



# CDBG-DR

**Anti-fraud, Waste, Abuse, or Mismanagement Policy  
(AFWAM Policy)**

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PUERTO RICO DEPARTMENT OF HOUSING  
CDBG-DR PROGRAM  
**ANTI-FRAUD, WASTE, ABUSE, OR MISMANAGEMENT POLICY**  
VERSION CONTROL

VERSION NUMBER	DATE REVISED	DESCRIPTION OF REVISIONS
1	January 31, 2020	Original version
2	August 21 2020	Addition of content regarding fraud related training provided by HUD OIG and addition of direct links to CDBG-DR content. All edits are marked in gray highlight for convenience.

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## 1 Overview

The Puerto Rico Department of Housing (**PRDOH**), as grantee, is committed to the responsible management of the Community Development Block Grant Disaster Recovery (**CDBG-DR**) funds. The U.S. Department of Housing and Urban Development (**HUD**) allocated these funds to address Puerto Rico's long-term recovery needs caused by Hurricanes Irma and María, both in September of 2017. In doing so, PRDOH is dedicated to being a good advocate of the resources while maintaining a comprehensive policy for preventing, detecting, reporting, and rectifying fraud, waste, abuse, or mismanagement. To that end, PRDOH encourages any individual who is aware or suspects any kind of conduct or activity that may be considered an act of fraud, waste, abuse, or mismanagement, regarding the CDBG-DR Program, to report such acts to the CDBG-DR Internal Audit Office, directly to the Office of Inspector General (**OIG**) at HUD, or any local or federal law enforcement agency.

## 2 Scope

This policy applies to any allegations or irregularities, either known or suspected, that could be considered acts of fraud, waste, abuse, or mismanagement, involving any citizen, previous, current or potential applicant, beneficiary, consultant, contractor, employee, partner, provider, subrecipient, supplier, and/or vendor under the CDGB-DR Program.

## 3 Policy

PRDOH, as grantee of the CDBG-DR Program, is responsible for the prevention, detection, reporting and rectifying of fraud, waste, abuse, or mismanagement, among other irregularities related to the Program. The purpose of this policy is to encourage any individual to raise any concern, known or suspected, of acts of fraud, waste, abuse, or mismanagement by anyone involved with the CDBG-DR Program. The process is for concerns to be raised, investigated and, where appropriate, acted upon.

## 4 Definitions and Examples

### 4.1 AFWAM Submission Form

**Anti-Fraud, Waste, Abuse, or Mismanagement Submission Form (AFWAM Submission Form)** is an electronic document that may be used for the purpose of reporting allegations of fraud, waste, abuse, or mismanagement related to CDBG-DR funds. This form can be submitted online, by electronic or postal mail or in person. The complainant, as defined below, may choose to remain anonymous or specify that their contact information stay confidential.

## 4.2 Complainant/Discloser

**Complainant or discloser** is defined as any citizen, previous, current or potential applicant, beneficiary, consultant, contractor, employee, partner, provider, subrecipient, supplier, and/or vendor under the CDGB-DR Program.

## 4.3 Fraud

**Fraud** is defined as the wrongful or criminal deception intended to result in financial or personal gain. Fraud includes false representation of fact, making false statements, or by concealment of information. Examples include, but are not limited to, the following:

- Falsification of information in applications, contracts or procurement process;
- Billing for services not rendered or duplication of payments;
- Alteration of documents or forgery, which may include contracts, purchase orders, and invoices;
- Bribery or kickbacks;
- False claims or bid rigging;
- Theft, embezzlement, or other misapplication of funds or assets;
- Impropriety with respect to reporting financial transactions;
- Profiting on insider knowledge;
- Destruction or concealment of records or assets;
- Falsifying eligibility.

## 4.4 Waste and Mismanagement

**Waste and mismanagement** are defined as the thoughtless or careless expenditure, mishandling, and/or abuse of resources to the detriment (or potential detriment) of the U.S. Government and or the Government of Puerto Rico. Failure to observe laws, rules or regulations when handling public funds leading to a wrongful use of public funds may constitute waste and mismanagement. For example, incurring in unnecessary costs resulting from inefficient or ineffective practices, systems, or controls, such as, but are not limited to, the following:

- Purchasing unnecessary supplies, material, and equipment;
- Purchasing supplies without regard to cost;
- Using supplies, materials, and equipment carelessly resulting in unnecessary waste and replacement.

## 4.5 Abuse

**Abuse** is defined as excessive or improper use of a thing, or to use something in a manner contrary to the natural or legal rules for its use. Abuse can occur in financial or non-financial settings. Examples include, but are not limited to, the following:

- Making procurement or vendor selections that are contrary to existing policies or are unnecessarily extravagant or expensive;
- Receiving favor for awarding contracts to certain vendors;

- Using one's position for personal gain or to gain an advantage over another;
- Failure to report damage to equipment or property;
- Creating unneeded overtime; and
- Requesting staff to perform personal errands or work tasks for a supervisor or manager.

## 5 Awareness and Prevention

Pursuant to 83 FR 40314, PRDOH implements adequate measures to create awareness and prevent fraud, waste, abuse, or mismanagement in all programs administered with CDBG-DR funds.

PRDOH aims to maintain an ethical work environment at all times. To that end, directors, deputies, program managers, and supervisors are responsible of promoting, implementing and maintaining a work environment that endorses honest behavior from all employees, contractors, vendors, suppliers, among others directly involved with the CDBG-DR Program. To do so, directors, deputies, program managers, and supervisors must lead by example and thus, behave ethically at all times and inform their employees and those directly involved in the CDBG-DR Program that they are expected to behave the same way.

