CDBG-MIT

PROGRAM GUIDELINES

FARM AND ENERGY RESILIENCE PROGRAM

DEPARTMENT OF HOUSING
GOVERNMENT OF PUERTO RICO

September 30, 2026
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PUERTO RICO DEPARTMENT OF HOUSING
CDBG-MIT PROGRAM GUIDELINES
FARM AND ENERGY RESILIENCE PROGRAM
VERSION CONTROL

VERSION NUMBER	DATE REVISED	DESCRIPTION OF REVISIONS
1	**July 30, 2024**	**Original Version.**
2	**July 16, 2025**	**Language was included to clarify Flood Management requirements; new information was included to address circumstances where the Applicant or owner dies or goes bankrupt after the execution of the Grant Agreement; modified the Final Progress Payment requirements and added a new Final System Validation Payment requirement; and other miscellaneous changes.**
3	**April 8, 2026**	**Clarified the definition and documentation requirements for demonstrating property ownership or site control over the Participating Property. Added a section for Grant Agreement Cancellation. Included additional minor revisions throughout the document. All edits are marked in gray.**
4	**September 30, 2026**	**The definition of Agricultural Business was revised and the definition of Agronomist was added; the power grid interconnection requirements were revised; the Grant Agreement Cancellation section was modified to include amendment option; and other miscellaneous revisions were incorporated throughout the document. All edits are marked in gray.**

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1 Overview

These Guidelines set forth the requirements for the Farm and Energy Resilience Program (**FER Program** or **Program**), under the Puerto Rico Department of Housing's (**PRDOH**) Community Development Block Grant – Mitigation (**CDBG-MIT**) Action Plan.[1] The FER Program aims to mitigate risks and foster economic development by enhancing agro-industrial capacity and infrastructure to support more resilient operations. By implementing renewable energy solutions for agribusinesses and farmers, the Program will bolster their ability to withstand energy instability and challenges that may arise in the aftermath of disaster events. Investing in renewable energy development will ensure a steady and reliable energy supply capable of sustaining businesses and upholding supply chains vital to the food and agriculture industry sector, included in the Food, Water, and Shelter Lifeline identified in the CDBG-MIT Action Plan.

Eligible renewable projects for the Program include Photovoltaic Systems (**PVS**) and Battery Storage Systems (**BSS**), which can be either new installations or expansions of existing systems tailored to meet eligible agribusinesses and farmers' current electricity demands.

2 Definitions

- **Agricultural Business or Agribusiness:** A business engaged in agricultural activities limited to the cultivation, production and harvesting of food crops for human or animal consumption, as well as for use as raw materials in the food industry. Additionally, it encompasses the raising of animals to produce meat, dairy products, and other animal-derived goods. At least fifty-one percent (51%) of the business's gross production, operations, or revenue-generating activities must derive from eligible agricultural activities as defined in these Guidelines.

- **Agronomist:** A qualified agricultural professional responsible for evaluating agricultural operations and conducting technical assessments of business

[1] The CDBG-MIT Action Plan is available in English and Spanish at https://recuperacion.pr.gov/en/cdbg-mit/ and https://recuperacion.pr.gov/cdbg-mit/.

activities, production composition, and operational stability, as applicable[2]. The Agronomist may review supporting documentation, including but not limited to production records, site conditions, and agricultural practices, and may conduct site visits when necessary to support Program determinations.

- **Applicant:** An entity that requests to participate in the FER Program via the submission of an application. Applicants must meet the requirements described in the Eligible Applicants section of these Guidelines.
- **Award Amount:** The total amount of FER Program funds awarded for: (i) the installation of a new PVS with a new BSS; (ii) the addition of a new BSS to an existing PVS; or (iii) the expansion of existing PVS and BSS to address unmet load needs.
- **Battery Storage System (BSS):** An electrochemical device that collects energy from the grid or a power generation source and then discharges that energy to provide electricity or other grid services when needed. It consists of an arrangement of several components, including batteries to store energy, an islanding device to disconnect from the utility when grid power is down, power conversion systems to convert direct current (**DC**) to alternating current (**AC**) and vice versa, an energy management system, as well as mounting, cabling, and other electrical equipment, to extend the power available to the designated project area.
- **Battery Storage System Capacity (BSS Capacity):** The sum of each individual nameplate capacity of batteries within a battery bank of a BSS. BSS Capacity is measured in kilowatt-hours (**kWh**).
- **Commissioning:** A systematic process that ensures and documents that all Project systems perform interactively according to the design intent and the owner's operational needs and, where applicable, do not adversely impact the electric grid or neighboring customers. The commissioning process includes

[2] Puerto Rico Act No. 20 of April 9, 1941, as amended (Board of Examiners of Candidates for the Practice of Agronomy and Agronomists and the College of Agronomists Act).

documentation, equipment startup, control system calibration, testing, balancing, and performance testing, among other items.

- **Expert Electrician:** Refers to a person who is a member of the Puerto Rico College of Expert Electricians and authorized by the Puerto Rico Board of Examiners of Expert Electricians to work on electrical installations and with electrical equipment of high and low voltage, in accordance with Act No. 115 of June 2, 1976, as amended, 20 LPRA § 2701 *et seq*., known as the "Board of Examiners of Expert Electricians Act".
- **Government:** Refers to the Government of Puerto Rico, its agencies, offices, and subdivisions, including public corporations and municipalities.
- **Licensed Engineer or Professional Engineer:** Refers to a person who is a member of the Puerto Rico College of Engineers and Land Surveyors and authorized by the Puerto Rico Board of Examiners of Engineers, Architects, Surveyors, and Landscape Architects to practice the profession of engineering, in accordance with Act No. 173 of August 12, 1988, 20 LPRA § 711 *et seq*., known as the "Puerto Rico Board of Examiners of Engineers, Architects, Surveyors, and Landscape Architects Act."
- **Participating Property:** Site where (i) the installation of a new PVS with a new BSS; (ii) the addition of a new BSS to an existing PVS; or (iii) the expansion of an existing PVS and BSS to address unmet load needs will be completed through the FER Program assistance.
- **Photovoltaic System (PVS):** A device designed to supply power by converting solar energy into DC electricity using semiconducting materials that create voltage or electric current in a material, upon exposure to light. It consists of an arrangement of several components, including solar panels to absorb and convert sunlight into electricity; an inverter to change the electric current from DC to AC; and mounting (racks and others), cabling, metering systems, and other electrical accessories to set up a working system.

- **Photovoltaic System Capacity (PVS Capacity):** The sum of each individual DC nameplate capacity rating of the photovoltaic modules. PVS Capacity is measured in kilowatts (**kW**).
- **Project or System:** Refers to: (i) the installation of a new PVS with a new BSS; (ii) the addition of a new BSS to an existing PVS; or (iii) the expansion of existing PVS and BSS to address unmet load needs at an eligible Applicant's Participating Property with the FER Program assistance and in compliance with the Grant Agreement's terms and conditions and these Guidelines.
- **Renewable Energy Installation Company (REIC):** A FER Program-approved company that performs the Project's installation. REICs will be approved following the process established in these Guidelines.

3 Program Description

Through this Program, PRDOH will provide grants to eligible Agricultural Businesses for the design, acquisition, and installation of renewable solar energy Systems to cover 100% of their annual energy consumption need, up to two hundred and fifty thousand dollars ($250,000). The FER Program will be implemented through the following phases:

- Program Intake
- Preliminary Eligibility Review
    - Applicant Eligibility
    - Project Eligibility
    - Duplication of Benefits
    - Initial Environmental Screening
- Underwriting
- Environmental Review
- Award Determination and Grant Agreement Execution
- Project Implementation
- Closeout

4 National Objective

Applications served under the FER Program must demonstrate compliance with the U.S. Department of Housing and Urban Development (**HUD**) national objective as required by the Housing and Community Development Act of 1974 (**HCDA**), as amended, 42 U.S.C. § 5305, codified at 24 C.F.R. § 570.483. Program activities will be evaluated according to the following national objective:

- Urgent Need Mitigation (**UNM**) national objective – benefit participants with a risk-based need for energy security to reduce the risk of loss of life and property from future disasters and yield community development benefits.[3]

5 Eligible Activities, Applicants, and Use of Funds

5.1 Eligible Activities

All projects funded by CDBG-MIT must meet a HUD-eligible activity as defined by Section 105(a) of the HCDA. Eligible activities for the FER Program include:

- Section 105 (a)(15) – Assistance to neighborhood-based nonprofit organizations, local development corporations, and nonprofit organizations
- Section 105 (a)(17) – Economic development assistance to private for-profit entities
- Section 105 (a)(22) – Microenterprise Assistance

5.2 Eligible Applicants

To be eligible to receive funds under the FER Program, an Applicant must meet the following criteria:

- Applicant must be an Agricultural Business, as defined in these Guidelines, with a valid Bona Fide Farmer certification issued by the Secretary of Agriculture in

[3] Federal Register Vol. 84, No. 169 (August 30, 2019), 84 FR 45838, 45857, requires the grantee to meet the alternative criteria for the UNM national objective by documenting that the activity: (i) addresses current and future risks as identified in the grantee's Mitigation Needs Assessment of most impacted and distressed areas; and (ii) will result in a measurable and verifiable reduction in the risk of loss of life and property.

accordance with Section 1020.08 (a)(1) of Act No. 60-2019, as amended, 13 LPRA § 45019, known as the "Puerto Rico Incentives Code";[4]

- Applicant must provide all organizational documents requested in these Guidelines;
- Applicant must demonstrate legal ownership or site control over the Participating Property.
- Applicant must not have conflicts of interest, as defined in the Conflict of Interest and Standards of Conduct Policy (**COI Policy**) for the CDBG-DR/MIT programs.[5]

5.3 Eligible Use of Funds

All Program costs must adhere to 2 C.F.R. Part 200, Subpart E, Cost Principles. In general, eligible costs for this Program include:

- Costs of design and engineering services for the Project, including costs for any required design or engineering studies or surveys;
- Costs of any required permits for the project;
- Costs of equipment, including photovoltaic modules, charge controllers, transfer switches, inverters, metering equipment, balance equipment, batteries, voltage regulators, as well as mounting, cabling, and other electrical accessories to set up working Systems;
- Costs of site preparation and other work required prior to the installation of the System, including clearing, excavation, grading and leveling, and foundation work;
- Costs of mounting and anchoring structures such as racking systems or other structures that provide primary support for the System equipment;
- Costs of installation and commissioning of the System;

[4] Please note that having a Bona Fide Farmer certification is an additional requirement alongside being classified as an Agricultural Business, as this term is defined in these Guidelines, and that not every business listed in Section 1020.08 (a)(1) of Act No. 60-2019, as amended, will qualify as an Agricultural Business under the FER Program. Act No. 60-2019 is available at https://bvirtualogp.pr.gov/ogp/Bvirtual/leyesreferencia/PDF/60-2019.pdf.

[5] The COI Policy is available in English and Spanish at https://recuperacion.pr.gov/en/download/conflict-of-interest-and-standards-of-conduct-policy/ and https://recuperacion.pr.gov/download/politica-de-conflictos-de-interes-y-estandares-de-conducta/.

- Costs of required mitigation of hazardous materials, when applicable;
- Inspection and monitoring costs related to the installed Systems;
- The costs of training the end user on PVS and BSS operation and maintenance; and
- Any power grid interconnection costs related to typical interconnection requirements established by the electric power utility.

5.4 Ineligible Use of Funds

Ineligible activities and ineligible use of funds include, but are not limited to:

- Awards to Agricultural Businesses that are involved in the farming of any crop classified as a Schedule I controlled substance by the Controlled Substances Act[6];
- Grant Agreements transfers;
- Tampering with, reselling, or exchanging the installed System;
- Use of equipment and services above market value;
- Utilization of used or refurbished equipment;
- Property improvements that are not directly associated with the development of a primary support for the renewable energy System;
- Installation of equipment that is not permanent and integral to the System support structure, as defined in Articles 250 and 252 of the Puerto Rico Civil Code[7] and applicable federal regulations[8];
- Installation of equipment on land that is not Applicant-owned or controlled;
- Any costs associated with the project that occur before the Grant Agreement execution between the Applicant and PRDOH;
- Purchase and installation of backup power generators;
- Costs of improvements needed to the electrical power grid for the interconnection of the System to become feasible;
- Leases, power purchase agreements, or other financing instruments that delegate, in whole or in part, ownership of the installed Systems; and

[6] 21 U.S.C. § 801 *et seq.*
[7] 31 LPRA §§ 6051 and 6053
[8] 24 C.F.R. § 570.207(b)(1)

- Any activity that directly improves the power grid infrastructure.

