



CDBG-DR

PROGRAM GUIDELINES

CITY REVITALIZATION PROGRAM

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CDBG-DR PROGRAM GUIDELINES
PUERTO RICO DEPARTMENT OF HOUSING
CITY REVITALIZATION PROGRAM
VERSION CONTROL

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1 Overview

Program Rationale and Objective

Hurricanes María and Irma (**the Hurricanes**) directly impacted all seventy-eight (78) municipalities in Puerto Rico. Towns and cities across the Island experienced damages and/or destruction to public, private and not-for-profit facilities. Depending on the community's location, downtown areas and key corridors were either impacted with storm surge, flooding, standing water, wind, rain or mudslides. Water intrusion into vacant and/or substandard facilities in areas presented the likelihood of these buildings presenting more public health and public safety problems for municipal officials. Every community also suffered a loss of power that, in some cases, lasted for months. The City Revitalization Program (**CRP** or **the Program**) will allow municipal governments and eligible entities to begin to address community recovery at the local level while also addressing regional needs through projects identified through thoughtful planning processes.

This Program establishes funding for municipal governments and other eligible entities to enable a variety of critical recovery activities aimed at reinvigorating downtown areas, urban centers and key community corridors. These activities will promote redevelopment, private investment and re-greening or restoration of areas that lost natural resources from the Hurricanes. As part of prior recovery processes, mayors and citizens have expressed a desire to not only rebuild these areas, but to restore and enhance these main streets, plazas and downtown/business districts which are vital to the rebuilding of communities. This Program intends to build on those efforts and will rely on both prior planning efforts as well as forthcoming Puerto Rico Department of Housing (**PRDOH**)-funded planning processes to identify projects for the Program.

The Municipal Recovery Planning Program (**MRP Program**) is one of PRDOH's resilience planning processes in which all seventy-eight (78) municipalities of Puerto Rico have been allocated a recovery planning budget. Information on the MRP Program can be found at <http://www.cdbg-dr.pr.gov/en/programs/>. Municipalities funded through the MRP Program will partner with professional planning firms and undergo a collaborative process with community residents, businesses, neighboring municipalities, and central government agencies to identify actions and projects necessary for holistic local and regional recovery from Hurricanes Irma and María. Planning activities will produce critical frameworks to complement other programs highlighted in PRDOH's Action Plan by increasing communities' capacity to forecast and determine needs for programming related to city revitalization, critical infrastructure, economic development, and workforce training.

Through CRP, PRDOH will offer funding in three (3) rounds. Applicants in each round will have a specified period of time to submit project concepts to PRDOH that meet Program objectives for the specific round of the Program. Municipal governments must agree to

take part in the MRP Program in order to fully participate in second and third rounds of CRP. Each of Puerto Rico's seventy-eight (78) municipal governments will have the opportunity to access Program funds with the goal of developing at least two (2) eligible projects per municipality, one (1) in each of the first two (2) rounds of funding.

This Program also establishes the **RE-Green Puerto Rico Initiative** that provides municipal governments and their partners the ability to incorporate resilience measures by using CDBG-DR funds to address losses to Puerto Rico's natural resources and green landscape. The sustained winds, rainfall, and salt water that inundated the Island during the Hurricanes were particularly harmful to the Island's tree canopy and natural resources. The damaged trees and tree canopies in urban and rural areas resulted in loss of natural beauty, shade, and root structures. The root structures of trees assist with erosion control. With so many trees lost, the Island faces enhanced erosion conditions and is more susceptible to landslides. In the short, medium, and long term, loss of tree canopy also contributes to increased heat for residents due to the elimination of shade to downtown corridors. It also allows more rainfall to flood streets and overcome the stormwater management infrastructure.

1.1 Having a Tie to the Storm

The United States Department of Housing and Urban Development (**HUD**) requires that any CDBG-DR funds used must have a tie to the storm. Because HUD determined every municipal government in Puerto Rico to be a most impacted and distressed area, the Program will make funding available to all communities on the Island to address recovery needs in downtown areas and key corridors. In accordance with Federal Register Vol. 83, No. 28 (February 9, 2018), 83 FR 5844, "[a]ll CDBG-DR funded activities must clearly address an impact of the disaster for which funding was allocated". Through the application process, CRP will ensure that funded projects have a tie to the Hurricanes and that this information is documented in each project file, in addition to other HUD required reporting.

1.2 Recovery Objective for the Program

The primary objective of this Program is to address identified needs and allow communities across Puerto Rico to restore impacted downtown areas and make them more resilient to future events. The Program will make funding available to all seventy-eight (78) municipalities in Puerto Rico to implement projects that will address the wide range of recovery, revitalization, and resiliency needs resulting from the Hurricanes. The funding will allow the municipal governments and eligible entities to implement integrated, innovative solutions that will help the recovery of downtown areas, urban areas, and key corridors. Taken together, CRP will fund projects that correlate to a larger strategy targeting downtown/business districts and key corridors to support and drive future public and private investment in these areas. Residents will benefit from increased

opportunities for employment, greater access to goods and services, and additional recreational and wellness resources.

This Program has also been designed to align with the following recovery objectives outlined in Puerto Rico's Recovery Plan titled, *Transformation and Innovation in the Wake of Devastation, An Economic and Disaster Recovery Plan*: Municipal Hotspots; Digital Citizen Services; Establishing a University Based Center of Excellence for Disaster Preparedness and Recovery; and Incentivize Resilient, Creative Design Solution for Addressing Hazards.

2 National Objective

All projects in the Program must meet one (1) of three (3) HUD national objectives in addition to meeting a HUD eligible activity, as defined by the Housing and Community Development Act of 1974 (**HCDA**), as amended, 42 U.S.C. § 5305. Given that the Program will provide funding to a wide range of activities in downtown areas and key corridors across Puerto Rico, PRDOH anticipates that each national objective listed in the section below will be applicable.

2.1 HUD National Objectives

PRDOH will work with entities that are funded through this Program to determine the national objective for each project as according to 24 C.F.R. § 570.483. All CDBG-DR funded activities must meet at least one (1) of the three (3) National Objectives defined in the authorizing statute of the CDBG program:

1. Benefit to low- and moderate-income persons (**LMI**) (24 C.F.R. § 570.483(b))
 - a. Area Benefit
 - b. Limited Clientele
 - c. Jobs
2. Urgent Need (**UN**) activities (24 C.F.R. § 570.483(d))
3. Aid in prevention or elimination of Slums or Blight (**SB**) (24 C.F.R. § 570.483(c))

In support of HUD's recovery objectives, the Government of Puerto Rico has specifically designed its storm recovery programs to help impacted residents and communities recover from the damage inflicted by the Hurricanes of 2017. PRDOH has set a goal to expend seventy percent (70%) of CRP funds on projects that result in a benefit to LMI individuals or that demonstrably serve LMI areas.

2.2 Further Information on Use of Urgent Need National Objective

It is likely that some projects funded through the Program will not meet HUD's requirement of benefiting LMI persons or communities. Projects that do not serve the LMI need, will be evaluated for UN benefit, when the activity does not otherwise eliminate slum and blight.

In accordance with 83 FR 5844, the certification requirements for documentation of UN, located at 24 C.F.R. § 570.483(d), are waived. PRDOH will not issue or require Partners or Subrecipients, to issue a formal certification statement to qualify an activity as meeting the UN national objective.

2.3 LMI Jobs/Economic Development

When applicable, PRDOH will identify the LMI jobs benefit accomplishment by documenting, for each person employed, the name of the business, type of job, and the annual wages or salary of the job. By waiver, HUD will consider a person income-qualified if the annual wages or salary of the individual's job is at or under the HUD-established income limit for a one-person family.¹

3 Program Description

This Program falls under the PRDOH's Action Plan overall strategy for Multi-Sector Initiatives which involves engaging and implementing innovative and transformative long-term recovery solutions for Puerto Rico. Municipalities lack the financial resources to rebuild or enhance main streets, plazas, and other districts that are important to community revitalization activities. This Program provides CDBG-DR funding to those municipal governments and other eligible entities enabling them to conduct a variety of critical recovery activities aimed at reinvigorating downtown areas, urban centers, and key community corridors. CRP will focus investments, reduce sprawl, and create a symbiotic environment to nurture complementary investments from the private sector.

Through a series of three (3) funding rounds, the Program offers entry points for all scales of potential projects. The Program may provide funding for community plazas, green infrastructure installations along key corridors that are prone to street flooding, façade renewal initiatives in commercial corridors, and other activities to bring small business back to the area.

