



CDBG-DR

PROGRAM GUIDELINES

CITY REVITALIZATION PROGRAM

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CDBG-DR PROGRAM GUIDELINES
PUERTO RICO DEPARTMENT OF HOUSING
CITY REVITALIZATION PROGRAM
VERSION CONTROL

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1 Overview

1.1 Program Rationale and Objective

Hurricanes María and Irma (**the Hurricanes**) directly impacted all seventy-eight (78) municipalities in Puerto Rico. Towns and cities across the Island experienced damages and/or destruction to public and private housing, and not-for-profit facilities. Depending on the community's location, downtown areas and key corridors were either impacted with storm surge, flooding, standing water, wind, rain or mudslides. Water intrusion into vacant and/or substandard facilities in areas presented the likelihood of these buildings presenting more public health and public safety problems for municipal officials. Every community also suffered a loss of power that, in some cases, lasted for months. The City Revitalization Program (**CRP** or **the Program**) will allow municipal governments and eligible entities to begin to address community recovery at the local level while also addressing regional needs through projects identified through thoughtful planning processes.

This Program establishes funding for municipal governments and other eligible entities to enable a variety of critical recovery activities aimed at reinvigorating downtown areas, urban centers, and key community corridors, and address critical affordable housing shortage within or near urban and downtown centers. These activities will promote redevelopment, blight removal, development of affordable housing, private investment and re-greening or restoration of areas that lost natural resources from the Hurricanes. As part of prior recovery processes, mayors and citizens have expressed a desire to not only rebuild these areas, but to restore and enhance main streets and plazas, provide affordable housing to complement economic growth and development, and downtown/business districts which are vital to the rebuilding of communities. This Program intends to build on those efforts and will rely on both prior planning efforts as well as forthcoming Puerto Rico Department of Housing (**PRDOH**)-funded planning processes to identify projects for the Program.

The Municipal Recovery Planning Program (**MRP Program**) is one of PRDOH's resilience planning processes in which all seventy-eight (78) municipalities of Puerto Rico have been allocated a recovery planning budget. Information on the MRP Program can be found in English and Spanish on the PRDOH website at <https://cdbg-dr.pr.gov/en/download/municipal-recovery-planning-program/> (English) and <https://cdbg-dr.pr.gov/download/recuperacion-municipal/> (Spanish). Municipalities funded through the MRP Program will partner with professional planning firms and undergo a collaborative process with community residents, businesses, neighboring municipalities, and central government agencies to identify actions and projects necessary for holistic local and regional recovery from Hurricanes Irma and María. Planning activities will produce critical frameworks to complement other programs

highlighted in PRDOH's Action Plan¹ by increasing communities' capacity to forecast and determine needs for programming related to city revitalization, critical infrastructure, economic development, and workforce training.

Through CRP, PRDOH will offer funding in multiple, non-consecutive rounds: the Municipal Recovery Round One (1); the Municipal Recovery Round Two (2); and the Competitive Recovery Round. Applicants in each round will have a specified period of time to submit project concepts to PRDOH that meet Program objectives for the specific round of the Program. Municipal governments must agree to take part in the MRP Program in order to fully participate in the Municipal Recovery Round 2 of CRP. Each of Puerto Rico's seventy-eight (78) municipal governments will have the opportunity to access Program funds with the goal of developing at least two (2) eligible projects per municipality, one (1) in each of Municipal Recovery Rounds.

This Program also establishes the **RE-Green Puerto Rico Initiative** that provides municipal governments and their partners the ability to incorporate resilience measures by using CDBG-DR funds to address losses to Puerto Rico's natural resources and green landscape. The sustained winds, rainfall, and salt water that inundated the Island during the Hurricanes were particularly harmful to the Island's tree canopy and natural resources. The damaged trees and tree canopies in urban and rural areas resulted in loss of natural beauty, shade, and root structures. The root structures of trees assist with erosion control. With so many trees lost, the Island faces enhanced erosion conditions and is more susceptible to landslides. In the short, medium, and long term, loss of tree canopy also contributes to increased heat for residents due to the elimination of shade to downtown corridors. It also allows more rainfall to flood streets and overcome the stormwater management infrastructure.

1.2 Having a Tie to the Storm

The United States Department of Housing and Urban Development (**HUD**) requires that any CDBG-DR funds used must have a tie to the storm. Because HUD determined every municipal government in Puerto Rico to be a most impacted and distressed area, the Program will make funding available to all communities on the Island to address recovery needs in downtown areas and key corridors. In accordance with Federal Register Vol. 83, No. 28 (February 9, 2018), 83 FR 5844, "[a]ll CDBG-DR funded activities must clearly address an impact of the disaster for which funding was allocated". Through the application process, CRP will ensure that funded projects have a tie to the Hurricanes and that this information is documented in each project file, in addition to other HUD required reporting.

¹ The Puerto Rico Disaster Recovery Action Plan for the Use of CDBG-DR Funds in Response to 2017 Hurricanes Irma and María can be found at <https://www.cdbg-dr.pr.gov/en/action-plan/> (English) and <https://cdbg-dr.pr.gov/plan-de-accion/> (Spanish).

1.3 Recovery Objective for the Program

The primary objective of this Program is to address identified needs and allow communities across Puerto Rico to restore impacted downtown areas, urban areas, and key corridors and make them more resilient to future events. The Program will make funding available to all seventy-eight (78) municipalities in Puerto Rico to implement projects that will address the wide range of recovery, revitalization, and resiliency needs resulting from the Hurricanes. The funding will allow the municipal governments and eligible entities to implement integrated, innovative solutions that will help the recovery of downtown areas, urban areas, and key corridors. Taken together, CRP will fund projects that correlate to a larger strategy targeting downtown/business districts and key corridors to support and drive future public and private investment in these areas. Residents will benefit from increased opportunities for employment, affordable housing options, greater access to goods and services, and additional recreational and wellness resources.

This Program has also been designed to align with the following recovery objectives outlined in Puerto Rico's Recovery Plan titled *Transformation and Innovation in the Wake of Devastation: An Economic and Disaster Recovery Plan*: Municipal Hotspots (CIT 19); Resilience/e-Construction Lab (CIT 32); Establishing a University Based Center of Excellence for Disaster Preparedness and Recovery (CPCB 5); and Incentivize Resilient, Creative Design Solution for Addressing Hazards (CPCB 10).^{2 3}

2 National Objective

All projects in the Program must meet one (1) of three (3) HUD national objectives in addition to meeting a HUD eligible activity, as defined by the Housing and Community Development Act of 1974 (HCDA), as amended, 42 U.S.C. § 5305. Given that the Program will provide funding to a wide range of activities in downtown areas, urban areas, and key corridors across Puerto Rico, PRDOH anticipates that each national objective listed in the section below will be applicable.

2.1 HUD National Objectives

PRDOH will work with entities that are funded through this Program to determine the national objective for each project as according to 24 C.F.R. § 570.483. All CDBG-DR funded activities must meet at least one (1) of the three (3) National Objectives defined

² *Transformation and Innovation in the Wake of Devastation: An Economic and Disaster Recovery Plan for Puerto Rico, August 2018*, www.cdbg-dr.pr.gov/en/download/transformation-and-innovation-in-the-wake-of-devastation/.

³ Action Plan Amendment 5, which pending HUD approval, provides the CRP is designed to also align with the following recovery objectives of the Puerto Rico's Recovery Plan: Implement Public Safety/Government Communications Backup Power (CIT 5); Health Care Connectivity to Strengthen Resilience and Disaster Preparedness (CIT 29); and Resilience Building in Collaboration with High-Risk Communities (CPCB 4).

in the authorizing statute of the CDBG program:

1. Benefit to low- and moderate-income persons (**LMI**) (24 C.F.R. § 570.483(b))
 - a. Area Benefit
 - b. Limited Clientele
 - c. Housing activities
 - d. Job Creation and/or Retention
2. Urgent Need (**UN**) activities (24 C.F.R. § 570.483(d))
3. Aid in prevention or elimination of Slums or Blight (**SB**) (24 C.F.R. § 570.483(c))

In support of HUD's recovery objectives, the Government of Puerto Rico has specifically designed its storm recovery programs to help impacted residents and communities recover from the damage inflicted by the Hurricanes of 2017. PRDOH has set a goal to expend seventy percent (70%) of CRP funds on projects that result in a benefit to LMI individuals or that demonstrably serve LMI areas.

2.2 Further Information on Use of Urgent Need National Objective

It is likely that some projects funded through the Program will not meet HUD's requirement of benefiting LMI persons or communities. Projects that do not serve the LMI need, will be evaluated for UN benefit, when the activity does not otherwise eliminate slum and blight. In accordance with 83 FR 5844, the certification requirements for documentation of UN, located at 24 C.F.R. § 570.483(d), are waived. PRDOH will not issue or require Partners or Subrecipients, to issue a formal certification statement to qualify an activity as meeting the UN national objective.

2.3 LMI Jobs/Economic Development

When applicable, PRDOH will identify the LMI jobs benefit accomplishment by documenting, for each person employed, the name of the business, type of job, and the annual wages or salary of the job. By waiver, HUD will consider a person income-qualified if the annual wages or salary of the individual's job is at or under the HUD-established income limit for a one-person family.⁴

3 Program Description

This Program falls under the PRDOH's Action Plan overall strategy for Multi-Sector Initiatives which involves engaging and implementing innovative and transformative long-term recovery solutions for Puerto Rico. Municipalities lack the financial resources to rebuild or

⁴ At 83 FR 5844, HUD authorizes grantees to determine that an individual is considered LMI if the annual wages or salary of the individual person are at, or under, the HUD-established income limit for a one-person family for the jurisdiction. These limits are determined annually. Puerto Rico income limits for CDBG-DR can be found here: <https://files.hudexchange.info/resources/documents/2019-Puerto-Rico-Income-Limits.pdf>.

enhance main streets, plazas, eliminate blight, provide affordable housing, and other districts that are important to community revitalization activities. This Program provides CDBG-DR funding to those municipal governments and other eligible entities enabling them to conduct a variety of critical recovery activities aimed at reinvigorating downtown areas, urban centers, and key community corridors. CRP will focus investments, reduce sprawl, and create a symbiotic environment to nurture complementary investments from the private sector as well as leverage other federal and local grant funding opportunities.

Through multiple funding rounds, the Program offers entry points for all scales of potential projects. The Program may provide funding for community plazas, green infrastructure installations along key corridors that are prone to street flooding, façade renewal initiatives in commercial corridors, and other activities to bring small business back to the area.

This Program contains a set-aside of one hundred million dollars (\$100,000,000) to prioritize strategic investments in sustainable growth nodes for the redevelopment of urban areas around the University of Puerto Rico (UPR), Río Piedras and Mayagüez campuses. These dynamic communities have high student resident populations and have been significantly strained by the physical and economic impact of the Hurricanes. The investments from CRP shall not take place within the campus boundaries of the University system, but will create the environment for economic regeneration around the University to enable students and employees of the UPR system to return to their place of study and work in safe, economically vibrant areas. This project will encourage a partnership between PRDOH, the municipal governments of San Juan and Mayagüez, and other eligible entities, to serve the residents and businesses within these communities that are proximate to the campuses.

This Program also establishes a Community Resilience Centers Set-aside (CRC Set-aside) of seventy-five million dollars (\$75,000,000) for the establishment or rehabilitation of existing community resilience centers. The multi-purpose nature of these facilities will be enhanced by locating them in or near downtown areas, urban centers, or key corridors to the extent practical. This will facilitate access and coordination to essential public services such as potable water, communications infrastructure, and power, and enhance the centers' roles in resource distribution during and after a disaster.

3.1 Program Goals

PRDOH will work with municipal governments and non-governmental organizations (NGOs) to help shape the future vision of their communities. Program goals will be achieved by allowing a wide range of activities that center around the needs of downtown areas, urban areas, and key corridors, identified through various post-disaster planning processes.

The first goal of the Program is to restore infrastructure in downtown areas, urban areas, and key corridors that were impacted by the Hurricanes, and to make these facilities more resilient to future events, so that residents will want to return to and make use of public urban areas and downtown districts.

The second goal of the Program is to use funds to revitalize, modernize, and create green business districts in ways that can support and promote small business recovery and growth, while restoring or encouraging tourism. These projects strategically complement programs that are offered through the portfolio of CDBG-DR economic development and recovery. Through CRP, municipal governments and eligible entities will be able to create public enhancements and façade improvements that will encourage the return of small business and tourism.

The third Program goal is to create a known network of clearly identified and registered Community Resilience Centers across the Island to support communities before, during, and after disasters. Centers will provide critical preparation and recovery activities during adverse events and increase social resilience through year-round, day-to-day functions. They will increase resource distribution capacity across the Island during disaster emergencies and offer support for health and security service delivery.

The centers will serve not only as a community hub in preparation and response to disasters, but also facilitate year-round activities. These community gathering spaces will allow beneficiaries to receive educational materials and information on preparedness and disaster resilience initiatives. They will also serve to enhance social resilience within the community.

