



CDBG-MIT

PROGRAM GUIDELINES

MULTI-SECTOR COMMUNITY MITIGATION PROGRAM



DEPARTMENT OF

HOUSING

GOVERNMENT OF PUERTO RICO

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PUERTO RICO DEPARTMENT OF HOUSING
CDBG-MIT PROGRAM MITIGATION GUIDELINES
MULTI-SECTOR COMMUNITY MITIGATION PROGRAM
VERSION CONTROL

VERSION NUMBER	DATE REVISED	DESCRIPTION OF REVISIONS
1	February 23, 2023	Original Version
2	Month 21, 2025	Removed Targeted Community Representative (TCR) requirement. Included Intake and Eligibility criteria for individuals and households. Included additional information about the different phases of program implementation. Modified Buyout and Property Acquisition sections. Modified Floodplain Management section to include elevation standards, Federal Flood Risk Management Standard (FFRMS) floodplain criteria, and substantial improvement criteria. Included Recapture, Voluntary Withdrawal and Non-Responsive Applicants section.

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1 Overview

Through Federal Register Vol. 84, No. 169 (August 30, 2019), 84 FR 45838, and Federal Register Vol. 85, No. 17 (January 27, 2020), 85 FR 4676, the U.S. Department of Housing and Urban Development (**HUD**) allocated Community Development Block Grant – Mitigation (**CDBG-MIT**) funds to support activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage or loss of property, suffering, and hardship, by lessening the impact of future disasters. The Multi-Sector Community Mitigation Program (**MSC Program** or **Program**) will consider the mitigation needs of communities living in high-risk areas, as identified in the Action Plan Risk Assessment.

The Program focuses on a community-scale level and aims to relocate entire communities from identified high-risk areas. The MSC Program will make every effort to reduce the impact of activities that might either displace individual families or disrupt the community. The Program's multi-sector approach includes assistance to single and multi-family housing, infrastructure, and businesses.

The Puerto Rico Department of Housing (**PRDOH**), as the grantee, along with selected Subrecipients, will oversee and implement the Program.¹

2 Definitions

- **Accessible:** When used with respect to the design, construction, or alteration of a facility or a portion of a facility other than an individual dwelling unit, it means the facility or portion of the facility, when designed, constructed, or altered, can be approached, entered, and used by individuals with physical handicaps. The phrases “accessible to” and “usable by” are synonymous with accessible (see 24 C.F.R. § 8.3).
- **Area Median Family Income (AMFI):** The median household income adjusted by family size for a given area.²
- **Beneficiary:** Refers to individuals, households, or businesses who are members of a Targeted Community, meet the eligibility requirements, and may directly receive

¹ The rules for administering these funds are outlined in 84 FR 45838 and 85 FR 4676.

² See https://www.huduser.gov/portal/datasets/il.html#2022_faqr and <https://recuperacion.pr.gov/en/action-plans/action-plan-cdbg-mit/>.

assistance or benefits under the MSC Program. Beneficiaries must comply with all program requirements. Before being deemed eligible, these will be referred to as Applicants. Tenants are not considered Beneficiaries under this Program but may be eligible for assistance under the Uniform Relocation Act (URA).

- **Broadband Infrastructure:** Cables, fiber optics, wiring, or other permanent (integral to the structure) infrastructure –including wireless infrastructure– as long as the installation results in broadband infrastructure in each dwelling unit meeting the Federal Communications Commission’s (**FCC**) definition in effect at the time the pre-construction estimates are generated.³ The FCC defines broadband speeds as twenty-five (25) Megabits per second (Mbps) download and three Mbps upload.⁴
- **Buyout Area:** Refers to designated geographic areas located in a floodway, floodplain, or in Disaster Risk Reduction Areas (**DRRAs**) as identified by the grantee (or Subrecipient), where properties are acquired to reduce the risk of property damage from future hazards.
- **Community-Based Development Organization (CBDO):** CBDOs are organizations undertaking specific CDBG-funded activities. CBDOs can be nonprofit or for-profit organizations but cannot be governmental entities. A CBDO may be designated as a subrecipient by PRDOH.⁵
- **Community Relocation Project Proposal:** Document containing strategies originating from within the community (with the assistance of other entities, as relevant) to address risk reduction needs. The strategies should be tailored to the community’s particularities and needs and can include, among others, buyouts, relocations, and acquisitions. It is the end product of the Participatory Design Process.

³ To determine when the installation of broadband infrastructure is required, refer to the substantial rehabilitation definition.

⁴ See Federal Register Vol.81, No. 244 (December 20, 2016), 81 FR 92626.

⁵ See <https://files.hudexchange.info/resources/documents/Basically-CDBG-Chapter-1-Overview.pdf>.

- **Cost reasonableness:** Construction costs deemed reasonable and consistent with market costs at the time and place of construction in compliance with 84 FR 45838. See also 2 C.F.R. §200.404.
- **Decent, Safe, and Sanitary Dwelling:** Refers to a dwelling that meets local housing and occupancy codes. However, any standards outlined in 49 C.F.R. § 24.2 (a)(8) not met by local code shall apply unless waived for good cause by the Federal Agency funding the project.
- **Fair Housing Act of 1968 (FHA):** The FHA, 42 U.S.C. § 3601 *et seq.*, prohibits discrimination against protected classes of people in the sale or rental of housing, in the provision of housing assistance, or other housing-related activities. The FHA requires HUD, grantees, and their awardees to take reasonable steps to ensure meaningful access to their program and activities for protected classes. The FHA also requires HUD and its program participants to affirmatively further the purposes of the FHA.
- **Hardening:** The improvements or retrofits applied to existing structures to mitigate identified risks.
- **Household:** A single person or a group of people occupying a housing unit. This includes families, single individuals, and other groups, whether related or unrelated, sharing living arrangements.⁶
- **Housing and Community Development Act of 1974 (HCDA):** Section 109 of the HCDA prohibits discrimination based on race, color, national origin, disability, age, religion, and sex within CDBG programs or activities.⁷
- **Low-and Moderate-Income Persons (LMI):** As defined by HUD, refers to low-income individuals that have an annual family income of less than fifty percent (50%) of the HUD area median income and moderate-income individuals with an annual family income between fifty percent (50%) and eighty percent (80%) of the HUD area median income.⁸

⁶ 24 C.F.R. § 570.3, 24 C.F.R. § 5.403

⁷ See 42 U.S.C. § 5301 *et seq.*, Housing and Community Development Act of 1974 and <https://www.hud.gov/programdescription/sec109>.

⁸ HUD's adjusted income limits for Puerto Rico are available at: <https://www.huduser.gov/portal/datasets/il.html>.

- **Non-primary Residence:** Refers to a dwelling that does not meet the definition of a Primary Residence. For purposes of this Program, secondary or vacation homes and vacant lots may also be considered Non-primary Residences.
- **Occupant:** For this Program, an occupant is considered an Applicant who, without possessing a recognized legal title, performs acts typical of an owner in relation to the property.
- **Participatory Design Process:** An approach to project design involving the active participation of communities, technical assistance, partners, citizens, designers, and other stakeholders.
- **Placed-in-Service:** The date when at least one (1) unit of the project is suitable for occupancy. In Puerto Rico, this is validated with the submittal of a Certification of Occupancy (“Permiso de Uso”) issued by the Municipal Permits Office or the Puerto Rico Permits Management Office (**OGPe**, by its Spanish acronym).
- **Primary Residence:** Refers to a dwelling where a person maintains or will maintain a permanent residence and which is occupied for the majority of the calendar year. A person may only have one (1) primary residence. For this Program, this also includes dwellings that are temporarily unoccupied because they are uninhabitable or present actual or potential safety risks and hazardous conditions to their occupants.
- **Social Vulnerability Index (SoVI):** SoVI measures the social vulnerability of U.S. counties to environmental hazards. The index is a comparative metric that facilitates the examination of the differences in social vulnerability among counties and graphically illustrates the variation in social vulnerability. SoVI shows where there is uneven capacity for preparedness and response, and where resources might be used most effectively to reduce the pre-existing vulnerability. The index synthesizes twenty-seven (27) socioeconomic variables, which contribute to the reduction in a community’s ability to prepare for, respond to, and recover from hazards. SoVI data sources include primarily those from the United States Census Bureau.⁹

⁹ As defined by the University of South Carolina. The definition and more information regarding SoVI can be found at: <https://www.vulnerabilitymap.org/Resources#sovi-model>.

- **Subrecipient:** Means an entity that receives a subaward from a pass-through entity to carry out part of the Federal award. The term subrecipient does not include a beneficiary or participant. A subrecipient may also be a recipient of other Federal awards directly from a Federal agency.¹⁰
- **Substantial Damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred (see 44 C.F.R. § 59.1).
- **Substantial Improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the start of the improvement's construction. This includes structures that have incurred substantial damage, regardless of the actual repair work performed. It does *not*, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or (2) any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure" (see 44 C.F.R. § 59.1).
- **Uniform Federal Accessibility Standards (UFAS):** Prescribes uniform standards for the design, construction, and alteration of buildings that ensure individuals with disabilities have ready access to and use of them in accordance with the Architectural Barriers Act of 1968 (**ABA**, see 42 U.S.C. §§ 4151 – 4157).
- **Targeted Community:** Socially vulnerable communities in high-risk areas identified by PRDOH through various databases. These communities are potential candidates for participation in the MSC Program.

3 Program Description

Most communities in Puerto Rico that have suffered significant hardship and damages from past natural disasters are situated in high-risk zones. Prevalent high-risk zones include floodplains, landslides, liquefaction-prone areas, and coastal zones under the

¹⁰ 2 C.F.R. § 200.1

threat of sea level rise, among others. This vulnerability was recently highlighted by the widespread damage to communities caused by frequent natural disasters. The MSC Program was designed to provide vulnerable communities the opportunity to relocate outside high-risk zones while keeping communities together. To achieve this end, the Program will be implemented in the following phases:

- **Phase I:** Targeted Selection Process and Outreach
- **Phase II:** Participatory Design Process
- **Phase III:** Community Relocation Project Proposal Evaluation
- **Phase IV:** Design and Construction
- **Phase V:** Buyout

Targeted Communities that express interest in relocating will be able to engage in a Participatory Design process facilitated by PRDOH and its Subrecipients along with design firms. Through the process, community residents will collectively determine the relocation site, preferred housing typology, and communal infrastructure to be integrated into their new community project design. PRDOH and its Subrecipients will prioritize incorporating and considering the community's input from Participatory Design workshops, community meetings, and outreach efforts, among others, within the project's overall decision-making process.

The PRDOH facilitated Participatory Design process will lead to developing the community relocation proposals and their subsequent submission to PRDOH for final review and approval. The PRDOH-approved projects shall be implemented by relocating beneficiaries to newly constructed structures or through buyout activities, as applicable.

The MSC Program is designed to be implemented by PRDOH, while the Set-aside for the Caño Martín Peña (**CMP**) is implemented through the collaboration of two Subrecipients, Corporation of the ENLACE Project of Caño Martín Peña ("Corporación del Proyecto ENLACE del Caño Martín Peña" or **ENLACE**) and the Company for the Comprehensive Development of the Cantera Peninsula (**CDIPC**, for its Spanish acronym). These Subrecipients' extensive expertise enables them to develop and execute tailored projects that effectively meet the distinct needs of their communities and provides them with the resources and autonomy to implement their community-driven projects or initiatives independent from PRDOH's.

3.1 Program Objectives

The MSC Program aims to fulfill the following objectives:

- **Relocate communities out of high-risk zones** – Work with residents, stakeholders, and leaders to ensure a community-driven relocation to safer, low-risk areas and away from high-risk zones.
- **Keep communities together**—Respect and safeguard the integrity of each community by incorporating resident participation in all phases of the relocation project's development (from design to implementation). Together, identify the community's values, priorities, and needs, ensuring these serve as the project's foundation and maintain the community's essence intact in the process.
- **Restore the natural environment** – Reinstate the lands, coastal zones, and floodplains to their natural state after being impacted by the urban footprints.

3.2 Program Budget

The MSC Program total allocation is \$300,000,000 of which \$52,000,000 is set aside specifically for the Caño Martín Peña Communities. Therefore, the remaining total MSC Program allocation is \$248,000,000. Final award amounts will be based on the projects' design and needs. Allocations are subject to change through amendments to the Action Plan and funding availability, as determined by PRDOH.

3.3 Program Set-aside: Caño Martín Peña Communities

PRDOH designated a set-aside for implementing community-based projects to address the needs of the CMP, recognizing the community development and capacity-building achievements of the CMP communities. The CMP is a group of eight (8) vulnerable communities in the Municipality of San Juan, with an estimated population of thirty thousand (30,000) inhabitants.

To identify a lead representative who will serve as a liaison between each CMP community and the MSC Program, PRDOH conducted stakeholder engagement meetings with the Group of Eight Communities Surrounding Caño Martín Peña (*"Grupo de las Ocho Comunidades Aledañas al Caño Martín Peña"* or **G-8**), ENLACE, CDIPC, and the Caño Martín Peña Land Trust (*"Fideicomiso de la Tierra del Caño Martín Peña"*). The organizations requested the designation of ENLACE and CDIPC as

Subrecipients of the CMP Set-aside due to their vast experience, history, and independent leadership within different areas of the CMP community. PRDOH thus selected both entities as Subrecipients of the CMP Set Aside.

ENLACE and CDIPC are uniquely qualified to manage the CMP community's relocation projects under the MSC Program. The entities already have relocation planning in progress, and both are built upon a recognized history of citizen participation. Both ENLACE and CDIPC propose the relocation of households that lie within the footprint or are indirectly impacted by the dredging of the CMP channel project.

