



DEPARTMENT OF
HOUSING



CDBG-MIT

PROGRAM GUIDELINES

SOCIAL INTEREST HOUSING MITIGATION PROGRAM

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PUERTO RICO DEPARTMENT OF HOUSING
CDBG-MIT PROGRAM GUIDELINES
SOCIAL INTEREST HOUSING PROGRAM
VERSION CONTROL

| VERSION NUMBER | DATE REVISED | DESCRIPTION OF REVISIONS |
|-----------------------|---------------------|---|
| 1 | December 20, 2022 | Original Version |
| 2 | September 18, 2023 | Revision of Substantial Rehabilitation definition; clarification of property acquisition activities and the application evaluation process; included affordability period for Limited Clientele projects; guidance related to Rental Housing Projects to be considered when establishing the affordable rent amount for projects; included Special Flood Hazard Areas and Choice Limiting Actions language. |

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1 Overview

The Program Guidelines set forth the requirements for assistance to social interest housing providers as a means to strengthen the housing sector of the Food, Water, and Shelter lifeline, by making targeted investments in resilient housing options for some of Puerto Rico's most vulnerable populations. Throughout its history, Puerto Rico has experienced extensive destruction from hurricanes, floods, earthquakes, and other disasters that have left vulnerable housing structures extensively damaged.

Amidst efforts to restore vital and essential services for residents, highly vulnerable populations must be considered. These populations have social and/or socio-economic characteristics that cause various difficulties in daily life and require additional or specialized services and accommodations.

The U.S. Department of Housing and Urban Development (**HUD**) has allocated \$8.285 billion to Puerto Rico for mitigation activities under the Community Development Block Grant-Mitigation (**CDBG-MIT**) Program. The purpose of these funds is to mitigate against disaster risks while allowing grantees the opportunity to transform state and local planning. The Social Interest Housing Mitigation Program (**SIHM Program** or **Program**), as approved in the Puerto Rico Mitigation Action Plan (**Action Plan**)¹ with a budget of \$100 million, creates resilient housing for highly vulnerable populations such as, but not limited to: homeless persons, senior citizens, domestic violence victims, persons with intellectual disability, persons with developmental and/ or physical disability, persons living with HIV/AIDS, individuals in addiction recovery, and individuals with other functional or access needs.

The SIHM Program will use risk-based mitigation criteria for project analysis, prioritization, and selection. It is intended to address varying and localized need for mitigation against a number of hazardous threats. The Program will not limit projects based on top Island-wide risk, nor by an assumption of need in a generalized way.

The Program will be available to eligible organizations that have demonstrated experience working with populations to be served under this housing program for highly vulnerable populations, ~~as previously identified~~. Eligible entities may receive a minimum award of no less than \$750,000 and up to a maximum award of \$2.5 million.² These thresholds may be adjusted based on need and responses to the application process.

¹ The Puerto Rico CDBG-MIT Action Plan can be accessed at: <https://cdbg-dr.pr.gov/en/cdbg-mit/> (English) and <https://cdbg-dr.pr.gov/cdbg-mit/> (Spanish).

² Every award calculation will consider a percentage for contingencies. However, if unforeseen conditions or additional extenuating factors arise, the Program will evaluate on a case-by-case basis to address those conditions to allow for implementation to continue.

2 Definitions

Accessible: When used with respect to the design, construction, or alteration of a facility or a portion of a facility other than an individual dwelling unit, means that the facility or portion of the facility when designed, constructed, or altered, can be approached, entered, and used by individuals with physical handicaps. The phrase accessible to and usable by is synonymous with accessible. 24 C.F.R. § 8.3.

Americans with Disability Act of 1990 (ADA): The ADA, 42 U.S.C. § 12101 *et seq.*, is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public.

Area Median Family Income (AMFI): The median household income adjusted by family size for a given area.

Award: Refers to the CDBG-MIT SIHM funding provided to eligible, non-governmental organizations (**NGO**) chosen via an application process.

Awardee: A non-governmental organization (**NGO**) chosen via an application process to receive funds under the Program.

Broadband infrastructure: Cables, fiber optics, wiring, or other permanent (integral to the structure) infrastructure—including wireless infrastructure—as long as the installation results in broadband infrastructure in each dwelling unit meeting the Federal Communications Commission's (**FCC**) definition in effect at the time the pre-construction estimates are generated. The FCC defines broadband speeds as twenty-five (25) Megabits per second (Mbps) download, three (3) Mbps upload. Federal Register Vol. 81, No. 244 (December 20, 2016), 81 FR 92626.

Community Based Development Organization (CBDO): To be designated as a CBDO or 105(a)(15)³ organization to implement PRDOH's CDBG-MIT programs, the following criteria must be met:

- The organization is organized under state or local law to carry out community development activities which address the development needs of the community in question; and

³ Section (105)(a)(15) of the Housing and Community Development Act : "assistance to neighborhood-based nonprofit organizations, local development corporations, nonprofit organizations serving the development needs of the communities in non-entitlement areas, or entities organized under section 301(d) of the Small Business Investment Act of 1958 to carry out a neighborhood revitalization or community economic development or energy conservation project [...]." 42 U.S.C. § 5305(a)(15)

- An integral part of the organization's mission is the improvement of the economic environment of its community by performing activities that increase economic opportunity, primarily for low- and moderate-income (**LMI**) persons or that are expected to create or retain businesses or permanent jobs within the community; and
- Any of the organization's monetary profits must be only incidental to its operations; and
- The organization is not an agency or instrumentality of the Government of Puerto Rico and operates with autonomy and is separate from administrative functions of the Government of Puerto Rico, and that the Government of Puerto Rico itself does not play a controlling role in the organization; and
- The organization does not permit more than one-third (1/3) of the membership of its governing body to be appointed by, or to consist of, elected or other public officials or employees.
- All entities interested to be **in being** designated as a CBDO should submit a Written Request to PRDOH, along with the supporting documents to justify that they meet the criteria stated above.

Community Development Block Grant – Disaster Recovery (CDBG-DR): A term for the HUD funding stream that is allocated to eligible disaster recovery entities via Congressional appropriations.

Community Development Block Grant – Mitigation (CDBG-MIT): Refers to the federal funds allocated by HUD for eligible grantees to use in areas impacted by recent disasters to carry out strategic and high impact activities to mitigate disaster risk and reduce future losses.

Continuum of Care (CoC): HUD Program that is designed to promote communitywide commitment to the goal of ending homelessness; provide funding for efforts by nonprofit providers, and State and local governments to quickly rehouse homeless individuals and families while minimizing the trauma and dislocation caused to homeless individuals, families, and communities by homelessness; promote access to and effect utilization of mainstream programs by homeless individuals and families; and optimize self-sufficiency among individuals and families experiencing homelessness.

Cost reasonableness: Construction costs that are deemed reasonable and consistent with market costs at the time and place of construction in compliance with Federal Register Vol. 84, No. 169 (August 30, 2019), 84 FR 45838. See also 2 C.F.R. §200.404.

Decent, safe, and sanitary dwelling: The term decent, safe, and sanitary dwelling means a dwelling which meets local housing and occupancy codes. However, any of the

standards outlined in 49 C.F.R. § 24.2 (a)(8) which are not met by the local code shall apply unless waived for good cause by the Federal Agency funding the project.

Environmental Review Record (ERR): A detailed record containing the existence of negative environmental impacts on a site, the means to mitigate negative impacts, alternatives to the project (if needed), and the rejection of the proposed activities if all other options fail and it becomes the most prudent action to take. See 24 C.F.R. §58.38

Fair Housing Act of 1968 (FHA): The FHA, 42 U.S.C. § 3601 *et seq.*, prohibits discrimination against protected classes of people in the sale or rental housing, in the provision of housing assistance, or other housing-related activities. The FHA requires HUD, grantees and their awardees to take reasonable steps to ensure meaningful access to their program and activities for protected classes. The FHA also requires HUD and its program participants to affirmatively further the purposes of the FHA.

Grant Agreement: For the purpose of this Program, it is a contract entered between the Puerto Rico Department of Housing (PRDOH) and awarded NGOs to establish the terms and conditions that the awarded entity should comply with to receive CDBG-MIT funds under the Program.

Hardening: Refers to the improvements or retrofits applied to existing structures for the mitigation of identified risks.

Housing and Community Development Act of 1974 (HCDA): The HCDA, 42 U.S.C § 5301 *et seq.*, prohibits in its Section 109 the discrimination on the basis of race, color, national origin, disability, age, religion and sex within CDBG programs or activities.

