



DEPARTMENT OF  
**HOUSING**



# CDBG-DR PROGRAM GUIDELINES

## Homebuyer Assistance Program

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PUERTO RICO DEPARTMENT OF HOUSING  
CDBG-DR PROGRAM GUIDELINES  
**HOMEBUYER ASSISTANCE PROGRAM**  
VERSION CONTROL

VERSION NUMBER	DATE REVISED	DESCRIPTION OF REVISIONS
1	July 1, 2020	Original Version
2	July 21, 2020	Edited Sections 1, 3, 4, 5, 8, 9, 11, 13, and 15. All edits are marked in gray highlight.
3	October 22, 2020	Multiple edits throughout the document to correct references and citations; specify Program requirements; include subsection 19.11 of Record Retention. All edits are marked in gray highlight.
4	November 18, 2021	Relocation of various sections, substantial amendments to language regarding Program requirements, budget figures, and Program procedures; added section 7, subsections 8.1, 10.2, 11.3, 12.1.5, 13.2. All edits are marked in gray highlight.
5	November 07, 2022	Multiple edits and substantial amendments throughout the document. Merger of sections for a more comprehensive understanding. All edits are marked in gray highlight.
6	December 15, 2022	Requirements to rehabilitated properties have been removed. All edits are marked in gray highlight.

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## 1 Overview

Outmigration already posed a challenge to community sustainability and viability across Puerto Rico before the landfall of Hurricanes Irma and María. Following the disasters, outmigration has only been magnified. Consequently, it compounds an already decreasing level of homeownership and a growing stock of vacant homes across the Island. Puerto Rico must curtail and reverse these negative trends by making homeownership more accessible to homebuyers.

As part of the Puerto Rico Disaster Recovery Action Plan, the Puerto Rico Department of Housing (**PRDOH**), as grantee, has designated the Puerto Rico Housing Finance Authority (**PRHFA**) as the Subrecipient to administer the Homebuyer Assistance Program (**the Program** or **HBA**). The Program provides a budget of **two hundred ninety-five million (\$295,000,000)** in CDBG-DR funds to assist with the gap between the amount of the first mortgage an Applicant can obtain from a Lending Institution and the purchase price of a home. The assistance is provided to Low and Moderate Income (**LMI**) and Urgent Need (**UN**) persons negatively affected by Hurricanes Irma and María who are homebuyers of a primary residence. The assistance offered by the HBA Program is expressly subject to and conditioned upon the ongoing availability of funds. PRDOH recognizes and understands the members of the Critical Recovery Workforce (**CRW**) are instrumental in providing public safety, emergency support, education, and healthcare for families in communities working to recover and rebuild. Therefore, the Program will continue to ensure CRW applicants are prioritized as part of the Program's outreach efforts. Applicants who accept a CDBG-DR award under the HBA Program must agree to own and occupy the program-assisted home for **five (5) years**, as secured by a lien on the property.

The Program aims to increase the level of homeownership in impacted communities. All **seventy-eight (78)** municipalities are classified as most impacted and distressed areas for this Program. Also, contribute to the long-term sustainability and viability of communities across the Island. Assistance will be provided in the form of a grant secured with restrictive conditions on the property for the amount of the CDBG-DR funds awarded through a Second Direct Mortgage and Restrictive Conditions for a **five (5) year** affordability period.<sup>1</sup>

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<sup>1</sup> Federal Register Notice, Vol. 85, No. 17 (January 27, 2020) 85 FR 4681, p. 4687. Accessed at: <https://www.govinfo.gov/content/pkg/FR-2020-01-27/pdf/2020-01204.pdf>

These Program Guidelines are intended to provide an overview of the HBA Program, as well as provide information to Applicants, potential Applicants, and participating lenders on the guidelines and requirements of the HBA Program.



## 2 Definitions

- **Acquisition:** The utilization of CDBG-DR funds to acquire real property.
- **Affordability Period:** The period a homebuyer is required to own and occupy a property as their primary residence, which is tied to the amount of assistance provided.
- **Applicant:** A person or a family that has applied for housing assistance.
- **Appraisal:** An estimate of a home's market value based on comparable recent sales in the home's immediate area or neighborhood, conducted by a professional appraiser.

- **Appraiser:** An individual duly licensed and qualified by the Puerto Rico State Department who conducts real estate property appraisals, as established in Act No. 277 of July 31, 1974, as amended.
- **Area Median Family Income (AMFI):** Median household income adjusted by family size for a given area. HUD has adjusted income limits for all of Puerto Rico. Adjusted income limits are updated annually by HUD and can be accessed at the HUD Exchange website.<sup>2</sup>
- **Award Commitment Letter:** Notification sent to an Applicant and Co-applicant indicating the action of reserving funds that are conditionally awarded to the Applicant as a grant for purchasing a specific dwelling unit. It is a pre-obligation; it is not legally binding and shall be valid for **sixty (60) days**.
- **Back-end Ratio:** Also known as the Debt-to-Income Ratio, is the percentage that expresses the relationship between a borrower's total monthly obligations (including the total mortgage payment) and their gross monthly income.
- **Borrower(s):** A person who applies for and receives a loan in the form of a mortgage and owes a debt to a creditor or lender.
- **Case Manager:** A PRHFA employee or an authorized representative of PRHFA. The Case Manager serves as the applicant's primary point of contact and is responsible for collecting documents, eligibility review, and income verification. The Case Manager recommends the applicant's eligibility and manages the eligibility reconsideration process.
- **Closing Costs:** Ordinary and reasonable expenses above the sales price of the property incurred by buyers and sellers when transferring ownership of a property and acquiring financing thru a mortgage loan.
- **Closing Disclosure:** A Closing Disclosure is a form that provides the final details required to complete the mortgage loan process by qualified Applicants under the Program. It includes a breakdown of loan terms, including projected monthly payments, closing costs, and down payment fees.
- **Community Development Block Grant – Disaster Recovery (CDBG-DR):** A term used to reference the legal framework under which HUD assigns administrative responsibilities over fixed amounts of federal funds allocated via congressional appropriations to eligible Grantees.

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<sup>2</sup> HUD Modified Income Limits change annually. See: <https://www.hudexchange.info/resource/5334/cdbg-income-limits/>



- **Critical Recovery Workforce (CRW):** For purposes of this Program, Critical Recovery Workforce refers to employed and documented workforce members authorized and currently exercising their profession in Puerto Rico. The CRW includes but is not limited to, first responders, medical personnel, teachers (PreK-12), and law enforcement officials who are either LMI (below 80% AMFI) or UN (below 120% AMFI).

CRW professions include, but are not limited to:

- **Atmospheric Surveillance:** Staff employed by a federal, state, or local entity to monitor atmospheric conditions.
- **Education:** Employees of a duly accredited public or private educational institution in Puerto Rico that provides direct services to students. This category includes pre-kindergarten through 12<sup>th</sup>-grade teachers, university professors, librarians, counselors, social workers, and other related personnel who provide services within an educational environment in Puerto Rico.
- **Emergency Management:** Workers employed in public or private management of emergency disasters in Puerto Rico and recovery work.
- **Emergency Medical:** Personnel employed in a Puerto Rico emergency services unit (public or private accredited entity). A person authorized by the Puerto Rico Secretary of the Health Department who has received training in emergency medical technology. These trainings include, among others, communication, emergency patient care, maintenance of work equipment, techniques, and procedures of the Emergency Room (**ER**), patient handling and transportation, knowledge of the procedures used in obstetrics, and assistance in respiratory and cardiac emergencies.
- **Firefighters:** Employed as a firefighter by the Puerto Rico Fire Department ("Cuerpo de Bomberos de Puerto Rico"). Properly trained and directly performs tasks aimed at guaranteeing the protection of citizens against fires, preventing and fighting fires, saving lives, and determining the origin and cause of the fire. This definition includes firefighters who serve as inspectors.
- **Healthcare Professionals:** Medical professionals duly authorized to practice in Puerto Rico (public or private accredited entity). Any of the professions in the field of health and medical care, such as doctors, surgeons, dentists, pharmacists, nurses, and medical technologists, among others, as authorized by the corresponding laws of Puerto Rico. Employed specialists

in the area of social work, psychologists, psychiatrists, and counselors authorized to practice the profession to provide prevention, treatment, and rehabilitation services in the area of mental health. This category includes, but is not limited to, professionals from the Mental Health and Addiction Services Administration (**ASSMCA**, by its Spanish acronym) and professionals from the private sector.

- **Infrastructure:** Workers responsible for addressing the needs of Puerto Rico's critical infrastructure, such as maritime ports, airports, aqueducts and sewers, electricity, gas, telecommunications, roads, highway, and transportation.
  - **Law Enforcement:** Law enforcement officers employed by a federal, state, or municipal law enforcement entity in Puerto Rico; and, in carrying out such employment, are sworn to uphold and make arrests for violations of federal, state, tribal, county, township, or municipal laws. Includes federal, state, and municipal police officers, correctional officers under state or federal correctional departments, Puerto Rico National Guard members, and all branches of the U.S. Military Services.
  - **Supply Chain:** Employees engaged in the transportation and delivery of food, health equipment, products, and basic necessities.
  - **Veterinary/Animal Services:** Animal medical professionals admitted to practice in Puerto Rico (public or private accredited entity). Employees of registered organizations dedicated to the services that benefit animals, such as animal rescue.
- **Down Payment:** Refers to the product of the selling price minus the amount of money borrowed to purchase the property.
  - **Duplication of Benefits (DOB):** Financial assistance received from another source that is provided for the same purpose as CDBG-DR funds.
  - **Eligible Homebuyer:** Refers to members of a household that are LMI or Urgent Need income households; an individual or, in the case of married couples, an individual and their spouse who do not own a residential property when applying for Program assistance; household must qualify for a mortgage. This term includes: single parents who owned a home with a former spouse while married and individuals who are displaced homemakers and have only owned with a spouse.
  - **Fair Housing Act:** The Fair Housing Act of 1968, 42 U.S.C. § 3601-3619, prohibits discrimination against protected classes of people in the sale or rental of housing, in the provision of housing assistance, or other housing-related activities. The Act

obligates HUD grantees and their subrecipients to take reasonable steps to ensure meaningful access to their programs and activities for protected classes. The Act also requires HUD and its program participants to affirmatively further the purposes of the FHA.

