



DEPARTMENT OF
HOUSING



CDBG-MIT

PROGRAM GUIDELINES

**ECONOMIC DEVELOPMENT INVESTMENT PORTFOLIO FOR
GROWTH – LIFELINE MITIGATION PROGRAM**

This page was intentionally left blank.

PUERTO RICO DEPARTMENT OF HOUSING
CDBG-MIT PROGRAM GUIDELINES
**ECONOMIC DEVELOPMENT INVESTMENT PORTFOLIO FOR GROWTH – LIFELINE MITIGATION
PROGRAM**
VERSION CONTROL

VERSION NUMBER	DATE REVISED	DESCRIPTION OF REVISIONS
1	December/20/2022	Original Version

Table of Contents

1	Overview	7
2	Definitions and Acronyms	7
3	Program Summary	12
4	Program Description	12
	4.1 Stakeholder Outreach	16
5	Program Funding	16
	5.1 Award Objectives & Loan Structures	17
6	Program Eligibility	17
	6.1 Eligible Entities	18
	6.2 Ineligible Entities	18
	6.3 Eligible Activities	19
	6.4 Eligible Uses of Funds	19
	6.5 Ineligible Uses of Funds	20
	6.6 National Objective	21
7	Addressing Current and Future Risks	23
	7.1 Risk Benefit Score Explained	24
	7.2 Feasibility Study Requirement	25
8	Covered Projects	26
9	Project Eligibility Thresholds	27
	9.1 Award Structure	27
10	Application and Award Process	28
	10.1 Prior to Accepting Applications	29
	10.2 Project Application	29
	10.3 Application Review	31
11	Selection and Award	34
	11.1 Underwriting Criteria	34
	11.2 Loan Agreement Execution	34
12	Partial Loan Forgiveness	35
13	Duplication of Benefits (DOB)	36
14	Environmental Review	38
	14.1 Exempt Activities	40

- 14.2 Categorically Excluded Activities 40
- 14.3 Activities Requiring an Environmental Assessment 41
- 14.4 Activities Requiring an Environmental Impact Statement 41
- 15 Procurement 42**
- 16 Financial Management..... 42**
 - 16.1 Program Income 42
 - 16.2 Project Costs..... 42
 - 16.3 Reasonable Cost Guidance 43
 - 16.4 Construction Cost Reasonableness..... 43
- 17 FEMA Elevation Requirements 44**
 - 17.1 Insurance Requirements 45
- 18 Acquisition and the Uniform Relocation Act (URA)..... 45**
- 19 Property Management and Disposition 46**
- 20 Labor Standards..... 46**
- 21 Section 3..... 47**
- 22 Debarment and Suspension 47**
- 23 Civil Rights and Non-Discrimination 47**
 - 23.1 Fair Housing & Equal Opportunity Policy (FHEO Policy) 48
 - 23.2 Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act, and Equal Employment Opportunity 48
 - 23.3 Reasonable Accommodation Policy..... 48
 - 23.4 Language Access Plan 49
- 24 Reporting 49**
- 25 Monitoring 50**
- 26 Closeout 51**
 - 26.1 Project Closeout 51
 - 26.2 Program Closeout..... 52
- 27 General Provisions 52**
 - 27.1 Program Guidelines Scope..... 52
 - 27.2 Program Guidelines Amendments 52
 - 27.3 Extension of Deadlines 52
 - 27.4 Established Periods of Time 53

27.5 Written Notifications 53

27.6 Conflict of Interest 53

27.7 Citizen Participation 54

27.8 Citizen Complaints..... 55

27.9 Anti-Fraud, Waste, Abuse or Mismanagement..... 56

27.10 Related Laws and Regulations 57

28 Cross Cutting Guidelines..... 58

29 Program Oversight..... 58

30 Severability Clause..... 58

1 Overview

Throughout history, Puerto Rico has endured and recovered from numerous hurricanes, flooding, earthquakes, and landslides, among other natural disasters and emergencies. These risks are anticipated to increase in frequency and severity due to climate conditions. Considering this scenario, we are in a remarkable position to develop and implement an integrated multisector strategy focused on mitigating hazard risks and strengthening identified lifelines to ensure citizens in Puerto Rico respond and swiftly recover from any emergency.

The U.S. Department of Housing and Urban Development (**HUD**) has allocated \$8.3 billion to Puerto Rico for mitigation activities. The funds will help mitigate against disaster risk while providing grantees the opportunity to transform state and local planning. The Community Development Block Grant - Mitigation (**CDBG-MIT**) Program, administered by the Puerto Rico Department of Housing (**PRDOH**) as grantee, represents a unique opportunity to carry out strategic and high-impact activities to mitigate disaster risks and reduce future losses. The rules for administering the funds are outlined in the Federal Register Vol. 84, No. 169 (August 30, 2019), 84 FR 45838, and Federal Register Vol. 85, No. 17 (January 27, 2020), 85 FR 4676, except where the terms of the Grant Agreement between PRDOH and HUD supersede high risk criteria.¹ Rules and requirements have been incorporated into these Program Guidelines, where applicable.²

2 Definitions and Acronyms

- **Applicant:** An eligible entity who makes a formal application to a federally funded program. The Economic Development Investment Portfolio for Growth – Lifeline Mitigation Program (**IPGM Program**) defines an eligible entity as any Government of Puerto Rico entity, public corporation, municipality, or eligible private non-profit organizations or eligible for-profit business applying to the program.
- **Area of Benefit (AOB)** - Represents the total beneficiaries or persons receiving a mitigation benefit from the project. An AOB could be the service area of a wastewater treatment plant, neighborhoods served by an elevated roadway, or a residential neighborhood affected by community level flood mitigation. The geographic area represented by the AOB is then used to determine the Risk Benefit Area.

¹ Federal Register Notice 85 FR 4676 builds upon the requirements of the CDBG– MIT Notice and establishes additional grant conditions to reduce risk and support the successful implementation of this CDBG–MIT allocation by the Commonwealth of Puerto Rico. These measures, however, have been amended by official correspondence and in many cases replaced by the final language included in the Grant Agreement.

² The executed Grant Agreement can be found on the PRDOH website in English and Spanish at <https://cdbq-dr.pr.gov/en/resources/cdbq-dr-documents/> and <https://cdbq-dr.pr.gov/recursos/documentos-cdbq-dr/>.

- **Benefit-Cost Analysis (BCA):** BCA is a method that determines the future risk reduction benefits of a hazard mitigation project and compares those benefits to its costs. It consists of a formulaic analysis used to demonstrate that the benefits of a project outweigh its costs. The result is a Benefit-Cost Ratio (**BCR**). A covered project is considered cost-effective when the BCR is 1.0 or greater. FEMA-approved methodologies and tools—such as the BCA Toolkit— are the preferred method for applicants to demonstrate the cost effectiveness of their project.³
- **Closeout:** The process by which the awarding agency or pass-through entity determines all applicable administrative actions, and all required work of the award has been completed and takes actions directed to close the award.
- **Community Development Block Grant (CDBG):** A federal grant program administered by **HUD** which provides grant funds to local and state governments. The CDBG Program works to ensure decent, affordable housing, to provide services to the most vulnerable in communities, and to create jobs through the expansion and retention of businesses.
- **Community Lifelines:** Community Lifelines are defined by FEMA as functions that enable the continuous operation of critical government and business activities and are essential to human health and safety or economic security. Lifelines are the integrated network of assets, sectors, services, and capabilities that are used on a daily basis to support recurring community needs. Lifelines also represent an organizing principal for resource allocation and prioritization during and after a disaster.
- **Covered Project:** Notice 84 FR 45838 defines a Covered Project as an infrastructure project having a total project cost of \$100 million or more, with at least \$50 million of CDBG funds. In relation to a Covered Project, an infrastructure project is defined as an activity or group of related activities that develop the physical assets which are designed to provide or support services to the general public in the following sectors: Surface transportation, including roadways, bridges, railroads, and transit; aviation; ports, including navigational channels; water resources projects; energy production and generation, including from fossil, renewable, nuclear, and hydro sources; electricity transmission; broadband; pipelines; stormwater and sewer infrastructure; drinking water infrastructure; and other sectors as may be determined by the Federal Permitting

³ For more information about BCA, FEMA approved methodologies and alternative methods, refer to the BCA Guidelines available in English and Spanish at: <https://cdbg-dr.pr.gov/en/download/program-guidelines/> and <https://cdbg-dr.pr.gov/download/guias-programaticas/>

Improvement Steering Council (**FPISC**).⁴ Consistent with HUD's National Environmental Policy Act (**NEPA**) Implementing requirements at 24 C.F.R. § 58.32(a), a grantee must group together and evaluate as a single infrastructure project all individual activities which are related to one another, either on a geographical or functional basis, or are logical parts of a composite of contemplated infrastructure-related actions.

- **Davis-Bacon Wage Requirements:** The Davis Bacon and Related Acts (**DBRA**) requires all contractors and subcontractors performing work on federal construction contracts or federally assisted contracts more than \$2,000 to pay their laborers and mechanics not less than the prevailing wage and fringe benefits for corresponding classes of laborers and mechanics employed on similar projects in the area. The prevailing wage rates and fringe benefits are determined by the Secretary of the U.S. Department of Labor, for inclusion in covered contracts.
- **Department of Housing and Urban Development (HUD):** Federal Department through which CDBG, CDBG-DR, and CDBG-MIT Program funds are distributed to Recipients.
- **Duplication of Benefits (DOB):** Financial assistance available to or received from another source that is provided for the same purpose for which the CDBG-MIT award is provided.
- **Environmental Review:** The process of reviewing potential environmental impacts of a project to determine whether it meets federal, state, and local environmental standards. A permanent set of files containing all documentation pertaining to the environmental review, compliance procedures conducted, and environmental clearance documents will be kept by the Program.
- **Investment Portfolio for Growth Strategic Council (IPGSC):** Independent committee composed of various experts in the transaction, fiscal, infrastructure, and economic development of the executive branch of the Government of Puerto Rico and chaired by the Secretary of the PRDOH to perform application review within program timelines ensuring prompt decision-making and fulfillment of IPGM strategy and objectives.
- **Investment Portfolio for Growth Technical Committee (IPGTC):** Special purpose organization created to receive, analyze, and deliver the recommendations to the IPGSC for selected projects under the IPG application submittal process. It will be Chaired by the Director of Economic Recovery Grant Management and

⁴ Federal Register Vol. 84 No. 169 (August 30, 2019), 84 FR 45838, 45850.

supported as needed by experts from areas that impact the IPGM application review process.

