



# CDBG-DR PROGRAM GUIDELINES

## RENTAL ASSISTANCE PROGRAM

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PUERTO RICO DEPARTMENT OF HOUSING  
CDBG-DR PROGRAM GUIDELINES  
**RENTAL ASSISTANCE PROGRAM**  
VERSION CONTROL

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## 1 Overview

Thousands of homes and households in Puerto Rico suffered structural and economic impact from Hurricanes Irma and María, and rental housing properties were no exception. For many years, under the Act 173 Program in Puerto Rico, rental units in these housing properties have been maintained at affordable rental fees for low-income residents. After these disasters, over one thousand (1,000) low-income, elderly households are at immediate risk of displacement from currently subsidized housing properties.

One of the suggested strategies listed by the United States Department of Housing and Urban Development's **(HUD)** Housing Damage Assessment and Recovery Strategies Report for Puerto Rico for Hurricanes Irma and María<sup>1</sup>, is to "ensure sufficient funds to continue assisting the Act 173 Program projects". The Puerto Rico Department of Housing **(PRDOH)** Rental Assistance Program's objective is to assist current or new eligible tenants, only through rental units under the current Act 173 Program housing properties with the highest risk of potential homelessness, through rental subsidy to avoid being displaced.

Subsidy agreements for many of the rental units from housing properties in the Act 173 Program expire in 2020, 2021 and 2022. While a portion of the financing that supported these rental units was already stressed before the hurricanes, a key source of funding remained in place as a share of funds generated by the Lottery of Puerto Rico. Lottery funds were directly impacted by reduced sales after the hurricanes, and the reduction has negatively affected the availability of funds with which to renew the subsidy agreements on the housing properties.

Maintaining the affordability of rental units is urgently needed for elderly households who rely upon rental assistance programs, like the Act 173 Program, due to having no- or very low- income. Participating rental housing property owners cannot be required to operate their properties with only the tenant contribution of the rental units' monthly fee. Thus, the availability of affordable rental units for these vulnerable elderly tenants is at risk.

While the Rental Assistance Program's funding only provides assistance per rental unit for up to **twenty-four (24) months**, PRDOH will work during this time period with the Housing Property Owners of the rental units receiving the subsidy, to identify long-term Exit Strategies for maintaining the affordability of their rental units without having to further assist them through Act 173 Program funds.

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<sup>1</sup> HUD's Housing Damage Assessment and Recovery Strategies Report for Puerto Rico for Hurricanes Irma and María: <http://spp-pr.org/wp-content/uploads/downloads/2018/07/HUD-Housing-Damage-Assessment-Recovery-Strategies-6-29-18.pdf>

## 2 Definitions

- **Act 173 Program:** It refers to the program established by Puerto Rico's Act 173 of August 31, 1996, known as the Housing Rental and Improvement Subsidy Program for Low-Income Elderly Persons, that assists low-income elderly households by subsidizing rental housing costs. This program is administered by PRDOH and it receives reserve funding from the Lottery of Puerto Rico.
- **Adjusted Gross Income:** In the United States income tax system, adjusted gross income (AGI) is an individual's total gross income minus specific deductions. Taxable income is adjusted gross income minus allowances for personal exemptions and itemized deductions<sup>2</sup>.
- **Area Median Family Income (AMFI):** The median household income adjusted by family size for a given area. HUD has adjusted income limits for all of Puerto Rico. Adjusted income limits are updated annually by HUD and can be accessed at the HUD Exchange website<sup>3</sup>.
- **Case Manager:** The representatives from PRDOH who will work directly in the Rental Assistance Program implementation, both with subsidy beneficiaries and with Housing Property Owners during the application process and the duration of the Program. Case managers' responsibilities include, but are not limited to, receiving applicants' documents during intake; reviewing them during the eligibility process; and, when assigned to a specific case, acting as the primary point of contact for all communications pertaining to assistance of beneficiaries of the Rental Assistance Program; among other tasks.
- **Community Development Block Grant – Disaster Recovery (CDBG-DR):** A term for the HUD funding stream that is allocated to eligible disaster recovery entities via congressional appropriations.
- **Continuum of Care Programs (CoC):** A program that coordinates housing and services funding, usually for homeless families or individuals. For the Rental Assistance Program, viable CoC Programs would be programs where elderly people with risk of homelessness may be eligible candidates.
- **Duplication of Benefits (DOB):** Financial assistance received from another source that is provided for the same purpose as CDBG-DR funds.
- **Elderly:** For this Program, an individual **sixty (60) years** or older, as defined in the current Act 173 Program's administrative regulations.
- **Extremely Affordable Rent:** A total rental fee covered in its entirety by the maximum subsidy award of the Rental Assistance Program, up to \$400 monthly, per rental unit.

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<sup>2</sup> For more information, please see: <https://www.irs.gov/e-file-providers/definition-of-adjusted-gross-income>

<sup>3</sup> FY 2019 Income Limits for All Areas in Puerto Rico Adjusted by 4-Person Federal Poverty Guideline: <https://files.hudexchange.info/resources/documents/2019-Puerto-Rico-Income-Limits.pdf>

- **Household Member:** A household member is defined as any person occupying the same housing unit, regardless of their relationship to each other. This may include minor children, temporarily absent family members, or permanently absent family members (such as those who reside in a nursing home).
- **Housing Property Owner (HPO) :** Refers to the individual, association or corporation that owns or manages the housing property, which contains the rental units that will receive the subsidy. An HPO includes any housing property representative who is delegated to perform the responsibilities of the HPO. It is the HPO who will gather and submit all the pertinent documentation and information to PRDOH, on the Rental Unit Applicants' behalf, to receive the rental subsidy. The HPO will also be responsible of complying with all the required documentation and stipulations for the entity it legally represents, as well as all the unit and property inspections required by these Guidelines.
- **Housing Quality Standards (HQS):** Are HUD's minimum quality standards for tenant-based programs. HQS standards are required, both, at initial occupancy and during the term of the lease. HQS standards apply to the building and premises, as well as the individual unit.  
HQS consists of, but is not limited to, the following pertinent performance requirements: well- conditioned sanitary facilities; space and security; illumination and electricity; structure and materials; interior air quality; water supply; lead-based paint; accessibility; site and neighborhood; and smoke detectors.
- **HUD-52580 Form:** The form used as a checklist for inspections of tenant-based programs under HUD regulations to ensure HQS compliance.
- **Inspector:** A PRDOH staff member, or an authorized external contractor, who will conduct an inspection of all rental units and housing properties to be subsidized under this Program to ensure that they meet the minimum standards required by these Guidelines.
- **Intake:** It refers to the initial process of application in which the HPO submits all required documentation and information on behalf of the Rental Unit Applicants that are to be reviewed for eligibility for this Program.
- **Low-income Household:** Low-income households are those with incomes of not more than 50% of Area Median Family Income (**AMFI**) set by the Federal Government for the HUD-assisted Housing Programs. Income limits are adjusted annually and vary by household size<sup>4</sup>.
- **Medical Expenses:** Recurring medical expenses according to a medical certificate presented for each Rental Unit Applicant. Includes expenses for prescription or over the counter medications prescribed by a physician, health

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<sup>4</sup> FY 2019 Income Limits for All Areas in Puerto Rico Adjusted by 4-Person Federal Poverty Guideline: <https://files.hudexchange.info/resources/documents/2019-Puerto-Rico-Income-Limits.pdf>

plan costs, deductible payments and equipment recommended by a physician. Medical expenses will be deducted at 50% to determine an applicant's Adjusted Gross Income.

