

(S.B. 2092)

**(No. 344)**

(Approved December 17, 1999)

**AN ACT**

To add Sections 4(A), 4(B) and 4(C) to Act No. 97 of June 10, 1972, as amended, known as the “Organic Act of the Department of Housing”, and to repeal Section 7 of Act No. 66 of August 17, 1989, and Section 8 of Act No. 211 of September 30, 1995, as amended, in order to provide for the establishment of a unified system for the timely acquisition, through public bidding, of equipment, machinery, materials, supplies, goods and non-personal services as may be necessary for the functioning and operation of said Department and its attached agencies, and for the programs, activities and services to be carried out by them; and to authorize said Department to establish its own system and regulations for procurement, supplies and auxiliary services.

**STATEMENT OF MOTIVES**

Act No. 97 of June 10, 1972, as amended, created and authorized the Department of Housing to formulate and execute the public policy regarding housing and community development in Puerto Rico, and to administrate all government programs in said field. To such effects, the Legislature transferred to this Department all functions formerly entrusted to the Social Program Administration of the Department of Agriculture, of the Urban Renewal and Housing Administration (CRUV, Spanish acronym) and of the Housing Bank and Financing.

Subsequently, the Public Housing Administration (APV, Spanish acronym), the Housing Development and Improvements Administration (ADMV, Spanish acronym) and the Community Revitalization Administration (ARCO, Spanish acronym) were established as agencies

attached to the Department of Housing, pursuant to the referred public policy and in response to the need to consolidate all government action in this field, through the adoption of Act No. 66 of August 17, 1989, Act No. 58 of August 9, 1991 and Act No 211 of September 30, 1995, respectively.

Therefore, for many years, the legislative intent has consistently been to keep the Department of Housing operating as a unifying body of the public policy related to housing and community development in Puerto Rico. Thus, the idea is to consolidate all efforts geared to the establishment of housing programs and projects under a single entity, and eliminate any duplicate efforts and procedures.

In accordance with this principle, this Legislature deems it prudent to empower the Department of Housing to establish its own systems and regulations for acquisitions, supplies and auxiliary services. In other words, to provide for the establishment of one single system for the timely acquisition, through bidding, of equipment, machinery, materials, supplies, goods and non-personal services that may be necessary for the functioning and operation of said Department and its attached agencies, and for the programs, activities and services the same must provide. As a result, the duplicity of procedures involving acquisition of goods and services, in the applicable regulations and in the creation of Bid Boards and Bid Reviewing Boards will be avoided (for which reason Section 7 of Act No. 66 of August 17, 1989 and Section 8 of Act No. 211 of September 30, 1995, as amended, are hereby repealed).

It is furthermore established that whenever the acquisition of equipment, machinery, materials, supplies, goods and services is made with funds from programs or projects of the Department of Housing and Urban Development of the United States (HUD), or any other federal government

agency, the same shall be carried out pursuant to the processing methods and parameters on money amounts established in applicable federal regulations. The primary goal of this provision is to seek the most efficient use of the funds provided by the federal agencies of the Department of Housing and to facilitate supervision thereof.

This measure will make it easier for the Department of Housing to react expeditiously to the ongoing changes and at the same time, deal efficiently with the dynamic and planned work intended by the agency. Therefore, it is necessary and imperative to outfit this agency with the necessary tools in order to control administrative and operating functions that will prevent unnecessary burdens and complexities.

***BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:***

Section 1.- Sections 4(A), 4(B) and 4(C) are hereby added to Act No. 97 of June 10, 1972, as amended, to read as follows:

“Section 4(A).-Purchases, supplies and auxiliary services.- System and regulations.-

It is hereby declared that the timely acquisition of materials, supplies, equipment and non-personal services is essential for an effective administration of the obligations of the Department of Housing. Timely availability of all of the materials, supplies, equipment and non-personal services that are essential for the prompt and efficient execution of activities, programs and projects of the Department and rendering of services which the Department is bound to offer, contribute to achieve of the purposes of this Act.

The Department shall acquire through, purchase, lease, gift or any other legal form, equipment, materials, supplies, goods and non-personal services that are necessary for the functioning and operation of the Department and

its attached agencies and for the programs, activities and services to be executed by them.

The Secretary shall design and implement a program or system for the acquisition and distribution of materials, equipment and supplies. The Secretary shall also adopt, the rules, procedures and systems that may be necessary to assure that all requisitions for materials, supplies, equipment and non-personal services are processed without undue delay and at the lowest cost possible. Likewise, it shall establish an effective system for the distribution of materials, equipment and supplies pursuant to the rules established through regulations.

