



CDBG-DR PROGRAM GUIDELINES

**FEMA COORDINATION PROGRAM
PUBLIC ASSISTANCE & INDIVIDUAL ASSISTANCE MATCH**

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1 Overview

1.1 Impact of Hurricanes Irma and María on Puerto Rico

In a two-week period in September 2017, Hurricane Irma, a Category five (5) storm, and Hurricane María, a Category four (4) storm, delivered devastating blows to Puerto Rico's mainland and two island municipalities, resulting in the largest and most complex disaster response and recovery effort in recent U.S. history. The President of the United States issued federal disaster declarations for these events. These declarations triggered eligibility for various federal disaster assistance funding programs from multiple federal agencies including the Federal Emergency Management Agency (**FEMA**), which provided Public Assistance (**PA**), Individual Assistance (**IA**) and Hazard Mitigation Grant Program (**HMGP**) funding.

Hurricane Irma made landfall on September 6, 2017 as a Category five (5) storm with winds up to one hundred (100) miles per hour. The storm cut power to an estimated two-thirds of the main island, leaving communities ravaged, and people in need of shelter and emergency care. After Irma, two-thirds (2/3) of Puerto Rico was eligible to receive federal aid including funding from FEMA. Two (2) weeks later, on September 20, 2017, Hurricane María made landfall as a Category 4 storm measuring 35 miles in width, moving across the entire Island. María destroyed the remaining power grid, an untold number of trees, and other natural assets. Public and private structures, already weakened from Irma's wind and rain, were also destroyed. María recorded wind speeds of up to one hundred fifty-five (155) miles per hour, saw river surge of up to forty-seven (47) feet, created massive mudslides and localized catastrophic flooding that reached up to thirty-eight (38) inches. With wind, rain and storm surge damage, all seventy-eight municipal governments were declared federal disaster areas and made eligible to receive federal funds.

Recognizing the devastation caused by both events, Congress appropriated additional federal recovery funding to assist Puerto Rico with its recovery including providing funding to the Department of Housing and Urban Development (**HUD**) CDBG-DR program. As part of the Government of Puerto Rico's initial CDBG-DR Action Plan that was approved by HUD that described how the CDBG-DR funds would be used, PRDOH, the administering agency, has allocated a portion of the CDBG-DR funding to be used to meet the Island's non-federal cost-share requirements for FEMA and other federal agencies' recovery programs. While HUD funds can be used as match for other federal agencies' disaster recovery programs, including but not limited to recovery programs administered by the United States Environmental Protection Agency (**EPA**), Federal Transit Administration (**FTA**), Federal Highway Administration (**FHWA**), Federal Aviation Administration (**FAA**), United States Department of Agriculture (**USDA**) and the United States Army Corps of Engineers (**USACE**), PRDOH has determined that due to the limited funding available, CDBG-DR funding is only available to address the cost share requirements for FEMA programs.

1.2 FEMA's Role and Cost Share Requirement

When a disaster of the scale of Hurricanes Irma and or María (**Hurricanes**) occurs, federal assistance is provided to supplement state and local efforts. With Puerto Rico located one thousand (1,000) miles from the continental United States, María presented unprecedented challenges for FEMA, disaster response professionals, and first responders in securing relief resources needed by the public for post-storm disaster relief. Using the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 (Stafford Act), 42 U.S.C § 5121, the President of the United States, after a federal disaster declaration, began to provide federal disaster recovery assistance that was coordinated through FEMA, which acts as the primary disaster response agency in the federal government. For a limited time, the federal government payed for one hundred percent (100%) of the cost to address these recovery needs, but after a certain point, the Government of Puerto Rico must pay for a share of the recovery efforts. This is known as the non-federal share or cost share. In most disasters, the cost share requirement is twenty-five percent (25%), however, given the level of devastation that occurred in Puerto Rico, the cost share requirement was reduced to ten percent (10%) as outlined in Table 1 below.

FEMA is providing grants through the Public Assistance (**PA**) program to assist communities in Puerto Rico with immediate, post-storm response needs. FEMA is also assisting individuals who have immediate and pressing storm-related housing needs through the FEMA Individual Assistance (**IA**) program and the Sheltering and Temporary Essential Power (**STEP**) pilot program in the PA program. Through the Hazard Mitigation Grant Program (**HMGP**) and PA programs, FEMA will be providing grants to address the long-term rebuilding, recovery, and resilience needs of communities. Each of these programs come with a non-federal cost share.

1.3 Non-Federal Share

HUD is providing CDBG-DR funds to the Government of Puerto Rico to address recovery needs from the Hurricanes. HUD allows these CDBG-DR funds to be used as the cost share, or match, for FEMA programs as long as the grantee, the PRDOH, follows and complies with all HUD requirements. Using CDBG-DR funds as the local match will ease the fiscal strain for communities struggling to recover from the catastrophic events of Hurricanes Irma and María.

The non-federal share, local match payment amount, varies by FEMA program and disaster. PRDOH, through the FEMA Coordination Program, will only provide reimbursement for the Government of Puerto Rico's cost share or local match for the portion of a project that meets a HUD eligible activity under CDBG-DR, as described below. The three (3) FEMA programs included in the FEMA Coordination Program are the:

1. Public Assistance (PA) Program
2. Individual Assistance (IA) Program

3. Hazard Mitigation Grant Program (HMGP)

Each program is controlled by the Stafford Act, 42 U.S.C § 5121, the Code of Federal Regulations, 44 C.F.R. § 13.36, 13.37 and 13.40, and the FEMA Disaster Assistance Guidance 9500 Series.

The table below shows the current, non-federal share match rate by disaster and FEMA program. The match rates below represent the maximum federal share that PRDOH may provide. On a per project basis, PRDOH may match less than the full project amount because items within the scope of work do not meet HUD CDBG-DR guidelines or because HUD-required documentation may be lacking.

TABLE 1: FEMA PROGRAMS AND COST SHARE FOR THE MATCH PROGRAM

FEMA Program	Federal Cost	Government of Puerto Rico Cost Share	Disaster
Hazard Mitigation Grant Program (HMGP)	75%	25%	Irma and María
Individual Assistance (IA)	90%	10%	Irma and María
Public Assistance (PA)	75%	25%	Irma
Public Assistance (PA)	90%	10%	María

Due to Hurricanes Irma and María being devastating back-to-back events, with a very short amount of time between Irma making landfall and María's landfall, FEMA operated under unique conditions. Specifically, for Hurricane Irma under disaster declaration, DR-4336, the FEMA PA program only allocated work to the emergency work categories, Category A-Debris Removal and Category B-Emergency Protective Measures. All permanent work from Irma, FEMA Categories C-G, is being captured in Hurricane María's disaster declaration, DR-4339. For María, FEMA is obligating funds in all categories (A-G). FEMA utilizes project worksheets (**PWs**) to document identified disaster recovery projects under each category including the location, damage description, scope of work, and cost estimate for each project.

