

# Report in Response to

**PL 116-94: Further Consolidated Appropriations Act,  
2020:(133 STAT 3105), Division N, Title 1  
§202(a)(7)(A)(iii)**

## Contracting Reform Plan

**Government of Puerto Rico  
Office of the Governor**

**December 20, 2020**



**GOVERNMENT OF PUERTO RICO**

**Office of the Governor**

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# 1. EXECUTIVE SUMMARY

## Congressional Requirement

On December 16, 2019, the United States Congress came to a bipartisan agreement on 12 appropriation packages. On December 17, 2019, the House passed H.R. 1865 with a vote of 297-120; this bill became Public Law 116-94 on December 20, 2019.

On behalf of the Puerto Rico Government and the agencies that oversee the delivery of Medicaid and Children's Health Insurance Program (CHIP) services, including the Puerto Rico Department of Health (PRDOH), Medicaid and the Puerto Rico Health Insurance Administration (PRHIA), thank you for this opportunity to report on Puerto Rico's progress towards compliance with the conditions and requirements set forth in **P.L. 116-94: Division N, Title 1, Subtitle B, (133 STAT 3105) - §202(a)(7)(A)(iii) – Contracting Reform**. The requirement within the law reads as follows:

*“Not later than 12 months after the date of enactment of this paragraph, Puerto Rico shall publish a contracting reform plan to combat fraudulent, wasteful, or abusive contracts under Puerto Rico's Medicaid program under title XIX that includes -*

- i. Metrics for evaluating the success of the plan; and*
- ii. A schedule for publicly releasing status reports on the plan.”*

This report provides the Government of Puerto Rico's response to comply with the specific requirement listed above.

For the purposes of this report submission and related reports this requirement is hereinafter referred to in our documents as: **Requirement 3: Contracting Reform Plan**<sup>1</sup>

## Puerto Rico's Current Efforts for Contract Reform

Act No. 73 of 2019 (Article 35) 2019 General Services Administration Centralization of Government Purchases Act was a milestone for contracting in the government of Puerto Rico. This law:

- Establishes rules for procurement of non-professional services, to be centralized under Puerto Rico's GSA
- Creates GSA's platform/website for the Single Registry of Suppliers (also known in Spanish as Registro Único de Subasta, RUS) that includes daily auction and bid information and any other information that GSA deems necessary for registered bidders
- 2020's Executive Order OE-2020-082 established further rules and regulations

## Puerto Rico's Response to Congressional Requirement

To meet the Congressional mandate Puerto Rico has taken the following actions:

- Puerto Rico responded on November 13, 2020 to initial inquiries from the U.S. Government Accountability Office (GAO) on our contracting processes received on October 29, 2020. This report

<sup>1</sup> PL 116-94: Further Consolidated Appropriations Act, 2020:(133 STAT 3105), Division N, Title 1 §202(a)(7)(A)(iii)  
Report for Requirement 3: Develop Contracting Reform Plan  
Government of Puerto Rico, Office of the Governor

provides the PRDOH's response to GAO's request for an update on the status of Puerto Rico's development of a contracting reform plan.

- This report also provides our response to Contracting Risk area highlighted in document titled '**A-02-20-01011 Risk Assessment Puerto Rico Medicaid Program**'<sup>2</sup> conducted by the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), received on December 10, 2020.
- Puerto Rico has examined the contracting processes in our Medicaid Enterprise and is pleased to provide Congress with our Contracting Reform Plan to combat fraudulent, wasteful, or abusive contracts.

Our response to this requirement is organized in the following sections:

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<sup>2</sup> Office of Inspector General, Department of Health & Human Services. (December 11, 2020). A-02-20-01011 Risk Assessment Puerto Rico Medicaid Program. Retrieved from <https://oig.hhs.gov/oas/reports/region2/22001011.asp>.

- **Differences in Medicaid Program Funding between Puerto Rico and the Other States and Territories (refer to Section 2):** There are significant differences in Medicaid program funding between states and territories, either due to an annual cap on the federal Medicaid spending in territories and a set federal Medicaid matching rate for territories in statute. This limited funding limits our ability to dedicate resources to improving program integrity and contract reform processes. For example, Puerto Rico sometimes has only one employee evaluating an RFP because staff are busy maintaining operations. While Puerto Rico remains committed to meeting all the Congressional requirements that have been added as part of Public Law 116-94, we are concerned that without parity in the Medicaid program or, at a minimum, additional administrative funding, we may not be able to enact long-term plans and changes that are essential to maintaining Puerto Rico’s Medicaid program. **Section 2** of this report highlights additional details related to these funding disparities, and we sincerely request Congress to consider providing the requisite federal Medicaid funding needed to fully implement the opportunities identified in these reports.
- **An Introduction to the Puerto Rico Medicaid Enterprise (refer to Section 3):** It is worth considering the unique nature of our Medicaid program given the number of departments and agencies involved. The PRDOH is the Single State Agency (SSA) for administering our State Medicaid Program. For purposes of the Medicaid program administration, PRDOH is the State Medicaid Agency (SMA). The Medicaid Program is administered by PRDOH and the Puerto Rico Health Insurance Administration (PRHIA), which collectively is referred to as the Medicaid Enterprise. We have detailed all the agencies involved and that collaborate with our Medicaid Enterprise in **Section 3** of this report.
- **Vision, Guiding Principles, and Goals (refer to Section 4):** Our vision is *to be recognized as a leader in ethics and transparency in procurement and contracting – supported by established processes that identify desired results and active contract management to achieve those results with the best possible impact on our Medicaid beneficiaries*, all at a lower cost to taxpayers. We have provided further details on this vision as well as guiding principles and goals that drive this vision in **Section 4** of this report.
- **Opportunities (refer to Section 5):** We have reviewed leading practices from states and conducted interagency workshops to identify four areas of opportunity to enhance our procurement and contracting practices.
  1. Increase competition and establish alternative competitive contracting processes.
  2. Engage stakeholders and expand the strategic development and planning processes for procuring services.
  3. Drive increased standardization and consistency in the scoring and selection process.
  4. Increase transparency, make more contracting information publicly available.
- **Implementation Plan (refer to Section 6):** To operationalize our plan, we have identified specific initiatives to address the opportunity areas and aligned them with an implementation plan that will establish early successes while carefully planning details such as governance and staffing of the initiatives during the Contracting Reform Plan and optimizing with further initiatives continuing beyond the plan that will demand more time and effort. To hold ourselves accountable, and report Puerto Rico’s progress to external parties, we have developed initial qualitative and quantitative metrics for plan evaluation, with further metrics to be developed during implementation. We also intend to submit an annual progress report to Congress identifying progress on the Contracting Reform Plan. The details of our implementation of the plan are documented in **Section 6** of this report.