3.3.1 CMP Set-aside Beneficiaries

For the CMP set-aside, eligible beneficiaries must be located in one (1) of the CMP communities:

1. Barrio Obrero – San Ciprián
2. Barrio Obrero – Marina
3. Buena Vista – Santurce
4. Buena Vista – Hato Rey
5. Las Monjas
6. Parada 27
7. Israel-Bitumúl
8. Península de Cantera

4 National Objectives

All projects in the MSC Program must meet one (1) of the HUD, CDBG-MIT national objectives at 24 C.F.R. § 570.483 or otherwise provided for by waiver or alternative requirement as published in 84 FR 45838, 45839. The determined national objective must correspond to a HUD-eligible activity as defined by the HCDA, as amended, 42 U.S.C. § 5305.

MSC Program activities will be evaluated according to the following national objectives:

- Benefit to low- and moderate-income (LMI) persons:¹¹

¹¹ Federal Register Vol. 86, No. 3 (January 6, 2021), 86 FR 569, Section IV.B states, "In order to ensure consistency with the use of CDBG-DR funds that are governed by alternative income limits authorized by the Department, the Department

- LMI Housing (**LMH**) – benefits LMI persons whose income is below the eighty percent (80%) Area Median Family Income (**AMFI**)¹². This is validated through the collection of information on household composition and income. (24 C.F.R. § 570.483 (b)(3)).
- For CDBG-MIT, HUD established an alternative requirement to include two (2) new LMI national objective criteria for buyouts (**LMB**) and housing incentives (**LMHI**) that benefit LMI households.¹³
 - LMB – When CDBG-MIT funds are used to acquire housing owned by a qualifying LMI household, where the award amount (including optional relocation assistance) is greater than the post-disaster (current) fair market value of that property.
 - LMHI – When CDBG-MIT funds are used for a LMHI, tied to the voluntary buyout or other voluntary acquisition of housing owned by a qualifying LMI household, for which the housing incentive is for the purpose of moving outside of the affected floodplain or to a lower-risk area; or when the housing incentive is for the purpose of providing or improving residential structures that, upon completion, will be occupied by an LMI household.
 - Activities that meet the above criteria will be considered to benefit LMI persons unless there is substantial evidence to the contrary. Any activities that meet the newly established national objective criteria described above will count towards the calculation of a CDBG-MIT grantee’s overall LMI benefit.¹⁴

is extending the income limit adjustments of the August 14, 2018 notice to all CDBG-DR funds allocated under Public Laws 115-56, 115-123, and 116-20 and to CDBG-MIT funds allocated to Puerto Rico for mitigation activities under Public Law 115-123. Under this extension, Puerto Rico may use these alternative income limits when determining those activities undertaken with CDBG-DR or CDBG-MIT funds meet the low- and moderate-income benefit CDBG national objective criteria. The applicable income tables change annually and are posted by HUD in the following web address <https://www.huduser.gov/portal/datasets/cdbg-income-limits.html#2022>

¹² According to HUD’s Modified Income Limits for Puerto Rico under the Community Development Block Grant Mitigation Program, HUD identifies all municipal jurisdictions in Puerto Rico as Most Impacted and Distressed Areas (MID) as designated in Federal Register Vol. 83, No. 157 (August 14, 2018), 83 FR 40314, 40315.

¹³ For a buyout award or housing incentive to meet the new LMB and LMHI national objectives, grantees must demonstrate the CDBG-MIT funds have been provided for an eligible activity that benefits LMI households, supporting their move from high-risk areas.

¹⁴ 84 FR 45837.

- 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 the grantee's Mitigation Needs Assessment of MID areas¹⁵; and (ii) will result in a measurable and verifiable reduction in the risk of loss of life and property.

4.1 Additional Criteria Applicable to CDBG-MIT Funding

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

- Demonstrate the ability to operate for the useful life of the project via long-term operation and maintenance plans;
- Be consistent with other mitigation activities.

Funds expended for planning are considered to address national objectives and requirements. Federal Register Vol. 83, No. 28 (February 9, 2018), 83 FR 5844 and 24 C.F.R. § 570.208(d)(4).

5 Use of Funds

5.1 Eligible Activities

This section sets forth the eligible uses of CDBG-MIT funds for the MSC Program, as listed in the HCDA, as amended, 42 U.S.C. § 5305.¹⁶

- Section 105(a)(1) – Acquisition of Real Property
- Section 105(a)(2) – Public Facilities and Improvements
- Section 105(a)(3) – Code Enforcement
- Section 105(a)(4) – Clearance, Rehabilitation, and Reconstruction of Buildings
- Section 105(a)(5) – Architectural Barrier Removal
- Section 105(a)(7) – Disposition of Real Property
- Section 105(a)(8) – Public Service
- Section 105(a)(9) – Payment of Non-federal Share

¹⁵ This must be tied to the PRDOH CDBG-MIT Action Plan in the Risk-based Mitigation Needs Assessment. See, 84 FR 45857.

¹⁶ For a detailed description of the Eligible Activities visit <https://www.hudexchange.info/sites/onecpd/assets/File/CDBG-State-National-Objectives-Eligible-Activities-Appendix-A.pdf>.

- Section 105(a)(11) – Relocation
- Section 105(a)(12) – Planning Activities
- Section 105(a)(14) – Activities Carried Out through Non-profit Development Organizations
- Section 105(a)(15) – Assistance to Eligible Entities for Neighborhood Revitalization, Community Economic Development and Energy Conservation
- Section 105(a)(17) – Economic Development Assistance to For-Profit Business
- Section 105(a)(19) – Assistance to Public or Private Non-profit Entities
- Section 105(a)(22) – Microenterprise Assistance, Economic Development; Job Creation and Retention
- 84 FR 45838, 45863 V.B.1 – Housing-related eligibility waiver permitting new housing construction that addresses disaster risks identified in PRDOH's Mitigation Needs Assessment.

5.2 Ineligible Activities

The following activities may *not* be supported or implemented under the MSC Program. This list is not all-encompassing and may be subject to further changes by HUD:

- Development within the floodway.
- Proposed new construction located in the 100-year floodplain, as identified in the Federal Emergency Management Agency's (FEMA) most current Flood Maps.
- Operating and maintenance costs.¹⁷
- Support service-only activities.
- Rental assistance.
- Privately owned land site improvements, which are not the responsibility of the Recipient/Subrecipient, to enable the property to be used for the MSC-approved project (provided the improvements are undertaken while the property remains under private ownership).
- Pre-award costs, including grant proposal preparation.
- Donations and contributions, including cash, services, or properties.

¹⁷ 24 C.F.R. § 570.207(b)(2) limits the use of CDBG funds for expenses associated with repairing, operating, or maintaining public facilities, improvements, and services. Certain exceptions are listed in these Guidelines (see Eligible Activities section).

- Fundraising activities.
- Lobbying.
- Power grid improvements.
- Supplanting Federal and State Funds.
- Any other items unallowable under federal cost principles as stated in 2 C.F.R. Part 200.

5.3 Eligible Use of Funds

Funding must be used as outlined in the Program Guidelines, the PRDOH CDBG-MIT Action Plan, as amended, and the executed Subrecipient Agreements (**SRAs**). Other eligible uses of CDBG-MIT funds include, but are not limited to, the following:

- Data gathering and analysis; participating and contributing to necessary studies or mapping efforts; outreach and coordination with citizens and stakeholders; communications and messaging; participation in the development of vision, goals, objectives, and activities for the community; and participation in the development of implementation strategies, feasibility studies, and drafting of community plans.
- Soft costs incurred in support of eligible construction activities, including but not limited to site surveys, permit acquisition, legal, engineering, and architecture fees, and other soft costs approved by PRDOH.
- Clearance of environmental contamination from sites to be used for renovation and reconstruction projects.
- Staff costs and related expenses required for management of contractors procured for project outreach efforts or Program marketing, screening potential Applicant households and structures, and other eligible services related to Program completion.
- New housing construction as part of a mixed-use commercial structure.
Note: Any costs clearly attributable to the commercial portion of the project are ineligible under this program. All costs must comply with the federal cost principles requirements at 2 C.F.R. Part 200, Subpart E, and applicable laws and regulations.
- Site improvements to publicly owned land that enable the property to be used for new housing construction (provided the improvements are undertaken while the property is still under public ownership).

- Permanent fixtures and furnishing costs for the facility.¹⁸

6 Subrecipients

During the implementation of the MSC Program, PRDOH may use reasonable criteria to select a Subrecipient, including but not limited to a Direct Selection process. Direct Selection may be utilized in situations in which:

- An entity is uniquely qualified due to having specialized or sole jurisdiction.
- PRDOH reasonably concludes that the minimum needs of a particular project could only be satisfied by the skillset of the selected Subrecipient; or
- There is a reasonable basis for concluding that this process will increase efficiency and produce quicker results, thereby better addressing the unmet need.

6.1 Subrecipient Capacity Assessment

Selected Subrecipients must undergo a capacity assessment prior to the execution of an SRA¹⁹ to determine their 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.

6.2 Subrecipient Roles and Responsibilities

The Roles and Responsibilities delegated to Subrecipients may include:

- Project Management and Development;
- Program operational support;
- Data gathering;
- Community outreach and engagement;
- Participatory Design process implementation;
- Identification of suitable areas for buyout and measurement of those areas' needs and interests;
- Identification of relocation sites and acquisition strategies;
- Community dispute resolution;

¹⁸ Equipment, as defined in 2 C.F.R. § 200.1, must be purchased, maintained, and disposed of according to provisions found at 2 C.F.R. § 200.313 and § 200.439, Equipment and Capital Expenditures. Purchases of this nature must also demonstrate that they are reasonable and necessary costs for the Program.

¹⁹ The SRA establishes the applicable CDBG-MIT award requirements, as well as state and local laws that the Subrecipient must meet. It includes provisions to reduce risk of noncompliance and to ensure that PRDOH meets its own responsibility to HUD for performance and financial reporting.

- Project Design (Schematic and Construction Drawings);
- Environmental Review;
- Construction and Construction Oversight, and;
- Project Closeout;

PRDOH reserves the right to determine which Roles and Responsibilities will be assigned to Subrecipients.

7 Intake

Applicants must complete an intake process and provide supporting documents for identity validation, property ownership evaluation, income verification, duplication of benefits review, and others to perform an eligibility review. All documentation submitted by the Applicant must be current and valid at the time of submission. Each Applicant must sign an Acknowledgement and Consent Agreement, Subrogation and Assignment Agreement, and a Statement of Lawful Presence as part of the Program intake process.

The Program will first initiate household intakes and later incorporate businesses. Nonetheless, both are highly encouraged to participate in activities carried out by the Program, such as outreach and Participatory Design activities, among others, for which applying to the Program will not be required.

7.1 Identification

All Applicants and household members must submit documentation to verify their identity as part of the intake process. This documentation may include, but is not limited to, the following:

- Government-issued Photo Identification (Federal or State issued), such as a driver's license, passport, or military ID card;
- Birth Certificate; or
- Certificate of Naturalization or Permanent Resident Card.

Birth certificates may only be used as proof of identification for household members under the age of eighteen (18). Adult Applicants or household members must submit a photo ID.

8 Program Eligibility

The MSC Program was developed to benefit communities in high-risk zones, extending eligibility to individuals and businesses. Applicants shall meet the following criteria:

- **Individuals**

- Homeowners or occupants of an eligible single-family property located in a targeted and documented high-risk area (**Targeted Community**), including but not limited to FEMA floodway.

- **Businesses**

- Businesses located in the Targeted Community and registered to do business in Puerto Rico;
- Businesses current on Puerto Rico tax obligations.

Each application will be reviewed for the following additional eligibility threshold, as applicable:

- Citizenship;
- Ownership or Proprietary Interest;
- Residency;
- Income Verification and Household Size;
- Eligible Property Types;
- Duplication of Benefits (**DOB**);²⁰
- Compliance with the National Flood Insurance Reform Act of 1994 (**NFIRA**).²¹

Applicants will be required to provide true, complete, and accurate information. Failure to disclose true, accurate, and complete information may affect eligibility, and all such instances will be referred for corresponding action. Applicants may be required to repay PRDOH administrative fees and other costs if they are found to have submitted false, inaccurate, or incomplete information to meet eligibility requirements.

Once Applicants submit all required information and documentation during the intake process, they will be evaluated for compliance with the Program's eligibility requirements outlined herein. Applications determined to be preliminarily eligible will receive a Preliminary Eligibility Notice. Applications that do not meet the Program's

²⁰ For more information, refer to the Duplication of Benefits Policy, available in English and Spanish at <https://recuperacion.pr.gov/en/download/duplication-of-benefits-policy/> and <https://recuperacion.pr.gov/download/politica-sobre-la-duplicacion-de-beneficios/>. See also the Duplication of Benefits section included in these Guidelines.

²¹ For more information, refer to the Flood Insurance Requirements section of these Guidelines.

eligibility requirements will be issued an Ineligibility Determination Notice outlining the reasons for the determination.

8.1 Citizenship

Only U.S. citizens, non-citizen nationals, or qualified aliens, as defined in the following chart, are eligible to receive assistance.

