



DEPARTMENT OF
HOUSING



CDBG-MIT

PROGRAM GUIDELINES

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

August 14, 2023
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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
2	August 14, 2023	Revisions to clarify the method of distribution, discuss Executive Order No. 2023-004, projects direct selection methodology, and grant award distribution language. For reference, all edits are marked in gray.

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1 Overview

Throughout history, Puerto Rico has endured and recovered from numerous hurricanes, floods, earthquakes, and landslides, among other natural disasters and emergencies. Due to climate conditions, these risks are expected to increase in frequency and severity. Considering this scenario, it is imperative 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 risks while providing grantees the opportunity to transform state and local planning. The Community Development Block Grant - Mitigation Program (**CDBG-MIT**), 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 projects, 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 (**RBA**).
- **Benefit-Cost Analysis (BCA):** BCA is a method used to determine the future risk reduction benefits of a hazard mitigation project and compares those benefits

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 CDBG-MIT 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/>.

to its costs. It consists of a formulaic analysis used to demonstrate 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 required work of the award have 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 communities, and to create jobs through the expansion and retention of businesses.
- **Community Lifelines:** Community Lifelines are defined by FEMA as functions enabling 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 used on a daily basis to support recurring community needs. Lifelines also represent an organizing principle for resource allocation and prioritization during and after a disaster.
- **Covered Project:** A Covered Project is defined at 84 FR 45838, as an infrastructure project having a total project cost of \$100 million or more, with at least \$50 million of CDBG funds. ~~Specifically, 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 Improvement Steering Council (**FPISC**).⁴⁵ Consistent with HUD's National Environmental Policy Act (**NEPA**) implementing requirements at 24 C.F.R. §

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/>

⁴ 84 FR 45838, 45850.

⁵ The Federal Permitting Improvement Steering Council, created pursuant to Title XLI of the Fixing America's Surface Transportation Act of 2015 (FAST Act) pursuant to Pub. L. 114-94. <https://www.federalregister.gov/agencies/federal-permitting-improvement-steering-council>

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 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 of more than two thousand dollars (\$2,000), to pay their laborers and mechanics no 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 provided for the same purpose for which the CDBG-MIT award is provided.
- **Environmental Review:** Refers to the process of reviewing potential environmental impacts of a project to determine whether it meets federal, state, and local environmental standards. The Program will keep 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-Mitigation Strategic Council (IPGMSC or Strategic Council):** Independent committee council composed of key Executive Branch leaders designated by Executive Order No. 2023-004.⁶ various experts of 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. The Strategic Council ensures prompt decision-making and fulfillment of IPGM objectives in the project selection process. The Strategic Council is composed of the following members:

⁶ See, Executive Order No. 2023-004, To create a strategic council for the evaluation and adjudication of the projects presented before the Economic Development Investment Portfolio for Growth – Lifeline Mitigation Program, of the CDBG-MIT Program, attached to the Department of Housing of Puerto Rico (March 21, 2023), <https://docs.pr.gov/files/Estado/OrdenesEjecutivas/2023/OE-2023-004.pdf>.

- Secretary of PRDOH, as President;
 - Director of the Office of Management and Budget of Puerto Rico (**OGP**, for its Spanish acronym), as Vice President;
 - Secretary of the Puerto Rico Department of Economic Development and Commerce (**DDEC**, or its Spanish acronym);
 - Executive Director of the Puerto Rico Public-Private Partnerships Authority (**AAPP**, for its Spanish acronym);
 - Executive Director of the Puerto Rico Fiscal Agency and Financial Advisory Authority (**AAFAF**, or its Spanish acronym); and
 - Any other member designated by the Governor.
- **Investment Portfolio for Growth Technical Committee - Mitigation (IPGMTC or Technical Committee):** Special purpose committee created to receive, analyze, and deliver recommendations to the IPGMSC for selected projects under the IPGM application submittal during the project selection process. The Technical Committee is chaired by the Economic Recovery Grant Management Director and supported by experts from the IPGM Programmatic Management areas impacting the IPGM application review process.
 - **Low-to-Moderate Income (LMI):** Low-to-moderate-income people are those whose income does not exceed 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.⁷
 - **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:** The term Mitigation is defined at 84 FR 45838, 45840, 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:** HUD acknowledges at 84 FR 45838, 45841, HUD acknowledges the adoption of the definition of MID area from

⁷ 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>.

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~~ which 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 out an activity under a federal program. The term recipient does not include Subrecipients.
- **Risk Benefit Area (RBA):** 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 (RBS):** Determined by multiplying the MIT Index by the AOB, or beneficiaries, and then dividing the result by the Project Cost. The resulting number is then multiplied by one hundred (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 RBS.
- ~~**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:** A professional contracted by PRDOH to perform loan underwriting of submitted IPGM 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.*, which establishes minimum standards for federally funded programs and projects requiring the acquisition of real property (real estate) or displacement of 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 are set forth herein.⁸ Funding for the IPGM Program will be awarded through one of the following project selection methods: (1) competitive application, or (2) direct selection of projects.

- (1) Under the ~~Program participation is~~ competitive application method, IPGM Program will fund eligible projects through loan awards granted to the eligible Applicant entities. ~~In addition, A portion of the each loan could be eligible and have the potential, to be partially or fully forgiven, for full or partial forgiveness if the specific program goals stated in these Guidelines are met.~~
- (2) Under the direct selection method, the IPGM Program intends to fund large-scale development projects through grant awards.

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
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⁸ 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/>.

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 through the CDBG-MIT allocation, a significant opportunity to implement strategic, transformative, and high-impact projects. These 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 targeting economic development by funding lifeline infrastructure projects that support Risk-Based Mitigation Needs from privately-owned entities and public entities that are part of public-private partnerships. The Program has been designed with the 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 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 for a comprehensive mitigation strategy to enable and nurture strategic growth nodes that promote the resilience of the private sector's lifelines' resiliency while strengthening economic vitality.

