



DEPARTMENT OF
HOUSING



CDBG-DR PROGRAM GUIDELINES

**ECONOMIC DEVELOPMENT INVESTMENT
PORTFOLIO FOR GROWTH PROGRAM**

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PUERTO RICO DEPARTMENT OF HOUSING
CDBG-DR PROGRAM GUIDELINES
ECONOMIC DEVELOPMENT INVESTMENT PORTFOLIO FOR GROWTH PROGRAM
VERSION CONTROL

VERSION NUMBER	DATE REVISED	DESCRIPTION OF REVISIONS
1	December 18, 2020	Original Version
2	August 2, 2021	Edits were made throughout the document. Revision to Objective; Roles section to include Evaluation Committee; Key Definitions; Program Description; Program Eligibility; Eligible Entities; Eligible Costs; Underwriting Criteria; Partial Loan Forgiveness; Application Process; Expression of Interest Question (re named); Application Review Process; Duplication of Benefits sections. All edits are marked in gray.
3	August 25, 2021	Revision to Program Eligibility, Partial Loan Forgiveness and Underwriting Criteria. All edits are marked in gray.
4	June 24, 2022	Edits were made throughout the document. Revision to Program Eligibility language; Subordinated Debt language; Ineligible Activities; Ineligible Entities. Included Set Aside details and requirements. All edits are marked in gray.

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1 Overview

The economy of Puerto Rico has experienced a period of decline involving disinvestment in businesses, business closures, and outmigration of workers in all sectors. Hurricanes Irma and María compounded these economic challenges significantly and created a new set of serious inhibitors to investment and economic expansion. Through the Community Development Block Grant – Disaster Recovery (**CDBG-DR**) funding, the Puerto Rico Department of Housing (**PRDOH**) is addressing unmet economic development needs on the island to encourage long-term sustainable revitalization across industries and sectors through a suite of economic development programs. The largest of these programs is the Economic Development Investment Portfolio for Growth Program (**IPG or Program**).

Eight hundred million dollars (\$800,000,000) of CDBG-DR economic recovery funds are budgeted for the Program. Six hundred million dollars (\$600,000,000) of the budget will be allotted to projects submitted during an open application window and will be underwritten per the requirements established in these guidelines. The remaining two hundred million dollars (\$200,000,000) of the budget will be set aside for the public-sector critical recovery pilot projects that PRDOH considers to be key drivers of economic recovery, such as health care facilities like the Medical Center of Puerto Rico (Centro Médico) and other tourism/economic development projects like the Puerta de Tierra/Bahía Urbana/Navy Pier, provided that they meet the baseline requirements to receive CDBG-DR funding. ~~provided that they meet Program requirements.~~ Alternative underwriting requirements may be provided for set aside critical recovery pilot projects in subsequent versions of the guidelines.

1.1 Disaster Tie Back

The Program seeks to alleviate the exacerbated economic effects caused by the hurricanes through large-scale redevelopment projects that are transformative in nature and create jobs and/or cascading economic impacts. Job creation and retention through the recovery and growth of businesses damaged and/or disrupted by the hurricanes and the growth of start-up businesses established after the hurricanes are also

key parts of a comprehensive revitalization strategy to enable and nurture strategic growth connections and opportunity zones.

1.2 Objective

The objective of the Program is to address the critical needs of businesses and residents of Puerto Rico as well as increase the island's competitiveness for sustained economic growth by:

- Providing leveraged funding to support private investment to meet unmet economic development needs;
- Supporting projects that provide essential services and/or job opportunities, particularly for low-to-moderate income residents;
- Assisting with the economic revitalization and regional recovery of hurricane-impacted communities by investing in transformative community-based projects;
- Spurring long-term job creation, with a focus on creating high valued job opportunities for local residents;
- Meeting a recovery objective and creating long-term economic opportunities;
- Enabling the development of infrastructure projects that will facilitate the creation of high impact economic activities, such as: technology operations, science and innovation operations, Research and Development (R&D), amongst others; and
- Completing transformative, large-scale regional revitalization projects that will provide benefits to a wide range of Puerto Ricans.

1.3 Roles

The following organizations and corresponding responsibilities are critical to successful administration of the Program:

PRDOH – The grantee and recipient of the HUD funding. Tasked with managing Program requirement such as, procurements, loan agreements, Program design approval, and implementing a communications and technical assistance strategy. Responsible for contractual oversight and monitoring of procured vendors, loan disbursements, and recording and reporting on program income.

Evaluation Committee – Created on June 21, 2021 (OE-2021-049) by the Governor of Puerto Rico. The Committee is tasked with the determination of IPG eligible projects, as well as reviewing the Program applications against the Program's eligibility criteria and selecting the award recipients. The Committee is comprised of:

- Secretary of the Puerto Rico Department of Housing (PRDOH), who will act as President of the Committee;

- Executive Director of Management and Budget of Puerto Rico (**OGP**, for its Spanish acronym);
- Secretary of the Puerto Rico Department of Economic Development and Commerce (**DDEC**, or its Spanish acronym);
- Executive Director of the Puerto Rico Fiscal Agency and Financial Advisory Authority (AAFAF, or its Spanish acronym); and
- Assistant Secretary to the Governor for State Affairs.

Award Recipient - Applicants to the Program who are approved to receive funding for an eligible economic development project. The Award Recipient is responsible for construction management, compliance with applicable codes, regulations, and environmental standards, meeting milestones to fulfill a national objective, reporting and successful completion of the selected project.

2 Key Definitions

- **Community Development Block Grant – Disaster Recovery (CDBG-DR):** A term for the HUD funding stream that is allocated to eligible disaster recovery entities via congressional appropriations.
- **Critical Recovery Projects:** Projects that are considered pivotal economic development drivers that will address the needs of Puerto Ricans before, during, and after disasters. These projects will not only lead to improved economic outcomes and revitalized neighborhoods that have a high concentration of low-to-moderate income persons but, may also result in economic growth and employment opportunities in some of Puerto Rico's Opportunity Zones.
- **Duplication of Benefits (DOB):** Financial assistance received from another source that is provided for the same purpose as CDBG-DR funds.
- **Essential Service:** Essential goods or services are those goods or services necessary for immediate and long-term community recovery. Such goods and services include, but are not limited to, recycling facilities, grocery stores, gas stations, pharmacies, healthcare providers, childcare providers, and social service providers.
- **Full-Time Equivalent (FTE):** Puerto Rico labor laws provide that the regular full-time work week equals forty (40) hours per week. FTE is calculated by dividing an employee's hours worked by 40. Part-time employee hours may be combined to determine an FTE amount (For example, One 40 hour/week position = One FTE. One 20 hour/week position =0.5 FTE. Two 20 hour/week positions= One FTE).

