



CDBG-DR PROGRAM GUIDELINES

MUNICIPAL RECOVERY PLANNING PROGRAM

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1 Overview

In September 2017, Hurricanes Irma and María (**Hurricanes**) cut across all of Puerto Rico, crippling the power grid, flooding coastal and alluvial plains, and causing significant landslide and wind damage. These forces collectively impacted cities and economies, municipal systems and natural ecologies, and exacerbated geological vulnerabilities. All seventy-eight (78) municipalities were subsequently declared disaster impact areas under Puerto Rico Hurricane Irma DR-4336 and Puerto Rico Hurricane María DR-4339.

The Municipal Recovery Planning Program (**MRP Program or Program**) serves under the Puerto Rico Department of Housing (**PRDOH**) to respond to municipal needs in the Disaster Impact Areas (**DIA**) from the Hurricanes. This area encompasses the entirety of Puerto Rico's islands, thereby qualifying all seventy-eight (78) municipalities as eligible Applicants to this Program.

The seventy-eight (78) municipalities of Puerto Rico represent cities and towns across the three main islands. Municipalities are the primary legal subdivisions and contain cities, towns and unincorporated or informal settlements within their boundaries. Cities and towns are comprised of smaller communities and neighborhoods, some distinguished as "special communities," and are served by a separate planning program through the PRDOH; the Whole Community Resilience Program. For this document, the larger, municipal level as well as regional level are referenced.

1.1 Planning

This program anticipates a considerable need for municipalities to develop strategies for individual and regional recovery from the Hurricanes and mitigation for future disaster events. Disasters do not stop at political boundaries, and thus, recovery and resilience planning should be conducted on both at a Municipal level and at a regional level.

The MRP Program defines "planning" as a process by which local administrations collaborate with community residents, businesses, neighboring municipalities, and central government agencies to identify actions and projects necessary for holistic recovery from Hurricanes Irma and María. Municipalities will have time and space to envision a potential future and to plan for Individual and Regional recovery and resilience for all populations. Throughout this process, communities will be asked to consider future stressors (hurricanes, earthquakes, landslides, economic downturns, other social or geophysical shocks, etc.), environmental integrity, economic diversity and viability, hazard mitigation opportunities, historic preservation, equity and vulnerability, and infrastructure redevelopment or augmentation, as well as other issues they deem important. This will occur as two consecutive components, described in further detail in the **Program Description** section of this document: Individual Municipal Planning and Regional Municipal Planning.

These planning processes will result in public plans which lay out findings and visions for future success for each participating municipality and region, as well as specific identified issues, solutions, and implementation and funding strategies.

1.2 Planning in Puerto Rico

Puerto Rico has a long history of planning in response to natural disasters, economic recessions, neighborhood development, and infrastructure growth. Often these plans were devised on a smaller, community scale or larger, Island-wide scale. This Program supports unifying and building from these efforts, giving municipalities the resources to bring ideas from the communities they represent, while encouraging larger-scale thinking and consideration of needs further into the future. With the incorporation of past planning efforts, the MRP Program seeks to benefit individual municipalities, regional groups of municipalities, and the future of Puerto Rico as a whole.

2 National Objective

Funds being used for planning activities for the development of community plans are part of the twenty percent (20%) planning and administrative cap of the Community Development Block Grant-Disaster Recovery (**CDBG-DR**) funds. Funds with this designation do not need to meet a national objective requirement.

3 Program Description

The MRP Program will occur as **three (3)** consecutive components to identify projects and actions necessary for holistic recovery from Hurricanes Irma and María:

1. Pre-Planning Period - **Maximum of 6 months**
2. Individual Municipal Planning **6 months**
3. Regional Municipal Planning **12 months**

The **Pre-Planning Period** process will commence immediately **upon execution of the subrecipient agreement** and it will last for a maximum of **six (6) months**. This period will consist of a series of tasks based on the planning services option chosen by the Subrecipient. These tasks may include, but are not limited to: Independent Procurement, mobilization, trainings, coordination with the assigned program manager, evaluation of personnel need, staff build up (hiring and assigning process) and program launch.