## 2. DIFFERENCES IN MEDICAID PROGRAM FUNDING BETWEEN STATES AND PUERTO RICO/OTHER TERRITORIES

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The Medicaid program is arguably the most consequential federal program in Puerto Rico because it provides health care services to 1.6 million people, or 46 percent of the Island's population. However, our program differs in fundamental ways when compared to state Medicaid programs. Federal Medicaid funds for United States Territories are limited in two ways:

1. Total federal Medicaid spending in the territories is subject to an annual Medicaid Cap pursuant to section 1108 of the Social Security Act. As a result, the Federal government will match every Medicaid dollar spent by the territories up to each jurisdiction's cap, and any spending above the cap is provided solely by the territory.
2. The federal Medicaid matching rate for territories is set in statute at 55 percent, unlike states which receive unrestricted matching federal funds between 50 percent and 83 percent of their Medicaid costs according to the state's Federal Matching Assistance Percentage (FMAP).

The following table shows the disparity between Puerto Rico and comparable state Medicaid programs on administrative spending per member per year (PMPY) and per member per month (PMPM). Comparing Medicaid programs of similar size (1-2 million enrollees) and with a high proportion of enrollment in managed care (over 80 percent in comprehensive managed care), it demonstrates that Puerto Rico is getting approximately one-third (1/3) of the administration expenditures of similar programs.

State <sup>3</sup>	2018 Medicaid Enrollment <sup>4</sup>	2018 Percent Comprehensive Managed Care <sup>5</sup>	2019 Administration Expenditures <sup>6</sup>	PMPY	PMPM
(A)	(B)	(C)	(D)	(E)=(D)/(B)	(F)=(D)/(B)/12
Virginia	1,063,122	82%	\$437,968,202	\$411.96	\$34.33
Kentucky	1,385,239	91%	\$266,167,884	\$192.15	\$16.01
Maryland	1,401,781	83%	\$505,358,312	\$360.51	\$30.04
Tennessee	1,510,045	92%	\$564,787,478	\$374.02	\$31.17
Louisiana	1,640,075	84%	\$337,092,213	\$205.53	\$17.13
New Jersey	1,668,451	94%	\$898,752,077	\$538.67	\$44.89
Arizona	1,849,465	84%	\$277,807,148	\$150.21	\$12.52
<b>Average<sup>7</sup></b>	<b>1,502,597</b>	<b>88%</b>	<b>\$469,704,759</b>	<b>\$312.60</b>	<b>\$26.05</b>
Puerto Rico	1,505,610	100%	\$156,284,437	\$103.80	\$8.65

Table 1. Medicaid Enrollment and Administration Expenditures for Comparable State Medicaid Programs

Puerto Rico is committed to meeting all the Congressional requirements that have been added as part of Public Law 116-94. However, we are concerned that without parity in the Medicaid program or, at a minimum, additional administrative funding, the full and permanent implementation of these changes will be challenging. For example, Puerto Rico can sometimes have only one employee evaluating a request for proposal (RFP) since the day-to-day operational needs and limited administration funding doesn't support additional resources aligned to the RFP evaluation process.

Puerto Rico is requesting that Congress consider application of the FMAP as used with states. In addition, Congress is requested to consider removing the Medicaid Cap on federal Medicaid funds through 1108(g). If only the FMAP formula is applied, then Puerto Rico will, as a result, reach the Medicaid Cap sooner. Funding parity would help Puerto Rico plan for long term structural changes and allow for real transformational changes to our Medicaid Enterprise.

<sup>3</sup> Includes states where 2018 Medicaid enrollment is between 1,000,000 to 2,000,000 **and** over 80% enrollment in comprehensive managed care. Excluded the State of Washington which had administrative costs in excess of \$1.3 billion.

<sup>4</sup> Medicaid.Gov. *The FY 2018 Medicaid Managed Care Enrollment Report*, Latest available report retrieved from: <https://data.medicare.gov/Enrollment/2018-Managed-Care-Enrollment-Summary/gn4b-7d7q/data>

Total Medicaid Enrollees represents an unduplicated count of all beneficiaries in FFS and any type of managed care, including Medicaid-only and Medicare-Medicaid ("dual") enrollees.

<sup>5</sup> Medicaid Enrollment in Comprehensive Managed Care represents an unduplicated count of Medicaid beneficiaries enrolled in a managed care plan that provides comprehensive benefits (acute, primary care, specialty, and any other), as well as PACE programs. It excludes beneficiaries who are enrolled in a Financial Alignment Initiative Medicare-Medicaid Plan as their only form of managed care.

<sup>6</sup> Medicaid.Gov. *FY 2019 Financial Management Report, Total Computable Net Administrative Expenditures*, Latest available report retrieved from: <https://www.medicare.gov/medicaid/financial-management/state-expenditure-reporting-for-medicare-chip/expenditure-reports-mbescbes/index.html> Excludes administrative costs for the following service categories: Family Planning, Skilled Professional Medical Personnel - Single State Agency, Skilled Professional Medical Personnel - Other Agency, Peer Review Organizations, TPL - Recovery, TPL - Assignment Of Rights, Nurse Aide Training Costs, Preadmission Screening, Resident Review, Drug Use Review, School Based Administration, Interagency Costs (State Level), Planning for Health Home for Enrollees with Chronic Conditions, and Non-Emergency Medical Transportation

<sup>7</sup> The average administration expenditure is weighted based on Medicaid enrollment.