This Program contains a set-aside of one hundred million dollars (\$100,000,000) to prioritize strategic investments in growth nodes for the redevelopment of urban areas around the University of Puerto Rico (**UPR**), Río Piedras and Mayagüez campuses. These student bodies have been significantly strained by the physical and economic impact of the Hurricanes. The investments from CRP shall not take place within facilities of the University system but will create the environment for economic regeneration around the University to enable students and employees of the UPR system to return to their place of study and work in safe, economically vibrant areas. This project will involve a partnership between

¹ At 83 FR 5844, HUD authorizes grantees to determine that an individual is considered LMI if the annual wages or salary of the individual person are at, or under, the HUD-established income limit for a one-person family for the jurisdiction. These limits vary annually and the Puerto Rico income limits for CDBG-DR can be found here: <https://files.hudexchange.info/resources/documents/2019-Puerto-Rico-Income-Limits.pdf>.

PRDOH and the municipal governments of San Juan and Mayagüez, to serve the residents and businesses within these communities that are located in proximity to these campuses.

3.1 Program Goals

PRDOH will work with municipal governments and non-governmental organizations (**NGOs**) to help shape the future vision of their communities. Program goals will be achieved by allowing a wide range of activities that center around the needs of downtown districts and key corridors, identified through various post-disaster planning processes.

The first goal of the Program is to restore infrastructure in downtown areas and key corridors that were impacted by the Hurricanes, and to make these facilities more resilient to future events, so that residents will want to return to and make use of public urban areas and downtown districts.

The second goal of the Program is to use funds to revitalize, modernize, and create green business districts in ways that can support and promote small business recovery and growth, while restoring or encouraging tourism. These projects strategically complement programs that are offered through the portfolio of CDBG-DR economic development and recovery. Through CRP, municipal governments and eligible entities will be able to create public enhancements and façade improvements that will encourage the return of small business and tourism.

The third Program goal recognizes that the Hurricanes devastated Puerto Rico's natural resources, particularly its tree canopy, and without funding and coordinated action to revitalize it, significant long-term impacts may not be realized. The Program will provide funding that can address the needs of lost or impacted natural resources in downtown areas, urbanized areas, and key corridors. A portion of the Program will focus on "re-greening initiatives" and the implementation of green infrastructure and other green activities. These initiatives may include investing in and using green infrastructure, green installations and standards, and green energy and waste re-purposing and reduction. PRDOH strongly encourages Subrecipients to utilize at least ten percent (10%) of their allocation or award of the Program funds to address the need to promote widespread re-greening in communities across the Island, supporting thereof this RE-Green Puerto Rico Initiative. The re-greening projects are expected to provide multiple benefits to communities and residents, both at the project location and in other areas of the Island by also promoting eco-tourism.

PRDOH will establish a robust and open engagement with the public regarding project selection, and will rely heavily on post-storm public planning processes to ensure that a cohesive recovery is achieved. Information accessibility will be provided through various means and methods depending on the location and nature of the selected projects

including, but not limited to, public notices, public meetings, and information on PRDOH's CDBG-DR website, www.cdbg-dr.pr.gov.

3.2 Overview of Method of Distribution

Funding for CRP will be made available in multiple funding rounds as generally described below. For Rounds One (1) and Two (2), municipal governments can choose to collaborate with community organizations and stakeholders, permitting the use of municipally-allocated funding for these alliances by entering into additional subagreements. Allocations will be formula-based. PRDOH encourages municipalities to work with other eligible entities in these rounds to identify and develop projects that serve strategic community recovery needs. In Round Three (3) of the Program, the pool of eligible applicants is expanded to include municipalities and other eligible entities (as described in the Eligible Entities section of these Program Guidelines), for consideration based on criteria to be published by PRDOH at the announcement of Round Three (3) to be accessed at www.cdbg-dr.pr.gov.

Specific information on the funding methodology is provided under the Eligible Use of Funds section included in these Program Guidelines:

- **Round One (1):** In this round, each municipality will receive a formula-based allocation. Projects will be selected for funding based on recovery objectives and needs, submitted from previous planning efforts by municipal governments and eligible applicants that work in partnership with jurisdictional municipalities to obtain project funding. PRDOH will work with eligible municipalities to determine which project(s) best fit one of the PRDOH recovery objectives. Each municipal government will then implement the project(s) with oversight from PRDOH. Awarded projects will be known as Municipal Managed projects.
- **Round Two (2):** In this round, each municipality will receive a second formula-based allocation. Funds not used in Round One (1) can be used in Round Two (2). Funds in this round will be available to each municipal government for selected projects upon completion of their Individual Municipal Recovery Plan under the MRP Program. Municipalities will be able to select and begin the process of submitting projects for the consideration of PRDOH prior to completion of the MRP Program process with the concurrence of PRDOH. However, funds will not be made available for any project(s) until the Individual Municipal Recovery Plan process is complete. The municipal government will implement the projects with oversight from PRDOH. Awarded projects will be known as Municipal Managed projects.

- **Round Three (3):** This will be a competitive round conducted after projects are selected and funded from Rounds One (1) and Two (2). Projects in Round Three (3) will be determined via a competitive Notice of Funding Availability (**NOFA**) process which will be open to all Eligible Entities, including Municipalities and NGOs. After the NOFA closes, PRDOH will score, rank, and select projects, which will then be implemented by each eligible participant with oversight from PRDOH. Awarded projects will be known as CRP Competitive Projects.

4 Eligible Use of Funds

4.1 Overview Use of Funds

The Program will provide CDBG-DR funding awards in the form of a grant, making funding available to municipalities and other eligible entities through rounds of funding. Funds available for municipalities and eligible entities will enable a variety of critical recovery activities aimed at reinvigorating downtown areas, urban centers, and key community corridors. These activities will focus investments, reduce sprawl, and create a symbiotic environment to nurture complementary private sector investments. Revitalization projects will correlate to a larger strategy that targets downtown services, business districts, and key corridors within each community that is part of PRDOH's MRP Program. The MRP Program will serve as a tool to align the use of CRP funds for needs identified that address the impacts from the Hurricanes, as well as align investments that result in opportunities for future public and private investment in downtown areas.

HUD allows CDBG-DR funds to be used as a match for other Federal programs when the HUD-funded project also has CDBG-DR eligible activities.² It is possible that some projects identified by Subrecipients to this Program could be used as a match for Federal Emergency Management Agency (**FEMA**) funded projects. Applicants that wish to use funds from this Program as match for FEMA funded projects must inform PRDOH during the Application process that they wish to do so. PRDOH will work with COR3 to determine if the requested match project is FEMA eligible and could be funded through the Non-Federal Match Program, so as not to duplicate efforts and to maximize Program funding. FEMA-funded projects must be both FEMA and CDBG-DR eligible, and significant coordination between FEMA and HUD is required to receive match credit.

Program Size and Award Caps

PRDOH has allocated a total amount of one billion two hundred twenty-three million dollars (\$1,223, 000,000) to this Program, with one hundred million dollars (\$100,000,000) maximum award for a single project. The approved Action Plan, as amended, includes a

² 83 FR 5844, 5865.

set-aside amount of one hundred million dollars (\$100,000,000) for the UPR Neighborhood Revitalization at the Río Piedras and Mayagüez campuses.

4.2 Program Funding and Maximum Project Award

Total Program Allocation:	\$1,223,000,000
UPR Neighborhood Revitalization Program:	\$ 100,000,000
Maximum award per project:	\$ 100,000,000

For Rounds One (1) & Two (2), minimum project award will be determined by the quantity of the allocation to each entity.

4.3 Overview of the UPR Neighborhood Revitalization Program

The PRDOH's approved Action Plan, as amended, allocates one hundred million dollars (\$100,000,000) to the Program fund to prioritize and support the recovery redevelopment and revitalization of the urban area surrounding the UPR campuses located in Río Piedras and Mayagüez. The student body residing in these areas has been significantly strained by the physical and economic impact of the Hurricanes. Funds in the Program may be used to support strategic investments in growth nodes around these campuses. Using CDBG-DR funds to address the revitalization and recovery of the areas will create an environment of economic regeneration around the UPR and enable current and future students at these institutions to return to their studies in safe, economically vibrant areas.

Program funds will be directly managed by the PRDOH and shall not be used for projects or investments within the grounds of either UPR campus. In addition, PRDOH will consult and work with community and neighborhood leaders, not-for-profit entities, and UPR students and faculty.

PRDOH will define potential projects through an open, transparent, and public process that begins with planning activities for each urban area surrounding the mentioned campuses. Projects identified during planning will then be publicly procured either through a Subrecipient identified during the planning phase or through a PRDOH managed process. In the event that PRDOH will oversee these Program funds, PRDOH will provide more detail on how these funds will be managed via its website www.cdbg-dr.pr.gov.

4.4 Overview of RE-Green Puerto Rico Initiative

To promote the strategic investment of Program funds to address the impact that the Hurricanes had on natural resources and tree canopies in downtown districts and key corridors, the RE-Green Puerto Rico Initiative encourages the use of ten percent (10%) of allocated funding to each Subrecipient to be used in the implementation of green initiatives in project design. These include reforestation and planting trees to reestablish the flora and fauna lost as a result of the Hurricanes. In addition, the RE-Green Puerto

Rico Initiative will include investing in and using green infrastructure, green installations and standards, and green energy and waste re-purposing and reduction initiatives.

