incur in violations regarding actuarial soundness of capitated payments as established in 42 C.F.R. §438.4.

Had ASES undertaken a competitive procurement process, which necessarily takes at least 13 weeks between notification, proposal submission, and then proposal evaluation, selection and the contracting phase, the issue that caused the premium underpayments would not have been resolved with the promptness required to avoid the myriads of situations previously described. Moreover, if the contractor selected as a result of a competitive procurement process did not have sufficient knowledge of the ES system, resolution of the issue could very well have taken even several more months. Therefore, the introduction of a less experienced, less knowledgeable contractor would necessarily have resulted in increased delays and escalation of costs given the additional time the contractor would need to become acquainted with the ES. It was without a

doubt of the utmost importance to promptly move forward with the needed amendment for additional funds without the inevitable delays of a procurement process.¹

These extenuating circumstances resulted in the amendment of contract 2024-000008 with the purpose of adding resources to avoid recurrence of a critical situation and resume the rest of the services included in the contract, which was a result of a competitive process. Given the circumstances, the bearer of the responsibilities of the original contract is the most capable entity to deal with the situation and provide immediate results. This is why, the PRDOH believes that extenuating circumstances prevented the compliance of such contract with procurement standards identified under any of sections 75.327, 75.328, and 75.329 of Title 45, Code of Federal Regulations.

As part of the lessons learned from the discussions with OIG personnel related to its analysis, as it is explained in the next finding, in future certifications PRDoH won't assess contracts as if they complied with Federal procurement standards just for following local regulations.

The second finding under this topic relates to two lease-contracts for which the certification accounted that Federal procurement standards under 45 CFR 75.327 – 329 do not provide for this type of contract. The certification further explained that the PRDoH acted according to local Law No. 235-2014 which requires that the state agency in need of real estate must consider a public facility through a government real property board prior to approaching the private sector. If the agency is informed of the inexistence of a public facility, then it can proceed to elect a property in the private sector but must provide the state Office of Management and Budget a certification from a licensed assessor that the rate is in-line with similar properties.² The certification expressed that the local law conforms to the purpose of Federal standards. Hence, both contracts were considered as if they complied with 45 CFR 75.327-329.

Federal Procurement Standards and Corresponding Internal Control Deficiencies

As mentioned before, during prior discussions with the OIG, PRDoH was notified that lease contracts are not excluded from the Federal procurement requirements and that compliance with local laws alone do not substitute the Federal procurement standards. In those instances when the agency is notified of the unavailability of a public facility, the agency must proceed with a process to elect a property through competitive procurement process. PRDoH does not plan to contest this finding.

As an immediate corrective action taken to deal with a similar circumstance, a lease-contract included in the second certification (period of April – May 2024) was deemed as non-compliant with the Federal procurement standards. Even though ASES approached various private

¹On letter dated October 2, 2024, addressed to the OIG, ASES expresses its understanding that contract amendment (2024-000008-A) falls within the exceptions pursuant to 45 C.F.R. §329(f)(1) & (2), namely, single source and public exigency.

² Without any intention to substitute the CFR's sections detailed in the Consolidated Appropriations Act, 2023, 2 CFR 200.465 somewhat resonates with this requirement as it states: "Subject to the limitations described in paragraphs (b) through (d) of this section, rental costs are allowable to the extent that the rates are reasonable in light of such factors as: rental costs of comparable property, if any; market conditions in the area; alternatives available; and the type, life expectancy, condition, and value of the property leased."

properties through the professional services of a licensed realtor, this process not necessarily provides the publicity factor that permeates the Federal procurement standards.³

As a corrective action to deal with similar future circumstances, PRMP will update its policies and procedures to include a lease competitive process that complies with 45 CFR 75.329. The process, similar to a request for proposals, will describe the publishing of a public notice stating the necessity of the agency with a description of the requirements.

Furthermore, PRDoH and ASES are in the process of revising their respective SOPs to assure that they comply with applicable Federal procurement standards, and to address issues identified in OIG's report as internal control deficiencies.