After the **Pre-Planning Period** concludes, the **Individual Municipal Planning** process may begin and will last for **six (6) months**. Municipalities will each envision a potential future and develop a plan for recovery and resilience for all populations within their Municipality. Throughout this **six-month long** process communities will be asked to consider future stressors (hurricanes, earthquakes, landslides, economic downturns, other social or geophysical shocks, etc.), environmental integrity, economic diversity and viability, hazard mitigation opportunities, historic preservation, equity and vulnerability,

and infrastructure redevelopment or augmentation, as well as other issues they deem important. This six-month long process will conclude in a public document which presents municipality findings and visions for future success, as well as specific identified issues, solutions, and implementation and funding strategies.

After the **six (6) month** period for the **Individual Municipal Planning**, the **Regional Municipal Planning** process will begin and will last for an additional period of **twelve (12) months**. The total planning period shall not exceed **twenty-four (24) months**. Jurisdictions will work with their adjacent Municipalities to understand complex issues that extend beyond civic boundaries and identify solutions that are regional in nature. These issues and solutions may include energy considerations, watershed planning and flood mitigation, or environmental and resource conservation planning, among others. During this process, Municipalities will be asked by PRDOH to consider inter-governmental coordination of resources to provide actionable solutions, especially projects, to these large area considerations.

The intent of the **Regional Municipal Planning** process is to prepare all levels of government for immediate and wise use of future mitigation funding that could become available under CDBG-DR or other recovery programs. In some cases, Regional Planning activities may commence prior to the completion of the Individual Planning effort if deemed appropriate by PRDOH and fit within the context of the ongoing planning activities. Additional details regarding Regional planning processes and future funding allocations will be amended to these Program Guidelines at a later date.

3.1 Program Method

Planning firms will collaborate with municipalities to conduct outreach, communication, and discussions with community residents and stakeholders. This inclusive planning process will result in Individual Municipal and, later, Regional Municipal recovery plans. These plans will strategically position municipalities and regions to qualify for funding through other CDBG-DR programs described in the PRDOH CDBG-DR Action Plan, such as the City Revitalization Program, the Critical Infrastructure Resilience Program and the Community Resilience Centers Program, among others.

While the contents and recommended strategies for recovery contained within these Plans are expected to vary by locality, the recovery planning process will follow a consistent methodology and will result in an outcome of consistent format and structure.

3.1.1 Planning Process

The planning process shall be composed, at minimum, of the following tasks:

- a. Public engagement, outreach, and collaboration at a municipal and/or regional scale.

- b. A critical review of existing plans, policies, and regulations that impact resilience and rebuilding activities. This may include environmental plans, local zoning, and future land use maps, local policies and procedures, capital outlay plans, or other strategic, spatial, or special area planning.
- c. Data gathering, studies, or analysis necessary to carry out planning activities.

3.1.2 Planning Outcomes

The planning process carried out is expected to provide concrete goals along with specific actions or projects that will lead to the recovery and resilience of municipalities and address critical infrastructure, environmental, and economic deficiencies. The following components are the expected result of the planning processes performed under the Program:

- a. A plan document, in electronic and hard copy, that identifies strategies of recovery, resilience, and mitigation projects eligible for funding under current and future CDBG-DR allocations, as well as other recovery or mitigation funding opportunities.
- b. Identification of recovery, resilience, and mitigation actions that can be undertaken by municipalities and stakeholders.
- c. Creation of an implementation and funding strategy.
- d. Compilation of local risk profiles.
- e. Monitoring and evaluation framework.
- f. Development of a Mitigation and Resilience Toolkit. This toolkit may include strategies to address considerations such as:
 - o Economic Development
 - o Coastal Zone Management
 - o Natural Habitat Restoration
 - o Debris Management
 - o Municipal Master Planning
 - o Regional Master Planning
 - o Community Development or Redevelopment
 - o Capital Improvement
 - o Codes, Ordinances, Standards, and Regulations
- g. Municipal staff will work closely with the vendors to build key skill sets required to manage long-term recovery activities associated with CDBG-DR grant funds.

