



DEPARTMENT OF
HOUSING



CDBG-MIT

PROGRAM GUIDELINES

INFRASTRUCTURE MITIGATION PROGRAM

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

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Table of Contents

1	Overview	7
2	Definitions and Acronyms	8
3	Program Summary	11
4	Program Description	12
4.1	Healthcare Strengthening Set-Aside	14
5	Program Funding Limits	15
6	Program Eligibility	15
6.1	Eligible Entities	16
6.2	Ineligible Entities	16
6.3	Eligible Activities	16
6.4	Eligible Uses of Funds	17
6.5	Ineligible Uses of Funds	18
6.6	National Objective	19
7	Address Current and Future Risks	21
7.1	Risk-Benefit Score Explained	22
7.2	Feasibility Study Requirement	23
8	Covered Projects	24
8.1	BCA for Covered Projects	25
9	Competitive Application	26
9.1	Definition of Competitive Projects	26
9.2	Competitive Selection Process	26
9.3	Review of Application	28
10	Selection and Award	30
10.1	Capacity Assessment	30
10.2	Subrecipient Agreement Execution	30
11	Duplication of Benefits (DOB)	31
12	Environmental Review	32
12.1	Exempt Activities	34
12.2	Categorically Excluded Activities	34
12.3	Activities Requiring an Environmental Assessment	35
12.4	Activities Requiring an Environmental Impact Statement	35

13	Procurement	35
14	Financial Management	36
14.1	Project Costs	36
14.2	Reasonable Cost Guidance	36
14.3	Construction Cost Reasonableness	36
15	FEMA Elevation Requirements	38
15.1	Insurance Requirements	38
16	Acquisition and the Uniform Relocation Act (URA)	39
17	Property Management and Disposition	39
18	Labor Standards	40
19	Section 3	40
20	Debarment and Suspension	40
21	Civil Rights and Non-Discrimination	41
21.1	Fair Housing & Equal Opportunity Policy (FHEO Policy)	41
21.2	Section 504, Americans with Disabilities Act, and Equal Employment Opportunity	41
21.3	Reasonable Accommodation Policy	42
21.4	Language Access Plan	42
22	Reporting	43
23	Monitoring	43
24	Closeout	44
24.1	Program Closeout	45
25	General Provisions	45
25.1	Program Guidelines Scope	45
25.2	Program Guidelines Amendments	45
25.3	Extension of Deadlines	45
25.4	Established Periods of Time	46
25.5	Written Notifications	46
25.6	Conflict of Interest	46
25.7	Citizen Participation	47
25.8	Citizen Complaints	48
25.9	Anti-Fraud, Waste, Abuse or Mismanagement	49
25.10	Related Laws and Regulations	50

26	Cross-Cutting Guidelines	51
27	Program Oversight.....	51
28	Severability Clause.....	51

1 Overview

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

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

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

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

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

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

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

2 Definitions and Acronyms

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

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

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

integrated network of assets, sectors, services, and capabilities that are used on a daily basis to support recurring community needs. Lifelines also represent an organizing principal for resource allocation and prioritization during and after a disaster.

- **Covered Project:** Notice 84 FR 45838 defines a Covered Project as an infrastructure project having a total project cost of \$100 million or more, with at least \$50 million of CDBG funds (CDBG-DR, CDBG-MIT or CDBG State). HUD defines “infrastructure project” as an activity or group of related activities that develop the physical assets that are designed to provide or support services to the general public in the following sectors: surface transportation, including roadways, bridges, railroads, and transit; aviation; ports, including navigational channels; water resources projects; energy production and generation, including from fossil, renewable, nuclear, and hydro sources; electricity transmission; broadband; pipelines; stormwater and sewer infrastructure; drinking water infrastructure; and other sectors as may be determined by the Federal Permitting Improvement Steering Council. Further, consistent with HUD’s National Environmental Policy Act (**NEPA**) Implementing requirements at 24 C.F.R. §58.32(a), a grantee must group together and evaluate as a single infrastructure project all individual activities which are related to one another, either on a geographical or functional basis, or are logical parts of a composite of contemplated infrastructure-related actions.
- **Davis-Bacon Wage Requirements:** The Davis Bacon and Related Acts (**DBRA**) requires all contractors and subcontractors performing work on federal construction contracts or federally assisted contracts over than \$2,000 to pay their laborers and mechanics not less than the prevailing wage and fringe benefits for corresponding classes of laborers and mechanics employed on similar projects in the area. The prevailing wage rates and fringe benefits are determined by the Secretary of the U.S. Department of Labor, for inclusion in covered contracts.
- **Department of Housing and Urban Development (HUD):** Federal department through which CDBG, CDBG-DR, and CDBG-MIT programs funds are distributed to recipients.
- **Duplication of Benefits (DOB):** Financial assistance available to or received from another source that is provided for the same purpose as CDBG-MIT grant funds.
- **Environmental Review:** A permanent set of files containing all documentation pertaining to the environmental review compliance procedures conducted and environmental clearance documents.
- **Low-to-Moderate Income (LMI):** Low to moderate income people are those having incomes not more than the ‘moderate income’ level (80% Area Median Family

Income) set by the federal Government for HUD-assisted housing programs. This income standard changes annually and varies by household size, county, and the metropolitan statistical area.

