



DEPARTMENT OF
HOUSING



CDBG-DR

RECORD KEEPING, MANAGEMENT, AND ACCESSIBILITY POLICY (RKMA POLICY)

Applicable to the CDBG-DR/MIT Program

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PUERTO RICO DEPARTMENT OF HOUSING
CDBG-DR/MIT PROGRAM
RECORD KEEPING, MANAGEMENT, AND ACCESSIBILITY POLICY
VERSION CONTROL

VERSION NUMBER	DATE REVISED	DESCRIPTION OF REVISIONS
1	August 12, 2020	Original version.
2	August 19, 2022	Cover was replaced with updated template. All references to the CDBG-DR Program were updated to read "CDBG-DR/MIT". Additional source of Federal Register Vol. 84, No. 169 (August 30, 2019), 84 FR 45838 was cited in the Legal Basis section.
3	October 20, 2022	Edits throughout the document. Edits are marked in grey for ease of reference.
4	March 20, 2024	Minor edits throughout the document. Additions are highlighted in grey for easy identification. Policy statement added at section 6. Reorganized existing sections for added simplicity and coherence. Clarified, updated, and expanded Legal Basis section. Updated Record Custodians section by eliminating reference to Administering Entities; adding the FCSM Division recordkeeping responsibilities; expanding on contractors and subrecipients' recordkeeping requirements; and clarifying the PII disclosure prohibition. Clarified HUD's main recordkeeping requirements at section 8.1.1. Thoroughly updated the Document Control and File Management Structure sections. Clarified FOIA's relevance to local government activities and Program administration. Included access to public information provisions and exceptions from the Open Data Act. Introduced minor edits to the PIR Evaluation Process section. Thoroughly edited, clarified, and updated record retention requirements at section 11.

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1 Overview

The Puerto Rico Department of Housing (**PRDOH**) is the agency responsible for the administration of the Community Development Block Grant - Disaster Recovery (**CDBG-DR**) and Community Development Block Grant - Mitigation (**CDBG-MIT**) funds (together, the **CDBG-DR/MIT Program** or the **Program**) allocated by the United States Department of Housing and Urban Development (**HUD**). The CDBG-DR/MIT Program oversees a portfolio of programs and projects designed to address the Island's recovery needs after the events of hurricanes Irma and María in 2017 and to mitigate the risk of loss of life and property from future disasters.

These programs and projects encompass multiple activities which require the collection, production, storage, and eventual disposal of information and documents. As grantee of the CDBG-DR/MIT funds, PRDOH recognizes that precise and accurate recordkeeping and management are vital elements to ensure the responsible and successful administration of the Program. Moreover, having clear and uniform recordkeeping and management rules and principles, as well as simple and effective procedures for granting access to PRDOH's public information, ensures transparency and public accountability in the administration of the CDBG-DR/MIT Program. The Record Keeping, Management, and Accessibility Policy (**RKMA Policy** or the **Policy**) establishes the necessary recordkeeping and accessibility framework to attain these objectives at all levels of Program implementation.

2 Legal Basis

As stated in HUD's notices published in the Federal Register Vol. 83, No. 28 (February 9, 2018), 83 FR 5844; Federal Register Vol. 84, No. 169 (August 30, 2019), 84 FR 45838; Federal Register Vol. 86, No. 117 (June 22, 2021), 86 FR 32681; and subsequent notices for CDBG-DR fund allocations, federal regulations require PRDOH to establish and maintain such records as may be necessary to facilitate review and audit by HUD of the fund's administration. Additional federal and local laws and regulations impose specific recordkeeping and management requirements, including those related to the access to public information by individuals. The RKMA Policy is adopted in accordance with the following additional laws and regulations:

- a. Act. No. 97 of June 10, 1972, as amended, 3 LPRC § 441 *et seq.*, known as the "Organic Act of the Department of Housing";
- b. Act No. 5 of December 8, 1955, as amended, 3 LPRC § 1001 *et seq.*, known as the "Puerto Rico Public Documents Administration Act" (**Public Documents Administration Act**);
- c. Act No. 122-2019, as amended, 3 LPRC § 9891 *et seq.*, known as the "Government of Puerto Rico Open Data Act" (**Open Data Act**);
- d. Act No. 141-2019, as amended, 3 LPRC § 9911 *et seq.*, known as the "Transparency and Expedited Procedure for Access to Public Information Act" (**Transparency Act**);

- e. General Services Administration, Regulation for the Administration of Public Documents of the Executive Branch, No. 4284 of July 19, 1990 (**Regulation 4284**); and
- f. Puerto Rico Department of Justice, Circular Letter No. 2020-01 of March 2, 2020 (**Circular Letter 2020-01**).

3 Scope

The RKMA Policy applies to the various types of records generated while managing and implementing the CDBG-DR/MIT programs, projects, and activities, including records produced at the grant (grant files), program (program files), and project administration levels (project files), down to the individual case files of applicants and beneficiaries (applicant and beneficiary files). The rules and principles set forth herein apply to all PRDOH personnel involved in the production, handling, or management of CDBG-DR/MIT Program records as part of their official tasks and responsibilities. The Policy further applies to all PRDOH subrecipients and contractors. Contractors with management responsibilities, such as grant, program, and project managers, are particularly expected to study, understand, and comply fully with the applicable requirements in this Policy.

4 Purpose

The purpose of the RKMA Policy is to standardize the recordkeeping and management rules for the documents produced and received in relation to the CDBG-DR/MIT Program-funded activities, and to ensure these rules are implemented consistently and transparently to maximize public accountability and compliance with all applicable federal and local laws and regulations. In addition, this Policy details the rules and procedures for evaluating requests and access to public information.

5 Definitions

Applicant: a person who has requested assistance from the CDBG-DR/MIT Program.

Beneficiary: a person to whom any CDBG-DR/MIT Program assistance, services, or benefits are ultimately provided. Eligible beneficiaries are defined for each program in their respective Action Plan.

Contractor: a vendor, supplier, offeror, proposer, or bidder, as applicable, who is awarded and executes a contract or a purchase order with PRDOH or any of its subrecipients.

Dependency: include every department, agency, corporate entity, board, committee, body, bureau, office, and every other government body of the three (3) branches of the Government of Puerto Rico and the municipalities.¹

Document: every paper, book, pamphlet, photograph, film, microfilm, magnetic tape, map, drawing, plan, record, video disk, or any other material read by a machine and

¹ As defined in the Public Documents Administration Act.

any other informative material regardless of its physical form or characteristics. It also includes materials generated electronically, even though they may never be printed on paper or other media different from the originally created one.²

Document Administration: the planning, control, direction, organization, training, promotion, and other administrative activities related to the creation, use, conservation, and disposition of documents.³

Document Administrator: the employee responsible for managing the Document Administration Program at their respective dependency, pursuant to the Public Documents Administration Act.⁴

File: may refer either to a physical or an electronic repository of records or documents, or the act of placing and conserving, in one place and adequately classified and identified, any documents so that they are protected from deterioration, destruction, or loss, and to facilitates its location and management at any time.⁵

Library: refers to the CDBG-DR/MIT Program electronic file library.

Non-Federal entity: a state, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a federal award as a recipient or subrecipient.⁶

Personally Identifiable Information (PII): information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual.⁷

Petitioner: a person or legal entity who submits a Public Information Request to PRDOH.

Public Information or document: any physical or electronically produced information or document which originates or is kept or received in any dependency of the Government of Puerto Rico, even if it is under the custody of a third party, pursuant to the law or in relation to the management of public affairs, and that must be permanently or temporarily preserved as evidence of transactions or for its legal value.⁸ Documents that contain PII, sensitive, or confidential information shall follow the rule set forth in the Personally Identifiable Information, Confidentiality, and Non-disclosure Policy.