- **Non-citizen National:** A person born in an outlying possession of the United States, on or after the date the United States acquired the possession, or a person whose parents are United States non-citizen nationals. All United States citizens are United States nationals; however, not every United States national is a United States citizen.
- **Pre-approved Tenant:** Refers to a Rental Unit Applicant who, at the moment the application is submitted, does not reside in the housing property to which they are applying to, but is approved by the HPO to potentially reside in a rental unit in said housing property. This Rental Unit Applicant should have a draft lease agreement to evidence the rental unit will serve as their primary residence.
- **Primary Residence:** Refers to a dwelling where a person maintains or will maintain their primary residence, and which will be typically occupied for the majority of the calendar year. A person may have only one primary residence at any one time.
- **Puerto Rico Action Plan:** Defines how the CDBG-DR funding allocation by the United States Department of Housing and Urban Development will be utilized in order to meet the disaster recovery needs of the Island's residents through the implementation of a transformative recovery program. The Action Plan, as amended, provides an analysis of the first damage calculation and reports on the programs that will meet urgent needs of housing, planning, economic recovery and infrastructure.
- **Puerto Rico Department of Housing (PRDOH):** PRDOH has been designated as the grantee, or entity responsible for the administration of the CDBG-DR funds allocated for the recovery from disasters caused in the Island by hurricanes Irma and María in 2017. PRDOH regulates the Law 173 Program for rental assistance to elderly individuals from low-income households, which the Rental Assistance Program will be assisting.<sup>5</sup>
- **Qualified Alien:** A legal permanent resident ("green card" holder); an asylee, refugee, or an alien whose deportation is being withheld; alien paroled into the United States for at least one year; alien granted conditional entry (per law in effect prior to April 1<sup>st</sup>, 1980); Cuban or Haitian entrant; aliens in the United States who have been abused, subject to battery or extreme cruelty by a spouse or other family/household member, or have been a victim of a severe form of human

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<sup>5</sup> For current Law 173 Program's Administrative Regulations, refer to: <https://www.vivienda.pr.gov/wp-content/uploads/2019/04/BorradorReglamento173marzo2019.pdf>

trafficking; aliens whose children have been abused; and alien children whose parent has been abused who fit certain criteria.

- **Rental Unit Applicant:** It refers to the elderly tenant who will use the rental unit receiving the subsidy as their primary residence, if eligible for the Program. The Rental Unit Applicant is responsible of producing the required documents to the HPO, who will then submit them to PRDOH on the Rental Unit Applicants' behalf during the application process.
- **Risk of Homelessness:** Persons living in unstable or overcrowded housing; those forced to move frequently due to economic hardship; those being evicted from a private dwelling unit and lacking resources or a support network to obtain other housing; those living in a shelter or transitional housing, qualify as persons with "risk of homelessness".
- **Second Sequence Score Level:** A Score Level which ranks each municipality based on the number of Act 173 Program housing properties, number of public housing properties ("residenciales públicos"), viable CoC programs, and number of Housing Choice Voucher Program (Section 8) housing properties, respectively, in each municipality. The lowest Score Levels demonstrate the municipalities with the most precarious necessities in terms of availability of affordable alternative housing for elderly individuals. The Score Level will only be used for the Second Program Service Sequence.
- **Tenant:** A person who is not the owner but enjoys the right to a good, property or service for a specific term, in exchange for rent.
- **Total Rental Fee:** The total fee by which the HPO will lease the unit to be used as a primary residence by the Rental Unit Applicant. The Total Rental Fee for each rental unit per housing property will be the same as the previous rental fee per rental unit under the Act 173 Program.
- **United States Citizen:** A person born in one of the 50 states, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, or the Northern Mariana Islands; a person born outside of the United States to at least one parent who is a United States Citizen; or a naturalized citizen.
- **United States Department of Housing and Urban Development (HUD):** The Federal agency dedicated to providing and regulating housing and community-development assistance, to ensure access to fair, safe and equal housing. It is the agency through which the CDBG-DR funds are allocated to grantees.
- **Utilities:** The expenses incurred by the Rental Unit Applicant for the payment of water and electricity service, as well as a fridge and a stove, will be deducted to determine the Adjusted Gross Annual Household Income. The utility will be deducted according to the table of utilities established by PRDOH's Voucher Program for Free Selection of Housing (Section 8) for the corresponding municipal region.

- **Very Low-income Households:** Very Low-Income Households are those with incomes of no more than 30% AMFI, according to the standards set by the federal government for the HUD-assisted Housing Programs. Income limits are adjusted annually and vary by household size<sup>6</sup>.

### 3 National Objective

The national objective of the Rental Assistance Program is to benefit low-and moderate-income (**LMI**) persons (below 80% AMFI) according to HUD Modified Income Limits for Puerto Rico under the CDBG-DR Program.

### 4 Program Description

The Rental Assistance Program responds to the urgent need of preserving the loss of extremely affordable rental units and promoting housing sustainability by providing rental assistance to low-income elderly residents of hurricane-impacted areas who are at risk of becoming homeless, due to the impending loss of funding for Act 173 Program subsidies in Puerto Rico.

This temporary assistance will allow time for PRDOH to achieve exit strategies for the subsidized rental units. Through the end of the **twenty-four (24) month** duration of this program, PRDOH expects to resolve the housing needs, aggravated by the hurricanes' impact for approximately 1,000 rental units, through these Exit Strategies, securing the ability to keep serving all the remaining Act 173 Program beneficiaries while an exit strategy is achieved.

The Rental Assistance Program will select participants with priority, as defined in the Program Selection Sequence, which has been carefully considered and designed to provide rental assistance to the most precarious necessities within the current Act 173 Program housing properties.

Funding will initially be prioritized for elderly, very low-income (less than 50% AMFI), current or potential tenants from rental units in housing properties whose subsidy contracts for the Act 173 Program expire from 2020 to 2022, thus avoiding risk of homelessness for these tenants whose subsidy contracts expire the soonest. The Second Program Selection Sequence will be made up of low-income, elderly individuals who currently are, or seek to be, tenants from rental units in housing properties under the Act 173 Program located in municipalities with a very low number of alternative affordable housing options, according to the Second Priority Score Level, detailed in the Program Selection Sequence section of these Guidelines.

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<sup>6</sup> FY 2019 Income Limits for All Areas in Puerto Rico Adjusted by 4-Person Federal Poverty Guideline: <https://files.hudexchange.info/resources/documents/2019-Puerto-Rico-Income-Limits.pdf>

As a result of the Program Selection Sequence, PRDOH anticipates that the Rental Assistance Program, in conjunction with remaining Act 173 Program funding, will provide sufficient resources to successfully execute Exit Strategies and continue providing assistance to the beneficiaries of the Act 173 Program.