Strengthening of Lifelines through Private Investment

The premise of the Department of Homeland Security (**DHS**) Infrastructure Interdependency Assessment - Puerto Rico report published in May 2018⁹ forms the basis of the IPGM strategy. The report comprehensively analyzes the interdependence of the Island's infrastructure assets after Hurricanes Irma and María. One of the primary objectives of the assessment was "characterizing the vital networks of activity for key

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>.

industries and their dependencies on lifeline infrastructure services and resources." In the report, DHS field research teams found five (5) sectors that provide resources or goods to all other critical infrastructure sectors – synonymous with lifeline sectors: (i) communications, (ii) energy, (iii) information technology (IT), (iv) transportation systems, and (v) water and wastewater systems.¹⁰ 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

The DHS Interdependency Assessment also included four (4) case studies to inform the CDBG-MIT planning process. The Program has highlighted the following themes ~~were~~ highlighted as fundamental for critical infrastructure and lifeline resilience in Puerto Rico:¹¹

- **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 diverse 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

¹⁰ Information Technology is considered a sector within the Communications lifeline.

¹¹ 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>.

communities and yield more successful outcomes and a more resilient lifeline 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~~ is 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."¹²

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~~ ~~such as,~~ but not limited to: ~~the development/redevelopment of:~~

- ~~Strategically increasing the resiliency of the transportation lifeline corridors, including seaports, airports, and other maritime transportation~~ ~~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 supporting 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.

¹² *Id.*

- 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 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 entities essential in mitigating hazardous risks related to disasters and man-made emergencies to apply, including industries supporting communications, maritime and air transportation lifelines, and solid waste management, operated mainly by the private sector.¹³ The Program will select these projects that will best serve the 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 The IPGM Program will potentially serve as a funding source for initiatives the Government of Puerto Rico deems critical for the Island's emerging economy and will fit in with the post-natural disaster recovery strategy. As a result, the Program uses its funds to support creative, cost-effective, and socially transformational solutions. For the competitive side of the Program, CDBG-MIT funds will be provided in the form of low-interest, partially or fully forgivable loans, as projects under the IPGM Program will require significant financial investments. 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. PRDOH may also directly select projects that align with the goals and strategies presented in the CDBG-MIT Action Plan for which funds will be provided in the form of a grant.

4.1 Stakeholder Outreach

The IPGM Program conducted additional stakeholder outreach across private sector companies operating within critical lifelines, associated regulators and professional associations to enable a thorough decision-making process with greater input from

¹³ Private operations and management of solid waste account for fifty-five percent (55%) of Puerto Rico's solid waste industry, while communications account for one hundred percent (100%) of privately-owned infrastructure and operations.

stakeholders in the private sector. The private sector industry analysis focused on private investment in lifelines infrastructure to increase stability and/or expansion of lifelines services.

Particularly, the Program engaged sixteen (16) stakeholders with authority over lifeline infrastructure or financial sector involvement for six (6) weeks to gather qualitative input. This outreach to the private sector resulted in information sharing and constructive feedback on the initial Program vision described in the CDBG-MIT Action Plan. Additionally, it provided PRDOH the opportunity to hear 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 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 Title I of the Housing and Community Development Act of 1974 (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 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-one 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~~ MID areas;¹⁴ and
 - (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.¹⁵

5.1 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 Facilities 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:¹⁶
 - The grantee must have a plan to fund the long-term operation and maintenance of CDBG-MIT Covered Projects and include a description in the Action Plan. Funding options might ~~include~~ consist of State or local resources, borrowing authority, or retargeting of existing financial resources.¹⁷
 - The grantee must document how the Covered Project will reflect changing environmental conditions (such as sea level rise or development patterns) with risk management tools and alternative funding sources if necessary.
- How the Covered Project will benefit the MID areas, which HUD has determined to be all municipalities of Puerto Rico ~~has been determined by~~ .
 - The benefits of the Covered Project must outweigh the costs of the project. Benefits outweigh costs if a BCA results in a BCR of one point zero (1.0) or greater.

¹⁴ This factor must tie to the PRDOH CDBG-MIT Action Plan in the Risk-Based Mitigation Needs Assessment.

¹⁵ Risk reduction is determined by the Risk Benefit Score.

¹⁶ 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 allowing tracking of proposed versus actual performance.

¹⁷ 84 FR 45838, 45848.

- Alternatively, for a Covered Project having a BCA with a BCR of less than one point zero (1.0) serves LMI persons or other persons that are less able to mitigate risks or respond to and recover from disasters, a project sponsor can demonstrate the benefits outweigh costs by supplementing its BCA with a narrative containing a qualitative description of benefits that cannot be quantified. The description must sufficiently demonstrate the unique and concrete benefits of the Covered Project for LMI persons or other persons who 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 such as enhancing a community's economic development potential, improving public health and/or expanding recreational opportunities.¹⁸

6 Program Eligibility

Unlike CDBG-DR funds where grantees must demonstrate their disaster recovery activities “tie back” to the specific disaster and address a specific unmet recovery need, CDBG-MIT funds do not require a “tie-back” to a specific qualified disaster serving as the basis for the allocation. Instead, Grantees must demonstrate that CDBG-MIT activities:¹⁹

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.²⁰

These and other eligibility parameters are addressed in the following subsections.

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 part of public-private partnerships for lifeline projects, which include:
 - Units of general local government/municipalities (including departments and divisions).

¹⁸ 84 FR 45838, 45857.

¹⁹ 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.

²⁰ See 84 FR 45838, 45849.

- ~~○ Government of Puerto Rico Agencies, Authorities, Trusts, and Boards.~~
- ~~○ Community Based Development Organizations and private non-profits.~~
- ~~○ Non-governmental organizations (501(c)(3)) or other non-profit entities.~~
- Privately owned entities, which include:
 - For-Profit Businesses, as eligible under applicable activity.

Entities eligible to receive assistance from the IPGM Program are those that integrate a public-private partnership, including: Units of general local government/municipalities (including departments and divisions), and Agencies, Authorities, Trusts and Boards of the Government of Puerto Rico, Community-Based Development Organizations and private non-profits, Non-governmental organizations (501(c)(3)) or other non-profit entities, and For-Profit Businesses, as eligible under applicable activity.²¹

For-Profit Businesses that do not integrate a public-private partnership are also eligible entities under applicable activity.²²

6.2 Ineligible Entities

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

- Entities that operate facilities 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;
- 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 proceeding (this does not include Title III or other covered entities of the Government of Puerto Rico) that directly affect their ability to achieve program outcomes and/or cover debt service obligations.²³

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

²¹ The term refers to eligible economic development activities under Section 105(a)(17) of the HCDA.