- **Final Award:** The amount of funding reserved for the Applicant as determined by PRHFA.
- **Front-end Ratio:** The relationship, expressed as a percentage, between an Applicants' housing expense and their gross monthly income. That includes principal, interest, taxes, hazard insurance, and mortgage insurance.
- **Hazard Insurance:** Insurance coverage that protects a property owner against damage caused by earthquakes, hurricanes, fires, or other natural events.
- **HBA Platform:** Refers to the web-based system created by PRHFA to facilitate the administration of the HBA Program. The HBA Platform can be accessed at <https://www.apps.afv.pr.gov/HBA/login.aspx>.
- **Household Income:** The anticipated adjusted gross amount of income from all sources for all adult family members as defined for reporting under the Internal Revenue Service (IRS) Form 1040 series for individual Federal annual income tax purposes.
- **Household Member:** A household member is defined as any person occupying the same housing unit, regardless of their relationship. May include minor children, temporarily absent family members, and permanently absent family members (such as those who reside in a nursing home). For this Program, household members should not own residential property. Determination, by PRHFA, will be on a case-by-case basis.
- **Household Size:** A household is defined as all persons occupying the same housing unit, regardless of their familial status or relationship. The household size include all persons, including minor children and adults.
- **Housing Counseling Agency:** Either public or private nonprofit organization (i) established as a HUD-approved provider of homebuyer education courses for at least **one (1) year** in the geographical area in which it provides services, (ii) is knowledgeable concerning the local housing market, and (iii) have met the regulations found at 24 C.F.R. Part 214 to obtain HUD approval.
- **Lending Institution(s):** Financial and mortgage institution(s) duly authorized to carry out mortgage business in Puerto Rico. To originate subsidized loans under the Program, they must comply with the requirements and enter into agreements required by PRHFA.

- **Long-Term Mortgage:** A **thirty (30)-year** fixed rate and fully amortized loan product.
- **Low- and Moderate-Income (LMI):** Low- and moderate-income populations have incomes not more than **eighty percent (80%)** of the Area Median Family Income established by HUD. This income standard changes yearly and varies based on household size and geography.<sup>3</sup> HUD has calculated adjusted income limits for Puerto Rico, upon which an LMI determination is based. The Program aims to provide a minimum of **thirty percent (30%)** of the available funds to LMI Applicants.
- **Mortgage:** A loan in which property or real estate is used as collateral. The Borrower agrees with a mortgage lender wherein the Borrower receives cash up front and then makes payments over a set time until the entire loan is repaid to the mortgage lender.
- **PITI:** The acronym for principal, interest, taxes, homeowner's flood, and mortgage insurance.
- **Principal or Primary Residence:** Refers to a dwelling where a person maintains or will maintain a primary residence, and which will be occupied for the majority of the calendar year. A person may only have **one (1)** primary residence at a time.
- **Property Value:** The most probable price a property should bring under normal competitive and open market. The property market value must be established through an appraisal.
- **Puerto Rico Action Plan and its Amendments (APA):** Defines how the CDBG-DR funding allocation by HUD will be utilized 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://cdbg-dr.pr.gov/en/action-plan/> for the English version and <https://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 the wake caused by Hurricanes Irma and María in 2017. PRDOH will provide oversight of this Program.

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<sup>3</sup> HUD Modified Income Limits change annually. See: <https://www.hudexchange.info/resource/5334/cdbg-income-limits/>

- **Puerto Rico Housing Finance Authority (PRHFA):** PRHFA (**AFV**, for its Spanish acronym) is a government instrumentality of Puerto Rico. It is also the designated Subrecipient tasked with administering this Program.
- **Purchase Price:** The cost of acquiring a residence. To qualify for this Program, the purchase price cannot be higher than the appraisal value.
- **Real Estate Owned (REO):** A property owned by a lender, such as a bank, successfully sold at a foreclosure auction. A HUD REO home is a property without liens sold by the government.
- **Recapture:** Means recapture provisions ensuring PRHFA recoups all or a portion of the CDBG-DR assistance to Borrower(s), if the acquired property no longer constitutes the principal residence of the assisted family, or individual, for the duration of the affordability period.
- **Rehabilitated Property:** For this Program, means any property which requires minor nonstructural repairs. The rehabilitation costs shall have a cap of **thirty-five thousand dollars (\$35,000.00)**. ~~The total rehabilitation cost shall not exceed ten percent (10%) of the lesser of the As Is value (calculated in the Repair and Maintenance Addendum) or the selling price, with a cap of thirty-five thousand dollars (\$35,000.00.) The rehabilitation cost will be the cost of the minor nonstructural repairs, inspections, supplemental origination, and contingencies.~~
- **Release of Restrictive Conditions:** The deed and other document(s) the PRHFA shall prepare, issue, and present at Puerto Rico's Property Registry or cause to be prepared or issued, releasing PRHFA's restrictive conditions on each assisted property upon the homebuyer's compliance with the affordability period and all other program requirements.
- **Restrictive Condition:** Means any restriction or obligation registered against the property's title deed, which binds the owner and restricts the use of the property.
- **Second Direct Mortgage:** A deed next in rank after the first deed on the same property.
- **Special Flood Hazard Area (SFHA):** The terms used by FEMA in the National Flood Insurance Program (**NFIP**) to refer to the land area covered by the floodwaters of the base or 100-year flood (an area of land that has an approximate **one percent (1%)** probability of a flood occurring on it in any given year).
- **Subrecipient Agreement (SRA):** Contract between PRDOH and PRHFA to administer and implement this Program.

- **Subsidy:** Direct financial assistance provided to LMI and UN eligible homebuyers to reduce their interest rate and mortgage principal.
- **Unfair Lending Practices:** Unfair, deceptive, abusive acts and practices or unscrupulous actions carried out by a lender to entice, induce and/or assist a borrower in taking a mortgage that carries high fees, a high-interest rate, strips the Borrower of equity, or places the borrower in lower credit-rated loan to the benefit of the lender.
- **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.
- **Urgent Need (UN):** Refers to incomes at the **one-hundred and twenty percent (120%)** of Area Median Family Income as established by HUD. This income standard changes yearly and varies based on household size and geography. HUD has calculated adjusted income limits for Puerto Rico, upon which an UN determination is based.

### 3 National Objective

The National Objectives of the Homebuyer Assistance Program are:

- **Benefit Low-to-Moderate Income Persons:** To benefit LMI households as defined by HUD Modified Income Limits for Puerto Rico under the CDBG-DR Program.
- **Urgent Need:** To meet the urgent need to reduce outmigration caused by Hurricanes to maintain the sustainability and economic viability of communities across Puerto Rico by improving homeownership opportunities for households below **one hundred and twenty percent (120%)** AMFI.<sup>4</sup>

### 4 Program Description

The HBA Program removes financial barriers to the homeownership dream of many families and individuals by lowering financing costs associated with property acquisition. The HBA Program assistance will enable eligible families to purchase a home that

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<sup>4</sup> FHA Policy defined in their Single-Family Policy Handbook 4000.1 states that an affordable housing program "must serve Low- to Moderate-Income individuals or families. Low- to Moderate-Income individuals or families refer to individuals or families whose household income **does not exceed 115 percent (115%) of the median income** for the area when adjusted for family size. The Jurisdictional Homeownership Center (**HOC**) may approve a higher percentage of up to 140 percent".

On June 29, 2020, the Atlanta Homeownership Center approved an increase of the standard 115% AMI limit as identified in the CFR and Handbook so PRHFA can provide down payment and closing cost assistance to borrowers who are utilizing FHA mortgage insurance with incomes not to exceed 120% of AMI in purchasing eligible properties in Puerto Rico. This allows for FHA's AMI limit to match that of HUD's Office of Community Planning and Development's 120% AMI limit which subsequently allows the PRHFA to take advantage of the CDBG-DR funding opportunity.

provides a stable place of residence, strengthening the unity of the family, neighborhood, and community.

PRHFA, as the designated Subrecipient, will administer the CDBG-DR funds to assist eligible homebuyers with purchasing a new or existing property. Applicants may qualify to receive financial assistance in the form of a grant towards purchasing a new or existing home. The underwriting criteria outlined in these Guidelines will determine the assistance amount.

The Program will provide grants of up to:

- A maximum of **forty-five thousand dollars (\$45,000)** per eligible LMI and UN household; and
- A maximum of **fifty-five thousand dollars (\$55,000)** per eligible LMI and UN for households with CRW members.

Properties located in Urban Centers, as certified by PRDOH, may receive an additional **five thousand dollars (\$5,000)** to be used towards the purchase price.

PRHFA, in collaboration with PRDOH, will assertively make every effort to affirmatively further fair housing and engage lending institutions, professional associations, protected classes of potential homebuyers, and other identified Program stakeholders to perform marketing and outreach activities. See, Affirmative Marketing & Fair Housing section in these Guidelines for more information.

Applicants and potential Applicants will be able to learn about the Program and stay up to date through multiple communication channels to ensure interested parties receive timely, accurate information on the Program and its requirements. Communication methods may include but are not limited to, the Puerto Rico CDBG-DR Website, the PRHFA Website, Published Program Materials, Mass Media, and others related communication methods.

#### **4.1 Program Objectives**

The Program seeks to achieve the following objectives:

- The primary objective is to increase homeownership rates that will support the long-term sustainability and economic viability of communities impacted by Hurricane Irma and María across the Island;
- The secondary objective is to incentivize the CRW to continue residing in local communities. Thus, helping reduce outmigration and improve job retention and productivity.

### **5 Eligible Activities and Use of Funds**

## 5.1 Eligible Use of Funds

The present section sets forth the eligible uses of CDBG-DR funds for the HBA Program under Section 105(a) (24) of the Housing Community Development Act of 1974, as amended, 42 U.S.C. § 5305, and Federal Register Vol. 83, No. 28 (February 9, 2018), 83 FR 5844. The Program utilizes CDBG-DR funds to provide direct assistance to homebuyers to facilitate and expand homeownership by using HBA Program grants to:

- Subsidize interest rates and mortgage principal amounts for both LMI and UN homebuyers. The subsidy will be applied toward the purchase price.
- Pay up to **100 percent (100%)** of the down payment required by the mortgage for the purchase on behalf of the purchaser for both LMI and UN homebuyers.
- Pay reasonable closing costs associated with the home purchase on behalf of the purchaser for LMI and UN homebuyers.

Assistance will be awarded as a grant to eligible Applicants seeking financing to purchase a primary residence through a participating Lending Institution to cover an Applicant's unmet need required for the purchase.

## 5.2 Ineligible Use of Funds

The following activities, including but not limited to, may not be covered by CDBG-DR funds administered under this Program:

- Delinquent property taxes;
- Fees or charges on properties which are the result of the seller;
- Refinancing a property;
- Purchase of property inherited by the Applicant or any property where the Applicant is part owner;
- Finance acquisitions of second homes and investment properties; and
- Acquisition of bonds or stock.

## 6 Program Eligibility and Intake

Interested Applicants may apply for the HBA Program through a participating Lending Institution of their choice, PRHFA, or an authorized PRHFA representative.