- **High Impact:** Economic activities that are high value, create high paying jobs and increase the value of the economy. Using the concept of circular flow of the gross income and product of a country, the value of the economy increases due to external factors such as exports (in this case, including the continental U.S.). Therefore, high impact here refers to economic activities that export services and goods as well as create high paying jobs.
- **High Value:** The project application will be scored according to its ability to create high-impact jobs, more than three hundred (300) full-time jobs that are sustained for a period of five (5) years. In addition, the applicant should explain how the project will support economic development in the local community – so the employer is considered a good neighbor and that conducts community outreach. Therefore, applicants submitting proposals for such high-value economic activities, if all criteria are met, will qualify for extra bonus points.
- **Loan Servicer:** Entity selected to process loan payments, respond to borrower inquiries and keep track of principal and interest paid.
- **Local Funding Participation:** Funds included in the project development budget from one or more Puerto Rico-based entities. Local Funding Participation may include: (1) equity investments by persons residing or doing business in Puerto Rico other than the project; (2) debt financing obtained specifically to develop the project by a person residing or doing business in Puerto Rico other than the project; (3) non-equity contributions from assets located in Puerto Rico (for example, land for development); (4) financing provided by a regulated financial institution authorized to do business in Puerto Rico (including affiliates of entities authorized to do business in Puerto Rico); and (5) financing procured, structured, or managed by an entity organized under the laws of Puerto Rico or whose primary business location is Puerto Rico. The amount of Local Funding Participation shall be the total amount of funding from eligible sources.
- **Low-to-Moderate Income (LMI):** Low to moderate income populations are those having incomes not more than eighty percent (80%) of Area Median Family Income as established by HUD. This income standard changes from year to year and varies based on household size and geography. HUD has calculated adjusted income limits for Puerto Rico upon which an LMI determination is based.
- **Opportunity Zone (OZ):** Added to the US tax code¹ by the Tax Cuts and Jobs Act on December 22, 2017. An OZ is an economically distressed community where new investments, under certain conditions, may be eligible for preferential tax

¹ 26 U.S.C. Subchapter Z.

treatment. OZ's are designed to spur economic development and job creation in distressed communities.

- **Puerto Rico Action Plan and its Amendments (APA):** Defines how the CDBG-DR funding allocation by HUD will be utilized in order to meet the humanitarian needs of the Island's residents through the implementation of a transformative recovery program. The Action Plan provides an analysis of the first damage calculation and reports on the programs that will meet unmet needs of housing, economic recovery, and infrastructure. See <https://www.cdbg-dr.pr.gov/en/action-plan/> for the English version and <https://www.cdbg-dr.pr.gov/plan-de-accion/> for the Spanish version.
- **Puerto Rico Department of Housing (PRDOH):** PRDOH has been designated as the Grantee responsible for administering the CDBG-DR funds allocated to Puerto Rico for the recovery from disasters caused by Hurricanes Irma and María of 2017. PRDOH will provide oversight of this program.
- **Underwriter:** Contracted by PRDOH to perform loan underwriting of submitted IPG applications based on PRDOH-established loan and project underwriting criteria, inclusive of a review of the applicant's financial data, and the viability of the project in the context of the business or industry being served.
- **United States Department of Housing and Urban Development (HUD):** The principal federal agency responsible for programs concerned with serving unmet housing needs, enforcing fair housing, and promoting community development.

3 Program Description

The Program will foster both mixed-use², community-based development, and major infrastructure improvements that will support economic revitalization in Puerto Rico. The Program may also respond to the varied opportunities that the designation of OZ³ provides across the Island. The objective of the Program is to develop a series of projects that will result in economic development and make Puerto Rico more competitive for the creation and/or attraction of high impact economic activities. These projects will result in large-scale commercial and industrial development that will address a variety of economic revitalization priorities. This may include, but is not limited to the development and/or redevelopment of:

- Commercial developments that create high impact economic activity, such as shipping distribution centers or office buildings, industrial/manufacturing

² The IPG Program will only fund the commercial portion of any mixed-use developments.

³ An interactive map of opportunity zones in Puerto Rico can be found:
<https://esrimedia.maps.arcgis.com/apps/View/index.html?appid=77f3cad12b6c4bffb816332544f04542>

complexes such as factories, industrial parks and R&D laboratories, hotels, and public commercial spaces such as convention centers or parking garages, amongst others. Commercial developments that do not meet the high-impact definition are also eligible, however high-impact activities may receive bonus points;

- Mixed-use developments whereby projects will support business opportunities and other economic development in support of housing; and
- Infrastructure development to support large economic revitalization activities. This includes, but is not limited to, transportation facilities (new roads, street rehabilitation, sidewalk improvements, streetlights, parking facilities, streetscape improvements, etc.) and water, sewer, and drainage improvements directly supporting an economic revitalization activity.

4 Program Eligibility

This Program will provide capital to large-scale projects, which will result in economic growth and job creation, including but not limited to those in Qualified Opportunity Zones utilizing OZ investment funding, in the form of secured loans. Award terms include, but are not limited to:

- Project must result in an essential service **or** must create/and or retain one new full-time equivalent job for every one hundred thousand dollars (\$100,000) of CDBG-DR funds;
- Award amounts range from ten million dollars (\$10,000,000) to fifty million dollars (\$50,000,000)⁴;
- Loans will not exceed forty percent (40%) of a project's total cost to include, among others, the development budget (hard and soft costs), and cost of issuance⁵; exception to this may be considered where the project fulfills certain criteria previously agreed upon. A project that meets specific program goals may be eligible to receive a loan for up to fifty percent (50%) of the total project cost, based on the following criteria:

⁴ PRDOH could reassess this threshold once completed with the outreach phase. The award minimum may be reduced, provided that the application analysis reflects that notwithstanding a reduction or an increase in the amount to be considered for IPG funding shall be made, the project will increase the island's competitiveness for sustained economic growth by: Providing leveraged funding to support private investment to meet unmet economic development needs, supporting projects that provide essential services and/or job opportunities, particularly for low-to-moderate income residents; Assisting with the economic revitalization and regional recovery of hurricane-impacted communities by investing in transformative community-based projects; Spurring long-term job creation, with a focus on creating high valued job opportunities for local residents; Meeting a recovery objective and creating long-term economic opportunities; Enabling the development of infrastructure projects that will facilitate the creation of high impact economic activities, such as: technology operations, science and innovation operations, Research and Development (R&D), amongst others; and Completing transformative, large-scale regional revitalization projects that will provide benefits to a wide range of Puerto Ricans.

⁵ Depending on the criteria, the loan can be up to 50%.

1) Benefits the creation or retention of +300 employees

Description: The project supports the creation or expansion of businesses that create more than three hundred (300) jobs, sustained for five (5) years.

Incrementality Awarded: If yes, five percent (5%) additional to the forty percent (40%). Increment for every seventy-five (75) above three hundred (300).

2) Creates economic activities that generate +50% of their revenue from exports

Description: The economic activities that creates must generate fifty percent (50%) of their revenue from export activities.