4 Eligible Use of Funds

The Program provides funding to municipalities for the augmentation of staff and equipment as necessary to support management and leadership of the Individual Municipal and Regional Municipal Recovery Planning processes, as well as to hire planning firms (vendors) to carry out eligible program activities, as defined by 24 C.F.R. §

570.205. Municipal staff will work closely with the vendors to build key skill sets required to manage long-term recovery activities associated with CDBG-DR grant funds.

4.1 Eligible Activities

Certain activities are considered eligible for reimbursement when procured in accordance with CDBG-DR guidelines:

1. Activities necessary to develop a recovery plan. These activities could include:
 - Data gathering and analysis, participating and contributing to necessary studies or mapping effort
 - Outreach and coordination with citizens and stakeholders
 - Communications and messaging
 - Participation in development of vision, goals, objectives, and activities
 - Participation in development of implementation strategy
 - Review of the findings
 - Drafting of plan
2. Activities necessary for the monitoring, evaluation and oversight of vendor activities and deliverables. These activities could include:
 - Monitoring reports and evaluations
 - Invoicing and documentation
 - Coordination, oversight and management of planning vendors
 - Coordination with PRDOH and MRP project manager
 - QA/QC and review of deliverables
3. Equipment and software necessary to conduct the activity.
4. Vendor activities necessary to develop a Recovery Plan.

4.2 Ineligible Activities

Certain activities are considered NOT eligible for funding or reimbursement.

- Engineering, architectural and design costs related to a specific project, such as detailed engineering specifications and working drawings.
- Construction or any costs of implementation of projects or plans.
- Costs not associated with the development of plans or other planning activities, as described in 24 C.F.R. § 570.205.

5 Program Eligibility

Grant recipients could be any of Puerto Rico's seventy-eight (78) designated municipalities.

6 Program Application

This Program is funded through the CDBG-DR Program allocation from the United States Department of Housing and Urban Development (**HUD**) under Public Law 115-56. As per

the distribution table prepared, the funding granted to recipients of MRP Program grants will be determined by an award formula, which will consider factors including:

- Municipal Population;
- Municipal land area;
- Municipal Coastline length;
- Municipality area covered by water; and
- Assessed damages data.

This method is described in further detail in the MRP Program Notice of Funding Availability (**NOFA**).

Municipalities interested in participating in the Program shall submit applications to recoveryCDBG@vivienda.pr.gov upon the publication of the MRP Program NOFA and the instructions set forth within. Applications will be reviewed on a first-come, first-served basis.

PRDOH will provide technical assistance in the form of workshops and/or one-on-one discussions in order to assist the Applicants in the initial stages of the planning process.

Once the initial Application submission and Technical Assistance training are completed, participants shall enter into a Subrecipient Agreement (**SRA**) with PRDOH certifying that compliance with CDBG-DR requirements will be met in order to access allocated funding and to establish planning process requirements. Municipal governments must agree to take part in the MRP Program in order to fully participate in subsequent funding rounds of the City Revitalization Program. By participating in and completing this process, each of Puerto Rico's **seventy-eight (78)** municipal governments will have the opportunity to access additional Program funds with the goal of at least two (2) eligible project Applications per municipality.

Applications shall be submitted to PRDOH for review and approval within an initial **sixty (60) day** application period. Requirements will be evaluated and awarded on a first-come, first-served basis. Although additional application periods may become available, potential participants are strongly encouraged to submit their application as quickly as possible as additional funding under other programs may depend on the completion of planning activities.

