



DEPARTMENT OF
HOUSING



CDBG-DR PROGRAM GUIDELINES

**RE-GROW PUERTO RICO URBAN-RURAL
AGRICULTURE PROGRAM**

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PUERTO RICO DEPARTMENT OF HOUSING
 CDBG-DR PROGRAM GUIDELINES
RE-GROW PR URBAN RURAL AGRICULTURE PROGRAM
 VERSION CONTROL

VERSION NUMBER	DATE REVISED	DESCRIPTION OF REVISIONS
1	August 14, 2020	Original Version.
2	February 2, 2021	Edited Eligible Entities section to include agricultural businesses as a priority group. Added a Closeout section. Added USDA links about non-food crops and Program Based Reconsideration/Administrative Review language.
3	March 18, 2021	Edits were made throughout the document. For convenience and ease of reference, all edits are marked in gray.
4	April 20, 2021	Edited Section 6.1.4 and Section 7.
5	December 14, 2021	Edits were made throughout the document. For convenience and ease of reference, all edits are marked in gray.

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1 Overview

In September of 2017 Hurricanes Irma and María (the **Hurricanes**) produced sustained winds and intense rainfall that decimated agricultural production across the island of Puerto Rico. These Hurricanes caused the loss of eighty percent (80%) of crop value island wide, exacerbating challenges to food security and agricultural business development. The Puerto Rico Department of Agriculture (**PRDA**) estimated seven hundred and eighty million dollars (\$780 million) worth of damages from the Hurricanes, to the agricultural sector of the economy.¹

Agricultural activity in Puerto Rico has experienced a declining trend for much of the last **fifty (50) years**. Global markets have reduced commodity prices and the draw of higher wages offered by incentivized industrialization in urban areas has steadily pulled people out of agrarian professions.² Studies show a lack of younger people pursuing careers in agriculture and according to the most recent agricultural census, the average age of Puerto Rican farmers is fifty-nine (59) **years**. Furthermore, nearly three quarters (3/4) of agricultural producers island wide fall into the category of businesses with annual sales of ten thousand dollars (\$10,000) or less.³ These pressures have resulted in a food system characterized by heavy dependence on imports.

Before the Hurricanes ~~over~~ eighty **five** percent (85%) of all agricultural products consumed on the Island were imported; after the hurricanes, those estimates have increased to over ninety percent (90%).⁴ The underdeveloped agricultural sector combined with heavy reliance on imported food has made the Island vulnerable when facing extreme climatic events like Hurricanes Irma and María. Food and water shortages in the aftermath of the Hurricanes highlighted major inequalities and inadequacies within the food system. Many agricultural producers operate in informal economies and on slim margins. Complexities exist with land titles, access and understanding of certification processes, and distribution networks; keeping many farmers cut off from past and current agricultural programmatic benefits.⁵ While rural farmers have informal access to land, urban producers struggle to find economically viable options for land use.⁶ Building capacity throughout the agricultural sector as a response to the Hurricanes will reduce vulnerability to future

¹ Puerto Rico Department of Agriculture. (PRDA).

² Riley, Eamon J.P., Yovanoff, David J., Reyes-Colon, Jonathan J. "Yo Soy Boricua": Tapping into the Strength of the Puerto Rican Community to Reclaim Control Over its Political, Social, and Economic Future. (2019).

³ Gladys Gonzalez and Alexandra Gregory. Economic Development Plan for the Agricultural Sector. (University of Puerto Rico. Puerto Rico Planning Board 2016).

⁴ Ileana Diaz and Carol Hunsberger, Can agroecological coffee be part of a food sovereignty strategy in Puerto Rico? (Geoforum 97. 84-94. 2018).

⁵ Rapid Assessment: Impact of Hurricane Maria on Forest Cover, Farmers, and Stakeholders. (World Central Kitchen and J/P HRO in partnership with Centro para la Conservación del Paisaje 2019).

⁶ Ortiz-Rivera, M. C., Crespo-Acevedo, W., Avilés-Vázquez, K., Guzmán-Colón, B., Pagán-Roig, I., Gierbolini-Avilés, G. Morales-Rodríguez, D. Guideline for the development of urban orchards in Puerto Rico. (Center for Sustainable Development Studies, Universidad Metropolitana, Ana G. Méndez University System 2018).

events and simultaneously revitalize an important sector of Puerto Rico's economy.

1.1 Objective

The Re-Grow Puerto Rico Urban and Rural Agriculture Program (**Re-Grow Program** or the **Program**) aims to build agricultural capacity and meet the needs created by the Hurricanes through a substantial investment of Community Development Block Grant – Disaster Recovery (**CDBG-DR**) funds in a wide variety of viable and sustainable agricultural activities. Citizens served by the Program will be diverse; spanning from urban to rural areas and across all ages. The Program will focus on small and medium agricultural businesses and non-governmental organizations engaged in sustainable agricultural activities that contribute to the strengthening of the agricultural economy since the Hurricanes. Challenges with urbanization, population migration and land use change, will be addressed through urban agriculture and technology deployment. Battered agricultural infrastructure will be improved to withstand future climatic uncertainties. The Program will expose individuals to agricultural opportunities while simultaneously helping established producers create employment opportunities across the sector.

Re-Grow is focused on:

1. Promoting and increasing food security island wide; and
2. Enhancing and expanding agricultural production related to economic revitalization and sustainable development activities.

1.2 Tie to the Hurricanes

The United States Department of Housing and Urban Development (**HUD**) requires that CDBG-DR programs have a tie to the Hurricanes. With every municipal government in Puerto Rico being determined by the HUD Federal Register Vol. 83, No. 28 (February 9, 2018), 83 FR 5844, to be “most impacted and distressed”, funding is available to all communities across Puerto Rico. In accordance with 83 FR 5844, 5851 “all CDBG-DR funded activities must clearly address an impact of the disaster for which funding was allocated”. Since the Hurricanes affected the whole Island, there is an imperative to bolster and rebuild its agricultural economic sector. Agricultural capacity and strong food systems are fundamental to resiliency of economies and, as Puerto Rico's entire agriculture sector was devastated by the Hurricanes, this Program is designed to revitalize this industry. The focus on small and medium agricultural businesses further contributes to stabilizing agricultural professions and organizations associated with the hardest hit LMI populations on the Island. The Re-Grow Program is an integral part of the long-term expansion of jobs in the sector, food security and contributing to overall economic recovery of disaster impacted populations.

2 National Objective

All activities of CDBG-DR programs must meet one (1) of the three (3) National Objectives defined in the authorizing statute of the CDBG Program at 104(b)(3) of the Housing and Community Development Act of 1974 (**HCDA**), as amended, 42 U.S.C. § 5304. The Puerto Rico Department of Housing (**PRDOH**) anticipates that each Program's eligible activities will meet one of the below listed national objectives. PRDOH will work with entities who are funded through this Program to determine the national objective for each project according to 24 C.F.R. § 570.483 and listed here below:

- Benefit to low- and moderate-income persons (**LMI**)⁷ (24 C.F.R. § 570.483(b))⁸
 - Job Creation/Retention;
 - Area Benefit; and
 - 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 has set a goal to expend seventy percent (70%) of Re-Grow Program funds on projects that result in a benefit to LMI individuals or that demonstrably serve LMI areas.

3 Program Description

The total allocation for the Re-Grow Program is ninety-two million five hundred thousand dollars (\$92,500,000) but is subject to change with additional CDBG-DR Action Plan Amendments. PRDOH realizes that small and medium agricultural businesses need both monetary aid as well as access to essential services and resources. PRDOH may work with various Subrecipients who will administrate the Program or work on other tasks as defined in the Subrecipient Agreement. Subrecipients may be responsible to disburse grants and provide technical assistance to small and medium agricultural businesses. The Program may engage additional subrecipients as needed.

