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BY ELECTRONIC MAIL

March 29, 2023

Dr. Carlos Mellado López
Secretary
Department of Health

Re: MC-21, LLC (Ryan White Program)

Dear Dr. Mellado López,

In accordance with the Contract Review Policy (the “Policy”) of the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), established pursuant to Section 204(b)(2) of PROMESA, we have reviewed the proposed contract between the Department of Health (the “Department”) and MC-21, LLC (the “Proposed Contract”).

After reviewing the Proposed Contract, the Oversight Board concludes “Approved with Observations.” Observations related to the Proposed Contract are set forth in Appendix A attached hereto.

Our review is solely limited to compliance of the Proposed Contract with Section 204(b)(2) of PROMESA, which seeks to ensure proposed contracts promote market competition and are not inconsistent with approved Fiscal Plans. For the avoidance of doubt, the review performed by the Oversight Board does not constitute a legal review of the contractual documentation or the contracting process, including without limitation: (i) compliance with contracting requirements under applicable laws, rules, and regulations, both federal and local; and (ii) compliance with applicable laws, rules, and regulations governing procurement activities, both federal and local.

In addition, the Oversight Board has not engaged in any due diligence or background check with respect to the contracting parties nor whether the contracting parties comply with the requirements under the applicable contract. Any material changes to the Proposed Contract must be submitted to the Oversight Board for review and approval **prior to execution**.

Dr. Carlos Mellado López

March 29, 2023

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This letter is delivered as of the date hereof and we reserve the right to provide additional observations and modify this letter based on information the Oversight Board was not directed to when the review was conducted. In addition, during the course of our review, we may receive information that we may refer to the relevant authorities.

This letter is issued only to the Department and solely with respect to the Proposed Contract.

Sincerely,



Jaime A. El Koury
General Counsel

APPENDIX A

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DEPARTMENT OF HEALTH – MC 21, LLC

Fiscal Plan Alignment

This review covers the Proposed Contract between the Department and MC-21, LLC for the provision of Pharmacy Benefit Management (“PBM”) services under the Ryan White HIV/AIDS Treatment Extension Act Part B AIDS Drugs Assistance Program (“ADAP”). Pursuant to ADAP, the Department receives federal funds to provide health and support services directed to HIV/AIDS patients who reside in Puerto Rico. Further, the Department is eligible to purchase certain outpatient drugs from drug manufacturers who have signed a drug purchasing agreement with the United States Department of Health and Human Services at reduced prices.

The Proposed Contract stems from a competitive procurement process (RFP SP-2022-20232) awarded on January 24, 2023 for the purpose of complying with Ryan White Part B/ADAP pharmacy benefits requirements. As such, MC-21, LLC shall, among other things, provide (i) PBM benefits management services; (ii) health insurance assistance services for co-payments, co-insurance and/or deductibles to ADAP eligible patients; (iii) auditing services; and (iv) pay a dispensing fee to the pharmacies that belong to the ADAP Pharmacy Network. Further, MC-21, LLC shall provide services to the Puerto Rico Health Insurance Administration (“ASES,” for its Spanish acronym), pursuant to an Interagency Agreement to be executed with the Department. Under this agreement, ASES agrees to use the Department’s PBM for the provision of required medication to HIV/AIDS patients who are eligible for coverage under the Government Health Insurance Plan.¹

The Proposed Contract has a term from **April 1, 2023** until **March 31, 2024**, with optional 1-year extensions. We remind the Department that, in the event it intends to exercise these allowable extensions, such extensions must be submitted to the Oversight Board for review and approval prior to execution in accordance with the Policy.

The Proposed Contract has a maximum payable amount of **\$4,223,100** for Federal Fiscal Year 2023, payable in Special Revenue Funds (“SRF”) managed by the Ryan White Part B Program. The SRF for the Proposed Contract fall under the **program income** category. Since the Ryan White Part B Program’s income revenues are subject to the same treatment as the federal funds they are derived from, the Oversight Board has determined that such funds fall under the exemption of Section 4 of the FY2023 Certified Budget Resolution for SRF and Other Funds. Notably, Section 4 allows the Ryan White Part B Program to carry over SRF’s from prior fiscal years.²

The Department has certified that the funds required for payments under the Proposed Contract are allocated in **Account No. E1290-245-0710724-06A-2022**. As such, the Oversight Board’s

¹ The services to be provided to ASES by MC-21, LLC do not entail additional expenditures on the part of the Department, since associated costs will be assumed by ASES.

² Specifically, Section 4 states the following:

“All authorized SRF budget amounts for government entities, including those with funds outside of the TSA, for any prior fiscal year, are eliminated and no carry over of such funds may be used, [...], with the exception of: [...]” “In addition, this restriction on the use of unused authorized prior fiscal year amounts shall not apply to: (i) **programs financed in whole or in part with federal funds** [...]” (emphasis added).

APPENDIX A

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review indicates that the Department has sufficient funds in Fiscal Year 2023 to cover the cost of the Proposed Contract, as of the date of this letter. This determination does not consider the extent to which total available funds will be subsequently encumbered by the Department throughout the Proposed Contract's term. Consequently, we rely on the Department's budget certification for purposes of this review.

The Department is expected to inform the Oversight Board of any budgetary differences other than those specified in Appendix A (Contract Submission Questionnaire) and to request a re-review of the Proposed Contract should any changes occur.

This review was conducted on the basis of information submitted by the Department. The Oversight Board has not independently verified the information included in the submission. Should the Oversight Board become aware of any inaccuracies or misrepresentations – whether intentional or not – it would re-evaluate its assessment.