6 Program Funding

The FER Program has a minimum award requirement of fifty thousand dollars ($50,000) and a maximum of two hundred and fifty thousand dollars ($250,000). Eligible Applicants can receive an award for the installation of a System for one hundred percent (100%) of the eligible Project costs to cover their total annual energy consumption needs, up to the maximum award of two hundred and fifty thousand dollars ($250,000). The award amount for an eligible Applicant under the FER Program will be determined based on the Applicant's selected quote as approved by the Program. The total project cost may not exceed the awarded amount.

7 Program Intake

Applicants will be required to complete a Program intake process and provide supporting documents to conduct an eligibility review process. A complete application for the FER Program requires various documents and data that Applicants must have readily available at the time of application to the Program. All documentation submitted by the Applicant must be valid at the time of submission.

As part of the Program application process, each Applicant must sign an **Acknowledgement and Consent Statement and Subrogation Agreement** which includes, but is not limited to, the following acknowledgements and authorizations:

- Applicant authorizes the Program to obtain third-party data directly related to determining Program eligibility, Program award, and compliance with Program requirements;
- Applicant gives the Program access to the Participating Property, as needed, to conduct required Program inspections;
- Applicant agrees to cooperate with the Program and not to interfere with the work or inspections, among others;
- Applicant grants subrogation rights to the Program regarding the right to recover any funds to which they may be entitled for the System installation, among others.

PRDOH reserves the right to maintain the Program intake period open for such time as it deems appropriate.

7.1 Application Requirements

Applicants will be required to submit the following documentation electronically via the Program's website, in English and Spanish, at https://recuperacion.pr.gov/en/agroenergy and https://recuperacion.pr.gov/agroenergia:

- Government-issued photo identification (federal or state-issued),[9] which may include:
  - Driver's license;
  - Passport;
  - Military ID Card;
- Bona Fide Farmer certificate issued by the Secretary of Agriculture;
- Evidence of ownership or site control over the Participating Property[10]:
  - Proof of Ownership
    - If the Applicant is the Participating Property owner, they must demonstrate ownership through any one (1) or a combination of the following documentation as may be determined by the Program:
      - Property Deed;
      - Certification from the Puerto Rico Property Registry, issued within six (6) months before the application date;
      - Declaration of Heirship (if the Applicant is an individual);
        - May include an application for registration of heirs;
      - Court Judgment;

[9] For all owners with twenty-five percent (25%) or more ownership in the business. For entities with ownership distributions of less than twenty-five percent (25%) among its owners, at least fifty-one percent (51%) of owners must show compliance with the proof of identity requirement.

[10] Documents may be evaluated individually or collectively to determine whether they demonstrate sufficient legal responsibility. The Program may require additional documentation when necessary to protect the federal investment.

- Must specify that the Court awards dominion over the Participating Property to the Applicant and orders the inscription of the Property in the Puerto Rico Property Registry.
- Divorce Judgment granting an ownership interest in the property (if the Applicant is an individual);
- Other documents may be considered on a case-by-case basis.

- If the Participating Property has two or more owners, each non-applicant owner must complete an **Owner's Consent for Program Participation** authorizing the Applicant's participation in the Program and the installation of the System in the Participating Property.
- The Program reserves the right to evaluate, on a case-by-case basis, whether participation by a co-owner applicant may proceed without the express consent of all co-owners when the activity constitutes an ordinary act of administration and verifiable efforts to provide prior notice to and obtain consent from the remaining co-owners have been unsuccessful.[11]

- Proof of Site Control
  - If the Applicant does not own the Participating Property, they must demonstrate having site control by providing any one (1) or a combination of the following documentation as may be determined by the Program:
    - Copy of the current long-term lease agreement for a minimum term of fifteen (15) years - with the possibility of

[11] Under the Puerto Rico Civil Code, 31 L.P.R.A. §§ 8201 and 8203, specifically the provisions governing Common Property, a co-owner retains the right to use and enjoy the common property in a manner consistent with its intended purpose, provided such acts do not prejudice the interests or rights of the remaining co-owners. Furthermore, ordinary acts of administration adopted by an absolute majority of the co-owners are binding, including upon the dissenting minority. The Program may further implement reasonable measures to verify the accuracy and truthfulness of the information provided by the applicant, including validating the methods and results of efforts undertaken to provide prior notice to and obtain consent from the other co-owners.

extension- between the Applicant and the Participating Property owner.

- **Owner's Consent for Program Participation** signed by the Participating Property Owner authorizing the Applicant's participation in the Program and the installation of the System in the Participating Property, accompanied by the Owner's Proof of Ownership.
- Other documents may be considered on a case-by-case basis.

- Organizational documentation:
  - Certificate of Good Standing issued by the Puerto Rico Department of State, as applicable to corporations, limited liability companies (LLCs), partnerships, and other business entities;
  - Negative Debt Certification issued by the Puerto Rico Department of Treasury ("Hacienda"). If the Applicant is on a payment plan, they must provide proof of the agreement;
  - Certification of Income Tax Return Filing issued by the Puerto Rico Department of Treasury;
  - Income Tax Returns for the last three (3) years or, in the absence of Income Tax Returns, Business Financial Projections for the next three (3) taxable years;
  - Merchant Registration Certificate issued by the Puerto Rico Department of Treasury;
  - Copy of current Municipal Patent issued by the municipality where the business is located, or proof of exemption under Article 7.206 of Act No. 107-2020, as amended, 21 LPRA § 8168, known as the "Puerto Rico Municipal Code." If the business has requested a payment extension, it must include a copy of the payment plan as approved by the Municipality.
- Three (3) Project Quotes provided by different FER Program-approved REICs. Applicants should select the quote with the lowest cost. If the lowest quote is not selected, the Applicant must explain the reason for their selection and

demonstrate that the selected quote is cost-reasonable. In any case, PRDOH reserves the right to accept or reject the Applicant's reasons and selection of a higher priced quote;

- Completed PRDOH Acknowledgement and Consent Statement and Subrogation Agreement;
- Completed PRDOH Duplication of Benefits Self-Certification (**DOB**). Supporting documentation must be included, when applicable;
- Completed PRDOH Conflict of Interest (**COI**) Disclosure Form;
- Any other document requested by PRDOH.

After the Applicant submits its FER Program application, the Program will send a receipt confirmation informing them that a completeness review of the submitted information is pending before considering the application as submitted. Once the Program reviews all submitted documentation and validates its completeness, it will notify Applicants that their application is considered submitted. If the FER Program determines that the application is missing necessary documentation or information, the Program will send the Applicant a **Required Documents Notification** listing the required documentation. The Applicant will have **thirty (30) calendar days** from the date of the notice to respond. Failure to do so within the established time will trigger the Non-responsive Applicants process.[12] Once the Program receives the required information, Applicants will receive a confirmation that their application is considered submitted.

7.2 Project Quotes

To determine Project eligibility, Applicants must include three (3) project quotes by different Program-approved REICs. The selected quote must be submitted using the Program-provided template and signed by both the REIC and the Applicant. The submitted quotes may be required to include, among other elements, the following information:

- Applicant's name and Participating Property's address;
- Participating Property's coordinates;

[12] See the Non-responsive Applicants Section of these Guidelines.

- Type of system to be installed (a new PVS with a new BSS; the addition of a new BSS to an existing PVS; or the expansion of an existing PVS and BSS);
- PVS installation type;
- PVS Capacity and BSS Capacity of the systems to be installed;
- Actual PVS and/or BSS Capacities, when applicable;
- List of equipment to be installed, including the brand, model number, unit capacity, and quantity;
- Total Project cost and breakdown divided into the following milestones payments:
    - Pre-Installation Work – includes all costs associated with design and permitting;
    - Civil Work – includes all costs associated with environmental mitigation, site preparation, all work required prior to the installation of the system, including construction of the structural elements that will provide primary support for the System; and
    - Installation Work – includes all costs associated with the installation of the System, including but not limited to photovoltaic modules, batteries, inverters, and cabling.

Project Quotes must also include the following:

- Electric utility bill, including history, for the Participating Property received within three (3) months prior to the application date; and/or an Electrical Load Study report certified by an Expert Electrician or Licensed Electrical Engineer demonstrating current operational energy use;
- The National Renewable Energy Laboratory's (**NREL**) PVWatts Calculation for the Participating Property showing the PVS' maximum capacity to meet the business's annual energy consumption.
- Schematic drawing showing the location of the equipment to be installed on the Participating Property;
- Project site photographs, including photographs of existing structures. If the Participating Property has an existing system, photographs must clearly show the PVS and/or BSS components location and quantity.

The Program reserves the right to verify that any Electrical Load Study submitted reflects the current operational needs of an eligible Agricultural Business. Such

verification may include a review of the information provided to ensure that the reported electrical demand corresponds to agricultural production activities and does not include ineligible or non-agricultural uses.

Program staff will review the Project Quotes for initial compliance with FER Program requirements. The Applicant will be notified via a **Required Documents Notification** of any additional information or corrections required.

7.3 Program-approved REIC Roster

For a REIC to be approved for FER Program participation, it must submit a Request for Enrollment into the FER REIC Roster. The following documentation must accompany the request:

- The company's profile, including legal name, tax identification number, Unique Entity Identifier (**UEI**), physical address, postal address, contact phone, email, and authorized representative;
- Evidence of the company's enrollment in the Federal Government's System of Award Management (**SAM**) at https://sam.gov/content/home;
- A Commitment of Compliance with the FER Program Terms and Conditions Sworn Statement (PRDOH will provide the Statement's template);
- Evidence of the company's registration with the Puerto Rico Department of Consumer Affairs (**DACO**, by its Spanish acronym);
- Evidence of at least one (1) company employee being a Certified Renewable Electrical Systems Installer under the Puerto Rico Energy Policy Program (**EPP**) from the Department of Economic Development and Commerce (**DDEC**, for its Spanish acronym), Regulation for the Certification of Renewable Energy Systems, No. 7796 (January 19, 2010),[13] as amended by Regulation No. 8080 (September 30, 2011),[14] or its subsequent equivalent regulation;
- A Certificate of Good Standing, valid at the time of submission, from the Puerto Rico Department of State in the company's name;

[13] Available at http://app.estado.gobierno.pr/ReglamentosOnLine/Reglamentos/7796.pdf.
[14] Available at http://app.estado.gobierno.pr/ReglamentosOnLine/Reglamentos/8080.pdf.

- A Negative Debt Certificate ("Certificación de Deuda"), valid at the time of submission, issued by the Puerto Rico Department of Treasury ("Hacienda") in the company's name; or, if the REIC is currently on a payment plan, proof of the agreement must be included;
- A Certificate of Income Tax Returns ("Certificación de Radicación de Planillas"), valid at the time of submission, issued by the Puerto Rico Department of Treasury in the company's name;
- An Account Statement ("Estado de Cuenta"), or a Negative Certification ("Certificación Negativa") for companies that do not own any movable or real property, valid at the time of submission, issued by the Municipal Revenue Collection Center (**CRIM**, for its Spanish acronym) in the company's name;
- Evidence of Public Liability Insurance to cover damages for their projects in an amount of no less than one million dollars ($1,000,000) by occurrence and one million dollars ($1,000,000) by aggregate, as required under Section 9.5.2.4(e)(2) of Regulation No. 9473;[15]
- A Renovation, Repair and Painting (**RRP**) Firm Certification valid at the time of submission, issued by the Environmental Protection Agency (**EPA**) in the company's name; [16] and
- A PRDOH New Vendor Request Form (PRDOH will provide the template), duly completed and accompanied by its associated forms and documentation.