6.1 Applications for Individual Municipal and Regional Municipal Planning Funds

Municipalities will be asked to submit a single application in response to the MRP Program NOFA for access to Program funds. After Municipalities have been awarded funds and completed their Individual Municipal Planning activities, these Municipalities will move

forward with the Regional Planning component. The Regional Planning component will be further defined and funded at a later date.

Applications are to be submitted no later than the Application Due Date stated in the Schedule Section of the MRP Program NOFA. Responses to the NOFA submitted after the deadline will not be accepted and funds will not be guaranteed if a Municipality does not go through the Application process. Applications will be processed, evaluated and awarded in the order in which they are received. Submissions will be performed through the MRP Program Application Portal at www.cdbg-dr.pr.gov.

6.2 Application Process

To effectively manage and provide oversight to its disaster recovery programs, PRDOH will provide a shared online application tool to support programs identified in the CDBG-DR Action Plan for Puerto Rico. Within the PRDOH hosted online Application Portal, Applicants to the MRP Program shall proceed with the following submission process:

- Provide required municipality information, including the point of contact for the municipality.
- Provide current Municipal staff information, qualifications and work approach.
- Upload existing municipal plans relevant to current and future activity, including but not limited to:
 - Disaster Mitigation
 - Disaster Resilience
 - Disaster Recovery
 - Infrastructure
 - Housing
 - Land Use / Zoning
 - Economic Development
 - Community Development,
 - Transportation
 - Coastal Plans
 - Environmental Plans
 - Studies and Data Gathering Endeavors
 - Existing data, demographics, studies, etc.
- Upload relevant georeferenced data (**GIS**), which may include, but not limited to:
 - Zoning Layers (Classification & Qualification)
 - Parcel Registry Layer (**CRIM**)
 - Structure Layers, and Roads

All required documentation will be provided through the Application Portal and must be submitted for an application to be deemed eligible. In the application, the submission of qualifications, work approach, municipal plans and georeferenced data sections is

strongly recommended. Although it will be optional for the application submission, this data will be required prior to the award. Additional details regarding the application process will be described further in the NOFA.

6.3 Vendor Partners

There are three (3) options to perform planning functions under the MRP Program.

Option 1 Pre-qualified planning service providers

Municipalities selecting Option 1 are assigned a prequalified vendor to perform planning activities. These PRDOH-procured vendors are assigned based on planning needs defined by Municipalities. Vendors also provide specialized planning services and support municipal employees administering the MRP Program.

Option 2 Independent procurement of planning service providers

Municipalities selecting Option 2 will undergo a Request for Proposals Process (RFP) to procure planning services directly. The municipality must follow all the rules and guidelines for procurement and contracting as established by the PRDOH and HUD. This option is subject to PRDOH approval.

Option 3 Additional hiring of municipal personnel to carry out MRP Program planning activities

Municipalities selecting Option 3 will hire additional staff or designate existing staff to conduct all planning activities and meet all MRP Program deliverables without the help of a planning service provider. This option is subject to PRDOH approval.

The total funding allocation provided to each Municipal entity will be used to provide for planning services based on the sub-recipient's procurement option, additional staffing capacity, and equipment and supplies. Applicants must follow the requirements outlined in the Program Guidelines as it relates to Procurement, MBE/WBE and Section 3, as outlined in the M/WBE and Section 3 section of this document.

7 Procurement

The Uniform Guidance procurement requirements (2 C.F.R. Part 200, Subpart D) went into effect on July 1, 2018. These requirements are applicable to CDBG-DR 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. These requirements are to be adhered to by all parties participating in the procurement.

Standards for procurement of supplies, equipment, construction, engineering, architectural, consulting, and other professional services are outlined in the Procurement

Manual and Contractual Requirements for CDBG-DR, available at www.cdbg-dr.pr.gov. PRDOH follows these standards to ensure goods and services are procured efficiently, at a fair price, and in compliance with all applicable Federal and State laws, as well as executive orders.