PRDOH will also create awareness to prevent fraud, waste, abuse, or mismanagement by conducting but not being limited to, the following:

- Establishing open and clear lines of communication with PRDOH CDBG-DR Program employees, contractors, subcontractors, partners, subrecipients, vendors, suppliers, providers, among others.
- Handing out a copy of the *Anti-Corruption Code for the New Puerto Rico*, Act 2-2018, as amended, and of the Puerto Rico Government Ethics Office Organic Act, Act 1-2012, as amended, to all private entities who sign any type of written agreement with PRDOH.
- Requesting a Sworn Statement from all private entities before executing a written agreement with PRDOH regarding observance of the *Anti-Corruption Code for the New Puerto Rico*.
- Written agreements include several clauses on corruption, fraud, and ethics at a State and Federal level.
- Correcting any audit or program evaluation findings.
- Conducting site visits to examine the work performed and ensure compliance with contract terms.

### 5.1 AFWAM Related Trainings

PRDOH, or HUD OIG, on PRDOH's behalf, will provide fraud related training to CDBG-DR Program's staff, partners and subrecipients. Among other topics, the training will include



information on how to manage and disclose any allegation of known or suspected acts of fraud, waste, abuse, or mismanagement relating to CDBG-DR funds.

## **5.2 AFWAM Informative Material**

In its efforts to prevent fraud, waste, abuse, or mismanagement, PRDOH will provide informative material, including, but not limited to: brochures; flyers; posters; and/or electronic content. These materials will help people identify fraudulent activities or schemes and explain how to report them.

This Policy will also be provided to all CDBG-DR employees, partners, subrecipients, contractors and/or vendors, as well as the local HUD Field Office.

Anti-fraud posters will be displayed in, but not limited to, common areas of PRDOH Headquarters and regional offices; Intake Centers; construction sites; City Halls; and Partner and Subrecipient offices.

## **5.3 Implementation of a Conflict of Interest Policy**

As stated in the Federal Register Vol. 83, No. 28 (February 9, 2018), 83 FR 5844, Federal regulations require that State grantees, in the direct Grant administration and means of carrying out eligible activities, be responsible with program administrative requirements, including those established in 24 C.F.R. §570.489(h) related to conflicts of interest.

Several federal and state conflict of interest laws can govern CDBG-DR assisted activities. Therefore, as another tool to prevent fraud, waste, abuse or mismanagement, PRDOH has enacted the Conflict of Interest Policy and Standards of Conduct in conformity with the following applicable federal and state regulations:

1. HUD conflict of interest regulations, 24 C.F.R. §570.611 and 24 C.F.R. §85.36;
2. The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. §200 at §200.112 and §200.318 (c)(1);
3. Puerto Rico Department of Housing Organic Act, Act 97 of June 10, 1972, as amended;
4. The Anti-Corruption Code for the New Puerto Rico, Act 2-2018, as amended; and
5. The Puerto Rico Government Ethics Office Organic Act, Act 1-2012, as amended.

The Conflict of Interest Policy and Standards of Conduct outlines PRDOH's responsibility, in its role as grantee, to identify, evaluate, disclose and manage apparent, potential or actual conflicts of interest related to CDBG-DR funded projects, activities and/or operations. Said Policy is intended to serve as guidance for the identification of apparent, potential or actual conflicts of interest in all CDBG-DR assisted activities and/or operations. In accordance with 24 C.F.R. § 570.489, the Conflict of Interest Policy and Standards of Conduct also includes standards of conduct governing employees engaged in the award or administration of contracts.

As defined in the Conflict of Interest Policy and Standards of Conduct, a conflict of interest is a situation in which any person who is a public servant, employee, agent,

consultant, officer, or elected official or appointed official of the PRDOH, or of any designated public agencies, or of subrecipients that are receiving funds under the CDBG-DR Program may obtain a financial or personal interest or benefit that is or could be reasonably incompatible with the public interest, either for themselves, or with those whom they have business, or an organization which employs or is about to employ any of the parties indicated herein, or a member of their family unit during their tenure or for two (2) years after.

Such conflicts of interests will not be tolerated by PRDOH. PRDOH, Program officials, their employees, agents and/or designees are subject to state ethic laws and regulations, including, but not limited to the Puerto Rico Government Ethics Office Organic Act, Act 1-2012, as amended, in regard to their conduct in the administration, granting of awards and program activities.

According to the aforementioned Act, no public servant shall intervene, either directly or indirectly, in any matter in which he/she has a conflict of interests that may result in his/her benefit. No public servant shall intervene, directly or indirectly, in any matter in which any member of his/her family unit, relative, partner or housemate has a conflict of interest that may result in benefit for any of the abovementioned. In the case that any of the abovementioned relationships has ended during the two years preceding the appointment of the public servant, he/she shall not intervene, either directly or indirectly, in any matter related to them until two (2) years have elapsed after his/her appointment. This prohibition shall remain in effect insofar the beneficial ties with the public servant exist. Once the beneficial ties end, the public servant shall not intervene, either directly or indirectly, in such matter until two (2) years have elapsed.

