



DEPARTMENT OF
HOUSING



CDBG-DR

Conflict of Interest and Standards of Conduct Policy (COI Policy)

This page was intentionally left blank.

PUERTO RICO DEPARTMENT OF HOUSING
CDBG-DR¹/MIT PROGRAMS
CONFLICT OF INTEREST AND STANDARDS OF CONDUCT POLICY
VERSION CONTROL

VERSION NUMBER	DATE REVISED	DESCRIPTION OF REVISIONS
1	November 12, 2019	Original Version
2	March 9, 2020	Minor corrections to spelling. Inclusion of several legal citations.
3	January 20 2021	Edits throughout the whole document, including formatting changes; several sections were reshuffled for ease of comprehension. Additions are marked in gray highlight for your convenience.
4	March 24, 2023	Edits throughout the document to include definitions according to applicable C.F.R. and FR. Added details in the Referrals and Exceptions sections.

¹ The term CDBG-DR refers to the Hurricanes Irma and Maria disaster recovery allocations, as well as the Earthquake disaster and Energy Grid allocations.

Table of Contents

1	Title	5
2	Legal Basis	5
3	Purpose	6
4	Scope	6
5	Definitions/Acronyms	6
6	Policy	9
7	Standards of Conduct and Conflict of Interest.....	10
7.1	Conflicts of Interest Standards for Procurement	10
7.2	PRDOH and CDBG-DR/MIT Programs Employees, Subrecipients and Consultants	11
7.3	PRDOH and CDBG-DR/MIT Programs Bidders, Vendors, and Contractors General Standards of Conduct and Conflict of Interest	17
8	Duties	19
8.1	Duty to report potential unethical actions or conflicts of interest (3 LPRA § 1857d and 24 C.F.R 570.489(h)(4))	20
	Organizational Conflicts of Interest.....	23
8.2	23	
8.3	Standards for Nominal Value Benefit.....	26
8.4	Confidential Information.....	26
8.5	Honoraria, Activities, and Expenses	27
8.6	Political Activities	27
9	Reporting and Referrals.....	28
10	Exceptions: Threshold Requirements	30
10.1	Cases involving an employee, agent, consultant, officer, or elected official or appointed official of the State.....	30
10.2	Other cases	31
11	Violations	31
12	Training and Recordkeeping	33
13	Approval.....	33

1 Title

This legal body shall be known as the “Conflict of Interest and Standards of Conduct Policy for the Puerto Rico Department of Housing (**PRDOH**) Community Development Block Grant-Disaster Recovery Program and Mitigation (**CDBG-DR²/MIT**)”.

2 Legal Basis

As stated in the Federal Register Vol. 83, No. 28 (February 9, 2018), 83 FR 5844; Federal Register Vol. 84, No. 169 (August 30, 2019), 84 FR 45838; Federal Register Vol. 86, No. 117 (June 22, 2021), 86 FR 32681; Federal Register Vol. 87, No. 23 (February 3, 2022), 87 FR 6364; Federal Register Vol. 87, No. 100 (May 24, 2022), 87 FR 31636 and subsequent Federal Register Notices for CDBG-DR or CDBG-MIT fund allocations, 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 (g) and (h) related to conflicts of interest.

In this context, it is appropriate to establish that a number of Federal and state conflict of interest laws can govern CDBG-DR/MIT assisted activities. Conflict of Interest standards set forth in this Policy are in conformity with the following applicable federal and state regulations:

1. HUD conflict of interest regulations, 24 C.F.R. § 570.489 (g) and (h), 24 C.F.R. § 570.611;
2. The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200 at §200.112, §200.317, and §200.318 (c);
3. Puerto Rico Department of Housing Organic Act, Act No. 97 of June 10, 1972, as amended, 3 LPRA § 441 *et seq.*; known as the “Department of Housing Organic Act”;
4. The Puerto Rico Government Ethics Office Organic Act, Act No. 1-2012, as amended, 3 LPRA § 1854 *et seq.*; and
5. The Anti-Corruption Code for the New Puerto Rico, Act No. 2-2018, as amended, 3 LPRA § 1881 *et seq.*

In the event of any discrepancy between the provisions of Federal and local regulations, the most stringent provision prevails. This Policy does not supersede the authority and duty to comply with the above cited laws and regulations.

² The term CDBG-DR refers to the Hurricanes Irma and María disaster recovery allocations, as well as the earthquake disaster allocations.

3 Purpose

The Policy outlines PRDOH's responsibility, in its role as grantee, to identify, evaluate, disclose, and manage apparent, potential, or actual conflicts of interest related to CDBG-DR/MIT funded projects, activities, and/or operations. Therefore, this Policy is intended to serve as guidance for the identification identifying of apparent, potential, or actual conflicts of interest in all CDBG-DR/MIT assisted activities and/or operations under the PRDOH's CDBG-DR/MIT Programs.

4 Scope

This Policy applies to all PRDOH and CDBG-DR/MIT Programs employees, officers, former employees and former officers, officials, agents, contractors, vendors, consultants, as well as to recipients' and subrecipients' affiliated to CDBG-DR/MIT funded projects, activities, and/or operations, and/or any person who participates in auction bids, submits quotes, is interested in executing contracts or agreements or seeks to receive an economic incentive through his/her relationship with PRDOH and CDBG-DR/MIT (collectively known as, "covered person").

5 Definitions/Acronyms

Agent – any person who acts on behalf of or is authorized to commit another party in a covered transaction.

Applicant – Any natural person or legal entity that submits an application to receive any type of assistance, service or benefit from any of the CDBG-DR/MIT Programs.

Appointing Authority – The person or persons whose inherent duty is to appoint, promote, compensate, or contract.

Business ties – Being a general partner or having an interest in a company, non-profit, partnership, corporation, or any type of enterprise.

CDBG-DR – Community Development Block Grant-Disaster Recovery.

CDBG-MIT – Community Development Block Grant - Mitigation.

Conflict of Interest (COI)– in general, is a situation/event/relation/knowledge in which personal or economic interest is or could be reasonably in struggle with the public interest.

Conflicts prohibited - no persons described as *persons covered*³ who exercise or have exercised any functions or responsibilities with respect to CDBG-DR/MIT activities assisted

³ See definition of Covered Person.

under 24 C.F.R. §570.489, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter⁴.

Conflict of Interest (COI Procurement) – These A COI which arise or could arise in the procurement of supplies, equipment, construction, and engineering, architectural and other professional services for PRDOH CDBG-DR/MIT Programs by the grantee, recipients and/or subrecipients.

Consultant – Any person and/or organization who advises and/or performs professional services as may be necessary to the planning, implementation, and execution of the CDBG-DR/MIT Programs. As well as any contractor who renders services equivalent to a regular office or position.

Contract – For purposes of this Policy, the term is used to refer to Contracts, Service Agreements, Memorandums of Understanding, Subrecipient Agreements, Grant Agreements, Loan Agreements, or Purchase Orders properly executed with the PRDOH CDBG-DR/MIT Programs.

Contractor – A Vendor, Supplier, Bidder, Proposer or Consultant, as applicable, who is awarded and executes a contract with the procuring entity.

Confidential Document or Information – a document or information which is defined as confidential by law; ~~that which~~ is protected under any of the privileges of Evidence Law; ~~that which~~, if disclosed, could harm the fundamental rights of third parties or the right to privacy and the private life of public servants; the disclosure of which could constitute a violation of the executive privilege; when the document or information is part of a deliberation process when drafting public policy and, if disclosed, may endanger the life or bodily integrity of a public servant or another person, the security of the Island or may impair any business transactions or official efforts of the State in progress when requesting such information. This term includes reports, memoranda, or any written document drafted by a public servant in discharging the duties of his/her office or job for his/her superior or in connection with internal decisions and actions of PRDOH.