# 3. INTRODUCTION TO THE PUERTO RICO MEDICAID ENTERPRISE

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PRDOH is the SSA for administering our State Medicaid Program. For purposes of the Medicaid program administration, PRDOH is the SMA. The Medicaid program is administered by PRDOH and PRHIA, which collectively is referred to as the Medicaid Enterprise. This is a long-standing sister agency relationship, defined by an interagency memorandum of understanding (MOU). PRHIA (commonly referred to as Administración de Seguros de Salud [ASES]), was created in 1993 to oversee, monitor and evaluate services offered by the managed care organizations (MCOs) under contract with PRHIA. PRHIA is a public corporation overseen and monitored by a Board of Directors (BOD). Puerto Rico’s Medicaid Program (PRMP), a department under the PRDOH, oversees the Medicaid State Plan, determines Medicaid eligibility of residents, and is responsible for the operation of the Medicaid Management Information System (MMIS) for the program.

In addition, PRHIA, PRMP and the Government of Puerto Rico at large follow guidance issued each year by the federally appointed Financial Oversight and Management Board for Puerto Rico (FOMB). In addition to meeting federal requirements, PRHIA and PRMP must also abide by regulations established by the Government of Puerto Rico.

## Puerto Rico Department of Health

The PRDOH’s administration of its Medicaid program under Title XIX of the Social Security Act is structured as a categorical program called the “Medicaid Program.” The PRDOH Medicaid program is chartered with ensuring appropriate delivery of health care services under Medicaid, CHIP, and the Medicaid Preferred Drug Program (PDP); the latter two structured as extended Medicaid programs.

Since the inception of the Medicaid program in Puerto Rico, and up until the early 1990s, PRMP’s role was mostly limited to providing the categorically needy access to Medicaid services by operating local offices throughout all the municipalities on the Island. In these offices, residents could apply for Medicaid coverage by providing demographic and socio-economic information for their family unit. Based upon federal Medicaid program eligibility rules, the family’s eligibility for Medicaid would be determined. If eligible, the individual and family were certified and enrolled into the Medicaid program. Health care services to Medicaid-eligible individuals and families were delivered through the Puerto Rico government’s public health service facilities.

## Puerto Rico Health Insurance Administration

In 1993, the Government of Puerto Rico enacted transformation of the entire public health system. The Puerto Rico Health Reform Program (referred to initially as Reforma and now known as Plan Vital) marked the creation of a government health insurance program under a managed care delivery system. These reforms expanded Medicaid coverage for individuals and families with incomes between 50 -100 percent of the federal poverty guideline—significantly increasing the number of residents with government-subsidized health coverage.

In 1993, an interagency MOU (since then updated multiple times), was established to delegate the implementation of the Medicaid State Plan’s managed care delivery model to PRHIA, a public

corporation established by Law No. 72 on September 7, 1993, as amended. Under this agreement, the PRMP retained responsibility for eligibility determination, policy, Medicaid State Plan maintenance, and financial administration. This agreement requires PRHIA to implement and deliver services through a managed care delivery system. The process of selecting the insurance carriers, negotiating and managing those contracts was assigned to PRHIA pursuant to Law No. 72. The Medicaid program retained the role of eligibility determination for Medicaid and Reforma.

In 2006, PRHIA implemented the Medicare Platino program to provide additional coverage benefits to beneficiaries of Medicaid and Reforma who are also eligible for Medicare (i.e., “dually eligible”) and enrolled in a Medicare Advantage Organization (MAO). Medicare Platino wraps around Medicare Advantage benefits, giving the dually eligible enrollees any additional benefits provided by the Medicaid program. PRHIA holds contracts with the MAOs.

### **The Puerto Rico Health Insurance Administration Board of Directors**

PRHIA is governed by a Board of Directors (BOD) made up of eleven (11) members, six (6) that are Ex-Officio Members and five (5) that are appointed by the Governor of Puerto Rico with the advice and consent of Puerto Rico’s Senate. The Ex-Officio Members include the Secretary of Health, the Treasury Department Secretary, the Administrator of the Administration of Mental Health and Addiction Services (ASSMCA), the Director of the Office of Management and Budget (OMB), the Executive Director of The Puerto Rico Fiscal Agency and Financial Advisory Authority (AAFAF) and the Insurance Commissioner, or their delegates. The Governor of Puerto Rico appoints the President of the Board of Directors from among its members. The primary purpose and functions of the BOD include:

- Implementation of medical services based on health insurance.
- Negotiation and contracting for medical insurance coverage.
- Negotiation and contracting with health service plans for health services.
- Organization of alliances and groups of beneficiaries with the purpose of representing them in the negotiation and contracting of their health plans.
- Maintenance of an administrative and financial structure to manage funds and revenues, administer cash and make disbursements.
- Establishment of guidelines for the appointment, contracting and remuneration of its personnel.
- Negotiation and awarding of contracts, documents and other public instruments with juridical persons and entities.
- Direction to insurers to keep a record of services rendered in categorical programs subsidized by the Federal government, and documentation of the relationship of their beneficiaries, payment claims and the pertinent financial and statistical reports.
- Approval, amendment and repeal of regulations that govern the business and activities of PRHIA.
- Appointment of an Executive Director for PRHIA.
- Facilitation of Contracting Committee to evaluate each contracting proposal and the recommendations. The Contracting Committee evaluates each proposal, the necessity of it, the amount for each service and the maximum amount for the contract year.
- Facilitation of an Internal Audit Committee to monitor PRHIA's audit work, corrective action plans, and executions of internal and external processes

## Financial Oversight and Management Board for Puerto Rico

The Financial Oversight and Management Board for Puerto Rico (FOMB) was created under the Puerto Rico Oversight, Management and Economic Stability Act (PROMESA) of 2016. FOMB consists of seven members appointed by the President of the United States and one Ex-Officio Member designated by the Governor of Puerto Rico. FOMB is tasked with working with the people and Government of Puerto Rico to create the necessary foundation for economic growth and to restore opportunity to the people of Puerto Rico.