## 5 Eligible Activities and Use of Funds

This section sets forth the eligible activities and uses of CDBG-DR funds for the Rental Assistance Program. Section 105(a)(8) of the Housing and Community Development Act of 1974 (**HCDA**) and Section 570.201(e) of Title 24 of the Code of Federal Regulations, respectively, establish as an eligible use for the funds the provision of public services including, but not limited to, those concerned with employment, crime prevention, child care, health, drug abuse, education, fair housing counseling, energy conservation, welfare, homebuyer down payment assistance, or recreational needs.

Based on the above, the following is an eligible use of funds performed by the Program.

### 5.1 Subsidy of Rent for Low Income Tenants to Prevent Homelessness

As authorized by 84 FR 4836, this activity shall not be interpreted as all-encompassing eligible activity, but rather as one example of an authorized public service. The use of CDBG-DR funds for tenant-based rental assistance advances HUD's priority to support forward-thinking solutions to help communities that are struggling to house and serve persons and families that are homeless or at risk of homelessness, as a result of a disaster. For the reasons above, HUD expanded the definition of public service at 42 U.S.C. §5305(a)(8) to include the following activity in 84 FR 4836: Provision of rental assistance to disaster-impacted households for up to **twenty four (24)** months.

Eligible assistance includes rental assistance and utility payments, and may also include rental costs (i.e., security deposits and utility deposits), when the grantee determines that such payments are necessary and reasonable to help prevent a household from being homeless.

## 6 Program Implementation

PRDOH will begin the Rental Assistance Program's implementation by notifying all **forty-nine (49)** Act 173 Program housing properties, and its current Act 173 Program tenants, of the available funds for the Program. Only rental units in these housing properties currently under the Act 173 Program will be eligible for subsidy. The information contained on the program announcement will also be published on the PRDOH CDBG-DR website<sup>7</sup>,

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<sup>7</sup> <https://www.cdbg-dr.pr.gov/>

for public knowledge and to notify all elderly individuals not currently in the Act 173 Program who wish to apply for rental assistance in units of the eligible housing properties.

PRDOH will offer information and instructions about the application process and dates in the announcement and on the PRDOH CDBG-DR website. It will also present the eligibility criteria and the factors that will be prioritized under the Program, which are those discussed in these Program Guidelines.

## **7 Intake**

### **7.1 General Information**

Rental Unit Applicants will be able to apply for the Rental Assistance Program through the HPO, who will collect all necessary demographic and income information and documentation from each Rental Unit Applicant's household and provide it to PRDOH for review via a web form application.

The HPO will submit to PRDOH a web form application, on behalf of both, their current and potential rental unit tenants and of the Act 173 Program participating property they represent, which will include the following information and supporting documents:

- Demographics of Rental Unit Applicants and their households, that prove eligibility for the Rental Assistance Program. These will include documents used to certify identity, age, income, citizenship, and proof of primary residence of the Rental Unit Applicant, all eligibility criteria for this Program.
- Copy of any current, or most recent, certifications, contracts or agreements under the Act 173 Program from the HPO and PRDOH. If any of these also exist for the Rental Unit Tenants, they shall also be included.
- A current rent roll from the HPO that identifies all current and pre-approved future tenants that make up the Rental Unit Applicants in the application and the current total rental fee associated with the unit under the Act 173 Program and the tenant contribution to the rental payment, if any.
- An Annual Fiscal Report from the HPO.

The PRDOH staff will review each application and will determine if it is complete or if it is missing any documents or required information.

If incomplete, PRDOH will send the Rental Unit Applicant and the HPO a Missing Documents Notice, which will establish the process and timetable for completion of the application process.

If the application is complete and it is concluded that any of the Rental Unit Applicants is eligible to receive rental subsidy under the Rental Assistance Program, PRDOH staff will proceed to notify the eligible Rental Unit Applicants and the HPO of the next steps in the process.

Prior to PRDOH finalizing any agreement with the HPO, the total fee by which the latter will lease the rental unit to be used as a primary residence by the Rental Assistance Applicant will be determined.

The Total Rental Fee for each rental unit, per housing property, will be the same as what it was previously under the Act 173 Program. For more detailed information on the Total Rental Fee, please see the **Total Rental Fee** section, further below.

## 7.2 Rental Unit Applicant Identification and Citizenship

As part of the Program's application process, all Rental Unit Applicants will be required to submit documentation to prove their identity and age, which is one of the Eligibility Criteria for this Program. This documentation may include, but is not limited to, the following:

- Government Issued Photo Identification (Federal or State issued);
- Driver's License;
- Passport;
- Military ID Card; or
- Certificate of Naturalization or Permanent Resident Card.

Only U.S. citizens, non-citizen nationals, or qualified aliens, as defined in the following chart, are eligible to receive assistance.

Status	Definition
U.S. Citizen	A person born in one of the 50 States, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, or the Northern Mariana Islands; a person born outside of the U.S. to at least one U.S. parent; or a naturalized citizen.
Non-Citizen National	A person born in an outlying possession of the U.S. (e.g. American Samoa or Swain's Island) on or after the date the U.S. acquired the possession, or a person whose parents are U.S. non-citizen nationals. All U.S. citizens are U.S. nationals; however, not every U.S. national is a U.S. citizen.

Status	Definition
Qualified Alien	<ul style="list-style-type: none"> <li>• Legal permanent resident ("green card" holder)</li> <li>• An asylee, refugee, or an alien whose deportation is being withheld</li> <li>• Alien paroled into the U.S. for at least one year</li> <li>• Alien granted conditional entry (per law in effect prior to April 1, 1980)</li> <li>• Cuban/Haitian entrant</li> <li>• Aliens in the U.S. who have been abused, subject to battery or extreme cruelty by a spouse or other family/ household member, or have been a victim of a severe form of human trafficking</li> <li>• Aliens whose children have been abused and alien children whose parent has been abused who fit certain criteria</li> </ul>

If a Rental Unit Applicant does not meet any of the above citizenship criteria, the household may still be considered for assistance if:

- Another adult household member meets the citizenship criteria described in the table above; or
- The parent or guardian of a minor child who is a U.S. citizen, non-citizen national, or a qualified alien applies for assistance on behalf of the child, as long as they live in the same household. The parent or legal guardian must register as the co-applicant.

As part of the Program application, all Rental Unit Applicants must submit documentation to prove their citizenship. This documentation may include, but is not limited to, the following:

- Passport;
- Birth Certificate;
- Certificate of Naturalization;
- Certificate of Citizenship; or
- Permanent Resident Card ("green card").

If the Rental Unit Applicant is unable to provide any of the documents listed above, on a case-by-case basis, the Rental Assistance Program will accept, as proof of citizenship or legal presence: documentation listed in the Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, published by the United States Department of Justice, Federal Register Vol. 62, No. 221 (November 17, 1997), 62 FR 61344.

Temporary tourist visa holders, foreign students, temporary work visa holders, and habitual residents, such as citizens of the Federated States of Micronesia and the Republic of the Marshall Islands, are ineligible for the Program.

## 8 Program Eligibility

Both, HPOs and Rental Unit Applicants, will be screened for eligibility to ensure compliance with Program's requirements. Only rental units in housing properties currently under the Act 173 Program will be eligible for subsidy. HPOs will be required to provide complete and accurate information regarding their Rental Unit Applicants' age, identity, household composition, household income, and other eligibility criteria, as well as its own legal entity's required documentation and fiscal information. Failure to disclose accurate and complete information will affect eligibility, and all such instances will be referred to the Program, for further action.