²² Id.

²³ Title III refers to the section of the Puerto Rico Oversight, Management, and Economic Stability Act (**PROMESA**) which covers court-supervised restructurings of United States territories and their covered instrumentalities.

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

- Section 105(a)(1) – Acquisition of real property;
- Section 105(a)(2) – Acquisition, construction, reconstruction, or installation of public works, facilities and improvements;
- Section 105(a)(3) – Code enforcement in deteriorated or deteriorating areas;
- Section 105(a)(4) – Clearance, demolition, removal, 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) – Provision of public services;²⁴
- Section 105(a)(9) – Payment of Non-Federal Share;
- Section 105(a)(11) – Relocation assistance;
- Section 105(a)(12) – Community development planning and policy-planning-management capacity building;
- Section 105(a)(14) – Activities carried out by public or private non-profit 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 entities;
- Section 105(a)(21) – Assistance to institutions of higher education;
- Section 105(a)(22) – Microenterprise assistance.

6.4 Eligible Uses of Funds

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;²⁵
- 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;

²⁴ In accordance with 84 FR 45838, 45849. Section V.A.2.c. Clarification of basic requirements for mitigation activities.

²⁵ 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.

- 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:

- Projects that do not mitigate risk according to the PRDOH Risk Assessment criteria explained in the CDBG-MIT Action Plan and these guidelines;
- Projects that enlarge a dam or levee beyond the footprint of the original 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
- 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 taking place between application and final award determination.²⁶

Choice-limiting actions performed prior to environmental clearance can result in regulatory or statutory violations that can jeopardize HUD funding of the project.²⁷

²⁶ 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.

²⁷ 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 requiring 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.

6.6 Competitive Application Project Eligibility Thresholds

In addition to meeting program eligibility criteria in the ~~Program Eligibility section~~, IPGM awards ~~will~~ **must** 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;
- Projects 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 ~~mentioned in these Guidelines~~ (redundancy, alternatives, independence, ~~and coordination and confidence~~).
- Any non-covered project over fifty million dollars (\$50,000,000) in total project value must demonstrate its feasibility or ability to complete all activities necessary for the construction of the mitigation project for the requested amount, including acquisition, permitting, design, and environmental clearance, among others.
- Covered Projects must demonstrate benefits with a FEMA BCA score of one ~~point zero~~ (1.0) or above or by alternate methods as per 84 FR 45838, 45851 Section V.A.2.h.(2)(ii).

7 Competitive Application and Award Review Process

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

1. ~~The~~ application window is opened for a pre-established period of ninety (90) days, ~~during which~~ applications are accepted.²⁸
2. ~~The Technical Committee will evaluate the applications to verify~~ ~~Application is then reviewed for~~ completeness, eligibility, and underwriting. During this time, the applicant ~~will be expected to~~ **must** respond to any requests for ~~inquiry~~ **additional information** ~~within time frames as required specified~~ through written communication:
 - An application threshold review is completed, ~~which will~~ including ~~reviewing the application for completeness, eligibility requirements, and alignment with program requirements and goals.~~

²⁸ PRDOH reserves the right to extend this period at its discretion.

- Applications are reviewed using the RBS tool, and ~~the Application Scorecard evaluation criteria to be ranked.~~
 - Eligible projects continue to be underwritten and worked 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. Eligible applications will proceed to the Strategic Council ~~review~~ for project selection and award.
- ~~The Governance structure~~ The Strategic Council finalizes the analysis and approves projects.
 - PRDOH sends either an Award Eligibility or ~~Notification or Denial~~ Ineligibility Notification ~~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.
4. Awarded Applicants will enter into a loan agreement and shall be held to project delivery timelines and loan terms for the duration of the agreement.

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

7.1 Prior to Accepting Applications

~~Prior to~~ **Before** opening and accepting applications, the Program will conduct a series of outreach activities for stakeholders to participate. Such actions include conducting sector analyses to inform potential Applicants of specific areas of need, and/or collecting information from interested parties to gauge demand and interest in the Program. 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 needs assessment;
- How the project will improve lifeline infrastructure;
- Funding options available to finance unmet needs;
- Overall infrastructure vision for mitigation capital expenditures.

7.2 Project Application

The Program will advertise the availability of funding and open an application portal after 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**.²⁹ 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;
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. A 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. A 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 show 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 the **Covered Projects** Section for additional application requirements.

7.2.1 Application Documentation Requirements

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

1. Documentation of status and/or commitment of all sources of funding (equity/other sources of financing);

²⁹ PRDOH reserves the right to extend this period at its discretion.

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 the 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 by the Program as needed.

7.3 Application Review

Applications will be evaluated to ensure the applicant and the proposed projects meet the minimum criteria as outlined in the Program Guidelines. Applications Responses meeting minimum threshold requirements will be issued a Preliminary Eligibility Notice and will then be evaluated according to the established scoring criteria set forth in the Application Scorecard Section of these Program Guidelines.

The criteria under which projects will be evaluated and scored provide a comprehensive layout for project evaluation in a carefully weighted design. They are focused on ~~how timely the project can be executed~~ the project's ability to be executed within a specified timeframe and with limited risk for PRDOH. These key considerations are strongly focused on strategy, priorities, project execution, and funding and are highly weighted in the scorecard to ensure the implementation of mitigation infrastructure.

7.3.1 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 will 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 ~~address~~ overcome key challenges of the Program and ensure ~~meet the~~ Program's objectives are met while adhering to the public policy for private sector infrastructure development.

Investment Portfolio for Growth - Mitigation Technical Committee (IPGMTC)

The IPGMTC is the committee responsible for conducting a technical evaluation for all eligible projects under the IPGM application submittals. selected by a scorecard ranking methodology. The objective of IPGMTC is to provide the technical evaluation of which projects in connection with the IPGM Program. The Technical Committee is Chaired by the Economic Recovery Grant Management Director and supported by experts from the IPGM Programmatic Management.