Status	Definition
U.S. Citizen	A person born in one of the 50 States, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, or the Northern Mariana Islands; a person born outside of the U.S. to at least one U.S. parent; or a naturalized citizen.
Non-citizen National	<p>A person born in an outlying possession of the U.S. (e.g., American Samoa or Swain’s Island) on or after the date the U.S. acquired the possession or a person whose parents are U.S. non-citizen nationals. 8 U.S.C.A. § 1408.</p> <p>All U.S. citizens are U.S. nationals; however, not every U.S. national is a U.S. citizen.</p>
Qualified Alien	<ul style="list-style-type: none"> - Legal permanent resident (“green card” holder) under the Immigration and Nationality Act (INA), 8 U.S.C.A. Chapter 12; - An asylee, refugee, or an alien whose deportation is being withheld under the INA; - Alien paroled into the U.S. for at least one (1) year; - Alien granted conditional entry, pursuant to section 203(a)(7) of the INA as in effect prior to April 1, 1980; - Cuban/Haitian entrant, as described in section 501(c) and (f) of the Refugee Education Assistance Act of 1980, 8 U.S.C.A. § 1522; - Alien who (or whose child or parent) has been battered or subjected to extreme cruelty in the U.S. and otherwise satisfies the requirements of 8 U.S.C.A. § 1641(c).

If an individual Applicant does not meet any of the above criteria, the household may still apply and be considered for assistance if:

- Another household member meets the citizenship criteria described above; or
- The parent or guardian of a minor child who is a U.S. citizen, non-citizen national, or a qualified alien applies for assistance on behalf of the child if they live in the same household.

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

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

If the Applicant is unable to provide any of the documents listed, the Program will accept, on a case-by-case basis –as proof of citizenship or legal presence– documentation listed in the Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (**PRWORA**), published by the United States Department of Justice, Federal Register Vol. 62, No. 221 (November 17, 1997), 62 FR 61344.

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

8.2 Ownership or Proprietary Interest

Applicants must submit evidence of ownership or ownership interest (also known as proprietary interest). Proof of ownership documentation includes, but is not limited to:

- Certified Copy of the House Deed (“Escritura Pública”);
- Certification of the Puerto Rico Property Registry (“Certificación Registral”), issued within six (6) months of application;
- Declaration of Heirship (“Declaratoria de Herederos”)
 - May include Instance of inscription of heirs (“Instancia”)
- Title Certification (“Certificación de Título del Departamento de la Vivienda”)

- Court Judgement (“Sentencia o Resolución del Tribunal”) expressing a determination from the court on the ownership of the property.

8.2.1 Alternate Methods for Documenting Ownership

Applicants without the ownership documentation outlined above must submit alternative proof of ownership or proprietary interest and complete an Ownership Certification. The certification must include the length of time the Applicant has lived on the property, an explanation of the circumstances that prevent traditional ownership verification, and certify that one of the following circumstances applies:

- There are no other parties who have the right to claim ownership;
- Any additional parties who have a right to claim ownership have also agreed to participate jointly as a Co-applicant in the Program; or
- Any additional parties who have the right to claim ownership could not be located (after reasonable attempts to contact them).

Ownership Certifications must be accompanied by alternative forms of ownership documentation that evidence the proprietary interest. Documents that will be considered as evidence of proprietary interest include, but are not limited to:

- Certified Copy of the Probated Will or Will accompanied by a Certificate of Validity; o Proof of inheritance; o Declaratory resolution of heirs;
- Court Order or Judgment granting an ownership interest in the property;
- Divorce Judgment granting an ownership interest in the property;
- Private Contract for Sale (If the owner purchased the property in a private owner sale, the contract must be confirmed as satisfied with additional supporting documentation);
- Evidence of a perpetuity usufruct, widow’s estate, or usufruct arising from special laws;
- Evidence of 99-year lease; o Proof that the owner occupies the land with “right of use or enjoyment” and/or “right of construction” in accordance with applicable laws and regulations;
- Death certificate of the homeowner and birth certificate (to prove that owner is an heir of a deceased homeowner);
 - o If the owner of the structure passed away after the intake process, the heirs may meet the ownership requirements if they can provide evidence

of their status as heirs or a declaration of heirs resolution and the deceased owner's death certificate.²²

- Marriage certificate;
- Mortgage payment book or other mortgage documents;
- Certified Real property/Home insurance policy indicating property address;
- Property tax statements, receipts, or tax bill issued by the Municipal Revenue Collection Center (CRIM, for its Spanish acronym); and/or
- Other documents will be considered on a case-by-case basis.

8.3 Residency

Program assistance is available to households and members of a Targeted Community. Therefore, Applicants must submit documentation proving their residency in a Targeted Community. Program assistance will be determined by whether the Applicant's property is their primary residence. Applicants whose property within the Targeted Community is not their primary residence (non-primary residence) may still qualify for other forms of assistance, such as a **Property Acquisition Offer**, subject to Program determination.

Documentation used to verify residency includes, but is not limited to:

- Federal income tax return listing the property address;
- Puerto Rico income tax return listing the property address;
- FEMA IA award letter to verify the property's physical address;
- SBA Disaster Home Loan award letter to verify the property address;
- Driver's license or state-issued ID card showing the property address;
- Utility bills addressed to the Applicant at the property address;
- Utility certification addressed to the Applicant at the property address;
- Credit card bill or bank statement sent to the Applicant at the property address;
- Insurance documentation;
- Employer's statements, including pay stubs and similar employment documents that list the property address;
- Homestead exemption verified through property tax records (if applicable)²³; and

²² The heirs must meet all Program eligibility criteria.

²³ See Act No. 195-2011, as amended, known as the Puerto Rico Homestead Exemption Act, 31 L.P.R.A. § 1858 *et seq.*

- Other documentation will be reviewed and considered on a case-by-case basis.

All Applicants bear the burden of providing consistent documentation to demonstrate residency. None of the forms of documentation listed above by itself necessarily prove residency. The Program will review and assess all available documentation to determine the Applicants' residency. To the extent possible and upon data availability, PRDOH will make reasonable efforts to validate residency through electronic verification utilizing locally or federally maintained registries, such as FEMA IA or SBA disaster home loan databases, among others.

Special Circumstances related to an Applicant's Residency and Ownership:

- Properties held in trust for the benefit of natural persons can be eligible for assistance if at least one of the occupants at the time of the intake process was a current beneficiary of the trust. The trustee's powers must include the ability to affect the property. If the trustee's powers do not include the ability to affect the property, all beneficiaries with an interest in the property must sign the closing documents along with the trustee.
- Applicants in the United States military and deployed outside of Puerto Rico in the intake process may qualify for the Program.
- Other special circumstances may be evaluated by the Program on a case-by-case basis.

8.4 Income Verification and Household Size

The Program will verify household income to determine the assistance Applicants may qualify for. Applicants must meet LMI limits, which are adjusted for family size. All household members' annual gross income must not exceed eighty percent (80%) income limits, as defined by adjusted income limits for Puerto Rico. These income limits apply to all municipalities in Puerto Rico and are amended annually.²⁴

Applicants who exceed LMI income limits may still qualify for other forms of assistance, such as a **Property Acquisition Offer**, subject to Program determination, under the UNM national objective if the applicable criteria are met.

²⁴ See HUD Modified Income Limits.

8.4.1 Calculating Household Income

Household income shall be calculated based on the adjusted gross income as defined for purposes of reporting under Internal Revenue Service (**IRS**) Form 1040 series for individual Federal annual income tax purposes.²⁵

When determining the number of household members and annual household income,²⁶ the following should be taken into consideration:

- Minor children (under the age of 18) and unborn children are considered household members. However, the income earned of minor children is not considered part of the total annual household income.
- Minor children subject to shared custody agreements may be counted as household members if the minor child lives in the residence at least fifty percent (50%) of the time.
- Temporarily absent family members are considered household members, and their income is considered in the calculation of household income, regardless of how much the temporarily absent family member contributes to the household.²⁷
- Paid, non-related, live-in aides are not considered household members, whether paid by the family or through a social service program. The income of live-in aides is not considered in the household income calculation. Related persons do not qualify as live-in aides.
- Permanently absent family members, such as a spouse who resides permanently in a nursing home, may be considered a household member, at the discretion of the head of household/program Applicant. If the head of household opts to include a permanently absent family member in the household, the income of the permanently absent household member will be counted in the calculation of annual household income. If the head of household chooses not to include the permanently absent family member as

²⁵ See <https://www.irs.gov/e-file-providers/definition-of-adjusted-gross-income>.

²⁶ Income determination and documentation required for CDBG programs, shall be based upon the provisions contained in 24 C.F.R. § 5.609.

²⁷ Temporarily absent family members are individuals who are or are expected to be absent from the assisted unit for one hundred eighty (180) consecutive days or less.

part of the household, the income of the permanently absent family member will not be considered in the calculation of the annual household income.

8.4.2 Required Documentation for Income Verification

Applicants must submit income documentation for all household members aged eighteen (18) and older. Income types and associated documentation required for income verification may include, but are not limited to:

- Wages: At least three (3) recent paystubs within the past **three (3) months** (additional paystubs may be required), W-2 Forms;
- Retirement/Social Security:
 - At least three (3) Monthly Bank Statements (Social Security Benefits and Pension only),
 - Current Social Security Benefits letter (including benefits paid to minors),
 - Current Pension/Retirement Benefit letter (if applicable), or prior year 1099 form, and
 - Current Annuity Payment letter (if applicable), or prior year 1099 form;
- Self-Employment Income:
 - Most recent tax return (1040 or 1040A), W-2 Forms; and/or
 - Current year profit and loss statement;
- Rental Income: Current lease agreements;
- Unemployment Benefits: Current benefit letter with gross benefit amount;
- Court Ordered Alimony/Spousal Maintenance: Copy of court order documentation;
- Taxable Interest and Dividends (including amounts received by, or on behalf of minors);
- No Income: Adult household members who receive no income must submit a Certification of No Income. These household members typically include the unemployed.

The Program will assess documentation for less common types of income on a case-by-case basis, depending on the type of income reported.

8.5 Eligible Property Types

Eligible property types are the following:

- Single Family Housing Structures, such as:
 - Detached, stand-alone residential structures
 - Duplexes
 - Manufactured Housing Units (**MHU**)
 - Attached Housing Units
 - Other, may be considered subject case-by-case analysis and:
 - Is permanently affixed to the ground
- Multifamily Housing Structures
- Vacant lots²⁸
- Businesses

9 Duplication of Benefits (DOB)

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

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

Program controls to prevent DOB include, but are not limited to:

- Certification that Applicants will notify PRDOH of all potential DOB as part of the information submitted in their applications;

²⁸ Applicable to buyouts.

- Verification of specific DOB through various available sources such as FEMA, the Small Business Administration (**SBA**), insurers, and any other sources of funding; and
- Requiring the Applicant to authorize PRDOH to contact all potentially duplicative funding sources on their behalf to verify all funding sources received and/or approved;

The applicable duplication of benefits guidance is included in Federal Register Vol. 84, No. 119 (June 20, 2019), 84 FR 28836, which updates the duplication of benefits guidance issued in Federal Register Vol. 76, No. 221 (November 16, 2011), 76 FR 71060 for CDBG-DR and MIT grants received in response to disasters declared between January 1, 2016, and December 31, 2021. The DOB policy outlined in the Program Guidelines follows the guidance issued in 84 FR 28836.

For more information, refer to the PRDOH DOB Policy available in English and Spanish at <https://recuperacion.pr.gov/en/download/duplication-of-benefits-policy/> and <https://recuperacion.pr.gov/download/politica-sobre-la-duplicacion-de-beneficios/>.

10 Environmental Review

The Environmental Review is the process of reviewing a project and its potential environmental impacts to determine whether it meets federal, state, and local environmental standards. All projects undertaken with Federal funds and all associated activities are subject to the provisions of the National Environmental Policy Act of 1969 (**NEPA**), 42 U.S.C. §4231 *et seq.*, and HUD's environmental review regulations at 24 C.F.R. § 58. Therefore, an environmental review process is required for all awards to be issued under the Program to ensure that the proposed activities do not negatively impact the surrounding environment and that the property will not have an adverse environmental or health effect on end users.

24 C.F.R. § 58.22 prohibits the commitment or spending of federal or non-federal funds on any activity that could have an adverse environmental impact or limit the choice of reasonable alternatives before the completion of an environmental review. Environmental clearance must be obtained for each project before the commitment of Federal or non-federal funds. A violation of this requirement may jeopardize Federal funding for the Program and disallow all costs incurred before the environmental review's completion.

No work may start on a proposed project before the environmental review process is completed, even if that work is being done using non-HUD funds, such as signing a construction contract. Environmental clearance must be obtained for each project before the firm commitment of federal or non-federal funds.²⁹ All program recipients must comply with all applicable federal, state, and local environmental laws and regulations.

Program activities must comply with various laws and regulations that contain environmental provisions, including but not limited to:

- National Environmental Policy Act (**NEPA**), 42 U.S.C. § 4321(40 C.F.R. Parts 1500-1508);
- Protection of Historic Properties (**NHPA**)(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, Executive Order No. 13690, and Executive Order No. 14030);
- Sections 307 (c) and (d) of the Coastal Zone Management Act of 1972 (**CZMA**), as amended, 16 U.S.C. § 1456, *et seq.*;
- Sole Source Aquifers (**SSAs**)(40 C.F.R. Part 149);
- Section 7 of the Endangered Species Act of 1973, 16 U.S.C. § 1536, as amended, and implementing regulations at 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, *et seq.*;
- Air quality provisions as found in Sections 176 (c) and (d) of the Clean Air Act, as amended, 42 U.S.C. § 7506, *et seq.* and Title 40 of the Code of Federal Regulations (40 C.F.R. Parts 6, 51, and 93);
- Sections 1540 (b) and 1541 of the Farmland Protection Policy Act (**FPPA**) 7 U.S.C. § 4201-4202, under the Agriculture and Food Act of 1981, as amended, and implementing regulations at 7 C.F.R. Part 658;
- HUD Environmental Criteria and Standards (24 C.F.R. Part 58);
- Noise Abatement and Control (**NCA**) (24 C.F.R. §§ 51.100 - 51.106);
- Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature (24 C.F.R. §§ 51.200 - 51.208);
- Siting of HUD Assisted Projects in Runway Clear Zones at Civil Airports and Clear Zones and Accident Potential Zones at Military Airfields (24 C.F.R. § 51, §§ 51.300 - 51.305);

³⁰ A change in System capacities or equipment does not constitute a change in the scope of work.

