



DEPARTMENT OF
HOUSING



CDBG-MIT

PROGRAM GUIDELINES

INFRASTRUCTURE MITIGATION PROGRAM

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PUERTO RICO DEPARTMENT OF HOUSING
CDBG-MIT PROGRAM GUIDELINES
INFRASTRUCTURE MITIGATION PROGRAM
VERSION CONTROL

VERSION NUMBER	DATE REVISED	DESCRIPTION OF REVISIONS
1	July/21/2022	Original Version
2	October/06/2022	Minor revisions throughout the document to clarify the scoring criteria for all Projects.
3	March/10/2023	Revision made to align the Program with Action Plan Substantial Amendment 1 and to include clarification regarding the Healthcare Strengthening Set-Aside Program requirements.
4	July/11/2023	Revisions were made throughout the document to clarify the eligibility of costs incurred for the purchase of moveable equipment and the definition of health facilities, among other changes.
5	December/4/2023	Revisions were made to the preliminary eligibility and selection notification process.

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1 Overview

Throughout its history, Puerto Rico has endured and recovered from numerous past hurricanes, earthquakes, landslides, and other natural disasters. The most devastating were hurricanes Irma and María (hereinafter, the “Hurricanes”), both one week apart in 2017. The Hurricanes impacted all seventy-eight (78) municipalities on the Island and caused massive wide-spread damage and destruction to both public and private housing and other facilities. Specific areas were impacted by surges, flooding, standing water, wind, and rain, or mudslides. Significant damage to buildings and vacant facilities posed a public health and safety risk for the community. Hurricanes Irma (DR-4336-PR) and María (DR-4339-PR) left millions without power, the ability to communicate, and many without food, water, or homes.

On January 6, 2020, a 5.8 magnitude earthquake shook the Island, followed by a 6.4 magnitude earthquake the next day.¹ The regions most impacted by these earthquakes were declared disaster impact areas under presidential declaration DR-4473-PR. The Island experienced aftershocks for an extended period of time. These events severely affected the Island southwestern region, displacing thousands of people from their homes and resulting in extensive damage to individual homes and critical infrastructure.

Puerto Ricans constantly face climate-sensitive and catastrophic weather events, climate-induced erosion, landmass-threatening sea level rise, coastal flooding, as well as earthquakes and tremors from shifting tectonic plates. Recently, the people of Puerto Rico have also faced the Coronavirus Pandemic (**COVID-19**).

The U.S. Department of Housing and Urban Development (**HUD**) has allocated \$8.3 billion to Puerto Rico for mitigation activities. The funds will help mitigate disaster risk while providing grantees the opportunity to transform state and local planning. The Community Development Block Grant – Mitigation (**CDBG-MIT**) Program, administered by the Puerto Rico Department of Housing (**PRDOH**), as the grantee, represents a unique opportunity to carry out strategic and high-impact activities to mitigate disaster risks and reduce future losses. The rules for administering the funds are outlined in the Federal Register Vol. 84, No. 169 (August 30, 2019), 84 FR 45838, and the Federal Register Vol. 85, No. 17 (January 27, 2020), 85 FR 4676, except where the terms of the Grant Agreement between PRDOH and HUD supersede high-risk criteria.² Rules and requirements have been incorporated into these Program Guidelines, where applicable.³

¹ These were the highest intensity earthquakes in a chain of seismic events that began in December, 2019.

² Federal Register Notice 85 FR 4676 builds upon the requirements of the CDBG-MIT Main Notice (84 FR 45838) and establishes additional grant conditions to reduce risk and support Puerto Rico's successful implementation of this CDBG-MIT allocation. These measures, however, have been amended by official correspondence and in many cases replaced by the final language included in the Grant Agreement.

³ The executed Grant Agreement can be found on the PRDOH website in English and Spanish at <https://cdbq-dr.pr.gov/en/resources/cdbq-dr-documents/> and <https://cdbq-dr.pr.gov/recursos/documentos-cdbq-dr/>.

2 Definitions and Acronyms

- **1% Annual Chance Flood:** Also referred to as the base flood, which is the floodplain that would be inundated in the event of a 100-year flood. This term is adopted by the National Flood Insurance Program (**NFIP**) as the basis for mapping, insurance rating, and regulating new construction.⁴
- **Applicant:** An eligible entity that makes a formal application to a federally funded program. The Infrastructure Mitigation Program defines an applicant as any Government of Puerto Rico entity, public corporation, municipality, eligible private non-profit, or private for-profit (in the case of the Healthcare Strengthening Set-Aside only) organization applying to the program.
- **Area of Benefit (AOB):** Represents the total beneficiaries or persons receiving a mitigation benefit from the project. An AOB could be the service area of a wastewater treatment plant, neighborhoods served by an elevated roadway, or a residential neighborhood benefiting from community-level flood mitigation. The geographic area represented by the AOB is then used to determine the Risk Benefit Area.
- **Benefit Cost Analysis (BCA):** A method that determines the future risk reduction benefits of a hazard mitigation project and compares those benefits to its costs. The result is a Benefit Cost Ratio (**BCR**). A covered project is considered cost-effective when the BCR is one (1.0) or greater. Applicants must use FEMA-approved methodologies and tools —such as the BCA Toolkit— to demonstrate the cost-effectiveness of their projects.⁵
- **Closeout:** The process by which the awarding agency or pass-through entity determines all applicable administrative actions and all required work of the award has been completed, and takes actions described to close the award.
- **Community Development Block Grant (CDBG):** A federal grant program administered by HUD which provides grant funds to local and state governments. The CDBG Program works to ensure decent, affordable housing, provides services to the most vulnerable in communities, and creates jobs through the expansion and retention of businesses.
- **Community Lifelines:** Community Lifelines are defined by FEMA as functions that enable the continuous operation of critical government and business activities and are essential to human health and safety or economic security. Lifelines are the integrated network of assets, services, and capabilities that are used daily to support

⁴ This term is also known as the “100-Year Floodplain”.

⁵ U.S. Federal Emergency Management Agency (**FEMA**), *Benefit-Cost Analysis*, March 7, 2022. Accessed at: [https://www.fema.gov/grants/guidance-tools/benefit-cost-analysis#:~:text=Benefit%2DCost%20Analysis%20\(BCA\),%2DCost%20Ratio%20\(BCR\).](https://www.fema.gov/grants/guidance-tools/benefit-cost-analysis#:~:text=Benefit%2DCost%20Analysis%20(BCA),%2DCost%20Ratio%20(BCR).)

recurring community needs. Lifelines also represent an organizing principle for resource allocation and prioritization during and after a disaster.

- **Covered Project:** Notice 84 FR 45838 defines a Covered Project as an infrastructure project having a total project cost of \$100 million or more, with at least \$50 million of CDBG funds (CDBG-DR, CDBG-MIT or CDBG State). HUD defines “infrastructure project” as an activity or group of related activities that develop the physical assets that are designed to provide or support services to the general public in the following sectors: surface transportation, including roadways, bridges, railroads, and transit; aviation; ports, including navigational channels; water resources projects; energy production and generation, including from fossil, renewable, nuclear, and hydro sources; electricity transmission; broadband; pipelines; stormwater and sewer infrastructure; drinking water infrastructure; and other sectors as may be determined by the Federal Permitting Improvement Steering Council. Furthermore, consistent with HUD's National Environmental Policy Act (**NEPA**) implementing requirements at 24 C.F.R. § 58.32(a), a grantee must group together and evaluate as a single infrastructure project all individual activities which are related to one another, either on a geographical or functional basis, or are logical parts of a composite of contemplated infrastructure-related actions.
- **Davis-Bacon Wage Requirements:** The Davis Bacon and Related Acts (**DBRA**) requires all contractors and subcontractors performing work on federal construction contracts or federally assisted contracts over ~~the~~ \$2,000 to pay their laborers and mechanics not less than the prevailing wage and fringe benefits for corresponding classes of laborers and mechanics employed on similar projects in the area. The Secretary of the U.S. Department of Labor determines the prevailing wage rates and fringe benefits for inclusion in covered contracts.
- **Department of Housing and Urban Development (HUD):** Federal department through which CDBG, CDBG-DR, and CDBG-MIT programs funds are distributed to recipients.
- **Duplication of Benefits (DOB):** Financial assistance available or received from another source that is provided for the same purpose as CDBG-MIT grant funds.
- **Environmental Review Record:** A permanent set of files containing all documentation pertaining to the environmental review compliance procedures conducted and environmental clearance documents.
- **Equipment:** Moveable, tangible property, including furnishings or machinery, (not structurally affixed) purchased as part of a new or expanded public service pursuant to 24 C.F.R. §570.201(e) or by a for-profit entity as part of an economic development activity under 24 C.F.R. §570.203(b). Purchase of equipment is only allowed under the Healthcare Strengthening Set-Aside and must be critical to the implementation of program activities. Eligibility of these costs as part of a public service or economic

development activity will be subject to a regulatory compliance validation performed by the Program on a case-by-case basis.

- **Health Facility:** A locality or various localities in a common and/or contiguous area providing essential health services under the same operating license issued by the Puerto Rico Department of Health.
- **Low-to-Moderate Income (LMI):** Low- to moderate-income people are those having incomes not more than the 'moderate income' level (80% Area Median Family Income) set by the federal government for HUD-assisted housing programs. This income standard changes annually and varies by household size, county, and the metropolitan statistical area.
- **MIT Index Score:** - The MIT Index represents the total potential risk mitigated by a project per area. The total Risk Score, determined by adding each hex-grid risk score together, divided by the square miles of the Risk-Benefit Area (**RBA**), is used to determine the MIT Index. ~~The MIT Index represents the total potential risk mitigated by a project per area.~~ The MIT Index Score is then used to determine the Risk-Benefit Score through consideration of beneficiaries, determined by the AOB and Project Cost.
- **Mitigation:** Through ~~Per~~ notice 84 FR 45838, 45840, HUD defines mitigation "as those activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters."
- **Most Impacted and Distressed (MID) area:** HUD acknowledges at 84 FR 45838, section II. C., the adoption of the definition of MID area from Federal Register Vol. 83, No. 157 (August 14, 2018), 83 FR 40314, in which HUD determines all municipalities of Puerto Rico as MID.
- **Non-Covered Project:** A project that does not meet the definition of a Covered Project.
- **Non-Federal Entity:** A state, local government, Indian tribe, institution of higher education, or non-profit organization that carries out an award or sub-award as a recipient or subrecipient.
- **Program Income:** Gross income generated by the recipient or subrecipient directly generated by grant or sub-grant activity or earned as a result of the grant or sub-grant during the period of performance. Program income includes, but is not limited to, income from fees and services performed, the use or rental of real or personal property acquired under the grant or sub-grant, the sale of commodities or items fabricated under the grant or sub-grant, license fees and royalties on patents and copyrights, and principal and interest earned on grant or sub-grant funds. Interest

earned on advances of federal funds is not program income. Except as otherwise provided in federal statutes, regulations, or in the terms and conditions of the grant or sub-grant, program income does not include rebates, credits, discounts, and interest earned on any of these.

- **Project Cost:** The total allowable cost incurred under a grant or sub-grant, as well as all required cost sharing and voluntarily committed cost sharing, including third-party contributions.
- **Recipient:** An entity, usually but not limited to non-Federal entities, that receives a federal award directly from a federal awarding agency. The term recipient does not include subrecipients.
- **Risk Benefit Area (RBA):** Is the aggregate of the hex grids found in the Risk Assessment Tool that resides within or connects to the AOB. If a hex-grid from the Risk Assessment Tool is within the AOB it is part of the RBA. Furthermore, if a hex-grid is partially within or touching the AOB, it is also included as part of the RBA. Each hex-grid is one-half mile (0.5 mile) square. Therefore, the RBA measurement unit is an area in square mile(s).
- **Risk-Benefit Score (RBS):** Determined by multiplying the MIT Index by the AOB, or beneficiaries, and then dividing the result by the Project Cost. The resulting number is then multiplied by one hundred (100).
- **Risk Score:** Each hex-grid has a risk score for each of the eighteen (18) hazards. Only the risk or risks mitigated should be considered when calculating a project Risk Score. This score can be added up based on the AOB to determine a total Risk Score for the project. The Risk Score is then used to determine the MIT Index Score and subsequently the Risk-Benefit Score.
- **Sub-award:** An award provided by a pass-through entity to a subrecipient to carry out part of a federal award received by the pass-through entity. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program. A sub-award may be provided through any form of legal agreement, including an agreement the pass-through entity considers a contract.
- **Subrecipient:** An entity, usually but not limited to non-Federal entities, that receives a sub-award from a pass-through entity to carry out part of a federal award. The term does not include an individual who is a beneficiary of such federal award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.
- **Uniform Relocation Act (URA):** A federal law that establishes minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their residences, businesses, or farms.