Public Information Request (PIR): a request to access public information, originated received, or stored at PRDOH.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ As defined at 2 C.F.R. § 200.1.

⁷ The Personally Identifiable Information, Confidentiality, and Non-disclosure Policy is available in English and Spanish on the PRDOH website at <https://recuperacion.pr.gov/en/download/personally-identifiable-information-confidentiality-and-nondisclosure-policy/> and <https://recuperacion.pr.gov/download/politica-sobre-informacion-de-identificacion-personal-confidencialidad-y-no-divulgacion/>.

⁸ As defined in the Public Documents Administration Act and Circular Letter 2020-01.

Recipient: a non-federal entity that receives a federal award directly from a federal awarding agency to carry out an activity under a federal program. The term recipient does not include subrecipients.⁹

Record: includes all recorded information, regardless of its physical form or characteristics, made, received, and/or maintained by PRDOH, its subrecipients, and contractors as evidence of the CDBG-DR/MIT Program activities. The terms “record” and “file” may be used interchangeably throughout this Policy. More specifically, however, “file” is a broader term that refers to a collection of documents or individual “records”.

Record Access: the process of giving access to Public Information in accordance with the provisions of the Transparency Act and Circular Letter 2020-01.

Recordkeeping: the process of keeping and maintaining documents in a way that complies with the CDBG-DR/MIT Program requirements and applicable federal and local laws and regulations, and that facilitates audits and reviews by HUD.

Subrecipient: as per regulations at 24 C.F.R. § 570.500(c), means a public or private nonprofit agency, authority or organization, or community-based development organization receiving CDBG-DR/MIT funds from the recipient or another subrecipient to undertake CDBG-DR/MIT eligible activities. It is further defined at 2 C.F.R. § 200.1 as an entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a federal award.

6 Policy

Proper recordkeeping and management are the foundation of open government, as they further the principles of transparency, accountability, participation, and collaboration.¹⁰ Accurate recordkeeping is fundamental to the successful administration of the CDBG-DR/MIT Program and enables HUD and the public to assess the impact and effectiveness of the grants' funds. Consequently, recordkeeping and management rules and procedures will be implemented consistently and transparently across all levels of the CDBG-DR/MIT Program, from grant administration files down to individual applicant/beneficiary casefiles.

PRDOH recognizes that adequate recordkeeping is the responsibility of every person and entity involved in the administration and implementation of CDBG-DR/MIT programs, projects, and activities. Therefore, PRDOH will ensure that the Program, its subrecipients, and contractors comply with the RKMA Policy as well as all applicable federal and local laws and regulations related to recordkeeping and management. Furthermore, PRDOH will continue to support the government's policy of ensuring and facilitating the right of access to public information of all citizens. Consequently, this Policy adopts simple and

⁹ As defined at 2 C.F.R. § 200.1.

¹⁰ See Presidential Memorandum – Managing Government Records of November 28, 2011, available online at <https://obamawhitehouse.archives.gov/the-press-office/2011/11/28/presidential-memorandum-managing-government-records>; and OMB Memorandum 12-18, Managing Government Records Directive of June 28, 2019, available online at https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/memoranda/2012/m-12-18.pdf.

effective procedures for evaluating requests and access to public information from individuals.

7 Record Custodians

Adequate recordkeeping is the duty of all the personnel engaged in the administration and implementation of the CDBG-DR/MIT programs, projects, and activities, including the Program's operational and programmatic divisions and the Program's subrecipients and contractors. Having clear and well-defined expectations regarding the recordkeeping and management responsibilities of the various record custodian enable PRDOH to track performance and compliance with Program requirements and, ultimately, demand accountability where appropriate.

7.1 PRDOH

PRDOH is responsible for recordkeeping of grant, program, project, and applicant/beneficiary files. The Compliance and Regulations Area of the Program's Legal Division is responsible for periodically reviewing and, when necessary, updating the RKMA Policy. The Compliance and Regulations Area, in collaboration with the Administration and Operations Division and the Monitoring Division, will ensure implementation of this Policy in all programs, projects, and activities. The programmatic divisions will have a designated point of contact (POC) responsible for relaying to the Monitoring Division any issues related to the RKMA Policy and for recommending the corresponding changes and updates.

As per the Public Documents Administration Act, PRDOH has designated a Document Administrator in charge of document administration. Moreover, each Program operational and programmatic division has document management specialists who will supervise, lead, or perform record management work. Each Program division director is responsible for designating a person from within their staff to act as a document management specialist, ensuring the RKMA Policy is implemented in their area. The following Program divisions have specific responsibilities with regard to recordkeeping and management:

- **Administration and Operations** – The Administration and Operations Division employs key personnel for the implementation of and compliance of this Policy. The document management specialist and the information technology specialist are in charge of the recordkeeping aspect for both electronic and hard copy files. This division is also responsible for the development of security and access control policies and procedures.
- **Federal Compliance and Subrecipient Management** – The Federal Compliance and Subrecipient Management Division is comprised of two (2) different areas. The Federal Compliance (FCSM) area is responsible for providing outreach and documenting subrecipient and contractor compliance with the following federal

regulations and CDBG-DR/MIT Program policies, including recordkeeping requirements: Section 3, Minority and Women-owned Business Enterprise, Occupational Safety and Health Act, Uniform Relocation Assistance and Real Property Acquisition Policies Act, Fair Housing and Equal Opportunity, and Davis-Bacon and Related Acts. The Subrecipient Management area is responsible for providing support and documenting outreach provided to subrecipients, as well as capacity assessments. They are also responsible for making sure that subrecipients complete and document the policies and procedures self-certification and monthly reports through the Grant Compliance Portal (**GCP**) application.

- **Finance** – The Finance Division holds records related to financial management, expenditures, and the Disaster Recovery Grant Reporting System (**DRGR**), including annual reports and quarterly performance reports. They are responsible for managing incoming invoices and payments and for processing trip orders. Financial recordkeeping is one of the focus areas for HUD reviews and monitoring.
- **Human Resources** – The Human Resources area shall keep up-to-date files on the Program's personnel that include, but is not limited to, employment application, resume, job description, confidentiality/non-disclosure agreement, drug testing acknowledgment forms, performance and training records, and termination or resignation documentation for each employee.
- **Internal Audit** – The Internal Audit Division shall ensure appropriate recordkeeping of their work, including audit plans, process documentation, audit reports, comments, and recommendations.
- **Legal** – The Legal Division is comprised of three (3) different areas: Compliance and Regulations, Contract Administration, and Appeals. The Compliance and Regulations Area shall review and update this Policy, as needed. The Contract Administration Area is responsible for documenting all executed agreements and keeping documents that support and evidence the former. The Appeals Area is in charge of the receipt, examination, analysis, and response to public information requests received through PIR forms. They are also responsible for handling requests for information (**RFI**), complaints, and program-based reconsideration and administrative review requests related to the CDBG-DR/MIT Program. Accordingly, the Appeals Area shall keep a copy of every document received regarding these procedures, and document the progress of the cases.
- **Monitoring** – Monitoring is one of the key areas when verifying the implementation and compliance of this Policy. The Monitoring Division is tasked with the responsibility of recordkeeping all federal and local monitoring documents and subrecipients' performance reports. They specifically keep administrative, engagement, and HUD monitoring documents in their records.

- **Procurement** – Each procurement process will have a complete procurement file that contains all the information required by the Procurement Manual for the CDBG-DR, CDBG-MIT, and CDBG State Programs, Regulation No. 9506 of September 25, 2023.¹¹ The Procurement Division shall ensure that its processes and procedures require the collection of documentation demonstrating that the use of funds responds to a need, the procurement method selection, price or cost analysis, lists of prequalified contractors/vendors, bids, proposals, quotations, and DRGR reporting. Documentation may vary depending on the procurement process followed.¹²
- **Program Management** – The programmatic divisions are responsible for recordkeeping related to programs directly implemented by PRDOH. They are also responsible for the oversight of subrecipients' implementation of programs.