The fourth Program goal recognizes that the Hurricanes devastated Puerto Rico's natural resources, particularly its tree canopy, and without funding and coordinated action to revitalize it, significant long-term impacts may not be realized. The Program will provide funding that can address the needs of lost or impacted natural resources in downtown areas, urbanized areas, and key corridors. A portion of the Program will focus on "re-greening initiatives" and the implementation of green infrastructure and other green activities. These initiatives may include investing in and using green infrastructure, green installations and standards, and green energy and waste re-purposing and reduction. PRDOH strongly encourages Subrecipients to utilize at least ten percent (10%) of their allocation or award of the Program funds to address the need to promote widespread re-greening in communities across the Island, supporting therein this RE-Green Puerto Rico Initiative. The re-greening projects are expected to provide multiple benefits to communities and residents, both at the project location and in other areas of the Island by also promoting eco-tourism. In addition, re-greening ten percent (10%) goal requirements may be realized by addressing the natural infrastructure such as restoring or stabilizing a natural stream bed, installing or expanding riparian buffers to include

natural plantings, and the use of alternative and extended-life materials in construction of infrastructure projects.

The final goal is to provide for the critical infrastructure required to accommodate economic development in LMI communities. As part of looking holistically at economic development, affordable housing is a substantial impediment in providing safe, sanitary, and decent affordable housing situations to the LMI workforce that are a key part in supporting economic development. The CRP program will consider applications from municipalities and NGOs with whom it has an executed subrecipient agreement to provide funding for the rehabilitation and/or new construction of new affordable rental and ownership housing opportunities, installation of publicly-owned utility services and infrastructure. This may include electric grid, broadband, public water and sewer, roads, sidewalks, stormwater detention/retention, and other eco-friendly site development work such as xeriscaping that will support committed affordable housing development.

PRDOH will establish a robust and open engagement with the public regarding project selection, and will rely heavily on post-storm public planning processes to ensure that a cohesive recovery is achieved. Information accessibility will be provided through various means and methods depending on the location and nature of the selected projects including, but not limited to, public notices, public meetings, and information on PRDOH's CDBG-DR website, www.cdbg-dr.pr.gov.

3.2 Overview of Method of Distribution

Funding for CRP will be made available in multiple non-sequential funding rounds as general described below. For the Municipal Recovery Round One (1) and Municipal Recovery Round Two (2), municipal governments that agree to participate in the Program can choose to collaborate with community organizations and stakeholders, permitting the use of municipally-allocated funding for these alliances by entering into additional Subrecipient Agreements. Allocations will be formula-based. PRDOH encourages municipalities to work with other eligible entities in these rounds to identify and develop projects that serve strategic community recovery needs. In the Competitive Recovery Round of the Program, the pool of eligible applicants is expanded to include municipalities and other eligible entities (as described in the Eligible Entities section of these Program Guidelines), for consideration based on criteria to be published by PRDOH at the announcement of the Competitive Recovery Round to be accessed at www.cdbg-dr.pr.gov.

Specific information on the funding methodology is provided under the Eligible Use of Funds section included in these Program Guidelines:

- **Municipal Recovery Round One (1):** In this round, each municipality will receive a formula-based allocation. Projects will be selected for funding based on

recovery objectives and needs, submitted from previous planning efforts by participating municipal governments and eligible applicants to obtain project funding. Other eligible entities should work in partnership with participating jurisdictional municipalities. PRDOH will work with participating municipalities and eligible entities to determine which project(s) best fit one of the PRDOH recovery objectives. Each municipal government or entity will then implement the project(s) with oversight from PRDOH.

- **Municipal Recovery Round Two (2):** In this round, each municipality will receive a formula-based allocation. Funds not used by participating municipal governments or entities in the Municipal Recovery Round One (1) can be used in this round. The municipal government will implement the projects with oversight from PRDOH.
- **Competitive Recovery Round:** Projects in this round will be determined via a competitive Notice of Funding Availability (**NOFA**) process which will be open to all Eligible Entities, including Municipalities and NGOs. After the NOFA closes, PRDOH will score, rank, and select projects, which will then be implemented by each eligible participant with oversight from PRDOH. Government agencies designated to educate, assist, manage and/or operate facilities that provide services to citizens before, during and after disaster events will be eligible to request funds as a subrecipient to implement CRC project(s).

4 Eligible Use of Funds

4.1 Use of Funds Overview

The Program will provide CDBG-DR funding awards in the form of a grant, making funding available to municipalities and other eligible entities through rounds of funding. Note that affordable housing grants are tied to affordability periods and are forgivable upon expiry of the determined affordability period. Non-compliance, buy-out, sale, and other post-construction activities are subject to grant repayment if the assisted property has not fulfilled its affordability period. Funds available for municipalities and eligible entities will enable a variety of critical recovery activities aimed at reinvigorating downtown areas, urban areas, and key corridors. These activities will: focus investments, provide for affordable housing, reduce sprawl, and create a symbiotic environment to nurture complementary private sector investments. Revitalization projects will correlate to a larger strategy that targets downtown services, business districts, and key corridors within each community that is part of PRDOH's MRP Program. The MRP Program will serve as a tool to align the use of CRP funds for needs identified that address the impacts from the Hurricanes, as well as align investments that result in opportunities for future public and private investment in downtown areas.

HUD allows CDBG-DR funds to be used as a match for other Federal programs when the HUD-funded project also has CDBG-DR eligible activities.⁵ It is possible that some projects identified by Subrecipients to this Program could be used as a match for Federal Emergency Management Agency (**FEMA**) funded projects. There are also other federally funded programs, specifically Economic Development Administration (EDA) grants where CDBG-DR may be used as the twenty percent (20%) match required on projects that meet both EDA and CDBG-DR program requirements. Applicants that wish to use funds from this Program as match for FEMA or EDA funded projects must inform PRDOH during the Application process that they intend to do so. PRDOH will work with Puerto Rico's Central Office for Recovery, Reconstruction, and Resilience (**COR3**), the administrator of FEMA funds for the island, to determine if the requested match project is FEMA eligible and could be funded through the Non-Federal Match Program, so as not to duplicate efforts and to maximize Program funding. FEMA-funded projects must be both FEMA and CDBG-DR eligible, and significant coordination between FEMA and HUD is required to receive match credit. Similarly, PRDOH will work with EDA to determine whether the use of both EDA and CDBG-DR funds is permissible and eligible under both programs.

4.2 Program Size and Award Caps

PRDOH has allocated a total amount of one billion two hundred ninety-eight million dollars (\$1,298,000,000) to this Program, with one hundred million dollars (\$100,000,000) maximum award, unless noted otherwise below.⁶ The approved Action Plan, as amended, includes a set-aside amount of one hundred million dollars (\$100,000,000) for the UPR Neighborhood Revitalization at the Río Piedras and Mayagüez campuses.

4.2.1 Program Funding and Maximum Project Award

Description	Total Allocation	Maximum Award
Municipal Recovery Round 1	\$600,000,000.00	\$100,000,000.00
Municipal Recovery Round 2	\$345,000,000.00	\$100,000,000.00
Competitive Recovery Round	\$178,000,000.00	\$100,000,000.00
UPR Neighborhood Revitalization Program	\$100,000,000.00	\$50,000,000.00
Community Resilience Centers Set-Aside	\$75,000,000.00	\$3,000,000.00

⁵ 83 FR 5844, 5865.

⁶ As per Action Plan Amendment 5, submitted for the public comment period on September 10, 2020, which is pending HUD approval.

Total Program Allocation⁷: \$1,298,000,000.00

For the Municipal Recovery Rounds, the minimum project award will be determined by the quantity of the allocation to each entity.

Projects furthering the RE-Green Puerto Rico Initiative will come from projects submitted through all program rounds.

PRDOH reserves the right to reallocate funding among rounds as Subrecipient performance and Program demands allow. All project awards are subject to the availability of funds. PRDOH also reserves the right to re-allocate funds from Subrecipient projects that are not progressing or stalled for any reason if the submitted Subrecipient project cannot be completed in a timely manner to conform to the federal grant conditioned timeline of expiration.

4.3 Overview of the UPR Neighborhood Revitalization Program

The PRDOH's approved Action Plan, as amended, allocates one hundred million dollars (\$100,000,000) to the Program fund to prioritize and support the recovery redevelopment and revitalization of the distressed urban area surrounding the UPR campuses located in Río Piedras and Mayagüez. The student body residing in these areas has been significantly strained by the physical and economic impact of the Hurricanes. Funds in the Program may be used to support strategic investments in growth nodes around these campuses. Using CDBG-DR funds to address the revitalization and recovery of the areas will create an environment of economic regeneration around the UPR and enable current and future students at these institutions to return to their studies in safe and economically vibrant areas.

Program funds will be directly managed by the PRDOH and shall not be used for projects or investments within the grounds of either UPR campus. In addition, PRDOH encourages that eligible entities consult and work with community and neighborhood leaders, not-for-profit entities, and UPR students and faculty.

4.4 Overview of RE-Green Puerto Rico Initiative

To promote the strategic investment of Program funds to address the impact that the Hurricanes had on natural resources and tree canopies in downtown districts and key corridors as well as on the natural infrastructure, the RE-Green Puerto Rico Initiative encourages the use of ten percent (10%) of allocated funding to each Subrecipient to be used in the implementation of green initiatives in project design. These include reforestation and planting trees to reestablish the flora and fauna lost as a result of the Hurricanes. In addition, the RE-Green Puerto Rico Initiative will include investing in and

⁷ All funding required for overall program administration and management is included within the total program funding allocation at the proportionate corresponding rate.

using green infrastructure, green installations and standards, and green energy and waste re-purposing and reduction initiatives.

Funds from the Program may support greening of community spaces and public areas, creating and enhancing sports and athletic facilities and public gardens, and converting vacant and blighted areas into neighborhood open gathering places. Such spaces will be primarily natural or use green infrastructure as a key building element. The Program will be open to a wide range of entities that will work in coordination with the municipal government. Greening activities can be undertaken either by units of governments or via non-profit entities, such as Para la Naturaleza. Funds may also be used to mitigate stormwater run-off and future damage in projects that restore and improve the conveyance of water in the natural infrastructure system.

PRDOH will track Applications that are submitted by eligible entities to assess how much of the Program's total budget is committed to this initiative. At the end of each funding round, PRDOH will post to its website a list of the RE-Green Puerto Rico Initiative and total dollars committed to date.

4.5 Affordable Housing Development Initiative

To promote the creation of affordable housing as this is a factor for successful holistic economic development, strategic investment funds will be committed to demonstrate through empirical data the unmet need. In order to achieve a socially resilient community, housing insecurity must be mitigated. Projects will focus on urban and key economic corridors that contain blighted and underutilized housing that can be redeveloped into safe, sanitary, and decent committed affordable housing opportunities. Subrecipients will need to demonstrate in their rental project applications that they have the capacity to manage properties and perform preventive maintenance, fiscally and financially manage cash flow and expenditures, and provide referrals as needed, and collaborate with other human services entities for the provision of wrap-around resident services. For affordable ownership housing opportunities, a Subrecipient will need to demonstrate their capacity to work with first time homeowner counseling, financial literacy, and be able to work with eligible ownership applicants in securing conventional conforming loans and the entire underwriting and closing process.

For both forms of affordable housing development, Subrecipients must demonstrate capacity to adhere to the HUD compliant tenant/owner waitlist management and selection, as well as be able to adhere to multiple federal statutory compliance as it relates to construction and provision of housing.

4.6 Program Distribution—Municipal Allocation and Program Funding by Round

PRDOH intends to provide funding to every municipal government in Puerto Rico. The total amount of funding to be provided and distributed is one billion two hundred-ninety-

eight million dollars (\$1,298,000,000) including one hundred million dollars (\$100,000,000) for the UPR Neighborhood Revitalization Program and seventy-five million dollars (\$75,000,000) for the CRC Set-Aside.⁸ To ensure that each municipality that participates in the Program receives funding, PRDOH will develop a methodology to distribute the allocations for each municipal government in Municipal Recovery Rounds. Below is a summary of the data sources that PRDOH intends to consider when determining allocations for each municipal government, along with a summary of the funding distribution in each round.

4.7 Factors to be considered in the Municipal Allocation process

PRDOH shall make use of Federal disaster related data in addition to demographic data to create specific allocations for each municipal government. Due to the need to tie projects to impacts from the Hurricanes, the allocations will rely on the most recent available data and may include, but shall not be limited to, the use of:

- FEMA Individual Assistance (IA) data;
- FEMA Public Assistance (PA) data;
- Other Federal disaster recovery data that documents damages to public assets and NGO facilities located within a municipal boundary;
- Population (US Census Bureau);
- Puerto Rico Department of Labor data;
- Geographic Area data (US Geological Survey); and
- National Oceanic and Atmospheric Administration data.

These criteria will be given weighted percentages, as per the recovery priorities set forth by CRP. PRDOH shall allocate funding to each of Puerto Rico's seventy-eight (78) municipal governments to ensure all have access to Program funds.

Each municipal allocation will be established with the assumption that the municipal government agrees to take part in the MRP Program and with the goal that each municipal government has the ability to enact at least two CRP projects. Through the allocation process, PRDOH will also ensure that the most impacted municipal governments and larger municipalities receive funding that is proportional to disaster impacts and their pre-storm populations.

4.8 City Revitalization Program Funding Per Round

- Municipal Recovery Round One (1) – PRDOH will allocate six hundred million dollars (\$600,000,000) to projects in this round. Funding will be made available to each municipality based on the allocation methodology and utilizing the data factors described above.

⁸ As per Action Plan Amendment 5, submitted for the public comment period on September 10, 2020, which is pending HUD approval.