3 Program Summary

HUD approved a total of \$4,566,451,166 for the Infrastructure Mitigation Programs, which includes \$2,566,451,166 for the Infrastructure Mitigation Program, a one \$1 billion set-aside for Healthcare Strengthening and a one \$1 billion set-aside for the non-federal match to Puerto Rico's Hazard Mitigation Grant Program (HMGP). These Program Guidelines set forth the requirements for the Infrastructure Mitigation Program and Healthcare Strengthening Set-Aside, as approved by HUD in the PRDOH CDBG-MIT Action Plan.⁶ Program Guidelines for the HMGP Set-Aside have been developed in collaboration with partner entity Central Office of Recovery, Reconstruction, and Resiliency (COR3) and can be found published as a separate policy on the PRDOH website.⁷

INFRASTRUCTURE PROGRAMS	\$4,566,451,166
Infrastructure Mitigation Program	\$2,566,451,166
HMGP Match Set-Aside	\$1,000,000,000
Healthcare Facilities Set-Aside	\$1,000,000,000

4 Program Description

Mitigation is an opportunity for Puerto Rico to change reactive disaster spending toward a data-supported, proactive investment in community resilience. The Risk Assessment completed for the PRDOH CDBG-MIT Action Plan, as amended, provides a sophisticated, up-to-date evaluation of the most significant weather-related and human-caused risks that pose a threat to Puerto Rico.

PRDOH realizes that within the immense challenges Puerto Rico faces in recovering from disastrous events, there also lie enormous opportunities to institute proper mitigation measures that protect the Island from future risks. With the CDBG-MIT allocation, HUD is providing Puerto Rico with a significant opportunity to implement strategic, transformative, and high-impact projects which will strengthen the Island's resilience to future disasters. This resilience strengthening will be achieved by reducing risks attributable to natural disasters, addressing repetitive property loss, and improving critical infrastructure.

⁶ The CDBG-MIT Action Plan is available in English and Spanish at <https://cdbg-dr.pr.gov/en/cdbg-mit/> and <https://cdbg-dr.pr.gov/cdbg-mit/>.

⁷ Refer to HMGP Global Match Guidelines for explanation of program requirements. These Guidelines are available in English and Spanish at <https://cdbg-dr.pr.gov/en/download/hazard-mitigation-grant-program-hmgp-global-match-set-aside/> and <https://cdbg-dr.pr.gov/download/reserva-para-pareo-global-del-programa-de-subsvenciones-de-mitigacion-de-riesgos/>.

Mitigation activities are defined as “those activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters.”⁸

4.1 Infrastructure Mitigation Program

The Program design is founded on the understanding that risk is regional, and the impacts of disasters are extensive due to the interconnection of critical lifeline infrastructure. Threats do not confine themselves to man-made boundaries or defined regions. When disaster strikes, the effects are not resolved through the stabilization of one (1) lifeline alone. Risk **may** present itself in the form of seasonal flood and drought within one (1) neighborhood, risks of sea level rise and earthquake in another, or hurricane-force winds and wildfire in another. Cascading failures are attributed to more lifeline sector infrastructure than can be holistically hardened with limited federal funds.

For this reason, potential projects under the infrastructure portfolio will not be restricted to the mitigation of a single threat, confined to a municipal boundary, or limited to the hardening of specific lifeline infrastructure. Rather, this program portfolio intends to reward, by scoring methodology, projects serving the greatest mitigation need for the highest number of people, ~~for~~ **at** the most efficient cost.

The purpose of this Program is to empower applicants and/or entities to identify risks and develop solutions to mitigate risk to infrastructure assets through innovative, eco-conscious, and self-sustaining solutions. Infrastructure mitigation projects must support the stability in one (1) or more of the seven (7) FEMA community lifelines to create a resilient infrastructure system for Puerto Rico. The critical service areas, or lifelines, include Safety and Security; Communications; Food, Water, and Sheltering; Transportation; Health and Medical; Hazardous Material Management; and Energy (power & fuel).

The ultimate goal of the Program is to strategically identify areas of risk and mitigate the most risk for the greatest amount of people in a cost-effective manner. The identification of risks will be achieved by implementing transformative mitigation projects that not only address facility hardening or retrofits, but more importantly address the reduction of multiple threats to lifeline infrastructure, services, and citizens by mitigating the localized conditions that cause wide-scale destruction and lead to disaster events. The best strategy to accomplish ~~these~~ **the** goals will be through planning, design, and innovation realized through the implementation of public facilities improvement eligible under this Program. Projects eligible for funding are intended to serve the needs of the people by allowing for scaled investments that make critical mitigation dollars accessible to all communities on the Island: municipal, regional, or Island-wide.

⁸ 84 FR 45838, 45840, Section II. Use of CDBG–MIT Funds.

Mitigation projects may include but are not limited to:

- Strengthen the resilience of corridors within the **transportation** lifeline in the areas of roadways, aviation, maritime, and mass transit.
- Implement building improvements and incorporate alternative **energy** technology and equipment, where appropriate, into facilities improved by mitigation dollars.⁹ Equipment must be permanent in nature and be considered an integral part of the facility.
- Improve the resilience of publicly owned **communications** lifeline infrastructure, especially communications assets needed to facilitate critical response activities.¹⁰
- Strengthen, modernize, replace, or build **water/wastewater** infrastructure to withstand high-risk hazardous activity that threatens asset stability in a disaster event.
- Improve, expand, or construct **healthcare and medical** facilities to fortify and innovate buildings and permanent equipment.
- Improve or fortify **solid waste** infrastructure to reduce the risk of health threats associated with landfills overfill and ~~instances of~~ clandestine dump sites **which proliferate that only increase** with every hazardous event.
- Improving or fortifying **safety and security** lifeline infrastructure that supports law enforcement/security, fire service, search and rescue, additional community safety, etc.¹¹

The most desirable projects will be those that leverage regional solutions and partnerships, provide more significant risk reduction benefit to critical lifelines, and benefit the ~~most crucial~~ **largest** number of Puerto Rico's citizens. Smaller-scale projects that mitigate the greatest risk for specific neighborhoods, municipalities, or regions shall be considered if they are an established priority project, supported by a sound feasibility analysis and justification.

4.2 Healthcare Strengthening Set-Aside

The Program includes a \$1 billion set-aside to strengthen healthcare facilities to benefit medically underserved citizens and minimize, through accessible healthcare, fatalities

⁹ Projects that directly improve the electrical power grid ~~should~~ **will** be funded through the PRDOH Energy programs described in the CDBG-DR Action Plan for the Electrical Systems Enhancements and Improvements. Projects for alternative energy infrastructure solutions that reduce Puerto Rico's fossil-fuel dependence should apply to the Community Energy and Water Resilience Installations Program.

¹⁰ However, projects for improvement of privately-owned communications infrastructure ~~should~~ **may** apply to the Economic Development Portfolio for Growth – Lifeline Mitigation Program.

¹¹ So long as projects are not buildings for the general conduct of government as strictly prohibited by **federal regulations at the Federal Code of Regulations, 24 C.F.R. §570.207(a)(1)**. On June 21, 2022, HUD granted a waiver allowing CDBG-MIT funds to be used for buildings for the general conduct of government. However, "[t]he grantee is prohibited from using CDBG-DR or CDBG-MIT funds for buildings that do not provide services all year around and is prohibited from using funds for buildings that are used exclusively as emergency operations centers." Federal Register Vol. 87, No. 118, 87 FR 36869.

resulting from a disaster event. As such, the implementation of the Program shall be in consultation with the Puerto Rico Department of Health. This set-aside shall meet Puerto Rico's risk-based mitigation needs associated with the Health & Medical Lifeline by funding strategic investments in trauma care, improving regional and local primary healthcare centers, and/or improving data, information technology, and communication between healthcare facilities. Selected projects shall also comply with all approval requirements established by the Puerto Rico Department of Health.¹²

The Healthcare Strengthening Set-Aside program shall make funding available for eligible activities critical to the delivery of (i) healthcare services indispensable to a complete post-natural disaster recovery and (ii) provide mitigation solutions tied to a lifeline. As such, potential priority projects may include utility redundancy and/or reliability in power, water, oxygen, medical gases systems, communications systems, and other main components for the operation of a healthcare facility; structural retrofit improvements for earthquake resistance; structural hardening for facilities to protect against hurricane winds and flood mitigation improvements to minimize access interruptions during disasters events. The projects seek to promote resiliency and redundancy in the basic operation systems of healthcare facilities through the development of projects that ~~shall~~ will support the availability of continuous essential healthcare services¹³ before, during, and after a disaster event. As an added benefit, projects will foster the creation of jobs as well as contribute to significant economic development.

Potential projects include improvements, expansions, and construction of new facilities to fortify and innovate buildings and permanent equipment.¹⁴ Improved and new facilities should demonstrably increase the capacity of Puerto Rico's healthcare system to mitigate the impacts of future disasters, both natural and human-caused. Building architecture for new construction projects must incorporate disaster-resistant building elements and self-sustaining power, water, and data communication features.

Such facilities should prove resistant to disaster-induced threats and loss of critical lifeline services, thereby increasing the number of patients sheltered and served in a disaster event and promoting confidence in the continued function of the facility. New resilient hospitals and clinics must be constructed per applicable codes and regulations and

¹² Through a collaborative agreement, PRDOH will work with the Puerto Rico Department of Health to potentially establish an expedited project approval process.

¹³ Essential healthcare services are defined as those necessary services to treat a medical condition and/or chronic illness, including but not limited to emergency services, hospitalization, and/or ambulatory services. A medical condition is defined as a health condition that, if untreated, impairs or threatens the ability of the body or mind to function in a normal, healthy manner. The essential healthcare services definition has been developed according to the entities the Program seeks to ~~attend~~ assist as part of the needs identified in Puerto Rico's healthcare system.

¹⁴ Both the Direct Selection and Competitive Application methods consider project readiness, which for healthcare facilities, includes the Certificate of Need and Convenience (**CNC**). Accordingly, the level of project-readiness will be adversely affected when the potential project entails the construction of a new health facility requiring a new CNC.

strategically located to reduce vulnerability to flooding and earthquakes.¹⁵ Building design should consider the integration of information technology and building architecture to support sustainable power and data communication. New construction must include the installation of telehealth technology.

It is vital that, during emergencies, the healthcare system remains functional, operating, and providing essential healthcare services to benefit the citizens of Puerto Rico.

5 Program Funding

Funding for the Infrastructure Mitigation Program and Healthcare Strengthening Set-Aside will be awarded as a grant by one of the two project selection methods: (1) a direct selection of strategic projects which serve the MID area, or (2) a competitive applications.

- (1) Direct selection of strategic projects is intended ~~to be~~ for large-scale transformative projects that require a higher threshold of funding to foster high-impact mitigation for a substantially large area of designation. ~~It is~~ For this reason ~~that~~ PRDOH has determined to apply the following maximum award ~~as a part of~~ of this selection method:

MAX AWARD: \$600,000,000

- (2) Competitive Application projects are those that arise from public entities, private non-profit entities, private for-profit entities (in the case of the Healthcare Strengthening Set-Aside only), local jurisdictions, and regional consortia to serve mitigation needs according to neighborhood, community, municipal, or regional needs. Because the risk at any individual location may diverge from the top state-wide risk assessment results outlined in the PRDOH CDBG-MIT Action Plan, this competitive application represents a locally driven capacity-building opportunity.

PRDOH has determined to apply the following maximum award for the competitive application.

MAX AWARD PER PROJECT: \$100,000,000

MAX AWARD PER ELIGIBLE ENTITY: \$100,000,000

Exceptions to the maximum award shall be considered by PRDOH on a case-by-case basis, which shall consider the project's long-term mitigation potential, the circumstances under which an exception is needed, whether the project BCA demonstrates that the

¹⁵ As stated in the initial Action Plan, new resilient hospitals and clinics must be constructed to the most recent International Building Code (IBC) 2018 standards and strategically located to reduce vulnerability to flooding and earthquakes. New facilities will be required to meet LEED or other appropriate green building standards.

cost of providing assistance is necessary and reasonable, as well as the project's operations and maintenance plan.

