



DEPARTMENT OF
HOUSING



CDBG-DR

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

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

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1 Introduction

The Puerto Rico Department of Housing (**PRDOH**), as grantee, 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. CDBG-DR funds a series of programs, projects, and activities designed to respond to the Island's economic revitalization, infrastructure, and housing needs after hurricanes Irma and María. While CDBG-MIT funds are intended to support planning and risk mitigation efforts. These programs, projects, and activities require the collection, production, storage and, eventually, disposal of information and documents. A precise and accurate recordkeeping and management is a vital element when ensuring to ensure the a responsible and successful administration of CDBG-DR/MIT programs. Moreover, a clear and standard procedure that guarantees the accessibility to the public information contained in the agency records contributes to PRDOH's commitment to transparency in the administration and execution of CDBG-DR/MIT funds and programs. the execution of the CDBG-DR programs.

2 Legal Basis

The PRDOH Record Keeping, Management and Accessibility Policy (**RKMA Policy**) is adopted pursuant to the authority granted to PRDOH in accordance to Act No. 97 of June 10, 1972, as amended, 3 L.P.R.A. § 441 *et seq.*, known as the "Department of Housing Organic Act", PRDOH's procurement policies and procedures¹, and in conformity accordance with:

- a. 24 C.F.R. § 570.490;
- b. Supplemental Appropriations for Disaster Relief Requirements, 2017 (Pub. L. 115-56), Bipartisan Budget Act, 2018 (Pub. L. 115-123), Additional Supplemental Appropriations for Disaster Relief Act, 2019 (Pub. L. 116-20) (the "Appropriations Act");
- c. Federal Register Vol. 83, No. 28 (February 9, 2019), 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;
- d. The Freedom of Information Act (FOIA), as amended, 5. U.S.C. §552 (1966);
- e. Act No. 5 of December 8, 1955, as amended, 3 L.P.R.A. § 1001 *et seq.*, known as the "Public Documents Administration Act";
- f. The Transparency and Expedite Procedure for the Public Information Access Act, Act 141-2019 of August 1, 2019, as amended, 3 L.P.R.A. §9911 *et seq.*, known as Transparency and Expedite Procedure for the Public Information Access Act; and
- g. Puerto Rico Department of Justice, Circular Letter No. 2020-01 of March 2, 2020.

3 Scope

¹ The Procurement Manual, and all CDBG-DR General 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/>.

The RKMA Policy applies to the various types of records generated ~~across~~ at the grant level (grant files); at the program level (program files); for specific projects, whether they are part of a programmatic structure or are a separate activity of the Disaster Recovery Grant Reporting System (DRGR) ~~activity~~ (project files); and the individual case files created through an Applicant or beneficiary program (Applicant/Beneficiary files).

4 Purpose

The purpose of the RKMA Policy is to standardize the rules for record management and the recordkeeping of information about PRDOH CDBG-DR/MIT-funded programs, to ensure ~~they~~ those rules are ~~applied~~ implemented consistently and transparently while maximizing accountability and compliance. In addition, this Policy establishes the rules and procedures for the evaluation and process of giving persons access to public information, in accordance with federal and local laws and regulations.

5 Definitions

Applicant: a person who has requested assistance from one (1) of the CDBG-DR/MIT programs.

Beneficiary: any person whom assistance, services or benefits are ultimately provided. Eligible beneficiaries are defined for each program in the ~~respective~~ Action Plan, as amended.

Contractor: a private company that produces goods and services for the public government agencies by means of a contract, subcontract, purchase order, agreement, or other similar arrangement.

Dependency: shall include every department, agency or 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.²

Document: refers to every paper, book, pamphlet, photograph, film, microfilm, magnetic tape, map, drawing, plan, record, video disk, or any other material read by machine and any other informative material, regardless of its physical form or characteristics³, that has been prepared, utilized, received or which has been in the possession or under the custody of an agency.⁴ It also includes materials generated electronically even though they may never be printed on paper or other media different from the originally created one. Publications and bibliographical or museum material acquired for public viewing, consultation, or other related purposes, are not included in the definition of "document".⁵

Document Administration: refers to the planning, control, direction, organization, training, promotion, and other administrative activities related to the creation, use and conservation of documents, as well as to their disposition.⁶

Document Administrator: refers to the employee responsible of managing the Document

² Act No. 5 of December 8, 1955, as amended, 3 L.P.R.A. § 1001(g).

³ Id. (a).

⁴ Act No. 151-2004, as amended, 3 L.P.R.A. § 991(c).

⁵ Act No. 5 of December 8, 1955, as amended, 3 L.P.R.A. § 1001(a).

⁶ Id. (l).

Administration Program at their respective dependency.

FEMA: refers to the Federal Emergency Management Agency.

File: the place where documents are kept. In addition, the set of these documents thus preserved ~~Group of documents that are so kept.~~⁷ A file may be either a physical or an electronic repository of documents. The act of placing and conserving, in one place and adequately classified and identified, any correspondence, documents or other papers related to a person, geographic area, project, or the like, in a way that they are protected from wear, destruction, or loss, and, at the same time, facilitates its location and management at any time.⁸

FOIA: the Freedom of Information Act (**FOIA**), which provides the public the right to request access to records from any federal agency. Federal agencies are required to disclose any information requested under the FOIA, unless it falls under one (1) of nine (9) exemptions, which protect interests such as personal privacy, national security, and law enforcement.

HUD: refers to the United States Department of Housing and Urban Development.

Library: refers to the CDBG-DR electronic file Library.

Non-Federal entity: means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.⁹

PRDOH: refers to the Puerto Rico Department of Housing.

Public Information: means any document which originates, or is kept or received in any dependency of the Government of Puerto Rico, even though it might be under if in the custody of a third party,¹⁰ according to the law or in relation to the management of public affairs and pursuant to the provisions of section 1002 of the Public Documents Administration Act, that is required to be permanently or temporarily preserved as evidence of transactions or for its legal value. It includes those documents produced electronically, which meet the requirements established by law and regulations.¹¹ Documents that contain Personally Identifiable Information (**PII**), sensitive or confidential information shall follow policies set forth in the Personally Identifiable Information, Confidentiality, and Non-disclosure Policy (**PII Policy**).¹²

Public Information Request: a form used by a Petitioner to request access to public information, originated, received, or stored at PRDOH.

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

Recipient: means a non-Federal entity that receives a Federal award directly from a

⁷ Regulation 4284, Regulation for the Administration of Public Documents in the Executive Branch of the Government of Puerto Rico, as amended.