8 Minority and Women Owned Business Enterprises (M/WBE) and Section 3

24 C.F.R. § 85.36(e) requires that a grantee and subgrantee of Federal funds take all necessary affirmative steps to assure that minority firms and women's business enterprises and labor surplus area firms are used when possible; and establishes the minimum HUD standards regarding each participating jurisdiction's outreach effort to minority business enterprises (MBE) and women-owned business enterprises (WBE), together M/WBE.

2 C.F.R. § 200.321 requires the non-Federal entity to take necessary steps to ensure that all recipients, subrecipients, contractors, subcontractors, and/or developers funded in whole or in part with CDBG-DR financial assistance ensure that, when possible, contracts and other economic opportunities are directed to small and minority firms, women-owned business enterprises, and labor surplus area firms.

Compliance is ensured by requiring, as applicable, subrecipients, program partners and contractors 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%) percent for MBE and ten percent (10%) for WBE.

If, after making good faith efforts, a subrecipient is unable to meet M/WBE goals, subrecipients may submit a request for a 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 together with an explanation of the good faith efforts undertaken.

Section 3 of the Housing and Urban Development Act of 1968 (Section 3), as amended, 12 U.S.C. §1701u, requires that recipients, subrecipients, contractors, subcontractors, and/or developers funded in whole or in part by CDBG-DR funding, to the greatest extent feasible, extend hiring opportunities and contracts to Section 3 eligible residents and businesses. Section 3 eligible residents are low and very low-income persons, particularly those who live or reside in public or government assisted housing or who meet the income limits identified by HUD. For each project, there is a goal for thirty percent (30%) of new hires to be individuals who qualify as a Section 3 individual.

Businesses can qualify as Section 3 in any one of three (3) ways: (a) If your business is owned in equal to or in excess of fifty-one percent (51%) by someone who is a Section 3 Resident; or (b) if thirty percent (30%) of your staff meets the definition of a Section 3

Resident; or (c) if your business has a firm commitment to provide twenty-five percent (25%) of the total dollar amount of subcontracts to a Section 3 business.

For those entities that receive more than \$200,000.00 in CDBG-DR assistance, and contractors that are awarded covered contracts that exceed \$100,000.00, it is required that an approved Section 3 plan be in place before the project is awarded and approved. For professional services contracts, there is a three percent (3%) goal while for construction contracts there is a ten percent (10%) goal. The plan for compliance with Section 3 must be submitted for approval prior to the start of construction or professional services on any contract activity. See 24 C.F.R. Part 135.

HUD has developed a business registry for businesses who have identified themselves as a Section 3 business in order to facilitate the process of engaging in best efforts. All documentation for Section 3 efforts should be provided to PRDOH and should include metrics to indicate efforts for new hiring or subcontracting.

9 Program Closeout Timeline

Individual Municipal Planning-specific activities must be submitted to PRDOH within **six (6) months** their start date. After the 6-month Individual Planning Activity period, PRDOH will conduct a final review of the Individual Municipal Plans. Within that time, specific work relating to Regional Municipal Planning Activities may begin. Regional Municipal planning-specific activities will last for an additional **twelve (12) months**, thus for municipalities, all planning activities have to be fully concluded within **eighteen (18) months** from the start date of Individual Planning. PRDOH may extend that period based on pre-approved specific planning analysis that an Individual Municipal plan or a Regional Municipal plan may require. All program activities, including final reporting and closeout, must be concluded within **twenty-four (24) months** from the execution of the subrecipient agreement.

Milestone and Deliverable Timeline for Individual Municipal Planning Activities (6 months)

Analysis of Existing Conditions	Deliverables due within one (1) month.	Starting from the date of the start of Individual Planning.
Data Analysis	Deliverables due within two (2) months.	Starting from the date of the start of Individual Planning.
Public Engagement	Deliverables due within three (3) months.	Starting from the date of the start of Individual Planning.
Plan Development	Development to begin by the three (3) month mark of the process.	Starting from the date of the start of Individual Planning. Counted from the date of the start of Individual Planning.