- **Low-to-Moderate Income (LMI):** Low to moderate income people are those having incomes not more than the 'moderate income' level (80% Area Median Family Income) set by the federal government for HUD-assisted Housing Programs. This income standard changes annually and varies by household size, county, and the metropolitan statistical area.⁵
- **MIT Index Score:** The total Risk Score, determined by adding each hex-grid risk score together, divided by the square miles of the RBA is used to determine the MIT Index. The MIT Index represents the total potential risk mitigated by a project per area. The MIT Index Score is then used to determine the Risk Benefit Score through consideration of beneficiaries, determined by the AOB, and Project Cost.
- **Mitigation:** Through notice 84 FR 45838, 45840, HUD defines mitigation "as those activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters."
- **Most Impacted and Distressed (MID) area:** At 84 FR 45838, 45841, HUD acknowledges the adoption of the definition of MID area from Federal Register Vol. 83, No. 157 (August 14, 2018), 83 FR 40314, in which HUD determines all municipalities of Puerto Rico as MID.
- **Non-Covered Project:** A project that does not meet the definition of a Covered Project.
- **Non-Federal Entity:** A state, local government, Indian tribe, institution of higher education, or non-profit organization that carries out an award or sub-award as a Recipient or subrecipient.
- **Project Cost:** The total allowable cost incurred under a grant or sub-grant and all required cost sharing and voluntary committed cost sharing, including third-party contributions.
- **Recipient:** A non-federal legal entity that receives a federal award directly from a federal awarding agency which is accountable for the use of funds to carry

⁵ The 2022 Puerto Rico Adjusted Income Limits for CDBG-DR Programs and, also made applicable to CDBG-MIT Programs by Federal Register Vol. 86, No. 3 (January 6 2021), 86 FR 569, can be found at <https://www.huduser.gov/portal/datasets/cdbg-income-limits.html#2022>

out an activity under a federal program. The term recipient does not include subrecipients.

- **Risk Benefit Area (RBA):** Is the aggregate of the hex grids found in the Risk Assessment Tool that reside within or connect to the AOB. If a hex-grid from the Risk Assessment is within the AOB it is part of the RBA. Furthermore, if a hex-grid is partially within or touching the AOB, it is also included as part of the RBA. Each hex-grid is one-half mile (0.5 mile) square. Therefore, the RBA is an area in square mile(s).
- **Risk-Benefit Score:** Determined by multiplying the MIT Index by the AOB, or beneficiaries, and then dividing that result by the Project Cost. The resulting number is then multiplied by 100.
- **Risk Score:** Each hex-grid has a risk score for each of the eighteen (18) hazards. Only the risk or risks mitigated should be considered when calculating a project Risk Score. This score can be added up based on the AOB to determine a total risk score for the project. The risk score is then used to determine the MIT Index Score and subsequently the Risk Benefit score.
- **Sub-award:** An award provided by a pass-through entity to a subrecipient to carry out part of a federal award received by the pass-through entity. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program. A sub-award may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.
- **Subrecipient:** An entity, usually but not limited to a non-federal entity, that receives a sub-award from a pass-through entity to carry out part of a federal program. The term does not include an individual who is a beneficiary of a federal award. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.
- **Underwriter:** Contracted by PRDOH to perform loan underwriting of submitted IPG applications based on PRDOH-established loan and project underwriting criteria, inclusive of a review of the applicant's financial data, and the viability of the project in the context of the business or industry being served.
- **Uniform Relocation Act (URA):** Refers to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. § 4601 *et seq.*, that establishes minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their residences, businesses, or farms.

3 Program Summary

The Economic Development Investment Portfolio for Growth - Lifeline Mitigation Program (**IPGM Program**) requirements, approved by HUD in the PRDOH CDBG-MIT Action Plan 1 Substantial, are set forth herein.⁶ Program participation is competitive, and the IPGM Program will fund eligible projects through a loan granted to the eligible applicant entity. In addition, a portion of the loan could be eligible and have the potential, partially or fully forgiven, if specific program goals are met stated in the Guidelines.

HUD approved a total of \$628,816,696 for the IPGM Program.

Economic Development Investment Portfolio for Growth - Lifeline Mitigation Program	\$628,816,696.00
---	-------------------------

4 Program Description

Mitigation is an opportunity for Puerto Rico to change reactive disaster spending toward a data-supported, proactive investment in community resilience. To identify the Island's mitigation priorities, PRDOH conducted a Risk Assessment for the CDBG-MIT Action Plan which provides a sophisticated, up-to-date evaluation of the most significant weather-related and human-caused risks that pose a threat to Puerto Rico.

PRDOH realizes that within the colossal challenges Puerto Rico faces to recover from disastrous events, also immense opportunities exist. Opportunities to institute trustworthy mitigation measures that protect the Island from future risks. HUD is providing Puerto Rico thorough the CDBG-MIT allocation, a significant opportunity to implement strategic, transformative, and high-impact projects. Those projects will strengthen the Island's resilience to future disasters. The resilience strengthening would be achieved by reducing risks attributable to natural disasters, addressing repetitive property loss, and improving critical infrastructure.

IPGM is a mitigation-focused program that will target economic development by funding lifeline infrastructure projects that support Risk-Based Mitigation Needs from privately owned entities and public entities that are a part of public-private partnerships. The Program has been designed with a broad knowledge that most critical and secondary infrastructure assets are owned or managed by the private sector. Infrastructure assets include, but are not limited to, communication, waste management and transportation

⁶ The CDBG-MIT Action Plan can be found in English and Spanish at <https://cdbq-dr.pr.gov/en/cdbq-mit/> and <https://cdbq-dr.pr.gov/cdbq-mit/>.

infrastructure, advanced energy systems focused on the optimized utilization of the Island's natural resources, and privately owned healthcare facilities and utilities.

Much like the Community Development Block Grant for Disaster Recovery (**CDBG-DR**) Economic Development Investment Portfolio for Growth (**IPG**) Program, this mitigation-focused program is intended to fund large-scale lifeline strengthening projects that are transformative in nature and create significant economic impacts. Projects under this program are critical to a comprehensive mitigation strategy to enable and nurture strategic growth nodes that promote private sector lifelines resiliency while strengthening economic vitality.

Strengthening of Lifelines through Private Investment

The IPGM strategy is premised on the findings of the Department of Homeland Security (**DHS**) Infrastructure Interdependency Assessment—Puerto Rico report published in May 2018.⁷ The report is a comprehensive analysis of the interdependence of the Island's infrastructure assets after Hurricanes Irma and María. One of the major objectives of the assessment was “characterizing the vital networks of activity for key industries and their dependencies on lifeline infrastructure services and resources.” In the report, DHS field research teams found that five (5) sectors provide resources or goods to all other critical infrastructure sectors – synonymous with lifeline sectors: communications, energy, information technology (**IT**), transportation systems, and water and wastewater systems.⁸ DHS then went on to identify eight (8) critical infrastructure lifeline subsectors, as the focal points for system characterization in Puerto Rico:

LIFELINE	LIFELINE SECTOR	LIFELINE SUBSECTOR
Energy Lifeline	→ Energy Sector	→ Electricity Sector → Petroleum and other fuels
Communications Lifeline	→ Communications Sector	→ Communications
Food, Water, and Shelter Lifeline	→ Water/Wastewater Sector	→ Water systems → Wastewater systems
Transportation Lifeline	→ Transportations Systems Sector	→ Maritime transportation → Aviation transportation → Road transportation

⁷ Department of Homeland Security, Office of Infrastructure Protection. *Infrastructure Interdependency Assessment Puerto Rico*, May 2018. Accessed at: <http://www.camarapr.org/Camara-en-Accion-18-19/17-nov-8/gob/PR-Infrastructure-Interdependency-Assessment-Report-Sept-2018.pdf>

⁸ Information Technology is considered a sector within the Communications lifeline.

The DHS Interdependency Assessment also included four (4) case studies to inform the CDBG-MIT planning process. The following themes were highlighted as fundamental for critical infrastructure and lifeline resilience in Puerto Rico:⁹

- **Redundancy:** multiple connections to lifeline infrastructure to avoid losing service through a single connection and prevent potential consequences expected from this failure.
- **Alternatives:** reducing the risks of overdependence on a single infrastructure asset that could fail during an emergency by having a diverse set of infrastructure types and locations.
- **Independence:** lifeline assets and infrastructure local control and management to reduce a potential systemic failure, which is a major concern to communities across the Island.
- **Coordination:** fostering collaborations between communities, industries, governmental entities, and utilities to create solutions that meet the needs of communities and yield more successful outcomes and a more resilient lifelines system.
- **Confidence:** increasing business confidence by maintaining operational reliability and predictable costs associated with lifeline infrastructure.

The final citation from the DHS Interdependency Assessment perhaps most appropriately and succinctly explains why consideration of its findings are essential to the CDBG-MIT Action Plan: "Identifying and assessing the cumulative supplies and demands of critical resources and services to inform long-term planning will ultimately support infrastructure resilience, economic recovery, and the revitalization of communities across Puerto Rico."¹⁰ In alignment with this assessment, the IPGM Program's primary goal is to encourage investment in lifeline infrastructure improvements by implementing projects that will strengthen key lifelines and material management infrastructure through structural improvements and improved adaptability of services. This is the heart of the IPGM program. In addition, the program will couple the lifeline sector goal with economic perspective to reward projects that demonstrate the creation of new high-value jobs.

Example Projects

IPGM projects are expected to enhance the efficiency of lifeline infrastructure, such as the examples listed below, while simultaneously yielding economic benefits. This may include, but is not limited to, the development/redevelopment of:

⁹ Department of Homeland Security, Office of Infrastructure Protection. *Infrastructure Interdependency Assessment Puerto Rico*, May 2018. Accessed at: <http://www.camarapr.org/Camara-en-Accion-18-19/17-nov-8/gob/PR-Infrastructure-Interdependency-Assessment-Report-Sept-2018.pdf>

¹⁰ Id.

- Increasing resiliency of the transportation lifeline corridors to strategically include seaports, airports, and other maritime transportation.
- Private investment in large-scale renewable energy projects that maximize the use of natural resources, aiming to lessen the Island's reliance on burning fossil fuels for energy production; projects that efficiently integrate energy-related infrastructure in their overall scope; projects that support the development of the industry sector instead of focusing on complex and time-consuming energy restorations.
- Resiliency-focused enhancements to privately owned Communications lifeline infrastructure.
- Building, modernizing, or replacing water and sewer infrastructure to strengthen infrastructure in order to withstand high-risk hazardous activity resulting from potential disaster events that might threaten the stability of these assets.
- Strengthen agribusiness infrastructure by promoting the development of disaster-resilient indigenous crops, which are critical in fulfilling local food supply and key to supporting food security.
- Improving healthcare and medical facilities by enhancing, expanding, or developing buildings with innovative design and up-to-date permanent equipment.
- Establishing recycling facilities or other eco-conscious infrastructure to divert waste from landfills. Enhance and strengthen solid waste management (or sustainable management of materials) to minimize the health risks posed by overflowing landfills and unauthorized dump sites, worsened by hazardous events.
- Strengthening and enhancing Safety and Security lifeline infrastructure.

Community lifelines resiliency relies on the joint capacity of all of its components. The IPGM program encourages all entities that are essential to mitigate hazardous risks related to disasters and manmade emergencies, including industries supporting communications, maritime and air transportation lifelines, and solid waste management, which are mostly operated by the private sector.¹¹ The program will select those projects that will best serve the overall strengthening of community lifelines by addressing infrastructure redundancy, alternatives, and independence across all lifelines as key mitigation strategies to leverage the Island's resources.