### 6.1 Program Eligibility

Applicants will be screened for eligibility to ensure compliance with HBA Program Requirements. Applicants must provide complete and accurate information regarding their household composition, household gross monthly income, and other eligibility criteria. Cash on hand or other liquid assets holdings that are non-DOB will not be used to determine program eligibility. Failure to disclose accurate and complete information may affect eligibility, and all such instances will be referred to the Program for further action. Upon submitting a Program application, PRHFA or its authorized representative



will conduct an eligibility review to verify the if Applicants are eligible to receive assistance by the criteria outlined in the Guidelines.

Each application will be reviewed for the following eligibility and benefit determination criteria:

- The Applicant must be a U.S. citizen, non-citizen national, or qualified alien as defined herein.
- Must meet the income requirements for LMI or UN household. As established by HUD, the applicant's total household income must not exceed the one-hundred and twenty percent (120%) AMFI limits.
- Complete a Homebuyer Education Course provided by a HUD-certified counselor of the Housing Counseling Program (**HC Program**) and submit a certificate of completion before closing.<sup>5</sup>
- The applicant must meet the definition of "Eligible Homebuyer" (See Definitions).

An "Eligible Homebuyer" could include, the following, single parents who owned a home with a former spouse while married, and the displaced homemakers who have owned a home with a spouse. In the case of a divorce, the Applicant will be required to provide evidence of divorce stipulations indicating the former spouse owns the property. However, an individual shall not be excluded from consideration as an Applicant solely based on his or her marital status. <sup>6</sup>

Likewise, an individual who is or has been a victim of domestic violence, dating violence, sexual assault, stalking, or is affiliated with an individual who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, will not be subject to more demanding standards than other Applicants. <sup>7</sup> Also, suppose an Applicant has been a victim of domestic violence, dating violence, sexual assault, or stalking by a household member or guest. In that case, the HBA Program may not deny assistance solely based on criminal activity relating to that domestic violence, dating violence, sexual assault, or stalking.

An "Eligible Homebuyer" may also include an Applicant, as illustrated in the following non-exhaustive list, who is:

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<sup>5</sup> For more information about the Housing Counseling Program, location(s) and contact(s) of our Counseling Agencies, visit <https://www.cdbg-dr.pr.gov/en/housing-counseling/> (English) and <https://cdbg-dr.pr.gov/asesoria-de-vivienda/> (Spanish).

<sup>6</sup> Housing providers cannot discriminate based on any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

<sup>7</sup> HBA Program assistance is made available to all individuals regardless of sex, gender identity, or sexual orientation.

1. Displaced homemaker<sup>8</sup>
2. Single parent<sup>9</sup>
3. Married individual but does not own a home with a spouse
4. An Applicant who is a party in a court proceeding pending judgement related to the marital home property.

PRHFA or its authorized representative will determine eligibility for each submitted Program application. Eligibility determinations will be based upon the documentation submitted by the Applicant and verification of information by third-party sources, including federal databases. Also, on applicable statutes, Codes of Federal Regulation, state and local codes, and Program Guidelines.

### 6.1.1 Applicant Identification

As part of the Program application, all Applicants and household members must submit documentation to prove their identity. PRHFA or its authorized representative will ensure the documentation is valid and current during the eligibility review. This documentation may include, but is not limited to, the following:

- Government Issued Photo Identification (Federal or State Issued);
- Driver's License;
- Passport;
- Military ID Card;
- Birth Certificate; or
- Certificate of Naturalization or Permanent Resident Card.

\*Birth certificates may only be used as proof of identification for Applicants' household members. Applicants must submit a photo ID.

### 6.1.2 Applicant Citizenship

Participation eligibility to receive assistance is limited to U.S. citizens, non-citizen nationals, or qualified aliens, as defined in the following chart.

Status	Definition
U.S. Citizen	A person born in one (1) of the fifty (50) States, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, or the

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<sup>8</sup> Displaced homemaker means an individual who: (1) Is an adult; (2) Has not worked full-time full year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and (3) Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment. 24 C.F.R. § 92.2.

<sup>9</sup> Single parent means an individual who: (1) Is unmarried or legally separated from a spouse; and (2) Has one or more minor children of whom the individual has custody or joint custody or is pregnant. 24 C.F.R. § 92.2.

	Northern Mariana Islands; a person born outside of the U.S. to at least one (1) U.S. parent; or a naturalized citizen.
Non-Citizen National	<p>A person born in an outlying possession of the U.S. (e.g., American Samoa or Swain's Island) on or after the date the U.S. acquired the possession; a person born outside the U.S. and its outlying possessions whose parents are U.S. non-citizen nationals. 8 U.S.C. § 1408.</p> <p>All U.S. citizens are U.S. nationals; however, not every U.S. national is a U.S. citizen.</p>
Qualified Alien	<p>Legal permanent resident ("green card" holder), under the Immigration and Nationality Act (INA), 8 USC Chapter 12;</p> <p>An asylee, refugee, or an alien whose deportation is being withheld, under de INA;</p> <p>Alien paroled into the U.S. for at least one (1) year, according to INA;</p> <p>Alien granted conditional entry, pursuant to section 203(a)(7) of the INA as in effect prior to April 1, 1980;</p> <p>Cuban/Haitian entrant, as defined in section 501(c) of the Refugee Education Assistance Act of 1980, 8 U.S.C. §1522;</p> <p>Alien who (or whose child or parent) has been battered or subjected to extreme cruelty in the U.S. and otherwise satisfies the requirements of 8 U.S.C. §1641(c).</p>

As part of the Program application, all Applicants must submit documentation to prove their citizenship. This documentation may include, but is not limited to, the following:

- Passport;
- Birth Certificate;
- Certificate of Naturalization;
- Certificate of Citizenship; or
- Permanent Resident Card ("green card").

If the Applicant is unable to provide any of the documents listed above, on a case-by-case basis, the HBA Program will accept – as proof of citizenship or legal presence – documentation listed in the Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work

Opportunity Reconciliation Act of 1996 published by the United States Department of Justice, Federal Register Vol. 62, No. 221 (November 17, 1997), 62 FR 61344.

Temporary tourist visa holders, foreign students, temporary work visa holders, and habitual residents, such as citizens of the Federated States of Micronesia and the Republic of the Marshall Islands, are ineligible for the Program.

## **6.2 Income Verification and Household Size**

All applicants must meet the UN income limits, adjusted for family size. Total annual household gross income for all household members aged eighteen (18) and over, shall not exceed 120% income limits, as defined by adjusted income limits for Puerto Rico.

### **6.2.1 Calculating Household Income**

A household is defined as all persons occupying the same unit, regardless of familial status or relationship to one another. For the HBA Program, Applicants must provide income documentation for all household members aged eighteen (18) and older at the time of Program application.

The HBA Program will consider the documentation with the date closest to the evaluation and award of assistance to calculate the household income.

## **6.3 Housing Counseling Requirement**

Housing Counseling performed by HUD-certified professionals enables better-performing loans to better-qualified borrowers, resulting in stronger communities with healthier economies and fewer foreclosures.

All eligible Applicants will be required to attend a housing counseling course provided by a HUD-certified Housing Counseling Program or the CDBG-DR HC Program regarding the responsibilities of homeownership. HUD-certified Housing Counselors would provide a Homebuyer Education Course specific to the needs of these Applicants.

Housing Counseling for this Program must adhere to the following standards:

- Counseling may take place in the office of the housing counseling agency, at an alternate location, by telephone, or by videoconferencing, as long as it is mutually acceptable to the housing counselor and client.
- The Homebuyer Education Course must be taught by a HUD-certified Counselor working for a HUD-certified Housing Counseling Agency.
- The Homebuyer Education Course should cover the entire process of homeownership, which includes: the decisions to purchase a home, the selection and purchase of a home, issues arising during or affecting the period of ownership of a home, and the sale or other disposition of the home.

Upon the successful completion of the course, the counseling agency will provide the Applicant with a **Certificate of Completion**. It is the responsibility of the Applicant to provide a copy of the Certificate of Completion prior to award determination.

No financial assistance under this Program will be committed or disbursed until the housing counseling requirement has been fulfilled.

For more information on how to apply for the CDBG-DR Housing Counseling Program, location(s) and contact(s) of our Counseling Agencies, visit <https://cdbg-dr.pr.gov/en/download/housing-counseling-program/> (English) or <https://cdbg-dr.pr.gov/download/programa-de-asesoria-de-vivienda/> (Spanish). The CDBG-DR Homebuyer Education Course under this Program is free for eligible Applicants.

#### **6.4 Program Intake Process**

During the intake process, the Applicant will be required to furnish the information listing below to their lender or the authorized PRHFA representative:

- Homebuyer Education Course Certificate:
  - The Homebuyer Education Course Certificate can be obtained by enrolling in a course through the CDBG-DR HC Program free of charge. Upon completing the course, the Housing Counseling Agency (**HCA**) will issue a Certificate of Completion.
- Applicant and/or Co-applicant Identification:
  - The Applicant and/or co-applicant must provide a valid copy of a government-issued photo ID (federal or state).
- Household Members Identification:
  - The Applicant shall provide a valid copy of a government-issued photo ID (federal or state) for all household members over the age of eighteen (18) and a birth certificate for all household members under the age of eighteen (18).
- Proof of Employment within the CRW [if applicable]:
  - To qualify as a CRW household, evidence must be provided to demonstrate the Applicant, co-applicant, and/or household member(s) is employed by a CRW profession. The following are acceptable forms of evidence: paystubs, valid ID issued by the employer, letter issued by the employee's Human Resource Department, or similar documentation demonstrating active employment within the CRW profession.
- Income Documentation of Applicants and all household members aged eighteen (18) and older:
  - Applicant, co-applicant, and household member(s) who are hourly/salary:
    - Three (3) most recent monthly bank statements;

- Three (3) paystubs from the ninety (90) day period before the date of Application;
- Puerto Rico or Federal Income Tax Return for the two most recent tax years;
- Applicant, co-applicant, and household member(s) who receive retirement and/or social security income:
  - Three (3) most recent monthly bank statements;
  - Current pension/retirement benefit letter;
  - Current annuity payment letter or 1099 form from the prior year to the date of application;
- Applicant, co-applicant, and household member(s) who are self-employed:
  - Three (3) most recent monthly bank statements;
  - Most recent tax return (1040 or 1040A);
  - Profit and loss statement for the last twelve (12) months;
- Applicant, co-applicant, and household member(s) who receive rental income from commercial properties:
  - Copy of current lease agreements;
- Applicant, co-applicant, and household members who receive unemployment benefits:
  - Current benefit letter with gross benefit amount
- Applicant, co-applicant, and household member(s) who receive court-ordered alimony or spousal maintenance:
  - Copy of court order documentation.
- Applicant, co-applicant, and household member(s) who receive taxable interest and dividends:
  - Most recent statement or prior year (1099 form)
- Applicant, co-applicant, and/or household members who do not receive any income:
  - Signed Zero Income Certification;
  - Copy of bank statement;
  - PRHFA may request additional documentation, such as: Negative Certificate of Employment from the Department of Labor, Evidence of enrollment in a university, college, or post-secondary school, or any other document to verify the individual is not receiving any form of income.

