

(S. B. 576)
(Reconsidered)

(No. 11-2023)

(Approved January 12, 2023)

AN ACT

To amend subsection (e) of Section 3.2 of Act No. 2-2018, as amended, known as the “Anti-Corruption Code for the New Puerto Rico,” in order to include an additional exception for procurement processes relating to research conducted by the University of Puerto Rico; and for other related purposes.

STATEMENT OF MOTIVES

Subsection (e) of Section 3.2 of Act No. 2-2018, as amended, known as the “Anti-Corruption Code for the New Puerto Rico,” requires that every person interested in doing business with the agencies, public corporations, and instrumentalities of the government of the Commonwealth of Puerto Rico shall commit to complete the work within the term agreed on, guarantee the quality of the services and goods provided, and charge for his or her services upon presentation of an invoice which shall contain the following certification:

Under penalty of absolute nullity, I hereby certify that no public servant of the government entity is a party to or has an interest of any kind in the profits or benefits to be obtained under the contract which is the basis of this invoice, and should he be a party to, or have an interest in, the profits or benefits to be obtained under the contract, a waiver has been previously issued. The only consideration to provide the contracted goods or services under the contract is the payment agreed upon with the authorized representative of the government entity. The amount that appears in the invoice is fair and correct. The work has been performed, the goods have been delivered, and the services have been rendered, and no payment has been received therefor.

However, the foregoing has been a limitation for the professors and students who conduct research in the University of Puerto Rico, given that most bidders and vendors refuse to include said certification in their invoice for many reasons. Among these reasons, companies claim that they do not need to state in their invoice that they have rendered a service because it is worded as if they are working on the basis of prepayment, however, the service shall be rendered at a later date, once payment has been received. Likewise, due to the University of Puerto Rico's limited credit, as well as previous negative experiences regarding the payment for materials or services rendered, many bidders and vendors only accept purchase orders paid in advance and, consequently, cannot certify that they have delivered the materials and rendered a service.

Furthermore, due to the nature of the study and works conducted in the campuses, institutional and administrative units, experiment stations, and research centers of the UPR, many researchers must procure sophisticated research equipment that is solely and exclusively distributed by a specific company. However, these distributors refuse to include said certification in their quotes or invoices. Unfortunately, this situation hinders professors and students conducting research since it limits the type and quality of the material they may acquire.

Undoubtedly, the University of Puerto Rico is where the people of Puerto Rico go to follow their dreams and, therefore, it is its duty to actively participate in the search for and dissemination of the truth. Thus, utmost academic and scientific freedom is crucial for the university to fulfill its special mission and achieve its goals in accordance with the governing principle of university autonomy.

In view of the Island's economic and fiscal situation, the University of Puerto Rico, the institution with the highest number of funded projects on the Island, needs to strengthen its research component and facilitate the execution of these projects. To achieve this purpose, it is necessary to adopt streamlined mechanisms and reduce

the bureaucracy in the procurement of materials and services, the contracting of personnel, the execution of projects, and the search for new research funding, all of which require immediate action.

Due to the changing nature of research, it is necessary to promptly address this issue which affects the scientific, social, cultural, and academic contributions that the University of Puerto Rico makes to the Island which, in turn, contribute substantially to the institution's budget. In light of the foregoing, this Legislative Assembly deems it necessary and imperative to amend subsection (e) of Section 3.2 of Act No. 2-2018, as amended, known as the "Anti-Corruption Code for the New Puerto Rico," in order to establish an additional exception for procurement processes relating to research conducted in the University of Puerto Rico.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Subsection (e) of Section 3.2 of Act No. 2-2018, as amended, known as the "Anti-Corruption Code for the New Puerto Rico," is hereby amended to read as follows:

"Section 3.2.- Ethical Obligations and Responsibilities.

(a) ...

(b) ...

(c) ...

(d) ...

(e) Every person interested in doing business with the Government shall commit to complete the work within the term agreed on, guarantee the quality of the services and goods provided, and charge for his services upon presentation of an invoice the correction of which shall be certified, stating that the services were fully provided or the goods were delivered within the term agreed on, and that no compensation has been received therefor. Thus, all invoices for the payment of

goods and services submitted to the executive agencies shall contain the following certification:

Under penalty of absolute nullity, I hereby certify that no public servant of the government entity is a party to or has any interest whatsoever in the profits or benefits to be obtained under the contract which is the basis of this invoice, and should he be a party to, or have an interest in, the profits or benefits to be obtained under the contract, a waiver has been previously issued. The only consideration to provide the contracted goods or services under the contract is the payment agreed upon with the authorized representative of the government entity. The amount that appears in the invoice is fair and correct. The work has been performed, the goods have been delivered, and the services have been rendered, and no payment has been received therefor.

Provided, that contractors and suppliers of goods and services of the Curable Catastrophic Illnesses Service Fund within the Department of Health, as well as contractors and suppliers of goods and services directed to funded academic research and projects of the University of Puerto Rico, shall be exempt from meeting the certification requirement provided in this subsection. This certification exemption provided to contractors and suppliers of goods and services directed to funded academic research and projects of the University of Puerto Rico shall not be applicable to invoices for the payment of goods or services that were delivered or performed in whole or in part, and the contractor shall specify the goods delivered or services performed.

(f) ...

(g)...

(h)...

(i) ...

(j) ...

(k)...

(l) ...

(m) ...

(n)...

(o)...

(p)..."

Section 2- The University of Puerto Rico shall have a period of ninety (90) days from the approval of this Act to conform its regulations, certifications, processes, or certificates of compliance to the provisions of this Act.

Section 3.- This Act shall take effect upon its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 11-2023 (S. B. 576) (Reconsidered)** of the **3rd Regular Session** of the **19th Legislative Assembly of Puerto Rico**:

AN ACT amend subsection (e) of Section 3.2 of Act No. 2-2018, as amended, known as the “Anti-Corruption Code for the New Puerto Rico,” in order to include an additional exception for procurement processes relating to research conducted by the University of Puerto Rico; and for other related purposes.

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on this 14th day of November, 2023.

Mónica Freire-Florit, Esq.
Director