Incrementality Awarded: If yes, five percent (5%) additional to the forty percent (40%). Increment for every twenty-five (25%).

The maximum loan amount is capped at fifty percent (50%) of the total project cost.

- Project must have a viable and verifiable source of funding for the total costs not covered by the award;
- Amortization of principal balance will not exceed thirty (30) years with a maturity of ten (10) to thirty (30) years;
- Interest rate will not exceed two percent (2%) per annum, determined by the project's cash flow, ability to service debt, and other underwriting considerations;
- 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;
- Loan will not be subordinated debt. The debt which has a higher claim to the asset may be senior to an IPG loan;
- No pre-payment penalty; and
- A portion of the loan may be forgiven based upon adherence to agreed-upon terms and conditions (see section on Partial Loan Forgiveness for these terms).

All projects funded by HUD must:

- Meet a national objective;
- Meet at least one (1) CDBG-DR eligible activity;
- Be performed by an eligible entity;
- Be documentable as an eligible cost; and
- Meet established program eligibility and underwriting criteria.

Public-sector critical recovery pilot projects to be assisted with set aside funds must only meet the following baseline requirements to receive CDBG-DR funding:

- Meet a HUD National Objective, (see the National Objective section);
- Comply with at least one (1) CDBG-DR eligible activity (see the Eligible Activities section);
- Be performed by an eligible entity; and
- Be documentable as an eligible cost.

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

- Regulation 4860 of the Puerto Rico Department of Natural and Environmental Resources, as amended, known as the Regulation for the Use, Surveillance, Conservation and Management of the Territorial Waters, Submerged Lands Thereunder and the Maritime Zone⁶; and
- Act No. 33 of May 22, 2019, as amended, known as the Puerto Rico Climate Change Mitigation, Adaptation, and Resiliency Act⁷.

4.1 National Objective

Funded activities must meet at least one (1) of the following HUD, CDBG-DR national objectives:⁸

- Benefit Low-and moderate-income persons (**LMI**)
 - LMI Job Creation or Retention - 24 C.F.R. § 570.483 (b)(4);
 - LMI Area Benefit - 24 C.F.R. § 570.483(b)(1); or
 - LMI Limited Clientele - 24 C.F.R. § 570.483(b)(2);
- Urgent Need - 24 C.F.R. § 570.483(d), certain requirements of which were waived by Federal Register Vol. 83, No. 28 (February 9, 2018), 83 FR 5844, 5856;
- Prevention or Elimination of Slums or Blight - 24 C.F.R. § 570.483 (c).

4.2 Eligible Activities

Eligible activities for this Program, per the Housing and Community Development Act of 1974, are:

- Section 105(a)(1) – Acquisition of Real Property;

⁶ Regulation 4860, as amended is publicly available online at: https://www.drna.pr.gov/wp-content/uploads/2019/03/Reglamento4860_Ingl%C3%A9s.pdf

⁷ Act 33 of 2019 is publicly available online in Spanish at: <https://bvirtualogp.pr.gov/ogp/Bvirtual/leyesreferencia/PDF/2019/0033-2019.pdf>.

⁸ As modified by waiver or alternative requirements in applicable Federal Register Notices.

- Section 105(a)(2) – Public Facilities and Improvements;
- Section 105(a)(3) – Code Enforcement;
- Section 105(a)(4) – Clearance, Rehabilitation, Reconstruction, and Construction of Buildings;
- Section 105(a)(5) - Removal of Material and Architectural Barriers;
- Section 105(a)(7) – Disposition of Real Property;
- Section 105(a)(8) – Public Services (in accordance with 83 FR 5844, 5849);
- Section 105(a)(9) – Payment of Non-Federal Share;
- Section 105(a)(11) – Relocation;
- Section 105(a)(14) – Activities Carried Out through Nonprofit Development Organizations;
- Section 105(a)(15) – Assistance to Eligible Entities for Neighborhood Revitalization, Community Economic Development and Energy Conservation;
- Section 105(a)(16) – Energy Use Strategies Related to Development Goals;
- Section 105(a)(17) – Economic Development Assistance to For-Profit Business;
- Section 105(a)(21) – Assistance to Institutions of Higher Education; and
- Section 105(a)(22) – Microenterprise Assistance

The following activities are ineligible to apply for an IPG award:

- Operation of facilities that are not open to the general public and serve a predominantly higher-income clientele;
- Operation of professional sports teams, yacht clubs, non-public recreation facilities, private or commercial golf courses or country clubs, and casinos or other gambling establishments;
- Activities related to the operation of private utilities⁹;
- Lobbying or political activities;
- Operation of religious activities, except where expenses are clearly distinguishable between the organization's religious and secular activities.

4.3 Eligible Entities

Entities eligible to apply for an IPG award include:

- For-profit Businesses;
- Not-for-profit Organizations;
- Community-based Economic Development Organizations;
- Community Development Financial Institutions;

⁹ Privately owned utilities are those owned by a private company rather than a public agency. The rehabilitation of construction of these utilities may be undertaken with CDBG funds under certain conditions.

- Units of General Local Government, including departments and divisions (undertaking projects to support economic development projects);
- Government of Puerto Rico Agencies, Authorities, Trusts, and Boards (undertaking projects to support economic development projects); and
- Public-private partnerships as defined by Act 29-2009, as amended by Act 297-2012, Act 26-2013, Act 173-2013, Act 237-2014; Act 1-2017 and Act 95-2017; "Public-Private Partnership Act".¹⁰

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

- ~~• Entities that operate facilities that are not open to the general public and serve a predominantly higher income clientele;~~
- ~~• Entities that operate professional sports teams, yacht clubs, non-public recreation facilities, private or commercial golf courses or country clubs, and casinos or other gambling establishments;~~
- ~~• Entities that own private utilities¹⁰;~~
- ~~• 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 proceedings (this does not include Title III¹¹ or other covered entities of the Puerto Rican Government) that directly affect their ability to achieve program outcomes and/or cover debt service obligations.

4.4 Eligible Costs

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

- Acquisition, construction, renovation, rehabilitation or other improvement of a commercial property;
- Infrastructure improvements related to a project;
- Non-residential leasing and tenant improvements of space in an existing building;
- Purchasing capital equipment and/or inventory;
- Environmental review activities in accordance with HUD requirements at 24 CFR Part 58.

¹⁰ The Public Private Partnership Act is publicly available online at: <https://aafaf.pr.gov/p3/wp-content/uploads/2020/02/law29-2009english.pdf>.

- Interest Reserve Costs on a case-by-case basis¹¹;
- Demolition/clearance; and
- Activities related to the American with Disabilities Act (ADA)¹² and removing barriers to accessibility.