FOMB works to fulfill the mandate of the PROMESA to ensure fiscal sustainability and restore access to capital markets. In the first instance, due to a series of unpredictable disasters, the effort has focused on utilizing certified fiscal plans and budgets to ensure Puerto Rico is able to respond to these crises while also moving toward medium and long-term fiscal and economic sustainability. FOMB established a contract review policy pursuant to Section 204(b)(2) of the PROMESA to require the Oversight Board's approval of certain contracts to assure that they "promote market competition" and "are not inconsistent with the approved fiscal plan."

In its oversight of the Medicaid Enterprise, the FOMB must approve all government contracts and amendments with an aggregate value of \$10,000,000 or more. FOMB may review any contract below such threshold at its sole discretion. All proposed contracts or amendments stemming from the rate negotiations between PRHIA and the "Plan Vital" MCOs must be submitted to the FOMB for review and approval prior to execution. Also, pursuant to PROMESA section 204(b)(4), certain proposed rules, regulations, administrative orders, and executive orders must be submitted for FOMB review prior to enactment.

## 4. VISION, GUIDING PRINCIPLES, AND GOALS

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Our Contracting Reform Plan vision is *to be recognized as a leader in ethics and transparency in procurement and contracting – supported by established processes that identify desired results and active contract management to achieve those results with the best possible impact on our Medicaid beneficiaries, all at a lower cost to taxpayers.*

In addition to setting forth this vision, we have created the following guiding principles to realize it:

1. **Enhance the strategy and planning efforts in our procurements:** We plan to align the procurement and contracting processes with the mission and goals of Puerto Rico Medicaid and work on engaging our multiple agencies within the enterprise in this effort. The procurement process will drive innovative strategies to advance the Medicaid Enterprise.
2. **Further drive competition across procurements:** Puerto Rico’s Medicaid Enterprise will seek to procure high-quality goods, works, and services in a competitive manner.
3. **Unified standardization in our processes:** We will use a common structure to standardize and formalize procurement and contracting processes across the Medicaid Enterprise.
4. **Increase transparency:** We will make most procurement, contracting scoring decisions and other relevant information easily accessible to internal and external stakeholders.
5. **Use data to inform our operations:** The procurement strategy and planning used by Puerto Rico’s Medicaid Enterprise will make data central to its processes, and then utilize derived insights to drive procurement decision-making.
6. **Promote efficient and cost-effective procurement and contracting processes:** Our procurement and contracting processes will strive to maximize value by taking into account existing and developing organizational demands, capabilities, availability of resources, and funding while not compromising on efficiently providing goods and services that best serve our beneficiaries needs.
7. **Seek value for money and good stewardship of federal funds:** Puerto Rico’s Medicaid Enterprise will spend federal money wisely and focus on reducing waste and abuse of taxpayer dollars.
8. **Create a culture of ownership, accountability, and continuous learning:** Roles and responsibilities across parties throughout the procurement and contracting process will be well-defined and openly communicated. Stakeholders will work cooperatively and collaboratively to continuously improve contracting and procurement processes.

## 5. OPPORTUNITIES TO ACHIEVE CONTRACTING REFORM

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Through reviewing leading practices in other Medicaid programs and through our own interagency sessions, Puerto Rico has identified four areas of opportunity to reform our Medicaid Enterprise’s contracting processes. For each of these opportunity areas we have identified specific and tactical initiatives that can be implemented to improve procurement and contracting practices. In this section and the next section, we define the actions that encompass this Contracting Reform plan (refer to **Section 5**) and outline an implementation approach of these initiatives (refer to **Section 6**).

## Opportunity 1: Increase competition and establish alternative competitive contracting processes

Definitions of service types and the rules that govern them are set forth in Puerto Rico's Uniform Administration Procedures law, which allows for non-competitive contracting for professional services. These services must be contracted with parties that meet threshold requirements including financial solvency and compliance with federal and state laws and regulations, which are inherently pass or fail requirements. In Fiscal Year 2020-2021, 133 Medicaid-funded contracts amounting to \$40.9 million were awarded by the Puerto Rico Medicaid Enterprise on a non-competitive basis. In this same time period, non-competitive bids accounted for 1 percent of existing contract spending. Puerto Rico plans to increase competition while balancing accountability and maximizing flexibility in administering contracts.

We have planned the following set of initiatives based on leading practices observed in other Medicaid programs. An implementation plan and timeline for these initiatives is provided in **Section 6**.

- a. **Establish formal parameters to decide when non-competitive bids are necessary by setting criteria and thresholds.** Puerto Rico will develop a set of criteria that must be met to necessitate use of non-competitive contracts. This would include questions such as whether the procurement is an emergency, and whether the value and duration of a procurement is under certain thresholds. Some examples of thresholds include:
  - i. **Based on dollar values:** Common thresholds limit the ceiling of a non-competitive contract's value between \$10,000 and \$50,000.
  - ii. **Based on contract duration:** Common thresholds limit non-competitive contract duration to be under six months or one year.
- b. **Define additional actions required to justify non-competitive procurements.** Before issuing a non-competitive procurement, Puerto Rico will take any additional steps required, such as holding a public hearing; addressing a legislative committee, comptroller or equivalent office' or justifying why open competition is not applicable.
- c. **Assess barriers to entry and bidders' limitations** to encourage more competition with bids (i.e., assess the impact of external factors such as taxation on offshore companies).
- d. **Competitively establish pre-qualified lists of vendors** using a request for qualifications or a master services agreement as an alternative contracting process. Puerto Rico will determine appropriate service needs where this type of contracting approach can be most beneficial. This competitive process can then be utilized to address short-term or urgent needs such as consulting services.

