

# GAO@100 Highlights

Highlights of [GAO-21-229](#), a report to congressional committees

## Why GAO Did This Study

States' and U.S. territories' Medicaid procurement processes can directly affect their ability to prevent fraud, waste, and abuse in the program. A 2019 federal indictment alleging fraudulent Medicaid procurements in Puerto Rico has raised questions about the program's oversight.

The Consolidated Appropriations Act, 2020 includes a provision for GAO to review oversight of Puerto Rico's Medicaid procurement process and its use of competition. This report examines CMS oversight of Puerto Rico's procurement process from its initial steps through the award, and how it helps ensure competition. GAO reviewed federal regulations, guidance, and Puerto Rico's December 2020 procurement reform plan; interviewed Puerto Rico and federal officials; and reviewed eight awards that represented about 97 percent of the costs of Puerto Rico's procurements in effect as of April 2020. These procurements were selected based on variation in cost, use of competition, and other factors. GAO assessed whether CMS addressed risks in Puerto Rico's procurement process by reviewing selected procurements against certain federal standards that apply to other non-federal entities and aim to mitigate the risk of fraud, waste, and abuse. GAO also assessed CMS's policies and procedures against federal internal control standards.

## What GAO Recommends

GAO recommends that CMS implement risk-based oversight of the Medicaid procurement process in Puerto Rico. The Department of Health and Human Services concurred with this recommendation.

View [GAO-21-229](#). For more information, contact Carolyn L. Yocom at (202) 512-7114 or [YocomC@gao.gov](mailto:YocomC@gao.gov).

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## MEDICAID

### CMS Needs to Implement Risk-Based Oversight of Puerto Rico's Procurement Process

## What GAO Found

Like other U.S. territories and states, Puerto Rico implements major functions of its Medicaid program by procuring services from contractors, such as the delivery of managed care services to Medicaid beneficiaries. In 2018, procurement costs represented \$2.4 billion of Puerto Rico's \$2.5 billion in total Medicaid expenditures. A 2019 federal indictment alleging Puerto Rico officials unlawfully steered Medicaid contracts to certain individuals has raised concerns about Puerto Rico's Medicaid procurement process, including whether this process helps ensure appropriate competition.

The Centers for Medicare & Medicaid Services (CMS), within the Department of Health and Human Services, is responsible for overseeing the Medicaid program. CMS requires states and territories to use the same process for Medicaid procurements as they do for their non-federal procurements. However, CMS has not taken steps to ensure Puerto Rico has met this requirement. Instead, CMS has relied on Puerto Rico to oversee the territory's procurement process and to attest to its compliance. CMS approved Puerto Rico's attestation of compliance in 2004 and has not required subsequent updates. CMS officials told GAO that states and territories are in the best position to ensure compliance with their respective procurement laws.

GAO and others have found that competition is a cornerstone of procurement. Using competition can reduce costs, improve contractor performance, curb fraud, and promote accountability. GAO reviewed selected Puerto Rico Medicaid procurements against federal procurement standards designed to promote competition and reduce risks of fraud. States and territories are generally not required to meet such standards. However, GAO and others have found that such standards can indicate whether a state's or territory's procurement process includes necessary steps to achieve fair competition.

GAO found that seven of the eight selected Puerto Rico procurements did not include important steps to promote competition and mitigate the risk for fraud, waste, and abuse, underscoring the need for federal oversight.

- **Competitive procurements.** The requests for proposals for two of the three competitive procurements GAO reviewed did not include certain information on factors used to evaluate proposals and make awards. In contrast, Puerto Rico's managed care procurement—the largest procurement reviewed— included this information.
- **Noncompetitive procurements.** None of the five noncompetitive procurements GAO reviewed documented circumstances to justify not using competitive procurements, such as a lack of competition or an emergency. Puerto Rico officials explained that territorial law allows noncompetitive procurement for professional services regardless of circumstances.

Because CMS does not oversee Puerto Rico's procurement process, the agency lacks assurance that Puerto Rico's Medicaid program is appropriately managing the risk of fraud, waste, and abuse. Procurements that did not include important steps to promote competition could have unnecessarily increased Medicaid costs, reducing funding for Medicaid services to beneficiaries.