Grants to small and medium agricultural businesses will be administered by the Subrecipient and disbursed directly to eligible applicants for program eligible costs (see Grants section below). Applicants must complete an online application including submittal of all required information and documentation for consideration and grant award calculations (see Applications section below).

In addition to providing grants, the Program will provide a wide range of technical

⁷ Applicants will be requested to complete an "LMI Household Form" for all business owners that have any type of ownership over the business. Applicants will be requested to provide "Personal Income Tax Return" for all business owners to validate the LMI Household Form information. The "Personal Income Tax Return" and "LMI Household Form" will not influence or impact the eligibility evaluation, since it is not an eligibility criterion; it is only used for HUD National Objective reporting purposes.

⁸ Applicants may be requested to complete an "LMI Jobs Form" to report potential job creation. Applicants may be requested to provide "business employee payroll" information to validate the LMI Jobs Form information. The "business employee payroll" and "LMI Jobs Form" will not influence or impact the eligibility evaluation, since it is not an eligibility criterion; it is only used for HUD National Objective reporting purposes.

assistance activities across the agricultural sector, giving farms and farmers an access to essential services and resources (see Technical Assistance section). The technical assistance is intended to build additional capacity in organizations and agencies that bolster the agricultural sector of the economy.

3.1 PRDOH's Role

The PRDOH will serve as the Re-Grow Program's primary oversight entity as the CDBG-DR grantee. PRDOH's responsibilities in this role include, but are not limited to, the following:

- Creation of Program Guidelines;
- Development of the web application;
- Legal document generation and review;
- Information Technology systems development and management;
- Monitoring and oversight of Subrecipients; and
- CDBG-DR compliance, recordkeeping, reporting, and monitoring.

3.2 Subrecipient's Responsibilities

Subrecipients in the Program may include Non-governmental organizations, community-based development organizations, educational organizations, units of general local government jurisdictions and other governmental entities. Subrecipients will be selected by PRDOH and will aid in program administration in support of the provision of grants and technical assistance to eligible entities outlined below.

The Subrecipients' responsibilities in this role include, but are not limited to the following:

Grants

- Application intake and eligibility reviews.
- Duplication of Benefits calculations.
- Grant underwriting and award calculations.
- Assistance to applicants throughout the grant application process.
- CDBG-DR compliance, recordkeeping, reporting, and monitoring.
- Coordination and execution of grant agreements with awarded participants.
- Grant funds disbursement to awardees.

Technical Assistance

- Aid in application processes for accessing certification and other benefits available to farmers.
- Farmer support services and mentoring.
- Agricultural educational workshops related to agricultural methods, techniques, and skill building.
- Programmatic Services contributing to capacity building within a qualified agriculture or farming operation.
- CDBG-DR compliance, recordkeeping, reporting, and monitoring.

4 Eligible Use of Funds

All projects funded by HUD must meet a national objective, be performed by an eligible entity, meet at least one (1) eligible activity, and be documentable as an eligible cost; all listed in these guidelines.

4.1 Eligible Entities

Entities eligible to apply for and receive grant awards, and technical assistance through the Program will be **small and medium** agricultural businesses. During the application intake period agricultural businesses engaged in food production will be prioritized. Priority applicants that submit all documents required will be reviewed for eligibility prior to reviewing eligibility for non-priority applicants. Other non-food⁹ producing entities **will receive a Non-Priority Notification and will be considered as funds are available.**

Eligible entities can be existing, re-starting or starting-up¹⁰ and include, but are not limited to, the following:

- Small and medium agricultural businesses, that meet the "small family farm" defined below, and can include:
 - Small and medium agribusinesses that support the activities and production of small farm and farmers.
 - Small and medium food producers, manufacturers, distributors, or suppliers engaged in local food production or distribution.
 - Community based organizations involved in food production or distribution.
 - Agricultural microenterprises¹¹ (5 employees or less).
 - **Units of General Local Government and Municipal Government.**
- **Eligible entities can be Agricultural businesses that are:**
 - **Still open and operating; or**
 - **Have opened a different business, meaning a newly registered business under the same owner(s).**
 - **Starting-up a new business. These entities need to demonstrate financial capacity by proving that they have access to capital, assets, or investments already made in the operation, as well as any other available information not limited to income generation and any other information that may be included in the Business Plan to demonstrate financial feasibility.**

These eligible entities will be required to meet the United States Department of Agriculture

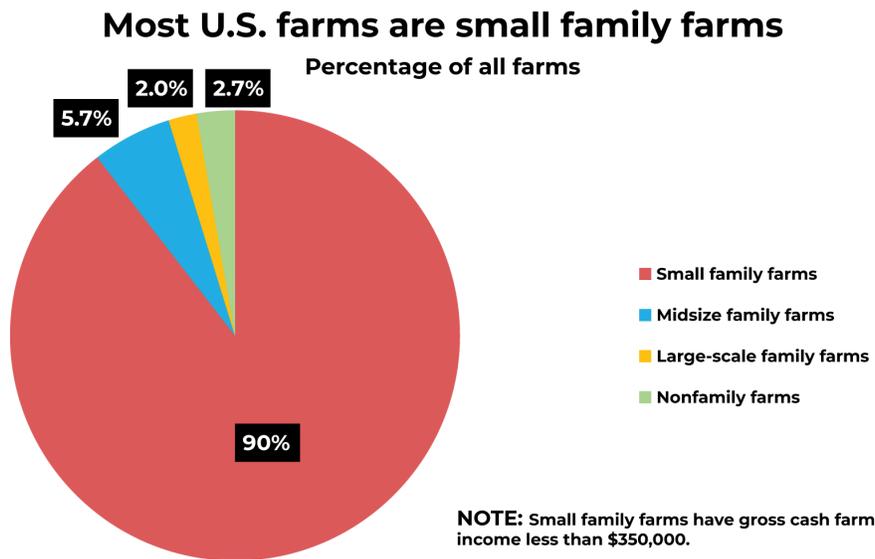
⁹Some non-food products identified in the USDA webpage are: oils, resins, fibers, clothing, energy, cosmetics, and plastics
Source: <https://www.nal.usda.gov/afsic/industrial-energy-and-non-food-crops>.

¹⁰ A start-up or re-starting business is one that is in the initial stages of operations and has not generated any revenue from operations.

¹¹ The term "microenterprise" means a commercial enterprise that has five (5) or fewer employees, one (1) or more of whom owns the enterprise. 42 USC §5302(a)(22).

(USDA) size threshold classification of “small family farm” defined below.

The USDA Economic Research Service (ERS) Farm Typology defines “small family farms” as operations with annual gross cash farm income¹² (GCFI), that includes sales of crops and livestock, payments made under agricultural federal programs, and other farm related cash income, less than three hundred and fifty thousand dollars (\$350,000).¹³ This classification encompasses ninety percent (90%) of farms and enables the Program to most effectively impact the agricultural economy of Puerto Rico.



Source: USDA, National Agricultural Statistics Service and Economic Research Service¹⁴

¹² Income will be defined as determined by the individual in their Puerto Rico or federal tax return.

¹³ <https://www.ers.usda.gov/topics/farm-economy/farm-structure-and-organization/farm-structure/>

¹⁴ Details may not add up to 100 percent (100%) due to rounding.