## Opportunity 2: Engage stakeholders and expand the strategic development and planning processes for procuring services

Under Puerto Rico's current 3-year managed care contract cycle, with an option year to renew, more time is spent developing and amending RFPs and contracts than is spent executing them. This consumes the time and resources of our Medicaid Enterprise, as well as the MCOs and providers. Leading practices in other Medicaid programs incorporate strategic involvement in planning efforts. This is done by engaging stakeholders, using information to drive decisions, emphasizing accountability and ownership, and continually re-evaluating the duration of contracts, especially those related to health care delivery.

We have planned the following set of initiatives based on leading practices observed in other Medicaid programs. An implementation plan and timeline for these initiatives is provided in **Section 6**.

- a. **Identify and involve business owners of each contract requirement to increase oversight and accountability.** Puerto Rico will identify business owners of each contract requirement (e.g., Quality of Care and Program Integrity) and engage those owners in the entire strategic procurement planning and RFP development processes.
- b. **Allow more time for upfront strategy development in major procurements.** Puerto Rico will adjust calendars to allow time for strategic engagement of business owners and development of procurement documents at the front end of the procurement process.
- c. Puerto Rico will **reconsider the duration of base contracts to reduce risk where necessary.** Some contracts may benefit from shorter timeframes or re-competition once reforms are in place to account for changes in priorities, desired capabilities, efficiencies and potentially lower cost services over time. In the case of MCOs, base contracts may be extended to increase the proportion of time that is spent executing a contract relative to designing it. This may also be advantageous to beneficiaries.
- d. **Engage agency and other stakeholders in strategic planning.** Puerto Rico will implement a stakeholder engagement and strategic planning process, involving different groups across the agency that will coordinate with other government ombudsmen, offices, providers, advocates, members, the Medicaid Administrative Contractor, and provider associations to identify current challenges, innovations, and opportunities.
- e. Puerto Rico will **strategically tie contract performance goals (e.g., network adequacy standards) to contract oversight responsibilities** for managed care contracts.
- f. **Engage potential vendors in planning.** Puerto Rico will implement a stronger vendor engagement and strategic planning process, especially for health care delivery contracts [e.g., MCO, Pharmacy Benefit Managers (PBM) public solicitations], utilizing requests for information (RFIs) or other mechanisms to identify current challenges, innovations, and opportunities.

### Opportunity 3: Drive increased standardization and consistency in the scoring and selection process

There have been portions of some procurement processes that have been performed on an ad-hoc basis and the process varies from iteration to iteration. This includes committee member training and the evaluation and source selection processes, especially for health service delivery contracts. Puerto Rico plans to expand objectivity in the selection process by defining and testing rigorous scoring criteria on competitive bids, increasing training, and improving reviewers' ability to follow a standardized and streamlined set of processes.

We have planned the following set of initiatives based on leading practices observed in other Medicaid programs. An implementation plan and timeline for these initiatives is provided in **Section 6**.

- a. **Define a rigorous scoring process to establish criteria for competitive bids and test scoring criteria to ensure best bids win.** Puerto Rico will increase objectivity in the source selection process by defining a rigorous scoring process to establish criteria for competitive bids and using *inter-rater reliability* techniques to evaluate the degree of agreement among raters and build integrity into the source selection process. Puerto Rico will test the scoring criteria against several different mock proposal organizations to confirm that the scoring criteria works correctly and establish that the best bid is likely to win.
- b. **Increase training efforts.** (Ongoing process for each contract cycle) Puerto Rico will conduct procurement compliance trainings on redesigned procurement and contracting processes, scoring criteria, and ethics rules and laws.

## Opportunity 4: Increase transparency, make more contracting information publicly available

Procedures are currently in place to give the public a view of our contracting practices. Contracts are currently published via the PR Comptroller's website ([contratos.ocpr.gov.pr](http://contratos.ocpr.gov.pr)) as well as PRHIA's website ([www.asespr.org](http://www.asespr.org)) for MCO contracts. Requests for proposals or qualifications are published in at least two of the Island's major newspapers, per Puerto Rico law. Leading practices from other programs and government agencies also inform the public on the contracting process. An example from elsewhere in the Government of Puerto Rico, COR3's Transparency Portal, (available at [www.transparency.pr.gov](http://www.transparency.pr.gov)) contains extensive contracting information. Puerto Rico plans to increase transparency and advance public trust by making bidding and contracting information publicly available on a regular basis, (e.g., bidding opportunities, RFIs, RFPs, awardees, contracts, payments), release justification, relevant meeting minutes, and any other documents that may have affected the outcome to the public and bidders, so they may view details of procurements for both Professional and Non-Professional Services.

We have planned the following set of initiatives based on leading practices observed in other Medicaid programs. An implementation plan and timeline for these initiatives is provided in **Section 6**.

Puerto Rico's Medicaid Enterprise is considering the following initiatives to increase public transparency of its contracting information:

- c. Puerto Rico will **identify which portions of contracting documents that can or cannot be made public**, which ones can (potentially including solicitations, questions and answers, adjudications), which ones already are available via the Comptroller (including solicitations and RFPs), and what method will be used for publishing these items, potentially creating an additional website or portal. For documents already available via the Comptroller, we will share this information more widely.
- d. Puerto Rico will **publish initial contracting documents** from existing contracts or the next procurement to increase transparency and increase public trust by increasing the amount of bidding and contracting information publicly available.
- e. Puerto Rico will **establish ongoing processes and tools to publish contracting documents**, developing a repeatable policy and choosing a platform to make bidding and contracting information publicly available on a regular basis, (e.g., as bidding opportunities, RFIs, RFPs, awardees, contracts, payments arise), release justification, relevant meeting minutes, and any other documents that may have affected the outcome to the public and bidders. Puerto Rico will also **establish an internal review process to ensure all appropriate documents are published**. On an annual basis Puerto Rico will conduct an analysis to ensure the Medicaid Enterprise has implemented these steps and is making contracting information public.