Before applying for the Program, prospective Applicants should review the eligibility criteria outlined in these Guidelines and the Applicant Document Checklist published on <https://cdbg-dr.pr.gov/en/homebuyer-assistance-program/> (English) and <https://cdbg-dr.pr.gov/programa-de-asistencia-directa-al-comprador/> (Spanish).

## 6.5 Eligibility Review

Applicants deemed eligible will be sent an Eligibility Notice via email, informing the eligibility decision. Applicants can receive the Eligibility Notice via postal mail if requested during the intake process. The correspondence will include a notice informing the Applicant of the eligibility determination and a description of the required next steps. The eligibility determination will be valid for **ninety (90) days**.

If at any point during the Program eligibility determination process or throughout any other phase of the process, it is found that the Applicant is ineligible for assistance, the Applicant will be notified through an Adverse Eligibility Notice. The notice will outline the eligibility determination, the following steps, and instructions for submitting a Program-based Reconsideration Request and/or an Administrative Review Request. The notification will inform the Applicant of the reason(s) for ineligibility and outline the process to challenge the decision. Applicants who wish to contest a Program determination may file a Program-based Reconsideration Request by submitting a written request directly to the Program within **twenty (20) calendar days** from the date the notice was sent to the Applicant. See, Program-based Reconsideration and/or Administrative Review section of these Guidelines.

## 6.6 Non-Responsive Applicants

Upon receipt of the Eligibility Notice, the applicant has **ninety (90) days** to start the process of securing a mortgage. If the Applicant fails to begin the mortgage financing process within that period, the Program will issue a Non-Responsive Notice through electronic mail. The Non-Responsive Notice provides multiple communication methods for contacting the Program and will advise the Applicant of the next steps in the application process. Also, it will notify the Applicant that they must start the lending process with an authorized lender within **fourteen (14) calendar days** of the date of the notice.

If the Applicant cannot begin the lending process with a participating lender within **fourteen (14) calendar days**, the application will be withdrawn from the Program, and the Applicant will receive a Non-Responsive Confirmation Notice. Withdrawal from the Program does not prevent the Applicant from re-applying once the Applicant is ready to begin the mortgage financing process.

## 7 Voluntary Withdrawal

An Applicant may request to withdraw from the Program at any time. In the case this happens, a voluntary withdrawal process from the Program will take place. In such an event, the Applicant will notify the Case Manager, in writing, of its desire to withdraw from the HBA Program. The request must be made using the Program's Voluntary Withdrawal Request Form. The Applicant may submit the form via postal mail or email.

Once the Program has reviewed and accepted the withdrawal request, the Program will issue a Voluntary Withdrawal Notice. At this stage, the Applicant's status will be updated to "Withdrawn". Upon completion of the withdrawal process, **fifteen (15) calendar days** after the Voluntary Withdrawal Notice, a Voluntary Withdrawal Confirmation Notice will be sent to the Applicant. The Voluntary Withdrawal Confirmation Notice will inform the Applicant that the process has been completed and the application will be closed and withdrawn from the HBA Program. However, Applicants' voluntary withdrawal does not preclude the Applicant from submitting a new application to the HBA Program.

## 8 Lending Process

### 8.1 Participating Lending Institutions

Upon issuance of an Eligibility Notice, the Applicant may proceed with securing a mortgage loan from a participating lender. In collaboration with PRDOH, PRHFA will publish and regularly update the list of participating lending institutions in PRHFA's website and lending institutions websites.

The lending institution will guide the Applicant through the mortgage selection process and loan underwriting to provide the Applicant with the most favorable loan conditions. Mortgage Loan Officers shall comply with the underwriting requirements of the loan type and all applicable federal and local mortgage lending regulations from origination through closing.

The Applicant may only pursue long-term mortgages limited to the following loan types:

- FHA/USDA/VA Guaranteed Loans (Ginnie Mae)
- Fannie Mae/Freddie Mac conventional conforming loans
- Conventional non-conforming loans

Mortgage loan products applied by Applicants seeking assistance from the Program must meet the above requirements.

The following risky loan features are not allowable under the HBA Program: adjustable-rate mortgages (**ARMs**'), loans with balloon payments, loans with pre-payment penalties, loans with negative amortization, or interest-only.

PRHFA reserves the right to deny assistance if it finds that the transaction's structure infringes upon the HBA Program's overall purpose or serves to unjustly enrich an individual or institution.

For more information, visit <https://cdbg-dr.pr.gov/en/homebuyer-assistance-program/> (English) and <https://cdbg-dr.pr.gov/programa-de-asistencia-directa-al-comprador/> (Spanish).



## 8.2 Participating Lending Institution Criteria

Lending Institutions are critical to the Program's success. To qualify as a participating lending institution, the financial and mortgage institutions must meet the following criteria:

- Be duly authorized to carry out mortgage business in Puerto Rico.
- Execute and comply with a Memorandum of Understanding (**MOU**) whereby the Lending Institution agrees to comply with Program Guidelines and all applicable federal, state, and local laws and regulations.
- Maintain an established point of contact for the HBA Program and ensure that mortgage officers are trained to use the HBA Platform and understand the underwriting requirements outlined in these Program Guidelines.

For more information on how to become a participating lending institution, please send an email to [hba-lenderassistance@afv.pr.gov](mailto:hba-lenderassistance@afv.pr.gov).

### 8.2.1 Anti-predatory Lending

PRHFA does not condone unscrupulous actions carried out by a lending institution to entice, induce and/or assist a borrower in taking a mortgage that carries a high-interest rate and fees or place the borrower in a lower credit-rated loan to the benefit of the lender. Participating lending institutions must agree to abide by PRHFA's anti-predatory lending policies outlined in the MOU.

## 9 Underwriting Review

PRHFA or its authorized representative will perform the underwriting review after the Lending Institution has completed its preliminary loan underwriting prior to committing funds to an Applicant. To facilitate the underwriting review, ~~the~~ PRHFA or its authorized representative will perform the CDBG-DR assistance underwriting review in accordance with these Guidelines and Program Document.

Upon determining the loan meets the Program's requirements, ~~the~~ PRHFA Underwriter will perform an underwriting review based on the underwriting parameters outlined in these Guidelines

### 9.1 Appraisal

To assure the purchase price is reasonable, the PRHFA Underwriting Review will rely on a full appraisal commissioned by the lending institution. The purchase price must not exceed the current FHA mortgage limits<sup>10</sup> and the value stated in the Appraisal.

The Appraisal must meet the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (**URA**), as amended, 42 U.S.C. § 4601 *et seq.*, the definition of an

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<sup>10</sup> See: <https://entp.hud.gov/idapp/html/hicostlook.cfm>.

appraisal (see 49 C.F.R. 24.2(a) (3)), and the five following requirements (49 C.F.R. 24.103(a) (2)):

- An adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), including items identified as personal property, a statement of the known and observed encumbrances, if any, title information, location, zoning, present use, an analysis of highest and best use, and at least a **five (5) year** sales history of the property;
- All relevant and reliable approaches to value. If the appraiser uses more than one approach, there shall be an analysis and reconciliation of approaches to value used that is sufficient to support the appraiser's opinion of value;
- A description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction;
- A statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any, to the remaining real property, where appropriate; and
- The effective date of valuation, date of appraisal, signature, and certification of the appraiser.

The loan should not exceed the purchase price or the current FHA mortgage limits and/or the value stated in the Appraisal. Fees and costs must be aligned with prevailing market prices.

For appraisals of rehabilitated properties, see Rehabilitated Properties Section of the Guidelines.

## **9.2 Down Payment Assistance**

The Program will cover **one hundred percent (100%)** of the down payment required by the selected mortgage loan product for the purchase on behalf of LMI and UN homebuyers.

## **9.3 Mortgage Subsidy Assistance**

The Program will provide direct financial assistance to subsidize the interest rate and mortgage principal amount for LMI and UN homebuyers.

This subsidy makes homeownership more affordable and reduces the risk of foreclosure by lowering the interest rate and monthly payment. In the case of conventional loans, eliminating the requirement for mortgage insurance. Further, this subsidy lessens costs barriers for LMI and UN homebuyers by lowering closing costs for homeownership.

The Program must provide the Applicant with limited income with the necessary funding level and cost reasonableness to facilitate homeownership. Therefore, the PRHFA Underwriter will assess the Borrower's ability to pay the monthly mortgage carrying costs and the long-term financial viability of the purchase. The Underwriter will calculate the subsidy amount necessary to lower the Borrower's front-end ratio as close to twenty (20%) or the Borrower's back-end ratio to thirty-six (36%); whichever is most beneficial for sustaining homeownership. Applicants may not incur additional debt that increases their urgent need to receive additional financial assistance from the Program during the application process.

#### **9.4 Closing Costs**

The Program may cover reasonable and customary closing costs, including but not limited to the credit report, home appraisal, loan origination fee, title, escrow, recording, notary fees, title transfer charges, title insurance, title studies, or any other similar costs for LMI and UN homebuyers.

Closing costs are regulated by the Consumer Financial Protection Bureau (**CFPB**). Closing Disclosure outlines the charges and fees a Borrower will be required to pay as part of the closing process, these costs either have no tolerance for change, or a ten percent (10%) tolerance.

As these costs are tightly regulated, the PRHFA Underwriting Review will consider closing costs to be reasonable, provided these costs adhere to the Qualified Mortgage rule and applicable mortgage regulatory guidance.

### **10 Duplication of Benefits (DOB) Review**

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. 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 before awarding assistance.

The DOB review performed by PRHFA assures that federal resources are neither duplicated nor wasted when applied to the provision of homeownership assistance.

To ensure the Program does not provide a duplication of benefits, PRHFA will adhere to the following process:

1. Identify the Applicant's total need;

2. Identify total assistance available;
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); and
6. Final Award (Program Cap = Final Award if Maximum Award is equal to or greater than the Program Cap).

## 10.1 Assistance Considered a DOB

Because the HBA Program requires eligible Applicants not to be homeowners at the time of application, it is expected that most Applicants will not have received any benefits from other sources for the purposes of home rehabilitation or replacement. Nonetheless, the Program will perform the due diligence of a DOB review and ensure that program beneficiaries do not receive duplicative, unnecessary, or unreasonable assistance.