5.1 Healthcare Strengthening Set-Aside Program Funding

Project selection methods for the Healthcare Strengthening Set-Aside shall adhere to one of the two project selection methods and maximum awards hereby defined. Requirements for direct selection of strategic health projects shall be identified ~~to the Program~~ by the Central Government in coordination with the Puerto Rico Department of Health and/or other State Agencies.

PRDOH has determined to apply the following maximum award for the **Direct Selection of Strategic Healthcare Projects**:

MAX AWARD: \$600,000,000

Additionally, program funding specific to the **Healthcare Strengthening Set-Aside Competitive Application Process** shall be as follows:

- (1) **Public Entities:** the Program shall provide awards as grants to **public entities** for the total cost of the projects

MAX AWARD PER PROJECT: \$100,000,000

MAX AWARD PER ELIGIBLE ENTITY: \$100,000,000

- (2) **Private Entities:** the Program will provide awards up to a maximum of ten million dollars (**\$10,000,000**) only to projects that include as part of their scope the below mitigation activities:

- Utility redundancy/reliability in power, water, oxygen, medical gases, and communications systems.
- Structural retrofit improvements for earthquake resistance.
- Structural hardening ~~for~~ of facilities to protect against hurricane winds, and flood mitigation improvements to minimize access interruptions during disaster events.

Private entities considered in this award scenario include non-profit and for-profit entities.

MAX AWARD PER PROJECT/FACILITY: \$10,000,000

MAX AWARD PER ELIGIBLE ENTITY: \$100,000,000¹⁶

¹⁶ Private entities considered in this award scenario include non-profit and for-profit entities that have more than one operating license issued by the Puerto Rico Department of Health.

Awards to private entities will include, but are not limited to, the following conditions:

- PRDOH reserves the right to establish an Award-to-Value not to exceed a hundred percent (100%) of the asset's value.
- The underlying asset is not to be used as collateral for transactions with third-party financing within five (5) years after commissioning or substantial completion.
- If the facility goes through a commercial transaction within five (5) years after commissioning or substantial completion, one of the following conditions must be met:
 - The incoming entity will be responsible for delivering the services and continuing to operate and maintain the assets developed under the award. All responsibilities will be transferred to the new entity, as determined in the award, OR
 - The award shall be returned using a depreciation schedule to determine current value.

The healthcare industry is part of the Health and Medical lifeline and critical infrastructure described in the initial Action Plan, which after a careful analysis and stakeholder outreach, allows the achievement of the Healthcare Strengthening Set-Aside objectives. This includes benefitting medically underserved areas or populations disproportionately impacted by disaster events and minimizing, through accessible healthcare, fatalities resulting from such circumstances. Eligible project activities per facility can vary in scale depending on the nature of services provided, regulating entity requirements, and physical needs and conditions of the facility.

6 Program Eligibility

Unlike CDBG-DR funds, where grantees must demonstrate their disaster recovery activities “tie-back” to a specific disaster and address a specific unmet recovery need, CDBG-MIT funds do not require such a “tie-back” to the specifically qualified disaster that served as the basis for the allocation. Grantees must instead demonstrate that CDBG-MIT activities:¹⁷

1. Are CDBG-eligible activities under Title I of the Housing and Community Development Act of 1974 (HCDA) or otherwise eligible pursuant to a waiver or alternative requirement; ~~and~~
2. Meet a national objective, including additional criteria for mitigation activities and Covered Projects;

¹⁷ See 84 FR 45838, 45849, Section V.A.2.c., *Clarification of basic requirements for mitigation activities*. Requirements bulleted out in this section deviate from the order in which they appear in the Federal Register Notice, to align with narrative flow of Program Guidelines.

3. Meet the definition of mitigation activities; and
4. Address the current and future risks identified in the grantee's Mitigation Needs Assessment in the MID areas.

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

6.1 Eligible Entities

To be eligible to receive funds under the Program, Applicants must be one (1) of the following types of entities:

- Units of general local government/ municipalities (including departments and divisions);
- Government of Puerto Rico Agencies, Authorities, Trusts, and Boards;
- Community-Based Development Organizations and private non-profits;
- Non-governmental organizations (501c (3)) or other non-profit entities;
- A consortium of any of the above; and
- Private for-profit businesses are eligible to apply **for the Healthcare Strengthening Set-Aside only**.

Private for-profit or non-profit entities operating a public health facility may apply to the Program on behalf of the public health facility. However, ~~to do so~~ they must be duly authorized by the public entity as evidenced by an administrative order or municipal resolution ~~for governmental agencies and municipalities to be able to~~. The Program will determine, on a case-by-case basis, in accordance with federal and state statutes, the entity type (public or private entity) and the applicable programmatic parameters, based on the documents submitted with the application, such as: the contract between the parties, licenses and permits from the ~~Puerto Rico~~ Department of Health ~~of Puerto Rico~~, the type and purpose of the activity for which the funds are requested, among other criteria.

Eligible entities must demonstrate the ability, capacity, skill, and other necessary resources to perform the work or provide the services required, including the financial resources to ensure on-going operation, maintenance, and fiscal sustainability for the completed project.

6.2 Ineligible Entities

For-profit entities are ineligible to apply under this program with the exception of the Healthcare Strengthening Set-Aside. For-profit entities are encouraged to consult the CDBG-MIT Economic Development Investment Portfolio for Growth Lifeline Mitigation Program (**IPG-MIT**), which targets funding for privately owned lifeline infrastructure projects to support Risk-Based Mitigation Needs.

~~Bankruptcy~~ Other ineligible entities and/or owners are those undergoing any foreclosure or bankruptcy proceedings (except for Title III of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA) or other covered entities of the Government of Puerto Rico)¹⁸ at the time of filing an application under the Healthcare Strengthening Set-Aside, or entities entering into foreclosure or bankruptcy proceedings during the Competitive Process before an award is made, which directly affects their ability to achieve program outcomes and/or cover debt service obligations.

6.3 Eligible Activities

All CDBG-MIT funded projects must meet a HUD-eligible activity as defined by Section 105(a) of the HCDA, as amended. The eligible activities listed below have been included to allow and encourage applicants to think more broadly ~~in~~ **about** how to meet program goals and implement transformative, mitigative projects. All projects in this Program will meet at least one (1) of the following eligible activities:

- Section 105(a)(1) – Acquisition of Real Property;
- Section 105(a)(2) – Public Facilities and Improvements;
- Section 105(a)(4) – Clearance, Demolition, Removal, Reconstruction, and Rehabilitation of Buildings and Improvements;
- Section 105(a)(7) – Disposition of Real Property;
- Section 105(a)(8) – Public Services;¹⁹
- Section 105(a)(9) – Payment of Non-Federal Share;
- Section 105(a)(11) – Relocation Assistance;
- Section 105(a)(12) – Planning;
- Section 105(a)(13) – Payment of Reasonable Administrative Costs;
- Section 105(a)(14) – Activities Carried Out through Nonprofit Development Organizations;
- Section 105(a)(15) – Assistance to Eligible Entities for Neighborhood Revitalization, Community Economic Development and Energy Conservation;
- Section 105(a)(16) – Energy Use Strategies Related to Development Goals (resiliency);
- Section 105(a)(17) – Economic Development Assistance to For-Profit Business;
- Section 105(a)(21) – Assistance to Institutions of Higher Education.

6.4 Eligible Uses of Funds

Eligible uses of funds for the Infrastructure Mitigation Program and the Healthcare Strengthening Set-Aside include, but are not limited to:

¹⁸ Title III refers to the section of PROMESA that covers court-supervised restructuring of United States territories and their covered instrumentalities.

¹⁹ In accordance with 84 FR 45838, 45849, V.A.2.c. Clarification of basic requirements for mitigation activities.

- Acquisition, construction, renovation, rehabilitation, or other improvements of a property;
- Construction costs and other infrastructure improvements related to a project;
- Soft costs related to an eligible construction project include, but are not limited to, architectural, engineering, permitting, surveying, and overhead and profit margins of construction costs.²⁰
- Public infrastructure extension and/or improvements;
- Clearance, demolition, and removal;
- Payment of non-federal share;
- Costs associated with capacity-building;
- Costs associated with the completion of a Feasibility Analysis, when required for determination for of construction award;
- Pre-development costs;
- Staff costs and related expenses required for management of contractors procured for project, outreach efforts for marketing the project Program, screening potential applicants, and other eligible services related to completion of the project Program, when required and permitted by the Agreement;
- Clearance of environmental contamination;
- Assistance to privately-owned utilities.²¹

PRDOH acknowledges some entities potential Subrecipients have already undergone some level of architectural, engineering, and environmental review work for projects eligible for CDBG-MIT funding. If a selected project, eligible to receive CDBG-MIT funding, has incurred costs related to these activities (including administrative activities) prior to their award, PRDOH may reimburse those pre-award costs provided that the activities are CDBG-eligible and were undertaken in accordance with the grant requirements at 24 C.F.R. Part 570 and 24 C.F.R. Part 58, and were incurred after September 4, 2019.

6.4.1 Additional Eligible and Ineligible Use of Funds for Healthcare Strengthening Set-Aside

For the Healthcare Strengthening Set-Aside, the activities in the Eligible Use of Funds section are applicable for those healthcare facilities that provide essential inpatient and outpatient health services. Facilities that do not provide essential healthcare services are not eligible. Examples of ineligible healthcare services include but are not limited to cosmetic surgery or other procedures to change or improve physical appearance.

²⁰ Architects and engineers must be licensed to practice in Puerto Rico to design in accordance with PRDOH and HUD standards, as well as all applicable local codes and regulations.

²¹ Eligible entities may include private, for-profit utilities, as allowed through the Waiver and Alternative Requirements in Federal Register Vol. 87, No. 236 (December 9, 2022), 87 FR 75644.

Additional eligible use of funds for Healthcare Strengthening Set-Aside, include, but are not limited to:

- The purchase of large equipment considered affixed²² including, but not limited to, the following examples:
 - MRI and CT scan equipment
 - Radiation/ radiotherapy equipment
 - Affixed surgical arms and other devices
 - Affixed lighting
- The purchase of moveable equipment which is not considered an integral structural fixture, only when such items constitute all or part of a public service pursuant to 24 C.F.R. § 570.201(e), or when carried out by a for-profit business under 24 C.F.R. § 570.203(b), including but not limited to the following examples:
 - Mobile x-ray machines;
 - Hospital specialized surgical beds; and
 - Ultrasounds and/or ECG machines.

According to regulations at 24 C.F.R. §570.201(e) “a public service must be either a new service or a quantifiable increase in the level of an existing service above that which has been provided by or on behalf of the unit of general local government (through funds raised by the unit or received by the unit from the State in which it is located) in the 12 calendar months before the submission of the action plan.” Eligibility of the costs as part of a public service or economic development activity will be subject to a regulatory compliance validation performed by the Program on a case-by-case basis to confirm the equipment, although not structurally affixed, is critical for the implementation of program activities, among other considerations.

Ineligible use of funds for Healthcare Strengthening Set-Aside, include, but are not limited to:

- Consumable supplies, including but not limited to the following example:
 - Syringes
 - Needles
 - Masks
 - Catheters

6.4.2 Use of CDBG-MIT Funds as a Match

As provided by the HCDA, CDBG–MIT funds may be used to meet a matching requirement, share, or contribution for any other Federal Program when used to carry out an eligible CDBG–MIT activity. This includes mitigation grants administered by FEMA or U.S. Army Corps of Engineers (**USACE**). As per 84 FR 45838, 45849, the maximum amount of CDBG–MIT funds that may be contributed to a USACE project is \$250,000.

²² *Affixed equipment* is considered equipment attached to a building or structure as a permanent appendage and not intended for transfer to other premises. This definition has been developed according to the entities the Program seeks to attend as part of the needs identified in Puerto Rico’s healthcare system.

PRDOH may only use CDBG–MIT funds to meet the match requirement of a program or project that meets the mitigation activity definition. Any matched projects will require projects to be both CDBG-MIT eligible and compliant with the primary federal agency's requirements.

6.4.3 Use of CDBG-MIT Funds for Energy Grid Improvements

Projects that directly improve the electrical power grid should be funded through the PRDOH Energy Programs described in the CDBG-DR Action Plan for the Electrical Systems Enhancements and Improvements, prior to being considered for CDBG-MIT.²³ On June 22, 2021, HUD published Federal Register Vol. 86, No. 117 (June 22, 2021), 86 FR 32681, which governs the use of the \$2 billion CDBG–DR allocation for enhanced or improved electrical power systems in Puerto Rico and the U.S. Virgin Islands. Of those \$2 billion, \$1,932,347,000 was allocated to Puerto Rico to enhance the ~~Puerto Rico~~ **Island's** electrical power system.