Farm-level average net cash income by sales class and typology, 2011-2020F
 Nominal (current dollars)

	Share of US farms
	Percent
All farms	100.0
Farm size by gross sales value	
\$1,000,000 or more	3.9
\$500,000 - 999,999	3.5
\$250,000 - 499,999	4.3
\$100,000 - 249,999	6.5
Less than \$100,000	81.8

Footnotes
 Data as of February 5, 2020

Source: USDA, National Agricultural Statistics Service and Economic Research Service

Furthermore, these entities must be engaged in “Farming Operations” as defined at 7 C.F.R. § 1400.3:

“Farming operation means a business enterprise engaged in the production of agricultural products, commodities, or livestock, operated by a person, legal entity, or joint operation that is eligible to receive payments, directly or indirectly, under one or more of the programs specified in 1400.¹⁵ A person or legal entity may have more than one farming operation if such person or legal entity is a member of one or more joint operations.”

4.2 Eligible Activities

Eligible activities for this Program, per the Housing and Community Development Act of 1974, 42 U.S.C. § 5305 (Activities eligible for assistance), are:

1. Section 105(a)(22) – Microenterprise Assistance;
2. Section 105(a)(17) – Economic development assistance that creates or retains jobs;
3. Section 105(a)(14) – Activities Carried Out through Nonprofit Development Organizations;
4. Section 105(a)(15) - Assistance to neighborhood-based nonprofit organizations,

¹⁵ https://www.ecfr.gov/cgi-bin/text-idx?node=pt7.10.1400&rgn=div5&se7.10.1400_11

local development corporations, and nonprofit organizations; and
 5. Section 105(a)(21) – Assistance to Institutions of Higher Education.

4.3 Eligible Costs

Eligible costs¹⁶ for the Re-Grow Program are listed in the tables below. Note these lists are not all inclusive but rather include most of the costs and should give applicants a clear picture of the kinds of costs that are program eligible. Eligible costs will be evaluated based on farming discipline and proposed use. Furthermore, proposed costs shall fall into one of the categories established in Table 1.

4.3.1 Grants

The following table represents eligible costs that can be requested through an application and funded through the Program in the form of a grant to an eligible entity.

4.3.2 Table 1: Eligible Costs

Farm Infrastructure	<ul style="list-style-type: none"> • Fencing: Permanent, Moveable, and Electric • Livestock holding and management equipment • Irrigation systems: above ground, underground <ul style="list-style-type: none"> ○ Pumps, Solenoids, flow control devices, and sensors ○ Ponds, Liners, and Tanks • Nutrient Control Systems <ul style="list-style-type: none"> ○ Fertilizer (various application methods) ○ Dosing and in System Syphoning Technologies ○ Compost Creation Methods and Nutrient Harvest Technologies • Climate Control Automation Systems <ul style="list-style-type: none"> ○ Computerized climate controls ○ Fans ○ Thermostats ○ Evaporative and electronic cooling ○ Humidity control devices • Purchase and Installation of Greenhouses or other similar agricultural propagative structures: permanently affixed or moveable. <ul style="list-style-type: none"> ○ Bench Systems ○ Shade houses ○ Polycarbonate Coverings (panel systems) ○ High Tunnels ○ Light Depravation Structures • Quonset or similar buildings for the purpose of nursery stock and equipment storage or protection during inclement weather events. • Cold storage and/or on Farm Refrigeration Storage Solutions <ul style="list-style-type: none"> ○ Walk in Coolers • Hydroponic and/or aquaponics Production Systems Equipment • Climatic resiliency equipment <ul style="list-style-type: none"> ○ Rainwater collection and storage systems
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¹⁶ Transportation and shipping costs incidental to eligible purchases are eligible. See 2 C.F.R. § 200.474.

	<ul style="list-style-type: none"> ○ Cisterns ○ Pipe ○ Filters ○ Groundwater collection systems (wells) ○ Surface water collection systems ○ Power Resilience and Autonomy Systems ○ Solar panels ○ Small scale hydroelectric ○ Inverters ○ Generator
Farm Equipment	<ul style="list-style-type: none"> • Hand tools • Hoes • Weed whackers • Chainsaws • Power Drills • Pruners • Seeders • Harvest Carts • Computers • Farm management software • Tractors: walk behind or full size <ul style="list-style-type: none"> ○ Implements ○ Tillers ○ Mowers ○ Cultivators ○ Bailers ○ Planters ○ Seeders • Aquaculture enabling equipment or supplies • Fishing equipment.
Production Supplies	<ul style="list-style-type: none"> • Seeds • Saplings • Trees • Plant plugs • Row covers • Mulches
Land	<ul style="list-style-type: none"> • Purchase or Lease of agricultural land that does not financially inhibit profitability of agricultural project proposed.¹⁷ • Land purchased or leased through the Program will be subject to special CDBG-DR conditions.¹⁸
Vehicles	<ul style="list-style-type: none"> • Product Transportation • Refrigerated Box Trucks • Other Harvesting Vehicles

4.3.3 Technical Assistance

The following table represents eligible activities that may be provided and funded through the Program by a Subrecipient entity. These lists are not all inclusive but rather include most of the costs and should give applicants a clear picture of the kinds of costs that are eligible under the Program.

4.3.4 Table 2: Eligible services

¹⁷ The Program will pay up to six (6) months for land leases.

¹⁸ Land leases and purchases under the Program are subject to the regulations of the HCDA, which requires the lease length of a property to be a minimum of fifteen (15) years for it to be considered a permanent interest over the property. <https://www.hudexchange.info/sites/onecpd/assets/File/CDBG-State-National-Objectives-Eligible-Activities-Chapter-2.pdf>

Agricultural Skill Building Educational Activities	<ul style="list-style-type: none"> • Workshops in <ul style="list-style-type: none"> ○ Assessing farmland ○ Farm marketing essentials ○ Basic food safety practices and certifications ○ Understanding soil testing basics ○ Small farm equipment operation safety ○ Business planning and land access ○ Transplant production ○ Seed production ○ Fertilization and composting ○ Integrated pest management ○ Nursery management ○ Value added products training ○ Agricultural technology utilization training
Farmer Support Services	<ul style="list-style-type: none"> • Assistance in farm management or operations efficiencies. • Assistance in obtaining farmer certifications, tax breaks, and additional locally available producer benefits • Assistance in programmatic application processes • Assistance and provision of access to laboratory services • Capacity building tools for agro-tourism/ecotourism

Applicants must clearly outline the requested use of grant funds in the Program application. Furthermore, awarded applicants will be required to document and track all expenditures through the Program.

4.4 Awards Structure

4.4.1 Grants

Grant award amounts will range from \$25,000 to \$150,000. Award amounts will be determined through information submitted in an online grant application and further refined through the underwriting process. Program awards are to be structured in three (3) tiers outlined in the table below. These tiers are also determined by information submitted in the application.

4.4.2 Table 3: Three-tiered award amounts

Grant Tiers	Grant Award Amount
Applicants with established or projected annual gross income of \$50,000 or less	Eligible for a grant of \$25,000 to \$50,000
Applicants with established or projected annual gross income of \$50,000 to \$150,000	Eligible for a grant of up to \$100,000
Applicants with established or projected annual gross income of more than \$150,000	Eligible for a grant award of up to \$150,000

Applicants must show through their application that they are eligible to receive the award amount requested. This will be established through documented size of existing operation, income projections (three (3) years), a business plan, and proven agricultural managerial ability (see Applications section), along with any other documentation that the applicants may provide to comply with the criteria established above. For example, to justify the projected annual gross income, Applicants with established operations may provide historical tax returns along with the most recent Puerto Rico Tax Return, meaning the latest tax return year in place at the time of eligibility review.

The following list provides an overview of the content that is usually included in a traditional business plan. This is only an example that may change, depending on each business' needs.