Covered persons - The conflict prohibited provisions defined in this Policy, apply to any person who is an employee, agent, consultant, officer, or elected official or appointed

⁴ 24 C.F.R. §570.489 (h)(2).

official of the State, PRDOH, or of any designated public agencies, or subrecipients which are receiving CDBG- DR/MIT funds.

Covered transaction - Procurement transactions including procurement of supplies, equipment, construction, and services by PRDOH, Municipalities, and/or subrecipients. It also means non-procurement transactions which may include the acquisition and disposition of real property and the provision of assistance with CDBG-DR/MIT funds by PRDOH and/or its subrecipients, to individuals, businesses, and other private entities.

Decision maker— Person who exercises or has exercised any responsibility or is in a position to influence the decision-making process with respect to PRDOH or activities assisted with CDBG-DR Program funds.

Employee – A public servant or person who holds a position or is employed in PRDOH CDBG-DR/MIT Programs and does not partake in the sovereignty of the State, including regular or irregular public employees, those who render services equivalent to a regular office or position, those with provisional appointments, and those in a probationary period.

Executive agencies – Entities of the Executive Branch of the Government of Puerto Rico, including public corporations, departments, agencies, offices, municipalities, and other instrumentalities.

Family unit – Includes the spouse of the public servant or former public servant, his dependent children, family members within the fourth (4th) degree of consanguinity or within the second (2nd) degree of affinity who are not dependents of or reside with the public servant or former public servant, or those persons who share the legal residence of the public servant or former public servant, or whose financial affairs are under the *de jure* or *de facto* control of the public servant or former public servant.

Former public servant – Person who has worked as a public servant in PRDOH and CDBG-DR/MIT Programs and/or any of its related agencies, including subrecipient's public agencies, public corporations, or public instrumentalities.

Gifts – Payment or enrichment without equivalent retribution or of lesser value. Includes, but is not limited to, money, goods or any other object, favorable economic opportunities, tips, concessions, benefits, discounts, privileges, or special considerations.

Honoraria – Plural for of honorarium. A payment for a service (such as making a speech or an appearance) on which custom or propriety forbids a price to be set.

HUD – United States Department of Housing and Urban Development.

Legal entity – Includes corporations, professional corporations, companies, special corporations, cooperatives, and any entity defined as such in any applicable law, de facto partnerships, societies or corporations, including those that constitute for these purposes an alter ego of the legal entities, affiliates or subsidiaries thereof.

Natural person – Any person defined as such in any applicable law, including the Puerto Rico Civil Code and including but not limited to, any president, vice-president, director, executive director, or to any member of a Board of Officers or a Board of Directors, or any person who performs similar duties.

Official Action - Action related to the functions and duties of a public servant or within the scope of the authority delegated to the agency, such as rendering advisory services, conducting investigations, filing charges, auditing, adjudicating, and rulemaking on specific areas. It also includes any procedure related to orders, authorizations, exemptions, resolutions, contracts, granting of permits, franchises, accreditations, privileges, and licenses.

Organizational conflicts of interest – Situation where because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

Program participant/applicant – Any person or legal entity that has been determined to be eligible under any CDBG-DR/MIT Programs eligibility requirements and has been awarded assistance.

Public servant – public officers and employees of the PRDOH and/or any related agencies, including subrecipients, who exercise or have exercised any responsibility to influence the decision-making process concerning activities assisted with CDBG-DR/MIT Programs funds, regardless of their interim or permanent position, with or without payment.

PRDOH – Puerto Rico Department of Housing.

Subrecipient – An entity, usually but not limited to non-Federal entities, who receives a sub award from a pass-through entity to carry out part of a Federal award.

Vendor – A person or organization that provides goods and/or services by means of a contract or purchase order.

6 Policy

PRDOH, as grantee of the CDBG-DR/MIT Programs, will not tolerate conflicts of interest. Therefore, PRDOH set forth through this Policy a clear prohibition of COI. Hence, conflicts

of interest must be avoided and when they arise, should be immediately identified, and attended to.

Specific sets of conflict-of-interest rules exist for the Procurement of supplies, equipment, construction, and services⁵ and others for non-procurement, sub-granting/program delivery activities. Hence, this Policy will cover the standards of ethics related to conflicts of interest for both types of conflict-of-interest rules.

As well, this Policy constitutes PRDOH's written standards of conduct covering conflicts of interest and governing actions of CDBG-DR/MIT public servants, employees, officers and/or designees engaged in the selection, award, and administration of all CDBG-DR/MIT related contracts. In addition, it asserts the standards and duties of all covered person.

The possibility of a conflict of interest arising is not limited to PRDOH. CDBG-DR/MIT programs have an exhaustive scope and reach affecting that affect different communities and government agencies. As these programs are developed and evolve, its reach broadens as different partners join the efforts. This disclosure process is and must be an ongoing and constant activity and obligation for everyone who participates in any capacity as PRDOH and CDBG-DR/MIT Programs continually evolve. and numerous partners are added.

7 Standards of Conduct and Conflict of Interest

7.1 Conflicts of Interest Standards for Procurement

These standards of conduct contained herein are applicable to every procurement action under the PRDOH CDBG-DR/MIT Programs and activities, whether funded in whole or in part with CDBG-DR/MIT funds. Such cases include the acquisition and disposition of real property and the provision of assistance with CDBG-DR/MIT funds by a subrecipient, to individuals, businesses and other private entities.

When procuring property and services under CDBG-DR/MIT grants, the procuring entities, including subrecipients, shall follow the Policy.

No PRDOH and CDBG-DR/MIT Programs employee, officer, or agent (including Subrecipients) may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her family unit, his or her partner, or an organization which employs or is

⁵ See Conflict of Interest and Ethics in Public Contracting section in the Procurement Manual for the CDBG-DR Program: https://cdbg-dr.pr.gov/en/download/procurement-manual-cdbg-dr-program/?ind=1608211695903&filename=Procurement_Manual_for_the_CDBG-DR_Program_2020_0804.pdf&wpdmdl=11568&refresh=639cb159234421671213401.

about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. In the case that any of the aforementioned relationships, he/she shall not intervene, either directly or indirectly, in any matter related to them until **two (2) years** have elapsed after his/her appointment.

PRDOH and CDBG-DR/MIT Programs **employee, officer, or agent** (including Subrecipients) may neither, directly, or indirectly, solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.

~~The above enumerated standards, 7.1.1 y 7.1.2,~~ The standards apply to **members of Technical and Evaluation Committees** of Procurement and Notice of Funding Availability (NOFA) processes.

Every person who, in their relationship with PRDOH and/or CDBG-DR/MIT Programs, participates in public bids, submits quotations, wishes to enter into contracts with them, or seeks to receive any economic incentive, will be required to disclose all the information needed for the executive agencies to evaluate in detail any transactions or applications submitted thereto, and make correct and informed determinations. 3 L.P.R.A. § 1883a (b). ~~This~~ Also, includes participation in situations in for which organizational conflicts of interest may arise.

7.2 PRDOH and CDBG-DR/MIT Programs Employees, Subrecipients and Consultants

PRDOH, specifically the CDBG-DR/MIT Programs, prohibits employees, former employees, or individuals who have functions or responsibilities with respect to activities assisted with CDBG-DR/MIT funds, as defined herein, or are in a position to participate in a decision-making process, or gain inside information with regard to these activities, from obtaining a financial interest or benefit from a CDBG-DR/MIT assisted activity or have a financial interest in any contract, subcontract, or agreement with respect to CDBG-DR/MIT assisted activity, or with respects to the proceeds of the CDBG-DR/MIT assisted activity, have a financial interest, either for themselves, their family unit, or those with whom they have business ties.