Both applicants and HPOs may be required to repay PRDOH if they are found to have submitted inaccurate or incomplete information to appear to meet eligibility requirements.

Each application will be reviewed for the following eligibility criteria:

### 8.1 Age

The Rental Unit Applicant or a household member of the Rental Unit Applicant must be **sixty (60) years** or older at the time of intake.

For the Rental Assistance Program, an individual is defined as elderly when is **sixty (60) years** or older, in accordance with the administrative regulations of the Act 173 Program. The age of the Rental Unit Applicant will be determined using the documentation mentioned in the previous Intake section of these Guidelines.

### 8.2 Income

The Rental Unit Applicants' household must qualify as low-income. Income for all household members will be considered when calculating annual household taxable income. Rental Unit Applicants must provide their HPOs with income documentation for all household members **eighteen (18) years** of age or older at the time of the Program application. Income types and associated documentation required for income verification may include, but are not limited to:

- Wages: Three (3) recent paystubs within the past **three (3) months**, W-2 Forms;
- Retirement/Social Security:
  - Three (3) monthly bank statements (Social Security and Pension only)
  - Current Social Security benefits letter (including benefits paid to minors)
  - Current Pension/Retirement Benefit letter, or prior year 1099 Form
  - Current Annuity Payment letter
- Other income information:
  - Self-employment income
  - Rental income
  - Unemployment benefits

- Court-ordered alimony or spousal maintenance
- No income: Adult household members who receive no income will be required to submit a Certification of No Income.
- Documentation for other less common types of income will be assessed by the Program based on type of income reported.

### **8.3 Primary Residence**

The Rental Unit Applicant must apply to occupy the rental unit in the housing property as a primary residence.

As defined above, primary residence is as a dwelling where a person maintains or will maintain their permanent residence, and which will be occupied by the applicant for the majority of the calendar year. A person may only have one primary residence at any one time.

Documents provided to demonstrate primary residency should include the Rental Unit Applicant's name and the housing property's address.

As part of the application, a lease agreement between the HPO and the Rental Unit Applicant will be required as proof of primary residence. For the Rental Assistance Program's purpose, this document will serve as proof of primary residence.

- If the Rental Unit Applicant is a current beneficiary of the Act 173 Program, and is applying for rental assistance under the Rental Assistance Program, either the lease agreement with the housing property they reside in as a primary residence while being a beneficiary of the Act 173 Program or any Act 173 certification from PRDOH, will be accepted as proof of primary residence.
- For each Rental Unit Applicant who was not a previous beneficiary of the Act 173 Program, the HPO will submit a draft lease agreement during the Intake process as proof of primary residence.

The primary residence requirement will be determined and verified by the PRDOH staff. The Program will review and assess all available documentation together and determine primary residence based on the applicant's demonstration of consistency across the variety of documentation provided. In the event that inconsistencies in documentation are found, the tenant's application may not move forward in the eligibility process until the inconsistencies are resolved by the applicant. All parties will be given an opportunity to rectify any given discrepancy or problem that may arise during their application process. All applicants to the Program bear the burden of proof for providing consistent evidence to prove primary residency.

## 8.4 Act 173 Enrollment

All Rental Unit Applicants must apply for assistance in rental units located in housing properties currently enrolled in the Act 173 Program. This will be verified by the most recent Act 173 Program certifications or legal agreements between the HPO and PRDOH.

Prior to receiving assistance, all applications will be thoroughly reviewed during the Intake and Eligibility processes to ensure all Rental Unit Applicants are applying for rental units in eligible housing properties for the Program.

## 8.5 Eligibility Determinations

Eligibility determinations will be made based on documentation submitted by the HPOs on behalf of themselves and the Rental Unit Applicants. These determinations will be made based on applicable statutes, CFR, state and local codes and ordinances, and these Guidelines.

Rental Unit Applicants who are deemed eligible will be informed thereof through a Rental Assistance Program Preliminary Eligibility Determination (**PED**) notification. The HPO will also receive a PED notification for every Rental Unit Applicant who is deemed eligible to receive subsidy for a rental unit in their housing property. Rental Unit Applicants who currently do not reside in a rental unit in the housing property will receive this PED notification through the mailing address they provided in the Intake process.

The correspondence will include a notice outlining the preliminary eligibility determination, an explanation of funding sources and restrictions, and a description of required next steps.

If at any point, it is found that any of the Rental Unit Applicants are not eligible for the Program, they will be notified via a Rental Assistance Program Ineligibility Determination (**ID**) notification sent both, to the Rental Unit Applicant and to the HPO. This ID notification will outline the basis for the determination made, outline any relevant next steps, and provide instructions for how to submit a Program-based Reconsideration Request, an Administrative Review Request, and/or Judicial Revision. See the **Program-based Reconsideration** section of these Guidelines, for more information.

## 9 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 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.

## 9.1 Assistance Considered a DOB

The following are sources of assistance that may have been provided to applicants and are considered duplication of benefits. Under Federal law, these must be deducted from the assistance provided by the Program.

### 9.1.1 FEMA Individual Assistance (**FEMA IA**)

FEMA IA assistance may have been provided to applicants for rental assistance. FEMA IA will be determined and verified by the Program through FEMA provided datasets or through applicant provided information originating at FEMA, such as, a FEMA Award letter. If evidence is provided that a FEMA award included rental assistance, then that rental assistance must be exhausted prior to CDBG-DR funding being provided for rental assistance.

### 9.1.2 Federal Voucher-Based Rental Assistance

Housing voucher programs including the Housing Choice Voucher (**HCV**) Program and Veterans Affairs Supportive Housing (**VASH**) Program provide assistance in the form of a rental subsidy that is paid to participating landlords by Public Housing Authorities on behalf of eligible low-income households. The Program will review information from the Puerto Rico Public Housing Administration (**PRPHA**), to verify if any Applicant is currently participating in a voucher-based rental assistance program. The subsidy amount provided by a voucher to an Applicant will be considered a DOB by the Program.

### 9.1.3 Private Insurance

All property, flood or casualty insurance settlement amounts *that include any rental assistance* will be deducted from the applicant's funding assistance award. Private insurance payments for contents or other expenses are not deducted from the applicant's funding assistance award. Insurance proceeds are initially determined by the Program through applicant provided information. Rental Unit Applicants will authorize the Program to contact third-party private insurance providers to verify information provided by the Applicants within their applications. Third-party re-verification will only occur if the Applicant self-attests a claim was filed and cannot provide a claim summary.

### 9.1.4 Other Funds

Funding received for the same purpose of a Program award, such as funding provided by a non-profit entity for rental assistance, must be reported by the Applicant through the application process and must be accounted for and verified by the Program. In addition, the support documentation related to other duplicative funding sources will be provided by the Applicant, verified by the Program, and applied as a DOB by the Program.

## 10 Program Selection Sequence

The Program Selection Sequence has been carefully crafted to provide rental assistance to the most vulnerable populations in need of funding, within the current or pre-approved tenants residing in Act 173 Program housing properties. This sequenced approach was developed to act as a complement to the Exit Strategies outlined in these Guidelines, to ensure those with the highest risk of homelessness are given the subsidy needed, in order to avoid homelessness while Exit Strategies are finalized.