- **Municipal Recovery Round Two (2)** – PRDOH will allocate three hundred forty-five million dollars (\$345,000,000) for this round. Funds will be made available to each municipality based on the allocation methodology as described in these Program Guidelines.

Funds not previously used by participating municipal governments in the **Municipal Recovery Round One (1)** can be used in the **Municipal Recovery Round Two (2)**. Funds will be available to each municipal government for selected projects up to the value of their municipal allocation or up to the combined value with not previously used funds in other round.

- **Competitive Recovery Round** – PRDOH will allocate one hundred seventy-eight million dollars (\$178,000,000) through a NOFA process. More detail on **Competitive Recovery Round** funding will be provided to the Municipal governments and eligible entities through a NOFA process.
- **UPR Neighborhood Revitalization** – PRDOH will allocate a one hundred million dollar (\$100,000,000) set aside for the **UPR Neighborhood Revitalization Program**. This Program encourages that projects be identified and developed through neighborhood or cooperative planning processes, and, to the greatest extent practicable, be coordinated with the participating Municipalities of San Juan and Mayagüez. Funding will be provided to eligible entities through a NOFA process.
- **Community Resilience Centers** – PRDOH will allocate a seventy-five million dollar (\$75,000,000) set aside for the development of **Community Resilience Centers** across the Island. Funding will be provided to eligible entities through a NOFA process.

PRDOH reserves the right to reallocate funding among rounds as Subrecipient performance and Program demands allow. All project awards are subject to the availability of funds.

4.9 CDBG-DR Eligible Activities

The funding in this Program will allow municipalities and other eligible entities to implement integrated and innovative solutions to the problems facing their communities. Eligible revitalization projects should correlate to a larger strategy that targets downtown service and business districts or key corridors and supports and aligns with future public and private investments. The **non-housing** projects that will be most responsive to the Program are those that combine improved infrastructure, accessibility and other leveraged economic activity as a result. **Affordable housing** projects that will be most

responsive will take into account the actual need for rental and ownership affordable housing and the ability to redevelop blighted or underutilized housing.

All projects provided CDBG-DR funding need to meet a HUD eligible activity as defined by Section 105(a) of the HCDA, as amended. The following eligible activities listed below have been included to allow and encourage subrecipients to think most broadly in how to use the Program to address community/economic development and revitalization through infrastructure improvements.

All projects in this Program will meet at least one (1) of the following eligible activities:

- Section 105(a)(1) – Acquisition of real property, (including air rights, water rights, and other interests therein), (42 U.S.C. § 5305(a)(1));
- Section 105(a) (2) – Provision of assistance for public facilities and improvements, (42 U.S.C. § 5305(a) (2));
- Section 105(a)(3) – Provision of assistance for code enforcement in deteriorated or deteriorating areas, (42 U.S.C. § 5305(a)(3));
- Section 105(a)(4) – Provision of assistance for the clearance, demolition, removal, reconstruction, and rehabilitation of buildings and improvements, (42 U.S.C. § 5305(a)(4));
- Section 105(a)(7) – Provision of assistance for the disposition of real property for public purposes, (42 U.S.C. § 5305(a)(7));
- Section 105(a)(8) – Provision of assistance for public services , including but not limited to those concerned with employment, crime prevention, childcare, health, drug abuse, education, energy conservation, welfare or recreation needs, (42 U.S.C. § 5305(a)(8));
- Section 105(a)(9) – Payment of non-federal share, (42 U.S.C. § 5305(a)(9));
- Section 105(a)(11) – Provision of assistance with relocation, (42 U.S.C. § 5305(a)(11));
- Section 105(a)(12) – Provision of assistance for planning implementation activities (42 U.S.C. § 5305(a)(12));
- Section 105(a)(14) – Provision of assistance including loans and grants for activities carried out through nonprofit development organizations (42 U.S.C. § 5305(a)(14));
- Section 105(a)(15) – Provision of assistance to eligible entities to carry out a neighborhood revitalization or community economic development or energy conservation projects, (42 U.S.C. § 5305(a)(15));
- Section 105(a)(16) – Provision of assistance for activities necessary to the development of energy use strategies, (42 U.S.C. § 5305(a)(16));
- Section 105(a)(17) – Provision of assistance to private, for-profit entities, when the assistance is appropriate to carry out an economic development project, (42 U.S.C. § 5305(a)(17));

- Section 105(a)(18) – Provision of assistance for the rehabilitation or development of housing, (42 U.S.C. § 5305(a)(18));
- Section 105(a)(19) – Provision of technical assistance to public or nonprofit entities, (42 U.S.C. § 5305(a)(19));
- Section 105(a)(21) – Provision of assistance by Subrecipients under this Program to institutions of higher education, (42 U.S.C. § 5305(a)(21));
- Section 105(a)(22) – Provision of assistance to public and private organizations to facilitate economic development, (42 U.S.C. § 5305(a)(22)).

4.10 Ineligible Activities

Unless permitted by a waiver, the following activities may not be assisted with CDBG-DR funds:

- Buildings or portions thereof used for the general conduct of government as defined in HCDA Section 102(a) (21) generally will not be eligible, but will be considered by PRDOH and approved by HUD on a case-by-case basis.
- General government expenses, except as otherwise specifically authorized under 2 C.F.R. Part 200, expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance.
- Political activities.

The following activities may not be assisted with CDBG-DR funds unless undertaken either as a public service under HCDA Section 105(a)(8), part of an activity providing economic development assistance to a for-profit business under HCDA Section 105(a)(17), or by an eligible nonprofit organization under HCDA Section 105(a)(15):

- Purchase of equipment
- Operating and maintenance expenses

4.11 Limitations on Assisting Privately-Owned Utilities

In accordance with 83 FR 5844, CDBG-DR funds may not be used to assist a privately-owned utility for any purpose.

4.12 Eligible Use of Funds

This Program is designed to provide flexibility in funding a wide range of activities that address the recovery and resiliency needs of downtown areas and key corridors across Puerto Rico. Municipalities and other eligible entities must submit Applications for consideration by PRDOH only in the round for which they are eligible, in order to qualify. All projects must be located within a municipal boundary, and within a designated downtown area or a key growth corridor that is defined by the municipal government or identified by other eligible entities.

Examples of some types of eligible projects are shown below. Due to the wide range of activities that are anticipated for the Program, these examples highlight **only a few types of activities that could be pursued with Program funds:**

- Rehabilitation or reconstruction of eligible buildings;
- Public infrastructure extension and/or improvements;
- Committed affordable rental housing development;
- Affordable housing ownership opportunities;
- Streetscape improvements such as sidewalks, lighting, parking;
- Façade improvements;
- As part of revitalization, where feasible, incorporating the protection and restoration of cultural and historic structures;
- Activities to eliminate architectural barriers for the disabled;
- Construction improvements to public spaces (plazas, town squares), cultural and art installations, and recreational areas and amenities;
- Actions that would clear and demolish unoccupied substandard structures that do not duplicate activities conducted under the FEMA Private Property Debris Removal (PPDR);
- Funding eligible activities under the US Department of Commerce Economic Development Administration (**EDA**) requiring match funding, as well as other similar matching opportunities;
- Implementing a wide range of “RE-Green” initiatives such as using green best practice in infrastructure projects and promoting a positive restorative and protective effect on the natural infrastructure;
- Improving the natural infrastructure;
- Undertakings that support community lifelines;
- Reforestation and natural resource recovery efforts that may be undertaken via non-profit entities such as Para la Naturaleza, in addition to waste re-purposing and reduction initiatives that use “green initiative strategies;”
- Activities that support site development for the provision of safe, sanitary, and decent committed affordable housing opportunities that support workforce and economic development;
- Activities that consider a holistic, multi-benefit approach to downtown areas, including co-location with transit-oriented development (**TOD**), transfer of development rights (**TDR**) to increase commercial core density thereby preserving open space, increasing the walkability and use of non-motorized transit (bike lanes), and other modes that improve commercial districts;
- Establishment, rehabilitation, or retrofitting of community resources centers; and
- Activities involving strategic investments in growth nodes that lead to the redevelopment of urban areas that support the UPR Río Piedras and Mayagüez campuses.

4.13 Baseline Eligibility Requirements for all Projects

While PRDOH will issue funding in multiple rounds for this Program, in order to be provided CDBG-DR funding in any round, all projects must meet the following baseline requirements:

- Meet a HUD National Objective, see the National Objective section;
- Have CDBG-DR eligible activity, see the Eligible Use of Funds section;
- Must be able to be completed by the expenditure deadline;
- Must have a tie to the Hurricanes. Project is related to disaster relief, long-term recovery, restoration of infrastructure and housing, or economic revitalization related to the covered disaster, and this information is captured in the application process;
- Address an eligible unmet need after accounting for all duplication of benefits, see the Duplication of Benefits section;
- Project is feasible and fiscally sustainable through future operations and maintenance by the Subrecipient applicant, and all other funding sources are firmly committed, see the Program Eligibility and Duplication of Benefits and Order of Assistance section; and
- The responsible entity for the project must demonstrate in the Application process that it has the resources to ensure on-going maintenance and operation of the improvements.

5 Program Eligibility

5.1 Overview of Eligible Entities

PRDOH plans to implement the Program by entering into Subrecipient Agreements (**SRAs**) with each of the seventy-eight (78) municipal governments across Puerto Rico, in addition to other eligible entities (as described below in the Eligible Entities section) which can meet the recovery objectives of the Program. The primary goal of the Program is to provide CDBG-DR funding to municipal governments to enable a variety of critical recovery activities aimed at reinvigorating downtown areas, urban centers and key community corridors. Such investments will reduce sprawl and create a symbiotic environment to nurture complementary investments from the private sector. PRDOH expects that every municipal government will participate in this Program.

The Program is also designed to allow for the wide range of entities located within communities to apply for funding by working with the municipal government. To enhance coordination of projects occurring within municipal boundaries and to ensure that downtown areas and key corridors are restored and made more resilient, non-governmental entities are encouraged to work in partnership with a participating municipal government.

5.2 Eligible Entities

To be eligible to apply for funds under the Program, Applicants must be one (1) of the following types of entities:

- Unit of General Local Government (Municipal Governments);
- NGO (501 (c) (3)) or Not for Profit Entities, for example:
 - Faith-Based or Community Based Organizations
 - Conservation or Natural Resource Organizations
 - Public Schools or Institutions of Higher Learning;
- Other community-based governmental entities, for example:
 - Public Housing Authorities and/or Public Health Facilities;
- Public Institutions of Higher Learning (Universities);
- Government entities designated to educate, assist, manage and/or operate facilities that provide services to citizens before, during and/or after disaster events will be eligible to request funds as a subrecipient to implement CRC project(s);
- A regional consortium of any of the above.

5.2.1 Additional Eligibility Criteria for Non-Municipal Governments

To ensure that coordination of projects occurs, entities that are not units of government will need to work in partnership and have the support of the local governing body, primarily the participating municipal government, to submit projects for funding in the Municipal Recovery Rounds of the Program. In the event that a project by one of these entities is advanced and provided funding, PRDOH may decide to enter into a direct legal relationship through a Subrecipient Agreement with the sponsoring entity for a streamlined and more efficient implementation and compliance process. PRDOH will work in consultation with the municipal government in structuring that direct legal relationship with particular consideration given to ownership, operation, maintenance, and title of the project.

5.2.2 Additional Eligibility Criteria

In addition, Subrecipients must agree to the following criteria:

- Provide for the cost of year-round operations and maintenance (**O&M**) expenses for projects funded through this Program, including daily operations and funding strategies. CDBG-DR funds cannot be used for O&M costs;
- In the Municipal Recovery Rounds, applications must be approved and recommended for funding by the relevant municipal government; and
- Utilize the services of an architect and/or engineer licensed to practice in Puerto Rico to design the facilities and improvements in accordance with PRDOH and HUD standards, as well as all applicable local codes and regulations.

5.3 PRDOH Selection and Municipal Coordination of Non-Governmental Entities

PRDOH expects that all seventy-eight (78) municipal governments will take part in the Program. However, for some projects proposed by NGOs, it may be more efficient for PRDOH to enter into a direct relationship with the NGO within a municipality to implement the project. Also, some municipal governments may decline to take part in the Program.

If PRDOH determines through the Application process that a particular project may be best implemented through a direct relationship with one of these entities, PRDOH will schedule a meeting and coordinate with a participating unit of general local government to assess and discuss if a direct relationship with an NGO is in the best interest of the Program and beneficiaries.

In the unlikely event that any of the municipal governments decide to decline participation in the Program, PRDOH reserves the right to define and work with a Subrecipient within these municipal boundaries so that eligible projects can be implemented. PRDOH will post to its website information that outlines which municipalities decided not to participate in the Program and what additional steps PRDOH will take to inform non-governmental entities in these jurisdictions about opportunities to apply to the Program.

Selection of projects by the Government of Puerto Rico can also occur if PRDOH determines, through the Application process, that the project meets the goals of this Program, but the Applicant does not have the fiscal or technical capacity to manage the grant. More detail on this is shown below. However, PRDOH will work with the Applicant in these cases to determine a suitable Subrecipient that can help implement the grant. In the unlikely event that PRDOH-selected projects are pursued, prior to beginning the project, PRDOH will provide detail about the project via the PRDOH website and it will hold at least one outreach event where the project will be discussed and presented so that the public can understand the justification for the project and how the project will meet a recovery objective of this Program.