~~It is~~ By PRDOH's policy, ~~that~~ no employees, former employees, subrecipients, or consultants, as defined herein in this policy, should:

- Have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity that presents a conflict with the proper performance of their duties in the public interest;
- Use or attempt to use their official position to secure privileges or advantages for themselves or others; or

- Act in their official capacity in any matter in which they have a direct or indirect personal financial interest that might reasonably ~~be expected to~~ impair their objectivity or independence of judgement.

PRDOH recognizes ~~that this~~ policy extends to and requires the same standards of conduct and duty to disclose, applicable to employees, from ~~any covered persons consultants who render services equivalent to a regular office or position.~~ CDBG-DR/MIT Programs ~~covered persons consultants,~~ as defined herein, have the same duty as other employees, staff, officers, and agents of PRDOH to administer CDBG-DR/MIT programs in an honest, responsible, and competent manner, applying their best skills and judgement, and exercising the utmost good faith and care.

~~Consultants~~ Covered persons shall voluntarily disclose all familial and personal relationships with PRDOH and CDBG-DR/MIT Programs employees, subrecipients, contractors, and/or applicants in order ~~for PRDOH~~ to evaluate any potential conflict-of-interest that may or could influence the decision-making process. These cases ~~are to~~ ~~must~~ be referred ~~in writing~~ to the PRDOH CDBG-DR/MIT Legal Division for ~~further proceedings in writing~~ evaluation and recommendation. See Duties Section for guidance on how to disclose.

As per the Puerto Rico Government Ethics Office Organic Act, Act No. 1-2012, as amended, Articles 4.2 to 4.6 (3 LPRA § 1857a – e) are made an integral part of this. The following general standards of conduct and conflict of interest are applicable to every public servant, former servant, and ~~consultants~~ covered persons in every PRDOH's CDBG-DR/MIT Programs activity:

- a. No public servant shall solicit any benefit for his/her agency, whether directly or indirectly, from a private person, business or public entity regulated or contracted by the former or carry out actions conducive to obtaining a contract. A public servant may only accept a benefit for the agency from a private person, business or public entity that is neither regulated nor contracted by the former, or that does not carry out actions leading to obtaining a contract, provided that he/she complies with the regulations adopted for such purposes.
- b. No public servant shall exploit the duties and powers of his/her office or public property or funds to obtain ~~any benefit not permitted directly or indirectly~~ by law for him/herself or a private person or business.
- c. No public servant shall accept or solicit from a private person or business, whether directly or indirectly, a benefit as a compensation for carrying out, expediting, delaying, or not discharging the duties and responsibilities of his/her office.
- d. No public servant shall accept or solicit from a private person or business, whether directly or indirectly, benefits for him/herself or a person, business, or entity in

exchange for carrying out actions that are biased to favor him/her or another private person or business.

- e. No public servant shall ensure that he/she may or purport to have influence over another public servant in carrying out his/her functions, in exchange for obtaining or attempting to obtain a benefit.
- f. No public servant shall reveal or use confidential information or documents obtained as a result of his/her employment to obtain, directly or indirectly, any benefit for him/herself or any other private person or business.
- g. No public servant shall intervene, either directly or indirectly in any matter in which he/she has a conflict of interests that may result in his/her benefit. No public servant shall intervene, directly or indirectly, in any matter in which any member of his/her family unit, relative, partner or housemate has a conflict of interest that may result in benefit for any of the abovementioned.

In the case that any of the abovementioned relationships has ended during the **two (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 his/her appointment.

This prohibition shall remain in effect insofar the beneficial ties with the public servant exist. Once the beneficial ties end, the public servant shall not intervene, either directly or indirectly, in such matter until **two (2) years** have elapsed.

- h. Neither the appointing authority nor the public servant with influence on the appointing authority shall intervene, either directly or indirectly, in the appointment, promotion, compensation or contracting of his/her relative. It shall be understood that a public servant has the power to decide or exert influence when a law, regulation, description of duties or designation so provides. This prohibition shall not apply when, in the discretion of the Executive Director of the Government Ethics Office, there are special circumstances that have been taken into account before the appointing authority or the public servant with influence exercise his/her power.

This shall not apply to a career position when the merit principle is met; advancements or personnel-related transactions required by law; general revisions of a classification plan; Section 8 benefits received; public bids in which all the requirements set forth in **law** concur; participation in summer programs; the obtainment of services, loans, sureties, or incentives granted under the terms of a State, Federal or Municipal program. Provided, that under the abovementioned exceptions, general applicable rules are complied with and the appointing authority or the public servant with authority to decide or exert influence does not intervene and so certifies through a formal **inhibition** statement.

- i. No public servant shall use, on any real or personal property of the Government, any symbol, slogan, image, picture, pin, logo, sticker, label, sign, insignia, technological application, written message, or any other paraphernalia that may

identify or promote directly or indirectly the electoral interests of any political party or candidate.

- j. No public servant shall, while carrying out the duties of his/her office, wear or use on his/her person, in his/her property or in any other property under his/her care, any symbol, slogan, image, picture, pin, logo, sticker, label, sign, insignia, technological application, written message or any other paraphernalia that may identify or promote directly or indirectly the electoral interests of any political party or candidate.
- k. No public servant shall, while carrying out the duties of his/her office, lead or promote activities that directly or indirectly promote the electoral interests of any political party or candidate.
- l. No public servant shall, while carrying out the duties of his/her office, make monetary contributions or use his/her time to carry out or participate in a political activity.
- m. No public servant shall, while carrying out the duties of his/her office, demand or request other public servants to make monetary contributions or devote his/her time to carry out or participate in a political activity.
- n. No public servant shall solicit or accept him/herself or through a private person or business any benefit from a contractor or an agency regulated by his/her agency for a political activity.
- o. No public servant shall usurp an office or task to which he/she has not been appointed or designated nor **exercise** the same without being duly qualified to do so.
- p. No public servant shall persist in obstinately **exercise** the duties of his/her office or tasks entrusted to him/her, once his/her term has concluded or after having received an official communication ordering the termination or suspension of his/her duties.
- q. No public servant shall alter, destroy, mutilate, remove, or conceal, in whole or in part, public property under his/her custody.
- r. No public servant, authorized by law to issue certifications and other documents, shall knowingly issue a certification or document containing false statements.
- s. No public servant shall fail to comply with any of his/her duties as provided by law or regulations if such action shall result in the loss of public funds or cause damages to public property.
- t. No public servant shall carry out any action that may call the impartiality and integrity of the government endeavor into question.
- u. No public servant shall accept or keep a job or contractual or business relations or responsibilities in addition to those of his/her public office or employment, whether it is in the Government or in the private sector, which, although legally permitted, may have the effect of impairing his/her freedom of judgment in the performance of his/her official functions.

- v. No public servant shall accept or keep a job or contractual relations from which he/she obtains undue advantage with a private person or business that is regulated by or has contractual, business, or financial relations with the government agency for which he/she works, when the public servant is empowered to decide or influence the official actions of the agency with regard to such private person or business.
- w. No public servant who is authorized to contract or approve or recommend the execution of a contract in the name of the agency for which he/she works shall intervene or participate in the execution of a contract with a private person or business in which he/she, or any member of his/her family unit, relative, partner or housemate, has or has had directly or indirectly a monetary interest during the last **two (2) years** before his/her appointment.

In the event that any of the abovementioned relationships has concluded during the **two (2) years** preceding the appointment of the public servant, the latter shall not intervene or participate in the execution of a contract until **two (2) years** have elapsed since his/her appointment. This prohibition shall continue in effect while the beneficial ties with the public servant last. Once the beneficial ties end, the public servant shall not intervene or participate in the abovementioned contract until **two (2) years** have elapsed.