Requests for Enrollment into the FER Program REIC Roster must be submitted through https://recuperacion.pr.gov/en/reic/ (English) and https://recuperacion.pr.gov/reic/ (Spanish). The FER Program may leverage documentation previously provided by REICs approved for participation in other PRDOH Programs. The FER Program staff will evaluate each Request for Enrollment into the FER Program REIC Roster and notify

[15] "Reglamento Conjunto para la Evaluación y Expedición de Permisos Relacionados al Desarrollo, Uso de Terrenos y Operación de Negocios", No. 9473 (June 16, 2023), available at https://jp.pr.gov/wp-content/uploads/2023/10/Reglamento-Conjunto-de-Emergencia-searchable.pdf.

[16] Companies interested in becoming Program-approved REICs may submit Requests for Enrollment into the FER Roster without being an EPA Certified Renovation Firm at the time of the request. If found to comply with all other requirements, the Program may conditionally approve the Company as a REIC, subject to the Company submitting a valid Renovation Firm Certification. A conditionally approved REIC will not be able to work with Program applicants until evidence of it being a Certified Renovation Firm is submitted.

companies of their approval or denial via a **REIC Approval Notice** or **REIC Denial Notice**, as applicable. The list of approved REICs is available at https://recuperacion.pr.gov/en/agroenergy (English) and https://recuperacion.pr.gov/agroenergia (Spanish).

8 Program Eligibility

Once Applicants submit all required information and documentation as part of the Program intake process, it will be evaluated for compliance with the Program's eligibility requirements. Failure to disclose accurate and complete information may affect eligibility, and all such instances will be referred for further action. Applicants may be required to repay PRDOH administrative fees and other costs if they are found to have submitted inaccurate or incomplete information to appear to meet eligibility requirements.

8.1 Preliminary Eligibility Review

The FER Program will conduct a preliminary eligibility review of each Application to assess the following before moving forward with the underwriting process:

- Applicant Eligibility
- Project Eligibility
- Duplication of Benefits
- Initial Environmental Screening

As part of the preliminary eligibility determination, the Program may rely on technical evaluations conducted by a Program-designated Agronomist to support the verification that the Applicant qualifies as an Agricultural Business under these Guidelines. Such evaluations may include an assessment of the nature and composition of the Applicant's agricultural activities, review of supporting documentation, and site visits, when applicable.

Applications determined to be preliminarily eligible will receive a **Preliminary Eligibility Notice**. While this notice signifies that the application will continue to the next step in the evaluation process (underwriting and environmental review), it does not constitute an award or final eligibility determination. Applications that do not comply

with the Program requirements at this stage will be issued an **Ineligibility Determination Notice** stating the reasons for non-compliance.

9 Project Requirements

9.1 Compliance with Laws, Regulations, and Codes

All FER Program Projects must follow applicable laws, regulations, and codes, which include, but are not limited to:

- Regulation No. 7796 of January 19, 2010, known in Spanish as *"Reglamento para la Certificación de Sistemas de Energía Renovable,"*[17] of the DEDC, or its equivalent regulation in place at the time of installation.
- Regulation No. 9473 of June 16, 2023, known in Spanish as *"Reglamento Conjunto Para la Evaluación y Expedición de Permisos Relacionados al Desarrollo, Uso de Terrenos y Operación de Negocio"*[18] of the Puerto Rico Planning Board, or the equivalent regulation in place at the time of installation.
- Regulation No. 9049 of November 15, 2018, known as "Puerto Rico Codes 2018", of the Office of Permit Management[19] (**OGPe**, for its Spanish acronym), or its equivalent regulation in place at the time of installation.

9.2 Project Commencement

Only Projects that have not started at the time of Program application are eligible to receive awards under the Program. A Project cannot begin until the Applicant and PRDOH execute a Grant Agreement for the award. The FER Program will not give retroactive awards for work executed prior to application submission and Grant Agreement execution.

9.3 Types of Systems

The FER Program funds must be used for mitigation activities. HUD's Notice at 84 FR 45838, 45840, defines mitigation as "those activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future

[17] Available at http://app.estado.gobierno.pr/ReglamentosOnLine/Reglamentos/7796.pdf.
[18] Available at https://jp.pr.gov/wp-content/uploads/2023/10/ Reglamento-Conjunto-de-Emergencia-searchable.pdf.
[19] Available at http://app.estado.gobierno.pr/ReglamentosOnLine/Reglamentos/9049.pdf.

disasters." A PVS without a BSS cannot provide power to businesses when the power grid is down. Therefore, eligible Systems under the FER Program are (i) the installation of a new PVS with a new BSS; (ii) the addition of a new BSS to an existing PVS; or (iii) the expansion of existing PVS and BSS to address unmet load needs. The installation of a PVS without a BSS is not an eligible activity.

9.4 PVS Requirements

9.4.1 PVS Capacity

The PVS must be of sufficient size to produce enough power to compensate, either partially or totally, the Eligible Applicant's business energy needs. PVS capacities over the Eligible Applicant's business annual energy consumption —based on the **twelve (12) months prior** to application submission— are not eligible under the FER Program. For the purpose of calculating the amount to be awarded or disbursed, the Program may adjust the proposed PVS Capacity whenever it exceeds the Eligible Applicant's business annual energy consumption.

The Maximum PVS Capacity will be determined by the FER Program based on the Eligible Applicant's verified annual energy consumption, considering supporting documentation such as electric utility bills and/or electrical load or consumption studies, as applicable. This determination will incorporate the System's expected energy production as determined using data derived from the NREL PVWatts Calculator[20], as well as reasonable operational margins established by the Program. Applicants must submit with their applications a copy of their System's simulation in PVWatts obtained through the NREL's PVWatts Calculator.

PRDOH may allow the installation of a System with a higher PVS Capacity when the approved equipment, including the approved brand, model, and/or capacity, is unavailable at the time of installation and a substitute equipment configuration must be used. Any such substitution must not increase the approved award amount and must comply with all applicable Program requirements.

9.4.2 PVS Location Requirement

[20] NREL's PV-Watts Calculator is available at https://pvwatts.nlr.gov/.

The FER Program will allow roof-mounted, ground-mounted, pole-mounted, and/or light frame (canopy) structure-mounted PVS installations, as long as they comply with all permitting requirements, laws, regulations, and codes. However, if the Participating Property has an existing structure that could provide primary support for the System as a roof-mounted installation, it should be considered before any of the other mounting solutions.

9.5 BSS Requirements

9.5.1 BSS Capacity

The BSS should be of sufficient size so that power may be extended to the critical loads of the Eligible Applicant's business. Eligible Applicants will determine their own BSS Capacity to address their needs in conjunction with their selected Program-approved REIC; however, the proposed BSS Capacity may be subject to review and adjustment by the Program. BSS Capacities of less than 12kWh are not eligible for the FER Program.

For the purpose of calculating the amount to be awarded or disbursed, the FER Program may adjust the proposed BSS Capacity to ensure it is aligned with the Eligible Applicant's verified energy consumption and operational requirements. Such determination will be based on the Eligible Applicant's annual energy consumption, considering supporting documentation such as electric utility bills and/or electrical load or consumption studies, as applicable, and may incorporate Program-established performance parameters and reasonable operational margins.

PRDOH may allow the installation of a System with a higher BSS Capacity when the approved equipment, including the approved brand, model, and/or capacity, is unavailable at the time of installation and a substitute equipment configuration must be used. Any such substitution must not increase the approved award amount and must comply with all applicable Program requirements.

9.5.2 BSS Location Requirement

The BSS must be a behind-the-meter system. Therefore, it must be connected to the electric utility customer's side of the electric meter.

9.6 Equipment Requirements

All PVS and BSS equipment must be duly certified in accordance with Section IV of Regulation No. 7796. Equipment that requires certification prior to installation includes photovoltaic modules, inverters, charge controllers, batteries, and any other equipment that will be installed for a renewable energy generation system in Puerto Rico. Systems with equipment not certified under Section IV are not eligible for the FER Program. A list of certified equipment is published periodically by the OGPe.

Equipment installed using FER Program funds must be new. Reconstructed, refurbished, or relocated equipment is not eligible for the Program. Batteries used for BSS shall have lithium-ion chemistry, but PRDOH may approve additional battery technologies.

Inverters are also required to comply with the grid support and communication characteristics and capabilities required in the Institute of Electrical and Electronics Engineers' (**IEEE**) Standard for Interconnection and Interoperability of Distributed Energy Resources with Associated Electric Power Systems Interfaces (**IEEE 1547-2018**).[21]

9.7 No Portability Requirement

All PVS and BSS installations supported by the FER Program awards must be permanently affixed to the Participating Property. Equipment installed on permanent surfaces with fasteners or other industry-standard methods will demonstrate permanent affixation. Any installation showing signs of portability (badly tied equipment, light disconnections, installations on movable or non-fixed structures such as trailers or mobile platforms, among others) will not be eligible to receive an award disbursement under the FER Program.

9.8 Design Requirements

Project designs must be performed by a licensed engineer, in accordance with Act No. 173-1988. Designs must be consistent with existing site conditions and in accordance with the requirements set forth in Regulations No. 7796 and No. 9049, as well as any other applicable laws, regulations, and codes. Systems designed by people who are not licensed as engineers are not eligible for the FER Program.

[21] Available at https://standards.ieee.org/ieee/1547/5915/.

9.9 Permit Requirements

In accordance with Section 9.4.1.3 of Regulation No. 9473, PVS installed on roofs with capacities below one (1) megawatt do not require a construction permit or an occupancy permit. Neither will a building permit be required for systems up to one hundred (100) kilowatts on the ground. The Program-approved REIC will be responsible for all permits related to the commercial Project installation, as applicable. Additional services needed to meet permitting requirements will be the REIC's responsibility. This could include but may not be limited to the provision of the Designated Inspector as required by OGPe.

All PVS and BSS installations, without consideration of the systems' capacities, must be certified by a duly licensed engineer or expert electrician to ensure the safety and security of the design and installation.

9.10 Installation Requirements

Installations must be performed by a Program-approved REIC and a Certified Renewable Electrical Systems Installer in accordance with Article 17 of Regulation No. 7796, or its subsequent equivalent regulation. Systems installed by REICs not approved by the FER Program, or by a person not duly certified under Section III of Regulation No. 7796, are not eligible to receive disbursement of the award. The list of Program-approved REICs is available at https://recuperacion.pr.gov/en/agroenergy (English) and https://recuperacion.pr.gov/agroenergia (Spanish). The list of Certified Renewable Electrical Systems Installers is available at https://oipc.pr.gov/listado-de-instaladores-activos-de-sistemas-de-energia-renovable/.

Installations must be completed in strict compliance with the drawings and specifications requirements outlined in the Project design documents. Upon completion of the installation process by a Program-approved REIC and a Certified Renewable Electrical Systems Installer, the REIC must commission the System. The REIC and Certified Renewable Electrical Systems Installer must provide a copy of the Project design documents duly signed and sealed by the designer.

The REIC shall ensure and document in the Commissioning Report that all systems perform interactively according to the intended design and the owner's operational

needs. The commissioning process includes documentation, equipment startup, control system calibration, testing, balancing, and performance testing. Commissioning shall be performed following current industry standards.

When applicable, the installation process must consider the Lead Safe Work Practices Provisions for Properties Built Prior to January 1, 1978, as further detailed in these Guidelines.

9.11 Interconnectivity with Power Grid

All FER Program-awarded Projects must submit an Evaluation Request to the Power Grid Operator in accordance with the Regulation to Interconnect Generators with the Electrical Distribution System of the Electric Power Authority and Participate in Net Metering Programs, Regulation No. 8915 of February 6, 2017, known in Spanish as the *"Reglamento para Interconectar Generadores con el Sistema de Distribución Eléctrica de la Autoridad de Energía Eléctrica y Participar en los Programas de Medición Neta"*, or its equivalent regulation in place at the time of installation.[22]

Evaluation Requests must be submitted under the applicable interconnection process based on system capacity. Projects with capacities eligible for expedited interconnection shall be submitted under the expedited process, when applicable.[23] Projects exceeding the expedited process threshold must be submitted under the standard interconnection process and may be subject to additional technical review requirements, including supplemental studies, as determined by the Power Grid Operator.[24]

For projects subject to the expedited process, this requirement shall be considered satisfied when the Applicant or their REIC submits the Evaluation Request to Interconnect to the Power Grid Operator, not when the Power Grid Operator notifies its determination on the Request.