The amount of match required for PWs under each category can vary based on the date work was completed. Table 2 identifies dates where cost shares requirements changed due to FEMA-granted waivers. Therefore, the PRDOH FEMA Coordination Program will consider the cost shares in Table 2 for the PA Match.

TABLE 2: PA MATCH RATES BY DISASTER AND PA CATEGORY

Program Type	Irma (DR-4336)	María (DR-4339)
Category A - Debris Removal	25%	10%
100% Federal Cost Share	N/A	10% after 6/17/18
Category B - Emergency Protective Measures	25%	10%
100% Federal Cost Share	N/A	10% after 5/18/18
Emergency Power Restoration	N/A	10% after 8/16/18
Emergency Temporary Power Support	N/A	10% after 9/15/18
Sheltering and Temporary Essential Power Pilot Program (STEP)	N/A	10% after 9/15/18
Category C - Roads and Bridges	Work included under DR-4339	10%
Category D - Water Control Facilities	Work included under DR-4339	10%
Category E - Buildings and Equipment	Work included under DR-4339	10%
Category F - Utilities	Work included under DR-4339	10%
Category G - Parks, Recreational, and Other	Work included under DR-4339	10%

1.4 Connection to Recovery of Most Impacted and Distressed Areas

In order for CDBG-DR funds to be used on a project, the project must show a connection to the recovery of the most impacted and distressed areas from the disasters. Every municipality in Puerto Rico was directly impacted and devastated by the Hurricanes. As a result of the devastation, HUD, when it published the most impacted and distressed communities in the Federal Register Vol. 83, No. 28 (February 9, 2018), 83 FR 5844, took the unique position of determining that every municipality in Puerto Rico qualifies as being a most impacted location. As part of the review process for this Program, and in each project file, PRDOH will document the connection to the storm and how the project meets a long-term disaster recovery need in these most impacted and distressed areas.

2 National Objective

All projects provided CDBG-DR funding need to meet a HUD national objective as defined by the Code of Federal Regulations, 24 C.F.R. § 570.483. Given that the FEMA Coordination Program will use CDBG-DR funds as match to address the wide range of recovery projects that FEMA funds, PRDOH expects that all three (3) HUD national objectives will be used in this Program.

2.1 HUD National Objectives

PRDOH anticipates that each national objective shown below will be used in this Program. PRDOH will work with entities who are funded through this Program to determine the national objective for each project. Projects in the Program will meet one of these national objectives:

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

PRDOH anticipates that the two national objectives that will be used most frequently are Low-and-moderate-income (LMI)-area benefit and Urgent Need (UN).

2.1.1 Additional Information on Determining National Objective

CDBG-DR regulations state that a project is not considered as meeting a national objective until the project is complete. Once a FEMA-funded project enters the selection process and begins to be reviewed by the PRDOH FEMA Coordination Program, PRDOH will begin to assess and determine the national objective.

3 Program Description

3.1 Introduction

The FEMA Coordination Program works to ensure that FEMA disaster recovery resources provided to entities in Puerto Rico are leveraged with CDBG-DR dollars to facilitate and ensure recovery from Hurricanes Irma and María. Following the Hurricanes, FEMA issued four (4) declarations. Two (2) initial emergency disaster declarations were made, which allowed the initial work to begin. These were followed by two (2) major disaster declarations, one for each storm. With the granting of major declarations, the prior emergency declarations were rolled into the major declarations. As a result, there are now just two (2) major declarations.

- Hurricane Irma (DR-4336)
- Hurricane María (DR-4339)

These Program Guidelines are applicable to the FEMA PA and FEMA IA Match. Separate Program Guidelines apply to the FEMA HMGP Match and, upon program roll-out, will be available at <http://www.cdbg-dr.pr.gov/>.

3.2 FEMA Public Assistance (PA) Match:

All FEMA PA Match projects submitted for CDBG-DR cost share funding will follow the guidelines outlined in this Program Guideline. The PRDOH FEMA Coordination PA Match is a reimbursement-based program that provides the non-federal share to Applicants for

the actual costs of completed eligible FEMA PA work. PRDOH plans to initially analyze PWs for both Hurricanes Irma and María for emergency work, (Category A and B) prior to reviewing PWs in the permanent work categories (Category C-G). The Government of Puerto Rico is working with FEMA to put in place a series of Public Assistance Alternative Procedures (**PAAP**) projects, known as 428 projects for all permanent, Category C-G, work across the Island. Prior to when Applicants are determined for the PAAP program, PRDOH will begin to work with them to ensure CDBG-DR compliance. Due to the time it takes to develop these very large PAAP projects, as these projects go into construction, PRDOH anticipates that it will review requests for reimbursements as projects meet certain milestones that will be worked out with the Applicant based on the type of project and funding amount. Over time, PRDOH may need to alter the practice on an Applicant by Applicant basis to review projects where work in any FEMA PA category is complete.

3.2.1 FEMA Public Assistance (PA) Categories

FEMA categorizes work based on the type of facility or project that needs to be rehabilitated, repaired, or replaced following a disaster. As previously stated, PA projects can be described as either being for emergency work or for permanent, long-term recovery work. Emergency work takes place immediately after an event and falls into two FEMA categories. Permanent work is done to repair or replace a damaged facility or asset and falls into five categories. PA Applicants may have work at the same facility that is both response and recovery related. However, when obligating funds, FEMA clearly distinguishes the work through a series of categories shown below so that funding is not being provided for the same function twice.

FEMA categorizes work in the following manner:

Emergency Work: Response Related (Categories A and B)

Category A: Debris Removal

Debris removal activities, such as clearance, removal and disposal, are eligible as Category A if the removal is in the public interest based on whether the work:

Eliminates immediate threats to lives, public health, and safety;

Eliminates immediate threats of significant damage to improved public or private property;

Ensures economic recovery of the affected community to the benefit of the community at large; or

Mitigates risk to life and property by removing Substantially Damaged structures and associated structures and appurtenances as needed to convert property acquired using HMGP funds to uses compatible with open space, recreation, or wetlands management practices. Such removal must be completed within 2 years of the declaration dates unless extended by FEMA.