In summary, PRDOH maintains all records not directly kept and managed by the Program's subrecipients. Subrecipients, in turn, maintain project-related documentation, including financial records, supporting documents, and statistical records associated with grant funds as established in this Policy.

7.2 Subrecipients and contractors

It is of paramount importance that CDBG-DR/MIT Program subrecipients and contractors maintain and implement recordkeeping and management policies and practices that are compliant with federal, local, and Program requirements, including the rules and procedures set forth in this Policy.

7.2.1 Subrecipients

Subrecipients shall adopt policies, procedures, and other guidance, as necessary, describing the methods for collecting, organizing, storing, and retrieving the various categories of records produced as part of the CDBG-DR/MIT-funded programs. The proper performance and administration of programs, as well as the achievement of their objectives, require adequate recordkeeping practices. Subrecipients are responsible for maintaining all Program-related files on-site at the subrecipient's customary place of business. All files must be available for review upon request by PRDOH, HUD, or any other federal or local monitoring entity with authority. Subrecipients must designate a staff member responsible for recordkeeping and management activities. If any subrecipient relies on an electronic recordkeeping system, their policies and procedures must include contingency plans for data retrieval and access.

¹¹ The Procurement Manual is available in English and Spanish on the PRDOH website at <https://recuperacion.pr.gov/en/download/procurement-manual-cdbg-dr-mit-program/> and <https://recuperacion.pr.gov/download/manual-de-adquisiciones-programa-cdbg-dr-mit/>.

¹² For additional guidance regarding procurement processes, refer to *Buying Right, CDBG-DR and Procurement: A Guide to Recovery*, September 2017, which can be accessed at: <https://files.hudexchange.info/resources/documents/Buying-Right-CDBG-DR-and-Procurement-A-Guide-to-Recovery.pdf>.

The specific records to be maintained by each subrecipient will be detailed in their respective Subrecipient Agreement (**SRA**). At a minimum, all subrecipients must establish and maintain the following three (3) major categories of records:

- **Administrative records:** Files and records regarding the overall administration of the subrecipient's CDBG-DR/MIT-funded activities. These include, among other categories, general organizational management files, personnel files, property management files, general program files, and legal files.
- **Financial records:** Files and records related to the CDBG-DR/MIT-funded activities' finances. Examples include charts of accounts, accounting procedures, accounting journals and ledgers, purchase orders, invoices, procurement files, bank account records, audit files, and financial reports.
- **Project/case files:** Files and records that document the individual project activities, beneficiaries, property owners, and/or properties.¹³

Although specific documentation may vary depending on the type of project or activity (e.g., infrastructure, housing, economic revitalization, etc.), subrecipients are required to always maintain comprehensive, up-to-date project files. These files should cover all aspects of the project, beginning with the application and eligibility process, cost allowability, and, eventually, project and SRA closeout. Each project or case file must include all records required by applicable federal and local laws and regulations, including the requirements at 24 C.F.R. § 570.506, which are detailed further in this Policy. These records may include, without limitation, the following:

- Records providing a full description of each activity undertaken;
- Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG-DR/MIT Program, as modified by the HUD Notices;
- Records required to determine the eligibility of activities;
- Records required to document the acquisition, improvement, use, or disposition of real property acquired or improved with CDBG-DR/MIT funds;
- Records documenting compliance with the fair housing and equal opportunity components of the CDBG-DR/MIT Program regulations;
- Financial records in compliance with the applicable requirements established in 24 C.F.R. § 570.502, and 2 C.F.R. Part 200; and
- Other records necessary to document compliance with Subpart K of 24 C.F.R. Part 570.

Subrecipients are responsible for adhering to PRDOH-approved policies, including the Personally Identifiable Information, Confidentiality, and Non-disclosure Policy (**PII**)

¹³ For a comprehensive checklist identifying the key documents within these categories of records, please refer to Appendix VIII of the Subrecipient Manual, available in English and Spanish on the PRDOH website at <https://recuperacion.pr.gov/en/download/subrecipient-manual/> and <https://recuperacion.pr.gov/download/manual-del-subrecipiente/>.

Policy).¹⁴ Thus, subrecipients shall take all reasonable measures to safeguard protected personally identifiable information, as defined in 2 C.F.R. § 200.82, and any information HUD or PRDOH designates as sensitive or that the subrecipient deems sensitive consistent with applicable federal and local laws and regulations. If a subrecipient does not have a current recordkeeping policy they are required to develop one in accordance with the rules and principles set forth herein. Subrecipients may use the RKMA Policy as a guideline when developing their own.

Subrecipients must retain all official records on programs and individual activities during the SRA performance period and up to the greater of five (5) years starting from the closeout of the grant between PRDOH and HUD, or the end of the affordability period for each housing activity (where applicable), whichever is longer. PRDOH will provide subrecipients with standard recordkeeping and management practices guidance, as needed.

7.2.2 Contractors

General reporting and recordkeeping requirements are outlined in the respective agreements between PRDOH and its contractors. Contractors are responsible for maintaining records of the products delivered and/or services rendered. These records may include, but are not limited to, monthly reports, invoices and photo evidence, expense plan, work projections, and other documents relevant to the contract and the funds expended, such as financial and cost accounting records, payment administration records, and acquisition and supply records.

Contractors must retain all required records during the contract performance period and up to the greater of five (5) years from the closeout of the grant between PRDOH and HUD, or the period required by other applicable laws and regulations, whichever is longer. Records required to be maintained include, but may not be limited to: records providing a full description of each activity undertaken; records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG-DR/MIT Program; records required to determine the eligibility of activities; records required to document the acquisition, improvement, use, or disposition of real property acquired or improved with CDBG-DR/MIT assistance; records documenting compliance with the fair housing and equal opportunity components of the CDBG-DR/MIT Program regulations; financial records in compliance with the applicable requirements set forth in 24 C.F.R. § 570.506, and 2 C.F.R. Part 200, including records necessary to demonstrate compliance with all applicable procurement requirements; and other records necessary to document

¹⁴ The Personally Identifiable Information, Confidentiality, and Non-disclosure Policy is available in English and Spanish on the PRDOH website at <https://recuperacion.pr.gov/en/download/personally-identifiable-information-confidentiality-and-nondisclosure-policy/> and <https://recuperacion.pr.gov/download/politica-sobre-informacion-de-identificacion-personal-confidencialidad-y-no-divulgacion/>.

compliance with the contract and any other applicable federal or local law or regulation.

Contractors shall keep detailed and separate files for CDBG-DR/MIT funded projects. They shall have policies and procedures in place for record maintenance, protection, and retention. Contractors must comply with all applicable program-specific and general policies, including the PII Policy. If a contractor does not have an existing recordkeeping policy, they are required to develop one in accordance with the rules and principles set forth herein. Contractors may use the RKMA Policy as a guideline when developing their own.

Contractors shall make available records, including books, documents, accounting procedures and practices, and other data or supporting evidence to PRDOH, upon request. They shall retain supporting evidence to satisfy contract negotiation, administration, and audit requirements for the established duration set forth in this Policy.

7.2.3 File Transfer at Contract Closeout

At the end of a contract or SRA performance period, the contractor or subrecipient must comply with the specific documentation and recordkeeping requirements established in the contract or SRA, including transmission of records to PRDOH. Programmatic records, reports, documents, or any other material resulting from CDBG-DR/MIT funded programs, projects, and/or activities shall be turned over to PRDOH at the conclusion or termination of the contract or SRA, or earlier, at PRDOH's discretion. However, contractors and subrecipients' obligations regarding recordkeeping requirements do not end with the closeout phase, since they are responsible for maintaining records for at least **the five-year (5)** retention period described in this Policy. PRDOH will consider the following important aspects of SRA or contract closeout activities:

- Determine how files are to be transferred from the subrecipient or contractor to PRDOH at the end of the SRA or contract performance period.
- Provide guidance outlining closeout requirements six (6) months prior to the SRA or contract closeout.