- Toxic/Hazardous Materials (24 C.F.R. § 58.5(i)(2)(i)); and
- Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (Executive Order 12898, issued February 11, 1994).

All Program awards must have documentation that certifies they comply with NEPA and other environmental requirements. Therefore, all projects shall have an Environmental Review Record (**ERR**) as required by NEPA and related laws. The ERR for the projects shall set forth (a) the proposed project's scope, (b) the existence of negative impacts on the project site, (c) the means to mitigate negative impacts, (d) alternatives to the project (if needed), and (e) the decision to implement, reject, or modify the proposed activities, as appropriate.

PRDOH or PRDOH contractors will conduct environmental reviews for the MSC Program as part of the Community Relocation Project Proposals Evaluation.

If the scope of work presented in the ERR changes, the environmental review must be reevaluated in accordance with 24 C.F.R. § 58.47. If the Responsible Entity determines the change does not require updating the environmental review, the determination is documented, and the project continues. If the change is determined to potentially impact the original environmental findings, the ERR will be updated, or a new ERR prepared, as required. If the original findings are affirmed, no further publication of a finding of no significant impact (**FONSI**) notice is required. Project activities must cease until the reevaluation is completed.³⁰

No work may start on a proposed project before the environmental review process is completed, even if that work is being done using non-HUD funds, including signing a construction contract. Environmental clearance must be obtained for each project prior to the firm commitment of federal or non-federal funds (24 C.F.R. § 58.22). A violation of this requirement may jeopardize federal funding to a project or, at a minimum, disallow costs that were incurred before the completion of the Environmental Review.

For more information on Environmental Review, please refer to the Cross-cutting Guidelines available in English and Spanish on the PRDOH website at

³⁰ A change in System capacities or equipment does not constitute a change in the scope of work.

<https://recuperacion.pr.gov/en/download/cross-cutting-guidelines/>
<https://recuperacion.pr.gov/download/guias-intersectoriales/>.

and

10.1 Level of Environmental Review

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

10.1.1 Exempt Activities

These are activities that, 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. The Program must also determine whether any of the requirements of 24 C.F.R. § 58.6 are applicable and address them as appropriate.

10.1.2 Categorically Excluded Activities Not Subject to 24 C.F.R. § 58.5 (**CENST**)

Activities for which no Environmental Impact Statement (**EIS**), Environmental Assessment (**EA**) or Finding of No Significant Impact (**FONSI**) under NEPA is required. 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 in purchasing existing dwelling units or units under construction; and affordable housing predevelopment costs with no physical impact.³¹

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 ERR. 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 (**RROF**).

³¹ 24 C.F.R. §58.35(b).

In any case, environmental compliance is required for the items listed in 24 C.F.R. § 58.6.

10.1.3 Categorically Excluded Activities Subject to 24 C.F.R. §58.5 (CEST)

Refers to those activities included under 24 C.F.R. § 58.35(a). Examples of such activities include acquisition, repair, improvement, reconstruction, or repair of public facilities; special projects directed toward the removal of material and architectural barriers; and repair of buildings and improvements for residential units and non-residential buildings. The ERR for the activities must contain a written determination of the finding of a categorically 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 with jurisdiction. Upon completion, there should be one of three (3) environmental findings: (1) the project converts to Exempt (i.e., 24 C.F.R. § 58.34(a)(12)); (2) the project invokes compliance with one or more of the laws and/or authorities and, therefore, requires public notification and approval from HUD; or (3) the unusual circumstances of the project result in a significant environmental impact and, therefore, compliance with NEPA is required. If upon completion it is determined that compliance is required for one or more of the federal laws and authorities listed in 24 C.F.R. § 58.5, then a public notification known as Notice of Intent to Request Release of Funds (NOI/RROF) must be posted. After a **seven (7) day** comment period, a Request for Release of Funds and Environmental Certification must be prepared.³² The Environmental Certification certifies compliance with all environmental review requirements.

10.1.4 Environmental Assessment (EA)

These are activities that are neither exempt nor categorically excluded and, therefore, will require an Environmental Assessment documenting compliance with NEPA, HUD, and 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

³² 24 C.F.R. § 58.70.

affects the quality of the human environment and, therefore, does not require the preparation of an Environmental Impact Statement; or the **contrary and**, therefore, requires the preparation of an Environmental Impact Statement.

If it is determined that the action does not significantly affect the quality of the environment, then the Program will post a public notice called a Combined/Concurrent Notice of FONSI and a 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.³³ If no comments are received during this time, HUD will send a signed Authorization to Use Grant Funds (**AUGF**) and the project may proceed.

10.1.5 Tiered Review

Tiering is a specialized form of conducting environmental reviews for a collection of projects that would repeatedly fund the same or very similar activities within a defined local geographic area and timeframe, but their specific sites and activities are not yet known. Tiering, as defined at 40 C.F.R. § 1508.1, is a means of making the environmental review process more efficient by allowing parties to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review. A tiered review consists of two stages: a broad-level review (Tier I) and subsequent site-specific reviews (Tier II).

10.1.5.1.1 Tier I

The Tier I broad-level review identifies and evaluates issues that can be fully addressed and resolved for similar activities within the defined geographic area. It also establishes the standards, constraints, and processes to be followed in the site-specific reviews to be completed once the locations of individual project activities are known. Consistent with the methodology above, tiered reviews will be utilized for Program activities determined to be CEST that conform to the criteria outlined in Tier I and are located within the covered geographic area. In cases where a particular site-specific activity does not conform to the limits established in the broad-level review, the broad-level review will not be employed for that site.

³³ 24 C.F.R. § 58.45.

10.1.5.1.2 Tier II

Once individual project sites are identified and determined preliminarily eligible, a Tier II site-specific review will be completed. The site-specific review must be completed before committing HUD funds to the project. This review will address the issues not resolved in the broad-level review³⁴ to determine and document the project's adherence to all established protocols and remaining requirements. Because tiered environmental review records are incomplete without both the broad-level and site-specific tiered review, the Tier II site-specific reviews will reference the corresponding broad-level review and be filed together or linked to one another within the project file.

10.2 Environmental Review for Eminent Domain

Environmental Review requirements apply to eminent domain, as it is a type of acquisition. An Environmental Review must be completed before filing the case in the Court.³⁵

10.3 Floodplain Management and Elevation Standards

Until HUD adopts a federal tool that facilitates the use of the Climate-Informed Science Approach (**CISA**), the Program will use the most current, approved version of FEMA's Flood Insurance Rate Map (**FIRM**), Preliminary Flood Insurance Rate Map (**PFIRM**), or Advisory Base Flood Elevation Map (**ABFE**)—whichever reflects the highest Base Flood Elevation³⁶ (**BFE**)— to identify whether a property is located within or outside the Federal Flood Risk Management Standard (**FFRMS**) floodplain. The FFRMS floodplain, as defined at 24 C.F.R. § 55.2 (b)(4), includes the 100-year and 500-year (or 0.2% annual chance) floodplains charted on FEMA's maps.

PRDOH will apply elevation standards for reconstruction, repair of substantially damaged structures, or substantial improvements to critical infrastructure structures located within the FFRMS floodplain, such that, for Non-critical Actions, if the structure is not floodproofed, the lowest floor shall be elevated at least two (2) feet above the base flood elevation (BFE +2), as outlined in 24 C.F.R. § 55.7(d)(1). As per 24 C.F.R. § 55.7(d)(2), all Critical Actions within the FFRMS floodplain must be either floodproofed

³⁴ See 40 C.F.R. § 1508.11.

³⁵ For more information on eminent domain in Puerto Rico, refer to the Eminent Domain Section of these Guidelines.

³⁶ Per 24 C.F.R. § 9.4 BFE means the elevation to which floodwater is anticipated to rise during the 1 percent annual chance flood (also known as the base flood or 100-year flood)

and/or elevated to three (3') feet above the base flood elevation (BFE +3), according to the specific circumstances of the proposed action(s).

Substantial improvement is defined as either:

1. Any repair, reconstruction, modernization, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either: (1) before the improvement or repair is started; or (2) if the structure has been damaged and is being restored, before the damage occurred; or
2. Any repair, reconstruction, modernization, or improvement of a structure that results in an increase of more than twenty percent (20%) in the number of dwelling units in a residential project or in the average peak number of customers and employees likely to be on-site at any one time for a commercial or industrial project.

Substantial improvement may not be defined to include either:

1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications that is solely necessary to assure safe living conditions; or
2. Any structure alteration listed on the National Register of Historic Places or a State Inventory of Historic Places.

Structural repairs, reconstruction, or improvements not meeting the definition of substantial improvement are considered "minor improvements".

Federal regulations prohibit substantial improvements whenever a property is located within a floodplain without elevating or floodproofing the structure to the required height above the BFE.³⁷

A Regulated Floodway comprises the channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

³⁷ If the project involves Substantial Improvement, National Flood Insurance Program (**NFIP**) regulations require the affected structure(s) be elevated to the BFE. Local law or program policy may require additional elevation (or "freeboard") beyond FEMA's minimum elevation requirements.

This is the segment of the floodplain that will generally carry the flow of flood waters during a flood and is typically the area of greatest risk to structures in the floodplain. No HUD financial assistance may be approved for any action located in a floodway unless an exception listed in 24 C.F.R. § 55.8(a) applies.

10.4 Flood Insurance Requirements

Projects located in a Special Flood Hazard Area (**SFHA**) (also known as the 100-year floodplain) on the Effective FIRM that receive assistance under CDBG-MIT must obtain and maintain flood insurance in the amount and duration prescribed by FEMA's National Flood Insurance Program (**NFIP**). Section 102(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. § 4012a, mandates the purchase of flood insurance protection for any HUD-assisted property within a SFHA.

Section 582 of the National Flood Insurance Reform Act of 1994 (**NFIRA**), 42 U.S.C.A. § 5154a, as amended, on Prohibited flood disaster assistance, implies a responsibility for a grantee that receives CDBG-MIT funds. That responsibility is to inform property owners receiving disaster assistance that triggers the flood insurance purchase requirement that they have a statutory responsibility to notify any transferee of the requirement to obtain and maintain flood insurance and that the transferring owner may be liable if he or she fails to do so.³⁸

The requirement to maintain flood insurance shall apply during the life of the property, regardless of the transfer of ownership of such property.³⁹

10.5 Lead Hazard Assessments

To successfully fulfill the requirements in the Environmental Review, funded projects must comply with the Lead-Based Poisoning Prevention Act 40⁴⁰ and related federal and local regulations, including HUD's Lead Safe Housing Rule (**LSHR**)⁴¹ and EPA's Renovation, Repair, and Painting (**RRP**) Rule.⁴² Additionally, all projects must comply with testing, clearance, abatement, and disposal requirements of the Puerto Rico Department of Natural and Environmental Resources (**DRNA**, for its Spanish acronym)

³⁸ 42 U.S.C.A. § 5154b.

³⁹ 42 U.S.C. § 4012a.

⁴⁰ 42 U.S.C. §§ 4821-4846.

⁴¹ 24 C.F.R. Part 35.

⁴² 40 C.F.R. Part 745.

Regulation No. 9098 for the Proper Management of Lead-based Paint Activities, of July 16, 2019.

These regulations are in place to address any potential presence of lead-based paint or other lead hazards in the target structures receiving federal assistance and protect against environmental contamination due to handling and disposing of lead-contaminated materials. Whenever federal funds, such as CDBG-MIT, are used to assist housing built before 1978, steps must be taken to address lead hazards. A lead-based paint hazard is any condition that causes exposure to lead from dust-related hazards, soil-lead hazards, or lead-based paint that is deteriorated or present in chewable surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects.

The Program will require a lead-based paint assessment, conducted by a licensed lead-based paint assessor, on buildings built before 1978, and a visual assessment for all developments after 1978. In addition, the Program will require that Developers adhere to safe lead work practices in compliance with 29 C.F.R. § 1926.62 for any lead-based paint disturbances.

10.6 Asbestos Surveys

Because of its fiber strength and resistance to heat, asbestos has been used in a variety of building construction materials for insulation and as a fire retardant. Asbestos has also been used in a wide range of manufactured goods, mostly in building materials (roofing shingles, ceiling and floor tiles, paper products, and asbestos cement products), friction products (automobile clutch, brake, and transmission parts), heat-resistant fabrics, packaging, gaskets, and coatings.

Asbestos fibers may be released into the air by the disturbance of asbestos-containing materials during product use, demolition work, building or home maintenance, repair, and remodeling. In general, exposure may occur when asbestos-containing materials are disturbed or damaged in some way to release particles and fibers into the air. Exposure to asbestos increases risk of developing lung diseases.

In general, the greater the exposure to asbestos, the greater the chance of developing harmful health effects. Disease symptoms may take many years to develop following exposure.