- **MIT Index Score:** - The total Risk Score, determined by adding each hex-grid risk score together, divided by the square miles of the Risk Benefit Area (**RBA**), is used to determine the MIT Index. The MIT Index represents the total potential risk mitigated by a project per area. The MIT Index Score is then used to determine the Risk-Benefit Score through consideration of beneficiaries, determined by the AOB, and Project Cost.
- **Mitigation:** Through notice 84 FR 45838, 45840, HUD defines mitigation “as those activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters.”
- **Most Impacted and Distressed (MID) area:** HUD acknowledges at 84 FR 45838, section II. C., the adoption of the definition of MID area from Federal Register Vol. 83 No. 157, August 14, 2018, 83 FR 40314, in which HUD determines all municipalities of Puerto Rico as MID.
- **Non-Covered Project:** A project that does not meet the definition of a Covered Project.
- **Non-Federal Entity:** A state, local government, Indian tribe, institution of higher education, or non-profit organization that carries out an award or sub-award as a recipient or subrecipient.
- **Program Income:** Gross income generated by the recipient or subrecipient that is directly generated by grant or sub-grant activity or that is earned as a result of the grant or sub-grant during the period of performance. Program income includes, but is not limited to, income from fees and services performed, the use or rental of real or personal property acquired under the grant or sub-grant, the sale of commodities or items fabricated under the grant or sub-grant, license fees and royalties on patents and copyrights, and principal and interest earned on grant or sub-grant funds. Interest earned on advances of federal funds is not program income. Except as otherwise provided in federal statutes, regulations, or in the terms and conditions of the grant or sub-grant, program income does not include rebates, credits, discounts, and interest earned on any of these.
- **Project Cost:** The total allowable cost incurred under a grant or sub-grant and all required cost sharing and voluntary committed cost sharing, including third-party contributions.

- **Recipient:** A non-federal legal entity that receives a federal award directly from a federal awarding agency which is accountable for the use of funds to carry out an activity under a federal program. The term recipient does not include subrecipients.
- **Risk Benefit Area (RBA):** Is the aggregate of the hex grids found in the Risk Assessment. In addition, it is a tool that reside within or connect to the AOB. If a hex-grid from the Risk Assessment is within the AOB it is part of the RBA. Furthermore, if a hex-grid is partially within or touching the AOB, it is also included as part of the RBA. Each hex-grid is one-half mile (0.5 mile) square. Therefore, the RBA is an area in square mile(s).
- **Risk-Benefit Score:** Determined by multiplying the MIT Index by the AOB, or beneficiaries, and then dividing the result by the Project Cost. The product or variable is multiplied by one hundred (100). This analysis is only applicable to projects that do not meet HUD's definition of a covered project.
- **Risk Score:** Each hex-grid has a risk score for each of the eighteen (18) hazards. Only the risk or risks mitigated should be considered when calculating a project Risk Score. This score can be added up based on the AOB to determine a total Risk Score for the project. The Risk Score is then used to determine the MIT Index Score and subsequently the Risk-Benefit Score.
- **Sub-award:** An award provided by a pass-through entity to a subrecipient to carry out part of a federal award received by the pass-through entity. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program. A sub-award may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.
- **Subrecipient:** An entity, usually but not limited to non-Federal entities, that receives a sub-award from a pass-through entity to carry out part of a federal program. The term does not include an individual that is a beneficiary of a federal program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.
- **Uniform Relocation Act (URA):** A federal law that establishes minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their residences, businesses, or farms.

3 Program Summary

The Program Guidelines set forth the requirements for the Infrastructure Mitigation Program and Healthcare Strengthening Set-Aside, as approved by HUD in the PRDOH

CDBG-MIT Action Plan.⁶ HUD approved a total of \$4,566,451,166.00 for the Infrastructure Mitigation Program, which includes a \$1 billion set-aside for Healthcare Strengthening, and a \$1 billion set-aside for the non-federal match to Puerto Rico's HMGP.

INFRASTRUCTURE PROGRAMS	\$4,566,451,166.00
Infrastructure Mitigation Program	\$2,566,451,166.00
HMGP Match Set Aside ⁷	\$1,000,000,000.00
Healthcare Facilities Set Aside	\$1,000,000,000.00

4 Program Description

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

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

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

The Program design is founded on the understanding that risk is regional, and the impacts of disasters are extensive due to the interconnection of critical lifeline infrastructure. Threats do not confine themselves to man-made boundaries or defined regions, and when disaster strikes, the effects are not resolved through the stabilization of one (1) lifeline alone. Risk presents itself in the form of seasonal flood and drought within one (1) neighborhood, risks of sea level rise and earthquake in another, or hurricane force winds

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

⁷ Refer to HMGP Global Match Guidelines for explanation of program requirements. These Guidelines will be available in English and Spanish at <https://cdbg-dr.pr.gov/en/cdbg-mit/> and <https://cdbg-dr.pr.gov/cdbg-mit/>.

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

and wildfire in another. Cascading failures are attributed to more lifeline sector infrastructure than can be holistically hardened with limited federal funds.

For this reason, potential projects under the infrastructure portfolio will not be restricted to mitigation of a single threat, confined to a municipal boundary, or restricted to the hardening of specific lifeline infrastructure. Rather, the intent of this program portfolio is to reward by scoring methodology, projects that serve the greatest mitigation need for the greatest number of people for the most efficient cost.

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

The ultimate goal of the Program is to mitigate the most risk for the greatest amount of people in a strategic and cost-effective manner. This will be achieved by implementing transformative mitigation projects that not only address facility hardening or retrofits, but more importantly address the reduction of multiple threats to lifeline infrastructure, services, and citizens by mitigating the localized conditions that cause wide-scale destruction. The Program intends to fund projects such as:

- Strengthen the resilience of corridors within the **transportation** lifeline in the areas of roadways, aviation, maritime, and mass transit.
- Implement building improvements and incorporate alternative **energy** technology and equipment, where appropriate, into facilities improved by mitigation dollars.⁹
- Improve the resilience of publicly owned **communications** lifeline infrastructure, especially communications assets that are needed to facilitate critical response activities.¹⁰
- Strengthen, modernize, replace, or build **water/wastewater** infrastructure to withstand high-risk hazardous activity that poses a threat to asset stability in a disaster event.
- Improve, expand, or construct **healthcare and medical** facilities to fortify and innovate buildings and permanent equipment.

⁹ Projects that directly improve the electrical power grid should be funded through the PRDOH Energy programs described in the CDBG-DR Action Plan for the Electrical Systems Enhancements and Improvements.

¹⁰ However, projects for improvement of privately-owned communications infrastructure should apply to the Economic Development Portfolio for Growth – Mitigation program.