Low to Moderate Income (LMI): Populations with incomes not more than eighty percent (80%) of Area Median Family Income, as established by HUD. This income standard changes annually and varies based on household size and geography. HUD has calculated adjusted income limits for Puerto Rico upon which an LMI determination is based.⁴

Placed-in-Service: The date when at least one (1) unit of the project is suitable for occupancy. In Puerto Rico, this is validated with the submittal of a Certification of Occupancy ("Permiso Único"), issued by the Municipal Permits Office, or the Puerto Rico Permits Management Office ("Oficina de Gerencia de Permisos" (**OGPe**, by its Spanish acronym)).

Puerto Rico Mitigation Action Plan (Action Plan): Document that defines how the CDBG-MIT funding allocation by HUD will be utilized in order to increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of

⁴ HUD's adjusted income limits for Puerto Rico are available at: <https://www.huduser.gov/portal/datasets/il.html>.

property, and suffering and hardship by lessening the impact of future disasters. See <https://cdbg-dr.pr.gov/en/action-plan-mit/> (English) or <https://cdbg-dr.pr.gov/plan-de-accion-mit/> (Spanish).

Puerto Rico Department of Housing (PRDOH): The Puerto Rico Department of Housing has been designated by the Government of Puerto Rico as the grantee responsible for administering the CDBG-MIT funds allocated to Puerto Rico.

Rehabilitation: Refers to returning a structure exterior or interior to a useful state by means of repairs, modification, or alteration and additions while preserving/retaining those portions or features which convey its historical, cultural, or architectural values.

Renovation: Refers to the process of returning existing old structures, typically damaged, defective, or out of code compliance, up to a modern, improved state, meeting new code requirements regulated by federal or local law. Typically, major elements of the structure are added, relocated, or reconfigured for functional, efficiency or marketability reasons.

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred. 44 C.F.R. § 59.1.

Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or (2) any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure". 44 C.F.R. § 59.1.

Substantial Rehabilitation: Defined as, for the purposes of determining when installation of broadband infrastructure is required, part of substantial rehabilitation of eligible multifamily rental housing projects, as ~~Unless otherwise~~ defined by the Program, and for the purposes of determining when installation of broadband infrastructure is required, means work that involves: (1) significant work on the ~~electrical systems~~⁵ of the multifamily rental housing. "Significant work" means ~~when a~~ complete replacement of the ~~electrical~~

⁵ The term "systems" may include electrical, structural, potable water, sanitary and other systems.

systems or other work for which the pre-construction cost estimate is equal to or greater than seventy-five percent (75%) of the cost of replacing the entire electrical work of systems. In the case of multifamily rental housing with multiple buildings with more than four (4) units, "entire system" refers to the electrical all the systems of the building undergoing rehabilitation; or (2) rehabilitation of the multifamily rental housing in which the pre-construction estimated cost of the rehabilitation is equal to or greater than seventy-five percent (75%) of the total estimated cost of replacing the multifamily rental housing after the rehabilitation is complete. In the case of multifamily rental housing with multiple buildings with more than four (4) units, the replacement cost must be the replacement cost of the building undergoing rehabilitation. 24 C.F.R. § 5.100.⁶

Transitional Housing: A project that is designed to provide housing and appropriate supportive services to homeless individuals and or families to facilitate movement to independent living within twenty-four (24) months. Transitional housing, also referred to as interim or temporary housing, includes temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, State, or local government programs for low-income individuals. 24 C.F.R. §578.3(1)(ii)).

Uniform Federal Accessibility Standards (UFAS): Prescribes uniform standards for the design, construction, and alteration of buildings that ensure individuals with disabilities have ready access to and use of them in accordance with the Architectural Barriers Act of 1968 (ABA). 42 U.S.C. §§ 4151 – 4157.

United States Department of Housing and Urban Development (HUD): Is the principal federal agency responsible for programs concerned with serving unmet housing needs, enforcing fair housing, and promoting community development.

3 Program Description

The SIHM will provide funding to eligible entities who are committed to providing social housing and working with diverse populations to ensure accessibility for individuals with a wide-ranging of socioeconomic, physical, emotional, and other impairments.

The objective of the Program is to facilitate mitigation projects for entities that are committed in to providing social housing and working with diverse populations to ensure accessibility. PRDOH will procure Architectural, Engineering and Management (A,E&M) Services to assist in the evaluation, design, environmental compliance, and

⁶ *Substantial rehabilitation* definition was modified to integrate the needs of the program. 24 CFR § 5.100 allows for the modification by stating "unless otherwise defined by a program." Please see the following link for further information: <https://www.ecfr.gov/current/title-24/subtitle-A/part-5/subpart-A/section-5.100>.

management of the projects. The SIHM Program will be overseen and implemented by PRDOH through the following phases:

- **Application Period and Project Selection** – There will be an open application process for the selection of eligible entities and their proposed project intent, based on organizational qualifications, identification of the vulnerable populations to be served, and total mitigated risks. Eligible NGOs must demonstrate financial capacity to fund operations during the Program and are expected to have a viable sustainability plan for operations after CDBG-MIT funds are expended. Social housing applications submitted by eligible entities will be evaluated by the SIHM Program based on the mitigated risks, indicating the site-specific risks being addressed and the structural and nonstructural measures taken to mitigate such risks. ~~If deemed necessary, due to availability of funds, the applications may go through a scoring and ranking process. PRDOH will issue a ranking list of the applications received based on scoring criteria identified in the application form instructions. If available funds are sufficient to cover all eligible projects, the Program may determine that the scoring and ranking process is not necessary.~~ Applicants will receive a Pre-Selection Determination Letter instructing the applicant on the next steps to be conducted before the award.

~~Once the applications are scored, PRDOH will issue a ranking list of the applications received based on scoring criteria identified in the application instructions and the amount of funds available for the Program.~~

- **Project Concept Planning and Feasibility Analysis** – Following the ~~Project Pre-Selection~~ ~~scoring of the ranking list~~, A,E&M will determine if the project implementation is feasible under the SIHM Program. The Feasibility Analysis shall consider factors such as budget limitations and cost estimates, current conditions of the project site and its buildings, improvements required to meet project goals, preliminary environmental review, achievement of the risk mitigation project, and any other factor that may affect project's feasibility for implementation.

During this phase, qualified applicants will cooperate fully with A,E&M and provide all required information for the proposed project(s). As part of the application requirements, the applicant must provide a plan indicating the approach in which the entity expects to operate their project, for PRDOH review.

Upon completion of Planning and Feasibility Analysis, PRDOH will send notifications of award to qualified applicants. Qualified applicants, or Awardees, that accept the award will execute a Grant Agreement with PRDOH.

- **Design, Environmental Review, and Permitting** – Throughout this phase, A,E&M will meet with PRDOH and the Awardees to coordinate and agree on the design aspect of the project. Afterwards, A,E&M will proceed with the preparation of the construction documents, drawings, and technical specifications, for selected

projects, final environmental review will be conducted, and all required project permitting will be obtained. This phase will be facilitated by PRDOH's procured A,E&M vendor based on the project delivery method. The A,E&M will control and manage the budget, scheduling, and implementation of design and environmental clearance activities for the selected projects.

Projects will be evaluated by PRDOH at the 30%, 60%, and 100% design marks for completeness, compliance, and specifications review.

Upon completion of the construction documents, Environmental Review, and permitting process, A,E&M will prepare procurement packages for the acquisition of construction services or design-build services. Procurement for multiple projects may be bundled based on each project type and complexity, at PRDOH's discretion. In addition, A,E&M will prepare complete procurement packages for inspection services and perform the necessary coordination for any goods and/or services required to undertake construction activities for the selected projects.

- **Construction** – The construction process for the selected projects will be conducted throughout this phase by the construction contractors procured and contracted by PRDOH. Projects will be evaluated at the 30%, 60%, and 100% construction progress mark for completeness and compliance with construction drawings and technical specifications. Monthly reports will be required from A,E&M, Project Inspector and the construction contractor to track the projects' progress. A,E&M will be responsible for the comprehensive management of each stage of the assigned projects and will provide support to PRDOH and the Awardees with proven strategies to deliver the best possible projects, on time and within budget. The Awardees shall be available to assist PRDOH, A,E&M, and the construction contractor during the coordination of construction related activities.
- **Closeout** – The Program will perform the closeout phase of the project in collaboration with the Awardee, A,E&M, the Project Inspector, and construction contractor. This process will begin by ensuring that all work performed has been accepted by the Awardee, A,E&M, the Project Inspector and/or PRDOH and that work has been performed in compliance with Program requirements. Acceptance of the work by the Awardee or PRDOH should be established during the final inspection of work performed. A,E&M, and the Project Inspector must perform a complete review of the application/project file to ensure all necessary documentation is present and that the project is ready for closeout.

Selected entities will be required to collaborate with PRDOH vendors in all phases to support project development and construction. The total allocation for the SIHM Program and maximum award amount is listed in the CDBG-MIT Action Plan and are subject to change with amendments and funding availability.