The Program will fund projects that will greatly impact and facilitate the Island's long-term infrastructure stability and resilience. This program will potentially serve as funding source for initiatives that the government of Puerto Rico deems as critical for the Island's emerging economy and will fit in with the post-natural disaster recovery strategy. As a result, funding will be used to support creative, cost-effective, and socially

¹¹ Private operations and management of solid waste account for 55% of Puerto Rico's solid waste industry, while communications account for 100% of privately owned infrastructure and operations.

transformational solutions. Large financial investments will be needed for IPGM projects, of which the CDBG-MIT element may be minimal to major and given in the form of low-interest, partially or entirely forgiven loans.

4.1 Stakeholder Outreach

Additional stakeholder outreach was conducted across private sector companies that operate within critical lifelines and associated regulators and professional associations, to enable a thorough decision-making process with greater input from stakeholders in the private sector. This outreach to the private sector resulted in information sharing and constructive feedback on the initial Program vision and overview as described in the CDBG-MIT Action Plan. This outreach also provided a listening opportunity for PRDOH from key private sector stakeholders through a market sounding.

The market sounding process resulted in a current understanding of project vision intelligence for strategic alternatives in mitigation and, among other topics, those necessary to develop program participation parameters that align with industry business and economic need. To ensure a thorough list, the private sector companies in key industries were selected, as well as regulators, and associations that supported and represented the private sector supply chain and infrastructure development companies. Sixteen (16) stakeholders with authority over lifeline infrastructure or financial sector involvement were engaged within six (6) weeks to gather qualitative input.

The private sector industry analysis was focused on private investment in lifeline infrastructure to increase stability and/or expansion of lifeline services. An overall mitigation strategy for such industries was translated into a series of focused sectors to ensure objectives are achieved and to secure the best opportunities on funding strategies in the private sector.

5 Program Funding

The program targets the reduction of future loss through large-scale economic development projects that foster lifeline infrastructure improvement and stability, are transformative in nature, and create jobs as well as cascading economic impacts. IPGM projects will significantly impact and enable the long-term economic growth and sustainability of the Island. This Program provides an opportunity to leverage private sector industries important to public services to ensure that the Island's lifelines and material management systems maintain their optimal operation while responding and recovering from any large-scale emergency. These entities not only provide redundancy, but in some cases, they operate most of the infrastructure required to ensure the total recovery post-disaster.

To that end, PRDOH has determined to apply a maximum award amount of one hundred million dollars (\$100,000,000) for the Program. No exceptions to the maximum award amount will be considered.

5.1 Award Objectives & Loan Structures

The Program will make awards in the form of low interest loans that may be partially or fully forgivable, at a maximum of fifty percent (50%) of project cost. The concept is to have a shared investment with the private sector, in which shared investments will secure mitigation infrastructure for the private sector.

The Program will allocate up to fifty percent (50%) of the total project costs at a maximum amount of \$100,000,000. The maturity schedules will range from a minimum of four (4) years to a maximum of thirty (30) years. The remaining fifty percent (50%) is to be secured by the private company, including a minimum ten percent (10%) equity investment from the project owners. The IPGM funds will be disbursed after other funding sources or on a matching basis. The matching basis means that for every dollar of funding allocated to the project by another source, the Program may disburse that same amount for the project, but not more.

The loan forgiveness terms will be targeted to critical lifeline sector industries and materials management to include the transportation, recycling & solid waste management, and communications industry.¹² These industries focus on key lifelines and critical infrastructure described in the approved Action Plan, which after a careful analysis and stakeholder outreach with the private sector, secure the implementation of the IPGM objectives. The industries are responsible for assets that are (i) indispensable to a complete recovery post a natural disaster, (ii) provide mitigation solutions tied to lifelines, and (iii) under current CDBG programs, IPGM is the sole program that allows these private companies to access mitigation funds.

Additional forgiveness terms that support compliance with timely distribution of funds and cost control measures mandated under HUD shall be offered in the form of increased forgiveness for schedule and project cost management.

6 Program Eligibility

Unlike CDBG–DR funds where grantees must demonstrate that their disaster recovery activities “tie-back” to the specific disaster and address a specific unmet recovery need, CDBG–MIT funds do not require such a “tie-back” to the specific qualified disaster that

¹² Materials management is unique to Puerto Rico lifeline assessment due to the substantial and urgent public health impacts as a result of recent hazard events.

served as the basis for the allocation. Grantees must instead demonstrate that CDBG–MIT activities:¹³

1. Are CDBG-eligible activities under title I of the Housing and Community Development Act of 1974 (**HCDA**) or otherwise eligible pursuant to a waiver or alternative requirement; and
2. Meet a national objective, including additional criteria for mitigation activities and Covered Projects;
3. Meet the definition of mitigation activities; and
4. Address the current and future risks as identified in the grantee's Mitigation Needs Assessment.

These and other eligibility parameters are addressed in the subsections that follow.

6.1 Eligible Entities

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

Public entities that are a part of public-private partnerships for lifeline projects. These include:

- Units of general local government/ municipalities (including departments and divisions).
- Government of Puerto Rico Agencies, Authorities, Trusts, and Boards.
- Community-Based Development Organizations and private non-profits.
- Non-governmental organization (501(c)(3)) or other non-profit entities.

Privately owned entities include:

- For-Profit Businesses, as eligible under applicable activity.

6.2 Ineligible Entities

The following entities are ineligible to apply for an IPGM award:

- Entities that operate facilities that are not open to the general public and serve a predominantly higher income clientele;
- Entities that operate professional sports teams, yacht clubs, non-public recreation facilities, private or commercial golf courses or country clubs, and casinos or other gambling establishments;
- Entities engaged in lobbying or political activities;

¹³ See 84 FR 45838, 45849, Section V.A.2.c., *Clarification of basic requirements for mitigation activities*. Requirements bulleted out in this section deviate from the order in which they appear in the Federal Register Notice to align with narrative flow of Program Guidelines.

- Entities engaged or involved in religious activities, except where expenses are clearly distinguishable between the organization's religious and secular activities; and
- Entities and/or owners currently in any foreclosure or bankruptcy proceedings (this does not include Title III or other covered entities of the Puerto Rican Government) that directly affect their ability to achieve program outcomes and/or cover debt service obligations.¹⁴

6.3 Eligible Activities

All projects provided CDBG-MIT 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 program applicants to think most broadly in how to meet program goals and implement transformative, mitigative economic development projects. All projects in this Program will meet at least one (1) of the following eligible activities:

- Section 105(a)(1) – Acquisition of Real Property;
- Section 105(a)(2) – Public Facilities and Improvements;
- Section 105(a)(3) – Code Enforcement;
- Section 105(a)(4) – Clearance, Reconstruction, and Rehabilitation of Buildings and Improvements;
- Section 105(a)(5) – Removal of Material and Architectural Barriers;
- Section 105(a)(7) – Disposition of Real Property;
- Section 105(a)(8) – Public Services;¹⁵
- Section 105(a)(9) – Payment of Non-Federal Share;
- Section 105(a)(11) – Relocation Assistance;
- Section 105(a)(12) – Planning and Capacity Building;
- Section 105(a)(14) – Activities Carried Out through Nonprofit Development Organizations;
- Section 105(a)(15) – Assistance to Eligible Entities for Neighborhood Revitalization, Community Economic Development and Energy Conservation;
- Section 105(a)(16) – Energy Use Strategies Related to Development Goals;
- Section 105(a)(17) – Economic Development Assistance to For-Profit Business;
- Section 105(a)(21) – Assistance to Institutions of Higher Education;
- Section 105(a)(22) – Microenterprise Assistance.

6.4 Eligible Uses of Funds

¹⁴ Title III refers to the section of the Puerto Rico Oversight, Management, and Economic Stability Act ("PROMESA") that covers court-supervised restructurings of United States territories and their covered instrumentalities.

¹⁵ In accordance with 84 FR 45838, 45849. Section V.A.2.c. Clarification of basic requirements for mitigation activities.

Eligible Use of Funds include, but are not limited to:

- Acquisition, construction, renovation, rehabilitation, or other improvement of a commercial property;
- Construction costs and other infrastructure improvements related to a project;
- Soft costs related to an eligible construction project including, but not limited to, architectural, engineering, permitting, surveying, and overhead and profit margins of construction costs;¹⁶
- Non-residential leasing and tenant improvements of space in an existing building;
- Purchasing capital equipment;
- Environmental review activities in accordance with HUD requirements at 24 C.F.R. Part 58;
- Interest Reserve Costs on a case-by-case basis;
- Demolition/clearance; and
- Activities related to the American with Disabilities Act (ADA) and removing barriers to accessibility.

6.5 Ineligible Uses of Funds

The following activities may not be assisted with CDBG-MIT funds:

- Funding projects that do not mitigate risk according to the PRDOH Risk Assessment criteria explained in the CDBG-MIT Action Plan and guidelines;
- Projects that enlarge a dam or levee beyond the original footprint of the structure that existed prior;
- Pre-award project costs;
- Political activities;
- Purchase of moveable equipment;
- Furniture and personal property;
- Construction equipment;
- Housing activities;
- Income Payments;
- Refinancing of debt;
- Religious activities;
- Payment of any tax arrearages, governmental fines, or penalties;
- Buying out any stockholder or equity holder in a business;
- Buying out or reimbursing any family member;
- Purchase of instruments or investments for the sole purpose of a return on investment;
- Projects that directly improve or enhance the power grid; and

¹⁶ Architects and engineers must be licensed to practice in Puerto Rico to design in accordance with PRDOH and HUD standards, as well as all applicable local codes and regulations.

- All other activities prohibited by the CDBG regulations in 24 C.F.R. Part 570, or 2 C.F.R. Part 200.

Grant funds may not be expended on activities that take place prior to the award of funds. This strictly prohibits the reimbursement of all activities completed prior to application and extends to any activities that take place between application and final award determination.¹⁷

Choice-limiting actions performed prior to environmental clearance can result in regulatory or statutory violations that can jeopardize HUD funding of the project.¹⁸

6.6 National Objective

All projects in the Program must meet one (1) of the HUD, CDBG-MIT national objectives at 24 C.F.R. § 570.483 or otherwise provided for by waiver or alternative requirement as published in 84 FR 45838. The intended national objective must correspond to a HUD-eligible activity, as defined by the HCDA, as amended, 42 U.S.C. § 5305. More information can be found in the Eligible Activities section of these Program Guidelines. Considering the nature of this Program, PRDOH anticipates that the following national objectives will apply:

- Benefit to Low-and moderate-income persons (**LMI**):
 - **LMI Area Benefit Activity (LMA)** – an activity that benefits all residents in a particular area, where at least fifty-on percent (51%) of the residents are LMI persons.
 - **LMI Job Creation or Retention (LMJ)** – an activity that creates or retains permanent jobs, at least fifty-one percent (51%) of which, on a full time equivalent (**FTE**) basis, are either held by LMI persons or considered to be available to LMI persons. (24 C.F.R. § 570.483 (b)(4))
- Meets the definition of **Urgent Need Mitigation (UNM)** – the provisions of 24 C.F.R. § 570.483(d) and 570.208(c) are waived at 84 FR 45838, 45857, Section V.A.13.c. and replaced with the alternative requirement to document how the activity:
 - (i) Addresses the current and future risks as identified in the grantee's Mitigation Needs Assessment of most impacted and distressed areas;¹⁹ and

¹⁷ Key compliance concerns regarding acquisition activities subject to HUD environmental concerns at 24 C.F.R. Part 58, environmental concerns with regard to National Environmental Protection Act (NEPA) and 24 C.F.R. Part 58, and duplication of benefits under the Robert T. Stafford Act (Stafford Act) and Related Federal Register Notices.