The committee will assess each application for completeness, eligibility requirements, and alignment with program requirements and criteria outlined in the Application Scorecard.

As part of its roles and responsibilities within the Program, the IPGMTC will:

- Conduct investigations, analysis, and due diligence to validate and test the technical aspects of the proposed projects, development of selected projects and their long-term operations and maintenance plans.
- Provide input on each Application Scorecard and make recommendations to the Strategic Council on the project selection process.
- Advise the Strategic Council and Program management regarding the selected projects' development, implementation, and advancement.

Investment Portfolio for Growth - Mitigation Strategic Council (IPGMSC)

The IPGMSC is composed of various expert key executive leaders with in-depth knowledge of the strategic mitigation plan transaction, fiscal, infrastructure, and economic development of the executive branch of the Government of Puerto Rico. It will be chaired by The PRDOH Secretary serves as President of the IPGMSC to aid project selection, application review within program timelines to ensure prompt decision-making and fulfillment of IPGM strategies and objectives. The IPGMSC will be composed of its multidisciplinary composition guarantees the council possesses the expertise required to make a final decision in the project selection process.

In order to encourage a thorough process, the IPGMSC will be composed of members of the executive branch of the Government of Puerto Rico designated by the Governor of Puerto Rico:³⁰

- Secretary of PRDOH, as President;
- Director of OGP, as Vice President;
- Secretary of DDEC;
- Executive Director of AAPP;
- Executive Director of AFFAF; and,
- Any other member designated by the Governor.

³⁰ OE-2023-004.

- ~~Chairman of the Public Service Regulatory Board~~

The IPGSC will implement As part of its roles and responsibilities within the Program, the IPGMSC:

- Supports and provides strategic direction to ensure timeline milestones.
- Resolves issues and conflicts brought forth by the IPGMTC.
- Receives Program status updates on a weekly basis.
- Carries out the evaluation and scoring of the Puerto Rico Public Policy Score Card segment.
- Conducts final project selection, considering recommendations by the IPGMTC.

7.3.2 Application Scorecard

The IPGMSC and IPGMTC will rank each application by allocating points to the evaluation criteria set forth in the Application Scorecard. Evaluation criteria covers the following subjects: program compliance, project type, risk mitigation and innovation, project readiness, project financing, and public benefit. Applications will also be evaluated to determine the mitigation value, feasibility, cost effectiveness of the proposed project, and long-term maintenance plan.

PRDOH will provide funding for selected applications in rank order based on the Application Scorecard results and subject to the availability of funds. PRDOH reserves the option to fund all, a portion of, or none of the applications submitted by an Applicant.

Particularly, projects will be evaluated and scored based on, but not limited to, the following aspects:

- Project type: Proposals will be assigned a project type based on the nature of risk mitigation and lifeline-strengthening activity:
 - Type 1 – Projects increasing resiliency of the Transportation lifeline (Aerial & Maritime); Projects that enhance and strengthen the Material Management lifeline sector (Waste Management and Recycling) by minimizing health threats associated with landfill overfill and unauthorized dumpsites; and Projects improving resiliency of privately-owned Communications (Telecommunications).
 - Type 2 – Projects strengthening agribusiness infrastructure and supporting local food supply and security (Food, Water, and Shelter lifeline; Non-Waste Management Industry); Projects enhancing the Transportation (Other) or Hazardous Materials lifelines.
 - Type 3 – Projects that enhance and strengthen the Safety and Security lifeline.
 - Type 4 – Projects improving the Health and Medicine lifeline by providing direct support to the health and medical supply chain within Puerto Rico.

- Type 5 – Projects promoting private investments in renewable Energy and Power that capitalize on the natural resources of Puerto Rico, aiming to reduce the dependence on fossil fuel to generate power (not directly part of the power grid improvements).
- ~~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.~~
- Indicators of project readiness, which may include, but are not limited to:
 - Details of the implementation plan and schedule;
 - Status of permits;
 - Projects not resulting in the displacement of persons or companies through the acquisition of property;
 - Status of project design;
 - Status of environmental review and level of environmental impact; and
 - Status of BCA, if applicable.
- ~~If the project Leverages of CDBG-MIT funding with other federal, Government of Puerto Rico, and/or local funding sources.~~
- Projects with a substantial external funding match and a high percentage of owner equity will be positively evaluated as increased leverage to maximize available CDBG-MIT funding.
- The feasibility of the project's long-term operations and maintenance plan addressing these costs for the infrastructure improved. All Applicants must submit this plan and identify reasonable milestones for any plan 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 and natural or green infrastructure solutions during project development that reduce the negative impacts on the surrounding human and natural environment.³¹
- 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 presented projects 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;

³¹ 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.

- 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 Historical 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.

7.3.3 Addressing Current and Future Risks, Risk Benefit Score (RBS)

The results of the PRDOH Risk Assessment described in the PRDOH CDBG-MIT Action Plan are available to the public through interactive geographic information system (**GIS**) tools,³² 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 **current and future risks** to life and property through a scoring system called the Risk Benefit Score (**RBS**). The RBS, which ~~that~~ directly ties to the data-based risk assessment performed ~~prior to~~ **before** receiving the CDBG-MIT allocation, is calculated by PRDOH. ~~The RBS will be calculated by PRDOH.~~

The RBS Calculator will be made available to program participants ~~as part of a toolbox that~~ to guide them in the completion of **the following** steps:

1. Create or upload a GIS file containing the shape (circle, square, rectangle, or polygon) of the project footprint ~~as well as~~ and the **Area of Benefit (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 producing~~ an RBS as a PDF report for application upload.

³² The Puerto Rico Hazards and Risks Portal is available in English and Spanish at the CDBG-MIT webpage: <https://cdbq-dr.pr.gov/iframes/PRhazardandriskslFRM> y <https://cdbq-dr.pr.gov/iframes/PRpeligrasyriesgoslFRM>.

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.