Debris includes, but is not limited, to vegetative debris, construction and demolition debris, sand, mud, silt, gravel, rocks, boulders, and vehicle and vessel wreckage.

Category B: Emergency Protective Measures

Measures taken before, during and after a disaster to eliminate/reduce an immediate threat to life, public health, or safety, or to eliminate/reduce an immediate threat of significant damage to improved public and private property through cost-effective measures.

A critical Category B project for the people of Puerto Rico was FEMA's STEP program. The STEP program, a FEMA pilot program, provided life safety measure that protected public health and safety allowing the Government of Puerto Rico to perform minor emergency repairs in single-family, owner-occupied residences. These repairs allowed disaster victims to return or remain in their own homes, reducing the number of individuals who needed to stay in shelters or who would have required assistance through the IA Transitional Sheltering Assistance (**TSA**) program. STEP also allowed survivors and communities to more quickly return to normalcy by allowing schools that served as shelters to open sooner and speeding the pace of recovery for the overall community. STEP was administered by the PRDOH and was reimbursed by FEMA on a cost-share basis. Given the level of damage that occurred to the housing stock as a result of Irma and María, Puerto Rico's STEP program was very large, and over one hundred and eight thousand (108,000) homes were assisted. PRDOH will prioritize review of the STEP program and will work collaboratively with the Central Office of Recovery, Reconstruction and Resiliency (**COR3**), FEMA, and HUD so that COR3 can certify that the match payment for this critical program has been met and the contractors who provided the services are fully reimbursed. **Permanent Work: (C-G) Recovery Related**

The PWs in the permanent work, recovery categories (Category C-G) will be 428 projects and have been taking time for FEMA to formulate and fund. Upon further identification and funding of 428 projects, this section will be updated. Below is short description of the types of work being formulated into 428 projects.

Category C: Roads and Bridges

Repair of roads, bridges, and associated features, such as shoulders, ditches, culverts lighting, and signs.

Category D: Water Control Facilities

Repair of drainage channels, pumping facilities, and some irrigation facilities. Repair of levees, dams and flood control facilities fall under Category D, but the eligibility of these facilities is restricted.

Category E: Buildings and Equipment

Repair or replacement of buildings, including their contents and systems; heavy equipment and vehicles.

Category F: Utilities

Repair of water treatment, and delivery systems; power generation facilities, and distribution facilities; sewage collection and treatment facilities; and communications.

Category G: Parks, Recreation Facilities, and Other Facilities

Repair and restoration of parks, playgrounds, pools, cemeteries, mass transit facilities, and beaches. This category also is used for any work or eligible publicly owned facility that cannot be characterized by Categories A-F.

3.3 FEMA Individual Assistance (IA) Match:

The FEMA IA program is authorized under Sections 403 and 408 of the Stafford Act, 42 U.S.C. §§ 5170b, 5174. The IA program provides a variety of assistance that is designed to help meet disaster survivors' immediate sustenance, shelter, and medical needs after the storm. The Government of Puerto Rico is required to provide a twenty-five percent (25%) cost share for the FEMA IA program. The FEMA Coordination Program will only provide the match for one IA program, the Transitional Sheltering Assistance (TSA) Program. The TSA Program provided assistance to Applicants who were unable to return to their primary residence because their home was either uninhabitable or inaccessible due to Hurricanes Irma or María. Disaster survivors stayed in a FEMA selected participating hotel or motel for a limited time period, with the cost of the room and taxes covered by FEMA. Payment for the hotel rooms was made by FEMA directly to the hotel and FEMA only covered the cost of room. Other incidental costs and food charges were disallowed and removed from the bill when FEMA paid the hotel.

The IA match portion of the Program will utilize and follow procedures and guidance that HUD Community Planning and Development (CPD) provided to two other CDBG-DR grantees, the State of New York and New Jersey who also made TSA match payments following Sandy in 2015. Based on the length of time that Irma and María disaster survivors needed to stay in hotels in the TSA Program before they could return to their homes in Puerto Rico, it is possible that not all of the TSA match amount required by FEMA to be provided by Government of Puerto Rico will be able reimbursed using CDBG-DR funds.

3.4 FEMA Coordination Payment Policy

The FEMA Coordination Program payment process is designed to ensure compliance with HUD CDBG-DR regulations while also making, managing, and running the program

efficiently. The payment system is designed to reduce red-tape for sub-recipients since they will have their match payments reimbursed using an existing, federally-compliant payment system through which they receive the FEMA funding. For the FEMA Coordination Program- PA and IA Match, PRDOH will execute an Interagency Agreement with COR3 so that COR3 may utilize this payment system to reimburse entities for the cost share from CDBG-DR funds. PRDOH will enter into subrecipient agreements (**SRAs**) with each entity that will stipulate that the match payment and payment will flow through the COR3 system. The written agreements with COR3 and subrecipients in this program will also outline payment terms and other requirements.

Language in the SRA will outline the program requirements and payment process, including informing PA Applicants that documentation may be needed to verify project eligibility. Mandatory technical assistance will be provided by PRDOH to ensure projects remain compliant. Applicants will be made aware that additional document collection maybe necessary prior to PRDOH processing a match payment request. Additional language in the SRA will ensure that other HUD CDBG-DR required processes are followed, including but not limited to items referenced in the General Provisions section of this document. Entities participating in the Program will be required to comply with applicable CDBG-DR and PRDOH Program requirements.

For the Government of Puerto Rico and its agencies, the PRDOH will enter into inter-agency agreements for reimbursement of the cost share through the Program. The Interagency Agreement will require similar coordination and the same level of compliance as the SRAs in order to ensure these projects follows CDBG-DR requirements.

3.4.1 FEMA PA Payment Process

The PA match portion of the Program supports the recovery efforts of a wide range of public entities across Puerto Rico including, but not limited to, units of local government, eligible not-for-profit entities, and Government of Puerto Rico's agencies. All match payments will be dependent on verification that work is CDBG-DR eligible and that adequate supporting documentation is maintained in the PRDOH PA match data system. All PRDOH FEMA Coordination PA Match payments will be reimbursement-based. Depending on the type and category of work, PRDOH will issue either a single or multiple match payment.