Funds from the Program may support greening of community spaces and public areas, creating and enhancing sports and athletic facilities and public gardens, and converting vacant and blighted areas into neighborhood open gathering places. Such spaces will be primarily natural or use green infrastructure as a key building element. The Program will be open to a wide range of entities that will work in coordination with the municipal government. Greening activities can be undertaken either by units of governments or via non-profit entities, such as Para la Naturaleza.

PRDOH will track Applications that are submitted by the municipal governments to assess how much of the Program's total budget is committed to this initiative. At the end of each funding round, PRDOH will post to its website a list of the RE-Green Puerto Rico Initiative and total dollars committed to date. Based on the level of interest in the Program and the number of projects that qualify for funding, PRDOH may, in Round 3 of the Program, create a separate funding opportunity for re-greening projects.

4.5 Program Distribution–Municipal Allocation

PRDOH will provide funding for the Program in three (3) rounds with funding directed toward all seventy-eight (78) municipalities of Puerto Rico. The Table below shows how the Program funds will be allocated by round. Projects furthering the RE-Green Puerto Rico Initiative will come from projects submitted through the UPR revitalization and Municipal Managed projects.

<u>Total City Revitalization Allocation</u>	<u>\$1,223,000,000</u>
UPR Neighborhood Revitalization Program	\$100,000,000
Total Municipal Program Funds	\$1,123,000,000
1. Municipal Managed	Round 1 & 2 -> \$945,000,000
2. Open Competition	Round 3 -> \$178,000,000

4.6 Program Distribution–Municipal Allocation and Program Funding by Round

PRDOH intends to provide funding to every municipal government in Puerto Rico. The total amount of funding to be provided and distributed is one billion two hundred twenty-three million dollars (\$1, 223, 000,000) including one hundred million (\$100,000,000) for the

UPR Neighborhood Revitalization Program. To ensure that each municipality that participates in the Program receives funding, PRDOH will develop a methodology to distribute the allocations for each municipal government in Rounds One (1) and Two (2). At the time funding is made available, the allocation methodology for each municipality along with the weights and rationale for the distribution will be published in the PRDOH website and appended to these Guidelines. Below is a summary of the data sources that PRDOH intends to consider when determining allocations for each municipal government, along with a summary of the funding distribution in each round.

4.7 Factors to be considered in the Municipal Allocation process

PRDOH shall make use of Federal disaster related data in addition to demographic data to create specific allocations for each municipal government. Due to the need to tie projects to impacts from the Hurricanes, the allocations will rely on the most recent available data and may include, but shall not be limited to, the use of:

- FEMA Individual Assistance (IA) data;
- FEMA Public Assistance (PA) data;
- Other Federal disaster recovery data that documents damages to public assets and NGO facilities located within a municipal boundary;
- Population (US Census Bureau);
- Puerto Rico Department of Labor data;
- Geographic Area data (US Geological Survey); and
- National Oceanic and Atmospheric Administration data.

These criteria will be given weighted percentages, as per the recovery priorities set forth by the City Revitalization Program. PRDOH shall allocate funding to each of Puerto Rico's seventy-eight (78) municipal governments to ensure all have access to Program funds.

Each municipal allocation will be established with the assumption that the municipal government agrees to take part in the MRP Program and with the goal that each municipal government has the ability to enact at least two City Revitalization Program projects. Through the allocation process, PRDOH will also ensure that the most impacted municipal governments and larger municipalities receive funding that is proportional to disaster impacts and their pre-storm populations.

4.8 City Revitalization Program Funding Per Round

- Round One (1) – PRDOH will allocate six hundred million dollars (\$600,000,000) to projects in Round One (1). Funding will be made available to each municipality based on the allocation methodology and utilizing the data factors described above. Projects will be determined based on previously identified and submitted recovery projects that PRDOH will review and approve.

The UPR Neighborhood Revitalization Program planning process will be initiated at approximately the same time as Round One (1). Neighborhood recovery plans for areas around these campuses will be prepared under a concurrent planning process and coordinated, to the greatest extent practicable, with similar plans developed for the Municipalities of San Juan and Mayagüez, under the MRP Program.

- Round Two (2) – PRDOH will allocate three hundred forty-five million dollars (\$345,000,000) for Round Two (2). Funds will be made available to each municipality based on the allocation methodology as described in these Program Guidelines.

Funds will be available to each municipal government for selected projects up to the value of their municipal allocation, upon completion of the Individual Municipal Recovery Plan through the MRP Program. Funds not previously used in Round One (1) can be used in Round Two (2). Municipalities will be able to select and begin the process of submitting projects for PRDOH to be considered prior to the completion of the Individual Municipal Recovery Plan, with the concurrence of PRDOH. However, funds will not be made available for any project until the plan process is complete.

- Round Three (3) – PRDOH will allocate one hundred seventy-eight million dollars (\$178,000,000) through a NOFA process. Funding for Round Three (3) will be made available *after* the PRDOH MRP Program process has been completed and after projects have been selected for Round One (1) and Round Two (2) funding. More detail on Round Three (3) funding will be provided to the Municipal governments and eligible entities.

4.9 CDBG-DR Eligible Activities

The funding in this Program will allow municipalities and other eligible entities to implement integrated and innovative solutions to the problems facing their communities. Eligible revitalization projects should correlate to a larger strategy that targets downtown service and business districts or key corridors and supports and aligns with future public and private investments. The projects that will be most responsive to the Program are those that combine improved infrastructure, accessibility and other leveraged economic activity as a result.

All projects provided CDBG-DR funding need to meet a HUD eligible activity as defined by Section 105(a) of the HCDA, as amended. The following eligible activities listed below have been included to allow and encourage subrecipients to think most broadly in how to use the Program to address community/economic development and revitalization through infrastructure improvements.

All projects in this Program will meet at least one (1) of the following eligible activities:

- Section 105(a)(1) – Acquisition of real property, (including air rights, water rights, and other interests therein), (42 U.S.C. § 5305(a)(1));
- Section 105(a) (2) – Provision of assistance for public facilities and improvements, (42 U.S.C. § 5305(a) (2));
- Section 105(a)(3) – Provision of assistance for code enforcement in deteriorated or deteriorating areas, (42 U.S.C. § 5305(a)(3));
- Section 105(a)(4) – Provision of assistance for the clearance, demolition, removal, reconstruction, and rehabilitation of buildings and improvements, (42 U.S.C. § 5305(a)(4));
- Section 105(a)(7) – Provision of assistance for the disposition of real property for public purposes, (42 U.S.C. § 5305(a)(7));
- Section 105(a)(8) – Provision of assistance for public services , including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, energy conservation, welfare or recreation needs, (42 U.S.C. § 5305(a)(8));
- Section 105(a)(9) – Payment of non-federal share, (42 U.S.C. § 5305(a)(9));
- Section 105(a)(11) – Provision of assistance with relocation, (42 U.S.C. § 5305(a)(11));
- Section 105(a)(12) – Provision of assistance for planning implementation activities (42 U.S.C. § 5305(a)(12));
- Section 105(a)(14) – Provision of assistance including loans and grants for activities carried out through nonprofit development organizations (42 U.S.C. § 5305(a)(14));
- Section 105(a)(15) – Provision of assistance to eligible entities to carry out a neighborhood revitalization or community economic development or energy conservation projects, (42 U.S.C. § 5305(a)(15));
- Section 105(a)(16) – Provision of assistance for activities necessary to the development of energy use strategies, (42 U.S.C. § 5305(a)(16));
- Section 105(a)(17) – Provision of assistance to private, for-profit entities, when the assistance is appropriate to carry out an economic development project, (42 U.S.C. § 5305(a)(17));
- Section 105(a)(18) – Provision of assistance for the rehabilitation or development of housing, (42 U.S.C. § 5305(a)(18));
- Section 105(a)(19) – Provision of technical assistance to public or nonprofit entities, (42 U.S.C. § 5305(a)(19));
- Section 105(a)(21) – Provision of assistance by Subrecipients under this Program to institutions of higher education, (42 U.S.C. § 5305(a)(21));
- Section 105(a)(22) – Provision of assistance to public and private organizations to facilitate economic development, (42 U.S.C. § 5305(a)(22)).

4.10 Ineligible Activities

Unless permitted by a waiver, the following activities may not be assisted with CDBG-DR funds:

- Buildings or portions thereof used for the general conduct of government as defined in HCDA Section 102(a) (21). (PRDOH has submitted a waiver request for this activity at the time of this publishing. If HUD approval is obtained, these Program Guidelines may be amended to include this activity).
- General government expenses, except as otherwise specifically authorized under 2 C.F.R. Part 200, expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance.
- Political activities.

