



DEPARTMENT OF  
**HOUSING**



# CDBG-DR PROGRAM GUIDELINES

**CITY REVITALIZATION PROGRAM**

**AFFORDABLE HOUSING GUIDE**

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PUERTO RICO DEPARTMENT OF HOUSING  
CDBG-DR PROGRAM GUIDELINES  
**City Revitalization Program**  
**Affordable Housing Guide**  
VERSION CONTROL

<b>VERSION NUMBER</b>	<b>DATE REVISED</b>	<b>DESCRIPTION OF REVISIONS</b>
1	February 8, 2022	Original Version
2	March 09, 2023	Updated Eligibility Requirements Section to add exception to Municipalities. Included changes throughout the document for clarity purposes.
3	September 27, 2024	Modified the Application Requirements Section to allow Municipal Governments to be the only entities eligible to carry out Affordable Housing Projects under the CRP Program, allowing them to directly develop, own, manage, and administer housing projects in its entirety; to include the HCDA Section 105(a)(2) as an eligible activity; and to add an alternative for Municipalities to demonstrate their capacity and experience. Eliminated the Project Selection Section and modified the Eligible Projects Section to remove references to “proponents” and “partnering” requirements for municipalities. Removed the Underwriting Analysis Section. Modified the Methods of Distribution section to remove references to developers. Modified the Funding Amounts Section to remove references to HOME limits and state that the cost reasonableness for each project may be validated with an external cost estimator.

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## 1 Overview

The Puerto Rico Department of Housing (**PRDOH**), as grantee, is committed to the responsible management of the Community Development Block Grant – Disaster Recovery (**CDBG-DR**) funds. The U.S. Department of Housing and Urban Development (**HUD**) allocated these funds to address Puerto Rico's long-term recovery needs caused by Hurricanes Irma and María, in September of 2017. In doing so, PRDOH has developed a comprehensive program portfolio consisting of Housing, Economic Recovery, Infrastructure, Planning, and Multisector Programs. This program portfolio is meant to help rebuild the lives of people most impacted by the hurricanes, generate a long-term investment in social capital, fortify the economy, and set the stage for stability and continuity in government efficiency. As part of its commitment to the citizens of Puerto Rico, PRDOH and its Subrecipients will promote the creation of affordable housing through the implementation of the above-mentioned programs, as eligible and allowed by CDBG-DR regulations.

This Affordable Housing Guide supplements the City Revitalization Program (**CRP Program or the Program**) Guidelines, available in English and Spanish at: <https://recuperacion.pr.gov/en/download/city-revitalization/> and <https://recuperacion.pr.gov/download/revitalizacion-de-la-ciudad/>.

All the provisions set forth in this guide apply exclusively to housing activities that will be undertaken under the CRP Program.

### 1.1 Purpose and Scope

The creation of affordable housing under the CRP Program is intended to achieve successful holistic community development through strategic investment of CDBG-DR funds that will be committed to addressing unmet housing needs.<sup>1</sup> To achieve more resilient communities, housing insecurity must be mitigated and affordable housing options must be made available to all eligible citizens. In accordance with the Disaster Recovery Action Plan and CRP Program Guidelines, affordable housing projects will focus on urban, downtown, or key economic corridors that contain vacant lots suitable for new construction. Additionally, blighted and underutilized structures in these areas can be redeveloped into safe, sanitary, and decent affordable housing opportunities.<sup>2</sup> Projects that will be considered include affordable, multifamily or scattered-site<sup>3</sup> single-family rental, and single-family homeownership, as stated in the Project Types Section of this Guide.

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<sup>1</sup> See the *City Revitalization Program Guidelines* for complete information about Program objectives.

<sup>2</sup> *Id.*

<sup>3</sup> "Scattered-site" projects refer to housing units, especially for low-income families, built throughout an urban area rather than being concentrated in a single neighborhood. See [https://www.huduser.gov/publications/pdf/scattered\\_site\\_housing.pdf](https://www.huduser.gov/publications/pdf/scattered_site_housing.pdf).

It is likely that the development timeframe of the projects proposed by Subrecipients will be extended due to the completion of the affordable housing projects set forth in this guide. As such, entities should consider these extended timeframes in their scheduling.