To such effects, the Department of Housing and its operating components are hereby exempted from applicability of the provisions of Act No. 164 of July 23, 1974, as amended, known as the “General Services Administration Organic Act”, subject to the development and implementation of the corresponding regulations and procedures.

Section 4(B).- Acquisition of equipment, machinery, materials, supplies, goods and services with federal funds.-

Notwithstanding what has been provided above, the acquisition of equipment, machinery, materials, supplies, goods and services with funds proceeding from programs or projects of the Department of Housing and Urban Development of the United States (HUD), or any other agency of the federal government, shall be conducted pursuant to the processing methods and parameters on money amounts established in the applicable federal regulations, even when only a part thereof is acquired with federal funds.

Section 4(C).-Acquisition system for equipment, machinery, materials, supplies, goods and non-personal services; Bid Review Board.

(a) Except as otherwise provided in the applicable federal regulations, the Department shall be subject to the provisions of Act No. 42 of August 5, 1989 and Act No. 109 of July 12, 1985, as amended, with respect to the use of construction materials manufactured in Puerto Rico in works defrayed with public funds.

(b) The Secretary shall establish through regulations the rules and procedures necessary for the application of the provisions of this Section, which shall guarantee the purity of every procedure for acquisition and purchase of goods or for the contracting of works with or without public bid, in order to protect the public interest and that of bidders.

(c) The Bid Review Board is hereby created to attend and resolve the appeals initiated by persons affected by decisions by the Bid Board of the Department and review of decisions in the area of purchases and supplies as entrusted by the Secretary. The Review Board shall also be empowered to formulate recommendations to the Secretary regarding the regulations in effect on purchases and supplies.

The Bid Review Board shall be composed by three (3) persons of the highest moral repute and renowned competence and experience in the matters that they shall be addressing as members of this body. The members of the Review Board shall be appointed by the Secretary and the same shall not be officials or employees of the Department or its attached agencies, nor shall they have any direct or indirect interest in enterprises, businesses or projects that do business with the Department and its attached agencies, or that are total or partially financed by the Department or its attached agencies. The Secretary shall appoint one (1) of its members as Chairman of the Board, who shall be an attorney authorized to exercise the legal profession.

The Review Board shall evaluate and resolve any appeals filed by those persons affected by the decisions of the Bid Board and shall abide by the regulations established for the processing of these appeals pursuant to the provisions of Act No. 170 of August 12, 1988, known as the “Uniform Administrative Procedure Act of the Commonwealth of Puerto Rico”.

In the exercise of its functions, the Review Board may hold administrative hearings, receive testimonies, summon witnesses, require the presentation of books, documents and any other proof, may receive and examine this and any other relevant evidence, regulate the hearings and issue orders pursuant to its resolutions.

Any decision of the Bid Review Board may be appealed before the Court of First Instance, as established in Act No. 170 of August 12, 1988, cited above “cited.”

Section 2.- Section 7 of Act No. 66 of August 17, 1989 and Section 8 of Act No. 211 of September 30, 1995, as amended, are hereby repealed.

Section 3.- Transitory provisions.-

Notwithstanding what is provided above, every regulation and procedure for the acquisition of goods and services approved and implemented by virtue of the above legislative measure, shall remain in effect until the regulation for the development and implementation of the faculties conferred herein. Likewise, every operation pending under the previous legislation shall be carried out as provided therein.

Section 4.- This Act shall take effect immediately after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 344 (S.B. 2092) of the 6<sup>th</sup> Session of the 13<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to add Sections 4(A), 4(B) and 4(C) to Act No. 97 of June 10, 1972, as amended, known as the “Organic Act of the Department of Housing”, and to repeal Section 7 of Act No. 66 of August 17, 1989, and Section 8 of Act No. 211 of September 30, 1995, as amended, in order to provide for the establishment of a unified system for the timely acquisition, through public bidding, of equipment, machinery, materials, supplies, goods and non-personal services as may be necessary for the functioning and operation of said Department and its attached agencies, and for the programs, activities and services to be carried out by them; and to authorize said Department to establish its own system and regulations for procurement, supplies and auxiliary services,

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

In San Juan, Puerto Rico, today 29 of May of 2003.

Elba Rosa Rodríguez-Fuentes  
Director