3.1 Program Objectives

The SIHM Program is intended to address the varying and localized need for mitigation against a number of hazardous threats. Community threats differ greatly when considering local geography and geographic susceptibility to hazards. Therefore, the SIHM Program will promote data-informed decision making for all eligible entities by evaluating risk according to the Puerto Rico Hazards and Risk Tool.⁷ To align with HUD's objectives, the Program will support data-informed investments in high-impact project that will reduce risks attributable to natural disasters, with a particular focus on the repetitive loss of property and critical infrastructure. It will also maximize the impact of available funds by encouraging leverage, public-private partnerships, and coordination with other federal programs.

The Program's primary goal is to provide funding for eligible entities to expand existing housing options, to increase the number of vulnerable persons served, and/or bring existing housing to resilient, decent, safe, and sanitary conditions. In addition, it will ~~to~~ comply with applicable State and local government building codes and health and safety standards.

4 National Objective

Entities eligible for the SIHM Program must demonstrate compliance with a HUD national objective as required by the HCDA and codified at 24 C.F.R. § 570.483. The national objective of this Program is to benefit LMI populations (below eighty percent (80%) AMFI, according to the HUD Modified Income Limits for CDBG-DR Puerto Rico⁸), through the following subcategories:⁹

1. LMI Limited Clientele (**LMC**) - Exclusively benefit a clientele who are generally presumed by HUD to be principally LMI persons. The following groups are currently presumed by HUD to be comprised principally of LMI persons:
 - Abused children;
 - Elderly persons;
 - Battered spouses;
 - Homeless persons;
 - Adults meeting Bureau of Census' definition of severely disabled adults;

⁷ Available at: <https://cdbq-dr.pr.gov/iframes/PRhazardandriskIFRM.html> .

⁸ Federal Register Vol. 86, No. 3 (January 6, 2021), 86 FR 569, Section V.B which states: "In order to ensure consistency with the use of CDBG-DR funds that are governed by alternative income limits authorized by the Department, the Department is extending the income limit adjustments of the August 14, 2018 notice to all CDBG-DR funds allocated under Public Laws 115-56, 115-123, and 116-20 and to CDBG-MIT funds allocated to Puerto Rico for mitigation activities under Public Law 115-123. Under this extension, Puerto Rico may use these alternative income limits when determining that activities undertaken with CDBG-DR or CDBG- MIT funds meet the low- and moderate-income benefit CDBG national objective criteria. HUD will continue to post the applicable income tables online."

⁹ See <https://www.hudexchange.info/onecpd/assets/File/CDBG-State-National-Objectives-Eligible-Activities-Chapter-3.pdf>; 24 C.F.R. § 570.483

- Illiterate adults;
- Persons living with AIDS; and
- Migrant farm workers.¹⁰

An activity that serves to remove material or architectural barriers to the mobility or accessibility of elderly persons or of adults meeting the Bureau of the Census' Current Population Reports definition of "severely disabled" will be presumed to qualify under this criterion if it is restricted, to the extent practicable, to the removal of such barriers by assisting:

- The reconstruction of a public facility or improvement, or portion thereof, that does not qualify under Area Benefit Activities;
 - The rehabilitation of a privately owned nonresidential building or improvement that does not qualify under Area Benefit Activities or Job Creation or Retention Activities; or
 - The rehabilitation of the common areas of a residential structure that contains more than one (1) dwelling unit and that does not qualify under Housing Activities.
2. LMI Area Benefit (**LMA**) – Be of such nature in such location that it may be concluded the activity's clientele or service area demonstrates fifty-one percent (51%) or more of the population are LMI. 24 C.F.R. § 570.483 (b)(1).
 3. LMI Housing (**LMH**) – Validated through the collection of information on family size and income so it is evident that at least fifty-one percent (51%) of the clientele are persons whose family income does not exceed the LMI limit. 24 C.F.R. § 570.483 (b)(3).

In circumstances where LMC cannot be documented, the LMA or LMHI housing benefit may be allowed. To achieve the LMI national objective using the LMH subcategory, housing projects must be permanent as defined by HUD¹¹ and those containing more than two (2) units must have at least fifty-one percent (51%) of the units occupied by LMI individuals or households.

4.1 Additional Criteria Applicable to MIT Funding

To meet a national objective, all CDBG-MIT activities must meet additional alternative requirements detailed in 84 FR 45838:

- Infrastructure and public facility projects must demonstrate the ability to operate for the useful life of the project via long-term operation and maintenance plans; and

¹⁰ *Id.* (b)(2)

¹¹ 24 C.F.R. § 578.3.

- Projects must be consistent with the other mitigation activities.

5 Eligible Use of Funds

SIHM Program funding must be used as outlined in the Program Guidelines, the CDBG-MIT Action Plan and executed Grant Agreements. All program-funded projects must meet the HUD's LMI National Objective, and all eligibility requirements detailed in this document.

5.1 Eligible Activities

The following activities are eligible for funding by the SIHM Program:

- Section 105(a)(2) of HCDA - Acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction, or installation that promote energy efficiency) of public works, facilities (except for buildings for the general conduct of government), and site or other improvements ~~Public Facilities and Improvements (except for buildings for the general conduct of government);~~
- Section 105(a)(3) of HCDA – Code Enforcement in deteriorated or deteriorating areas in which such enforcement, together with public or private improvements or services to be provided, may be expected to arrest the decline of the area;
- Section 105(a)(4) of HCDA – Clearance, demolition, removal, reconstruction, and rehabilitation (including rehabilitation which promotes energy efficiency) of buildings and improvements;
- Section 105(a)(5) of HCDA – special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons;
- Section 105(a)(8) of HCDA – Supplementary Public Services as a component to place limited clientele (such as homeless persons, etc.) in the housing projects once completed;
- Section 105(a)(14) of HCDA – Activities carried out through non-profit development organizations;
- Section 105(a)(15) of HCDA – Assistance to eligible entities for neighborhood revitalization, community economic development and energy conservation;
- 84 FR 45838, 45863 V.B.1 - Housing-related eligibility waiver permitting new housing construction that addresses disaster risks identified in the Grantee's Mitigation Needs Assessment.

Other eligible uses of CDBG-MIT funds include, but are not limited to the following:

- Soft costs incurred in support of eligible construction activities including, but not limited to, site surveys, permit acquisition, legal, engineering and architecture fees, and other PRDOH reviewed and approved soft costs.

- Clearance of environmental contamination from sites to be used for renovation and reconstruction projects;
- Staff costs and related expenses required for management of contractors procured for project, outreach efforts for marketing the Program, screening of potential applicant households and structures, and other eligible services related to completion of the Program;
- New Construction of housing as part of a commercial structure (mixed-use);
 - Costs clearly attributable to the commercial portion of the project are ineligible under this program;
- Improvements to publicly owned land to enable the property to be used for new housing construction, provided that the improvements are made while the property remains public property;
- Costs of permanent fixtures;
- Furnishings for the facility,¹² including furniture and other personal property when such items constitute all or part of a public service if the facility (i) provides a public service to vulnerable populations and (ii) delivers a new service or a quantifiable increase in the level of an existing service above that provided by or on behalf of units of general local government during the twelve (12) calendar months prior to the submission of the Action Plan. See 24 C.F.R. § 570.207 (b)(1)(iii).

Applicants requesting funds for the purpose of purchasing equipment, fixtures, furnishing or other personal property that is not an integral structural fixture, and therefore is generally ineligible, will not be required to prepare a feasibility study to demonstrate how the assisted project delivers a new service or a quantifiable increase in the level of an existing service, as established in 24 C.F.R. § 570.201 (e).

5.2 Ineligible Activities

The following are **ineligible** activities for the Program. These activities shall not be interpreted as all-encompassing ineligible activities and the list may be subject to further changes:

- Projects that do not mitigate risks or address risk-based needs in their intent are ineligible.
- ~~Real property acquisition.~~
- Construction in the floodway or 100-year flood zone.
- Operating and maintenance expenses.¹³

¹² Equipment, as defined in 2 C.F.R. §200.1 must be purchased, maintained, and disposed in accordance with the provisions found at 2 C.F.R. § 200.313 and § 200.439, Equipment and Capital Expenditures. Purchases of this nature must also be supported to demonstrate that the cost of purchase is necessary and reasonable for accomplishing the goals of the SIHM Program.

¹³ 24 C.F.R. § 570.207(b)(2) limits the use of CDBG funds for expenses associated with repairing, operating, or maintaining public facilities, improvements, and services but also provide exceptions where the aforementioned expenses can be eligible.