The National Emission Standards for Hazardous Air Pollutants (**NESHAP**) regulations under the Clean Air Act specify work practices for asbestos to be followed during

demolitions and renovations of all structures, installations, and buildings. The regulations require notification to the pertinent State agency before any demolition or any renovations of buildings that could contain a certain threshold amount of asbestos or asbestos-containing material. Therefore, the Program must perform an asbestos survey before conducting any repair/retrofit or reconstruction work.

An asbestos survey is used to locate and describe asbestos-containing materials in a structure. The Program will conduct comprehensive building asbestos surveys through inspection of the properties. All asbestos surveys for the Program will be performed by Asbestos Inspectors certified by the EPA or the DRNA. The asbestos surveys will visually review all suspect asbestos-containing materials associated with the building's interior and will collect samples for laboratory analysis.

During the survey process, every effort should be made to collect required samples in the least destructive manner possible. The asbestos survey aims to determine the location and extent of asbestos-containing materials that may be disturbed during repair/retrofit or demolition activities. Samples of presumed asbestos-containing materials shall be processed or evaluated by accredited laboratories to test for asbestos presence in materials. As necessary, the asbestos content determination shall be performed by utilizing Polarized Light Microscopy, Point Counting, and Transmission Electron Microscopy.

11 Phase I: Targeted Selection Process and Outreach

During the design and development of the MSC Program, PRDOH facilitated multidisciplinary roundtable discussions with stakeholders, academic experts, and leaders in participatory design, sustainability, urban and social planning, engineering, community empowerment, development, and capacity building to gather helpful feedback for the Program's implementation. After the Program's launch, PRDOH conducted outreach activities with the most socially vulnerable high-risk communities identified through the methods outlined herein.

11.1 Database Investigation

To identify which communities to approach, PRDOH conducted research using the following PRDOH databases and identified projects that proposed to relocate socially vulnerable communities out of high-risk zones.

- Proposed Mitigation Project Log: 2,781 proposals were collected as part of PRDOH's outreach efforts to develop the Puerto Rico Mitigation Action Plan.

- FEMA's Community Planning and Capacity Building Program (CPCB) Relocation List: 25 vulnerable communities that CPCB identified for potential relocation after executing a damage assessment post-Hurricanes Irma and María.
- Municipal Risk Mitigation Plans: 3,167 risk mitigation project proposals developed for FEMA's Hazard Mitigation Grant Program (HMGP) and that incorporated community input to identify risks as part of the Island's recovery efforts following Hurricane María. These mitigation plans include proposed projects that could be developed once funding becomes available.

These databases were filtered according to community relocation project proposals, identifying a total of 373 proposals.

11.2 Municipality Survey

To enhance database investigation efforts, PRDOH conducted a survey in 2022 across Puerto Rico's 78 municipalities, gathering the names and coordinates of socially vulnerable communities within their jurisdiction that expressed interest in relocating from high-risk areas. A total of 30 municipalities participated, submitting 354 potential communities.

11.2.1 Municipal Recovery Planning Program Prioritization

Aiming to leverage CDBG-DR efforts, PRDOH further supplemented the previously analyzed data and risk scores by reviewing plans submitted in January 2023 as part of its Municipal Recovery Planning Program (**MRP**).⁴³ The Regional Municipal Recovery Planning process enabled MRP participants to submit a proposal for a planning study that addresses regional challenges in Puerto Rico. As part of a cross-reference with the previously analyzed MSC Program data, PRDOH considered the MRP plans, which indicated community relocation efforts or intents, and further prioritized those in an advanced planning stage for potential implementation through the MSC Program.

11.3 Risk Score Determination and Budget Analysis

After reviewing the community relocation proposals and related data, PRDOH utilized the *Puerto Rico Risk and Hazards Dashboard* to determine each community's level of risk, or **Risk Score**. PRDOH then determined the number of communities that it could

⁴³ Refer to the Municipal Recovery Planning Program website at <https://recuperacion.pr.gov/en/municipal-recovery-planning/>

target for potential Program participation by executing a Preliminary Budget Analysis using the following criteria:

1. Program Budget
2. Program Administration and Operation Costs
3. Estimated number of households per community
4. Estimated relocation cost per household

PRDOH targeted communities with the highest risk score, which is limited to one per municipality. These communities are herein referred to as **Targeted Communities**.

11.4 Community Outreach

PRDOH actively engages residents, leaders, and stakeholders in the Targeted Communities, forming and strengthening *liaisons* with whom to collaborate throughout the Program's implementation. These outreach efforts include identifying the community's needs, as well as offering community orientations about the risks faced by the Targeted Communities, the Program's benefits, and participation requirements.

11.5 Community Participation Threshold

A community's participation in the MSC Program is contingent upon the registration of ten percent (10%) or more of the total households and/or business owners located within the community.⁴⁴ Registration was initiated during the Program Orientation meeting.

PRDOH's goal is for at least sixty percent (60%) of the community's households and/or business owners to agree to relocate, either by participating in the MSC Program, through other CDBG-MIT / CDBG-DR programs or any other government-sponsored relocation program.

12 Phase II: Participatory Design Process

The Participatory Design process shall consist, but will not be limited to, meetings and/or workshops provided by PRDOH through a selected Subrecipient, aimed at assisting the communities in determining the viability of where to relocate, their preferred housing typology, the community's public infrastructure, as well as the

⁴⁴ Temporarily relocated households and property owners, including those with vacant lots or non-primary residences, will be counted for the purposes of the 10% threshold or community participation.

values and priorities to be incorporated into the design of their new community project.

Targeted Communities will receive assistance from a Subrecipient in developing and submitting a **Community Relocation Proposal** to PRDOH, which must include, but not be limited to, a Community Profile, Relocation Plan, Owner Project Requirements, and a Basis of Design.

The end product of the Participatory Design Process will be the **Community Relocation Proposal**. PRDOH will review the proposal, which, upon approval, will allow the development of the new community project.

13 Phase III: Community Relocation Project Proposal Evaluation

13.1 Evaluation

PRDOH will evaluate submitted Community Relocation Project Proposals based on the following criteria:

1. **Community “Buy In”:** At least sixty percent (60%) of the community’s households and/or business owners must agree to relocate by participating in the MSC Program or other CDBG-DR/MIT programs or any other government-sponsored relocation program. The percentage of community support will be measured in proportion to the community’s or community subsector’s population. For example, if a community has a population equivalent to ten (10) households and/or business owners, sixty percent (60%) of community “Buy In” is represented by six (6) households and/or business owners that agree to relocate.⁴⁵ These must submit a Community Relocation Letter of Commitment.
2. **Feasibility of Relocation Strategy:** Relocation strategies must be feasible and tailored to the community’s particularities and needs. Relocation strategies shall:
 - Effectively relocate community households and/or businesses outside the risk zone.
 - Maximize the use of available resources.
 - Be permissible under HUD applicable regulations.

⁴⁵ Temporarily relocated households and property owners, including those with vacant lots or non-primary residences, will be counted for the purposes of the 60% “Buy In”.

- Not be in a floodway zone or the 100-year floodplain as identified in FEMA's most current Flood Maps.

3. Integrative Solutions: Projects must address the community's immediate concerns and challenges beyond its main natural risk and demonstrate compatibility with other regional efforts. Project strategies should be holistic in their approach and resolve various concerns, such as natural risk, communal and social concerns, among others.

4. Alternative transportation availability (multimodal mobility): Basic needs and services should be within a 0.5-mile radius of the new community site and accessible through transportation alternatives such as pedestrian, cycling, micro transportation (e.g. scooters), among other transportation options. Examples of basic services include health centers, grocery markets, drug stores, public spaces, and recreational areas, among others. Goods and services include, but are not limited to, groceries, fresh food, healthcare (e.g., Pharmacies, General and Family Medicine, Dentists, Pediatricians, among others), and recreational areas (e.g., Parks, athletic fields, among others).

5. Lifeline security: Projects must integrate state-of-the-art food, water, and energy security design strategies such as community gardens, water harvesting systems, and localized energy generation technologies from renewable sources (Ex. Photovoltaic systems, microgrids).

The following relocation strategies are highly encouraged:

1. Resettlement of the community in urban centers.
2. Resettlement of the community in existing households, multifamily projects, or other existing infrastructure not situated in high-risk zones that get rehabilitated or "repurposed" to fit the targeted community's needs.

13.1.1 Resilient Housing Design Requirement

PRDOH will implement resilient housing design and construction methods that follow sustainable architecture principles to emphasize quality, durability, energy sustainability, and adaptability. Resilient housing refers to a household's capacity to

resist, recover, and adapt to adverse conditions or profound changes.⁴⁶ Though the changes can be environmental, (such as natural disasters), social, and economical, they can also respond to diverse climates, lateral forces, passage of time, diverse social lifestyles, and fluctuant necessities.

The resilient housing design criteria are as follows:

- **Sustainability:** Housing designs must comply with *Sustainable Design* principles, which include the ability to:
 - Optimize site potential;
 - Minimize non-renewable energy consumption;
 - Use environmentally preferable products;
 - Protect and conserve water;
 - Enhance indoor environmental quality; and
 - Optimize operational and maintenance practices.⁴⁷
- **Accessible:** Housing designs must incorporate *Universal or “Inclusive” Design* principles and strategies to ensure accessibility to all regardless of age, ability, and any other demographic characteristics.
- **Adaptable, Flexible, and Incremental:** Housing design must be *adaptable, flexible, and incremental*.
 - *Adaptability* – An adaptable house is a home where spaces can be used in various ways without needing to relocate walls or other components. This is achieved by not establishing a hierarchy so that each inhabitant chooses their house's public and private spaces. In this way, any space can be more than a living room, a bedroom, or a workplace; it can be a place to inhabit according to a household's way of life or particular need.⁴⁸

⁴⁶ Rivera-Crespo, O., and Colón Rodríguez, Y. (2021). Casas resilientes en Puerto Rico: resistir al desastre redefiniendo la vivienda. *Revista de Arquitectura (Bogotá)*, 23(2), 84-93. <https://doi.org/10.14718/RevArq.2021.2793>. See also <https://arquitecturaviva.com/works/viviendas-villa-verde-10>.

⁴⁷ For more information, visit: <https://www.gsa.gov/real-estate/design-and-construction/design-excellence-program-overview/sustainability/sustainable-design>.

⁴⁸ See Rivera-Crespo, O., and Colón Rodríguez, Y., *op. cit.*, pages. 84-93. See also, Till, J., & Schneider, T. (2007). *Flexible housing*. Architectural Press.

- *Flexibility* – Physical changes of walls or components with mechanisms that **allow** them to be relocated continuously or over time.⁴⁹
- *Incrementality* – An incremental house can grow over time, as the number of its inhabitants increases or the needs of use of the spaces change. This commonly occurs in any model of individual or single-family housing in which its inhabitants add spaces according to the size of the lot in which it is located or on a second floor. However, this growth can be anticipated through design so that factors such as structural integrity or ventilation of spaces are not compromised.⁵⁰
- **Modular:** Housing design must be based on prefabricated components or modules with standardized repair features, **fast-tracking** construction timelines while facilitating cost efficiency. The components could be basic enclosures such as walls, floor and ceiling slabs, doors, and windows, but they could also be complete volumes of bathrooms, kitchens, rooms, or even complete housing modules.⁵¹

13.1.2 Cost Reasonableness

The MSC Program only allows construction costs deemed reasonable and consistent with market costs at the time and place of construction. All projects will be reviewed by an independent, qualified party to establish the cost reasonableness of proposed items as part of project submissions. A cost is reasonable if, in its nature and amount, it does *not* exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.⁵²

- **New construction** – Hard construction contingency costs shall not exceed five percent (5%).
- **Intermediary costs** – Shall not exceed five percent (5%) of the total development costs.

⁴⁹ *Id.* See also, Habraken, J. (2000). *El diseño de soportes* (2 ed.). Editorial Gustavo Gili. (Documento original publicado en 1974).

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² See 2 C.F.R. § 200.404.

13.1.3 Approval of Project Proposals

As part of the approval process, projects will undergo an Environmental Review process (see Environmental Review section). Proposals will be approved once PRDOH receives an Authorization to Use Grant Funds (**AUGF**) from HUD. PRDOH approval is contingent on the availability of the MSC Program budget.

Once PRDOH receives the AUGF from HUD, the Beneficiaries will receive a Project Approval Letter informing them of final project approval.

14 Phase IV: Design and Construction

14.1 Project Design

Once the project is approved, PRDOH's Architectural and Engineering (**A/E**) contractor(s) will develop the proposal design and construction documents. PRDOH and its contractor(s) will evaluate the documents at thirty percent (30%), sixty percent (60%), and one hundred percent (100%) completion to ensure completeness, compliance, and review of specifications.

14.2 Environmental Review and Permits

PRDOH's A/E contractor(s) will be responsible for completing Environmental Reviews and acquiring all applicable endorsements and permits.

No property acquisitions can take place until the project has received environmental clearance. For more information, refer to the Environmental Review section of the Guidelines.

14.3 Project Construction

PRDOH Construction vendors will carry out the construction of the project, subject to the following thresholds:

- **Pre-construction:** Before the release of construction funds, each project must obtain and provide documentation of applicable permits and satisfy any specific land-use regulations for site selection at the local level. Any acquisition for new construction should be completed prior to the start of construction.
- **Construction:** The construction vendor will maintain a ledger of all expended funds and oversee construction throughout the project.

- **Construction Completion/Administrative Closeout:** A/E contractor(s) must conduct a Final Inspection after the construction activities are completed. Also, all project plans (as built) must be submitted. Any expenditures and funds obligated must be fully documented, along with all other required financial documentation and controls (monitoring). For final project compliance, all the appropriate beneficiary eligibility documentation must be fully documented and submitted as part of the closeout process.