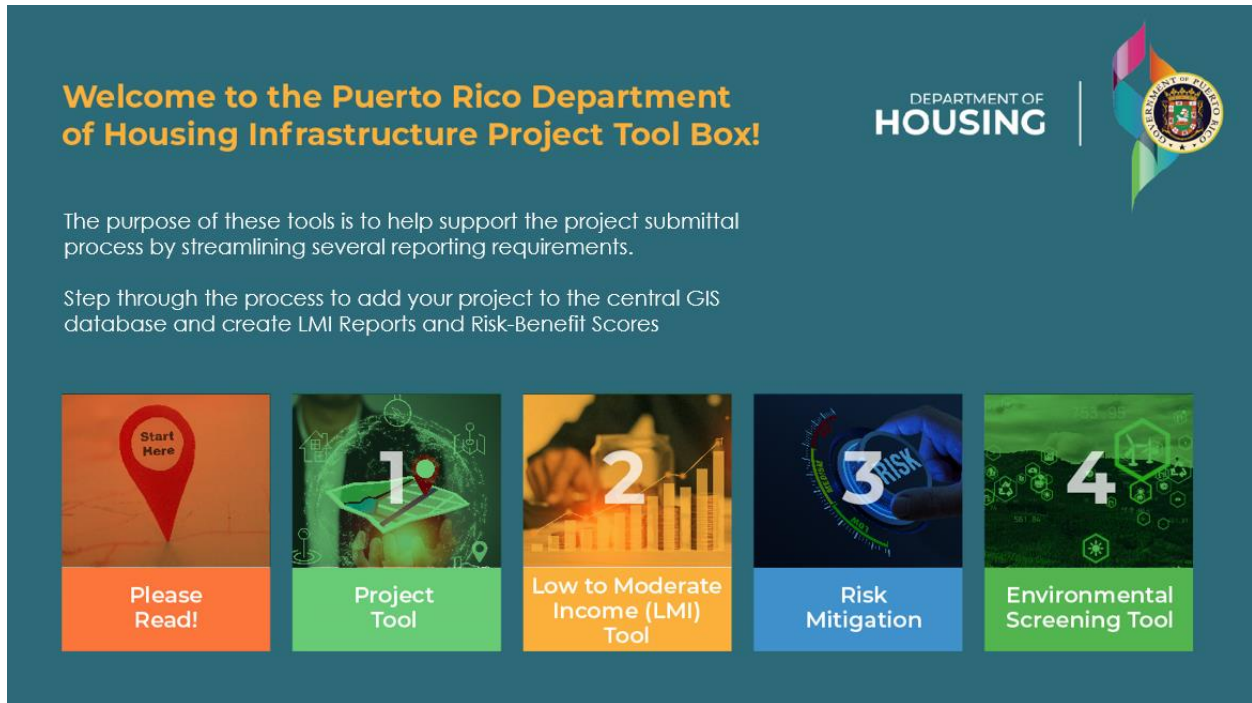


Figure 1: Image of the PRDOH Infrastructure Project Tool Box

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

7.3.3.1 Risk Benefit Score Explained

All projects funded through this The Program will evaluate all projects based on their RBS, which will weigh heavily in their prioritization and selection. PRDOH developed the Risk Assessment tool ~~was developed to utilize risk assessment data~~ to estimate the effectiveness of a project ~~utilizing risk assessment data~~. 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 allows the Program to confirm that project activity will demonstrably mitigate past and future risk, and to prioritize projects reducing 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:** Represents the total potential risk mitigated by a project per area. The Risk Assessment tool determines this by analyzing the project's service area, 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 project's service area.
3. **Project Cost:** The total project cost, including all funding sources, necessary to complete the construction or implementation of the CDBG-MIT project.

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

Equation 1: Risk-Benefit Score

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

Projects addressing the following will inherently have a higher RBS:

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

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

7.3.4 Feasibility Study Requirement

The Program will evaluate the feasibility of any competitive non-covered project over fifty million dollars (\$50,000,000) in total project value shall also be evaluated for feasibility to ensure the project it delivers the benefit of mitigation from risks 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 including but not limited to, acquisition, permitting, design, and environmental clearance, and all e among others activities necessary to complete the construction of the mitigation project among others.

Depending on the level of feasibility exhibited by the Applicant/project and the potential of the project, PRDOH may choose to allocate additional funding for design, environmental, and other activities required before construction.

The feasibility study should include, but is 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 and endorsements, etc.); and
5. Site Condition Analysis.

7.3.5 Additional Scoring Evaluation Criteria

Projects may also be evaluated taking into account other aspects such as program compliance, risk mitigation, compliance with public policy, financial structure and need, innovative design, long term operation and maintenance plan, dissemination to community and project preparation. Specific project scoring criteria will be published as part of the project application instructions at the start of the application period.

8 Program Funding and Awards

This 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 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 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 by PRDOH.

For competitive applications, PRDOH set a maximum loan award of one hundred million dollars (\$100,000,000). PRDOH will not consider any exceptions to the maximum loan award amount.

For directly selected projects, PRDOH set a maximum grant award of one hundred million dollars (\$100,000,000).

8.1 Loan Awards Structures

To encourage private investments, mitigate risks, and avoid undue enrichment, the Program will award low interest loans that may be partially or fully forgivable and, ~~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 of one hundred million dollars (\$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 Applicant, 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.~~³³

~~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.~~³⁴ ~~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 after 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.~~

8.2 **Loan 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;

³³ The matching basis means that for every dollar of funding allocated to the project by another source, the Program may disburse the same amount for the project, but not more.

³⁴ 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.

- 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 costs 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 the section on Partial Loan Forgiveness below for these terms).