The following activities may not be assisted with CDBG-DR funds unless undertaken either as a public service under HCDA Section 105(a)(8), part of an activity providing economic development assistance to a for-profit business under HCDA Section 105(a)(17), or by an eligible nonprofit organization under HCDA Section 105(a)(15):

- Purchase of equipment
- Operating and maintenance expenses

4.11 Limitations on Assisting Privately-Owned Utilities

In accordance with 83 FR 5844 CDBG-DR funds may not be used to assist a privately-owned utility for any purpose.

4.12 Eligible Use of Funds

This Program is designed to provide flexibility in funding a wide range of activities that address the recovery and resiliency needs of downtown areas and key corridors across Puerto Rico. Municipalities and other eligible entities must submit Applications for consideration by PRDOH only in the round for which they are eligible, in order to qualify. All projects must be located within a municipal boundary, and within a designated downtown area or a key growth corridor that is defined by the municipal government.

Examples of some types of eligible projects are shown below. Due to the wide range of activities that are anticipated for the Program, these examples highlight only a few types of activities that could be pursued with Program funds:

- Rehabilitation or reconstruction of eligible downtown buildings;
- Public infrastructure improvements;
- Streetscape improvements such as sidewalks, lighting, parking;
- Façade improvements;
- Activities to eliminate architectural barriers for the disabled;
- Construction improvements to public spaces (plazas, town squares), cultural and art installations, and recreational areas and amenities;

- Actions that would clear and demolish unoccupied substandard structures that do not duplicate activities conducted under the FEMA Private Property Debris Removal (PPDR);
- Implementing a wide range of "RE-Green" initiatives such as, using green infrastructure in projects and incorporating installations and standards;
- Reforestation and natural resource recovery efforts that may be undertaken via non-profit entities such as Para la Naturaleza, in addition to waste re-purposing and reduction initiatives that use "green initiative strategies;"
- Activities that consider a holistic, multi-benefit approach to downtown areas, including co-location with transit-oriented development (**TOD**), increasing the walkability and use of non-motorized transit (bike lanes), and other modes that support commercial districts; and
- Activities involving strategic investments in growth nodes that lead to the redevelopment of urban areas that support the University of Puerto Rico (UPR) Río Piedras and Mayagüez campuses.

4.13 Baseline Eligibility Requirements for all Projects

While PRDOH will issue funding in three (3) rounds for this Program, in order to be provided CDBG-DR funding in any round, all projects must meet the following baseline requirements:

- Meet a HUD National Objective, see the National Objective section;
- Have CDBG-DR eligible activity, see the Eligible Use of Funds section;
- Must be able to be completed by the expenditure deadline, see the Timely Expenditure of CDBG-DR Funds section;
- Must have a tie to the Hurricanes. Project is related to disaster relief, long-term recovery, restoration of infrastructure and housing, or economic revitalization related to the covered disaster, and this information is captured in the application process;
- Address an eligible unmet need after accounting for all duplication of benefits, see the Duplication of Benefits section;
- Project is feasible and sustainable, and all other funding sources are firmly committed, see the Program Eligibility and Duplication of Benefits and Order of Assistance section; and
- The responsible entity for the project must demonstrate in the Application process that it has the resources to ensure on-going maintenance and operation of the improvements.

5 Program Eligibility

5.1 Overview of Eligible Entities

PRDOH plans to implement the Program by entering into Subrecipient Agreements (**SRAs**) with each of the seventy-eight (78) municipal governments across Puerto Rico, in addition to other eligible entities (as described below in the Eligible Entities section) which can meet the recovery objectives of the Program. The primary goal of the Program is to provide CDBG-DR funding to municipal governments to enable a variety of critical recovery activities aimed at reinvigorating downtown areas, urban centers and key community corridors. Such investments will reduce sprawl and create a symbiotic environment to nurture complementary investments from the private sector. PRDOH expects that every municipal government will participate in this Program.

The Program is also designed to allow for the wide range of entities located within communities to apply for funding by working with the municipal government. To ensure that coordination of projects occurs within municipal boundaries and to ensure that downtown areas and key corridors are restored and made more resilient, non-governmental entities will need to work in partnership and have the support of the municipal government to participate and submit Applications for the Program.

5.2 Eligible Entities

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

- Unit of General Local Government (Municipal Governments);
- NGO (501(c)(3)) or Not for Profit Entities, for example:
 - Faith-Based or Community Based Organizations
 - Conservation or Natural Resource Organizations
 - Public Schools and or Institutions of Higher Learning;
- Other community-based governmental entities, for example:
 - Public Housing Authorities and/or Public Health Facilities

5.3 Additional Eligibility Criteria for Non-Municipal Governments

To ensure that coordination of projects occurs, entities that are not units of government will need to work in partnership and have the support of the local governing body, primarily the municipal government, to submit projects for funding Round One (1) and Round Two (2) of the Program. Coordination with the municipal government is required from these entities to submit projects for consideration. In the event that a project by one of these entities is advanced and provided funding, PRDOH may decide to enter into a direct legal relationship with the proposing entity for a streamlined and more efficient implementation and compliance process. PRDOH will work in consultation with the municipal government in structuring that direct legal relationship.

5.4 Additional Eligibility Criteria

In addition, Subrecipients must agree to the following criteria:

- Provide for the cost of year-round operations and maintenance (**O&M**) expenses for projects funded through this Program, including daily operations and funding strategies. CDBG-DR funds cannot be used for long-term O&M costs.
- Applications must be approved and sponsored by the relevant municipal government.
- Utilize the services of an architect and/or engineer licensed to practice in Puerto Rico to design the facilities and improvements in accordance with PRDOH and HUD standards, as well as all applicable locally required codes and regulations.

5.5 PRDOH Selection and Municipal Coordination of Non-Governmental Entities

PRDOH expects that all seventy-eight (78) municipal governments will take part in the Program. However, for some projects proposed by NGOs, it may be more efficient for PRDOH to enter into a direct relationship with the NGO within a municipality to implement the project. Also, some municipal governments may decline to take part in the Program.

If PRDOH determines through the Application process that a particular project may be best implemented through a direct relationship with one of these entities, PRDOH will schedule a meeting and coordinate with the unit of government to assess and discuss if a direct relationship with an NGO is in the best interest of the Program.

In the highly unlikely event that any of the municipal governments decide to decline participation in the Program, PRDOH reserves the right to define and work with a Subrecipient within these municipal boundaries so that resiliency projects can be implemented. PRDOH will consider allowing non-governmental Applicants, located within these municipalities, to apply directly to the Program for funding during Round Two (2) and Round Three (3) of this Program. In the unlikely event that this occurs, PRDOH will post to its website information that outlines which municipalities decided not to participate in the Program and what additional steps PRDOH will take to inform non-governmental entities in these jurisdictions about opportunities to apply to the Program.

Selection of projects by the Government of Puerto Rico can also occur if PRDOH determines, through the Application process, that the project meets the goals of this Program, but the Applicant does not have the fiscal capacity to manage the grant. More detail on this is shown below. However, PRDOH will work with the Applicant in these cases to determine a suitable Subrecipient that can help implement the grant. In the unlikely event that PRDOH-selected projects are pursued, prior to beginning the project, PRDOH will provide detail about the project via the PRDOH website and it will hold at

least one outreach event where the project will be discussed and presented so that the public can understand the justification for the project and how the project will meet a recovery objective of this Program.

More Detail on PRDOH Selection of Eligible Entities

5.6 Puerto Rico Administrative Agency/Department

Projects directly implemented by an administrative agency or department of the Government of Puerto Rico will comply with the manual titled, *Puerto Rico Department of Housing Procurement Manual and Contractual Requirements for CDBG-DR*. The selected administrative agency or department will be responsible for compliance with applicable CDBG-DR rules and regulations, including civil rights, housing review, Section 3, labor standards, and property acquisition. PRDOH will provide technical assistance, oversight, and monitoring of the project.

5.7 Subrecipient – Non Government of Puerto Rico Agency Selection

PRDOH may determine that it is in the Program's advantage to implement a project through an eligible Subrecipient organization. In those instances, PRDOH will select a suitable Subrecipient by either direct, discretionary selection or through a method of competitive selection. A capacity analysis and risk assessment of a potential Partner or Subrecipient will be performed. Consideration will be given to a Partner or Subrecipient's prior experience with CDBG-funded projects, staff capacity, knowledge, and experience with infrastructure projects and financial management systems and controls.

A written agreement between PRDOH and the Partner/Subrecipient will be executed. The written agreement serves as the mechanism for the transfer of funds to the Partner/Subrecipient and requires compliance with all applicable federal and local laws. The agreement will include items such as a scope of work, project budget, and project schedule.

The Partner or Subrecipient will be responsible for compliance with applicable PRDOH and CDBG-DR rules and regulations including procurement, contracting, civil rights, environmental review, Section 3, labor standards, and property acquisition. PRDOH will provide technical assistance, oversight, and monitoring of Partner/Subrecipient activities.