	Deliverables due by month five (5).	
Reporting and Compliance	Deliverables will be ongoing throughout the six (6) month period.	Counted from the date of the start of Individual Planning.
Coordination	Deliverables will be ongoing throughout the six (6) month period.	Counted from the date of the start of Individual Planning.

Milestone and Deliverable Timeline for Regional Planning Activities (12 months)

Analysis of Individual Municipal Plans, Transition of Documentation and Conditions	Deliverables due within two (2) months. Hence, due within eight (8) months of the date of the start of Individual Municipal Planning.	Starting after the initial six (6) month period for Individual Municipal Planning Activities concludes.
Review and analysis of Existing Data and Region Proposals	Deliverables due within four (4) months. Hence, due within ten (10) months of the date of the start of Individual Municipal Planning.	Starting after the initial six (6) month period for Individual Municipal Planning Activities concludes.
Public Engagement	Deliverables due within four (4) months. Hence, due within tenth (10) months of the date of the start of Individual Municipal Planning.	Starting after the initial six (6) month period for Individual Municipal Planning Activities concludes.
Plan Development	Development to begin by the fifth (5) month mark of the Regional Planning process. Hence, starting by month eleven (11) of the date of the start of Individual Municipal Planning. Deliverables due by month twelve (12); which marks	

	eighteen (18) months of the date of the start of Individual Municipal Planning.	
Reporting and Compliance	Deliverables will be ongoing throughout the twelve (12) month period; which marks eighteen (18) months of the date of the start of Individual Municipal Planning.	Starting after the initial six (6) month period for Individual Municipal Planning Activities;
Coordination	Deliverables will be ongoing throughout the twelve (12) month period of the date the date of the start of Individual Municipal Planning.	Starting after the initial six (6) month period for Individual Municipal Planning Activities.

Upon completion of all planning activities, the MRP Program closeout processes shall commence. This process will include ensuring that all work performed has been accepted by the Applicant, all milestones met, all deliverables completed, and Program activities performed in compliance with Program requirements. Evaluation of the work shall be performed at each milestone, upon submission of each deliverable, and during the final inspection of work performed. PRDOH will perform a complete review of Applicant files to ensure all necessary documentation is present and that the grant is ready for closeout.

General requirements for closeout are as follows:

- All milestones have been met and deliverables submitted, and each in accordance with all requirements of this Program.
- All eligibility and duplication of benefits documentation are found to be in accordance with all requirements of this Program.
- All Program forms required throughout the entirety of the application process have been duly completed and executed by the appropriate parties, which may include Program staff, the planning firm, and the Applicant.
- All funds used for the Program, whether CDBG-DR or received using a subrogation of funds, have been properly accounted for and reconciled with payments made to the Municipality, Planning Firm, and other sub-recipients.
- All payments have been issued to the Planning Firm, including applicable retainages.
- All other requirements met for closeout as established in the Planning Firm's contract.

Outreach will be made to the Applicant, the Planning Firm, or any other party involved if any additional information is necessary to close-out the project. Once all levels of quality control review are passed, the Applicant will receive an MRP Program Final Notice, and their Applicant file will be placed in a closeout complete status.

10 Environmental Review

Every project undertaken with Federal funds, and all activities associated with such project, are subject to the provisions of the National Environmental Policy Act of 1969 (**NEPA**), as well as to the HUD environmental review regulations at 24 C.F.R. § 58 on Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities.

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

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

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

10.1 Exempt Activities

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

11 Duplication of Benefits (DOB)

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

When possible, PRDOH will electronically verify disaster recovery assistance received through federally and locally maintained datasets, such as FEMA IA and SBA disaster home loan datasets.