⁸ Id.

⁹ 2 C.F.R. § 200.1 200-69.

¹⁰ Puerto Rico Department of Justice, Circular Letter 2020-01 of March 2, 2020, Art. II (f).

¹¹ Act No. 5 of December 8, 1955, as amended, 3 L.P.R.A. § 1001(b).

¹² This The PII Policy and all CDBG-DR/MIT General Policies are available in English and Spanish on the PRDOH website at <https://www.cdbq-dr.pr.gov/en/resources/policies/> and <https://www.cdbq-dr.pr.gov/recursos/politicas/>.

Federal awarding agency to carry out an activity under a Federal program. The term recipient does not include subrecipients.¹³

Record: includes all recorded information, regardless of form or characteristics, made or received by PRDOH under Federal or local law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government of Puerto Rico or because of the informational value of data in them.¹⁴

Recordkeeping: refers to the process of keeping and maintaining documents in a way that complies with CDBG-DR/MIT Program requirements, with federal, state, and local laws and regulations, and that facilitates audit reviews by HUD, in accordance with 24 C.F.R. § 570.493.

Record Accessibility: means the process of giving access to public information, as defined herein, in accordance with the provisions of the Transparency and Expedite Procedure for the Public Information Access Act, Act 141-2019 of August 1, 2019; and the Puerto Rico Department of Justice, Circular Letter No. 2020-01 of March 2, 2020, subject to the applicable exceptions and to FOIA.

Subrecipient: 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. 24 C.F.R. § 570.500(c). 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. ~~200.93, as a non-Federal entity that receives a subaward from a passthrough entity to carry out part of a Federal program.~~

6 Record Custodians

Adequate recordkeeping is the responsibility of all PRDOH Disaster Recovery/Mitigation staff, administering entities, subrecipients, and contractors that manage CDBG-DR /MIT funds. The clear and well-defined expectations of duties allow for tracking of responsibilities and accountability.

6.1 PRDOH

PRDOH ~~CDBG-DR~~ is responsible for recordkeeping at the grant, program, project, and applicant/beneficiary levels. The PRDOH CDBG-DR/MIT Compliance and Regulations Area is responsible of periodically reviewing and, when necessary, updating the RKMA Policy. The Compliance and Regulations Area, in ~~partnership~~ collaboration with the ~~Operations~~ Information Technology (IT) Area, and Monitoring staff ~~shall~~ will ensure implementation of this Policy ~~across~~ in all programs, projects, and activities. Programs implemented by PRDOH designate a point of contact (POC) to relay issues and needed

¹³ 2 C.F.R. § 200.1 200.86.

¹⁴ Definition adapted from 44 U.S.C. § 3301(a)(1).

or recommended updates to the RKMA Policy and guidelines to the Monitoring Department Division for proper review and revision.

As per the Public Documents Administration Act, PRDOH has a Document Administrator in charge of document administration ~~in compliance with the Act~~. Particularly, the CDBG-DR/MIT Program has Document Management Specialists who will supervise, lead, or perform records information management work.¹⁵ Each CDBG-DR/MIT Division Director is responsible of designating a person within their staff to act as a Document Manager Specialist, ensuring this Policy is implemented in their area. Each Division Director responds to the Disaster Recovery Directors. They, ~~whom~~ in turn, report to the Disaster Recovery Deputy Secretary, who ~~in turn reports~~ is accountable to the PRDOH Secretary. The following PRDOH CDBG-DR/MIT Divisions are responsible for ~~the following~~:

- **Internal Audit Office (IAO)** – The IAO shall ensure appropriate recordkeeping of their work, including audit plans, process documentation and audit reports, comments, and recommendations.
- **Finance** – Financial recordkeeping is one of the focus areas for HUD review and monitoring. This Division holds records relating to financial management and expenditures, as well as DRGR, including annual reports and Quarterly Performance Reports. They are responsible of incoming invoices, payments, and processing trip orders. Invoicing and payment are processed electronically through the VendorCafé application.
- **Legal** – The Legal Division is comprised of ~~two~~ **three (3)** different areas: Compliance and Regulations, ~~and~~ Contract Administration, and Appeals. The Compliance and Regulations Area shall review and update this Policy, as needed. In addition, it shall review Program Division policies to ensure their compliance with federal and local laws and regulations. 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 responses to public information requests received through PIR forms. They are also responsible for handling complaints and Administrative Review Requests submitted to PRDOH related to CDBG-DR/MIT programs. The ~~Legal Director~~ Appeals Area shall keep a copy of every document received regarding Administrative Review Requests and document the track of the cases.
- **Human Resources** – Human Resources shall keep up-to-date files on PRODH CDBG-DR/MIT personnel that include, but is not limited to, application, resume, job description, Confidentiality/Non-Disclosure Agreement NDA, drug testing

¹⁵ U.S. Office of Personnel Management Position Classification Flysheet for Records and Information Management Series, 0308 Records and Information Management Series, 0308 March 2015 <https://www.opm.gov/policy-data-oversight/classification-qualifications/classifying-general-schedule-positions/standards/0300/qs0308.pdf>

acknowledgment form, performance and training records, and termination or resignation documentation for each employee.

- **Monitoring** – Monitoring is one of the key areas when verifying the implementation and compliance of this Policy. It is the area tasked with the responsibility of managing and recordkeeping all monitoring documents and files pertaining to federal, local, and subrecipients performance reports. They specifically keep administrative, engagement and HUD monitoring documents in their records.
- **Operations** – Operations employs key personnel for the implementation of and compliance of this Policy. The Document Management Specialists and the Information Technologist Specialist are in charge of the recordkeeping aspect for both electronic and hard copy files. This Division is responsible for the development of security and access of policies and procedures.
- **Procurement** – Every Each PRDOH procurement process of the PRDOH will have a complete Procurement File that contains all the information required by PRDOH's Procurement Manual for applicable to CDBG-DR and CDBG-MIT following the requirements of 2 C.F.R. § 200.318(i).¹⁶ The Procurement Division shall ensure that their its processes and procedures include the collection of documentation demonstrating that evidence that the use of funds respond to a need, the procurement method selection, price and cost analysis, lists of prequalified contractors/vendors, bids, proposals, quotations, and DRGR reporting. Documentation may vary depending on the procurement process followed in the procurement process.¹⁷
- **Program Management** – Program Management is responsible for all CDBG-DR/MIT programmatic area records, as implemented directly by PRDOH. They are also responsible for the oversight of subrecipients or contractors' implementation of programs.
- **Project Managers (PMs) or Points of Contact (POCs)** – PMs and POCs are responsible for files and/or records that document PRDOH run or managed programs and activities undertaken with respect to specific individual beneficiaries, property owners, and/or properties.