- Improve or fortify **solid waste** infrastructure to reduce the risk of health threats associated with landfills overfill and instances of clandestine dump sites that only increase with every hazardous event.
- Improve or fortify **safety and security** through flood control or lifeline infrastructure that supports law enforcement/security, fire service, search and rescue, additional community safety, etc.¹¹

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

4.1 Healthcare Strengthening Set-Aside

The Program includes a \$1 billion set aside to strengthen healthcare facilities to benefit medically underserved citizens, and to minimize, through accessible healthcare, the fatalities likely from a disaster event. The implementation of the Program shall be in consultation with the Puerto Rico Department of Health. This set aside shall meet Puerto Rico's risk-based mitigation needs associated with the Health & Medical Lifeline by funding strategic investments in trauma care, improving regional and local primary healthcare centers, and/or improve data, information technology, and communication between healthcare facilities. Selected projects shall also comply with all approval requirements established by the Puerto Rico Department of Health.¹²

Potential projects include improvements, expansions, and construction of new facilities to fortify and innovate buildings and permanent equipment. Improved and new facilities should demonstrably increase the capacity of Puerto Rico's healthcare system to mitigate the impacts of future disasters, both natural and human-caused, such as the COVID-19 pandemic. Building architecture for new construction projects must incorporate disaster-resistant building elements and self-sustaining power, water, and data communication features.

Such facilities should prove resistant to disaster-induced threats, thereby increasing the number of patients that can be sheltered and served in a disaster event. New resilient hospitals and clinics must be constructed to all applicable codes and regulations and strategically located to reduce vulnerability to flooding and earthquakes.¹³ Building

¹¹ So long as projects are not buildings for the general conduct of government as strictly prohibited at the Federal Code of Regulations, 24 C.F.R. §570.207(a)(1).

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

¹³ As stated in the Action Plan, new resilient hospitals and clinics must be constructed to the most recent International Building Code (IBC) 2018 standards and strategically located to reduce vulnerability to flooding and earthquakes. New facilities will be required to meet LEED or other appropriate green building standards

design should consider the integration of information technology and building architecture to support sustainable power and data communication. New construction must include the installation of tele-health technology.

Projects at or above \$50 million could exceed the threshold established by HUD, therefore, they require a full BCA for the projects to qualify for funding.

5 Program Funding Limits

Funding will be awarded in the form of a grant by a competitive application.

Competitive Application projects are those that arise from public entities and local jurisdictions to serve mitigation needs according to neighborhood, community, municipal, or regional need. Because the risk at any individual location may diverge from the top state-wide risk assessment results provided by in the PRDOH CDBG-MIT Action Plan, this competitive application represents a locally driven capacity-building opportunity.

PRDOH has determined to apply the following minimum and maximum awards for the competitive application.

MIN AWARD: Based on cost reasonableness analysis¹⁴

MAX AWARD: \$100,000,000

Exceptions to the max award shall be considered by the PRDOH on a case-by-case basis, which shall consider the project's long-term mitigation potential, the circumstances under which an exception is needed, whether the project BCA demonstrates that the cost of providing assistance is necessary and reasonable, and the project operations and maintenance plan.

6 Program Eligibility

Unlike CDBG-DR funds, where grantees must demonstrate their disaster recovery activities “tie-back” to a specific disaster and address a specific unmet recovery need for which the CDBG-DR funds were appropriated, CDBG-MIT funds do not require such a “tie-back” to the specific qualified disaster that has served as the basis for the allocation. Grantees must instead demonstrate that CDBG-MIT activities:¹⁵

¹⁴ Low-cost projects that mitigate a high number of risks for a large number of beneficiaries shall not be excluded. Such projects could include technological solutions with wide-ranging benefits.

¹⁵ See 84 FR 45838, 45849, Section V.A.2.c., *Clarification of basic requirements for mitigation activities*. Requirements bulleted out in this section deviate from the order in which they appear in the Federal Register Notice, to align with narrative flow of Program Guidelines.

1. Are CDBG-eligible activities under Title I of the Housing and Community Development Act (**HCDA**) or otherwise eligible pursuant to a waiver or alternative requirement; and
2. Meet a national objective, including additional criteria for mitigation activities and Covered Projects;
3. Meet the definition of mitigation activities; and
4. Address the current and future risks as identified in the grantee's Mitigation Needs Assessment in the MID areas.

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

6.1 Eligible Entities

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

- Units of general local government/ municipalities (including departments and divisions);
- Government of Puerto Rico Agencies, Authorities, Trusts and Boards;
- Community-Based Development Organizations and private non-profits; and
- Non-governmental organization (501c(3)) or other non-profit entities.

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

6.2 Ineligible Entities

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

6.3 Eligible Activities

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

- Section 105(a)(1) – Acquisition of Real Property;
- Section 105(a)(2) – Public Facilities and Improvements;
- Section 105(a)(4) – Clearance, Demolition, Removal, Reconstruction, and Rehabilitation of Buildings and Improvements;

- Section 105(a)(7) – Disposition of Real Property;
- Section 105(a)(8) – Public Services;¹⁶
- Section 105(a)(9) – Payment of Non-Federal Share;
- Section 105(a)(11) – Relocation Assistance;
- Section 105(a)(12) – Planning;
- Section 105(a)(13) – Payment of Reasonable Administrative Costs;
- Section 105(a)(14) – Activities Carried Out through Nonprofit Development Organizations;
- Section 105(a)(15) – Assistance to Eligible Entities for Neighborhood Revitalization, Community Economic Development and Energy Conservation;
- Section 105(a)(16) – Energy Use Strategies Related to Development Goals (resiliency)
- Section 105(a)(21) – Assistance to Institutions of Higher Education

6.4 Eligible Uses of Funds

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

- Acquisition, construction, renovation, rehabilitation, or other improvement of a property;
- Construction costs and other infrastructure improvements related to a project;
- Soft costs related to an eligible construction project including, but not limited to, architectural, engineering, permitting, surveying, and overhead and profit margins of construction costs.¹⁷
- Public infrastructure extension and/or improvements;
- Clearance, demolition, and removal;
- Undertakings that support community lifelines;
- Payment of non-federal share;
- Costs associated with capacity-building;
- Costs associated with the completion of a Feasibility Analysis, when required for determination for construction award;
- Pre-development costs;
- Staff costs and related expenses required for management of contractors procured for project, outreach efforts for marketing the Program, screening potential applicants, and other eligible services related to completion of the Program, when required and permitted by the Subrecipient Agreement;
- Clearance of environmental contamination.