Any changes to previously approved plans will require review and approval by PRDOH and may be subject to a contract and/or SRA amendment. In the case of non-compliance due to an unapproved construction project, a de-obligation or recapture of funds may result along with a project cancellation.

The Scope of Service within each contract will include a detailed description of the Roles and Responsibilities of the A/E contractor(s) and construction vendors.

14.4 Codes, Laws, and Regulations Compliance

Project designers and construction managers must ensure work for the MSC Program complies with all applicable federal, state, and local codes and regulations, including but not limited to the following:

- Project work must be performed only after obtaining the initial required permits and endorsements in compliance with local, state, or federal requirements;
- New construction or alterations of existing housing units will abide by all local design and architectural standards;
- New construction or alterations of existing housing units and non-housing facilities must comply with the Americans with Disabilities Act of 1990 (**ADA**), as amended, 42 U.S.C. § 12101 *et seq.*, 2010 ADA Standards for Accessible Design,⁵³; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 701 *et seq.*; and /or the Uniform Federal Accessibility Standards (**UFAS**);⁵⁴

⁵³ See HUD Minimum Property Standards at <https://archive.ada.gov/regs2010/2010ADASTandards/2010ADASTandards.pdf>

⁵⁴ HUD issued Federal Register Notice Vol. 79, No. 100 (May 23, 2014), 79 FR 29671, which allows grantees of Federal funding to use the 2010 Standards to satisfy Section 504 accessibility requirements, with certain exceptions specified in the Notice where the Section 504 and UFAS requirements provide a higher accessibility standard and therefore prevail.

- New construction of multifamily housing projects that contain four (4) or more dwelling units, as well as any multifamily housing development built for first occupancy after March 13, 1991, must comply with the design and construction requirements of the Fair Housing Act;
- HUD Minimum Property Standards;⁵⁵
- Puerto Rico Building Code, most current approved version;
- Most current approved zoning requirements for Puerto Rico;
- Environmental regulations, as applicable to specific projects; and
- HUD terms and conditions, as applicable to specific projects.⁵⁶

The project must also comply with the latest applicable local building codes. The current International Building Code® (**IBC Codes**) establishes minimum requirements for building systems using prescriptive and performance-related provisions. The IBC Codes are fully compatible with all the International Codes® (**I-Codes**) published by the International Code Council (**ICC**). This regulation arises from the adoption of ten (10) codes of the ICC family with its amendments to conform to the requirements of Laws and Regulations of construction and occupancies in Puerto Rico. This edition of the Puerto Rico Codes, like other Codes published by the ICC, is arranged and organized to follow sequential steps that generally occur during a plan review or inspection and must be used with the corresponding code of the I-Codes family as follows:

- Puerto Rico Building Code (**PRBC**), as amended from the IBC Codes;
- Puerto Rico Residential Code (**PRRC**), as amended from the International Residential Code® (**IRC**);
- Puerto Rico Mechanical Code (**PRMC**), as amended from the International Mechanical Code® (**IMC**);
- Puerto Rico Plumbing Code (**PRPC**), as amended from the International Plumbing Code® (**IPC**);
- Puerto Rico Fire Code (**PRFC**), as amended from the International Fire Code® (**IFC**);

⁵⁵ See https://www.hud.gov/program_offices/housing/rmra/mps/mpshome.

⁵⁶ See <https://www.hudexchange.info/resources/documents/CDBG-MIT-Resources-Summary.pdf>.

- Puerto Rico Fuel Gas Code (**PRFGC**), as amended from the International Fuel Gas Code® (**IFGC**);
- Puerto Rico Energy Conservation Code (**PRECC**), as amended from the International Energy Conservation Code® (**IECC**);
- Puerto Rico Existing Building Code (**PREBC**), as amended from the International Existing Building Code® (**IEBC**);
- Puerto Rico Private Sewage Disposal Code (**PRPSDC**), as amended from the International Private Sewage Disposal Code® (**IPSDC**); and
- Puerto Rico Swimming Pool and Spa Code (**PRSPSC**), as amended from the International Swimming Pool and Spa Code® (**ISPSC**).

All work performed must also comply with current federal, state, and local codes, laws, regulations, and standards, including, but not limited to:

- Applicable version of the Joint Regulation for Project Evaluation and Permitting regarding Land Development and Use, and Business Operations (**Joint Regulation**) at the moment of design and construction (“Reglamento conjunto para la evaluación y expedición de permisos relacionados al desarrollo, uso de terrenos y operación de negocios”);
- Local planning and zoning requirements;
- Puerto Rico Firefighters Code (latest approved version);
- Applicable Environmental Regulations;
- Applicable HUD Terms and Conditions;
- Fair Housing Act, as amended;
- ADA (where required).

Puerto Rico is in an area of high seismic and cyclonic activities. All design and construction on the Island must comply with the Puerto Rico Planning Board’s requirements, guaranteeing greater security for life and property. This regulation is designed specifically for the conditions found in Puerto Rico. The Puerto Rico Planning Board’s requirements establish construction and design parameters related to mitigating, among others, the impact of catastrophic events, fire prevention, and energy conservation. Historic preservation regulations or recommendations may be an exception to these requirements as per consultation with the State Historic Preservation Office (**SHPO**).

Other permit requirements include, but are not limited to:

- Demolition Permits issued by Puerto Rico Permits Management Office (“Oficina de Gerencia de Permisos” **OGPe**, by its Spanish acronym);
- Construction Permits issued by OGPe;
- General Consolidated Permits, which include Erosion and Sedimentation Control; Permit for Activities Generating Non-Hazardous Solid Waste; Emission Sources Permit; and Permit for the Removal and Disposition of Lead-Containing Materials, all issued by the Puerto Rico Department of Natural and Environmental Resources through OGPe;
- Local and Federal Environmental Permits, as applicable to specific projects; and
- Regulatory Agencies Endorsements including, but not limited to, those from the Puerto Rico Electric Power Authority (**PREPA**), the Puerto Rico Aqueduct and Sewer Authority (**PRASA**), the Puerto Rico Telecommunications Regulatory Board, the **SHPO**, the Institute of Puerto Rican Culture, and the Puerto Rico Department of Transportation and Public Works (**DTOP**).

Other local requirements for construction works include, but are not limited to:

- Construction Stamps as required in Section 11 of Act No. 319 of May 15, 1938, as amended, 20 L.P.R.A. § 741 *et seq.*, known as the “Law that created the College of Engineers and Surveyors of Puerto Rico.”
- Act No. 107-2020 as amended, 21 L.P.R.A. § 7001 *et seq.*, known as the “Municipal Code of Puerto Rico”.

Under no circumstances should financial commitments be made or construction work started **before** a project obtains environmental clearance by PRDOH.

14.5 Quality Control and Assurance

The eligible projects must comply with the highest quality parameters for the residential construction industry. The projects’ specific quality control and quality assurance procedures, testing, and reporting will be developed by PRDOH or its vendors as part of the technical specifications for each project and approved by PRDOH or its authorized representatives.

14.6 Inspection of Construction Projects

All MSC Program projects are required to be inspected by a licensed Professional Engineer (**PE**) or Registered Architect (**RA**) in compliance with Act No. 173 of August 12, 1988, as amended, 20 L.P.R.A. §711, *et seq.*, known as “Board of Examiners of Engineers, Architects, Surveyor and Landscape Architects of Puerto Rico Act.” The tasks performed by the project’s designated inspector include but are not limited to: (i) evaluating the overall progress of construction works; (ii) confirming that local building codes and Program standards are being met; and (iii) confirming that all requirements of the contracts have been met by the contractors implementing the construction works.

PRDOH will be responsible for procuring construction inspection services for construction projects.

14.7 Green Building Standards

As required by 84 FR 48538, 45863, all new construction of residential buildings and all replacement of substantially damaged residential buildings are encouraged to comply with a HUD-approved Green Building Standard. New construction undertaken under the MSC Program must comply with an industry-recognized standard and achieve certification under at least one (1) of the following Programs:

- ENERGY STAR® (Certified Homes or Multifamily High-Rise or latest version);
- Enterprise Green Communities;
- Leadership in Energy and Environmental Design (**LEED**) (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development);
- ICC–700 National Green Building Standard;
- Environmental Protection Agency (**EPA**) Indoor Air Plus (ENERGY STAR® a prerequisite); or
- Any other equivalent comprehensive green building program acceptable to HUD.

14.8 Broadband Infrastructure Requirements

Under 84 FR 45838, 45864, projects must include broadband infrastructure installation at the time of new construction or substantial rehabilitation for multifamily rental housing funded or supported by HUD. PRDOH aims to narrow the digital divide in low-income communities served by HUD. Installing unit-based broadband infrastructure

in multifamily rental housing that is newly constructed or substantially rehabilitated with or supported by HUD funding will provide a platform for individuals and families residing in such housing to participate in the digital economy and increase their access to economic opportunities.

PRDOH can consider exclusions from this requirement if the Subrecipient can document and demonstrate one (1) of the following:

- The location of the new construction or substantial rehabilitation makes broadband installation infeasible;
- The cost of installing broadband infrastructure would result in a fundamental alteration of the nature of the program or activity, or in an undue financial burden; or
- The structure of housing, to be substantially rehabilitated, makes installation of broadband infrastructure is infeasible.

While Projects are only required to include one (1) form of broadband infrastructure, installing more than one (1) form is recommended. This will promote competition among service providers in terms of quality and price for residents.

MSC Program vendors will verify projects comply with applicable Broadband Infrastructure design requirements.

15 Phase V: Buyout

PRDOH will execute a Buyout process to acquire the properties of Program Beneficiaries. HUD defines “buyout” as the acquisition of properties located in a floodplain or floodway intended to reduce risk from future flooding or the acquisition of properties in Disaster Risk Reduction Areas as designated by the grantee.⁵⁷

Properties (commercial and residential) acquired through buyout are subject to URA provisions, as amended, 42 U.S.C. § 4601 *et seq.*, including the property acquisition requirements at 49 C.F.R. Part 24, Subpart B. Moreover, they are subject to land use

⁵⁷ 84 FR 45838, 45865: “To conduct a buyout in a Disaster Risk Reduction Area, the grantee must establish the criteria in its policies and procedures to designate the area subject to the buyout, pursuant to the following requirements: (1) the hazard must have been caused or exacerbated by the Presidentially declared disaster for which the grantee received its CDBG-MIT allocation; (2) the hazard must be a predictable environmental threat to the safety and well-being of program beneficiaries, as evidenced by the best available data (e.g. FEMA Repetitive Loss Data) and science; and (3) the Disaster Risk Reduction Area must be clearly delineated so that HUD and the public may easily determine which properties are located within the designated area.”

restrictions post-acquisition and must be dedicated and maintained in perpetuity for a use compatible with open space, recreational, or floodplain and wetlands management practices.

Properties (residential and commercial) acquired through the Buyout will be demolished, and the lands will be dedicated and maintained in perpetuity according to the applicable regulation and End Use. No new structure will be erected on property acquired, accepted, or from which a structure was removed under the Buyout process other than a:

- Public facility that is open on all sides and functionally related to a designated open space (e.g., a park, campground, or outdoor recreation area);
- Restroom; or
- Flood control structure, if the structure does not reduce valley storage, increase erosive velocities, or increase flood heights on the opposite bank, upstream, or downstream, and that the local floodplain manager approves, in writing, before the commencement of the construction of the structure.

16 Property Acquisition Requirements

16.1 Applicable Rules

PRDOH may use CDBG-MIT funds to acquire real property for any public purpose, subject to the limitations of 24 C.F.R. § 570.207. Acquisition methods include purchase, long-term lease (more than fifteen (15) years), donation, or otherwise, of real property (including air rights, water rights, rights-of-way, easements, and other interests therein).⁵⁸ When a long-term lease is used as the method of acquisition, short-term lease agreements (e.g., one year) that are renewable are not considered long-term leases, even if the lease is renewed annually for fifteen (15) years.

PRDOH may acquire real property directly or provide CDBG-MIT assistance to another public agency or public or private non-profit subrecipient to acquire real property. This means the property need not be publicly owned to serve a public purpose. The public purpose requirement may also be met when a non-profit organization uses CDBG-MIT funds to acquire a property for an MSC Program-eligible activity, and the assisted property is open for use by the general public during all regular hours of operation. Acquisition by a private for-profit entity is not eligible under 24 C.F.R. § 570.201(a).

⁵⁸ 24 C.F.R. § 570.201(a).

Whether a property is acquired by PRDOH or by a subrecipient, it must also meet a CDBG-MIT national objective to be considered an eligible activity.⁵⁹

16.2 Acquisition for Redevelopment

Entities authorized to carry out acquisition activities must identify the planned end use for all properties to be acquired. A property may be redeveloped if it was not acquired through a buyout program and if the purchase price was based on the property's post-disaster value. In conducting real property acquisition activities, entities must ensure that they comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (**URA**), including the real property acquisitions requirements at 49 C.F.R. Part 24, Subpart B, except where waivers or alternative requirements are provided for CDBG-MIT funds. Additionally, entities must comply with their long-term redevelopment plan.⁶⁰

16.3 Acquisition by Eminent Domain

PRDOH has the authority to exercise eminent domain, pursuant to Act No. 97 of June 10, 1972, as amended, known as the "Organic Act of the Department of Housing," 3 LPRA § 441 *et seq.* Likewise, Act No. 107-2020, known as the "Municipal Code of Puerto Rico", 21 LPRA § 7101 *et seq.*, grants eminent domain authority to municipalities.⁶¹

A hazard mitigation plan may call for acquisitions and buyouts in high-hazard areas. The nature of the acquisition activity (acquisition or buyout) will depend on the property's end use. The MSC Program will comply with the acquisition and relocation requirements of the PRDOH URA and ADP Guide, the HCDA, and implementing regulations at 49 C.F.R. Part 24, except where waivers or alternative requirements are provided for CDBG-MIT funds.