6.2 Subrecipients, Administering Entities and Contractors

6.2.1 Subrecipients and Administering Entities

It is very important for PRDOH CDBG-DR/MIT Subrecipients and administering entities to maintain and implement recordkeeping and management policies and practices compliant with federal, state, and program requirements. Subrecipients shall keep

¹⁶ The Procurement Manual, Regulation 9204, as well as 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/> and <https://www.cdbg-dr.pr.gov/recursos/politicas/>. The Procurement Manual is currently under review.

¹⁷ For an exhaustive guide to these 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>.

policies and procedures, as well as other documents that provide guidance, and include how they document and define processes for collecting, organizing, storing, and retrieving information on CDBG-DR/MIT funded programs. Those programs cannot correctly execute goals, performance, and proper administration cannot be provided without adequate recordkeeping.

Subrecipients are responsible on maintaining all PRDOH CDBG-DR/MIT files on site at the Subrecipient's customary place of business, and ~~these~~ those files must be available for review upon request by PRDOH, HUD, a monitoring entity, or any Petitioner, if applicable. The Subrecipient must designate a person responsible of records management functions. If the Subrecipient relies on an electronic record keeping system, contingency plans for data retrieval recovery and access must be part of their policies and procedures.

Every Subrecipient should establish and maintain at least three (3) major categories of records:¹⁸

- **Administrative records:** Files and records that involve the overall administration of the Subrecipient's or administering entities' CDBG-DR/MIT activities. They include personnel files, property management files, general program files, and legal files.
- **Financial records:** Files and records related to the Program's finances of the Program. Examples of these are 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 that document the activities undertaken with respect to specific individual beneficiaries, property owners, and/or properties.¹⁹

During the agreement period, subrecipients and administering entities are responsible for record retention, as it relates to the specific CDBG-DR/MIT programs or projects under agreement. Subrecipients and administering entities are responsible for adhering to PRDOH-approved policies. ~~In the event that~~ If a Subrecipient or an administering entity does not have existing recordkeeping policies, they are required to develop them. This Policy can be used as an example or may be adopted and implemented.

Subrecipients shall maintain records as required by 24 C.F.R. § 570.506 and discussed further in this Policy. Although the specific documentation maintained may vary, depending on the type of project or activity (infrastructure, housing, economic revitalization, etc.), Subrecipients/administering entities are required to maintain comprehensive, up-to-date project files. The files should cover all aspects of the project,

¹⁸ See *Playing by the Rules: A Handbook for CDBG Subrecipients on Administrative Systems*, Chapter 5.0: Record-keeping and Reporting Requirements, <https://www.hudexchange.info/onecpd/assets/File/Playing-by-the-Rules-Handbook-CDBG-Subrecipients-Administrative-Systems-Chapter-5.pdf>.

¹⁹ For checklists that expand on documentation to maintain, refer to *Playing by the Rules: A Handbook for CDBG Subrecipients on Administrative Systems*, Chapter 5.0: Record-keeping and Reporting Requirements, *supra*.

beginning with application and eligibility, cost allowability and ending with program closure. In addition, PRDOH provides standard file management and recordkeeping guidance, as needed, or requested, for Subrecipients and administering entities. Each project or case file ~~should~~ **must** include documentation ~~of~~ **on** the National Objective being met, ~~the~~ characteristics and location of beneficiaries, ~~the~~ eligibility of the activity, ~~the~~ compliance with special program requirements, ~~the~~ allowability of ~~the~~ costs, and ~~the~~ status of the case/project.²⁰

6.2.2 Contractors

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

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, retention, and destruction. ~~In the event~~ **if** a Contractor does not have existing recordkeeping policies, this Policy shall be adopted and implemented.

Contractors shall make available records, which includes 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.

6.2.3 File Transfer at Contract Closeout

Subrecipients and contractors are responsible for record retention during the agreement or contract period, respectively. However, their obligations do not end until *all* closeout requirements are completed. Important aspects of agreement/contract closeout activities include:

- Determine how files are being transferred from the Subrecipient/administering entity/Contractor to PRDOH, at the end of the agreement/contract period.
- Provide guidance outlining closeout requirements, six (6) months prior to the agreement/contract closeout.

²⁰ Playing by the Rules: A Handbook for CDBG Subrecipients on Administrative Systems, Chapter 5.0: Record-keeping and Reporting Requirements, Part 5.2, ~~(Chapter 8-6)~~.

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 earlier, at PRDOH's discretion.

7 Records Keeping and Management

Well managed records help agencies assess the impact of programs, reduce redundant efforts, and share knowledge within and across the organization. "Proper records management is the backbone of open Government."²¹ "Records are the foundation of open government, supporting the principles of transparency, participation, and collaboration."²² PRDOH, as grantee, will comply with applicable federal and local laws and regulations related to record management, thus ensuring the agency's capabilities to fulfill their statutory mission.

The Puerto Rico Public Documents Administration Act, ~~as amended~~,²³ governs the "planning, control, direction, organization, training, promotion, and other activities related to the creation, use, and conservation of documents, as well as their disposition." This Act creates the Documents Administration Program. ~~This Program, which covers all departments and agencies of the Government of Puerto Rico and requires that each agency to have a Document Administrator for its administration.~~

As established in ~~the~~ Regulation No. 4284, Regulation for the Administration of Public Documents in the Executive Branch of the Government of Puerto Rico, ~~as amended~~, 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 ~~the norms 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 disposing of documents, according to document retention terms.
- A formally set location to file documents.
- Systematic reference service that facilitates the search, checkout and filing of documents.²⁴

²¹ Presidential Memorandum – Managing Government Records, November 28, 2011, which can be accessed at: <https://obamawhitehouse.archives.gov/the-press-office/2011/11/28/presidential-memorandum-managing-government-records>.

²² OMB Memorandum 12-18, Managing Government Records Directive, June 28, 2019, which can be accessed at: https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/memoranda/2012/m-12-18.pdf. This Memorandum was rescinded by OMB Memorandum 19-12: Transition to Electronic Records; the main principles cited however, are not subject to change since they apply to both, electronic and physical files.

²³ 3 L.P.R.A. §1001 *et seq.*

²⁴ Regulation 4284, Regulation for the Administration of Public Documents in the Executive Branch of the Government of Puerto Rico, ~~as amended~~ by Regulation 4595 of November 21, 1991.