- x. The appointing authority shall not execute a contract in which a public servant of the agency or member of his/her family unit, relative, partner or housemate has or has had a direct or indirect monetary interest during the last **two (2) years** preceding his/her appointment. This prohibition shall not apply when, in the discretion of the Executive Director of the Government Ethics Office, there are special circumstances that have been taken into account before the appointing authority contracts with the public servant or a member of his/her family unit, relative, partner, or housemate.

This shall not apply to the receipt of benefits under the Section 8 program; contracts executed with the Department of the Treasury to operate electronic lottery terminals; contracts executed for the acquisition of rights over intellectual property such as literary, artistic works or inventions; public bids in which all the requirements set forth by law concur; participation in summer programs; the obtainment of services, loans, sureties or incentives granted under the terms of a State, Federal or Municipal program. Provided, that under the abovementioned exceptions, general applicable rules regarding eligibility shall be observed.

- y. No public servant shall approve or authorize a contract with a private person or business knowing that such person or business is representing cases or matters, which involve a conflict of interests between the contracting agency and the personal interests, said private person or business is representing. To such effects, a contractual clause shall be included in which such private person or business certifies that it is not involved in a conflict of interest.

- z. No public servant shall represent any private person or business, either directly or indirectly, with respect to an official action, if he/she, a member of his/her family unit, relative, partner or housemate has participated, shall participate, or will probably participate in the disposition of said official matter. This prohibition shall not apply when the participation of the public servant is required by law.
- aa. No public servant shall represent any private person or business before an agency with regard to any official action in which the appointing authority is his/her relative, member of his/her family unit, partner, or housemate.
- bb. No public servant shall, in his/her private capacity, represent or counsel, either directly or indirectly, a private person or business before any agency, in cases or matters involving a conflict of interests or public policy between the Government and the interests of such a private person or business.
- cc. No full-time public servant shall, during working hours, represent, advise, or serve as an expert for a private person or business in trials, public hearings or in any other case or matter before a court of justice, quasi-judicial body, or an agency.
- dd. No former public servant shall provide information, intervene, cooperate, advise in any way, or represent in any capacity, either directly or indirectly, a private person, business, or public entity, in official actions or matters in which he/she intervened while working as a public servant.
- ee. No former public servant shall, during the **two (2) years** following the date of termination of his/her employment with the government, provide information, intervene, cooperate, advise in any way, or represent directly or indirectly a private person, business, or public entity before the agency for which he/she worked.
- ff. No former public servant shall, during the year following the date of termination of his/her employment with the government, hold an office, have monetary interest, or contract, directly or indirectly, with an agency, private person, or business, over which he/she has taken an official action during the year preceding the termination of his/her employment. Intergovernmental contracts shall be excluded from this prohibition. Municipal governments shall also be excluded from the scope of this rule; therefore, a municipal government may hire, on a part-time basis, former public servants retired from said municipality; provided, that they have ceased their functions upon retirement by reason of age or years of service, without being subject to the terms provided by law.

This prohibition shall not apply to former public servants who wish to return to the nongovernmental sector; provided, that his official actions have not favored the entity where he intends to hold office, in which he has a monetary interest or with which he contracts. In order for this exception to be valid, the Executive Director of the Government Ethics Office shall evaluate the situation before the former public servant takes office, holds monetary interest, or executes the contract.

gg. The appointing authority shall not enter into a professional service contract for the benefit of a former public servant of his/her agency, until **two (2) years** have elapsed since the date of termination of his/her employment.

This prohibition shall not apply to *ad honorem* professional service contracts. It shall neither apply when, at the discretion of the Executive Director Government Ethics Office, there are special circumstances that have been evaluated before executing such contract. Furthermore, this prohibition shall not affect municipal governments, which are excluded from the scope of this rule; therefore, a municipal government may hire former public servants retired from said municipality, at any time; provided, that such employees are hired on a part-time basis and have ceased their functions upon retirement by reason of age or years of service, without being subject to the terms provided by law.

hh. If there are special circumstances and the Executive Director of the Government Ethics Office authorizes the contracting of a former public servant within **two (2) years** following the date of termination of his/her employment, the professional service contract shall not establish compensation higher than that earned for carrying out the same duties when he/she was a public servant.

ii. No former public servant may use confidential or privileged information obtained while discharging the duties of his/her office for his/her own enrichment or the enrichment of a third party. It shall be understood ~~that~~ there is or has been enrichment not only when wealth has increased with money or property, but also when the liabilities affecting the person have been cancelled or extinguished.

7.3 PRDOH and CDBG-DR/MIT Programs Bidders, Vendors, and Contractors General Standards of Conduct and Conflict of Interest

As per Article 3.2 of the Anti-Corruption Code for the New Puerto Rico, Act No. 2-2018, as amended, regarding Obligations and Ethical Responsibilities (3 LPRR § 1883a), this Policy requires ~~that~~ every person who participates in any public bids, requests for quotations, or any other procurement method, regarding CDBG-DR/MIT Programs, wishes to enter into contracts with the PRDOH, and/or CDBG-DR/MIT Programs shall follow the following standards and prohibitions:

- a. Every person who, in their relationship with PRDOH and/or CDBG-DR/MIT Programs, participates in public bids, submits quotations, wishes to enter into contracts ~~with them~~, or seeks to receive any economic incentive, will be required to disclose all the information needed for PRDOH to evaluate in detail any transactions or applications submitted thereto, and make correct and informed determinations. 3 LPRR § 1883a (b).
- b. No person shall offer or deliver to any current or former PRDOH or CDBG-DR/MIT Programs ~~public~~, current or former public servant, or members of their family units, with whom they wish to establish, or have established, a contractual, commercial or financial relationship, directly or indirectly, any gifts, goods of monetary value,

contributions, gratuities, favors, services, donations, loans, or participation in any commercial entity or legal business. In the cases that refer to a former public servant, the preceding prohibition shall be extended to **one (1) year** from the date he/she ceased his duties in the executive agency. This obligation shall cover the period preceding and following the execution of the contract, business, or transaction, as well as during the term thereof. 3 LPRA § 1883a (f).

- c. Every person shall collaborate with any investigation initiated by the government on business transactions, execution of contracts, or granting of government incentives to which he/she was a party or from which he/she benefited directly or indirectly. 3 LPRA § 1883a (g).
- d. No person shall be involved in matters that could give rise to a conflict of interest or the appearance of a conflict of interest. 3 LPRA § 1883a (h).
- e. Every person has the obligation to report any acts that violate the provisions of this Standards of Conduct or prohibitions, that constitute acts of corruption, or that have the elements of fraud, bribery, embezzlement or misappropriation of funds, and of which such person has personal knowledge, concerning a contract, business, or transaction between the government, and a contractor, goods and services provider or recipients of economic incentives.
- f. No person may establish negotiations with the Secretary of the PRDOH, Heads of Agencies, Municipal Executives, or Executive Directors of Public Corporations, leading to the granting of undue advantage, privileges, or favors for their benefit, or the benefit of any other person, represented by them. Nor shall the services of third parties be required for the aforementioned purposes. 3 LPRA § 1883a (j).
- g. No person shall use confidential information acquired in the course or as result of any task entrusted thereto under a contract by the Government of Puerto Rico, for purposes other than the contracted task, or to obtain, directly or indirectly, any financial advantage or benefit for himself, a member of his family unit, or any other person, business, or entity. 3 LPRA § 1883a (k).
- h. No person shall request or obtain confidential information from a current or former public servant to obtain, directly or indirectly, any financial advantage or benefit for himself, or for any other natural or juridical person; nor for purposes other than those of the contracted task. 3 LPRA § 1883a (l).
- i. No person shall accept or maintain contractual or business relations with a public servant or a member of his family unit that has the effect of impairing the independent judgment of the public official or servant in the performance of his official duties. All persons are banned by the Anticorruption Code from accepting or maintaining contractual or business relations with a former public servant within a term of **one (1) year** from the time such former public servant ceased to hold office, if in the performance of his government duties, said former public servant directly participated in transactions between the executive agencies and the person. 3 LPRA § 1883a (m).