8 Recordkeeping and Management

With the adoption of this Policy, PRDOH complies with and implements various federal and local laws and regulations related to recordkeeping and management. At a local level, the Public Documents Administration Act main purpose is to establish a systematic program for preserving documents of historical, legal, administrative, or informational value. According to the Public Documents Administration Act, government agencies are required to establish a public records management program, with a document administrator serving as the designated employee responsible for its management within each agency.

The Public Documents Administration Act requirements are further detailed in Regulation 4284, which consolidates into a single legal text all substantive rules that govern the

management of public documents in the executive branch of the government of Puerto Rico. As established in Regulation 4284, PRDOH implements actions to continuously analyze and improve aspects related to the management and distribution of correspondence, document classification, adequate use of filing materials and equipment, reproduction of documents, and standards to ensure that documents are stored in the most efficient and cost-effective manner while obtaining the maximum utility. An effective and organized system allows for:

- Maximum uniformity and easy upkeep and use of documents;
- Orderly disposal of documents, according to document retention terms;
- A formally set location to file documents; and
- Systematic reference service that facilitates the search, checkout, and filing of documents.

Regarding federal recordkeeping regulations, the CDBG-DR/MIT Program complies with HUD's requirements at 24 C.F.R. Part 570; the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. Part 200; and applicable HUD Federal Register notices.

8.1 Recordkeeping

As a crucial piece of the overall information management strategy, accurate recordkeeping is vital to ensure that the documentation for individual CDBG-DR/MIT programs is compliant with federal, local, and Program requirements. Files must be complete and should portray the programs' life, from inception to completion. Complete and proper recordkeeping allows comparing actual performance with established goals and ensures success in monitoring and audits.

8.1.1 Records to be Maintained

"The universal CDBG recordkeeping standard is that records must be accurate, complete, and orderly".¹⁵ HUD's notices at 83 FR 5844, 5856 (CDBG-DR); 84 FR 45838, 45857 (CDBG-MIT); 86 FR 32681, 32693 (CDBG-DR Electrical Systems Enhancements); and 87 FR 6364, 6370 (Appendix B – CDBG-DR Consolidated Notice) set forth the main recordkeeping requirements. These notices indicate that PRDOH shall establish and maintain such records as may be necessary to facilitate review and audit by HUD of PRDOH's administration of the grants' funds. More specifically, the content of records maintained by PRDOH shall be sufficient to:

- Enable HUD to make the applicable determinations described at 24 C.F.R. § 570.493;
- Make compliance determinations for activities carried out;

¹⁵ See *Playing by the Rules: A Handbook for CDBG Subrecipients on Administrative Systems, Chapter 5.0: Record-keeping and Reporting Requirements*, available at <https://www.hudexchange.info/onecpd/assets/File/Playing-by-the-Rules-Handbook-CDBG-Subrecipients-Administrative-Systems-Chapter-5.pdf>.

- Show how activities funded are consistent with the descriptions of activities proposed for funding in the action plan and the DRGR system; and
- Show compliance with fair housing and equal opportunity requirements by reporting in the DRGR system data on racial, ethnic, and gender characteristics of applicants and beneficiaries.

Regulations at 24 C.F.R. § 570.506 require PRDOH to establish and maintain sufficient records to enable HUD to determine whether the CDBG-DR/MIT requirements have been met. Pursuant to 24 C.F.R. § 570.503, which enables the grantee to specify the particular records a subrecipient must maintain, PRDOH also requires its subrecipients to adhere to the recordkeeping requirements at 24 C.F.R. § 570.506. At a minimum, PRDOH and its subrecipients must maintained the following records:

- Records providing a full description of each activity assisted with CDBG-DR/MIT funds, including:
 - Location;
 - Amount of CDBG-DR/MIT funds budgeted, obligated, and expended; and
 - The provision in 24 C.F.R. Part 570, Subpart C, under which it is eligible.
- Records demonstrating that each activity undertaken meets the applicable National Objective criteria, as per 24 C.F.R. § 570.208 and applicable waivers and alternative requirements for each allocation.¹⁶
- Records demonstrating the recipient has made determinations required as a condition for eligibility of the activities enumerated in 24 C.F.R. § 570.506(c)(1), including but not limited to, interim assistance, relocation, technical assistance, and installation of broadband infrastructure in housing activities. Where applicable, records which demonstrate compliance with the requirements of 24 C.F.R. § 570.202(g) or 24 C.F.R. § 570.204(a)(5),¹⁷ or that document the recipient's basis for an exception to the requirements of those paragraphs.
- Records which demonstrate compliance with requirements regarding changes of use of real property acquired or improved with the grants' funds.
- Records which demonstrate compliance with citizen participation requirements.
- Records which demonstrate compliance with the requirements regarding acquisition, displacement, relocation, and replacement housing.
- Fair housing and equal opportunity records.
 - As stated in the relevant HUD's Federal Register notices and at 24 C.F.R. 570.490(a)(1), where applicable, such records shall include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the program.

¹⁶ Each allocation provides specific criteria for National Objectives. For more details, please refer to the corresponding Federal Register notice for each allocation.

¹⁷ Both sections discuss broadband infrastructure installation as a requirement for substantial rehabilitation of a building with more than four (4) rental units, and the documents needed to evidence an exception to this required installation.

- Financial records, in accordance with the applicable requirements listed in 24 C.F.R. § 570.502 and 2 C.F.R. Part 200, including source documentation for entities not subject to 2 C.F.R. Part 200. Grantees shall maintain evidence to support how the grant funds provided to such entities are expended. Documentation must include, to the extent applicable, invoices, schedules containing comparisons of budgeted amounts and actual expenditures, construction progress schedules signed by appropriate parties (e.g., general contractor or a project architect), and other documentation appropriate to the nature of the activity. Grantee records pertaining to obligations, expenditures, and drawdowns must be able to relate financial transactions either to a specific origin year grant or to program income received during a specific program year.
- Agreements and other records related to lump sum disbursement to private financial institutions for financing rehabilitation.
- Cross-cutting requirements records in accordance with the applicable laws and regulations set forth in 24 C.F.R. Part 570, Subpart K.

8.1.1.1 Quarterly Performance Report

As per the waivers and alternative requirements in Federal Register notices 83 FR 5844, 84 FR 45838, 86 FR 32681, and 87 FR 6364 (Consolidated Notice), HUD requires PRDOH to enter all necessary information in the DRGR system in sufficient detail to permit HUD's review of its performance on a quarterly basis through the Quarterly Performance Report and to enable remote review of its data to allow assessing compliance and risk.

8.1.2 Document Control

PRDOH stores and maintains all its records utilizing a combination of electronic and paper recordkeeping systems, depending on the needs of each area. PRDOH produces files at the grant, program, and project administration and applicant/beneficiary level. Furthermore, PRDOH uses a naming convention, a file management structure, and program file checklists, as defined in the Program's internal guiding documents.

8.1.2.1 Electronic Files

PRDOH stores and manages electronic documents and files using a combination of internal servers and various web-based recordkeeping software. Internal servers consist of the storage drives "CDBG-DR (Z:)" and "CDBG-MIT (M:)", while the recordkeeping software include Canopy, Yardi Voyager, and SharePoint.

8.1.2.1.1 Internal Servers

The CDBG-DR/MIT Program internal servers consist of storage drives "CDBG-DR (Z:)" and "CDBG-MIT (M:)". Drives "Z" and "M" serve as the electronic file repository, or Library, for Program documents available only to PRDOH staff. PRDOH maintains active digital records with restricted access to shared drives, servers, or web portals. Folders and files within "Z" and "M" are only available to users on a need-to-access basis, and access rights are tailored based on the users need (e.g., "read only" rights vs. "edit" rights).