In cases where an Applicant has previously received FEMA, SBA, and/or any other funds for the purpose of using them to purchase real estate, those funds will be considered as a DOB under this Program. These funds will be deducted from the total unmet need determination as part of the underwriting review.

The following are sources of assistance that may have been provided to Applicants and are considered a duplication of benefits.

### 10.1.1 FEMA Individual Assistance (**FEMA IA**)

Federal Emergency Management Administration Individual Assistance (**FEMA IA**) will be determined and verified by PRHFA through the FEMA database. If PRHFA cannot verify the FEMA IA amount through the FEMA database, PRHFA will use the payment amount provided by the Applicant at the time of application. Suppose an Applicant can provide documentation demonstrating that the FEMA IA amount provided by the FEMA database includes amounts not paid to cover the structural loss. In such case, PRHFA will use the documentation provided by the Applicant to adjust the FEMA IA amount considered in the DOB analysis. The documentation supplied by the Applicant must come from FEMA.

### 10.1.2 FEMA National Flood Insurance Program (**NFIP**)

PRHFA will check all Applicants for NFIP to verify whether they maintained flood insurance. Any payments for loss to the dwellings under NFIP insurance policies are deducted from the amount the Applicant is eligible to receive. Payments for contents or other expenses are not deducted from the Applicant's award.

The payment to Applicants under NFIP policies will be determined and verified by PRHFA through the FEMA database and cross-referenced with PRDOH CDBG-DR data. If PRHFA cannot verify the NFIP insurance proceeds through the NFIP database, PRHFA will use

documentation supplied by the Applicant. If an Applicant can provide documentation demonstrating the insurance proceeds amount provided by the FEMA database includes items not covered in the home evaluation or not paid to cover the structural loss. In such cases, PRHFA will use the documentation provided by the Applicant to adjust the insurance payout considered in the DOB analysis. The documentation provided by the Applicant must come from the insurance company which issued the payments.

### 10.1.3 Private Insurance

All private insurance settlement amounts for loss of dwellings are deducted from the Applicant's award.

### 10.1.4 Other Sources of Duplication of Benefits

Following a disaster, charitable organizations provide many kinds of contributions, including donations, grants, or loans, among other types of assistance. Grants and cash donations designated for specific eligible work, even when provided from non-Federal sources, but designated for the same purpose as Federal disaster funds generally are considered a duplication of benefit. Grants and cash donations received for unspecified purposes (e.g., "for disaster recovery/relief efforts") or for work not eligible for federal assistance does not constitute a duplication of benefits.

### 10.1.5 DOB Review

PRHFA will review each application to determine if funding awarded or donated to the Applicant was received for the same purpose as the assistance made available to the Applicant thru the HBA Program. For this purpose, Applicants must provide insurance documentation, FEMA, Small Business Administration (**SBA**), and any other type of documentation demonstrating the receipt of funds. The PRHFA will verify the accuracy of the submitted documentation before an award is offered to an Applicant. Then, the PRHFA will determine the Applicant's total unmet needs and calculate the Applicant's total DOB, if any. The Applicant must have an unmet need to move forward in the Program.

PRHFA must ensure compliance with the Stafford Act by collecting, analyzing, and verifying funds or assistance received by Applicants for purposes of homeownership. Any sources of funding previously received by the Applicant for the same purpose as the assistance made available by the HBA Program will be deducted from the total unmet needs. The calculation of DOB must be based on the collection of documentation provided by the Applicant or obtained by the HBA Program via one of PRDOH's information sharing agreements. For example, DOB will be calculated from information obtained from SBA, FEMA, and/or in-kind assistance used for the same purpose as the CDBG-DR award. The final award will be calculated by subtracting any DOB assistance from the total unmet need of the Applicant.

To comply with these requirements, the PRHFA or its authorized representative will enter the Applicant's information into the DOB database to determine whether the Applicant received additional financial funds. Also, to ensure that any funds determined to be DOB are deducted from the final assistance award. Regarding charity or in-kind assistance, PRHFA requires full disclosure from the Applicant during the loan underwriting process and will review the lending documentation to ensure duplicative assistance is accounted for in unmet needs calculation.

The Applicant must repay any assistance later determined to be DOB, i.e., received for the same purpose as those awarded or provided with CDBG-DR funds. The Applicant must certify that understands this requirement as outlined in detail in the subrogation terms included in the Applicant Acknowledgment and Consent Form.

You may access the CDBG-DR Duplication of Benefits Policy and all CDBG-DR General Policies at <https://cdbg-dr.pr.gov/en/download/duplication-of-benefits-policy/> (English) or <https://cdbg-dr.pr.gov/download/politica-sobre-la-duplicacion-de-beneficios/> (Spanish).

## 11 Property Eligibility Review

Only single-family concrete made residential structures located in Puerto Rico will be eligible for the Program. Properties with wood, acrylic, or metal structures within the living area of the structure as stated in the appraisal will not be eligible for the Program. For this Program's purpose, single-family homes may include a dwelling within a one-to-two-unit structure. Single-family units may include, but are not limited to:

- Duplexes;
- Manufactured Housing Units (**MHU**);
- Detached, stand-alone, concrete residential structures;
- Attached single family;
- Condominium Unit and;
- Cooperative Unit.

### 11.1 Property Requirements

The following property requirements must be adhered to for a property to be determined eligible to commit CDBG-DR funding to the Applicant:

- The property must be acquired through a valid deed, free and clear of any lien and encumbrance that may affect PRDOH's rights over the property under the Deed of Mortgage and Restrictive Conditions;
- The property must be classified as vacant or ready to be sold by the owner at contract signing;
- The property must not be occupied by tenants at the moment of contract signing;

- Properties must meet minimum property standards required by the Applicant's primary loan issuer (e.g., U.S. Department of Agriculture, Rural Development (USDA-RD), Fannie Mae, etc.) and applicable local codes;
- Properties (New Construction) must have an Occupancy Certification ("Permiso de Uso");
- Property must have no substantial adverse environmental factors as determined by an environmental review;
- Property must not be located in a Special Flood Hazard Area (**SFHA**) or a designated Coastal Barrier Resource Area; and
- Properties designated in a runway clear zone or clear zone, as defined in 24 C.F.R. § 51.303(a), will require a signed acknowledgment receipt from the buyer.

## 11.2 Rehabilitated Properties

For this Program, PRHFA will allow Applicants to purchase homes which require minor and nonstructural repairs, provided the following criteria is fulfilled:

- Program funds will not be used towards repairs;
- Repairs and improvements are covered under the Applicant's mortgage;
- The Program will only accept loan products that include minor and nonstructural repairs for properties;
- The accepted loan products include, but are not limited to, the following:
  - Fannie Mae HomeStyle
  - FHA 203(k)
  - USDA Rural Development Repair Loan
  - VA Rehab Loan
  - TPO AFV;
- The Program will not accept the portion of the loan allocated for repairs to be deposited in an escrow account or otherwise retained by the lender;
- ~~• The total rehabilitation costs, not exceed ten percent (10%) of the "As Is" value calculated in the Repair and Maintenance Addendum of the Appraisal or the selling price, whichever is less. The rehabilitation cost is composed of the minor nonstructural repairs, inspections, supplemental origination, and contingencies;~~
- The improvements are not classified as structural alterations, cosmetic, or reconstructive;
- Repairs are limited to those identified in the property's Appraisal Report;
- The total rehabilitation cost must not exceed the **thirty-five thousand dollars (\$35,000)** cap;
- The repairs must be performed within the period of time stipulated by loan products. Failure to comply with the established timeline may result in PRHFA recapturing the subsidy. In case of the extraordinary circumstances, the lender may submit a written request for a time extension to PRHFA for evaluation. PRHFA

maintains discretion to approve such request and take any necessary actions to ensure compliance with these Guidelines.

PRHFA's underwriting and award determination for a loan (rehabilitation) must be based on the lesser of the as is property value amount or the sales price of the subject property.

Upon completion of all repairs, the Lending Institution must provide PRHFA with an inspection report performed by the same Appraiser who completed the initial appraisal of the property. All repair works must meet local codes, rehabilitation standards, and inspections when required by loan product.

### **11.3 Property Standards Requirement**

Properties must be safe, decent, and sanitary. The Lending Institution must ensure that the property is inspected and/or appraised following the requirements of the primary loan issuer (i.e., Fannie May, USDA-RD, FHA, and Veteran Affairs (**VA**)).

### **11.4 Redevelopment Incentive Determination**

The Program will provide an additional redevelopment incentive of **five thousand dollars (\$5,000.00)** to eligible households who elect to purchase a home located in a designated urban center certified by the PRDOH. To certify whether the property is located within a designated urban center, Applicants must submit a Redevelopment Incentive Certification Form to PRDOH. Applicants whose properties are certified as located in a designated Urban Center will receive a redevelopment incentive of five thousand dollars (\$5,000) to be used towards the purchase price.

The Program has defined the urban centers for each municipality in Puerto Rico. The maps will be published and available at <https://cdbg-dr.pr.gov/en/urban-center-maps/> (English) and <https://cdbg-dr.pr.gov/mapas-de-los-centros-urbanos/> (Spanish).

## **12 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 applicable regulations. 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. §4321 *et seq.*, as well as to the HUD environmental review regulations at 24 C.F.R. § 58. Therefore, an environmental review process is required for all awards to be issued under the Program. It aims to ensure the proposed activities do not negatively impact the surrounding environment and the property itself will not have an adverse environmental or health effect on end users. 24 C.F.R. § 58.22 prohibits the commitment or spending of federal or non-federal funds on any activity that could have an adverse environmental impact or limit the choice of reasonable alternatives prior to completion of an environmental review. Environmental clearance



must be obtained for each project prior to the commitment of federal or non-federal funds. A violation of this requirement may jeopardize federal funding for the Program and disallow all costs incurred before the environmental review completion.

All Program awards must have documentation following NEPA and other environmental requirements. Therefore, all projects shall have an Environmental Review Record (**ERR**), as required by NEPA and related laws. The ERR for the projects shall set forth: the existence of negative impacts on a site; the means to mitigate negative effects; alternatives to the project (if needed); and the rejection of the proposed activities if all other options fail and it becomes the most prudent action to take.

PRDOH and their authorized representatives will conduct environmental reviews as part of the property eligibility reviews. Environmental reviews shall be completed before determining the CDBG-DR award to be offered to an eligible Applicant.