- Support service activities only.
- Rental assistance.
- Site improvements to privately owned land (other than the responsibility of the Awardee) to enable the property to be used for the CDBG-MIT approved project, provided that the improvements are made while the property remains private.
- Cost incurred under a rental agreement or lease contract made between a landlord and the Awardee. The Awardee may not lease the property during the intended use or affordability period unless the ultimate purpose of the project is to extend the impact of CDBG-MIT funding in order to increase the affordable housing inventory.
- Pre-award costs, including grant proposal preparation.
- Donations and contributions, including cash, services, or properties.
- Fundraising activities.
- Lobbying.
- Supplanting Federal and State Funds.
- Any other items unallowable under Federal cost principles as stated in 2 C.F.R. Part 200.

6 Program Eligibility

Applicants to the SIHM Program must meet the entity and project eligibility requirements established within the Program Guidelines. Project proposals in the application submitted by eligible entities will be evaluated based on mitigated risks, indicating the site-specific risks addressed, and the structural and nonstructural measures taken to mitigate such risks.

6.1 Eligible Entities

Eligible entities for the SIHM Program are:

- Non-governmental organization (Section 501(c)(3)) or Not for Profit Entities;
- Community-Based Development Organizations (CBDO) and private non-profits.

6.2 Threshold Applicant Eligibility Requirements

All eligible applicant entities submitting project proposals must meet the following threshold requirements to receive CDBG-MIT funding:

- Applicant is authorized to do business in Puerto Rico;
- Must demonstrate ownership of the property or, on a case-by-case basis, long-term lease agreement and property owner consent and agreement to participate¹⁴ for the duration of the applicable affordability period;

¹⁴ The property owner must agree to the applicable restrictive conditions. In the case of a property acquisition, a letter of intent for purchase or donation may be accepted by the Program. However, Applicants must ensure not to trigger Choice Limiting Actions according to 24 C.F.R. § 58.22 and the Choice Limiting Actions section of these Guidelines.

- Applicant must demonstrate capacity to carry out programs and services through:
 - Current financial structure of the NGO;
 - Business plan;
 - Audited financial statement, if required, or most recent tax returns
- Must demonstrate experience working with populations to be served under this housing program;
- Organization must have either: a minimum of one (1) year experience serving the aforementioned population, or its key staff¹⁵ must have qualification and five (5) years of experience required to manage and operate Social Interest Housing (SIH) facilities, relevant to the services being offered.

6.3 Threshold Project Eligibility Requirements

Eligible new construction and rehabilitation projects must meet the criteria listed below:

- Property must be located in Puerto Rico;
- Projects shall not exceed the budget cap of \$2,500,000, per individual project;
- Projects for property reconstruction and repairs must include one (1) of the following property types:
 - Single Family housing;
 - Two-unit structures;
 - Multi-unit rental property;
 - Group homes;
 - Public facilities;
 - Other properties or special needs housing, as needed by population served;
- Project services must meet the required HUD National Objective as described in the National Objective Section of the Program Guidelines;
- If Housing – must provide evidence of individual resident's household income status;
- If serving an area – must provide map of service area;
- If serving specific clients – must demonstrate how outreach and determination of beneficiaries will be restricted to certain limited clientele.

Funded projects meeting the LMI National Objective using the Limited Clientele subcategory must comply with their intended use for a minimum of **ten (10) years**. Funded projects meeting the LMI National Objective under the LMH subcategory must maintain a minimum affordability period of **fifteen (15) years** for rehabilitation or reconstruction of multi-family rental projects with eight (8) or more units, and **twenty (20)**

¹⁵ Key staff refers to essential employees or positions that are necessary for Applicants to carry on program activities. Key staff should be identified by each entity in the Program Application Form.

years for new construction of multi-family rental projects with five (5) or more units,¹⁶ beginning once fifty-one percent (51%) of the total number of units have been occupied by LMI individuals or households.

The awarded entities must ensure the rental projects remain financially, physically, and managerially viable so they can continue to house low-income families for the duration of the affordability period. PRDOH will determine affordable rents for housing projects as the lesser of the calculated HUD High Rent Limit or thirty percent (30%) of the annual LMI household income. The High Rent Limits are published by HUD every year.¹⁷

The following criteria must be considered:

- At least fifty-one percent (51%) of the project's units must be occupied by LMI households.
- The project must meet affordable rent requirements and tenant income limits through the duration of the affordability period.¹⁸ At a minimum, the following thresholds must be adhered to in all projects:
 - Tenant household income limits must not exceed eighty percent (80%) of the Area Median Income (**AMI**), according to the CDBG-DR HUD Modified Income Limits for All Areas in Puerto Rico, and
 - Maximum Affordable Rents (including utility costs) shall not exceed the lesser of the calculated HUD High Rent Limit or thirty percent (30%) of the annual LMI household income.¹⁹

7 Application and Selection Process

PRDOH will lead information campaigns to reach out to NGOs and provide orientation on the SIHM Program requirements, application process and project selection criteria.

A public application period will be open to proposers that meet the threshold criteria outlined in the Program Eligibility Section of these guidelines ~~and can apply to participate in the SIHM Program~~. The public application will be open for a minimum of **ninety (90) days**. Following the close of the public application response period, PRDOH will evaluate each application received based on ~~the scoring~~ criteria identified in the Application Instructions.

Entity eligibility assessment requirements include, but are not limited to:

- Review of the business plan;

¹⁶ For consistency between grant allocations, PRDOH adopts the CDBG-DR requirements at Federal Register Vol. 83, No. 157 (August 14, 2018), 83 FR 40314 for the SIHM program.

¹⁷ See the Home Rent Limits for Puerto Rico at: https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2023_code/select_Geography.odn

¹⁸ The SIHM Program adopted the affordability periods established in CDBG-DR Notice 83 FR 40314.

¹⁹ The affordability periods will be monitored by Awardees during the entire term, through the review of rent rolls, rent rates, or any similar documentation to evidence compliance with said periods.

- Qualified applicants must have successfully developed and/or managed at least one (1) multifamily or single-family (scattered site) rental or homeownership housing project for one (1) year.
- Qualified applicants must have successfully developed and/or managed at least one (1) social interest housing facility for at least one (1) year.
- Examination of sources and uses of funds for operational management of the assisted site to determine entities cash flow, if rental, throughout the affordability period. PRDOH will review project assumptions, such as vacancy rates and annual rent increases;
- Analyze the project's financial feasibility to meet the required affordability period;
- Evaluate submitted market assessment to confirm there is a market demand for the proposed project in the municipality or neighborhood, as applicable; and
- Applicant must provide evidence of/or plan to secure, the financial resources necessary to ensure on-going operation, maintenance, and fiscal sustainability for facilities and services therein.

Projects will be evaluated based on the following:

- Population served
- Service area (location)
- Existing Hazard Risks to property (location)
- Existing Risk-based needs
- Level of risk of the project area
- Project Characteristics (Rehabilitation, Reconstruction, or New Construction)
- Site Characteristics (Mobility within and Neighborhood)
- Building Characteristics
- Cost Reasonableness
- Income Targeting
- Financial Strength/Stability
- If Applicants are proposing projects that support the need to expand services, clients or the addition of housing units, the Applicant must provide a Market Analysis to evaluate at a minimum:
 - Identified market area
 - Number of similar projects in the area
 - How many units exist in the area
 - Analysis of the fee for service from other providers in the area
 - Analysis of the age of other service providers in the areaWhat is the need for these services in this area (how many people?)

~~After applications have been screened and pre-selected d~~ During the Application Period and Project Selection phase applications will be screened and pre-selected.,

Afterwards, PRDOH will inform all applicants of their results and work with the pre-selected applicants to begin the post-selection process.

Pre-selected projects that are determined to be feasible will receive an Award Notice letter. Once the award is accepted, PRDOH will execute a Grant Agreement with each Pre-Selected applicant and the process can continue to the next phase.

8 Design and Construction Requirements

Applicants must identify the site-specific risks their proposed projects are mitigating based on the publicly available Risk Assessment Tool or other available data sources, such as site assessments. Projects in the SIHM Program must:

- Mitigate risks or address the risk-based needs of highly vulnerable populations;
- Support NGO longevity by using durable construction materials that increase resiliency and reduce maintenance costs for the applicants post project completion;
- Include efficient energy and water design as a standard practice;
- Balance quality of materials with cost containment principles;
- Create a healthy living environment for the beneficiaries of the Program's eligible applicants.
- Not exceed the budget cap of \$2,500,000.
- Comply with accessible design requirements of the Fair Housing Act, as well as ADA Standards, and Section 504 of the Rehabilitation Act of 1973 (Section 504), as applicable, and to the extent feasible for those sites considered non-substantial repair²⁰;
- Comply with standards²¹ specific to Critical Action Facilities²², if applicable; and
- ~~Should~~ include on-site support services for the special needs' population served or be located near a service facility.