¹⁸ A choice-limiting action occurs when an awardee commits or expends HUD or non-HUD funds on activities for a project assisted under the U.S. Housing Act, including but not limited to activities that require HUD approval, such as a request for release of funds (RROF) for demolition/disposition applications. Choice-limiting includes actions to acquire, rehabilitate, demolish, convert, lease, repair, or construct properties.

¹⁹ This factor must tie to the PRDOH CDBG-MIT Action Plan in the Risk-Based Mitigation Needs Assessment.

- (ii) will result in a measurable and verifiable reduction in the risk of loss of life and property from future disasters and yield community development benefits.²⁰ (84 FR 45838)

6.6.1 Additional Criteria Applicable to CDBG-MIT Funding

The provisions of 24 C.F.R. § 570.483(e) and 570.208(d) are modified by an alternative requirement to add conditions specified at 84 FR 45838, 45856, Section V.A. 13.a. To meet a national objective, **all CDBG–MIT activities** must meet the following requirements:

- Infrastructure and Public Facility projects must demonstrate the ability to operate for the useful life of the project via long-term operation and maintenance plans;
- Projects must be consistent with the other mitigation activities to be carried out.

In the case of **Covered Projects**, they must demonstrate the following to meet a national objective:

- Demonstrate the long-term efficacy and sustainability of the Covered Project by documenting measurable outcomes or reduction in risk as described herein:²¹
 - The grantee must have a plan to fund the long-term operation and maintenance for CDBG–MIT covered projects and include a description in the Action Plan. Funding options might include State or local resources, borrowing authority, or retargeting of existing financial resources.²²
 - Must document how the Covered Project will reflect changing environmental conditions (such as sea level rise or development patterns) with risk management tools and alter funding sources if necessary.
- Must demonstrably benefit the most impacted and distressed (**MID**) area, which has been determined by HUD to be all municipalities of Puerto Rico. The benefits of the Covered Project must outweigh the costs of the projects. Benefits outweigh costs if a BCA results in a benefit-cost ratio greater than one (1.0). Alternatively, for a Covered Project that serves LMI persons or other persons that are less able to mitigate risks or respond to and recover from disasters, benefits outweigh costs if the grantee supplements its BCA with a qualitative description of benefits that cannot be quantified. However, this description must sufficiently demonstrate unique and concrete benefits of the Covered Project for LMI persons or other persons that are less able to mitigate risks or respond to and recover from disasters. It may also include a description of how the Covered Project will provide benefits

²⁰ Risk reduction is determined by the Risk Benefit Score.

²¹ See 84 FR 45838, 45852, Section V.A.2.i Projection of expenditures and outcomes, for more information regarding the submittal of projected expenditures and outcomes that allow tracking of proposed versus actual performance.

²² 84 FR 45838, 45848.

such as enhancing a community's economic development potential, improving public health and/or expanding recreational opportunities.²³

7 Addressing Current and Future Risks

The results of the PRDOH Risk Assessment described in the PRDOH CDBG-MIT Action Plan have been made directly available to the public by means of interactive GIS tools, thereby increasing the planning capacity of program applicants to make data-informed decisions about high-impact mitigation projects.

PRDOH will utilize these same tools and data sets in its evaluation process to compute the mitigation of risks to life and property through a scoring system called the Risk Benefit Score (**RBS**) that directly ties to the data-based risk assessment performed prior to receiving the CDBG-MIT allocation. The RBS will be calculated by PRDOH.

The RBS Calculator shall be made available to program participants as part of a toolbox that guides users to complete a series of steps to complete the following:

1. Create or upload a GIS file containing the shape (circle, square, rectangle or polygon) of the project footprint as well as the AOB associated with the project.
2. Access the saved AOB file to run a calculation of LMI beneficiaries and produce a PDF report for application upload.
3. Access the saved AOB file to run the RBS Calculator tool, which will produce an RBS as a PDF report for application upload.
4. Access the saved project footprint file to conduct a quick-assessment screening of any environmental hazards or compliance considerations. Environmental review procedures are later described in these Program Guidelines.

²³ 84 FR 45838, 45857.

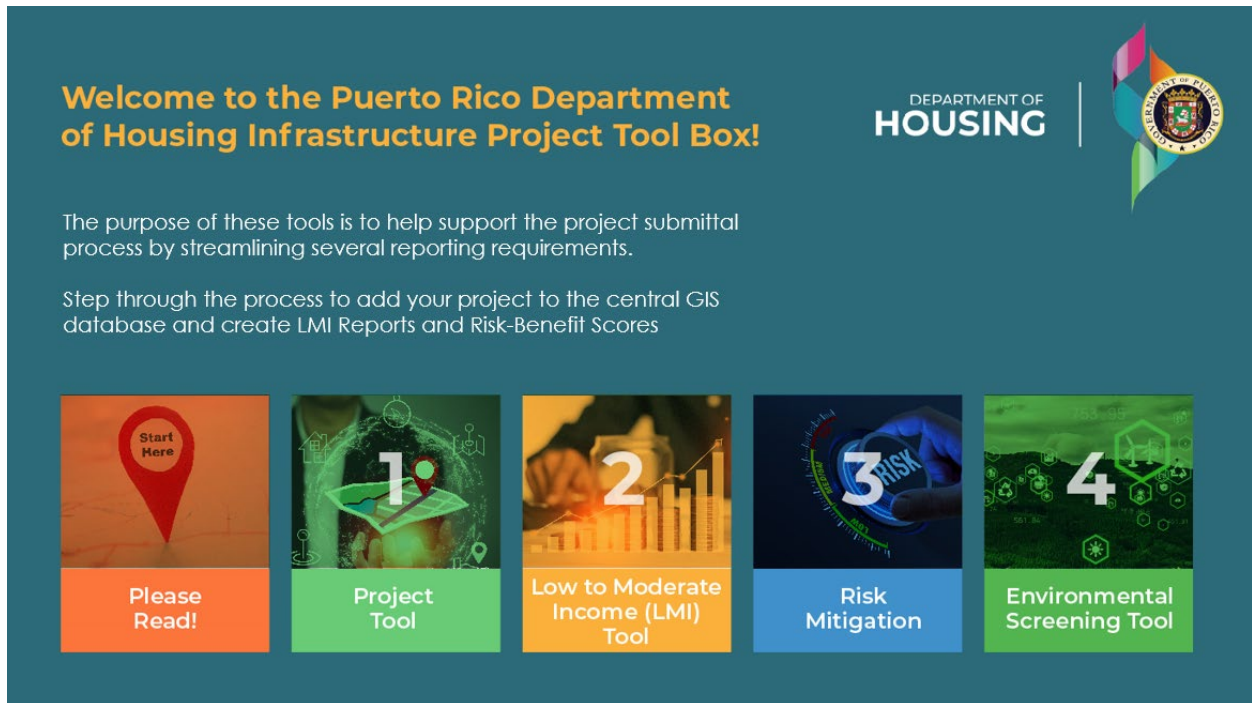


Figure 1: Image of the PRDOH Infrastructure Project Tool Box

Access to the toolbox will be granted to program applicants, for required information submittal, at the time of application and will require password access in order for files to be retained within the system. In addition to the RBS calculation, PRDOH will also evaluate projects for other criteria tied to compliance, innovation, and project-readiness as described in later sections of these Program Guidelines.

7.1 Risk Benefit Score Explained

All projects funded through this Program will be evaluated by the RBS, which will weigh heavily in the prioritization and selection of projects. The Risk Assessment tool was developed to utilize risk assessment data to estimate the effectiveness of a project. By using the Risk Assessment tool, the Program will be able to score each project based on its potential to mitigate multiple risks, the number of beneficiaries of the project, and its ability to maximize program funding.

The RBS is a metric that will allow the Program to confirm that project activity will demonstrably mitigate past and future risk, as well as to prioritize projects that reduce risk to the greatest number of people at the lowest cost. Furthermore, because FEMA's critical lifelines were intrinsic to the calculation of risk as part of PRDOH's Risk Assessment, and because of the interdependent nature of critical lifelines, projects that mitigate risk to one (1) or more of the critical lifelines will receive a higher RBS than those that mitigate risk to only secondary lifelines.

The formula for the RBS uses three (3) variables:

1. **MIT Index Score:** The MIT Index represents the total potential risk mitigated by a project per area. The Risk Assessment tool determines this by analyzing the service area of the project, the risk(s) the project mitigates, and the FEMA lifelines the project addresses.
2. **AOB Beneficiaries:** The total beneficiaries (persons) receiving a mitigation benefit from the project (determined by the service area of the project).
3. **Project Cost:** The total project cost, including all funding sources, necessary to complete construction or implementation of the CDBG-MIT project.

The RBS is calculated by multiplying the MIT Index Score by the number of beneficiaries of the project, and then dividing that result by the Project Cost. The resulting number is then multiplied by one hundred (100):

Equation 1: Risk-Benefit Score

$$RBS = \frac{(MIT\ INDEX)(AOB\ BENEFICIARIES)}{(PROJECT\ COST)} \times 100$$

In general, projects that address the following will inherently score better:

- Projects that mitigate multiple risks under one (1) project activity.
- Projects that reduce risk for socially vulnerable populations.
- Projects that reduce risk on a regional scale rather than at the site level.
- Projects that serve to mitigate risk to critical lifeline infrastructure will score better than those that serve secondary infrastructure.

Depending on the scale of the project, an RBS may range from a few hundred points into the thousands. The higher score indicates that a project is likely to reduce the most risks to the greatest number of people at the lowest cost, and thus will be in a more favorable position to be funded.

7.2 Feasibility Study Requirement

Any non-covered project over fifty million dollars (\$50,000,000) in total project value shall also be evaluated for feasibility to ensure that the project delivers the benefit of mitigation from risk to the greatest number of persons. A feasible project will demonstrate the ability to complete all necessary activities for the amount requested in the application. The applicant will be required to demonstrate the capacity to complete acquisition, permitting, design, environmental clearance, and all other activities necessary to complete construction of the mitigation project. Depending on the level of feasibility exhibited by the applicant/project and the potential of that project, PRDOH may choose to allocate additional funding for design, environmental, and other activities required prior to construction.

The feasibility study should include, but are not limited to, details on the following items:

1. Scope of work including a description of the main project requirements;
2. Project Cost Estimate and Financial Analysis;
3. Project Estimated Completion Schedule, inclusive of milestones;
4. Status of Pre-Development Activities (construction documents, environmental assessments, permits & endorsements, etc.); and
5. Site condition Analysis.