## 6. IMPLEMENTING THE CONTRACTING REFORM PLAN

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Puerto Rico is taking a deliberate, phased approach to implementing our Contracting Reform Plan. We understand meaningful changes need to happen in the near term to stabilize our procurement and contracting approach, which is why we have prioritized a set of high-value initiatives to be undertaken by September 30, 2021. At that point, Puerto Rico believes our procurement and contracting processes will be comparable to other Medicaid programs and will meet the intent of the Congressional mandate. Puerto Rico has identified additional long-term initiatives that will continue to optimize and strengthen our processes beyond FFY21.

Below, we outline our approach to implementation. The Contracting Reform Plan will begin immediately and will include an initial term of three months to carefully plan and operationalize the nine priority initiatives to meet the intent of the Congressional mandate. This timeline will be re-evaluated as implementation proceeds, resources are considered, and priorities are adjusted.

## Contracting Reform Plan

*Federal Fiscal Year 2021, January 2021 – September 2021*

### Planning for Contracting Reform

In order to fully execute our plan, we will make careful plans concerning staffing, governance, performance metrics, and reporting

### Contracting Reform Priority Initiatives

1. Establish formal parameters to decide when non-competitive bids are necessary by setting criteria and thresholds (Opportunity 1.a.)
2. Define additional actions required to justify non-competitive procurements (Opportunity 1.b.)
3. Identify and involve business oversight owners of each contract requirement to increase accountability (Opportunity 2.a.)
4. Allow more time for upfront strategy development in major procurements (Opportunity 2.b.)
5. Reconsider the duration of base contracts (Opportunity 2.c.)
6. Define a rigorous scoring process to establish criteria for competitive bids and test scoring criteria to ensure best bids win (Opportunity 3.a.)
7. Identify which portions of contracting documents can or cannot be made public (Opportunity 4.a.)
8. Publish initial contracting documents (Opportunity 4.b.)
9. Establish ongoing process, tools and internal review process to ensure all appropriate documents are published (Opportunity 4.c.)

## Measuring Progress and Optimizing Contracting

*Federal Fiscal Year 2022, October 2021 and beyond*

### Reporting and Measuring our Progress Against Contracting Reform Plan

Puerto Rico will also begin tracking of progress and metrics as set forth in the Contracting Reform Plan, and reporting to Congress accordingly

### Optimization Initiatives

10. Assess barriers to entry and bidders' limitations (Opportunity 1.c.)
11. Competitively establish pre-qualified lists of vendors (Opportunity 1.d.)
12. Engage agency and other stakeholders in strategic planning (Opportunity 2.d.)
13. Strategically tie contract performance goals to contract oversight responsibilities (Opportunity 2.e.)
14. Engage potential vendors in planning (Opportunity 2.f.)
15. Increase training efforts on process, criteria, and law (Opportunity 3.b.)
16. Implement prioritized contract oversight opportunities

Figure 2. Phased Approach

## Contracting Reform Plan

*Anticipated Implementation Dates: January – September 2021*

To fully operationalize this plan, the Medicaid Enterprise must undergo a thorough assessment of organizational capacity to implement the changes, including governance, metrics, staffing, and finalization of timelines, as required. Dependencies in enacting key parts of this contracting plan may exist, particularly regarding staffing resources and time. At the same time, Puerto Rico will identify priority initiatives that can get started immediately. As described in more detail below, implementation will include both the planning needed to unify the Medicaid Enterprise around the plan, as well as the implementation of high-value initiatives.

### Planning for Contracting Reform

#### Staffing Analysis

Currently, a lack of human resources (including subject matter experts) due to insufficient funding has created challenges in the procurement and contracting processes – from solicitation development to the selection phases. For example, as mentioned earlier, Puerto Rico sometimes has only one employee evaluating an RFP because staff are busy maintaining operations. Other Medicaid programs have higher staffing levels for similarly sized programs and ensure sufficient staff dedicated to support special initiatives. Puerto Rico plans to analyze resource levels to right-size contracting tasks and ensure dedicated resources are in place to support important procurement and contracting initiatives like Contracting Reform.

#### Governance Approach

Puerto Rico will leverage the existing governance approach at PRDOH and PRHIA to roll out the phased improvement initiatives. The key to successful implementation is assigning ownership among existing management and staff so they can provide necessary strategic guidance and support, identify responsible parties for executing daily tasks as they change, and report progress. Governance

structures will be further developed during implementation but will follow a structure like that expressed in Figure 3, below.