- Executive Summary with a briefly description about the business' vision, mission, product or service, leadership team, staffing, location and growth plans;
- Briefly description of the business' financial information and projected income;
- Analysis of the target market, trends and competitors;
- Organization and Management, that is, an overview on how the business is or will be structured;
- Description of the product or service;
- Marketing strategy;
- Detailed description of other available funding and projected uses for the next three (3) years;
- Financial projections with sufficient details to demonstrate that the business is stable and financially feasible;
- Supporting documents.¹⁹

Applicants that receive an Award Notification will be required to select which items to accept funding for, up to the applicable caps, using the Intended Use of Funds Form. The Intended Use of Funds Form outlines the agreed upon uses for the Program Funds and will be used to ensure that the business expends funding on eligible uses as outlined in the form.

5 Program Eligibility

5.1 Threshold Eligibility Requirements

Threshold eligibility will be assessed through the applications and is the first level of review. This review focuses on basic application completeness and baseline entity eligibility. This review must be conducted before the applications are considered for further review, determinations, and award calculations. Applicants will be notified of a determination

¹⁹ For more information about the content of a traditional business plan, visit: <https://www.sba.gov/business-guide/plan-your-business/write-your-business-plan>.

once this initial review has been conducted. Existing, re-starting, and new/start-up farms and agricultural related businesses are eligible to receive grant awards and/or technical assistance services. Threshold eligibility will include but is not limited to the following:

- Application completed and signed;
- All documentation submitted and/or uploaded with application;
- Entity meets size requirements to be considered as per the Eligible Entities section;
- Be registered to do business in Puerto Rico;
- Establish evidence of Agricultural Managerial Ability per the Agricultural Managerial Ability section (documented);
- Be physically located in Puerto Rico; and
- Demonstrate that more than fifty-one percent (51%) of production or services are consumed and/or produced locally (documented).
- Proof that business is current on all Puerto Rico tax obligations or current on one or more payment plans.
- Proof that business is current on property taxes should the business own the location.

See Grant Application Submission Requirements section for further instruction on application and documentation requirements.

5.2 Ineligible Applicants

Businesses, Individuals, or organizations that provide the following products and/or services are ineligible for Re-Grow Program grant assistance:

- Any that are listed on the HUD Debarred List;
- Entities engaged in lobbying or political activities;
- Entities engaged or involved in religious activities except where expenses are clearly distinguishable between the organization's religious and secular activities; and
- Entities who have received federal assistance in the past and required flood insurance has not been maintained.
- Entities that propose to promote or develop products with no currently accepted medical use under the Controlled Substances Act (CSA), such as cannabis products;
- Entities who propose to use program funds to buy out or reimbursing the owner(s) or its family member, that is, their spouse, parents, grandparents, siblings, children, grandchildren, or in-laws.
- Entities that propose an activity that is deemed ineligible, as detailed in the Ineligible Activities section of these Guidelines.

5.3 Ineligible Activities

As a general rule, any activity that is not authorized under the provisions of 24 C.F.R. §

570.201-570.206 is ineligible to be assisted with CDBG-DR funds.

Specifically, the following activities are ineligible for Re-Grow Program grant assistance:

- Buildings or portions thereof, used for the general conduct of government
- General government expenses
- Political activities

Unless authorized under the provisions of 24 C.F.R. § 570.203, the following activities may not be assisted with CDBG-DR funds:

- Construction equipment
- Fire protection equipment
- Operating and maintenance expenses
- Furnishings and personal property
- New housing construction
- Income payments²⁰

6 Applications

6.1 Grant Application Submission Requirements

Application intake will begin with a publicly advertised application process. Applications will be accepted digitally, in English and Spanish, through the CDBG-DR Program website, <https://www.cdbg-dr.pr.gov/>. Applicants needing assistance filling out and submitting the online application may arrange a meeting directly with the Subrecipient, contact the call center, and/or contact EcoRecCDBG@vivienda.pr.gov. Applicants who have requested this service will be referred to locations designated by the Subrecipient for assistance in completing an application. The Subrecipient will review all applications for threshold eligibility requirements. Once the application is determined to meet the initial eligibility, the Subrecipient will inform the applicant and will then complete an underwriting review. Once underwriting is complete an applicant will be notified of the award amount they will be eligible to receive.²¹ Coordination of awards will include acknowledging the award and signing a grant agreement outlining responsibilities for documentation of compliance as well as process of funds disbursement to the awarded applicant.

Applicants may be contacted in an effort to request additional information or documentation throughout any step in the process, this will be done on a case-by-case basis. Once all funds have been disbursed and all documentation has been provided in

²⁰ Income payments means a series of subsistence-type grant payments made to an individual or family for items such as food, clothing, housing (rent or mortgage), or utilities, but excludes emergency grant payments made over a period of up to three consecutive months to the provider of such items or services on behalf of an individual or family. 24 C.F.R. § 570.207.

²¹ Applicants with an adverse underwriting review will also be notified by the Program, as detailed in the Underwriting Criteria Section of these Guidelines.

compliance with CDBG-DR Program requirements, the Subrecipient will initiate the closeout process with each grant recipient. Instructions for completing the application are posted to the PRDOH website.

6.1.1 Application Overview

The application will ask a series of “fill in the blank”, multiple choice and narrative response questions. All application questions are designed to provide the necessary information to determine threshold eligibility and, if eligible, the application will move to the underwriting process and additional information and documentation may be requested.

6.1.2 For startup/restarting businesses or entities:

Startup/restarting businesses that are applying for Program grants are required to present a business outlook/plan section for consideration (details outlined in the application). An in-depth plan provides assurance that the applicant is organized and prepared to receive an award through the Program. The outlook and plan also provide good indicators of an applicant’s capacity to implement a successful venture, further ensuring that any awards granted through the Program will meet the economic development goals outlined by HUD and PRDOH.²²

To demonstrate financial capacity, startup business must provide that they have access to capital, assets, or investments already made in the operation, as well as any other available information not limited to income generation and any other information that may be included in the Business Plan to demonstrate financial feasibility.

6.1.3 For established businesses or entities:

Established businesses are required to provide only a brief overview summary of the operation because existing businesses have the ability to show documentation of operations to prove eligibility (see documentation table below). If an existing business would like to pursue an expansion of operations through the Program, information about the expansion will be required in the application to justify eligibility for a larger award amount. The application provides an existing business the opportunity to combine existing income with expansion projected income to become eligible for a larger award amount aiding in the ability of the applicant to successfully expand their existing operation.

For existing business pursuing expansions with Program funds, it is required to demonstrate financial capacity, access to capital, assets, or investments already made in operation, as well as any other available information that might be included in the Business Plan to demonstrate financial feasibility.

²² For more information about the documents that can be provided to comply with these requirements, refer to the Awards Structure Section of these Guidelines.

6.1.4 Agricultural Managerial Ability

As part of the application a small and medium agricultural business grant applicant must show evidence of Agricultural Managerial Ability. This ability can be shown through education, on-job training, and/or farm experience. Agricultural Managerial Ability must be shown through **one (1) or more** of the following:

6.1.5 Evidence of education:

- 4-year college degree or graduate degree in an agriculture related field(s);
- 2-year college degree from a technical college in an agricultural related field;
- Successful completion of farm management curriculum offered by the Cooperative Extension Service, a community college, adult vocational agricultural program or Land Grant University;
- Successful completion of a community based, nationally based, non-profit or similar farm workshop programs;
- Vocational or general agriculture classes in high school in addition to working on a farm and participating in, and successful completion of agricultural projects in, 4-H, FFA, Tribal youth organizations, Grange Youth, or another agricultural affiliated club.

6.1.6 Experience in "on the job" training:

- Working or recently worked as hired farm labor with management responsibilities including but not limited to making day to day decisions of consequence;
- Completing or recently completed a farm mentorship, internship or apprenticeship program with an emphasis on management requirements and day to day farm decisions;
- Participating or recently participated in Urban or community supported agriculture programs which incorporate basic agricultural training.