¹⁶ In accordance with 84 FR 45838, 45849, V.A.2.c. *Clarification of basic requirements for mitigation activities.*

¹⁷ Architects and engineers must be licensed to practice in Puerto Rico to design in accordance with PRDOH and HUD standards, as well as all applicable local codes and regulations.

6.4.1 Use of CDBG-MIT Funds as a Match

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

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

6.4.2 Use of CDBG-MIT Funds for Energy Grid Improvements

Projects that directly improve the electrical power grid should be funded through the PRDOH Energy Programs described in the CDBG-DR Action Plan for the Electrical Systems Enhancements and Improvements, prior to being considered for CDBG-MIT.¹⁸ On June 22, 2021, HUD published Federal Register Vol. 86, No. 117 (June 22, 2021), 86 FR 32681, which governs the use of the \$2 billion CDBG-DR allocation for enhanced or improved electrical power systems in Puerto Rico and the U.S. Virgin Islands. Of those \$2 billion, \$1,932,347,000 was allocated to Puerto Rico to enhance the Puerto Rico electrical power system.

6.5 Ineligible Uses of Funds

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

- Funding projects that do not mitigate risk according to the PRDOH Risk Assessment criteria explained in the PRDOH CDBG-MIT Action Plan and these Guidelines;
- Projects that enlarge a dam or levee beyond the original footprint of the structure that existed prior;
- Assistance for building used for the general government conduct (defined in HCDA Section 102(a)(21));
- Assistance to privately-owned utilities;
- General government expenses, except as otherwise specifically authorized under 2 C.F.R. Part 200. Expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance;
- Political activities;
- Purchase of moveable equipment;
- Furniture and personal property;
- Construction equipment;

¹⁸ The CDBG-DR Action Plan for the Electrical Systems Enhancements and Improvements is available in English and Spanish at: <https://cdbg-dr.pr.gov/en/power-grid-action-plan/> and <https://cdbg-dr.pr.gov/plan-de-accion-de-red-de-energia/>.

- Housing activities;
- Income Payments;
- Refinancing of debt;
- Religious activities;
- Projects that address the national objective for the elimination of slum and blight.¹⁹

6.6 National Objective

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

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

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

¹⁹ As provided at 24 C.F.R 570.208(b) and 24 C.F.R. 570.483(c).

MID areas²⁰; and (ii) will result in a measurable and verifiable reduction in the risk of loss of life and property.²¹

6.6.1 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 CDBG–MIT activities** must:

- Projects must demonstrate the ability to operate for the useful life of the project via long-term operation and maintenance plans;
- Projects must be consistent with other mitigation activities;

In the case of **Covered Projects**, they must demonstrate the following to meet a national objective:²²

- Demonstrate the long-term efficacy and sustainability of the Covered Project by documenting measurable outcomes²³ or reduction in risk as described herein:
 - The grantee must have a plan to fund the long-term operation and maintenance for CDBG–MIT covered projects and include a description in the Action Plan. Funding options might include State or local resources, borrowing authority, or retargeting of existing financial resources.²⁴
 - Must document how the Covered Project will reflect changing environmental conditions (such as sea level rise or development patterns) with risk management tools and alter funding sources if necessary.
- Must demonstrably benefit the MID area, which has been determined by HUD to be all municipalities of Puerto Rico. The benefits of the Covered Project must outweigh the costs of the projects. Benefits outweigh costs if a BCA results in a benefit-cost ratio greater than one (1.0). Alternatively, for a Covered Project that serves LMI persons or other persons that are less able to mitigate risks or respond to and recover from disasters, benefits outweigh costs if the grantee supplements its BCA with a qualitative description of benefits that cannot be quantified. However, this description must sufficiently demonstrate unique and concrete benefits of the Covered Project for LMI persons or other persons that are less able to mitigate risks or

²⁰ This must be tied to the PRDOH CDBG-MIT Action Plan in the Risk-Based Mitigation Needs Assessment.

²¹ For non-covered projects, this is determined by the Risk-Benefit Score.

²² 84 FR 45838, 45857

²³ See Notice 84 FR 45838, 45852, section V.A.2.i Projection of expenditures and outcomes.

²⁴ 84 FR 45838, 45848

respond to and recover from disasters. It may also include a description of how the Covered Project will provide benefits such as enhancing a community's economic development potential, improving public health and or expanding recreational opportunities.

7 Address Current and Future Risks

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

For non-covered projects, PRDOH will utilize the same tools and data sets in its evaluation process to compute the mitigation of risks to life and property through a scoring system called the Risk-Benefit Score (**RBS**) which directly ties to the data-based risk assessment performed prior to receiving the CDBG-MIT allocation.

