



GOVERNMENT OF PUERTO RICO  
Department of Health

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June 8, 2022

To: Any agent, officer, or employee of the Department of Health, as well as any private, natural, or legal person that intervenes directly or indirectly in the auctions and/or purchases, sales, or lease of goods or contracting of non-professional services by the exempt entities of the Department of Health in accordance with Regulation No. 9318



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

**CIRCULAR LETTER NO. 2022-015**

**COMPOSITION OF THE AUCTION BOARD IN THE UNIFORM REGULATIONS FOR THE PURCHASE AND AUCTION OF GOODS, WORKS AND NON-PROFESSIONAL SERVICES FOR THE EXEMPT ENTITIES OF THE DEPARTMENT OF HEALTH (Regulation Number 9318 of October 21, 2021)**

**I. Explanatory Memorandum**

On October 21, 2021, Regulation Number 9318 was approved, known as "Uniform Regulations on Purchases and Auctions of Goods, Works and Non-professional Services for the exempt entities of the Department of Health" (hereinafter Regulation No. 9318-2021).

The Regulations establish the guidelines for auction, purchases, lease of materials, supplies, equipment, parts, as well as the contracting of non-professional services for the administration of such operations in Hospital Universitario de Adultos, Hospital Pediátrico Universitario, el Hospital Universitario Dr. Ramón Ruiz Arnau, los Centros de Diagnóstico y Tratamiento (CDT) and Intellectual Disability Facilities of the Department of Health. All of the foregoing, pursuant to Act No. 73 of July 23, 2019, as amended, known as the "General Services Administration Act for the Centralization of the Purchases of the Government of Puerto Rico of 2019"; Act No. 81 of March 14, 1912, as amended, known as the Organic Act of the Department of Health; Act No. 38 of June 30, 2017, as amended, known as the "Uniform Administrative Procedure Act " and Regulation Number 9230, known as the "Uniform Regulations for Purchases and Auctions of Goods, Works, and Non-Professional Services of the General Service Administration.

Chapter VI, Art. 4 of Regulation No. 9318 of October 21, 2021, known as "Uniform Regulations for Purchases and Auctions of Goods, Works and Non-Professional Services for the Exempt

Entities of the Department of Health", empowers the Auction Board to adopt the "necessary rules, regulations and/or circular letters", for the purpose of harmonizing and/or establishing the necessary procedures to guide the internal operation of the Board.

This Circular Letter is issued to clarify and harmonize the concepts regarding the composition of the Auction Board and the figure of the secretary, according to the Regulation No. 9318-2021.

## **II. Interpretative Guide**

Article 3 of Regulation No. 9318-2021 provides as follows:

### **“ARTICLE 3. COMPOSITION.**

The Auction Board shall be composed of three (3) regular officers and two (2) alternate officers, officials, representatives and/or agents and/or professional service of the Department of Health, who shall be appointed by the Secretary. He/she shall also designate the Chairman and the Secretary thereof. It shall have a term of five (5) years and the members of the Auction Board shall maintain their position until their successor is appointed and takes office.

The Secretary of Health may replace any member of the Auction Board, with or without just cause, due to physical or mental incapacity that disqualifies him from performing the duties of the position, gross negligence in the performance of his duties, failure to comply with the duty or if he is convicted of a felony or misdemeanor involving moral turpitude or for breach of the provisions of this Regulation. If a vacancy occurs in the Presidency of the Auction Board, the Secretary will immediately designate one of the associate members to occupy the Presidency on an interim basis. When the position of a member of the Bid Board becomes permanently vacant before the expiration of the term of his appointment, the successor shall be appointed to complete the term of the predecessor.

These people should not have a direct relationship with the management of purchases and supplies, payments and receipt of merchandise in the Department of Health. Of which, one (1) will be President, one (1) Secretary and three (3) members. If the composition of five (5) members is not reached, it may be composed of three (3) members, of which one (1) will be President and one (1) Secretary.”

III. Pursuant to the “Explanatory Memorandum” of this Circular Letter, we proceed to clarify the following two matters regarding the composition of the Auction Board:

1. Composition and Quorum of the Board, and
2. distinction between figures referred as secretary

### **Composition of the Auction Board**

The Auction Board of the Department of Health established pursuant to Regulation No. 9318-2021 shall be composed of a total of five (5) members. From these members three (3) of them are regular officers and (2) are alternate officers. All of them shall be appointed by the Secretary of Health.

The (5) members appointed by the Secretary of Health to the Auction Board shall occupy the following functional designations:

- one (1) president-member of the Board with voice and vote
- one (1) secretary- member of the Board with voice and vote
- three (3) members with voice and vote

According to the Article 3, the Auction Board of the Department of Health may be composed of three (3) members in exceptional circumstances, such as the all members resignation, or, in the event that the composition of five (5) members is not reached by circumstances that make difficult appoint them in compliance with the requirements set forth in the regulation. Allowing the composition of the Auction Board with only three (3) members guarantees the continuity of the work, as well as the services requested by the exempted entities.

### **Clerical Secretary**

Article 6 of the Regulations empowers the official appointed by the Secretary of Health, who shall serve as administrative officer or clerical secretary of the Auction Board and whose duties are set forth in said article. This administrative officer or clerical secretary is not a member, does not have the right to vote and does not participate in the determinations of the Auction Board. Article 6 of the Regulations provides as follows:

#### **“ARTICLE 6- SECRETARY OF THE BOARD: DUTIES.**

"The Auction Board shall have a Secretary as administrative officer, appointed by the Secretary of Health. This official shall not have the right to vote, nor to participate in the deliberations of the Auction Board. An Alternate Secretary may also be appointed, who shall have the same functions and duties as the Secretary in property. The Alternate Secretary shall substitute for the Secretary in property during his/her absence or when special circumstances so require."

For such purposes, the administrative secretary is different of the Auction Board Member designated as Secretary. The board member as Secretary shall have participation in the decisions of the Board, with the prerogatives and duties of the members, in accordance with the provisions of Art. 3 of Chapter 6. For such purposes, each one of the Secretaries are different figures.

### **IV. Validity.**

The provisions of this Circular Letter are effective immediately.