5.4 More Detail on PRDOH Selection of Eligible Entities

5.4.1 Puerto Rico Administrative Agency/Department

Projects directly implemented by an administrative agency or department of the Government of Puerto Rico will comply with the approved "Procurement Manual for the CDBG-DR Program" and all its subsequent publications, Regulation No. 9205, effective

on September , 2020 (**Regulation No. 9205**)⁹, which repealed the “Procurement Manual and Contractual Requirements for CDBG-DR”, Regulation No. 9075 of February 26, 2019 (Regulation No. 9075); and any other previous regulation, manual, administrative order, or circular letter regarding this manner. The selected administrative agency or department will be responsible for compliance with applicable CDBG-DR rules and regulations, including, but not limited to, fair housing, Section 3 of the Housing and Urban Development Act of 1968 (**Section 3**), as amended,¹⁰ Davis-Bacon Act¹¹ and associated labor standards, federal environmental review, procurement compliant with 2 C.F.R. Part 200 and Regulation No. 9205, Section 504 of the Rehabilitation Act of 1973,¹² the Americans with Disabilities Act (**ADA**),¹³ and property acquisition. PRDOH will provide technical assistance, grant and project management/oversight, and monitoring of the project. A Subrecipient will also be required to report on regular basis its project outcomes and be able to correctly request drawdowns through the invoicing process for reimbursement to its contracted vendors.

5.4.2 Subrecipient – Non-Governmental Organization of Puerto Rico Selection to Serve as a Subrecipient

PRDOH may determine that it is in the Program's best interest to implement a project through an eligible Subrecipient organization. In those instances, PRDOH will select a suitable Subrecipient by either direct, discretionary selection or through a method of competitive selection. A capacity analysis and risk assessment of a potential Partner or Subrecipient will be performed. Consideration will be given to a Subrecipient's prior experience with CDBG-funded projects, staff capacity, knowledge, and relevant experience as it relates to a submitted project proposal with infrastructure projects, affordable housing development, economic development, and financial management systems and controls.

A written agreement between PRDOH and the Subrecipient will be executed. The written agreement serves as the mechanism for the transfer of funds to the Subrecipient and requires compliance with all applicable federal and local laws. The agreement will include items such as a scope of work, project budget, reporting and compliance requirements, and project schedule.

The Subrecipient will be responsible for compliance with applicable PRDOH and CDBG-DR rules and regulations including but not limited to, fair housing, Section 3, Davis-Bacon

⁹ Regulation No. 9205 is available in English and Spanish at: <https://cdbg-dr.pr.gov/en/download/procurement-manual-cdbg-dr-program/> and <https://cdbg-dr.pr.gov/download/manual-de-adquisiciones-programa-cdbg-dr/>.

¹⁰ 12 U.S.C. § 1701u

¹¹ 40 U.S.C. § 3141- 3148

¹² 29 U.S.C. 701 *et seq.*

¹³ 42 U.S.C. § 794

Act and associated labor standards, federal environmental review, procurement compliant with 2 C.F.R. Part 200, and Regulation 9205, Section 504/ADA, and property acquisition. PRDOH will provide technical assistance, oversight, and monitoring of Subrecipient activities.

6 Project Selection

The Program will offer funding in multiple rounds, as described previously in the Program Description section regarding Overview of Method of Distribution. PRDOH reserves the right to reallocate funding among rounds as Subrecipient performance and Program demands allow. All project awards are subject to the availability of funds.

6.1 Application Process

Applications submitted to PRDOH for funding in the Municipal Recovery Round One (1) will be selected based on projects that were identified by municipal governments or eligible entities as a result of post-storm public planning initiatives. Funds for the UPR Neighborhood Revitalization Program, the CRC Set-aside Program, and the Competitive Recovery Round will be made available through a NOFA(s) process.

Throughout project selection and development, municipalities will be responsible for informing the public on projects' progress toward meeting recovery objectives under CRP.

Through each round of the Application process, Applicants will be strongly encouraged to identify and bring non-CDBG-DR funding to leverage the Program funds available. Applications that provide additional non-CDBG-DR funds will be encouraged by PRDOH.

Without regard to where projects are located, all projects funded through this Program must have a tie to the Hurricanes, meet a HUD national objective and eligible activity, and the entities must agree to provide long-term operations and maintenance for the facility.

Project concepts will be submitted to PRDOH by Application in each round. The Project concepts shall include descriptive details and information on project location, initial estimated project costs, implementation schedule, project beneficiaries, project feasibility, how the project mitigates or addresses a disaster threat or supports resiliency, and other factors that may be deemed applicable. The project concept within the application will serve as the core document that establishes CDBG-DR eligibility and performance parameters for the project in that round of funding.

PRDOH will review the Application and select the projects in each round for awarding CDBG-DR funds through the Program. The decision to advance a project from Application to a funding phase will be based on the following factors:

- Whether a project meets specific eligibility and baseline criteria for that Application round;
- Whether the project aligns with Puerto Rico's Recovery Strategy¹⁴;
- The amount of leveraged funding being provided to implement the proposed project;
- The correlation of how the project is a part of a strategy that targets downtown service and business district revitalization, makes the area more resilient, or could lead to future public and private investment; and
- Specific criteria that are tied to that Application period. For example, projects identified that evolved from the PRDOH planning process and/or will allow PRDOH to meet the RE-Green Puerto Rico Initiative objectives.

After PRDOH informs the Applicant that the project is accepted for funding, PRDOH will begin to work with the Applicant to implement the project.

6.2 Municipal Government Funding Per Round

The amount of funding provided for a specific project will be subtracted from a participating municipality's allocation in that round. In the event that a municipal government does not use all of the funding provided in the Municipal Recovery Round 1, funds can be carried forward to the Municipality Recovery Round 2. PRDOH reserves the right to reallocate funding among rounds as Subrecipient performance and Program demands allow.

To create incentives to meet overarching program goals, and to create synchronicities across the Island, applications that contain certain elements such as leverage of non-CDBG-DR funds or inclusion of green-building elements will receive additional scoring preference and be prioritized for funding. As a result, Program participants will be encouraged in early rounds to develop projects that will allow PRDOH to meet these goals while ensuring that each municipal government's allocation will be used within its jurisdictional boundary.

6.3 Municipal Government Implementation and Non-Governmental Partners

PRDOH anticipates that the participating municipal governments that are submitting projects to the Program will want to implement the submitted projects in coordination with Partners located in their jurisdictions. PRDOH will provide Program oversight and technical assistance. PRDOH can, and may at its discretion, provide enhanced oversight and/or implement projects directly, if it determines that the municipal government cannot implement the project. PRDOH may also, in coordination with the municipal

¹⁴ Transformation and Innovation in the Wake of Devastation, An Economic and Disaster Recovery Plan for Puerto Rico, August 2018, www.cdbg-dr.pr.gov/en/download/transformation-and-innovation-in-the-wake-of-devastation.

government, determine that the local Partner should directly implement the project and enter into a relationship with PRDOH.

In each round, PRDOH will pay close attention to engagement with Partners within jurisdictions, and will strongly encourage collaboration within municipal boundaries. Due to the objectives of the Program, strong interest in collaboration by NGOs is anticipated.

6.4 Application Requirements

More specific detail on the Application process for each round will be posted to the PRDOH website when that phase of the Program is formally announced. The following sections outline the items that will be included as part of the Application process in each round of the Program.

6.4.1 Description of Intended Use of Funds

Applicants will describe the proposed use of CDBG-DR funding needed to complete the project. While PRDOH will not require final costs, Applicants will be required to provide an estimated cost for the proposed project.

6.4.2 Project Location Requirement

To be eligible to receive CDBG-DR funds under the Program and as part of the Application process, all Applicants must confirm and provide assurance that the facility for which funding is being sought is within the municipal boundary in a designated downtown area or key growth area, and shall demonstrate that the project has been presented to and has the support of the participating municipal government. Plans for realistic site control for affordable housing undertakings must be identified as well with whom final ownership of an assisted affordable housing project will rest.

6.4.3 Agreeing to PRDOH Environmental Review

To be eligible to receive CDBG-DR funds under the Program and as part of the project selection process, all Applicants must confirm and provide assurance that, if the project is selected and CDBG-DR funding is awarded, the Applicant will comply with the following:

- That PRDOH will provide technical assistance for the environmental review for the Project, and
- That the entity will, in all cases, adhere to the guidance provided by the PRDOH Environmental Review team.

6.4.4 Agreeing to Work with FEMA and COR3

To be eligible to receive CDBG-DR funds under the Program, and as part of the project selection process, all Applicants must confirm and provide assurance that they will comply with the following:

- Ensure an order of assistance and the avoidance of a “duplication of benefits”;

- Agree to work with PRDOH and in coordination with COR3, and will work directly with FEMA, as needed, to determine if FEMA funding would be available for the project.

6.4.5 Agreeing to PRDOH Capacity Assessment

To be eligible to receive CDBG-DR funds under the Program and as part of the Application process, the Applicant must confirm and provide assurance of its agreement to provide necessary documentation and assist in the completion of the PRDOH capacity assessment of its organization. This assessment will provide PRDOH the information needed in determining the organizational capacity to manage the CDBG-DR funds. In the case of committed affordable housing undertakings, the Applicant must demonstrate that it has the capacity to function as a rental housing/homeownership opportunity intake center, be able to maintain waiting lists, appropriately select eligible beneficiaries with parity, execute leases and sales contracts, refer rental housing residents to social service providers for wrap-around human services, perform ongoing compliance once units are placed into service, and physically manage rental property.

6.4.6 Agreeing to PRDOH Technical Assistance

To be eligible to receive CDBG-DR funds under the Program and as part of the project selection process, the Applicant must confirm and provide assurance of its agreement to participate in all PRDOH technical assistance training to ensure compliance with all PRDOH and CDBG-DR requirements. Those organizations lacking capacity will be provided direct assistance by PRDOH in devising and implementing needed processes and procedures to comply with all CDBG-DR requirements in the implementation of the funded project.

6.4.7 Agree to Identifying Sub-Standard Structures

To be eligible to receive CDBG-DR funds under the Program, and as part of the Application process, the municipality must agree to be responsible for identifying the inventory of substandard structures within the municipal boundaries. In the event that funds are requested to be utilized on a project involving a substandard structure, the municipality must evaluate costs and provide that information to PRDOH. Prior to any acquisition, PRDOH must be informed to ensure CDBG-DR protocols are being followed, which include the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (**URA**), as amended,¹⁵ and section 104(d) of the HCDA. In addition to substandard structures, in the case of affordable housing development projects, vacant/non Housing Quality Standards (HQS)-conforming/blighted/ and/or underutilized housing needs to be inventoried as well.

¹⁵ 49 C.F.R. § 24

6.4.8 Requested Use of Funds – RE-Green Puerto Rico Initiative Program

The Program will provide CDBG-DR funding to implement CDBG-DR-eligible projects that will restore impacted natural resources or use green building concepts or materials. Green projects may be eligible if they are conducted within the downtown area and/or a key corridor. As part of the Application process, Applicants must provide a narrative describing the potential uses of green infrastructure or green projects. The lack of a green project component in a proposed project will not negatively impact selection, but information is sought to help PRDOH determine how much of the Program's total funds are being directed toward the RE-Green Initiative activity.

All affordable housing development must comply with either Energy Codes for HUD-Assisted and FHA-Insured Properties (new construction) or the Green Building Retrofit Checklist (housing rehabilitation). Preference will be given to affordable housing projects that exceed basic green building standards, such as select building material with longer life cycles, mitigate stormwater runoff due to impervious surfaces, recycle gray water, etc.

6.4.9 Defining Potential Revenue and Program Income

Applicants must provide a narrative regarding all possible future revenue-producing activities and events following completion of the project. In addition, Applicants must provide an estimation of annual future revenue to be generated as well as offsets created by general facility use (maintenance, utilities, etc.) that are incurred by beneficiary use. For affordable housing, expanded Program Income guidance is provided in the supplemental appendix specific to affordable housing development.

6.4.10 Leveraging Funds – Non-CDBG-DR Funding

Given the needs that exists within downtown areas, urban areas, and key corridors across Puerto Rico, Applicants will be required to provide a description regarding the source and amount of non-CDBG-DR funds committed to each project, if any, and what actions the Applicant has taken to assess if additional funding is available to bring to the project. Responses demonstrating the allocation of non-CDBG-DR funds to complete the project will provide the project a higher priority in the evaluation process.

For committed affordable rental housing development undertakings, it is expected that applicants seek additional grant/debt servicing leverage such as Low Income Housing Tax Credits (LIHTC) through Puerto Rico Housing Finance Authority (PRHFA), HUD 223(f), HUD 221(d)(4), HUD Section 801 grants, Home Investment Partnerships (HOME) funds, Continuum of Care, and other opportunities to leverage PRDOH's CDBG-DR portion of project funding.

For restricted affordable homeownership opportunities, a proforma clearly demonstrating the expected buyers' contributions toward the total development cost

through securing conforming conventional loans will serve as project development leverage.