The above conflict of interest statement does not necessarily preclude PRDOH Program officials, their employees, agents and/or designees from receiving assistance from the Program. On a case by case basis, PRDOH Program officials, their employees, agents and/or designees may still be eligible to apply and to receive assistance from the Program if the applicant meets all Program eligibility criteria as stated in this policy. PRDOH Program officials, their employees, agents and/or designees should disclose their relationship with PRDOH at the time of their application.

**The Conflict of Interest Policy and Standards of Conduct and all CDBG-DR Program policies are posted in English and Spanish at <https://www.cdbg-dr.pr.gov/en/resources/policies/general-policies/> and <https://www.cdbg-dr.pr.gov/recursos/politicas/politicas-generales/>.**

## 6 Detection

While prevention techniques are necessary to avoid possible key events of risks of fraud, detection techniques must be put in place whenever the preventive measures failed their purpose. Notwithstanding the aforementioned measures and efforts to prevent fraud, waste, abuse, or mismanagement, PRDOH is fully committed to the detection of

such acts or the intent to commit any fraudulent activity regarding the management and expenditure of CDBG-DR funds.

PRDOH offers multiple reporting mechanisms that not only employees, but contractors, subcontractors, partners, subrecipients, vendors, suppliers, providers, and members of the public can serve as eyes and ears of the Program. All parties can access the Internal Audit Office via phone, email, postal mail, web and in person. Program specific training on what fraud is, what to look for, and how to report it also serves as an empowerment tool for PRDOH employees and non-employees to speak up when they see wrongdoing by permitting them to be contributing members of the Program.

The evaluation of risk or threat of fraud, waste, abuse, or mismanagement is a collaborative effort that involves every individual inside or directly related to the CDBG-DR Program. Through the Internal Audit Office, PRDOH will periodically evaluate the exposure to risk or threat of fraud in order to be able to identify schemes or events that need to be prevented to mitigate the risks. Risk or threat of fraud would be studied through various mechanisms such as, but not limited to: conducting interviews with key employees (i.e. those who have access or custody of documents and sensitive information), surveys, anonymous feedback mechanisms, among other qualitative and quantitative factors.

### **6.1 Verifying the accuracy of the information**

PRDOH has also developed effective internal controls throughout different program areas in order to uphold the segregations of duties between divisions and within Program divisions as well. Divisions such as Procurement, Contract Administration, Program Management, Finance, and Monitoring have created specific policies and procedures tailored to the duties and the day to day activities and responsibilities of each area and its personnel. Examples include Procurement Manual, Program Guidelines, Finance Guide, Monitoring Guide, as well as numerous standard operating procedures on the matter. Among other purposes, these resources instruct on how to execute and manage a program specific area. Thus, ultimately managing conduct, expected behavior and results. As a result, all program areas lead to this AFWAM Policy as to where and how anybody can report on any concerns and what they can expect as follow-up action if they do so.

The policies and procedures developed by each division, and continuously updated, are designed to mitigate and monitor the risk of fraud through the establishment of measures and detailed steps in order to manage the information and documents pertaining each area and Program. Such steps will also help verify the accuracy of information provided by applicants. The workflow of each area is designed in such manner that one individual's roles and responsibilities serve as a check and balance of another individual's work. That way, PRDOH can assure the quality and effectiveness of the processes undertaken in each division, at every level, by tracking duties and identifying duplicates, gaps, data mismatches (including inaccuracy in the information provided by

applicants), among other instances, as well as develop a culture and environment of integrity and commitment.

The effectiveness of internal controls and procedures to avoid that these are overridden, will also help PRDOH in its evaluation and detection of possible inherent risks of fraud and its probability of occurrence. Moreover, maintaining effective internal controls will contribute in the identification of which individuals or divisions are more prone to incur in acts of fraud, waste, abuse, or mismanagement and to identify which methods were used to perform such illegal activities.

## **7 Report and Investigation**

### **7.1 Responsibility to Report**

Every citizen has an ethical responsibility to report any concern, either known or suspected, of acts of fraud, waste, abuse, or mismanagement relating to the CDBG-DR funds. Moreover, reporting these types of acts deter others from committing such illegalities and protect the integrity of the CDBG-DR Programs.

While reporting acts of fraud, waste, abuse, or mismanagement, the complainant may choose to remain anonymous or request that their contact information remain confidential. However, the complainant should be able to provide the following information, to the extent known, regarding the incident:

- Who was involved? (Name(s) and phone(s) number(s), if available)
- What happened? (Summary of events, additional sources of evidence; loss to the CDBG-DR Program)
- When did it happen? (Date or range of dates, time and frequency)
- Where did it happen? (Location; city & state)
- Why? (Gain to the person who allegedly committed the fraud, waste, abuse, or mismanagement)
- How did it happen? (Narrative of complainant's description of incident or scheme)

Incomplete or vague information can result in the inability to investigate the allegations reported.

Although proof of an improper activity is not required at the time the incident is reported, anyone reporting fraud, waste, abuse, or mismanagement must have reasonable grounds for doing so.

### **7.2 How to report fraud, waste, abuse, or mismanagement?**

Any allegations of fraud, waste, abuse, or mismanagement related to CDBG-DR funds or resources must be reported to the CDBG-DR Internal Audit Office, directly to the OIG at HUD, or any local or federal law enforcement agency.