The FEMA PA match will be the largest of the cost share programs in terms of volume and reviews. As mentioned previously, the financial payment system that PA Applicants use to obtain their FEMA federal share is managed and run by COR3. This same system will be utilized by COR3 to provide PA Applicants with the CDBG-DR, non-federal share of the FEMA funds.

Managed by the COR3 Finance division, this process will efficiently allow match payments to flow to CDBG-DR eligible Applicants. By using the existing payment system to provide the match payments, Applicants will be able to receive both the federal share, seventy-five percent (75%) or ninety percent (90%), and non-federal share, twenty-

five percent (25%) or ten percent (10%), match amount through the same system with funds going into the same account. Both agencies will work together to ensure that Applicants comply with FEMA and HUD regulations. PRDOH will provide oversight on HUD requirements and COR3, on FEMA regulations.

Payment processing includes PRDOH program staff conducting an eligibility review of the specific project to ensure it has sufficient documentation to support a match payment. PRDOH will then request CDBG-DR funds from HUD using the HUD Disaster Recover Grant Reporting (**DRGR**) system.

Once the CDBG-DR funds for the program are provided to PRDOH, PRDOH will transfer the funds to COR3 who will then distribute the match payment to the specific entity. Tracking of each match payment will occur by PW and Applicant. COR3 will provide confirmation to PRDOH that the funds have been transferred to each Applicant. In each project's file, a transactional record will show the amount of CDBG-DR funds requested for each PW along with a voucher or record number that shows that the amount of funding was transferred via COR3 to the Applicants.

For the IA match Program and PA Match Category A and Category B work, PRDOH plans to only issue one match payment after the work has been completed. For FEMA PA match Category C-G work, due to the program operating a series of 428 projects, PRDOH anticipates that it will issue payments at intervals which will be determined based on the type and size of the 428 projects.

The level of review that a match payment receives before a funding request is sent to HUD, will be based on the amount of the match payment. When the match payment is less than \$1,000,000, the request will be reviewed by FEMA Coordination Program staff and a recommendation will be made to PRDOH finance to submit the request for funding. will, at its discretion, review the funding request and documentation. PRDOH's PRDOH monitoring team will conduct reviews of the project based on a Program risk matrix. The Program's risk matrix takes into account the number of PWs an Applicant has, the FEMA category of work, the size of each project (large or small) and dollar value of the project. These factors are given weights to determine risk. For projects that have match payments exceeding \$1,000,000, PRDOH will have an enhanced review procedure that will include having the PRDOH monitoring and oversight teams, review the funding request before a draw request is submitted to PRDOH finance, who will request the funds from HUD. For match payments that exceed \$5,000,000, in addition to following the enhanced process, PRDOH will inform and work with HUD to ensure that the regional and national office is aware that a large funding request is being prepared.

3.4.1.1 [Payment Process for Government of Puerto Rico Plan Agencies](#)

Government of Puerto Rico facilities were also impacted by the Hurricanes and have eligible FEMA PA work similar to municipal governments. For some Government of Puerto Rico agencies that have annual appropriations and are in the General Fund of the State Treasury for the expenses of the Government of Puerto Rico to ensure that full cost share

payments can be made to contractors throughout the construction phase, the Government of Puerto Rico provides access to funds that are managed by the Government of Puerto Rico Department of the Treasury. These funds are in a dedicated disaster account. The agencies use these funds for eligible FEMA PA work with the understanding that the agency must also be working collaboratively with PRDOH to ensure that the projects funding remains CDBG-DR eligible.

The projects, while initially using Government of Puerto Rico funds as match to pay contractors need to be reimbursed with CDBG-DR funding to offset the negative fiscal impact that the projects have on the Government of Puerto Rico's budget. PRDOH, working in collaboration with COR3, will coordinate with these agencies to ensure that, with the closing of the Government of Puerto Rico fiscal year, any non-federal cost share provided during the fiscal year for projects by these agencies is reimbursed with CDBG-DR funding. After performing an eligibility review and using its standard operating procedures, PRDOH will draw funds and provide the match payment for these agencies to COR3. COR3 will then route the match payment back into the Government of Puerto Rico disaster recovery account. COR3 will then provide confirmation that the match payment was received.

3.4.2 FEMA IA Payment Process

PRDOH will work with COR3 and FEMA's IA section on the IA Match, reimbursing the Government of Puerto Rico for the cost share. As previously outlined, the Program will only provide the match for the Transitional Sheltering Assistance (TSA) Program. FEMA's IA section will provide documentation to the Government of Puerto Rico, via COR3 that PRDOH needs to determine CDBG-DR eligibility. This information will be transferred to COR3 who will provide the data and documentation to PRDOH. PRDOH will then review the files for HUD eligibility. PRDOH's will review all TSA documentation to ensure that all payments are made in accordance with the HUD guidance and CDBG-DR regulations. PRDOH will, after its review, request funds from HUD. PRDOH will provide the TSA match payment to COR3, who will transfer the funds to the Government of Puerto Rico. COR3 will certify with FEMA that the twenty-five percent (25%) match has been provided.

4 Eligible Use of Funds

Funds in the FEMA Coordination Program can only be used to support and reimburse projects that address the cost share requirement of three (3) FEMA programs- PA, IA and HMGP. Information on eligible use of funds for the FEMA HMGP Match Program will be found in separate Program Guidelines upon program roll-out at <http://www.cdbg-dr.pr.gov/>.

FEMA provides funding for a wide range of projects including repairing and replacing public facilities, acquiring homes and property so that families can reside in safer areas, stabilizing damaged homes until long term repairs can take place, clearing debris and providing the cost share for public service activities like hotel stays for survivors after the Hurricanes. The eligible use of funds in this program are designed to support the wide

range of FEMA projects with FEMA providing either seventy-five percent (75%) or ninety percent (90%) of the project's total funding and CDBG-DR providing the remaining amount.

4.1 Eligible Activities

All projects provided CDBG-DR funding need to meet a HUD eligible activity as defined by Section 105(a) of the Housing and Community Development Act (HCDA), as amended, 42 U.S.C. § 5305. When CDBG-DR funds are used as match for another federal entity, HUD requires that not only must the project meet the requirements of the primary federal agency and the non-federal match activity (HCDA, as amended, 42 U.S.C. § 5305(a)(9)) but the grantee must demonstrate that the eligible activity meets one (1) additional HUD eligible activity as shown below.