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

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

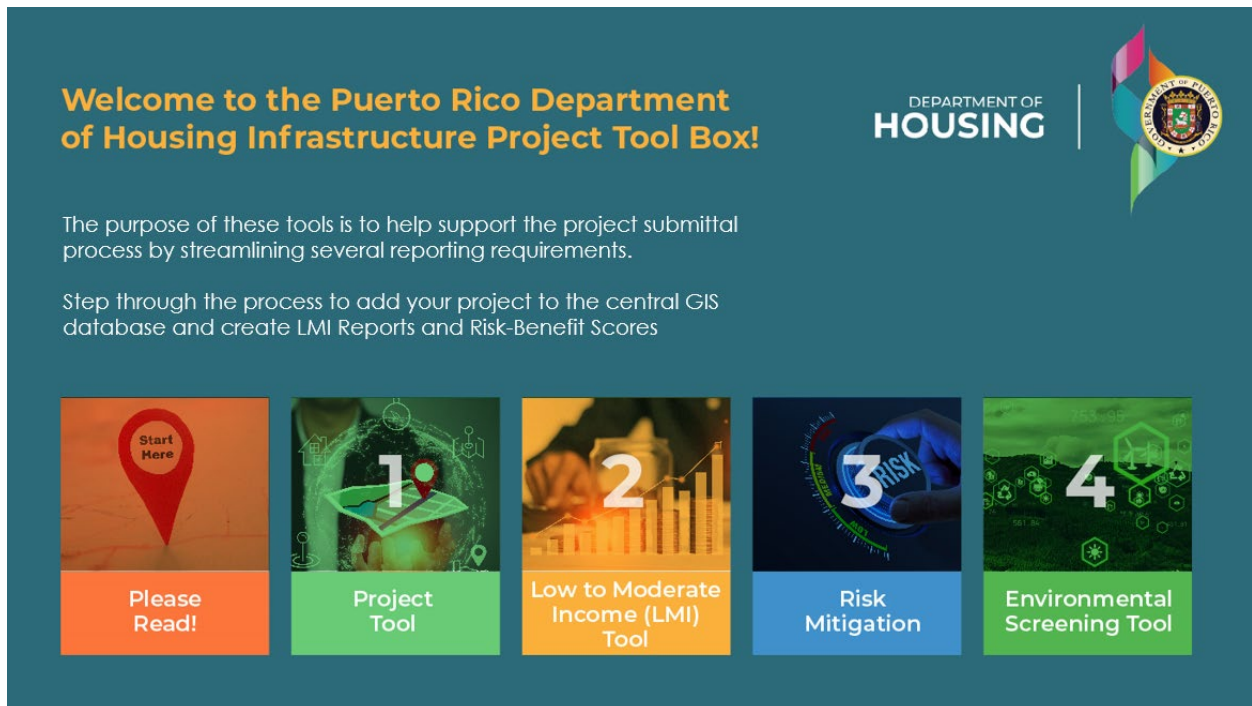


Figure 1: Image of the PRDOH Housing Infrastructure Project Tool Box

Access to the toolbox will be granted to program applicants at the time of application and will require password access for files to be retained within the system. In addition to the RBS calculation, PRDOH may also evaluate non-covered projects for other criteria tied to compliance, innovation, and project-readiness as described in later sections of these Program Guidelines.

7.1 Risk-Benefit Score Explained

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

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

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

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

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

Equation 1: Risk-Benefit Score

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

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

- Projects that mitigate multiple risks under one (1) project activity.
- Projects that reduce risk for socially vulnerable populations.
- Projects that reduce risk on a regional scale rather than at the site level.
- Projects that serve to mitigate risk to critical lifeline infrastructure will score better than those that serve secondary infrastructure.

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

7.2 Feasibility Study Requirement

Any non-covered project over \$25 million in total project value shall also be evaluated for feasibility to ensure that the project delivers the benefit of mitigation from risk to the greatest number of people. A feasible project will demonstrate the ability to complete all necessary activities for the amount requested in the application. The applicant will be required to demonstrate the capacity to complete acquisition, permitting, design, environmental clearance, and all other activities necessary to complete construction of the mitigation project. Depending on the level of feasibility exhibited by the applicant/project and the potential of that project, PRDOH may choose to allocate

additional funding for design, environmental, and other activities required prior to construction.

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

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

8 Covered Projects

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

- A narrative describing consistency with other mitigation activities in the area.
- A narrative describing long-term efficacy and sustainability of the project.
- Provide a plan for long term operation and maintenance of proposed project.
- Provide information regarding the Benefit Cost Analysis (BCA) of the project:²⁵
 - Has one been prepared for the project?
 - Determined Benefits to MID Area
 - BCA Methodology
 - An Additional Benefits Analysis must account for benefits for Economic or Community Development, and Other Social Benefits or Costs.
 - For Non-FEMA BCA methodology, identify the methodology that will be used.
- An alternative qualitative (narrative) description of benefits when BCA is less than one (1.0) describing the benefits to LMI persons, if applicable.

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

Before implementing a Covered Project, the CDBG-MIT Action Plan must complete a substantial amendment process to include a description of the project and the information required for other CDBG-MIT activities (how it meets the definition of a

²⁵ For additional information and the requirements for BCA, PRDOH will publish the CDBG-MIT Benefit Cost Analysis Guidelines in the CDBG-DR/MIT website in both English and Spanish.

mitigation activity, consistency with the Mitigation Needs Assessment, eligibility under section 105(a) of the HCDA or a waiver or alternative requirement, and national objective, including additional criteria for mitigation activities). Additionally, the Action Plan must describe how the project meets additional criteria for national objectives for Covered Projects, including its consistency with other mitigation activities in the same MID area and demonstrated long-term efficacy and sustainability of the project including its operations and maintenance.

8.1 BCA for Covered Projects

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

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

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

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

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

a community's economic development potential, improving public health and/or expanding recreational opportunities.

9 Competitive Application

9.1 Definition of Competitive Projects

Competitive projects will focus on locally driven solutions for risk reduction. Applicants must be eligible entities mentioned in Eligible Entities.

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

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

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

9.2 Competitive Selection Process

Applications will be evaluated to ensure the applicant and proposed projects meet the minimum criteria as outlined in these Program Guidelines. Responses that meet minimum threshold requirements will then be evaluated according to the established scoring criteria. Applications will be evaluated to determine the mitigation value and cost effectiveness of the proposed project. An applicant's planning strategy and management capacity must be evident.

9.2.1 Application Requirements

Application must be presented in the required format and form. It must also include detailed narratives describing the following:

- Description of project and purpose of Project.
 - Description of project must include an exact location of the project activities.
 - Project must group together and evaluate as a single infrastructure project all individual activities which are related to one another, either on a

geographical or functional basis, or are logical parts of a composite of contemplated infrastructure-related actions.