Any person, including any employee of the CDBG-DR Program, who suspects, witnessed or discovered any fraud, waste, abuse, or mismanagement, relating to the CDBG-DR Program, should report it immediately to the CDBG-DR Internal Audit Office by any of the following means:

- **Online:** Filling out the AFWAM Submission Form, available in English and Spanish at the CDBG-DR website <https://cdbg-dr.pr.gov/app/cdbgdrpublic/Fraud>.
- **Phone:** Calling PRDOH confidential Hotline at 787-274-2135 (English/Spanish/TTY).
  - This hotline is intended to receive messages only and the call will not be traceable.
- **Postal Mail:** Writing to: Puerto Rico Department of Housing  
Attn: CDBG-DR Internal Audit Office  
P.O. BOX 21355  
San Juan, PR 00928-1355
- **Email:** Writing to [hotlineCDBG@vivienda.pr.gov](mailto:hotlineCDBG@vivienda.pr.gov)
- **In person:** Request a meeting with the Deputy Audit Director of the CDBG-DR Internal Audit Office (Deputy Audit Director), located at PRDOH's Headquarters at 606 Barbosa Avenue, Building Juan C. Cordero Dávila, Río Piedras, PR 00918.

It is possible that a citizen may disclose acts of fraud, waste, abuse, or mismanagement of CDBG-DR funds to any CDBG-DR Program staff (at Intake Centers, Regional Offices, events, others). Therefore, any information received must be treated with extreme confidentiality and must be shared the PRDOH CDBG-DR Internal Audit Office by following the established procedure.

PRDOH's ultimate goal is to establish that all information disclosed to any employee will not be rejected.

PRDOH CDBG-DR's Internal Audit Office will refer all reported instances of fraud, waste, abuse or mismanagement to HUD's OIG Fraud Hotline (via phone 1-800-347-3735 or via email at [hotline@hudoig.gov](mailto:hotline@hudoig.gov)).

### 7.3 Investigation

Upon receiving the allegations by any of the reporting means stated previously, the Deputy Audit Director will have the primary duty of analyzing the complaint. If the allegations have no grounds or are not supported by any documentation, the file must be closed. Such determination must be made in writing and should be included in the file, with the consent of the Internal Audit Director.

If the allegations are substantiated, the Deputy Audit Director will conduct an investigation, in which they can seek advice from Human Resources and/or Legal

Division, if necessary. In accordance with the current Internal Audit Manual and Internal Audit Charter, PRDOH CDBG-DR's Internal Audit Office has the authority to take control of and examine records in order to investigate. Upon completion of the investigation, said office will prepare a final investigation report that reflects all the findings and recommendations.

Employees should not confront the suspected individual or initiate an investigation on their own since such actions could compromise the investigation.

#### **7.4 Investigation Results**

The decision to pursue a report either through an investigation, audit, or review, rests exclusively with the Internal Audit Office in conjunction with the Internal Audit Committee, as designated by the PRDOH Secretary.

- **The Internal Audit Office nor the Internal Audit Committee will provide case status updates or other information to the complainant or discloser while the case is under review.**
- **The Internal Audit Office nor the Internal Audit Committee will provide status of any action taken on an allegation.**

Investigation results will not be disclosed or discussed with anyone, other than those who have a legitimate right to know according to the current Internal Audit Manual and Internal Audit Charter.

In order to maintain impartiality and fairness of the process, the Internal Audit Director shall submit the investigation report to the Internal Audit Committee designated by the PRDOH Secretary, and said Committee will decide if there is a need to refer the issue to the Puerto Rico Department of Justice.

In the extraordinary circumstances where a conflict of interest may exist between the Deputy Audit Director and the allegations reported, the Director of the CDBG-DR Internal Audit Office shall designate another audit official to conduct the investigation and prepare the investigation report. For the purpose of this policy, conflict of interest means a situation when it benefits the Deputy Audit Director's own undisclosed businesses, family, or business associates.

#### **7.5 Other irregularities**

Allegations or complaints concerning fraud, waste, abuse, or mismanagement need to be exclusively related to the improper use of CDBG-DR funds. Some examples of situations that are not considered acts of fraud, waste, abuse, or mismanagement are, but not limited to, the following:

- Conflicts between employees and employers related to personnel actions, such as transfers, decreases, suspensions of employment and salary.
- Political-partisan issues.

- Actions to collect money for services rendered and not paid.

Allegations of irregularities received by the Internal Audit Office that are not related to fraud, waste, abuse, or mismanagement, will be referred to the appropriate offices or authorities.

## **8 Confidentiality**

All allegations or complaints received in the CDBG-DR Internal Audit Office will be treated with extreme confidentiality. The complainant's contact information will be kept confidential, unless the complainant authorizes otherwise.

The complainant may choose to remain anonymous, in which case, they will not have to provide their contact information (name, address, telephone, and/or email) to report the alleged act or suspected act of fraud, waste, abuse, or mismanagement.

### **8.1 Whistleblower Protection**

One of the main reasons to protect the confidentiality is to avoid retaliation against employees that may report an incident of fraud, waste, abuse, or mismanagement.

Retaliation occurs when an employer discharges, demotes, or otherwise discriminates against an employee and the employee's disclosure contributed to the adverse action. If the evidence establishes contribution, the employer will have the burden to show that it would have taken the same action without the disclosure. Factors will include the motive to retaliate, treatment of other employees in similar situations, and evidence supporting the employer's action.

The Whistleblower Protection Act (WPA) protects Federal employees and applicants for employment who lawfully disclose information they reasonably believe evidences:

- a violation of law, rule, or regulation;
- gross mismanagement;
- a gross waste of funds;
- an abuse of authority;
- or a substantial and specific danger to public health or safety.