PRDoH's SOP will include, among other revisions, the following:

- A section dedicated to the Oversight Lead role and the certification process. It will describe the function of the Lead and the steps necessary to issue the certifications as required by the Consolidated Appropriations Act, 2023.
- A section dedicated to nonprofessional services and goods contracts. Although PRDoH must comply with local Law Number 73-2017, and its desired nonprofessional services and goods must be acquired from preapproved vendors through the Puerto Rico General Services Administration, the SOP will detail the procedure to request services or goods from this agency.
- A section dedicated to the oversight of contract compliance with the terms, conditions, and specifications described in the signed contract. These include the oversight process of the service level agreements, possible transition processes or cancellation of contract.
- A section that will integrate disciplinary actions for violations to the written standards of conduct and non-conflict-of-interest attestations from the Evaluation Committee members. It will be extended to incorporate all employees engaged in the selection, award, and administration of contracts.
- It will expand in the capabilities of the secretary of the PRDoH to potentially reject and Evaluation Committee's recommendation. A rejection must be documented, and the substitution of an awarded competitor must comply with the same standards of Federal procurement.
- Continuity-of-services as an allowed non-competitive process will be discarded from the SOP.

Regarding the acquisition of nonprofessional services and goods contracts, on April 17, 2024, in response to OIG's Question #4 of the RFI on ASES' policies and procedures, ASES responded to the OIG that all acquisitions of non-professional services, supplies, products and or other goods are handled by the Administrative Area of ASES directly with the Puerto Rico General Services Administration (ASG for its Spanish acronym), as is required by Law No. 73 of July 19, 2019, and its applicable regulations. Moreover, pursuant to said statute and regulation, ASES adopted its own SOP in May 2021 for the acquisition of all non-professional goods, works and services,

³ The licensed realtor provided ASES with five real-estate options, none that complied with the specifications and needs to the satisfaction of the agency.

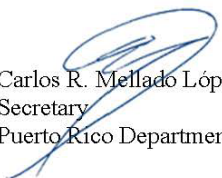
which are performed through ASG. It is ASES' contention that said SOP, as well as ASG's Regulation #9230E, are aligned with 45 CFR 75.327-45CFR 75.329. A copy of the mentioned law, regulation and SOP were provided to the OIG.

As to ASES' Contracting Transparency, Non-Competitive Procurement & Competitive Bid Evaluation Process SOP, ASES has explained to the OIG that its SOP undergoes constant revisions with CMS. On March 17, 2023, ASES shared version 3 of the document with CMS, who received it for further revision. In the interim and amidst all the preparations for the FY 2023-2024 contracting process, ASES continued to incorporate additional updates to the SOP, thus generating version 3.5 shared with CMS and currently in place. In sum, ASES has an SOP implemented since 2023 for both competitive and non-competitive contracting processes. ASES is currently working on updates under version 4 of the SOP to incorporate additional controls to complete standardization in alignment with Medicaid, as above stated, and federal procurement standards. As informed to the OIG, upon approval of version 4 of the SOP, it will be published to all ASES personnel via the SharePoint site. ASES will complete these changes by the end of October 2024.

As to the recommendation to provide training to staff on policies and procedures, version 4 of ASES' SOP will incorporate a section regarding training on procurement and contracting processes which shall be given annually to all directors, managers, staff and employees involved in the procurement and contracting processes and any other employees directly identified that should receive the same. As applicable, this training will also be given to new employees as part of their initial training after the hiring process and will be posted in ASES' SharePoint for ease of access by all employees. The training will cover all of ASES' applicable SOPs pertaining to these processes as well as applicable state and federal laws and regulations. For those required to take the annual training, a test will be administered at the end of the training, and a certificate of completion will be provided to each person who completed the training. A copy of the certificate will be sent to the Human Resources office.

Once again, PRDoH appreciates the opportunity to review and comment on the OIG's draft report.

Cordially,


Carlos R. Mellado López, MD
Secretary
Puerto Rico Department of Health

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