8.3 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 performance 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 equivalent (FTE) positions will be considered for additional forgiveness. An amount of two hundred thousand dollars (\$200,000) per job created will be forgiven, capped at six million (\$6,000,000).	\$200,000/per FTE Capped at \$6 million
4) Project Delivery Timeline	Projects that are completed on schedule with the work plan delivered in connection with the Loan Agreement will have an opportunity for loan	On Schedule = 20% forgiveness

	<p>forgiveness. The Program will also have a pre-established percentage of schedule overrun to give the opportunity of loan forgiveness even if the project is not completed on schedule. The baseline schedule 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 project will be the criterion to be considered, as compared to the baseline schedule.</p>	<p>10% schedule overrun = 10% forgiveness 15% schedule overrun = 5% forgiveness 20% schedule overrun = 2% forgiveness</p>
5) Project Cost	<p>Projects demonstrating good preparation and stewardship by completing work on budget shall be awarded forgiveness at fifteen percent (15%). Unanticipated and/or unmanaged costs shall be considered for forgiveness at a lower percentage within reason.</p>	<p>At Cost = 15% forgiveness 10% overrun = 10% forgiveness 15% overrun = 5% forgiveness 20% overrun = 2% forgiveness</p>
6) Gap in Funding	<p>Projects providing mitigation solutions otherwise precluded from participation in other CDBG-MIT programs will have fifteen percent (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.</p>	<p>0 programs = 15% 1 program = 10% 2 programs = 5%</p>
7) Strengthening of Community Lifelines	<p>Due to the dependent and interdependent nature of community lifelines, IPGM envisions to fund projects that contribute to the overall strengthening of all lifelines. Therefore, projects providing mitigation solutions to at least one (1) of the following lifelines and critical infrastructure will receive a fifteen percent (15%) loan forgiveness upon completion:</p> <ul style="list-style-type: none"> • Communications • Transportation • Material Solid Waste Management • Energy • Food, Water and Shelter 	<p>Fifteen percent (15%) of awarded amount is forgiven if project impacts at least one (1) of the lifelines listed.</p>
<p>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.</p>		

9 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.
- A plan for long-term operation and maintenance of the proposed project.
- 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; and
 - ~~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 to be used.
- An alternative qualitative (narrative) description of benefits to LMI persons when the BCA is less than one point zero (1.0), if applicable.
- An Additional Benefits Analysis accounting for Economic or Community Development, and Other Social Benefits or Costs.

HUD implemented the concept of Covered Projects to enhance the evaluation processes of large-scale infrastructure projects. As defined in 84 FR 45838, a Covered Project is an infrastructure project having: **1) a total project cost of one hundred million (\$100,000,000) or more, and 2) at least fifty million (\$50,000,000) of CDBG funds**, regardless of source (CDBG-DR, CDBG-National Disaster Resilience (NDR), CDBG-MIT, or CDBG).

The CDBG-MIT Action Plan must undergo a substantial amendment process before implementing a Covered Project. Each amendment, ~~the CDBG-MIT Action Plan must undergo a substantial amendment process to~~ will include a description of the project and information required for other CDBG-MIT activities, such as how it meets the definition of 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.

Per HUD requirements, Applicant entities cannot enter into a construction, rehabilitation, or reconstruction contract as part of an approved Covered Project until:

- A third-party entity (e.g., a cost estimator) has verified the anticipated project costs during implementation to determine whether the contract costs and any contract changes are reasonable; and
- The entity has secured a certification by a licensed design professional affirming that the project design or redesign meets nationally recognized design and performance standards applicable to the project, including, if applicable, criteria

recognized by FEMA, pursuant to FEMA's Hazard Mitigation Assistance Guidance Addendum.³⁵

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).

10 Competitive Selection and Loan Award

The IPGM Program may award more than one (1) project to an entity only after all other project Applicant entities are considered and awarded, if any. Selected eligible non-covered projects will be notified through a ~~Notice~~ Notification of Award issued by PRDOH. Ineligible entities will receive a Notification of Ineligibility outlining the reasons for the Program's determination.

In the case of Covered Projects, Applicants will receive a Preliminary Eligibility and Reservation of Funds Notification. These projects, along with ~~and~~ 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~~ Notification of Award-Covered Projects from PRDOH.

Awarded entities must participate in an Award Coordination meeting with PRDOH. During the meeting, PRDOH will guide the entity through the award process, explain the terms and conditions of the Loan Agreement and the closing process. Award Coordination meetings may be conducted in person, by telephone, or via a virtual meeting platform.

10.1 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 the right to establish a 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.

³⁵ FEMA, Hazard Mitigation Assistance Guidance Addendum, (February 27, 2015), https://www.fema.gov/sites/default/files/2020-07/fy15_hma_addendum.pdf.

- 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~~ LTV and/or alternative guarantors.

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

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

10.2 Loan Agreement Execution

The Loan Agreement establishes the applicable CDBG-MIT award requirements, and federal state and local laws the Subrecipient Applicant must meet. It includes provisions to reduce the risk of non-compliance and ensure PRDOH meets its own responsibility to HUD for performance and financial reporting.

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

11 Direct Selection and Grant Awards

In alignment with HUD, the IPGM Program may directly select large-scale and transformative projects that will create positive, far-reaching impacts on community lifelines. Program funds will be allocated towards innovative, long-term projects aimed at creating jobs and fostering economic development benefits.

11.1 Selection Criteria for Direct Selection Projects

In addition to meeting program eligibility criteria, directly selected projects must meet the following criteria:

- Projects must meet the definition of mitigation and address current and future risks as identified in the Risk-Based Needs Assessment of the CDBG-MIT Action Plan.
- Project awards cannot exceed the maximum amount of one hundred million dollars (\$100,000,000).
- Projects must satisfy a National Objective and meet eligible activity requirements for the IPGM Program.

- Projects must contribute to the long-term growth potential and modernization of infrastructure that directly supports one (1) of the seven (7) community lifelines. Also, these projects must demonstrate the implementation of one (1) or more of the DHS mitigation themes mentioned in these Guidelines, namely redundancy, alternatives, independence, and coordination.
- Covered Projects are required to demonstrate their benefit through a FEMA BCA score of one point zero (1.0) or above or by alternate methods as specified in 84 FR 45838, 45851 Section V.A.2.h.(2)(c)(ii).

11.2 Project Direct Selection Process

Directly selected projects will undergo an initial survey during intake and must provide additional information necessary for evaluating their eligibility under the Program. Technical assistance will be available to assist the prospective entity during this process. Eligibility will be evaluated based on the following criteria:

- Description and purpose of the project:
 - The project description must include an exact location of the project activities.
 - All activities related to one another must be grouped and evaluated as a single infrastructure project, based on geographical or functional relationships, or as logical components of a composite of contemplated infrastructure-related actions.
- Budget/Cost information:
 - Estimated project costs for all phases must be provided, along with a breakdown of funding sources.
 - Describe other available funds if the project capitalizes on public and private partnerships, for which the public match (only) is requested through this Program.
- Specify risks that will be mitigated by the completion of the proposed project:
 - Identification of risks to be mitigated.
 - Narrative describing how implementation of the proposed project activity would reduce, eliminate, or prevent risks from the hazards caused by future disaster events within the identified area.
- Description of AOB:
 - Description of the AOB and its boundaries, along with the spatial geographies best used to represent it.
 - The percentage of LMI beneficiaries.
 - Narrative describing the areas benefitting from the project using municipalities, wards or “barrios”, sectors, etc.
 - Narrative identifying the socioeconomic characteristics of the population set to benefit from the project (Project Beneficiaries).