PRDOH anticipates using any of the eligible activities shown below as determined on a project-by-project basis for the PA and IA FEMA programs:

HUD Eligible Activities	PA	IA
Non-Federal Share 105(a)(9) AND	X	X
Public Facilities 105(a)(2)	X	X
Clearance- Debris Removal 105(a)(4)	X	
Public Services 105(a)(8)	X	X
Non-Federal Share 105(a)(9)	X	X
Planning 105(a)(12)	X	X

5 Program Eligibility

5.1 Eligible Applicants

Eligible Applicants for the PRDOH FEMA Coordination Programs - PA and IA Match will be based on FEMA determining that the Applicant is eligible to receive funding from either the FEMA IA or PA program. Based on FEMA determining that the entity is eligible, PRDOH will directly contact the entities to assess if they wish to take part in the specific FEMA Coordination Program. As part of PRDOH's outreach effort, potential Applicants to the Program, will be informed about PRDOH and HUD-specific requirements with which they will need to comply. These entities will then decide if they wish to take part in the PRDOH FEMA Coordination Program.

5.1.1 FEMA- Public Assistance (PA) Program

To participate in the PRDOH FEMA Coordination Program- PA Match, an eligible entity must have first applied to FEMA for entry into the PA program, been approved by FEMA, and have demonstrated to FEMA that the entity had storm-eligible work and is eligible to receive federal funds. After being accepted into the PA program, the Applicant must also demonstrate that the projects' PWs submitted through COR3 to FEMA for funding

are for work tied to damages resulting from Hurricane Irma or María. Only public entities, and eligible specific not-for-profit entities are eligible for PA funding. Private companies and private utilities cannot receive FEMA PA funding and therefore they are not eligible for the FEMA Coordination Program. Below are examples of the types of eligible entities that PRDOH anticipates participating in the PA match portion of the Program, as these types of entities will have PA eligible work:

- Government of Puerto Rico Agencies, Public Authorities, Trusts and Boards
- County Governments (including departments and divisions)
- Local and Municipal Governments (including departments and divisions)
- Free-standing local and municipal governments (libraries, parks, fire departments, first responder facilities, and wastewater treatment facilities, etc.)
- Public Schools, including School Districts and Charter schools
- Public Universities and Colleges
- Public Hospital and Health Systems
- Nonprofits determined by FEMA to be eligible to receive funding

5.1.2 FEMA- Individual Assistance (IA) Program

FEMA operates the IA program by providing funding to the Government of Puerto Rico. The Government of Puerto Rico is responsible for the cost share. The only entity able to receive reimbursement for cost share in the IA program is:

- Government of Puerto Rico – through COR3

6 Project Selection

The FEMA Coordination Program provides the match or non-federal share for (3) FEMA programs – PA, IA and HMGP. Separate Program Guidelines apply to the FEMA HMGP Match Program and upon program roll-out will be available at <http://www.cdbg-dr.pr.gov/>.

To minimize the need for Applicants to provide the same documentation twice, PRDOH, through its relationship with COR3, has access to and will analyze FEMA and Government of Puerto Rico databases to obtain HUD-required documentation to determine Program eligibility. If not all the required documentation needed to prove eligibility is maintained in these databases, PRDOH will work directly with the Applicant to obtain the needed documentation. As required for CDBG-DR compliance, each project must show that an environmental review has been conducted. PRDOH will use the Federal Register Vol. 83, No. 28 (February 9, 2018), 83 FR 5844, notice that allows PRDOH to utilize environmental reviews that were conducted by FEMA. PRDOH will issue a match reimbursement only after reviewing and ensuring that required supporting documentation for the project is maintained in the PRDOH database and that the project meets CDBG-DR and PRDOH requirements.

Since CDBG-DR funding for this program is reimbursement-based, and all FEMA projects are required to have an environmental review before being obligated, PRDOH will first

review completed projects that have a completed FEMA environmental review. After ensuring that the environmental review is present, PRDOH will secondarily conduct reviews based on work completion and/or the status of large construction projects where FEMA funding has been expended. Given that municipal governments and agencies of the Government of Puerto Rico are conducting a significant portion of the PA recovery work on the Island, PRDOH will initially focus on working with units of government before reviewing work from other Applicants. Given the level of debris and emergency related work that needed to be done post-storm, PRDOH will initially prioritize reviews for work in the PA program in these categories.

Within the PA program, it is expected that work in the emergency work, response categories (A&B), will be completed before long-term, permanent recovery work (C-G). Also, it is anticipated that small projects will be completed prior to large projects. Below are five (5) factors PRDOH will assess when conducting project reviews.

1. Type of FEMA Funds – IA or PA
2. Environmental Review – Is Federal Agency's Review Present
3. Work Completion Date
4. Location
5. FEMA Public Assistance Category (A-G)
6. FEMA Public Assistance Project Size (Large or Small)

6.1 Type of FEMA Funds

PRDOH is only providing the match on one (1) IA program, TSA, which has closed. The PA match program however, will be active throughout the life of the FEMA Coordination Program. PRDOH will conduct reviews of FEMA programs concurrently. After the IA match payment has been made, PRDOH will continue to review PA projects from both Hurricanes concurrently. Below is the order of how PRDOH will select projects for review.

1. FEMA Individual Assistance (IA)
 - a. Transitional Sheltering Assistance (TSA)
2. FEMA Public Assistance (concurrently)
 - a. Hurricane María (DR-4339)
 - b. Hurricane Irma (DR-4336)

6.2 Environmental Review

FEMA conducts an environmental review for each project prior to obligating funds and before the Applicant can begin work. PRDOH has accepted and plans to utilize FEMA's Environmental Review for the FEMA Coordination Program. All CDBG-DR projects require an environmental review and proof of a completed environmental review must be maintained in the projects file. A copy of the FEMA environmental review may not initially be contained in the project documentation. As a result, when PRDOH begins to review a project for eligibility it will prioritize projects where the FEMA Environmental Review,

known as the Record of Environmental Consideration (**REC**), is present and contained in the program file.

For some types of work, while FEMA has reviewed the project and made a determination that there is no environmental impact, it does not record and place a REC in the projects file. For PA projects where the FEMA REC is not present, PRDOH will work with COR3 to confirm and obtain the FEMA environmental review for the file before initiating a review. In cases where FEMA's Environmental and Historic Preservation Team (**EHP**) team has determined that no environmental review was needed and a REC will not be placed in the project file, the FEMA Coordination Program will work with the PRDOH environmental certifying officer so that they can review the project file to concur with the FEMA EHP decision. A HUD environmental review will then be conducted and placed in the file and the project will be reviewed for eligibility.