8.1 Project Design Considerations

Project design should consider, where practicable, the following:

- Project sites should be accessible to public transportation, grocery shopping, recreation, and socialization, etc.;
- Broadband must be installed for structures with four (4) or more units;
- Services and property construction address risk-based need;
- ~~Must consider, where practicable,~~ innovative design solutions that:
 - Improve site accessibility and safety;
 - Preserve historic and cultural resources;
 - Preserve or improve views and local character;

²⁰ See https://www.hud.gov/program_offices/fair_housing_equal_opp/disabilities/accessibilityR.

²¹ 24 C.F.R. § 55.20.

²² 24 C.F.R. § 55.2 (b)(3)(i).

- Encourage stakeholder involvement;
- Address conflicting regulations and policies;
- Extend the project facility lifespan;
- Reduce energy consumption;
- Make use of recycled materials;
- Make use of local or regional materials;
- Divert waste from landfills; and
- Reduce waste during construction.

PRDOH reserves the right to waive minimum design requirements herein stated on a case-by-case basis. Waivers will be made available by PRDOH, after careful analysis and consideration of request for a waiver.

8.2 Codes, Laws, and Regulations Compliance

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

- Project works can be performed only after obtaining the initially required permits and endorsements, in compliance with local, state or federal requirements;
- New construction or alterations of existing housing units will abide by all local design and architectural standards;
- New construction or alterations of existing housing units and non-housing facilities must comply with the current ADA Standards for Accessible Design (**ADA Standards**), as well as Section 504 requirements, and/or the Uniform Federal Accessibility Standards (**UFAS**)²³;
- New constructions of multifamily housing projects that contains four (4) or more dwelling units, as well as any multifamily housing development built for first occupancy after March 13, 1991, must comply with the design and construction requirements of the Fair Housing Act;
- HUD Minimum Property Standards;²⁴
- Policy-planning-management capacity activities (Section 105(a)(12) of Title I of the Housing and Community Development Act of 1974 (HCDA), (42 U.S.C. § 5305), as amended;
- Energy Development Goals (Section 105(a)(16) of the HCDA, 42 U.S.C. § 5305);
- Puerto Rico Building Code, most current version approved;
- Americans with Disabilities Act of 1990, as amended (42 U.S.C. § 12101 *et seq.*), when required;

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

²⁴ See https://www.hud.gov/program_offices/housing/rmra/mps/mpshome.

- Most current approved zoning requirements for Puerto Rico;
- Environmental regulations, as applicable to specific projects; and
- HUD terms and conditions, as applicable to specific projects.²⁵

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

- Puerto Rico Building Code (**PRBC**), as amended from the International Building Code® (**IBC**);
- Puerto Rico Residential Code (**PRRC**), as amended from the International Residential Code® (**IRC**);
- Puerto Rico Mechanical Code (**PRMC**), as amended from the International Mechanical Code® (**IMC**);
- Puerto Rico Plumbing Code (**PRPC**), as amended from the International Plumbing Code® (**IPC**);
- Puerto Rico Fire Code (**PRFC**), as amended from the International Fire Code® (**IFC**);
- Puerto Rico Fuel Gas Code (**PRFGC**), as amended from the International Fuel Gas Code® (**IFGC**);
- Puerto Rico Energy Conservation Code (**PRECC**), as amended from the International Energy Conservation Code® (**IECC**);
- Puerto Rico Existing Building Code (**PREBC**), as amended from the International Existing Building Code® (**IEBC**);
- Puerto Rico Private Sewage Disposal Code (**PRPSDC**), as amended from the International Private Sewage Disposal Code® (**IPSDC**); and
- Puerto Rico Swimming Pool and Spa Code (**PRSPSC**), as amended from the International Swimming Pool and Spa Code® (**ISPSC**).

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

- Joint Regulation for Project Evaluation and Permitting, regarding Land Development and Use, and Business Operations of ~~2020-2023~~ (Joint Regulation of

²⁵ See <https://www.hudexchange.info/resources/documents/CDBG-DR-Resources-Summary.pdf>.

2020) or the applicable regulation at the moment of the construction ("Reglamento conjunto para la evaluación y expedición de permisos relacionados al desarrollo, uso de terrenos y operación de negocios");

- Local planning and zoning requirements;
- Planning and Capacity Building (Section 105(a)(12) of the HCDA);
- Energy Development Goals (Section 105(a)(16) of the HCDA);
- Puerto Rico Firefighters Code (latest approved version);
- Applicable Environmental Regulations;
- Applicable HUD Terms and Conditions;
- Fair Housing Act, as amendment;
- American with Disabilities Act (where required).

~~Puerto Rico is located in an area of high seismic activity, as well as cyclonic. The update of maps related to these activities, as well as the recent flood maps previously approved by Puerto Rico Planning Board require that the design and construction requirements on the Island comply with their ruling; thus, guaranteeing greater security to life and property. On the other hand, † The Joint Regulation of 2023 2020 (Reglamento Conjunto del 2020)²⁶ is designed specifically for the conditions found in Puerto Rico. The Codes establish construction and design parameters related to mitigating the impact of catastrophic events, fire prevention and energy conservation, among others. Historic preservation regulations or recommendations may be an exception to these requirements as per consultation with the State Historic Preservation Office ("SHPO").~~

Other permit requirements include, but are not limited to:

- Demolition Permits issued by OGPe;
- Construction Permits issued by OGPe;
- General Consolidated Permits which include Erosion and Sedimentation Control; Permit for Activities Generating Non-Hazardous Solid Waste; Permit for Emission Sources; and Permit for the Removal and Disposition of Lead-Containing Materials, all issued by the Puerto Rico Department of Natural and Environmental Resources through OGPe;
- Local and Federal Environmental Permits, as applicable to specific projects; and
- Regulatory Agencies Endorsements including but not limited to, those from the Puerto Rico Electric Power Authority, the Puerto Rico Aqueduct and Sewer Authority, the Puerto Rico Telecommunications Regulatory Board, the State Historic Preservation Office, the "Instituto de Cultura Puertorriqueña", and the Puerto Rico Department of Transportation and Public Works.

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

²⁶ Or the regulation in force at the time of the construction.

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

Under no circumstances should financial commitments be made, or construction work be started prior to a project obtaining an environmental clearance, which is approved by PRDOH.

8.3 Quality Control and Assurance

Eligible projects must meet the highest quality parameters for the residential construction industry. Specific quality control and quality assurances procedures, testing, and reporting for projects will be developed by PRDOH A,E&M services provider, as part of the technical specifications for each project and approved by PRDOH or its representatives.

8.4 Inspection of Construction Projects

All projects undertaken for the SIHM Program are required to be inspected by a licensed Professional Engineer (PE) or Registered Architect (RA) in compliance with Act 173-1988, as amended, 20 LPRA §711, *et seq.*, known as “Board of Examiners of Engineers, Architects, Surveyor and Landscape Architects of Puerto Rico Act.” The project’s designated inspector will serve the purpose of, but not limited to: (i) evaluating the overall progress of construction works; (ii) confirming that local building codes and Program standards are being met; and (iii) confirming that all requirements of the contracts have been met by the contractors implementing the construction works.

PRDOH will be responsible to procure inspection services for the construction projects.

8.5 Implementation of Green Building Standards / Green Building Retrofit Checklist

8.5.1 New Construction and Replacement of Substantially Damaged Residential Buildings

As included in 84 FR ~~48538~~ 45838, all new construction of residential buildings and all replacement of substantially damaged residential buildings are encouraged to comply with a HUD-approved Green Building Standard. Therefore, social interest housing projects that meet the criteria for new construction or replacement of substantially damaged buildings are encouraged to comply with an industry-recognized standard and achieve certification under at least one (1) of the following programs:

- ENERGY STAR® (Certified Homes or Multifamily High-Rise or latest version);
- Enterprise Green Communities;

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

8.5.2 Rehabilitation of Non-substantially Damaged Residential Building

According to the Federal Register Notice 84 FR 45838, 45863, for rehabilitation of non-substantially damaged residential building projects, the A,E&M, and grantees are encouraged to consider the guidelines specified in the HUD Community Planning and Development (**CPD**) Green Building Retrofit Checklist,²⁷ as it applies to the rehabilitation work undertaken, including the use of mold-resistant products when replacing surfaces such as drywall. When rehabilitation work includes replacing older or obsolete products, the rehabilitation must use ENERGY STAR® -labeled, Water Sense-labeled, or Federal Energy Management Program (**FEMP**)-designated products and appliances.

8.6 Broadband Infrastructure Requirements

Under 84 FR 45838, 45864, projects are required to include installation of broadband infrastructure at the time of new construction or substantial rehabilitation for multifamily rental housing that is funded or supported by HUD.