## 12.1 Environmental Level of Review

To conduct the appropriate level of environmental review, the Program will 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. There are four major classifications of environmental review for projects:

- **Exempt Activities:** Those activities which are highly unlikely to have any direct impact on the environment.
- **Categorically Excluded Activities:** Those activities that may impact the environment but not to the extent that an Environmental Assessment under NEPA or Environmental Impact Statement is required. There are two types of Categorically Excluded Activities, as follows:
  - Categorically Excluded Not Subject to 24 C.F.R. § 58.5: Includes those activities included under 24 C.F.R. § 58.35 (b) and requires environmental checks for the items listed at 24 C.F.R. § 58.6. For activities under this classification, no public notice or request for release of funds is required to use grant funds.
  - Categorically Excluded Subject to 24 C.F.R. § 58.5: Refers to those activities included under 24 C.F.R. § 58.35 (a) and require environmental checks for the items listed at 24 C.F.R. § 58.5 and 24 C.F.R. § 58.6. If any environmental items are identified as potentially impacting (such as floodplains), a Request for Release of Funds (including publication of Notice of Intent) is required.

- **Environmental Assessment:** Includes those activities that could potentially have a significant impact on the environment. In addition to compliance with the laws and authorities at 24 C.F.R. § 58.5 and 24 C.F.R. § 58.6, environmental assessments must consider an array of additional potential impacts of the project, including a National Environmental Policy Act analysis. This environmental assessment requires publishing a Notice of Intent to Request Release of Funds and a Finding of No Significant Impact (assuming such is found).
- **Environmental Impact Statement:** Activities that require a detailed written statement required 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.

## 12.2 Level of Determined Environmental Review

The level of environmental review identified for this Program is found at 24 C.F.R. § 58.35 (b)(5). Activities to assist homebuyers to purchase existing or new dwelling units, including closing costs and down payment assistance, interest buydowns, and similar activities that result in the transfer of a title and will require a Categorically Excluded (Not Subject to 58.5) (**CENST**) Environment Review. The environmental review for any activity in this Program will require a formal determination (including preparing a CENST review and inclusion into the project files) of the environmental regulations at 24 C.F.R. § 58.6. Other Requirements to include are:

- Location within a Special Flood Hazard Area;
- Location within a Coastal Barrier Resource System unit; and
- Purchase or sale of an existing property in a Runway Protection Zone or Clear Zone.

PRDOH, as the Grantee, is responsible for approving all CENSTs. Participating lenders are encouraged to submit the appraisal early in the loan process to expedite the environmental review process.

### 12.2.1 Special Flood Hazard Area

In accordance with the PRDOH Disaster Recovery Action Plan and these Guidelines, if the property is determined to be in a Special Flood Hazard Area, the property will not qualify for CDBG-DR assistance.

### 12.2.2 Coastal Barrier Resources Area

The Coastal Barrier Resources Act (**CBRA**), 16 U.S.C. § 3501 *et seq.*, protects coastal areas that serve as barriers against wind and tidal forces caused by coastal storms and as a habitat for aquatic species. In compliance with the Act, if the property is located within a Coastal Barrier Resources Area, the property will not qualify for CDBG-DR assistance.

### 12.2.3 Runway Clear Zone<sup>11</sup> or Clear Zone

In case a property is located in a runway clear zone or clear zone, PRDOH, as the Grantee, must inform the eligible homebuyers of the implications of such location by an Environmental Airport Notice. Also, advise the homebuyers of the possibility that an airport operator may later decide to acquire the property. The Environmental Airport Notice includes an acknowledgment statement certifying the applicant's understanding of the consequences of purchasing a property in a runway clear zone or clear zone.

The possible buyer must complete and sign the acknowledgment statement and return it to PRHFA within **ten (10) calendar days** from the date of mailing the attached notice. The acknowledgment statement can be sent by email to HBA-info@afv.pr.gov or by mail to P.O. Box 71361, San Juan, PR 00936-8461. Otherwise, the eligible homebuyers will not be suitable for assistance, subsidy, or insurance to purchase the property in a Runway Clear Zone or Clear Zone.<sup>12</sup>

### 12.3 Lead Hazard Assessment

All **pre-1978** built properties acquired through the HBA Program must comply with the lead reduction provisions found at 24 C.F.R. Part 35. PRHFA will validate the date of construction from the appraisal documents and assure the seller complied with the "Disclosure requirements for sellers" provisions found at 24 C.F.R. 35.88(a) which states:

1. The seller shall provide the purchaser with an EPA-approved lead hazard information pamphlet. Such pamphlets include the EPA document entitled Protect Your Family From Lead in Your Home (EPA – 747-K-94-001) or an equivalent pamphlet that has been approved for use in that State by EPA.
2. The seller shall disclose to the purchaser the presence of any known lead-based paint and/or lead-based paint hazards in the target housing being sold. The seller shall also disclose any additional information available concerning the known lead-based paint and/or lead-based paint hazards, such as the basis for the determination that lead-based paint and/or lead-based paint hazards exist, the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces.
3. The seller shall disclose to each agent the presence of any known lead-based paint and/or lead-based paint hazards in the target housing being sold and the existence of any available records or reports pertaining to lead-based paint and/or lead-based paint hazards. The

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<sup>11</sup> Also known as Runway Protection Zone (RPZ).

<sup>12</sup> 24 C.F.R. § 51.303(a)(3).

- seller shall also disclose any additional information available concerning the known lead-based paint and/or lead-based paint hazards, such as the basis for the determination that lead-based paint and/or lead-based paint hazards exist, the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces.
4. The seller shall provide the purchaser with any records or reports available to the seller pertaining to lead-based paint and/or lead-based paint hazards in the target housing being sold. This requirement includes records and reports regarding common areas. This requirement also includes records and reports regarding other residential dwellings in multifamily target housing, provided that such information is part of an evaluation or reduction of lead-based paint and/or lead-based paint hazards in the target housing as a whole.

If any of the disclosure activities identified above occurs after the purchaser has provided an offer to purchase the housing, the seller shall complete the required disclosure activities prior to accepting the purchaser's offer and allow the purchaser an opportunity to review the information and possibly amend the offer.<sup>13</sup> Before a purchaser is obligated under any contract to purchase a target housing, the seller shall permit the purchaser a ten (10) day period (unless the parties mutually agree, in writing, upon a different period of time) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.<sup>14</sup> Nevertheless, a purchaser may waive the opportunity to conduct the risk assessment or inspection by so indicating in writing.<sup>15</sup>

### **13 Award Process Determination**

Upon finalizing the underwriting process and securing the first mortgage, the Lending Institution will submit all the required documentation for verification by PRHFA or its authorized representative through the HBA Platform. PRHFA will review the underwriting process and the submitted documentation to ensure all the information and documentation registered in the system is correct and complete.

The information and documentation submitted for PRHFA review includes but is not limited to the following:

- **Applicant Information:**
  - Valid State Issued Driver's License or ID Card or U.S. Passport (All household members 18 years, or older);

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<sup>13</sup> 24 C.F.R. § 35.88 (b).

<sup>14</sup> 24 C.F.R. § 35.90 (a).

<sup>15</sup> 24 C.F.R. § 35.90 (b).

- Proof of Legal Status or Citizenship (All household members);
  - Birth Certificate, Legal Documentation of Adoption or Guardianship (All household members 18 years, or younger);
  - Puerto Rico Income Tax Return Form and W2 Forms (Last two (2) years);
  - Wages: Last three (3) recent paystubs (All household members 18 years, or older);
  - Copy of Verification of Employment (**VOE**);
  - Award letters for benefits / Verification Letter (SSI, Disability, Pension, Unemployment, etc.) (if applicable);
  - Certification of Zero Income (if applicable) (All household members 18 years, or older);
  - Most recent year tax return (1040 or 1040A) with all schedules and YTD profit and loss statement (Self-employed only) (if applicable);
  - Most recent three (3) months of bank statements for all checking accounts (All household members 18 years, or older);
  - Two (2) most recent bank statements for all savings, retirement accounts, 401Ks, etc. (All household members 18 years, or older) (if applicable);
  - Child Support Documentation (if applicable);
  - Divorce Decree (if applicable);
  - Applicant Acknowledgment and Consent Form;
  - Conflict of Interest Form;
  - Sales Agreement that indicates the sales price of the property subject to the agreement;
  - Copy of Appraisal;
  - Lead Hazard Assessment (if applicable);
  - Certifications required to be able to do the environmental review;
  - Urban Center Certification issued by PRDOH of the property (if applicable);
  - Asbestos Survey (if applicable structures built before 1978); and
  - Duplication of Benefits (DOB) certification.
- **Primary Residence Information:**
    - Purchase and Sale Agreement with the sales price of the

- property;
  - Appraisal report;
  - Inspection report (if applicable); and
  - Asbestos survey (if applicable).
- **Transaction Details:**
    - Form 1008 Uniform Underwriting and Transmittal Summary (signed by the underwriter); and
    - Copy of preliminary Closing Disclosure signed by the underwriter or any authorized official.
  - **Other Required Information:**
    - Valid Homebuyer Education Course Certificate of Completion (if less than **twelve (12)** months);
    - Signed Conflict of Interest Form; and
    - Any other document PRHFA may deem necessary.

Once PRHFA has completed the approval process, an Award Commitment Letter will be issued to the Applicant via email and a copy sent to the Applicant's Lender. The final award must be determined based on PRHFA's underwriting review criteria and, barring extraneous circumstances, will be limited to the minimum amount necessary to qualify for the mortgage loan needed by the Applicant to purchase a Primary Residence.

PRHFA will reserve CDBG-DR funds for **sixty (60) days** unless causes beyond the control and without fault or negligence of the Lender or Applicant, such as atmospheric events among others, occur and merit an extension of **the sixty (60) days** period. The reservation period begins the day PRHFA issues the Award Commitment Letter to the Applicant and Applicant's Lender. Therefore, the Lender must invoice the case to PRHFA and facilitate the closing within sixty (60) days of the notice of the Award Commitment Letter. PRHFA will not return cases to the underwriting review process who have a variance of **one percent (1%)** at closing. Nevertheless, should the conditions of the loan approval change for any other reason, the reservation of funds will be released. In that case, PRHFA will conduct an underwriting review with the new conditions and, if necessary, issue an amended Award Commitment Letter.

## **14 Funds Disbursement Process**

Prior to the scheduled closing date, the Lending Institution will submit a signed invoice with the list of loans to be closed and the preliminary Closing Disclosures (**CDs**) signed by the lender's underwriter or authorized official. The CDs must be received by the specified date and time established in the closing schedule circulated by PRHFA. PRHFA aims to disburse funds for approved invoices within **five (5) to seven (7) business days**.

Lenders must ensure all invoices contain the following at a minimum to be processed:

- Invoice number and date of payment;
- All beneficiaries and the amount of subsidy payments;
- Total funding to be disbursed for all beneficiaries in the payment run;
- Valid routing number and bank account number;
- Planned closing date;
- Executive Order Certificate OE 2001-73 (under penalty of nullity); and
- Signature of the authorized official of the Lending Institution submitting the invoice.