## 1.2 Applicability

All CRP projects with a housing component must adhere to the CRP Program Guidelines and the requirements outlined in this Affordable Housing Guide.

## 2 National Objective

In accordance with 24 C.F.R. § 570.208, all CDBG-DR funded activities must satisfy a national objective. For affordable housing under the CRP Program, all projects must benefit low- and moderate-income persons (**LMI**), which requires that fifty-one percent (51%) of housing units that are either constructed or administered with CDBG-DR funds are occupied by LMI households.

## 3 Eligibility Requirements

### 3.1 Application Requirements

To be eligible and engage in affordable housing projects and activities under the CRP Program, Units of General Local Government (**UGLG**),<sup>4</sup> hereby referred to as Subrecipients or Municipalities, must meet the following requirements to develop, own, manage, and administer any housing project in its entirety:

1. Demonstrate they have the capacity and experience in administering, maintaining, and performing any other necessary activities for the development and operation of affordable housing projects of similar nature and size.
2. Submit an operational and administrative plan for the affordable housing project.
3. Submit evidence, if any, of previous affordable housing projects demonstrating the capacity and experience in administering, maintaining, and operating this type of project. In the alternative, submit supporting documentation of staff capacity and experience in administering, maintaining, and operating activities for the development and operation of affordable housing projects.
4. Submit documentation demonstrating it has the necessary funding available to begin the operation and the resources to ensure ongoing maintenance and operation of the project.

## 4 Eligible Use of Funds

### 4.1 Eligible Activities

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<sup>4</sup> According to the Housing and Community Development Act of 1974, at 42 U.S.C. § 5302(a), a unit of general local government means any city, county, town, township, parish, village, or other general-purpose political subdivision of a State. However, for purposes of this Guide, a unit of general local government shall mean a municipality.

All projects that receive CDBG-DR funding must be designated a HUD-eligible activity as defined by Section 105(a) of the Housing and Community Development Act of 1974 (**HCDA**), as amended, 42 U.S.C. § 5305, or made eligible by a waiver or alternative requirement by an applicable Federal Register notice. All projects in this Program must be in accordance with at least one of the following eligible activities according to the HCDA, for any Affordable Housing activities that will be undertaken:

- **Section 105(a)(1)**- Acquisition of real property, (including air rights, water rights, and other interests therein) which is:
  - (A) Blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth;
  - (B) Appropriate for rehabilitation or conservation activities;
  - (C) Appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, scenic areas, the provision of recreational opportunities, or the guidance of urban development;
  - (D) To be used for the provision of public works, facilities, and improvements eligible for assistance under this title; or
  - (E) To be used for other public purposes.
- **Section 105(a)(2)**- The acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction, or installation that promote energy efficiency) of public works, facilities (except for buildings for the general conduct of government), and site or other improvements.
- **Section 105(a)(4)**- Provision of assistance for the clearance, demolition, removal, reconstruction, and rehabilitation (including rehabilitation which promotes energy efficiency) of buildings and improvements (including interim assistance, and financing public or private acquisition for reconstruction or rehabilitation and reconstruction or rehabilitation, or privately-owned properties, and including the renovation of closed school buildings).
- **Section 105(a)(7)**- Provision of assistance for the disposition (through sale, lease, donation, or otherwise) of any real property acquired for public purposes;
- **Section 105(a)(11)**- Provision of relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate;

- **Section 105(a)(16)**- Provision of assistance for activities necessary to the development of energy use strategies related to a recipient's development goals, to assure that those goals are achieved with maximum energy efficiency, including items such as:
  - (A) An analysis of the manner in, and the extent to, which energy conservation objectives will be integrated into local government operations, purchasing and service delivery, capital improvements budgeting, waste management, district heating and cooling, land use planning and zoning, and traffic control, parking, and public transportation functions; and
  - (B) A statement of the recipient's actions to foster energy conservation and the use of renewable energy resources in the private sector, including the enactment and enforcement of local codes and ordinances to encourage or mandate energy conservation or use of renewable energy resources, financial and other assistance to be provided (principally for the benefit of LMI persons) to make energy-conserving improvements to residential structures, and any other proposed energy conservation activities.