⁵⁹ Acquisition by a private for-profit entity is not eligible under 24 C.F.R. § 570.201(a). However, for-profit entities might qualify under 24 C.F.R. § 570.202, "*Eligible rehabilitation and preservation activities*". To acquire for the purpose of rehab properties, for use or resale for residential purposes. However, it might be limited to privately owned buildings, LMI public housing, commercial or industrial buildings, and manufactured housing as part of a housing stock. (Economic Development and Revitalization).

⁶⁰ 84 FR 45838, 45866; In addition to the purchase price, those entities that carry out voluntary acquisition activities may also provide relocation assistance or housing incentives to the owner of a property that will be redeveloped, as long as the owner's need for additional assistance is documented.

⁶¹ Municipalities that will acquire properties with CDBG-DR/MIT funds with eminent domain will have to provide documentation to PRDOH about said public use declaration, along with all other documents filed in Court.

For more information on acquisition requirements, refer to the URA and ADP Guide available in English and Spanish at: <https://recuperacion.pr.gov/en/resources/ura/> and <https://recuperacion.pr.gov/recursos/ura/>.

17 Uniform Relocation Act (URA)

As a HUD-assisted program, the MSC Program must be administered in accordance with the URA, as amended, 42 U.S.C. § 4601 *et seq.*; implementing regulations found at 49 C.F.R. Part 24; and Section 104(d) of the HCDA, except where HUD has provided waivers or alternative requirements. The primary purpose of these laws and regulations is to provide uniform, fair, and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects.

Generally, URA regulations have different requirements for voluntary and involuntary acquisition. Voluntary acquisitions are those carried out without the use or threat of eminent domain (condemnation). Involuntary acquisitions do not meet the Voluntary Acquisition requirements and are initiated using eminent domain.

The Acquisition Requirements section of the URA and ADP Guide outlines the requirements and process for carrying out any involuntary acquisition of real estate with CDBG-MIT funds. For more information, refer to the URA and ADP Guide available in English and Spanish at: <https://recuperacion.pr.gov/en/resources/ura/> and <https://recuperacion.pr.gov/recursos/ura/>.

18 End Use of Real Property

Except as provided by federal statutes or the federal awarding agency, real property will be used as long as needed for the originally authorized purpose. During that time, the non-federal entity must not dispose of or encumber its title or other interests.

Disposition, for purposes of this section, refers to the sale, lease, donation, or otherwise of any real property acquired pursuant to HCDA, or its retention for public purposes. It includes the costs incurred by PRDOH to restrict the use of the land as required under applicable Program Guidelines and CDBG-MIT requirements. For disposition costs to be eligible, the use of the acquired property after disposition must meet a national objective of the MSC Program.⁶²

⁶² See <https://www.hudexchange.info/sites/onecpd/assets/File/CDBG-National-Objectives-Eligible-Activities-Chapter-2.pdf>.

For more information, refer to the URA and ADP Guidelines available in English and Spanish at: <https://recuperacion.pr.gov/en/download/ura-adp-guidelines/> and <https://recuperacion.pr.gov/download/guias-ura-adp/>.

19 Civil Rights and Non-discrimination

CDBG-MIT Programs 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 should 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 faced by the 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.⁶³

19.1 Fair Housing and Equal Opportunity

The Fair Housing Act (**FHA**), 42 U.S.C. § 3601 *et seq.*, prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related activities based upon race, color, religion, sex, familial status⁶⁴, national origin or disabilities. The Act requires HUD and its grantees to administer its programs in a manner that affirmatively furthers fair housing.

In compliance with the FHA as well as other applicable laws,⁶⁵ the Program implementation will be conducted by avoiding discrimination and/or discriminatory

⁶³ CDBG-MIT Program policies are available in English and Spanish on the PRDOH website at <https://recuperacion.pr.gov/en/resources/policies/general-policies/> and <https://recuperacion.pr.gov/recursos/politicas/politicas-generales/>.

⁶⁴ Exceptions exist for housing covered under the Housing for Older Persons Act of 1995, 42 U.S.C. § 3607(b).

⁶⁵ Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000(d) *et seq.*; • Title VIII of the Civil Rights Act of 1968, as amended (Fair Housing Act), 42 U.S.C. § 3601 *et seq.*; • Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 701 *et seq.*; • Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 *et seq.*; • Section 109 of the Housing and Community Development Act of 1974 (HCDA), as amended, 42 U.S.C. § 5309; • Housing for Older Persons Act of 1995 (HOPA), Pub. L. 104-76; • Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 *et seq.*; CDBG-DR Program Fair Housing and Equal Opportunity for All Programs July 29, 2020 (V.1) Page 20 / 40 • Executive Order No. 11063 (1962), Federal Register, Vol. 27, No. 228, p.11527, 27 FR 11527 (November 24, 1962); • General HUD Program Requirements: Equal Access to HUD-assisted or Insured Housing (24 C.F.R. § 5.106) • Act No. 131 of May 13, 1943, 1 L.P.R.A. § 13, known as the “Puerto Rico Civil Rights Act” – Discrimination in Public Places, Businesses, Transportation, and Housing • Act No. 238-2004, as amended, 1 L.P.R.A. § 512(a), known as the “Bill of Rights of Persons with Disabilities” • Constitution of the

practices to the extent that no person be excluded from participation in; denied Program benefits of; or be subjected to discrimination under any Program or activity receiving CDBG-MIT funds on the basis of race, color, national origin, religion, sex, age, disability, familial status, sexual orientation (in employment and in HUD-funded or insured housing programs) or marital status (in HUD-funded or insured housing programs). Additionally, the Program will ensure that all activities are conducted in a manner that will affirmatively further fair housing.

PRDOH's Fair Housing and Equal Opportunity (**FHEO**) Policy establishes requirements and provides guidance for ensuring that CDBG-DR/MIT programs do not discriminate against protected classes of people. Included in this policy is a summary of all civil rights-related and anti-discrimination laws with which compliance is required, 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 MSC Program.

The FHEO Policy and all CDBG-DR/MIT General Policies are available in English and Spanish at: <https://recuperacion.pr.gov/en/download/fair-housing-and-equal-opportunity-fheo-policy-for-cdbg-dr-programs/> and <https://recuperacion.pr.gov/download/politica-de-equidad-de-vivienda-e-igualdad-de-oportunidades-para-los-programas-cdbg-dr/>.

19.2 Reasonable Accommodation Policy

Additional modifications to increase accessibility for Program beneficiaries and/or household members who have access and functional needs are an allowable part of the repair/retrofit, reconstruction, or relocation assistance provided by the Program. Eligible beneficiaries who have a household member with a disability may submit a Reasonable Accommodation and Modification Request Form (**RA/RM**) to indicate any accessibility accommodations needed to meet their disability-related needs. A

Commonwealth of Puerto Rico-1952, 1 L.P.R.A. Constitution of the Commonwealth of Puerto Rico • Act. No. 44 of July 2, 1985, as amended, 1 L.P.R.A. § 501 *et seq.*, known as the "Act to Prohibit Discrimination Against People with Physical, Mental, or Sensory Impairments" • Act No. 22-2013, Law to Prohibit Discrimination for Sexual Orientation and Gender Identity.

reasonable accommodation is a change, modification, alteration or adaptation in policy, procedure, practice, program, or facility that provides a qualified individual with a disability the opportunity to participate in or benefit from, a program (housing or non-housing) or activity. For housing, such accommodations may include those necessary for the person with a disability to use and enjoy a dwelling, including public and common-use spaces.

PRDOH and its Subrecipients will create and maintain a reasonable accommodations and modifications log which shall document the following information: (1) date and time of the accommodation/modification inquiry or request; (2) nature of the inquiry or request; (3) action taken; (4) whether the request was rejected, or a change was made to the originally requested accommodation; and (5) documentation reflecting the final disposition of each request. Each RA/RM will be handled and evaluated in accordance with the PRDOH Reasonable Accommodation Policy. If the RA/RM is approved, the beneficiary will be provided with accessibility options. The costs associated with reasonable accommodations may be considered in addition to the Program caps and evaluated for cost reasonableness.

The Reasonable Accommodation Policy is available on the PRDOH in English and Spanish at: <https://recuperacion.pr.gov/en/download/reasonable-accommodation-policy/> and <https://recuperacion.pr.gov/download/politica-de-acomodo-razonable/>.

19.3 Language Access

PRDOH and 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 as a result 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 **MSC** Program beneficiaries in accordance with the LAP.

The LAP and all CDBG-DR Program policies are available in English and Spanish on PRDOH website at <https://recuperacion.pr.gov/en/resources/policies/general-policies/> and <https://recuperacion.pr.gov/recursos/politicas/politicas-generales/>.

20 Section 3 Requirements

Section 3 regulations at 24 C.F.R. Part 75 and 84 FR 45838 require that Subrecipients, Awardees, Contractors, Subcontractors, and/or Developers be funded as a whole or in part by CDBG-DR/MIT funding to the greatest extent feasible, and extend hiring opportunities and contracts to Section 3 eligible persons and business concerns. The implementation of this provision is intended to ensure employment and other economic opportunities generated by CDBG-DR/MIT funding.

Provisions, including reporting requirements, apply to Section 3 projects receiving more than \$200,000 of CDBG-DR/MIT assistance or more than \$100,000 in cases of designated Lead Hazard projects.

The PRDOH Section 3 Policy and all CDBG-MIT General Policies are available in English and Spanish on the PRDOH website at: <https://recuperacion.pr.gov/en/resources/policies/general-policies/> and <https://recuperacion.pr.gov/recursos/politicas/politicas-generales/>.

21 Labor Standards

Projects receiving CDBG-MIT funding are required to comply with federal labor standards laws, including Davis-Bacon Act of 1931, as amended, 40 U.S.C. § 3141 *et seq.*, and Related Acts (**DBRA**); Fair Labor Standards Act of 1938 (**FLSA**), as amended, 29 U.S.C. § 201 *et seq.*; Contract Work Hours and Safety Standards Act (**CWHSSA**), as amended, 40 U.S.C. § 3701 *et seq.*; and Copeland Anti-Kickback Act, as amended, 40 U.S.C. § 3145 *et seq.* 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. 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 the Davis Bacon and Related Acts Policy, which must be followed by subrecipients and developers, as well as their contractors and subcontractors, in the performance of construction work financed in whole or in part with CDBG-DR/MIT

assistance. This Policy is available in English and Spanish on the PRDOH website at <https://recuperacion.pr.gov/en/download/davis-bacon-and-related-acts-policy/> and <https://recuperacion.pr.gov/download/politica-sobre-la-ley-davis-bacon-y-las-leyes-relacionadas/>. For all other labor standards, refer to the PRDOH's Cross-cutting Guidelines, available in English and Spanish on the PRDOH website at <https://recuperacion.pr.gov/en/download/cross-cutting-guidelines/> and <https://recuperacion.pr.gov/download/guias-intersectoriales/>.

22 Minority and Women-Owned Business Enterprises (M/WBE)

As per regulations at 2 C.F.R. § 200.321, all recipients, subrecipients, contractors, subcontractors, and/or developers funded in whole or in part with CDBG-MIT financial assistance must ensure that, when possible, contracts and other economic opportunities are directed to minority business enterprises (**MBE**), women-owned business enterprises (**WBE**), together M/WBE, and labor surplus area firms. This section highlights some of the key aspects for this area of regulation. PRDOH has provided a full policy guide for M/WBE implementation, available on the PRDOH website. This section does not replace the guidance provided in the policy guide.

Minority Business Enterprise means a business enterprise that is at least fifty-one percent (51%) owned and controlled by one or more minorities or socially and economically disadvantaged persons. Such disadvantages may arise from cultural, racial, chronic economic circumstances, or other similar causes.

Women's Business Enterprise is an independent business concern that is at least fifty-one percent (51%) owned and controlled by one or more women who are U.S. citizens or Legal Resident Aliens, whose business formation and principal place of business are in the U.S. or its territories, and whose management and daily operation is controlled by a woman with industry expertise.

Compliance is ensured by requiring, as applicable, subrecipients, contractors, subcontractors, and/or developers to make best efforts to achieve an overall M/WBE participation goal of twenty percent (20%) of the entire contract value consisting of ten percent (10%) for MBE and ten percent (10%) for WBE.

If, after making good faith efforts, a subrecipient, contractor, subcontractor, and/or developer is unable to meet M/WBE goals, they may submit a request for an M/WBE Waiver for their overall goal. The request must set forth the reasons for the inability to meet any or all of the participation requirements and explain the good faith efforts

undertaken. For more information, refer to the PRDOH M/WBE Policy guide available in English and Spanish at <https://recuperacion.pr.gov/en/download/mwbe-policy/> and <https://recuperacion.pr.gov/download/politica-mwbe/>.

23 Procurement Processes

The Uniform Guidance procurement requirements (2 C.F.R. Part 200, Subpart D) are applicable to CDBG-DR/MIT-funded projects. These policies and procedures ensure that Federal dollars are spent fairly and encourage open competition at the best level of service and price. Objective performances must be ensured, and unfair competitive advantages must be avoided (i.e., a contractor involved in developing a procurement cannot compete for any such procurement).