PRDOH will set forth information technology security principles in its Information Technology Security Policy, which will provide contingency plans and guidelines for responding to emergencies or other occurrences that may damage the systems containing the “Z” and “M” drives.¹⁸

8.1.2.1.2 Recordkeeping Software

The CDBG-DR/MIT Program recordkeeping software consist of Canopy, Yardi Voyager, and SharePoint.

Canopy Grant Management System is a digital web-based platform that provides a tool for storing and maintaining documents. Canopy houses applicant-level data, including case files. It is used for applicant intake, eligibility, awards, budget and progress tracking, and for reporting performance metrics and compliance with grant requirements, such as the Davis-Bacon Act and Section 3 of the Housing and Urban Development Act requirements. It facilitates reporting outputs for contractors and subrecipients to substantiate invoices for work performed during a specific period. The software is accessible to HUD, PRDOH staff, and Program auditors. All users with tasks handled in Canopy are required to log in using personal and private credentials. The system recognizes this login to allow users to access, view, and operate within their task-specific domain.

Yardi Voyager software is used to track financial management information and related documentation. The Yardi accounting system was developed specifically for the CDBG-DR/MIT Program and is administered by the Finance Division. The cloud-based accounting system adheres to General Accepted Accounting Principles (**GAAP**) and complies with financial reporting standards. The system allows for cash and accrual-based accounting, contains workflows that enforce separation of duties and document management, and allows for customized account trees for any desired reporting. Also, the system provides for the preparation of budgets by CDBG-DR/MIT funded programs and activities, track obligations and expenditures, and the generation of DRGR vouchers ready for upload into the DRGR system. Each user granted access to Yardi is limited to systems capabilities unique to that particular user's job duties using configured user roles.

Lastly, Microsoft SharePoint is a cloud-based service that offers a secure place to store, organize, share, and access information from any device.

8.1.3 File Management Structure

The CDBG-DR/MIT Program digital Library is organized following a defined file management structure. Within the “Z” drive, each operational and programmatic division has access to a public folder (“Public”) and to an area-specific folder. While the Public folder contains documents necessary and relevant to all Program staff, the various specific-area folders are accessible only to the staff members of each area.

¹⁸ PRDOH Information Technology Security Policy is under development and will be available, once finalized, on the PRDOH website.

Area-specific folders shall include the major categories of files and folders, as well as corresponding materials and documents that area needs, excluding files ordinarily maintained in the recordkeeping software. It is the responsibility of each programmatic and operational division to develop their own file and document checklists, which may be in electronic format. Area-specific files and folders must always be complete, up-to-date, and accurate. Each operational and programmatic division will periodically review and maintain the file checklists and electronic files to reflect up-to-date requirements.

The Public folder is comprised of the following subfolders: general documents; Internal Guides, Manuals, and SOP (standard operating procedure); HUD; Contacts; Communications; New Employee Induction Package; Trainings; Vehicles Fleet and Parking; Electronic Forms; Templates; and Legal. Each of these folders, in turn, have their own file structure breakdown, as required or needed. Each subfolder within the Public folder is assigned to a specific division or area for their upkeep. A staff member from these areas will be tasked with making sure the files are continuously updated, with their names and versions correctly identified.

8.1.3.1 File Nomenclature – Naming Convention

Files within the CDBG-DR/MIT Program Library will adhere to the following naming convention. File names will make use of the approved acronyms, and will start with the drive name (“CDBG-DR” or “CDBG-MIT”), as applicable, followed by the sector the document falls under, program, document type or title, language, version, and date in the month/day/year format. The words “Draft”, “Final”, or “Track Changes” may be added before the date. A lower-case “v” followed by a number indicates the file version. A capital “EN” or “ES” after the document type or title, but before the version number, indicates whether the document is in English or Spanish.

- File name convention:

Drive Name_Sector_Program_Document Type or Title_Language_Version_Status_
Date

- Examples:

CDBG_MIT_INFRA_HMGP_Program Guidelines_EN_v1_10.26.2023

CDBG_DR_HSN_R3_SRA Communication_10.26.2023

CDBG_DR_Admi_Company Contract Amendment_10.26.2023

8.1.3.2 Hard Copy Files

PRDOH stores ancillary hard copies for the duration of the retention period. Paper records are maintained in secure, limited-access areas. The Document Management Specialist under each division is the designated person that maintains control over the hard copy files pertaining to their area.

8.1.4 Digitization Procedure

Digitized records or digitally reproduced records can be considered as a valid recordkeeping copy if, during the digitization process, PRDOH can:

- Capture all the information contained in the original source;
- Include all the pages and/or parts from the original source;
- Ensure the agency can use the digitized version for all the purposes the original source serves, including the ability to attest to transactions and activities;
- Protect against unauthorized deletions, additions, or alterations of the digitized version; and
- Ensure the agency can locate, retrieve, access, and use the digitized version for the record's entire retention period.

After the digitization process, PRDOH must validate that the digitized versions are of suitable quality to replace the original source records. This can be done either by PRDOH's own validation process or by using third-party processes. The validation process must be documented and retained for the life of any records digitized using that process.

8.1.5 Data Security and Protection

A PRDOH employee who serves as an Information Technology Security Officer is responsible for maintaining a log of the security enhancements and features that have been implemented to further protect all information and assets held by the Program.

PRDOH's Area Network (**WAN**) is maintained with multiple security measures, including virus protection, e-mail file-type restrictions, firewalls, and anti-hacking software.

8.1.5.1 Security Measures

Antivirus software is installed in all CDBG-DR/MIT Program servers and workstations. Appropriate administrative staff monitor virus update engines and data files to ensure all virus definitions and patterns are updated daily on servers and workstations.

The Information Systems Area has placed a set of rules and configurations designed to protect the integrity, confidentiality, and accessibility of PRDOH's WAN. The network security devices (firewalls) monitor all incoming and outgoing network traffic and decide whether to allow or block specific data exchanges between the internal network and incoming traffic from external sources based on a defined set of structured security rules and protocols. It is PRDOH's policy to update these rules, protocols, and configurations as often as it is necessary to provide greater security against external attacks and threats.

8.1.5.2 Data Backup

Having a backup schedule for all CDBG-DR/MIT Program files is of paramount importance to the Program's success. As per PRDOH's Information Technology Security Policy,¹⁹ backup procedures have been established to encrypt the data being moved to an

¹⁹ The Information Technology Security Policy is under development and will be available, once finalized, on the PRDOH website.

external storage media. PRDOH's Information Systems Area generates backups on a daily, weekly, monthly, and yearly basis. Extra copies are kept in an external vault.²⁰

8.1.5.3 CDBG-DR/MIT Program Website

The CDBG-DR/MIT Program website also has multiple security measures to ensure the protection of information submitted through the website. These measures include, but are not limited to, firewalls, scheduled backups, and cloud storage of backups. All access requests are managed by an administrator and logged. The CDBG-DR/MIT Program website does not store any information on the server. Requests managed through the website (e.g., complaints, requests for information, etc.) are channeled through different communication management systems (e.g., e-mails, information sheets, etc.) that, in turn, protect the information through system-specific security measures.

8.1.5.4 Content Monitoring

It is not PRDOH's policy to monitor the content of any electronic communication. However, PRDOH is responsible for servicing and protecting all Program equipment, network, data, and resources and, thus, may be required to access and/or monitor communications.²¹

8.1.5.5 Access Control Systems and Security

Information resources are protected using access control systems. Access control systems include both internal (e.g., passwords, encryption, access control lists, constrained user interfaces, etc.) and external (e.g., port protection devices, firewalls, host-based authentication, etc.) controls. PRDOH strives to continuously upgrade and expand its security measures and to enhance protection of the information that has been entrusted to it.