Ineligible uses of funds include, but are not limited to:

- Refinancing of existing debt;
- Payment of any tax arrearages, governmental fines or penalties;
- Political or religious activities;
- 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; and
- All other activities prohibited by the CDBG regulations in 24 C.F.R. Part 570, or 2 C.F.R. Part 200.

4.5 Underwriting Criteria

As required by the corresponding eligible activity, award applicants may be required to meet the following minimum underwriting criteria:

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

These applicants must meet the CDBG Underwriting Criteria of 24 C.F.R. § 570.209:

1. That project costs are reasonable;
2. That all other sources of project financing are committed;

¹¹ The interest reserve is typically required by the lending institution and is funded through the loan proceeds. This will be determined on a case-by-case basis during the underwriting and loan structuring phase based on all available sources and uses of funds.

¹² 42 U.S.C. § 12101 *et seq.*

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

Evaluation criteria will assess the underwriting evaluation and the merits of the project to meet program objectives and description as outlined in these program guidelines. Additional weight may be given to projects that:

1. Target a sector outlined in the program objectives; or
2. Spur long-term job creation with a focus on creating high-valued jobs; or
3. Generate high impact; or
4. Serve the Port of Ponce area.

4.6 Partial Loan Forgiveness

A project that meets specific program goals will be eligible to have **up to** fifty percent (50%) of their loan forgiven upon satisfactory payments of the required portion of the loan. 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. Partial 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.	If yes, twenty percent (20%) of awarded amount is forgiven.
2) More than 10% Local Funding Participation	For every additional twenty-two point five percent (22.5%) in local funding participation over the minimum of ten percent (10%) required (10% to 32.5%, 32.5% to 55%, 55% to 77.5%, 77.5% to 100%), an additional five percent (5%) will be forgiven incrementally.	If yes, five percent (5%) of the awarded amount is forgiven for every increment met, with a max of twenty percent (20%).
3) Excess of Minimum Job Creation Benefit	The minimum threshold of job creation is one FTE job for every one hundred thousand dollars (\$100,000) of CDBG funds awarded. For every additional FTE job created above that minimum amount, twenty-five thousand dollars (\$25,000) of the award amount will be forgiven.	An amount of twenty-five thousand dollars (\$25,000) is forgiven for every new FTE job created above the

		minimum required per the loan agreement.
4) Local Suppliers Benefit	Project was supplied with locally manufactured goods and suppliers; additional loan amount can be forgiven. If seventy-five percent (75%) of materials/suppliers were manufactured locally, an additional five percent (5%) can be forgiven. Materials must be manufactured in P.R. and suppliers be fifty-one percent plus (+51%) locally owned.	Five (5%) of the loan amount can be forgiven if seventy-five percent (75%) of materials and suppliers are local.
Forgiveness equals the total from items one (1) through four (4). The maximum loan forgiveness is capped at fifty percent (50%) of the original award amount.		

5 Program Level Outreach

Potential applicants will be able to obtain information about program timing and participation in English and Spanish at <https://www.cdbg-dr.pr.gov/en/> and <https://www.cdbg-dr.pr.gov/>. Language Access Plan and accessible communication requirements under section 504 of the Rehabilitation Act of 1973¹³ and the ADA apply.

6 Application Process

PRDOH will implement this program using a direct distribution model.

The Program will open with an Expression of Interest phase in which interested parties will be able to submit a high level description of their proposed economic development projects to PRDOH, whose program management staff will review the submittals to estimate and determine program interest and inform program design, outreach and implementation efforts.

An open application period will follow the Expression of Interest phase. **Any interested entity that was not able to participate in the Expression of Interest phase may still submit an application to the IPG Program once the application period is commenced.**

6.1 Expression of Interest Questions

Expressions of Interest were submitted electronically at <https://www.cdbg-dr.pr.gov/>. Information included, but was not limited to:

1. Applicant Information
2. Proposed Project Description

¹³ 29 U.S.C. § 701 *et seq.*

3. Proposed Project Funding
4. Disaster Recovery Rationale
5. Project Benefits

6.2 Full Application Questions

Applications must be submitted electronically at <https://www.cdbg-dr.pr.gov/>.¹⁴ Information required in the full application will include, but is not limited to:

1. Business description and history;
2. Source and use of all committed funds;
3. Area(s), industry(s), and people served by the project;
4. Demonstrate a disaster recovery rationale;
5. Detailed description of how the project will create or retain jobs and how many jobs will be created or retained;
6. Timetable of projected start and completion, including a summary of any actions that have already been undertaken;
7. Personal and/or business competencies and capabilities necessary to achieve project success and completion; and
8. Public-sector projects done in support of another economic development project will need to submit that project's information and commitments of that project's development upon completion of the public-sector project and willingness to submit documentation for HUD compliance.

6.2.1 Full Application Documentation Requirements

In addition to the application, the following documents must be included:

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

¹⁴ <https://cdbg-dr.pr.gov/en/investment-portfolio-for-growth-ipg-program/>

9. Additional documentation besides the aforementioned documents may be requested.

Additional information may be required as needed.

6.3 Application Review Processes

The following is a general outline of the process for submitting an application to the Program:

6.3.1 Expression of Interest Review

- PRDOH will welcome the public to submit expressions of interest to determine interest in the IPG Program.

6.3.2 Application Award Process

PRDOH's program management staff will review these submittals to estimate and determine program interest and to inform program design, outreach, and implementation efforts.

- Eligible applicants may submit a full application electronically via the PRDOH CDBG-DR website: <https://www.cdbg-dr.pr.gov/>.¹⁵ The application period will last **thirty (30) calendar days**, unless otherwise extended by the direction of the Evaluation Committee;
- PRDOH notifies the applicant that the application has been received and is being processed;
- PRDOH completes an application threshold review, which will include reviewing the application for completeness, eligibility requirements and alignment with program requirements and goals;
- Eligible applications will be presented to the Evaluation Committee, for review and approval to proceed to underwriting;¹⁶
- PRDOH contacts the applicant to request additional information needed to complete underwriting and to schedule a site visit with Committee members, if necessary;
- Applicant must provide the necessary information requested within **fifteen (15) calendar days** of being notified¹⁷, but can request an extension in writing before the expiration of the deadline, subject to being duly justified, for items such as government certifications, etc.;

¹⁵ <https://cdbg-dr.pr.gov/en/investment-portfolio-for-growth-ipg-program/>

¹⁶ The total number of committee members will always be an odd number for tie breaking purposes.

¹⁷ PRDOH will contact the Applicant with a notice requesting documents or information necessary to complete the evaluation, as applicable.

- PRDOH conducts a preliminary environmental review, underwriting analysis, duplication of benefits review, and determines the potential award amount and terms.¹⁸
- PRDOH confirms that all other sources of financing are committed and available;
- PRDOH presents final analysis to the committee for review and approval;
- The Committee evaluates and selects projects based on evaluation criteria;
- The Committee sends the Notice of Award to the applicant;
- PRDOH sends the Final Award letter to the applicant;
- Applicant signs the loan agreement;
- Funding is disbursed as agreed in the loan agreement;
- Award recipient repays loan as agreed upon in the loan agreement; and
- Award recipient submits documentation as requested for program reporting and compliance purposes.

