



# CDBG-DR

## REASONABLE ACCOMMODATION POLICY

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PUERTO RICO DEPARTMENT OF HOUSING  
CDBG-DR PROGRAM  
**REASONABLE ACCOMMODATION POLICY**  
VERSION CONTROL

<b>VERSION NUMBER</b>	<b>DATE REVISED</b>	<b>DESCRIPTION OF REVISIONS</b>
1	July 29, 2020	Original Version

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## 1 Overview

This Reasonable Accommodation Policy (**RA Policy or Policy**) is established by the Puerto Rico Department of Housing (**PRDOH**) to provide consistency and guidance to all PRDOH CDBG-DR staff, subrecipients, and contractors on the handling of reasonable accommodation and modification requests (**RA/RM Request or requests**) they receive from individuals claiming a disability. These requests may be received from any member of the public, applicant to a program, beneficiary of a program, employee or tenant of government subsidized housing. Regardless of who submits or receives a RA/RM Request, it is critical that each is handled consistently with proper due diligence and in compliance with all applicable federal laws. For the purposes of this Policy, the applicable laws are those which apply to activities receiving Federal, state, or local funds and include the Americans with Disabilities Act of 1990,<sup>1</sup> as amended (**ADA**), Section 504 of the Rehabilitation Act of 1973 (**Section 504**),<sup>2</sup> and the Fair Housing Act (**FHA**).<sup>3</sup>

This Policy applies to all programs receiving funding from the PRDOH CDBG-DR Program. This Policy does not apply to reasonable accommodation requests related to employment. Reasonable accommodation requests in the workplace have to be channeled directly with the employer.

Additionally, because this Policy is based in federal fair housing laws, it automatically supersedes any existing policy and/or practice applicable to the PRDOH CDBG-DR Program and its subrecipients and contractors, as well as all Puerto Rico laws and regulations that run afoul or in any way conflict or otherwise affect disabled individuals' rightful claims to integrated and accessible housing services, reasonable accommodations and/or modifications.

## 2 Definitions

**Disability** (and equivalent term **“handicap”**): with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such impairment; or being regarded as having such an impairment as described at 28 C.F.R. § 35.108(f). The definition of *disability* shall be construed broadly in favor of expansive coverage, to the maximum extent permitted by the terms of the ADA. These terms do not include current, illegal use of or addiction to a controlled substance. This definition is illustrative and non-exhaustive.<sup>4</sup>

**Disabled person**: any person who has 1) a physical or mental impairment which substantially limits one or more of such person's major life activities, 2) a record of having such an impairment, or 3) being regarded as having such impairment; extends to renters,

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<sup>1</sup> Implementing regulations found at 28 C.F.R. Part 35 (Title II)

<sup>2</sup> Implementing regulations found at 24 C.F.R. Part 8

<sup>3</sup> Codified at 42 U.S.C. § 3601-3619

<sup>4</sup> Should the review of a request include verifying that a person qualifies as a “disabled person” who is entitled to a RA/RM, reviewers should consult the full definitions of “disability” and “handicap”, as well as definitions for related terms, established at 24 C.F.R. § 100.201 and 28 C.F.R. § 35.104. Note that these full definitions, too, are considered illustrative and non-exhaustive.

residents, heads of household, persons residing or intending to reside with these individuals, as well as any other person associated with such a renter, resident, or head of household.<sup>5</sup>

**Disparate impact (and the equivalent term “discriminatory effect”):** a practice has a discriminatory effect where it actually or predictably results in a disparate impact on a group of persons or creates, increases, reinforces, or perpetuates segregated housing patterns because of race, color, religion, sex, handicap, familial status, or national origin.<sup>6</sup>

**Reasonable accommodation (RA):** A change, exception, or adjustment to a rule, policy, practice, or service that may be necessary to avoid discrimination on the basis of disability and afford a person with disabilities an equal opportunity to use and enjoy a dwelling, public and common use spaces, or to participate in any government-assisted program or activity.<sup>7</sup>

**Reasonable modification (RM):** A structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises. Reasonable modifications can include structural changes to interiors and exteriors of dwellings and to common and public use areas.

### 3 RA/RM Request Policy Statement

PRDOH CDBG-DR and its subrecipients and contractors, shall not discriminate on the basis of disability, on its face or as applied, while interpreting local laws, regulations, or during the administration of state or federally funded housing programs. Such non-discrimination includes reasonably accommodating policies, practices, and procedures when necessary to afford equal services and opportunities to persons who are disabled or perceived to be disabled. PRDOH shall not act in any manner or arrange for any practice which may have the intentional or unintentional effect of subjecting qualified individuals with disabilities to prohibited discrimination.