In accordance with Federal Register Vol. 84, No. 119 (June 20, 2019), 84 FR 28836, the duplication of benefits guidance issued in Federal Register Vol. 76, No. 221 (November 16, 2011), 76 FR 71060, shall remain as the duplication of benefits guidance in effect for the MRP Program until an approved substantial amendment to the PRDOH Action Plan for Disaster Recovery authorizes implementation of duplication of benefits guidance included in 84 FR 28836.

12 Program-Based Reconsideration and/or Administrative Review

Applicants of the MRP Program may contest any determinations or denials based on program policy. However, an Applicant may not challenge a federal statutory

requirement. Applicants have the right to request a program-based Reconsideration with the Program or request an Administrative Review directly with PRDOH, as stated below.

12.1 Program-Based Reconsideration Request

Applicants may file a Program-based Reconsideration Request when it is believed there is an error with Program eligibility determinations, Program award, and/or failure to meet construction standards, among other determinations. An Applicant must submit a written Reconsideration Request directly with the Program within **twenty (20) calendar days** from the date a copy of the notice was filed in the record of the agency. Provided, that if the date on which the copy of the notice is filed in the records of the agency differs from the mailing date of said notice, the aforementioned **twenty (20) calendar day-term** shall be calculated from the mailing date. Applicants who file a Program-based Reconsideration Request are encouraged to provide individual facts or circumstances, as well as supporting documents to justify their petition.

In the Reconsideration Request process, the Program will only review facts and information already included in an Applicant's file, unless the Applicant submits new documentation. The MRP Program has the discretion to accept or reject new documentation based upon its relevance to the Program-based Reconsideration Request.

The Program will review and address the Reconsideration Request within **fifteen (15) calendar days** of its receipt. Applicants will be notified of the reconsideration determination via a Reconsideration Request Approved or a Reconsideration Request Denied notification. Applications with an approved Reconsideration Request will return to active Program status and continue with the process as normal. **Applications with a denied Reconsideration Request will remain ineligible for the MRP Program.**

Filing a Program-based Reconsideration Request does not substitute, negate, or preclude any legal right that an Applicant has to challenge a determination made by the Program.

Therefore, Applicants who believe the initial determination of the Program to be erroneous, may submit, at their discretion, either a Program-based Reconsideration Request or a petition for review of the decision made by the Program by filing an Administrative Review Request at the PRDOH in accordance with Regulation Number 4953, of August 19, 1993, which regulates the Formal Adjudication Process for the PRDOH and its Adjunct Agencies (Regulation 4953).

12.2 Administrative Review Request

If an Applicant disagrees with a Program determination, or with the Reconsideration Request Denial determination, said party may file directly to PRDOH, as grantee, an Administrative Review Request. The Applicant must submit such request, in writing, within

twenty (20) calendar days from the date a copy of the Program determination or a Reconsideration Request Denial determination notice was filed in the record of the agency. Provided, that if the date on which the copy of the notice is filed in the records of the agency differs from the mailing date of said notice, the aforementioned **twenty (20) calendar day-term** shall be calculated from the mailing date. Submit request via e-mail to: LegalCDBG@vivienda.pr.gov; via postal mail to: CDBG-DR Legal Division, P.O. Box 21365, San Juan, PR 00928-1365; or in person at PRDOH's Headquarters at: CDBG-DR Legal Division, 606 Barbosa Avenue, Juan C. Cordero Davila Building, Río Piedras, P.R. 00918.

Applicants who submit an Administrative Review Request must follow the procedure established in Regulation 4953. After the Administrative Adjudicative Procedure concludes, applications with approved Administrative Review Requests will return to active Program status and continue within the process as normal. **Applications with denied Administrative Review Requests will remain ineligible for the MRP Program.**

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

If the Applicant fails to file a Program-based Reconsideration Request, or to contest a determination under the Administrative Adjudicative Procedure with PRDOH within the time allotted, the inaction will be deemed as an acceptance of the determination.