- j. No person shall enter into contracts with executive agencies if there is any conflict of interests. Every person shall certify that he does not represent private interests in cases or matters that involve conflicts of interest, or of public policy, between the executive agency and the private interests he/she represents. 3 LPRa § 1883a (n).
- k. No person shall directly or indirectly request a public official, servant, or employee to represent his private interests, make efforts, or exert influence to obtain a contract, the payment of a claim, a permit, license, or authorization, or in any other matter, transaction, or proposal in which said person or his/her family unit has private interests, even when it concerns official actions of the public official, servant, or employee within the scope of his/her official authority. 3 LPRa § 1883a (o).
- l. No person shall induce a public servant or former public servant to violate the provisions of the ~~Anticorruption Act~~ Act No. 2-2018. 3 LPRa § 1883a (p).
- m. Regarding contracts, the ~~Anticorruption Code~~ Act No. 2-2018 applies to a person who, in his/her relationship with the PRDOH, participates in public bids, submits quotations, wishes to enter into contracts with them, or seeks to receive any economic incentive.
- n. A pledge to abide by the provisions of ~~this Code of Ethics~~ Act No. 2-2018 shall be an indispensable requirement for every person contracting with the Government. Such fact shall be stated in every contract between the executive agencies and contractors or suppliers of services, and in every application for economic incentives granted by the Government.
- o. In addition, any natural or juridical person who wishes to participate in the award of bids or in the award of any contract with PRDOH or any government agency or instrumentality, public corporation, municipality, or the Legislative or the Judicial Branch, to provide services or for the sale or delivery of goods, shall file an affidavit sworn before a notary public stating whether the natural or juridical person or any chair, vice chair, director, executive director, or member of a board of officers or board of directors, or persons discharging similar duties for the juridical person have been convicted of, or plead guilty to, any of the offenses listed in Section 6.8 of Act No. 8-2017, as amended, known as the "Government of Puerto Rico Human Resources Administration and Transformation Act," or any offenses listed in ~~this Code~~ Act No. 2-2018. 3 LPRa § 1883b.

8 Duties

All ~~person~~ covered ~~persons~~ by this policy shall fully disclose any real or potential conflicts of interest. Every person has the obligation to report any act that violates the provisions of this Policy and Standards of Conduct. All persons shall collaborate with any investigation initiated by the PRDOH CDBG-DR/MIT Programs related to conflicts of interest.

8.1 Duty to report potential unethical actions or conflicts of interest (3 LPA § 1857d and 24 C.F.R 570.489(h)(4))

Any public servant employee, agent, consultant, officer, or elected official, or appointed official of PRDOH, who must take any official action that is contrary to the prohibitions established by the aforementioned COI standards shall report it to the PRDOH CDBG-DR/MIT Legal Division for in order to assessing the necessity ask to submit for **a waiver to the Government Ethics Office and request HUD COI exception approval before taking such action.** In his/her written statement, the public servant employee, agent, consultant, officer, or elected official, or appointed official of PRDOH may request a release to be relieved from intervening in the matter or participating in the agency's deliberations related to the official matter.

The public servant employee, agent, consultant, officer, or elected official, or appointed official of PRDOH shall deliver a copy of the statement filed with the Government Ethics Office to the appointing authority.

Once the situation is assessed, the Government Ethics Office shall notify the public servant petitioner and the appointing authority that there are no conflicts of interest, or should there be if they do exist, that the option to disqualify inhibit himself/herself is available.

Concurrently, the employee, agent, consultant, officer, or elected official, or appointed official of PRDOH, shall submit a written request to PRDOH Legal Division, using the applicable Conflict of Interest Disclosure Form. PRDOH will evaluate the petition and issue a report with the investigation and determination. If the query returns with results of the existence of a COI and a determination of Standard of Conducts violation, PRDOH may provide recommendations to properly manage the COI or in light of the scenario presented a recommendation with a consideration for an exception.⁶ As per 24 C.F.R. 570.489(h)(4), for the exception process, PRDOH shall fully document its determination in compliance with applicable regulation, including PRDOH's position with respect to the factors considered for exceptions⁷ and present it to HUD. HUD on case-by-case basis, may grant exceptions to COI provisions.

8.1.1 PRDOH and CDBG-DR/MIT Programs Employees, Former Employees, and Consultants

All team members, employees, and other parties participating in the determination of eligibility and/or the distribution of funds, are expected to practice good judgment when presented with a situation which may involve a potential or actual conflict. All CDBG-DR/MIT Programs staff, including procurement and non-procurement related employees

⁶ Please refer to Exceptions section of this policy.

⁷ 24 C.F.R. 570.489(h)(5).

and subrecipient employees, are required to make a full disclosure of any interests, relationships, and/or holdings, which could potentially result in a conflict of interest.

It is the public servants' and subrecipients' responsibility to be fully informed and continuously partake in the full disclosure process. Public servants and subrecipients, and their employees, must evaluate their functions and responsibilities and how they are or may be in position to influence the decision-making process, gain insider information, or benefit from CDBG-DR/MIT assisted activities, contracts or agreements, be it for themselves, a member of their family unit, or with whom they have business ties.

PRDOH and CDBG-DR/MIT Programs employees shall disclose to their direct supervisor and Division Director, the nature and extent of any personal or financial interest in any CDBG-DR/MIT, as applicable, related contract, agreement, purchase of good or services or project. To learn more about the steps to disclose a real or potential conflict of interest, see the section on Reporting and Referrals.

When a real or potential conflict of interest exists, the individual with the conflict should advise the PRDOH CDBG-DR/MIT Legal Director in writing, through an Employee Conflict of Interest Disclosure Form, and seek guidance on how to resolve the conflict.

These forms shall be sent to the PRDOH CDBG-DR Legal Director:

- Via email: legalCDBG@vivienda.pr.gov
- In person: Barbosa Ave. #606, San Juan, P.R.
- Via mail: Puerto Rico CDBG-DR/MIT Programs
PO Box 21365
San Juan, PR 00928-1365

8.1.2 CDBG-DR/MIT Programs Applicant and Participants

A conflict of interest exists or may exist for an applicant or program participant when the person applying for CDBG-DR/MIT Programs assistance, a member of their family unit or someone with whom they have business ties, are employed by PRDOH in the CDBG-DR/MIT Programs, in a position in which they exercise, have any functions or responsibilities with respect to the CDBG-DR/MIT Programs, are in a position to participate in or influence the decision-making process, gain inside information, or may have financial gain through federally-funded grants, contracts, or subcontracts regarding the CDBG-DR/MIT Programs.

PRDOH requires individuals who apply for assistance under CDBG-DR/MIT Programs to disclose personal relationships that could give rise to an actual conflict of interest or the appearance of a conflict of interest. Program applicants and participants are subject to the full disclosure obligation.

To ensure compliance with the full disclosure obligation that program applicants and participants have, PRDOH has created a Conflict of Interest Disclosure Form with the purpose of promptly detecting any conflict of interest that may exist. The information captured in the Conflict-of-Interest Disclosure Form will assist in the determination of whether restrictions, oversight, or other conditions might be necessary prior to the applicant's receipt of assistance under the Program. These forms have to be completed as part of each program's application process and evaluated by Program personnel/staff.