The Selection for the Program will follow a sequenced approach, as follows:

**First Sequence Selection:** Low-income (0-50% AMFI), elderly Rental Unit Applicants who would reside in rental units from housing properties and whose Act 173 Program contracts expire from 2020 to 2022.

These tenants are at the highest risk of losing rental subsidy. With the impending loss of Lottery funds due to hurricane impacts, PRDOH does not have the financial capacity to renew the subsidy contracts of the rental units in these housing properties.

**Second Sequence Selection:** Low-income (0-50% AMFI), elderly Rental Unit Applicants who would reside in rental units from housing properties currently subsidized by the Act 173 Program in municipalities with a very low number of other affordable rental units or housing program alternatives, established by a Score Level via data provided in the annexed documents to these Program Guidelines.<sup>8</sup>

This refers to municipalities where there is little or no available assistance for elderly tenants in Public Housing, Housing Choice Voucher Programs (Section 8) under PRDOH or viable Continuum of Care (CoC) programs. Viable CoC Programs refers to Continuum of Care programs where elderly people with risk of homelessness may be eligible for assistance.

The previous data is complemented by producing a ratio of the elderly population in each scrutinized municipality and the total number of alternative housing program rental units available in each scrutinized municipality.

The lack of availability of the aforementioned alternative assistance, as well as lack of rental units in other housing properties under the Act 173 Program, will increase the preference of rental units from housing properties in the municipality to avoid potential risk of homelessness among elderly Rental Unit Applicants who reside or would reside in rental units from housing properties in said municipality.

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<sup>8</sup> See tables in Annex.

## 10.1 Score Level

A Score Level was developed based on number of Act 173 Program housing properties, number of public housing properties ("residenciales públicos"), viable CoC Programs, and number of Project-based Section 8 housing properties under PRDOH, respectively, in each municipality. Since it is one of the Eligibility Criteria for this Program, only municipalities with housing properties currently under the Act 173 Program were scored. Scores were determined using the following methodology:

- One point was awarded for each housing property currently under the Act 173 Program, in the municipality.
- One point was awarded for each individual Public Housing Property ("residencial público"), in the municipality.
- One point was awarded for each individual Project Based Voucher Program (Section 8) housing property under PRDOH, in the municipality.
- One point was awarded if the municipality has any viable CoC programs.

Municipalities with lower scores are those with fewer affordable housing alternatives and, therefore, are the municipalities where rental units will be prioritized during the Second Sequence to avoid loss of affordable rental units. During the Second Sequence period, rental units will be served in ascending order based on their municipality's Score Level.

The following table indicates the Score Level for each municipality with at least one housing property under the Act 173 Program:

Municipality	Score Level	Ratio Score	Municipality	Score Level	Ratio Score	Municipality	Score Level	Ratio Score
Gurabo	2	0.01857	San Sebastian	4	0.04448	Guaynabo	7	0.03000
Rincon	2	0.02410	Villalba	4	0.05348	Guayama	7	0.09155
Anasco	2	0.03278	San German	4	0.05595	Arecibo	10	0.07572
Moca	3	0.02007	Juncos	4	0.06584	Aguadilla	10	0.14429
Rio Grande	3	0.02076	Maunabo	4	0.08357	Caguas	13	0.04409
Salinas	3	0.03913	Yauco	5	0.04062	Carolina	17	0.05972
Comerio	3	0.04376	Humacao	5	0.04830	Bayamon	19	0.05462
Vieques	3	0.06359	Coamo	5	0.05904	Mayaguez	21	0.16819
Toa Baja	4	0.01669	Trujillo Alto	5	0.06552	Ponce	30	0.14514
Aguada	4	0.02702	Isabela	6	0.03292	San Juan	69	0.23954
Hormigueros	4	0.03276						

A housing property's location in the lowest Score Level municipality doesn't automatically make eligible its rental units for assistance. All Rental Unit Applicants must first comply with Eligibility Criteria and all required information and documentation must be submitted by the HPO during the Intake process of the Rental Assistance Program.

If, during the Second Sequence period, two or more housing properties' municipalities fall into the same Score Level, priority among the Rental Unit Applicants in each of the housing properties would be decided by using the Ratio Score of each municipality. The Ratio Score is produced by dividing the number of rental units available through

alternative housing programs in each municipality by the elderly population in each municipality. As shown in the Table above, the housing property's Score Level will be ordered by lowest to highest Ratio Score.

## 10.2 Program Sequencing Period

During the first **sixty (60) days** of Intake period, only Rental Unit Applicants from the First Sequence will be selected to receive assistance. For the next **120 days** (days 61 – 180 of Intake period), Rental Unit Applicants from the First or Second Sequence may be selected to receive assistance. After 180 days of receiving applications and selecting sequenced candidates, if any remaining funding for the Rental Assistance Program is available, eligible Rental Unit Applicants from rental units in housing properties under the Act 173 Program that were not originally selected for assistance, may be considered.

## 11 Total Rental Fee, Subsidy Award Determination, and Rental Contribution

The maximum award under this Program is the equivalent of **twenty-four (24) months** of subsidy available to the Rental Unit Applicant for rental units in housing properties currently under the Act 173 Program, which cannot exceed **\$400** per rental unit, per month.

The Total Rental Fee will be uniform for each rental unit per housing property. The Total Rental Fee for each rental unit, per housing property, will be the same as what the rental fee was previously under the Act 173 Program.

For the purpose of determining the subsidy for which an Applicant qualifies, the following items will be *deducted* from the annual household income:

- **Medical Expenses:** Recurring medical expenses according to a medical certificate presented for each Rental Unit Applicant. Includes expenses for prescription or "over the counter" medications prescribed by a physician, health plan costs, deductible payments, and equipment recommended by a physician. Medical expenses will be deducted at 50%.
- **Utilities:** The expenses incurred by the Applicant for the payment of water, electricity, refrigerator, and stove will be deducted. The utility will be deducted according to the table of utilities established by PRDOH's Voucher Program for Free Selection of Housing (Section 8) for the corresponding municipal region.

The adjusted monthly income of an Applicant, for the purpose of determining the amount of the subsidy, will consist of 1/12 part of the annual household taxable income, once evidenced medical expenses and utilities are deducted.

The monthly subsidy award to be granted will be a maximum of \$400. The maximum subsidy will be granted to households whose annual income is equal to or less than 30%

AMFI, according to the income table published annually by HUD for the Voucher Program for Free Selection of Housing (Section 8).

For households with 31-50% AMFI, the monthly subsidy award will be the difference between the maximum allowable subsidy minus the equivalent of 10% of the adjusted monthly taxable income.

The Tenant Contribution will be the amount equivalent to the difference between the rental subsidy awarded and the Total Rental Fee for the rental unit.

## 12 Property Site Requirements

All rental units and housing properties in the Rental Assistance Program must comply with the Housing Quality Standard (**HQS**) at a minimum, which will be ensured via inspections using the HUD-52580 Form.

Along with being notified of eligibility for their Applicants for the Rental Assistance Program, all HPOs will be given a checklist that includes all HQS requisites their rental units and housing properties must comply with. Initial inspections could take place before the Rental Assistance Program Legal Agreement is signed with the HPO or afterwards.