In accordance with Federal Register Vol. 83, No. 28 (February 9, 2018), 83 FR 5844, 5851, grantees may also fund new construction or rehabilitate units, not damaged by the disaster, if the activity clearly addresses a disaster-related impact and is in a disaster affected area.

## 4.2 Eligible Costs

The following costs, related specifically to affordable housing projects, are eligible for funding under the Affordable Housing Guide supplement of the CRP Program:

- Site acquisition.
- Site improvement costs.
- Hard construction costs.
- Soft costs, such as architectural, engineering, legal, and permitting fees or construction-related insurance.
- Any other eligible related costs, as determined and approved by PRDOH.

## 4.3 Ineligible Costs

The following costs, related specifically to affordable housing projects, are ineligible for funding under the Affordable Housing Guide supplement of the CRP Program:

- Pre-application costs and application development costs.
- Advances of any type, including construction.
- Operating or maintenance expenses.

## 4.4 Eligible Projects



The Eligible Use of Funds Section of the CRP Guidelines outlines examples of some of the eligible projects that a Subrecipient may undertake as part of the initiatives that will be implemented under the Program. All proposed affordable housing projects must meet the applicable requirements established in the CRP Guidelines, as well as those established in this guide, including the following:

#### 4.4.1 General Project Requirements

1. Must be located within the municipal boundary in a designated downtown area or key growth area, as defined by the municipal government. Projects located completely or in part within a Special Flood Hazard Area (**SFHA**), also known as the 100-year floodplain, must follow the “Eight (8)-Step Decision Making Process” in 24 C.F.R. Part 55, Subpart C.<sup>5</sup> Refer to the Requirements to Comply with Floodplain Management and Protection of Wetlands Regulation section of the CRP Guidelines for more information.
2. All proposed projects must be tied back to the storm-related disasters either by increasing the supply of affordable housing units or rehabilitating or reconstructing disaster-impacted units.
3. The proposed project must have a minimum of five (5) total units.
  - a. Scattered-site projects are allowed under the following conditions:
    - i. The proposed sites are all located within the municipal boundary in a designated downtown or key growth area;
    - ii. All proposed sites must constitute a single development; and
    - iii. If it is a rental project, the Municipality must include details regarding their experience managing scattered scattered-site rental units, if any, and a reasonable plan to adequately manage and maintain the properties.
  - b. Structures with one (1) unit must be occupied by an LMI household. Two-unit structures must have at least one (1) unit occupied by an LMI household. In structures with three (3) or more units, LMI households must occupy at least fifty-one percent (51%) of the units.
4. The Municipality must have site control of the property or properties where the proposed project will be developed. Acceptable Proof of Ownership or Site Control under the Program may include one (1) of these documents:
  - a. Public Deed
  - b. Long-term Lease Agreement (minimum of fifteen (15) years)<sup>6</sup>
  - c. Property Registry Certification
  - d. Memorandum of Understanding (**MOU**)

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<sup>5</sup> Some exceptions can apply, see 24 C.F.R. § 55.12.

<sup>6</sup> See HUD CDP Notice 17-09: <https://www.hud.gov/sites/dfiles/OCHCO/documents/17-09cpdn.pdf>.

e. Municipal Resolution

- i. The contents of the Municipal Resolution must comply with the requirements established in Article 194 of Act No. 110-2015, 30 LPRA § 6302, applicable to the state and its agencies, public corporations, or municipalities, for registering public domain assets for the first time in the Puerto Rico Property Registry. The CRP Program will offer a Municipal Resolution template to assist municipalities in documenting this requirement.
5. Municipalities are encouraged to seek alternative funding sources or to leverage additional funding sources to maximize the impact of CDBG-DR funds. If the project has additional sources of funding, all sources of funding required to complete the project must be identified, documented as committed, and accessible prior to funding commitment and Notice to Proceed. If the Municipality cannot secure alternative funding or leverage additional funding, they must document these efforts.
  6. The proposed project must be cost-reasonable. Cost-reasonableness may be documented by, but not limited to, comparing costs between vendors or to projects of a similar nature.<sup>7</sup>
  7. The proposed project must successfully meet environmental review clearance and receive an Authority to Use Grant Funds (**AUGF**). A tiered review approach consists of two stages: a broad-level review (**Tier I**) and subsequent site-specific reviews (**Tier II**).<sup>8</sup>
    - a. Tier I review will address and analyze those environmental impacts related to the proposed action that might occur on a typical site within the geographic area (e.g., floodplain, coastal zone, wetlands, aboveground storage tanks, etc.).
    - b. Tier II review will identify those environmental impacts that will vary by site and may only be observed when specific project locations are known (e.g., historic preservation, hazardous materials, noise abatement, asbestos removal, etc.).