PRDOH, as grantee, will ensure that every effort is made to meet the disability-related needs of requesting individuals to the maximum extent feasible.

PRDOH, as grantee, is responsible for ensuring that all of its employees, subrecipients, and contractors, have access to this Policy and are familiar with its contents, as well as clear on their roles and responsibilities within this Policy to ensure that the civil rights of disabled

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<sup>5</sup> See 42 USC 3604(f)(1-2)

<sup>6</sup> See 24 C.F.R. § 100.500

<sup>7</sup> Note that there are differences in how the Fair Housing Act and Section 504 define and require RAs and RMs. Section 504 does not distinguish between RAs and RMs. Instead, both are captured by the term “reasonable accommodations.” This is due to the fact that under Section 504, both accommodations and modifications must be provided and paid for by a housing provider receiving federal funds so far as they are considered reasonable. The Fair Housing Act applies to all individuals and entities involved in the provision of housing and residential lending with certain exceptions, however those providers are required to provide only RAs and incur any costs so long as they are considered reasonable. RMs under the FHA are the burden of the requestor to provide, but providers are required to allow such modifications to occur so long as they are reasonable.

people are adequately upheld. This includes not only the handling of requests, but the dissemination of this Policy and related information to the general public upon request.

PRDOH, as grantee, will not impose any fee or cost for reasonable accommodation or modification requests or otherwise retaliate against any person for having made, aided, or encouraged another person to make a disability-related request.

## 4 Section 504 Compliance

The PRDOH CDBG-DR Federal Compliance and Labor Standards Division (**CDBG-DR FCLS**) is charged with coordinating CDBG-DR Program compliance with Section 504 and ADA, and monitoring related activities including managing and overseeing PRDOH's responsibility to provide accessible housing services, investigating and promptly resolving disability-related complaints, and managing all reasonable accommodation and modification requests received by PRDOH, its subrecipients, housing programs property owners, and its contractors in accordance with this Policy and related processes.

## 5 Subrecipients and Contractors

Subrecipients and contractors performing construction activities must confirm that they will be performed in a manner compliant with Section 504 and ADA when related to a RA/RM request or otherwise responding to the needs of a household with disabilities. Both subrecipients and contractors are expected to have either on staff or contracted expertise to ensure that they can respond to the needs of disabled individuals, when necessary, in a compliant manner.

Additionally, subrecipients and contractors should have a responsible individual(s) for ensuring the appropriate handling and evaluation of RA/RM requests received by any staff working for or on behalf of their entity, and this individual(s) should be made known to all staff in roles that may receive requests from program participants.

## 6 RA/RM Request Submission

Any disabled person, family member of, or individual authorized by a disabled person (all referred herein as "**requestor**") may request a reasonable accommodation or modification in a number of ways. PRDOH employees and any person working on behalf of a PRDOH program are required to accept and handle RA/RM requests in accordance with this Policy. It is advisable for requestors to submit a request in writing to ensure the request is accurately received and responded to; however, oral requests are also accepted.

To assist in collecting RA/RM request information, PRDOH has created a Reasonable Accommodation & Modification Request Form, which will be available on its website or can be requested in person from PRDOH staff as well as other individuals working on behalf of PRDOH and its programs. Some programs, including the CDBG-DR Repair, Reconstruction, or Relocation Program (**R3 Program**) may have a Program-specific form which will be provided to individuals who either indicate in their program application that

they have a disability or request the form from PRDOH or program-supporting staff. Any form may be used to submit a RA/RM request.

While it is preferable that RA/RM requests be submitted in writing directly to program staff, requests may also be submitted through the following contact methods:

<b>Email:</b>	<a href="mailto:fairhousing@vivienda.pr.gov">fairhousing@vivienda.pr.gov</a>
<b>Online:</b>	<a href="http://www.cdbg-dr.pr.gov">www.cdbg-dr.pr.gov</a> <sup>8</sup>
<b>Postal Address:</b>	Puerto Rico CDBG-DR Program Attn: Federal Compliance and Labor Standards Division P.O. Box 21365 San Juan, PR 00928-1365
<b>Customer Service Call Center Phone Numbers</b>	<a href="tel:7872742527">(787) 274-2527 (TTY: 787-522-5950)</a> 1-833-234-CDBG / 1-833-234-2324 Toll Free (English and Spanish)

Regardless of how the request is conveyed to PRDOH, the requestor should make clear that their request is for a RA/RM that relates to the disability-related needs of themselves, someone in their household, or someone on behalf of whom they are making the request.