For projects subject to the standard interconnection process, the Applicant or their REIC must obtain confirmation from the Power Grid Operator regarding whether

[22] Available at http://app.estado.gobierno.pr/ReglamentosOnLine/Reglamentos/8915.pdf.
[23] As provided in Section IV of Regulation No. 8915.
[24] As provided in Section V of Regulation No. 8915.

additional technical review, including the requirement for a supplemental or system impact study, is necessary. Upon receipt of such confirmation, this requirement shall be considered satisfied, and no final interconnection determination is required.

Properties not connected to the electric power distribution system that are completely off-the-grid will be exempt from complying with this requirement.

Projects designed to operate independently from the electric power distribution system shall also be exempt from complying with this requirement, even when the Participating Property is connected to the electric grid.

9.12 Warranties

All FER Program Systems shall, at minimum, be warranted as specified below:

- **Ten (10) years** warranty for the PVS Panels.
- **Twenty-five (25) years** of Linear Performance Guarantee for the PVS modules.
- **Ten (10) years** warranty on battery banks and inverters.

All warranties shall include:

- Parts, labor, faulty materials, manufacturing defects, defective items, emergency repairs, and installation costs related to equipment failure under the warranty period.
- Repair or replacement of all System components.

REICs shall submit full installation warranty documents to the Applicants, who must then submit a copy to the Program.

9.13 Cost Reasonableness

All costs under federally funded programs must be reasonable, meaning they must not exceed what a prudent person would incur under similar circumstances, as demonstrated by the market price for comparable goods and services.[25]

[25] 2 C.F.R. § 200.404

Applicants must demonstrate their Project's cost reasonableness by submitting at least three (3) Project Quotes of a Program-approved REIC.[26] Applicants must sign the selected quote to indicate their selection.

Applicants should select the quote with the lowest cost that covers their annual energy consumption needs. If the lowest quote is not selected, the Applicant must explain the reason and demonstrate the selected quote's cost reasonableness for the Program to approve the selection. PRDOH reserves the right of accepting or rejecting the Applicant's reasons and selection of a higher-priced quote.

10 Duplication of Benefits (DOB)

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (**Stafford Act**), as amended, 42 U.S.C. § 5121 et seq., prohibits any person, business concern, or other entity from receiving Federal funds for any part of such loss for which they have received financial assistance under any other program, from private insurance, charitable assistance, or any other source. As such, PRDOH must consider disaster recovery aid received by Program applicants from any other federal, state, local, or other source, and determine if any assistance is duplicative. Any assistance determined to be duplicative must be deducted from the Program's calculation of the Applicant's total need prior to awarding assistance.

To be eligible to receive CDBG-MIT funds under the Program and as part of the application process, all Applicants must confirm and provide assurance that efforts will be made to avoid a DOB. PRDOH understands and expects that some projects funded through this Program may also be able to receive other types of Federal funding. Therefore, a DOB analysis will be performed for each funded project.

Program controls to prevent DOB include, but are not limited to:

- Certification that the Applicants will notify PRDOH of all potential DOB as part of the information submitted in their applications;

[26] Projects with costs over two hundred and fifty thousand dollars ($250,000) are not eligible for the FER Program.

- Verification of specific DOB through various available sources such as FEMA, the Small Business Administration (**SBA**), insurers, and any other sources of funding and
- Requiring Applicants to authorize PRDOH to contact all potentially duplicative funding sources on their behalf to verify all funding sources received and/or approved;

The applicable DOB guidance is included in Federal Register Vol. 84, No. 119 (June 20, 2019), 84 FR 28836, which updates the duplication of benefits guidance issued in Federal Register Vol. 76, No. 221 (November 16, 2011), 76 FR 71060 for CDBG-DR and MIT grants received in response to disasters declared between January 1, 2015, and December 31, 2021. The DOB policy outlined in the Program Guidelines follows the guidance issued in 84 FR 28836.

For more information about DOB, refer to the Duplication of Benefits Policy available at https://recuperacion.pr.gov/en/download/duplication-of-benefits-policy/ (English) and https://recuperacion.pr.gov/download/politica-sobre-la-duplicacion-de-beneficios/ (Spanish).

11 Underwriting Process

The FER Program will follow HUD underwriting guidelines at 24 C.F.R. Part 570, Appendix A, as the financial underwriting framework for evaluating the feasibility of all business applications for a Program award. The Program will complete the underwriting review understanding that different levels of review are appropriate for business applications of diverse sizes and scope. Differences in capacity and level of sophistication among the agribusinesses will also be considered.

As part of the underwriting process, the Program may rely on technical evaluations conducted by a Program-designated Agronomist to support the review of agricultural operations. Such evaluations may be used to confirm the accuracy of information provided during the preliminary eligibility review, assess the composition and stability of the business's agricultural activities, and validate the consistency between the proposed Project and the Applicant's operational needs, including, when applicable, the review of Electrical Load Studies and supporting documentation.

The objective of the underwriting process is to ensure all eligible Applicants meet the minimum CDBG underwriting criteria at 24 C.F.R. § 570.482(e) before receiving an award from the FER Program. Thus, to accomplish the underwriting objectives of the FER Program, the Underwriter will evaluate, among other factors, if applicable, that:

- Project costs are reasonable;
- All sources of project financing are committed;
- To the extent practicable, CDBG-MIT funds are not substituted for non-Federal financial support;
- The project is financially feasible;
- To the extent practicable, the return of the Applicant's equity investment will not be unreasonably high; and
- To the extent practicable and as applicable, CDBG-MIT funds are disbursed on a pro-rata basis if other sources of funds are provided for the project.[27]

12 Environmental Requirements

Environmental review is the process of reviewing a project and its potential environmental impacts to determine whether it complies with federal, state, and local environmental regulations. Every project undertaken with federal funds and all activities associated with it, are subject to the provisions of the National Environmental Policy Act of 1969 (**NEPA**), 42 U.S.C. §4321 *et seq.*, as implemented by HUD environmental review regulations at 24 C.F.R. Part 58, Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities. Therefore, an environmental review process is required for all awards to be issued under the Program to evaluate the proposed activities for potential impacts to the surrounding environment and end users.

HUD regulations at 24 C.F.R. § 58.22 place specific limitations on activities pending clearance, including committing or spending federal or non-federal funds on any activity that could have an adverse environmental impact or limit the choice of reasonable alternatives prior to completion of an environmental review. An environmental review by the responsible entity under 24 C.F.R. Part 58 and an Authority to Use Grant Funds (**AUGF**) must be obtained for each project before commencing

[27] See Appendix A to 24 C.F.R. Part 570.

work or committing federal or non-federal funds. A violation of this requirement may jeopardize federal funding for the Program and disallow all costs that were incurred before the completion of the environmental review.

Project activities may be required to comply with various laws and regulations that contain environmental provisions, including but not limited to:

- Protection of Historic Properties (36 C.F.R. Part 800);
- Floodplain Management and Protection of Wetlands (24 C.F.R. Part 55, Executive Order 11988 and Executive Order 11990);
- Sections 307 (c) and (d) of the Coastal Zone Management Act of 1972 (**CZMA**) (16 U.S.C. § 1456), as amended;
- Sole Source Aquifers (40 C.F.R. Part 149);
- Section 7 of the Endangered Species Act of 1973 (16 U.S.C. §1536), as amended, and implementing regulations at 50 C.F.R. Part 402;
- Section 7 (b)(c) of the Wild and Scenic Rivers Act of 1968 (**WSRA**), as amended, (16 U.S.C. § 1278 - Restrictions on Water Resources Projects);
- Air quality provisions as found in Sections 176 (c) and (d) of the Clean Air Act (42 U.S.C. § 7506), as amended, and Title 40 of the Code of Federal Regulations (40 C.F.R. Parts 6, 51, and 93);
- Sections 1540 (b) and 1541 of the Farmland Protection Policy Act (**FPPA**) (7 U.S.C. §§ 4201-4202) under the Agriculture and Food Act of 1981, as amended, and implementing regulations at 7 C.F.R. Part 658;
- Noise Abatement and Control (24 C.F.R. §§ 51.100 - 51.106);
- Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature (24 C.F.R. §§ 51.200 - 51.208);
- Siting of HUD-Assisted Projects in Runway Clear Zones at Civil Airports and Clear Zones and Accident Potential Zones at Military Airfields (24 C.F.R. §§ 51.300 - 51.305); and
  Contamination and Hazardous Substances (24 C.F.R. § 58.5 (i)(2)).

All Program awards must have documentation of compliance with 24 C.F.R. Part 58 and other environmental requirements. Therefore, all projects shall have an

Environmental Review Record (**ERR**) as required by the NEPA process. The ERR shall set forth (a) the proposed project's scope, (b) potential impacts on the project site, (c) the means to mitigate adverse impacts, (d) alternatives to the project (when required), and (e) the decision to implement, reject, or modify the proposed activities, as appropriate.

The Program will prepare an ERR for each application once the Applicant's compliance with preliminary eligibility requirements and underwriting is confirmed. The ERR for each Application will be completed prior to the notification of a favorable eligibility determination and the execution of a Grant Agreement for the Program's assistance.

If the scope of work presented in the ERR changes, the environmental review must be reevaluated in accordance with 24 C.F.R. § 58.47. If the Responsible Entity determines that the change does not require updating the environmental review, the determination is documented, and the project continues. If the change is determined to potentially impact the original environmental findings, the ERR will be updated, or a new ERR prepared, as required. If the original findings are affirmed, no further publication of a Finding of No Significant Impact (**FONSI**) notice is required. Project activities must cease until the reevaluation is completed.[28]

No work may start on a proposed project before the environmental review process is completed, even if that work is being done using non-HUD funds, including signing a construction contract. Environmental clearance must be obtained for each project prior to the firm commitment of federal or non-federal funds (24 C.F.R. § 58.22). A violation of this requirement may jeopardize federal funding for a project or, at a minimum, disallow costs that were incurred before the completion of the Environmental Review.

12.1 Environmental Level of Review

To conduct the appropriate level of environmental review the Program will need to determine the project's environmental classification. The term "project" may be defined as an activity or group of activities geographically, functionally, or integrally related, regardless of funding source, to be undertaken by the Program in whole or in

[28] A change in System capacities does not constitute a change in the scope of work.

part to accomplish a specific objective. The four (4) major environmental classifications for projects and their descriptions are as follows:

12.1.1 Exempt

These activities are financial or administrative in nature and, as such, will not have any direct impact on the environment. Accordingly, these activities are not subject to most of the procedural requirements of environmental review. If a project is determined to be Exempt, the Program must document it in writing, including that the project meets the conditions for exemption set forth in 24 C.F.R. § 58.34. In addition to making the written determination of exemption, the Program must also determine compliance with the requirements at 24 C.F.R. § 58.6.

12.1.2 Categorically Excluded Not Subject to 24 C.F.R. § 58.5 (CENST)

Activities that are Categorically Excluded Not Subject to 24 C.F.R. § 58.5 (**CENST**) are unlikely to have an impact on the environment and do not require an Environmental Impact Statement (**EIS**) or Environmental Assessment (**EA**) and FONSI under NEPA, except in extraordinary circumstances as per 24 C.F.R. § 58.2 (a)(3). This category includes those activities listed under 24 C.F.R. § 58.35 (b), which requires environmental compliance with regulations at 24 C.F.R. § 58.6. For activities under this classification, no public notice or Request for Release of Funds (**RROF**) is required to use grant funds.