Consistent with federal standards, PRDOH adopted the Procurement Manual for the CDBG-DR, CDBG-MIT, and CDBG State Programs, Regulation No. 9506, effective on October 25, 2023. The document is available in English and Spanish on PRDOH website at: <https://recuperacion.pr.gov/en/download/procurement-manual-cdbg-dr-mit-program/> and <https://recuperacion.pr.gov/download/manual-de-adquisiciones-programa-cdbg-dr-mit/>.

24 Monitoring

PRDOH is required by regulations and Grant Agreement conditions to monitor each CDBG-MIT-funded program/function or activity—including activities carried out by Subrecipients, contractors, and PRDOH vendors—to ensure compliance with applicable federal requirements and to determine achievement of performance expectations.

PRDOH's Monitoring Manual for the CDBG-DR/MIT Programs is available in English and Spanish on the PRDOH website at: <https://recuperacion.pr.gov/en/download/monitoring-manual/> and <https://recuperacion.pr.gov/download/manual-de-monitoreo/>.

25 Program Closeout

Program closeout is the process by which PRDOH determines if the Program has been successfully completed by Subrecipients. A program is deemed complete upon final review and/or inspection by PRDOH and, when applicable, the submission of proof that

all agreed upon performance indicators have been reported as well as performance milestones have been met.

General requirements for closeout are as follows:

- All milestones have been met and deliverables submitted, each in accordance with Program requirements;
- All required forms and reports have been duly completed and executed by the appropriate parties throughout the entirety of the Program;
- All used CDBG-MIT funds have been properly accounted for and reconciled with payments to PRDOH's Contractors and Subrecipients;
- All required construction work permits have been properly closed out with the pertinent governmental entities;
- Other contracts and requirements for closeout have been met as established in the SRA.

PRDOH will contact the Subrecipients if any additional information is necessary to close out the Program. Once all levels of quality control review are passed, the Subrecipients will receive a CDBG-MIT Final Notice, and their individual contracts will be placed in a closeout complete status.⁶⁶

26 Recapture

Instances may arise where a Subrecipient or Applicant must return all or part of the awarded funds to the Program. The Program is responsible for recovering duplicative funds, those granted to Applicants or Subrecipients who do not meet Program requirements, and funds identified as potential overpayments. All Applicants or Subrecipient records will be reviewed and reconciled to ensure compliance with Program requirements and federal Guidelines.

Once it is determined that an Applicant or Subrecipient must return funds to the CDBG-MIT grant fund, the Applicant or Subrecipient must repay the full amount in a timely manner as a lump sum amount.

⁶⁶ PRDOH's Closeout Policy is available at: <https://recuperacion.pr.gov/download/politica-de-cierre/> (Spanish) and <https://recuperacion.pr.gov/en/download/closeout-policy/> (English).

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

27 Voluntary Withdrawal

An Applicant may request to withdraw from the Program at any time before the Grant Agreement is executed. Any voluntary withdrawal request submitted seventy-two (72) hours after the signature of the Grant Agreement will be evaluated on a case-by-case basis and must be approved by PRDOH. The voluntary withdrawal process will be followed in the event an applicant requests to withdraw from the Program.

To begin the process, the Applicant must notify the Program of their desire to withdraw by completing a **Voluntary Withdrawal Request Form** or sending a written communication to the Program by e-mail or postal mail. Once the request is received, the Program will send the Applicant a **Voluntary Withdrawal Notice** and the withdrawal process will commence.

If the withdrawal request is submitted **before** the Grant Agreement is signed, the application status will be officially updated to "withdrawn" **fifteen (15) calendar days** after the date of the **Voluntary Withdrawal Notification**. At that time, the Applicant will receive a **Voluntary Withdrawal Confirmation Notice**. The notice will confirm that the process has been successfully completed, the case status has been updated to "withdrawn," and the case has been closed.

If the withdrawal request is submitted **after** the Grant Agreement has been signed, the Program will evaluate it and notify the Applicant of its approval or denial through a **Voluntary Withdrawal Approval** or **Denial Notice**. In case of approval, the withdrawal process will proceed, and the Applicant will receive the Voluntary Withdrawal Confirmation Notification, confirming that the process has been completed and their case has been closed. Therefore, the Applicant will no longer be able to rejoin the Program.

28 Non-responsive Applicants

The MSC Program will make reasonable efforts to contact Applicants to schedule meetings, collect documentation, or obtain other necessary information. Contact attempts should be made using different methods of communication and at different times of the day or week. The following is a list of some of the circumstances under which the Program may trigger a Non-responsive Applicant process:

- If the Program has made **three (3) consecutive unsuccessful attempts** to contact an Applicant with no follow-up contact from the Applicant, the Program will send a Non-responsive Notice.
- If the Program sends a Required Documents Notification to an Applicant and no response is received within **thirty (30) calendar days** of the date of the letter, the Applicant will be sent a Non-responsive Notice.

The Non-responsive Notice provides contact information for the MSC Program, advises the Applicant of the reasons for the Non-responsive Notice, and notifies the Applicant to contact the Program or complete an action within **fourteen (14) calendar days** of the date of the letter. If the Applicant fails to contact the Program or complete the action within the **fourteen (14) calendar days** allowed, the Program will send the Applicant a Non-responsive Confirmation Notice, and the application will be closed.

29 Program-based Reconsideration and/or Administrative Review

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

29.1 Program-based Reconsideration Request

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

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

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

Filing a Program-based Reconsideration Request does not substitute, negate, or preclude any legal right that beneficiary has to challenge a determination made by the Program. Therefore, beneficiaries who disagree with the initial determination of the Program may submit, at their discretion, either a Program-based Reconsideration Request or a petition for review of the decision made by the Program by filing an Administrative Review Request at PRDOH in accordance with Regulation No. 9618, of November 21, 2024, which regulates the Formal Adjudicative Procedures for PRDOH and its Adjunct Agencies (**Regulation No. 9618**)⁶⁷.

29.2 Administrative Review Request

If the beneficiary disagrees with a Program determination, or with the Reconsideration Request Denial determination, said party may file directly to PRDOH, as grantee, an Administrative Review Request in accordance with the aforementioned Regulation No. 9618. The beneficiary must submit such request in writing within **twenty (20) calendar days** from the date a copy of the Program determination or a Reconsideration Request Denial determination notice was filed in the record of the agency. Provided that, if the date on which the copy of the notice is filed in the records of the agency differs from the **mailing date** (postal or electronic), the aforementioned **twenty (20) calendar day-term** shall be calculated from the **mailing date** (postal or electronic).

⁶⁷ For more details, you can access Regulation 9618 (in Spanish) at: <https://www.vivienda.pr.gov/wp-content/uploads/2024/11/REGLAMENTO-9618-SOBRE-PROCEDIMIENTOS-ADJUDICATIVOS-FORMALES-DEL-DEPARTAMENTO-DE-LA-VIVIENDA-Y-SUS-AGENCIAS-ADSCRITAS.pdf>.

Notices distributed via electronic communication shall be considered valid. In the event a notification is sent via postal and electronic mail, the notification date will be the one sent beforehand.

Submit the request via email to: LegalCDBG@vivienda.pr.gov; via postal mail to: CDBG-DR/MIT Legal Division, P.O. Box 21365, San Juan, PR 00928-1365; or in person at PRDOH's Main Offices at: CDBG-DR/MIT Legal Division, 606 Barbosa Avenue, Juan C. Cordero Davila Building, Río Piedras, P.R. 00918.

If the beneficiary disagrees with any **final** written determination on an Administrative Review Request notified by PRDOH, after completing the Administrative Adjudicative Procedure, said party may file a Judicial Review petition before the Court of Appeals of Puerto Rico within **thirty (30) calendar days** after a copy of the determination notice has been filed. See Act No. 201-2003, as amended, known as the "Judiciary Act of the Commonwealth of Puerto Rico of 2003", 4 LPRA § 24 *et seq.*, and Section 4.2 of Act No. 38-2017, as amended, known as the "Uniform Administrative Procedures Act of the Government of Puerto Rico", 3 LPRA § 9672.

30 General Provisions

30.1 Program Guidelines Scope

This document sets forth the policy governing the Program. These Guidelines are intended to aid and provide 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 the Guidelines, justify it. Such faculty will be exercised on a case-by-case basis in compliance with local, state and federal requirements. PRDOH is in no way obligated to grant Program benefits in said cases.

30.2 Program Guidelines Amendments

PRDOH reserves the right to modify the policies established in the 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 when evaluating any situations encountered in the implementation and/or continuance of the Program from the date of its issuance, that is, the date appearing on the cover of the Guidelines. Each version of the Program Guidelines will contain a detailed version control log that outlines any substantive amendment, inclusions and/or changes.

30.3 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 an individual construction project schedule. The aforementioned applies strictly to Program deadlines or established Program terms. Under no circumstances does the faculty to extend deadlines apply to the established terms of time in these Guidelines or any applicable federal or state law or regulation, or to the terms of times established in these Guidelines to request a Program-based Reconsideration, Administrative Review, and/or Judicial Review.

30.4 Established Periods of Time

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

30.5 Written Notifications

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

30.6 Conflict of Interest

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

Several federal and state conflict of interest laws can govern CDBG-MIT assisted activities. Therefore, PRDOH has taken into account the regulations listed below in the

development and implementation of the Conflict of Interest and Standards of Conduct Policy (**COI Policy**) for the CDBG-DR/MIT Program:

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

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

As defined in the COI Policy, a conflict of interest is a situation in which any person who is a public servant, employee, agent, consultant, officer, or elected official or appointed official of the PRDOH, or of any designated public agencies, or of subrecipients that are receiving funds under the CDBG-DR/MIT Programs, 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** thereafter.

PRDOH will not tolerate such conflicts of interest. Program officials, their employees, agents and/or designees are subject to state ethics laws and regulations, including, but not limited to Puerto Rico Government Ethics Act of 2011, Act No. 1-2012, as amended, regarding their conduct in the administration, granting of awards and Program activities.

According to Act No. 1-2012, no public servant shall intervene, either directly or indirectly, in any matter in which they have a conflict of interest 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 the Guidelines, and requirements set forth in the COI Policy. PRDOH Program officials, their employees, agents and/or designees should disclose their relationship with PRDOH at the time of application.

The COI Policy and all CDBG-DR/MIT Program policies are available in English and Spanish on the PRDOH website at <https://recuperacion.pr.gov/en/download/conflict-of-interest-and-standards-of-conduct-policy/> and <https://recuperacion.pr.gov/download/politica-de-conflictos-de-interes-y-estandares-de-conducta/>.

30.7 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://recuperacion.pr.gov/en/contact-us/contact/> (English)
<https://recuperacion.pr.gov/contactanos/contacto/> (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://recuperacion.pr.gov/en/citizen-participation/> and <https://recuperacion.pr.gov/participacion-ciudadana/>. For more information on how to contact PRDOH, please refer to <https://recuperacion.pr.gov/welcome/home/>.

30.8 Citizen Complaints

As part of addressing Puerto Rico's risk-based and mitigation unmet 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) business days**, where practicable. See 24 C.F.R. § 570.486(a)(7) and 24 C.F.R. §91.115(h).

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:** CDBGResponde@vivienda.pr.gov
- **Online at:** <https://recuperacion.pr.gov/en/contact-us/complaints/> (English)
<https://recuperacion.pr.gov/contactanos/quejas/> (Spanish)
- **In writing at:** Puerto Rico CDBG-DR/MIT Program
Attn: Public and Community Affairs 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 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 <https://recuperacion.pr.gov/en/download/citizen-complaints-policy/> and <https://recuperacion.pr.gov/download/politica-sobre-presentacion-de-quejas/>.

30.9 Anti-fraud, Waste, Abuse or Mismanagement

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

Pursuant to 84 FR 45838, 45845, PRDOH implements adequate measures to detect and prevent fraud, waste, abuse, or mismanagement in all programs administered with CDBG-MIT funds. Additionally, PRDOH encourages any individual who is aware of 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.

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	Fill out the AFWAM Submission Form available in English and Spanish at: https://recuperacion.pr.gov/app/cdbgdrpublic/Fraud?culture=en-US and https://recuperacion.pr.gov/app/cdbgdrpublic/Fraud?culture=es-ES
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 Dávila, Río Piedras, PR 00918.

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

The AFWAM Policy and all CDBG-DR/MIT Program policies are available in English and Spanish on the PRDOH website at <https://recuperacion.pr.gov/en/download/afwam-policy/> and <https://recuperacion.pr.gov/download/politica-afwam/>.

30.10 Related Laws and Regulations

These Guidelines refer to how the provisions of certain laws apply to the Program. However, the regulations and applicable laws mentioned in these Guidelines are not an exhaustive list of all regulations applicable to the Program. The lack of mention does not negate or preclude the Program from applying the provisions of those laws, nor an Applicant from receiving services, when applicable. If there are any

discrepancies between the Guidelines and the laws and/or regulations, then the latter will prevail. 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 the Guidelines.

30.11 Cross-cutting Guidelines

Some federal and local requirements apply to all CDBG-DR/MIT-funded programs. The Cross-cutting Guidelines cover topics such as financial management, environmental review, labor standards, acquisition, relocation, civil rights, fair housing, among others. The requirements described in the Cross-cutting Guidelines, apply to all programs described in PRDOH's CDBG-DR and CDBG-MIT Action Plans and their amendments.

The Cross-cutting Guidelines and all CDBG-DR/MIT Program policies are available in English and Spanish on the PRDOH website at <https://recuperacion.pr.gov/en/download/cross-cutting-guidelines/> and <https://recuperacion.pr.gov/download/guias-intersectoriales/>.

31 Program Oversight

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

32 Severability Clause

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

END OF GUIDELINES