PRDOH's employees, staff, and its external consultants that have access to and interact in a habitual or occasional manner with PRDOH's network and that are required to access and manage sensitive information are responsible for reading and understanding Administrative Order 10-19, Rules on PRDOH's Electronic System Use.

9 Records Accessibility

9.1 Right of Access for Compliance Reviews

HUD's representatives, HUD Office of the Inspector General (**HUD OIG**), the Comptroller General of the United States, local compliance officers, or any of their authorized representatives have the right to access any PRDOH documents, papers, or other records pertinent to a CDBG-DR/MIT award to complete audits, examinations, excerpts, and transcripts. This right also includes timely and reasonable access to PRDOH's personnel for interviews and discussions related to such documents. This right of access is not limited

²⁰ For additional information, please refer to PRDOH's Administrative and Operational Procedures for the Information Systems Area (PAO 2011-12).

²¹ For additional information about PRDOH's content monitoring regulation, please refer to Manual PAO 2011-12.

to the record retention period but is extended as long as the records are retained by PRDOH.²²

9.2 Subrecipient and Contractor Requirements

Subrecipients and contractors must provide PRDOH access to all program records, when requested. HUD's representatives, the HUD OIG, or others as listed above, may also access program records held by subrecipients and contractors, as these are official records of the CDBG-DR/MIT Program activities.

9.3 Freedom of Information Act

The Freedom of Information Act (FOIA) was enacted to provide the public the right to request access to records from any federal agency.²³ Federal agencies are required to disclose any information requested under the FOIA, unless it falls under one (1) of the nine (9) exemptions established in the Act. These exemptions are intended to protect against potential harms, such as an invasion of personal privacy or interference with law enforcement investigations. The FOIA authorizes agencies to withhold information when they reasonably foresee that disclosure would harm an interest protected by one of the exemptions. The FOIA, however, applies only to the federal government, and not to state agencies and municipalities.

According to regulations at 2 C.F.R. § 200.338, no Federal awarding agency may place restrictions on a non-Federal entity that limit public access to the records of the non-Federal entity pertinent to a Federal award, except for restrictions that apply to protected personally identifiable information or when the Federal awarding agency can demonstrate that such records will be kept confidential and would have been exempted from disclosure pursuant to the FOIA. The FOIA does not apply to the records that remain under a non-Federal entity's control. However, the non-Federal entity's records provided to a Federal agency will be subject to FOIA and its applicable exemptions.

9.4 Public Access to Records

PRDOH provides public access to the CDBG-DR/MIT Program records in accordance with applicable federal and local laws and regulations. Regulations at 24 C.F.R. § 570.508 require recipients of federal grants to provide citizens with reasonable access to records regarding the past use of the grant funds, consistent with applicable local laws regarding privacy and obligations of confidentiality. Moreover, the relevant HUD federal register notices mandate that, during the term of the grant, PRDOH will provide citizens, affected local governments, and other interested parties with reasonable and timely access to information and records.²⁴

²² 2 C.F.R. § 200.337.

²³ 5 U.S.C. § 552.

²⁴ See HUD's notices at 83 FR 5844, 5854; 84 FR 45838, 45853; and 87 FR 6364, 6384.

PRDOH provides public access to multiple records regarding the use of the grants' funds on the CDBG-DR/MIT Program's website.²⁵ Persons may not access records directly from PRDOH's subrecipients or contractors. Applicants' records maintained by PRDOH are confidential and are not made public unless required by law. Other records related to the use of CDBG-DR/MIT funds might be accessed by the public, upon request, and subject to confidentiality, privacy, and other applicable provisions established in local laws and regulations.

9.4.1 The Transparency Act

On August 1, 2019, the Government of Puerto Rico enacted Act No. 141-2019, as amended, 3 LPRA § 9911 *et seq.*, known as the "Transparency and Expedited Procedure for Access to Public Information Act" (**Transparency Act**), with the objective of establishing simple and inexpensive procedural mechanisms for citizens to access public information generated or held by government entities. The Transparency Act implements the fundamental right of access to public information in Puerto Rico and acknowledges that the exercise of this right requires ensuring and facilitating the citizens' right to examine the content of records, reports, and documents collected in the conduct of government and which are held by state agencies.²⁶

The Transparency Act established, as public policy of the Government of Puerto Rico, that all information and documents that are originated, stored, or received in any of the government's dependencies, even though they might be in control of a third party, is presumed to be public and should be accessible to the people and the press, upon request.²⁷ Furthermore, government entities have the duty to periodically and proactively disclose up-to-date information about their operations, the execution of their delegated functions, and all the public documentation regarding their daily work routine.²⁸

The right of access to public information in Puerto Rico, however, is not without limitations. Consequently, the government can validly claim confidentiality over documents or information under the following circumstances: (1) when a law declares it; (2) when the communication is protected by any evidentiary privileges; (3) when disclosing the information may infringe upon the fundamental rights of a third party; (4) when it concerns the identity of a confidential informant; and (5) when it concerns official information as per the Rules of Evidence.²⁹

²⁵ The PRDOH CDBG-DR/MIT Program website is available in English and Spanish at <https://recuperacion.pr.gov/welcome/en/> and <https://recuperacion.pr.gov/welcome/>.

²⁶ Transparency Act, Statement of Purpose.

²⁷ *Id.*, Art. 3.

²⁸ *Id.*, Art. 4.

²⁹ See Transparency Act, Statement of Purpose, and Article 4 of the Open Data Act. The Open Data Act lists the following additional exceptions to the disclosure of public data: (i) any information and/or documentation with a national security classification; (ii) Internal rules or personnel practices of a government agency; (iii) Internal communications between agencies; (iv) Public information that falls under any of the privileges recognized in the United States Constitution or the Constitution of Puerto Rico, laws, and Rules of Evidence; (v) Information associated with civil or criminal litigation in which a government agency is a party or an employee or public official who, by reason of their employment, is a party, provided

The main goal of the Transparency Act is to provide the means by which any person can request public information through an electronic or written request, without the need to state any particular or legal interest. Pursuant to the Transparency Act, PRDOH has designated three (3) employees to act as Information Officials responsible for the agency's compliance with this Act. The Information Officials will have the responsibility of receiving the request and notifying the petitioner, either via e-mail, fax, or postal mail, that their request has been received and that an identification number has been assigned to it.³⁰

9.4.2 Department of Justice's Circular Letter 2020-01

On March 2, 2020, the Puerto Rico Department of Justice issued Circular Letter 2020-01, outlining rules and procedures for the evaluation and expedited processing of public information requests, as required by the Transparency Act. The circular establishes and recommends that government agencies follow its guidelines for handling public information requests. Consequently, PRDOH adopts the rules and procedures outlined in Circular Letter 2020-01 and incorporates them as part of this Policy. The following are key concepts, as they appear defined in Circular Letter 2020-01.

9.4.2.1 Public Information

It is defined as every information or document that is originated, stored, or received in any government dependency, even though it might be under a third-party custody, that is not confidential information, nor any law, rule, or applicable jurisprudence limits its disclosure.³¹

9.4.2.2 Confidential Information

It is defined as information that is originated, stored, or received in any government dependency that cannot be disclosed nor is public, either because it is required by the Constitution; a law declares it; it is protected by the evidentiary privileges; disclosing such information may infringe upon the fundamental rights of third parties; the information is regarding a witness or victim's identity; or it is official information.³²

that the litigation is pending at the time of the request or is in the process of investigation; (vi) Information that, if disclosed, could invade the privacy of a third party or infringe on their fundamental rights; (vii) Information about informants or undercover agents; investigations and/or prosecution that could result in a citizen being deprived of a fair and impartial trial, or information that could jeopardize the physical safety of any person; (viii) Summary of the prosecution, which is privileged, or the work product that is in the investigative file, or that contains information and/or documentation related to an ongoing investigation; (ix) Information about trade secrets obtained by a person, which is confidential by contract, statute, or court decision; (x) commercial or financial information for which it is demonstrated that disclosure would cause substantial competitive harm to the person from whom the information was obtained; (xi) all types of information related to the physical address, telephone number, emergency contact information, social security number, credit card number, tax and/or financial information, banking activity, confidential information of private third parties, trade secrets, tax returns, debit or access numbers that are collected or maintained by the government agency; and (xii) information related to the security of the computer network or its design, operation, or defense of such computer network.