6.3 Work Completion Date

This program is reimbursement-based. PRDOH coordinates with COR3 to determine completion status for all projects. PRDOH will analyze FEMA and the Government of Puerto Rico's databases so that it can obtain HUD required documentation to assess work completion. For projects in Categories A and B, emergency work, projects have generally been completed and PRDOH will analyze these projects after completion. PRDOH also has access to payment data for the programs which will be used to document when work is complete. For the Categories C-G 428 large projects, this payment data can be used to see when FEMA has issued a progress payment. For Applicants with 428 projects, where the dollar value of the projects is very large and the work is expected to be ongoing for long periods of time, PRDOH will work with COR3 and Applicants throughout the life of project to ensure that as phases of work are complete. Then, after FEMA issues a progress payment, PRDOH will reimburse the remaining cost share of the work.

6.4 Location

Every municipality in Puerto Rico was determined by HUD to be most impacted and distressed and all seventy-eight (78) municipalities have PWs eligible for cost share funding. As is required by HUD and shown in the Federal Register at 83 FR 5844 and the Puerto Rico CDBG-DR Action Plan, seventy percent (70%) of the total CDBG-DR allocation will need to be used on projects that benefit LMI persons and communities. While initially, location-based prioritization will not occur within the FEMA Coordination Program, in the future, PRDOH expects that it will need to prioritize reviews for projects that benefit LMI areas. To address the needs of specific locations and attempt to benefit the largest number of Puerto Ricans, initial PRDOH reviews will focus on locations that cover wide geographic areas, namely projects undertaken by Government of Puerto Rico agencies or municipal governments who are conducting a significant portion of the recovery work within their jurisdictions. After reviewing completed work by these entities, PRDOH will analyze work by other entities, including those shown below.

1. Hurricanes Irma / María Government of Puerto Rico agencies and Authorities

2. Hurricanes Irma / María Municipal Governments and Divisions
3. Hurricanes Irma / María – Other Governmental entities eligible for FEMA PA
4. Hurricanes Irma / María – Not-for-Profits entities eligible for FEMA PA

6.5 FEMA Public Assistance Categories

FEMA categorizes work based on the type of facility and the work that needs to be done. The type of facility groupings are shown as categories as referred to in the abovementioned of FEMA Public Assistance (PA) Categories of these Guidelines. The type of work that needs to be done is organized as either for emergency, post-storm response work (Category A or B), or for permanent work, which is long-term recovery related, that is captured in categories C-G. PA Applicants can have work at the same facility that is in response and recovery categories.

Since emergency work (Category A & B) takes place immediately after an event, it is expected to be complete and ready for review prior to the recovery work (Category C-G). PRDOH will prioritize and initially analyze PWs in the response categories (Category A and B) prior to reviewing work in the recovery categories (Category C-G) which are expected to be 428 projects.

An essential Category B project for Puerto Rico was the STEP program. PRDOH will initially prioritize review of PWs that are in the STEP program so that the Government of Puerto Rico can certify to FEMA that the match payment for this very large and critical program has been met and contractors who took part in the program are reimbursed for work.

6.6 FEMA PAAP 428 Program Category C-G Work

The Government of Puerto Rico, via COR3, is working with FEMA to put in place a series of Public Assistance Alternative Procedures (PAAP) projects, known as 428 projects for all permanent work (C-G). FEMA through its grant agreement with the Government of Puerto Rico has indicated it plans to use 428's to address the long-term rebuilding of assets damaged by the Hurricanes. Project formulation and agreement for 428 projects can be a lengthy process and the Government of Puerto Rico is still in the process of developing the scopes of work for 428 projects with FEMA. As the type and number of 428 projects becomes clearer, PRDOH will update and provide more detail on prioritization and review of 428 projects as these projects will take a considerable amount of time to be completed.

6.7 Project Size

When FEMA obligates a project worksheet, FEMA categorizes projects as small and large projects. This categorization is designed to facilitate review, approval, and funding of projects. The difference between small and large projects is determined by the annual Consumer Price Index (CPI) at the time of the disaster. For fiscal year 2017, the small project threshold for emergency or permanent work is \$123,100. All projects that have a total project cost that exceeds this threshold are classified as large projects.

For most disasters, the majority of PWs are small projects, while most of the total costs are captured in large PWs. In Puerto Rico, it is anticipated that small projects will be complete and available for review and reimbursement first. Then, over time, it is anticipated that more large projects will need to be reviewed. Due to the level of devastation that occurred from the Hurricanes, it is anticipated that most PA work will be captured in large projects.

While FEMA does not typically collect the same amount of documentation for small projects as large projects, PRDOH, through its project review process, will collect documentation equally for large and small projects to determine eligibility. For small projects, PRDOH will work with entities through its document collection process to obtain the needed documentation. For work in categories A and B, PRDOH plans to only issue a single reimbursement, however for work completed in the permanent work or recovery categories (C-G) including work captured in FEMA 428 projects, multiple payments may occur.

7 Program-Based Reconsideration and/or Administrative Review

The PRDOH FEMA Coordination Program works in tandem with COR3 and FEMA. By the time Projects within this program are reviewed for HUD eligibility, they will have undergone a review and received a FEMA determination of eligibility that provides a connection to one of the Hurricanes. CDBG-DR funds are only provided after the FEMA funding for the project has been determined and assessment of CDBG-DR compliance is complete. Program-based reconsiderations and/or administrative reviews are therefore expected to be minimal.

For the larger 428 projects, program-based reconsiderations and/or administrative reviews are expected to be minimal, as well, since PRDOH will be working with the Applicants and COR3 to certify that the work is FEMA eligible and that documentation and activity is sufficient to meet CDBG-DR requirements.

7.1 Reconsideration Request

Applicants may file a Program-based Reconsideration Request when it is believed there is an error with Program eligibility determinations, Program award, and/or failure to meet construction standards, among other determinations. An Applicant must submit a written Reconsideration Request directly with the FEMA Coordination Program within **twenty (20) days** of being notified of the determination, as outlined in the notice. Applicants who file a Program-based Reconsideration Request are encouraged to provide individual facts or circumstances, as well as supporting documents to justify their petition. The date of notification is that on which the FEMA Coordination Program determination was sent to the Applicant.