6.5 Ineligible Uses of Funds

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

- Funding projects that do not mitigate risk according to the PRDOH Risk Assessment criteria explained in the PRDOH CDBG-MIT Action Plan and these Guidelines;
- Projects that enlarge a dam or levee beyond the original footprint of the structure that existed prior;
- Operations and maintenance costs cannot be funded with CDBG-MIT;
- General government expenses, except as otherwise specifically authorized under 2 C.F.R. Part 200. Expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance;
- Political activities;
- Purchase of moveable equipment or materials except for the Healthcare Strengthening Set-Aside, as described in the Additional Eligible and Ineligible Use of Funds for Healthcare Strengthening Set-Aside section of the Program Guidelines;
- Construction equipment;
- Housing activities;
- Income Payments;
- Refinancing of debt;
- Religious activities;
- Projects that address the national objective for the elimination of slum and blight.²⁴

6.6 National Objective

²³ The CDBG-DR Action Plan for the Electrical Systems Enhancements and Improvements is available in English and Spanish at: <https://cdbq-dr.pr.gov/en/power-grid-action-plan/> and <https://cdbq-dr.pr.gov/plan-de-accion-de-red-de-energia/>.

²⁴ As provided at 24 C.F.R § 570.208(b) and 24 C.F.R. § 570.483(c).

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

Considering the nature of the Program and its set-asides, PRDOH anticipates the following national objectives will apply:

- Benefit to low- and moderate-income persons (**LMI**):
 - i. LMI Area Benefit (**LMA**) – the benefits of a project are available to all the residents in a particular area, where at least fifty-one percent (51%) of the residents are LMI people. (24 C.F.R. § 570.483 (b)(1))
 - ii. LMI Limited Clientele (**LMC**) – must exclusively benefit a clientele whom HUD generally presumes to be principally LMI persons. The following groups are presumed by HUD to be comprised principally of LMI persons (24 C.F.R. § 570.483 (b)(2)):
 - Abused children;
 - Elderly persons;
 - Battered spouses;
 - Homeless persons;
 - Adults meeting Bureau of Census' definition of "severely disabled";
 - Illiterate adults;
 - Persons living with AIDS; and
 - Migrant farm workers.
- Meet an Urgent Need Mitigation (**UNM**) – The provisions of 24 C.F.R. §570.483(d) and §570.208(c) are waived at 84 FR 45838, 45857, V.A. 13.C., and replaced with the alternative requirement to document how the activity: (i) addresses the current and future risks as identified in grantee's Mitigation Needs Assessment of MID areas²⁵, and (ii) will result in a measurable and verifiable reduction in the risk of loss of life and property.²⁶

6.6.1 Additional Criteria Applicable to CDBG-MIT Funding

The provisions at 24 C.F.R. §570.483(e) and §570.208(d) are modified by an alternative requirement to add conditions specified at 84 FR 45838, 45857. To meet a national objective, **all CDBG-MIT activities** must:

- Demonstrate the ability to operate for the useful life of the project via long-term **operation and maintenance plans**;

²⁵ This must be tied to the PRDOH CDBG-MIT Action Plan in the Risk-Based Mitigation Needs Assessment.

²⁶ This is determined by the Risk-Benefit Score.

- Be consistent with other mitigation activities;

In the case of **Covered Projects**, they must demonstrate the following to meet a national objective:²⁷

- Demonstrate the long-term efficacy and **fiscal** sustainability of the Covered Project by documenting measurable outcomes²⁸ or reduction in risk as described herein:
 - The grantee must have a plan to fund the long-term operation and maintenance for CDBG-MIT covered projects and include a description in the Action Plan. Funding options might include State or local resources, borrowing authority, or retargeting of existing financial resources.²⁹
 - Must document how the Covered Project will reflect changing environmental conditions (such as sea level rise or development patterns) with risk management tools and alter funding sources if necessary.
- Must demonstrably benefit the MID area, which HUD has determined to be all municipalities of Puerto Rico.
- The benefits of the Covered Project must outweigh the costs of the projects. Benefits outweigh costs if a BCA results in a benefit-cost ratio greater than one (1.0). Alternatively, for a Covered Project that serves LMI persons or other persons that are less able to mitigate risks or respond to and recover from disasters, benefits outweigh costs if the grantee supplements its BCA with a qualitative description of benefits that cannot be quantified. However, this description must sufficiently demonstrate unique and concrete benefits of the Covered Project for LMI persons or other persons that are less able to mitigate risks or respond to and recover from disasters. It may also include a description of how the Covered Project will provide benefits such as enhancing a community's economic development potential, improving public health, and/or expanding recreational opportunities.

7 Address Current and Future Risks

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

²⁷ 84 FR 45838, 45857

²⁸ See 84 FR 45838, 45852, section V.A.2.i. Projection of expenditures and outcomes.

²⁹ 84 FR 45838, 45848

For all projects, PRDOH will utilize the same tools and data sets in its evaluation process to compute the mitigation of risks to life and property through the RBS scoring system, which directly ties to the data-based risk assessment performed prior to receiving the CDBG-MIT allocation.

The RBS Calculator will be made available to the Program as part of a toolbox which will guide users through a series of the following steps:

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



Figure 1: Image of the PRDOH Housing Infrastructure Project Tool Box

In addition to the RBS calculation, PRDOH will also evaluate projects for other criteria ~~and~~ ~~to~~ regarding compliance, innovation, and project readiness as described in later sections of these Program Guidelines.

7.1 Risk-Benefit Score Explained

All projects funded through this Program will be assigned an RBS, which will have significant weight in prioritizing and selecting projects. The Risk Assessment Tool was developed to utilize risk assessment data to estimate the effectiveness of a project. By using the Risk Assessment Tool, the Program will be able to score each project based on its potential to mitigate multiple risks, the number of ~~project~~ beneficiaries of the project, and its ability to maximize program funding.

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

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

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

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

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

Equation 1: Risk-Benefit Score

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

- Projects that mitigate multiple risks under one (1) project activity.
- Projects that reduce risk for socially vulnerable populations.

- Projects that reduce risk on a regional scale rather than at the site level.
- Projects that mitigate risk to critical lifeline infrastructure will score better than those that serve secondary infrastructure.

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

7.2 Feasibility Study Requirement

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

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

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

8 Covered Projects

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

If a project meets the definition of a Covered Project, the application must also include the following information:

- A narrative describing consistency with other mitigation activities in the area.
- A narrative describing long-term efficacy and **fiscal** sustainability of the project.
- A plan for long-term operation and maintenance of **the** proposed project.

- Information regarding the Benefit-Cost Analysis (**BCA**) of the project:³⁰
 - Benefits outweigh costs if the BCA results in a benefit-to-cost ratio greater than 1.0 (which aligns with FEMA's BCA ratio).
 - Must demonstrate determined benefits to MID Area.
 - Must indicate which BCA Methodology was used. Entities may use FEMA-approved methodologies and tools to demonstrate the cost-effectiveness of their project.
 - For Non-FEMA BCA methodology, identify the method that will be used.
 - An Alternative Demonstration of Benefits shall be submitted by an entity when the BCA is less than one (1.0) to demonstrate that benefits outweigh costs through a qualitative description of benefits that cannot be quantified, but sufficiently demonstrate unique and concrete benefits of the Covered Project to LMI persons that are less able to mitigate risks or respond to and recover from disasters.
 - An Additional Benefits Analysis must account for benefits for Economic or Community Development, and Other Social Benefits or Costs, if applicable on a project-by-project basis.

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

8.1 BCA for Covered Projects

Covered Projects must also demonstrate that the benefits of the completed project outweigh the costs of implementing the project through a BCA. The preferred method for demonstrating this benefit is through the application of FEMA's BCA model and the analysis must result in a benefit-to-cost ratio equal or greater than one (1.0). The FEMA BCA Toolkit can be found at: <https://www.fema.gov/grants/guidance-tools/benefit-cost-analysis> (English) and <https://www.fema.gov/es/grants/guidance-tools/benefit-cost-analysis> (Spanish).

The Program will accept non-FEMA BCAs in the following circumstances:

³⁰ For additional information and requirements for BCA, see the CDBG-MIT Benefit Cost Analysis Guidelines in English and Spanish at <https://cdbg-dr.pr.gov/en/download/program-guidelines/> and <https://cdbg-dr.pr.gov/download/guias-programaticas/>.

- A BCA has already been completed or is in progress pursuant to BCA guidelines issued by other Federal agencies such as the USACE, U.S. Department of Transportation (**USDOT**), Environmental Protection Agency (**EPA**), or CDBG-NDR;
- The alternative BCA method addresses a non-correctable flaw in the FEMA-approved BCA methodology; or
- The BCA method proposes a new approach that is unavailable using the FEMA BCA Toolkit.

Non-FEMA BCA ~~can~~ **must** account for project costs, community development and other social and community benefits, economic development aspects (Additional Benefits Analysis), ~~if applicable on a project-by-project basis~~. If a non-FEMA BCA is already completed or is in progress, the proposed CDBG-MIT project must be substantially the same as the project analyzed in the other agency's BCA.

Alternatively, for a Covered Project that serves LMI persons or other persons who are less able to mitigate risks or respond to and recover from disasters, the **participating entity grantee** may demonstrate that benefits outweigh costs using a qualitative description. The **grantee participating entity** completes a BCA as described above and provides HUD with a benefit-to-cost ratio, which may be less than one (1.0). Also, the **participating entity grantee** must submit a qualitative description of benefits that cannot be quantified, but sufficiently demonstrates unique and concrete benefits of the Covered Project for LMI persons or other persons who are less able to mitigate risks or respond to and recover from disasters. This qualitative description may include a description of how the Covered Project will provide benefits such as enhancing a community's economic development potential, improving public health and/or expanding recreational opportunities.

9 Direct Selection – Strategic Project

9.1 Definition of Strategic Projects

PRDOH will dedicate a budget of up to fifty percent (50%) of the \$2.6 billion in program funds that are not reserved for set-aside programs and up to fifty percent (50%) of the \$1 billion reserved for the Healthcare Strengthening Set-Aside to strategically selected projects. The approximately \$1.3 billion from the Infrastructure Mitigation Program and the \$500 million from the Healthcare Strengthening Set-Aside will be reserved for the direct selection of strategic projects that demonstrably serve the MID area, which HUD has defined as the entirety of Puerto Rico. This strategic investment of critical mitigation funds adheres to HUD objectives in the Federal Register, at 84 FR 45838, including but not limited to the following:

- CDBG-MIT funds represent a unique and significant opportunity for grantees to use this assistance in areas impacted by recent disasters to carry out strategic and high-impact activities to mitigate disaster risks and reduce future losses.

- Through the allocation for mitigation, HUD seeks to: Support data-informed investments in high-impact projects that will reduce risks attributable to natural disasters, with particular focus on repetitive loss of property and critical infrastructure.
- HUD recognizes grantees may seek to use CDBG–MIT grants to implement large, transformative infrastructure projects that will provide long-term benefits and strengthen a community's resilience to future hazards.

Thus, in alignment with HUD **guidelines**, PRDOH defines strategic projects as large-scale, transformative projects that will create positive and potentially cascading benefits to community lifelines for a large portion of the population within the MID area. Strategic projects are selected as a result of stakeholder engagement and/or referred to the Program by the Central Government in alignment with public policy and researched mitigation goals that pertain to the MID area.

9.2 Criteria for Strategic Project Evaluation

Once completed, strategic projects will reduce risk of loss of life and/or property, directly aligning with PRDOH CDBG-MIT organizing principles as they apply to infrastructure and nature-based solutions:

1. Reduce lifeline system(s) fragility by lessening the impact of hazard events on the built environment and ecological systems. Must include one or more of the following mitigation concepts in project design:
 - Redundancy of connections to essential services;
 - Diverse alternatives to reduce the risk of over-reliance on specific infrastructure assets;
 - Independent control and management;
 - Communities and stakeholder coordination; and
 - Operational reliability.
2. Create self-sustaining, regenerative systems that can persist or thrive through physical, economic, and social challenges after a hazardous event. It must also address one or more of the following mitigation concepts in project design:
 - Independence from sustained external support if access is lost or interrupted;
 - Preservation of natural flora or fauna that lend to the protection of the coastline or mitigate soil degradation;
 - Incorporation of green infrastructure; and/or
 - Diversion of waste or use of recycled materials.
3. The projects are intended to be large-scale transformative projects that require a higher threshold of funding to foster high-impact mitigation for a

substantially large area of designation demonstrated through one or more of the following:

- A project that is a declared public priority by the Governor of Puerto Rico, ~~the office of which presides over the entirety of the most MID area of Puerto Rico;~~
- A project that results in a direct risk mitigation benefit for twenty percent (20%) or more of the Puerto Rico populace or twenty percent (20%) or more of the geography of Puerto Rico; or
- The aggregate of coterminous, contiguous, or like projects collectively contribute to the systematic strengthening of a single lifeline sector that benefits twenty percent (20%) or more of the Puerto Rico populace.