### 14.1 Closing Process

The closing date is the moment when ownership of the property is transferred to the Borrower through the Deed of Sale and the signing of the Second Direct Mortgage Deed with Restrictive Conditions. Upon receipt of the funds by PRHFA, the Lending Institution has **ten (10) business days** to close the case. If additional time is needed, a written time extension request may be submitted to PRHFA. PRHFA will evaluate time extension requests for cases with extenuating circumstances, such as: the seller or borrower was not available for the scheduled closing, the closing funds were not transferred in time for the scheduled closing, unforeseen legal issues, and other related issues. Additionally, if the Lending Institution cannot enter or input the case into the HBA Platform due to technical difficulties or other extenuating circumstances, the Lending Institution may submit a time extension request to PRHFA.

If the case is not closed within the established period, the Lending Institution will be required to return the funds to PRHFA for those cases. PRHFA reserves the right to take any necessary measures to close the cases promptly and approve or deny any requests for time extensions.

The Lending Institution will have **two (2) business days** after the closing to record the closing date in the HBA Platform and submit the final Closing Disclosure signed by the Applicant, now Borrower. If any of the invoiced cases did not close, then the Lending Institution must inform PRHFA in writing to enable the return of funds by PRHFA to the HBA Program. PRHFA may take the following measures to reimburse HBA Program funds:

- Adjust the Lending Institution's next CDBG-DR Invoice Package for the loans which did not close; or
- Submit a stop payment request to the PRHFA Finance Division with supporting documents.

### 14.2 Post-Closing Process

The affordability period commences the moment that the ownership of the property is transferred to the Borrower by means of the Deed of Sale and the signing of the Second

Direct Mortgage Deed with Restrictive Conditions. The loan's closing date is registered in the HBA Platform to document the beginning of the affordability period.

The Lending Institution has **forty-five (45) business days** to submit the required closing documents. In case of a loan product with repairs, the Lending Institution has **ninety (90) business days** to submit the documents. The following closing documents must be submitted via the HBA Platform within the stipulated time period:

- Final Uniform Residential Loan Application (**URLA**) signed by the applicant and co-applicant (if applicable);
- Signed Closing Disclosure by the Applicant;
- Certified copy of the Second Direct Mortgage Deed and Restrictive Conditions incorporated detailing the affordability period terms and conditions;
- Copy of the minute of presentation of the Second Direct Mortgage Deed and Restrictive Conditions or the printed page of the official page of the Puerto Rico Property Registry ("Registro de la Propiedad") where the deed appears as duly presented;
- Copy of the Deed of Sale;
- Copy of the minute of presentation of the Deed of Sale or the printed page of the official page of Puerto Rico Property Registry where the deed appears as duly presented;
- Final, form 1008 Uniform Underwriting and Transmittal Summary; and
- Any other pertinent documents requested by PRHFA.

The PRHFA will verify the information provided in the documents are align with the proposed transaction and registered in the HBA Platform. If additional time is needed, the Lending Institution may submit a written time extension request to PRHFA. Just cause must be provided for the time extension request, and PRHFA will evaluate them on a case-by-case basis.

## 15 Monitoring and Close-Out

### 15.1 Grant Terms and Conditions

#### 15.1.1 Second Direct Mortgage and Restrictive Condition

The CDBG-DR assistance will be secured with a Second Direct Mortgage Deed on the property for the grant amount through a Restrictive Condition for a **five (5) year** affordability period. The restrictive conditions on the property shall terminate upon one of the following occurrences:

- Upon expiration of the **five (5) year** affordability period;
- Foreclosure of the property or bankruptcy court determination resulting in the discharge of Applicant's obligations in relation to the award;
- Approval of a disposition loss mitigation alternative (i.e., short sale or transfer in lieu



- of foreclosure (deed in lieu); or
- Assignment of an FHA insured mortgage to HUD.

If any of the above occurs, the Restrictive Condition will be released in favor of the Applicant, now the Borrower.

The Borrower will be responsible for maintaining appropriate insurance on their properties. Failure to maintain proper insurance coverage may prohibit future assistance.

When an FHA-insured lien is involved, FHA requires a termination of restrictions clause to be contained in the legal instruments (note/deed). Provided is sample language that can be inserted in the program's Deed of Mortgage:

“The CDBG-DR Program restrictions on the property shall terminate upon foreclosure, transfer in lieu of foreclosure, or assignment of an FHA insured mortgage to HUD. To the extent that there are any proceeds from the foreclosure or other sale of the property by HUD remaining after the HUD-insured loan is paid, the remaining proceeds shall be paid to Puerto Rico Housing Finance Authority”.

As part of the terms and conditions to receive CDBG-DR funds, the Borrower must agree to occupy the residence as the principal place of residency throughout the affordability period.

### 15.2 Affordability Period and Recapture Requirements

The affordability period refers to the required years the property must be the Borrower's primary residence. A Borrower must occupy the property as their primary residence for a minimum of **five (5) years**. If the Borrower violates the terms and conditions of the Restrictive Conditions, PRHFA has the right to recapture the entire amount or a portion of the grant. The grant balance is forgiven or reduced at a rate of **twenty percent (20%)** for each completed year of residency, with no credit given for partial years.

**Table 1: Forgiveness Rate per Affordability Period**

Affordability Period	Forgiveness Rate per Year
5 Years (with a lien)	< 1 Year – 0%
	Year 1 – 20%
	Year 2 – 40%
	Year 3 – 60%
	Year 4 – 80%
	Year 5 – 100%

The Program's recapture is proportional to the forgiveness rate per year during the affordability period. The recapture mechanism is triggered in cases of noncompliance where the Borrower either: 1) no longer occupies the property as his or her principal residence (i.e., the property is rented or vacant), or 2) the property was sold during the period of affordability. Refinance of the first mortgage is allowable as long as the affordability period restrictions are not removed. The recapture requirements shall be triggered upon sale, vacancy, or transfer of the CDBG-DR-assisted property.

To avoid triggering the recapture mechanism, the Borrower must comply with the following conditions:

- The Borrower must purchase the home and occupy the property as their principal place of residence for the entire affordability period of five years and not use the property for any other purpose, such as an investment or rental property.
- Avoid the sale, conveyance, or other property transfer, **excluding any** of the following (each, a "Permitted Transfer"):
  - To a spouse upon dissolution of marriage;
  - To the surviving spouse upon the death of a joint tenant owner;
  - By will;
  - Bankruptcy;
  - Upon foreclosure or deed in lieu of foreclosure. The above, provided, there are no Net Proceeds from the foreclosure or deed in lieu of foreclosure or that the Program has received all or a portion of the funds from the Net Proceeds from the foreclosure or deed in lieu of foreclosure, then the Program shall receive a portion of the funds from the Net Proceeds; or
  - Distant employment transfer or relocation greater than fifty (50) miles one way from the Borrower's current Principal Residence to be closer to employment.

### **15.3 Annual Affordability Period Monitoring**

PRHFA will monitor compliance with the affordability period by sending an Annual Affordability Period Certification Notice each year. The Annual Affordability Period Certification Notice requires the Borrower to sign and submit a certification stating the residence continues to be their primary place of residence and to provide evidence of occupancy. The following documentation must be submitted to PRHFA as evidence of occupancy:

- Copy of electric and water bills. These bills must confirm the service was provided to the purchased property during the current billing period and that such services are in the Borrower's name. If these services are not in the Borrower's name, the person whose name the service(s) is, must complete an additional certification. Also, the Borrower must submit a copy of a photo ID from the person whose name is the service(s).

- Copy of the Municipal Revenue Collection Center (CRIM, by its Spanish acronym) account statement showing the address of the purchased property.
- Cover page of the homeowner's hazard insurance policy showing the policy covers the purchased property.

If the Borrower requires additional assistance for obtaining the documents stated in this section, they may request assistance from PRHFA.

The Borrower has **sixty (60) calendar days** to reply to the Annual Affordability Period Certification Notice and provide proof of occupancy to PRHFA by mail or email. If PRHFA does not receive the information and documents requested in the established period, a second Annual Affordability Period Certification Notice will be sent to the Borrower. If the Borrower does not provide the requested information within **thirty (30) calendar days** of the second letter, a final Annual Affordability Period Certification Notice will be sent, with a referral to PRHFA's legal office to trigger the recapture mechanism.

#### **15.4 Grant Closeout**

At the end of the five (5) year affordability period, PRHFA will send a confirmation letter to notify the Borrower that the Restrictive Conditions have been fulfilled and outline the steps required by the Borrower to cancel the Restrictive Conditions in the Property Registry. The Borrower is responsible for any resulting transaction fees required to cancel the Restrictive Conditions.

#### **16 Program Income**

Any program income earned from program-funded activities will be subject to the rules outlined in Federal Register Notice 83 FR 5844. As a result of program noncompliance, Grant repayments will be treated by PRDOH as applicable credits to the Program.

To the maximum extent feasible, Program income shall be used or distributed before additional withdrawals from the U.S. Treasury are made, as required in 83 FR 5844. PRHFA will establish an independent, no-interest-bearing account for Program Income received from the Program. Program Income activity shall be reported to PRDOH.

#### **17 Affirmative Marketing & Fair Housing**

The PRHFA and PRDOH will ensure no person be excluded from participation in, be denied the benefits of, or be subjected to discrimination by the CDBG-DR Program, on the ground of race, color, national origin, religion, sex, sexual orientation, age, familial status, or disability.<sup>16</sup>

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<sup>16</sup> 24 C.F.R. Part 8; See also Basically CDBG (November 2007) 19-9 HUD, Office of Block Grant Assistance. <https://www.hud.gov/sites/documents/CDBGCHAPTER19.PDF>

The PRHFA, as the designated Subrecipient, holds the main responsibility for the implementation of the Outreach Plan, including the following activities:

1. Implementation and maintenance of the Outreach Plan;
2. Timely formulation and dissemination of communications;
3. Identification and addressing of key communication issues that may arise;
4. Work closely with PRDOH to ensure the target audience receives adequate information; and
5. Proposing modifications to reflect changing environments based on the Program's needs.

PRHFA's Outreach Plan must include, amongst others, the following activities:

- Publish programmatic information as necessary (e.g., Program Guidelines, training material, outreach material, etc.);
- Provide PRDOH with required documentation and information as specified in 83 FR 5844 for posting on the PRDOH CDBG-DR website <https://www.cdbg-dr.pr.gov/en/> (English) and <https://www.cdbg-dr.pr.gov/>
- Provision of non-essential information (when requested) such as bulletins, newsletters, or marketing materials for publication on the PRDOH CDBG-DR website; and
- Engage Program stakeholders in the Program design and execution (e.g., Lending Institutions, Realtors' Associations, etc.).