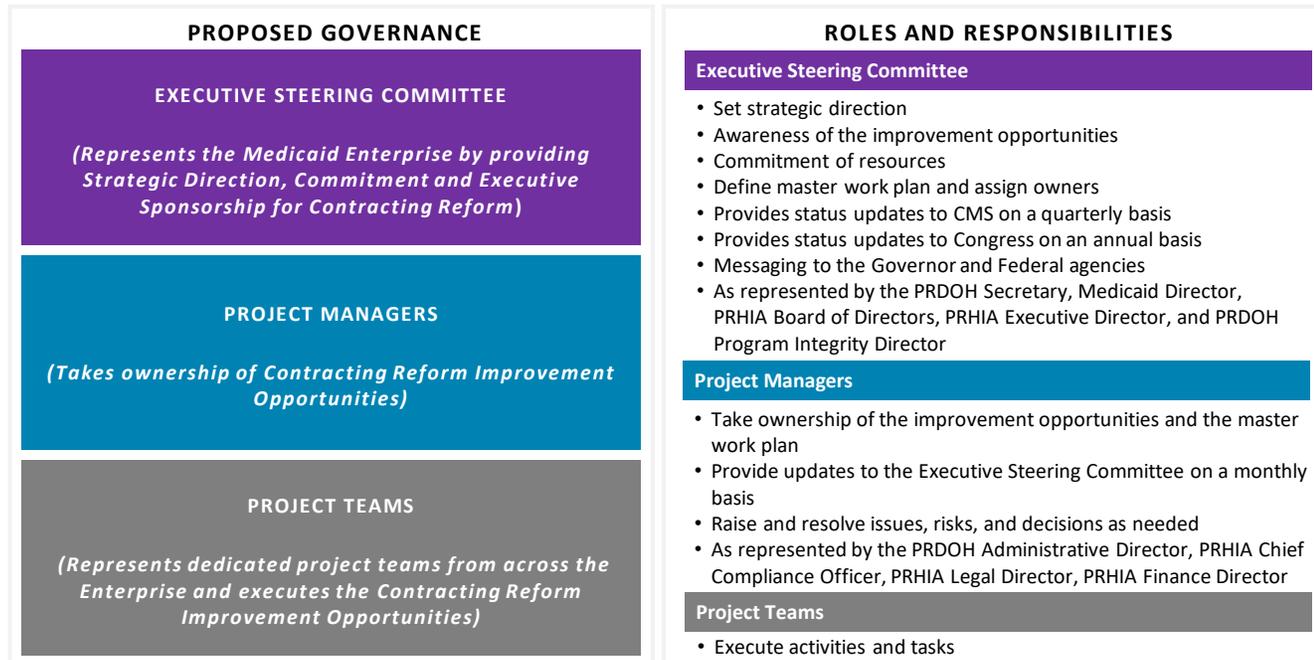


Figure 3. Proposed Governance

The Executive Steering Committee will provide strategic direction, commitment, and executive sponsorship for contracting reform, ensuring the effort guides us towards program performance and integrity. This includes dedication of resources and messaging to the Governor and Federal agencies. The Executive Steering Committee level will also define the consolidated work plan for the initiatives and assign owners, provide status updates to CMS on a quarterly basis, and provide status updates to Congress on an annual basis. This level includes leaders from both agencies such as the PRDOH Secretary, the Medicaid Director, PRHIA Board of Directors, PRHIA Executive Director, and PRDOH Program Integrity Director.

The project managers and project teams dedicated to contracting reform will take ownership of and execute the contracting reform improvement initiatives, provide updates to the Executive Steering Committee on a monthly basis, and raise and resolve issues, risks, and decisions as needed. This level includes current positions including the PRDOH Administrative Director, PRHIA Chief Compliance Officer, PRHIA Legal Director, PRHIA Finance Director and their dedicated project teams from across the Medicaid Enterprise, who will work in coordination across the two agencies.

### Metrics to Measure Success of the Contracting Reform Plan

To measure our progress, hold our organizations accountable, and report Puerto Rico’s progress to external parties, Puerto Rico will develop a reporting structure and metrics to align to the priority initiatives. Additionally, during implementation, we will conduct a baseline assessment that will help identify maturity of contracting processes and that can be matched against future assessments.

Quantitative metrics will also be developed for inclusion during the implementation, where relevant. Examples of the types of numbers that will be measured may include:

- **Number of procurements that went through the newly defined RFP process** - As new and improved processes are designed, a higher number of procurements that follow new procedures is desirable to demonstrate that processes are being implemented.
- **Number, total dollar amount, and percentage of non-competitively sourced contracts** - As efforts are made to increase the amount and proportion of competitively sourced contracts (and the reduction of non-competitive), tracking these metrics will help measure our progress.
- **Number of new contracts publicly available** - As new contracts are issued, this number will track how many are made publicly available in accordance with new publishing guidelines for transparency.
- **Percentage of existing contracts publicly available** - As the number of new contracts publicly available gradually increases, the total percentage of contracts publicly available will increase.

### Contract Oversight Opportunities Prioritization

To assess compliance with CMS requirements, Puerto Rico examined its oversight of managed care contracts awarded under Puerto Rico’s State Plan in the **Requirement 3: Contracting Reform Plan**<sup>8</sup> report. We also reviewed leading practices from other Medicaid programs to identify opportunities to enhance our business processes and tools. These opportunities will be further reviewed and prioritized during Contracting Reform when we select initiatives related to contract oversight and develop an implementation approach.

### Contracting Reform Priority Initiatives

To prioritize meaningful change, Puerto Rico has identified the following initiatives as priorities. A detailed timeline for these initiatives is provided further in this section.

#### Priority initiatives

1. Establish formal parameters to decide when non-competitive bids are necessary by setting criteria and thresholds (Opportunity 1.a.)
2. Define additional actions required to justify non-competitive procurements (Opportunity 1.b.)
3. Identify and involve business owners of each contract requirement to increase oversight and accountability (Opportunity 2.a.)
4. Allow more time for upfront strategy development in major procurements (Opportunity 2.b.)
5. Reconsider the duration of base contracts (Opportunity 2.c.)
6. Define a rigorous scoring process to establish criteria for competitive bids and test scoring criteria to ensure best bids win (Opportunity 3.a.)
7. Identify which portions of contracting documents can or cannot be made public (Opportunity 4.a.)
8. Publish initial contracting documents (Opportunity 4.b.)
9. Establish ongoing process, tools and internal review process to ensure all appropriate documents are published (Opportunity 4.c.)

For a full explanation of each priority initiative, please refer to **Section 5** of this report.

### Post-Implementation: Measuring Progress and Optimizing Contracting

*Anticipated Implementation Dates: October 2021 and ongoing*

<sup>8</sup> PL 116-94: Further Consolidated Appropriations Act, 2020:(133 STAT 3105), Division N, Title 1 §202(a)(7)(A)(iii)  
Report for Requirement 3: Develop Contracting Reform Plan 20  
Government of Puerto Rico, Office of the Governor

Following implementation of the Contracting Reform Plan, Puerto Rico will begin work on additional initiatives to optimize contracting. These are generally more complex and require higher levels of effort and more developed staffing and governance models than the priority initiatives in our Contracting Reform Plan. During this optimization phase, we will also begin tracking the progress and metrics set forth during implementation of the Contracting Reform Plan, and reporting to Congress accordingly.