6 Project Selection

The Program will offer funding in three (3) rounds, as described previously in the Program Description section, Overview of Method of Distribution. PRDOH anticipates that it will be completing important municipal planning processes as the Program begins. To ensure that projects from the planning effort and prior round projects are considered in

subsequent rounds, funding in Rounds Two (2) and Three (3) will be staggered to allow for PRDOH to allocate any available funds from the prior round.

6.1 Application Process

Applications submitted to PRDOH for funding in Round One (1) will be selected based on projects that were identified by municipal governments as a result of post-storm, public planning initiatives. Projects that will be funded in Rounds Two (2) and Three (3) will occur after a municipality completes the MRP Program process. In each round, applications will be submitted by municipalities and/or by eligible entities with support from the municipal government.

Throughout project selection and development, municipalities will be responsible for informing the public on projects' progress toward meeting recovery objectives under CRP.

Through each round of the Application process, Applicants will be strongly encouraged to identify and bring non-CDBG-DR funding to the Program. Applications that provide additional non-CDBG-DR funds will be encouraged by PRDOH.

Without regard to where projects are located, all projects funded through this Program must have a tie to the Hurricanes, meet a HUD national objective and eligible activity, and the entities must agree to provide long-term operations and maintenance for the facility.

Project concepts will be submitted to PRDOH by Application in each round. The Project concepts shall include descriptive details and information on project location, initial estimated project costs, implementation schedule, project beneficiaries, project feasibility, how the project mitigates or addresses a disaster threat or supports resiliency, and other factors that may be deemed applicable. The project concept within the application will serve as the core document that establishes CDBG-DR eligibility and performance parameters for the project in that round of funding.

PRDOH will review the Application and select the projects in each round for awarding CDBG-DR funds through the Program. The decision to advance a project from Application to a funding phase will be based on the following factors:

- Whether a project meets specific eligibility and baseline criteria for that Application round;
- Whether the project aligns with Puerto Rico's Recovery Strategy³;
- The amount of leveraged funding being provided to implement the proposed project;

³ *Transformation and Innovation in the Wake of Devastation, An Economic and Disaster Recovery Plan for Puerto Rico, August 2018* (www.cdbg-dr.pr.gov/en/download/transformation-and-innovation-in-the-wake-of-devastation/).

- The correlation of how the project is a part of a strategy that targets downtown service and business district revitalization, makes the area more resilient, or could lead to future public and private investment; and
- Specific criteria that are tied to that Application period. For example, projects identified that evolved from the PRDOH planning process and/or will allow PRDOH to meet the RE-Green Puerto Rico Initiative objectives.

After PRDOH informs the Applicant that the project is accepted for funding, PRDOH will begin to work with the Applicant to implement the project.

6.2 Municipal Government Funding Per Round

The amount of funding provided for a specific project will be subtracted from the municipality's allocation in that round. In the event that a municipal government does not use all of the funding provided in that round, funds can be carried forward to a subsequent round. Based on local needs identified through prior planning processes, it is highly unlikely that this will occur. All projects in Round Three (3) will be competitively selected.

To create incentives to meet overarching program goals, and to create synchronicities across the Island, applications that contain certain elements such as leverage of non-CDBG-DR funds or inclusion of green-building elements will receive additional scoring preference and be prioritized for funding. As a result, Program participants will be encouraged in early rounds to develop projects that will allow PRDOH to meet these goals while ensuring that each municipal government's allocation will be used within its jurisdictional boundary.

6.3 Municipal Government Implementation and Non-Governmental Partners

PRDOH anticipates that the municipal governments that are submitting projects to the Program will want to implement the submitted projects in coordination with Partners located in their jurisdictions. PRDOH will provide Program oversight and technical assistance. PRDOH can, and may at its discretion, provide enhanced oversight and/or implement projects directly, if it determines that the municipal government cannot implement the project. PRDOH may also, in coordination with the municipal government, determine that the local Partner should directly implement the project and enter into a relationship with PRDOH.

In each round, the municipal government can decide if it wants to work with other eligible entities within the jurisdictional boundaries to support and advance projects. PRDOH will pay close attention to engagement with Partners within jurisdictions, and will strongly encourage collaboration within municipal boundaries. Due to the objectives of the Program, strong interest in collaboration by NGOs is anticipated.

6.4 Application Requirements

More specific detail on the Application process for each round will be posted to the PRDOH website when that phase of the Program is formally announced. The following items will be included as part of the Application process in each round of the Program.

6.5 Description of Intended Use of Funds

Applicants will describe the proposed use of CDBG-DR funding needed to complete the project. While PRDOH will not require final costs, Applicants will be required to provide an estimated cost for the proposed project.

6.6 Project Location Requirement

To be eligible to receive CDBG-DR funds under the Program and as part of the Application process, all Applicants must confirm and provide assurance that the facility for which funding is being sought is within the municipal boundary in a designated downtown area or key growth area, and demonstrate that the project has been presented to and has the support of the municipal government.

6.7 Agreeing to PRDOH Environmental Review

To be eligible to receive CDBG-DR funds under the Program and as part of the project selection process, all Applicants must confirm and provide assurance that, if the project is selected and CDBG-DR funding is awarded, the Applicant will comply with the following:

- That PRDOH will provide technical assistance for the environmental review for the Project, and
- That the entity will, in all cases, adhere to the guidance provided by the PRDOH Environmental Review team.

6.8 Agreeing to Work with FEMA and COR3

To be eligible to receive CDBG-DR funds under the Program, and as part of the project selection process, all Applicants must confirm and provide assurance that they will comply with the following:

- Ensure an order of assistance and the avoidance of a "duplication of benefits";
- Agree to work with PRDOH and in coordination with COR3, and will work directly with FEMA, as needed, to determine if FEMA funding would be available for the project.

6.9 Agreeing to PRDOH Capacity Assessment

To be eligible to receive CDBG-DR funds under the Program and as part of the Application process, the Applicant must confirm and provide assurance of its agreement to provide necessary documentation and assist in the completion of the PRDOH capacity

assessment of its organization. This assessment will provide PRDOH the information needed in determining the organizational capacity to manage the CDBG-DR funds.

6.10 Agreeing to PRDOH Technical Assistance

To be eligible to receive CDBG-DR funds under the Program and as part of the project selection process, the Applicant must confirm and provide assurance of its agreement to participate in all PRDOH technical assistance training to ensure compliance with all PRDOH and CDBG-DR requirements. Those organizations lacking capacity will be provided direct assistance by PRDOH in devising and implementing needed processes and procedures to comply with all CDBG-DR requirements in the implementation of the funded project.

6.11 Agree to Identifying Sub-Standard Structures

To be eligible to receive CDBG-DR funds under the Program, and as part of the Application process, the municipality must agree to be responsible for identifying the inventory of substandard structures within the municipal boundaries. In the event that funds are requested to be utilized on a project involving a substandard structure, the municipality must evaluate costs and provide that information to PRDOH. Prior to any acquisition, PRDOH must be informed to ensure CDBG-DR protocols are being followed, which include the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (**URA**), as amended and section 104(d) of the Housing and Community Development Act of 1974 (**HCDA**).

6.12 Requested Use of Funds – RE-Green Puerto Rico Initiative Program

The Program will provide CDBG-DR funding to implement CDBG-DR-eligible projects that will restore impacted natural resources or use green building concepts or materials. Green projects may be eligible if they are conducted within the downtown area and/or a key corridor. As part of the Application process, Applicants must provide a narrative describing the potential uses of green infrastructure or green projects. The lack of a green project component in a proposed project will not negatively impact selection, but information is sought to help PRDOH determine how much of the Program's total funds are being directed toward the RE-Green Initiative activity.

6.13 Defining Potential Revenue and Program Income

Applicants must provide a narrative regarding all possible future revenue-producing activities and events following completion of the project. In addition, Applicants must provide an estimation of annual future revenue to be generated.

6.14 Leveraging Funds – Non-CDBG-DR Funding

Given the needs that exist within downtown areas and key corridors across Puerto Rico, Applicants will be required to provide a description regarding the source and amount of non-CDBG-DR funds committed to each project, if any, and what actions the Applicant has taken to assess if additional funding is available to bring to the project. Responses demonstrating the allocation of non-CDBG-DR funds to complete the project will provide the project a higher priority in the evaluation process.

6.15 Defining Long Term Operation and Maintenance Plan

All projects for which CDBG-DR funding is being sought must have a long-term operations and maintenance (**O&M**) plan that is determined by PRDOH to be viable as CDBG-DR funds cannot be used for O&M. Potential Applicants will be strongly advised of the inability/prohibition to allocate CDBG-DR funding for O&M purposes. As part of the Application process, Applicants must include a plan to provide long-term O&M for the project, if funded. Applicants will be strongly encouraged to provide pro-forma and describe in detail how O&M will be provided. Consequently, if an Applicant is unable to demonstrate a viable long-term O&M plan, the project concept will not be accepted.