- Implementation plan:
 - Description of how the project will be implemented.
 - Schedule of anticipated project activities.
 - Description of the current state of the project, including any consultations or studies performed (feasibility, environmental, A&E, etc.), and the status of acquisitions, designs, environmental reviews and permits.
- Analysis of Project Benefits such as:
 - Economic impacts;
 - Lifesaving services;
 - Emergency response capabilities;
 - Long-term benefits;
 - Analysis of impact on disadvantaged populations and protected classes (from a technical standpoint);
 - Ancillary or co-benefits (social, environmental, resiliency);
 - Nature-based solutions;
 - Community engagement; and
 - Environmental and historic impacts.
- Operations and Maintenance:
 - Narrative of the feasibility of the project's long-term operations and maintenance plan, addressing the costs of operating and maintaining the improved infrastructure. Additionally, the plan must identify reasonable milestones for any strategy that depends 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 the project design to minimize the unintended consequences of grey infrastructure and other development.
- Applicant entities are encouraged to incorporate innovative nature-based and natural or green infrastructure solutions during project development, which reduce the negative impacts on the surrounding human and natural environment.³⁶

11.3 Economic and Financial Evaluation Process

Projects directly selected and deemed eligible will undergo an underwriting process to evaluate its ability to complete all necessary activities for the requested amount. At a minimum, projects must meet the CDBG Underwriting Criteria at 24 C.F.R. § 570.209, which requires:

1. The project costs are reasonable;

³⁶ 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.

2. All other sources of project financing are committed;
3. To the extent practicable, CDBG funds are not substituted for non-Federal financial support;
4. The project is financially feasible;
5. To the extent practicable, the return on the Applicant's equity investment will not be unreasonably high; and
6. To the extent practicable, CDBG funds are disbursed on a pro rata basis with other financing provided to the project.

11.4 Grant Agreement Execution

After successfully completing the eligibility review and underwriting process, and demonstrating full compliance with all other applicable requirements, PRDOH and the Applicant entity will execute a Grant Agreement. The Grant Agreement will outline the applicable CDBG-MIT award requirements, as well as the Federal and local laws that the entity must adhere to. In addition, it will incorporate provisions aimed at reducing the risks of noncompliance and ensuring that PRDOH fulfills its responsibility to HUD for performance and financial reporting, among other obligations.

12 Voluntary Withdrawal

The Voluntary Withdrawal Process will be triggered when an Applicant entity requests to withdraw from the IPGM Program. An Applicant entity may request to withdraw from the Program at any time before signing a Loan or Grant Agreement. The Applicant entity must notify the Program in writing of their desire to withdraw from the Program. The Applicant entity will receive a Voluntary Withdrawal Notice providing the Applicant **fourteen (14) calendar days** to reconsider the withdrawal request. After the allotted time has elapsed, the Applicant entity will receive a Withdrawal Confirmation Notice. The Program will update the application status to "Withdrawn" and close the case. The Applicant entity will not be able to participate in the Program upon closure of their application.

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.³⁷ 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

³⁷ Also, see 42 U.S.C. § 5155.

reasonable, PRDOH will ensure each activity aids a person or entity only to the extent the person or entity has a mitigation need that has not been fully met.³⁸

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 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 a loan is not a duplication of other forms of financial assistance, provided 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, the 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 Applicant~~ 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~~ Applicant'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);
6. Apply the Program Cap (if applicable); and

³⁸ 84 FR 45838, 45860.

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 which 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 review procedures 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** **authorized representatives** are responsible ~~to~~ **for** conducting 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 C.F.R. § 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 No. 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;³⁹ and
- Act No. 33-2019, as amended, 12 LPRC § 8011, known as the "Puerto Rico Climate Change Mitigation, Adaptation, and Resiliency Act."⁴⁰

To conduct the appropriate level of environmental review, the Subrecipient PRDOH or its authorized representatives 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 a specific objective. The four (4) major environmental classifications for projects and their descriptions are as follows.

³⁹ Puerto Rico Department of Natural and Environmental Resources, Regulation for the Use, Surveillance, Conservation and Management of the Territorial Waters, Submerged Lands Thereunder and the Maritime Zone, No. 4860, (December 30, 1992), https://www.dnra.pr.gov/wp-content/uploads/2019/03/Reglamento4860_Ingl%C3%A9s.pdf.

⁴⁰ Act No. 33-2019, as amended, known as the "Puerto Rico Climate Change Mitigation, Adaptation, and Resiliency Act," 12 LPRC § 8011, *et seq.*, <https://bvirtualogp.pr.gov/ogp/Bvirtual/leyesreferencia/PDF/2019/0033-2019.pdf>.

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 the 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 comments addressed appropriately, the project may be found to not constitute an action significantly affecting the quality of the human environment and, therefore, does not require the preparation of an Environmental Impact Statement; or the contrary 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 Procurement 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.

Given the direct distribution model of the Program, PRDOH is the recipient of the loan payments and therefore of the Program Income. Program Income generated by IPGM loan repayments will be placed in an interest-bearing account, as a revolving loan fund and will be used to fund additional IPGM awards as funds become available, in accordance with 84 FR 45858, 45859.

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 before construction, cost estimates be reviewed and confirmed to be reasonable. For Subrecipients awarded applicants who are provided CDBG-MIT funds through this Program, PRDOH will work with the awardee throughout the life of the grant to ensure

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 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, it 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.⁴¹ PRDOH may choose to determine standard reasonable costs for the reimbursement of specific costs under this Program and will deny costs determined to not conform to the cost reasonableness requirements.