12.1.3 Categorically Excluded Subject to 24 C.F.R. § 58.5 (CEST)

Activities that are Categorically Excluded Subject to 24 C.F.R. § 58.5 (**CEST**) may have an impact on the environment, but those impacts are anticipated to be minor and easily mitigable, and therefore, do not require an EIS or an EA and FONSI under NEPA, except in extraordinary circumstances as per 24 C.F.R. § 58.2(a)(3). This category includes those activities under 24 C.F.R. § 58.35 (a) and requires environmental compliance with the regulations listed at 24 C.F.R. § 58.5 and 24 C.F.R. § 58.6. If the project does not require any formal consultation or mitigation to achieve compliance, it will be converted to Exempt, and the project may proceed. Otherwise, the Responsible Entity must publish a Notice of Intent to Request Release of Funds (**NOI/RROF**). Once the minimum seven (7) day comment period has lapsed and any comments are addressed, the Responsible Entity will submit an RROF Certification to HUD. HUD will hold the RROF for a fifteen (15) day objection period. If no objections are received during this time, HUD will send a signed AUGF and the project may proceed.

12.1.4 Environmental Assessment (EA)

These are activities that are neither Exempt nor Categorically Excluded from a full NEPA review and will therefore require an EA documenting compliance with the regulations listed at 24 C.F.R. § 58.5 and 24 C.F.R. § 58.6, environmental assessment factors, and other applicable local environmental requirements. Once the ERR is completed and any comments are addressed, the Responsible Entity will either issue a FONSI, indicating the project will not significantly impact the quality of the human environment, or a Finding of Significant Impact (**FOSI**), necessitating an EIS.

If it is determined that the action will not result in a significant impact on the quality of the human environment, the Responsible Entity will publish a Combined Notice of FONSI and NOI/RROF. Once the minimum fifteen (15) day comment period has lapsed and any comments are addressed, the Responsible Entity will submit an RROF to HUD. HUD will hold the RROF for a **fifteen (15) day** objection period. If no objections are received during this time, HUD will send a signed AUGF and the project may proceed.

12.1.5 Tiered Review

Tiering is a specialized form of conducting environmental reviews for a collection of projects that would repeatedly fund the same or very similar activities within a defined local geographic area and timeframe (e.g., retrofitting existing agricultural structures in a specific area or region, over the course of 1 to 5 years) but their specific sites and activities are not yet known. Tiering, as defined at 24 C.F.R. § 58.15, is a means of making the environmental review process more efficient by allowing parties to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review. A tiered review consists of two stages: a broad-level review (**Tier I**) and subsequent site-specific reviews (**Tier II**).

12.1.5.1 Tier I

The Tier I broad-level review identifies and evaluates issues that can be fully addressed and resolved for similar activities within the defined geographic area. It also establishes the standards, constraints, and processes to be followed in the site-specific reviews to be completed once the locations of individual project activities are known. Consistent with the methodology above, tiered reviews will be utilized for Program activities determined to be CEST that conform to the criteria outlined in Tier I

and are located within the covered geographic area. In cases where a particular site-specific activity does not conform to the limits established in the broad-level review, the broad-level review will not be employed for that site.

12.1.5.2 Tier II

Once individual project sites are identified and determined preliminarily eligible, a Tier II site-specific review will be completed. The site-specific review must be completed before committing HUD funds to the project. This review will address the issues that were not resolved in the broad-level review to determine and document the project's adherence to all established protocols and remaining requirements. Because tiered environmental review records are not complete without both the broad-level and site-specific tiered review, the Tier II site-specific reviews will reference the corresponding broad-level review and be filed together or linked to one another within the project file.

12.2 Lead Safe Work Practice Provisions

HUD's Lead Safe Housing Rule (**LSHR**) applies to federally assisted housing built before 1978 unless the project qualifies for one of the exemptions listed under 24 C.F.R. § 35.115. Notably, not all PVS and BSS installation-only projects under the FER Program will be subject to the LSHR requirements, as most systems are anticipated to be installed on non-residential structures and some projects may qualify for exemptions under 24 C.F.R. § 35.115. Renovation, repair, and painting projects that disturb lead-based paint in homes, childcare facilities (defined as residential, public, or commercial buildings where children under age six (6) are present on a regular basis), and schools built before 1978 may also require compliance with the Environmental Protection Agency's (**EPA**) Renovation, Repair, and Painting (**RRP**) Rule outlined in 40 C.F.R. § 745. The RRP Rule does not apply to minor maintenance or repair activities where less than six (6) square feet of lead-based paint is disturbed in an interior room or where less than twenty (20) square feet of lead-based paint is disturbed on an exterior surface. Additionally, projects may have to comply with testing, clearance, abatement, and disposal requirements of the Puerto Rico Department of Natural and Environmental Resources (**DRNA**, for its Spanish acronym) under Regulation No. 9098 for the Proper Management of Lead-based Paint Activities of July 16, 2019.[29]

[29] Available at http://app.estado.gobierno.pr/ReglamentosOnLine/Reglamentos/9098.pdf.

These regulations are in place to address any potential presence of lead-based paint or other lead-hazards in the target structures, receiving federal assistance and protect against environmental contamination as a result of handling and disposing of lead-contaminated materials. Although the FER Program is an agribusiness initiative, it is possible that these businesses may be integrated with the farmers' residences. Therefore, projects may be reviewed for and subject to compliance with HUD's LSHR, EPA's RRP Rule, and DRNA Regulation No. 9098, as applicable.

To ensure compliance with programmatic requirements, all REICs must be EPA Certified Firms under the RRP Rule and must have at least one RRP-Certified Renovator readily available to be present on-site when required. The Program will require that REICs adhere to safe lead work practices in compliance with 29 C.F.R. § 1926.62 for any lead-based paint disturbances, as applicable.

12.3 Asbestos Survey

Because of its fiber strength and resistance to heat, asbestos has been used in various building construction materials in different forms, such as troweled or sprayed-on surfacing material, thermal system insulation (**TSI**), and other miscellaneous asbestos-containing materials. Ducting and plumbing, floor tiles, ceiling tiles, wallboards, roofing material, and mastic are examples of materials with the possibility of containing asbestos, known as suspect asbestos-containing material (**SACM**).

Friable asbestos-containing material may easily contaminate the air, representing a hazard to any person exposed. Fibers from non-friable asbestos-containing materials may also be released into the air by material disturbance during product use, demolition work, building or property maintenance, repair, and remodeling, causing the material to become crumbled, pulverized, or reduced to powder.

The relation between exposure to asbestos fibers and the chance of developing harmful health effects is directly proportional, and symptoms may take many years to develop following exposure. This is one of the reasons the National Emission Standards for Hazardous Air Pollutants (**NESHAP**) regulations under the Clean Air Act (**CAA**) and the DRNA Regulation No. 5300 for the Control of Atmospheric Pollution, of

July 26, 1995, as amended by Regulation No. 9420, of November 21, 2022,[30] specify work practices for asbestos to be followed during demolitions and renovations of all structures, installations, and buildings. Projects that will result in Regulated Asbestos-Containing Material (**RACM**) being stripped, removed, dislodged, cut, drilled, or similarly disturbed in excess of the combined regulatory amount must comply with and follow 40 C.F.R. § 61.145 for Notification requirements and Procedures for asbestos emission control, as applicable.

If SACM is identified, an asbestos survey must be performed before rehabilitation and/or retrofit work is conducted on any target structure receiving federal assistance. In the case of asbestos-containing materials (**ACM**), the regulations require notification to the DRNA before any work is performed to mitigate homogeneous areas found to contain ACM.[31]

All asbestos surveys for the Program will be performed by asbestos inspectors certified by the DRNA. The asbestos survey will consist of the identification of suspected ACMs in areas to be disturbed and the collection of samples following the sampling requirements stated in 40 C.F.R. § 763.86, as applicable. During the survey process, every effort should be made to collect the required samples in the least possible destructive and sufficient manner to determine whether the material is or not ACM. The nature of the asbestos survey will be to determine the location and extent of ACMs that may be disturbed during repair/retrofit of a target unit. Samples of SACM shall be processed or evaluated by accredited laboratories for testing of asbestos presence in materials. Asbestos content determination shall be performed utilizing Polarized Light Microscopy, Point Counting, and Transmission Electron Microscopy as established in 40 C.F.R. § 61.140. The management, removal, or disturbance of ACM will comply with all applicable rules and regulations. The Program will require a clearance examination to be performed and submitted to the DRNA when required under Regulation No. 9420, as applicable.

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[30] Regulations No. 5300 and No. 9420 are available at https://www.drna.pr.gov/wp-content/uploads/2020/03/Regulations-for-the-Control-of-Atmospheric-Pollution-RCAP-1995-Regulation-No-5300.pdf and https://www.drna.pr.gov/wp-content/ uploads/2022/03/Rules-102-210-425.pdf.

[31] Materials that meet the definition of regulated ACM in accordance with 40 C.F.R. § 61.141 and 40 C.F.R. § 61.145(b) require in person or via certificated mail notification to the EPA at least 10 working days prior to the general permit submittal and before any demolition or renovation of structures or areas of a structure with ACM. A copy of the notification is required stamped by the EPA before proceeding to request a General Permit from the DRNA.

12.4 Floodplain Management

The FER Program will use the most current, approved version of FEMA's Flood Insurance Rate Map (**FIRM**), Preliminary Flood Insurance Rate Map (**PFIRM**), or Advisory Base Flood Elevation Map (**ABFE**) to identify whether a property is located within or outside of the 100-year flood plain/Special Flood Hazard Area (**SFHA**) or 500-year (or 0.2 percent annual chance) floodplain. Floodplain designation will be determined by the site-specific environmental review.

The Program will conduct an appraisal for projects subject to floodplain management regulations to determine its current market value. The appraiser must be duly licensed and qualified to conduct real estate property appraisals in Puerto Rico. Upon completion of the appraisal, the appraiser must prepare a report that includes:

- A detailed description of the appraised property;
- General market data and comparable properties;
- Separate valuation for each structure and the land;
- Supporting information for valuation conclusions; and
- Certification of the appraisal, noted by the appraiser's signature.

The Program will use the appraisal to calculate the Substantial Improvement factor of the Program-sponsored improvements. As defined in 24 C.F.R. § 55.2(b)(12), a Substantial improvement refers to any repair, reconstruction, modernization, or improvement of a structure where the cost is equal to or exceeds fifty percent (50%) of the market value of the structure either before the improvement or repair starts or, if the structure has been damaged and is being restored, before the damage occurred. Additionally, it encompasses any repair, reconstruction, modernization, or improvement that results in an increase of more than twenty percent (20%) in the number of dwelling units in a residential project or in the average peak number of customers and employees likely to be on-site at any one time for a commercial or industrial project.

A Substantial Improvement does not include any project aimed solely at bringing a structure into compliance with existing state or local health, sanitary, or safety code specifications necessary to ensure safe living conditions. It also excludes any alteration of a structure listed on the National Register of Historic Places or on a State

Inventory of Historic Places. Structural repairs, reconstruction, or improvements that do not meet this definition are considered "minor improvements".

Federal regulations prohibit substantial improvements whenever a property is located within a floodplain without elevating or floodproofing the structure to the required height above the Base Flood Elevation (**BFE**).[32]

A Regulated Floodway comprises the channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. This segment of the floodplain will generally carry the flow of flood waters during a flood and is typically the area of greatest risk to structures in the floodplain.

These high-risk zones may also include the Limit of Moderate Wave Action (**LiMWA**), the inland boundary of the Coastal A Zone, where wave heights can range from 1.5 to 3 feet during a base flood event, exposing properties to wave impact and storm surge damage. In addition, the Coastal High Hazard Area (**CHHA**) encompasses areas subject to high-velocity water, including but not limited to hurricane wave wash and tsunamis.

No HUD financial assistance may be approved for any activity located within a Regulated Floodway, LiMWA, or CHHA, unless an exception under 24 C.F.R. § 55.8 applies.