6.1.7 Experience in farm management:

- Owner, manager, or operator of a farm business for at least one (1) full production and marketing cycle within five (5) years of the date of the application;
- Employed as a migrant farm worker and elevated to leadership or foreperson position for at least one (1) production and marketing cycle with responsibilities related to crop and field management, livestock health, breeding supervision (plant and/or animal), labor management or hiring, or general farm management;
- Raised on a farm and had significant responsibility for day-to-day management decisions for at least one (1) entire production and marketing

- cycle;
- Obtained and successfully repaid at least one (1) FSA youth loan.

6.1.8 Application Required Documentation

Information and documents requested in the application may include:

6.1.9 Table 4: Required information and documents

Category	Required items
<p>Application</p>	<ul style="list-style-type: none"> • Re-Grow Puerto Rico grant Application completed and signed by all owners with twenty-five percent (25%)²³ or more ownership in business applicant. <p>Note: for non-profit applicants, a designated representative may sign with authorization from the organization.</p>
<p>Proof of identity</p> <p><i>(Only one (1) form of evidence required with application)</i></p>	<ul style="list-style-type: none"> • Government issued photo i.d. for all owners with twenty-five percent (25%)²⁴ or more ownership in business. For non-profits, i.d. will be submitted for designated representative. <ul style="list-style-type: none"> ○ Driver's license, ○ Passport ○ Military id ○ Real id ○ Social security card ○ Other government issued id card <p>(to be attached to/uploaded with application)</p>
<p>Proof of registration to do business in Puerto Rico</p> <p><i>(Only one (1) form of evidence required with application)</i></p>	<ul style="list-style-type: none"> • Most recent Puerto Rico tax return for the latest tax return year in place at the time of eligibility review. • Business registration documentation <ul style="list-style-type: none"> ○ Merchant registration ○ Certificate of Incorporation. ○ Certification of good standing <p>(to be attached to/uploaded with application)</p>
<p>Proof entity meets size requirements</p> <p><i>(Only one (1) form of evidence required with application. For start-ups this category will be satisfied with information provided through the applicant business outlook/plan)</i></p>	<ul style="list-style-type: none"> • Most recent Puerto Rico tax return for the latest tax return year in place at the time of eligibility review. <ul style="list-style-type: none"> ○ Gross Agricultural Income figures • Most recent Federal tax returns <ul style="list-style-type: none"> ○ Gross Income figures <p>(to be attached to/uploaded with application)</p>

²³ For entities with ownership distributions of less than 25% among its owners, at least 51% of owners must show compliance with the application signing requirement. This 51% compliance requirement must be documented as requested and in alignment with other program policies.

²⁴ For entities with ownership distributions of less than 25% among its owners, at least 51% of owners must show compliance with the proof of identity requirement. This 51% compliance requirement must be documented as requested and in alignment with other program policies.

<p>Evidence of agricultural managerial ability (see <i>Agricultural Managerial Ability</i> section)</p> <p>(Only one (1) form of evidence required with application. Must be accompanied by description in application)</p>	<ul style="list-style-type: none"> • Educational Transcripts • Diplomas • Certificates of Completion • Certified letter of reference from former or current employer • Agriculture certifications/permits/licenses <ul style="list-style-type: none"> • Bonafide Farmer • USDA • Agricultural taxes • Production or sales records • Cropshare/rental/lease agreements • Other documentation may be provided on a case by case basis. <p>(to be attached to/uploaded with application)</p>
<p>Documentation of lease, ownership, or purchase agreement for any property planned to be part of business operation</p> <p>(Only one (1) form of evidence required with application)</p>	<ul style="list-style-type: none"> • Lease agreement • Ownership agreement or deed • Purchase agreement (for spaces that are part of future production or expansion mentioned in application) • For fishing operations: boat registration and/or fishing statistics
<p>Proof of at least fifty-one percent (51%) production or services locally produced or consumed.</p>	<ul style="list-style-type: none"> • Most recent Puerto Rico Tax return for the latest tax return year in place at the time of eligibility review. <p>(to be attached to/uploaded with application)</p>
<p>Application eligible use of funds</p>	<ul style="list-style-type: none"> • Completed use of funds to accompany application for award determination. • Provide three (3) quotes for each eligible cost, as detailed in these guidelines. As an exception, two (2) quotes will be accepted for highly specialized equipment or service. If the aggregated dollar amount to acquire good or services is less than \$10,000, the Applicant may provide only one (1) quote if the price is considered to be reasonable.²⁵ <p>(to be attached to/uploaded with application)</p>
<p>DOB</p>	<ul style="list-style-type: none"> • Tax ID and any other award documentation.

6.1.10 Quotes

Applicants must submit three (3) quotes for each eligible cost within the following categories, as established in the Eligible Costs Section of these Guidelines:

- Farm Infrastructure
- Farm Equipment
- Production Supplies

²⁵ In these cases, the Applicant will be required to submit a statement or proof of the special circumstances that make it impossible to obtain three (3) quotes.

- Land
- Vehicles
- Agricultural Skill Building Activities
- Farmer Support Services

If an Applicant can demonstrate a special circumstance, meaning the requested equipment is highly specialized and/or it would be impossible to obtain three (3) quotes for, then the applicant may provide proof of the special circumstance and provide only two (2) quotes for each piece of specialized equipment requested instead of three (3). The quotes should be valid in the date they are submitted to the Program.

If the aggregated dollar amount to acquire good or services is less than \$10,000, the Applicant may provide only one (1) quote if the price is considered to be reasonable.

As a general rule, quotes for each eligible cost should contain information about taxes when applicable, if not excluded by local regulations; shipping and transportation costs, if applicable; as well as information about installation requirements and costs if and/or when applicable.

6.1.11 Grant Underwriting

PRDOH follows HUD guidelines as the financial underwriting framework for evaluating the feasibility of project applications. PRDOH recognizes that different levels of review are appropriate to consider differences in the size and scope of a proposed project and, in the case of a microenterprise or other small business, to take into account the differences in the capacity and level of sophistication among businesses of differing sizes. The objectives of the underwriting guidelines are to ensure all award Applicants meet the CDBG Underwriting Criteria of 24 C.F.R. § 570.209(a). As underwriter, the Subrecipient will ensure compliance with the underwriting criteria by assessing:

6.1.12 Table 5: Underwriting Criteria

HUD Underwriting Guidance	Program Underwriting Checks
That project costs are reasonable	<ul style="list-style-type: none"> • Three (3) quotes on eligible costs will be required. As an exception, two (2) quotes will be accepted for highly specialized equipment or service. If the aggregated dollar amount to acquire good or services is less than \$10,000, the Applicant may provide only one (1) quote if the price is considered to be reasonable.
That all sources of project financing are committed	<ul style="list-style-type: none"> • If other funding sources are needed, applicant must provide proof of commitment of those funds.

That to the extent practicable, CDBG funds are not substituted for non-Federal financial support	<ul style="list-style-type: none"> • DOB analysis will be performed on each applicant.
That the project is financially feasible	<ul style="list-style-type: none"> • Projected or established income will be cross referenced with market analysis. This will be done through the review of business plans submitted and financial documentation such as tax returns, financial statements, projections, etc. • Use of funds are deemed necessary to expand or improve operations based on application descriptions of operational capacity. • As a general rule, applicant businesses must meet the break-even point (which is generally the point at which all revenues are equal to all expenses).²⁶ Otherwise, the project's projections and business plans should consider all factors that caused the negative cash flow and provide sources of financing for such negative cash flow, as well as a detailed plan to ensure project's feasibility.
That to the extent practicable, the return on the owner's equity investment will not be unreasonably high	<ul style="list-style-type: none"> • Award amounts will be tiered based on established or projected income as detailed in the Awards Structure section.
That to the extent practicable, CDBG funds are disbursed on a pro rata basis with other finances provided to the project	<ul style="list-style-type: none"> • If other funding sources are needed CDBG funds will be disbursed on a pro rata basis.