PRDOH aims to narrow the digital divide in low-income communities served by HUD. Installing unit-based broadband infrastructure in multifamily rental housing that is newly constructed or substantially rehabilitated with or supported by HUD funding will provide a platform for individuals and families residing in such housing to participate in the digital economy and increase their access to economic opportunities.

Projects are excluded from this requirement only if one (1) of the below exclusions can be documented and validated by PRDOH:

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

²⁷ See <https://www.hudexchange.info/resource/3684/guidance-on-the-cpd-green-building-checklist/>.

While Projects are only required to include one (1) form of broadband infrastructure, it is recommended to install more than one (1) form as this will promote competition among service providers on quality and price for residents.

PRDOH A,E&M service providers will verify that the project complies with the CDBG-MIT project and applicable Broadband Infrastructure design requirements.

8.7 Cost Reasonableness

Only construction costs that are deemed reasonable and consistent with market costs at the time and place of construction in compliance with notice 84 FR 45838, 45848, are allowable under the SIHM Program. All projects will be reviewed by an independent, qualified party to establish cost reasonableness of items proposed as part of project submissions. As outlined in 2 C.F.R. § 200.404, a cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.

9 Duplication of Benefits (DOB)

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (**Stafford Act**), as amended, 42 U.S.C. § 5155 *et seq.*, prohibits any person, business concern, or other entity from receiving Federal funds for any part of such loss as to which they have received financial assistance under any other program, private insurance, charitable assistance, or any other source. DOB verification and analysis ensure that program funds compensate applicants for damages and needs that have not been addressed by an alternate source, either through funding or assistance. As such, PRDOH must consider disaster recovery and mitigation aid received by Program applicants from any other federal, state, local or other source and determine if any assistance is duplicative. Any assistance determined to be duplicative must be deducted from the Program's calculation of the applicant's total need prior to awarding assistance. Duplication of benefits (**DOB**) occurs when financial assistance is received from another source that is provided for the same purpose as the CDBG-DR/MIT funds. PRDOH will perform a DOB analysis for each funded project.

The duplication of benefits guidance included in Federal Register Vol. 84, No. 119 (June 20, 2019), 84 FR 28836, updates the duplication of benefits guidance issued in Federal Register Vol. 76, No. 221 (November 16, 2011), 76 FR 71060, for CDBG-DR/MIT grants received in response to disasters declared between January 1, 2015, and December 31, 2021. As such, the duplication of benefits policy outlined in these guidelines follows the guidance issued in 84 FR 28836.

To be eligible to receive CDBG-DR/MIT funds under the Program and as part of the application process, all applicants must confirm and provide assurance that efforts will be made to avoid a "duplication of benefits." PRDOH understands and expects that for

some projects funded through this Program that other Federal forms of funding may be possible and that for each project, PRDOH will need to work with funded entities to determine and address issues surrounding DOB. As part of the application process, applicants will be required to allow PRDOH to work with the Central Office for Recovery, Reconstruction and Resiliency (**COR3**), Federal Emergency Management Agency (**FEMA**), Small Business Administration (**SBA**), National Flood Insurance Program (**NFIP**), U.S. Army Corps of Engineers (**USACE**), and other entities to address DOB issues. Through the life of the grant, PRDOH will work with funded entities to address DOB.

Applicants will be required to provide support documentation, including award letters, decline letters and other documentation supporting the amount, sources and uses of funding received/declined to assist in the completion of the project that was provided in the recovery from the covered disaster. PRDOH may contact other funders and agencies directly to confirm the information submitted by an applicant. When possible, PRDOH will electronically verify disaster recovery assistance received through federally and locally maintained datasets, such as FEMA IA, NFIP, and SBA disaster loan datasets. Any assistance determined to be duplicative must be deducted from the Program's calculation of the applicant's total need prior to awarding assistance.

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

9.1 HUD Continuum of Care Program

CDBG-MIT funds must not duplicate or supplant funds provided by the HUD Continuum of Care (**CoC**) Program.²⁸ This section applies to those entities that currently receive CoC funding in Puerto Rico,²⁹ adhering to the program components and uses of assistance outlined in 24 C.F.R § 578.37.³⁰ The Program will provide funding for the construction or rehabilitation of the housing units as outlined within these guidelines, and potentially some portion of supportive services, but not supportive services only. The funding of supportive services is not required and should be funded by the CoC or other funding services to the extent feasible.

10 Environmental Requirements

Environmental Review is the process of reviewing a project and its potential environmental impacts to determine whether it meets federal, state, and local environmental standards. Every project undertaken with federal funds, and all activities

²⁸ See <https://www.hudexchange.info/programs/coc/>.

²⁹ See <https://files.hudexchange.info/resources/documents/2019-puerto-rico-coc-grants.pdf>.

³⁰ See <https://www.ecfr.gov/current/title-24/subtitle-B/chapter-V/subchapter-C/part-578/subpart-D/section-578.37>.

associated with such project, are subject to the provisions of the National Environmental Policy Act of 1969 (**NEPA**), as well as HUD's environmental review regulations at 24 C.F.R. Part 58. Therefore, an environmental review process is required for all awards to be issued under the Program to ensure that the proposed activities will not negatively impact the surrounding environment and that the property itself will not have adverse effects on the environmental or health of end users. 24 C.F.R. § 58.22(a) prohibits the commitment or spending federal or non-federal funds on any activity that could have an adverse environmental impact or limit the choice of reasonable alternatives prior to completion of an environmental review. Environmental clearance must be obtained for each project prior to the commitment of federal or non-federal funds. Failure to comply with this requirement may jeopardize federal funding for the Program and disallow all costs incurred before completion of the environmental review.

Laws and regulations which contain environmental provisions with which the Program must be in compliance include:

- Protection of Historic Properties (36 C.F.R. Part 800)
- Floodplain Management and Protection of Wetlands (24 C.F.R. Part 55, Executive Order 11988, and Executive Order 11990)
- Coastal Zone Management Act (16 U.S.C. § 1456)
- Sole Source Aquifers (40 C.F.R. Part 149)
- Endangered Species Act (50 C.F.R. Part 402)
- Wild and Scenic Rivers Act (16 U.S.C. § 1271 *et seq.*)
- Air Quality (42 U.S.C. § 7506 (Clean Air Act, Sections 176 (c) and (d)), 40 C.F.R. Parts 6, 51, and 93)
- Farmland Protection Policy Act (7 C.F.R. Part 658)
- Environmental Justice (Executive Order 12898)
- Noise Abatement and Control (24 C.F.R. §§ 51.100 - 51.106)
- Toxic/Hazardous Materials (24 C.F.R. § 58.5(i)(2)(i))
- HUD Environmental Standards (24 C.F.R. Parts 50 and 58)
- Airport Clear Zones and Accident Potential Zones (24 C.F.R. Part 51, Subpart D)

All Program awards must ~~have documentation they follow~~ document compliance with NEPA and other environmental requirements. Therefore, all projects shall have an Environmental Review Record (**ERR**) as required by NEPA and related laws. The ERR for the projects shall set forth (a) the existence of **negative** impacts on a site, (b) the means to mitigate negative impacts, (c) alternatives to the project (if needed), and (d) the rejection of the proposed activities if all other options fail and it becomes the most prudent action to take.

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

10.1 Environmental Level of Review

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

1. Environmental Assessment (new construction); and
2. Categorically Exclusion Subject to 24 C.F.R. § 58.5 (all renovations and refurbishing)

10.2 Exempt Activities

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

10.3 Categorically Excluded Activities

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

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

Examples of categorically excluded activities subject to related laws and authorities under 24 C.F.R. § 58.5 include acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities; special projects directed toward the removal of material and architectural barriers; and rehabilitation of buildings and improvements for residential units and non-residential buildings. The Environmental Review Record for these activities must contain a written determination of the finding of a categorical excluded activity subject to 24 C.F.R. § 58.35 including a description of the project, a citation of the application subsection of 24 C.F.R. § 58.35(a), and written documentation as to whether any circumstances existed that would require compliance with 24 C.F.R. § 58.5 and § 58.6. The documentation must support its determinations related to compliance including correspondence with applicable agencies having jurisdiction. Upon completion there should be one (1) of three (3) environmental findings: (1) the project converts to Exempt (i.e. 24 C.F.R. § 58.34(a)(12)); (2) the project invokes compliance with one (1) or more of the laws and/or authorities and, therefore, requires public notification and approval from HUD; or (3) the unusual circumstances of the project result in a significant environmental impact and, therefore, compliance with NEPA is required. If upon completion it is determined that compliance is required for one (1) or more of the Federal laws and authorities listed in 24 C.F.R. § 58.5, then a public notification known as Notice of Intent to Request Release of Funds must be posted (24 C.F.R § 58.70). After a seven (7)-day comment period, a Request for Release of Funds and Environmental Certification must be prepared. The Environmental Certification certifies the compliance with all environmental review requirements.