7 Reporting

Award 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-DR regulations, applicable PRDOH CDBG-DR policies, and executed agreements. Reporting requirements will be detailed in the loan agreement for each award and must be submitted on the agreed upon schedule.

8 Duplication of Benefits (DOB)

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), as amended, 42 U.S.C. § 5121 *et seq.*, prohibits any person, business concern, or other entity from receiving Federal funds for any part of such loss as to which they have received financial assistance under any other program, from private insurance, charitable assistance, or any other source. As such, PRDOH must consider disaster recovery aid received by Program Applicants from any other federal, state, local or other source and determine if any assistance is duplicative. Any assistance determined to be duplicative must be deducted from the Program's calculation of the Applicant's total need prior to awarding assistance.

¹⁸ PRDOH will notify the applicant of said preliminary determination, next steps, as well as the terms and conditions.

To be eligible to receive CDBG-DR funds under the Program and as part of the application process, all applicants must confirm and provide assurance that efforts will be made to avoid a “duplication of benefits.” PRDOH understands and expects that some projects funded through this Program, may also be able to receive other types of Federal funding, therefore, a DOB analysis will be performed for each funded project.

Program controls to prevent duplication of benefits include, but are not limited to:

- Certification that business applicants will notify PRDOH of all potential DOBs as part of the information submitted in their applications;
- Verification of specific DOBs through various available sources such as FEMA, the Small Business Administration, insurers, and any other sources of funding;
- Requiring the applicant to authorize PRDOH to contact all potentially duplicative funding sources on their behalf to verify all funding sources received and/or approved; and
- Calculation of duplication of benefits per Federal Register Notice 84 FR 28836.

The duplication of benefits guidance included in Federal Register Vol.84, No.119 (June 20, 2019), 84 FR 28836, supersedes the duplication of benefits guidance issued in Federal Register Vol. 76, No. 221 (November 16, 2011), 76 FR 71060 for CDBG-DR grants received in response to disasters declared between January 1, 2015 and December 31, 2021. As such, the duplication of benefits policy outlined in the program guidelines follows the guidance issued in 84 FR 28836.

For more information about DOB, refer to the Duplication of Benefits Policy available at [https://cdbg-dr.pr.gov/en/download/duplication-of-benefits-policy/\(English\)](https://cdbg-dr.pr.gov/en/download/duplication-of-benefits-policy/(English)) and <https://cdbg-dr.pr.gov/download/politica-sobre-la-duplicacion-de-beneficios/> (Spanish)

9 Environmental Review

An environmental review is the process of reviewing a project and its potential environmental impacts to determine whether it meets federal, state, and local environmental standards. 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**), 42 U.S.C. 4327 *et seq.*, as well as to the HUD environmental review regulations at 24 C.F.R. Part 58 on Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities.

A HUD environmental review would need to be performed for the project. This type of environmental review is different from a Phase One typically required from a bank. Also, the applicant must receive from PRDOH an Environmental Notice to proceed 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 a pre-application is submitted, choice-limiting actions cannot be undertaken.

9.1 Environmental Level of Review

Laws and regulations which contain environmental provisions with which the Program must comply include, but are not limited to:

- Protection of Historic Properties (36 C.F.R. § 800)
- Floodplain Management and Protection of Wetlands (24 C.F.R. 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 (50 C.F.R. Part 402)
- Section 7 (b)(c) of the Wild and Scenic Rivers Act of 1968 (**WSRA**), as amended, (16 U.S.C. § 1278 - Restrictions on Water Resources Projects)
- Air quality provisions as found in Sections 176 (c) and (d) of the Clean Air Act, as amended, (42 U.S.C. § 7506) and in Title 40 of the Code of Federal Regulations (40 C.F.R. Parts 6, 51, and 93)
- Farmland Protection Policy Act (**FPPA**) (7 U.S.C. § 4201 *et seq.*, implementing regulations 7 C.F.R. Part 658, of the Agriculture and Food Act of 1981, as amended)
- Environmental Criteria and Standards (24 C.F.R. Part 51 §§ 51.1 - 51.305)
 - Noise Abatement and Control (24 C.F.R. §§ 51.100 - 51.106)
 - Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature (24 C.F.R. §§ 51.200 - 51.208)
 - Siting of HUD Assisted Projects in Runway Clear Zones at Civil Airports and Clear Zones and Accident Potential Zones at Military Airfields (24 C.F.R. § 51 §§ 51.300 - 51.305)
- Toxic/Hazardous Materials (24 C.F.R. § 58.5(i)(2)(i))
- Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (Executive Order 12898, signed on 1994)

To conduct the appropriate level of environmental review, the Program will need to determine the environmental classification of the project. The term “project” may be defined as an activity or group of activities geographically, functionally, or integrally related, regardless of funding source, to be undertaken by the Program in whole or in part to accomplish a specific objective.

Prior to taking any choice limiting action¹⁹, a determination of one of the following three (3) major environmental classifications for projects must be made:

- **Exempt Activities:** These are activities which, by their nature, are highly unlikely to have any direct impact on the environment. Accordingly, these activities are not subject to most of the procedural requirements of environmental review. If a project is determined to be exempt, the Program must document in writing that the project is exempt and meets the conditions for exemption spelled in 24 C.F.R. § 58.34. In addition to making the written determination of exemption, the Program must also determine whether any of the requirements of 24 C.F.R. § 58.6 are applicable and address as appropriate.
- **Categorically Excluded Activities:** These are activities for which no Environmental Impact Statement or Environmental Assessment and finding of no significant impact under NEPA is required. These activities are divided into those that are and those that are not subject to related laws and authorities at 24 C.F.R. § 58.5. Examples of categorically excluded activities not subject to related laws and authorities under 24 C.F.R. § 58.5 include: tenant based rental assistance; supportive services; operating costs; economic development activities; activities to assist homebuyers to purchase existing dwelling units or units under construction; and affordable housing predevelopment costs with no physical impact. To complete environmental requirements for categorically excluded activities not subject to 24 C.F.R. § 58.5, the Program must make a finding of categorical exclusion and include such finding in the Environmental Review Record. When these kinds of activities are undertaken it is not required to issue a public notice or to submit a request for release of funds. In any case, environmental compliance is required for the items listed in 24 C.F.R. § 58.6.
 - Examples of categorically excluded activities subject to related laws and authorities under 24 C.F.R. § 58.5 include: acquisition, repair, improvement, reconstruction, or repair of public facilities; special projects directed toward the removal of material and architectural barriers; and repair of buildings and improvements for residential units and non-residential buildings. The Environmental Review Record for these activities must contain a written determination of the finding of a categorical excluded activity subject to 24 C.F.R. §58.5 including a description of the project, a citation of the

¹⁹ Neither a recipient nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance under a program listed in § 58.1(b) on an activity or project until HUD or the state has approved the recipient's RROF and the related certification from the responsible entity. In addition, until the RROF and the related certification have been approved, neither a recipient nor any participant in the development process may commit non-HUD funds on or undertake an activity or project under a program listed in § 58.1(b) if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives.

application subsection of 24 C.F.R. § 58.35(a), and written documentation as to whether there were any circumstances which required compliance with 24 C.F.R. § 58.5 and 58.6.