Applicants that fail the underwriting assessment will receive an Underwriting Failed Notice detailing the criteria that was applied by the Program to deny the assistance.

6.1.13 Grant Award Calculation

The Subrecipient will use the information submitted in the application to determine Program eligibility. Once the applicant has been determined to be eligible for an award, the Subrecipient will calculate the amount based on the following award calculation:

1. Verify that the requested award amount falls into the correct tier (see Awards Structure Grants section) based on size of existing or planned farm or agricultural business venture.

²⁶ 24 C.F.R. Appendix A to Part 570 – Guidelines and Objectives for Evaluating Project Costs and Financial Requirements. As established in 83 FR 40314, States are required to comply with the underwriting guidelines in Appendix A to 24 C.F.R. part 570 if they are using grant funds to provide assistance to a for-profit entity for an economic development project under section 105(a)(17) of the HCDA.

- As part of the online grant application, the applicant will submit existing income documentation overview or projections in their business plan which will qualify the applicant for one of the three award tier caps;
 - The applicant will also complete an eligible Intended Use of Funds that cannot exceed the cap within the tier they are eligible for;
 - Applicants can apply for any award amount up to the cap of the established tier; and
 - The total from the Intended Use of Funds is the total amount of the grant application (cannot exceed tier cap).
2. Identify all other sources of disaster related funding received by applicant(s).
 - Determine how much of this funding is for the same purpose and will be counted against award (DOB).
 3. Calculate maximum eligible award (total#1 minus total#2 above).

6.2 Receipts

Six (6) months after the disbursement of funds is completed, Applicants will be required to provide evidence (receipts) to demonstrate that each purchase of services or goods were made in compliance with the Grant Agreement. To ensure compliance with this requirement, the Program will send a letter every **thirty (30) days** to notify the Applicant that there is an outstanding balance and to encourage receipt submission. Thirty days before the six (6) months period expires, the Program will send a letter to warn the Applicant that the allotted timeframe to provide receipts is approaching. If the Applicant does not provide the receipts after the warning letter, a notice will be issued to notify the Applicant that they are in non-compliance and have **fifteen (15) days** to provide the required documentation or the case will be referred to a recapture process. If the Applicant does not provide the receipts after the non-compliance letter, the case will be referred to said recapture process, as established in the Recapture Section of this Guideline.

If Applicants provide receipts that are not in compliance with the Grant Agreement; are not in their name; or are illegible, the Program will issue an Unsatisfactory Receipts Notification to require the submittal of the correct receipts in **fifteen (15) calendar days**. If the applicant fails to provide the receipts within **fifteen (15) calendar days** from the date of the Unsatisfactory Receipts Notification, the case will be referred to a recapture of funds process.

6.3 Closeout

Upon completion of all exhaustion of Recovery Grant funds, the Program applications shall be closed. The closeout of a grant is a process in which the Subrecipient and PRDOH

determine that all applicable administrative and Program requirements of the applicable Grant Agreement between the Subrecipient and the awarded applicant have been completed. If the Subrecipient determines that all of the funds are expended and the activities are completed, or if the awarded applicant requests initiation of the closeout process, the Subrecipient will proceed with the grant closeout procedure. The Subrecipient will perform a complete review of the application file to ensure all necessary documentation is ready and to ensure that the case is ready for closeout.

General requirements for closeout are as follows:

- All Program forms required throughout the entirety of the application process have been duly completed and executed;
- All eligibility and DOB documentation are found to be in accordance with all requirements of this policy and sufficient to justify the awarded applicant's participation in the Program;
- All activities are eligible, have been completed and met a national objective;
- All grant funds are expended in full and documented according to program requirements;
- All reporting requirements have been completed and submitted;
- All monitoring or audit issues are resolved;
- Environmental clearance, if required, has been obtained for the applicant; and
- Other requirements for closeout, as established in the Grant Agreement between the Subrecipient and the awarded applicant, have been completed.

By signing the Grant Agreement, the awarded applicant agrees to the general and special conditions of the contract and to cooperate with any reviews, including making available records requested by the Subrecipient, PRDOH or any other duly authorized representatives.

Outreach will be made to the awarded applicant, or any other party involved in the event that any additional information is necessary to close-out the case. Once all levels of quality control review are passed, the awarded applicant will receive a Program Final Closeout Notice and their individual case will be placed in a closeout complete status.

6.4 Recapture

Instances may arise where an applicant must return all or part of the awarded funding to the Program. The Program is responsible for recapturing duplicative funds; funds awarded to applicants who become non-compliant, as well as funds from applicants that have been identified as receiving a potential overpayment. All applicant files will be reviewed and reconciled for accuracy to ensure DOB did not occur and that applicants

are in compliance with Program requirements and federal guidelines. If an applicant has been identified as receiving a potential overpayment, the Program will document the amount and basis for the repayment in writing via a Repayment Notification.

Applicants who disagree with a repayment amount determined by the Program may challenge the determination. See the Program-based Reconsideration and/or Administrative Review section of these Guidelines. If the applicant's request is denied or there is failure on the part of the applicant to contest within the allotted timeframe, the Program will proceed with collecting the repayment amount. If the applicant's request results in a revision of the award amount or eligibility, the applicant will sign a revised Grant Agreement which will outline the requirements related to such changes and the requirements for repaying the remaining overdue amount, if any.

Once it has been determined that the applicant must return funds to the CDBG-DR grant fund, the applicant must repay their funds in a timely manner. All repayments shall be expected to be repaid in full as one lump sum amount. All funds recovered because of this policy will be tracked in the Disaster Recovery Grant Reporting system (**DRGR**) and returned to the CDBG-DR account or U.S. Treasury if the CDBG-DR grant has been closed out.

7 Duplication of Benefits (DOB)

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 they have 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, or available to 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.

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

The Program will verify all possible DOB amounts using third-party data from various agencies. The Program Applicant could also be required to sign and certify a disclosure of possible duplicative assistance for the Program to make a thorough analysis and calculation.

The DOB analysis will look into assistance received through a program that was for the same purpose. The potential duplicative assistance listed below will be evaluated further to determine any that was for the same purpose. Not all program assistance through these programs will be duplicative and the analysis will aid in making that determination. Non-duplicative assistance means assistance that was: 1) provided for a different purpose that the Program does not assist; or 2) provided for the same purpose, but a different, allowable use.²⁷

Assistance that could be duplicative for Re-Grow may include but is not limited to:

- USDA programs through the Farm Service Agency, Natural Resource Conservation Service, Forest Service, Rural Development, rural Business Cooperative Service etc. such as:
 - Conservation Reserve Program (**CRP**);
 - Emergency Conservation Program (**ECP**);
 - Noninsured Crop Disaster Assistance Program (**NAP**);
 - Transportation Cost Payment Program;
 - Conservation Innovation Grants (**CIG**);
 - Environmental Quality Incentives Program (**EQIP**);
 - Emergency Watershed Protection Program (**EWP**); and
 - Conservation Stewardship Program (**CSP**).
- Small Business Administration (**SBA**) grant or loan program assistance;
- Federal Emergency Management Agency (**FEMA**);
- National Flood Insurance Program (**NFIP**);
- COVID-19 Economic Relief
- Nonprofit or Charitable Funding (Red Cross, United Way, local church, etc.);
- Homeowners or private flood insurance;
- Private foundations;
- Puerto Rican Government, and
- Any other disaster assistance that the Program may need to consider in the future as part of the DOB assessment required by the Stafford Act.