6.4.11 Defining Long Term Operation and Maintenance Plan

All projects for which CDBG-DR funding is being sought must have a long-term operations and maintenance (**O&M**) plan that is determined by PRDOH to be viable as CDBG-DR funds cannot be used for O&M. Potential Applicants will be strongly advised of the inability/prohibition to allocate CDBG-DR funding for O&M purposes. As part of the Application process, Applicants must include a plan to provide long-term O&M for the project, if funded. Applicants will be strongly encouraged to provide pro-forma and describe in detail how O&M will be provided. Consequently, if an Applicant is unable to demonstrate a viable long-term O&M plan, the project concept will not be accepted.

O&M does not apply to affordable housing ownership opportunities, however does apply to committed affordable rental housing undertakings. Anticipated rental revenue that is impounded as replacement reserves for affordable rental housing shall be used to demonstrate O&M capacity.

6.4.12 Consideration of Green Initiatives

HUD and PRDOH encourage recipients of CDBG-DR funding, to the extent that it is practicable and possible, to use methods and materials that support elements of green initiatives or show that green policies are part of their project. Through the Application process, Applicants will be asked to describe what green initiatives will be built into the project. Projects that demonstrate and utilize green components and/or designs will have a scoring preference. Tools for green initiatives are available at the Environmental Protection Agency's (EPA) website:

<https://www.epa.gov/green-infrastructure>

<https://www.epa.gov/smartgrowth/location-and-green-building>

PRDOH will work with eligible Subrecipients to identify opportunities for incorporating green practices into projects, on a case-by-case basis, and to the extent practicable.

6.4.13 Compliance with FEMA Elevation and Flood Proofing Standards

To be eligible to receive CDBG-DR funds under the Program and as part of the Application process, the Applicant must confirm and assure that it will comply with applicable elevation and flood proofing standards in effect for the location of the facility. See Elevation Standards section for further detail on elevation and flood proofing standards.

6.4.14 Requested Use of Funds – Retrofit vs New Construction (CRC Set-aside only)

The Program will provide CDBG-DR funding to either retrofit an existing facility or construct a new facility. Because CDBG-DR funding is limited, priority consideration will be given to “retrofit” projects. If FEMA funds are unavailable for new construction, proposed projects involving new construction will be considered, provided additional leveraged funds are incorporated. As part the NOFA process, applicants must provide a narrative detailing the proposed use of funds and clearly state if funding will be used to retrofit a facility or if funding is needed for a new facility.

6.4.15 Requested Use of Funds – Public Service Activities (CRC Set-aside only)

The Program will also provide CDBG-DR funding to implement CDBG-DR-eligible “public services” that address a PRDOH identified disaster-related impact. These services must be conducted within a community center facility. As part of the NOFA process, applicants must provide a narrative describing the proposed public service and its target participants. The lack of a “public services” component in a proposed project will not negatively impact selection.

6.4.16 Defining Disaster Facility Usage (CRC Set-aside only)

As part of the NOFA process, applicants must cite the services that will be provided during a formally federally declared disaster event. PRDOH understands the service needs of community centers will vary across the Island. Accordingly, PRDOH understands different types of services will be presented; however, PRDOH is cognizant of core services needed during pre- and post-disaster times. In addition to defining the type of project—retrofit or new construction, applicants must cite the types of recovery services either provided or to be provided at the Center. Disaster core services include, but are not limited to:

- Potable water (required);
- Communication system (required);
- Energy generation and back-up (required);
- Shower facilities;
- Cooking facilities; and
- Refrigeration (food and medical)

6.4.17 Defining Non-Disaster Facility Usage and Annual Revenue (CRC Set-aside only)

For Centers that plan to offer non-disaster services or are currently providing non-disaster-related services, applicants to the NOFA will be required to cite the current array of services being considered or provided, the source(s) of income to maintain the Center, and the estimated annual revenue generated by the activity at the Center to ensure that potential program income is identified and other compliance issues with FEMA do not occur. Potential activities an applicant might consider include, but are not limited to:

- Courses Education and training;
- Community residents meetings;

- Health and social services;
- Sports and recreational activities;
- Sleep space;
- Musical and artistic events;
- Vocational training; and
- Rent of spaces.

6.4.18 Requested Use of Funds – Affordable Rental Housing Opportunities

For committed affordable housing developments, Applicants must cite at minimum the following:

- The number of units to be developed and bedroom size mix;
- The number of units that will be set aside for persons with physical ability challenges;
- A twenty (20) year proforma which clearly demonstrates the financial solvency of the project;
- A source and uses budget;
- On site management and development amenities;
- The per unit CDBG-DR subsidy amount;
- Anticipated commitments of other funding sources;
- A PRDOH approved term of affordability covenant on the project;
- Clear description of ownership of the assisted project;
- What beneficiary income bands and percentages it is targeting through this undertaking; and
- Partnerships with human service agencies that will provide future residents with wrap-around services.

6.4.19 Requested Use of Funds – Affordable Homeownership Opportunities

For restricted affordable homeownership opportunities, the Applicant must cite:

- The number of units to be constructed and the bedroom size mix;
- The length and term of affordability and ownership restrictions on units to be sold;
- The equity and appreciation schedule and share of windfall from future sales of restricted affordable housing units;
- The per unit CDBG-DR subsidy amount;
- Requirements for prospective owners to complete first time homeowners' courses and financial literacy; and
- The beneficiary income bands and percentages it is targeting through this undertaking.

7 Project Closeout

Project closeout is the process that occurs after a project in the Program is complete, and no work remains. For affordable housing undertakings, on the rental side it is when the structure is placed in service and leased and on the ownership side, it is when the last unit is sold to an eligible beneficiary. PRDOH will determine if the project has been successfully completed. For projects comprised of both CDBG-DR funds as well as other funds, project closeout occurs when all funds are spent not just the CDBG-DR funded portions. PRDOH will solely determine if all the requirements of the Subrecipient Agreement or memorandum of understanding have been completed in accordance with the terms and conditions of the agreement. After PRDOH makes this assessment, it can initiate closeout at a time and frequency of its choosing.

7.1 Process for Closeout

As this Program matures and projects move from the Application process into construction phases, more detailed Project and Program closeout procedures will be developed. Those procedures will be updated to this section of the guidelines. Project closeout will begin when:

- Approved work has been finished and is completed;
- A project is deemed complete upon final review and/or an inspection by PRDOH and, when applicable, the submission of proof that all appropriate code and permit approvals have been secured, including Certificates of Occupancy;
- All project expenses (including non-CDBG-DR funds), except closeout costs, to be paid have been completed and payment requested;
- Any other responsibilities detailed in the Subrecipient Agreement have been fulfilled;
- PRDOH has reviewed closeout documents and has a resolution of any outstanding issues; and
- All monitoring or audit findings have been cleared.

7.2 HUD Notification of Closeout

In addition to the steps listed above, the project's status must be updated in HUD's Disaster Recovery Grant Reporting (**DRGR**) system, and a final HUD quarterly narrative report must be submitted to reflect the project's status.

8 Use of CDBG-DR Funds as Match

As is allowed by HUD and codified in the HCDA, CDBG-DR funds may be used as a matching requirement, share, or contribution for any other Federal program when used to carry out an eligible CDBG-DR activity. It may include disaster recovery projects funded by agencies such as the United States Departments of Transportation, Commerce, Energy, and Agriculture. This also includes programs or activities

administered by the FEMA or the United States Army Corps of Engineers (**USACE**). By law, (codified in the HCDA as a note to 105(a)), the amount of CDBG-DR funds that may be contributed to a USACE project is \$250,000 or less. In accordance with Federal Register Notice 83 FR 5844, note that the Appropriations Act prohibits the use of CDBG-DR funds for any activity reimbursable by, or for which funds are also made available by FEMA or USACE, Federal Register Vol. 83, No. 28 (February 9, 2018), 83 FR 5865.

For projects that wish to be considered as match for other Federally-funded disaster recovery programs, Applicants to this Program will need to inform PRDOH, during the **application** process, that they wish to have projects be considered as eligible for that agency's match program, as these projects will require that projects be both CDBG-DR eligible and compliant with the other Federal agency requirements.

9 Financial Management

9.1 Payment Requests by Non-PRDOH Entities

In accordance with 2 C.F.R. § 200.305, for entities other than PRDOH, payment is typically made on an "advance payment" method provided the payment request is limited to the minimum amounts needed and is timed to be in accordance with actual, immediate cash requirements. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements for direct program or project costs and the proportionate share of any allowable indirect costs. This means that project costs should be incurred and documented as required prior to the submission of a payment request. If the preceding requirements cannot be met the reimbursement payment method will be utilized.

9.2 More Detail on CDBG-DR Project Costs

HUD requires that for all projects as costs become more defined, and prior to construction, cost estimates be reviewed and confirmed to be reasonable. For Applicants who are provided CDBG-DR funds through this Program, PRDOH will work with the Applicant throughout the life of the grant to ensure that items like HUD cost principles are fully understood and complied with.

9.3 Reasonable Cost Guidance

PRDOH must ensure that CDBG-DR funds will be used solely for necessary and reasonable costs expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing and economic revitalization related to the covered disaster. A cost is reasonable if, in its nature and amount, does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. PRDOH may choose to determine standard reasonable costs for

the reimbursement of specific costs under this Program and will deny costs that are determined to not conform to the cost reasonableness requirements.

9.4 Construction Cost Reasonableness

Federal Register Notice 83 FR 40314 requires PRDOH to ensure “that construction costs are reasonable and consistent with market costs at the time and place of construction.” Cost reasonableness is described as the price that a prudent businessperson would pay for an item or service under competitive market conditions, given a reasonable knowledge of the marketplace. The method and degree of analysis may vary dependent upon the circumstances surrounding a particular project (e.g., project type, risk, costs), but the description must address controls for public facilities and infrastructure improvements projects in addition to economic revitalization projects (involving, construction, rehabilitation, or reconstruction) and housing projects involving eight or more units (whether new construction, rehabilitation, or reconstruction). HUD may issue guidance to PRDOH and may require PRDOH to verify cost reasonableness from an independent and qualified third-party architect, civil engineer, or construction manager.

To establish the cost reasonableness of the goods and services under the CDBG-DR Program, PRDOH may perform one (1) or more of the following analysis:

- *Comparison of Proposed Costs Received as Part of a Solicitation Process:* For the CDBG-DR Program, PRDOH or its Subrecipients will acquire all goods and services through procurement processes such as micro-purchases, small purchases, sealed bidding, and competitive proposals, among others. Adequate price competition establishes cost reasonableness. This will be the most common technique used to establish cost reasonableness, as the procurement processes normally attract two (2) or more offers in an independent competition for an award, which establishes current market values.
- *Comparison of Proposed Prices with Prior Solicitation Processes:* During the life cycle of the CDBG-DR grant, PRDOH or its Subrecipients may procure certain goods or services in multiple instances. Also, PRDOH/Subrecipients may procure goods or services for which, under other projects not necessarily related to CDBG-DR, similarities exist. Comparing the prices obtained through prior solicitation processes may be used to establish cost reasonableness. Depending on the timing of the prices being compared, adjustments for inflation may be required to compare data in a fair manner.
- *Comparison of Proposed Prices and Historical Contracts:* PRDOH has extensive historical contract data for previous projects performed. This data may be used by a Subrecipient or PRDOH when procuring goods or services that are similar in

nature to those performed in the past to establish cost reasonableness. Depending on the timing of the prices being compared, adjustments for inflation may be required to compare data in a fair manner.

- *Comparison of Proposed Prices with Independent Cost Estimates:* For the CDBG-DR program, PRDOH or its Subrecipients will acquire all goods and services through procurement processes such as micro-purchases, small purchases, sealed bidding, and competitive proposals, among others. For all of these, the procedures established by PRDOH require the User Area requesting the services to provide an independent cost estimate of the goods or services to be procured. Comparison of these independent cost estimates with proposed prices may be used to establish cost reasonableness.
- *Comparison of Proposed Prices with Prices Obtained through Market Research:* When a good or service has an established market price, whether locally or in another jurisdiction, the verification of an equal or lower price may be used to establish cost reasonableness. Also, when the market value of a specific good or service is not found, a comparison with a substantially similar good or service may also be performed to establish cost reasonableness.

10 Green Building Standards and FEMA Elevation Requirements

HUD requires that for all projects using CDBG-DR funds, the projects comply with FEMA elevation standards and that, to the extent possible, projects incorporate green building components into the project. Through these actions, projects funded using CDBG-DR funds are generally presumed to be more resilient and will have been rebuilt or built in a more environmentally sustainable manner. Given that this Program desires to make communities' downtown areas and key corridors more resilient, Projects funded through this Program will be required to meet FEMA elevation requirements and show how HUD Green Building Standards will be used in the project or what green concepts were considered for the project. As Applicants and projects are selected for the Program, PRDOH will work with Subrecipients and awardees of the Program to address these two (2) compliance requirements. Below is more information on these two (2) components.

10.1 Green Initiatives

HUD encourages grantees to implement green building policies to the extent practicable and possible. Tools for green initiatives are available at the Environmental Protection Agency's (EPA) website:

<https://www.epa.gov/green-infrastructure>

<https://www.epa.gov/smartgrowth/location-and-green-building>

PRDOH will work with eligible entities and Subrecipients to identify opportunities for incorporating green infrastructure practices into projects, on a case-by-case basis, and to the extent practicable.

10.2 Elevation Standards

Projects must comply with applicable elevation standards. These standards include elevation requirements and floodproofing requirements. Nonresidential structures must be elevated to the standards described in this paragraph or floodproofed, in accordance with FEMA floodproofing standards at 44 C.F.R. § 60.3(c)(3)(ii) or successor standard, up to at least two feet (2') above the 100-year (or one percent (1%) annual chance) floodplain.