- Budget/Cost information.
 - Estimated project costs for all phases with breakdown of funding sources.
 - Explanation of other available funds if the project capitalizes on public and private partnerships for which the public match (only) is requested through this Program.
- RBS Calculation (for non-covered projects)
 - Final score supported by PDF generated using the RBS tool
- Specify risks that will be mitigated by the completion of the proposed project.
 - Narrative substantiating the information input into the RBS tool of the Infrastructure Toolbox
- Description of AOB.
 - Narrative substantiating the information input into the RBS tool
 - Percentage of LMI benefit.
 - LMI Beneficiary Assessment PDF generated using the LMI Calculator of the Infrastructure Toolbox
- Feasibility Study
 - Any non-covered project over \$25 million in total project value shall also be evaluated for feasibility to ensure that the project delivers the benefit of mitigation from risk to the greatest number of people.
- Implementation plan
 - Description of how the project will be implemented.
 - Schedule of anticipated project activities
 - Description of the current state of the Project including consultations made, and studies performed (feasibility, environmental, A&E, etc.) and status of acquisitions, design, environmental review and permits.
- Analysis of Project Benefits such as:
 - Economic impacts
 - Lifesaving services
 - Emergency response
 - Long-term benefits
 - Analysis of impact to disadvantaged populations and protected classes (from a technical standpoint)
 - Ancillary or co-benefits (social, environmental, resiliency)
 - Nature Based Solutions
 - Community Engagement
 - Environmental and historic impacts
- Capacity Documents

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

9.3 Review of Application

Applications will be evaluated in a two-step review process. The first step shall consist of an evaluation to determine responsiveness (if applicant met the minimum threshold requirements) and basic eligibility criteria. The second step will consist of a review and scoring of the applications according to the established scoring criteria.

9.3.1 Scoring and Ranking

Applications will be reviewed by the evaluation committee. The evaluation committee will rank each application by points allocated to evaluation criteria. If eligible applications exceed available funding, applicants will be funded in rank order based on evaluation scores. PRDOH reserves the option to fund all, a portion of or none of the applications submitted by an applicant.

9.3.2 Additional Evaluation Criteria

In addition to the RBS and BCA, projects may also be evaluated for other aspects such as program compliance, innovative design, and project readiness. Specific project scoring criteria will be published as a part of the Project Application instructions upon opening of the application period. Projects will be evaluated and scored based on the following aspects:

- Projects that have completed an extensive analysis of existing conditions, repetitive loss, past and future disasters, existing data, studies, and relevant federal, state, and local publications will be prioritized.
- Percentage of LMI benefit. Projects that serve fifty-one percent (51%) or more LMI households within the area of benefit will be prioritized.
- If the project capitalizes on public and private partnerships for which the public match (only) is requested through this Program.
- If the project leverages CDBG-MIT funding with other federal, Government of Puerto Rico, and/or local funding sources.
- The feasibility of the project's long-term operations and maintenance plan that addresses the operations and maintenance costs of the infrastructure improved. All applicants are required to submit a long-term operations and maintenance plan and must identify reasonable milestones for any plan that will be reliant on proposed changes to existing taxation policies or tax collection practices.
- Whether the natural infrastructure is preserved, or other eco-conscious measures are included in project design to minimize the unintended consequences of grey infrastructure and other development. Applicants are encouraged to incorporate innovative nature-based solutions and natural or green infrastructure solutions during project development that reduce the negative impacts on the surrounding human and natural environment. Natural or green infrastructure is defined at the Federal Register 84 FR 45838, 45848, as the integration of natural processes or systems (such as wetlands or land barriers) or engineered systems that mimic natural systems and processes into investments in resilient infrastructure, including, for example, using permeable pavements and amended soils to improve infiltration and pollutant removal.
- Whether or not the project supports modern and/or resilient building methodologies and mitigation of hazard risk, including possible sea level rise, high winds, storm surge, and flooding. All projects presented are required to comply with all applicable building codes and regulations.
- Whether the project considered innovative design solutions that:
 - Improve the quality of life
 - Stimulate sustainable growth and development
 - Enhance public health and safety
 - Minimize noise and vibration

- Minimize light pollution
- Improve community mobility and access
- Encourage alternative modes of transportation
- Improve site accessibility and safety
- Preserve Historic and Cultural resources
- Preserve or improve views and local character
- Encourage stakeholder involvement
- Address conflicting regulations and policies
- Extend the project facility lifespan
- Reduce energy consumption
- Make use of recycled materials
- Make use of local or regional materials
- Divert waste from landfills
- Reduce waste during construction

10 Selection and Award

Applicants with selected eligible non-covered projects will receive, from PRDOH, a Notice of Award.

While, in the case of Covered Projects, applicants will receive a Pre-Selection Notification. These projects, along with their BCA, will be submitted to HUD for approval through a substantial amendment to the CDBG-MIT Action Plan, as discussed in Section 8 of the Guidelines. If approved by HUD, the Applicant will then receive a Notice of Award from PRDOH.

However, the award for both types of projects will be conditioned upon completion of a capacity assessment.

10.1 Capacity Assessment

Selected applicants must undergo a capacity assessment prior to execution of a Subrecipient Agreement (**SRA**). The PRDOH Subrecipient Management Team completes a Capacity Assessment of the Potential Subrecipient 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.

10.2 Subrecipient Agreement Execution

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.