If an inspection has occurred before the Legal Agreement is signed, findings must certify that all rental units in which Applicants will reside in, as well as the housing property, comply with HQS. The inspection report that establishes the housing property's compliance must be included as part of the Legal Agreement between PRDOH and the HPO.

If the inspection has not yet occurred, the HPO must certify in the Legal Agreement that the rental units in which Applicants will reside in, as well as the housing property, comply with the HQS requisites that were handed along with the eligibility notification. Corroboration and validation of the HPO's certification of HQS compliance via inspection will be expected to be done in the first **ninety (90) days**, after the Legal Agreement has been signed.

The Legal Agreement will contain penalty clauses, that could include repayment in whole or in part of subsidy, in case substantial deficiencies per HUD's HQS are found in the rental units or the housing properties that were initially certified by the HPO to be compliant with HQS.

If after the inspection, it is found that either the rental units or the housing property do not comply with the minimum required standards, the HPO will be notified in writing. The HPO must correct all notified deficiencies within **thirty (30) days** of the notification.

To ensure deficiencies are corrected, PRDOH staff or an external contractor will conduct a follow-up inspection.

If after **thirty (30) days** of being notified of the deficiencies, any of the notified deficiencies of any respective rental unit remain, the Program will proceed to suspend subsidy of the respective rental unit until the deficiencies are corrected. The Program will not subsidize rent retroactively. After the thirty-day period, the HPO may not charge the Rental Unit Tenant with the rental fee difference not received through suspended subsidy, if the Tenant decides to reside in the rental unit or solicits alternative housing, while the deficiencies have not been corrected. To ensure eviction protection, this will be part of the Legal Agreement signed between PRDOH and the HPO.

If, after **thirty (30) days** of being notified of any deficiency found in the building exterior of the housing property or any deficiency attributable to lack of essential services, or any deficiencies pertaining to inspected areas not part of a rental unit, the Program will suspend subsidy of all the rental units in the housing property until deficiencies have been corrected. After the thirty-day period, the HPO may not charge the now-rental unit tenants the rental fee difference not received through suspended subsidy if the tenants decide to stay residing in their rental units or solicit alternative housing, while the deficiencies have not been corrected. To ensure eviction protection, this will be part of the Legal Agreement signed between PRDOH and the Housing Property Applicant.

Through the signed Legal Agreement, the HPO will commit to provide alternative habitable housing to all Rental Unit Tenants affected by the deficiencies found during inspection, that were originally certified to be in compliance with Housing Quality Standards. Non-compliance will result in penalty clauses, that may include but not be limited to repayment in whole or in part of the Rental Assistance Program subsidy awarded up to date.

The HPO may solicit an extension of up to an additional **thirty (30) days**, before the first **thirty (30) days** deadline is over. The extension will be awarded by PRDOH on a case-by-case basis.

### **13 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**), as well as to the HUD environmental review regulations at 24 C.F.R. § 58. 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. 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 follow 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: the existence of negative impacts on a site; the means to mitigate negative impacts; alternatives to the project (if needed); and the rejection of the proposed activities if all other options fail and it becomes the most prudent action to take.

Environmental reviews will be conducted concurrently with DOB reviews, when feasible. Environmental reviews must be completed prior to determining Program assistance to be offered to an eligible applicant.

### **13.1 Environmental Level of Review**

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

- **Exempt Activities:** Those activities which are highly unlikely to have any direct impact on the environment.
- **Categorically Excluded Activities:** Those activities that may have an impact to the environment, but not to 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.
- Environmental Assessment: Includes those activities that could potentially have a significant impact on the environment. In addition to compliance with the laws and authorities at 24 C.F.R. § 58.5 and 24 C.F.R. § 58.6, environmental assessments must consider an array of additional potential impacts of the project, including a National Environmental Policy Act analysis. This environmental assessment requires publishing a Notice of Intent to Request Release of Funds as well as a Finding of No Significant Impact (assuming such is found).
- Environmental Impact Statement: Those activities that require a detailed written statement required by Section 102(2)(C) of NEPA for a proposed major Federal Action significantly affecting the quality of the human environment. These statements are normally used for major housing (2,500 units or more) or infrastructure projects.

### **13.2 Level of Determined Environmental Review**

The level of environmental review identified for this Program is found at 24 C.F.R. § 58.35 (b)(1) Tenant-based Rental Assistance and will require a CENST Environment Review. The environmental review for any activity in this Program will require a formal determination (including preparing a CENST review and inclusion into the project files) of the environmental regulations at 24 C.F.R. § 58.6. Other Requirements to include are:

- Flood insurance requirements;
- Location within a Coastal Barrier Resource System unit; and
- Purchase or sale of an existing property in a Runway Protection Zone or Clear Zone.

Should the Program change in a way that includes other activities other than Tenant-based Rental Assistance, a new determination of the level of environmental review should be performed and documented in the project files. If a modification changes the level of environmental review, future reviews should be in accordance with the new level of environmental review.

## **14 PRDOH Legal Agreement**

Following notification of eligibility and award amount, Rental Unit Applicants and HPOs will enter into a contractual legal agreement with PRDOH prior to the disbursement of any subsidy. This legal agreement will be for a term not to exceed **twenty-four (24) months**

and will include federal and state requirements, as well as compliance with these Program Guidelines and the CDBG-DR Action Plan.

Since this Program will subsidize rent for a Rental Unit Applicant who has a lease agreement with a HPO, a Memorandum of Understanding will be agreed to between the Program and the Housing Property Owner. For each tenant whose rent is subsidized in each housing property, a Tenant Addendum will be signed between the Rental Unit Applicant and the Program and added to the Memorandum of Understanding that pertains to the tenant's housing property.

If the initial inspection to the housing property and its rental units was completed before this instance and deficiencies to the housing property or to any of the rental units to be subsidized were identified in the inspection report, the HPO may still enter into a legal agreement with PRDOH to initiate rental subsidy for the eligible rental units. In this instance, a written commitment to correct all the deficiencies within a **thirty (30) day period** will be required. The written agreement will establish not only a commitment to correct all deficiencies to Rental Units or to the Building Exterior of the housing property within **thirty (30) days** of the HPO being notified of deficiencies, but also that if the identified deficiencies are not corrected within **thirty (30) days**, subsidy will be suspended for each deficient rental unit or for all subsidized rental units, if the building exterior's deficiencies remain uncorrected, until a follow-up inspection proves the notified deficiencies have been corrected.

The written commitment will establish that even with suspended subsidy, Rental Unit Tenants under the Rental Assistance Program will enjoy eviction protection and will be able to remain in the rental unit, if the inspection report deemed the rental unit habitable and secure. Should the deficiencies identified show the unit to be hazardous or inhabitable, the HPO must agree to transfer the tenant to a temporary rental unit at the HPO's cost.

The HPO may not charge the rental unit tenants the rental fee not received through suspended subsidy, if the tenants decide to stay residing in their rental units or if a rental unit tenant needs to be transferred to a secure rental unit while deficiencies have not been corrected.