13 General Provisions

13.1 Program Guidelines Scope

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

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

13.2 Program Guidelines Amendments

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

13.3 Disaster Impacted Areas

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

13.4 Extension of Deadlines

The Program could extend deadlines on a case-by-case basis. The Program may decline to extend a deadline if such extension will jeopardize the Program's completion schedule or the schedule of an individual construction project. The aforementioned strictly applies to program deadlines or established program terms. Under no circumstance(s) does the faculty to extend deadlines apply to the established terms of time in 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.

13.5 Established Periods of Time

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

13.6 Written Notifications

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

13.7 Conflict of Interest

As stated in 83 FR 5844, Federal regulations require that State grantees, in the direct Grant administration and means of carrying out eligible activities, be responsible with program administrative requirements, including those established in 24 C.F.R. §570.489(h) related to conflicts of interest.

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

1. HUD conflict of interest regulations, 24 C.F.R. § 570.611 and 24 C.F.R. § 85.36;
2. The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. §200 at §200.112 and §200.318 (c)(1);
3. Puerto Rico Department of Housing Organic Act, Act 97 of June 10, 1972, as amended;
4. The Anti-Corruption Code for the New Puerto Rico, Act 2-2018, as amended; and
5. The Puerto Rico Government Ethics Office Organic Act, Act 1-2012, as amended.

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

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

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

According to the aforementioned Act, no public servant shall intervene, either directly or indirectly, in any matter in which he/she has a conflict of interests that may result in his/her benefit. No public servant shall intervene, directly or indirectly, in any matter in which any member of his/her family unit, relative, partner or housemate has a conflict of interest that may result in benefit for any of the abovementioned. In the case that any of the abovementioned relationships has ended during the two (2) years preceding the appointment of the public servant, he/she shall not intervene, either directly or indirectly, in any matter related to them until two (2) years have elapsed after his/her appointment. This prohibition shall remain in effect insofar the beneficial ties with the public servant exist. Once the beneficial ties end, the public servant shall not intervene, 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 this guideline. PRDOH Program officials, their employees, agents and/or designees should disclose their relationship with PRDOH at the time of their application.

The Conflict of Interest Policy is posted as a standalone document at www.cdbg-dr.pr.gov.

13.8 Citizen Participation

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

The Citizen Participation Plan is posted as a standalone document at www.cdbg-dr.pr.gov.

13.9 Citizen Complaints

Citizens who wish to voice a complaint related to PRDOH's published Action Plan, any substantial amendments to the Action Plan, performance reports, or other issues related to CDBG-DR funded activities may do so through any of the following methods:

- **E-mail:** infoCDBG@vivienda.pr.gov
- **Online:** www.cdbg-dr.pr.gov, via the Contact Form available in the "Citizen Participation" – Contact Section of the website
- **Postal mail:**
Puerto Rico CDBG-DR Program
P.O. Box 21365
San Juan, PR 00928-1365

13.10 Fraud, Waste, Abuse or Mismanagement

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

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

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

REPORT FRAUD, WASTE, ABUSE, OR MISMANAGEMENT TO PRDOH CDBG-DR	
CDBG-DR Hotline	787-274-2135 (English/Spanish/TTY)
Postal Mail	Puerto Rico Department of Housing CDBG-DR Internal Audit Office P.O. BOX 21355 San Juan, PR 00928-1355
Email	hotlineCDBG@vivienda.pr.gov
Internet	www.cdbg-dr.pr.gov
In person	Request a meeting with the Deputy Audit Director of the CDBG-DR Internal Audit Office located at PRDOH's Headquarters at 606 Barbosa Avenue, Building Juan C. Cordero Dávila, Río Piedras, PR 00918.

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

The AFWAM Policy is posted as a standalone document at www.cdbg-dr.pr.gov.

13.11 Related Laws and Regulations

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

13.12 Cross-Cutting Guidelines

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

For more information, please refer to the Cross-Cutting Guidelines, which are posted as a standalone document at www.cdbg-dr.pr.gov.

14 Program Oversight

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

15 Severability Clause

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

END OF GUIDELINES.