9.3 Additional Criteria for Strategic Project Selection:

PRDOH may directly select strategic projects when they meet the threshold criteria. If the identified project needs exceed the available funding, PRDOH has developed the following additional project selection criteria which may be used to establish a ranking of projects under consideration. Through this evaluation, PRDOH will consider the following:

- Non-covered projects with high RBS: The score is a quantitative tie to the mitigation of risk, and the equation considers the following data points regarding impact:
 - Location and density of critical lifelines in the project's services area;
 - Location and density of socially vulnerable populations in the project's service area; and
 - Location and density of population in the project's service area.
- Projects with high percentages of the geographic area impacted:
 - An evaluation of the percent (%) of the geographic impacted area may be considered in addition to the criteria above when project activities mitigate the conditions that cause wide-scale destruction and lead to disaster events (such as floods or coastal erosion).
- Projects that show a high level of project readiness, represent an opportunity to comply with HUD requirements ~~at~~ ~~in~~ 84 FR 48538, 45862, Section V.A.26, which requires grantees to expend fifty percent (50%) of their allocation of CDBG-MIT funds on eligible activities within six (6) years of HUD's execution of the grant agreement.³¹ Indicators of readiness may include but are not limited to:
 - Status of BCA, if applicable
 - Status of Permits, including the Certificate of Need and Convenience (CNC) for healthcare facilities, if applicable

³¹ As the Grant Agreement was executed on May 12, 2021, fifty percent (50%) of funds must be expended by May 12, 2027.

- Status of Environmental Review
- Status of Design
- In addition, consideration may be given to projects that result in significant ancillary and indirect benefits, as measured by a BCA or an alternate procedure, such as: lifesaving, environmental, social, and economic development, among others.

9.4 Strategic Project Direct Selection Process

Directly selected projects will be required to complete an initial survey at intake and provide additional information needed to evaluate the project-specific information to establish eligibility under the program. Technical assistance needed for the required information can be provided to the prospective entity during this process. Eligibility will not be determined until all of the following is present and sufficient:

- Description and purpose of the Project:
 - Description of the project must include an exact location of the project activities.
 - The project must group together and evaluate as a single infrastructure project all activities related to one another, either on a geographical or functional basis, or are logical parts of a composite of contemplated infrastructure-related actions.
- Budget/Cost information:
 - Estimated project costs for all phases with breakdown of funding sources.
 - Explanation of other available funds if the project capitalizes on public and private partnerships for which **only** the public match (~~only~~) is requested through this Program.
- Specify risks that will be mitigated by the completion of the proposed project:
 - Identification of risks mitigated.
 - Narrative describing how implementation of the proposed project activity would reduce, eliminate, or prevent risks from the hazard caused by a future disaster event within the identified area.
- Description of AOB:
 - Description of the AOB and its boundaries, as well as the spatial geographies best used to represent the AOB.
 - Percentage of LMI benefit.
 - Narrative describing the areas benefitting from the project using municipalities, wards or “barrios”, sectors, etc.
 - Narrative identifying the socioeconomic properties of the population to benefit from the project (Project Beneficiaries).
- Implementation plan:
 - Description of how the project will be implemented.

- Schedule of anticipated project activities.
- Description of the current state of the project, including consultations studies performed (feasibility, environmental, A&E, etc.), and status of acquisitions, design, environmental review and permits.
- Analysis of Project Benefits such as:
 - Economic impacts
 - Lifesaving services
 - Emergency response
 - Long-term benefits
 - Analysis of impact to disadvantaged populations and protected classes (from a technical standpoint)
 - Ancillary or co-benefits (social, environmental, resiliency)
 - Nature-based solutions
 - Community engagement
 - Environmental and historic impacts
- Operations and Maintenance:
 - The feasibility of the project's long-term operations and maintenance plan that addresses the operations and maintenance costs of the improved infrastructure. All applicants must submit a long-term operations and maintenance plan and identify reasonable milestones for any plan that will be reliant on proposed changes to existing taxation policies or tax collection practices.
- Whether the natural infrastructure is preserved, or other eco-conscious measures are included in project design to minimize the unintended consequences of grey infrastructure and other development.
- Applicants are encouraged to incorporate innovative nature-based and natural or green infrastructure solutions during project development that reduce the negative impacts on the surrounding human and natural environment. Natural or green infrastructure is defined at 84 FR 45838, 45848, as the integration of natural processes or systems (such as wetlands or land barriers) or engineered systems that mimic natural systems and processes into investments in resilient infrastructure, including, for example, using permeable pavements and amended soils to improve infiltration and pollutant removal.

10 Competitive Application

10.1 Definition of Competitive Projects

Competitive projects participating in the Infrastructure Mitigation Program and Healthcare Strengthening Set-Aside will focus on locally driven solutions for risk reduction. Applicants must be eligible entities described in the Eligible Entities section.

Since funds will be awarded via a competitive selection process, funded projects will be the ones that are the most cost-effective and impactful, and propose the effective mitigation of hazards identified within the specific service area of the project. Projects will be evaluated and ranked based on their RBS and other evaluation criteria described in the Guidelines.

Eligible applicants will be able to apply online through the PRDOH Application portal. PRDOH may choose to open additional subsequent application periods depending on the responses received and funding availability.

Applicants are required to submit to PRDOH project applications that comply with eligibility requirements. PRDOH will evaluate each project's information and the supporting documentation submitted by the applicant to validate its eligibility compliance before authorizing the expenditure of funds for the project. PRDOH may require applicants to present additional information to validate the feasibility, sustainability, maintainability, and operability of the project.

10.2 Competitive Selection Process

Applications for the Infrastructure Mitigation Program and Healthcare Strengthening Set-Aside will be evaluated to ensure the applicant and proposed projects meet the minimum criteria outlined in the Program Guidelines. Responses that meet minimum threshold requirements will then be evaluated according to the established scoring criteria. Applications will be evaluated to determine the mitigation value and cost effectiveness of the proposed project. Application requirements, scoring parameters and thresholds shall be described under the application deliverables to be generated and published by the Program. An applicant's planning strategy and management capacity must be evident.

10.2.1 Application Requirements

Applications for the Infrastructure Mitigation Program and Healthcare Strengthening Set-Aside must be presented in the required format and form, including but not limited to detailed narratives describing the following:

- Description and purpose of Project:
 - Project description must include the exact location of project activities.
 - Project must group together and evaluate as a single infrastructure project all individual activities which are related to one another, either on a geographical or functional basis, or are logical parts of a composite of contemplated infrastructure-related actions.
- Budget/Cost information:
 - Estimated project costs for all phases with breakdown of funding sources.

- Explanation of other available funds if the project capitalizes on public and private partnerships for which the public match (only) is requested through the Program.
- RBS Calculation:
 - Final score supported by PDF generated using the RBS tool, created from the applicant provided map of the project AOB.
- Specific risks that will be mitigated by the completion of the proposed project:
 - Narrative substantiating the information to be input into the RBS tool of the Infrastructure Toolbox.
 - May include narrative and supporting documentation with analysis of existing conditions, repetitive loss, past and future disasters, existing data, studies, and relevant federal, state, and local publications.
- Description of AOB:
 - Narrative substantiating the information input into the RBS tool.
 - Percentage of LMI benefit.
 - LMI Beneficiary Assessment PDF generated using the LMI Calculator of the Infrastructure Toolbox.
- Feasibility Study:
 - Any non-covered project over \$50 million in total project value shall also be evaluated for feasibility to ensure that the project delivers the benefit of mitigation from risk to the greatest number of people.
- Implementation plan:
 - Description of how the project will be implemented.
 - Schedule of anticipated project activities.
 - Description of the current state of the Project including consultations made, ~~and~~ studies performed (feasibility, environmental, A&E, etc.), and status of acquisitions, design, environmental review and permits.
- Analysis of Project Benefits such as:
 - Economic impacts
 - Lifesaving services
 - Emergency response
 - Long-term benefits
 - Analysis of impact to disadvantaged populations and protected classes (from a technical standpoint)
 - Ancillary or co-benefits (social, environmental, resiliency)
 - Nature Based Solutions
 - Community Engagement
 - Environmental and historic impacts
- Capacity Documents:

- Proponent's management capacity to complete the project, including description of project team. A profile should be provided for each current staff person who will be performing project-related tasks and a position description for any new hires who will be assigned project responsibilities.
- Operations and Maintenance:
 - The feasibility of the project's long-term operations and maintenance plan addresses the operations and maintenance costs of the upgraded infrastructure. All applicants are required to submit a long-term operations and maintenance plan and must identify reasonable milestones for any plan that will be reliant on proposed changes to existing taxation policies or tax collection practices.
- Whether the natural infrastructure is preserved, or other eco-conscious measures are included in project design to minimize the unintended consequences of grey infrastructure and other development.
- Applicants are encouraged to incorporate innovative nature-based solutions and natural or green infrastructure solutions during project development that reduce the negative impacts on the surrounding human and natural environment. Natural or green infrastructure is defined at 84 FR 45838, 45848, as the integration of natural processes or systems (such as wetlands or land barriers) or engineered systems that mimic natural systems and processes into investments in resilient infrastructure, including, for example, using permeable pavements and amended soils to improve infiltration and pollutant removal.
- For Covered Projects, please refer to Benefit Cost Analysis Section for HUD requirements, such as the completion of a BCA.

10.3 Review of Competitive Applications

Applications for the Infrastructure Mitigation Program and Healthcare Strengthening Set-Side will be evaluated in a two-step review process. The first step shall consist of an evaluation to determine completeness (if the Applicant met the minimum threshold requirements) and basic eligibility criteria. The second step will consist of a review and scoring of the applications according to the established scoring criteria.

10.3.1 Completeness and Preliminary Eligibility

~~If the Applicant met the minimum threshold requirements, PRDOH will send a Preliminary Project Eligibility Determination Notice informing that the Applicant has been determined to be preliminarily eligible and selected to continue to the next step in the evaluation process, which is scoring and ranking. This in no way constitutes an award notice or a final eligibility determination. If the Applicant does not meet the minimum threshold requirements, PRDOH will send an Ineligibility Determination Notice.~~

10.3.2 Scoring and Ranking

Applications will be reviewed by PRDOH and its designated representative. PRDOH will rank each application by points allocated to evaluation criteria. If eligible Applications exceed available funding, Applicants will be funded in ranked order based on evaluation scores. PRDOH reserves the option to fund all, a portion of, or none of the applications submitted by an Applicant.

In the event of a tie occurs between ~~the scores of~~ different **project** applications, and funding is not available for all of the tied applications, PRDOH will use the following criteria to establish a ranking among tied applications:

- Population Benefiting from the Project – Total Population Benefit: the tied applications will be sub-ranked using the quantity of population benefitting as a parameter. The application with the highest population benefitted will be sub-ranked first among the tied applications, and remaining applications will be sub-ranked in order, from highest to lowest population benefited by the project.
- Population Benefiting from the Project – Total LMI Population Benefit: the tied applications will be sub-ranked using the quantity of LMI population benefitting as a parameter. The application with the highest LMI population benefitted will be sub-ranked first among the tied applications, and remaining applications will be sub-ranked in order, from highest to lowest LMI population benefited by the project.

10.4 Evaluation Criteria

Projects will be evaluated for program compliance, risk mitigation and impact, alignment with public policy, innovative design, and project readiness. Refer to specific project scoring criteria published as a part of the Project Application instructions during the application period. Projects will be evaluated and scored based on, but not limited to, the following aspects:

- Project Type: Projects will be assigned a project type based on the nature of risk mitigation and lifeline-strengthening activity of the project.
 - Infrastructure Mitigation Program:
 - Type 1 – Coastal Barrier / Erosion or Flood Control / Landfill / Solid Waste / Utility redundancy for critical facilities / Telecommunication system improvements.
 - Type 2 – Drought and Water Systems / Maritime and Air Transportation / Safety, security, and life.
 - Type 3 - Roads and bridges / Healthcare facilities / Other Infrastructure Projects.
 - Healthcare Strengthening Set-Aside:
 - Type 1 – Hospitals including general and specialty hospitals.