6.16 Consideration of Green Initiatives

HUD and PRDOH encourage recipients of CDBG-DR funding, to the extent that it is practicable and possible, to use methods and materials that support elements of green initiatives or show that green policies are part of their project. Through the Application process, Applicants will be asked to describe what green initiatives will be built into the project. Projects that demonstrate and utilize green components and or designs will have a scoring preference. Tools for green initiatives are available at the Environmental Protection Agency's (EPA) website:

<https://www.epa.gov/green-infrastructure>

<https://www.epa.gov/smartgrowth/location-and-green-building>.

PRDOH will work with eligible Subrecipients to identify opportunities for incorporating green practices into projects, on a case-by-case basis, and to the extent practicable.

6.17 Compliance with FEMA Elevation and Flood Proofing Standards

To be eligible to receive CDBG-DR funds under the Program and as part of the Application process, the Applicant must confirm and assure that it will comply with applicable elevation and flood proofing standards in effect for the location of the facility.

7 Project Closeout

Project closeout is the process that occurs after a project in the Program is complete, and no work remains. PRDOH will determine if the project has been successfully

completed. For projects comprised of both CDBG-DR funds as well as other funds, project closeout occurs when all funds are spent not just the CDBG-DR funded portions. PRDOH will solely determine if all the requirements of the Subrecipient Agreement or memorandum of understanding have been completed in accordance with the terms and conditions of the agreement. After PRDOH makes this assessment, it can initiate close-out at a time and frequency of its choosing.

7.1 Process for Closeout

As this Program matures and projects move from the Application process into construction phases, more detailed Project and Program closeout procedures will be developed. Those procedures will be updated to this section of the guidelines. Project closeout will begin when:

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

7.2 HUD Notification of Closeout

In addition to the steps listed above, the project's status must be updated in HUD's Disaster Recovery Grant Reporting (**DRGR**) system, and a final HUD quarterly narrative report must be submitted to reflect the project's status.

8 Use of CDBG-DR Funds as Match

As is allowed by HUD and codified in the HCDA, CDBG-DR funds may be used as a matching requirement, share, or contribution for any other Federal program when used to carry out an eligible CDBG-DR activity. It may include disaster recovery projects funded by agencies such as the United States Department of Transportation, Commerce, Energy, and Agriculture. This also includes programs or activities administered by the FEMA or the United States Army Corps of Engineers (**USACE**). By law, (codified in the HCDA as a note to 105(a)), the amount of CDBG-DR funds that may be contributed to a USACE project is \$250,000 or less. In accordance with Federal Register Notice 83 FR 5844, note that the Appropriations Act prohibits the use of CDBG-DR funds for any activity

reimbursable by, or for which funds are also made available by FEMA or USACE, Federal Register Vol. 83, No. 28 (February 9, 2018), 83 FR 5865.

For projects that wish to be considered as match for other Federally-funded disaster recovery programs, Applicants to this Program will need to inform PRDOH, during the Application process, that they wish to have projects be considered as eligible for that agency's match program, as these projects will require that projects be both CDBG-DR eligible and compliant with the other Federal agency requirements.

9 Financial Management

9.1 Payment Requests by Non-PRDOH Entities

In accordance with 2 C.F.R. § 200.305, for entities other than PRDOH, payment is typically made on an "advance payment" method provided the payment request is limited to the minimum amounts needed and is timed to be in accordance with actual, immediate cash requirements. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements for direct program or project costs and the proportionate share of any allowable indirect costs. This means that project costs should be incurred and documented as required prior to the submission of a payment request. If the preceding requirements cannot be met the reimbursement payment method will be utilized.

9.2 More Detail on CDBG-DR Project Costs

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

9.3 Reasonable Cost Guidance

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

9.4 Construction Cost Reasonableness

Federal Register Notice 83 FR 40314 requires PRDOH to ensure “that construction costs are reasonable and consistent with market costs at the time and place of construction.” Cost reasonableness is described as the price that a prudent businessperson would pay for an item or service under competitive market conditions, given a reasonable knowledge of the marketplace. The method and degree of analysis may vary dependent upon the circumstances surrounding a particular project (e.g., project type, risk, costs), but the description must address controls for public facilities and infrastructure improvements projects in addition to economic revitalization projects (involving, construction, rehabilitation or reconstruction) and housing projects involving eight or more units (whether new construction, rehabilitation, or reconstruction). HUD may issue guidance to PRDOH and may require PRDOH to verify cost reasonableness from an independent and qualified third-party architect, civil engineer, or construction manager.

To establish the cost reasonableness of the goods and services under the CDBG-DR Program, PRDOH may perform one (1) or more of the following analysis:

- *Comparison of Proposed Costs Received as Part of a Solicitation Process:* For the CDBG-DR Program, PRDOH or its Subrecipients will acquire all goods and services through procurement processes such as micro-purchases, small purchases, sealed bidding, and competitive proposals, among others. Adequate price competition establishes cost reasonableness. This will be the most common technique used to establish cost reasonableness, as the procurement processes normally attract two (2) or more offers in an independent competition for an award, which establishes current market values.
- *Comparison of Proposed Prices with Prior Solicitation Processes:* During the life cycle of the CDBG-DR grant, PRDOH or its Subrecipients may procure certain goods or services in multiple instances. Also, PRDOH/Subrecipients may procure goods or services for which, under other projects not necessarily related to CDBG-DR, similarities exist. Comparing the prices obtained through prior solicitation processes may be used to establish cost reasonableness. Depending on the timing of the prices being compared, adjustments for inflation may be required to compare data in a fair manner.
- *Comparison of Proposed Prices and Historical Contracts:* PRDOH has extensive historical contract data for previous projects performed. This data may be used by a Subrecipient or PRDOH when procuring goods or services that are similar in nature to those performed in the past to establish cost reasonableness. Depending on the timing of the prices being compared, adjustments for inflation may be required to compare data in a fair manner.

- *Comparison of Proposed Prices with Independent Cost Estimates:* For the CDBG-DR program, PRDOH or its Subrecipients will acquire all goods and services through procurement processes such as micro-purchases, small purchases, sealed bidding, and competitive proposals, among others. For all of these, the procedures established by PRDOH require the User Area requesting the services to provide an independent cost estimate of the goods or services to be procured. Comparison of these independent cost estimates with proposed prices may be used to establish cost reasonableness.
- *Comparison of Proposed Prices with Prices Obtained through Market Research:* When a good or service has an established market price, whether locally or in another jurisdiction, the verification of an equal or lower price may be used to establish cost reasonableness. Also, when the market value of a specific good or service is not found, a comparison with a substantially similar good or service may also be performed to establish cost reasonableness.

10 Green Building Standards and FEMA Elevation Requirements

HUD requires that for all projects using CDBG-DR funds, the projects comply with FEMA elevation standards and that, to the extent possible, projects incorporate green building components into the project. Through these actions, projects funded using CDBG-DR funds are generally presumed to be more resilient and will have been rebuilt in a more environmentally sustainable manner. Given that this Program desires to make communities' downtown areas and key corridors more resilient, Projects funded through this Program will be required to meet FEMA elevation requirements and show how HUD Green Building Standards will be used in the project or what green concepts were considered for the project. As Applicants and projects are selected for the Program, PRDOH will work with Subrecipients and awardees of the Program to address these two (2) compliance requirements. Below is more information on these two (2) components.

10.1 Green Initiatives

HUD encourages grantees to implement green building policies to the extent practicable and possible. Tools for green initiatives are available at the Environmental Protection Agency's (EPA) website:

<https://www.epa.gov/green-infrastructure>

<https://www.epa.gov/smartgrowth/location-and-green-building>.

PRDOH will work with eligible entities and Subrecipients to identify opportunities for incorporating green infrastructure practices into projects, on a case-by-case basis, and to the extent practicable.

10.2 Elevation Standards

Projects must comply with applicable elevation standards. These standards include elevation requirements and floodproofing requirements. Nonresidential structures must be elevated to the standards described in this paragraph or floodproofed, in accordance with FEMA floodproofing standards at 44 C.F.R. § 60.3(c) (3) (ii) or successor standard, up to at least two feet (2') above the 100-year (or one percent (1%) annual chance) floodplain.

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

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

11 Section 3 Requirement

All Applicants who receive CDBG-DR funding are required to comply with all CDBG-DR requirements, including those enumerated in 24 C.F.R. Part 135. HUD regulation at 24 C.F.R § 135.1 is commonly referred to as the Section 3 requirement. The Section 3 requirement seeks to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible and consistent with existing federal, Government of Puerto Rico, and local laws and regulations, be directed to low- and very low-income persons, so that they can take part in recovery activities in proximity to work location. Through the program notification process and through technical assistance workshops, and monitoring protocols, PRDOH will communicate and work with Applicants to ensure that each project adheres to Section 3 regulations.