#### 4.4.2 Rental Housing Projects

1. At least fifty-one percent (51%) of the project's units must be occupied by LMI households.

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<sup>7</sup> However, this analysis does not relieve the Municipality of its obligation to perform an independent cost estimate for every procurement action in excess of the Simplified Acquisition Threshold, in accordance with 2 C.F.R. § 200.324.

<sup>8</sup> See *CRP Guidelines, Environmental Review Section* for an in-depth review of the Environmental Review requirements.

2. For LMI household-occupied units, the project must meet the following minimum affordable rent requirements and tenant income limits through the duration of the affordability period:
  - a. Tenant household income limits must not exceed eighty percent (80%) of Area Median Income (AMI), according to the CDBG-DR HUD Modified Income Limits for All Areas in Puerto Rico;<sup>9</sup> and
  - b. Maximum affordable rents (inclusive of utility costs) shall not exceed the lesser of the HOME rent limits, as designated for the project area,<sup>10</sup> or thirty percent (30%) of the annual LMI household income.
3. The Municipality must include a long-term Operations and Maintenance Plan (O&M) for the project. Municipalities should also provide a Preliminary Financial Projection and describe in detail how O&M will be provided.
4. Any project involving the acquisition of real property or the rehabilitation or reconstruction of damaged multifamily rental housing developments that are occupied must comply with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended (URA).<sup>11</sup> However, to expedite project completion, projects that propose developing or preserving affordable housing on properties that are occupied by residents or businesses at the time of application will not be considered.

#### 4.4.2.1 Rental Housing Affordability Period

The minimum affordability period for the rehabilitation or reconstruction of multi-family rental projects is **fifteen (15) years**, while for new construction multi-family rental projects, it is **twenty (20) years**.<sup>12</sup>

#### 4.4.3 Homeownership Projects

1. According to the CDBG-DR HUD Modified Income Limits for All Areas in Puerto Rico, homebuyer household income limits must not exceed eighty percent (80%) AMI.
2. A homebuyer must occupy the property as their primary residence for the duration of the affordability and occupancy period.
3. The initial or after-rehabilitation first mortgage amount will be based on the appraised value of the property. The CDBG-DR Program will fund, as a soft second mortgage, the difference between what the household can afford —

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<sup>9</sup> <https://www.hudexchange.info/resource/5334/cdbg-income-limits/>.

<sup>10</sup> <https://www.hudexchange.info/programs/home/home-rent-limits/>.

<sup>11</sup> See URA & ADP Guidelines for all of the requirements that must be complied with regarding URA processes and notifications, found at: <https://recuperacion.pr.gov/en/download/ura-adp-guidelines/> (English) and <https://recuperacion.pr.gov/download/guias-ura-adp/> (Spanish).

<sup>12</sup> 83 FR 40314, 40320. The affordability periods will be monitored by Municipalities throughout the entire term through the review of rent rolls, rent rates, or any similar documentation to document compliance with said periods.

which will be based on lenders' standard underwriting criteria, generally not to exceed thirty percent (30%) of annual household income, inclusive of principal, interest, and escrow (if required)— and the appraised value of the home to be purchased.