- Type 2 – Primary Care Facilities, 330 Centers, CDTs, Dialysis Centers, etc.
- Type 3 – Other healthcare facilities that provide essential health services.
- Project Benefit: Percentage of LMI benefit. Projects that serve fifty-one percent (51%) or more LMI households within the area of benefit will be prioritized.
- If the project capitalizes on public and private partnerships for which **only** the public match (~~only~~) is requested through this Program.
- Leverage of Funds: If the project leverages CDBG-MIT funding with other federal, Government of Puerto Rico, and/or local funding sources.
- Project Readiness: Projects will be evaluated for level of project readiness, representing an opportunity to comply with HUD requirements **at** ~~in~~ 84 FR 45838, 45862, Section V.A.26, which requires grantees to expend fifty percent (50%) of their allocation of CDBG–MIT funds on eligible activities within six (6) years of HUD's execution of the grant agreement. Indicators of readiness may include, but are not limited to:
 - Details of implementation plan and schedule
 - Status of Permits, including the CNC for healthcare facilities, if applicable.
 - Projects that do not result in the displacement of individuals or businesses through acquisition in order to be completed
 - Status of project design
 - Status of environmental review and level of environmental impact
 - Status of BCA, if applicable.
- Operation and Maintenance Plan: The feasibility of the project's long-term operations and maintenance plan that addresses the operations and maintenance costs of the infrastructure improved. All applicants are required to submit a long-term operations and maintenance plan and must identify reasonable milestones for any plan that will be reliant on proposed changes to existing taxation policies or tax collection practices.
- Project Narrative:
 - Projects that have completed an extensive analysis of existing conditions, repetitive loss, past and future disasters, existing data, studies, and relevant federal, state, and local publications will be prioritized.
 - Whether the natural infrastructure is preserved, or other eco-conscious measures are included in project design to minimize the unintended consequences of grey infrastructure and other development. Applicants are encouraged to incorporate innovative nature-based solutions and natural or green infrastructure solutions during project development that reduce the negative impacts on the surrounding human and natural environment. Natural or green infrastructure is defined at 84 FR 45838,

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

- Whether the project considered innovative design solutions:
 - Improve the quality of life
 - Stimulate sustainable growth and development
 - Enhance public health and safety
 - Minimize noise and vibration
 - Minimize light pollution
 - Improve community mobility and access
 - Encourage alternative modes of transportation
 - Improve site accessibility and safety
 - Preserve historic and cultural resources
 - Preserve or improve views and local character
 - Encourage stakeholder involvement
 - Address conflicting regulations and policies
 - Extend the project facility lifespan
 - Reduce energy consumption
 - Make use of recycled materials
 - Make use of local or regional materials
 - Divert waste from landfills
 - Reduce waste during construction

11 Selection and Award

11.1 Selection

After scoring and ranking is completed, PRDOH will send one of the following notifications to Program Applicants: (1) a Preliminary Project Eligibility and Selection Notice to the Applicants that were deemed preliminarily eligible and were selected according to the order of ranking and Program budget availability; and (2) an Ineligibility Notice³² to the Applicants that did not meet the minimum threshold eligibility requirements; and (3) a Funds Depleted Notice to the remaining Applicants whose projects were deemed preliminarily eligible but did not fall within the selected ranked order after scoring. The Preliminary Project Eligibility and Selection Notice does not constitute an award or final eligibility determination.

³² PRDOH reserves the right to issue an Ineligibility Notice at any point in the evaluation process if it identifies any instance of ineligibility.

For non-covered projects, Applicants will have **twenty-one thirty (21-30) calendar days**, after the Preliminary **Project Eligibility and Selection Notice**, to provide the following information:

- Operations and Maintenance Plan;
- Feasibility Study if project cost is greater than \$50 million;
- Evidence of a viable and verifiable source of funding to cover the gap amount, or the amount not covered by the potential CDBG-MIT award, if applicable;
- Evidence that all sources of funding have been committed; and
- Any other relevant information requested by the Program.

For covered projects, Applicants will have **thirty (30) calendar days**, after the Preliminary **Project Eligibility and Selection Notice**, to provide the **workplan for the preparation and submission of the following information**:

- **Covered Project Narrative** describing consistency with other mitigation activities in the area and the long-term efficacy and sustainability of the project;
- **Operation and Maintenance Plan** for long-term operation and maintenance of the proposed project, in compliance with the Operations and Maintenance Plan Guide;³³
- **Benefit Cost Analysis** in compliance with the Benefit Cost Analysis Guidelines;³⁴ and
- Evidence of a viable and verifiable source of funding to cover the gap amount, or the amount not covered by the potential CDBG-MIT award, if applicable;
- Evidence that all sources of funding have been committed, if applicable; and
- Any other relevant information requested by the Program.

Failure to provide the requested information within the established timeframe may affect an Applicant's eligibility under the Program and the application review process may continue based only on the information initially provided.

11.2 Capacity Assessment

Selected entities must undergo a capacity assessment prior to execution of an agreement. The PRDOH Subrecipient Management Team **will** complete a Capacity Assessment to determine their **selected entities'** capacity and readiness to manage CDBG-MIT award funds. This assessment considers the entity's monitoring and audit history, current staffing internal controls, systems, and citizen engagement experience.

11.3 Underwriting Criteria for Private Entities

³³ See the Operations and Maintenance Plan Guide available in English and Spanish at <https://cdbg-dr.pr.gov/en/competitive/> and <https://cdbg-dr.pr.gov/competitivo/>.

³⁴ See the Benefit Cost Analysis Guidelines available in English and Spanish at <https://cdbg-dr.pr.gov/en/competitive/> and <https://cdbg-dr.pr.gov/competitivo/>.

At a minimum, projects from Private Entities must meet the CDBG Underwriting Criteria of Appendix A to 24 C.F.R. Part 570, which requires that:

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

Additionally, projects from Private Entities will be required to comply with, but not limited to, the below criteria:

1. Entity has a reasonable historical credit track record; and
2. Capacity to reconstitute award as required by Program Guidelines.

11.4 Award

Once the preliminarily eligible and selected Applicants for non-covered projects have submitted all the required documentation and the Program has determined their compliance, PRDOH will issue a Notice of Award – Non-Covered Project.

For covered projects, once the preliminarily eligible and selected Applicants have submitted all the required documentation and the Program has determined their compliance, PRDOH will submit the covered project, along with the BCA and O&M report, to HUD for approval through a substantial amendment to the CDBG-MIT Action Plan, as previously described in the Covered Projects section of the Guidelines. If approved by HUD, the Applicant will then receive from PRDOH a Notice of Award – Covered Project.

However, the award for both types of projects will be conditioned upon completion of a capacity assessment. Applicants that do not successfully complete a capacity assessment or fail to comply with any other Program or underwriting requirements, PRDOH will issue an Ineligibility Notice outlining the reasons for the Program's determination.

11.4.1 Agreement Execution

The agreement establishes the applicable CDBG-MIT award requirements, as well as state and local laws that the entity must meet. It includes provisions to reduce risk of non-compliance and to ensure that PRDOH meets its own responsibility to HUD for performance and financial reporting.

12 Duplication of Benefits (DOB)

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (**Stafford Act**), as amended, 42 U.S.C. §5121 *et seq.*, establishes the requirements for DOB analysis.³⁵ The Stafford Act prohibits any person, business concern, or other entity from receiving Federal funds for any part of such loss as to which they have received financial assistance under any other program, from private insurance, charitable assistance, or any other source. To comply with DOB provisions and the requirement that all costs are necessary and reasonable, PRDOH will ensure that each activity provides assistance to a person or entity only to the extent that the person or entity has a mitigation need that has not been fully met.³⁶

Grantees must comply with the DOB guidance included in Federal Register Vol. 84, No. 119 (June 20, 2019), 84 FR 28836. DOB requirements on CDBG-DR funds will apply equally to CDBG-MIT funds. The 2019 DOB notice updates the treatment of declined loans where a grantee shall not take into consideration or reduce the amount of assistance provided to an applicant, where such applicant applied for and was approved, but declined assistance from the Small Business Administration (**SBA**), related to disasters that occurred from 2014 to 2017. The 2019 DOB notice also includes requirements applicable only to CDBG-MIT funds. FEMA, as per recent amendments to the Disaster Recovery Reform Act of 2018 (**DRRA**), Pub. L. 115-254, advises that a loan is not a duplication of other forms of financial assistance, provided that all federal assistance is used toward a loss suffered due to major disaster or emergency. The DRRA provisions, which applied ~~apply~~ to disasters that occurred from 2016 to 2021, expired on October 5, 2023. Therefore, the determining factor for applying the DRRA amendment is the date the agreement for loan assistance is awarded (signed by all the required parties, made and entered, and final). Subsidized loans awarded after the amendment sunset date are to be included in the DOB evaluation.

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

Similar to CDBG-DR Program, the order of assistance must be adhered to. PRDOH must verify whether FEMA or USACE funds are available for a funded activity (i.e., the application period is open) or the costs are reimbursable by FEMA or USACE (i.e., the

³⁵ Also, see 42 U.S.C. § 5155.

³⁶ 84 FR 45838, 45860.

Subrecipient will receive FEMA or USACE assistance to reimburse the costs of the activity) before awarding CDBG–MIT assistance for costs of carrying out the same project.

The basic framework for a DOB calculation is:

1. Identify Entity's Total Need;
2. Identify Total Assistance Available (insurance, FEMA, SBA, etc.);
3. Identify the "Amount of Exclude as Non-Duplicative" (Amounts used for a different purpose, or same purpose, different allowable use);
4. Identify Total DOB Amount (Total Assistance Minus Non-Duplicative Exclusions);
5. Calculate Maximum Award (Total Need Minus Total DOB Amount);
6. Apply the Program Cap (if applicable); and
7. Determine the Final Award (Program Cap = Final Award if Maximum Award is equal to or greater than the Program Cap).

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

13 Environmental Review

Every project undertaken with Federal funds, and all activities associated with such project, are subject to the provisions of the National Environmental Policy Act of 1969 (**NEPA**), as amended, 42 U.S.C. § 4321 *et seq.*, as well as to the HUD's environmental review regulations at 24 C.F.R. Part 58 on Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities. The primary purpose of this Act is to protect and enhance the quality of our natural environment. The objective of the environmental review is to identify specific environmental factors that may be encountered at potential project sites, and to develop procedures to ensure compliance with regulations pertaining to these factors. The environmental review is designed to produce program-specific environmental reviews procedures in a program that can vary greatly in terms of scope of work.

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

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

The related laws and regulations under the Code of Federal Regulations, 24 C.F.R. § 58.5, which contain environmental provisions with which the Program must comply include, but are not limited to:

- Protection of Historic Properties (36 C.F.R. Part 800)
- Floodplain Management and Protection of Wetlands (24 C.F.R. Part 55, Executive Order 11988, and Executive Order 11990)
- Sections 307 (c) and (d) of the Coastal Zone Management Act of 1972 (**CZMA**), as amended, (16 U.S.C. § 1456)
- Sole Source Aquifers (40 C.F.R. Part 149)
- Endangered Species Act of 1973, as amended (50 C.F.R. Part 402)
- Section 7 (b)(c) of the Wild and Scenic Rivers Act of 1968 (**WSRA**), as amended, (16 U.S.C. § 1278 - Restrictions on Water Resources Projects)
- Air quality provisions as found in Sections 176 (c) and (d) of the Clean Air Act, as amended, (42 U.S.C. § 7506) and in Title 40 of the Code of Federal Regulations (40 C.F.R. Parts 6, 51, and 93)
- Farmland Protection Policy Act (**FPPA**) (7 U.S.C. § 4201 *et seq.*, implementing regulations at 7 C.F.R. Part 658, of the Agriculture and Food Act of 1981, as amended)
- Environmental Criteria and Standards (24 C.F.R. Part 51, §§ 51.1 - 51.305)
 - Noise Abatement and Control (24 C.F.R. §§ 51.100 - 51.106)
 - Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature (24 C.F.R. §§ 51.200 - 51.208)
 - Siting of HUD Assisted Projects in Runway Clear Zones at Civil Airports and Clear Zones and Accident Potential Zones at Military Airfields (24 C.F.R. Part 51, §§ 51.300 - 51.305)
- Toxic/Hazardous Materials (24 C.F.R. § 58.5(i)(2)(i))
- Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (Executive Order 12898, signed on 1994)

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

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

13.1 Exempt Activities

These are activities which, by their nature, are highly unlikely to have any direct impact on the environment. Accordingly, these activities are not subject to most of the procedural requirements of environmental review. If a project is determined to be exempt, the Program must document in writing that the project is exempt and meets the conditions for exemption spelled in 24 C.F.R. § 58.34. In addition to making the written determination of exemption, the Program must also determine whether any of the requirements of 24 C.F.R. § 58.6 are applicable and address as appropriate.