As per 24 C.F.R. § 55.2(b)(3), all Critical Actions within the 500-year (or 0.2 percent annual chance) floodplain must be elevated or floodproofed (in accordance with the FEMA standards) to the higher of the 500-year floodplain elevation or three feet (3') above the 100-year floodplain elevation. If the 500-year floodplain is unavailable, and the Critical Action is in the 100-year floodplain, then the structure must be elevated or floodproofed at least three feet (3') above the 100-year floodplain elevation. Critical Actions are defined as an "activity for which even a slight chance of flooding would be too great because such flooding might result in loss of life, injury to persons or damage to property", (24 C.F.R. § 55.2(b)(3)(i)), and may include hospitals, nursing homes, police stations, fire stations, and principal utility lines.

Applicable local and tribal codes and standards for floodplain management that exceed these requirements, including elevation, setbacks, and cumulative substantial damage requirements, must be followed.

11 Labor Standards

Federal labor standards apply to all projects receiving match funding through the Program. The CDBG authorizing statute requires that laborers and mechanics employed by contractors and subcontractors on construction work financed in whole or in part with CDBG funds be paid not less than locally prevailing wages, as determined by the United States Department of Labor (DOL) under the Davis-Bacon Act, as amended, and HCDA at 42 U.S.C. § 5310. These provisions ensure that when disaster recovery work is financed with CDBG-DR assistance, construction workers are paid the appropriate wage rate prevailing in the locality where the work is performed, furthering economic recovery. The Program team will coordinate with the PRDOH Federal Compliance and Labor Standards Team, to ensure all contracts are reviewed for compliance.

Consistent with HUD CPD Notice 15-07: Guidance for Charging Pre-Application Costs of Homeowners, Businesses, and Other Qualifying Entities to CDBG Disaster Recovery

Grants,¹⁶ PRDOH has established the following date thresholds for applicability with federal labor standards for work that began prior to the execution of the Grant Agreement between PRDOH and HUD:¹⁷

- If construction was completed prior to September 20, 2018, or if the construction contract had been officially accepted by the Entity as substantially complete by September 20, 2018, Davis-Bacon provisions do not apply. Regarding construction projects, PRDOH has defined the completion date as the date the project was officially accepted as substantially complete. The Entity must provide proof of the substantial completion date.
- If construction was ongoing as of September 20, 2018, Davis-Bacon provisions apply. Contract specifications must include the applicable Davis-Bacon wage determination in effect as of September 20, 2018. The Entity has the option to include the wage determination in effect as of September 20, 2018, retroactive to the start of construction work. Both parties to the construction contract (e.g. the Entity and the construction contractor) must agree to amend the contract specifications.
- If construction has not started as of September 20, 2018, Davis-Bacon provisions and all other HUD CDBG-DR requirements apply. Advertisements for bids, bid solicitations, and contracts must incorporate Davis-Bacon labor standards and wage determinations and CDBG-DR compliance provisions for construction contracts.

12 Section 3 Requirement

All Applicants who receive CDBG-DR funding are required to comply with all CDBG-DR requirements, including those enumerated in 24 C.F.R. Part 135. HUD regulation at 24 C.F.R § 135.1 is commonly referred to as the Section 3 requirement. The Section 3 requirement seeks to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible and consistent with 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. Through the program notification process and through technical assistance workshops, and monitoring protocols, PRDOH

¹⁶ HUD Notice CPD-15-07: Guidance for Charging Pre-Application Costs of Homeowners, Businesses, and Other Qualifying Entities to CDBG Disaster Recovery Grants is available at <https://www.hudexchange.info/resource/4777/notice-cpd-1507-guidance-for-charging-preapplication-costs-to-cdbg-disaster-recovery-grants/>.

¹⁷ As of the publication of these Program Guidelines, the application of this date threshold as it relates to construction contracts is pending approval from HUD. If HUD provides guidance that differs from the information contained herein, this program guideline document will be amended as needed.

will communicate and work with Applicants to ensure that each project adheres to Section 3 regulations.

13 Minority Women Owned Business Enterprise (MWBE) Requirement

All Applicants who receive CDBG-DR funding are required to comply with all CDBG-DR requirements including those enumerated in 2 C.F.R. § 200.321. Known as the Minority Women Owned Business Enterprise (**MWBE**) goals, these goals are an important part of HUD CDBG-DR programs and they are a common area of review by HUD.

MWBE compliance in Puerto Rico is ensured by requiring, as applicable, subrecipients, program partners, and contractors make best efforts to achieve an overall MWBE participation goal of twenty percent (20%) of the entire contract value; consisting of ten percent (10%) for MBE and ten percent (10%) for WBE. If, after making good faith efforts, a Subrecipient is unable to meet MWBE goals, subrecipients may submit a request for a MWBE Waiver for their overall goal. The request must set forth the reasons for the inability to meet any or all of the participation requirements together with an explanation of the good faith efforts undertaken.

2 C.F.R. § 200.321 requires the non-Federal entity to take necessary steps to ensure that all recipients, subrecipients, contractors, subcontractors, and/or developers funded in whole or in part with CDBG-DR financial assistance ensure that, when possible, contracts and other economic opportunities are directed to small and minority firms, women-owned business enterprises, and labor surplus area firms.

Through the program notification process and by means of document collection, technical assistance, and monitoring protocols, PRDOH will analyze data and communicate with Applicants to ensure that every project adheres to MWBE regulations, when applicable.

14 Civil Rights and Non-Discrimination

Title VII of the Civil Rights Act of 1964 was enacted as part of the landmark Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.* It prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal financial assistance. Pursuant to Section 109 of the HCDA no person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any CDBG-DR program or activity. Section 109 also directs that the prohibitions against discrimination on the basis of age under the Age Discrimination Act¹⁸ and the prohibitions against discrimination on the basis of disability under Section 504 of the Rehabilitation Act of 1973 shall apply to programs or activities receiving Federal financial assistance under Title I programs.

¹⁸ The Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 621 *et seq.*, prohibits discrimination on the basis of age in federally assisted and funded programs or activities, except in limited circumstances.

As a program receiving federal CDBG-DR funding, the City Revitalization Program shall be implemented in a manner that does not deny any individuals the opportunity to participate in, access, or benefit from the Program on a discriminatory basis of any federally or locally designated protected classes. Funded activities shall be designed and implemented in a manner that avoids disproportionate negative impacts on protected classes of people and vulnerable communities, as well as creates opportunities to address economic inequities facing communities. PRDOH has adopted several policies to which it, its subrecipients, and all contractors must adhere in the design and implementation of the Program and funded projects. All CDBG-DR General Policies are available in English and Spanish on the PRDOH website at <https://www.cdbg-dr.pr.gov/en/resources/policies/general-policies/> and <https://www.cdbg-dr.pr.gov/recursos/politicas/politicas-generales/>.

14.1 Fair Housing & Equal Opportunity Policy (FHEO Policy)

The Fair Housing Act, 42 U.S.C. §3601 *et seq.*, prohibits discrimination in the sale, rental, and financing of housing, and in other housing-related activities on the basis of: race, color, religion, sex, familial status¹⁹, national origin or disabilities. The Act requires HUD and its grantees to administer its programs in a manner that affirmatively furthers fair housing. In compliance with the aforementioned Act, as well as other applicable laws²⁰, the Program implementation will be conducted avoiding discrimination and/or discriminatory practices to the extent that no person be excluded from participation in; denied program benefits of; or be subjected to discrimination under any program or activity receiving CDBG-DR funds on the basis of race, color, national origin, religion, sex, age, disability, familial status, sexual orientation (in employment and in HUD-funded or insured housing programs) or marital status (in HUD-funded or insured housing programs). Additionally, the Program will ensure that all activities are conducted in a manner that will affirmatively further fair housing.

¹⁹ Exceptions exist for housing covered under the Housing for Older Persons Act of 1995, 42 U.S.C. § 3607(b).

²⁰ Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000(d) *et seq.*; • Title VIII of the Civil Rights Act of 1968, as amended (Fair Housing Act), 42 U.S.C. § 3601 *et seq.*; • Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 701 *et seq.*; • Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 *et seq.*; • Section 109 of the Housing and Community Development Act of 1974 (HCDA), as amended, 42 U.S.C. § 5309; • Housing for Older Persons Act of 1995 (HOPA), Pub. L. 104-76; • Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 *et seq.*; CDBG-DR Program Fair Housing and Equal Opportunity for All Programs July 29, 2020 (V.1) Page 20 / 40 • Executive Order No. 11063 (1962), Federal Register, Vol. 27, No. 228, p.11527, 27 FR 11527 (November 24, 1962); • General HUD Program Requirements: Equal Access to HUD-assisted or Insured Housing (24 C.F.R. § 5.106) • Act No. 131 of May 13, 1943, 1 LPRA § 13, known as the "Puerto Rico Civil Rights Act" – Discrimination in Public Places, Businesses, Transportation, and Housing • Act No. 238-2004, as amended, 1 LPRA § 512(a), known as the "Bill of Rights of Persons with Disabilities" • Constitution of the Commonwealth of Puerto Rico 1952, 1 LPRA Constitution of the Commonwealth of Puerto Rico • Act. No. 44 of July 2, 1985, as amended, 1 LPRA § 501 *et seq.*, known as the "Act to Prohibit Discrimination Against People with Physical, Mental, or Sensory Impairments" • Act No. 22-2013, Law to Prohibit Discrimination for Sexual Orientation and Gender Identity.

The CDBG-DR FHEO Policy establishes requirements and provides guidance for ensuring that CDBG-DR programs do not discriminate against protected classes of people. Included in this policy is a summary of all civil rights-related and anti-discrimination laws which must be complied with, strategies and requirements for the affirmative marketing of programs to potential participants, the handling of discrimination complaints, equal opportunity employment requirements, communication requirements, recordkeeping requirements, and other information critical for ensuring compliant design and implementation of the Program.

The FHEO Policy and all CDBGDR general policies are available in English and Spanish on the PRDOH website at <https://www.cdbg-dr.pr.gov/en/resources/policies/general-policies/> and <https://www.cdbg-dr.pr.gov/recursos/politicas/politicas-generales/>.

14.2 Section 504 and Americans with Disabilities Act (ADA)

Section 504 of the Rehabilitation Act of 1973, as amended, prohibits discrimination based on disability in federally assisted Programs. This section provides that qualified individuals should not be excluded from participation solely by reason of their disability, denied program benefits, or subjected to discrimination under any program or activity receiving federal funding assistance.

All entities receiving an award from the Program are required to comply with Section 504 and ADA requirements in the construction or improvement of infrastructure, buildings, and housing. All facilities that are constructed or modified using CDBG-DR funds, the provision of public services, as well as employment practices, must comply with Section 504 and ADA to be accessible to persons with disabilities.

14.3 Reasonable Accommodation Policy

Federally funded programs are required under Section 504 of the Rehabilitation Act of 1973, as amended, to make reasonable accommodations and modifications for individuals with disabilities. The purpose of Section 504 is to avoid discrimination and ensure these individuals have an equal opportunity to access and enjoy the benefits of the Program. Requests for accommodations (changes to a rule, policy, practice, or service) and reasonable modifications (structural changes to a building or dwelling) most commonly arise in housing programs, however Section 504 applies to all federally funded programs and activities.

Any person with disability-related needs may submit a request for accommodation or modification to PRDOH, its subrecipients, or contractors involved in the implementation of CDBG-DR programs. PRDOH has established the Reasonable Accommodation Policy to guide individuals on how to submit a non-employment related request, and instruct

PRDOH employees, subrecipients, and contractors on how to receive and evaluate reasonable accommodation and modification requests. Any employment-related reasonable accommodation request should be directed to the individual's employer.

PRDOH and its subrecipients will ensure that program participants are made aware of their right to request reasonable accommodations, and that every effort is made to meet the disability-related needs of requesting individuals to the maximum extent feasible, so far as providing the requested accommodations or modifications is considered reasonable.

The Reasonable Accommodation Policy and all CDBGDR general policies are available in English and Spanish on the PRDOH website at <https://www.cdbg-dr.pr.gov/en/resources/policies/general-policies/> and <https://www.cdbg-dr.pr.gov/recursos/politicas/politicas-generales/>.

14.4 Language Access Plan

PRDOH, its subrecipients, and contractors are responsible for complying with the PRDOH Language Access Plan (**LAP**). The purpose of the LAP is to ensure meaningful access to federally assisted programs and activities for persons, who as a result of national origin, are limited in their Spanish or English proficiency. The LAP provides concrete action steps that shall be followed by PRDOH, subrecipients, and contractors to ensure that appropriate language services and translated vital documents are made available to potential and actual Program participants, as well as in outreach activities and the provision of funded services, in accordance with the LAP.

The CDBG-DR Language Access Plan and all CDBG-DR general policies are available in English and Spanish on the PRDOH website at <https://www.cdbg-dr.pr.gov/en/resources/policies/general-policies/> and <https://www.cdbg-dr.pr.gov/recursos/politicas/politicas-generales/>.

15 Uniform Relocation Act

As a Federally funded program, and in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), 42 U.S.C. § 4601 *et seq.*, and the government wide implementing regulations found at 49 C.F.R. Part 24, all CDBG-DR programs are subject to URA regulations.