If the initial inspection has not yet occurred, the HPO must certify in the Legal Agreement that the rental units in which Applicants will reside in, as well as the housing property, comply with the HQS requisites checklist that was handed along with the eligibility notification. Corroboration and validation of the HPO's certification of HQS compliance via inspection will be expected to be done in the first **ninety (90) calendar days** after the Legal Agreement has been signed.

The Legal Agreement will contain penalty clauses, that could include repayment of subsidy in whole or in part, in the case substantial deficiencies are found in the rental units or the housing properties that were initially stated by the HPO to be compliant with Housing Quality Standards.

If after the inspection, it is found that either the rental units or the housing property do not comply with the minimum required standards, the HPO will be notified in writing. The HPO must correct all notified deficiencies within **thirty (30 days)** of the notification.

To ensure deficiencies are corrected, PRDOH staff or an external contractor will conduct a follow-up inspection and report its findings to the Rental Assistance Program.

## 15 Voluntary Withdrawal

Rental Unit Applicants may request to withdraw from the Program at any time. HPOs may request to withdraw from the Program at any time *before* the legal agreement is signed. The voluntary withdrawal process will be followed in the event any Rental Unit Applicant or the HPO requests to withdraw from the Program before said instance. To withdraw, the Rental Unit Applicant or HPO will notify PRDOH staff of their desire to withdraw from the Program, who will then provide a Voluntary Withdrawal Notice. The Voluntary Withdrawal Notice informs the HPO and Rental Unit Applicant that the Program is in receipt of the request to withdraw and that if the request to withdraw is not rescinded within **fourteen (14) days**, the application will be closed. If the request is not rescinded within **fourteen (14) days**, a Withdrawal Confirmation Notification will be sent to the Applicant or owner and the application status will be updated to "Withdrawn".

If the HPO decides to withdraw the rental units in their housing property from consideration for subsidy for the Rental Assistance Program before subsidy has started, the Rental Unit Applicants in the housing property will be individually notified by a letter of other eligible housing properties currently under the Act 173 Program through which they may apply to the Rental Assistance Program.

If the Withdrawal Request for the HPO is submitted after the contractual legal agreement between the HPO and PRDOH is signed or after subsidy has begun, the HPO will be notified that their withdrawal request is denied via the Withdrawal Denial Notification.

Only Rental Unit Applicants may withdraw from the Program after the legal agreement has been signed with PRDOH or subsidy to the rental unit has begun.

## 16 Non-Responsive Applicants

The Program will make reasonable attempts to contact HPOs who have submitted applications on behalf of Rental Unit Applicants, to schedule meetings, collect documentation, or obtain any other necessary information. If the Program has made **three (3)** consecutive unsuccessful attempts to contact a HPO with no follow-up contact,

the HPO and the Rental Unit 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 and week. The Non-responsive Notification provides contact information for the Program, advises the owner of the next steps in the application process and notifies the HPO that they must contact the Program within **fourteen (14) days** of the date of the letter. If the HPO fails to contact the Program within the **fourteen (14) days** allowed, their applications could be closed.

Likewise, after the Program makes **three (3)** unsuccessful attempts to collect missing documentation, both the HPO and the Rental Unit Applicant will be sent a Missing Documents Notification. This notice informs on which documents are outstanding and advises the parties to contact the Program regarding the missing documents within **fourteen (14) days**. Failure to contact the Program within the **fourteen (14) day** period could result in closure of the application due to the non-responsiveness.

Rental Unit Applicants to rental units from a housing property whose application has been closed will be notified individually by letter of other housing properties eligible for the Rental Assistance Program to which they may apply.

## **17 Program-Based Reconsideration Request or Administrative Review**

Rental Unit Applicants of the Rental Assistance Program may contest any determinations or denials based on Program policy. HPOs may only contest any determination or denial on their Rental Unit Applicants' behalf if and when the Rental Unit Applicant voluntarily signs a "Program Reconsideration Request or Administrative Review Consent Form" where it authorizes the HPO to reconsider a specific determination or denial on the applicants' behalf. Rental Unit Applicants, on their own or by an authorized HPO, have the right to request a Program-based Reconsideration with the Program or request an Administrative Review directly with PRDOH, as stated below. However, federal statutory requirements may not be challenged. Any time an HPO contests any determination or denial on behalf of a Rental Unit Applicant, the latter will be notified of this action by the HPO.

If a Rental Unit Applicant has not signed a consent form authorizing an HPO to file a Program-based Reconsideration Request or Administrative Review on their behalf, the HPO will not be able to do so and the request will be automatically denied. Being a tenant-based program, the Rental Assistance Program will always award standing to the Rental Unit Applicant if and when contradictory views arise between the tenant and the HPO in the matters referred to in this section.

### **17.1 Program-based Reconsideration Request**

Rental Unit Applicants may file a Program-based Reconsideration Request when it is believed there is an error with Program eligibility determinations, Program subsidy award,

among other determinations. A Rental Unit Applicant must submit a written Reconsideration Request directly with the Rental Assistance Program, 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 of said notice, the aforementioned **twenty (20) calendar day-term** shall be calculated from the mailing date. Applicants or owners 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 Rental Assistance Program will only review facts and information already included in the Applicant's file, unless new documentation is submitted. The Rental Assistance Program has the discretion to accept or reject new documentation based upon its relevance to the Program-based Reconsideration Request.

The Rental Assistance Program will review and address the Reconsideration Request within **fifteen (15) days** of its receipt. Applicants or owners will be notified of the reconsideration determination via a Reconsideration Request Approved or a Reconsideration Request Denied notification. Applications with an approved Reconsideration Request will return to active Program status and continue with the process as normal. Applications with a denied Reconsideration Request will remain ineligible for the Rental Assistance Program.

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

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

HPOs may contest any determination or denial on their Rental Unit Applicants' behalf if and when only the Rental Unit Applicant voluntarily signs a "Program Reconsideration Request or Administrative Review Consent Form" where it authorizes the HPO to reconsider a specific determination or denial on their behalf. Being a tenant-based program, the Rental Assistance Program will always award standing to the Rental Unit Applicant if and when contradictory views arise between the tenant and the HPO in the matters referred to in this section.

## 17.2 Administrative Review Request

If any Rental Unit Applicant disagrees with a Program determination, or with the Reconsideration Request Denial determination, said party may file directly to PRDOH, as grantee, an Administrative Review Request. The Applicant must submit such request, in writing, within **twenty (20) 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 of said notice, the aforementioned **twenty (20) calendar day-term** shall be calculated from the mailing date.

Any Applicant who submits an Administrative Review Request must follow the procedure established in Regulation 4953. After the Administrative Adjudicative Procedure concludes, applications with approved Administrative Review Requests will return to active Program status and continue within the process as normal. Applications with denied Administrative Review Requests will remain ineligible for the Rental Assistance Program.

If the Applicant disagrees with any final written determination on an Administrative Review Request notified by PRDOH after completing the Administrative Adjudicative Procedure, said party may file a Judicial Review petition before the Court of Appeals of Puerto Rico within **thirty (30) days** after a copy of the notice has been filed. See Act 201-2003, as amended, known as the Puerto Rico Judiciary Act of 2003, 4 LPRA § 24 *et seq.*, and Section 4.2 of Act 38-2017, as amended, known as the Puerto Rico Uniform Administrative Procedures Act, 3 LPRA § 9672.