Under the WPA, certain federal employees may not take or fail to take or threaten to take or fail to take; any personnel action against an employee or applicant for employment because of the employee or applicant's protected whistleblowing. See 5 U.S.C. § 2302(b)(8).

The Whistleblower Protection Enhancement Act of 2012 (WPEA) strengthens protections for Federal employees who report fraud, waste, abuse, or mismanagement. The WPEA clarifies the scope of protected disclosures and establishes that the disclosure does not lose protection because:

- The disclosure was made to someone, including a supervisor, who participated in the wrongdoing disclosed;
- The wrongdoing being reported has previously been disclosed;
- of the employee's motive for reporting the wrongdoing;
- The disclosure was made while the employee was off duty;
- The disclosure was made during the employee's normal course of duty, if the employee can show that the personnel action was taken in reprisal for the disclosure; or
- The amount of time that has passed since the occurrence of the events described in the disclosure.

The WPEA protects disclosures that an employee reasonably believes are evidence of censorship related to research, analysis, or technical information that causes, or will cause, a gross government waste or gross mismanagement, an abuse of authority, a substantial and specific danger to public health or safety, or any violation of the law. It expands the penalties imposed for violating whistleblower protections and establishes the position of Whistleblower Protection Ombudsman.

The Office of Special Counsel (OSC) is an independent federal agency tasked by the U.S. Congress to investigate whistleblower retaliation against federal employees. OSC has the authority to demand the agency undo any retaliation, compensate the employee suffering reprisal, and take action against the retaliating supervisor. Also, OSC can initiate an action against the agency if it refuses to undo the reprisal.

An employee who believes they have been retaliated against may file a complaint on the OSC website or mail a complaint to OSC, 1730 M Street, N.W., Ste. 218, Washington, D.C., 20036, or you may fax it to (202) 254-3711.

Supervisors should receive training on how to respond to complaints of whistleblower retaliation. A supervisor who engages in whistleblower retaliation may be subject to a minimum suspension of 3 days, and removal if the supervisor retaliates a second time.

Whistleblower protections are not intended to prevent otherwise meritorious personnel actions by the supervisor. Where a supervisor aware of covered disclosures by an employee, the supervisor should consult with Human Resources staff when taking any personnel action regarding the disclosing employee.

Congress requires each OIG to designate a Whistleblower Protection Coordinator (WPC). The WPC educates HUD employees on prohibitions on retaliation for protected disclosures. Additionally, the WPC educates employees who have made or are contemplating making a protected disclosure about their rights and about remedies against retaliation for protected disclosures. The WPC is not a legal representative, advocate, or agent of the employee or former employee.



To contact HUD OIG's WPC, email [whistleblower@hudoig.gov](mailto:whistleblower@hudoig.gov). If you wish to make a retaliation complaint, access <https://www.hudoig.gov/hotline/whistleblower-retaliation-complaint-form>

#### 8.1.1. Whistleblower Protection Relating to Federal Grants and Contracts

Whistleblower disclosures relating to federal grants and contracts play an important role ensuring that grantees and contractors use federal funds honestly, efficiently and accountably. Employees of federal grantees and contractors are often in the best position to spot waste, fraud, and abuse. Recognizing this, Congress passed laws to protect whistleblowing employees from retaliation.

The National Defense Authorization Act of 2013 (NDAA), enacted a pilot program making it illegal for an employee of a Federal contractor, subcontractor, grantee, or subgrantee to be discharged, demoted, or otherwise discriminated against for making a protected whistleblower disclosure. In 2016, Congress amended the program to make those protections permanent. See Enhancement of Contractor Protection from Reprisal, 41 U.S.C. § 4712.

Employee of a federal contractor, subcontractor, grantee, and subgrantee, or hold a professional services contract with a federal agency are covered under this protection. Persons receiving federal assistance are not covered.

An employee makes a disclosure by providing information regarding a federal grant or contract that the employee reasonably believes is evidence of:

- Violation of law, rule or regulation;
- Gross mismanagement;
- Gross waste of funds;
- Abuse of authority; or
- A danger to public health or safety

The disclosure must be made to:

- A management official or other employee of the contractor, subcontractor, or grantee who has the responsibility to investigate, discover, or address misconduct; a federal employee responsible for overseeing the grant or contract;
- The Inspector General;
- The Government Accountability Office;
- Congress;
- A Court or grand jury; or
- The Department of Justice.

## 8.2 Employee's Right to Contact the OIG or Congress

As per Section 7(C) of the Inspector General Act of 1978, as amended, any employee who has authority to take, direct others to take, recommend, or approve any personnel

action, shall not, with respect to such authority, take or threaten to take any action against any employee as a reprisal for making a complaint or disclosing information to an Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

As per 5 U.S.C. § 2302(B)(13), it is prohibited that an agency enforces any nondisclosure policy or agreement, if such policy or agreement does not inform the employee that the policy or agreement does not alter the employee's right to communicate with Congress, or report to an Inspector General a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or any other whistleblower protection. This statute does not authorize the withholding of information from Congress or the taking of any personnel action against an employee who discloses information to Congress.

As per 5 U.S.C. § 2302 (C), it is required that the head of each agency to inform employees of the rights and remedies available to them regarding disclosures, including how to make a lawful disclosure of information to the Inspector General of an agency, Congress, or other agency employee designated to receive such disclosures.