#### 4.4.3.1 Affordability and Occupancy Period for Homeownership

Homeownership projects involving rehabilitation, reconstruction, or new construction, have a minimum affordability and occupancy period of **five (5) years**. If applicable, twenty percent (20%) per year of the soft-second forgivable loan will be forgiven. The affordability and occupancy period commence when ownership of the property is transferred to the homebuyer through a Deed of Sale and the signing of the soft Second Mortgage Deed and Restrictive Conditions. The restrictive conditions will guarantee the homeowner's obligation to own and occupy the property as their primary residence for the duration of the affordability and occupancy period. If the owner sells the property during the loan term, they will be required to repay the remaining portion of the loan.

### 4.5 Project Types

1. Residential, Mixed-Income and/or Mixed-use.
  - a. Affordable, multifamily or scattered-site single-family rental.
  - b. Affordable, multifamily or scattered-site single-family homeownership.
    - i. Condominium and/or cooperative affordable housing units located in a multifamily building will be considered single-family housing units for affordability and occupancy period purposes.

### 4.6 Target Population Set-Asides

Subrecipients are encouraged to develop housing units or housing projects that will be targeted toward special populations,<sup>13</sup> including but not limited to:

1. Individuals Experiencing Homelessness: Individuals who lack a fixed, regular, and adequate nighttime residence; individuals who will imminently lose their primary nighttime residence; an unaccompanied youth under twenty-five (25) years of age without a fixed, regular, and adequate nighttime residence; or any individual fleeing, or attempting to flee, domestic violence that has no other residence. For a more in-depth definition, refer to 24 C.F.R. §578.3.

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<sup>13</sup> For more information about this and other requirements pertaining to Fair Housing, see the City Revitalization Program Guidelines available at: <https://recuperacion.pr.gov/en/city-revitalization/> (English) and <https://recuperacion.pr.gov/revitalizacion-de-la-ciudad/> (Spanish). See also the Fair Housing and Equal Opportunity Program Policy, available at: <https://recuperacion.pr.gov/en/download/fair-housing-and-equal-opportunity-fheo-policy-for-cdbg-dr-programs/> (English) and <https://recuperacion.pr.gov/download/politica-de-equidad-de-vivienda-e-igualdad-de-opportunidades-para-los-programas-cdbg-dr/> (Spanish).

2. Disabled Individuals: refers to an individual with a physical or mental impairment that substantially limits one or more of the major life activities of such individual; has a record of such impairment; or is regarded as having such an impairment as described at 28 C.F.R. § 35.108(f). Housing developed for disabled individuals must comply with the requirements set forth in the Americans with Disabilities Act of 1990 as well as Section 504 of the Rehabilitation Act of 1973.<sup>14</sup>
3. Low Income Seniors: Individual at least sixty-two (62) years old with income at eighty percent (80%) AMI or less.
4. Extremely Low Income (ELI) Households: Household earning thirty percent (30%) AMI or less.

## 5 Funding

### 5.1 Methods of Distribution

Municipalities will receive direct Subrecipient funding.

### 5.2 Funding Amounts

The Program will engage an independent cost estimator to evaluate the cost reasonableness of the proposed housing project and determine the maximum funding award per unit. This amount will be consistent with market costs.<sup>15</sup>

## 6 Minimum Construction Standards

### 6.1 Required Standards

The following is a list of construction standards that all affordable housing projects under the CRP Program must abide by.

1. Puerto Rico and Local Building Codes, if applicable.
  - a. Projects that are eligible for reconstruction under the Program will be constructed to meet the International Building Code per Puerto Rico regulations. Repair works performed by the Program must also meet local codes, rehabilitation standards, and zoning ordinances. All permits and inspections required by the Permits Management Office (**OGPe**, for its

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<sup>14</sup> For a detailed explanation of the requirements when constructing or operating a Program that will serve disabled individuals, see Reasonable Accommodation Policy, found at: <https://recuperacion.pr.gov/en/download/reasonable-accommodation-policy/> (English) and <https://recuperacion.pr.gov/download/politica-de-acomodo-razonable/> (Spanish).

<sup>15</sup> If an approved project identifies the need for additional CRP funding to cover development costs and ensure project completion, Program will re-evaluate cost reasonableness and may use an independent third-party cost estimator.

Spanish acronym) or the autonomous municipality having jurisdiction must be completed.