- The documentation must support its determinations related to compliance including correspondence with applicable agencies having jurisdiction. Upon completion, there should be one 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 compliance with all environmental review requirements.
- **Activities Requiring an Environmental Assessment:** These are activities which are neither exempt nor categorically excluded and, therefore, will require an Environmental Assessment documenting compliance with NEPA, HUD, and with the environmental requirements of other applicable federal laws. Once the Environmental Review has been completed and any comments have been addressed appropriately, the project may be found to not constitute an action that significantly affects the quality of the human environment and, therefore, does not require the preparation of an Environmental Impact Statement; or the project constitutes an action that significantly affects the quality of the human environment and, therefore, requires the preparation of an Environmental Impact Statement.
 - If it is determined that the action does not significantly affect the quality of the environment, then the Program will post a public notice called a Combined/Concurrent Notice of Finding of No Significant Impact (**FONSI**) and Notice of Intent to Request Release of Funds (**NOI/RROF**). The NOI/RROF Environmental Certification must be submitted to HUD no sooner than **fifteen (15) days** after publishing the combined/concurrent notice (NOI/RROF) and FONSI and HUD will hold the Release of Funds for a **fifteen (15) day** period to allow for public comment on the RROF. If no comments are received during this time, HUD will send a signed Authorization to Use Grant Funds and the project may proceed.

10 Civil Rights and Non-Discrimination

As a program receiving Federal CDBG-DR funding, the Program shall be implemented in a manner that does not deny any individuals the opportunity to participate in, access, or benefit from the Program based on any federally or locally designated protected classes. Funded activities shall be designed and implemented in a manner that avoids disproportionate negative impacts on protected classes of people and vulnerable communities, as well as creates opportunities to address economic inequities facing communities. PRDOH has adopted several policies to which it, its subrecipients, and all contractors must adhere in the design and implementation of the Program. All CDBG-DR 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/>.

10.1 Fair Housing & Equal Opportunity Policy (FHEO Policy)

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

The FHEO Policy is available in English and Spanish on the PRDOH website 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/>.

10.2 Section 504, Americans with Disabilities Act, and Equal Employment Opportunity

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

10.3 Reasonable Accommodation Policy

Federally funded programs are required under Section 504 of the Rehabilitation Act of 1973, as amended, to make reasonable accommodations and modifications for individuals with disabilities. The purpose of Section 504 is to avoid discrimination and

ensure these individuals have an equal opportunity to access and enjoy the benefits of the Program. Requests for accommodations (changes to a rule, policy, practice, or service) and reasonable modifications (structural changes to a building or dwelling) most commonly arise in housing programs; however, Section 504 applies to all federally funded programs and activities.

Any person with disability-related needs may submit a request for accommodation or modification to PRDOH, its subrecipients, or contractors involved in the implementation of CDBG-DR programs. PRDOH has established the Reasonable Accommodation Policy to guide individuals on how to submit a non-employment related request, and instruct PRDOH employees, subrecipients, and contractors on how to receive and evaluate reasonable accommodation and modification requests. Any employment-related reasonable accommodation request should be directed to the individual's employer.

PRDOH will ensure that every effort is made to meet the disability-related needs of requesting individuals to the maximum extent feasible, so far as providing the requested accommodations or modifications is considered reasonable.

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

10.4 Language Access Plan

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

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

11 Uniform Relocation Act (URA)

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

Projects funded under the Program, which include acquisition activities that result in displacement, must comply with all applicable URA regulations for notifying property

owners, businesses, and tenants who may be subject to displacement. Persons and entities qualifying as “displaced persons” may be eligible for relocation assistance benefits, which must be accounted for in project budgets.

As a condition of receiving CDBG-DR assistance, Applicants agree to fully comply with all applicable provisions of the URA. For more information on how URA regulations apply to the CDBG-DR Program, please refer to the PRDOH Uniform Relocation Assistance Guide and Residential Anti-Displacement and Relocation Assistance Plan at <https://cdbg-dr.pr.gov/en/download/ura-adp-guidelines/> (English) or <https://cdbg-dr.pr.gov/download/guias-ura-adp/> (Spanish).

PRDOH, its subrecipients, and awarded entities should ensure that infrastructure activities will avoid disproportionate impact on vulnerable populations and create opportunities to address economic inequities facing local communities.

12 Labor Standards

Projects receiving CDBG-DR 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, and Section 3 of the Housing and Urban Development Act of 1968 (**Section 3**). Together, these laws ensure that workers are paid and treated fairly by employers receiving CDBG-DR funding to execute program activities, and employment opportunities are made available to low income individuals to the greatest extent possible. Each of these laws requires important recordkeeping practices to ensure compliance and allow for accurate and efficient reporting as required by PRDOH.

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

More information regarding Davis-Bacon requirements and provisions can be found on the CDBG-DR website, at <https://cdbg-dr.pr.gov/en/download/davis-bacon-and-related-acts-policy/> (English) and <https://cdbg-dr.pr.gov/download/politica-sobre-la-ley-davis-bacon-y-las-leyes-relacionadas/> (Spanish).

The Section 3 Policy are available in English and Spanish on the PRDOH website at <https://cdbg-dr.pr.gov/en/download/section-3-policy/> and <https://cdbg-dr.pr.gov/download/politica-sobre-seccion-3/>.

13 Program Income

Program income as defined by 24 C.F.R. § 570.500 (a) refers to gross income received by the recipient or a subrecipient directly generated from the use of CDBG funds, except as provided in paragraph (a)(4).

Given the direct distribution model of the Program, PRDOH is the recipient of the loan payments and therefore of the program income. All IPG loan payments are collected by PRDOH and treated as program income. Program Income generated by IPG loan repayments will be placed in an interest-bearing account, in accordance with 24 C.F.R. § 570.500 (b) as a revolving loan fund and will be used to fund additional IPG awards as sufficient funds become available. Under 24 C.F.R. § 570.500(b) a revolving fund is:

- A separate fund (with a set of accounts that are independent of other program accounts) established for the purpose of carrying out specific activities which, in turn, generate payments to the fund for use in carrying out the same activities. Each revolving loan fund's cash balance must be held in an interest-bearing account, and any interest paid on CDBG funds held in this account shall be considered interest earned on grant advances and must be remitted to HUD for transmittal to the U.S. Treasury no less frequently than annually. (Interest paid by borrowers on eligible loans made from the revolving loan fund shall be program income and treated accordingly).