## Reporting and Measuring our Progress Against Contracting Reform Plan

Puerto Rico intends to submit an annual progress report to Congress as an addendum to the existing annual report beginning in 2022 and a quarterly status report to CMS identifying progress on the Contracting Reform Plan. These reports will provide meaningful progress updates on the plan, what is working according to plan and what is not, and next steps in implementation. Puerto Rico's annual progress report will likely include the following:

- Evaluation of progress on each planned improvement opportunity
- Reporting on the effects anticipated vs. effects realized for each improvement opportunity
- Routine assessment of improvement opportunities. Leading Medicaid programs from other states benchmark against industry standards and instill a culture of continuous learning through a regular maturity assessment of procurement and contracting processes
- Updated assessments that will help identify maturity of contracting processes and can be matched against original and previous iterations
- Updated metrics identified during implementation to measure progress of targeted areas, evaluating where success is being achieved

## Optimization Initiatives

To build upon priority initiatives and optimize contracting processes, Puerto Rico has identified the following six initiatives (which are numbered following the numbering scheme of the priority initiatives), that will take place during optimization. A detailed timeline for these initiatives is provided later in this section.

10. Assess barriers to entry and bidders' limitations (Opportunity 1.c.)
11. Competitively establish pre-qualified lists of vendors (Opportunity 1.d.)
12. Engage agency and other stakeholders in strategic planning (Opportunity 2l.d.)
13. Strategically tie contract performance goals to contract oversight responsibilities (Opportunity 2.e.)
14. Engage potential vendors in planning (Opportunity 2.f.)
15. Increase training efforts on process, criteria, and law (Opportunity 3.b.)
16. Implement prioritized contract oversight opportunities

For a full explanation of each optimization initiative, please refer to **Section 5** of this report.

## Timeline of Activities

Below in Figure 4. is the tentative timeline of activities that Puerto Rico has planned in a phased manner for the implementation discussed earlier in this report.

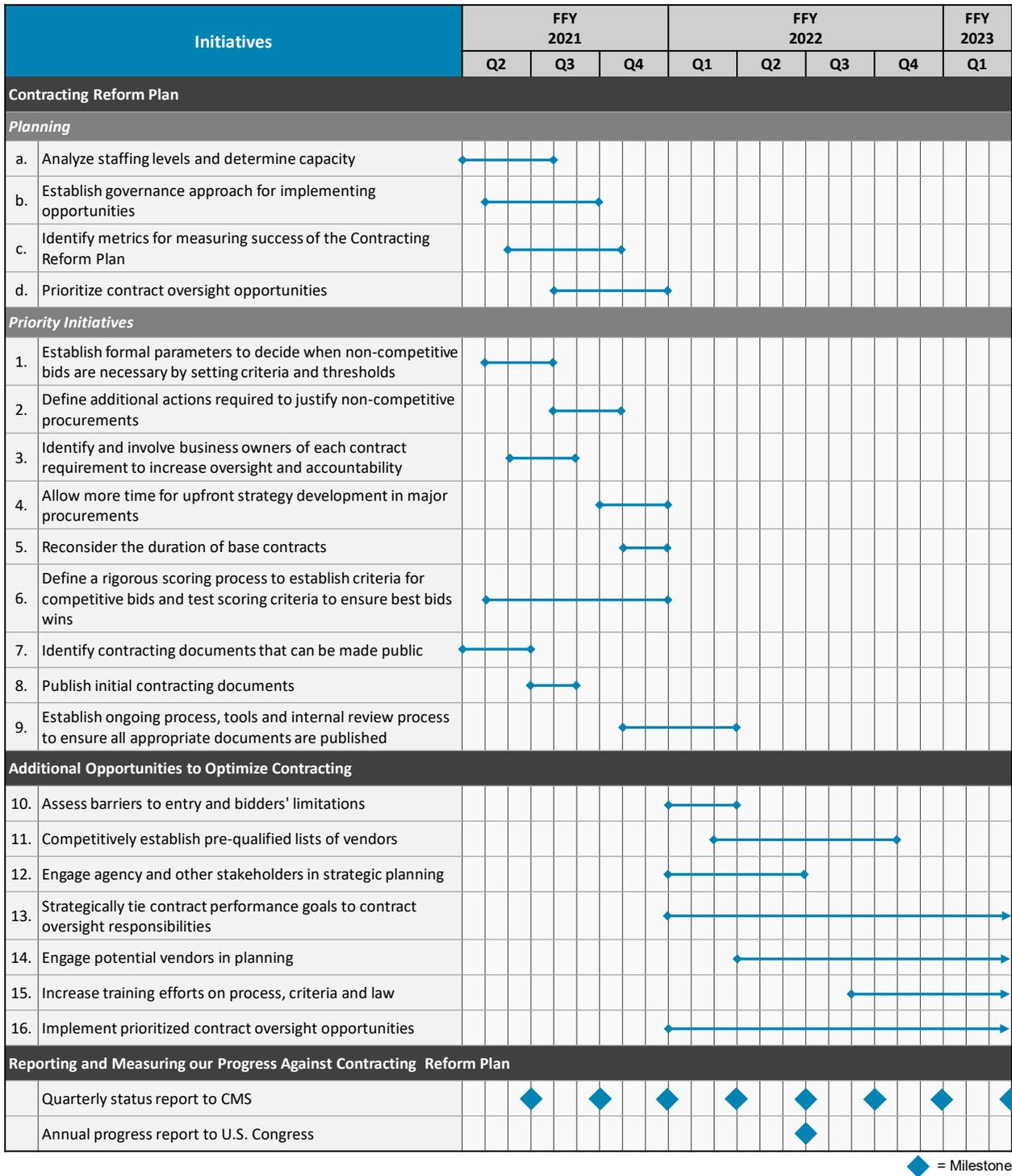


Figure 4. Timeline of Contracting Reform Implementation

## 7. ASSUMPTIONS

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Puerto Rico proposes the implementation of the aforementioned improvement opportunities and initiatives given that we receive timely agreement and funding from CMS and Congress to support the resources needed to implement this plan.