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.*, establishes the requirements for DOB analysis.²⁶ The Stafford Act prohibits any person, business concern, or other entity from receiving Federal funds for any part of such loss as to which they have received financial assistance under any other program, from private insurance, charitable assistance, or any other source. To comply with DOB provisions and the requirement that all costs are necessary and reasonable, PRDOH will ensure that each activity provides assistance to a person or entity only to the extent that the person or entity has a mitigation need that has not been fully met.²⁷

Grantees must comply with the DOB guidance included in Federal Register Vol. 84, No. 119 (June 20, 2019), 84 FR 28836. DOB requirements on CDBG-DR funds will equally apply to CDBG-MIT funds. The 2019 DOB notice updates the treatment of declines loans where a grantee shall not take into consideration or reduce the amount of assistance provided to an applicant, where such applicant applied for and was approved, but declined assistance from the Small Business Administration (**SBA**), related to disasters that occurred from 2014 to 2017. The 2019 DOB notice also includes requirements applicable only to CDBG-MIT funds. FEMA, as per recent amendments to the Disaster Recovery Reform Act of 2018 (**DRRA**), Pub. L. 115-254, advises that a loan is not a duplication of other forms of financial assistance, provided that all federal assistance is used toward a loss suffered, as a result of a major disaster or emergency. The DRRA provisions applies to disasters occurred from 2016 to 2021.

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

Similar to CDBG-DR, order of assistance must be adhered to. PRDOH must verify whether FEMA or USACE funds are available for a funded activity (i.e., the application period is open) or the costs are reimbursable by FEMA or USACE (i.e., the Subrecipient will receive FEMA or USACE assistance to reimburse the costs of the activity) before awarding CDBG-MIT assistance for costs of carrying out the same project.

²⁶ Also, see 42 U.S.C. § 5155

²⁷ 84 FR 45838, 45860.

The basic framework for a DOB calculation is:

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

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

12 Environmental Review

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

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

The primary objective of the environmental review is to identify specific environmental factors that may be encountered at potential project sites, and to develop procedures to ensure compliance with regulations pertaining to these factors. The environmental review is designed to produce program-specific environmental reviews procedures in a program that can vary greatly in terms of scope of work.

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

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

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

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

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

12.1 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.

12.2 Categorically Excluded Activities

These are activities for which no Environmental Impact Statement or Environmental Assessment and Finding of No Significant Impact (**FONSI**) under NEPA are required. These activities are divided into those that are and those that are not subject to related laws and authorities at 24 C.F.R. § 58.5.

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

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

The documentation must support its determinations related to compliance including correspondence with applicable agencies having jurisdiction. Upon completion, there should be one (1) of three (3) environmental findings: (1) the project converts to Exempt

(i.e. 24 C.F.R. § 58.34(a) (12)); (2) the project invokes compliance with one (1) or more of the laws and/or authorities and, therefore, requires public notification and approval from HUD; or (3) the unusual circumstances of the project result in a significant environmental impact and, therefore, compliance with NEPA is required. If upon completion it is determined that compliance is required for one (1) or more of the Federal laws and authorities listed in 24 C.F.R. § 58.5, then a public notification known as Notice of Intent to Request Release of Funds must be posted. After a seven (7) day comment period, a Request for Release of Funds and Environmental Certification must be prepared. The Environmental Certification certifies the compliance with all environmental review requirements.

12.3 Activities Requiring an Environmental Assessment

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

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

12.4 Activities Requiring an Environmental Impact Statement

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

13 Procurement

All procurement transactions for work to be funded by CDBG-MIT must be conducted in a manner providing full and open competition and in full compliance with the standards set forth under 2 C.F.R. §200.318 to §200.327. Objective performances must be ensured,

and unfair competitive advantages must be avoided (i.e., a contractor involved in the development of a procurement cannot compete for any such procurement). Refer to the Procurement Manual for the CDBG-DR Program for detailed requirements.²⁸

14 Financial Management

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

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

14.1 Project Costs

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

For Covered Projects, all planned project costs and any subsequent amendments will be verified by a PRDOH Third-Party Cost Estimator.

14.2 Reasonable Cost Guidance

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

14.3 Construction Cost Reasonableness

Federal Register Notice 84 FR 45838 requires PRDOH to ensure that construction costs are reasonable and consistent with market costs at the time and place of construction. Cost reasonableness is described as the price that a prudent businessperson would pay for an

²⁸ Procurement Manual for the CDBG-DR Program, Regulation 9205, is currently under review. The document is available in English and Spanish at: <https://cdbg-dr.pr.gov/en/download/procurement-manual-cdbg-dr-program/> and <https://cdbg-dr.pr.gov/download/manual-de-adquisiciones-programa-cdbg-dr/>.

item or service under competitive market conditions, given a reasonable knowledge of the marketplace. The method and degree of analysis may vary depending upon the circumstances surrounding a particular project (e.g., project type, risk, costs), but the description must address controls for public facilities and infrastructure improvements projects. To establish the cost reasonableness of the goods and services under the CDBG-MIT Program, PRDOH may perform one (1) or more of the following analysis:

- **Comparison of Proposed Costs Received as Part of a Solicitation Process:** For the CDBG-MIT Program, PRDOH or its Subrecipients will acquire all goods and services through procurement processes such as micro-purchases, small purchases, sealed bidding, and competitive proposals, among others. Adequate price competition establishes cost reasonableness. This will be the most common technique used to establish cost reasonableness, as the procurement processes normally attract two (2) or more offers in an independent competition for an award, which establishes current market values.
- **Comparison of Proposed Prices with Prior Solicitation Processes:** During the life cycle of the CDBG-MIT grant, PRDOH or its Subrecipients may procure certain goods or services in multiple instances. Also, PRDOH/Subrecipients may procure goods or services for which, under other projects not necessarily related to CDBG-MIT, similarities exist. A comparison of the prices obtained through prior solicitation processes may be used to establish cost reasonableness. Depending on the timing of the prices being compared, adjustments for inflation may be required to compare data in a fair manner.
- **Comparison of Proposed Prices and Historical Contracts:** PRDOH has extensive historical contract data for previous projects performed. This data may be used by a Subrecipient or PRDOH when procuring goods or services that are similar in nature to those performed in the past to establish cost reasonableness. Depending on the timing of the prices being compared, adjustments for inflation may be required to compare data in a fair manner.
- **Comparison of Proposed Prices with Independent Cost Estimates:** For the CDBG-MIT program, PRDOH or its Subrecipients will acquire all goods and services through procurement processes such as micro-purchases, small purchases, sealed bidding, and competitive proposals, among others. For all of these, the procedures established by PRDOH require the User Area requesting the services to provide an independent cost estimate of the goods or services to be procured. Comparison of these independent cost estimates with proposed prices may be used to establish cost reasonableness.
- **Comparison of Proposed Prices with Prices Obtained through Market Research:** When a good or service has an established market price, whether locally or in another jurisdiction, the verification of an equal or lower price may be used to establish cost reasonableness. Also, when the market value of a specific good or

service is not found, a comparison with a substantially similar good or service may also be performed to establish cost reasonableness.