### **8.3 Anti-Corruption Code for the New Puerto Rico**

One of the main purposes of the *Anti-Corruption Code for the New Puerto Rico, Act 2-2018*, as amended, is to consolidate separate anti-corruption legislation into a sole code.

The Code provides whistleblower protections prohibiting private entities and government officials from "harassing, discriminating, firing, threatening, or suspending any benefit, right or protection" to anyone who has provided information, cooperated or has acted as a witness in any investigation leading to any complaint, accusation, conviction, civil or administrative action, related to the illegal use or misappropriation of public funds or other acts of corruption. The Code also allows for whistleblowers to claim civil damages for violations to the retaliation prohibitions set forth. Furthermore, it recognizes the right of whistleblowers to request and receive free legal advice and/or representation by the Department of Labor of Puerto Rico necessary to initiate or participate in any civil, criminal or administrative proceeding arising under the Code.

For more information about the whistleblower protections and remedies recognized in the *Anti-Corruption Code for the New Puerto Rico*, please refer to Act 2–2018, as amended.

### **8.4 Personally Identifiable Information**

In accordance with 2 C.F.R. § 200.303, regarding internal controls of a non-Federal entity, PRDOH guarantees the protection of all Personally Identifiable Information obtained.

PRDOH has enacted a Personally Identifiable Information, Confidentiality, and Nondisclosure Policy which aims to protect the right to confidentiality and the protection

of confidential or sensitive information throughout PRDOH and CDBG-DR program processes. Trust and credibility of CDBG-DR programs originate by establishing the importance of a strict adherence to confidentiality procedures. Among other topics, the Personally Identifiable Information, Confidentiality, and Nondisclosure Policy will also help safeguard confidential or sensitive information of CDBG-DR program participants, employees, subrecipients, and contractors from any potential breach.

**The Personally Identifiable Information, Confidentiality, and Nondisclosure Policy and all CDBG-DR Program polices are posted in English and Spanish at <https://www.cdbg-dr.pr.gov/en/resources/policies/general-policies/> and <https://www.cdbg-dr.pr.gov/recursos/politicas/politicas-generales/>.**

## 9 Common Types of Fraud

According to the U.S. Department of Housing and Urban Development (HUD) Office of Inspector General (OIG), these are the most common types of fraud:

### 9.1 Disaster Recovery Grants

DUPLICATE BENEFITS:

Disaster victims who apply for and receive benefits from multiple agencies; often seen for duplicate rental assistance and repairs.

FALSE ELIGIBILITY CLAIM:

Homeowners falsely claim damage to a primary residence when it was actually an investment property. Rental properties are not eligible for repair funding. This also refers to cases where recipients falsely obtain Section 8 assistance when they in fact own an undamaged home. They sublet the Section 8 unit and keep the rents as profit.

CONTRACT REPAIR FRAUDS:

Home repair firms that contract for work, but do shoddy work, or leave when paid while performing little to no work.

Also see Crosscutting frauds.

### 9.2 Crosscutting Program Frauds

In Public Housing and Multifamily projects or Community Development organizations receiving HUD funds, the following frauds may occur.

EMBEZZLEMENT AND THEFT:

In several HUD programs, administrators and participants may be entrusted with cash or assets and take them for their personal use. There are many ways they may embezzle, from simply taking money from the cash drawer or writing checks to cash, to more elaborate methods to conceal the theft, like falsifying invoices and misusing credit cards

of the HUD funded organization. Other examples are when they may steal rental or laundry receipts; falsify deposits, checks or other accounts; or write bonuses to themselves. They may hire “ghost” employees and convert the payroll checks for their own use. They may use staff, materials, or equipment for personal use, which is also a fraud.

#### CONTRACTING AND PROCUREMENT FRAUDS:

There are many variations of these frauds and which can involve procurement officials and bidders working alone or in collusion to commit frauds, including:

- A false certification of regulatory and statutory compliance, or qualifications necessary to obtain a contract
- Colluding with others to win a contract using bid rigging, phantom or altered bids, or split bids
- Falsifying information on contract proposals
- Using Federal funds to purchase items that are not for Government use
- Billing more than one contract for the same work
- Billing for expenses not incurred as part of the contract
- Billing for work that was never performed
- Falsifying data such as employee credentials, experience, and rates, false or defective bonds, and test or inspection results
- Change order abuses
- Underbidding to win contract and colluding with procurement officer to make up profits through unnecessary change orders
- Substituting approved materials with unauthorized products
- Misrepresenting a project's status to continue receiving Government funds
- Charging higher rates than those stated or negotiated for in the bid or contract

#### BRIBERY AND KICKBACKS:

Bidders offering contract officials money or other items of value to award a grant (bribery) or contract officials requiring funds or items of value from bidders to obtain a contract (kickbacks).

#### CONFLICTS OF INTEREST:

Persons in positions of trust that use their authority to steer contracts or program benefits to their own undisclosed businesses, family, or business associates.

#### SOCIAL MEDIA SCAMS:

Programs have seen various scams in which websites and other social media sites are used to induce the public to send money in order to receive various HUD benefits, grants, or contracts. They sometimes falsely advertise as being government representatives or agents of HUD to promote their scheme further.

#### IDENTITY THEFT:

Program administrators and others who steal identities or create false identities to apply for and illegally receive various HUD funded benefits such as rental assistance, mortgages, or block grant program funds.