8.1.3 Contractors, Bidders, and Applicants

By signing a contract with PRDOH, the contractor agrees that if after award they discover an organizational conflict of interest or potential conflict of interest of any kind with respect to the contract, it shall make within the next **seventy-two (72) hours** an immediate and full disclosure in writing to the PRDOH Contract Division and Program/User Area or their designee. Said disclosure shall include a description of the action, which the contractor has taken or intends to take to eliminate or neutralize the conflict. The contractor shall disclose the details of any existing or future contract to provide services to third parties participating or for the purpose to participate in disaster recovery programs or projects in Puerto Rico. The PRDOH may, however, suspend or terminate the agreement for the convenience of PRDOH if it would be in its best interest.

Bidders and proponents of the CDBG-DR/MIT Programs are required to complete and submit the Non-Conflict of Interest Certification, Non-Conflict of Interest Certification on Existing or Pending Contracts and the Contractor Conflict of Interest Disclosure Form. Additionally, program applicants, either individuals or corporations, must complete the Applicant/Participant Conflict of Interest Disclosure Form.

The purpose of these forms is to determine and identify if a conflict of interest exists or may exist, or if it is apparent or potential, at a very early stage of the process. The information will assist in determining if the restrictions, supervision, or other conditions are to be added to the contract or contracted task (existing or future) under the CDBG-DR/MIT Programs. Communications regarding conflicts of interest shall be referred to PRDOH CDBG-DR/MIT Legal Division.

These forms shall be sent to the PRDOH CDBG-DR/MIT Legal Division Director:

- Via email: legalCDBG@vivienda.pr.gov
- Via mail: Puerto Rico Department of Housing
Attn: CDBG-DR/MIT Programs Legal Division
PO Box 21365
San Juan, PR 00928-1365

8.1.4 Subrecipients of the CDBG-DR/MIT Programs

Subrecipients must comply with the provisions mentioned in the Legal Basis section of this Policy, including 24 C.F.R. §570.489 and §570.611, 2 C.F.R. Part 200 at §200.112, §200.317, and §200.318; Act No. 1-2012 and Act No. 2-2018; and Regulation Number 9205, which include, but are not limited to:

- a. Follow this Policy for the administration of the Federal funds provided by PRDOH. No employee, officer or agent of the Subrecipient shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.
- b. No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-DR/MIT assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-DR/MIT assisted activity, or with respect to the proceeds from the CDBG-DR/MIT assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of **two (2) year** thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the Grantee, the Subrecipient, or any designated public agency.

To ensure compliance with the full disclosure obligation that Subrecipients have, PRDOH has created a Conflict of Interest Certification for Subrecipients. This certification serves with the purpose of capturing identifying assisting in the determination of whether restrictions, oversight, or other conditions might be necessary prior to the subrecipient's implementation of the program.

8.2 Organizational Conflicts of Interest

According to 2 C.F.R. § 200.318(c)(2), if a non-Federal entity has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

Also, procurement regulations require that local governments and subrecipients maintain written standards of conduct covering conflict of interest and governing the performance of its employees engaged in the selection, award, and administration of contracts. 2 C.F.R. § 200.319.

An organizational conflict of interest exists in a situation in which the nature of work under a contract and the contractor's organizational, financial, contractual, or other interests are such that:

- i. Award of the contract may result in an unfair competitive advantage; or
- ii. The contractor's objectivity in performing the contract work may be impaired.

8.2.1 Contractors, Proponents and Subrecipients

In the event a contractor, bidder, or proponent of the CDBG-DR/MIT Programs have an organizational conflict of interest as defined herein, he or she shall disclose such conflict of interest fully in the submission of the proposal and/or as soon as they are aware of a potential conflict of interest during the life of the contract. They are required to complete and submit the Non-Conflict of Interest Certification and Non-Conflict of Interest Certification on Existing or Pending Contracts.

It is PRDOH's policy that all potential proponents of the CDBG-DR/MIT Programs comply with the following:

- i. Prior to submitting a proposal, each potential proponent shall conduct an internal review of its current affiliations and shall require its team members to identify real or potential conflicts of interest or undue advantages relative to the anticipated procurement. Potential proponents are notified that prior and existing contractual obligations between a company and a federal or state agency relative to the proposed procurement may present a conflict of interest or an undue advantage.
- ii. If a potential proponent identified a real, potential or perceived conflict of interest or undue advantage, it shall submit in writing the pertinent information to the PRDOH CDBG-DR/MIT Legal Division Director so that a determination can be made as to the extent of the conflict or undue advantage.
- iii. The PRDOH CDBG-DR/MIT Legal Division Director will review potential or perceived conflicts of interest and undue advantages related to each procurement process promoted by the CDBG/DR/MIT Programs.
- iv. PRDOH, in its sole discretion, will make the final determination relative to a real, potential or perceived conflicts of interest or undue advantage, and its ability to neutralize or mitigate such a conflict or undue advantage. If PRDOH determines that mitigation and/or neutralization is not possible, the organization determined to have the conflict of interest or undue advantage will not be able to participate as a team member for proposals in response to a solicitation of proposal by PRDOH for the project in question. Failure to abide by the PRDOH's determination in this matter may result in a proposal being declared nonresponsive and disqualified pursuant to this Policy.

PRDOH considers that an undue advantage may arise when an employee of, or advisor to, a potential proponent has information about the CDBG-DR/MIT Programs, a project

or a Subrecipient that is not generally available to all other potential proponents, and that such information may be material to an outcome related to the solicitation. An undue advantage may also arise if an advisor to, or employee of, a potential proponent is in a position to influence the outcome of the competition (other than within the competitive process) through a relationship with the PRDOH or a Subrecipient.

The participation of the following entities as a part of a proponent's team in a procurement process may result in a conflict of interest or unfair advantage and should be disclosed to PRDOH. This list is not exhaustive:

- i. An entity or individual hired by PRDOH or the CDBG-DR/MIT Programs to provide assistance in development of instructions to potential proponents or evaluation criteria for a specific process.
- ii. An entity or individual hired by PRDOH or the CDBG-DR/MIT Programs to provide assistance in development of instructions to potential proponents or evaluation criteria as part of the programmatic guidance or procurement documents for the CDBG-DR/MIT Programs.
- iii. An entity or individual with a present or former contract with the CDBG-DR/MIT Programs or a Subrecipient Governmental Entity to prepare planning, environmental, engineering, or technical work product for the Program.
- iv. An entity or individual with a family of his unit member, partner or housemate that is an officer or employee of PRDOH or the Subrecipient Governmental Entity.

PRDOH may, in its sole discretion, determine if the case will be considered for an exception, as provided in the regulation, or on the other hand how the actual or potential conflict of interest or undue advantage may be mitigated (such as by requiring proof of compliance or imposing firewalls between certain members of, or advisors to, a Proponent).

When a real, potential or perceived conflict of interest exists, the potential Proposer should advise the PRDOH CDBG-DR/MIT Legal Director in writing, through a Contractor Conflict of Interest Disclosure Form.

When considering whether a conflict of interest situation exists or may exist, the following factors shall be examined:

- i. Particular circumstances of each procurement;
- ii. Specialized equipment required by the agency;
- iii. Past, current or future working relationships between the proponents and the agency; and
- iv. The period of time between the potential or real conflict of interest situation and the initiation of the procurement process.

In the event the contract has been awarded, the contractor shall agree that if after award he or she discovers an organizational conflict of interest with respect to the contract, he or she shall make, within the next **seventy-two (72) hours**, an immediate and full disclosure in writing to the ~~Contracting Officer~~ PRDOH Contracts Division or their designee, which shall include a description of the action which the Contractor has taken or intends to take to eliminate or neutralize the conflict.