³⁰ Transparency Act, Art. 6.

³¹ Circular Letter 2020-01, Art. II.

³² *Id.* Official information is defined by Circular Letter 2020-01 and the Puerto Rico Rules of Evidence, as amended, 32 L.P.R.A. Ap. VI, R. 514, as information acquired in confidence by a public servant during their functions and that has not been officially disclosed nor it is accessible to the public.

9.4.3 Public Information Request Form

In accordance with the Transparency Act, any person can submit a public information request without having to demonstrate any particular or legal interest. PRDOH has developed a Public Information Request (**PIR**) form that enables any petitioner to submit a request at their convenience. The PIR form may be completed online or downloaded, in English and Spanish, on the PRDOH website at <https://recuperacion.pr.gov/en/public-information-request/> and <https://recuperacion.pr.gov/solicitud-de-informacion-publica/>.

9.4.3.1 Minimum information to be included in the PIR form

Petitioners must include the following minimum information in the PIR form:

1. Name and last names.
2. Physical address; postal address; and/or e-mail.
3. Telephone number.
4. Signature.
 - If the petitioner is a legal entity, the PIR form shall also include:
 - The title of the legal entity's representative; and
 - A certification that the signing person is acting as such.
5. A detailed description of the public information that the petitioner wishes to obtain, examine, or inspect, subject to the payment of the applicable fees in the case the petitioner wishes to obtain copies.
 - If the petitioner requests public information about a third party, they shall include with the PIR form the following, when possible:
 - A written authorization from the third party or their heirs, with the full name, physical address, postal address or e-mail, and the telephone number of said third party for PRDOH to assess the third party's authorization to the disclosure of the public information requested.
 - If the third party's authorization is not possible to obtain, the petitioner shall establish the merits for the disclosure of the public information required even in the absence of the third party's authorization.
6. Format in which the petitioner wishes to obtain the public information, either hard copy or electronic copy.

9.4.3.2 How to Submit the PIR form

The PIR form may be submitted to PRDOH through the following methods:

1. Personally, at PRDOH Headquarters located at: 606 Barbosa Avenue, Juan C. Cordero Dávila Building, Río Piedras, PR 00918.
2. Personally, at any of PRDOH's regional offices across the Island.
3. By e-mail to: LegalCDBG@vivienda.pr.gov.
4. By postal mail to: Puerto Rico Department of Housing, CDBG-DR/MIT Legal Division, P.O. Box 21365, San Juan, P.R. 00928-1365.

5. Online, by filling out the PIR Form, available in English and Spanish on the PRDOH website at <https://recuperacion.pr.gov/en/public-information-request/> and <https://recuperacion.pr.gov/solicitud-de-informacion-publica/>.

9.4.4 Information Officials

PRDOH shall designate three (3) employees, two (2) of which shall be permanent employees, to be Information Officials. If possible, at least one (1) of the Information Officials should be a lawyer admitted to practice in Puerto Rico. The Information Officials shall be trained into the contents of the Act, its rules, applicable procedures, and their legal obligations. In addition, the Information Officials shall have knowledge of the jurisprudence established by the Supreme Court of Puerto Rico in terms of public information access and the protection of confidential and official information. They will be in charge of receiving, handling, and examining each PIR, prior consultation with their area supervisor. In addition, the Information Officials will assist any person who wishes to present a PIR and will facilitate access to public information in the requested format, upon the terms established in the Transparency Act, Circular Letter 2020-01, and this Policy.

Information Officials shall develop a monthly report to their supervisors containing the following: (1) number of PIRs received; (2) the type of public information being requested; and (3) the status of the PIR. Personal information regarding the petitioner shall not be disclosed in these monthly reports.

9.4.5 PIR Evaluation Process

The Public Information Requests will be registered in a digital format and will be numbered in the order in which they are received. The assigned number will be used to refer to a particular PIR.

If the PIR is presented at a PRDOH regional office, the regional office director shall, in a period not greater than **forty-eight (48) hours**, forward it via e-mail to the Information Officials at the PRDOH headquarters to continue the evaluation process.

Once the Information Officials receive the PIR, they will evaluate it in a period not greater than **five (5) business days**, calculated upon the date that the PIR was received. The Information Officials will notify every petitioner, via e-mail or postal mail, that their PIR was received and the identification number that was assigned to it.

Information Officials shall examine the PIR and make sure that it complies with the requirements established in the Transparency Act, Circular Letter 2020-01, and this Policy.

If the Information Officials understand that the PIR does not comply with the requirements established in the Transparency Act, Circular Letter 2020-01, or this Policy, they must immediately send it back to the petitioner and provide guidance on the correct process to submit it. In these cases, the PIR will not be considered submitted until it complies with all requirements.

On the other hand, if the PIR is submitted in compliance with the Transparency Act, Circular Letter 2020-01, and this Policy, the Information Officials will proceed to evaluate it for final disposition. To do so, the Information Officials shall contact the corresponding CDBG-DR/MIT Program operational or programmatic division director or any other Program staff who has control of the requested public information, and take any investigative measure, if needed, for them to determine if the PIR proceeds, in whole or in part. The division director shall certify in writing if the PIR proceeds or not, and the legal basis for the determination.

Once the public information requested has been gathered, the Information Officials will make a written recommendation to the PRDOH Secretary or a duly authorized official on how to proceed. The recommendation shall include a draft letter to the petitioner with the supportive legal provisions, either conceding or denying the PIR.

PRDOH, at its discretion, may aggregate multiple requests if it determines that:

- Certain requests or correspondences from the same petitioner or from a group of petitioners acting in concert constitutes a single request; and
- The requests involve clearly related matters.

PRDOH is only responsible for providing public information documents already available within its records, that is, existing documents that are in the actual possession, custody, or control of PRDOH by the request's date. PRDOH will not create new documentation to respond to any PIR.

9.4.5.1 Applicable Terms

The terms stated below shall be calculated from the date the petitioner submits their PIR to PRDOH, according to the e-mail date, the mail postmark, or the fax receipt. However, any PIR received during the weekend, holidays, or after 5:00 p.m. on business days will be considered submitted the next business day.

The Information Officials will hand in their answer to the PIR in a period not greater than **ten (10) business days**. If the PIR has been submitted at a PRDOH regional office, the term to submit a response will be **fifteen (15) business days**. Both terms may be extended for a single additional term of **ten (10) business days** if, within the original term, the Information Officials notify the petitioner of the reason to extend the response period.

Extensions to the original term may be necessary in certain circumstances, for example: if PRDOH needs to search for and collect records not located in the office processing the request; if PRDOH needs to search for, collect, and appropriately examine a voluminous amount of separate and distinct records; or if there is a need to consult with another agency that might have a substantial interest in the PIR determination, among others.

If PRDOH does not respond within the established period, it will be considered the PIR has been denied by the agency. The petitioner then may file a Special Petition of Public

Access before the Court of First Instance of the San Juan Region, if they wish to continue pursuit of the requested information.

The public information requested will be delivered in the format and by the means requested by the petitioner, unless the costs exceed the format usually used by PRDOH or if the integrity of the document might be compromised. If the delivery of the public information requested implies an extraordinary cost, the petitioner will be notified and the information will be disclosed in the available format or in one of lower cost.