The Flood Disaster Protection Act of 1973, 42 U.S.C. § 4012a, requires that projects receiving federal assistance for structural repair, and are located in an area identified by FEMA as being within a 1-percent annual chance/100-year floodplain or the 0.2-percent-annual-chance (or 500-year) flood on the effective FIRM, obtain and maintain flood insurance under the NFIP for insurable structures. To be able to purchase flood insurance, the community in which the property is located must be

[32] If the project involves Substantial Improvement, National Flood Insurance Program (**NFIP**) regulations require the affected structure(s) be elevated to the BFE. Local law or program policy may require additional elevation (or "freeboard") beyond FEMA's minimum elevation requirements. See: https://www.hudexchange.info/programs/environmental-review/ floodplain-management/.

participating in the NFIP. If the community is not participating in the NFIP, federal assistance cannot be used in those areas.

13 Award Determination and Grant Agreement Execution

The Program will send an **Eligibility and Award Notice** to Applicants who were deemed preliminarily eligible and successfully completed the underwriting and environmental review processes informing them of their eligibility and the Project award amount. The Eligibility and Award Notice will include the **Grant Agreement** as an attachment for the Applicant to sign in acceptance of the FER Program award's terms and conditions. Applicants must submit the signed Grant Agreement to the FER Program within **twenty (20) calendar days** from the date of the Eligibility and Award Notice. Failure to submit the signed Grant Agreement within the allotted timeframe will trigger the Non-responsive Applicant process.[33]

The Grant Agreement is the contract between an Eligible Applicant and PRDOH for the FER Program awarded funds. The Grant Agreement will include the terms, conditions, obligations, and necessary support documents for the Applicant to receive the FER Program award. These include, but may not be limited to:

- The amount of FER Program funds awarded for the Applicant's Project.
- The Applicant's obligation to ensure compliance with all Project requirements outlined in these Guidelines, including those related to design, permit, equipment, installation, no portability, location, interconnection, and any other requirements from federal, state, or local laws and regulations in relation to the System.
- The Applicant's obligation to ensure their chosen REIC complies with any environmental mitigation requirements determined necessary through the project's environmental review process.
- The required documentation to submit Progress Payment Requests and a Final Progress Payment Request upon completion of the System's installation by the REIC and the Certified Renewable Electrical Systems Installer.

[33] Refer Section 20, the Non-Responsive Applicants, of these Guidelines.

- PRDOH's obligation and the Applicant's acceptance thereof to inspect the System installed for compliance with the Grant Agreement's requirements before full disbursement of the award.
- The Applicant's acceptance that PRDOH will only issue Project award payments directly to the REIC.

The Applicant must not sign a contract with the REIC until both the Applicant and PRDOH have executed and signed the Grant Agreement.

Additionally, after the execution of the Grant Agreement, PRDOH may approve a change in the selected Program-approved REIC, provided that the awarded funds remain unchanged, and the modified system design maintains the same or greater PVS and BSS capacities as originally approved. Any such change must continue to comply with all applicable Program requirements, including technical, environmental, and eligibility criteria.

13.1 Cancellation or Amendment of Grant Agreement

PRDOH reserves the right to cancel or amend a Grant Agreement when certain circumstances warrant modifications to the approved scope of work or otherwise affect the successful execution of the Project.

Any proposed modification to the approved scope of work, including revisions to the System design, Project Quote, selected Program-approved REIC, Project costs, or other Project components, will be evaluated by PRDOH on a case-by-case basis to determine whether the proposed changes comply with all applicable Program requirements and whether the associated costs, if any, are reasonable and necessary.

Approved amendments may result in modifications to the approved scope of work and adjustments to the total award amount; however, any such adjustment shall not result in a total award amount exceeding the maximum award limit of two hundred fifty thousand dollars ($250,000) established under the Program.

PRDOH may cancel a Grant Agreement when circumstances prevent the successful completion of the approved scope of work, including but not limited to the following:

- The Beneficiary elects to withdraw from participation in the Program.

- The system approved in the Grant Agreement cannot be installed at the Participating Property due to site conditions, regulatory constraints, structural limitations, or any other factor that prevents installation.
- Any other situation that, upon review by PRDOH, is determined to impede or prevent the proper execution of the Grant Agreement.

13.2 Beneficiary's Death

If the Beneficiary operates as a Doing Business As (**DBA**) and passes away after the Grant Agreement has been executed but before submission of the Progress Payment Request (**PPR**), the Grant Agreement will be considered null and void, and the project will be stopped. PRDOH will review case-by-case scenarios to determine the next steps. Any outstanding award balance will not be a liquid or enforceable debt.

If the Beneficiary is a DBA and passes away after one or more PPR, Final Progress Payment Request (**Final PPR**), or Final System Validation Payment have been processed, the project will be stopped. PRDOH will evaluate the specific circumstances of each case to determine the appropriate course of action. Any outstanding balance from the awarded funds will not be treated as a liquid and enforceable debt.

13.3 Owner's Death

If the Beneficiary is a tenant and the Property Owner passes away after the Grant Agreement is executed but before submission of the PPR, the project will be stopped. PRDOH will review case-by-case scenarios to determine the next steps. Any outstanding award balance will not be a liquid or enforceable debt. The Beneficiary may seek consent from the new Property Owner (or their legal representative) to proceed with the project, provided the new Property Owner agrees to honor the terms of the Grant Agreement and allows the Beneficiary to continue participating in the Program.

If the Beneficiary is a tenant and the Property Owner passes away after one or more PPR, Final PPR, or Final System Validation Payment have been processed, PRDOH will evaluate the specific circumstances of each case to determine the appropriate course of action. Any outstanding award balance will not be considered a liquid and enforceable debt.

13.4 Bankruptcy

If the Beneficiary files for bankruptcy protection, the Government of Puerto Rico and PRDOH reserve the right to terminate the Grant Agreement without prior notice. However, depending on the specific circumstances of the bankruptcy, PRDOH may opt to continue enforcing the Agreement, provided it is legally permissible.

14 Project Implementation

The installation of a System under the FER Program is the Applicant's responsibility. Applicants are responsible for compliance with the Project requirements set forth in the FER Program Guidelines and the Grant Agreement. Applicants will have a **maximum of twenty-four (24) months** from the Grant Agreement's execution date to complete the Project and submit the corresponding payment requests to PRDOH.

15 Award Disbursement

The FER Program will never disburse more than the amount awarded in the Grant Agreement.

To limit any adverse effects on the REIC's cash flow, while maintaining adequate controls for compliance with Program activities, the Program award will be disbursed as follows:

- **Progress Payment Requests (PPR)**: Applicants authorized representative, or selected REIC can submit progress payment requests for completed work at specific milestones[34]. The Program will start processing the payment once it determines that the progress payment request complies with all Program requirements. A retainage of up to 20% will be deducted from the requested amount.
- **Final Progress Payment Request (Final PPR)**: Applicants, authorized representative, or selected REIC can submit the final progress payment request once the project has been completed. The request shall include all system installation-related costs, including but not limited to PV modules, batteries, inverters, and cabling. This payment will be processed after completing the

[34] For the specific Project installation milestones that may trigger PPRs, please refer to Subsection 15.1, Progress Payment Requests, of these Guidelines.

System's commissioning and interconnection package submission to the electric power utility.

- **Final System Validation Payment**: This constitutes the payment of the retained amount from the progress payment requests to reach 100% disbursement of the awarded amount. However, if the total requested in the progress payment requests is less than the amount awarded, the Final System Validation Payment will be limited accordingly. Payment will be subject to a Final System Validation Monitoring site visit by a Program representative.

Disbursements associated with approved Grant Agreement Amendments will be evaluated on a case-by-case basis at the PRDOH's discretion.

Articles 1120 and 1125 of the Puerto Rico Civil Code of 2020, 31 LPRA §§ 9151 & 9163, allow any person to pay a creditor on behalf of the debtor in good faith. Under the FER Program, PRDOH awards the funds to the Applicant, who becomes the REIC's debtor when the installation is completed. The payment by PRDOH directly to the REIC extinguishes the Applicant's debt toward the REIC as well as PRDOH's obligation for disbursing the award under the Grant Agreement. Since direct payments significantly reduce the risk of misuse and misplacement of funds, the FER Program will only issue payments directly to the REICs up to the awarded amount after confirmation of compliance with the Grant Agreement and Program requirements through the Program's Final System Validation Monitoring. Direct payment to REICs will be a condition for assistance in the Grant Agreement executed between the Applicant and PRDOH. PRDOH will not insert itself into the contractual relation between the Applicant and the REIC and will only issue payments to the company that completed the installation.

15.1 Progress Payment Request

Applicants, authorized representatives, or selected REIC can submit PPRs when the following project milestones have been completed:

- **Pre-Installation Work** – Includes all design and permitting-related costs.
- **Civil Work** – Includes all costs associated with environmental mitigation, site preparation work for the System's installation, and mounting and anchoring structures or other structures that provide primary support for the System's equipment.

Applicants, authorized representatives, or selected REIC must include the following documentation with each PPR to be evaluated for compliance with the Program's requirements:

- REIC invoice for work performed during the period;
- Documentation related to the milestone for which payment is requested;
- Progress report certified by the Project installer and, in the case of Projects with a construction permit, the report must be submitted by the Designated Inspector;
- Cost Breakdown/Progress payment report;
- Applicant's approval of work performed;
- Photographic evidence of work performed; and
- Any other document required by PRDOH.

Subsequent PPRs cannot be submitted until the Program has approved the previous PPR.

If the progress work and submitted PPR documentation are found in compliance with the Grant Agreement's terms and conditions and the requirements set forth in these Guidelines, the Program will recommend the corresponding progress payment via a **PPR Approval Notice**.

In cases of non-compliance, the Applicant or selected REIC will receive a **PPR Returned Notice** detailing the deficiencies that must be corrected before the Program can approve the payment. The Applicant or selected REIC will have a **forty-five (45) calendar day** period to correct the deficiencies identified and resubmit a new PPR to PRDOH.

15.2 Final Progress Payment Request

Upon successful Project completion, the Applicant, authorized representative, or selected REIC can submit a Final PPR, which must include the following documentation to be evaluated by the Program for compliance with applicable requirements:

- REIC invoice for work performed during the period;
- Cost Breakdown/Progress Payment Report;
- Applicant's approval of work performed;

- The as-built drawings for the installed System, duly executed and stamped by the System's designer;
- Evidence of compliance with mitigation measures identified in the approved Environmental Review Record (**ERR**), as applicable;
- Photographic evidence of the installed System, which must show the PVS and/or BSS's location, total count and nameplate capacity, and any other System component's location and total count;
- The Commissioning Report for the installed System;
- The Photovoltaic System Certificate for the installed System prepared by the Certified Renewable Electrical Systems Installer;
- Evidence of submission of an Interconnection Request for the System to the local Power Grid Operator. Properties not connected to the electric power distribution system that are completely off-the-grid will be exempt from complying with this requirement;
- A copy of the System warranties package, provided to the Applicant by the Program-approved REIC;
- The **Compliance with Project Eligibility Certification Form** duly executed by the Project's Certified Renewable Electrical Systems Installer;
- The **Acknowledgement of Operations and Maintenance Training Form** duly executed by the Applicant and the Project's Certified Renewable Electrical Systems Installer; and
- The Designated Inspector's final report, if the Project requires a construction permit;
- Construction permit closeout, if the Project requires a construction permit; and
- Any other document required by PRDOH or the Grant Agreement.

Upon receipt of a Final PPR, the FER Program will review it for completeness and compliance with Program requirements. If the Final PPR is found in compliance with the Grant Agreement's terms and conditions and the requirements set forth in these Guidelines, the Program will recommend the corresponding payment via a **Final PPR Approval Notice**.

The Program will notify the Applicant or the selected REIC of any issues identified in the Final PPR for correction and resubmission to PRDOH via a **Final PPR Returned Notice**. The Applicant and their chosen REIC will have a **forty-five (45) calendar day** period to correct deficiencies identified in the Final PPR and resubmit a new version to PRDOH.

15.3 Final System Validation Monitoring and Payment

After the Program approves payment of the Final PPR, it will contact the Applicant to coordinate a Final System Validation Monitoring site visit. The Applicant must participate in the monitoring site visit and the REIC must be available to communicate with the Program Representative via video call, if needed.

During the monitoring site visit, a Program representative will:

- Examine the System installed by the Applicant's selected REIC to verify compliance with the Grant Agreement's terms and conditions and the requirements outlined in these Guidelines;
- Take photographic evidence of the installed System; and
- Determine the final award amount to be disbursed.