14 Program Closeout

Program closeout is the process by which PRDOH determines that the program has 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 met.

General requirements for closeout are as follows:

- All funds have been disbursed to awarded recipient;
- All terms and conditions set forth in the loan agreement have been satisfied;
- All eligibility and duplication of benefits documentation are found to be in accordance with all requirements of this Program;
- All milestones have been met and deliverables submitted, and each in accordance with all requirements of this Program;
- All Program forms required throughout the entirety of program processes have been duly completed and executed by the appropriate parties;
- All CDBG-DR funds used have been properly accounted for and reconciled with project budget;
- A CDBG-DR National Objective has been documented;

- Awardee repays loan as agreed, per instructions given by PRDOH at closing; and
- Other requirements for closeout as established in loan agreements.

15 Monitoring

Applicant-entities will report to PRDOH as established in each CDBG-DR Award Agreement. All information reported will be available, as part of PRDOH's Quarterly Performance Reports (**QPRs**) in English and Spanish on the PRDOH CDBG-DR website at <https://www.cdbg-dr.pr.gov/en/reports/> and <https://www.cdbg-dr.pr.gov/reportes/>. In addition, as a condition of receiving federal funds, an entity may be subject to and must comply with audits and document requests from PRDOH, HUD and OIG.

16 Program-Based Reconsideration and/or Administrative Review

Applicants of the Program may contest any determinations or denials based on Program policy. However, an Applicant may not challenge a federal statutory requirement. Applicants have the right to request a Program-based Reconsideration with the Program or request an Administrative Review directly with PRDOH, as stated below. If the Applicant fails to contest a determination within the time allotted, the inaction will be deemed as an acceptance of the determination.

16.1 Program-based Reconsideration Request

Applicants who wish to contest a Program determination may file a Program-based Reconsideration Request directly with the Program by submitting a written request, via electronic or postal mail, within **twenty (20) calendar days** from the date a copy of the notice was filed in the record of the agency. Provided that, if the date on which the copy of the notice is filed in the records of the agency differs from the mailing date (postal or electronic) of said notice, the aforementioned **twenty (20) calendar day-term** shall be calculated from the mailing date (postal or electronic). Notices distributed via electronic communication shall be considered valid. In the event a notification is sent via postal and electronic mail, the notification date will be the one sent beforehand. Program notices will include the electronic and postal information where these will be received, as these may vary.

Applicants who file a Program-based Reconsideration Request are encouraged to provide individual facts or circumstances, as well as supporting documents to justify their petition. In the Reconsideration Request process, the Program will only review facts and information already included in an Applicant's file, unless the Applicant submits new documentation. The Program has the discretion to accept or reject new documentation based upon its relevance to the Program-based Reconsideration Request.

The Program will review and address the Reconsideration Request within **fifteen (15) calendar days** of its receipt. Applicants will be notified of the reconsideration determination via a Reconsideration Request Approved or a Reconsideration Request Denied notification.

Filing a Program-based Reconsideration Request does not substitute, negate, or preclude any legal right that an Applicant has to challenge a determination made by the Program. Therefore, Applicants who believe the initial determination of the Program to be erroneous, may submit, at their discretion, either a Program-based Reconsideration Request or a petition for review of the decision made by the Program by filing an Administrative Review Request at PRDOH in accordance with Regulation Number 4953, of August 19, 1993, which regulates the Formal Adjudication Process for PRDOH and its Adjunct Agencies (Regulation 4953).²⁰

16.2 Administrative Review Request

If an Applicant disagrees with a Program determination, or with the Reconsideration Request Denial determination, said party may file directly to PRDOH, as grantee, an Administrative Review Request in accordance with the aforementioned Regulation 4953. The Applicant must submit such request, in writing, within **twenty (20) calendar days** from the date a copy of the Program determination or a Reconsideration Request Denial determination notice was filed in the record of the agency. Provided, that if the date on which the copy of the notice is filed in the record of the agency differs from the mailing date (postal or electronic), the aforementioned **twenty (20) calendar day-term** shall be calculated from the mailing date (postal or electronic). Notices distributed via electronic communication shall be considered valid. In the event a notification is sent via postal and electronic mail, the notification date will be the one sent beforehand. Submit the request via e-mail to: LegalCDBG@vivienda.pr.gov; via postal mail to: CDBG-DR Legal Division, P.O. Box 21365, San Juan, PR 00928-1365; or in person at PRDOH's Headquarters at: CDBG-DR Legal Division, 606 Barbosa Avenue, Juan C. Cordero Davila Building, Río Piedras, P.R. 00918.

If the Applicant disagrees with any **final** written determination on an Administrative Review Request notified by PRDOH after completing the Administrative Adjudicative Procedure, said party may file a Judicial Review petition before the Court of Appeals of Puerto Rico within **thirty (30) calendar days** after a copy of the notice has been filed. See Act No. 201-2003, as amended, known as the Judiciary Act of the Commonwealth of Puerto Rico of 2003, 4 LPRA § 24 *et seq.*, and section 4.2 of Act 38-2017, as amended,

²⁰ For details, you can access Regulation 4953 in Spanish at: <https://www.vivienda.pr.gov/wp-content/uploads/2015/09/4953-Reglamenta-los-procedimientos-de-adjudicacion-formal..pdf>

known as the Uniform Administrative Procedures Act of the Government of Puerto Rico, 3 LPRA § 9672.

17 Job Pirating

Job pirating is prohibited under Section 588 of the Quality Housing and Work Responsibility Act of 1998, Title V of P. L. 105-276. Job Pirating refers to the use of Federal funds to lure or attract a business and its jobs from one labor market to another.²¹

CDBG funds may not be used to assist for-profit businesses, including expansions, as well as infrastructure improvement projects or business incubator projects designated to facilitate business relocation, if:

- The funding will be used to assist directly in the relocation of a plant, facility, or operation; and
- The relocation is likely to result in a significant loss of jobs in the labor market area from which the relocation occurs.

18 General Provisions

18.1 Program Guidelines Scope

This document sets forth the policy governing the Program. These program guidelines are intended to aid and provide program activity guidance in Program implementation and closeout and should not be construed as exhaustive instructions. All Program activities must comply with the policies hereby stated. In addition, all Program staff must adhere to established program procedures and all federal and state laws and regulations in effect, as applicable, in the execution of Program activities.

However, PRDOH reserves the faculty to authorize, in its sole discretion, the granting of Program benefits to any Applicant, only when exceptional circumstances, not contemplated in these, justify it. Such faculty will be exercised on a case-by-case basis in compliance with local, state, and federal requirements. PRDOH is in no way obligated to grant the Program benefits in said cases.