7.1 Recordkeeping

Recordkeeping is a crucial piece of the overall information management strategy. Accurate recordkeeping is vital to ensure that the documentation for CDBG-DR/MIT programs is compliant with federal, state, local, and program requirements. Files must be complete and should be able to portray the program's life, from its inception to its completion. Complete and proper recordkeeping ensure success in monitoring and audits.

"The general universal CDBG recordkeeping standard for record keeping is that records must be accurate, complete and orderly."²⁵ Regulations set forth at 24 C.F.R. § 570.490(a) and (b) establish the main recordkeeping requirements. This section indicates that the State shall:

- Establish and maintain such records as may be necessary to facilitate reviews and audits.²⁶
- Keep records to document its funding decisions, including all the criteria used.
- Make entries into the Integrated Disbursement and Information System (**IDIS**) to accurately capture the state's accomplishment and funding data.
- Establish recordkeeping requirements for units of general local government receiving CDBG-DR funds that are sufficient to facilitate reviews and audits.

Recordkeeping requirements set forth in the Federal Register Vol. 83, No. 28 (February 9, 2019), 83 FR 5844, 5856, and 84 FR 45838, 45857, establish that "[w]hen a State carries out activities directly, 24 C.F.R. § 570.490(b) is waived." As an alternative, it requires that the State shall must establish and maintain such records as may be necessary to facilitate review and audit by HUD of the State's administration of CDBG-DR/MIT funds, under 24 C.F.R. § 570.493. A similar provision was included in 86 FR 32681, 32693, for purposes of the allocation for the electric power system.

In summary, PRDOH CDBG-DR/MIT maintains all records not managed by CDBG-DR/MIT subrecipients. Subrecipients maintain project-related documentation, including financial records, supporting documents, and statistical records associated with grant funds as established in this Policy. Applicable Puerto Rican regulations are encompassed in the Public Document Administration Act, as amended.

7.1.1 Records to be Maintained

Federal regulation states "[e]ach recipient shall establish and maintain sufficient records to enable the Secretary to determine whether the recipient has met the requirement of this part".²⁷

²⁵ Playing by the Rules: A Handbook for CDBG Subrecipients on Administrative Systems, Chapter 5.0: Record-keeping and Reporting Requirements, <https://www.hudexchange.info/onecpd/assets/File/Playing-by-the-Rules-Handbook-CDBG-Subrecipients-Administrative-Systems-Chapter-5.pdf>

²⁶ The audits referred to in this point are those set forth at 24 C.F.R. § 570.493.

²⁷ 24 C.F.R. § 570.506.

Federal regulation further states that:

Consistent with applicable statutes, regulations, waivers and alternative requirements, and other Federal requirements, the content of records maintained by the State 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 directly by the State; and
- Show how activities funded are consistent with the descriptions of activities proposed for funding in the Action Plan and/or DRGR system.²⁸

The following records are the minimum required to be maintained by PRDOH and its Subrecipients/administering entities as established in 24 C.F.R. § 570.506:

- Records providing a full description of each activity assisted with CDBG-DR/MIT funds.
 - Location;
 - Amount of CDBG-DR/MIT funds budgeted, obligated, and expended; and
 - The provision in subpart C under which it is eligible.
- Records demonstrating that each activity undertaken meets the applicable National Objective criteria as per the Federal Register Notice of the specific allocation. ~~one (1) of the criteria for National Objectives, as set forth in 24 C.F.R. § 570.208.~~²⁹
- Records demonstrating that the recipient has made determinations required as a condition of eligibility of certain 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)³⁰ or document the State's grant recipient's basis for exception to the requirements of those paragraphs.
- 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.
 - "For fair housing and equal opportunity purposes, whereas such data is already being collected and where applicable, such records shall include

²⁸ 83 FR 5844, 84 FR 45838, and 86 FR 32681.

²⁹Each allocation (DR, MIT, DR-Energy) contains different criteria for National Objectives. For more details, please refer specific Federal Register for the allocation. 24 C.F.R. § 570.208 – Criteria for national objectives. CDBG-DR funded activities must comply with one or more of the national objectives: (1) Activities benefiting low- and moderate-income persons; (2) Activities, which aid in the prevention or elimination of slums or blight; and/or (3) Activities designed to meet community development needs having a particular urgency. For a summary on records to keep related to National Objectives, see *Basically CDBG* (November 2007), HUD Office of Block Grant Assistance, Chapter 13, Section 13.3.5, p. 13-9.

³⁰ 24 C.F.R. § 570.202(g) and 24 C.F.R. § 570.204(a)(5). Both sections discuss broadband infrastructure installation as a requirement for substantial rehabilitation of a building with more than four (4) rental units, and documents needed to evidence an exception to this required installation.

data on the racial, ethnic and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the program.”³¹

- ~~Financial records, as required by 2 C.F.R. part 200, 24 C.F.R. § 570.502, and state requirements, which include, but are not limited to:~~
 - ~~Current authorizations and obligations of CDBG-DR and CDBG-MIT funds;~~
 - ~~Unobligated balances (funds remaining available for distribution);~~
 - ~~Assets and liabilities;~~
 - ~~Program income (if any);~~
 - ~~Evidence indicating that the use of program funds belongs to the eligible activity; and~~
 - ~~Evidence indicating that each expenditure is necessary, reasonable, and directly related to the project.~~
- Financial records, in accordance with the applicable requirements listed in 24 C.F.R. § 570.502, including source documentation for entities not subject to 2 C.F.R. Part 200. Grantees shall maintain evidence to support how the CDBG funds provided to such entities are expended. Such 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 and/or a project architect), and/or 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.
- Records required to be maintained, in accordance with other applicable laws and regulations set forth in 24 C.F.R. Part 570, Subpart K of this part.³²

7.1.1.1 File Checklists

It is the responsibility of each PRDOH CDGB-DR/MIT Division and Program Area to develop their own file and document checklists (these may be in electronic format) that shall include the major file categories of files that the program maintains and the materials and/or documents the program keeps in each file. The electronic file must contain all area and program documentation and must always be up-to-date, complete, and accurate. It is the Division and Program Area's responsibility to periodically review and maintain these to reflect up-date requirements.

7.1.1.2 Performance and Evaluation Report

~~Pursuant to 24 C.F.R. § 570.507, entitlement grant recipients shall submit an annual performance and evaluation report in accordance with 24 C.F.R. Part 91. Nevertheless,~~
~~As stated in 83 FR 5844, 5852, 84 FR 45838, 45853, and 86 FR 32681, 32690, HUD waived~~

³¹ 24 C.F.R. § 570.490 (a)(1).