10.4 Environmental Assessment

These are activities which are neither exempt nor categorically excluded and, therefore, will require an Environmental Assessment documenting compliance with NEPA, HUD, and with the environmental requirements of other applicable federal laws.

If it is determined that the action does not significantly affect the quality of the environment, then the Program will need to post a public notice called a Combined/Concurrent Notice of Finding of No Significant Impact and Notice of Intent to Request Release of Funds (**NOI/RROF**). The NOI/RROF Environmental Certification must be submitted to HUD no sooner than **fifteen (15) days** after publishing the combined/concurrent notice and HUD will hold the Release of Funds for a **fifteen (15)-day period** to allow for public comment (24 C.F.R. § 58.45). If no comments are received during this time, HUD will send a signed Authorization to Use Grant Funds and the project may proceed.

10.5 Lead-Based Poisoning Prevention Act

To successfully fulfill the requirements in the Environmental Review, funded projects must be compliant with the Lead-Based Poisoning Prevention Act (42 U.S.C. §§ 4821-4846) and

all regulations and procedures stipulated by the Government of Puerto Rico and any amendments thereof.

Whenever federal funds, such as CDBG-MIT, are used to assist housing built before 1978, steps must be taken to address lead hazards. A lead-based paint hazard is any condition that causes exposure to lead from dust-related hazards, soil-lead hazards, or lead-based paint that is deteriorated, or present in chewable surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects.

A lead-based paint assessment will be conducted by a licensed lead-based paint assessor on those buildings that were built before 1978 but are eligible for rehabilitation. In addition, the Program requires that a visual assessment be performed for all developments ~~after~~ ~~post~~-1978.

10.6 Asbestos Surveys

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

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

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

The National Emission Standards for Hazardous Air Pollutants (**NESHAP**) regulations under the Clean Air Act specify work practices for asbestos to be followed during demolitions and renovations of all structures, installations, and buildings. The regulations require notification to the pertinent State agency before any demolition, or before any renovations of buildings that could contain a certain threshold amount of asbestos or asbestos-containing material. Therefore, the Program must perform an asbestos survey before conducting any reconstruction work.

An asbestos survey is used to locate and describe asbestos-containing materials in a structure. The Program will conduct comprehensive building asbestos surveys through inspection of the properties. All asbestos surveys for the Program will be performed by

Asbestos Inspectors certified by EPA or the Puerto Rico Department of Natural and Environmental Resources (**DRNA**, for its Spanish acronym). The asbestos surveys will visually review all suspect asbestos-containing materials associated with the buildings' interior and will collect samples for laboratory analysis.

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

10.7 Flood Insurance Program Requirements

Projects located in a Special Flood Hazard Area (**SFHA**) (also known as the 100-year floodplain) on the Effective Flood Insurance Rate Map (**FIRM**) that receive assistance under CDBG-MIT must obtain and maintain flood insurance in the amount and duration prescribed by FEMA's National Flood Insurance Program. Section 102(1) of the Flood Disaster Protection Act of 1973, 42 U.S.C. § 4012a mandates the purchase of flood insurance protection for any HUD-assisted property within a Special Flood Hazard Area.

Section 582 of the National Flood Insurance Reform Act of 1994, 42 U.S.C.A. Ch. 50 *Et. Seq.*, as amended, on Prohibited flood disaster assistance, implies a responsibility for a grantee that receives CDBG-MIT funds or that designates annually appropriated CDBG-MIT funds for mitigation activities. That responsibility is to inform property owners receiving disaster assistance that triggers the flood insurance purchase requirement that they have a statutory responsibility to notify any transferee of the requirement to obtain and maintain flood insurance, and that the transferring owner may be liable if he or she fails to do so.

The requirement of maintaining flood insurance shall apply during the life of the property, regardless of transfer of ownership of such property. See Section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. § 4012a.

10.8 Special Flood Hazard Areas (SFHA)

Floodplain management of Special Flood Hazard Areas (**SFHA**) for the Program have been designed and will be accomplished in accordance with 24 C.F.R. Part 55 and 24 C.F.R. § 58.6 (a) and (b). Floodplain data (most recent maps available) are reviewed to identify whether a project is located within a 100-year floodplain, 500-year floodplain or a Regulatory Floodway. The environmental reviewer must document the flood zone, Flood Insurance Rate Map (**FIRM**) panel number, the Preliminary Flood Insurance Rate Map (**PFIRM**) panel number, and the Advisory Base Flood Elevation (**ABFE**) floodplain

designation (**A/AE/AO**), if applicable; as well as the Panel effective dates.

PRDOH will not provide funding for activities located in a regulated floodway. In the case of "Coastal High Hazard" areas ("V" or "VE" Zones on the most recent FEMA-issued maps), the property must have adhered to construction standards, methods, and techniques active at the time of original construction to be eligible for funding. Minor improvements are eligible for funding if the structure meets the above requirements. Any construction aside from minor improvements is not allowed for any structure in a Coastal High Hazard zone. Plans must demonstrate the design meets the applicable standards for V zones in FEMA regulations as required by HUD.

10.9 Choice Limiting Actions

Applicants to the SIHM Program are required to immediately cease any choice-limiting action regarding the project.³¹ Failure to stop activities such as acquisition, demolition, disposition, rehabilitation, repair, new construction, site preparation, and leasing or any other activities that commit to future actions for a proposed project prior to obtaining an environmental clearance will result in the project no longer being eligible for any HUD assistance.

11 Civil Rights and Non-Discrimination

As a program receiving CDBG-MIT funding, the SIHM Program shall be implemented in a manner that does not deny any individuals the opportunity to participate in, access, or benefit from the Program on the basis of any federally or locally designated protected classes. PRDOH has adopted several policies to which it, its awardees, and all contractors must adhere in the design and implementation of the SIHM Program. All CDBG-DR/MIT Program policies are available in English and Spanish on PRDOH website at <https://cdbg-dr.pr.gov/en/resources/policies/general-policies/> and <https://cdbg-dr.pr.gov/recursos/politicas/politicas-generales/>.

11.1 Fair Housing and Equal Opportunity (FHEO)

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

³¹ 24 C.F.R. § 58.22

NGOs, as the Awardee, will be responsible for the administration of the SIHM Program, and will take measures to affirmatively market and ensure accessibility to the SIHM Program, as follows:

1. Awardees will identify the groups it seeks to serve within the Program, assess which groups and/or protected classes are historically underserved and are least likely to apply to the Program, and will employ affirmative marketing strategies to encourage Program participation from these groups.
2. Awardees will retain documentation of all marketing measures used, including copies of all advertisements and announcements that are made available for public viewing upon request.
3. Awardees will provide reasonable accommodations as needed to make the Program accessible to people with disabilities, will hold informational meetings and in-person application intake meetings in building or areas that are compliant with ADA, and provide appropriate assistance to those who are hearing or visually impaired when requested.
4. Awardees will use the Fair Housing logo in advertising, publicly post Fair Housing posters and advertisements, and provided related information, to generally inform the public of its rights and the obligations owned under Fair Housing regulations.
5. Awardees will monitor Program participation to assess how marketing strategies are working and ensure that protected classes of people are not being intentionally or unintentionally discriminated against.

In addition to marketing through widely available media outlets, the Awardee will take the additional following measures:

NGO's will advertise with media outlets which provide unique access for persons who are considered members of the protected classes under the Fair Housing Act.

Applications will be accepted digitally, to make the Program accessible. In addition, language interpretation services will be provided upon request.

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

11.2 Reasonable Accommodations

Section 504 of the Rehabilitation Act of 1973, as amended, 42 U.S.C.A. § 12132, requires the owners and managers of any project that receives receiving and award under the SIHM Program are required under Section 504 of the Rehabilitation Act of 1973, as amended, 42 U.S.C.A. § 12132, to make reasonable accommodations and modifications for individuals with disabilities. The purpose of Section 504 is to avoid discrimination and

ensure these individuals have an equal opportunity to access and enjoy the benefits of the Program. Requests for reasonable accommodations (changes to a rule, policy, practice, or service) and reasonable modifications (structural changes to a building or dwelling) most commonly arise in housing program. However, Section 504 applies to all federally funded programs and activities.

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

PRDOH and SIHM Program Awardees will ensure that program beneficiaries are made aware of their right to request reasonable accommodations, and that every effort is made to meet the disability-related needs of requesting individuals to the maximum extent feasible, so far as providing the requested accommodations or modifications is considered reasonable.

Pursuant to the regulatory requirements of 24 C.F.R. § 8.53(a), all Awardees who employ fifteen (15) or more individuals shall designate a Section 504/ADA Coordinator. These coordinators are responsible for ensuring 504/ADA-related compliance, including providing prompt and equitable resolution of any disability-related grievances or complaints.