## 7 RA/RM Request Review

The RA/RM request will be received, logged, and evaluated to determine how PRDOH will respond to the request. These responses include, but are not limited to:

- Confirm receipt of request
- Providing the accommodations or modifications as requested;
- Offering a change or alternative to the requested accommodations or modifications;
- Requesting additional information from the requestor;
- Denying the request

Should the initial response to the RA/RM request be anything other than providing the RA/RM as requested, then PRDOH will ensure that the requestor is engaged in a process of open dialogue to:

- Request additional information to understand the nature of the person's disability or the relationship between the person's disability and the requested RA/RM; and/or
- Determine changes or alternatives to the requested RA/RM that both meet the disabled person's needs and are reasonable to be provided by PRDOH or the related program.

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<sup>8</sup> A direct link will be provided.

If sufficient information cannot be provided by the requestor, or a reasonable alternative cannot be agreed upon, then PRDOH may deny the request through written notification.

An accommodation or modification request may also be denied if providing it would cause an undue financial or administrative burden, or it would constitute a fundamental change of a program. However, every effort should still be made to accommodate the request to the extent that it would not result in such a burden or change. Such determinations will be made on a case-by-case basis and only at the direction of the CDBG-DR FCLS Division.

This notification will also include information for how to appeal this decision should the requestor choose to do so. More information can be found about the appeals process under the Appeals section of this Policy.

### **7.1 RA/RM Request Intake**

All PRDOH employees, subrecipients, contractors, are responsible for handling any RA/RM requests they receive in accordance with this Policy and associated evaluation process. With regards to CDBG-DR Programs, the requirements of this Policy extend to all case managers, housing counselors, program staff, program managers, construction managers, and anyone else interacting on behalf of PRDOH and its programs.

While it is permissible to establish a method (i.e. a form) for program applicants and other individuals to submit a request, all recipients of a request are required to honor any oral or written request regardless of how it is conveyed. The best practice is to put any oral requests into writing as soon as possible to have a written, agreed-upon record of what was requested.

A requestor need not use the phrases “accommodation” or “modification” in their request in order to be valid, nor explicitly state that they have a disability, however the requestor should communicate their request in a manner in which a person could reasonably understand it to be a request for a change or modification a rule, policy, practice, structure, or other activity that meets the needs of a disabled person.

Once a request is received, one of the first and most crucial steps of the intake process is to ensure that the proper information is collected and logged in the RA/RM Log. All requests need to be entered into the RA/RM Log, regardless of the action taken. The next step is to log the request.

### **7.2 RA/RM Request Log**

PRDOH is required to have and maintain a Reasonable Accommodation and Modification Log (**RA/RM Log**) which tracks all requests received by any applicable entity and their final disposition. FCLS will be responsible for managing and maintaining this log, which in some cases will be populated by program staff. All CDBG-DR employees, subrecipients and contractors are required to report each and every RA/RM request received to the RA/RM Log regardless of action taken, along with all information listed below.

PRDOH is required to maintain this log tracking the following information:

- Date of RA/RM request received by PM
- Description of the request
- Action taken
- Description of any changes proposed or executed to original request
- Documentation reflecting the final disposition of each request

Because not all information may be known upon receiving a request, such as the action taken or final disposition, it is important that this information is also promptly provided to the Log it is available. Following entry into the Log, the request will be evaluated.

### **7.3 RA/RM Request Evaluation**

Once a request has been received and entered into the RA/RM Log, it will be reviewed to evaluate the request to determine if the disability-related needs of requesting individuals can be met. Generally, every effort should be made to provide the accommodations or modifications as requested. The evaluation of the request considers the following four questions:

- Is more information needed to understand the nature of the person's disability or the relationship between the person's disability and the requested RA/RM?
- Would providing the RA/RM as requested cause an undue financial and administrative burden?
- Would providing the RA/RM as requested result in a fundamental alteration of a program or operations?
- Could the disabled person's needs be met by a change or alternative to the requested RA/RM?