8 Covered Projects

If an IPGM project meets the definition of a Covered Project, the following information must also be provided in the application:

- A narrative describing consistency with other mitigation activities in the area.
- A narrative describing long-term efficacy and sustainability of the project.
- Provide a plan for long-term operation and maintenance of the proposed project.
- Provide information regarding the Benefit-Cost Analysis (**BCA**) of the project:
 - Current BCA prepared for the project, if available.
 - Determined Benefits to MID Area
 - BCA Methodology
 - An Additional Benefits Analysis must account for Economic or Community Development, and Other Social Benefits or Costs
 - For Non-FEMA BCA methodology: identify the methodology that will be used
- An alternative qualitative (narrative) description of benefits to LMI persons when the BCA is less than one (1.0), if applicable.

HUD implemented the concept of a Covered Project to enhance the evaluation processes for large-scale infrastructure projects. A Covered Project is defined as an infrastructure project having **1) a total project cost of one hundred million (\$100,000,000) or more, and 2) include at least fifty million (\$50,000,000) of CDBG funds** regardless of source (CDBG-DR, CDBG-National Disaster Resilience (NDR), CDBG-MIT, or CDBG).

Before implementing a Covered Project, the CDBG-MIT Action Plan must undergo a substantial amendment process to include a description of the project and the information required for other CDBG-MIT activities (how it meets the definition of a mitigation activity, consistency with the Mitigation Needs Assessment, eligibility under section 105(a) of the HCDA or a waiver or alternative requirement, and national objective, including additional criteria for mitigation activities). Additionally, the Action Plan must describe how the project meets additional national objectives criteria for Covered Projects, including its consistency with other mitigation activities in the same MID area and demonstrated long-term efficacy and sustainability of the project including its operations and maintenance.

Applicants can view the PRDOH CDBG-MIT BCA Guidelines for further explanation of policy requirements at: <https://cdbg-dr.pr.gov/en/download/program-guidelines/> (English) and <https://cdbg-dr.pr.gov/download/guias-programaticas/> (Spanish).

9 Project Eligibility Thresholds

In addition to meeting program eligibility criteria in the Program Eligibility section, IPGM awards will also meet the following criteria:

- Projects must meet the definition of mitigation and address the current and future risks as identified in the Risk-Based Needs Assessment.
- Project award cannot exceed the maximum of one hundred million dollars (\$100,000,000);
- Projects must meet the National Objective and eligible activity requirements for this Program;
- Project must have a viable and verifiable source of funding for the total costs not covered by the IPGM award;
- Projects must contribute to long-term growth potential and modernize privately-owned infrastructure that directly supports one (1) of the seven (7) community lifelines. Such projects must prove to institute one (1) or more of DHS mitigation themes (redundancy, alternatives, independence, coordination, and confidence).
- For Covered Projects it must demonstrate benefit with a FEMA BCA score of one (1.0) or above, or by alternate methods as per 84 FR 45838, 45851 Section V.A.2.h.2.(ii).

9.1 Award Structure

In order to encourage private investment, mitigate risk and avoid undue enrichment, loans cannot exceed fifty percent (50%) of a project's total cost. Total cost includes, among others, the development budget (hard and soft costs), and cost of issuance. Exceptions to this threshold may be considered by PRDOH.

The following will apply to loan awards:

- The maximum loan amount is capped at fifty percent (50%) of the total project cost or one hundred million dollars (\$100,000,000), whichever is lowest;
- A required minimum owner equity investment of ten percent (10%) of the total project cost;
- Amortization of principal balance will not exceed thirty (30) years with maturity between four (4) to thirty (30) years;
- Interest rate will be two percent (2%) per annum;

- The loan will be collateralized. The lien position of the collateral, such as real estate, capital equipment or liens on other property, may be subordinated to senior loans, if applicable;
- The loan may be subordinated debt. The debt which has a higher claim to the asset may be senior to an IPGM loan upon approval from PRDOH;
- The initial disbursements will begin once construction permits are issued, all eligible cost will be covered for the proportional amount, as deemed in the loan structure.
- No pre-payment penalty;
- A portion of the loan may be partially or fully forgiven based upon adherence to agreed- upon terms and conditions (see section on Partial Loan Forgiveness below for these terms).

10 Application and Award Process

The following is a **general outline** of the application submission and review process that will be discussed further in the following subsections:

1. Application window is opened for a pre-established period of ninety (90) days, and applications are accepted.²⁴
2. Application is then reviewed for completeness, eligibility, and underwriting. During this time, the applicant will be expected to respond to requests for inquiry within time frames specified through written communication:
 - An application threshold review is completed, which will include reviewing the application for completeness, eligibility requirements and alignment with program requirements and goals.
 - Applications are reviewed using the RBS tool, and evaluation criteria to be ranked.
 - Eligible projects continue to be underwritten and work towards a commercial loan closing.
 - PRDOH conducts a preliminary environmental review, feasibility review, underwriting analysis, duplication of benefits review, and determines potential award amount and terms.
3. Application will undergo committee review for project selection and award.
 - The Governance structure from PRDOH finalize analysis and approve selected projects.
 - PRDOH sends either an Award Notification or Denial letter to the applicant.
 - Commercial projects undergo the necessary legal and financial steps to satisfy all parties' requirements.
 - Applicants execute a loan agreement. Projects are implemented, funded, and serviced per their respective agreements.

²⁴ PRDOH reserves the right to extend this period at its discretion.

4. Awarded applicants will enter into an agreement and shall be held to project delivery timelines and loan terms for the duration of the agreement.

Awarded applicants are required to submit documentation as requested for program reporting and compliance purposes and ultimately for project closeout. PRDOH reserves the right to withhold award or reconsider eligibility if the awardee is unresponsive at any time during selection and extending into reporting periods.

10.1 Prior to Accepting Applications

Prior to opening and accepting applications, the Program will conduct a series of outreach activities for stakeholders to participate. Such actions included conducting sector analyses to inform potential applicants of specific areas of need, and/or collecting information from interested parties to gauge the program interest and demand. Information to be collected includes, but is not limited to:

- Potential Applicant information;
- Proposed project description;
- Proposed project budget and funding structure;
- Mitigation rationale, risks, and mitigation need assessment;
- How the project will improve lifeline infrastructure;
- Funding options available to finance unmet needs;
- Overall infrastructure vision for mitigation capital expenditures.

10.2 Project Application

After the initial outreach and information gathering efforts are completed, the Program will advertise the availability of funding and open an application window. Eligible applicants will be able to apply online through the PRDOH Application portal. The application period will be ninety (90) days.²⁵ Dependent on the responses received and funding availability, PRDOH may choose to open additional subsequent application periods.

An applicant's planning strategy and management capacity must be evident. Applications will include, but are not limited to, the following information:

1. Applicant description and history;
2. Source and use of all proposed funds;
3. Status of other committed funding sources;
4. Areas, industries, and people served by the project;
5. Demonstrate a mitigation rationale and specify risks that will be mitigated by the completion of the proposed project;

²⁵ PRDOH reserves the right to extend this period at its discretion.

6. Project design must show a significant improvement to existing conditions, and to the greatest extent feasible, mitigate risk to the population, public and private properties, infrastructure, the economy, economic assets, and/or natural resources of the Government of Puerto Rico;
7. RBS calculation information submittals;
8. Detailed description of how the project will create or retain jobs and how many jobs will be created or retained, as applicable;
9. Baseline schedule with a Work Breakdown Structure;
10. Timetable of projected start and completion, including a summary of any actions that have already been undertaken;
11. Personal and/or business competencies and capabilities necessary to achieve project success and completion;
12. Demonstrated ability, capacity, skill, and other necessary resources to perform the work or provide the services required and demonstrate that it has the financial resources to ensure on-going operation, maintenance, and fiscal sustainability for the completed project; and
13. For Covered Projects, please refer to BCA Section for additional application requirements.

10.2.1 Application Documentation Requirements

The following are examples of the support documentation that may be included with the application:

1. Documentation of status and/or commitment of all sources of funding (equity/other sources of financing);
2. All current relevant financial information and project pro-forma; including audited financial statements for the last three (3) years.
3. Filed federal and/or Puerto Rico tax returns for existing businesses including all schedules for the prior three (3) years;
4. Financial statements for last two (2) quarters for existing businesses;
5. Filed federal and/or Puerto Rico personal tax returns for the most recent three (3) years of those owners/principals holding twenty five percent (25%) or more ownership;
6. Personal financial statements of those owners/principals holding twenty five percent (25%) or more ownership;
7. Copy of current government-issued identification of those owners/principals holding twenty five percent (25%) or more ownership;
8. Proof of business/ownership structure;
9. Certification that the applicant entity is authorized to do business in Puerto Rico.

Additional information may be required as needed.

10.3 Application Review

Applications will be evaluated to ensure the applicant and the proposed projects meet the minimum criteria as outlined in the Program Guidelines. Responses that meet minimum threshold requirements will then be evaluated according to the established scoring criteria set forth in subsequent sections of the Program Guidelines.

The criteria under which projects will be evaluated and scored provides a comprehensive layout for project evaluation in a carefully weighted design. It is focused on how timely the project can be executed with the limited risk for the PRDOH, as grantee for the CDBG funds. The key considerations are strongly focused on strategy, priorities, project execution, and funding and are highly weighted in the scorecard to ensure implementation of mitigation infrastructure.

Applications will also be evaluated to determine the mitigation value and cost effectiveness of the proposed project.

10.3.1 Governance for Application Review and Award

The IPGM Program is introducing a comprehensive private sector mitigation infrastructure investment; as such, it needs to establish a strong Governance structure to oversee and implement the defined mitigation strategy. This Governance structure should provide advice and ensure the delivery of the project outputs and achievement of project outcomes.

Thus, an independent multidisciplinary group will approve the final projects to be selected in the application process. The evaluation and selection structure will overcome key challenges of the Program and ensure to meet the Program objective while adhering to the public policy for private sector infrastructure development.

Investment Portfolio for Growth Strategic Council (IPGSC)

The IPGSC will be composed of various expert in the transaction, fiscal, infrastructure, and economic development of the executive branch of the Government of Puerto Rico. It will be chaired by the Secretary of the PRDOH, which will perform application review within program timelines to ensure prompt decision-making and fulfillment of IPGM strategy and objectives. The IPGSC will be composed of multidisciplinary subjects to ensure the council possesses the expertise required to make a final decision in the project selection process.

In order to encourage a thorough process, the IPGSC will be composed of the following members of the executive branch of the Government of Puerto Rico:

- Secretary of the Department of Housing of Puerto Rico, who will serve as a Chairman;

- Secretary of the Department of Economic Development and Commerce, who will serve as the Vice Chair;
- Executive Director of the Private Public Partnership Authority;
- Executive Director of the Puerto Rico Fiscal Agency and Fiscal Authority; and
- Chairman of the Public Service Regulatory Board

The IPGSC will implement the following as part of its roles and responsibilities within the Program:

- Support and provide strategic direction and ensure timeline milestones.
- Resolve issues and conflicts brought forth by the IPGTC.
- Get Program status updates on a weekly basis.
- Project selection after IPGTC recommendation.

Investment Portfolio for Growth Technical Committee (IPGTC)

The IPGTC will be the committee responsible for delivering the technical evaluation for all eligible projects under the IPGM application submittals. The objective of IPGTC is to provide the technical evaluation as to which projects in connection with the IPGM Program are to be selected by a scorecard ranking methodology.