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

11.3 Language Access

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

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

11.4 Section 3

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

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

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

12 Uniform Relocation Act

As a HUD-assisted program, the SIH Program must be administered in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (**URA**), 42 U.S.C. § 4601 *et seq.*; implementing regulations found at 49 C.F.R. Part 24; and Section 104(d) of the Housing and Community Development Act of 1974 (HCDA), except where waivers or alternative requirements have been provided by HUD. The primary purpose of these laws and regulations is to provide uniform, fair, and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects.

All programs in the PRDOH CDBG-MIT portfolio, including this Program, are subject to URA regulations. Uniform Relocation Assistance Guide & Residential Anti-Displacement and Relocation Assistance Plan (**URA & ADP Guide**) and all CDBG-DR/MIT Program policies are available in English and Spanish on PRDOH website at <https://cdbg-dr.pr.gov/en/resources/policies/general-policies/> and <https://cdbg-dr.pr.gov/recursos/politicas/politicas-generales/>.

If a project involves an existing housing project that is assisted under Title IV of the McKinney-Vento Act,³² then the requirements under 24 C.F.R. § 578.83 regarding displacement, relocation, and acquisition apply. Under this section, a “project” means any activity or series of activities assisted with CoC funds received or anticipated in any

³² See <https://uscode.house.gov/view.xhtml?path=/prelim@title42/chapter119&edition=prelim>.

phase of an undertaking. No project may require any CoC program participant to relocate temporarily if they cannot be offered a decent, safe, and sanitary unit in the same building or complex upon project completion under reasonable terms and conditions. Other requirements and conditions may apply under 24 C.F.R. § 578.83, as well.

13 Procurement

The Uniform Guidance procurement requirements (2 C.F.R. Part 200, Subpart D) are applicable to CDBG-DR/MIT funded projects. These policies and procedures ensure that Federal dollars are spent fairly and encourage open competition at the best level of service and price.

Consistent with federal standards, PRDOH adopted the Procurement Manual for the CDBG-DR Program, Regulation No. 9205, effective on September 3, 2020.³³ The document is available in English and Spanish on PRDOH website at: <https://cdbg-dr.pr.gov/en/resources/policies/general-policies/> and <https://cdbg-dr.pr.gov/recursos/politicas/politicas-generales/>.

14 Change Orders to Contracts

If additional resources or funding are needed to complete Program work, a request for additional necessary resources and funding shall be submitted to PRDOH for analysis and approval. Change orders may include, but are not limited to, explanations of type of work and scope to be added or deleted from the contract, the additional time (if any) required for the work, a justification for why the work is necessary, and evidence of any conditions identified that resulted in the request. Change order requests with justification for the need of additional resources must be submitted for evaluation and approval of the Program. PRDOH will evaluate all change order requests to determine whether additional resources are necessary and reasonable in order to complete the project. Without prior authorization, any work performed outside of the approved scope of work by means of a change order, could not be reimbursable under CDBG-MIT and is performed at risk. PRDOH vendors shall be responsible for all costs incurred due to activities performed beyond the approved scope of work or beyond the approved resource level without prior authorization by PRDOH through a duly authorized change order.

15 Monitoring

The PRDOH is required by Regulations and grant agreement conditions require PRDOH to monitor each program/function or activity funded by CDBG-DR/MIT award(s) to ensure compliance with applicable Federal requirements and to determine if

³³ Procurement Manual for the CDBG-DR Program, Regulation 9205, is currently under review.

performance expectations are being achieved. This includes monitoring of CDBG-DR/MIT funded activities carried out by Awardees, contractors, and PRDOH.

The Monitoring Manual for the CDBG-DR/MIT Programs is available in English and Spanish on PRDOH website at: <https://cdbg-dr.pr.gov/en/resources/policies/general-policies/> and <https://cdbg-dr.pr.gov/recursos/politicas/politicas-generales/>.

16 Program-Based Reconsideration and/or Administrative Review

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

16.1 Program-Based Reconsideration Request

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

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

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

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

the Program. Therefore, applicants who believe the initial determination of the Program to be erroneous, may submit, at their discretion, either a Program-based Reconsideration Request or a petition for review of the decision made by the Program by filing an Administrative Review Request at PRDOH in accordance with Regulation Number 4953, of August 19, 1993, which regulates the Formal Adjudication Process for PRDOH and its Adjunct Agencies (Regulation 4953).³⁴

16.2 Administrative Review Request

If an Applicant disagrees with a Program determination, or with the Reconsideration Request Denial determination, said party may file directly to PRDOH, as grantee, an Administrative Review Request in accordance with the aforementioned Regulation 4953. The applicant must submit such request, in writing, within **twenty (20) calendar days** from the date a copy of the Program determination or a Reconsideration Request Denial determination notice was filed in the record of the agency. Provided, that if the date on which the copy of the notice is filed in the records of the agency differs from the postal or electronic mail date, the **twenty (20) calendar day-term** shall be calculated from the postal or electronic mail date. Notices distributed via electronic communication shall be considered valid. In the event a notification is sent via postal and electronic mail, the notification date will be the one sent beforehand. The request may be submitted via email to: LegalCDBG@vivienda.pr.gov; via postal mail to: CDBG-DR/MIT Legal Division, P.O. Box 21365, San Juan, PR 00928-1365; or in person at PRDOH's Headquarters at: CDBG-DR/MIT Legal Division, 606 Barbosa Avenue, Juan C. Cordero Davila Building, Río Piedras, P.R. 00918.

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

17 Program Closeout

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

³⁴ For more details, you can access Regulation 4953 (in Spanish) at: <https://www.vivienda.pr.gov/wp-content/uploads/2015/09/4953-Reglamenta-los-procedimientos-de-adjudicacion-formal..pdf>

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

General requirements for closeout are as follows:

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

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

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

18 General Provisions

18.1 Program Guidelines Scope

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

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

18.2 Program Guidelines Amendments

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

18.3 Extension of Deadlines

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

18.4 Established Periods of Time

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

18.5 Written Notifications

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

18.6 Conflict of Interest

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

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

- HUD conflict of interest regulations, 24 C.F.R. §570.611;

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

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

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

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

According to Act 1-2012, no public servant shall intervene, either directly or indirectly, in any matter in which they have a conflict of interests that may result in their benefit. No public servant shall intervene, directly or indirectly, in any matter in which any member of their family unit, relative, partner or housemate has a conflict of interest that may result in benefit for any of them ~~abovementioned~~. In the case that any of the ~~abovementioned~~ relationships ~~as previously mentioned, has~~ ~~have~~ ended during the **two (2) years** preceding the appointment of the public servant, they shall not intervene, either directly or indirectly, in any matter related to them, until **two (2) years** have elapsed after their appointment. This prohibition shall remain in effect insofar ~~as~~ the beneficial ties with the

public servant exist. Once the beneficial ties end, the public servant shall not intervene, either directly or indirectly, in such matter until **two (2) years** have elapsed.

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

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

18.7 Citizen Participation

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

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

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

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

18.8 Citizen Complaints

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

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

- **Via email at:** LegalCDBG@vivienda.pr.gov
- **Online at:** <https://cdbg-dr.pr.gov/en/complaints/> (English)
<https://cdbg-dr.pr.gov/quejas/> (Spanish)
- **In writing at:** Puerto Rico CDBG-DR/MIT Programs
Attn: CDBG-DR Legal Division
P.O. Box 21365
San Juan, PR 00928-1365

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

Via telephone*: 1-833-234-CDBG or 1-833-234-2324 (TTY: 787-522-5950)

In-person at*: PRDOH Headquarters Office or Program-Specific Intake Centers

*Attention hours: Monday – Friday from 8:00 a.m. to 5:00 p.m.³⁵

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

³⁵ Hours may vary due to COVID-19. PRDOH recommends calling ahead prior to arrival to corroborate.

18.9 Anti-Fraud, Waste, Abuse or Mismanagement

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

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

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

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

| REPORT FRAUD, WASTE, ABUSE, OR MISMANAGEMENT DIRECTLY TO HUD OIG | |
|---|--|
| HUD OIG Hotline | 1-800-347-3735 (Toll-Free) 787-766-5868 (Spanish) |

| | |
|-------------|--|
| Postal Mail | HUD Office of Inspector General (OIG) Hotline 451 7th Street SW Washington, D.C. 20410 |
| Email | HOTLINE@hudoig.gov |
| Internet | https://www.hudoig.gov/hotline |

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

18.10 Related Laws and Regulations

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

19 Cross-Cutting Guidelines

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

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

20 Program Oversight

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

21 Severability Clause

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

END OF GUIDELINES