Installations of Systems found in compliance with the Grant Agreement's terms and conditions and the requirements outlined in these Guidelines will be recommended for final disbursement and closeout via a **Final System Validation Monitoring Notice**.

In cases of non-compliance, the Applicant or selected REIC will receive a **Failed System Validation Monitoring Notice** and will have the opportunity to modify/recertify the installation and request a new monitoring site visit to the Program. Applicants or selected REICs must request a Final System Validation Monitoring Site Visit within **ninety (90) calendar days** from the date of the failed inspection. Minor corrections[35] can be validated via photographic documentation and will not require a new monitoring site visit. Once evidence of compliance with the identified condition is

[35] **Minor Corrections:** Refers to non-critical issues that do not impact the system's functionality or performance and may be validated via photographic documentation, requiring no follow-up site visit for their resolution.

submitted to the satisfaction of the Program, the Final System Validation Payment will be recommended for disbursement.

16 Labor Standards

Projects receiving CDBG-MIT funding are required to comply with federal labor standards laws, including Davis-Bacon Act of 1931 and Related Acts (**DBRA**), as amended, 40 U.S.C. § 3141 *et seq.*; Fair Labor Standards Act of 1938 (**FLSA**), as amended, 29 U.S.C. § 201 *et seq.*; Contract Work Hours and Safety Standards Act (**CWHSSA**), as amended, 40 U.S.C. § 3701 *et seq.*; Copeland Anti-Kickback Act, as amended, 40 U.S.C. § 3145 *et seq*. Together, these laws ensure that workers are paid the appropriate prevailing wage rate and are treated fairly by employers receiving CDBG-MIT funding to execute program activities. Each of these laws requires important recordkeeping practices to ensure compliance and allow for accurate and efficient reporting as required by PRDOH.

PRDOH has adopted the Davis-Bacon and Related Acts Policy, which must be followed by all contractors and subcontractors in the performance of construction work financed in whole or in part with CDBG-DR/MIT assistance. This Policy is available in English and Spanish on the PRDOH website at https://recuperacion.pr.gov/en/download/davis-bacon-and-related-acts-policy/ and https://recuperacion.pr.gov/download/politica-sobre-la-ley-davis-bacon-y-las-leyes-relacionadas/. For all other labor standards, refer to the PRDOH's Cross-cutting Guidelines, available in English and Spanish on the PRDOH website at https://recuperacion.pr.gov/en/download/cross-cutting-guidelines/ and https://recuperacion.pr.gov/download/guias-intersectoriales/.

17 Section 3

All contractors and subcontractors who receive CDBG-MIT funding for construction projects subject to Section 3 requirements are required to comply with HUD regulations at 24 C.F.R. Part 75, commonly referred to as the Section 3 Final Rule.[36] Section 3 ensures that employment and other economic opportunities generated by certain HUD financial assistance, to the greatest extent feasible and consistent with

[36] The new threshold established by HUD in Federal Register Vol. 91, No. 30 (February 13, 2026), 91 FR 6752, effective March 16, 2026, applies prospectively.

existing federal, Government of Puerto Rico, and local laws and regulations, be directed to low- and very low-income persons so that they can take part in recovery activities in proximity to work location. Section 3 requirements include adhering to HUD's established benchmarks for the percentage of total work hours to be completed by Section 3 Workers and Targeted Section 3 Workers.

The PRDOH Section 3 Policy is available in English and Spanish on the PRDOH website at: https://recuperacion.pr.gov/en/download/section-3-policy/ and https://recupera-cion.pr.gov/download/politica-sobre-seccion-3/.

18 Application Closeout

Upon Project completion and the corresponding award disbursement, the FER Program application shall be closed. This process will consist of ensuring that all the work performed is compliant with these Guidelines and the Grant Agreement's terms and conditions. The Program staff will conduct a complete review of the application file to ensure all necessary documentation is present and the application is ready for closeout.

Requirements for closeout are as follows:

- All eligibility and DOB documentation is in compliance with the requirements of these Guidelines and sufficient to justify the Applicant's participation and subsequent award;
- All environmental review documentation, including evidence of environmental mitigation measures, complies with the requirements of these Guidelines and is sufficient to justify the activities performed at the Participating Property;
- The appropriate parties have duly completed and executed all FER Program Forms required through the application process;
- All supporting documents and data are included in the application file for PRDOH's Grant Management system of record;
- All FER Program funds used have been properly accounted for and reconciled with disbursements made to the Program-approved REIC;

- Compliance with other requirements for closeout established by PRDOH in the Grant Agreement and the REIC's Commitment of Compliance with the FER Program Terms and Conditions.

Outreach will be made to the Applicant in the event any additional information is necessary to close the application. Once all levels of quality assurance and control are complete, the Applicant will receive a **FER Program Final Notice** and their application will be assigned a closed status.

19 Voluntary Withdrawal

An Applicant may request to withdraw from the Program at any time before the award disbursement has commenced. If the Applicant requests to withdraw after at least part of the award has been disbursed, the Program will issue a **Voluntary Withdrawal Denial Notice**.

To initiate the voluntary withdrawal process, the Applicant will notify the FER Program in writing, via electronic or postal mail, of their desire to withdraw from the Program. After reviewing the voluntary withdrawal request, the Program will provide a **Voluntary Withdrawal Notice** to the Applicant. The application status will be officially updated to withdrawn **fifteen (15) calendar days** after the date of the Voluntary Withdrawal Notice. Upon completion of the withdrawal request and receipt of the Applicant's signature on any required forms, the Program will send the Applicant a **Voluntary Withdrawal Confirmation Notice** informing them that the application status has been updated to "Withdrawn" and the case has been closed. Therefore, the Applicant will not be able to rejoin the Program at any time in the future.

20 Non-responsive Applicants

The FER Program will make reasonable efforts to contact Applicants to schedule meetings, collect documentation, or obtain other necessary information. Contact attempts will be made using different methods of communication and at different times of the day or week. The following is a list of some of the circumstances under which the FER Program may trigger a Non-responsive Applicant process:

- If the FER Program has made **three (3) consecutive unsuccessful attempts** to contact an Applicant with no follow-up contact from the Applicant, the Program will send the Applicant a Non-responsive Notice.
- If the FER Program sends a Required Documents Notification to an Applicant and no response is received within **thirty (30) calendar days** of the date of the letter, the Applicant will be sent a Non-responsive Notice.
- If the FER Program issued an Eligibility and Award Notice to an Applicant and the Applicant fails to return the Grant Agreement signed within **twenty (20) calendar days** of the date of the letter, the Applicant will be sent a Non-responsive Notice.

The Non-responsive Notice provides contact information for the FER Program, advises the Applicant of the reasons for the Non-responsive Notice, and notifies the Applicant to contact the Program or complete an action within **fourteen (14) calendar days** of the date of the letter. If the Applicant fails to contact the Program or complete the action within the **fourteen (14) calendar days** allowed, the Program will send the Applicant a Non-responsive Confirmation Notice, and the application will be closed.

21 Program-based Reconsideration and Administrative Review

The FER Program Applicants may contest any determination or denial based on Program policy. However, Applicants may not challenge a federal statutory requirement. Applicants have the right to request a Program-based Reconsideration with the Program or request an Administrative Review directly with PRDOH, as stated below. If the Applicant fails to contest a determination within the allotted time, the inaction will be deemed as an acceptance of the determination.

21.1 Program-based Reconsiderations

Applicants who wish to contest a FER Program determination may file a Reconsideration Request directly with the Program by submitting a written request via electronic or postal mail within **twenty (20) calendar days** from the date a copy of the notice was filed in the agency's record. However, if the date on which the copy of the notice is filed in the agency's records differs from the postal or electronic mail date of said notice, the **twenty (20) calendar day term** shall be calculated from the postal or

electronic mail date. Notices distributed via electronic communication shall be considered valid. In the event a notification is sent via postal and electronic mail, the notification date will be the one sent first. Program notices will include the electronic and postal information where these will be received, as these may vary.

Applicants who file a Program-based Reconsideration Request are encouraged to provide individual facts or circumstances, as well as supporting documents to justify their petition. In the Reconsideration Request process, the Program will only review facts and information already included in an Applicant's file, unless the Applicant submits new documentation. The Program has the discretion to accept or reject new documentation based on its relevance to the Program-based Reconsideration Request.

The Program will review and address the Reconsideration Request within **fifteen (15) calendar days** of its receipt. The Program will notify Applicants of the reconsideration determination via a Reconsideration Request Approved or a Reconsideration Request Denied notification.

Filing a Program-based Reconsideration Request does not substitute, negate, or preclude any legal right that an Applicant has to challenge a Program determination. Therefore, Applicants who believe the initial Program determination to be erroneous may submit, at their discretion, either a Program-based Reconsideration Request or an Administrative Review Request directly to PRDOH in accordance with Regulation No. 9618, of November 21, 2024, which regulates the Formal Adjudicative Procedures of the Department of Housing and its Adjunct Agencies.[37]

21.2 Administrative Reviews

If an Applicant disagrees with a Program determination or with the Reconsideration Request Denial determination, said party may file directly with PRDOH an Administrative Review Request in accordance with Regulation No. 9618. The Applicant

[37] For more details, you can access Regulation 9618 (in Spanish) at https://docs.pr.gov/files/Vivienda/avp.pr.gov/Reglamentaci%C3%B3n/REGLAMENTO_9618_Sobre_Procedimentos_Adjudicativos_Formales_del_Departamento_De_La_Vivienda_y_Sus_Agencias_Adscritas.pdf.

must submit such request, in writing, within **twenty (20) calendar days** from the date a copy of the Program determination or a Reconsideration Request Denial determination was filed in the agency's records. However, if the date on which the copy of the notice is filed in the agency's records differs from the postal or electronic mail date, the **twenty (20) calendar day term** shall be calculated from the postal or electronic mail date. Notices distributed via electronic communication shall be considered valid. In the event a notification is sent via postal and electronic mail, the notification date will be the one sent first. The request may be submitted via email to: LegalCDBG@vivienda.pr.gov; via postal mail to: CDBG-DR/MIT Legal Division, P.O. Box 21365, San Juan, PR 00928-1365; or in person at PRDOH's Headquarters at: CDBG-DR/MIT Legal Division, 606 Barbosa Avenue, Juan C. Cordero Dávila Building, Río Piedras, PR 00918.

If the Applicant disagrees with any final written determination on an Administrative Review Request notified by PRDOH, after completing the Administrative Adjudicative Procedure, they may file a Judicial Review petition before the Puerto Rico Court of Appeals within **thirty (30) calendar days** after a copy of the notice has been filed in the agency's records. See Act No. 201-2003, as amended, 4 LPRA § 24 *et seq*., known as the "Judiciary Act of the Commonwealth of Puerto Rico of 2003," and Section 4.2 of Act No. 38-2017, as amended, 3 LPRA § 9672, known as the "Government of Puerto Rico Uniform Administrative Procedures Act."

22 Recapture

Instances may arise where an Applicant must return all or part of the awarded funds to the Program. The Program is responsible for recapturing duplicative funds, funds awarded to Applicants who become non-compliant, funds identified as potential overpayments, and funds awarded due to fraudulent information provided by the Applicant, among other circumstances. All Applicant files will be reviewed and reconciled for accuracy to ensure compliance with Program requirements and federal guidelines.

Once it has been determined that an Applicant must return funds to the CDBG-MIT Program, they must repay the funds in a timely manner. All repayments shall be expected to be repaid in full as one lump sum amount.

For more information about the PRDOH CDBG-DR/MIT Recapture Policy, see: https://recuperacion.pr.gov/en/download/recapture-of-funds-policy/ (English) and https://recuperacion.pr.gov/download/politica-de-recaptura-de-fondos/ (Spanish).

23 General Provisions

23.1 Program Guidelines Scope

This document sets forth the policy governing the FER Program. These Guidelines are intended to aid and provide activity guidance in Program implementation and closeout and should not be construed as exhaustive instructions. All Program activities must comply with the policies hereby stated. In addition, all Program staff must adhere to established Program procedures and all federal and state laws and regulations in effect, as applicable, in the execution of Program activities.