³² 24 C.F.R. Subpart K – Other Program Requirements.

PRDOH for submission of a performance report pursuant to 42 U.S.C. § 12708(a), 24 C.F.R. § 91.520, and 24 C.F.R. § 1003.506. ~~from the requirements of 24 C.F.R. part 91.~~ Alternatively, HUD required PRDOH to enter all information regarding its performance, while administering CDBG-DR/MIT funds, in the DRGR system with sufficient detail to permit HUD's review of PRDOH's performance on a quarterly basis through the Quarterly Performance Report (QPR) and to enable remote review of PRDOH's data.³³

7.1.2 Document Control

PRDOH maintains all its documentation utilizing a combination of electronic and paper recordkeeping systems for managing their records, depending on the needs of each Area. PRDOH develops files on grant, program, project, and applicant/beneficiary basis.

PRDOH uses a naming convention, file management structure, and program checklists, as defined in PRDOH CDBG-DR/MIT Program's internal guiding documents.

7.1.2.1 Electronic Files

PRDOH CDBG-DR/MIT Areas utilize four (4) main methods to manage and store electronic files and documents, and another to store files that are to be shared with HUD. Digitized records or digitally reproduced records can be considered as a 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 serve, 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 records' entire retention period.³⁴

After the digitization process, PRDOH must validate that the digitized versions are suitable quality to replace the original source records. This ~~could~~ can be done either by PRDOH's own validation process or by using third-party processes. ~~This process of~~ The validation process must be documented and retained for the life of the process or the life of any records digitized using that process, whichever is longer.³⁵

7.1.2.1.1 CDBG-DR (Z:) CDBG-MIT (M:)

The PRDOH CDBG-DR (Z:) refers to storage drive "Z" and CDBG-MIT (M:) refers to a storage drive (M:). Drive "Z" and "M" are the file repository for CDBG-DR/MIT documents available only to PRDOH CDBG-DR/MIT staff. PRDOH maintains active digital records with restricted access shared drives, servers, or web portals. Folders/files within "Z" and "M"

³³ 83 FR 5844, 5852 and 84 FR 43858, 45853

³⁴ Digitization standards found in 36 C.F.R. § 1236.32.

³⁵ 36 C.F.R. § 1236.34.

are only available to users on a need-to access basis, and access rights are tailored based on the users need ("read only" rights vs "edit" rights).

PRDOH ~~has~~ will set forth information technology security principles in their Security Policy, which will provide contingency plans that set forth guidelines for responding to emergencies or other occurrences that may damage the systems ~~that~~ containing the CDBG-DR/MIT "Z" and "M" drives.³⁶

7.1.2.1.2 Canopy

~~The~~ Canopy Grant Management System is a digital platform that provides for a Document Management Tool that stores and maintains documents. It is used for the reporting of grant requirements, such as Davis-Bacon, Section 3, and performance ~~measures~~ metrics. The Canopy Grant Management System will house applicant-level data, including case files, and will be accessible to HUD, PRDOH CDBG-DR/MIT staff and employees, and auditors.

7.1.2.1.3 Yardi

~~The~~ Yardi software is used to track financial management information and associated documentation. Yardi provides a complete accounting and grant management system that meets the General Accepted Accounting Principles (**GAAP**) and HUD requirements. The platform meets all HUD requirements for financial management, including asset management project (**AMP**) reporting. It provides PRDOH CDBG-DR/MIT with its own database and applications and retains all invoicing and billing records. Yardi replicates PRDOH's database in real time to a parallel database server with automatic failover capabilities. Yardi includes an automatic backup feature that enables a complete automatic nightly backup of all records and data files stored in the accounting and grant management system platform. After each automatic backup, the software places the system backed up data on a secure file transfer protocol (**FTP**) server. Backup servers are kept in a secure, off-site location with annual security checks and reviews to prevent against and remedy software problems, hardware failure, hackers, and malware (such as viruses and ransomware) attacks.

7.1.2.1.4 Microsoft SharePoint

PRDOH CDBG-DR/MIT utilizes Microsoft SharePoint when complying with HUD information, files, and documents requests. Microsoft SharePoint is a cloud-based service that offers a secure place to store, organize, share, and access information from any device. SharePoint allows for the following security measures:

- Encryption of data in transit and "at rest";
- Virus detection in SharePoint online;
- Access control based on network location;
- Customized script restriction;
- External sharing management; and

³⁶ PRDOH Information Technology Security Policy is under development and will be available, once finalized, in the PRDOH website.

- Limiting access, permissions and sharing privileges according to user type.

7.1.2.2 Hard Copy Files

PRDOH CDBG-DR/MIT stores ancillary hard copies for the duration of the retention period. PRDOH maintains paper records in secure, limited-access areas. The Document Management Specialist under each Division is the designated person to maintain control over the hard copy files pertaining to their area.

7.1.3 File Nomenclature – Naming Convention

The PRDOH CDBG-DR/MIT naming convention will start with the creator entity, sector, program area the document falls under, document type, document title, the language used, and the version. The words DRAFT/FINAL/TRACKCHANGES and the date in the year/month/day format may be added to the end. The acronym used for that program identifies the program. A lower-case “v” followed by a number indicates whether the file represents the latest version of the document. A capital EN or ES after the document title but before the version number indicates that the document is in English or Spanish.

Sector Program Area (Acronym)_Doc Type_Doc Title_ Language_Version_Status_Date

Examples: INFRA_CRC_Program Guidelines_EN_v1
 INFRA_CRC_Program Guidelines_ES_v1
 INFRA_CRC_Program Guidelines_ES_v1_DRAFT_2020 03 24

7.1.4 File Management Structure

The file management structure set forth in this Policy organizes files and documents within the PRDOH CDBG-DR Library. The main file is “CDBG-DR”. Within the CDBG-DR file, there are General, Administrative, Program, and Division files. Each of these files, in turn, have their own file structure breakdown, as required, and needed by each area. Program files have file folders to house policies, procedures, guidelines, schedules, budget, reports, and memo. Division files have file folders for each of the areas including Operations, Legal, Finance, Procurement, Audit, and Monitoring.

7.1.5 Data Security Protection

A PRDOH employee executes the functions of an Information Technology Security Officer. This employee is responsible for maintaining a log of security enhancements and features that have been implemented to further protect all information and assets held by the Program.³⁷

³⁷ Additional information will be available in the PRDOH Information Technology Security Protection Policy that is under development.