In the Reconsideration Request process, the FEMA Coordination Program will only review facts and information already included in an Applicant's file, unless the Applicant submits new documentation. The FEMA Coordination Program has the discretion to accept or

reject new documentation based upon its relevance to the Program-based Reconsideration Request.

The FEMA Coordination Program will assess the relationship of Reconsideration Request to the Program within **fifteen (15) days** of its receipt. This process is necessary in order to determine if the request is tied to a FEMA-related decision or a CDBG-DR-related decision. As part of this assessment, PRDOH will need to coordinate with COR3 on any administrative review or appeal request for this Program to determine if the request is tied to a FEMA coordination.

If COR3 determines that the request received is tied to a FEMA-related decision, the participant will be referred to COR3. The participant will then need to work through the COR3/FEMA appeals process as shown in 44 C.F.R § 206.206. As part of the COR3 and PRDOH coordination effort and in the interagency agreement, a process to address audits and other functions is described and defined.

On the contrary, if the request is not tied to a FEMA-related decision, then the FEMA Coordination Program will review and address the Reconsideration Request within **fifteen (15) days** of its receipt. Applicants will be notified of the reconsideration determination via a Reconsideration Request Approved or a Reconsideration Request Denied notification. Applications with an approved Reconsideration Request will return to active Program status and continue with the process as normal. Applications with a denied Reconsideration Request will remain ineligible for the FEMA Coordination Program.

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

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

7.2 Administrative Review Request

If an Applicant disagrees with a Program determination, or with the Reconsideration Request Denial determination, said party may file directly to PRDOH, as grantee, an Administrative Review Request. The Applicant must submit such request, in writing, within **twenty (20) days** of being notified of a Program determination or a Reconsideration Request Denial determination. The date of notification is that on which a determination was sent to the Applicant.

Applicants who submit an Administrative Review Request must follow the procedure established in Regulation 4953. After the Administrative Adjudicative Procedure

concludes, Applications with approved Administrative Review Requests will return to active Program status and continue within the process as normal. Applications with denied Administrative Review Requests will remain ineligible for the FEMA Coordination Program.

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

If the Applicant fails to file a program-based Reconsideration Request, or to contest a determination under the Administrative Adjudicative Procedure with PRDOH within the time allotted, the inaction will be deemed as an acceptance of the determination.

8 CDBG-DR Compliance

8.1 Environmental Review

FEMA conducts an environmental review for each project prior to obligating funds and before the Applicant can begin work. PRDOH has accepted and plans to utilize FEMA's Environmental Review for the FEMA Coordination Program. All CDBG-DR projects require an environmental review and proof of a completed environmental review must be maintained in the projects file. A copy of the FEMA environmental review may not initially be contained in the project documentation. As a result, when PRDOH begins to review a project for eligibility it will prioritize projects where the FEMA Environmental Review, known as the Record of Environmental Consideration (**REC**), is present and contained in the program file. **A brief review of the project scope and environmental review will be conducted to verify that the environmental review is still applicable to the proposed project. If still applicable, a Request for Release of Funds will be prepared for inclusion into the project file. If not applicable, a re-evaluation in accordance with 24 C.F.R.§ will be required.**

For some types of work, while FEMA has reviewed the project and made a determination that there is no environmental impact, it does not record and place a REC in the projects file. For PA projects where the FEMA REC is not present, PRDOH will work with COR3 to confirm and obtain the FEMA environmental review for the file before initiating a review. In cases where FEMA's Environmental and Historic Preservation Team (**EHP**) team has determined that no environmental review was needed and a REC will not be placed in the project file, the FEMA Coordination Program will work with the PRDOH environmental certifying officer so that they can review the project file to concur with the FEMA EHP decision. A HUD environmental review will then be conducted and placed in the file and the project will be reviewed for eligibility.

8.2 Duplication of Benefits (DOB)

A duplication of benefits (**DOB**) occurs when financial assistance is received from another source for the same purpose as the CDBG-DR funds. PRDOH is prohibited from making a blanket determination that CDBG-DR assistance, under the FEMA Coordination Program, does not duplicate another source of assistance. In addition to FEMA funding, which is provided with each project, other sources of funding include FEMA, SBA, local or Puerto Rico funding, insurance or other financial assistance programs. FEMA, as part of its obligation process, conducts a duplication of benefits review process and removes any DOB items from the scope of work prior to obligation. The FEMA DOB process is captured through the document review process. Therefore, while it is highly unlikely that additional DOB may be discovered, PRDOH will perform a DOB analysis for each project in this Program using the FEMA Coordination DOB worksheet which will be maintained in the specific project file.

8.3 Labor Standards

All Applicants who receive CDBG-DR funding to cover their local match share payment are required to comply with all CDBG-DR requirements, including those enumerated under the Davis Bacon Act. The CDBG authorizing statute requires that laborers and mechanics employed by contractors and subcontractors on construction work financed in whole or in part with CDBG funds be paid not less than locally prevailing wages, as determined by the United States Department of Labor (**DOL**) under the Davis Bacon Act, 40 U.S.C. § 3141-3148, and HCDA 42 U.S.C. § 5310. These Davis-Bacon provisions ensure that when disaster recovery work is financed with CDBG-DR assistance, construction workers are paid the appropriate wage rate prevailing in the locality where the work is performed, furthering economic recovery.

PRDOH analyzes each FEMA PA PW and will communicate with Applicants to ensure that these regulations are adhered to through its document collection, technical assistance, and monitoring protocols for Applicants. Based on how the FEMA PA program operates and the guidance that the DOL provided to HUD on Davis-Bacon applicability in 2015, PRDOH will review each FEMA PA project for Davis-Bacon applicability. Most of the compliance requirements related to the Davis-Bacon Act will take place within the permanent work categories (C-G) as these FEMA categories have construction related activities that would exceed \$2,000.

8.4 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 § 135. 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, state, 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. The Section 3 requirement is unique to HUD and is not a FEMA requirement so Public Assistance Applicants may not be aware of this statute at the time of FEMA funding for the PA projects. 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 each FEMA project adheres to Section 3 regulations when applicable.

The FEMA PA program operates with an understanding that some Applicants will undergo work using existing labor force, while others will use a combination of existing personnel and contracted labor. In addition, some categories of work do not include construction activity. While PRDOH will review each FEMA PA project for Section 3 applicability, most of the compliance requirements related to Section 3 will take place within the permanent work categories (C-G) as these categories have construction related activities that are likely to have procurement activities.