12 Minority Women Owned Business Enterprise (MWBE) Requirement

All Applicants who receive CDBG-DR funding are required to comply with all CDBG-DR requirements including those enumerated in 2 C.F.R. § 200.321. Known as the Minority

Women Owned Business Enterprise (**MWBE**) goals, these goals are an important part of HUD CDBG-DR programs and they are a common area of review by HUD.

MWBE compliance in Puerto Rico is ensured by requiring, as applicable, subrecipients, program partners and contractors make best efforts to achieve an overall MWBE participation goal of twenty percent (20%) of the entire contract value; consisting of ten percent (10%) for MBE and ten percent (10%) for WBE. If, after making good faith efforts, a Subrecipient is unable to meet MWBE goals, subrecipients may submit a request for a MWBE Waiver for their overall goal. The request must set forth the reasons for the inability to meet any or all of the participation requirements together with an explanation of the good faith efforts undertaken.

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

Through the program notification process and by means of document collection, technical assistance, and monitoring protocols, PRDOH will analyze data and communicate with Applicants to ensure that every project adheres to MWBE regulations, when applicable.

13 Program Monitoring Requirements

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

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

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

- Determine if activities are being carried out as described in the Action Plan and Action Plan Amendments for the CDBG-DR program and assistance;
- Determine if activities are being carried out in a timely manner;
- Determine if costs charged to the Program and projects are eligible under applicable laws and CDBG regulations and if are reasonable in light of the services or products delivered;
- Determine if activities are being conducted with adequate control over the program and financial performance, and in a way that minimizes opportunities for waste, mismanagement, fraud, and abuse;
- If Subrecipients are utilized, determine if the activities are being carried out in conformance with the subrecipient agreement;
- Assist in resolving compliance problems through discussion, negotiation, technical assistance, and training;
- Provide adequate follow-up measures to ensure that performance and compliance deficiencies are corrected and not repeated;
- Comply with the monitoring requirements of 24 C.F.R. § 570.501 (b) and 2 C.F.R. § 200.328, if applicable;
- Determine if any conflict of interest exist in the operation of the CDBG-DR program per 24 C.F.R. § 570.611; and
- Ensure that required records are maintained to demonstrate compliance with applicable regulations.

14 Program Income

PRDOH understands and expects that, for some projects funded through this Program, revenue or program income will be generated. As a result, as part of the application process in each round, Applicants will be asked to describe potential revenue-generating activities. PRDOH will work with funded eligible entities in this Program to identify and address issues relating to program income; below is more detail on program income.

For purposes of the CDBG-DR allocation under Public Law 115-56, “program income” is defined as gross income generated from the use of CDBG-DR funds and received by PRDOH or a Subrecipient of PRDOH, except as provided in Federal Register Notice 83 FR 5844. When income is generated by an activity that is only partially assisted with CDBG-DR funds, the income shall be prorated to reflect the percentage of CDBG-DR funds used (e.g., a single loan supported by CDBG-DR funds and other funds; a single parcel of land purchased with CDBG-DR funds and other funds).

Program income includes, but is not limited to, the following:

- Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG-DR funds.
- Proceeds from the disposition of equipment purchased with CDBG-DR funds.
- Gross income from the use or rental of real or personal property acquired by PRDOH, local government, or Subrecipient thereof with CDBG-DR funds, minus the costs incidental to the generation of the income (i.e., net income).
- Net income from the use or rental of real property owned by PRDOH, local government, or Subrecipient thereof, that was constructed or improved with CDBG-DR funds.
- Payments of principal and interest on loans made using CDBG-DR funds.
- Proceeds from the sale of loans made with CDBG-DR funds.
- Proceeds from the sale of obligations secured by loans made with CDBG-DR funds.
- Interest earned on program income pending disposition of the income, including interest earned on funds held in a revolving fund account.
- Funds collected through special assessments made against nonresidential properties and properties owned and occupied by households not low-and moderate-income, where the special assessments are used to recover all or part of the CDBG-DR portion of a public improvement.
- Gross income paid to PRDOH, local government, or a Subrecipient thereof, from the ownership interest in a for-profit entity in which the income is in return for the provision of CDBG-DR assistance.

Program income does not include the following:

- The total amount of funds that is less than thirty-five thousand dollars (\$35,000), received in a single year and retained by PRDOH, local government, or a Subrecipient thereof.
- Amounts generated by activities eligible under section 105(a) (15) of the HCDA and carried out by an entity under the authority of section 105(a) (15) of the HCDA.

Program income received (and retained, if applicable) before or after closeout of the grant that generated the program income, and used to continue disaster recovery activities, is treated as additional CDBG-DR funds subject to the requirements of this Notice and must be used in accordance with the Action Plan. To the maximum extent feasible, program income shall be used or distributed before additional withdrawals from the U.S. Treasury are made, except as provided in the applicable HUD Notice.

While revolving funds are not foreseen for this Program, PRDOH, as the CDBG-DR grantee and local governments may establish revolving funds to carry out specific, identified

activities. A revolving fund, for this purpose, is a separate fund (with a set of accounts that are independent of other program accounts) established to carry out specific activities. These activities generate payments used to support similar activities going forward. These payments to the revolving fund are program income and must be substantially disbursed from the revolving fund before additional grant funds are drawn from the U.S. Treasury for payments that could be funded from the revolving fund. Such program income is not required to be disbursed for non-revolving fund activities.

PRDOH may also establish a revolving fund to distribute funds to local governments to carry out specific, identified activities. The same requirements, outlined above, apply to this type of revolving loan fund. Note that no revolving fund established per this notice shall be directly funded or capitalized with CDBG-DR grant funds, pursuant to 24 C.F.R. § 570.489(f)(3).

15 Environmental Review

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

PRDOH will provide assistance for the Environmental Review for all projects in the Program. To be eligible to receive CDBG-DR funds under the Program and as part of the application process, the entity will agree to conduct the Environmental Review and, in all cases, adhere to the guidance provided by the PRDOH environmental review team.

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

- Protection of Historic Properties, 36 C.F.R. § 800;
- Floodplain Management and Protection of Wetlands, 24 C.F.R. § 55, (Executive Order 11988 and Executive Order 11990);
- Sections 307 (c) and (d) of the Coastal Zone Management Act of 1972 (**CZMA**), as amended, 16 U.S.C. § 1456;
- Sole Source Aquifers, 40 C.F.R. § 149;
- Interagency Cooperation - Endangered Species Act of 1973, as amended, 50 C.F.R. § 402;
- Section 7 (b)(c) of the Wild and Scenic Rivers Act of 1968 (**WSRA**), as amended, 16 U.S.C. § 1278 - Restrictions on Water Resources Projects;
- Air quality provisions as found in Sections 176 (c) and (d) of the Clean Air Act, as amended, 42 U.S.C. § 7506, and in Title 40 of the Code of Federal Regulations, 40 C.F.R. Parts 6, 51, and 93;

- Farmland Protection Policy Act (**FPPA**), 7 U.S.C. § 4201 *et seq.*, implementing regulations 7 C.F.R. Part 658, of the Agriculture and Food Act of 1981, as amended;
- Environmental Criteria and Standards
 - Noise Abatement and Control, 24 C.F.R. §§ 51.100 - 51.106;
 - Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature, 24 C.F.R. §§ 51.200 - 51.208;
 - Siting of HUD Assisted Projects in Runway Clear Zones at Civil Airports and Clear Zones and Accident Potential Zones at Military Airfields, 24 C.F.R. § 51 §§ 51.300 - 51.305;
- Toxic/Hazardous Materials, 24 C.F.R. § 58.5(i)(2)(i);
- Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (Executive Order 12898 signed on 1994).

To conduct the appropriate level of environmental review, the Program will need to determine the environmental classification of the project. The term “project” may be defined as an activity or group of activities geographically, functionally, or integrally related, regardless of funding source, to be undertaken by the Program, in whole or in part, to accomplish a specific objective. The three (3) major environmental classifications for projects and their descriptions are as follows.

15.1 Exempt Activities

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

15.2 Categorically Excluded Activities

These are activities for which no Environmental Impact Statement or Environmental Assessment and finding of no significant impact under NEPA is required. These activities are divided into those that are and those that are not subject to related laws and authorities at 24 C.F.R. § 58.5.

Examples of categorically excluded activities not subject to related laws and authorities under 24 C.F.R. § 58.5 include: tenant based rental assistance; supportive services; operating costs; economic development activities; activities to assist homebuyers to purchase existing dwelling units or units under construction; and affordable housing predevelopment costs with no physical impact. To complete environmental requirements for categorically excluded activities not subject to 24 C.F.R. § 58.5, the

Program must make a finding of categorical exclusion and include such finding in the Environmental Review Record. When these kinds of activities are undertaken it is not required to issue a public notice or to submit a request for release of funds. In any case, environmental compliance is required for the items listed in 24 C.F.R. § 58.6.