PRDOH's CDBG-DR/MIT Wide Area Network (**WAN**) is maintained with multiple security protections, which include virus protection, email file-type restrictions, firewalls, and anti-hacking hardware software.

7.1.5.1 Security Measures

Antivirus software is installed on all CDBG-DR/MIT personal computers and servers. Virus update definitions and patterns are updated daily on PRDOH CDBG-DR/MIT servers and workstations. Appropriate administrative staff monitor virus update engines and data files to ensure all virus definitions and patterns are up to date.

The Information Systems Area has placed a set of rules and configurations designed to protect the integrity, confidentiality, and accessibility of PRDOH's CDBG-DR/MIT WAN. The network security devices (firewalls) monitor all incoming and outgoing network traffic and decide whether to allow or block specific data exchanges between PRDOH's CDBG-DR/MIT WAN (internal network) and incoming traffic from external sources based on a defined set of structured security rules and protocols. It is PRDOH policy to update the set of rules, protocols, and configurations, "as often as it is necessary, as updates are sent to the 'appliance', by PRDOH's Network Administrator" to provide greater security against external attacks and threats.³⁸

7.1.5.2 Data Backup

Having a backup schedule is extremely important for PRDOH's CDBG-DR/MIT files. As per PRDOH's Information Technology Security Policy,³⁹ backup procedures have been established to encrypt the data being moved to an external storage media.

PRDOH's Information Systems Area will generate backups on a daily, weekly, monthly, and yearly basis. Extra copies are kept in an external vault. For specificity on location and other incidentals, see Administrative and Operational Procedures for the Information Systems Area, PAO 2011-12, pages 82-89, and its annexes.

7.1.5.3 CDBG-DR/MIT 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 website does not store any information on the server. Requests managed through the website (i.e., complaints, RFIs, etc.) are channeled through different communication management systems (emails, information sheets) that, in turn, protect the information through system-specific security measures.

³⁸ PRDOH Administrative and Operational Procedures for the Information Systems Area, PAO 2011-12, page 81.

³⁹ PRDOH Information Technology Security Policy is under development and will be available, once finalized, in the PRDOH website.

7.1.5.4 Content Monitoring

It is not PRDOH CDBG-DR/MIT policy to monitor the content of any electronic communication. However, PRDOH CDBG-DR/MIT is responsible for servicing and protecting PRDOH CDBG-DR/MIT equipment, network, data, and resources, thus, may be required to access and/or monitor communications.⁴⁰

8 Records Accessibility

Information resources are protected by the use of using access control systems. Access control systems include both internal (i.e., passwords, encryption, access control lists, constrained user interfaces, etc.) and external (i.e., port protection devices, firewalls, host-based authentication, etc.).⁴¹ It is PRDOH CDBG-DR/MIT policy to provide building access in a secure manner. PRDOH CDBG-DR/MIT strives to continuously upgrade and expand its security and to enhance protection of the information that has been entrusted to it.⁴²

PRDOH's employees, staff, private companies, and external consultants that have access to and interact in a habitual or occasional manner with PRDOH's network, and 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.⁴³

8.1 Compliance Reviews

Representatives of HUD, the Office of the Inspector General (**OIG**), the Comptroller General of the United States, local compliance offices, or any of their authorized representatives have the right to access any PRDOH CDBG-DR/MIT documents, papers, or other records pertinent to a CDBG-DR/MIT award to complete audits, examinations, excerpts, and transcripts, upon request. This right also includes timely and reasonable access to PRDOH's personnel for interviews and discussions related to such documents.⁴⁴ The rights of access are extended as long as the records are retained.⁴⁵

8.2 Subrecipient and Contractor Requirements

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

⁴⁰ Both PAO 2011-12 and PRDOH Information Technology Security Policy regulates content monitoring. PRDOH Information Technology Security Policy is under development and will be available, once finalized, in the PRDOH website.

⁴¹ Id.

⁴² Id.

⁴³ These provisions will be included in PRDOH's Information Technology Security Policy, which is under development and will be available, once finalized, in the PRDOH website.

⁴⁴ 2 C.F.R. § 200.3376 (a).

⁴⁵ 2 C.F.R. § 200.3376 (c).

8.3 FOIA

FOIA was enacted to provide the public the right to request access to records from any federal agency. 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 nine (9) exemptions apply to certain categories of information to protect against potential harms, such as an invasion of personal privacy, or harm to law enforcement investigations. The FOIA authorizes agencies to withhold information when they reasonably foresee that disclosure would harm an interest protected by one (1) of nine (9) exemptions.⁴⁶

By amending the FOIA in 1986, Congress created a mechanism to protect sensitive law enforcement matters under subsection (c) of the Act. These three (3) provisions, referred to as record "exclusions," are reserved for certain specified circumstances. The record exclusions expressly authorize federal law enforcement agencies under these circumstances to "treat the records as not subject to the requirements of the FOIA".⁴⁷

According to the Code of Federal Regulations, no Federal awarding agency may place restrictions on the non-Federal entity that limit public access to the records of the non-Federal entity pertinent to a Federal award. Exceptions to these restrictions are the 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.⁴⁸

Unless required by Federal, state, local, and tribal statute, non-Federal entities are not required to permit public access to their records. The non-Federal entity's records provided to a Federal agency generally will be subject to FOIA and applicable exemptions.⁴⁹ Although, technically, FOIA's rules and exceptions only apply to federal agencies, people can submit requests to HUD regarding information provided to it by PRDOH on its CDBG-DR/MIT Program. FOIA's exemptions and/or exclusions might as well apply to some of the PRDOH's CDBG-DR/MIT Program information in HUD's possession.

Notwithstanding 2 C.F.R. § 200.337, recipients of federal grants shall provide citizens with reasonable access to records regarding the past use of CDBG funds, consistent with applicable State and local laws regarding privacy and obligations of confidentiality.⁵⁰

⁴⁶ See FOIAs nine (9) exemptions in detail at: <https://www.foia.gov/about.html>.

⁴⁷ <https://www.justice.gov/oip/blog/foia-guidance-6>.

⁴⁸ 2 C.F.R. § 200.337.

⁴⁹ Id.

⁵⁰ 24 C.F.R. § 570.508.

As stated in 83 FR 5844, 5854, and 84 FR 45838, 45853, “[d]uring the term of the grant, the grantee will provide citizens, affected local governments, and other interested parties with reasonable and timely access to information and records.”