9.4.5.2 PIR Approved Process

The Information Officials will have complied with the Transparency Act requirements, and the PIR will be considered properly addressed if:

- The public information requested is sent to the petitioner's e-mail;
- They make the public information available to the petitioner at the PRDOH offices for their inspection and reproduction;
- They send a copy of the public information by mail (First Class), only after the petitioner pays the shipping and postage costs; or
- They provide the petitioner a web address with instructions on how to access the public information requested.

If a PIR is approved, access to the requested information or documents will be subject to the following rules:

- Delivery via Email

The access to public information will be via e-mail, unless it is not possible or if the petitioner requested other disclosure method. For the delivery via e-mail, the following steps must be followed:

1. Public information will be sent to the e-mail provided by the petitioner in the PIR form, along with an official correspondence letter from the PRDOH Secretary, or its designee, authorizing the disclosure at hand, if necessary.
2. Access to public information via e-mail will be at no cost to the petitioner.
3. If unable to deliver via e-mail, the Information Officials will notify the petitioner, in writing, the reasons that prevented the electronic delivery and how they will be able to access the information.

- Delivery in person

For a delivery in person of the public information, the following steps must be followed:

1. The petitioner shall pay the corresponding fees for the reproduction costs incurred by PRDOH, prior to the delivery of the copies of the public information requested.
2. Once the payment is received, the Information Officials will coordinate with the petitioner the immediate delivery of copies of the requested

documentation. The Information Officials are responsible for making copies of the documents to be delivered to the petitioner and for maintaining the confidentiality of the information the PRDOH Secretary has determined should be kept confidential.

- Physical examination or inspection

The physical examination or inspection will proceed when:

1. The petitioner requests it.
2. The public information cannot be reproduced due to its excessive volume.
3. The conditions or nature of the public information requested prevents it from being reproduced.
4. The PRDOH Secretary, by good cause, determines that the physical inspection of the public information proceeds.

For the inspection, in whole or in part, the following steps must be followed:

1. An Information Official will arrange an appointment with the petitioner during PRDOH's business hours to allow them to examine or inspect the documentation.
2. A current and valid ID card will be requested from the Petitioner at the time of their inspection.
3. The petitioner will state their full name, date, and time of entry and exit from the PRDOH building in a registration sheet provided by the Information Official.
4. The Information Official will be present at all times during the petitioner's examination of the requested documents. Under no circumstance the petitioner shall be allowed to have access to the documents without the presence at all times of a duly authorized person.
5. The petitioner will not be allowed to remove original documents from PRDOH's installations. These documents shall stay under the Information Official's custody. Likewise, the petitioner shall not alter, change, vary, or modify, in any way, the original documents subject to inspection, nor the information contained therein.
6. When exceptional circumstances prevent the disclosure of all the requested information, the petitioner will not be allowed to bring inside the designated area for examination or inspection any camera, computer, cellphone, bag, purse, agenda, or any other equipment that might be used for the reproduction or transmission of information without previous authorization.
7. If the public information requested is contained in more than one file or document, the petitioner shall have access to one file or document at a time. Any deviation from this procedure must be authorized by the PRDOH Secretary.

9.4.5.3 PIR Denied Process

If, after the evaluation of the PIR, the PRDOH Secretary or their designee determines that due to an extraordinary circumstance the disclosure, in whole or in part, of the requested information is not possible, the following steps must be followed:

1. The Information Officials will send a written communication to the petitioner, through postal mail, that will include a summary of the legal basis for the denial, in whole or in part, of the PIR.
2. Through said communication, the petitioner will also be informed of their right to file a Special Petition of Public Access before the Court of First Instance of the San Juan Region within **thirty (30) days**, calculated from the date on which PRDOH notified its determination to deny the delivery.

9.4.6 Judicial Review

Any petitioner who receives a public information request denied notification or who did not receive the public information within the established term or its extension will have the right to file, by themselves or through legal representation, a Special Petition of Public Information Access before the Court of First Instance of the San Juan Region.

Filing the Special Petition will have no fee costs for the petitioner, nor will they be required to hire legal representation to file the Special Petition, unless extraordinary circumstances require otherwise.

The Special Petition shall be filed within the strict compliance term of **thirty (30) days**, calculated from the date on which PRDOH notified its determination to deny access to the requested information or from the notification due date if there was no answer from the agency, whichever comes first.

9.4.7 Penalties

Full compliance with the procedures and terms established in this section is required. The employee that fails to comply with the standards and procedures established herein will be subject to the imposition of the applicable disciplinary measures.

10 Application Status Disclosure and Case File Requests

As set forth in PRDOH's PII Policy,³³ applicants' records are mostly comprised of PII. The disclosure of PII will be limited to reduce and mitigate the possibility of fraud and to ensure compliance with applicable federal and local laws and regulations and Program requirements. Written and explicit consent must be obtained from the involved parties when disclosing confidential or sensitive information concerning a CDBG-DR/MIT Program participant, employee, or contractor.

Guided by these principles, PRDOH has created a form called Authorization for Disclosure of Application Status. If any public agency, department, government instrumentality, or

³³ The PII Policy, as well as all CDBG-DR/MIT General Policies, is available in English and Spanish on the PRDOH website at <https://recuperacion.pr.gov/en/resources/policies/general-policies/> and <https://recuperacion.pr.gov/recursos/politicas/politicas-generales/>.

a third party inquires about the status of an application, PRDOH will ask the applicant to sign the Authorization for Disclosure of Application Status. The application status will be communicated directly to the applicant and then the applicant will sign the Authorization. The third party will only be informed of the application general status and that the applicant has already been contacted and provided with the updated information. PII will only be disclosed to third parties after receiving a written consent from the applicant to whom the file pertains or their authorized representative. This process will be followed to ensure the confidentiality of Program applicants as well as the protection of Program files.

Applicants' case file requests will be considered and treated as a PIR, subject to the procedures and applicable terms established in this Policy. The disclosure of this information will only be provided to the applicant themselves or to those for whom the applicant has provided written consent to receive the information on their behalf (e.g., legal representative).

11 Record Retention

HUD regulations at 24 C.F.R. § 570.490(d) state that all official records on programs and individual activities, including supporting documentation, shall be retained for the greater of **three (3) years** from closeout of the grant, or the period required by other applicable laws and regulations. A similar provision is found at 2 C.F.R. 200.234, regarding financial and other records pertinent to a federal award.

Notwithstanding these provisions, PRDOH will retain records for a period of **five (5) years** after grant closeout with HUD or the end of the affordability period for each housing activity, whichever is longer. This **five (5) year** record retention period applies equally to subrecipients and contractors' records regarding CDBG-DR/MIT funded programs, projects, and activities. Subrecipients and contractors must comply with this requirement in addition of their obligation to turn over to PRDOH all CDBG-DR/MIT related records at agreement or contract closeout, or earlier, at PRDOH's discretion.

Additional laws and the regulations specified at 24 C.F.R. § 570.490(d) may require a longer record retention period. As per regulations at 2 C.F.R. § 200.234, exceptions to the base five (5) year record retention period include the following:

- If any litigation, claim, or audit is initiated before the expiration of the retention period, the records must be retained until all litigations, claims, or audit findings involving the records have been resolved and final action taken;
- When HUD notifies PRDOH in writing its decision to extend the retention period; and
- When there are program income transactions after the period of performance, the retention period starts from the end of the fiscal year in which the program income is earned.

Lastly, as a government agency PRDOH also complies with the Department of Treasury's Regulation for the Conservation of Documents of a Fiscal Nature or Necessary for Inspection and Verification of Fiscal Accounts and Operations, Regulation 23 of August 15, 1988, (**Regulation 23**). Regulation 23 requires all government agencies of Puerto Rico to retain the originals of all fiscal documents for a period of **six (6) years** or until an intervention from the Puerto Rico Comptroller's Office, whichever comes first.

END OF POLICY.