### **9.3 Rental Assistance Programs**

Rental assistance fraud involves several types of bad actors including program administrators, Section 8 landlords, and tenants.

#### SOLICITING OR ACCEPTING BRIBES:

Application and recertification staff, grievance officers, or others may require or accept bribes from a tenant or help an applicant get in, or stay in, a unit (or get priority on the waiting list). Inspectors may ask for or accept bribes to pass units for inspections.

#### FALSE BILLING:

Billing for a vacant unit, or one occupied by an ineligible tenant.

#### CONFLICT OF INTEREST:

Renting to a relative or having a conflict of interest in allowing themselves or a relative to be a Section 8 landlord. Commissioners (except resident commissioners), officers, and policy influencers of a Public Housing Agency (PHA) are prohibited from living in a Section 8 unit.

#### SEXUAL HARASSMENT / EXTORTION:

Instead of requesting money, program administrators as well as landlords and inspectors may demand sexual favors to allow an applicant/tenant to get into or stay in the assisted unit.

#### SECTION 8 LANDLORD FRAUDS:

Section 8 landlords may require additional side payments from tenants above the rents reported to the housing authority.

#### TENANT/APPLICANT FRAUDS:

Applicants will falsify their true income and assets or family circumstances in order to be eligible for or increase rental subsidy.

### **9.4 Single Family Mortgage Insurance**

#### FRAUD FOR PROFIT:

A complex profit scheme, fraud for profit involves multiple mortgage lender professionals in an attempt at defrauding the lender of large sums of money. Individuals who may be

included are a straw borrower (an accomplice who applies for the loan under the direction of a conspirator), a dishonest appraiser or realtor, and/or a dishonest settlement agent all working to get an undeserved large loan. Some cases have involved hundreds of loans and millions of dollars.

#### PREDATORY LENDING:

Another form of Fraud for Profit, this involves high-pressure tactics to get people to buy a house for which they do not qualify. The scammers often falsify the documentation without the borrower's knowledge.

#### INCOME FRAUD:

One of the most common forms of mortgage fraud involves the borrower overstating his or her income. This allows the borrower to qualify for a loan or a higher loan.

#### GIFT LETTER FRAUD:

Often people will borrow money from their family in order to make a down payment on a property. However, treating this as a gift reduces the amount of debt you appear to have, possibly causing the lender to approve a loan it would otherwise reject.

#### OCCUPANCY FRAUD:

This is when a borrower wants to obtain a mortgage in order to purchase an investment property, but claims that they will actually live in the property. Lenders usually charge higher interest rates for investment property mortgages, because they are riskier loans for lenders.

#### APPRAISAL FRAUD:

This occurs when a home's value is deliberately or fraudulently understated or overstated. When the value is overstated, the scammer receives more money for the loan. When the value is understated, it is done in order to get a lower price on a foreclosed home, so the scammer does not have to pay for the property's full worth. "Air Loans" are another form of appraisal fraud, in which fake appraisals support nonexistent properties.

#### CHUNKING FRAUD:

Chunking is the term applied to obtaining multiple loans on the same property at the same time from different lenders. This is also found in the Title 1 Home Improvement Loan program where scammers apply for multiple improvement loans for the same property.

#### EMPLOYMENT FRAUD:

This occurs when a borrower claims to be self-employed in a non-existent company or claims a higher position in a real company in order to misrepresent their income for purposes of obtaining a mortgage.

#### PROPERTY FLIPPING:

This scheme involves the purchase of cheap properties, doing little or no repairs and selling them quickly, often the same day, for huge profits. This scheme is made possible by fraudulent appraisals. Flipping is legal as long as there is a valid appraisal to support the increased valuation.

#### LOAN MODIFICATION AND FORECLOSURE RESCUE FRAUD:

Borrowers who fall behind on the payments or default (miss 3 payments) are prey for scammers who offer to get them relief if they will send their payments to them. Most often, they take the payments and provide no services. The borrowers do not realize the fraud until they receive foreclosure or eviction notices. Sometimes they also may have the borrower sign the deed over to them, and then force them out and sell the property for profit. These scammers may advertise fake government assistance programs or present themselves as HUD representatives.

#### FORENSIC LOAN AUDIT:

HUD prohibits advance fees for loan counseling services, so scammers may sell their services as "forensic mortgage audits." These audits are reviews of mortgage loan documents to determine whether the lender complied with State and Federal mortgage lending laws. The fraudster claims that the audit report will help avoid foreclosure, force a mortgage modification, or even cancel a loan. The fraudster typically will request an upfront fee for this service.

#### MASS JOINDER LAWSUIT:

The fraudster, often a lawyer, law firm, or marketing partner, will promise that he or she can force lenders to modify loans. The fraudster will try to "sell" participation in a lawsuit against the mortgage lender, claiming that the homeowner cannot participate in the lawsuit until he or she pays some type of upfront fee.

#### RENT-TO-OWN OR LEASEBACK SCHEME:

The homeowner surrenders the title or deed to their home as part of a deal that will let the homeowner stay in the home as a renter with the promise that the homeowner will be able to buy the home back in a few years. However, the fraudster does not intend to sell the home back and, instead, takes the monthly "rent" payments and allows the home to go into foreclosure.

#### BANKRUPTCY TO AVOID FORECLOSURE:

The fraudster may promise to negotiate with your lender or get refinancing on your behalf if you pay a fee up front. Instead of contacting your lender or refinancing your loan, he pockets the fee and files a bankruptcy case in your name—sometimes without your knowledge.