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

HPOs may contest any determination or denial on their Rental Unit Applicants' behalf if and when only the Rental Unit Applicant voluntarily signs a "Program Reconsideration Request or Administrative Review Consent Form" where it authorizes the HPO to reconsider a specific determination or denial on their behalf. Being a tenant-based program, the Rental Assistance Program will always award standing to the Rental Unit Applicant if and when contradictory views arise between the tenant and the HPO in the matters referred to in this section.

## 18 Exit Strategies

While this Tenant-based Rental Assistance Program provides assistance for up to **twenty-four (24) months**, PRDOH intends to work during that period of time to identify long term strategies for maintaining the affordability of rental units for tenants without having to further assist them through the Act 173 Program.

The temporary funding by the Rental Assistance Program will protect those at risk of becoming homeless should the Act 173 Program funding for the assisted rental units expire before PRDOH can secure permanent subsidized housing through an Exit Strategy. Through the end of the **twenty-four (24) month** duration of this Program, PRDOH expects to resolve the housing need of approximately 1,000 rental units through these Exit Strategies, allowing PRDOH to maintain the funds to serve all remaining Act 173 Program beneficiaries.

Some potential Exit Strategy options that PRDOH considers viable and will try to achieve during this time period are:

- Acquisition of projects by Puerto Rico Public Housing Administration (**PRPHA**), which would then become Annual Contribution Contracts (**ACC**) units and thus be able to provide tenants with affordability on a permanent basis.
- Application for project-based vouchers administered by PRPHA. PRPHA currently has authority under its Housing Opportunity through Modernization Act (**HOTMA**) Project-based Voucher (**PBV**) Program to provide project-based vouchers to projects that provide housing and services to the elderly, disabled, veterans and homeless. PRPHA anticipates that most Act 173 Program Housing Property Owners would be eligible to apply for these vouchers. HOTMA PBV is not compatible with HUD's HOME Investment Partnerships Program (**HOME**), so any units that are currently under a HOME affordability period would not be eligible.
- Tenant orientation on alternative housing to the Act 173 Program through the CDBG-DR Housing Counseling Program. Rental Unit Applicants who are participating in the Rental Assistance Program will be required to participate in the Housing Counseling Program wherein they will be offered support for the selection of a new rental unit that meets their needs under another PRDOH housing program. This is to comply with the Exit Strategies required by the Program. The orientation must be completed by the Rental Unit Applicant prior to the end of the **twenty-four (24) month** period of rental assistance subsidy.
- Tenants of the Rental Assistance Program with risk of homelessness after the **twenty-four (24) month** rental subsidy period might be prioritized for other CDBG-DR programs they might be eligible for, through established priority criteria in those programs.
- Sale to new ownership that may be able to maintain affordability on rental units.
- Work to identify other affordable units in the area that tenants may wish to transfer to. This would be considered by PRDOH as a last resort, as it has the impact of reducing the number of affordable units overall.

These and other available options will be worked directly by PRDOH with the Rental Unit Applicants and the Housing Project Owners in a case-by-case basis that best serves both, the tenants and the housing properties' reality.

## 19 Program Closeout

Upon the completion of all subsidized activities, the Program applications will be closed. This process will begin by ensuring that all written agreement requirements have been met and that everything has been performed in compliance with Program requirements. PRDOH staff will perform a complete review of the application file to ensure all necessary documentation is present and to ensure that the case is ready for a closeout.

General requirements for closeout are as follows:

- All Program forms required throughout the entirety of the Rental Assistance Program Agreement process have been duly completed and executed by the appropriate parties.
- All funds used for the Program, whether CDBG-DR or received by means of a subrogation of funds, have been properly accounted for.
- All required reports have been submitted.

If a specific case has reached closeout status due to an Exit Strategy being achieved with PRDOH, it will be noted and certified by PRDOH staff in the reports.

Once all reviews are passed, the respective party will receive a Rental Assistance Program Final Notice and their individual case will be placed in a closeout complete status.

The Rental Assistance Program will close when the **twenty-four (24) month period** of subsidy has ended or when there are no longer applicants being subsidized under the Program, whichever comes first.

## 20 General Provisions

### 20.1 Program Guidelines Scope

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

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

## **20.2 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.

## **20.3 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.

## **20.4 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.

## **20.5 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.

## **20.6 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.

## **20.7 Conflict of Interest**

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

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

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

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

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

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

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

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

The Conflict of Interest Policy is posted as a standalone document at [www.cdbg-dr.pr.gov](http://www.cdbg-dr.pr.gov).

## **20.8 Citizen Participation**

Throughout the duration of the grant, all citizen comments on PRDOH's published Action Plan, any substantial amendments to the Action Plan, performance reports and/or other issues related to the general administration of CDBG-DR funds, including all programs funded by this grant, are welcomed. The Citizen Participation Plan is posted as a standalone document at [www.cdbg-dr.pr.gov](http://www.cdbg-dr.pr.gov).

## **20.9 Citizen Complaints**

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

- Via email at: [infoCDBG@vivienda.pr.gov](mailto:infoCDBG@vivienda.pr.gov)
- Online at: [www.cdbg-dr.pr.gov](http://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

**20.10 Fraud, Waste, Abuse or Mismanagement**

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

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

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

<b>REPORT TO PRDOH CDBG-DR</b>	
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	<a href="mailto:hotlineCDBG@vivienda.pr.gov">hotlineCDBG@vivienda.pr.gov</a>
Internet	<a href="http://www.cdbg-dr.pr.gov">www.cdbg-dr.pr.gov</a>
In person	Request a meeting with the Deputy Audit Director of the CDBG-DR Internal Audit Office located at PRDOH's Headquarters at 606 Barbosa Avenue, Building Juan C. Cordero Davila, Río Piedras, PR 00918.

<b>REPORT TO HUD OIG</b>	
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	<a href="mailto:HOTLINE@hudoig.gov">HOTLINE@hudoig.gov</a>
Internet	<a href="https://www.hudoig.gov/hotline">https://www.hudoig.gov/hotline</a>

The AFWAM Policy is posted as a standalone document at [www.cdbg-dr.pr.gov](http://www.cdbg-dr.pr.gov).

## **20.11 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.

### **20.11.1 Act 173 Program**

Puerto Rico's Act 173 of August 31, 1996, established what is known as the Housing Rental and Improvement Subsidy Program for Low-Income Elderly Persons, that assists low-income elderly households by subsidizing rental housing costs. This program is administered by PRDOH and receives reserve funding from the Lottery of Puerto Rico. Since the impact of hurricanes' Irma and María in September, 2017, the Act 173 Program has suffered decreased funding to the point where, as is, it is unable to operate and continue subsidizing its thousands of elderly tenants. To avoid risk of homelessness, the **Rental Assistance Program** will subsidize rent for tenant's with the most precarious realities among the forty-nine Act 173 Program housing properties. The provisions of this Act may apply in instances not covered by these guidelines.

## **20.12 Cross-Cutting Guidelines**

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

programs described in PRDOH's CDBG-DR Initial Action Plan and its amendments. For more information, please refer to the Cross-Cutting Guidelines found at [www.cdbgdr.pr.gov](http://www.cdbgdr.pr.gov).

## **21 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.

## **22 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.**