13.2 Categorically Excluded Activities

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

Examples of categorically excluded activities not subject to related laws and authorities under 24 C.F.R. § 58.5 include: tenant based rental assistance; supportive services; operating costs; economic development activities; activities to assist homebuyers to purchase existing dwelling units or units under construction; and affordable housing predevelopment costs with no physical impact. To complete environmental requirements for categorically excluded activities not subject to 24 C.F.R. § 58.5, the Program must make a finding of categorical exclusion and include such finding in the Environmental Review Record. When these kinds of activities are undertaken, it is not required to issue a public notice or to submit a request for release of funds. In any case, environmental compliance is required for the items listed in 24 C.F.R. § 58.6.

Examples of categorically excluded activities subject to related laws and authorities under 24 C.F.R. § 58.5 include: acquisition, repair, improvement, reconstruction, or repair of public facilities; special projects directed toward the removal of material and architectural barriers; and repair of buildings and improvements for residential units and non-residential buildings. The Environmental Review Record for these activities must contain a written determination of the finding of a categorical excluded activity subject to 24 C.F.R. § 58.5, including a description of the project, a citation of the application subsection of 24 C.F.R. § 58.35(a), and written documentation as to whether there were any circumstances which required compliance with 24 C.F.R. § 58.5 and § 58.6.

The documentation must support its determinations related to compliance including correspondence with applicable agencies having jurisdiction. Upon completion, there should be one (1) of three (3) environmental findings: (1) the project converts to Exempt (i.e. 24 C.F.R. § 58.34(a) (12)); (2) the project invokes compliance with one (1) or more of

the laws and/or authorities and, therefore, requires public notification and approval from HUD; or (3) the unusual circumstances of the project result in a significant environmental impact and, therefore, compliance with NEPA is required. If upon completion it is determined that compliance is required for one (1) or more of the Federal laws and authorities listed in 24 C.F.R. § 58.5, then a public notification known as Notice of Intent to Request Release of Funds must be posted. After a **seven (7) day** comment period, a Request for Release of Funds and Environmental Certification must be prepared. The Environmental Certification certifies the compliance with all environmental review requirements.

13.3 Activities Requiring an Environmental Assessment

These are activities which are neither exempt nor categorically excluded and, therefore, will require an Environmental Assessment documenting compliance with NEPA, HUD, and with the environmental requirements of other applicable federal laws. Once the Environmental Review has been completed and any comments addressed appropriately, the project may be found to not constitute an action that significantly affects the quality of the human environment (FONSI) and, therefore, does not require the preparation of an Environmental Impact Statement; or the project constitutes an action that significantly affects the quality of the human environment (FONSI) and, therefore, requires the preparation of an Environmental Impact Statement.

If it is determined that the action does not significantly affect the quality of the environment, then the Program will post a public notice called a Combined/Concurrent Notice of FONSI and a Notice of Intent to Request Release of Funds (**NOI/RROF**). The NOI/RROF Environmental Certification must be submitted to HUD no sooner **than fifteen (15) days** after publishing the combined/concurrent notice (NOI/RROF) and FONSI and HUD will hold the Release of Funds for a **fifteen (15) day** period to allow for public comment on the RROF. If no comments are received during this time, HUD will send a signed Authorization to Use Grant Funds and the project may proceed.

13.4 Activities Requiring an Environmental Impact Statement

These are activities that require a detailed written statement by Section 102(2)(C) of NEPA for a proposed major Federal Action significantly affecting the quality of the human environment. The statements are normally used for major housing (2,500 units or more) or infrastructure projects.

14 Procurement

All procurement transactions for work to be funded by CDBG-MIT must be conducted in a manner providing full and open competition and in full compliance with the Uniform Guidance procurement requirements (2 C.F.R. Part 200, Subpart D). These policies and

procedures ensure Federal dollars are spent fairly and encourage open competition at the best level of service and price.

Consistent with federal standards, PRDOH adopted the Procurement Manual for the CDBG-DR, CDBG-MIT, and CDBG State Programs, Regulation No. 9506 of September 25, 2023 ~~9205, of August 4, 2020~~. Accordingly, when procuring property and services under the grants, the procuring entities, shall follow this Manual and the procedures. The document is available in English and Spanish on PRDOH website at: <https://cdbg-dr.pr.gov/en/download/procurement-manual-cdbg-dr-mit-program/> and <https://cdbg-dr.pr.gov/download/manual-de-adquisiciones-programa-cdbg-dr-mit/> ~~<https://cdbg-dr.pr.gov/en/download/procurement-manual-cdbg-dr-program/> and <https://cdbg-dr.pr.gov/download/manual-de-adquisiciones-programa-cdbg-dr/>~~.³⁷

Procurement processes carried out by the Subrecipients must be in accordance with the provisions set out in 2 C.F.R. § 200.318 to 2 C.F.R. §200.327. Objective performances must be ensured, and unfair competitive advantages must be avoided (i.e., a contractor involved in the development of a procurement cannot compete for any such procurement).

15 Financial Management

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

All invoicing and payments will be managed through PRDOH's Financial Management Systems. For detailed requirements, refer to the PRDOH Financial Policy available in English and Spanish at: <https://www.cdbg-dr.pr.gov/en/resources/policies/general-policies/> and <https://www.cdbg-dr.pr.gov/recursos/politicas/politicas-generales/>.

15.1 Program Income

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

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

³⁷ Procurement Manual for the CDBG-DR Program, Regulation 9205, is currently under review.

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

15.2 Project Costs

HUD requires, for all projects, as costs become more defined and prior to construction, cost estimates be reviewed and confirmed to be reasonable. For entities who are provided CDBG-MIT funds through this Program, PRDOH will work with them throughout the life of the grant to ensure that items like HUD cost principles are fully understood and complied with.

For Covered Projects, all planned project costs and any subsequent amendments will be verified by a PRDOH Third-Party Cost Estimator. This requirement will also apply to all Healthcare Strengthening Set-Aside projects.

15.3 Reasonable Cost Guidance

PRDOH must ensure that CDBG-MIT funds will be used solely for necessary and reasonable costs related to infrastructure mitigation activities. A cost is reasonable if, in its nature and amount, does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.³⁸ PRDOH may choose to determine standard reasonable costs for the reimbursement of specific costs under this Program and will deny costs that are determined to not conform to the cost reasonableness requirements.

15.4 Construction Cost Reasonableness

Federal Register Notice 84 FR 45838 requires PRDOH to ensure that construction costs are reasonable and consistent with market costs at the time and place of construction. Cost reasonableness is described as the price that a prudent businessperson would pay for an item or service under competitive market conditions, given a reasonable knowledge of the marketplace. The method and degree of analysis may vary depending upon the circumstances surrounding a particular project (e.g., project type, risk, costs), but the description must address controls for public facilities and infrastructure improvement projects. To establish the cost reasonableness of the goods and services under the CDBG-MIT Program, PRDOH may perform one (1) or more of the following analysis:

- **Comparison of Proposed Costs Received as Part of a Solicitation Process:** For the CDBG-MIT Program, PRDOH or its Subrecipients will acquire all goods and services through procurement processes such as micro-purchases, small purchases, sealed bidding, and competitive proposals, among others. Adequate price competition establishes cost reasonableness. This will be the most common technique used to

³⁸ 2 C.F.R. § 200.404.

establish cost reasonableness, as the procurement processes normally attract two (2) or more offers in an independent competition for an award, which establishes current market values.

- **Comparison of Proposed Prices with Prior Solicitation Processes:** During the life cycle of the CDBG-MIT grant, PRDOH or its Subrecipients may procure certain goods or services in multiple instances. Also, PRDOH/Subrecipients may procure goods or services for which, under other projects not necessarily related to CDBG-MIT, similarities exist. A comparison of the prices obtained through prior solicitation processes may be used to establish cost reasonableness. Depending on the timing of the prices being compared, adjustments for inflation may be required to compare data in a fair manner.
- **Comparison of Proposed Prices and Historical Contracts:** PRDOH has extensive historical contract data for previous projects performed. This data may be used by a Subrecipient or PRDOH when procuring goods or services that are similar in nature to those performed in the past to establish cost reasonableness. Depending on the timing of the prices being compared, adjustments for inflation may be required to compare data in a fair manner.
- **Comparison of Proposed Prices with Independent Cost Estimates:** For the CDBG-MIT program, PRDOH or its Subrecipients will acquire all goods and services through procurement processes such as micro-purchases, small purchases, sealed bidding, and competitive proposals, among others. For all of these, the procedures established by PRDOH require the User Area requesting the services to provide an independent cost estimate of the goods or services to be procured. Comparison of these independent cost estimates with proposed prices may be used to establish cost reasonableness.
- **Comparison of Proposed Prices with Prices Obtained through Market Research:** When a good or service has an established market price, whether locally or in another jurisdiction, the verification of an equal or lower price may be used to establish cost reasonableness. Also, when the market value of a specific good or service is not found, a comparison with a substantially similar good or service may also be performed to establish cost reasonableness.

16 FEMA Elevation Requirements

Nonresidential structures must be elevated to the standards described in this section, or protected from flooding, as per FEMA's floodproofing standards at 44 C.F.R. §60.3(c)(3)(ii) or the successor standard, up to at least two (2) feet above the 100-year limit (or 1% annual chance) floodplain. Additionally, they may use structural or non-structural methods to reduce or prevent damage; or design it to adapt to, withstand and recover quickly from a flood.

All Critical Actions, as defined at 24 C.F.R. §55.2(b)(3), within the 500-year (or 0.2 percent annual chance) floodplain must be elevated or floodproofed (in accordance with the FEMA standards) to the higher of the 500-year floodplain elevation or three (3) feet above the 100-year floodplain elevation. If the 500-year floodplain or elevation is unavailable, and the Critical Action is in the 100-year floodplain, then the structure must be elevated or floodproofed at least three (3) feet above the 100-year floodplain elevation. Critical Actions are defined as an “activity for which even a slight chance of flooding would be too great, because such flooding might result in loss of life, injury to persons or damage to property.”³⁹

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

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

16.1 Insurance Requirements

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

17 Acquisition and the Uniform Relocation Act (URA)

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

Projects funded under the Program, which include acquisition activities that result in displacement, must comply with all applicable URA regulations for notifying property owners, businesses, and tenants who may be subject to displacement. Persons and entities qualifying as “displaced persons” may be eligible for relocation assistance benefits, which must be accounted for in project budgets.

³⁹ 24 C.F.R. § 55.2(b)(3).

As a condition of receiving CDBG-MIT assistance, Applicants agree to fully comply with all applicable provisions of the URA and waivers granted by HUD for MIT activities found at 84 FR 45838, 45859. For more information on how URA regulations apply, please refer to the PRDOH Uniform Relocation Assistance Guide and Residential Anti-Displacement and Relocation Assistance Plan, available in English and Spanish at <https://www.cdbg-dr.pr.gov/en/resources/policies/general-policies/> and <https://www.cdbg-dr.pr.gov/recursos/politicas/politicas-generales/>.

18 Property Management and Disposition

PRDOH will comply with regulations governing property management and distribution of real property, equipment, financial obligations, and return of un-obligated cash post program closeout. Applicable regulations can be found in 24 C.F.R. § 570.502, 24 C.F.R. § 570.505, 2 C.F.R. § 200.310, 2 C.F.R. § 200.343, 2 C.F.R. § 200.344(b), 2 C.F.R. § 200.344(d) (4) and 24 C.F.R. § 570.489(j).

For any real property acquired in whole or in part with CDBG funds in excess of \$25,000, the recipient must control the use of the property in accordance with its intended purpose and take good care of it and may not change the use or planned use of the property without proper notification to affected citizens and allowable time for comment by them. If the property is not a building for general government conduct, the use of the property may be changed with citizen approval if it meets one of the HUD national objectives. If the recipient changes the use of the property, the recipient may either retain or dispose of the property and reimburse PRDOH the amount of the current fair market value of the property.