The IPGTC will be led by IPGM programmatic management team from PRDOH. The Chair of the IPGTC will assign the required management team, advisors, and technical support to deliver completed technical evaluations.

10.3.2 Scoring and Ranking

PRDOH will rank each application by points allocated to evaluation criteria set forth. If eligible responses exceed available funding, applicants will begin the underwriting process and provide funding for approved applicants in rank order based on evaluation scores. PRDOH reserves the option to fund all, a portion of or none of the applications submitted by an applicant.

10.3.3 Additional Scoring Evaluation Criteria

Projects may also be evaluated for other aspects such as program compliance, financial structure and need, innovative design, long-term operation and maintenance plan, and project readiness. Specific project scoring criteria will be published as a part of the Project Application instructions upon opening of the application period. Projects will be evaluated and scored based on the following aspects:

- Projects that have completed an extensive analysis of existing conditions, repetitive loss, past and future disasters, existing data, studies, and relevant federal, state, and local publications will be prioritized.
- If the project leverages CDBG-MIT funding with other federal, Government of Puerto Rico, and/or local funding sources.

- The feasibility of the project's long-term operations and maintenance plan that addresses the operations and maintenance costs of the infrastructure improved. All applicants are required to submit a long-term operations and maintenance plan and must identify reasonable milestones for any plan that will be reliant on proposed changes to existing taxation policies or tax collection practices.
- Whether the natural infrastructure is preserved, or other eco-conscious measures are included in project design to minimize the unintended consequences of grey infrastructure and other development. Applicants are encouraged to incorporate innovative nature-based solutions and natural or green infrastructure solutions during project development that reduce the negative impacts on the surrounding human and natural environment.²⁶
- Whether or not the project supports modern and/or resilient building methodologies and mitigation of hazard risk, including possible sea level rise, high winds, storm surge, and flooding. All projects presented are required to comply with all applicable building codes and regulations.
- Whether the project considered innovative design solutions that:
 - Improve the quality of life;
 - Stimulate sustainable growth and development;
 - Enhance public health and safety;
 - Minimize noise and vibration;
 - Minimize light pollution;
 - Improve community mobility and access;
 - Encourage alternative modes of transportation;
 - Improve site accessibility and safety;
 - Preserve Historic and Cultural resources;
 - Preserve or improve views and local character;
 - Encourage stakeholder involvement;
 - Address conflicting regulations and policies;
 - Extend the project facility lifespan;
 - Reduce energy consumption;
 - Make use of recycled materials;
 - Make use of local or regional materials;
 - Divert waste from landfills; and/or
 - Reduce waste during construction.

²⁶ Natural or green infrastructure is defined at 84 FR 45838, 45848 as the integration of natural processes or systems (such as wetlands or land barriers) or engineered systems that mimic natural systems and processes into investments in resilient infrastructure, including, for example, using permeable pavements and amended soils to improve infiltration and pollutant removal.

11 Selection and Award

Selected eligible non-covered project will be notified by means of a Notice of Award letter issued by PRDOH.

In the case of Covered Projects, applicants will receive a Pre-Selection Notification. These projects, along with their BCA, will be submitted to HUD for approval through a substantial amendment to the CDBG-MIT Action Plan, as discussed in the Covered Projects section of these Guidelines. If approved by HUD, the Applicant will then receive a Notice of Award from PRDOH.

11.1 Underwriting Criteria

As required by the corresponding eligible activity, applicant entities are required to meet the following minimum underwriting criteria:

1. A minimum credit score of six hundred (600) for owners with twenty five percent (25%) or more ownership interest or guarantors;
2. Minimum current or projected debt coverage ratio of 1.1:1 (including all new debt service resulting from the project);
3. Should reserve right to establish Loan-to-Value (LTV) limit based on type of loan, but LTV can never exceed 100%; and
4. A limited personal or corporate guarantee, for up to ten percent (10%) of the amount of the loan, is required for owners with twenty five percent (25%) or more ownership interest.
 - Entities without twenty five percent (25%) or more ownership interest will be required to meet alternative requirements, which may include a reduced loan to value ratio and/or alternative guarantors.

At a minimum, IPGM projects must meet the CDBG Underwriting Criteria of 24 C.F.R. § 570.209, which requires:

1. That project costs are reasonable;
2. That all other sources of project financing are committed;
3. That CDBG funds are not substituted for non-Federal financial funding or support;
4. That the project is financially feasible;
5. That to the extent practicable, the return on the applicant's equity investment will not be unreasonably high; and
6. That to the extent practicable, CDBG funds are disburse on a pro rata basis with other finances provided to the project.

11.2 Loan Agreement Execution

The Loan Agreement establishes the applicable CDBG-MIT award requirements, as well as state and local laws that the Subrecipient must meet. It includes provisions to reduce

risk of noncompliance and to ensure that PRDOH meets its own responsibility to HUD for performance and financial reporting.

Applicants with a Covered Project must receive HUD approval before an Award Agreement can be executed. See **Covered Projects Section** of these Program Guidelines for further explanation of the review process.

12 Partial Loan Forgiveness

A loan award that meets specific program goals will be eligible to have up to one hundred percent (100%) of their remaining loan balance forgiven upon satisfactory performances against grant milestones or payments of the required portion of the loan, as agreed. The percentage or amount to be forgiven will not exceed the remaining loan balance at the time the performance or grant milestone is achieved. The forgivable portion will not be repayable unless the awarded business is placed in default or does not meet the loan forgiveness requirements. Defaulted or non-compliant loans will be subject to full repayment of their loan per the terms of the loan agreement. Loan forgiveness is calculated based on the following criteria:

Criteria	Description	Forgiveness Awarded
1) Benefits Low-to-Moderate Income Persons	The project successfully meets HUD's National Objective of benefitting low-to-moderate income persons, either by LMI Area Benefit, LMI Job Creation, or LMI Limited Clientele.	Twenty percent (20%) of awarded amount is forgiven.
2) Above 10% of owner equity	For every additional one percent (1%) of owners' equity as part of the overall financing structure of the project, one percent (1%) of the loan will be forgiven incrementally.	One percent (1%) of the awarded amount is forgiven for every one percent (1%) of owner equity increment met, with a max of twenty percent (20%).
3) Job Creation Benefit	Projects with added economic benefits in the form of full-time employment (FTE) positions will be considered for additional forgiveness. An amount of \$200,000 per job created will be forgiven, capped at six million (\$6,000,000).	\$200,000/per FTE Capped at \$6 millions
4) Project Delivery Timeline	Projects that are completed on schedule with the work plan delivered in connection with the loan agreement will an opportunity for loan forgiveness. The Program will also have a pre-established percentage of schedule over run to give the opportunity of loan forgiveness even if the projects is not completed on schedule. The baseline schedule that will be used for this calculation will be the work plan delivered in connection with the loan agreement. The project milestones completed will not be evaluated nor influence the forgiveness. The actual end date for substantial completion of the	On Schedule = 20% forgiveness 10% schedule overrun = 10% forgiveness 15% schedule overrun = 5% forgiveness 20% schedule overrun = 2% forgiveness

	project will be the criteria to be considered, as compared to the baseline schedule.	
5) Project Cost	Projects that demonstrate good preparation and stewardship by completing work on budget shall be awarded forgiveness at fifteen (15%). Unanticipated and/or unmanaged costs shall be considered for forgiveness at a lower percentage within reason.	At Cost = 15% forgiveness 10% overrun = 10% forgiveness 15% overrun = 5% forgiveness 20% overrun = 2% forgiveness
6) Gap in Funding	Projects providing mitigation solutions that are otherwise precluded from participation in other CDBG-MIT programs will have fifteen (15%) of the award amount forgiven upon completion. If the entity is awarded additional funding from one (1) CDBG-MIT program in addition to IPGM and that does not incur in a duplication of benefit, it will have a ten percent (10%) of the award amount forgiven. If the entity is awarded funding from two (2) CDBG-MIT Programs, in addition to IPGM, it will receive five percent (5%) of loan forgiveness.	0 programs = 15% 1 program = 10% 2 programs = 5%
7) Strengthening of Community Lifelines	Due to the dependent and interdependent nature of community lifelines, IPGM envisions to fund projects that contributes to the overall strengthening of all lifelines. Therefore, projects that provide mitigation solutions to at least one (1) of the following lifelines and critical infrastructure will receive a fifteen percent (15%) loan forgiveness upon completion: <ul style="list-style-type: none"> • Communications • Transportation • Energy • Food, Water and Shelter 	Fifteen percent (15%) of awarded amount is forgiven if project impacts at least one (1) of the lifelines listed.
Forgiveness equals the total from items one (1) through seven (7). The maximum loan forgiveness is capped at one hundred percent (100%) of the original award amount.		

13 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.*, establishes the requirements for DOB analysis.²⁷ The Stafford Act prohibits any person, business concern, or other entity from receiving Federal funds for any part of such loss as to which they have received financial assistance under any other program, from private insurance, charitable assistance, or any other source. To comply with DOB provisions and the requirement that all costs are necessary and reasonable, PRDOH will ensure that each activity provides assistance to a person or entity

²⁷ Also, see 42 U.S.C. § 5155.

only to the extent that the person or entity has a mitigation need that has not been fully met.²⁸

Grantees must comply with the DOB guidance included in Federal Register Vol. 76, No. 221 (November 16, 2011), 76 FR 71060, and Federal Register Vol. 84, No. 119 (June 20, 2019), 84 FR 28836, which updates the DOB guidance issued in Federal Register Vol. 76, No. 221 (November 16, 2011), 76 FR 71060. DOB requirements on CDBG-DR funds will equally apply to CDBG-MIT funds. The 2019 DOB notice updates the treatment of declined loans where a grantee shall not take into consideration or reduce the amount of assistance provided to an applicant, where such applicant applied for and was approved, but declined assistance from the Small Business Administration (**SBA**), related to disasters that occurred from 2014 to 2017. The 2019 DOB notice also includes requirements applicable only to CDBG-MIT funds. The Federal Emergency Management Agency (**FEMA**), as per recent amendments to the Disaster Recovery Reform Act of 2018 (**DRRA**), Pub. L. 115-254, advises that a loan is not a duplication of other forms of financial assistance, provided that all federal assistance is used toward a loss suffered, as a result of a major disaster or emergency. The DRRA provisions apply to disasters occurred from 2016 to 2021.

PRDOH must consider disaster recovery aid received by, or available to, Program applicants from any other federal, state, local, or other source and determine if any assistance is duplicative. Potential funding sources include, but are not limited to, FEMA 406, FEMA HMGP, USACE, and CDBG-DR. Any assistance determined to be duplicative, meaning the amount received in excess of the total need for the same purpose, must be deducted from the Program's calculation of the applicant's total need prior to awarding assistance.

Similar to CDBG-DR, order of assistance must be adhered to. 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-MIT assistance for costs of carrying out the same project.

The basic framework for a DOB calculation is:

1. Identify Subrecipient's Total Need;
2. Identify Total Assistance Available (insurance, FEMA, SBA, etc.);
3. Identify the "Amount to Exclude as Non-Duplicative" (Amounts used for a different purpose, or same purpose, different allowable use);
4. Identify Total DOB Amount (Total Assistance Minus Non-Duplicative Exclusions);
5. Calculate Maximum Award (Total Need Minus Total DOB Amount);

²⁸ 84 FR 45838, 45860.