However, PRDOH reserves the faculty to authorize, in its sole discretion, the granting of Program benefits to any Applicant, only when exceptional circumstances, not contemplated in the Guidelines, justify it. Such faculty will be exercised on a case-by-case basis in compliance with local, state, and federal requirements. PRDOH is in no way obligated to grant Program benefits in said cases.

23.2 Program Guidelines Amendments

PRDOH reserves the right to modify the policies established in these Guidelines if they, as written, do not reflect the intended policy or cause procedures to be impracticable, among any other circumstances. If an amended version of these Guidelines is approved, the amended version fully supersedes all other previous versions and should be used as the basis when evaluating any situation encountered in the implementation and/or continuance of the Program from the date of its issuance, that is, the date appearing on the cover of the Guidelines. Each version of the Program Guidelines will contain a detailed version control log that outlines any substantive amendments, inclusions, and/or changes.

23.3 Extension Deadlines

The Program could extend deadlines on a case-by-case basis. The Program may decline to extend a deadline if such an extension jeopardizes the Program's completion schedule or the schedule of an individual Project. This strictly applies to

Program deadlines or established Program terms. Under no circumstance(s) does the faculty to extend deadlines apply to the established terms of time in these Guidelines or any applicable federal or state law or regulation, or to the terms of time established in these Guidelines to request a Program-based Reconsideration, Administrative Review, and Judicial Review.

23.4 Established Periods of Time

Unless otherwise specified, all established periods of time addressed in these Guidelines, as well as all CDBG-DR and CDBG-MIT Program Guidelines, will be considered calendar days. On this matter, PRDOH, as grantee, will follow Rule 68.1 of the Rules of Civil Procedure of Puerto Rico, 32 LPRA Ap. V, R. 68.1.

23.5 Written Notifications

All Program determinations will be notified in writing. If an Applicant believes that the Program made a determination without it being written, the Applicant may request that such decision be made in writing and duly substantiated.

23.6 Conflict of Interest

As stated in 84 FR 45838, 45845, federal regulations require that State grantees, in the direct Grant administration and means of carrying out eligible activities, be responsible for 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-MIT-assisted activities. Therefore, PRDOH has enacted the Conflict of Interest and Standards of Conduct Policy (**COI Policy**) in conformity with the following applicable federal and state regulations:

- HUD conflict of interest regulations, 24 C.F.R. § 570.611;
- The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200 at § 200.112 and § 200.318 (c)(1);
- The Puerto Rico Department of Housing Organic Act, Act No. 97 of June 10, 1972, as amended, 3 LPRA § 441 *et seq.*;

- The Anti-Corruption Code for the New Puerto Rico, Act No. 2-2018, as amended, 3 LPRA § 1881 *et seq*.; and
- The Puerto Rico Government Ethics Office Organic Act, Act No. 1-2012, as amended, 3 LPRA § 1854 *et seq*.

The COI Policy 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/MIT-funded projects, activities, and/or operations. In accordance with 24 C.F.R. § 570.489, the COI Policy also includes standards of conduct governing employees engaged in the award or administration of contracts.

As defined in the COI Policy, 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 PRDOH, or any designated public agencies, or of subrecipients that are receiving funds under the CDBG-DR/MIT Programs may obtain a financial or personal interest or benefit that is or could be reasonably incompatible with the public interest, either for themselves, or those with whom they have business ties, 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.

PRDOH will not tolerate such conflicts of interest. Program officials, their employees, agents, and/or designees are subject to state ethics laws and regulations, including, but not limited to, Act No. 1-2012, regarding their conduct in the administration and granting of awards and program activities.

According to Act No. 1-2012, no public servant shall intervene, either directly or indirectly, in any matter in which they have a conflict of interests that may result in their benefit. No public servant shall intervene, directly or indirectly, in any matter in which any member of their family unit, relative, partner, or household member has a conflict of interest that may result in benefit for any of the above-mentioned. In the case that any of the abovementioned relationships have ended during the **two (2) years** preceding the public servant's appointment, they shall not intervene, either directly or indirectly, in any matter related to them until **two (2) years** have elapsed after their appointment. This prohibition shall remain in effect insofar as 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 these Guidelines, and requirements set forth in the COI Policy. PRDOH Program officials, their employees, agents, and/or designees should disclose their relationship with PRDOH at the time of their application.

The COI Policy and all CDBG-DR/MIT Program policies are available in English and Spanish on the PRDOH website at https://recuperacion.pr.gov/en/resources/policies/ and https://recuperacion.pr.gov/recursos/politicas/.

23.7 Citizen Participation

Throughout the duration of the Grant, all citizen comments on PRDOH's published Action Plan, any substantial amendments to the Action Plan, performance reports, and/or other issues related to the general administration of CDBG-DR/MIT funds, including all programs funded by this Grant, are welcomed.

Citizen comments may be submitted through any of the following means:

- **Via phone:** 1-833-234-CDBG or 1-833-234-2324 (TTY: 787-522-5950)
  Attention hours are Monday through Friday from 8:00am-5:00pm
- **Via email to:** infoCDBG@vivienda.pr.gov
- **Online at:** https://recuperacion.pr.gov/en/contact-us/contact/ (English)
  https://recuperacion.pr.gov/contactanos/contacto/ (Spanish)
- **In writing to:** Puerto Rico CDBG-DR/MIT Program
  P.O. Box 21365
  San Juan, PR 00928-1365

The Citizen Participation Plan and all CDBG-DR/MIT Program policies are available in English and Spanish on the PRDOH website at https://recuperacion.pr.gov/en/resources/policies/ and https://recuperacion.pr.gov/recursos/politicas/. For more information on how to contact PRDOH, please refer to https://recuperacion.pr.gov/en/contact-us/ and https://recuperacion.pr.gov/contactanos/.

23.8 Citizen Complaints

As part of addressing Puerto Rico's long-term recovery needs, PRDOH welcomes citizen complaints on any issues related to the general administration of CDBG-DR/MIT funds throughout the duration of the Grant. It is PRDOH's responsibility, as a CDBG grantee, to ensure that all complaints are dealt with promptly and consistently and at a minimum, to provide a timely, substantive written response to every **written** complaint within **fifteen (15) working days**, where practicable. See 24 C.F.R. § 91.115(h) and 24 C.F.R. § 570.486(a)(7).

Citizens who wish to submit formal complaints related to CDBG-DR/MIT-funded activities may do so through any of the following means:

- **Via e-mail to:** CDBGresponde@vivienda.pr.gov
- **Online at:** https://recuperacion.pr.gov/en/contact-us/complaints/ (English)
  https://recuperacion.pr.gov/contactanos/quejas/ (Spanish)
- **In writing to:** Puerto Rico CDBG-DR/MIT Program
  Attn: Public and Community Affairs Division: Complaints
  P.O. Box 21365
  San Juan, PR 00928-1365

Although formal complaints are generally required to be submitted in writing, they may also be received verbally and by other means necessary, as applicable, when PRDOH determines that the complainant's particular circumstances do not allow them to submit the complaint in writing. However, in these instances, PRDOH shall convert these complaints into written form. These alternate methods for submitting complaints include, but are not limited to:

- **Via phone:*** 1-833-234-CDBG or 1-833-234-2324 (TTY: 787-522-5950)
- **In-person at:*** PRDOH's Headquarters Office or Program-Specific Intake Centers
  * Attention hours are Monday through Friday from 8:00am-5:00pm.

The Citizen Complaints Policy and all CDBG-DR/MIT Program policies are available in English and Spanish on the PRDOH website at https://recuperacion.pr.gov/en/resources/policies/general-policies/ and https://recuperacion.pr.gov/recursos/politicas/politicas-generales/.

23.9 Anti-Fraud, Waste, Abuse, or Mismanagement

PRDOH, as grantee, is committed to the responsible management of CDBG-DR/MIT funds by advocating strongly for the allocated resources while maintaining a comprehensive policy for preventing, detecting, reporting, and rectifying fraud, waste, abuse, or mismanagement.

Pursuant to 84 FR 45838, 45845, PRDOH implements adequate measures to detect and prevent fraud, waste, abuse, or mismanagement in all programs administered with CDBG-MIT funds. Additionally, PRDOH encourages any individual who is aware of or suspects any kind of conduct or activity that may be considered an act of fraud, waste, abuse, or mismanagement, regarding the CDBG-MIT Program, to report such acts to the CDBG-DR/MIT Internal Audit Office, directly to the Office of Inspector General (**OIG**) at HUD, or any local or federal law enforcement agency.

The Anti-Fraud, Waste, Abuse, or Mismanagement Policy (**AFWAM Policy**) is established to prevent, detect, and report any acts, or suspected acts, of fraud, waste, abuse, or mismanagement of CDBG-DR/MIT funds. 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 CDBG-DR/MIT Program.

REPORT FRAUD, WASTE, ABUSE, OR MISMANAGEMENT TO PRDOH CDBG-DR/MIT	
CDBG-DR/MIT Hotline	787-274-2135 (English/Spanish/TTY)
Postal Mail	Puerto Rico Department of Housing CDBG-DR/MIT Internal Audit Office P.O. BOX 21355 San Juan, PR 00928-1355
Email	hotlineCDBG@vivienda.pr.gov
Online	Filling out the **AFWAM Submission Form** available in English and Spanish at https://recuperacion.pr.gov/app/cdbgdrpublic/Fraud and https://recuperacion.pr.gov/app/cdbgdrpublic/Fraud
In person	Request a meeting with the Deputy Audit Director of the CDBG-DR/MIT Internal Audit Office located at PRDOH's Headquarters at 606 Barbosa Avenue, Building Juan C. Cordero Dávila, Río Piedras, PR 00918.

REPORT FRAUD, WASTE, ABUSE, OR MISMANAGEMENT DIRECTLY TO HUD OIG	
HUD OIG Hotline	1-800-347-3735 (Toll-Free) 787-766-5868 (Spanish)
Postal Mail	HUD Office of Inspector General Hotline 451 7th Street SW Washington, D.C. 20410
Email	HOTLINE@hudoig.gov
Online	https://www.hudoig.gov/hotline

The AFWAM Policy and all CDBG-DR/MIT Program policies are available in English and Spanish on the PRDOH website at https://recuperacion.pr.gov/en/resources/policies/general-policies/ and https://recuperacion.pr.gov/recursos/politicas/politicas-generales/.

23.10 Related Laws & Regulations

The laws and regulations mentioned in these Guidelines are not an exhaustive list of all regulations applicable to the FER Program. The lack of a reference to other

applicable regulations does not negate or preclude the FER Program from applying those laws or an Applicant from receiving services when applicable. If there are any discrepancies between the Guidelines and the applicable laws and regulations, then the latter will prevail. If, at any time, the applicable laws and/or regulations are amended, the new provisions will apply to the Program.

23.11 Cross-Cutting Guidelines

Some federal and local requirements apply to all CDBG-DR/MIT-funded programs. The Cross-Cutting Guidelines cover topics such as financial management, environmental review, labor standards, acquisition, relocation, civil rights, and fair housing, among others. The requirements described in the Cross-Cutting Guidelines apply to all programs outlined in PRDOH's CDBG-DR and CDBG-MIT Action Plans and their amendments.

The Cross-Cutting Guidelines and all CDBG-DR/MIT Program policies are available in English and Spanish on the PRDOH website at https://recuperacion.pr.gov/en/resources/policies/general-policies/ and https://recu-peracion.pr.gov/recursos/politicas/politicas-generales/.

24 Program Oversight

Nothing contained within these Guidelines is intended to limit the role of PRDOH, HUD, and the corresponding authorities from exercising Program oversight and monitoring activities.

25 Severability Clause

If any provision of these Guidelines or its application to any person, partnership, corporation, or circumstance is deemed invalid, illegal, or incapable of being enforced to any extent by a competent court, the remainder of the Guidelines and the application of such provisions will not be affected. All valid applications of the Guidelines shall be severed from any applications deemed invalid, leaving the valid applications in full force.

END OF GUIDELINES