PRDOH will be responsible for providing oversight, guidance, and support to PRHFA in executing the Outreach Plan.

PRDOH and PRHFA, as the subrecipient of PRDOH responsible for the administration of the HBA Program, will take all necessary measures to affirmatively market and ensure accessibility of the HBA Program, as follows:

1. PRHFA and PRDOH will identify the groups it seeks to benefit with the program, assess which groups and/or protected classes are historically underserved and are least likely to apply to the program. Also, employ affirmative marketing strategies to encourage Program participation from these two groups of people.
2. PRHFA and PRDOH will retain documentation of all marketing measures used, including copies of all advertisements and announcements that will be available for public viewing upon request.
3. PRHFA and PRDOH will provide reasonable accommodations to make the Program accessible to people with disabilities. They will hold informational meetings and in-person application intake in buildings or areas that comply with the Americans with Disabilities Act (**ADA**), as amended (42 U.S.C. 12101 *et seq.*),

and provide appropriate assistance to those who are hearing or visually impaired when requested.

4. PRHFA will use the Fair Housing logo in advertising, post Fair Housing posters, related information, and, in general, inform the public of its rights and obligations under Fair Housing regulations.
5. PRHFA and PRDOH will monitor program participation to assess the results of employed marketing strategies to ensure that protected classes of people are not being intentionally or unintentionally discriminated against.

The HBA Program information will be readily available and maintained on <https://cdbg-dr.pr.gov/en/homebuyer-assistance-program/> (English) and <https://cdbg-dr.pr.gov/programa-de-asistencia-directa-al-comprador/> (Spanish). The information will be published in common languages predominately used in the service areas.

In addition to marketing through widely available media outlets, PRHFA and PRDOH will take the following measures:

- PRHFA will advertise with media outlets which can provide unique access for persons considered members of the protected class under the Fair Housing Act.
- Applications will be accepted in person in multiple locations throughout Puerto Rico to make the Program accessible to those who may not have online access or need other assistance in completing an application.
- Language interpretation services will be provided upon request.

## 18 Monitoring

HUD requires PRDOH, as Grantee, to monitor all Subrecipients and Partners to ensure compliance with applicable Federal requirements and to determine if performance expectations are being achieved. Monitoring is not limited to a one-time event. But rather an ongoing process that assesses the quality of CDBG-DR funded program performance over the life of the SRA and involves continuous communication and evaluation. To meet this requirement, PRHFA will provide PRDOH a Monthly Progress Report on the HBA program's implementation.

PRHFA will report to PRDOH as stipulated in each CDBG-DR Agreement. All information reported will be available, as part of PRDOH's Quarterly Performance Reports (**QPRs**), at <https://cdbg-dr.pr.gov/en/reports/> (English) and <https://cdbg-dr.pr.gov/reportes/> (Spanish).

## 19 Program-Based Reconsideration and/or Administrative Review

Program Applicants 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 an

Administrative Review directly with PRDOH, as stated below. If the Applicant fails to contest a determination within the allotted time, the inaction will be deemed as an acceptance of the determination.

### **19.1 Program-based Reconsideration Request**

Applicants who wish to contest a Program determination may file a Program-based Reconsideration Request directly with the HBA Program by submitting a written Request, in person or via electronic or postal mail, within **twenty (20) calendar days** from the date a copy of the notice was sent to the Applicant. 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 of the said notice (postal or electronic), the **twenty (20) calendar day-term** shall be calculated from the mailing date (postal or electronic). Notices distributed via electronic communication shall be considered valid. If a notification is sent via postal and electronic mail, the notification date will be the one sent beforehand.

Applicants who file a Program-based Reconsideration Request are encouraged to provide individual facts or circumstances and 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 on 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 Program-based Reconsideration Request Approval or a Program-based Reconsideration Request Denial notification.

Filing a Program-based Reconsideration Request does not substitute, negate, or preclude any legal right 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 the PRDOH in accordance with Regulation Number 4953, of August 19, 1993, which regulates the Formal Adjudication Process for the PRDOH and its Adjunct Agencies (Regulation 4953).<sup>17</sup> During the review process of the Reconsideration request the application will be in hold until the Program determination.

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<sup>17</sup> For more 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>

## 19.2 Administrative Review Request

If an Applicant disagrees with a Program determination, or with the Program-based Reconsideration Request Denial determination, said party may file directly to PRDOH, as grantee, an Administrative Review Request in accordance with the Regulation 4953. The Applicant must submit such request in writing, within **twenty (20) calendar days**, from the date the Program determination or the Program-based Reconsideration Request Denial determination notice was sent to the Applicant. 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 **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 request via e-mail to: [LegalCDBG@vivienda.pr.gov](mailto: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 Dávila 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) 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, known as the Uniform Administrative Procedures Act of the Government of Puerto Rico, 3 LPRA § 9672.

## 20 General Provisions

### 20.1 Program Guidelines Scope

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

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

## **20.2 Program Guidelines Amendments**

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

## **20.3 Disaster Impacted Areas**

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

## **20.4 Extension of Deadlines**

The Program could extend deadlines on a case-by-case basis. The Program may decline to extend a deadline if such extension jeopardize the Program's completion schedule or an individual construction project schedule. This extension 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.

## **20.5 Established Periods of Time**

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

## **20.6 Written Notifications**

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



## 20.7 Conflict of Interest

As stated in 83 FR 5844, Federal regulations require State grantees, in the direct Grant administration and means of carrying out eligible activities, to comply with administrative program 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;
2. The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. §200 at §200.112 and §200.318 (c)(1);
3. Puerto Rico Department of Housing Organic Act, Act 97 of June 10, 1972, as amended, 3 LPRA § 441 *et seq.*;
4. The Anti-Corruption Code for the New Puerto Rico, Act 2-2018, as amended, 3 LPRA § 1881 *et seq.*; and
5. The Puerto Rico Government Ethics Office Organic Act, 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 identifying 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 personal or economic interest is or could be reasonably in struggle with the public interest. A COI situation arises when 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. The personal or financial interest can be either for themselves, or with those they have business with, 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.

PRDOH will not be tolerated such conflicts of interest. PRDOH, Program officials, their employees, agents, and/or designees are subject to state ethics laws and regulations, including, but not limited to the Puerto Rico Government Ethics Act of 2011, Act 1-2012,

as amended, regarding their conduct in the administration, granting of awards and program activities.

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

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

The COI Policy and all CDBG-DR Program policies are available at <https://cdbg-dr.pr.gov/en/resources/policies/> (English) and <https://cdbg-dr.pr.gov/recursos/politicas/> (Spanish).

#### 20.7.1 FHA Conflict of Interest Policy

In cases where an HBA Program borrower secures an FHA-insured loan, FHA prohibits the following individuals from contributing to the down payment: homebuilders, sellers, real estate agents or brokers, or anyone with a vested interest in selling the house. Additionally, secondary financing may not be utilized when PRHFA acquires a HUD Real Estate-Owned (**REO**) property.

### 20.8 Citizen Participation

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

Citizen comments may be submitted through:

- **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](mailto: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 at <https://www.cdbg-dr.pr.gov/en/citizen-participation/> (English) and <https://www.cdbg-dr.pr.gov/participacion-ciudadana/> (Spanish). For more information on how to contact PRDOH, please refer to [www.cdbg-dr.pr.gov](http://www.cdbg-dr.pr.gov).

## 20.9 Citizen Complaints

As part of addressing Puerto Rico's long-term recovery needs, citizen complaints on any issues related to the general administration of CDBG-DR funds are welcome throughout the duration of the grant. As grantee, PRDOH's responsibility is to ensure all complaints are dealt with promptly and consistently. Likewise, shall, at a minimum, provide a timely, substantive written response to every **written** complaint within **fifteen (15) business 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 e-mail:** [LegalCDBG@vivienda.pr.gov](mailto:LegalCDBG@vivienda.pr.gov)
- **Online at:** <https://cdbg-dr.pr.gov/en/complaints/> (English)  
<https://cdbg-dr.pr.gov/quejas/> (Spanish)
- **In writing at:** Puerto Rico CDBG-DR Program  
Attn: CDBG-DR Legal Division-Complaints  
P.O. Box 21365  
San Juan, PR 00928-1365

Although formal complaints are required to be submitted in writing, complaints may also be received verbally and by other means necessary when PRDOH determines that the citizen's particular circumstances do not allow the complainant to submit a written complaint. However, PRDOH shall convert these complaints into written form in these instances. 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.<sup>18</sup>

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

## 20.10 Anti-Fraud, Waste, Abuse, or Mismanagement

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

Pursuant to 83 FR 40314, PRDOH implements adequate measures to detect and prevent fraud, waste, abuse, or mismanagement in all programs administered with CDBG-DR funds. Also, it encourages any individual who is aware of or suspects any 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 known 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 a 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	<a href="mailto:hotlineCDBG@vivienda.pr.gov">hotlineCDBG@vivienda.pr.gov</a>
Online	<a href="http://www.cdbg-dr.pr.gov">www.cdbg-dr.pr.gov</a> <a href="https://cdbg-dr.pr.gov/app/cdbgdrpublic/Fraud">https://cdbg-dr.pr.gov/app/cdbgdrpublic/Fraud</a>

<sup>18</sup> Hours may vary due to COVID-19. PRDOH recommends calling ahead to prior to arrival.

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.
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<b>REPORT FRAUD, WASTE, ABUSE, OR MISMANAGEMENT DIRECTLY TO HUD OIG</b>	
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	<a href="mailto:HOTLINE@hudoig.gov">HOTLINE@hudoig.gov</a>
Online	<a href="https://www.hudoig.gov/hotline">https://www.hudoig.gov/hotline</a>

The AFWAM Policy and all CDBG-DR Program policies are available at <https://www.cdbg-dr.pr.gov/en/resources/policies/general-policies/> (English) and <https://www.cdbg-dr.pr.gov/recursos/politicas/politicas-generales/> (Spanish).

**20.11 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, then the latter will prevail over the guidelines. If at any time the laws and/or the applicable regulations mentioned in these guidelines are amended, the new provisions will apply to the Program without the need to amend these guidelines.

**20.12 Cross-Cutting Guidelines**

Some federal and local requirements apply to all programs funded by CDBG-DR. These Cross-Cutting Guidelines cover topics such as: financial management; environmental review; labor standards; acquisition; relocation; fair housing; among others. The requirements described in the 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 at <https://www.cdbg-dr.pr.gov/en/resources/policies/general-policies/> (English) and <https://www.cdbg-dr.pr.gov/recursos/politicas/politicas-generales/> (Spanish).

## **21 Program Oversight**

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

## **22 Severability Clause**

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

**END OF GUIDELINES.**