In the event the Contractor was aware of an organizational conflict of interest before the award of a contract and intentionally did not disclose the conflict as provided in this Policy, PRDOH may suspend or terminate the contract for default.

Once subrecipients and contractors become aware of organizational conflicts of interest, it is their duty to disclose to the PRDOH CDBG-DR/MIT Legal Director any possible organizational conflicts of interest in all procurement and non-procurement processes.

Communications regarding conflicts of interest shall be referred to PRDOH CDBG-DR/MIT Legal Division. All disclosure forms shall be sent to the PRDOH CDBG-DR/MIT Legal Director:

- Via email: legalCDBG@vivienda.pr.gov
- Via mail: Puerto Rico Department of Housing
Attn: CDBG-DR/MIT Legal Division
PO Box 21365
San Juan, PR 00928-1365

8.3 Standards for Nominal Value Benefit

In situations in which the financial interest of the public servant, employee, officer, consultant, or agent is not substantial or the gift is an unsolicited item of nominal value, the PRDOH will consider no conflict of interest exists.

8.4 Confidential Information

PRDOH and CDBG-DR/MIT Programs employees, officers, designees, subrecipients, ~~sub grantees~~, partners, consultants, vendors and/or contractors affiliated to CDBG-DR/MIT funded projects, activities and/or operations cannot divulge any information obtained in the course of their official duties that is not generally available to members of the public. Such confidential information cannot be used for personal benefit, whether direct or indirect other than the assigned tasks. These restrictions continue even after the relationship with PRDOH and CDBG-DR/MIT Programs concludes.

All PRDOH and CDBG-DR/MIT Programs employees, officers, former employees and former officers, officials, agents, contractors, vendors, consultants as well as to recipients and subrecipients affiliated to CDBG-DR/MIT funded projects, activities, and/or

operations, and/or any person who participates in auction bids, submits quotes, is interested in executing contracts or agreements or seeks to receive an economic incentive through his/her relationship with PRDOH and CDBG-DR/MIT Programs must follow the CDBG-DR Personally Identifiable Information, Confidentiality, and Non-Disclosure Policy (PII Policy), as may be amended from time to time, published in English and Spanish on the CDBG-DR website at <https://www.cdbg-dr.pr.gov/en/download/personally-identifiable-information-confidentiality-and-nondisclosure-policy/>.

8.5 Honoraria, Activities, and Expenses

PRDOH and CDBG-DR/MIT Programs employees cannot accept honoraria when attending events. An event includes, but is not limited to, any conference, seminar, training course, ribbon-cutting, meal, open house, cocktail party, fundraiser, or similar event that takes place away from PRDOH and is sponsored or co-sponsored by any non-State government source and the invitation for which is extended to the employee because of their official position. Attendance to any event requires PRDOH approval. However, meetings that PRDOH employees attend in the course of their official duties with contractors, subcontractors, subrecipients, or at other agencies are not events. PRDOH and CDBG-DR/MIT Programs employees are not allowed to accept an honorarium or fee for a speech or presentation at an event nor use their official title for the purpose of fundraising for a private organization. They can accept nominal refreshments such as nonalcoholic beverages and snacks.

8.6 Political Activities

No funds provided, nor personnel employed under any CDBG-DR/MIT agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

CDBG-DR/MIT funds shall not be used to finance the use of facilities or equipment for political purposes, or engage in other partisan activities (e.g. candidate forums, voter transportation, or voter registration). Subrecipients will comply with the provisions of the Hatch Act of 1939, An Act to Prevent Pernicious Political Activities, Pub. Law 76-252, as amended⁸, that limit the political activity of employees and the HUD regulations governing political activity at 24 C.F.R. §570.207(a)(3).

Covered State and local employees may not:

- be a candidate for public office in a partisan election (this does not include being a candidate for school board, a nonpartisan office);

⁸ President Barack Obama signed the Hatch Act Modernization Act of 2012 on December 28, 2012. It modified penalties under the Hatch Act to allow for disciplinary actions in addition to removal for federal employees; clarified the applicability to the District of Columbia of provisions that cover state and local governments; limited the prohibition on state and local employees running for elective office to employees whose salary is paid completely by federal loans or grants.

- use official authority or influence to interfere with or affect the results of an election or nomination; or
- directly or indirectly coerce contributions from subordinates in support of a political party or candidate.

9 Reporting and Referrals

When an apparent or real conflict of interest situation is reported concerning PRDOH and CDBG-DR/MIT Programs employees, officers, former employees and former officers, officials, agents, contractors, vendors, consultants as well as recipients and subrecipients affiliated to CDBG-DR/MIT funded projects, activities, and/or operations, ~~and/or any person who participates in auction bids, submits quotes, is interested in executing contracts or agreements or seeks to receive an economic incentive through his/her relationship with PRDOH and CDBG-DR,~~ the PRDOH CDBG-DR/MIT Legal Director shall review the initial referral and request additional information, if necessary, investigate if deemed reasonable, and identify if a real or potential conflict of interest exists. During the evaluation period, PRDOH CDBG-DR/MIT Legal Director may halt activities related to the conflict of interest referred or they may be halted directly by the Program Area who reported the apparent or real conflict of interest. The procedure shall also apply to any person who participates in auction bids (proposers and possible proposers), submits quotes, is interested in executing contracts or agreements or seeks to receive an economic incentive through his/her relationship with PRDOH and CDBG-DR/MIT.

PRDOH, in its ultimate duty to ensure compliance with Federal and state regulations related to conflict of interest, is empowered to carry-out investigations to determine if PRDOH and CDBG-DR/MIT Program employees, officers, former employees and former officers, officials, agents, contractors, vendors, consultants as well as recipients and subrecipients affiliated to CDBG-DR/MIT funded projects, activities, and/or operations, and/or any person who participates in auction bids (proposers and possible proposers), submits quotes, is interested in executing contracts or agreements or seeks to receive an economic incentive through his/her relationship with PRDOH and CDBG-DR/MIT has any apparent or real conflict of interest.

The investigation will produce a report to support the decision of the PRDOH CDBG-DR/MIT Legal Division regarding the existence or lack of conflict-of-interest situation and its recommendations. This report will be referred to the corresponding area or division for consideration when attending to and mitigating the real or apparent conflict of interest:

- If the COI situation pertains to a Fraud, Waste, Abuse or Mismanagement situation, refer to PRDOH CDBG-DR/MIT Internal Audit Office for investigation, or Office of Inspector General;
- If the COI situation pertains to personnel, refer to PRDOH Human Resources Division and copy the Disaster Recovery Deputy Secretary;

- If the COI situation pertains to procurement, refer to the CDBG-DR/MIT Procurement Division and copy the Disaster Recovery Deputy Secretary;
- If the COI situation pertains to a program Applicant, refer to the specific CDBG-DR/MIT Programs and copy the CDBG-DR/MIT Programs Director and Disaster Recovery Deputy Secretary; and
- If the COI situation pertains to any other situation, it shall be reviewed and attended to on a case by case basis.

PRDOH and each specific area or division may, at its sole discretion, determine how an apparent or real conflict of interest situation is handled. The PRDOH CDBG-DR/MIT Legal Division will include, in its evaluation report, a series of steps and recommendations that will allow for the proper handling of the real, potential or apparent conflict of interest. The responsibility of the handling and mitigation of the conflict of interest situation falls upon each area or division.

The PRDOH CDBG-DR/MIT Legal Director will create and maintain a file with all disclosures, notifications, reports, and subsequent actions.