6. Apply the Program Cap (if applicable); and
7. Determine the Final Award (Program Cap = Final Award if Maximum Award is equal to or greater than the Program Cap)

For more information on Duplication of Benefits, please see the Duplication of Benefits Policy available in English and Spanish in the PRDOH CDBG-DR/MIT Website at <https://cdbg-dr.pr.gov/en/download/duplication-of-benefits-policy/> and <https://cdbg-dr.pr.gov/download/politica-sobre-la-duplicacion-de-beneficios/>.

14 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. Part 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. The objective 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 to these factors. 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.

In addition to prohibiting the commitment of funding to a project that can adversely impact the environment, 24 C.F.R. § 58.22 also prohibits limiting the choices of reasonable alternatives prior to completion of an environmental review. An environmental review must be completed prior to making any choice-limiting actions regarding the project, including demolition, or grading of the property, entering construction contracts, commencement of construction, or any other choice-limiting action. Once actions are taken to engage in the use of CDBG funding, choice-limiting actions cannot be undertaken.

To be eligible to receive CDBG-MIT funds under the Program and as part of the application process, PRDOH or its Subrecipients are responsible to conduct the required Environmental Review procedure for each project to be funded by CDBG-MIT and, in all cases, adhere to the guidance provided by the PRDOH environmental review team.

The related laws and regulations under 24 CFR 58.5 which contain environmental provisions with which the Program must comply include, but are not limited to:

- Protection of Historic Properties, 36 C.F.R. Part 800;
- Floodplain Management and Protection of Wetlands, 24 C.F.R. Part 55, Executive Order 11988, and Executive Order 11990;

- Sections 307 (c) and (d) of the Coastal Zone Management Act of 1972 (**CZMA**), as amended, 16 U.S.C. § 1456;
- Sole Source Aquifers, 40 C.F.R. Part 149;
- Endangered Species Act of 1973, as amended, 16 U.S.C. § 1531 *et seq.*;
- Section 7 (b) and (c) of the Wild and Scenic Rivers Act of 1968 (**WSRA**), as amended, 16 U.S.C. § 1278 (b) and (c)- 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(c) and (d) 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.*, and regulations at 7 C.F.R. Part 658;
- Environmental Criteria and Standards, 24 C.F.R. Part 51;
 - 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); and
- Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, Executive Order 12898, signed on 1994, 59 FR 7629.

All projects funded by the IPGM Program must comply with local environmental regulations and applicable laws in Puerto Rico, including but not limited to:

- Regulation 4860 of the Puerto Rico Department of Natural and Environmental Resources, as amended, known as the Regulation for the Use, Surveillance, Conservation and Management of the Territorial Waters, Submerged Lands Thereunder and the Maritime Zone;²⁹ and
- Act No. 33 of May 22, 2019, as amended, known as the Puerto Rico Climate Change Mitigation, Adaptation, and Resiliency Act.³⁰

To conduct the appropriate level of environmental review, the Subrecipient 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 in whole or in part to accomplish

²⁹ Regulation 4860, as amended is publicly available online at: <https://www.drna.pr.gov/wp-content/uploads/2019/03/Reglamento4860 lngl%C3%A9s.pdf>

³⁰ Act 33-2019 is publicly available online in Spanish at: <https://bvirtualogp.pr.gov/ogp/Bvirtual/leyesreferencia/PDF/2019/0033-2019.pdf>.

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

14.1 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 them as appropriate.

14.2 Categorically Excluded Activities

These are activities for which no Environmental Impact Statement or Environmental Assessment and Finding of No Significant Impact (**FONSI**) under NEPA are required. There are two (2) types of Categorically Excluded Activities, as follows:

Categorically excluded activities not subject to 24 C.F.R. § 58.5: refers those activities included under 24 C.F.R. § 58.35(b). Examples of such activities 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.

Categorically excluded activities subject to 24 C.F.R. § 58.5: Refers to those activities included under 24 C.F.R. § 58.35(a). Examples of such activities 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.

14.3 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.

14.4 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.

15 Procurement

All procurement transactions by Subrecipients for work to be funded by CDBG-MIT must be conducted in a manner providing full and open competition and in full compliance with the standards set forth under 2 C.F.R. § 200.318 to §200.327. Objective performances must be ensured, and unfair competitive advantages must be avoided (i.e., a contractor involved in the development of a procurement cannot compete for any such procurement). For reference, see the Procurement Manual for CDBG-DR Program available in English and Spanish at <https://cdbg-dr.pr.gov/en/resources/policies/general-policies/> and <https://cdbg-dr.pr.gov/en/resources/policies/general-policies/>.

16 Financial Management

All financial processes and procedures shall be made in accordance with the requirements set forth in the CDBG-DR/MIT Financial Policy, to ensure effective and fully compliant cost principles and use of funds, maximizing operational and financial performance, minimizing risk, and providing optimal service.

All Subrecipient invoicing and payments will be managed through PRDOH's Financial Management Systems. Refer to the CDBG-DR/MIT Financial Policy available in English and Spanish at <https://cdbg-dr.pr.gov/en/download/financial-policy/> and <https://cdbg-dr.pr.gov/download/politica-financiera/>

16.1 Program Income

For the purpose of the CDBG-MIT Program, Program Income is defined as gross income generated from the use of CDBG-MIT funds received by a State or local government, except Net income from the use or rental of real property owned by a State, local government, or subrecipient thereof, that was constructed or improved with CDBG-MIT funds.

When applicable, as specified in the loan agreement, public and other non-profit entities may be required to report program income quarterly and will be subject to applicable regulations from PRDOH and HUD directives. Retention of program income will be in compliance with any subgrant agreements.

For more information about Program Income refer to the CDBG-DR/MIT Program Income Policy available in English and Spanish at <https://cdbg-dr.pr.gov/en/download/program-income-policy/> and <https://cdbg-dr.pr.gov/download/politica-de-ingresos-del-programa/>.

16.2 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

Subrecipients who are provided CDBG-MIT funds through this Program, PRDOH will work with the awardee throughout the life of the grant to ensure that items like HUD cost principles are fully understood and complied with.

For Covered Projects, all planned project costs, schedules, and any subsequent amendments will be verified by a Third-Party Cost Estimator.

16.3 Reasonable Cost Guidance

PRDOH must ensure that CDBG-MIT funds will be used solely for necessary and reasonable costs related to long-term recovery and restoration of infrastructure. 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.³¹ 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.

16.4 Construction Cost Reasonableness

84 FR 45838 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 depending 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. 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-MIT 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-MIT 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.

³¹ 2 C.F.R. § 200.404.

- **Comparison of Proposed Prices with Prior Solicitation Processes:** During the life cycle of the CDBG-MIT 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-MIT, similarities exist. A comparison of 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-MIT 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 the procedures established by PRDOH, it requires the User Area requesting the services comparison of these independent cost estimates with proposed prices, which 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.

17 FEMA Elevation Requirements

Nonresidential structures must be elevated to the standards described in this section, 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 above the 100-year (or 1 percent (1%) annual chance) floodplain and may include using structural or nonstructural methods to reduce or prevent damage; or, designing it to adapt to, withstand and rapidly recover from a flood.

All Critical Actions, as defined at 24 C.F.R. § 55.2(b)(3), within the 500-year (or zero-point two percent (0.2%) 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 above the 100-year floodplain elevation. If the 500-year floodplain or

elevation is unavailable, and the Critical Action is in the 100-year floodplain, then the structure must be elevated or floodproofed at least three (3) feet 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.”³²

Non-structural infrastructure must be resilient to flooding. The vertical flood elevation establishes the level to which a facility must be resilient. This may include using structural or nonstructural methods to reduce or prevent damage; or, designing it to withstand and rapidly recover from a flood event. In selecting the appropriate resilience approach, grantees should consider several factors such as flood depth, velocity, rate of rise of floodwater, duration of floodwater, erosion, subsidence, the function or use and type of facility, and other factors.

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

17.1 Insurance Requirements

In accordance with 2 C.F.R. § 200.310, a recipient must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds as provided to property owned by PRDOH. Federally owned property need not be insured unless required by the terms and conditions of the Federal award.

18 Acquisition and the Uniform Relocation Act (URA)

Activities and projects undertaken with CDBG–MIT funds are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. §4601 *et seq.*, (**URA**) and section 104(d) of the HCDA, 42 U.S.C. §5304(d).

Projects funded under the Program, which include acquisition 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” may be eligible for relocation assistance benefits, which must be accounted for in project budgets.

As a condition of receiving CDBG-MIT assistance, Applicants agree to fully comply with all applicable provisions of the URA and waivers granted by HUD for CDBG-MIT activities found at 84 FR 45838, 45859. For more information on how URA regulations apply, please refer to the PRDOH Uniform Relocation Assistance Guide and Residential Anti-Displacement and Relocation Assistance Plan, available in English and Spanish, at

³² 24 C.F.R. §55.2(b)(3).

<https://cdbg-dr.pr.gov/en/resources/policies/dr.pr.gov/recursos/politicas/politicas-generales/>.

and

<https://cdbg->

19 Property Management and Disposition

PRDOH will comply with regulations governing property management and distribution of real property, equipment, financial obligations, and return of un-obligated cash post program closeout. Applicable regulations can be found in 24 C.F.R. §570.502, 24 C.F.R. §570.505, 2 C.F.R. §200.311, 2 C.F.R. §200.343, 2 C.F.R. §200.345(b), 2 C.F.R. §200.344(d) and 24 C.F.R. §570.489(j).

For any real property acquired in whole or in part with CDBG funds in excess of \$25,000.00, the recipient must control the use of the property in accordance with its intended purpose and take good care of it and may not change the use or planned use of the property without proper notification to affected citizens and allowable time for comment by them. If the property is not a building for general government conduct, the use of the property may be changed with citizen approval if it meets one of the HUD national objectives as defined in 24 C.F.R. § 570.483. If it does not meet one of the HUD National Objectives, the recipient may change the use of the property if the recipient either retains or disposes the property and reimburses PRDOH the amount of the current fair market value of the property.

Further details on property management and disposition can be found in the Property Management and Disposition Section of the Cross Cutting Guidelines posted on the PRDOH website, in English and Spanish, at <https://www.cdbg-dr.pr.gov/en/resources/policies/general-policies/> and <https://www.cdbg-dr.pr.gov/recursos/politicas/politicas-generales/>.

20 Labor Standards

Projects receiving CDBG-MIT funding are required to comply with federal labor standards laws, including Davis-Bacon Act of 1931 and Related Acts (**DBRA**), as amended, 40 U.S.C. §3141- 3148; Fair Labor Standards Act of 1938 (**FLSA**), as amended, 29 U.S.C. § 201 *et seq.*; Contract Work Hours and Safety Standards Act (**CWHSSA**), 40 U.S.C. § 3701; Copeland Anti-Kickback Act, 40 U.S.C. § 3145. Together, these laws ensure: 1) that workers are paid the appropriate prevailing wage rate and are treated fairly by employers receiving CDBG-MIT funding to execute program activities, and 2) employment opportunities are made available to low-income individuals to the greatest extent possible. Each of these laws requires important recordkeeping practices to ensure compliance and allow for accurate and efficient reporting as required by PRDOH.