16.4 Construction Cost Reasonableness

Federal Register Notice 84 FR 45838, requires PRDOH to ensure construction costs are reasonable and consistent with market costs at the time and place of construction. Cost reasonableness is described as the price 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 and 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 prices with prior solicitation processes; comparison of proposed prices and historical contracts; independent cost estimates; market research, among others.

- ~~• **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 attracts two (2) or more offers in an independent competition for an award, which establishes current market values.~~
- ~~• **Comparison of Proposed Prices with Prior Solicitation Processes:** During the life cycle of the CDBG-MIT grant, PRDOH or its Subrecipients may procure certain~~

⁴¹ 2 C.F.R. § 200.404.

~~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 (2) 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 (3) 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.”⁴²

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

⁴² 24 C.F.R. § 55.2(b)(3).

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 twenty-five thousand dollars (\$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) 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.

CDBG-DR labor standards policies adopted by ~~Policies have been adopted by~~ PRDOH for the CDBG-MIT Programs, ~~which it, its Subrecipients, and contractors are required to follow and comply with in the implementation of and CDBG-MIT funded activities.~~ These policies are available in English and Spanish at: <https://www.cdbg-dr.pr.gov/en/resources/policies/> and <https://cdbg-dr.pr.gov/recursos/politicas/politicas-generales/>.

21 Section 3

All Applicants projects receiving 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 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 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 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 a 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 to avoid disproportionate negative impacts on protected classes of people and vulnerable communities, as well as to create opportunities addressing economic inequities faced by communities. PRDOH has adopted several policies to which its Subrecipients authorized representatives, 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 to ensure 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, as amended, 29 U.S.C. §794, the American with Disabilities Act (ADA), as amended, 42 U.S.C. §12101, and Equal Employment Opportunity laws (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, facilities, and employment practices, will need to comply with Section 504 and ADA to be physically accessible to persons with disabilities. Additionally, employers must comply with employment requirements under these statutes and EEO laws.

23.3 Reasonable Accommodation Policy

Federally funded programs are required under Section 504 of the Rehabilitation Act of 1973, 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. As such, PRDOH has established a 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 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 to be followed by PRDOH, Subrecipients, and contractors to ensure 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 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.

Program monitoring serves to identify risks, deficiencies, and remedies related to programs, projects, and Subrecipients. Program monitoring aims to:

- 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 are eligible under applicable laws and CDBG regulations and if they 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 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 required records are maintained in order 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 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 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 applicable terms and ~~conditions of the agreement. The process certifies that the CDBG-MIT funded activities described in the CDBG-MIT Action Plan and the Program Guidelines have benefited 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 Agreement~~ 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 the payment requested;
- Any other responsibilities detailed in the ~~Subrecipient Agreement~~ have been fulfilled;
- PRDOH has reviewed closeout documents and has a resolution for 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 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 **six (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. The 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 they, as written, do not reflect the intended policy or cause procedures to be impracticable, among any other circumstances. If an amended version of these Guidelines is approved, the amended version fully supersedes all other previous versions and should be used as the basis 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 on the cover page of these Guidelines. Each version of these Program Guidelines will contain a detailed version control log which 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. This strictly applies to program deadlines or established program terms. Under no circumstance(s) does the faculty to

extend deadlines apply to the established terms 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 LPRA Ap. V, R. 68.1.

27.5 Written Notifications

All determinations made by the Program will be notified in writing. If an Applicant believes 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 in carrying out eligible activities, be responsible for compliance 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 No. 97 of June 10, 1972, as amended, 3 LPRA § 441 *et seq.*;
4. The Anti-Corruption Code for the New Puerto Rico, Act No. 2-2018, as amended, 3 LPRA § 1881 *et seq.*; and
5. The Puerto Rico Government Ethics Office Organic Act, Act No. 1-2012, as amended, 3 LPRA § 1854 *et seq.*

The COI Policy outlines PRDOH's responsibility, in its role as grantee, to identify, evaluate, disclose, and manage apparent, potential, or actual conflicts of interest related to CDBG-DR/MIT funded projects, activities and/or operations. 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 Subrecipients 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, 3 LPRA § 1854, *et seq.*, known as the "Puerto Rico Government Ethics Office Organic Act," 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 case 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 as the beneficial ties with the public servant exist. Once the beneficial ties end, the public servant shall not intervene, either directly or indirectly, in such matter until **two (2) years** have elapsed.

The above conflict of interest statement does not necessarily preclude PRDOH Program officials, their employees, agents and/or designees from receiving assistance from the Program. On a case-by-case basis, PRDOH Program officials, their employees, agents and/or designees may still be eligible to apply and receive assistance from the Program if they 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 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) business 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/MIT funded activities may do so through any of the following means:

- **Via email:** LegalCDBG@vivienda.pr.gov
- **Online:** <https://cdbg-dr.pr.gov/en/complaints/> (English)
<https://cdbg-dr.pr.gov/quejas/> (Spanish)
- **In writing:** 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 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.⁴³

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/MIT Program, to report such acts to the CDBG-DR/MIT Internal Audit Office, directly to the Office of Inspector General (**OIG**) at HUD, or any local or federal law enforcement agency.

The Anti-Fraud, Waste, Abuse, or Mismanagement Policy (**AFWAM Policy**) is established to prevent, detect, and report any acts, or suspected acts, of fraud, waste, abuse, or mismanagement of CDBG-DR/MIT funds. The Policy applies to any allegations or irregularities, either known or suspected, that could be considered acts of fraud, waste, abuse, or mismanagement, involving any citizen, previous, current, or potential applicant, beneficiary, consultant, contractor, employee, partner, provider, Subrecipient, supplier, and/or vendor under the CDBG-DR/MIT Program.

⁴³Hours may vary due to COVID-19. PRDOH recommends calling ahead prior to arrival to corroborate.

REPORT FRAUD, WASTE, ABUSE, OR MISMANAGEMENT TO PRDOH CDBG-DR/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 the 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 addressing 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 the Guidelines.

28 Cross Cutting Guidelines

Some federal and local requirements apply to all programs funded by CDBG-DR/MIT. The 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, its amendments and the 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 the 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 the Guidelines shall be severed from any applications deemed invalid, leaving the valid applications in full force.

END OF GUIDELINES.