18.2 Program Guidelines Amendments

PRDOH reserves the right to modify the policies established in these guidelines if the program guidelines, as written, do not reflect the intended policy or cause procedures to be impracticable, among any other circumstances. If an amended version of these guidelines is approved, the amended version fully supersedes all other previous versions and should be used as the basis for the evaluation of all situations encountered in the implementation and/or continuance of the Program from the date of its issuance, that

²¹ The Economic Development Toolkit: A Practical Guide to Constructing Your Economic Development Program. <https://files.hudexchange.info/resources/documents/Economic-Development-Toolkit-Manual.pdf>

is, the date that appears on the cover of these guidelines. Each version of the program guidelines will contain a detailed version control log that outlines any substantive amendment, inclusions and/or changes.

18.3 Disaster Impacted Areas

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

18.4 Extension of Deadlines

The Program could extend deadlines on a case-by-case basis. The Program may decline to extend a deadline if such extension will jeopardize the Program's completion schedule or the schedule of an individual construction project. The aforementioned strictly applies to program deadlines or established program terms. Under no circumstance(s) does the faculty to extend deadlines apply to the established terms of time in these guidelines or any applicable federal or state law or regulation, or to the terms of times established in these guidelines to request a Program-based Reconsideration, Administrative Review and/or Judicial Review.

18.5 Established Periods of Time

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

18.6 Written Notifications

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

18.7 Conflict of Interest

As stated in the Federal Register Vol. 83, No. 28 (February 9, 2018), 83 FR 5844, Federal regulations require that State grantees, in the direct Grant administration and means of carrying out eligible activities, be responsible with program administrative requirements, including those established in 24 C.F.R. §570.489(h) related to conflicts of interest.

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

1. HUD conflict of interest regulations, 24 C.F.R. §570.611 and 24 C.F.R. §85.36;
2. The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200 at § 200.112 and §200.318 (c)(1);
3. Puerto Rico Department of Housing Organic Act, Act 97 of June 10, 1972, as amended, 3 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 Act of 2011, Act 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 funded projects, activities and/or operations. Said Policy is intended to serve as guidance for the identification of apparent, potential or actual conflicts of interest in all CDBG-DR assisted activities and/or operations. In accordance with 24 C.F.R. § 570.489, the COI Policy also includes standards of conduct governing employees engaged in the award or administration of contracts.

As defined in the COI Policy, a conflict of interest is a situation in which any person who is a public servant, employee, agent, consultant, officer, or elected official or appointed official of the PRDOH, or of any designated public agencies, or of Subrecipients that are receiving funds under the CDBG-DR Program may obtain a financial or personal interest or benefit that is or could be reasonably incompatible with the public interest, either for themselves, or with those whom they have business, or an organization which employs or is about to employ any of the parties indicated herein, or a member of their family unit during their tenure or for **two (2) years** after.

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

According to the aforementioned Act, no public servant shall intervene, either directly or indirectly, in any matter in which they have a conflict of interests that may result in their benefit. No public servant shall intervene, directly or indirectly, in any matter in which any member of their family unit, relative, partner or housemate has a conflict of interest that may result in benefit for any of the abovementioned. In the case that any of the

abovementioned relationships has 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 to receive assistance from the Program if the applicant meets all Program eligibility criteria as stated in these guidelines. PRDOH Program officials, their employees, agents and/or designees should disclose their relationship with PRDOH at the time of their application.

The COI Policy and all CDBG-DR 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/>.

18.8 Citizen Participation

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

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

- **Via phone:** 1-833-234-CDBG or 1-833-234-2324 (TTY: 787-522-5950)
Attention hours: Monday – Friday from 8:00 a.m. to 5:00 p.m.
- **Via email at:** infoCDBG@vivienda.pr.gov
- **Online at:** <https://www.cdbg-dr.pr.gov/en/contact/> (English)
<https://www.cdbg-dr.pr.gov/contact/> (Spanish)
- **In writing at:** Puerto Rico CDBG-DR Program
P.O. Box 21365
San Juan, PR 00928-1365

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

18.9 Citizen Complaints

As part of addressing Puerto Rico's long-term recovery needs, citizen complaints on any issues related to the general administration of CDBG-DR funds are welcome throughout the duration of the grant. It is PRDOH's responsibility, as grantee, to ensure that all complaints are dealt with promptly and consistently and at a minimum, to provide a timely, substantive written response to every **written** complaint within **fifteen (15) calendar days**, where practicable, as a CDBG grant recipient. See 24 C.F.R. § 570.486(a)(7).

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

- **Via email at:** LegalCDBG@vivienda.pr.gov
- **Online at:** <https://cdbg-dr.pr.gov/en/complaints/> (English)
Error! Hyperlink reference not valid. (Spanish) <https://cdbg-dr.pr.gov/quejas/>
- **In writing at:** Puerto Rico CDBG-DR Program
Attn: CDBG-DR Legal Division-Complaints
P.O. Box 21365
San Juan, PR 00928-1365

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

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

*Attention hours: Monday – Friday from 8:00 a.m. to 5:00 p.m.²²

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

²² Hours may vary due to COVID-19. PRDOH recommends calling ahead prior to arrival to corroborate.

18.10 Anti-Fraud, Waste, Abuse or Mismanagement

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

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

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

REPORT FRAUD, WASTE, ABUSE, OR MISMANAGEMENT TO PRDOH CDBG-DR	
CDBG-DR Hotline	787-274-2135 (English/Spanish/TTY)
Postal Mail	Puerto Rico Department of Housing CDBG-DR Internal Audit Office P.O. BOX 21355 San Juan, PR 00928-1355
Email	hotlineCDBG@vivienda.pr.gov
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 Internal Audit Office located at PRDOH's Headquarters at 606 Barbosa Avenue, Building Juan C. Cordero Dávila, 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 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/>.

18.11 Related Laws and Regulations

These guidelines refer as to how the provisions of certain laws apply to the Program. However, other related laws may exist which are not included in these Guidelines. This does not negate or preclude the Program from applying the provisions of those laws, nor an applicant from receiving services, when applicable. Moreover, PRDOH can enact, or may have enacted, regulations that address how the laws mentioned in these guidelines are managed. If there are any discrepancies between these guidelines and the laws and/or regulations mentioned in them, then the latter will prevail over the guidelines. If at any time the laws and/or the applicable regulations mentioned in these guidelines are amended, the new provisions will apply to the Program without the need to amend these guidelines.

18.12 Cross-Cutting Guidelines

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

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

19 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.

20 Severability Clause

If any provision of these guidelines, or the application thereof to any person, partnership, or corporation, or circumstance, is deemed invalid, illegal, or incapable of being

enforced to any extent by a competent court, the remainder of these guidelines, and the application of such provisions, will not be affected. All valid applications of these guidelines shall be severed from any applications deemed invalid, leaving the valid applications in full force.

END OF GUIDELINES.