2. Green Building and Energy Efficiency Standards.<sup>16</sup>
3. Broadband Infrastructure, if applicable.
4. Abatement of Lead-Based Paint Hazards.<sup>17</sup>
  - a. Any unit constructed prior to 1978 must be evaluated for the presence of lead-based paint.
5. Asbestos survey.<sup>18</sup>
6. Fair Housing and Equal Opportunity Policy for CDBG-DR/MIT Programs.<sup>19</sup>
7. Section 504 of the Rehabilitation Act.
8. Fair Housing Act Design Manual.<sup>20</sup>

## 6.2 Preferred Standards

The following is a list of standards that affordable housing projects under the CRP Program should evaluate and consider using in order to promote better environmental practices.

1. Sustainability principles.<sup>21</sup>
2. Resilient Home Construction Standards.<sup>22</sup>

## 7 Federal Laws and Regulations and other Requirements

Projects funded under the CRP Program must comply with all applicable federal and local requirements, including but not limited to the regulations listed in the table below,<sup>23</sup> the CRP Program Guidelines, and the Cross-Cutting Guidelines.<sup>24</sup>

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<sup>16</sup> See *CRP Program Guidelines*.

<sup>17</sup> See Lead-Based Poisoning Prevention Act of 1973, as amended, 42 U.S.C. §§ 4821-4846 and the Residential Lead-Based Paint Hazard Reduction Act of 1992, as amended, 42 U.S.C. § 4851 *et seq.*, also known as Title X.

<sup>18</sup> See National Emission Standards for Hazardous Air Pollutants (**NESHAP**) regulations under the Clean Air Act of 1963, as amended, 42 U.S.C. § 7401 *et seq.*, which specify work practices for asbestos to be followed during demolitions and renovations of all structures, installations, and buildings.

<sup>19</sup> See *Fair Housing and Equal Opportunity (FHEO) Policy for CDBG-DR/MIT Programs*, available in English and Spanish at: <https://recuperacion.pr.gov/en/download/fair-housing-and-equal-opportunity-fheo-policy-for-cdbg-dr-programs/> and <https://recuperacion.pr.gov/download/politica-de-equidad-de-vivienda-e-igualdad-de-oportunidades-para-los-programas-cdbg-dr/>.

<sup>20</sup> Available at <https://www.huduser.gov/portal/publications/PDF/FAIRHOUSING/fairfull.pdf>.

<sup>21</sup> As required by Federal Register Vol. 83, No. 28 (February 9, 2018), 83 FR 5844. Also see, *Puerto Rico Recovery Disaster Action Plan*.

<sup>22</sup> *Id.*

<sup>23</sup> This table is only meant as a summary of some of the applicable laws and regulations that projects funded under the CRP Program must comply with. Subrecipients are responsible for familiarizing themselves with the in-depth requirements of all applicable laws and regulations.

<sup>24</sup> The *Cross Cutting Guidelines* can be found at: <https://recuperacion.pr.gov/en/download/cross-cutting-guidelines/> (English) and <https://recuperacion.pr.gov/download/guias-intersectoriales/> (Spanish).

## 7.1 Fair Housing and Equal Opportunity Requirements

Executive Order, Law, or Statute	Description
<p><b>Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq.</b></p>	<p>No person shall be excluded from participation, denied program benefits, or subjected to discrimination under any program receiving federal funding on the basis of:</p> <ol style="list-style-type: none"> <li>1. Race,</li> <li>2. Color, or</li> <li>3. National Origin.</li> </ol> <p>Establishes that the Federal department or agency that extends federal financial assistance may terminate such funding to any recipient found in violation of this section.<sup>25</sup></p>
<p><b>Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701(u)</b></p>	<p>To the greatest extent feasible, employment and other economic opportunities, should be directed to:</p> <ol style="list-style-type: none"> <li>1. Low and very low-income persons, and</li> <li>2. Business concerns which provide economic opportunities to low and very low-income persons.</li> </ol>
<p><b>Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended, 42 U.S.C. § 3601 et seq.</b></p>	<p>Prohibits discrimination in the sale, rental, and financing of housing, and in other housing-related activities on the basis of:</p> <ol style="list-style-type: none"> <li>1. Race,</li> <li>2. Color,</li> <li>3. Religion,</li> <li>4. Sex,</li> <li>5. Familial Status,<sup>26</sup></li> <li>6. National Origin, or</li> <li>7. Disability.</li> </ol> <p>Requires HUD and its grantees to administer its programs in a manner that affirmatively furthers fair housing.</p>
<p><b>Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794</b></p>	<p>No otherwise qualified individual shall, solely, by reason of their disability, be:</p> <ol style="list-style-type: none"> <li>1. Excluded from participation in (including employment),</li> <li>2. Denied program benefits of, or</li> <li>3. Subjected to discrimination under any program receiving federal funding assistance.</li> </ol> <p>Section 504 also contains accessibility requirements for housing and non-housing facilities, as well as for the provision of reasonable accommodations.</p>