PRDOH's assessment of total need must consider in-kind donations of materials or services that are known to PRDOH at the time it calculates need and makes the award. In-kind donations are non-cash contributions, such as donations of professional services, use of construction equipment, or contributions of building materials. In-kind donations are not "financial assistance" that creates a DOB under the Stafford Act, but they do reduce the amount of CDBG-DR assistance for unmet need because the donated goods or services reduce activity costs.

The Awarded Applicant acknowledges that funds provided through the Program are

²⁷ 84 FR 28836.

Federal funds administered by HUD under the CDBG-DR Program and that all funds provided are subject to audit, disallowance, and repayment. Any disagreement with adverse findings may be challenged and subject to Federal regulation, however, the Awarded Applicant shall promptly return any and all funds which are found to be ineligible, unallowable, unreasonable, a duplication of benefits, or non-compensable, no matter the cause.

7.1 Declined SBA Loans

Declined loans are loan amounts offered by a lender, but turned down by the Program Applicant, meaning the Program Applicant never signed the loan documents to receive a loan disbursement. The Bipartisan Budget Act of 2018 (Pub. L. 115–123, approved February 9, 2018) provides that grantees “shall not take into consideration or reduce the amount provided to any applicant for assistance from the grantee where such applicant applied for and was approved, but declined assistance related to such major declared disasters that occurred in 2014, 2015, 2016, and 2017 from the Small Business Administration (SBA)...” Therefore, declined subsidized loans, including SBA loans are not to be included in the calculation of DOB.

7.2 Cancelled SBA Loans

Cancelled loans are loan amounts offered by a lender, accepted by the Program Applicant, but for a variety of reasons, all or a portion of the loan amount was not disbursed and is no longer available to the applicant. Undisbursed portions of cancelled SBA loans may be excluded from the calculation of DOB, if it can be documented that the undisbursed portion of an accepted loan is cancelled and no longer available to the Program Applicant. To document that an SBA loan is cancelled, the Program Applicant must provide either: written communication from the lender confirming the loan is cancelled and no longer available to the applicant; or a legally binding agreement between PRDOH and the applicant that indicates the period of availability of the loan has passed and the applicant agrees not to take actions to reinstate the loan or draw any additional undisbursed loan amounts. In addition, PRDOH must notify SBA that the Program Applicant has agreed not to take any actions to reinstate the loan or draw additional amounts.

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

8 Environmental Review

An environmental review is the process of reviewing a project and its potential environmental impacts to determine whether it meets federal, state, and local

environmental standards. Every project undertaken with federal funds, and all activities associated with such project, are subject to the provisions of the National Environmental Policy Act of 1969 (**NEPA**), 42 U.S.C. §4231 *et seq.*, 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. Therefore, an environmental review process is required for all awards to be issued under the Program to ensure that the proposed activities do not negatively impact the surrounding environment and that the property itself will not have an adverse environmental or health effect on end users. Specifically, 24 C.F.R. § 58.22 prohibits the commitment or spending of federal or non-federal funds on any activity that could have an adverse environmental impact or limit the choice of reasonable alternatives prior to completion of an environmental review. Environmental clearance must be obtained for each project prior to the commitment of federal or non-federal funds. A violation of this requirement may jeopardize federal funding for the Program and disallow all costs that were incurred before completion of the environmental review.

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

8.1 Environmental Level of Review

To conduct the appropriate level of environmental review, the Re-Grow Program will determine the environmental classification of the project. The term “project” may be defined as an activity or group of activities geographically, functionally, or integrally related, regardless of funding source, to be undertaken by the Program in whole or in part to accomplish a specific objective. There are two major classifications of environmental review for projects in the Re-Grow Program:

- Exempt Activities [24 C.F.R. § 58.34(a)(10)]: Those activities which are highly unlikely to have any direct impact on the environment.
- Categorically Excluded Activities (24 C.F.R. § 58.35): Those activities that may have an impact to the environment, but not to the extent that an Environmental Assessment under NEPA or Environmental Impact Statement is required. There are two types of Categorically Excluded Activities, as follows:
 - Categorically Excluded Not Subject to 24 C.F.R. § 58.5: Includes those activities included under 24 C.F.R. § 58.35 (b) and require environmental checks for the items listed at 24 C.F.R. § 58.6. For activities under this classification, no public notice or request for release of funds is required to

use grant funds.

- Categorically Excluded Subject to 24 C.F.R. § 58.5: Refers to those activities included under 24 C.F.R. § 58.35 (a) and require environmental checks for the items listed at 24 C.F.R. § 58.5 and 24 C.F.R. § 58.6. If any environmental items are identified as potentially impacting (such as floodplains), a Request for Release of Funds (including publication of Notice of Intent) is required.
- 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.²⁸

The level of environmental review for the Re-Grow Program will be determined on a case-by-case basis, considering the particularities of each project presented by the Applicants and how they conform to the requirements of exempt and categorically excluded activities as listed above. This will include considerations whether or what type of activities are included, if any, among other factors. Environmental clearance must be obtained for each project prior to the commitment of federal or non-federal funds.

9 Non-responsive Applicants

The Program will make reasonable attempts to contact Applicants to schedule meetings, collect documentation, or obtain other information necessary during any steps in the process. If the Program has made **five (5) consecutive unsuccessful attempts** to contact an Applicant with no follow up contact from them, the applicant will be sent a Non-Responsive Notice. Contact attempts should be made using different methods of communication and at different times of the day/week. The Non-Responsive Notification provides contact information for the Program, advises the applicant of the next steps in the application process and notifies the Applicant that they must contact the Program within **fourteen (14) calendar days** of the date of the letter. If the Applicant fails to

²⁸ 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.

contact the Program within the **fourteen (14) calendar days allowed**, a Non-responsive Confirmation Notice will be sent by the Program and the application will be placed in an “inactive” status at which time the Applicant will receive an Inactive Application Notice. The Applicant will have up to **six (6) months** from the date of the Inactive Application Notice to contact the Program to re-activate their application. Failure to contact the Program within **six (6) months** from the date of the Inactive Application Notice will result in closure of the application due to the non-responsiveness of the Applicant.

Likewise, the Program will make reasonable attempts to collect missing documentation and/or information. When it is determined that an Applicant must submit additional documentation or information, they will be sent a Missing Documents Notification requesting them to provide missing information. Applicants will be allowed up to **thirty (30) calendar days** from the date of the written notification to provide missing information or documentation to fulfill the request. If the Applicant fails to provide the missing documents within the **thirty (30) calendar days** allowed, a Missing Documents Confirmation Notification will be sent to the Applicant and the application will be placed in an “inactive” status.

10 Voluntary Withdrawal

An Applicant may request to withdraw from the Program at any time before disbursement of funds begins. The voluntary withdrawal process will be followed in the event an Applicant requests to withdraw from the Program. To withdraw, the Business Applicant will notify the Subrecipient of the Program, in writing, of its desire to withdraw from the Program, who will then provide a Voluntary Withdrawal Notice to the Applicant. The Applicant or Applicants may withdraw from the Program using an electronic method. Upon completion of the withdrawal request, **fifteen (15) calendar days** after the Voluntary Withdrawal Notice, a Withdrawal Confirmation Notification will be sent to the Applicant and the application status will be updated to “Withdrawn.”

If the Applicant has received a disbursement of funds, they will not be able to withdraw from the Program and they will be notified through a Voluntary Withdrawal Denial Notification. Applicants who receive a Voluntary Withdrawal Denial Notification are required to comply with Program requirements until Expenditure Review and all the Closeout steps have been completed. Failure to comply with Program requirements will result in the Applicant being referred to a recapture process as established in the Recapture Section of these Guidelines.