#### REVERSE MORTGAGE FRAUD:

Reverse mortgage (a home equity conversion mortgage or HECM) is often used to defraud senior citizens of the equity in their homes. Using high-pressure tactics and relying on the inability of some seniors to comprehend what they are doing; the fraudsters trick the seniors into applying for a reverse mortgage. They then take the proceeds. Sometimes the fraudster will forge the senior's signature on documents unbeknown to the senior. Sadly, many cases involve family, friends, or caretakers. Other reverse mortgage frauds involve fraudsters who heavily push seniors to take out a HECM and to invest the proceeds in investment portfolios that they are selling. They profit off fees, or the investment itself is a scam.

#### SHORT SALE FRAUD (FLOPPING):

A short sale is a sale of a property where the proceeds of the sale are less than the balance owed on the mortgage loan. A fraud can occur if the seller or a buyer convinces the lender that valuation of the home is less than actual. After the lender approves the short sale, the seller or buyer resells the property at a higher price to a new buyer and pockets the difference. (This is called flopping, a play on the term flipping).

#### SHORT SALE FRAUD (PREDATORY SHORT SALE NEGOTIATORS):

This is a version of a foreclosure rescue scheme and involves borrowers who are underwater (the value of the property is less than the remaining loan balance). Scammers represent to borrowers, who are desperate to sell their homes, that they can help them do so for a fee. After payment, they provide no help, and disappear with the funds.

#### SOVEREIGN CITIZEN FRAUD:

Sovereign citizens are individuals who do not recognize the U. S. government and illegally occupy and take ownership of vacant properties. They take advantage of State laws that require county clerks to accept and file any quitclaim deed presented to them as long as the forms are properly signed, and fees are paid. No proof of ownership is required. It becomes the burden of the true property owner to go to court and clear the title. There are also instances in which a sovereign citizen has rented a HUD Real Estate Owned (REO) property to unsuspecting tenants. Sovereign citizens have begun participating in the HUD subsidized Section 8 Housing Choice Voucher program as landlords, using properties that they do not own. They provide fraudulent deeds to



housing authorities to establish ownership rights so they can participate as a landlord. Sovereign citizens have also been active in foreclosure rescue schemes.

#### EMBEZZLEMENT OF CLOSING PROCEEDS:

In this scheme, closing attorneys receive proceeds for the loan, and keep some or all of them for themselves. The volume of transactions and poor bookkeeping hides this fraud.

### **9.5 Multifamily Mortgage Insurance**

#### EQUITY SKIMMING:

When multifamily projects are in default or a non-cash position, they may not withdraw funds from the projects for other uses. Owners of projects who lie or conceal these withdrawals violate Title 12 U.S.C §1715Z-19.

#### IDENTITY OF INTEREST FIRMS:

When owners contract with a management agent or for other services for the multifamily project, they must disclose any financial interest in the contract company. If they lie about their involvement on a HUD certification about this, it is a false statement violation.

#### FALSE CERTIFICATIONS:

Owners sometimes certify to HUD on billings that units are occupied or that the unit meets housing quality standards when those assertions are false.

#### MONEY LAUNDERING:

This occurs when mortgage company officials receive payments on multifamily loans but do not pass the proceeds to investors in mortgage pools.

#### LOW INCOME TAX CREDIT FRAUD:

Some developers who build affordable housing under the low-income tax credit program illegally inflate construction costs in order to get larger loan amounts and siphon off the extra funds.

Also see Rental Assistance and Crosscutting frauds.

### **9.6 Community Planning and Development**

See Crosscutting frauds, which entail the majority of offenses in Community Planning and Development programs.

### **9.7 Public Housing**

See Rental Assistance and Crosscutting frauds, which entail the majority of offenses in Public Housing programs.

## 10 Contact Information

Should you have any questions or wish to report an incident of fraud, waste, abuse, or mismanagement, please contact:

<b>REPORT TO PRDOH CDBG-DR</b>	
CDBG-DR Hotline	787-274-2135 (English/Spanish/TTY)
Postal Mail	Puerto Rico Department of Housing CDBG-DR Internal Audit Office P.O. BOX 21355 San Juan, PR 00928-1355
Email	<a href="mailto:hotlineCDBG@vivienda.pr.gov">hotlineCDBG@vivienda.pr.gov</a>
Internet	<a href="http://www.cdbg-dr.pr.gov">www.cdbg-dr.pr.gov</a> <a href="https://cdbg-dr.pr.gov/app/cdbgdpublic/Fraud">https://cdbg-dr.pr.gov/app/cdbgdpublic/Fraud</a>
In person	Request a meeting with the Deputy Audit Director of the CDBG-DR Internal Audit Office located at PRDOH's Headquarters at 606 Barbosa Avenue, Building Juan C. Cordero Davila, Río Piedras, PR 00918.

<b>REPORT TO HUD OIG</b>	
HUD OIG Hotline	1-800-347-3735 (Toll-Free) 787-766-5868 (Spanish)
Postal Mail	HUD Office of Inspector General (OIG) Hotline 451 7th Street SW Washington, D.C. 20410
Email	<a href="mailto:HOTLINE@hudoig.gov">HOTLINE@hudoig.gov</a>
Internet	<a href="https://www.hudoig.gov/hotline">https://www.hudoig.gov/hotline</a>

**END OF DOCUMENT.**