<sup>25</sup> 42 U.S.C. § 2000d-1.

<sup>26</sup> Exceptions exist for housing covered under the Housing for Older Persons Act of 1995, 42 U.S.C. § 3607(b).

<p><b>Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq.</b></p>	<p><u>Title I</u>: Prohibits private employers, state/local governments, employment agencies, and unions from discriminating against qualified individuals with disabilities; applies to employers with 15 or more employees.</p> <p><u>Title II</u>: Prohibits all public entities from, on the basis of disability, excluding participation in, or denying the benefits of its services, programs, and activities, or otherwise discriminating against persons with disabilities.</p> <p><u>Title III</u>: Prohibits discrimination on the basis of disability in places of public accommodation (publicly and privately owned); requires compliance with ADA Standards for new construction and alterations to places of public accommodation and commercial facilities.<sup>27</sup></p>
<p><b>Section 109 of the Housing and Community Development Act of 1974 (HCDA), as amended, 42 U.S.C. § 5309</b></p>	<p>For any program or activity funded in whole or in part with funds made available under this Act, no person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination based on:</p> <ol style="list-style-type: none"> <li>1. Race,</li> <li>2. Color,</li> <li>3. National Origin,</li> <li>4. Religion,</li> <li>5. Sex</li> <li>6. Age<sup>28</sup></li> <li>7. Disability<sup>29</sup></li> </ol> <p>Charges HUD with enforcement related to discrimination covered by this Section.</p>
<p><b>Housing for Older Persons Act of 1995 (HOPA), Pub. L. 104-76</b></p>	<p>Provides an exemption from the Fair Housing Act, as amended, for three types of housing that primarily serve "older persons", as defined at 42 U.S.C. § 3607(b), and requires appropriate policies, procedures, and occupancy verification in order to comply with the Act.</p>
<p><b>Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq.</b></p>	<p>No person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of age.</p>
<p><b>Architectural Barriers Act of 1968, 42 U.S.C. § 4151 et seq.</b></p>	<p>Requires that certain federally funded buildings be designed, constructed, or altered in accordance with Uniform Federal Accessibility Standards (UFAS). These standards ensure accessibility for persons with physical disabilities.</p>

<sup>27</sup> Because PRDOH is a recipient of federal CDBG-DR funds, Section 504 accessibility requirements apply to its programs and activities involving construction, housing, and non-housing facilities. However, HUD's Deeming Notice (79 FR 29671) allows for the choice, with some exceptions, of using 2010 ADA Standards instead of the Uniform Federal Accessibility Standards (UFAS) to comply with Section 504.

<sup>28</sup> As provided by the Age Discrimination Act of 1975, 42 U.S.C. § 6101 et seq.

<sup>29</sup> As provided in 29 U.S.C. § 794.