Projects funded under the Program which include acquisition, repair, or reconstruction activities that result in displacement must comply with all applicable URA regulations for notifying property owners, businesses, and tenants who may be subject to displacement.

Persons and entities qualifying as “displaced persons”, as well as those who must temporarily relocate, as a result of Program-funded activities, may be eligible for relocation assistance benefits which must be accounted for in project budgets. As a condition of receiving CDBG-DR assistance, subrecipients agree to fully comply with all applicable provisions of the URA.

The CDBG-DR Uniform Relocation Assistance Guide & Residential Anti-Displacement and Relocation Assistance Plan and all CDBG-DR general policies are available in English and Spanish on the PRDOH website at <https://www.cdbg-dr.pr.gov/en/resources/policies/general-policies/> and <https://www.cdbg-dr.pr.gov/recursos/politicas/politicas-generales/>.

16 Program Monitoring Requirements

As a result of receiving CDBG-DR funds from HUD, PRDOH is required to monitor projects and entities that receive Program funds. Therefore, any project funded through this Program and any Applicant that is provided funds has the potential to be monitored and/or reviewed by HUD and/or PRDOH. When projects are selected and Applicants execute agreements with PRDOH for this Program, additional information on monitoring requirements will be provided. This section provides a broad description of the monitoring requirements of this Program.

PRDOH must ensure compliance with HUD regulations, which include but are not limited to: record keeping, administrative and financial management, environmental compliance, citizen participation, conflict of interest, procurement, labor standards, Section 3, Fair Housing, Title VI, Section 504, duplication of benefits, property management and property acquisition and relocation. PRDOH is required to monitor all programs and projects for conformance with the goals, objectives, and policy set forth in the Action Plan and its Amendments.

The **program monitoring** serves to identify risks, deficiencies, and remedies related to programs, projects, and Subrecipients. The objectives of the **program monitoring** include:

- Determine if activities are being carried out as described in the Action Plan and Action Plan Amendments for the CDBG-DR program and assistance;
- Determine if activities are being carried out in a timely manner;
- Determine if costs charged to the Program and projects are eligible under applicable laws and CDBG regulations and if are reasonable in light of the services or products delivered;
- Determine if activities are being conducted with adequate control over the program and financial performance, and in a way that minimizes opportunities for waste, mismanagement, fraud, and abuse;

- If Subrecipients are utilized, determine if the activities are being carried out in conformance with the subrecipient agreement;
- Assist in resolving compliance problems through discussion, negotiation, technical assistance, and training;
- Provide adequate follow-up measures to ensure that performance and compliance deficiencies are corrected and not repeated;
- Comply with the monitoring requirements of 24 C.F.R. § 570.501(b) and 2 C.F.R. § 200.328, if applicable;
- Determine if any conflict of interest exist in the operation of the CDBG-DR program per 24 C.F.R. § 570.611; and
- Ensure that required records are maintained to demonstrate compliance with applicable regulations.

17 Program Income

PRDOH understands and expects that, for some projects funded through this Program, revenue or program income will be generated. As a result, as part of the application process in each round, applicants will be asked to describe potential revenue-generating activities. PRDOH will work with funded eligible entities in this Program to identify and address issues relating to program income; below is more detail on program income.

For purposes of the CDBG-DR allocation under Public Law 115-56, “program income” is defined as gross income generated from the use of CDBG-DR funds and received by PRDOH or a Subrecipient of PRDOH, except as provided in Federal Register Notice 83 FR 5844. When income is generated by an activity that is only partially assisted with CDBG-DR funds, the income shall be prorated to reflect the percentage of CDBG-DR funds used (e.g., a single loan supported by CDBG-DR funds and other funds; a single parcel of land purchased with CDBG-DR funds and other funds).

Program income includes, but is not limited to, the following:

- Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG-DR funds.
- Proceeds from the disposition of equipment purchased with CDBG-DR funds.
- Gross income from the use or rental of real or personal property acquired by PRDOH, local government, or Subrecipient thereof with CDBG-DR funds, minus the costs incidental to the generation of the income (i.e., net income).
- Net income from the use or rental of real property owned by PRDOH, local government, or Subrecipient thereof, that was constructed or improved with CDBG-DR funds.
- Payments of principal and interest on loans made using CDBG-DR funds.
- Proceeds from the sale of loans made with CDBG-DR funds.

- Proceeds from the sale of obligations secured by loans made with CDBG-DR funds.
- Interest earned on program income pending disposition of the income, including interest earned on funds held in a revolving fund account.
- Funds collected through special assessments made against nonresidential properties and properties owned and occupied by households not low-and moderate-income, where the special assessments are used to recover all or part of the CDBG-DR portion of a public improvement.
- Gross income paid to PRDOH, local government, or a Subrecipient thereof, from the ownership interest in a for-profit entity in which the income is in return for the provision of CDBG-DR assistance.

Program income does not include the following:

- The total amount of funds that is less than thirty-five thousand dollars (\$35,000), received in a single year and retained by PRDOH, local government, or a Subrecipient thereof.
- Amounts generated by activities eligible under section 105(a)(15) of the HCDA and carried out by an entity under the authority of section 105(a)(15) of the HCDA.

Program income received (and retained, if applicable) before or after closeout of the grant that generated the program income, and used to continue disaster recovery activities, is treated as additional CDBG-DR funds subject to the requirements of [these Guidelines](#) and must be used in accordance with the Action Plan. To the maximum extent feasible, program income shall be used or distributed before additional withdrawals from the U.S. Treasury are made, except as provided in the applicable HUD Notice.

While revolving funds are not foreseen for this Program, PRDOH, as the CDBG-DR grantee and local governments may establish revolving funds to carry out specific, identified activities. A revolving fund, for this purpose, is a separate fund (with a set of accounts that are independent of other program accounts) established to carry out specific activities. These activities generate payments used to support similar activities going forward. These payments to the revolving fund are program income and must be substantially disbursed from the revolving fund before additional grant funds are drawn from the U.S. Treasury for payments that could be funded from the revolving fund. Such program income is not required to be disbursed for non-revolving fund activities.

PRDOH may also establish a revolving fund to distribute funds to local governments to carry out specific, identified activities. The same requirements, outlined above, apply to this type of revolving loan fund. Note that no revolving fund established per [these](#)

Guidelines shall be directly funded or capitalized with CDBG-DR grant funds, pursuant to 24 C.F.R. § 570.489(f)(3).

18 Environmental Review

Every project undertaken with Federal funds, and all activities associated with such project, are subject to the provisions of the National Environmental Policy Act of 1969 (**NEPA**), as amended, 42 U.S.C. § 4321 *et seq.*, as well as to the HUD's environmental review regulations at 24 C.F.R. § 58 on Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities. The primary purpose of this Act is to protect and enhance the quality of our natural environment. 24 C.F.R. § 58.22 prohibits the commitment or spending of 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. Environmental clearance must be obtained for each project prior to the commitment of federal or non-federal funds.

The primary objectives of the environmental review is to identify specific environmental factors that may be encountered at potential project sites, and to develop procedures to ensure compliance with regulations pertaining these factor. The environmental review is designed to produce program-specific environmental reviews procedures in a program that can vary greatly in terms of scope of work.

PRDOH will provide assistance for the Environmental Review for all projects in the Program. To be eligible to receive CDBG-DR funds under the Program and as part of the application process, the entity will agree to conduct the Environmental Review and, in all cases, adhere to the guidance provided by the PRDOH environmental review team.

Laws and regulations that contain environmental provisions with which the Program must be in compliance include, but are not limited to:

- Protection of Historic Properties, 36 C.F.R. § 800;
- Floodplain Management and Protection of Wetlands, 24 C.F.R. § 55, (Executive Order No. 11988 and Executive Order No. 11990);
- Sections 307 (c) and (d) of the Coastal Zone Management Act of 1972 (**CZMA**), as amended, 16 U.S.C. § 1456;
- Sole Source Aquifers, 40 C.F.R. § 149;
- Endangered Species Act of 1973, as amended, 50 C.F.R. § 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, as amended, 42 U.S.C. § 7506, and in Title 40 of the Code of Federal Regulations, 40 C.F.R. Parts 6, 51, and 93;
- Farmland Protection Policy Act (**FPPA**), 7 U.S.C. § 4201 *et seq.*, implementing regulations 7 C.F.R. Part 658, of the Agriculture and Food Act of 1981, as amended;

- Environmental Criteria and Standards, 24 C.F.R. § 51.1 – 51.305:
 - 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;
- Toxic/Hazardous Materials, 24 C.F.R. § 58.5(i)(2)(i);
- Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (Executive Order No. 12898, issued February 11, 1994).

To conduct the appropriate level of environmental review, the Program will need to determine the environmental classification of the project. 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 part, to accomplish a specific objective. The four (4) major environmental classifications for projects and their descriptions are as follows.

18.1 Exempt Activities

These are activities which, by their nature, are highly unlikely to 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 in writing that the project is exempt and meets the conditions for exemption spelled in 24 C.F.R. § 58.34. In addition to making the written determination of exemption, the Program must also determine whether any of the requirements of 24 C.F.R. § 58.6 are applicable and address as appropriate.

18.2 Categorically Excluded Activities

These are activities for which no Environmental Impact Statement or Environmental Assessment and finding of no significant impact under NEPA is required. These activities are divided into those that are and those that are not subject to related laws and authorities at 24 C.F.R. § 58.5.

Examples of categorically excluded activities not subject to related laws and authorities under 24 C.F.R. § 58.5 include: tenant based rental assistance; supportive services; operating costs; economic development activities; activities to assist homebuyers to purchase existing dwelling units or units under construction; and affordable housing predevelopment costs with no physical impact. To complete environmental requirements for categorically excluded activities not subject to 24 C.F.R. § 58.5, the Program must make a finding of categorical exclusion and include such finding in the Environmental Review Record. When these kinds of activities are undertaken it is not

required to issue a public notice or to submit a request for release of funds. In any case, environmental compliance is required for the items listed in 24 C.F.R. § 58.6.

Examples of categorically excluded activities subject to related laws and authorities under 24 C.F.R. § 58.5 include: acquisition, repair, improvement, reconstruction, or repair of public facilities; special projects directed toward the removal of material and architectural barriers; and repair of buildings and improvements for residential units and non-residential buildings. The Environmental Review Record for these activities must contain a written determination of the finding of a categorical excluded activity subject to 24 C.F.R. § 58.5, including a description of the project, a citation of the application subsection of 24 C.F.R. § 58.35(a), and written documentation as to whether there were any circumstances which required compliance with 24 C.F.R. § 58.5 and § 58.6.

The documentation must support its determinations related to compliance including correspondence with applicable agencies having jurisdiction. Upon completion, there should be one (1) of three (3) environmental findings: (1) the project converts to Exempt (i.e. 24 C.F.R. § 58.34(a) (12)); (2) the project invokes compliance with one or more of the laws and/or authorities and, therefore, requires public notification and approval from HUD; or (3) the unusual circumstances of the project result in a significant environmental impact and, therefore, compliance with NEPA is required. If upon completion it is determined that compliance is required for one or more of the Federal laws and authorities listed in 24 C.F.R. § 58.5, then a public notification known as Notice of Intent to Request Release of Funds must be posted. After a **seven (7) day** comment period, a Request for Release of Funds and Environmental Certification must be prepared. The Environmental Certification certifies the compliance with all environmental review requirements.

18.3 Activities Requiring an Environmental Assessment

These are activities which are neither exempt nor categorically excluded and, therefore, will require an Environmental Assessment documenting compliance with NEPA, HUD, and with the environmental requirements of other applicable federal laws. Once the Environmental Review has been completed and any comments addressed appropriately, the project may be found to not constitute an action that significantly affects the quality of the human environment and, therefore, does not require the preparation of an Environmental Impact Statement; or the project constitutes an action that significantly affects the quality of the human environment and, therefore, requires the preparation of an Environmental Impact Statement.

If it is determined that the action does not significantly affect the quality of the environment, then the Program will post a public notice called a Combined/Concurrent Notice of Finding of No Significant Impact (**FONSI**) and Notice of Intent to Request Release of Funds (**NOI/RROF**). The NOI/RROF Environmental Certification must be submitted to HUD no sooner than **fifteen (15) days** after publishing the

combined/concurrent notice (NOI/RROF) and FONSI and HUD will hold the Release of Funds for a **fifteen (15) day** period to allow for public comment on the RROF. If no comments are received during this time, HUD will send a signed Authorization to Use Grant Funds and the project may proceed.

18.4 Activities Requiring an Environmental Impact Statement

These are activities that require a detailed written statement by Section 102(2)(C) of NEPA for a proposed major Federal Action significantly affecting the quality of the human environment. These statements are normally used for major housing (2,500 units or more) or infrastructure projects.

19 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 as to which he/she has 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.

In accordance with Federal Register Vol. 84, No. 119 (June 20, 2019), 84 FR 28836, the duplication of benefits guidance issued in Federal Register Vol. 76, No. 221 (November 16, 2011), 76 FR 71060, shall remain as the duplication of benefits guidance in effect for the Program until an approved Substantial Amendment to the PRDOH Action Plan for Disaster Recovery authorizes implementation of duplication of benefits guidance included in 84 FR 28836.