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

The documentation must support its determinations related to compliance including correspondence with applicable agencies having jurisdiction. Upon completion, there should be one (1) of three (3) environmental findings: (1) the project converts to Exempt (i.e. 24 C.F.R. § 58.34(a) (12)); (2) the project invokes compliance with one 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 or more of the Federal laws and authorities listed in 24 C.F.R. § 58.5, then a public notification known as Notice of Intent to Request Release of Funds must be posted. After a **seven (7) day** comment period, a Request for Release of Funds and Environmental Certification must be prepared. The Environmental Certification certifies the compliance with all environmental review requirements.

15.3 Activities Requiring an Environmental Assessment

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

If it is determined that the action does not significantly affect the quality of the environment, then the Program will post a public notice called a Combined/Concurrent Notice of Finding of No Significant Impact (**FONSI**) 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 (NOI/RROF) and FONSI and HUD will hold the Release of Funds for a **fifteen (15) day** period to allow for public comment on the RROF. If no comments are received during this time, HUD will send a signed Authorization to Use Grant Funds and the project may proceed.

16 Duplication of Benefits (DOB) & Order of Assistance

16.1 Duplication of Benefits

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

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

CDBG-DR funds used directly by PRDOH or other administrative agency/department of the Government of Puerto Rico receiving assistance under the Program or other purposes are also subject to the DOB requirements of the Stafford Act. PRDOH will require certification from each Subrecipient that it does not have funds set aside for the activity in any capital improvement plan (or similar document showing planned use of funds).

To be eligible to receive CDBG-DR 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 COR3, FEMA, SBA, USACE, and other entities to address DOB issues. Through the life of the grant, PRDOH will work with funded entities to address DOB.

PRDOH is prohibited from making a blanket determination that CDBG-DR assistance under CRP does not duplicate another category or source of assistance. PRDOH must conduct an individualized review of each project to determine that the amount of CDBG-DR assistance will not cause a DOB by exceeding the unmet needs of that Subrecipient.

DOB occurs when financial assistance is received from another source that is provided for the same purpose as the CDBG-DR funds. Other sources of funding include FEMA, SBA, local or Puerto Rico Government funding, insurance, or other funding programs. PRDOH will perform a DOB analysis for each funded project.

In the context of CRP, a DOB analysis must consider total assistance, which includes all sources of financial assistance available to the Subrecipient to pay a portion of the proposed public facilities improvements and/or proposed CDBG-DR-eligible public services to be provided. For example, an existing community owned by a municipal government may need to be rehabilitated. In this instance, total assistance, for a DOB analysis, would not only include any other federal assistance available to rehabilitate the facility, but it must also include any local funds that are available for this activity. The Subrecipient will also be required to document if local funds were previously designated or planned for the activity but are no longer available.

The basis for calculating CDBG-DR assistance and the purposes for which the Subrecipient can use the CDBG-DR assistance should be identified so that a DOB can be prevented.

Subrecipients 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 a Subrecipient.

The basic framework for a DOB calculation is:

- Identify Subrecipient's Total Need;
- Identify Total Assistance Available (insurance, FEMA, SBA, etc.);
- Identify the "Amount of Exclude as Non-Duplicative" (Amounts used for a different purpose, or same purpose, different allowable use);
- Identify Total DOB Amount (Total Assistance Minus Non-Duplicative Exclusions);
- Calculate Maximum Award (Total Need Minus Total DOB Amount);
- Program Cap (if applicable); and

- Final Award (Program = Final Award if Maximum Award is equal to or greater than the Program Cap).

16.2 Order of Assistance

PRDOH understands and expects that for some projects funded through this Program, other Federal forms of funding may be possible and that for each project, PRDOH will need to work with funded entities to address issues surrounding order of assistance that may arise. As part of the application process and through the life of the grant, Applicants will be required to allow PRDOH to work with COR3, FEMA, and other entities to address these issues. More detail on the order of assistance issue is discussed below.

CDBG-DR funds may not be used for activities reimbursable by or for which funds are made available by FEMA or the Army Corps. PRDOH must verify whether FEMA or Army Corps funds are available for a funded activity (i.e., the application period is open) or the costs are reimbursable by FEMA or Army Corps (i.e., the Subrecipient will receive FEMA or Army Corps assistance to reimburse the costs of the activity) before awarding CDBG-DR assistance for costs of carrying out the same project. If FEMA or Army Corps are accepting applications for the activity, PRDOH must seek assistance from those sources before the Subrecipient may receive CDBG-DR assistance. If costs for the activity will be reimbursed by FEMA or the Army Corps, PRDOH cannot provide the CDBG-DR assistance for those costs. In the event that FEMA or Army Corps assistance is awarded after the CDBG-DR funding is used to pay the same costs, it is PRDOH's responsibility to recapture CDBG-DR assistance that duplicates assistance from FEMA or the Army Corps.

16.3 Agreement to Repay

The Stafford Act requires PRDOH to ensure that Partners, Subrecipients, or Applicants agree to repay all duplicative assistance to PRDOH. To address any potential DOB, each Partner, Subrecipient or Applicant must also enter into an agreement with PRDOH to repay any assistance later received for the same purpose for which the CDBG-DR funds were provided. This agreement can be in the form of a subrogation agreement or similar document and must be signed by every Partner, Subrecipient or Applicant before PRDOH disburses any CDBG-DR assistance to the Partner, Subrecipient or Applicant.

17 General Provisions

17.1 Program Guidelines Scope

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

established program procedures and all federal and state laws and regulations in effect, as applicable, in the execution of program activities.

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

17.2 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.

17.3 Disaster Impacted Areas

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

17.4 Extension of Deadlines

The Program could extend deadlines on a case-by-case basis. The Program may decline to extend a deadline if such extension will jeopardize the Program's completion schedule or the schedule of an individual construction project. The aforementioned strictly applies to program deadlines or established program terms. Under no circumstance(s) does the faculty to extend deadlines apply to the established terms of time in any applicable federal or state law or regulation, or to the terms of times established in these guidelines to request a Program-based Reconsideration, administrative review and/or judicial review.

17.5 Established Periods of Time

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

17.6 Written Notifications

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

17.7 Conflict of Interest

As stated in the Federal Register Vol. 83, No. 28 (February 9, 2018), 83 FR 5844, Federal regulations require that State grantees, in the direct Grant administration and means of carrying out eligible activities, be responsible with program administrative requirements, including those established in 24 C.F.R. §570.489(h) related to conflicts of interest.

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

1. HUD conflict of interest regulations, 24 C.F.R. §570.611 and 24 C.F.R. §85.36;
2. The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. §200 at §200.112 and §200.318 (c)(1);
3. Puerto Rico Department of Housing Organic Act, Act 97 of June 10, 1972, as amended;
4. The Anti-Corruption Code for the New Puerto Rico, Act 2-2018, as amended; and
5. The Puerto Rico Government Ethics Organic Act of 2011, Act 1-2012, as amended.

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

As defined in the Conflict of Interest Policy and Standards of Conduct, a conflict of interest is a situation in which any person who is a public servant, employee, agent, consultant, officer, or elected official or appointed official of the PRDOH, or of any designated public agencies, or of subrecipients that are receiving funds under the CDBG-DR Program may obtain a financial or personal interest or benefit that is or could

be reasonably incompatible with the public interest, either for themselves, or with those whom they have business, or an organization which employs or is about to employ any of the parties indicated herein, or a member of their family unit during their tenure or for two (2) years after.

Such conflicts of interests will not be tolerated by PRDOH. The 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 of Government Ethics Organic Act of 2011, Act 1-2012, as amended, in regard to their conduct in the administration, granting of awards and program activities.

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

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

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

17.8 Citizen Participation

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

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

17.9 Citizen Complaints

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

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

17.10 Fraud, Waste, Abuse or Mismanagement

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

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

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

REPORT FRAUD, WASTE, ABUSE, OR MISMANAGEMENT TO PRDOH CDBG-DR	
CDBG-DR Hotline	787-274-2135 (English/Spanish/TTY)
Postal Mail	Puerto Rico Department of Housing CDBG-DR Internal Audit Office P.O. BOX 21355 San Juan, PR 00928-1355
Email	hotlineCDBG@vivienda.pr.gov
Internet	www.cdbg-dr.pr.gov

In person	Request a meeting with the Deputy Audit Director of the CDBG-DR Internal Audit Office located at PRDOH's Headquarters at 606 Barbosa Avenue, Building Juan C. Cordero Davila, Río Piedras, PR 00918.
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REPORT FRAUD, WASTE, ABUSE, OR MISMANAGEMENT DIRECTLY TO HUD OIG	
HUD OIG Hotline	1-800-347-3735 (Toll-Free) 787-766-5868 (Spanish)
Postal Mail	HUD Office of Inspector General (OIG) Hotline 451 7th Street SW Washington, D.C. 20410
Email	HOTLINE@hudoig.gov
Internet	https://www.hudoig.gov/hotline

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

17.11 Related Laws and Regulations

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

17.12 Cross-Cutting Guidelines

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

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

18 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.

19 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.