<p><b>Executive Order No. 11063 (1962), Federal Register, Vol. 27, No. 228 (November 24, 1962), 27 FR 11527</b></p>	<p>Prohibits discrimination based on race, color, religion, sex, or national origin in the sale, rental, leasing, or other disposition of residential property and related facilities owned, operated, or funded by HUD. Also applies to lending that relates to loans insured, guaranteed, or purchased by HUD.</p>
<p><b>Executive Order No. 11246 (1965), Federal Register, Vol. 30, No. 187 (September 28, 1965), 30 FR 12319, as amended by Executive Order No. 13672 (2014), Federal Register, Vol. 79, No. 141 (July 23, 2014), 79 FR 42971</b></p>	<p>No person shall be discriminated against, on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin in any phase of employment during the performance of federal or federally assisted construction contracts for contractors and subcontractors who perform in excess of \$10,000 in federally funded contracts in a year. Also includes affirmative action requirements and prohibitions against certain adverse actions against applicants and employees by contractors.</p>
<p><b>Executive Order No. 12892 (1994), Federal Register, Vol. 59, No. 13 (January 20, 1994), 59 FR 2939</b></p>	<p>Requires federal agencies to affirmatively further fair housing in their programs and activities and establishes that the Secretary of HUD will be responsible for coordinating the effort.</p>
<p><b>Executive Order No. 13166 (2000), Federal Register, Vol. 65, No. 159 (August 16, 2000), 65 FR 50121</b></p>	<p>Requires each federal agency to take steps to ensure that eligible persons with limited English proficiency are provided meaningful access to all federally assisted and federally conducted programs and activities.</p>
<p><b>Executive Order No. 12898 (1994), Federal Register, Vol. 59, No. 32 (February 16, 1994), 59 FR 7629, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations</b></p>	<p>Executive Order 12898 requires that each federal agency conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that does not exclude persons based on race, color, or national origin.</p>
<p><b>Executive Order No. 13988 (2021), Federal Register, Vol. 86, No. 14 (January 20, 2021), 86 FR 7023, Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation</b></p>	<p>Directs all agencies, including HUD, to administer and enforce the Fair Housing Act to prohibit discrimination on the basis of sexual orientation and gender identity. The order also directs any federal agency with protections against discrimination based on sex to interpret those statutes to also protect against discrimination based on sexual orientation, gender identity, and gender expression.</p>
<p><b>General HUD Program Requirements: Equal Access in Accordance with the Individual's Gender Identity in Community Planning and Development Programs. (24 C.F.R. § 5.106)</b></p>	<p>Prohibits discrimination against individuals based on gender identity by recipients and subrecipients of CDBG funds, as well as owners, operators, and managers of shelters and other buildings and facilities and providers of services funded in whole or in part by CDBG funds.</p>

**Equal Employment Opportunity Act  
of 1972, Pub. L. 92-261**

This Act empowers the Equal Employment Opportunity Commission (**EEOC**) to bring civil action in Federal court against private sector employers after the EEOC has investigated the charge, found “probable cause” of discrimination, and failed to obtain a conciliation agreement acceptable to the EEOC. It also brings Federal, State, and local governments under the Civil Rights Act of 1964.

## 7.2 Supplanting

HUD does not allow CDBG-DR funds to be substituted for funds that were previously allocated and paid by a local or state entity for the same program.

## 7.3 Prohibition against Eminent Domain

Per federal law, no funds allocated to a Subrecipient may be used to support any Federal, State, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for public use. Housing assistance is not considered public use, and therefore, **acquisition by eminent domain is prohibited under the CRP Program Affordable Housing Supplement Guide.**

## 7.4 Recapture or Resale Requirements

A Subrecipient may be required to repay all or a portion of CDBG-DR funds received if one of the following occurs:

1. A Subrecipient withdraws from the Program prior to completion of the project and fails to meet a national objective;
2. A Subrecipient does not meet the affordability requirements for the period specified in this guide;
3. A Subrecipient is found to have used program funds for an ineligible activity or cost;
4. A Subrecipient does not report the receipt of additional insurance, Small Business Administration (**SBA**), Federal Emergency Management Agency (**FEMA**), non-profit assistance and/or other Duplication of Benefits received after the award; and/or
5. If a project assisted with CDBG-DR funds is sold during the applicable affordability and occupancy periods, resale or recapture provisions apply to ensure the continued provision of affordable housing. The owner of the property will be required to repay the remaining portion of the forgivable loan.

For more information, please refer to the Recapture of Funds Policy available in English and Spanish at: <https://recuperacion.pr.gov/en/download/recapture-of-funds-policy/> and <https://recuperacion.pr.gov/download/politica-de-recaptura-de-fondos/>.

**END OF GUIDELINES.**