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

19 Labor Standards

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

requires important recordkeeping practices to ensure compliance and allow for accurate and efficient reporting as required by PRDOH.

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

20 Section 3

All Applicants who receive CDBG-MIT funding are required to comply HUD regulation at 24 C.F.R. Part 75, commonly referred to as the Section 3 Final Rule. Section 3 ensures that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible and consistent with existing federal, Government of Puerto Rico, and local laws and regulations, be directed to low- and very low-income persons, so that they can take part in recovery activities in proximity to work location. Through the program notification process and through technical assistance workshops, and monitoring protocols, PRDOH will communicate and work with Applicants to ensure that each project adheres to the Section 3 regulations and HUD's established benchmarks for the percentage of total work hours to be completed by Section 3 Workers and Targeted Section 3 Workers.

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

21 Debarment and Suspension

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

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

22 Civil Rights and Non-Discrimination

The CDBG-MIT Program shall be implemented in a manner that does not deny any individuals the opportunity to participate in, access, or benefit from the Program on a

discriminatory basis of any federally or locally designated protected classes. Funded activities shall be designed and implemented in a manner that avoids disproportionate negative impacts on protected classes of people and vulnerable communities, as well as creates opportunities to address economic inequities facing communities. PRDOH has adopted several policies to which it, its subrecipients, and all contractors must adhere in the design and implementation of the Program and funded projects.

22.1 Fair Housing & Equal Opportunity Policy (FHEO Policy)

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

The FHEO Policy is available in English and Spanish on the PRDOH website at <https://cdbg-dr.pr.gov/en/download/fair-housing-and-equal-opportunity-fheo-policy-for-cdbg-dr-programs/> and <https://cdbg-dr.pr.gov/download/politica-de-equidad-de-vivienda-e-igualdad-de-oportunidades-para-los-programas-cdbg-dr/>.

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

All entities receiving an award from the Program are required to comply with Section 504 of the Americans with Disability Act (**ADA**), 42 U.S.C.A. § 12132, and Equal Employment Opportunity (**EEO**) requirements in the execution of both infrastructure and job creation or retention activities. Based on the applicant entity type and the project activities, infrastructure, and facilities, as well as employment practices, will need to comply with Section 504 and ADA to be physically accessible to persons with disabilities, and employers must comply with employment requirements under these statutes and EEO.

22.3 Reasonable Accommodation Policy

Federally funded programs are required under Section 504 of the Rehabilitation Act of 1973, as amended, to make reasonable accommodations and modifications for individuals with disabilities. The purpose of Section 504 is to avoid discrimination and ensure these individuals have an equal opportunity to access and enjoy the benefits of the Program. Requests for accommodations (changes to a rule, policy, practice, or service) and reasonable modifications (structural changes to a building or dwelling) most commonly arise in housing programs; however, Section 504 applies to all federally funded programs and activities.

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

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

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

22.4 Language Access Plan

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

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

23 Reporting

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

24 Monitoring

As a result of receiving CDBG-MIT funds from HUD, PRDOH is required to monitor projects and entities that receive Program funds. Therefore, any project funded through this Program and any Applicant that is provided funds has the potential to be monitored and/or reviewed by HUD and/or PRDOH. When projects are selected and applicants execute agreements with PRDOH for this Program, additional information on monitoring requirements will be provided. This section provides a broad description of the monitoring requirements of this Program.

PRDOH must ensure compliance with HUD regulations, which include but are not limited to: recordkeeping, administrative and financial management, environmental compliance, citizen participation, conflict of interest, procurement, labor standards, Section 3, Fair Housing, Title VI, Section 504, duplication of benefits, property management and property acquisition and relocation. PRDOH is required to monitor all programs and projects for conformance with the goals, objectives, and policy set forth in the Action Plan and its Amendments.

The program monitoring serves to identify risks, deficiencies, and remedies related to programs, projects, and Subrecipients. The objectives of the program monitoring include:

- Determine if activities are being carried out as described in the Action Plan, as amended, for the CDBG-MIT program and assistance;
- Determine if activities are being carried out in a timely manner;
- Determine if costs charged to the Program and projects are eligible under applicable laws and CDBG regulations and if are reasonable in light of the services or products delivered;
- Determine if activities are being conducted with adequate control over the program and financial performance, and in a way that minimizes opportunities for waste, mismanagement, fraud, and abuse;
- If Subrecipients are utilized, determine if the activities are being carried out in conformance with the subrecipient agreement;
- Assist in resolving compliance problems through discussion, negotiation, technical assistance, and training;
- Provide adequate follow-up measures to ensure that performance and compliance deficiencies are corrected and not repeated;
- Comply with the monitoring requirements of 24 C.F.R. § 570.501(b) and 2 C.F.R. § 200.328, if applicable;
- Determine if any conflict of interest exist in the operation of the CDBG-MIT Program per 24 C.F.R. § 570.611; and
- Ensure that required records are maintained to demonstrate compliance with applicable regulations.

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

25 Closeout

PRDOH has a standalone Closeout Policy to govern project, program, and grant closeout procedures.

Project closeout is the process that occurs after a project in the Program is complete, and PRDOH determines has been successfully completed and no work remains. For projects comprised of multiple funding sources, project closeout occurs when all funds are spent, not just the CDBG-MIT-funded portions. PRDOH will solely determine if all the requirements of the Agreement or Memorandum of Understanding have been completed in accordance with the terms and conditions of the agreement. After PRDOH makes this assessment, it can initiate closeout at a time and frequency of its choosing.

Project closeout will begin when:

- Approved work has been finished and is completed;
- A project is deemed complete upon final review and/or an inspection by PRDOH and, when applicable, the submission of proof that all appropriate code and permit approvals have been secured, including Certificates of Occupancy;
- All project expenses (including non-CDBG-MIT funds), except closeout costs, to be paid have been completed and payment requested;
- Any other responsibilities detailed in the Agreement have been fulfilled;
- PRDOH has reviewed closeout documents and has a resolution of any outstanding issues;
- All monitoring or audit findings have been cleared;
- All milestones have been met and deliverables submitted, and each in accordance with all requirements of this Program; and
- A CDBG-MIT National Objective has been documented.

The Closeout Policy is available in English and Spanish on the PRDOH website at <https://cdbg-dr.pr.gov/en/resources/policies/general-policies/> and <https://cdbg-dr.pr.gov/recursos/politicas/politicas-generales/>.

25.1 Program Closeout

Program closeout is the process by which PRDOH determines that all program activities have been successfully completed. A program is deemed complete upon final review and/or inspection by PRDOH and, when applicable, the submission of proof that all agreed upon performance indicators have been reported, and performance milestones have been met.

26 Recapture

Instances may arise where an Applicant or Subrecipient must return all or part of the awarded funds to the Program. The Program is responsible for recapturing duplicative funds, funds awarded to Applicants or Subrecipients who become non-compliant, as well as funds identified as potential overpayments. All Applicant and Subrecipient files will be reviewed and reconciled for accuracy to ensure compliance with Program requirements and federal guidelines.

Once it has been determined that an Applicant or Subrecipient must return funds to the CDBG-MIT grant, they must repay the funds in a timely manner. All repayments shall be expected to be repaid in full as one lump sum amount. All funds recovered through recapture will be tracked in the Yardi Voyager system (**Yardi**) and returned to the CDBG-MIT account or U.S. Treasury if the CDBG-MIT grant has been closed out.

For more information about the PRDOH CDBG-DR/MIT Recapture Policy, see: <https://cdbg-dr.pr.gov/en/download/recapture-of-funds-policy/> (English) and <https://cdbg-dr.pr.gov/download/politica-de-recaptura-de-fondos/> (Spanish).

27 General Provisions

27.1 Program Guidelines Scope

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

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

27.2 Program Guidelines Amendments

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

contain a detailed version control log that outlines any substantive amendment, inclusions and/or changes.

27.3 Extension of Deadlines

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

27.4 Established Periods of Time

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

27.5 Written Notifications

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

27.6 Conflict of Interest

As stated in the Federal Register Notice, 84 FR 45838, 45854, federal regulations require that State grantees, in the direct Grant administration and means of carrying out eligible activities, be responsible with program administrative requirements, including those established in 24 C.F.R. § 570.489(h) related to conflicts of interest.

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

1. HUD conflict of interest regulations, 24 C.F.R. § 570.611;
2. The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200 at § 200.112 and § 200.318 (c)(1);
3. Puerto Rico Department of Housing Organic Act, Act 97 of June 10, 1972, as amended, 3 LPRA § 441 *et seq.*;
4. The Anti-Corruption Code for the New Puerto Rico, Act No. 2-2018, as amended, 3 LPRA § 1881 *et seq.*; and
5. The Puerto Rico Government Ethics Act of 2011, Act 1-2012, as amended, 3 LPRA § 1854 *et seq.*

The COI Policy outlines PRDOH's responsibility, in its role as grantee, to identify, evaluate, disclose, and manage apparent, potential, or actual conflicts of interest related to CDBG-DR/MIT funded projects, activities and/or operations. Said Policy is intended to serve as guidance for the identification of apparent, potential, or actual conflicts of interest in all CDBG-DR/MIT assisted activities and/or operations. In accordance with 24 C.F.R. §570.489, the COI Policy also includes standards of conduct governing employees engaged in the award or administration of contracts.

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

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

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

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

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

27.7 Citizen Participation

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

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

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

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

27.8 Citizen Complaints

As part of addressing Puerto Rico's long-term recovery needs, citizen complaints on any issues related to the general administration of CDBG-DR/MIT funds are welcome throughout the duration of the grant. It is PRDOH's responsibility, as grantee, to ensure that all complaints are dealt with promptly and consistently and at a minimum, to provide a timely, substantive written response to every **written** complaint within **fifteen (15) working days**, where practicable, as a CDBG grant recipient. See 24 C.F.R. § 91.115 (h) and 24 C.F.R. § 570.486(a)(7).

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

- **Via email at:** LegalCDBG@vivienda.pr.gov
- **Online at:** <https://cdbg-dr.pr.gov/en/complaints/> (English)

<https://cdbg-dr.pr.gov/quejas/> (Spanish)

- **In writing at:** Puerto Rico CDBG-DR/MIT Program
Attn: CDBG-DR/MIT Legal Division-Complaints
P.O. Box 21365
San Juan, PR 00928-1365

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

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

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

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

27.9 Anti-Fraud, Waste, Abuse or Mismanagement

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

Pursuant to 84 FR 45838, PRDOH implements adequate measures to detect and prevent fraud, waste, abuse, or mismanagement in all programs administered with CDBG-MIT funds as well as encourages any individual who is aware or suspects any kind of conduct or activity that may be considered an act of fraud, waste, abuse, or mismanagement, regarding the CDBG-MIT Program, to report such acts to the CDBG-DR/MIT Internal Audit Office, directly to the Office of Inspector General (**OIG**) at HUD, or any local or federal law enforcement agency.

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

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

REPORT FRAUD, WASTE, ABUSE, OR MISMANAGEMENT TO PRDOH CDBG-DR/MIT	
CDBG-DR/MIT Hotline	787-274-2135 (English/Spanish/TTY)
Postal Mail	Puerto Rico Department of Housing CDBG-DR/MIT Internal Audit Office P.O. BOX 21355 San Juan, PR 00928-1355
Email	hotlineCDBG@vivienda.pr.gov
Online	Filling out the AFWAM Submission Form available in English and Spanish at www.cdbg-dr.pr.gov or https://cdbg-dr.pr.gov/app/cdbgdpublic/Fraud
In person	Request a meeting with the Deputy Audit Director of the CDBG-DR/MIT Internal Audit Office located at PRDOH's Headquarters at 606 Barbosa Avenue, Building Juan C. Cordero Davila, Río Piedras, PR 00918.

REPORT FRAUD, WASTE, ABUSE, OR MISMANAGEMENT DIRECTLY TO HUD OIG	
HUD OIG Hotline	1-800-347-3735 (Toll-Free) 787-766-5868 (Spanish)
Postal Mail	HUD Office of Inspector General (OIG) Hotline 451 7th Street SW Washington, D.C. 20410
Email	HOTLINE@hudoig.gov
Online	https://www.hudoig.gov/hotline

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

27.10 Related Laws and Regulations

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

28 Cross-Cutting Guidelines

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

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

29 Program Oversight

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

30 Severability Clause

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

END OF GUIDELINES.