11 Monitoring

HUD requires PRDOH, as the Grantee, to monitor progress of all Subrecipients and Partners to ensure compliance with applicable Federal Requirements and to determine if performance expectations are being achieved. Monitoring is not limited to a one-time

event but is rather an ongoing process that assesses the quality of CDBG-DR funded program performance over the life of the Subrecipient Agreement and involves continuous communication and evaluation. To meet this requirement, Subrecipients will provide PRDOH a Monthly Progress Report on the implementation of the Program on a monthly basis.

Subrecipients will report to PRDOH as stipulated in each CDBG-DR Agreement. All information reported will be available, as part of PRDOH's Quarterly Performance Reports (QPRs) in English and Spanish on the CDBG-DR website at <https://www.cdbg-dr.pr.gov/en/reports/> and <https://www.cdbg-dr.pr.gov/reportes/>.

12 Program-Based Reconsideration and/or Administrative Review

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

12.1 Program-based Reconsideration Request

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

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

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

Denied notification.

Filing a Program-based Reconsideration Request does not substitute, negate, or preclude any legal right that an Applicant has to challenge a determination made by the Program. Therefore, Applicants who believe the initial determination of the Program to be erroneous, may submit, at their discretion, either a Program-based Reconsideration Request or a petition for review of the decision made by the Program by filing an Administrative Review Request at 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)²⁹.

12.2 Administrative Review Request

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

If the Applicant disagrees with any **final** written determination on an Administrative Review Request notified by PRDOH after completing the Administrative Adjudicative Procedure, said party may file a Judicial Review petition before the Court of Appeals of Puerto Rico within **thirty (30) 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.

13 General Provisions

13.1 Program Guidelines Scope

This document sets forth the policy governing the Program. These program guidelines are

²⁹ For more details, you can access Regulation 4953 (in Spanish) at: <https://www.vivienda.pr.gov/wp-content/uploads/2015/09/4953-Reglamenta-los-procedimientos-de-adiudicacion-formal.pdf>

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

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

13.2 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.

13.3 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.

13.4 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.

13.5 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.

13.6 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.

13.7 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 Policy (**COI Policy**) in conformity with the following applicable federal and state regulations:

1. HUD conflict of interest regulations, 24 C.F.R. §570.611;
2. The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200 at § 200.112 and §200.318 (c)(1);
3. Puerto Rico Department of Housing Organic Act, Act 97 of June 10, 1972, as amended, 3 L.P.R.A. § 441 et seq.;
4. The Anti-Corruption Code for the New Puerto Rico, Act No. 2-2018, as amended; 3 LPRA § 1881 et seq.; and
5. The Puerto Rico Government Ethics Office Organic Act, Act 1-2012, as amended. 3 LPRA § 1854 et seq.

The COI Policy outlines PRDOH's responsibility, in its role as grantee, to identify, evaluate, disclose and manage apparent, potential or actual conflicts of interest related to CDBG-DR funded projects, activities and/or operations. **COI** 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 COI Policy also includes standards of conduct governing employees engaged in the award or administration of contracts.

As defined in the COI Policy, a conflict of interest is a situation in which any person who is a public servant, employee, agent, consultant, officer, or elected official or appointed

official of the PRDOH, or of any designated public agencies, or of 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. PRDOH, Program officials, their employees, agents and/or designees are subject to state ethic laws and regulations, including, but not limited to the Puerto Rico Government Ethics Act of 2011, Act 1-2012, as amended, in regard to their conduct in the administration, granting of awards and program activities.

According to the Puerto Rico Government Ethics Act, no public servant shall intervene, either directly or indirectly, in any matter in which they have a conflict of interests that may result in their benefit. No public servant shall intervene, directly or indirectly, in any matter in which any member of their family unit, relative, partner or housemate has a conflict of interest that may result in benefit for any of 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, they shall not intervene, either directly or indirectly, in any matter related to them until **two (2) years** have elapsed after their appointment. This prohibition shall remain in effect insofar the beneficial ties with the public servant exist. Once the beneficial ties end, the public servant shall not intervene, either directly or indirectly, in such matter until **two (2) years** have elapsed.

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

The COI Policy, and all CDBGDR-Program policies, are available at <https://cdbg-dr.pr.gov/en/resources/policies/> (English) and <https://cdbg-dr.pr.gov/recursos/politicas/> (Spanish). The COI Policy may be directly accessed at <https://www.cdbg-dr.pr.gov/en/download/conflict-of-interest-and-standards-of-conduct-policy/> (English) and <https://www.cdbg-dr.pr.gov/download/politica-de-conflictos-de-interes-y-estandares-de-conducta/> (Spanish).

13.8 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.

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

- **Via phone:** 1-833-234-CDBG or 1-833-234-2324 (TTY: 787-522-5950)
Attention hours Monday through Friday from 8:00am-5:00pm
- **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

The Citizen Participation Plan and all CDBG-DR Program policies, are available at <https://www.cdbg-dr.pr.gov/en/resources/policies/> (English) and <https://www.cdbg-dr.pr.gov/recursos/politicas/> (Spanish). The Citizen Participation Plan may be directly accessed at <https://www.cdbg-dr.pr.gov/en/citizen-participation/> (English) and <https://www.cdbg-dr.pr.gov/participacion-ciudadana/> (Spanish).

13.9 Citizen Complaints

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

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

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

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

- **Via telephone:** * 1-833-234-CDBG or 1-833-234-2324 (TTY: 787-522-5950)
- **In-person at:** * PRDOH Headquarters Office or Program-Specific Intake centers

*Attention hours: Monday – Friday from 8:00 a.m. to 5:00 p.m.³⁰

The Citizen Complaints Policy and all CDBG-DR Program policies are posted at <https://www.cdbg-dr.pr.gov/en/resources/policies/general-policies/> (English) and <https://www.cdbg-dr.pr.gov/recursos/politicas/politicas-generales/> (Spanish). The Citizen Complaints Policy may be directly accessed at <https://www.cdbg-dr.pr.gov/en/download/citizen-complaints-policy/> (English) and <https://www.cdbg-dr.pr.gov/download/politica-sobre-presentacion-de-quejas/> (Spanish).

13.10 Anti-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 DIRECTLY WITH CDBG-DR

³⁰ Hours may vary due to COVID-19. PRDOH recommends calling ahead prior to arrival to corroborate.

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
Online	www.cdbg-dr.pr.gov https://cdbg-dr.pr.gov/app/cdbgdrpublic/Fraud
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 Dávila, Río Piedras, PR 00918.

REPORT FRAUD, WASTE, ABUSE, OR MISMANAGEMENT DIRECTLY WITH 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
Online	https://www.hudoig.gov/hotline

The AFWAM Policy, and all CDBG-DR Program policies, are available in English and Spanish on the PRDOH website at <https://www.cdbg-dr.pr.gov/en/resources/policies/> and <https://www.cdbg-dr.pr.gov/recursos/politicas/>. The AFWAM Policy can be directly accessed at <https://www.cdbg-dr.pr.gov/en/download/afwam-policy/> (English) and <https://www.cdbg-dr.pr.gov/download/politica-afwam/> (Spanish).

13.11 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.

13.12 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.

The Cross-Cutting Guidelines, and all CDBG-DR Program policies, are available in English and Spanish on the PRDOH website at <https://www.cdbg-dr.pr.gov/en/resources/policies/> and <https://www.cdbg-dr.pr.gov/recursos/politicas/>. Cross-Cutting Guidelines can be directly accessed at <https://www.cdbg-dr.pr.gov/en/download/cross-cutting-guidelines/> (English) and <https://www.cdbg-dr.pr.gov/download/guias-intersectoriales/> (Spanish).

14 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.

15 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.