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

8.4 The Transparency Act, Act 141-2019

On August 1, 2019, the Government of Puerto Rico enacted the Transparency and Expedite Procedure for the Public Information Access Act, Act 141-2019, (**Transparency Act**) with the main purpose of regulating, via legislation, the public information access pursuant to the fundamental constitutional rights of freedom of speech, press, and association. The Transparency Act applies to all three branches of Government, including public corporations and municipalities.

The Transparency Act established, as a public policy of the Government of Puerto Rico, that all information and documentation that is originated, stored or received in any of the government’s dependencies, even though it might be in control of a third party, is presumed to be public and should be accessible to all people and the press, upon request.⁵¹ Government entities have the duty to disclose periodically, proactively, and up-to-date information about their operations, the execution of their delegated functions and all the public documentation regarding their daily work routine.⁵²

According to the Transparency Act, PRDOH shall designate three (3) employees, two (2) of which shall be permanent employees, to be Information Officials responsible for the compliance of this Act at their respective places of work within the Government. If possible, at least one (1) of the Information Officials should be a lawyer admitted to practice in Puerto Rico.⁵³

The ultimate 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. The Information Officials will have the responsibility

⁵¹ See Act 141-2019, Art. 3.

⁵² *Id.* Art. 4.

⁵³ Department of Justice, Circular Letter 2020-01, Art. VI.

of receiving the request and notifying the Petitioner, either via email, fax, or postal mail, that their request has being received and the identification number assigned to it.⁵⁴

8.4.1 Department of Justice, Circular Letter 2020-01

On March 2, 2020, the Puerto Rico Department of Justice issued the Circular Letter 2020-01 that delineated the applicable rules and specific procedures for the evaluation and expedite processing of public information requests to be adopted by other government entities, according to the Transparency Act. Hence, PRDOH adopts the rules and procedures determined in the Circular Letter 2020-01 and includes them as part of this Policy. The following are key concepts, as they appear defined in the Circular Letter 2020-01.

8.4.1.1 Public Information

It is defined as all 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.⁵⁵

8.4.1.2 Confidential Information

It is defined as information that is originated, stored or received in any government dependency and cannot be disclosed nor is public, either because it is required by the Constitution; a law states it; it is protected by the evidentiary privileges; disclosing such information might result in undermining fundamental rights of third parties; the information is regarding a witness or victim's identity; or it is official information.⁵⁶

8.4.1.3 Official Information

It is defined as information acquired in confidence by a public servant during the course of their functions and that has not been officially disclosed nor it is accessible to the public.⁵⁷

8.4.2 Public Information Request (PIR) 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, available at the CDBG-DR/MIT website that enables any Petitioner to submit a PIR, at their convenience. Petitioner may download the PIR Form or complete it online at <https://cdbg-dr.pr.gov/en/public-information-request/> (English) and <https://cdbg-dr.pr.gov/solicitud-de-informacion-publica/> (Spanish).

8.4.2.1 Minimum information to be included in the PIR

The Petitioner must state the following information in the PIR form:

⁵⁴ See Act 141-2019, Art. 6.

⁵⁵ Department of Justice, Circular Letter 2020-01, Art. II (f).

⁵⁶ Department of Justice, Circular Letter 2020-01, Art. II (d).

⁵⁷ Department of Justice, Circular Letter 2020-01, Art. II (e).

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 shall also include:
 - The title of the legal entity's representative; and
 - A certification that the signing person is acting as such.
- ~~5. The PRDOH's Division which the Petitioner believes has custody over the public information requested, if known.~~
6. A detailed description of the public information that the Petitioner wishes to obtain, examine, or inspect, subject to the payment of the applicable fees.
 - 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 relatives, with the full name, physical address, postal address or e-mail, and the telephone number of said third party, ~~in order~~ 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 state the reasons for the disclosure of the public information required, even without the third party's authorization.
7. Format in which the Petitioner wishes to obtain the public information, either hard copy or electronic copy.

8.4.2.2 How to submit the PIR

1. Personally, at PRDOH Headquarters ~~located~~ at: 606 Barbosa Avenue, Building Juan C. Cordero Dávila, 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: PRDOH CDBG-DR/MIT Legal Division, PO Box 21365 San Juan, P.R. 00928-1365
5. Online: by filling out the PIR Form, available at <https://cdbg-dr.pr.gov/iframes/publicrequestinformationFRM.html> (English) or https://cdbg-dr.pr.gov/wp-content/uploads/2020/09/PIR-Form_EN_ES-FINAL-2020-08-25_Editable.pdf (Spanish).

8.1.1 8.4.2.3 Information Officials

As previously stated, ~~the~~ 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, as the ones responsible to comply with the Transparency Act, 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.

The Information Officials will be in charge of receiving, examining and managing the PIR, prior consultation to their area supervisor. The Information Officials shall facilitate access to public information in the requested format, upon the terms established in the Transparency Act ~~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.**

8.4.2.4 PIR Evaluation Process

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

If the PIR is submitted in a PRDOH Regional Office, the Regional Office Director shall, in a period not greater than **forty-eight (48) hours**, forward it, via email, to the Information Officials at the PRDOH Headquarters to continue the evaluation process, as stated in this Policy.

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 email 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.

If the Information Officials understand that the PIR *does not* comply with the mandatory requirements established in the Act, they must immediately send it back to the Petitioner and provide guidance of the correct process to submit it. In these cases, the PIR will not be considered as submitted until it complies with the requirements established herein.

On the other hand, if the PIR is submitted *in compliance with* the Transparency Act, the Information Officials will proceed to evaluate it for ~~its~~ final disposition. To do so, the Information Officials shall contact the PRDOH's Division Director ~~or any other CDBG-DR/MIT staff who has~~ ~~in~~ control of the ~~requested~~ public information ~~requested~~, and take any investigative measure, if needed, ~~in order~~ for them to determine if the PIR proceed, in whole or in part. Each Area or Division Director, as applicable, shall ~~certify~~ ~~certificate~~, in writing, if the PIR proceeds or not, and the legal basis ~~that substantiate~~ ~~for~~ the determination.

Once the public information requested has been gathered, the Information Officials will make a written recommendation to the PRDOH Secretary, or the person duly authorized as such, on how to proceed. The recommendation shall include a draft to the Petitioner with the supportive legal dispositions, 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.

8.4.2.5 Applicable Terms

The terms stated below shall be calculated from the date the Petitioner submits their PIR to PRDOH, according to the email date, the postmark in the mail, or the fax receipt. However, any PIR received during the weekend, holidays or after 5:00 p.m. local time 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**, when feasible. If the PIR has been submitted in a PRDOH Regional Office, the term to submit a response will be of **fifteen (15) business days**. Both terms shall be extended by a unique additional term of **ten (10) business days**, if the Information Officials notify the Petitioner of the reason to extend the response period, within the original term.