Policies have been adopted by PRDOH for the CDBG-DR and MIT Programs, which it, its subrecipients, and contractors are required to follow and comply with in the implementation of CDBG-MIT funded activities. These policies are available in English and

Spanish at: <https://www.cdbg-dr.pr.gov/en/resources/policies/> or <https://cdbg-dr.pr.gov/recursos/politicas/politicas-generales/>.

21 Section 3

All Applicants who receive CDBG-MIT funding are required to comply with Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u, and its implementing regulation at 24 C.F.R Part 75, commonly referred to as the Section 3 Final Rule. Section 3 ensures that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible and consistent with existing federal 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 will communicate and work with Applicants to ensure that each project adheres to the Section 3 regulations and HUD's established benchmarks for the percentage of total work hours to be completed by Section 3 Workers and Targeted Section 3 Workers.

For more information about Section 3 refer to the CDBG-DR/MIT Section 3 Policy available in English and Spanish at <https://cdbg-dr.pr.gov/en/download/section-3-policy/> and <https://cdbg-dr.pr.gov/download/politica-sobre-seccion-3/>

22 Debarment and Suspension

Regulations restrict entering into awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

A contract award must not be made to parties listed on the government wide exclusions in the System for Award Management (**SAM**). SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order No.12549.

You may access the CDBG-DR Subrecipient Management Policy, and all CDBG-DR General Policies, at <https://cdbg-dr.pr.gov/en/download/subrecipient-management-policy/> and <https://cdbg-dr.pr.gov/download/politica-para-el-manejo-de-subrecipientes/>

23 Civil Rights and Non-Discrimination

The CDBG-MIT 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/>.

23.1 Fair Housing & Equal Opportunity Policy (FHEO Policy)

The FHEO Policy establishes requirements and provides guidance for ensuring that CDBG-MIT 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 IPGM Program.

For more information refer to the CDBG-DR/MIT Fair Housing and Equal Opportunity Policy available in English and Spanish at <https://cdbg-dr.pr.gov/en/download/fair-housing-and-equal-opportunity-fheo-policy-for-cdbg-dr-programs/> and <https://cdbg-dr.pr.gov/download/politica-de-equidad-de-vivienda-e-igualdad-de-oportunidades-para-los-programas-cdbg-dr/>

23.2 Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act, and Equal Employment Opportunity

All entities receiving an award from the Program are required to comply with Section 504 of the Rehabilitation Act of 1973, the American with Disabilities Act (**ADA**), and Equal Employment Opportunity (**EEO**) requirements in the execution of both infrastructure and job creation or retention activities. Based on the applicant entity type and the project activities, infrastructure, and facilities, as well as employment practices, will need to comply with Section 504 and ADA to be physically accessible to persons with disabilities, and employers must comply with employment requirements under these statutes as well as EEO.

23.3 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 will ensure 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 are available in English and Spanish on the PRDOH website at <https://cdbg-dr.pr.gov/en/fair-housing/policy-documents/> and <https://cdbg-dr.pr.gov/fair-housing/politicas-documentos/>.

23.4 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 because 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, in accordance with the LAP.

The CDBG-DR/MIT LAP is available in English and Spanish on the PRDOH CDBG website at <https://cdbg-dr.pr.gov/en/download/plan-de-acceso-al-idioma/> and <https://cdbg-dr.pr.gov/download/plan-de-acceso-al-idioma/>

24 Reporting

Recipients receiving federal award funds must complete a quarterly report in which they provide an overview on the project's progress to date, compliance with job creation/retention (if applicable) and include a summary of the progress expected for the next quarter. Additional compliance reporting, including but not limited to that for Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. §1701u, and Davis Bacon and Related Acts, as amended, 40 U.S.C. §§3141-3148, will be maintained in accordance with the reporting requirements under the CDBG-MIT regulations, applicable PRDOH CDBG-MIT policies, and executed agreements. Reporting

requirements will be detailed in the executed subrecipient agreement and must be submitted on the agreed upon schedule.

25 Monitoring

As a result of receiving CDBG-MIT 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: recordkeeping, 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-MIT 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. § 200.329, if applicable;
- Determine if any conflict of interest exist in the operation of the CDBG-MIT Program per 24 C.F.R. § 570.611; and

- Ensure that required records are maintained to demonstrate compliance with applicable regulations.

The CDBG-DR/MIT Monitoring Manual is available in English and Spanish at <https://cdbg-dr.pr.gov/en/download/monitoring-manual/> and <https://cdbg-dr.pr.gov/download/manual-de-monitoreo/>

26 Closeout

The closeout process is designed to ensure that all CDBG-DR/MIT funded activities are completed, and funds are spent in accordance with the grant agreement, program guidelines, and state and federal requirements. Closeout is the process by which it is determined that all CDBG-MIT program costs have been fully expended and were reasonable and necessary, the work has been completed in accordance with all applicable laws and regulations, and all responsibilities of PRDOH and the Subrecipient have been completed in accordance with the terms and conditions of the agreement. This process certifies that the CDBG-MIT funded activities described in the CDBG-MIT Action Plan and the Program Guidelines have benefited the persons for mitigation of current and future risks.

The CDBG-DR/MIT Closeout Policy is available in English and Spanish at <https://cdbg-dr.pr.gov/en/download/closeout-policy/> and <https://cdbg-dr.pr.gov/download/politica-de-cierre/>

26.1 Project Closeout

For projects comprised of multiple funding sources, project closeout occurs when all funds are spent, not just the CDBG-DR/MIT funded portions. PRDOH will solely determine if all the requirements of the Subrecipient Agreement or memorandum of understanding have been completed. After PRDOH makes this assessment, it can initiate closeout at a time and frequency of its choosing.

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-MIT 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;
- All monitoring or audit findings have been cleared;

- All milestones have been met and deliverables submitted, and each in accordance with all requirements of this Program; and
- A CDBG-MIT National Objective has been documented.

26.2 Program Closeout

Program closeout is the process by which PRDOH determines that all program activities have been successfully completed. A program is deemed complete upon final review and/or inspection by PRDOH and, when applicable, the submission of proof that all agreed upon performance indicators have been reported as well as performance milestones have been met. The program closeout is to be completed by no later than 6 months after infrastructure is completed and/or commissioned.

27 General Provisions

27.1 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, 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, 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.

27.2 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.

27.3 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 strictly applies to program deadlines or established program terms. Under no circumstance(s) does the faculty to extend deadlines apply to the established terms of time in these guidelines required by any applicable federal or state law or regulation.

27.4 Established Periods of Time

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

27.5 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.

27.6 Conflict of Interest

As stated in 84 FR 45838, 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-MIT assisted activities. Therefore, PRDOH has enacted the Conflict of Interest and Standards of Conduct Policy (**COI Policy**) in conformity with the following applicable federal and state regulations:

1. HUD conflict of interest regulations, 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 and § 200.318 (c)(1);
3. Puerto Rico Department of Housing Organic Act, Act 97 of June 10, 1972, as amended, 3 L.P.R.A. § 441 *et seq.*;
4. The Anti-Corruption Code for the New Puerto Rico, Act No. 2-2018, as amended, 3 L.P.R.A. § 1881 *et seq.*; and
5. The Puerto Rico Government Ethics Office Organic Act, Act No. 1-2012, as amended, 3 L.P.R.A. § 1854 *et seq.*

The COI Policy outlines PRDOH's responsibility, in its role as grantee, to identify, evaluate, disclose, and manage apparent, potential, or actual conflicts of interest related to CDBG-DR/MIT funded projects, activities and/or operations. Said Policy is intended to serve as guidance for the identification of apparent, potential, or actual conflicts of interest in all CDBG-DR/MIT 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 PRDOH, or of any designated public agencies, or of subrecipients that are receiving funds under the CDBG-MIT 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. Program officials, their employees, agents and/or designees are subject to state ethic laws and regulations, including, but not limited to Act No. 1-2012, as amended, regarding their conduct in the administration, granting of awards and program activities.

According to Act 1-2012, no public servant shall intervene, either directly or indirectly, in any matter in which they have a conflict of interests that may result in their benefit. No public servant shall intervene, directly or indirectly, in any matter in which any member of their family unit, relative, partner or 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 have ended during the **two (2) years** preceding the appointment of the public servant, they shall not intervene, either directly or indirectly, in any matter related to them until **two (2) years** have elapsed after their appointment. This prohibition shall remain in effect insofar the beneficial ties with the public servant exist. Once the beneficial ties end, the public servant shall not intervene, either directly or indirectly, in such matter until **two (2) years** have elapsed.

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

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

27.7 Citizen Participation

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

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

- **Via phone:** 1-833-234-CDBG or 1-833-234-2324 (TTY: 787-522-5950)
Attention hours 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/MIT Program
P.O. Box 21365
San Juan, PR 00928-1365

The Citizen Participation Plan is 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/>. For more information on how to contact PRDOH, please refer to www.cdbg-dr.pr.gov.

27.8 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/MIT 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) calendar days**, where practicable, as a CDBG grant recipient. See 24 C.F.R. §91.115(h) and 24 C.F.R. §570.486(a)(7).

Citizens who wish to submit formal complaints related to CDBG-DR 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/MIT Program

Attn: CDBG-DR/MIT 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.³³

The Citizen Complaints Policy and all CDBG-DR/MIT 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/>.

27.9 Anti-Fraud, Waste, Abuse or Mismanagement

PRDOH, as grantee, is committed to the responsible management of CDBG-DR/MIT 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 and 84 FR 45838, PRDOH implements adequate measures to detect and prevent fraud, waste, abuse, or mismanagement in all programs administered with CDBG-DR/MIT 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 and CDBG-MIT Programs, to report such acts to the CDBG-DR/MIT Internal Audit Office, directly to the Office of Inspector General (**OIG**) at HUD, or any local or federal law enforcement agency.

The Anti-Fraud, Waste, Abuse, or Mismanagement Policy (**AFWAM Policy**) is established to prevent, detect, and report any acts, or suspected acts, of fraud, waste, abuse, or mismanagement of CDBG-DR/MIT funds. This Policy applies to any allegations or irregularities, either known or suspected, that could be considered acts of fraud, waste, abuse, or mismanagement, involving any citizen, previous, current, or potential

³³ Hours may vary due to COVID-19. PRDOH recommends calling ahead prior to arrival to corroborate.

applicant, beneficiary, consultant, contractor, employee, partner, provider, subrecipient, supplier, and/or vendor under the CDBG-DR or CDBG-MIT Programs.

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

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

27.10 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.

28 Cross Cutting Guidelines

Some federal and local requirements apply to all programs funded by CDBG-DR/MIT. These Cross-Cutting Guidelines cover topics such as: financial management; environmental review; labor standards; acquisition; relocation; civil rights; fair housing; drug free workplace; timely distribution of funds; personally identifiable information; record retention; 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 and CDBG-MIT Action Plan and any subsequent amendments.

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

29 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.

30 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.