The following guidance<sup>9</sup> should be considered when evaluating the answers to the above questions:

- It should not be a standard practice to request information to confirm a disability or need for every requested RA/RM. Information should be requested only when it is necessary to verify that the person meets the definition of "disability" established by this Policy and cited regulations, or when it is necessary to evaluate the relationship of the reasonable modification to the known disability.<sup>10</sup>
- Any information must be kept confidential and must not be shared with other persons unless they need the information to make or assess a decision to grant or deny a reasonable modification request.
- The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors, such as the cost of the requested accommodation, the financial resources of the provider, the benefits

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<sup>9</sup> Additional guidance can be found in Appendices 3 and 4. Also, CDBG-DR FCLS Division will provide a checklist to reviewers.

<sup>10</sup> Additional Guidance on requesting information can be found at #6 and #7 of Appendix 4: Joint Statement of HUD and DOJ, Reasonable Modifications Under the Fair Housing Act (March 5, 2008)

that the accommodation would provide to the requester, and the availability of alternative accommodations that would effectively meet the requester's disability-related needs.<sup>11</sup>

- A "fundamental alteration" is a modification that alters the essential nature of a provider's operations. While such a request could be denied, a provider or program should discuss with the requestor whether there is any alternative accommodation that would effectively meet the requester's disability-related needs without fundamentally altering the nature of its operations or program activities.

Should any responsible individual reach a point at which they are unable to make a determination or proceed with the evaluation, they should contact the CDBG-DR FCLS Division through [fairhousing@vivienda.pr.gov](mailto:fairhousing@vivienda.pr.gov) for guidance and support on completing the evaluation and proceeding with any next steps.

An accommodation or modification request may also be denied if providing it would cause an undue financial or administrative burden, or it would constitute a fundamental change of a program. However, every effort should still be made to accommodate the request to the extent that it would not result in such a burden or change. Such determinations will be made on a case-by-case basis.

## 8 Appeals

Persons denied reasonable accommodation may appeal the decision directly with PRDOH. An appeal must be submitted in writing to the CDBG-DR Legal Division no later than **thirty (30) calendar days** following the denial of a requested accommodation or modification. Individuals who wish to submit an appeal after receiving a final determination of the accommodation request, may do so through any of the following means:

- **E-mail:** [LegalCDBG@vivienda.pr.gov](mailto:LegalCDBG@vivienda.pr.gov)
- **Postal mail:** Puerto Rico CDBG-DR Program  
Attn: CDBG-DR Legal Division  
P.O. Box 21365  
San Juan, PR 00928-1365

A determination will be provided to the requestor in writing within **thirty (30) business days** of receiving the appeal a final determination of the accommodation request.

An individual's receipt or denial of an accommodation does not prevent the individual from making another request at a later time if circumstances change and they believe that an accommodation is needed due to limitations from a disability (e.g., the disability worsens or they require an additional or different reasonable accommodation).

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<sup>11</sup> Note that Section 504 Accessibility Standards established at 24 C.F.R. § 8.32 could provide additional guidance in this determination.

## 9 Failure to act on a RA/RM Request

If PRDOH delays responding to a request for an accommodation, after a reasonable amount of time<sup>12</sup>, that delay may be construed as a failure to provide a reasonable accommodation. A tenant or applicant may choose to seek legal assistance or [file a complaint](#) with HUD.

## 10 Dissemination of RA/RM Policy

This Policy will be made 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/>, on-site at any PRDOH office where information related to federally or state funded housing programs is made available to the public, and to any citizen upon request. Additionally, PRDOH will ensure that this Policy is readily available, and made known to all PRDOH employees, subrecipients, and contractors.

## 11 Appendices

Appendix 1: The Role of Housing in Accomplishing the Goals of Olmstead  
<https://www.hud.gov/sites/documents/OLMSTEADGUIDNC060413.PDF>

Appendix 2: New ADA Regulations and Assistance Animals as Reasonable Accommodations  
<http://servicedogcentral.org/content/files/2011-02-17%20HUD%20memo%20on%20new%20ADA%20regulations%20on%20assistance%20animals.PDF>

Appendix 3: Reasonable Accommodations under the Fair Housing Act  
[https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint\\_statement\\_ra.pdf](https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf)

Appendix 4: Reasonable Modifications under the Fair Housing Act  
[https://www.hud.gov/sites/documents/reasonable\\_modifications\\_mar08.pdf](https://www.hud.gov/sites/documents/reasonable_modifications_mar08.pdf)

Appendix 5: Memorandum of Understanding Among the Department of the Treasury, HUD, and the U.S. Department of Justice  
<https://www.justice.gov/crt/memorandum-understanding-among-department-treasury-department-housing-and-urban-development-an-0>

**END OF POLICY.**

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<sup>12</sup> HUD does not provide a specific time frame. This instance varies on a case-by-case basis.