15 FEMA Elevation Requirements

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

All Critical Actions, as defined at 24 C.F.R. §55.2(b)(3), within the 500-year (or 0.2 percent annual chance) floodplain must be elevated or floodproofed (in accordance with the FEMA standards) to the higher of the 500-year floodplain elevation or three (3) feet above the 100-year floodplain elevation. If the 500-year floodplain or elevation is unavailable, and the Critical Action is in the 100-year floodplain, then the structure must be elevated or floodproofed at least three feet above the 100-year floodplain elevation. Critical Actions are defined as an "activity for which even a slight chance of flooding would be too great, because such flooding might result in loss of life, injury to persons or damage to property."²⁹

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

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

15.1 Insurance Requirements

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

²⁹ 24 C.F.R. §55.2(b)(3).

16 Acquisition and the Uniform Relocation Act (URA)

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

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

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

17 Property Management and Disposition

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

For any real property acquired in whole or in part with CDBG funds in excess of \$25,000.00, the recipient must control the use of the property in accordance with its intended purpose and take good care of it and may not change the use or planned use of the property without proper notification to affected citizens and allowable time for comment by them. If the property is not a building for general government conduct, the use of the property may be changed with citizen approval if it either meets one of the HUD national objectives. If the recipient changes the use of the property, the recipient may either retain or dispose of the property and reimburse PRDOH the amount of the current fair market value of the property.

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

18 Labor Standards

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

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

19 Section 3

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

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

20 Debarment and Suspension

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

A contract award must not be made to parties listed on the government wide exclusions in the System for Award Management (**SAM**). SAM Exclusions contains the names of

parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order No.12549.

The Subrecipient Management Policy and all CDBG-DR/MIT General Policies are available in English and Spanish at: <https://www.cdbg-dr.pr.gov/en/resources/policies/general-policies/> and <https://www.cdbg-dr.pr.gov/recursos/politicas/politicas-generales/>.

21 Civil Rights and Non-Discrimination

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

21.1 Fair Housing & Equal Opportunity Policy (FHEO Policy)

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

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

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

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

Section 504 and ADA to be physically accessible to persons with disabilities, and employers must comply with employment requirements under these statutes and EEO.

21.3 Reasonable Accommodation Policy

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

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

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

The Reasonable Accommodation Policy and all CDBG-DR/MIT General Policies are available in English and Spanish on the PRDOH website at <https://cdbg-dr.pr.gov/en/fair-housing/policy-documents/> and <https://cdbg-dr.pr.gov/fair-housing/politicadocumentos/>.

21.4 Language Access Plan

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

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

22 Reporting

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

23 Monitoring

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

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

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

- Determine if activities are being carried out as described in the Action Plan, as amended, for the CDBG-MIT program and assistance;
- Determine if activities are being carried out in a timely manner;
- Determine if costs charged to the Program and projects are eligible under applicable laws and CDBG regulations and if are reasonable in light of the services or products delivered;
- Determine if activities are being conducted with adequate control over the program and financial performance, and in a way that minimizes opportunities for waste, mismanagement, fraud, and abuse;

- If Subrecipients are utilized, determine if the activities are being carried out in conformance with the subrecipient agreement;
- Assist in resolving compliance problems through discussion, negotiation, technical assistance, and training;
- Provide adequate follow-up measures to ensure that performance and compliance deficiencies are corrected and not repeated;
- Comply with the monitoring requirements of 24 C.F.R. § 570.501(b) and 2 C.F.R. § 200.328, if applicable;
- Determine if any conflict of interest exist in the operation of the CDBG-MIT Program per 24 C.F.R. § 570.611; and
- Ensure that required records are maintained to demonstrate compliance with applicable regulations.

24 Closeout

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

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

Project closeout will begin when:

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

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

24.1 Program Closeout

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

25 General Provisions

25.1 Program Guidelines Scope

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

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

25.2 Program Guidelines Amendments

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

25.3 Extension of Deadlines

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

does the faculty to extend deadlines apply to the established terms of time in these guidelines or any applicable federal or state law or regulation.

25.4 Established Periods of Time

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

25.5 Written Notifications

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

25.6 Conflict of Interest

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

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

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

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

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

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

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

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

25.7 Citizen Participation

Throughout the duration of the grant, all citizen comments on PRDOH's published Action Plan, any substantial amendments to the Action Plan, performance reports and/or other

issues related to the general administration of CDBG-DR/MIT funds, including all programs funded by this grant, are welcomed.

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

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

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

25.8 Citizen Complaints

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

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

- **Via email at:** LegalCDBG@vivienda.pr.gov
- **Online at:** <https://cdbg-dr.pr.gov/en/complaints/> (English)
<https://cdbg-dr.pr.gov/quejas/> (Spanish)
- **In writing at:** Puerto Rico CDBG-DR/MIT Program
Attn: CDBG-DR/MIT Legal Division-Complaints
P.O. Box 21365

San Juan, PR 00928-1365

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

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

*Attention hours: Monday – Friday from 8:00 a.m. to 5:00 p.m.³⁰

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

25.9 Anti-Fraud, Waste, Abuse or Mismanagement

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

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

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

³⁰ Hours may vary due to COVID-19. PRDOH recommends calling ahead prior to arrival to corroborate.

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

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

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

25.10 Related Laws and Regulations

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

26 Cross-Cutting Guidelines

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

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

27 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.

28 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.