The recommendations made by the PRDOH CDBG-DR/MIT Legal Division may include, but are not limited, to the following:

- Separation of an employee from certain job activities while the conflict of interest exists,
- Request contractor to remove employee from certain activities,
- Recommend disqualification of a bidder or offeror from a bidding or competitive process,
- Recommend cancellation of the solicitation process,
- Recommend suspension or termination of a contract,
- Recommend additional restrictions, supervision, or other conditions to be added to the contract or contracted task (existing or future) under the CDBG-DR/MIT Programs,
- Recommend cancellation of award, subaward, or Program benefits,
- Recommend **deeming** ineligible any person seeking to receive an economic incentive, and/or
- Any other action to prevent a conflict of interest.

In those cases where programmatic activities were halted, only once the potential or actual conflict of interest is either cleared or accepted as exception⁹, should programmatic proceedings continue their normal course.

⁹ See Exceptions section.

10 Exceptions: Threshold Requirements

10.1 Cases involving an employee, agent, consultant, officer, or elected official or appointed official of the State

PRDOH may consider the process to waive COI provisions under the Policy for non-procurement standards provision in cases involving an employee, agent, consultant, officer, or elected official or appointed official of the State. However, as provided by the regulation, 24 C.F.R. §570.489(h)4), this type of COI waiver process will require HUD's approval. HUD may grant ~~provide~~ an exception to the non-procurement standards provision on a case-by-case basis after it is determined that such an exception will serve to further the purpose of the Housing and Urban Development Act of 1968 and the effective and efficient administration of the program or project of the PRDOH as appropriate. An exception may be considered only after the PRDOH, as appropriate, has provided the following¹⁰:

- i. A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made;
- ii. ~~Opinion of Secretary of Justice or~~ PRDOH Legal Team supporting that the interest for which the exception is sought would not violate State or local law.

In determining whether to grant a requested exception, HUD ~~will~~ shall consider ~~evaluate~~ the cumulative effect of the following factors¹¹:

- i. Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;
- ii. Whether an opportunity was provided for open competitive bidding or negotiation;
- iii. Whether the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
- iv. Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;
- v. Whether the interest or benefit was present before the affected person was in the decision-making position or exercised CDBG-DR/MIT functions or responsibilities;

¹⁰ 24 C.F.R. § 570.489 (h) (4)(i)(ii)

¹¹ 24 C.F.R §570.489(h)(5)

- vi. Whether undue hardship will result either to the State or the unit of general local government or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
- vii. Any other relevant considerations.

10.2 Other cases

As provided in the regulation, PRDOH may present to HUD a written request for exception to provisions of the COI Policy involving an employee, agent, consultant, officer, or elected official or appointed official of the State and may be granted by HUD on a case-by-case basis. **In all other cases**, including Subrecipients, PRDOH may grant such exception upon written request of the Subrecipient provided PRDOH shall fully document its determination. Each file for exception determination shall contain:

- Written request of Subrecipient for COI provisions exception before the COI arises through any transaction or action taken by the Subrecipient.
- Evidence of compliance with requirements established in 24 C.F.R. 570.489(h)(4).
- PRDOH's position with respect to each factor to be considered for exceptions, 24 C.F.R. 570.489(h)(5).

Documentation shall be available for review by the public and by HUD. An exception may be granted after it is determined that such exception will serve to further the purpose of the Housing and Urban Development Act of 1968 and the effective and efficient administration of the program or project of the PRDOH as appropriate.

PRDOH will analyze the case using the exceptions factors established in 24 C.F.R. 570.489(h)(5). In determining whether to grant a requested exception, PRDOH will evaluate the cumulative effect of the factors mentioned in previous section.

11 Violations

Any alleged violations of the standards set forth in this Policy shall be immediately referred to the PRDOH CDBG-DR/MIT Legal Division Director. The offending employee, officer, or agent will be subject to disciplinary actions that could result in their termination of employment.

Disciplinary actions can be from a written reprimand, summary job suspension, suspension from job and pay, up to removal or discharge.

As mentioned ~~previously above~~, failure to comply with any of the standards established herein by any subrecipient, partner, contractor, vendor, or consultant could result in the immediate suspension or termination of CDBG-DR/MIT activities being carried out by the subrecipient, partner, contractor, vendor, or consultant.

In the event the contractor was aware of an organizational conflict of interest before the award of the agreement and did not disclose the conflict to PRDOH, the PRDOH may terminate the agreement for default.

No person shall enter into a contractual relationship with the PRDOH CDBG-DR/MIT Program if there is a conflict of interest. Failure to comply with this prohibition could result in the immediate termination of the contract.

In the case of conflicts of interest in procurement and competition processes under the PRDOH CDBG-DR/MIT Programs, the violation of this Policy could result in the disqualification of a bidder or offeror from a bidding or competitive process, cancellation of the solicitation process, and any other action that may be deemed reasonable by the Program.

In non-procurement processes, the violation of this Policy could result in the cancellation of award, subaward, or Program benefits, removal of employees from certain activities, suspension or termination of contract, and any other action that may be deemed reasonable by the Program.

Although a conflict of interest itself does not constitute a criminal act, it can lead to other acts, such as deliberately hiding relationships, financial gains or other advantages through false statements, misrepresentations, or filing false documents, which are crimes. If violations to this Policy lead to any criminal act, the matter will be referred to the appropriate State and/or Federal officers for criminal investigation and possible prosecution.

When an apparent or real conflict of interest situation is suspected, known and/or reported by any employee concerning the PRDOH Secretary, the Disaster Recovery Deputy Secretary, CDBG-DR/MIT Program Legal Director and staff, it shall be immediately referred to the CDBG-DR/MIT Internal Audit Director and/or CDBG-DR/MIT Internal Audit Deputy Director. Even though the Anti-Fraud, Waste, Abuse, or Mismanagement Policy (**AFWAM Policy**) is established to prevent, detect and report any acts, known or suspected, of fraud, waste, abuse, or mismanagement of CDBG-DR/MIT funds, it will apply as an alternative procedure when the staff responsible for managing the conflict of interest situations are the subject of the conflict.

The AFWAM Policy, as well as all CDBG-DR/MIT General Policies, is published in English and Spanish on the PRDOH webpage at <https://www.cdbg-dr.pr.gov/en/resources/policies/general-policies/> and <https://cdbg-dr.pr.gov/recursos/politicas/politicas-generales/>.

As per the AFWAM Policy, and in accordance with the current Internal Audit Manual and Internal Audit Charter, PRDOH CDBG-DR's Internal Audit Office has the authority to take

control of and examine records in order to investigate any conflict of interest referred to them.

12 Training and Recordkeeping

PRDOH will provide conflict of interest training for all employees, officers, designees, subrecipients, ~~sub-grantees~~, consultants, vendors, and/or contractors.

PRDOH will keep and maintain records of attendance at trainings and will follow up with annual refresher sessions.

Conflict of Interest records are part of the minimum documents required by 24 C.F.R. § 570.506. Therefore, PRDOH will keep and maintain, but not limited to, the following documents related to this policy:

- Conflict-of-interest notifications;
- Cases of failure to disclose;
- All types of disclosure;
- Reviews or investigations of alleged conflicts;
- Assessment of the matter; and
- Action taken or resolution.

For further information on how PRDOH complies with HUD's recordkeeping requirements, please refer to the Record Keeping, Management, and Accessibility Policy (**RKMA Policy**). The RKMA Policy, as well as all CDBG-DR/MIT General Policies, is published in English and Spanish on the PRDOH webpage at <https://www.cdbg-dr.pr.gov/en/resources/policies/general-policies/> and <https://cdbg-dr.pr.gov/recursos/politicas/politicas-generales/>.

13 Approval

This Policy will take effect immediately after its approval. This document supersedes any previously approved version.



Maytte Texidor-López, Esq.
CDBG-DR/MIT Programs Legal Director

March 24, 2023

Date

END OF POLICY.