Extensions of applicable terms may apply 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 the 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 periods, it will be considered that the PIR has been denied by the agency. The Petitioner shall file the request before the District Court, as established in the Transparency Act, if the Petitioner wishes 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 surpass the format usually used by PRDOH or 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.

8.4.2.6 PIR Approved Process

The Information Officials will comply with the Transparency Act and the PIR will be considered properly addressed if:

- The public information requested is sent to the Petitioner's email;
- They put at the Petitioner's disposition the public information 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 or URL with instructions on how to access the public information requested.

PRDOH is 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.

(a) Via Email

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

1. Public information will be sent to the email provided by the Petitioner in the PIR, along with an official correspondence letter from PRDOH Secretary, or its designee, authorizing the disclosure at hand, if necessary.
2. Access to public information via email will be at no cost for the Petitioner.
3. If unable to deliver via email, 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.

(b) 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 the copies of the requested documentation. The Information Officials are responsible for making copies of the documents that will be handed to be delivered to the Petitioner and for maintaining the confidentiality of the information deemed confidential by PRDOH Secretary.

(c) 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. 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 to the Petitioner at the time of their inspection.
3. The Petitioner will state their full name, ~~the~~ date, and time of entry and exit from PRDOH, 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 of a duly authorized. **The authorized person must be present person at all times.**
5. The Petitioner will not be allowed to remove original documents from PRDOH 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 of 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 enter in 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 ~~found~~ **contained** in more than one **(1)** file or document, the Petitioner shall have access to one **(1)** file or document at the time. Any deviation from this procedure must be authorized by the PRDOH Secretary ~~of PRDOH~~.

8.4.2.7 PIR Denied Process

If, after the evaluation of the PIR, the **PRDOH** Secretary ~~of PRDOH~~ 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 petition ~~for~~ **of** judicial review before the Superior Court within **thirty (30) days**, calculated from the date on which PRDOH notified its determination to deny the delivery of the requested information or from the delivery due date if there was no answer from the agency, whichever comes first.

8.4.3 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 himself or through legal representation, a Special Petition of Public Information Access (**Special Petition**) before the Superior Court 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 ~~in order~~ 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 in which PRDOH notified its determination to deny the delivery of the requested information or from the delivery due date if there was no answer from the agency, whichever comes first.

Whenever PRDOH receives a notification of a Special Petition filed in accordance with the Transparency Act, will be requested to appear with its response in a term of **ten (10) business days**, which could be shorten by just cause to a term no less than **five (5) business days**, calculated from the date that the notification was issued by the Superior Court Secretary. The Court will retain discretion to shorten the established ten-day term when deemed necessary by just cause, in protection of the Petitioner's interests.

The Court will celebrate a hearing within **three (3) business days** upon the receipt of PRDOH's response, when deemed necessary due to the special circumstances of the case and of the information requested.

The Court shall deliver a decision, by Resolution substantiated in law, granting, or denying the *Public Information Request*, in a term of **ten (10) days**, calculated from the date in which PRDOH filed its response to the Court or from the hearing date, if any.

8.4.4 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.

9 Application Status Disclosure and Case File Requests

As set forth in PRDOH's PII Policy⁵⁸, Applicant's records are mostly comprised of PII. The use of PII will be limited to ensure compliance with program requirements, HUD and federal regulations; state and local requirements; reducing errors, and mitigating fraud, waste, and abuse. Written and explicit consent must be obtained from the involved parties when disclosing confidential or sensitive information concerning a PRDOH CDGB-DR/MIT programs participant, employee, or contractor.

⁵⁸ The PII Policy, as well as all CDBG-DR/MIT General Policies, is available in English and Spanish on the PRDOH website at <https://www.cdbg-dr.pr.gov/en/resources/policies/>, <https://cdbg-dr.pr.gov/en/resources/policies/general-policies/> and <https://cdbg-dr.pr.gov/recursos/politicas/politicas-generales/>, <https://www.cdbg-dr.pr.gov/recursos/politicas/>.

With these principles in mind, PRDOH has created a document called Authorization for Disclosure of Application Status. If any public agency, department, government instrumentality or a third-party inquiries about the status of an application, the PRDOH CDBG-DR/MIT Program 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 an authorized representative. This process will be followed in order to ensure the confidentiality of program applicants as well as the protection of Program Files.

Applicant's 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 himself or to those for whom the Applicant has provided written consent to do so in their behalf (e.g., legal representative).

10 Record Retention

As per 2 C.F.R. § 200.334 on Retention Requirements for Records and 24 C.F.R. § 570.490(d) on Recordkeeping Requirements, all official records on programs and individual activities shall be retained for the greater of **three (3) years**, starting from the closeout of the grant or beyond the end of the affordability period for each housing activity, whichever is longer. If any other laws and regulations as described in 24 C.F.R. § 570.490 applies to a project, the record retention period may be extended. All records involved in litigation, claims, audits, negotiations, or other actions, which have started before the expiration date of their retention, will be kept until completion of the action and resolution of all issues or the end of the regular **three (3) year** period, whichever is longer.⁵⁹

Act 5 from December 8, 1955, *supra*, delegated the responsibility of establishing applicable rules on record retention terms of public documents of fiscal nature or those necessary for the analysis of Government accounts and fiscal transactions unto the Treasury Secretary. Accordingly, the Treasury Secretary approved Regulation 23, from August 15, 1988, For the Conservation of Documents of a Fiscal Nature or Necessary for the Inspection and Verification of Accounts and Fiscal Operations. This Regulation states, as a general rule, that fiscal documents are to be kept for **six (6) years** or until an intervention from the Puerto Rico Comptroller's Office (**PRCO**), whichever one comes first.

⁵⁹ See Cross Cutting Program Guidelines. This 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/> and <https://www.cdbg-dr.pr.gov/en/resources/policies/general-policies/> and <https://www.cdbg-dr.pr.gov/recursos/politicas/politicas-generales/>.

As a general practice, PRDOH maintains files for **five (5) years** after grant closeout with HUD. Exceptions for longer file retention are provided at 2 C.F.R. § 200.334 and include:

- Litigation, claim, or audit started before the expiration of the **three (3) year** period;
- If HUD notifies in writing to extend retention period;
- Program Income report after the period of performance, when required; and
- Records for real property and equipment acquired with Federal funds.

END OF POLICY.