CDBG-DR funds used directly by PRDOH or other administrative agency/department of the Government of Puerto Rico receiving assistance under the Program or other purposes are also subject to the DOB requirements of the Stafford Act. PRDOH will require certification from each Subrecipient that it does not have funds set aside for the activity in any capital improvement plan (or similar document showing planned use of funds).

To be eligible to receive CDBG-DR funds under CRP and as part of the Application process, all Applicants must confirm and provide assurance that efforts will be made to avoid a "duplication of benefits." PRDOH understands and expects that for some projects funded through CRP that other Federal forms of funding may be possible and that for each project, PRDOH will need to work with funded entities to determine and address issues surrounding DOB. As part of the Application process, Applicants will be required to

allow PRDOH to work with COR3, FEMA, SBA, USACE, and other entities to address DOB issues. Through the life of the grant, PRDOH will work with funded entities to address DOB.

PRDOH is prohibited from making a blanket determination that CDBG-DR assistance under CRP does not duplicate another category or source of assistance. PRDOH must conduct an individualized review of each project to determine that the amount of CDBG-DR assistance will not cause a DOB by exceeding the unmet needs of that Subrecipient.

DOB occurs when financial assistance is received from another source that is provided for the same purpose as the CDBG-DR funds. Other sources of funding include FEMA, SBA, local or Puerto Rico Government funding, insurance, or other funding programs. PRDOH will perform a DOB analysis for each funded project. Supplanting of effort with the use of CDBG-DR funds can also be determined as a form of DOB.

In the context of CRP, a DOB analysis must consider total assistance, which includes all sources of financial assistance available to the Subrecipient to pay a portion of the proposed public facilities improvements and/or proposed CDBG-DR-eligible public services to be provided. For example, an existing community owned by a municipal government may need to be rehabilitated. In this instance, total assistance, for a DOB analysis, would not only include any other federal assistance available to rehabilitate the facility, but it must also include any local funds that are available for this activity. The Subrecipient will also be required to document if local funds were previously designated or planned for the activity but are no longer available.

The basis for calculating CDBG-DR assistance and the purposes for which the Subrecipient can use the CDBG-DR assistance should be identified so that a DOB can be prevented.

Subrecipients will be required to provide support documentation, including award letters, decline letters and other documentation supporting the amount, sources and uses of funding received/declined to assist in the completion of the project that was provided in the recovery from the covered disaster. PRDOH may contact other funders and agencies directly to confirm the information submitted by a Subrecipient.

The basic framework for a DOB calculation is:

- Identify Subrecipient's Total Need;
- Identify Total Assistance Available (insurance, FEMA, SBA, etc.);
- Identify the "Amount of Exclude as Non-Duplicative" (Amounts used for a different purpose, or same purpose, different allowable use);
- Identify Total DOB Amount (Total Assistance Minus Non-Duplicative Exclusions);

- Calculate Maximum Award (Total Need Minus Total DOB Amount);
- Program Cap (if applicable); and
- Final Award (Program = Final Award if Maximum Award is equal to or greater than the Program Cap)

19.1 Order of Assistance

PRDOH understands and expects that for some projects funded through this Program, other **federal** forms of funding may be possible and that for each project, PRDOH will need to work with funded entities to address issues surrounding order of assistance that may arise. As part of the application process and through the life of the grant, Applicants will be required to allow PRDOH to work with COR3, FEMA, and other entities to address these issues. More detail on the order of assistance issue is discussed below.

CDBG-DR funds may not be used for activities reimbursable by or for which funds are made available by FEMA or the **USACE**. PRDOH must verify whether FEMA or **USACE** funds are available for a funded activity (i.e., the application period is open) or the costs are reimbursable by FEMA or **USACE** (i.e., the Subrecipient will receive FEMA or **USACE** assistance to reimburse the costs of the activity) before awarding CDBG-DR assistance for costs of carrying out the same project. If FEMA or **USACE** are accepting applications for the activity, PRDOH must seek assistance from those sources before the Subrecipient may receive CDBG-DR assistance. If costs for the activity will be reimbursed by FEMA or **USACE**, PRDOH cannot provide the CDBG-DR assistance for those costs. In the event that FEMA or **USACE** assistance is awarded after the CDBG-DR funding is used to pay the same costs, it is PRDOH's responsibility to recapture CDBG-DR assistance that duplicates assistance from FEMA or **USACE**.

In the instance of affordable rental housing, CDBG-DR funds will more than likely be used in a combination of other grants and loans from federal, state, local, and private sources. CDBG-DR funds may take last position in the order of repayment or forgiveness as will be noted at time of settlement in all documents to allow the project to move forward and placed in service.

19.2 Agreement to Repay

The Stafford Act requires PRDOH to ensure that Partners, Subrecipients, or Applicants agree to repay all duplicative assistance to PRDOH. To address any potential DOB, each Partner, Subrecipient, or Applicant must also enter into an agreement with PRDOH to repay any assistance later received for the same purpose for which the CDBG-DR funds were provided. This agreement can be in the form of a subrogation agreement and must be signed by every Partner, Subrecipient, or Applicant before PRDOH disburses any CDBG-DR assistance to the Partner, Subrecipient, or Applicant.

20 General Provisions

20.1 Program Guidelines Scope

This document sets forth the policy governing the Program. These program guidelines are intended to aid and provide program 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, the 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 these 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 the Program benefits in said cases.

20.2 Program Guidelines Amendments

PRDOH reserves the right to modify the policies established in these guidelines if the program guidelines, 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 for the evaluation of all situations encountered in the implementation and/or continuance of the Program from the date of its issuance, that is, the date that appears on the cover of these guidelines. Each version of the program guidelines will contain a detailed version control log that outlines any substantive amendment, inclusions and/or changes.

20.3 Disaster Impacted Areas

As described in the initial Action Plan, and its amendments, the Government of Puerto Rico will use CDBG-DR funds solely for necessary expenses related to disaster relief, long-term recovery, restoration of housing, infrastructure, and economic revitalization in the impacted and distressed areas in Puerto Rico as identified in disaster declaration numbers DR-4336 and 4339. Through the Federal Register Vol. 83, No. 157 (August 14, 2018), 83 FR 40314, HUD identified that, for Puerto Rico, all components of the Island are considered "most impacted and distressed" areas. Therefore, these guidelines apply to all 78 municipalities of Puerto Rico.

20.4 Extension of Deadlines

The Program could extend deadlines on a case-by-case basis. The Program may decline to extend a deadline if such extension will jeopardize the Program's completion schedule or the schedule of an individual construction project. The aforementioned 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 any applicable federal or state law or regulation, or to the terms of times established in these guidelines to request a Program-based Reconsideration, administrative review and/or judicial review.

20.5 Established Periods of Time

Unless otherwise specified, all established periods of time addressed in this and all CDBG-DR 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.

20.6 Written Notifications

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

20.7 Conflict of Interest

As stated in the 83 FR 5844, Federal regulations require that State grantees, in the direct Grant administration and means of carrying out eligible activities, be responsible with program administrative requirements, including those established in 24 C.F.R. §570.489(h) related to conflicts of interest.

Several federal and state conflict of interest laws can govern CDBG-DR assisted activities. Therefore, PRDOH has enacted the Conflict of Interest and Standards of Conduct **Policy (COI Policy)** in conformity with the following applicable federal and state regulations:

1. HUD conflict of interest regulations, 24 C.F.R. §570.611 and 24 C.F.R. §85.36;
2. The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. §200 at §200.112 and §200.318(c)(1);
3. Puerto Rico Department of Housing Organic Act, Act 97 of June 10, 1972, as amended;
4. The Anti-Corruption Code for the New Puerto Rico, Act 2-2018, as amended; and
5. The Puerto Rico Government Ethics Organic Act of 2011, Act 1-2012, as amended.

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 funded projects, activities and/or operations. Said Policy is intended to serve as guidance for the identification of apparent, potential or actual conflicts of interest in all CDBG-DR assisted activities and/or operations. In accordance with 24 C.F.R. § 570.489, the **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 the PRDOH, or of any designated public agencies, or of subrecipients that are receiving funds under the CDBG-DR Program may obtain a financial or personal interest or benefit that is or could be reasonably incompatible with the public interest, either for themselves, or with those whom they have business, or an organization which employs or is about to employ any of the parties indicated herein, or a member of their family unit during their tenure or for **two (2) years** after.

Such conflicts of interests will not be tolerated by PRDOH. PRDOH, Program officials, their employees, agents and/or designees are subject to state ethic laws and regulations, including, but not limited to the Puerto Rico of Government Ethics Organic Act of 2011, Act 1-2012, as amended, in regard to their conduct in the administration, granting of awards and program activities.

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

The above conflict of interest statement does not necessarily preclude PRDOH Program officials, their employees, agents and/or designees from receiving assistance from the Program. On a case by case basis, PRDOH Program officials, their employees, agents and/or designees may still be eligible to apply and to receive assistance from the Program if the Applicant meets all Program eligibility criteria as stated in this guideline. 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 Program policies are available in English and Spanish on the PRDOH website at <https://www.cdbg-dr.pr.gov/en/resources/policies/> and <https://www.cdbg-dr.pr.gov/recursos/politicas/>.

20.8 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 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 Monday through Friday from 8:00am-5:00pm
- **Via email at:** infoCDBG@vivienda.pr.gov
- **Online at:** <https://www.cdbg-dr.pr.gov/en/contact/> (English)
<https://www.cdbg-dr.pr.gov/contact/> (Spanish)
- **In writing at:** Puerto Rico CDBG-DR Program
P.O. Box 21365
San Juan, PR 00928-1365

The Citizen Participation Plan and all CDBG-DR Program policies are available in English and Spanish on the PRDOH website at <https://www.cdbg-dr.pr.gov/en/resources/policies/> and <https://www.cdbg-dr.pr.gov/recursos/politicas/>.

This Plan is also available in English and Spanish on the PRDOH website at <https://www.cdbg-dr.pr.gov/en/citizen-participation/> and <https://www.cdbg-dr.pr.gov/participacion-ciudadana/>.

20.9 Citizen Complaints

As part of addressing Puerto Rico's long-term recovery needs, citizen complaints on any issues related to the general administration of CDBG-DR funds are welcome throughout the duration of the grant. It is PRDOH's responsibility, as 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, as a CDBG grant recipient. See 24 C.F.R. § 570.486(a)(7).

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

- **Via email at:** LegalCDBG@vivienda.pr.gov
- **Online at:** <https://cdbg-dr.pr.gov/en/complaints/> (English)
<https://cdbg-dr.pr.gov/quejas/> (Spanish)
- **In writing at:** Puerto Rico CDBG-DR Program
Attn: CDBG-DR Legal Division-Complaints
P.O. Box 21365

San Juan, PR 00928-1365

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

- Via telephone*: 1-833-234-CDBG or 1-833-234-2324 (TTY: 787-522-5950)
- In-person at*: PRDOH Headquarters Office or Program-Specific Intake Centers

*Attention hours: Monday – Friday from 8:00 a.m. to 5:00 p.m.²¹

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

20.10 Anti-Fraud, Waste, Abuse or Mismanagement

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

Pursuant to 83 FR 40314, PRDOH implements adequate measures to detect and prevent fraud, waste, abuse, or mismanagement in all programs administered with CDBG-DR funds as well as encourages any individual who is aware or suspects any kind of conduct or activity that may be considered an act of fraud, waste, abuse, or mismanagement, regarding the CDBG-DR Program, to report such acts to the CDBG-DR Internal Audit Office, directly to the Office of Inspector General (**OIG**) at HUD, or any local or federal law enforcement agency.

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 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 CDGB-DR Program.

²¹ Hours may vary due to COVID-19. PRDOH recommends calling ahead prior to arrival to corroborate.

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

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 (OIG) Hotline 451 7th Street SW Washington, D.C. 20410
Email	HOTLINE@hudoig.gov
Internet	https://www.hudoig.gov/hotline

The AFWAM Policy and all CDBG-DR Program policies are available in English and Spanish on the PRDOH website at <https://www.cdbg-dr.pr.gov/en/resources/policies/> and <https://www.cdbg-dr.pr.gov/recursos/politicas/>.

20.11 Related Laws and Regulations

These guidelines make reference as to how the provisions of certain laws apply to the Program. However, other related laws may exist which are not included in these Guidelines. This does not negate or preclude the Program from applying the provisions of those laws, nor an Applicant from receiving services, when applicable. Moreover, PRDOH can enact, or may have enacted, regulations that address how the laws mentioned in these guidelines are managed. If there are any discrepancies between these guidelines and the laws and/or regulations mentioned in them, then the latter will prevail over the guidelines. If at any time the laws and/or the applicable regulations mentioned in these

guidelines are amended, the new provisions will apply to the Program without the need to amend these guidelines.

20.12 Cross-Cutting Guidelines

Some federal and local requirements apply to all programs funded by CDBG-DR. These Cross-Cutting Guidelines cover topics such as: financial management; environmental review; labor standards; acquisition; relocation; fair housing, among others. The requirements described in the above referenced Cross-Cutting Guidelines, apply to all programs described in PRDOH's CDBG-DR Initial Action Plan and its amendments.

The Cross-Cutting Guidelines and all CDBG-DR Program policies are available in English and Spanish on the PRDOH website at <https://www.cdbg-dr.pr.gov/en/resources/policies/> and <https://www.cdbg-dr.pr.gov/recursos/politicas/>.

21 Program Oversight

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

22 Severability Clause

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

END OF GUIDELINES.