8.5 Minority Women Owned Business Enterprise (MWBE) Requirements

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. Many Public Assistance applicants are not aware of these statutes, at the time that FEMA funding, is provided for the PA projects. MWBE goals are an important part of HUD CDBG-DR programs and are a common area of review by FEMA and HUD.

MWBE compliance in Puerto Rico is ensured by requiring, as applicable, subrecipients, program partners and contractors to make best efforts to achieve an overall M/WBE 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 M/WBE goals, subrecipients may submit a request for a M/WBE 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.

The FEMA Coordination Program operates with an understanding that some Applicants will undergo work using existing labor force, while others will use a combination of existing personnel and contracted labor. While PRDOH will review each FEMA PA project for MWBE applicability, most of the compliance requirements related to MWBE will take place within the permanent work categories (C-G), as these categories have construction related activities that are likely to have procurement activities.

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 each FEMA project adheres to MWBE regulations when applicable

8.6 Monitoring

All Applicants who receive CDBG-DR funding are required to comply with all CDBG-DR requirements, including those relating to monitoring. PRDOH must ensure compliance with HUD regulations, which includes but is 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 CDBG-DR Action Plan and Action Plan Amendments.

The PRDOH FEMA Coordination Program will utilize a combination of remote monitoring and on-sight monitoring for the program. Monitoring for specific projects will begin only after a match payment has been made and in coordination with the FEMA Coordination risk assessment. This risk assessment will inform the frequency of monitoring and what additional quality assurance and quality control measures would occur prior to a match payment being made.

All Applicants that have completed FEMA-defined large PWs, as per the Project Size section of this document, will have on-sight monitoring performed at least once after a match reimbursement payment is made. The PRDOH will only perform desktop (remote) monitoring for Applicants who have FEMA-defined small PWs, as per the above referred section. PRDOH will determine the amount of FEMA defined small PWs to monitor based on budgetary restrictions and internal program determinations. All desktop (remote) monitoring will occur once the PW is confirmed completed and COR3 notifies PRDOH that the PW is one hundred percent (100%) complete. The FEMA Coordination Program team and/or PRDOH may decide to increase monitoring or require on-sight reviews if discrepancies are found through the monitoring process or if audits by FEMA or the Government of Puerto Rico result in findings or concerns regarding the Applicant.

9 Project Closeout

Project closeout is the process by which PRDOH determines that an individual project has been successfully completed. Given that the FEMA Coordination Program provides the match for FEMA PA and IA projects, project closeout will need to occur in coordination with COR3 and FEMA. For CDBG-DR funded projects, a project will be deemed to be complete upon final review and/or inspection by PRDOH and the submission of proof

that all approved FEMA work has been completed. Because FEMA programs traditionally take longer to close-out than HUD CDBG-DR projects, PRDOH will work with COR3 to develop processes that show which funded projects have no future work and that no audit or open issues remain. PRDOH anticipates that project closeout will happen at multiple points in time during the Program, once FEMA related work is complete and COR3 can certify that no future work on the project will take place.

For projects comprised of having both CDBG-DR funds as well as FEMA funds, project closeout will only occur when all funds are spent on the project, not just the CDBG-DR funds. PRDOH will solely determine if all the requirements for a specific project have been completed and if project closeout should occur. After all projects are closed out, PRDOH will enter Program close out. PRDOH will make this assessment and will initiate closeout at a time deemed necessary to meet CDBG-DR, Program, and any other requirements.

9.1 Project Closeout Procedures

Project closeout will begin when:

- All project expenses related to the CDBG-DR match payment, except closeout costs, if any, have been paid on the project by PRDOH;
- When COR3 has certified that the federal share for the project has been paid and that no more FEMA federal share funds for the project will be provided;
- When COR3 has certified that all Approved project work has been completed and no future work will take place;
- Any responsibilities detailed in an interagency or subrecipient agreement or other binding agreements with PRDOH, including agreements the sub-recipient has with FEMA, have been fulfilled;
- All monitoring or audit findings have been cleared, whether with HUD or FEMA.

Project closeout consists of:

- A closeout request, with applicable project documents attached, submitted to PRDOH for review;
- PRDOH review of closeout documents and resolution of any outstanding issues;
- A project closeout letter/memo is placed in the projects file;
- A final HUD quarterly narrative report submitted to reflect the project's status;
- An updated project in HUD's Disaster Recovery Grant Reporting (DRGR) system.

10 General Provisions

10.1 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.

10.2 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.

10.3 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, longterm 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 program guidelines apply to all 78 municipalities of Puerto Rico.

10.4 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.

10.5 Established Periods of Time

Unless otherwise specified, all established periods of time addressed in this and all CDBGDR 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.

10.6 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.

10.7 Conflict of Interest

PRDOH, Program officials, their employees, agents and/or designees are subject to state ethic laws and regulations in regards to their conduct in the administration, granting of awards and program activities.

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 his/her 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 aforementioned.

The aforementioned 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. For more information on how to contact PRDOH, please refer to www.cdbg-dr.pr.gov.

10.8 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. For more information on how to contact PRDOH, please refer to www.cdbg-dr.pr.gov.

10.9 Related Laws and Regulations

This Program Guideline makes 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.

10.10 Cross-Cutting Guidelines

Some federal and local requirements apply to all programs funded by CDBG-DR. Known as "Cross-Cutting Guidelines" they cover topics such as: financial management; environmental review; labor standards; acquisition; relocation; and fair housing; among others. Some cross-cutting guidelines are particularly important to infrastructure and construction related projects, including projects that will be funded through the FEMA Coordination Program.

The requirements described in the Cross-Cutting Guidelines, apply to all programs and sub-programs including the FEMA Coordination Program. As part of PRDOH partnership with recipients in the FEMA Coordination Program, PRDOH will provide technical assistance and training to recipients regarding these Guidelines. As projects in this Program go into construction and into differing phases, the PRDOH Program staff is committed to working with entities to ensure that they remain compliant until project close out. Sub-Recipients of FEMA Coordination Program are urged to review these Guidelines as they apply to all programs in PRDOH's CDBG-DR Action Plan and its amendments. Please refer to the Cross-Cutting Guidelines found at www.cdbg-dr.pr.gov for more information.

11 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.

12 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.